

PROFESSIONAL SERVICES AGREEMENT

Original _____ Amendment _____ Requisition# (must complete) _____

This Agreement is made by and between Youngstown State University (hereinafter "YSU or "University"), a state university as defined in Ohio Revised Code Section 3345.011, with its main campus located in Youngstown, Ohio with its administration office at 1 Tressel Way, Youngstown, Ohio, 44555-0001, and _____ (hereinafter referred to as "contractor") with offices at _____ and is effective on the date executed by the University.

No work shall be performed unless and until contractor receives a fully executed copy of PSA and valid Purchase Order. Once agreement is fully signed, attach a copy to the External attachments of the Requisition.

Requesting Department (must be completed or it will be returned) _____.

In consideration for the mutual promises contained herein, the above-named parties agree as follows:

- 1 SCOPE OF SERVICES.** Contractor shall be considered an independent contractor. Contractor shall provide services for YSU as attached (**must attach quote or statement of work**) or described here: _____.
- 2 PAYMENT.** Contractor shall perform the services described above or on attached quote for the amount of _____ Dollars. **Contractor will send an invoice for the entire service upon completion and acceptance by YSU unless otherwise agreed to in writing.** Payment will be made by YSU within thirty (30) days of receipt of invoice by YSU. If YSU terminates this Agreement, YSU will pay contractor for services rendered up to the date of termination.
- 3 BENEFITS.** Contractor and its agents and employees shall not receive any other compensation or be entitled to sick leave, vacation leave, PERS contribution, life insurance, health insurance, Worker's Compensation or any other benefits available to a University employee.
- 4 TAXES/HOLD HARMLESS.** The University shall not deduct or withhold any federal, state, city or other lawful taxes from any payments made to contractor. Contractor and its agents and employees shall hold the University harmless in the event any claim is made by any taxing authority as a result of its failure to withhold any federal, state, city or other lawful taxes.
- 5 TERM OF AGREEMENT.** All services rendered pursuant to this Agreement shall be commenced on the date of execution by YSU and shall be completed by contractor within _____ days or from _____ to _____. This agreement may be cancelled by YSU at any time without cause during its term upon 30 days written notice.
- 6 SUBJECT TO APPROPRIATION.** It is understood that any and all expenditures of University funds are contingent on the availability of lawful appropriations by the Ohio General Assembly. If the University determines at any time that the General Assembly failed to continue funding for payments and/or other obligations that may be due hereunder, then the University's obligations under the Agreement are terminated as of the date that the funding expired without further obligation of the University.
- 7 FINDINGS FOR RECOVERY (R.C. 9.24).** Contractor warrants that it is not subject to any "unresolved" findings for recovery under O.R.C. 9.24. If the warranty is deemed to be false, this Agreement is void *ab initio* and contractor must immediately repay to the University any funds paid under this Agreement.
- 8 SOC REPORTING REQUIREMENTS.** Service Organizations hosting software services off campus are required to submit a Service Organization Control (SOC) Report type 2 or 3 per the IT Security Manual prior to issuance of the Purchase Order. Such audits shall be performed at least annually during the term of the contract and the report of the audit submitted to YSU. The Contractor shall agree to implement recommendations as suggested by the audits within three months of report issuance at no cost to YSU.
- 9 SOFTWARE LICENSE AGREEMENTS.** All software purchased or licensed by YSU must be ADA Compliant.

- 10 TERMS AND CONDITIONS RELATING TO FEDERALLY FUNDED AGREEMENTS.** It is understood that by signing this agreement, the contractor agrees to comply with the following: the Equal Opportunity Act, Copland "Anti-Kickback" Act, Davis-Bacon Act, contract Work Hours and Safety Standards Act, Clean Air Act, Federal Water Pollution Act, Byrd anti-Lobbying Amendment, and Debarment and Suspension (E.O.s 12459 and 12689). If contractor is found to be in violation of any of these acts, this agreement is void *ab initio* and contractor must immediately repay to the University any funds paid under Purchase Order. **Also, this contractor and subcontractor shall abide by the requirements of 41 CFR §§ 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity, or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, protected veteran status or disability.**
- 11 MODIFICATIONS OF AGREEMENT.** This Agreement may be modified only by mutual consent of the parties and only in writing.
- 12 GOVERNING LAW.** This Agreement and any claims arising in any way out of this Agreement shall be governed by the laws of the State of Ohio. Any provisions of this Agreement prohibited by the laws of Ohio shall be deemed void and of no effect. Any litigation arising out of or relating in any way to this Agreement or the performance hereunder, shall be brought only in the Courts of Ohio, and contractor hereby irrevocably consents to such jurisdiction.
- 13 EQUAL OPPORTUNITY.** Pursuant to Section 125.111 of the Ohio Revised Code, contractor agrees that contractor and any person acting on behalf of contractor will not discriminate, by reason of race, creed, color, religion, sex, age, handicap, national origin, and ancestry against any citizen of this state in the employment of any person qualified and available to perform the work under this agreement. Contractor further agrees that contractor and any person acting on behalf of contractor shall not, in any manner, discriminate against, intimidate, or retaliate against any employee hired for the performance of work under this Agreement on account of race, creed, color, religion, sex, age, handicap, national origin, Vietnam-era veteran status or ancestry.
- 14 CERTIFICATION OF COMPLIANCE WITH OHIO'S ETHICS LAWS FOR NONCOMPETITIVE BID CONTRACTS.** Contractor and its agents and employees agree to refrain from conflicts of interest and to comply with Chapter 102 of the Ohio Revised Code, Ohio's applicable public employee ethics laws. By signing this Agreement, contractor certifies that contractor has complied with this condition.
- 15 PUBLIC OFFICIAL.** By signing this Agreement, contractor certifies that the employees and owners of contractor are not public officials or employees of the state, county, municipality or township government as defined in Section 102.01 of the Revised Code.
- 16 LOBBYING.** By signing this Agreement, contractor certifies that contractor and its agents and employees are in compliance with Sections 121.60 to 121.69 of the Revised Code and contractor agrees that failure to comply shall be considered as a material breach of this Agreement.
- 17 CONFIDENTIALITY.** Contractor and its agents and employees agree to maintain the confidentiality of information and records which state and federal laws, rules and regulations require to be confidential. All information and records made public by state law shall be treated as public information by contractor.
- 18 ASSIGNMENT.** No assignment of rights or delegation of duties under this Agreement shall be made by contractor without the express written consent of the University.
- 19 DRUG FREE WORKPLACE COMPLIANCE.** By signing this Agreement, contractor agrees to comply with all applicable federal, state and local laws regarding smoke-free and drug-free work places and shall make a good faith effort to ensure that any of its employees or permitted subcontractors engaged in the work being performed hereunder do not purchase, transfer, use or possess illegal drugs or alcohol or abuse prescription drugs in any way.
- 20 INDEMNIFICATION.** Contractor agrees to indemnify and hold harmless YSU from and against any and all loss, claims, damages, expenses, or liabilities which YSU may incur based upon contractor's performance of this agreement or contractor's breach of any of the terms of this Agreement.

- 21 MINIMUM INSURANCE COVERAGES AND REQUIREMENTS.** Contractor shall obtain and maintain the minimum insurance coverage set forth on the Procurement Services website at [Insurance Requirements](#). By requiring such minimum insurance, YSU shall not be deemed or construed to have assessed the risk that may be applicable to the Contractor. The Contractor shall assess its own risks and, if it deems appropriate and/or prudent, maintain higher limits and/or broader coverage. The Contractor is not relieved of any liability or other obligations assumed or pursuant to the agreement by reason of its failure to obtain or maintain insurance in sufficient amounts, duration, or types.
- 22 RIGHT TO SET-OFF.** Upon the occurrence of any default or breach of this Agreement by Service Provider, University shall have the right to withhold and set-off against any amount otherwise due to be paid to Service Provider, for the amount of any such cost, loss, damage, expense, liability, obligation or claim resulting from Service Provider’s default or breach of this Agreement. Neither the exercise of, nor the failure to exercise, such right of set-off will constitute an election of remedies or limit University in any manner in the enforcement of any other remedies that may be available to it.
- 23 ENTIRE AGREEMENT.** This Agreement shall constitute the entire agreement between the parties for the services set forth in Section One. This Agreement supersedes any and all agreements, either oral or in writing, between the parties hereto with respect to the subject matter hereof.
- 24 ANTI-BOYCOTTING.** Pursuant to O.R.C. Section 9.76(B), Company warrants that Company is not boycotting any jurisdiction with whom the State of Ohio can enjoy open trade, including Israel, and will not do so during the contract period.
- 25 FORCE MAJEURE.** Neither party shall be held liable or responsible to the other party nor be deemed to have defaulted under or breached this Agreement for failure or delay in fulfilling or performing any obligation under this Agreement when such failure or delay is caused by or results from causes beyond the reasonable control of the affected party, including but not limited to fire, floods, **severe weather**, embargos, war, acts of war, insurrections, riots, strikes, lockouts or other labor disturbances, **pandemics, quarantine restrictions, national or local emergency, government order, regulation or law**, or acts of God; provided, however, that the party so affected shall use reasonable commercial efforts to avoid or remove such causes of nonperformance, and shall, **if reasonably possible**, continue performance hereunder with reasonable dispatch whenever such causes are removed. Either party shall provide the other party with prompt written notice of any delay or failure to perform that occurs by reason of force majeure.

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

YOUNGSTOWN STATE UNIVERSITY

CONTRACTOR

Signature _____

BY (Signature) _____

Print Name _____

Print Name _____

Title _____

Title _____

Extension _____

Date _____

Date _____

CONTRACTOR READ CAREFULLY you must choose one:

I (the contractor), or a Principal Owner in this business, retired from Youngstown State University and am receiving retirement benefits from a State of Ohio Employee Retirement System.
(Choose One)

Yes ____ No ____