

PROFESSIONAL SERVICES AGREEMENT
between
UNIVERSITY OF KENTUCKY RESEARCH FOUNDATION
and
INDEPENDENT CONSULTANT:

This Agreement, entered into on _____ by and between the University of Kentucky Research Foundation, a non-profit Corporation existing under the laws of the Commonwealth of Kentucky (herein referred to as UKRF) and _____, consultant (herein referred to as Consultant) is for the performance of certain services and reimbursement of allowable costs.

BACKGROUND

UKRF has received from the, (herein referred to as Sponsor) an award, entitled "_____" (herein referred to as Award), with an ID number _____.

Consultant, as an independent consultant, represents the following with respect to status and relationship of the parties.

- 1. Consultant is not an agent or employee of UKRF and will perform or provide all required services free from supervision, direction, or control of UKRF.
2. Consultant is engaged in an independent business and has complied with all federal, state and local laws regarding business permits and licenses of any kind that may be required to carry out said business and the tasks to be performed under this agreement.
3. Consultant is engaged in the same or similar activities for other clients.

Therefore, the parties agree as follows:

ARTICLES

ARTICLE I - Description of Services to be Performed

Consultant agrees to perform the following services as outlined in Attachment I. Appropriate changes in the scope of services to be rendered (Attachment I) may be requested by UKRF at any time with a corresponding adjustment in either compensation, period of performance or both. Such changes must be confirmed in writing by both parties prior to any undertaking.

ARTICLE II - Period of Performance

The term of this agreement shall extend from _____ through _____. Unless specifically stated elsewhere in this agreement, Consultant's expenditures incurred prior to the beginning date or subsequent to the termination date are unallowable. Consultant shall notify UKRF, as soon as possible, of any reason that might contribute to the failure to perform within the specified term even if such reason is beyond the control and without fault or negligence of the Consultant. The performance period may be modified by mutual agreement of the parties.

ARTICLE III - Consideration, Records, and Billing Instructions

- 1. The total compensation to be paid for Consultant's activities will not exceed \$_____ based on the budget outlined in Attachment II.
2. UKRF payment to Consultant shall be based upon the terms and conditions in this agreement and the availability and allocation of Sponsor's funds necessary to finance UKRF's performance.
3. The determination of allowable cost for Consultant's activities will be made in accordance with the following applicable Federal Cost Principle inclusive of all amendments in effect as of the date of this agreement.
Institutions of Higher Education (OMB Circular A-21)
State and Local Governments (OMB Circular 87)
Nonprofit Organizations other than Institutions of Higher Education and Hospitals (OMB Circular A-122)

For-profit Hospitals (45 CFR 74, Appendix E)
For-profit (Commercial) Organizations (48 CFR 31.2)

- 4. **Consultant** shall maintain reasonable records incident to the performance of this agreement and shall allow **UKRF** access to those records. If this agreement is greater than \$10,000 and **Sponsor** is a federal agency, the **Sponsor**, the Comptroller General of the United States, or any of their representatives shall have the right access to any books, documents, papers and records of the **Consultant** which are directly pertinent to a specific program for the purpose of making audits, examination, excerpts and transcriptions.
- 5. Payment will provided upon the receipt of invoices (a) identified by the ID number on the top of each agreement page, (b) reflecting the cost categories as outlined in the budget (Attachment II) and (c) approved and signed by the **Consultant's** appropriate administrative official. **Consultant** shall submit invoices after the incurrence of allowable cost, but not more frequently than monthly; invoices shall provide a current and cumulative breakdown of costs and, if applicable, required cost-sharing in separate columns.
- 6. The Final Invoice shall be clearly identified as "final" and shall be submitted no later than ____ days after the agreement's end date.
- 7. All invoices should be submitted in triplicate to:
ARTICLE IV - Withholdings
 - 1. Payroll or Employment Taxes. No payroll or employment taxes of any kind shall be withheld or paid with respect to payment to **Consultant**. The payroll or employment taxes that are the subject of this paragraph include but are not limited to FICA, FUTA, federal personal income tax, state personal income tax, state disability insurance tax, and state unemployment insurance tax.
 - 2. Workers' Compensation. No workers' compensation insurance has been or will be obtained by the **UKRF** on behalf of the **Consultant**. **Consultant** shall comply with workers' compensation laws.

ARTICLE V - Designated Representatives

Technical Representative

Administrative Representative

For UKRF

For UKRF

109 Kinkead Hall
University of Kentucky Research Foundation
Lexington, KY 40506-0057
(859) 257- Phone
(859) 323-1060 Fax

For Subrecipient

For Subrecipient

Consultant should communicate with **UKRF's** Technical Representative who shall have authority to accept completion of performance, approve reports, and payments. Agreement changes must be approved by **UKRF's** Administrative Representative.

ARTICLE VI – Default of Agreement

In the event of default, by (a) **Consultant's** failure to substantially perform its obligations, (b) **Consultant's** violation of other material terms of this agreement, or (c) **Sponsor's** termination of work by **UKRF** on the subject matter of this

Award, in addition to whatever legal remedy **UKRF** may have in law or equity, **Consultant's** performance under this agreement may be terminated by **UKRF** at any time by written notice to **Consultant**.

ARTICLE VII - Suspension

UKRF reserves the right to suspend this agreement at any time by electronic or telephone notice to **Consultant** followed by written notice within 10 days of the initial notice. **Consultant** will immediately stop performance and will not perform under this agreement until receiving a resume performance notice from **UKRF** followed by written notice within 10 days. **UKRF** will provide **Consultant** with the reason(s) for suspension and indicate if any remedies are available to **Consultant**. If **UKRF** and **Consultant** mutually agree the reason(s) for the suspension have been remedied, **UKRF** will issue a resume performance notice to **Consultant**. **Consultant** will not be reimbursed or paid for any charges during the suspension period.

ARTICLE VIII - Termination

UKRF reserves the right to terminate this agreement at any time by written notice to **Consultant** at least 30 days prior to the effective date of termination. The **Consultant** may terminate this agreement at any time by written notice to **UKRF** at least 30 days prior to the effective date of termination. Should **UKRF** exercise its termination right, except for provisions under Articles VI (a and b), VII, and IX, **Consultant** shall be reimbursed for its reasonable costs and commitments to the date of termination, but only to the extent such costs and commitments are reimbursable to **UKRF** under the terms of **Sponsor's Award**. Payment shall be made upon submission to **UKRF** of a final invoice covering the aforementioned performance and approved by **UKRF's** Technical Representative (ARTICLE V).

ARTICLE IX - Certification

The following certifications are material conditions of this agreement and by executing this agreement **Consultant** certifies:

1. CONFLICT OF INTEREST
 - a. **Consultant** is not aware of any University of Kentucky employee who is a material party to this agreement and who owns stock or has a significant personal or business interest in the agreement or the **Consultant's** business interest.
 - b. **Consultant** is not a spouse or a close relative of any employee of the University of Kentucky who is a material party to this agreement.
 - c. **Consultant** will neither disclose the nature nor the results of performance under this agreement to any other party other than **UKRF** without first obtaining prior written consent from **UKRF**.
 - d. Exclusive of its written proposal to perform the services herein, the **Consultant** has not made and will not make any additional offers to any employee of the University of Kentucky which would in any manner serve as an inducement to do business with the **Consultant**.
 - e. **Consultant** is not aware of any additional agreements or agreements with any party to this agreement other than **UKRF**. Any ancillary agreements or agreements with individuals who are employed by the University of Kentucky must be disclosed by the **Consultant**.
2. DRUG FREE WORKPLACE
 - a. **Consultant** certifies that, as a condition of the agreement he or she will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity under this agreement.
 - b. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any agreement activity, he or she will report the conviction, in writing, within 10 days of the conviction to **UKRF**.
3. DEBARMENT, SUSPENSION, REPAYMENT OF FEDERAL DEBT
 - a. **Consultant** certifies that neither it nor its principal are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or Agency. Furthermore, **Consultant** certifies neither it nor its principals are delinquent on the repayment of any federal debt.

Consultant acknowledges and agrees that any knowingly false statement made in connection with the above Certifications will be grounds for the immediate termination of this agreement without any further payment or obligation to the **Consultant**. Furthermore, termination of this agreement for any of the above reasons does not preclude **UKRF** from seeking whatever legal remedy **UKRF** may have in law or equity.

ARTICLE X – Proprietary or Confidential Information

UKRF and **Consultant** agree to use all reasonable diligence to prevent disclosure to third parties any confidential information disclosed to it under this agreement and marked by either party as confidential for a period of three (3) years from the date of disclosure. Such information shall be disclosed in writing and marked “confidential”, or if disclosed orally or in other documentary form shall be reduced to writing and marked “confidential” within thirty (30) days thereafter. Disclosure of confidential information to employees, officers, agents, and representatives shall be only on a need to know basis and as necessary for the purposes of this agreement. This non-disclosure obligation shall not apply to information:

1. already in or subsequently enters the public domain through no fault of **UKRF** or **Consultant**;
2. presently known or becomes known to **UKRF** or **Consultant** from its own independent sources;
3. received by **UKRF** or **Consultant** from any third party not under obligation to keep such information confidential;
4. independently developed by **UKRF** or **Consultant** without use of the other’s confidential information; or
5. required to be disclosed by law.

ARTICLE XI Patents and Inventions

All matters regarding rights to inventions and rights to materials generated under this agreement shall be subject to the regulations issued by the **Sponsor** as such regulations appear in the **Award** between the **Sponsor** and **UKRF**.

ARTICLE XII Assignments and Subagreements

Neither performance nor payment may be subagreed, transferred, assigned, or otherwise given to, or imposed on any other party without prior written consent of **UKRF**.

ARTICLE XIII Insurance

Consultant shall be solely responsible for any and all third party liability that might be incurred in the performance of this agreement. Therefore, **Consultant** shall maintain sufficient insurance coverage for Public Liability, Property Damage, Employer’s Liability and Compensation Insurance and Motor Vehicle Liability (Personal Injury and Property Damage).

ARTICLE XIV Indemnification

Consultant shall hold **UKRF** harmless from any charge, fine, penalty, or judgment arising out of or in anyway resulting from the **Consultant's** performance of this agreement; and should **UKRF** be required to make payment or incur cost of defense for any such reason, the **Consultant** shall fully reimburse **UKRF**.

ARTICLE XV Applicable Law

This agreement shall be governed by the laws of the Commonwealth of Kentucky.

ARTICLE XVI – Export Controls

It is understood that **UKRF** is subject to United States Laws and regulations controlling the export of technical data, computer software, laboratory prototypes and other commodities, and that its obligations hereunder are contingent on

UKRF SUBAWARD NO.

CFDA NO.

compliance with applicable U.S. export laws and regulations (including the Arms Export Control Act, as amended, and the Export Administration Act of 1979). The transfer of certain technical data and commodities may require a license from the cognizant agency of the United States Government and/or written assurances by the **Consultant** that the **Consultant** will not re-export data or commodities to certain foreign countries without prior approval of the cognizant government agency. While **UKRF** agrees to cooperate in securing any license which the cognizant agency deems necessary in connection with this Agreement, **UKRF** cannot guarantee that such licenses will be granted.

ARTICLE XVII Entire Agreement

This agreement is intended by the parties as a final expression of their agreement and supersedes and replaces any prior oral or written agreement. Any terms or conditions proposed by the **Consultant** inconsistent with or in addition to terms and conditions contained herein shall be void and of no effect unless specifically agreed to by **UKRF**. Any modifications hereof or additions hereto, to be effective, must be in writing and signed by both parties. These terms and conditions and any modifications thereto shall constitute the entire agreement between the parties.

IN WITNESS WHEREOF, the parties hereto have caused their authorized officials to execute this agreement as of the date(s) set forth below:

UNIVERSITY OF KENTUCKY RESEARCH FOUNDATION

Mary D. Hickman, Assistant Director

Date

CONSULTANT

Signature

Date

Typed name and title

Entity ID Number or Social Security Number

VENDOR APPLICATION

The University of Kentucky requires a Federal Tax Identification Number or Social Security number for all vendors doing business with the University in order to comply with Federal Regulations and tax reporting requirements. Completion of the vendor application does not guarantee receipt of competitive bid solicitations. If you are interested in obtaining University solicitations, please visit our bid and proposal opportunity website.

If you have questions, don't hesitate to fax or write us. Thank you for your cooperation.

Do you accept MasterCard? Yes No

Please type or print legibly.

COMPANY NAME AND ADDRESS:

* required fields

Name of Firm * (company or individual)	Phone Number *
Address *	Fax Number *
Address	Federal Tax ID Number * (box 1)
City * State * Zip *	DUNS Number * (box 2)
Zip Code of Company / Corporate Headquarters*	Social Security Number * (box 3) (if individual)

- **Federal Tax ID Number** (box 1) – This field **must** be completed if “Name of Firm” is a company name.
- **DUNS (Dun & Bradstreet) Number** (box 2) – This field **must** be completed if you have a DUNS #. **Provide 9-digit zip code of Company/Corporate Headquarters if DUNS number not available. This is required.**
- **Social Security Number** (box 3) – This field **must** be completed if “Name of Firm” is an individual’s name.

REMITTANCE ADDRESS: (if different from above)

Make Checks Payable To *	Name on Invoice *
Payment Address *	Phone Number *
Payment Address *	Fax Number *
City * State * Zip *	Payment Terms *

Business Classification (circle all that apply) *

(I) Individual / Sole Proprietorship <input type="checkbox"/>	(P) Partnership <input type="checkbox"/>	(C) Corporation-Incorporated in _____ (State) <input type="checkbox"/>	(W) Woman Owned Business <input type="checkbox"/>	(N) Minority Owned Business <input type="checkbox"/>	(M) Medical Services Provider <input type="checkbox"/>	(A) Attorney <input type="checkbox"/>	(2) Non-Resident Alien <input type="checkbox"/>
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Signature _____ Date _____

Print Name _____