**GENERAL SERVICES AGREEMENT**

**(for FAU’s Performance of Services)**

This **GENERAL SERVICES Agreement** (“Agreement”) is made and entered into on the latest signature date below (the “Effective Date”) by and between **The Florida AtLantic University Board of Trustees** (“FAU”), on behalf of its [Department], and [Company], a [type/location of entity] with a principal place of business at [Company Address] (“Company”).

**WHEREAS**, FAU and Company have agreed for FAU to provide certain Services for Company, as defined and outlined in this Agreement; and

**WHEREAS**, the parties hereto desire to reduce the terms of their agreement to a writing, as provided below.

 **NOW THEREFORE**, in consideration of the mutual covenants provided herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties, the parties do agree as follows:

1. **Recitals.** The above recitals are true and correct and are incorporated herein by this reference.
2. **Services**. FAU shall perform and provide those goods and/or services (collectively, the “Services”) detailed on **Exhibit A**, attached hereto and herein incorporated.
	1. FAU shall control the manner in which the Services are provided, giving due consideration to the requests of University.
	2. Nothing herein shall be deemed to preclude FAU from providing the same or similar functions to other entities as provided to Company hereunder.
3. **Term.** The term of this Agreement shall commence as of the Effective Date and shall continue, unless otherwise terminated pursuant to the terms hereof, through the completion of the Services (the “Term”).
4. **Compensation**. Company agrees to pay FAU for the Services in accordance with the rates, terms and procedures set forth on **Exhibit A** (the “Fees”). The Fees shall be payable without demand and without setoff, pursuant to the terms thereof. The Fee is exclusive of all duties and taxes imposed on the Services.Company is responsible for paying all applicable taxes, credit card fees, royalties, debit card fees or other fees under this Agreement and connected to the Services. Company shall pay all such taxes or assessments directly to the taxing authorities. If applicable, Company will maintain and provide FAU with a copy of Company’s direct pay permit which allows Company to self-accrue and remit the applicable tax due. The Fee, and any other taxes, fees and costs due and payable by Company to FAU under this Agreement shall bear interest from the tenth (10th) day of the date due, and continue until paid at the lesser of (i) twelve (12%) percent per annum or (ii) the maximum interest rate per annum allowed by law. The payee for all checks will be “**Florida Atlantic University**” and checks shall be delivered to:

Florida Atlantic University

[Department]

[Address]

Attn: [Name]

1. **Key Personnel**. The individual(s) designated as key personnel by FAU for the purposes of this Agreement (“Key Personnel”) is [Enter name(s) here].FAU may reassign or substitute Key Personnel upon consent by Company, not to be unreasonably withheld, or upon the unavailability of assigned Key Personnel due to illness or other factors beyond FAU’s control, provided that prior notice of such reassignment or substitution is delivered to Company. Additionally, FAU shall substitute Key Personnel upon FAU’s reasonable request.
2. **Information.**
	1. Intellectual Property.Company acknowledges and agrees that any and all documents, materials and information furnished to the Company by FAU or its affiliates in connection with the Agreement are and shall remain at all times proprietary, copyrighted materials and the sole property of FAU (“Copyrighted Materials”). Company represents and warrants that it shall not disclose, copy, transmit or transfer the Copyrighted Materials for any purpose without FAU’s prior written consent. This provision shall survive termination of the Agreement.
	2. Work Product. All right, title and interest in and to any invention, work product, idea or creation conceived, developed or produced during the performance of services under the Agreement (including, but not limited to writing, copyrights, trademarks, creative, copy, scripts, story boards, art, music, software and documentation, ideas, charts, graphics, plans, proposals, business systems or ideas, and research projects) shall be property of FAU, whether created individually by FAU or jointly with the Company, on or off FAU’s premises. This provision shall survive the expiration or earlier termination of the Agreement. FAU may offer Company a license to use the Work Product, such terms to be mutually agreed to by the parties.
	3. Confidentiality of Information. Each party agrees to keep the other party’s information confidential and shall do so pursuant to subject to applicable law (e.g., The Family Educational Rights and Privacy Act (“FERPA”), the Gramm-Leach Bliley Act.)
3. **Public Records Law**. FAU, as a public entity of the State of Florida, is subject to Chapter 119 of the Florida Statutes and related laws (the “Florida Public Records Laws”). Accordingly, the Agreement, and any related documents and/or correspondence shall also become a public record subject to the Florida Public Records Laws. FAU may respond to public records requests without providing Vendor any notice The Company shall allow public access to all documents, papers, letters or other material subject to the Florida Public Records Laws, made or received by the Company in conjunction with the Agreement. FAU may unilaterally cancel the Agreement for Vendor’s refusal to allow public access to public records related to the Agreement. Additionally, Vendor shall comply with all applicable requirements of the Public Records Laws, particularly if Vendor is a “Contractor” as defined under § 119.0701, F.S. This provision shall survive the expiration or termination of the Agreement.

**IF THE COMPANY HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE COMPANY'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT 561.297.2452, publicrecords@fau.edu, Division of Public Affairs, Florida Atlantic University, 777 Glades Road, ADM, Boca Raton, FL 33431.**

1. **Termination.**
	1. Convenience. This Agreement may be terminated by FAU by written notice to Company of such intent to terminate at least ten (10) days prior to the effective date of such termination.
	2. Default.Unless otherwise specified in this Agreement, either party may terminate this Agreement if the other party materially defaults in performing any of its obligations under this Agreement and the default remains uncured for at least thirty (30) days following receipt of written notice from the non-defaulting party. Upon written notice from either party, this Agreement shall also terminate upon (i) the making of an assignment for the benefit of creditors by a party, or (ii) the dissolution of a party. Without limiting any other rights and remedies of FAU hereunder, in the event of a default by Company under this Agreement, FAU may pursue any and all rights available at law or in equity in the event such default is not cured by Company after receipt of written notice thereof, including, but not limited to, terminating this Agreement.
	3. Effect of Termination.Upon termination of this Agreement, FAU may immediately cease providing Services. Company shall remain obligated to pay FAU upon such termination any and all accrued and unpaid fees and expenses due and payable to FAU as of the date of termination. Additionally, Company shall also reimburse FAU for all non-cancelable costs incurred in the performance of this Agreement.
2. **Risk.** Nothing in this Agreement shall be construed as an indemnification of the Company by FAU nor as a waiver of sovereign immunity beyond that provided in Florida Statutes §768.28. Each party hereby assumes any and all risk of personal injury and property damage attributable to the negligent acts or omissions of that party and the officers, employees, and agents thereof. This provision shall survive termination of the Agreement.
3. **Insurance.** FAU warrants and represents that it is self- funded for liability insurance, with said protection being applicable to officers, employees, servants, and agents while acting within the scope of their employment by FAU, and will provide its Certificate of Insurance upon request; FAU is not required to obtain additional insurance for the Agreement. Company will have and maintain types and amounts of insurance that cover the Company’s exposure under this Agreement.
4. **Force Majeure.** If, as a result of an act of force majeure, including without limitation, an act of God, war, riot, labor dispute, strike or threat thereof, intervention of a governmental agency or the occurrence beyond the control of either party, the obligations of this Agreement cannot be carried out, then, either party, upon notifying the other, shall have the right to suspend performance until the event of force majeure has passed; provided, however, that the provisions hereof shall in no event be applicable with respect to the payment of money from Company to FAU.
5. **Representations and Warranties.** FAU warrants and represents that the Services will be performed in a professional and workmanlike manner in accordance with industry standards.EXCEPT FOR THE REPRESENTATIONS AND WARRANTIES SET FORTH IN THIS SECTION, FAU EXPRESSLY DISCLAIMS ALL REPRESENTATIONS AND WARRANTIES, WHETHER EXPRESS, IMPLIED; OR STATUTORY (BY ANY TERRITORY OR JURISDICTION) TO THE EXTENT PERMITIED BY LAW, AND FURTHER FAU EXPRESSLY EXCLUDES ANY WARRANTY OF NONINFRINGEMENT, TITLE, FITNESS FOR A PARTICULAR PURPOSE, OR MERCHANTABILITY.
6. **LIMITATION OF LIABILITY.** FAU'S MAXIMUM LIABILITY TO COMPANY FOR ANY ACTION ARISING UNDER THIS AGREEMENT, REGARDLESS OF THE FORM OF ACTION AND WHETHER IN TORT OR CONTRACT, SHALL BE LIMITED TO THE AMOUNT OF FEES PAID OR PAYABLE BY COMPANY FOR THE SERVICES DURING THE SIX (6) MONTHS PRECEDING THE CLAIM. IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES OF ANY KIND, EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE PARTIES AGREE TO THE ALLOCATION OF RISK SET FORTH HEREIN.
7. **Prohibitions.** Unless expressly and specifically authorized in writing by FAU in advance, Company is prohibited from (a) using FAU’s name, trademarks, logos, or other marks (collectively herein known as the “Marks”) without FAU’s prior written approval; (b) incurring any debt or obligation on behalf of FAU; (c) entering into any contract, arrangement, or transaction which binds FAU to any extent or creates any obligation on FAU; (d) making any public announcements of the formation of this Agreement and/or FAU’s provision of Services; and/or (e) utilizing FAU’s name, credit, reputation, good-will, resources, and/or assets for any purpose without the prior and explicit written approval of FAU.
8. **Compliance**. In the performance of the Agreement, each party shall, at its own expense, at all times comply with all applicable federal, state, and local laws, rules, regulations, and ordinances and all other governmental requirements. Additionally, as may be applicable, Company agrees that Company, its employees, contractors, agents, representatives, invitees, and each of its participants shall abide by all FAU policies, procedures, rules and regulations.
9. **Notices.** Any notice to either party hereunder must be in writing and signed by the party giving it, and served: 1) by hand; 2) through the United States Mail, postage prepaid, registered or certified, return receipt requested; or 3) through expedited mail or package service, if a receipt showing the delivery has been retained, and addressed as follows:

**To FAU: To Company**:

|  |  |  |
| --- | --- | --- |
| **The Florida Atlantic University Board of Trustees** |  | [Company] |
| Dept: | [Department] |  | Address: | [Company Address] |
| Address: |  |  |  |
|  | [Office] |  |  |
|  |  |  |  |
| Attn:  | [Name] |  | Attn:  | [Name] |

Notice is effective upon receipt.

1. **Independent Contractor.** FAU is retained by Company only for those purposes and to the extent set forth in this Agreement, and FAU’s relation to Company shall, during the term of this Agreement, be that of independent contractor. Neither Company nor FAU shall be considered as having an employee status of the other.
2. **Third Parties**. FAU is not liable for the acts of third parties or the consequences of the acts of third parties. There shall be no third party beneficiary to the Agreement.
3. **Conflict of Interest**. Licensee represents that no University employee who has, or whose relative has, a relationship with FAU, will violate the Code of Ethics for Public Officers and Employees, including, but not limited to F.S. Section 112.313(3) and (7) and F.S. 112.3185(6) thereof, by reason of Licensee entering into this Agreement.
4. **Governing Law.** This Agreement is governed by the laws of the State of Florida and venue of any actions arising out of this Agreement shall be in the state courts in Palm Beach County, Florida. FAU is entitled to the full benefits of sovereign immunity.
5. **Waiver/Severability/Binding Effect**. The waiver by either party of a breach or a violation of any provision of this Agreement shall not operate as or be construed to be a waiver of any subsequent breach thereof. If any provision or application thereto to any circumstance is held to be invalid or unenforceable, such provision shall be ineffective and the remainder of this Agreement shall remain valid and enforceable. This Agreement shall be binding upon and inure to the benefit of the parties hereto.
6. **Assignment/Modification**. Each term and condition of this Agreement is material and any breach or default by Licensee in the performance of each such term and condition shall be a material breach of the entire Agreement for which FAU shall have the right to terminate this Agreement immediately upon notice to Licensee and without termination penalty to FAU. Licensee may not, without the advance written approval of FAU, assign any right or delegate any duties under this Agreement, nor may it transfer, pledge, surrender or otherwise encumber or dispose of its interest in any portion of this Agreement. Failure to exercise or delay in exercising any right, power or remedy accruing to FAU on any breach or default of Licensee shall not impair any such right, power or remedy, or be construed as a waiver of any such breach or default or of any similar breach or default occurring; nor shall any waiver of any single breach or default be construed as a waiver of any other breach or default occurring.
7. **Entire Agreement**. This Agreement embodies the entire agreement of the parties, and there are no other representations, promises, agreements, conditions or understandings, either oral or written, between FAU and Licensee other than are set forth. No subsequent alterations, amendment, change or addition to this Agreement shall be binding upon either FAU or Licensee unless reduced to writing and signed by them and by direct reference made part hereof.
8. **Signatures**. The parties represent and warrant that any person signing the Agreement has the authority to do so and that such signature shall be sufficient to bind Licensee. The Agreement may be signed electronically and shall be considered signed if/when a party’s signature is delivered by facsimile or e-mail transmission of a “.pdf” format date file, including via DocuSign. Such signature shall be treated in all respects as having the same force and effect as an original.

**SERVICES SHALL NOT BEGIN UNTIL THE AGREEMENT IS PROPERLY EXECUTED**

**The parties execute this Agreement as of the Effective Date and each party executing this Agreement warrants and represents that it is authorized by its respective entity to execute a binding Agreement.**

**THE FLORIDA ATLANTIC**

**UNIVERSITY BOARD OF TRUSTEES**

 By:

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

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

 Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**COMPANY:**

[Company]

 By:

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

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

 Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**EXHIBIT “A”**

**Description of Goods & Services**