|  |  |
| --- | --- |
|  | **SERVICES AGREEMENT** |

This Services Agreement (“Agreement”), is made the \_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_ 20\_\_, by and between Tennessee Technological University (“University”) and \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (“Customer”).

# SCOPE OF WORK. The University, through its (NAME OF DEPARTMENT OR CENTER), agrees to perform the services as set out below (“Project”).

## Project: **(DESCRIPTION OF PROJECT AND DELIVERABLES)**.

##  Work is to be performed at **(LOCATION – UNIVERSITY SITE OR OTHER)**.

## University may commence the Project promptly upon final execution of Agreement and shall use reasonable efforts to complete the Project substantially in accordance with the terms and conditions of this Agreement. Anything in this Agreement to the contrary notwithstanding, Customer and University may at any time amend the scope of the project(s) by mutual written agreement.

## Customer understands that the University may be involved in similar projects for other parties on behalf of itself and others and that all services provided are on a non-exclusive basis.

## Except as may be expressly set forth in this Agreement, all information, materials, software or services provided by the University under this Agreement (collectively, “Deliverables”) are provided on an “as is” basis, and the University expressly disclaims any and all express, implied or statutory warranties with respect to the Deliverables, including, without limitation, any implied warranties of merchantability, fitness for a particular purpose, title, noninfringement, or results to be obtained by Customer and end users in connection with the use of any such Deliverables.

## Except as may be expressly set forth in this Agreement, the University shall have no liability to the Customer for any special, consequential, exemplary, incidental, or indirect damages (including, but not limited to, loss of profits, revenues, data and/or use), even if advised of the possibility thereof. Any claim based on this agreement must be brought within eighteen (18) months after the cause of action accrues.

## Customer agrees to obtain, at Customer’s expense, a non-exclusive license for the University to practice and/or use any patented technology or copyrighted material necessary to carry out the services contemplated by the scope of the Project. In the event that Customer is the owner of any patents or copyrights the practice of use of which is necessary for carrying out the Project, the Customer hereby grants the University a non-exclusive license to practice and/or use any such patented technology or copyrighted material.

# COMPENSATION.

## As consideration for the University’s performance, Customer will pay the University an amount of $\_\_\_\_\_\_\_\_\_\_\_ upon completion of Project.

## Payment to University is due within 30 days of receipt of invoice. All payments shall be made payable to Tennessee Tech University.

## Customer must notify the University of any disputed item on University’s invoice within 10 calendar days of Customer’s receipt of University’s invoice. If Customer notifies University of disputed items on an invoice within 10 calendar days, Customer and University will work in good faith to resolve the dispute.

## In the event of early termination of this Agreement by Customer for convenience, Customer shall pay all costs accrued by the University as of the date of termination, including non-cancelable obligations, resulting from the Agreement.

# TERM AND TERMINATION.

## Unless sooner terminated in accordance with the provisions of this Agreement, this Agreement shall become effective upon execution and shall continue in effect until Project is completed or for a period of six months following Agreement execution, whichever is earlier.

## Either party may terminate this Agreement for convenience upon 30 days prior written notice to the other.

## If the Customer fails to fulfill in a timely and proper manner its obligations under this Agreement or if the Customer shall violate any of the terms of this Agreement, the University shall have the right to immediately terminate this Agreement and receive fair compensation for work completed.

# GENERAL TERMS.

## Any provision of this Agreement which by its nature extends beyond termination shall survive such termination.

## Customer and University agree to cooperate, each with the other, in the preparation of any publicity, advertising, or news release related to the Project.

## In the performance of services hereunder:

1. University shall be deemed to be and shall be an independent contractor and, as such, neither University nor its employees shall be entitled to any benefits applicable to employees of Customer, nor shall Customer or its employees be entitled to any benefits applicable to employees of University.

2. Neither party is authorized or empowered to act as agent for the other for any purpose and shall not on behalf of the other enter into any contract, warranty, statement, commitment or representation as to any matter. Neither shall be bound by the acts or conduct of the other.

## Customer shall indemnify and hold harmless University against any and all actions, claims, costs, or liabilities, including attorneys’ fees and court costs at both trial and appellate levels, for any loss, damage, injury, or loss of life caused by (a) the actions of Customer, its officers, servants, agents or of any third party acting under authorization from Customer, or (b) for products developed or made by or as a result of information or materials received from the University. The University shall promptly notify Customer in writing after University receives notice of any claim, and Customer shall defend the University or may be given the opportunity, at University’s option, to participate and associate with University in control, defense, and trial of any claim and any related settlement negotiations. The University agrees to cooperate with Customer in the defense of any such claim, and no settlement shall be binding against the University without the consent of the Tennessee Attorney General.

## The State of Tennessee is self-funded and does not carry or maintain commercial general liability insurance or medical, professional or hospital insurance. Any and all claims against the State, including the University or its employees, shall be heard and determined by the Tennessee Claims Commission in the manner prescribed by law.

## Customer agrees to carry adequate public liability and other appropriate forms of insurance and to pay all applicable taxes incident to the Agreement.

## This Agreement shall be governed by and construed in accordance with the laws of the State of Tennessee, without regard to its choice or conflict of laws principles. The parties shall comply with all applicable federal, state and local laws and regulations.

##  Neither party may assign this Agreement without the prior written consent of the other.

## This Agreement may be amended only through a written amendment signed by the parties’ authorized officials.

## Contract notices must be sent in writing and delivered in a manner that provides proof of delivery, i.e. hand delivered, registered or certified mail, email, fax, etc. Notices shall be sent to:

|  |  |
| --- | --- |
| For Customer: | For University: |
| (CONTACT INFOFOR CUSTOMER) | Tennessee Tech University(CONTACT INFORMATION FOR DEPT/CENTER)with a copy to:Tennessee Tech UniversityOffice of ResearchMark Lynam, mdlynam@tntech.edu |

## Should an event (e.g., war, act of God, riot, natural disaster, etc.) beyond a party’s reasonable control occur, that party will be excused from performing its obligations under the Agreement, provided the following provisions are met: (1) The affected party must promptly notify the other party of the occurrence of the event, its effect on performance, and how long that party expects it to last, and (2) the affected party shall update that information as reasonable necessary and use reasonable efforts to limit damage to the other party and to resume its performance under the Agreement.

## The requirements of TCA § 12-12-101 et. seq. addressing contracting with persons with investment activities in Iran, shall be a material provision of this Agreement. Customer agrees, under penalty of perjury, that to the best of its knowledge that it is not on the list created pursuant to TCA § 12-12-106.

M. Contractor attests by its signature below that it shall not utilize the services of an illegal immigrant
 in the performance of this contract and shall not knowingly utilize the services of any subcontractor
 who will utilize the services of an illegal immigrant in the United States in the performance of this
 contract.

N. Unless otherwise provided for in this Agreement, the Customer understands that, if applicable to
 this Agreement, the University will possess all rights to any creations, inventions, other intellectual
 property, and materials, including copyright or patents in the same, which arise out of, are prepared
 by, or are developed in the course of the University’s performance under the Agreement.

O. University collects the information Customer provides to it for the purpose of fulfilling its obligations
 under this Agreement. The University will share the information Customer provides only to the
 extent required by law, judicial process or necessary internal process.

## P. Conflict of Interest. The Customer warrants that no part of the total Agreement amount provided herein shall be paid directly or indirectly to any officer or employee of the State of Tennessee as wages, compensation, or gifts in exchange for acting as officer, agent, employee, subcontractor, or consultant to the Customer in connection with any work contemplated or performed relative to this Agreement. Notwithstanding anything to the contrary in the foregoing, nothing in this Paragraph shall be construed to prevent the University from paying any of its employees working on the Project from funds received from Customer.

## Q. Debarment and Suspension. The Customer certifies, to the best of its knowledge and belief, that it and its principals:

a. are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal or state department or agency;

b. have not within a three (3) year period preceding this Agreement been convicted of, or had a civil judgment rendered against them from commission of fraud, or a criminal offence in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or Local) transaction or grant under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements, or receiving stolen property;

c. are not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, State, or Local) with commission of any of the offenses listed in section b. of this certification; and

d. have not within a three (3) year period preceding this Agreement had one or more public transactions (Federal, State, or Local) terminated for cause or default.

## R. Entire Agreement. This written Agreement constitutes the entire and only agreement between the parties relating to the Project and supersedes all prior negotiations, representations, agreements and understandings. The parties expressly disclaim reliance on any such prior negotiations, representations, agreements or understandings.

## S. The Parties agree that the Agreement may be executed in counterparts, executed electronically, and  transmitted electronically.

IN WITNESS OF their acceptance of the Agreement, the duly authorized representative(s) of each party has executed the Agreement.

CUSTOMER: UNIVERSITY:

By: By:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name: Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_