

MASTER SERVICES AGREEMENT

THIS MASTER SERVICES AGREEMENT (the "Master 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 Master Agreement.** This Master 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 (a "Service Purchase Order" or "Service Purchase Orders"). Provided, however, that the terms and provisions of this Master Agreement shall remain applicable to any Service Purchase Order accepted prior to the effective date of any termination. Agreement will be for a period of _____ years.
2. **Service Purchase Orders.** During the term and subject to the terms and conditions set forth in this Master Agreement, FLORIDA TECH may issue one or more Service 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 Service Purchase Order by Service Provider, Service Provider agrees to provide the Services specified therein upon the terms and conditions contained in the Service Purchase Order and the terms and conditions set forth in this Master Agreement. A Service Purchase Order shall be deemed accepted upon FLORIDA TECH's receipt of Service Provider's written acknowledgment of acceptance of such Service Purchase Order.
3. **Statement of Work.** A Service 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 Service 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 Master Agreement shall be of such quality and have such other attributes as meet the requirements of the applicable Service 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 Master Agreement. Service Provider will furnish personnel with the qualifications and experience required to perform the applicable Services, including any qualifications specified in the applicable Service 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 Service 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 Master Agreement by reference as if they were set forth herein verbatim. Each Service 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 Service Purchase Order (including any associated Statement of Work), the General Terms and Conditions and this Master Agreement. The current version of General Terms and Conditions is available at <https://www.fit.edu/media/site-specific/wwwfitedu/purchasing-ap/documents/Purchase-Orders-Terms-and-Conditions-combined.pdf>

7. Fees for Services. The fees payable by FLORIDA TECH to Service Provider for Services performed pursuant to this Master Agreement and the payment schedule therefore will be set forth in each Service Purchase Order. A Service Purchase Order may specify specific work products that must be accepted by FLORIDA TECH and any construction lien documents required, before an invoice becomes payable by FLORIDA TECH. All fee amounts are expressed in U. S. Dollars. The fee amounts specified in any Service Purchase Order shall not be subject to adjustment or to any additional charges for any reason. The fees set forth in any Service 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 Master Agreement or any Service 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 Service 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 Service Purchase Order to FLORIDA TECH unless specified otherwise in the applicable Service Purchase Order. Each invoice must satisfactorily evidence the charges for Services rendered, and identify the Service Purchase Order by its associated Service Purchase Order number. Invoices not in compliance with the foregoing requirements will be returned to Service Provider and will 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 Service Purchase Order. Any pricing agreement or other supplemental terms and conditions agreed to by the parties with respect to Service Purchase Orders placed pursuant hereto are attached hereto as

Exhibit "A" and made a part hereof. FLORIDA TECH may make payment without fee or charge using Bank of America's card payment system.

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 ventures 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 Supplier Registration form and a W9.

11. Insurance. The Service Provider shall, at its sole cost and expense, procure and maintain throughout the term of this contract, Comprehensive General Liability, including Bodily Injury and Property Damage Liability, in an amount not less than \$1,000,000 each occurrence and \$2,000,000 general aggregate; Worker's Compensation and Employer's Liability Insurance For any entity with employees, workers compensation as required by Florida law (or the law of the state in which the campus is located) and Employers Liability insurance in an amount not less than \$500,000 bodily injury each accident, \$500,000 disease policy limit, and \$500,000 disease each employee or the statutory minimum requirement, whichever is less; Auto Liability in an amount not less than \$1,000,000 each occurrence for bodily injury and property damage, including owned, hired, and non-owned vehicle coverage.

Service provider must name Florida Institute of Technology as a named, additional insured, as well as furnishing Florida Institute of Technology with a certified copy, or copies, of said insurance policies. Certificates of insurance and certified copies of these insurance policies must accompany this signed contract. Said insurance coverages procured by the Service Provider as required herein, including but not limited to any excess and/or umbrella coverages, shall be considered, and the Service Provider agrees that said insurance coverages it procures as required herein shall be considered, as primary insurance over and above any other insurance, or self-insurance, available to Florida Institute of Technology, and that any other insurance, or self-insurance available to Florida Institute of Technology shall be considered

secondary to, or in excess of, the insurance coverage(s) procured by The Service Provider as required herein.

12. Indemnification. Service Provider shall defend, indemnify and hold harmless Florida Institute of Technology and all of its officers, agents, and employees from and against all claims, liability, loss and expense, including reasonable costs, collection expenses, attorneys' fees, and court costs which may arise because of the negligence (whether active or passive), misconduct, or other fault, in whole or in part (whether joint, concurrent, or contributing), of Service Provider, its officers, agents or employees in performance or non-performance of its obligations under the Agreement. Service Provider recognizes the broad nature of this indemnification and hold harmless clause, as well as the provision of a legal defense to Florida Institute of Technology when necessary, and voluntarily makes this covenant and expressly acknowledges the receipt of such good and valuable consideration provided by Florida Institute of Technology in support of these indemnification, legal defense and hold harmless contractual obligations in accordance with the laws of the State of Florida. This clause shall survive the termination of this Agreement. Compliance with any insurance requirements required elsewhere within this Agreement shall not relieve Service Provider of its liability and obligation to defend, hold harmless and indemnify Florida Institute of Technology as set forth in this article of the Agreement.

13. 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 Master 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 Master Agreement or materially breaches any of Service Provider's obligations under this Master 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.

14. 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 Master Agreement without the prior written approval of the other party.

15. 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.

16. Force Majeure. Neither party will be liable for inadequate performance to the extent caused by a condition, for example, natural disasters "Acts of God," or manmade disruptions occur, such as acts of terrorism, riots, strikes, wars, governmental order or law, declaration of a state of emergency or the occurrence of an epidemic, pandemic or other communicable diseases, or in the event other circumstances occur rendering

fulfillment of this agreement impractical or impossible beyond the university's control, then such nonperformance shall not be considered a breach of this Agreement.

17. Confidentiality. Service Provider acknowledges that, during the term of this Master Agreement, Service Provider may be exposed to confidential or proprietary information. All information disclosed by FLORIDA TECH to Service Provider pursuant to this Master 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 Master 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.

18. Termination. Florida Tech may terminate this contract for neglect as determined by the Florida Tech Contracting Officer who shall consider such items as: insufficient insurance coverage or when quality of service is deemed unsatisfactory. This may include any cessation or diminution of service, change in ownership or proprietorship of the Service Provider that in the opinion of the Florida Tech Contracting Officer is not in the best interest of Florida Tech or failure to comply with the terms of this contract. Florida Tech shall provide written notice of non-compliance to Service Provider. Non-compliance must be corrected within 30 days of receipt of notice. Florida Tech may terminate the contract by giving sixty (60) day notice in writing by registered or certified mail of its intention to cancel this contract.

19. Miscellaneous. This Master 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 Master Agreement shall provide to any person not a party to this Master 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 Master Agreement shall for any reason be held to have no force and effect, this Master Agreement shall, if possible, be interpreted in a manner so as to effectuate the intention of the parties. Provisions contained in this Master Agreement that, by their sense and context, are intended to survive the suspension or termination of this Master Agreement shall so survive. This Master 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 Master Agreement without the prior written consent and approval of the other party. All disputes related to this Master 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 Master Agreement, the prevailing party in such litigation shall

be entitled to recover such party's out-of-pocket costs and reasonable attorneys' fees. This Master 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 Master 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.

20. 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 COUNTERCLAIMS WHICH THE PARTIES MIGHT ATTEMPT TO ASSERT IN ANY WAY RELATE TO THIS AGREEMENT.

21. 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.

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

SERVICE PROVIDER
NAME: _____

FLORIDA INSTITUTE OF TECHNOLOGY,
INC.

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Attachments:

1. _____

2. _____

3. _____