



Arizona State University PERSONAL SERVICES AGREEMENT

This Agreement is entered into as of the “Effective Date” between the ARIZONA BOARD OF REGENTS for and on behalf of ARIZONA STATE UNIVERSITY (“University”) and “Contractor.”

UNIVERSITY:

CONTRACTOR:

By: _____

By: _____

Printed: _____

Printed: _____

Title: _____

Title: _____

Effective Date: _____

By signing the parties confirm that they have completed (where necessary), read, understood, and agree to all the conditions as outlined in this Agreement.

1. CONTRACTOR'S OBLIGATIONS

1.1. Contractor agrees to provide and represents that its professional credentials are such that it can provide the following services:

1.2. Contractor warrants that at all times during the performance of this agreement it shall provide its best professional efforts.

1.3. Contractor and subcontractors shall procure and maintain until all of Contractor's obligations have been discharged, including any warranty periods under this Agreement are satisfied, insurance against claims for injury to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Contractor, the Contractor's agents, representatives, employees, or subcontractors.

The insurance requirements herein are minimum requirements for this Agreement and in no way limit the indemnity covenants contained in the Agreement. The University and/or the State of Arizona in no way warrants that the minimum limits contained herein are sufficient to protect the Contractor from liabilities that might arise out of the performance of the work under this Agreement by the Contractor, the Contractor's agents, representatives, employees, or subcontractors, and Contractor is free to purchase additional insurance.

1.3.1. MINIMUM SCOPE AND LIMITS OF INSURANCE: Contractor shall provide coverage with limits of liability not less than those stated below:

1.3.1.1. Commercial General Liability – Occurrence Form. Policy shall include bodily injury, property damage, personal injury, and broad form contractual liability coverage

- General Aggregate \$2,000,000
- Products – Completed Operations Aggregate \$1,000,000
- Personal and Advertising Injury \$1,000,000

1. CONTRACTOR'S OBLIGATIONS

- Blanket Contractual Liability – Written and Oral \$1,000,000
- Fire Legal Liability \$ 50,000
- Each Occurrence \$1,000,000

The policy shall be endorsed to include the following additional insured language: **“The State of Arizona, its departments, agencies, boards, commissions, universities, and its officers, officials, agents, and employees, shall be named as additional insureds with respect to liability arising out of the activities performed by or on behalf of the Contractor.”**

The Policy shall contain a waiver of subrogation against the State of Arizona, its departments, agencies, boards, commissions, universities, and its officers, officials, agents, and employees, for losses arising from work performed by or on behalf of the Contractor.

1.3.1.2. Automobile Liability. Bodily Injury and Property Damage for any owned, hired, and/or non-owned vehicles used in the performance of this Agreement.

- Combined Single Limit (CSL) \$1,000,000

The policy shall be endorsed to include the following additional insured language: **“The State of Arizona, its departments, agencies, boards, commissions, universities, and its officers, officials, agents, and employees, shall be named as additional insureds with respect to liability arising out of the activities performed by or on behalf of the Contractor, involving vehicles owned, leased, hired, or borrowed by the Contractor.”**

1.3.1.3. Worker’s Compensation and Employers’ Liability

- Workers Compensation Statutory
- Employers Liability
 - Each Accident \$ 500,000
 - Disease – Each Employee \$ 500,000
 - Disease – Policy Limit \$1,000,000

The Policy shall contain a waiver of subrogation against the State of Arizona, its departments, agencies, boards, commissions, universities, and its officers, officials, agents, and employees, for losses arising from work performed by or on behalf of the Contractor.

This requirement shall not apply to: Separately, EACH contractor or subcontractor exempt under A.R.S. 23-901, AND when such contractor or subcontractor executes the appropriate waiver (Sole Proprietor/Independent Contractor) form.

1.3.1.4. Professional Liability (Errors and Omissions Liability)

- Each Claim: \$1,000,000
- Annual Aggregate \$2,000,000

In the event that the professional liability insurance required by this Agreement is written on a claims-made basis, Contractor warrants that any retroactive date under the policy shall precede the effective date of this Agreement; and that either continuous coverage will be maintained or an extended discovery period will be exercised for a period of two (2) years beginning at the time work under this Agreement is completed.

Policy shall contain a waiver of subrogation against the State of Arizona, its departments, agencies, boards, commissions, universities, and its officers, officials, agents, and employees, for losses arising from work performed by or on behalf of the Contractor.

The policy shall cover professional misconduct or lack of ordinary skill for those positions defined in the Scope of Work of this Agreement.

1. CONTRACTOR'S OBLIGATIONS

1.3.2. ADDITIONAL INSURANCE REQUIREMENTS: The policies shall include, or be endorsed to include, the following provisions:

The State of Arizona, its departments, agencies, boards, commissions, universities, and its officers, officials, agents, and employees, wherever additional insured status is required such additional insured shall be covered to the full limits of liability purchased by the Contractor, even if those limits of liability are in excess of those required by this Agreement.

The Contractor's insurance coverage shall be primary insurance with respect to all other available sources.

Coverage provided by the Contractor shall not be limited to the liability assumed under the indemnification provisions of this Agreement.

1.3.3. NOTICE OF CANCELLATION: Each insurance policy required by the insurance provisions of this Agreement shall provide the required coverage and shall not be suspended, voided, canceled, or reduced in coverage or in limits except after thirty (30) days prior written notice has been given to the University. Such notice shall be sent directly to Director of Purchasing and Business Services, ASU Insurance Services, Arizona State University, PO Box 875212, Tempe, Arizona, 85287-5212 and shall be sent by certified mail, return receipt requested.

1.3.4. ACCEPTABILITY OF INSURERS: Insurance is to be placed with duly licensed or approved non-admitted insurers in the State of Arizona with an "A.M. Best" rating of not less than A-VII (A minus seven). The State of Arizona in no way warrants that the above required minimum insurer rating is sufficient to protect the Contractor from potential insurer insolvency.

1.3.5. VERIFICATION OF COVERAGE: Contractor shall furnish the University with certificates of insurance (ACORD form or equivalent approved by the State of Arizona) as required by this Agreement. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.

All certificates and endorsements are to be received and approved by the University before work commences. Each insurance policy required by this Agreement must be in effect at or prior to commencement of work under this Agreement and remain in effect for the duration of the project. Failure to maintain the insurance policies as required by this Agreement, or to provide evidence of renewal, is a material breach of contract.

All certificates required by this Agreement shall be sent directly to Director of Purchasing and Business Services, ASU Insurance Services, Arizona State University, PO Box 875212, Tempe, Arizona, 85287-5212. The University project or purchase order number and project description shall be noted on the certificate of insurance. The State of Arizona and/or the University reserve the right to require complete, certified copies of all insurance policies required by this Agreement at any time. **Note: do not send certificates of insurance to the State of Arizona's Risk Management section.**

1.3.6. SUBCONTRACTORS: Contractor's certificate(s) shall include all subcontractors as insureds under its policies or Contractor shall furnish to the University separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to the minimum requirements identified above.

1.3.7. APPROVAL: The insurance requirements in this Agreement are the standard insurance requirements of the University as an entity within the State of Arizona. Any modification or variation from the insurance requirements in this Agreement will require the approval of the State of Arizona, Department of Administration, Risk Management Section, whose decision shall be final. The University will not forward any request for modification or variation without a complete and significant justification.

1. CONTRACTOR'S OBLIGATIONS

1.4. Contractor agrees to indemnify and hold University harmless from any of Contractor's costs and liabilities arising out of the services performed under this agreement, including without limitation:

- Union dues or other expenses;
- Federal, state, or local taxes;
- Agents commissions or other expenses or obligations;
- Damages to Contractor's equipment or materials;
- Compensation for any lost or stolen equipment or materials;
- Workers compensation or other insurance; and
- Any expenses not approved by University.

2. UNIVERSITY'S OBLIGATIONS

2.1. University, in consideration of these services, agrees to pay Contractor the amount, upon proper submitted invoice.

Amount in \$: _____

Invoice submitted to:

2.2. University will pay the amount set forth above by University check made Payable and mailed to:

2.3. The contact person for the University is: _____

3. DEFAULT AND REMEDIES

3.1. Any one of the following events shall be deemed to be an "Event of Default" hereunder.

3.1.1. Failure by either party to perform as specifically described herein.

3.1.2. A court having jurisdiction over any of the parties shall enter an order for relief in any involuntary case commenced against the applicable party as debtor under the Federal Bankruptcy Code or the entry of a court decree or order appointing a custodian, receiver, liquidator, assignee, trustee, or other similar official.

3.2. Upon the occurrence of an "Event of Default," the non-defaulting party:

- (1) shall have all the remedies afforded by law and in equity; and
- (2) shall have the right to terminate this Agreement.

4. MISCELLANEOUS

4.1. Each party shall be responsible for its and its agents' negligence, actions, and omissions.

4.2. Neither party shall have the right to assign this Agreement without the prior written consent of the other party.

4.3. 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.

4.4. The laws of Arizona shall govern this Agreement, and the Arizona state courts shall have jurisdiction over its subject matter.

4.5. Any notice required under this agreement shall be in writing and may either be given by personal delivery or sent by regular mail addressed to the following:

As to University:

As to Contractor:

Notice shall be deemed to be received upon presentment to the other party or upon three (3) days after mailing, if mailed postage prepaid by regular mail at the address set forth above for the respective party or at such changed address as may be subsequently submitted by written notice of either party

4.6. Contractor's work under this agreement is "work for hire" for purposes of the copyright laws of the United States and any foreign countries, and title to any subject copyright will vest with the University.

4.6.1. If for any reason the Work would not be considered a work made for hire under applicable law, by signing below Contractor sells, assigns, and transfers to University all rights and title to the copyright in the Work, related registrations and copyright applications, and any related renewals and extensions. This grant of rights and assignment extends to all works based upon, derived from, or incorporating the Work, to all income, royalties, damages, claims and payments payable now or later, to all causes of action, either in law or in equity for past, present, or future infringement based on the copyrights, and to all corresponding rights throughout the world.

4.6.2. If the Work is one to which the provisions of 17 U.S.C. 106A apply, by signing below the Author waives and appoints University to assert on the Contractor's behalf the Contractor's moral rights or any equivalent rights regarding the form or extent of any alteration to the Work (including removal or destruction) or the making of any derivative works based on the Work, including photographs, drawings or other visual reproductions or the Work, in any medium, for university purposes.

4.6.3. Contractor agrees to execute all papers and to perform other proper acts as University may deem necessary to secure these rights for University or its designee.

4.7. Contractor is an independent contractor and is not an employee of University. Neither Contractor nor any personnel of Contractor will for any purpose be considered employees or agents of University. Contractor assumes full responsibility for the actions of Contractor's personnel, and is solely responsible for their supervision, daily direction and control, payment of salary (including withholding income taxes and social security), worker's compensation and disability benefits.

5. STATE OF ARIZONA PROVISIONS

5.1. **Nondiscrimination.** The parties agree to comply with all applicable state and federal laws, rules, regulations and executive orders governing equal employment opportunity, immigration, nondiscrimination, including the Americans with Disabilities Act, and affirmative action.

5.2. **Conflict of Interest.** This Agreement is subject to [Section 38-511 of the Arizona Revised Statutes](#). This Agreement may be cancelled if any person significantly involved in initiating, negotiating, securing, drafting or creating this Agreement on behalf of University is, at any time while this Agreement or any extension thereof is in effect, an employee or agent of the other party to this Agreement in any capacity or a consultant to any other party with respect to the subject matter of this Agreement.

5.3. **Notice of Arbitration Statutes.** Pursuant to [Section 12-1518](#) of the Arizona Revised Statutes, the parties acknowledge and agree, subject to the [Arizona Board of Regents Policy 3-809](#), that they will be required to make use of mandatory arbitration of any legal action that is filed in the Arizona superior court concerning a controversy arising out of this Agreement if required by [Section 12-133](#) of the Arizona Revised Statutes.

5.4. **Dispute Resolution.** If a dispute arises under this Agreement, the parties agree to exhaust all applicable administrative remedies provided for under [Arizona Board of Regents Policy 3-809](#).

5.5. **Contractor's Records.** To the extent required by [Section 35-214 of the Arizona Revised Statutes](#), Contractor agrees to retain all records relating to this Agreement. Contractor agrees to make those records available at all reasonable times for inspection and audit by University or the Auditor General of the State of Arizona during the term of this Agreement and for a period of five (5) years after the completion of this Agreement. The records shall be provided at Arizona State University, Tempe, Arizona, or another location designated by University upon reasonable notice to Contractor.

5.6. **Failure of Legislature to appropriate.** If University's performance under this Agreement depends upon the appropriation of funds by the Arizona Legislature, and if the Legislature fails to appropriate the funds necessary for performance, then University may provide written notice of this to Contractor and cancel this Agreement without further obligation of University. Appropriation is a legislative act and is beyond the control of University.

5.7. **Weapons, Explosive Devices, and Fireworks.** University prohibits the use, possession, display or storage of any weapon, explosive device or fireworks on all land and buildings owned, leased, or under the control of University or its affiliated or related entities, in all University residential facilities (whether managed by University or another entity), in all University vehicles, and at all University or University affiliate sponsored events and activities, except as provided in [Section 12-781 of the Arizona Revised Statutes](#) or unless written permission is given by the ASU Police Department (ASU PD). Notification by Contractor to all persons or entities who are employees, officers, subcontractors, consultants, agents, guests, invitees or licensees of Contractor ("Contractor Parties") of this policy is a condition and requirement of this Agreement. Contractor further agrees to enforce this contractual requirement against all Contractor Parties. ASU's policy may be accessed through the following Web page: <http://www.asu.edu/aad/manuals/pdp/pdp201-05.html>

5.8. **Legal Worker Requirements.** As required by Arizona Revised Statutes [Section 41-4401](#), ASU is prohibited after September 30, 2008 from awarding a contract to any contractor who fails, or whose subcontractors/subrecipients fail, to comply with Arizona Revised Statutes [Section 23-214A](#). Contractor warrants that it complies fully with all applicable federal immigration laws and regulations that relate to its employees, that it shall, as applicable or required under Arizona Revised Statutes § 23-214A, verify, through the employment verification pilot program as jointly administered by the U.S. Department of Homeland Security and the Social Security Administration or any of its successor programs, the employment eligibility of each employee hired to work on this Agreement, and that it shall, as applicable or required under Arizona Revised Statutes § 23-214A, require its subcontractors and sub-subcontractors to provide the same warranties to

5. STATE OF ARIZONA PROVISIONS

Contractor.

A breach of the foregoing warranty shall be deemed a material breach of this Agreement. In addition to the legal rights and remedies available to ASU hereunder and under the common law, in the event of such a breach, ASU shall have the right to terminate this Agreement. Upon request, ASU shall have the right to inspect the papers of each contractor, subcontractor or any employee of either who performs work hereunder for the purpose of ensuring that the contractor or subcontractor is in compliance with the warranty set forth in this provision.

5.9. **Prohibited Business Operations with Sudan and Iran.** As required by Arizona Revised Statutes [Sections 35-391.06\(A\) and 35-393.06\(B\)](#), the Contractor certifies to the University that the Contractor does not have scrutinized business operations (as defined in [A.R.S. 35-391](#) and [35-393](#) respectively) in Sudan or Iran.

6. AUTHORITY

6.1. The individual signing on behalf of Contractor hereby represents and warrants that s/he is duly authorized to execute and deliver this Agreement on behalf of Contractor and that this Agreement is binding upon Contractor in accordance with its terms.