

CONTRACTOR TERMS AND CONDITIONS

1. The Agreement. These Terms and Conditions shall apply to all Services (as defined herein) provided by Contractor to the William Davidson Institute at the University of Michigan (hereinafter “WDI”). These Terms and Conditions, together with any contract between WDI and Contractor, shall be collectively referred to as the “Agreement.”

2. Contractor's Services. Contractor agrees to provide with the services set forth in the Agreement or otherwise agreed by the parties (the “Services”). Contractor will perform the Services in a diligent and workmanlike manner consistent with the highest industry standards for the performance of such Services. The content, style, form and format of any work product of the Services (“Work Product”) shall be completely satisfactory to WDI and shall be consistent with the Agreement and WDI’s standards. WDI shall have the right to request reasonable revisions or modifications to any aspect of the Work Product during the course of this Agreement.

Upon payment, the Work Product becomes the exclusive property of WDI. Contractor agrees to do all lawful acts and sign all assignments and other papers WDI may reasonably request relating to the assignment of the Work Product, or applications for patents, mask works, registrations, trademarks, and copyrights, both United States and foreign, or relating to the conduct of any opposition, litigation or other controversy in connection therewith, provided that all expenses incident to the filing of such applications, the prosecution thereof and the conduct of any opposition, litigation or other controversy will be borne by WDI. To the extent the Services or Work Product includes materials subject to copyright, Contractor agrees that the Services and Work Product are “works made for hire” as that term is defined under U.S. copyright law, and that as a result, WDI will own all copyrights in the Services and Work Product.

3. WDI's Duties. WDI shall request Contractor to perform Services under this Agreement. The style and format of any Work Product shall be communicated to Contractor.

4. Consideration. WDI shall pay Contractor as specified in the Agreement or in any written contract signed by the parties and incorporating these Terms and Conditions. Such compensation shall be the sole consideration due Contractor for the Services rendered under this Agreement. It is understood that WDI will not withhold any amounts for payment of taxes from the compensation of Contractor or its representatives hereunder. Any and all sums subject to deductions, if any, required to be withheld and/or paid under any applicable state, federal or municipal laws or regulations shall be Contractor's or its representative's sole responsibility and Contractor shall indemnify and hold WDI harmless from any and all damages, claims and expenses arising out of or resulting from any claims asserted by any taxing authority as a result of or in connection with said payments. Contractor shall be solely responsible for any and all taxes, Social Security contributions or payments, disability insurance, unemployment taxes, and other payroll type taxes applicable to such compensation.

5. Expenses. Contractor will be responsible for Contractor's own administrative expenses incurred while this Agreement exists. No other fees and/or expenses will be paid to Contractor, except for WDI business travel related expenses. Project-related travel requires prior written approval from WDI Administration. Appropriate WDI business travel expenses may

include: coach air travel expenses booked at least 14 days in advance, business class airfare expenses under special circumstances (e.g. medical reasons), rail travel expenses when such expense is less than the cost of air travel to the same destination; rental vehicle rental expenses where there is a demonstrated and preapproved need for such rental vehicle; shuttle and taxi fares to and from airports and rail stations; and lodging expenses for single occupancy standard business room rates while traveling on WDI business.

6. No Benefits. Contractor acknowledges that it and its representatives shall not have the right or entitlement in or to any pension, retirement or other benefit programs now or hereafter available to WDI's employees, directors, or officers. Contractor and its representatives are not participants in any such plans of WDI.

7. Independent Contractor. The parties agree that Contractor is acting under the terms of this Agreement as an independent Contractor. Nothing contained in this Agreement shall be construed to create a WDI-Contractor partnership or joint venture relationship between WDI and Contractor. Contractor will not represent to be or hold itself or its representatives out as officers, directors, or employees of WDI. Contractor or its representatives have no authority to bind or obligate WDI on any matter. Contractor is solely responsible for the manner by which Contractor performs the obligations under this Agreement and WDI shall not exercise control over same. Contractor has the right to directly employ personnel or representatives for the purpose of assisting in the performance of Contractor's duties under this Agreement. Contractor shall be solely responsible for its personnel, who shall have no claim whatsoever against WDI. However, Contractor may not contract with or appoint any other representative or sub-agent not directly employed by Contractor for the purpose of performing pursuant to this Agreement without prior written approval by WDI. Contractor shall supply its own tools, equipment, software and supplies as needed to perform Services under this Agreement. Contractor retains full discretion on what work is needed to complete Services and what order or sequence to follow in performing Services under this Agreement. Contractor is responsible for any costs or expenses incurred in the performance of Services under this Agreement and is free to perform similar services for entities other than WDI.

8. Insurance. Contractor will at all times assume risk against liabilities which may arise under the worker's compensation or similar laws of each state in which it or its representatives perform services, as well as under any similar laws of the United States or regulations issued pursuant thereto, and maintain automobile liability and comprehensive liability insurance for injuries to third parties and their property in such amounts and subject to such deductible clauses and other terms and are customary for persons engaged in businesses the same as or similar to the business of Contractor.

9. Indemnification. Contractor shall fully indemnify, hold harmless and defend WDI and its directors, officers, employees, agents, affiliates and representatives from and against all claims, demands, actions, suits, damages, liabilities, losses, settlements, judgments, costs and expenses (including but not limited to reasonable attorney fees and expenses) whether or not involving a third party claim, which arises out of or relates to (1) any breach of any representation or warranty of WDI contained in this Agreement, (2) any breach or violation of any covenant or other obligation or duty of Company under this Agreement or under applicable law, (3) any claim

for negligence, intentional conduct, fraud, misrepresentation, (4) wrongdoing of any kind by Contractor or Contractor's subagents, in conjunction with the performance of Services under the Agreement, (5) any claims or lawsuits of any kind alleging joint or other employment status of Contractor's representative(s) by WDI, and (6) any claims by any third party asserting damages emanating from Services performed or not performed by Contractor under this Agreement.

10. Termination. This Agreement may be terminated by either party at any time, with or without cause, upon 10 days written notice to the other party. Upon the effective date of any termination, any obligation WDI may otherwise have under this Agreement shall cease immediately, except that WDI shall be obligated to compensate Contractor for work performed up to the effective date of Contractor's termination. Any work performed by Contractor after notice of termination is sent by WDI, shall only be reimbursed if expressly authorized by WDI to be performed during the 10 day period following notice of termination and the effective date of the termination. Contractor's termination of this Agreement without notice shall result in waiver and/or the forfeiture of any right to outstanding payments due under this Agreement. This Agreement shall automatically terminate upon the death of Contractor's representative. In such event, WDI shall be obligated to pay Contractor only the accrued but unpaid compensation due as of the date of death.

11. Protection of WDI's Confidential Information. WDI now owns and will hereafter develop, compile and own certain proprietary techniques, trade secrets, and confidential information which have great value in its activities (collectively, "WDI Information"). WDI will be disclosing WDI Information to Contractor or Contractor's representatives during Contractor's performance of the Services. WDI Information includes not only information disclosed by WDI, but also information developed or learned by Contractor or Contractor's representatives during Contractor's performance of the Services. WDI Information is to be broadly defined and includes all information which has or could have commercial value or other utility in the activities in which WDI is engaged or contemplates engaging or the unauthorized disclosure of which could be detrimental to the interests of WDI, whether or not such information is identified by WDI. WDI Information includes any and all information concerning WDI grants, WDI grant sources, the terms of any WDI grants, WDI planned initiatives, discoveries, developments, designs, improvements, inventions, formulas, software programs, processes, techniques, know-how, data, research techniques, marketing, sales or other financial or business information, scripts, and all derivatives, improvements and enhancements to any of the above. WDI Information also includes similar third-party information which is in WDI's possession under an obligation of confidential treatment.

Contractor agrees that at all times during or subsequent to the performance of the Services, Contractor and Contractor's representatives will keep confidential and not divulge, communicate, or use WDI Information, except for Contractor's or Contractor's representatives' own use during the Term of this Agreement to the extent necessary to perform the Services. Contractor further agrees not to cause the transmission, removal or transport of tangible embodiments of, or electronic

files containing, WDI Information from WDI's principal place of business, without prior written approval of WDI.

Contractor's obligations with respect to any portion of the WDI Information as set forth above shall not apply when Contractor can document that the WDI Information: (i) was in the public domain at the time it was communicated to Contractor or Contractor's representatives by WDI; (ii) entered the public domain subsequent to the time it was communicated to Contractor or Contractor's representatives by WDI through no fault of Contractor; (iii) was in Contractor's or Contractor's representatives' possession free of any obligation of confidence at the time it was communicated to Contractor or Contractor's representatives by WDI; or (iv) was rightfully communicated to Contractor or Contractor's representatives free of any obligation of confidence subsequent to the time it was communicated to Contractor or Contractor's representatives by WDI.

12. Representations and Warranties. Contractor and Contractor's representatives represent and warrant to WDI that (a) Contractor and Contractor's representatives have full power and authority to enter into this Agreement including all rights necessary to make the foregoing assignments to WDI; that in performing under the Agreement; (b) Contractor and Contractor's representatives will not violate the terms of any agreement with any third party; and (c) the Services and any Work Product are the original work of Contractor and Contractor's representatives, do not and will not infringe upon, violate or misappropriate any patent, copyright, trade secret, trademark, contract, or any other publicity right, privacy right, or proprietary right of any third party. Contractor and Contractor's representatives shall defend, indemnify and hold WDI and its successors, assigns and licensees harmless from any and all claims, actions and proceedings, and the resulting losses, damages, costs and expenses (including reasonable attorneys' fees) arising from any claim, action or proceeding based upon or in any way related to Contractor's or Contractor's representatives' breach or alleged breach of any representation, warranty or covenant in this Agreement, and/or from the acts or omissions of Contractor or Contractor's representatives.

13. Waiver. Failure to invoke any right, condition, or covenant in this Agreement by either party shall not be deemed to imply or constitute a waiver of any rights, condition, or covenant and neither party may rely on such failure.

14. Severability. If any provision of this Agreement is held by a court of competent jurisdiction to be unenforceable, the remainder of Agreement shall remain in full force and effect and shall in no way be impaired.

15. Entire Agreement and Amendments. This Agreement constitutes the entire agreement of the parties, and replaces and supersedes all other prior agreements or understandings, whether written or oral. No amendment, attachment, or extension of this Agreement shall be binding unless in writing and signed by both parties.

16. Binding Effect, Assignment. This Agreement shall be binding upon and shall inure to the benefit of Contractor and Contractor's representatives and WDI and to WDI's successors and assigns. Neither this Agreement nor any rights or obligations under this Agreement shall be assignable by Contractor without the prior written consent of WDI, and Contractor shall

not transfer, pledge or assign the same or any part thereof, or any commissions due, or to become due to Contractor, without first obtaining, in each instance, the written consent of WDI. Any purported assignment without the prior written consent of WDI shall be void and of no force or effect. This Agreement shall be binding on and inure to the benefit of successors and assigns of WDI.

17. Limitation of Liability. Contractor's remedy, if any, for any breach of this Agreement shall be solely in damages and Contractor shall look solely to WDI for recovery of such damages. Contractor waives and relinquishes any right Contractor may otherwise have to obtain injunctive or equitable relief against any third party with respect to any dispute arising under this Agreement. IN NO EVENT, REGARDLESS OF THE FORM OF THE CAUSE OF ACTION, THE CLAIMS ASSERTED, OR THE PERSON ASSERTING SUCH CLAIMS, SHALL WDI'S LIABILITY IN THE AGGREGATE FOR ALL SUCH MATTERS, EXCEED THE PRICE PAID BY WDI UNDER THE APPLICABLE STATEMENT OF WORK, AND CONTRACTOR WAIVES ANY CLAIM TO ANY OTHER DAMAGES OR REMEDIES UNDER ANY CAUSE OF ACTION. CONTRACTOR AGREES THAT WDI SHALL NOT BE LIABLE FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES INCLUDING, BUT NOT LIMITED TO, LOSS OF ANTICIPATED PROFITS, LOSS OF USE, LOSS OF REVENUE, COST OF CAPITAL, FINES, PENALTIES AND THE LIKE, ENVIRONMENTAL LIABILITY AND DAMAGE, INJURY OR LOSS TO OTHER PROPERTY OR EQUIPMENT OR FOR PERSONAL INJURIES TO CONTRACTOR'S EMPLOYEES OR THIRD PARTIES. CLAIMS MUST BE MADE TO WDI WITHIN A PERIOD OF TWELVE (12) MONTHS FROM THE DATE OF THE OCCURRENCE OF THE EVENT GIVING RISE TO THE DAMAGE, OR THE CLAIM IS FORFEITED.

18. Amendment. This Agreement cannot be changed, modified or amended except in writing, signed by Contractor and the President of WDI or his/her designee.

19. Governing Law. This Agreement shall be governed by the laws of the State of Michigan. The obligations contained in Paragraphs 8 and 9 shall survive beyond the conclusion of Contractor's performance of Services under this Agreement.