

UNIVERSITY CONSULTING
AGREEMENT

THIS AGREEMENT ("Agreement") is between _____ University ("University"),
and _____, located at _____
("Consultant").

In consideration of the following mutual covenants, University and Consultant agree as follows;

1. Services. Consultant will:

Such services will be referred to as the "Services." No other services will be performed unless this Agreement is amended as provided in section 17.

2. Term. The term of this Agreement will commence on _____ [date] and terminate on _____ [date], unless otherwise terminated in accordance with other provisions of this Agreement.

3. Payment. University will pay Consultant an amount not to exceed \$ _____ for the satisfactory performance of the Services to be paid as follows:

University will make payments within thirty (30) days after receipt of Consultant's invoice provided that the Services invoiced for have been accepted by University as provided in section 9.

4. Independent Contractor.

a. Consultant and any persons employed by Consultant to perform Consultant's obligations under this agreement will be independent contractors and not agents of University. Any provision in this Agreement that may appear to give University the right to direct Consultant as to details of work or to exercise a measure of control over the work mean that Consultant will follow the directions of University as to end results of the work only.

b. As an independent contractor, Consultant and its employees are not entitled to Workers' Compensation benefits except as may be provided by Consultant, nor to unemployment insurance benefits unless unemployment compensation coverage is provided by Consultant or some other entity. Consultant is obligated to pay all federal and state income tax on any money earned or paid pursuant to this Agreement.

5. Intellectual Property Rights. Consultant agrees that all patentable or copyrightable ideas, writings, drawings, inventions, designs, parts, machines, processes, computer software (together with any related documentation source code or code, object codes, upgrades, revisions, modifications, and any related materials) developed as a result of, or in the course of,

Services rendered to University by Consultant, or any employee or employees of Consultant, during the term of this Agreement will be the property of University. Consultant assigns all rights in such intellectual property to University and will (and will ensure that Consultant's employees and subcontractors will) supply all assistance reasonably requested in securing for University's benefit any patent, copyright, trademark, service mark, license, right, or other evidence of ownership of any such intellectual property, and will provide full information regarding any such item and execute all appropriate documentation prepared by University in applying or otherwise registering, in University's name, or in the name of any cooperative organization of University, all rights to any such item. University does not grant any licenses to Consultant to use any intellectual property developed under this Agreement.

6. Warranty. Consultant warrants that in performing the Services:

- a. Consultant will strictly comply with the descriptions and representations as to the Services (including performance, capabilities, accuracy, completeness, scheduling characteristics, specifications, configurations, standards, functions, and requirements) which appear in this Agreement, and Consultant and any employees of Consultant will perform the Services on time;
- b. Consultant's products, if any, will conform to generally applicable standards in the industry;
- c. the Services will not be in violation of any applicable law, rule, or regulation, and Consultant will obtain all permits required to comply with such laws and regulations;
- d. the Services will not violate or in any way infringe upon the rights of third parties, including proprietary information and non-disclosure rights, or any trademark, copyright, or patent rights;
- e. Consultant is the lawful owner or licensee of all proprietary material or intellectual property used in the performance of the Services, such programs have been lawfully developed or acquired by the Consultant, and the Consultant has the right to permit University access to or use of such intellectual property or proprietary material;
- f. with respect to any Consultant personnel designated as "Key Personnel" in section 10, the assignment of Consultant personnel to perform the Services will be continuous throughout the term of the Agreement, except in the case of the termination of employment of any such Key Personnel by Consultant;
- g. Consultant will assign to University the manufacturers' warranties for material furnished to University by the Consultant;
- h. Consultant will screen all employees supplied to University by Consultant in the performance of Consultant's services to ensure that each employee is fully qualified to perform the Services, and if required by law or ordinance, is validly licensed and/or has obtained all requisite permits to perform such Services for University.

7. **Proprietary Information.** Consultant acknowledges that in order to perform the Services called for in this Agreement, it may be necessary for University to disclose to Consultant certain Proprietary Information in the possession of University. Consultant further acknowledges that the Services, including any deliverables, may of necessity incorporate such Proprietary Information. In that event, Consultant agrees that it will not disclose, transfer, use, copy, or allow access to any such Proprietary Information, identified as such orally or in writing, to any employees or to any third parties, excepting those who have a need to know such Proprietary Information, in order to allow Consultant to perform the Services, and who have executed a non-disclosure agreement consistent with the provisions in this Agreement.
8. **Indemnification.**
- a. Consultant will INDEMNIFY, DEFEND, AND HOLD HARMLESS University, its Board of Trustees, officers, employees, agents, representatives, and volunteers from and against any and all liability, claims, demands, or on account of injury, loss, damage, or expense, including defense costs, court costs, and attorneys' fees, which arise out of or are in any manner connected with this Agreement, if such injury, loss, damage, or expense is caused or is claimed to be caused in whole or in part by the act, omission, error, mistake, negligence, or willful act of Consultant or its agents, subcontractors, or employees.
- b. The obligations of the immediately foregoing paragraph will not extend to any injury, loss, damage or expense that is caused solely by the act, omission, or other fault of University, its Board of Trustees, officers, employees, agents, representatives, or volunteers.
9. **Acceptance of Services.** Consultant will provide written notification of completion of any deliverables, or other performance of services, to University. University will have thirty (30) days from the date of receipt of the notice of completion to provide Consultant with written notification of acceptance or rejection due to unsatisfactory performance. Consultant will, as quickly as is practicable, correct at its expense all deficiencies caused by Consultant, its employees, agents, contractors, or subcontractors.
10. **Key Personnel.** Key personnel (non-University personnel only) for this Agreement are as follows:

The parties agree that such personnel are essential to the Services offered pursuant to this Agreement and are not employees of University or relatives of such employees. The parties further agree that should any such Key Personnel no longer be employed by Consultant during the term of this Agreement, for whatever reason, University will have the right to terminate this Agreement on thirty (30) days written notice to Consultant.

11. **Termination.**
- a. Each party has the right to terminate this Agreement immediately if the other party breaches, is in default of any obligation of this Agreement, or otherwise performs the Services in an unsatisfactory manner.

- b. University may terminate this Agreement immediately by written notice to Consultant and may regard Consultant in default of this Agreement if Consultant becomes insolvent, makes a general assignment for the benefit of creditors, files a voluntary petition of bankruptcy, suffers or permits the appointment of a receiver for its business or assets, or becomes subject to any proceeding under any bankruptcy or insolvency law, whether domestic or foreign, or has wound up or liquidated business, whether voluntarily or otherwise.
 - c. Either party may terminate this agreement without cause with thirty (30) days written notice to the other party. However, if Consultant terminates, University will have no further financial obligation to Consultant after the date of the notice of termination.
- 12. **Assignment.** Neither party has the right to assign this Contract without the prior written consent of the other party.
- 13. **Site of Services.** Consultant will perform the Services at a location other than University's premises if possible. If the Services are such that, in University's sole discretion, they must be performed on University's premises, University will provide Consultant office space and facilities to the extent University deems it necessary to perform the Services.
- 14. **Insurance.** Consultant represents that it now carries or will carry during the term of this Agreement insurance applicable to the Services such as worker's compensation and employer liability, general and contractual liability, professional liability, and comprehensive automobile liability insurance. Consultant will furnish certificates of insurance as evidence of such coverage upon request.
- 15. **Waiver.** The waiver by University of any breach of any provision contained in this Agreement will not be deemed to be a waiver of such provision on any subsequent breach of the same or any other provision contained in this Agreement. Any such waiver must be in a properly signed writing in order to be effective, and no such waiver or waivers will serve to establish a course of performance between the parties contradictory to the terms of this Agreement.
- 16. **Applicable Law.** The laws of _____ will govern this Agreement, and the _____ courts will have jurisdiction over its subject matter.
- 17. **Entire Agreement.** This Agreement constitutes the entire agreement and understanding of the parties with respect to its subject matter. No prior or contemporaneous agreement or understanding will be effective. This Agreement may be amended, but only upon advance mutual written agreement by the parties.
- 18. **Miscellaneous**

 - a. Both parties will comply with all applicable state and federal laws.
 - b. Any notice required under the Agreement will be in writing and may either be given by personal delivery or sent by regular mail addresses to the contacts for the parties.

