



SERVICES AGREEMENT

THIS SERVICES AGREEMENT (the "Agreement") is made and entered into as of the _____ day of _____, (the "Effective Date") by and between FLORIDA INSTITUTE OF TECHNOLOGY, INC., a Florida corporation not for profit ("Florida Tech"), and _____ ("Service Provider").

1. Scope and Term of Services Agreement. This Agreement shall apply to and control, and shall be deemed incorporated into, all agreements related to Service Provider providing Services (as defined below) to Florida Tech, each of which shall be initiated by a written purchase order(s) issued by Florida Tech to Service Provider . Provided, however, that the terms and provisions of this Agreement shall remain applicable to any Purchase Order accepted prior to the effective date of any termination.

2. Purchase Orders. During the term and subject to the terms and conditions set forth in this Agreement, Florida Tech may issue one or more Purchase Orders to Service Provider from time to time and in its discretion for the provision of various services ("Services") by Service Provider to Florida Tech. Upon acceptance of a Purchase Order by Service Provider, Service Provider agrees to provide the Services specified therein upon the terms and conditions contained in the Purchase Order and the terms and conditions set forth in this Agreement. A Purchase Order shall be deemed accepted upon Florida Tech's receipt of Service Provider's written acknowledgment of acceptance of such Purchase Order.

3. Statement of Work. A Purchase Order may incorporate by reference a statement of work ("Statement of Work") which more particularly defines and describes the scope of the Services covered by the Purchase Order and which contains various terms and conditions which shall be applicable to performance of the Services, including without limitation, specific personnel requirements, performance standards, acceptance criteria, payment conditions, reporting requirements and damages provisions.

4. Service Standards and Quality. All Services provided by Service Provider shall be performed in a competent and professional manner in accordance with best practices for the applicable field. Services provided to Florida Tech under this Agreement shall be of such quality and have such other attributes as meet the requirements of the applicable Purchase Order. Service Provider agrees to comply with all reasonable requests of Florida Tech in connection with the performance of Services hereunder.

5. Personnel. Service Provider will provide competent personnel to perform Services for Florida Tech under this Agreement. Service Provider will furnish personnel with the qualifications and experience required to perform the applicable Services, including any qualifications specified in the applicable Purchase Order. Service Provider shall provide supervision and support for such personnel consistent with best practices for the applicable field. Services are to be provided only by Service Provider's employees unless otherwise agreed to by Florida Tech. If provided in the applicable Purchase Order, Florida Tech shall have the right (i) to approve (and accept or reject) key personnel, (ii) to approve the removal or replacement of any previously approved key personnel, and (iii) to require the removal of specific personnel. Service Provider will provide all equipment and supplies needed by such personnel or otherwise required for the performance of the Services.

6. General Terms and Conditions. The Florida Tech Purchase Order General Terms and Conditions (the "General Terms and Conditions") as the same may be modified from time to time are hereby incorporated into this Agreement by reference as if they were set forth herein verbatim. Each Purchase Order accepted by Seller shall constitute a separate binding and enforceable agreement between Florida Tech and Service Provider subject to the terms and conditions set forth in the applicable Purchase Order (including any associated Statement of Work), the General Terms and Conditions and this Agreement.

7. Fees for Services. The fees payable by Florida Tech to Service Provider for Services performed pursuant to this Agreement and the payment schedule therefor will be set forth in each Purchase Order. A Purchase Order may specify specific work products that must be accepted by Florida Tech before an invoice becomes payable by Florida Tech. All fee amounts are expressed in U. S. Dollars. The fee amounts specified in any Purchase Order shall not be subject to adjustment or to any additional charges for any reason. The fees set forth in any Purchase Order include, and Service Provider is liable for and will pay, all taxes (including without limitation any sales tax, services tax or any similar tax), impositions, charges and exactions imposed on or measured by this Agreement or any Purchase Order, including without limitation all withholding taxes, employment taxes and other amounts required to be withheld or paid in connection with its personnel. Fees will not include any taxes, impositions, charges or exactions for which Florida Tech has furnished a valid exemption certificate or other evidence of exemption. Unless otherwise specified in a specific Purchase Order, Florida Tech will not be responsible for any expenses of any kind whatsoever incurred by Service Provider's personnel in connection with Service Provider's performance and furnishing of the applicable Services.

8. Invoicing and Billing Instructions. Service Provider will submit individual invoices pertaining to each particular Purchase Order to Florida Tech unless specified otherwise in the applicable Purchase Order. Each invoice must satisfactorily evidence the charges for Services rendered, and identify the Purchase Order by its associated Purchase Order number. Invoices not in compliance with the foregoing requirements may be returned to Service Provider and may not be processed until sufficient information is provided. Florida Tech reserves the right to deduct from any amount due Service Provider any amount Service Provider owes Florida Tech with respect to any claims in favor of Florida Tech against Service Provider, whether or not related to

the applicable Purchase Order. Any pricing agreement or other supplemental terms and conditions agreed to by the parties with respect to Purchase Orders placed pursuant hereto are attached hereto and made a part hereof. Florida Tech may make payment without fee or charge using Bank of America's card payment system when available.

9. Representations and Warranties by Service Provider. Service Provider represents and warrants to Florida Tech (i) that Service Provider is qualified and has the expertise and ability to perform the Services, and (ii) that Service Provider has all licenses and registrations required by applicable governmental authorities for the performance of the Services. Service Provider represents and warrants that any materials provided by Service Provider shall not infringe upon any copyrights or other intellectual property rights of any person, firm or corporation, and that Service Provider has or will obtain all licenses, consents, permissions and releases and made all payments required in connection with any goods and services provided by Service Provider. Service Provider represents and warrants that it will at all times comply with the Occupational Safety and Health Act of 1970 and all rules and regulations now or hereafter in effect under said act and any other federal, state or local laws, rules and regulations pertaining to job safety and health.

10. Independent Contractor Status. The relationship of Service Provider to Florida Tech shall be that of an independent contractor. Nothing contained herein shall be deemed to create a relationship of employer and employee, principal and agent, or partners or joint venturers between Service Provider and Florida Tech. Service Provider and its personnel shall not be entitled to participate in any of the employee benefit, deferred compensation or other plans maintained by Florida Tech for its employees. Service Provider shall promptly complete and furnish to Florida Tech a Vendor Registration form and a W9.

Insurance. Service Provider shall obtain and maintain throughout the term of this Agreement commercial general liability insurance, automobile liability, workers compensation and employer's liability insurance in accordance with Florida Tech's requirements as the same may be established for the services to be rendered by Service Provider. Florida Tech shall provide Service Provider with a written request for proof of insurance containing its specific coverage requirements, which may include a requirement for Professional Liability coverage if appropriate. Service Provider's policy of commercial general liability insurance shall include contractual liability coverage insuring the performance by Service Provider of its indemnification obligations under this Agreement and shall name Florida Tech as an additional insured. Said insurance coverage procured by service provider naming Florida Tech as an additional insured shall be primary over and above all other available insurance coverage for Florida Tech. Service Provider shall also obtain and maintain throughout the term of the Agreement workers compensation insurance in compliance with applicable state law covering all persons employed by Service Provider. All policies shall be issued by insurance companies licensed to do business in the State of Florida, shall provide for thirty (30) days written notice to Florida Tech prior to any cancellation, reduction or modification of coverage and shall comply in all respects with the insurance requirements of Florida Tech's Purchasing Policy. Service Provider shall furnish Florida Tech with evidence (satisfactory to Florida Tech) of all insurance coverage required hereunder prior to commencing the performance of the Services, which will include a certified copy of said insurance policy and declaration sheet, and/or all applicable endorsements.

11. Indemnification. Service Provider shall indemnify, hold harmless and defend Florida Tech, its subsidiaries, related and affiliated companies, and the trustees, officers, faculty, employees, agents, and assigns of each, from and against any and all damages, claims, demands, suits, judgments, losses or expenses (including, without limitation, reasonable attorneys' fees at or before the trial level and in any appellate proceeding) of any nature whatsoever arising in whole or in part, directly or indirectly from or out of any act or omission of Service Provider, any failure of Service Provider to perform its obligations hereunder, or any breach of Service Provider's representations as set forth in this Agreement.

12. Default and Remedies. In the event of a material breach by Service Provider of any of the provisions hereof, Florida Tech may, but shall not be required to, immediately terminate this Agreement and/or the applicable Service Purchase Orders by giving written notice thereof to Service Provider. Further, if Service Provider defaults in the performance of this Agreement or materially breaches any of Service Provider's obligations under this Agreement, Florida Tech shall have all rights and remedies provided by law or in equity. The foregoing provisions are in addition to the remedies provided to Florida Tech under the General Terms and Conditions.

13. Public Communications. Neither party shall make reference to the other party in any advertising or public relations material, or use the other party's trademarks or logos, without prior written approval of the other party. Neither party shall have the right to issue a press statement or press release regarding this Agreement without the prior written approval of the other party.

14. Conflicts of Interest. Service Provider represents and warrants that to the best of Service Provider's knowledge there exists no actual or potential conflict of interest which may have an impact upon its provision of any services contemplated by this agreement. Service Provider agrees to promptly advise Florida Tech in the event any change of circumstance results in the creation of any actual or potential conflict of interest. Service Provider certifies that Service Provider is not an employee, faculty member or student of Florida Tech.

15. Confidentiality. Service Provider acknowledges that, during the term of this Agreement, Service Provider may be exposed to confidential or proprietary information. All information disclosed by Florida Tech to Service Provider pursuant to this Agreement (i) which Service Provider reasonably should know is confidential or proprietary, or (ii) which is disclosed in writing and marked "proprietary", "confidential" or the like, or (iii) which is verbally disclosed to be confidential at the time of disclosure and confirmed in writing as confidential or proprietary within ten days after the date of disclosure, is hereinafter referred to as "Confidential Information". Service Provider covenants and agrees to maintain in strictest confidence all Confidential Information disclosed to Service Provider, directly or indirectly, while performing the Services under this Agreement. Upon request, Service Provider shall return all Confidential Information and any copies thereof in its possession to Florida Tech. Service Provider shall be liable hereunder for compliance with this covenant of confidentiality and Service Provider agrees it shall be liable to Florida Tech for any breaches of this covenant by any employee, contractor, Service Provider or agent of Service Provider.

16. Miscellaneous. This Agreement or any provision hereof may be amended or waived only by written agreement signed by both parties. This writing, together with the General Terms and Conditions for Florida Tech’s Purchase Orders and the Purchasing Policy , constitutes the entire agreement between the parties and supersedes and merges all prior oral or written agreements, representations, statements, proposals and undertakings between the parties regarding the subject matter hereof. No provision in this Agreement shall provide to any person not a party to this Agreement any remedy, claim or cause of action, or create any third-party beneficiary rights against either party. In the event that any one or more of the provisions in this Agreement shall for any reason be held to have no force and effect, this Agreement shall, if possible, be interpreted in a manner so as to effectuate the intention of the parties. Provisions contained in this Agreement that, by their sense and context, are intended to survive the suspension or termination of this Agreement shall so survive. This Agreement is the subject of negotiation between the parties and should not be interpreted more favorably toward one party over the other. Neither party may assign this Agreement without the prior written consent and approval of the other party. All disputes related to this Agreement shall in the first instance be referred to the appropriate executives of each party for resolution. In connection with any litigation, including appellate proceedings, arising out of or under this Agreement, the prevailing party in such litigation shall be entitled to recover such party's out-of-pocket costs and reasonable attorneys' fees. This Agreement and the interpretation and enforcement thereof shall be governed by and construed in accordance with the laws of the State of Florida. The parties consent to the exclusive venue in any litigation arising out of this Agreement being laid in the appropriate state courts in Brevard County, Florida. The parties waive any right that they might otherwise have to remove any such action to federal court.

17. THE PARTIES WAIVE ANY AND ALL RIGHT THEY OTHERWISE MIGHT HAVE TO A JURY TRIAL FOR ANY CAUSE IN ANY WAY RELATED TO , CONNECTED WITH , ASSOCIATED WITH OR ARISING OUT OF THIS AGREEMENT, THE PURCHASE ORDERS ANTICIPATED BY THIS AGREEMENT, OR ANY CLAIMS OR COUNTER-CLAIMS WHICH THE PARTIES MIGHT ATTEMPT TO ASSERT IN ANY WAY RELATE TO THIS AGREEMENT.

18. This Agreement may be executed in counterparts, each of which shall be valid as an original and all of which shall be one and the same document.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the day and year first above written.

SERVICE PROVIDER:

FLORIDA INSTITUTE OF TECHNOLOGY,
INC.

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

Attachments:

1. _
2. _
3. _

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