

## PROJECT AGREEMENT AND STATEMENT OF WORK

THIS PROJECT AGREEMENT AND STATEMENT OF WORK (herein "Agreement") made and effective as of the date indicated by the period of performance (herein the "Effective Date") by \_\_\_\_\_ (herein "Sponsor") having its principal office at \_\_\_\_\_ and the UNIVERSITY OF CINCINNATI, a state institution of higher education organized under Section 3361 of the Ohio Revised Code, on behalf of the IT Solution Center in the College of Education, Criminal Justice, and Human Services, (herein "UC") having an office at 338 Teachers College Cincinnati, Ohio 45221-0002.

**NOW, THEREFORE**, the parties hereto agree as follows:

**1. STATEMENT OF WORK.** UC agrees to use its reasonable efforts to perform the statement of work as set forth in Attachment A, a copy of which is attached hereto and incorporated herein (herein the "Statement of Work"). The Work shall clearly identify any proposed deliverables being provided to the Sponsor by UC (herein "Deliverables").

**2. PERIOD OF PERFORMANCE.** The Statement of Work shall be conducted during the period beginning on \_\_\_\_\_ (herein the "Effective Date") and ending on \_\_\_\_\_ and will be subject to renewal only by mutual agreement of the parties.

**3. REIMBURSEMENT OF COSTS.** In consideration of the foregoing, the Sponsor agrees to support the Statement of Work, including all direct and indirect costs consistent with UC's policy for the conduct of this Statement of Work, by paying the fixed price amount identified in Attachment A.

**4. PAYMENT.** Payments shall be made to UC by the Sponsor in U.S. dollars, due and payable within Thirty (30) days after Sponsor's receipt of UC's invoice for the Statement of Work.

**5. EARLY TERMINATION.**

**A.** Should UC breach this Agreement or become unable to perform hereunder, Sponsor shall have the right to terminate this Agreement. Sponsor shall notify UC of its intention to do so, and termination shall become effective sixty (60) days thereafter if UC is unable to cure the breach or rectify the problem.

**B.** Failure of Sponsor to pay any amount required hereunder within thirty (30) days after receipt of an invoice from UC shall be cause for UC to terminate this Agreement. UC shall notify Sponsor of its intention to do so, and termination shall become effective sixty (60) days thereafter if Sponsor has not made such payment in full.

**C.** Either party may terminate this Agreement upon sixty (60) days written notice to the other party.

**D.** Termination under this Article 5 does not relieve Sponsor of the obligation to reimburse all costs and non-cancelable commitments incurred in the performance of this Agreement prior to termination, such reimbursement not to exceed the total project cost as specified in the Statement of Work.

**6. NOTICES.** Any notices required to be given or which shall be given under this Agreement shall be in writing delivered by first class mail (air mail if not domestic) addressed to the parties as follows:

UNIVERSITY OF CINCINNATI

SPONSOR

Hazem Said  
IT Solution Center

\_\_\_\_\_  
\_\_\_\_\_

PO Box 210002  
Cincinnati, OH 45221-002

\_\_\_\_\_  
\_\_\_\_\_  
In the event notices, statements, and payments required under this Agreement are sent by certified or registered mail by one party to the other party at its above address, they shall be deemed to have been given or made as of the date so mailed, otherwise as of the date received.

**7. ASSIGNMENT.** This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and the successors to substantially the entire business and assets of the respective parties hereto. This Agreement shall not be assignable by either party without the prior written consent of the other party.

**8. GOVERNING LAW.** The validity and interpretation of this Agreement and the legal relation of the parties to it shall be governed by the laws of the State of Ohio and the United States.

**9. GOVERNING LANGUAGE.** In the event that a translation of this Agreement is prepared and signed by the parties for the convenience of the sponsor, this English language version shall be the official version and shall govern if there is a conflict between the two.

**10. FORCE MAJEURE.** UC shall not be responsible to the Sponsor for failure to perform any of the obligations imposed by this Agreement, provided such failure shall be occasioned by fire, flood, explosion, lightning, windstorm, earthquake, subsidence of soil, failure or destruction, in whole or in part, of machinery or equipment or failure of supply of materials, discontinuity in the supply of power, governmental interference, civil commotion, riot, war, strikes, labor disturbance, transportation difficulties, labor shortage, or any cause beyond the reasonable control of UC.

**11. WARRANTY DISCLAIMER.** Nothing in this Agreement shall be construed as a warranty or representation that anything made, used, sold or otherwise disposed of under any license that may be granted or otherwise transferred, including the Deliverables, is or will be free from infringement of patents, copyrights and trademarks of third parties; an obligation to bring or prosecute actions or suits against third parties for infringement; conferring rights to use in advertising, publicity or otherwise any trademark or the name of UC. Except as expressly set forth in this Agreement, UC MAKES NO REPRESENTATIONS AND EXTENDS NO WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED. THERE ARE NO EXPRESS OR IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, OR THAT THE USE OF THE DELIVERABLES WILL NOT INFRINGE ANY PATENT, COPYRIGHT OR TRADEMARK OR OTHER RIGHTS.

**12. INDEPENDENT CONTRACTOR STATUS.** This Agreement does not constitute a hiring by either party. It is the parties' intention that UC shall provide the services described in the Statement of Work as an independent contractor. This Agreement shall neither create an employee-employer relationship between the parties nor shall it be considered or construed to be a partnership or joint venture. Neither party shall be liable for any obligations incurred by the other party unless specifically authorized in writing. Neither party may act as an agent of the other party, ostensibly or otherwise, or bind the other party in any manner, unless specifically authorized to do so in writing.

**13. OWNERSHIP OF DELIVERABLES.**

**A.** Subject to any third party rights, UC hereby agrees that Sponsor shall be free to use the Deliverables, including any code related thereto, for its purposes without compensation beyond payments described in Article 4 or the Statement of Work.

**B.** If UC uses any preexisting code in the Deliverables then UC shall identify the source of that code and any licenses associated therein or rights previously granted.

**C.** Notwithstanding the foregoing, UC may use any code developed as part of the Statement of Work or included in the Deliverables (i) for other projects and third parties, provided however such projects will not be with those competitors of the Sponsor listed in the Statement of Work; (ii) to fulfill any licensing obligations; (iii) for UC's internal educational and research purposes; or (iv) to allow any student employee of UC working on the Statement of Work to use the Deliverable and the code therein for the sole purpose of demonstrating his or her experience, skills and talent.

**14. ENTIRE AGREEMENT.** Unless otherwise specified, this Agreement embodies the entire understanding between UC and the Sponsor for this project, and any prior or contemporaneous representations, either oral or written, are hereby superseded. No amendments or changes to this Agreement, including without limitation, changes in the Statement of Work, total cost, and period of performance, shall be effective unless made in writing and signed by authorized representatives of the parties.

By signature below of duplicate originals, Sponsor and UC hereby agree to this Agreement as of the Effective Date.

UNIVERSITY OF CINCINNATI

SPONSOR

BY: \_\_\_\_\_

BY: \_\_\_\_\_

NAME: \_\_\_\_\_

NAME: \_\_\_\_\_

TITLE: \_\_\_\_\_

TITLE: \_\_\_\_\_

DATE: \_\_\_\_\_

DATE: \_\_\_\_\_

ATTACHMENT A  
STATEMENT OF WORK