

THIS AGREEMENT FOR CONSULTANT SERVICES is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between FLORIDA INSTITUTE OF TECHNOLOGY, INC., a Florida corporation not for profit (hereinafter referred to as "Florida Tech"), and \_\_\_\_\_, a \_\_\_\_\_ (hereinafter referred to as "Consultant").

Florida Tech proposes to engage Consultant to perform the consulting services described herein below, and Consultant has agreed to perform such consulting services, in accordance with the terms and conditions provided for in this Agreement.

Therefore, Florida Tech and Consultant agree as follows:

1. **Services.**

(a) **Scope of Services.** Consultant shall furnish the following described services (hereinafter referred to as the "Services") to Florida Tech:

\_\_\_\_\_

\_\_\_\_\_

The Services shall include without limitation the preparation and delivery of the following reports or other deliverables: \_\_\_\_\_

\_\_\_\_\_

Consultant covenants and agrees to perform the Services in accordance with the requirements of this Agreement in a professional and ethical manner consistent with the highest standards. Consultant shall perform the Services in compliance with all applicable federal, State and local laws, rules and regulations, as well as the laws of any foreign country in which any of the Services are performed.

(b) **Time for Performance.** Consultant agrees to perform the Services within the following time period and in accordance with the following deadline requirements: \_\_\_\_\_

\_\_\_\_\_

(c) **Staffing Requirements.** Consultant shall comply with the following staffing requirements in performing the Services: \_\_\_\_\_

\_\_\_\_\_

(d) **Place of Performance.** Consultant shall perform the Services at the following location or locations: \_\_\_\_\_

\_\_\_\_\_

(e) **Resources.** Consultant shall provide all working space, equipment, vehicles, supplies and other resources required in connection with providing the Services except as follows: \_\_\_\_\_

\_\_\_\_\_

2. **Compensation.**

(a) **Fees.** Florida Tech agrees to pay Consultant for the Services as follows:

(Check one)

a flat rate, total fee in the amount of \$\_\_\_\_\_

a fee in the amount of \$\_\_\_\_\_ per hour for the actual time personally spent by Consultant in the performance of the Services, provided that the total fee shall not exceed a maximum of \$\_\_\_\_\_. Fractional hours shall be compensated for on a prorated basis based on tenths of an hour. Time spent on travel shall not be considered time spent in performing the Services.

a fee determined pursuant to the fee schedule attached hereto as Exhibit "A" and incorporated herein by reference.

Such fees shall be billed to Florida Tech and paid on the following basis: \_\_\_\_\_

\_\_\_\_\_

(b) **Expenses.** Travel and other expenses shall not be reimbursed except as follows: \_\_\_\_\_

\_\_\_\_\_

(c) **Overhead.** The fees provided for hereinabove are the total amount due from Florida Tech to Consultant pursuant to this Agreement. Consultant shall be responsible for all costs of Consultant's operations, including overhead, materials and supplies, the wages, salaries and benefits of Consultant's employees, and any and all taxes attributable to the Services or otherwise applicable to Consultant's operations.

3. **Payment.** Florida Tech will pay Consultant for the Services in accordance with the compensation provisions of paragraph 2 hereinabove after submission of an invoice by Consultant. Each invoice shall include the project title, purchase order number and detailed description of the Services performed or rendered. To the extent that Florida Tech may reasonably require, Consultant shall provide such supporting data for each invoice as Florida Tech shall reasonably request. Invoices shall be submitted for approval to Florida Tech, Attn: \_\_\_\_\_, 150 W. University Boulevard, Melbourne, Florida 32901-6975.
4. **Term and Termination.** This Agreement shall be made effective as of the date first written above and shall terminate on \_\_\_\_\_, 20\_\_\_\_, or if earlier on the date this Agreement has been fully performed by the parties. Either Florida Tech or Consultant may terminate this Agreement for convenience at any time by giving the other party thirty (30) days' prior written notice of such action. Further, if one party gives ten (10) days' notice to the other of a breach of this Agreement and the breaching party fails to cure the breach within the ten (10) day period, this Agreement may be terminated immediately by the non-breaching party. In the event of any termination, Florida Tech shall be responsible for payment only for Services satisfactorily performed prior to the effective date of the termination.
5. **Representations and Warranties by Consultant.** Consultant represents and warrants to Florida Tech (i) that Consultant is qualified and has the expertise and ability to perform the Services, and (ii) that Consultant has all licenses and registrations required by applicable governmental authorities for the performance of the Services. Consultant represents and warrants that any materials provided by Consultant shall not infringe upon any copyrights or other intellectual property rights of any person, firm or corporation, and that Consultant has obtained all consents, permissions and releases and made all payments required in connection with any materials prepared by Consultant.
6. **Independent Contractor Status.** The relationship of Consultant to Florida Tech shall be that of an independent contractor rendering professional services. Nothing contained herein shall be deemed to create a relationship of employer and employee, principal and agent, or partners or joint ventures between Consultant and Florida Tech. Consultant shall not be entitled to participate in any of the employee benefit, deferred compensation or other plans maintained by Florida Tech for its employees. Consultant shall promptly complete and furnish to Florida Tech a Vendor Registration form and a W9.
7. **Contact Persons.** The main contact persons for Florida Tech with respect to this Agreement and the Services to be provided hereunder shall be \_\_\_\_\_, as to technical matters, and \_\_\_\_\_, as to contractual matters. The main contact person for Consultant with respect to this Agreement shall be \_\_\_\_\_.
8. **Insurance.** Consultant shall, at its sole cost and expense, procure and maintain throughout the term of this contract, Comprehensive General Liability and Worker's Compensation Insurance, including Employer Liability insurance, with minimum policy limits of \$1, 000, 000, Combined Single Limits, or to the extent and in such amounts as required and authorized by Florida law, and will provide endorsed certificates of insurance generated and executed by a licensed insurance broker, brokerage or similar licensed insurance professional evidencing such coverage, and naming Florida Tech as a named, additional insured, as well as furnishing Florida Tech with a certified copy, or copies, of said insurance policies. Certificates of insurance and certified copies of these insurance policies must be provided prior to commencement of the consultant's provision of services. Said insurance coverages procured by consultant as required herein, including but not limited to any excess and/or umbrella coverages, shall be considered, and consultant agrees that said insurance coverages or procures as required herein shall be considered, as primary insurance over and above any other insurance, or self-insurance, available to Florida Tech, and that any other insurance, or self-insurance available to Florida Tech shall be considered secondary to, or in excess of, the insurance coverages procured by consultant as required herein.
9. **Indemnification.** Consultant shall defend, indemnify and hold harmless Florida Tech and all of Florida Tech's officers, agents, and employees from and against all claims, liability, loss and expense, including reasonable costs, collection expenses, attorney's fees and court costs to the extent caused in whole or in part by the negligence, recklessness, or intentionally wrongful conduct of the design professional and other persons employed or utilized by the design professional in the performance of the contract. Consultant recognizes the broad nature of this indemnification and hold harmless clause, as well as the provision of a legal defense to Florida Tech when necessary, and voluntarily makes this covenant and expressly acknowledges the receipt of such good and valuable consideration provided by Florida Tech 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 consultant of its liability and obligation to defend, hold harmless and indemnify Florida Tech set forth in this article of the agreement.
10. **Intellectual Property Rights.** Any invention, improvement or discovery made, conceived or first actually reduced to practice during the period when Services are being rendered under this Agreement, and which is related to the subject matter of those activities (hereinafter collectively referred to as "Intellectual Property"), will be and become exclusive property of, and owned solely by, Florida Tech. Consultant expressly and irrevocably disclaims and waives any right, title and interest in any such Intellectual Property and consents to Florida Tech's production and use of this Agreement to defend, refute or disprove any claims made by Consultant to the contrary. With respect to works subject to copyright, Consultant agrees that all works created as part of the Services hereunder, either solely or jointly with others, shall be considered works made for hire and shall belong exclusively to Florida Tech. To the extent any works by operation of law are not deemed works made for hire, Consultant assigns to Florida Tech all right, title and interest in such works.



11. Confidentiality. Consultant acknowledges that, during the term of this Agreement, Consultant may be exposed to confidential or proprietary information. All information disclosed by Florida Tech to Consultant pursuant to this Agreement (i) which Consultant 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, is identified as 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". Consultant covenants and agrees to maintain in strictest confidence all Confidential Information disclosed to Consultant, directly or indirectly, while performing the Services under this Agreement. Upon request, Consultant shall return all Confidential Information and any copies thereof in its possession to Florida Tech. Consultant shall be liable hereunder for compliance with this covenant of confidentiality and Consultant agrees it shall be liable to Florida Tech for any breaches of this covenant by any employee, contractor, consultant or agent of Consultant. Consultant agrees to cause each person who provides services under this Agreement to execute an acknowledgment of their obligations under this provision.
12. 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.
13. Conflicts of Interest. Consultant represents and warrants that to the best of Consultant's knowledge there exists no actual or potential conflict of interest between Consultant's family, business or financial interests and Consultant's services under this Agreement. Consultant 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. Consultant certifies that Consultant is not a faculty member or student of Florida Tech.
14. Form Terms and Conditions. Florida Tech's form general Terms and Conditions for Purchase Orders effective as of the date of this Agreement shall be applicable to this Agreement and are incorporated herein by reference. Consultant acknowledges that Consultant has received a copy of such General Terms and Conditions. In the event of any conflict or inconsistency between the terms and provisions of this Agreement and such General Terms and Conditions, the terms and provisions of this Agreement shall be construed to control and prevail.
15. Non-Disparagement. Consultant agrees and covenants that he/she will not at any time make, publish or communicate to any person or entity or in any public forum any defamatory or disparaging remarks, comments or statements, or make any maliciously false statements concerning Florida Tech, or its businesses, programs or any of its faculty, employees, officers and clients.
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 Purchasing Policy 129 rev. 1, 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 (including without limitation paragraphs 9, 10, 11 and 12), 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.

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

Signed, sealed and delivered in the presence of:

FLORIDA INSTITUTE OF TECHNOLOGY, INC., a Florida corporation not for profit

Print Name \_\_\_\_\_

Signature \_\_\_\_\_

Title \_\_\_\_\_

Date \_\_\_\_\_

CONSULTANT \_\_\_\_\_

Print Name \_\_\_\_\_

Signature \_\_\_\_\_

Title \_\_\_\_\_

Date \_\_\_\_\_