

## PROFESSIONAL SERVICES AGREEMENT

This Professional Services Agreement (this "Agreement") is made and entered into as of the \_\_\_\_ day of \_\_\_\_\_, 20\_\_ (the "Effective Date"), by and between the University of Rochester ("the University") and \_\_\_\_\_, with an office located at \_\_\_\_\_ (the "Service Provider").

**WHEREAS**, the University wishes to obtain the professional services of the Service Provider; and,

**WHEREAS**, the Service Provider has the knowledge, skill and capability to perform such services for the University.

**THEREFORE**, in consideration of the foregoing, the parties, intending to be legally bound, hereby agree to the following:

1. **Services**. The Service Provider is hereby retained by the University, and Service Provider agrees to provide the services set forth on Exhibit A attached hereto and incorporated herein by this reference (the "Services"). Services shall be performed in accordance with the timeline set forth in Exhibit A, or any supplemental schedule prepared by the Service Provider and agreed to in writing by an authorized representative of the University.
2. **Service Requirements**. The Services delivered hereunder shall conform in all material respects to (i) the specifications set forth in Exhibit A, (ii) the University of Rochester generally applicable Terms and Conditions, which is set forth as Exhibit B attached hereto and is incorporated herein by reference ("Terms & Conditions"), and (iii) any other requirements agreed upon by the parties in writing. Service Provider agrees to use sound and professional principles and practices in accordance with normally accepted industry standards in rendering Services hereunder, and Service Provider further agrees that performance shall reflect the best professional knowledge, skill and judgment of Service Provider. Service Provider shall furnish competent personnel for fulfillment of its obligations. If the University deems Service Provider personnel unsatisfactory to perform Services due to a failure by such personnel to comply with the terms and conditions imposed on Service Provider as set forth herein, such personnel shall be removed immediately.
3. **Nature of Services**.
  - a. **Work Product**. Any and all reports, documentation, files, media and other materials created or produced by Service Provider in connection with the Services rendered hereunder shall be deemed "Work Product."

- b. **Work Made for Hire.** The Work Product shall constitute works-made-for-hire belonging exclusively to the University. To the extent that any Work Product does not constitute a work-made-for-hire owned by the University, Service Provider agrees to assign and transfer all of its right, title and interest in such Work Product to the University.

Modifications to Work Product. The University retains the right to modify the Work Product or to merge the Work Product into other documents or other materials owned or utilized by the University.

- c. **Service Provider Proprietary Material.** University does not under this Agreement acquire any ownership rights in and/or to any software, documentation, tools, techniques, methodologies or other material which has not or is not created as part of the Services to be rendered hereunder which is proprietary to Service Provider ("Service Provider Proprietary Material"). However, if Service Provider incorporates any Service Provider Proprietary Material into any Work Product, or any of the Work Product requires Service Provider Proprietary Material in order to operate or otherwise be useable by the University, Service Provider hereby grants the University a nonexclusive, royalty free, fully paid, perpetual, irrevocable license to use the Service Provider Proprietary Material as part of the Work Product.
  - d. **Third Party Proprietary Material.** The University does not under this Agreement acquire any ownership rights in and/or to any software, documentation, tools, techniques, methodologies or other material which is proprietary to any third party ("Third Party Proprietary Material"). The University shall be responsible for obtaining any necessary licenses for Third Party Proprietary Material. Service Provider may not incorporate any Third Party Proprietary Material into the Work Product without the prior written consent of the University.
4. **Payment.** The University agrees to pay Service Provider \_\_\_\_\_ for Services completed in accordance with the terms of this Agreement. The fee shall be due and payable as specified in Exhibit A. The fee shall be payable within thirty (30) days after receipt and approval by the University of Service Provider's invoice. Except as otherwise specified in Exhibit A, Service Provider shall not incur or charge the University any other fees or expenses without the prior written authorization of the University. Performance beyond the limitations set forth in this Agreement (either financial or time period) shall be at the sole risk and responsibility of the Service Provider, and the University shall not be obligated to pay for Services exceeding the funding or contract period of this Agreement.
5. **Term.** The term of this Agreement shall commence on the Effective Date and shall continue until \_\_\_\_\_, unless this Agreement is otherwise extended or terminated in accordance with the terms specified herein.

6. **Entire Agreement.** This Agreement, including the exhibits hereto, represents the entire agreement between the parties hereto and supersedes all prior and contemporaneous written or oral agreements and all other communications between the parties relating to the Services to be rendered hereunder. Any additions, deletions or modifications shall not be binding on either party unless accepted and approved in writing by duly authorized representatives of both parties. In the event of any contradictory provisions between this Agreement and the terms of any Exhibits, attachments or schedules hereto or any purchase order or other documents issued by the University or Service Provider in connection herewith, the terms set forth in the body of this Agreement shall prevail.
  
7. **Counterparts.** This Agreement may be executed in one or more counterparts, each of which will be deemed to be an original, and such counterparts will together constitute the same instrument.
  
8. **Severability.** The provisions of this Agreement shall be deemed severable, and if any portion shall be held invalid, illegal or unenforceable for any reason, the remainder of this Agreement shall be effective and binding upon the parties, unless to do so would clearly violate the present legal and valid intention of the parties hereto.
  
9. **Remedies.** Pursuit by either party of any remedies described herein, or otherwise available at law or in equity, shall not preclude pursuit by that party of any other remedy or remedies provided herein or otherwise available at law or in equity. All remedies, rights, undertakings, obligations and agreements shall be cumulative and none of them shall be in limitation of any other remedy, right, undertaking, obligation or agreement of either party.

**IN WITNESS WHEREOF**, this Professional Services Agreement has been duly executed by the authorized representatives of the parties hereto as of the date first set forth above.

Dated: \_\_\_\_\_, 20\_\_

UNIVERSITY OF ROCHESTER

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

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

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

Dated: \_\_\_\_\_, 20\_\_

SERVICE PROVIDER

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