ROSETTA STONE PURCHASE ORDER TERMS AND CONDITIONS

1. Definitions. As used in these Terms and Conditions,
(a) "*Order*" means this Purchase Order and its SOM(s) order(s),
(b) "*Materials*"" means any material, machinery, equipment, fixture, article, items, service, or work provided for this order;
(c)) "*Seller*" means the person, firm or corporation to whom this order is issued; and
(d) "*Purchaser*" means Rosetta Stone, Ltd.

2. **Materials.** Seller shall provide for Purchaser the materials specified in one or more statements of materials issued under this Purchase Order (each, an "SOM"). The initial SOM is attached hereto as Exhibit A. The initial Materials are described in the attached SOM. After the work on the initial SOM is complete, the parties will not have any further rights or obligations unless and until each party has executed and delivered an SOM. Each SOM shall, at a minimum, contain the following: (a) a description of the Materials to be provided by Seller, (b) the amount, schedule and method of payment, (c) the schedule for the delivery of Materials. Seller shall provide the Materials to Purchaser in accordance with the schedule specified in the SOM. Changes in any Materials shall be made only by a written instrument executed by authorized representatives of both parties. All Materials are subject to testing and acceptance by Purchaser. Seller may invoice Purchaser for Materials upon shipment. Invoices will be processed for payment upon written acceptance of the materials by a person authorized to accept materials which shall be delivered within 30 days of receipt of the Materials. Payment will be made within 30 days of approval of the materials. In the event of a conflict between any term of this Purchase Order and the terms of an SOM, the terms of this Order shall prevail. Seller agrees that Purchaser's payment(s) under this Order shall not be deemed acceptance of any Material delivered under an Order.

3. Order Acceptance. Any acceptance of this Purchase Order is limited to acceptance of the express terms of the offer contained in this Order. Any variance of any terms of this Purchase Order in Seller's acceptance as to the description, quantity, price or delivery schedule shall be a rejection of this offer.

4. Time of Shipment, Performance Assurance.
(a) If upon receipt of this Order or at any time thereafter it is found that the materials called for in a SOM cannot be shipped within the time specified, notice thereof must be given immediately to Purchaser via email or telephone, together with advice as to the best delivery possible. Failure to deliver on or before the date specified in a SOM shall entitle Purchaser at its option to cancel the SOM order, without prejudice to any other rights Purchaser may have as a result thereof.
(b) Whenever Purchaser has reason to question Seller's ability to perform under an SOM order, Purchaser may demand that Seller give written assurances of Seller's ability or intent to fully perform. In the event that a demand is made, and no assurance is given within five (5) calendar days, Purchaser may treat that failure as an anticipatory repudiation of the SOM order.

5. Quality, Warranties.
(a) All Materials and workmanship furnished by the Seller pursuant to a SOM order (irrespective of whether design, data or information has been furnished, reviewed or approved by Purchaser) are guaranteed to be of acceptable quality (unless otherwise authorized by Purchaser), to be free from faulty design (to the extent such design is not furnished by Purchaser), workmanship and material, and to be of sufficient size and capacity and of proper materials so as to fulfill in all respects all operating conditions, if any, specified in a SOW order. Seller further warrants that all work/goods will comply with all warranties and guarantees. These warranties shall survive any inspection, delivery, acceptance or payment. If any trouble or defect originating with the design, materials, workmanship or operating characteristics of such materials arise at any time up to one year (or during such longer warranty period as may be specified in the Description, or in Seller's normal warranty, whichever period is longer) from the date when such materials are placed in operation and Seller is notified thereof, Seller shall, at its own expense and as promptly as possible, make such alterations, repairs and replacements as may be necessary to permit the materials to function in accordance with the specifications and to fulfill the foregoing guarantees. Purchaser may, at the Seller's expense, remove and store any defective or improper materials furnished by Seller upon notice to Seller, in which event Seller shall, without cost to Purchaser and as promptly as possible, furnish proper materials and, if such defective materials were installed prior to removal, install such proper materials. If Seller fails, after seven days written notice, to make necessary alterations, repairs and replacements, the Purchaser may, without prejudice to any other remedy it may have, make good such deficiencies and deduct the cost thereof from any amount unpaid to Seller; if amounts unpaid to Seller are insufficient to cover such cost, Seller shall pay the difference to Purchaser. Unless otherwise specified in a SOM, all Material delivered will be new, unused, and contain no used or refurbished parts.
(b) Seller warrants that Materials provided shall not infringe any patent, copyright, mask work, trademark, trade secret, or other intellectual or proprietary right of any third party.
(c) Seller warrants that the title to the Material furnished is free of all liens and encumbrances.

6. Indemnity. Seller agrees to indemnify, defend and hold Purchaser, all of its directors, officers, employees and agents harmless from and against any loss, claim, judgment, liability, damage, action or cause of action (including reasonable attorneys' fees and court costs) arising out of or in connection with (a) a third party claim that Purchaser's possession and/or use of the Material infringes or misappropriates the patent, copyright, trademark or other intellectual property rights of a third party, or (b) any breach by Seller of its obligations set forth in this contract; or (c) the negligence or willful misconduct of Seller, or its officers employees and/or agents; or (d) claims by any of Seller's employees for compensation of any kind, including for injuries or damages under the workmen's compensation or similar acts; and (e) in connection with the materials and work furnished hereunder, including without limitation, the installation, erection, repair, adjustment or operation thereof. In addition Seller shall, if he elects to utilize materials, tools, equipment or facilities made available to Seller by Purchaser for use by Seller and not to be incorporated in the work, as additional consideration therefore, defend and hold Purchaser harmless from all claims and liability for injuries to, and/or death of any and all persons, and the loss of and/or damage to property resulting from or by reason of Seller's utilization thereof, whether or not caused partially or totally by the negligence of Purchaser, its employees, subcontractors, agents or representatives.

7. Insurance. In any case where it is necessary for employees or representatives of Seller to go upon the premises of Purchaser, Seller agrees to assume full responsibility for the proper conduct of such employees and representatives while on said premises and to comply with all applicable Worker's Compensation Laws, other applicable government regulations and ordinances, and all project rules and regulations, particularly as to safety precautions and fire hazards. If a SOM order requires Seller to furnish Labor in connection with the erection or installation of the materials at the site, Seller shall furnish Purchaser with a certificate or other evidence satisfactory to Purchaser, indicating that such labor is adequately covered by Workers Compensation Insurance and Employer's Liability Insurance with limits acceptable to Purchaser. Purchaser shall be named as an additional insured under Seller's insurance. Purchaser may also require Automobile Liability Insurance, Commercial General Liability Insurance (including subordination coverage), and Errors & Omissions Insurance, all in amounts acceptable to Purchaser.

8. Inspection. All inspections and tests shall be made as required by specifications furnished by Purchaser. All materials purchased under a SOM order shall be subject to inspection by Purchaser or a representative of Purchaser at all reasonable times and places before, during and after manufacture. Based on an inspection of a valid sample, Purchaser may reject the Material in whole or part. It is agreed that no certificate given or payment made on account of a SOM order shall be conclusive evidence of delivery and acceptance of the items hereunder either wholly or in part or shall be construed as acceptance of defective or improper items. All materials shall be received subject to Purchaser's inspection and acceptance. Defective material or material not in accord with Purchaser's specifications may be held for Seller's instructions and at Seller's risk, and if Seller so directs will be returned at Seller's expense. If Seller fails to provide return or disposal instructions, Purchaser, at its sole option, may return Material to Seller, transportation charges collect. Goods returned as defective, or non-conforming will be replaced only upon issuance of a new Purchase Order.

9. Excess Materials. Materials delivered in error or in excess of the quantity called for will be returned at Seller's expense.

10. Risk During Shipment. If a SOM order is awarded upon the basis of a price or prices which include transportation charges in whole or in part to destination, title to the goods and risk of loss and damage shall remain with Seller until delivery in acceptable condition by the carrier at destination notwithstanding the inclusion in the quotation of such technical expressions as f.o.b. origin with freight prepaid, f.o.b. origin with freight allowed, or variations of such expressions. Seller must pay all transportation charges to the carrier at shipping point regardless of f.o.b. point.

11. Changes. Purchaser reserves the right to change a SOM order specifications, such changes to be in writing signed by a duly authorized representative of Purchaser. Any difference in contract price resulting from such changes shall be equitably adjusted and the contract shall be modified in writing accordingly.

12. Cancellation. Purchaser reserves the right to cancel without liability all or any part of the undelivered portion of a SOM order for any material breach by Seller of any of the terms hereof including the warranties of Seller.

13. Time of Essence. Time is of the essence to the performance of a SOM order and where delivery dates are specified herein, failure to deliver in accordance therewith shall constitute a material breach of this order, and Purchaser may, at its option, reject the Material and return it to Seller, in accordance with Article 8.

14. Non-Waiver. No waiver of any breach of this Order shall be held to be a waiver of any other subsequent breach. All rights and remedies afforded Purchaser in an Order shall be taken and construed as cumulative, that is, in addition to every other right and remedy provided under this order or by law.

15. Binding Effect, No Assignment. SOM order(s) shall be binding upon the parties, and their respective successors, and permitted assigns. Seller shall not assign, or transfer any right, or interest, or obligation, or any monies due to Seller under a SOM order, without the prior written consent of the Purchaser. Seller may, subject to prior written notice, and Purchaser's written approval, subcontract portions of a SOM order as long as Seller remains fully responsible for meeting the terms of a SOM order. Any attempt to assign or transfer without Purchaser's prior written consent will be void, have no effect, and Purchaser may terminate any and all SOM orders for cause.

16. Seller's Insolvency. If Seller ceases to conduct its operations in the normal course of business including inability to meet its obligations as they mature, or if any proceeding under the bankruptcy or insolvency laws is brought by or against Seller, or a Receiver for Seller is appointed or applied for, or an assignment for the benefit of creditors is made by Seller, Purchaser may, upon written notice, immediately terminate the SOM order(s) without liability except for deliveries previously made or for goods covered by a SOM order then completed and subsequently delivered in accordance with the terms of the SOM order.

17. Purchaser's Designs Cannot be Re-Used.
(a) When Material is made pursuant to design or content criteria submitted by Purchaser, such design or content is a work made for hire in accordance with the copyright laws of the United State. The Purchaser is the proprietor of the Material from the time of its creation and owns all rights, title, and interest therein, throughout the world, including without limitation, the copyright and all related rights.
(b) To the extent that it is determined that the Material does not qualify as a work made for hire within the meaning of the copyright laws of the United States, then Seller hereby irrevocably transfers and assign to Purchaser all of its rights, title, and interest throughout the world and in perpetuity in the Material, including without limitation, all of its rights, title, and intellectual and interest in copyright and related rights, free of any claim(s) of Seller, or any other person or entity. Seller retains the rights it may have to pre-existing materials used in the Material.

18. Integration Clause. Upon acceptance of a SOM order, all prior negotiations and communications between the parties, verbal or written, are suspended by and merged in the SOM order. Evidence of such negotiations or communications prior to such acceptance shall be inadmissible to vary the terms hereof. This writing comprises the full and entire SOM order between the parties affecting the work provided for herein. Purchaser has made no inducements or representations to Seller whatsoever except as expressly stated in a SOM order. No other document(s) including the Seller's proposal, quotation, or acknowledgement form, will be part of any Order, unless specifically agreed to in writing by Purchaser.

19. Applicable Law, Dispute Resolution. The terms and conditions of this Order shall be construed and interpreted under; and all respective rights and duties of the parties shall be governed by, the laws of the Commonwealth of Virginia, excluding conflicts of law provisions. The parties agree to submit to the personal jurisdiction of the United States District Court for the Eastern District of Virginia for all claims and actions arising under this Agreement unless federal subject matter jurisdiction is lacking, in which case the parties agree to submit to the personal jurisdiction of the state courts of the Commonwealth of Virginia.

20. No Publicity. Seller shall not advertise, or publish any news releases, or publicly announce the fact that Seller has contracted to supply Material to Purchaser without obtaining the prior written permission of Purchaser.

21. Independent Contractors. The status of the parties under this Purchase Order shall be that of independent contractors. Neither party shall be authorized to waive any right, assume or create any contract or obligation or make any representation of any kind in the name of, nor on behalf of, the other or to make any statement that it has the authority to do so. Nothing in an Order shall be construed as establishing a partnership, joint venture, agency, employment, or other similar relationship between the parties hereto. Vendor shall be responsible for providing any salary or other benefits to its employees and consultants, will make all appropriate tax, social security, Medicare and other withholding deductions and payments and will make all appropriate unemployment tax payments.

22. Confidential Information.
(a) Each party shall hold the Confidential Information of the other in confidence and protect the same with at least the same degree of care, but no less than reasonable care, with which it protects its own most sensitive confidential information. Each party shall use the Confidential Information of the other solely in connection with the exercise of its rights and the performance of its obligations under this Purchase Order, and shall restrict disclosure of and access to the Confidential Information of the other to such party's Personnel that require access to such Confidential Information in connection with this Purchase Order. Each party shall require its personnel to comply with the

obligations of confidentiality set forth herein and shall be liable for any failure by its Personnel to so comply. Each party's obligations shall not apply to Confidential Information of the other party that (1) was in the public domain prior to the Effective Date or subsequently came into the public domain through no fault of the receiving party; (2) was lawfully received by the receiving party from a third party free of any obligation of confidence; (3) was already in the lawful possession of the receiving party prior to receipt from the disclosing party; (4) is required to be disclosed by law, provided that the party seeking disclosure provides prior written notice of such disclosure to the other party and takes all reasonable and lawful actions to avoid and/or minimize the extent of such disclosure; or (5) the receiving party can show by a preponderance of documentary evidence was subsequently and independently developed by its employees, consultants or agents without reference to the Confidential Information of the disclosing party.
(b) Upon completion or termination of a SOM, Seller will immediately return or destroy all copies of Purchaser's Confidential Information in Seller's possession. Seller shall verify, in writing, by an executive officer of Seller, its compliance with this Article 22(b).

23. Termination for Convenience. Purchaser may terminate a SOM order in whole or part, at any time for its convenience. Notice shall be sent to Seller in writing, and state that termination is for Purchasers convenience, the extent to which delivery or performance under a SOM order is terminated, and the termination date. Unless otherwise instructed by Purchaser, Seller shall stop work immediately on receipt of notice. For delivery, or performance that has been performed by Seller in accordance with a SOM order, prior to the effective termination date, the Purchaser shall pay Seller the SOM order price for Material delivered, or applicable services performed to date, and certified by Seller.

24. Notices. All notices and communications between the parties under this Order shall be in writing and sent to a party's address provided below, and shall be deemed validly given or served (a) upon personal delivers, receipt obtained. (b) certified mail, return receipt, (c) facsimile with telephone confirmation of receipt, or express courier service, with delivery receipt.

25. Force Majeure. Neither party shall be in default if failure to perform any obligation under this Order is caused solely by supervening conditions beyond a party's control, including acts of nature, God, civil commotion, terrorism, strikes, labor disputes, and government demands or requirements. The party anticipating or claiming a force majeure occurrence shall notify the other party, in writing as soon as possible, detailing the occurrence and providing a recovery and time table plan. Purchaser, at its option, and by written notice, may terminate a SOM order for Material that can not be fully delivered, or does not meet the delivery date(s), or does not met the technical requirements of a SOM order.

26. Survival. The rights and obligations under the following sections of this Order shall survive any termination or expiration: 5, 6, 17, 19, 20, 22, and 24.