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**The Catholic University Of America**

*Washington, DC 20064*

**SERVICE AGREEMENT**

This Agreement is made this day of , 20 , between The Catholic University of America, 620 Michigan Avenue, NE, Washington, DC 20064, a not-for-profit corporation in the District of Columbia (“University”), and

 , of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (“Vendor”).

In consideration of the mutual promises set forth herein and other good and valuable consideration, the University and Vendor agree to the following:

1. **Description of Services**

Vendor agrees to provide the following services to the University (“Services”):

 [Complete description of work or Appendix]

 Deadlines, deliverables, desired results etc

1. **Payment**

University will pay Vendor \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ for performance of Services.

1. **Relationship of Parties**

The status of the Vendor is as an Independent Contractor. University is interested only in the results to be achieved and the conduct and control of the work will lie solely with Vendor. Vendor is not to be considered an agent or employee of University for any purpose, and neither the Vendor nor the employees of Vendor are entitled to any of the benefits that University provides for University's employees. Vendor is responsible for his/her own state and federal income tax withholding and Social Security withholding. It is understood that University does not agree to use Vendor exclusively. It is further understood that Vendor is free to provide similar services to other universities while under contract with University as long as services to be provided under this Agreement are not compromised.

1. **Liability and Indemnification**

The Services performed under this Agreement will be performed entirely at Vendor’s risk. Vendor assumes all responsibility for the condition of tools, equipment, software and other items used in the performance of this Agreement. Vendor agrees to indemnify, defend and hold the University harmless from any and all claims, judgments, damages, liabilities, expenses and costs caused by, arising out of, or in relation to Vendor’s (or its employees, agents, assigns, or Subcontractors) performance of Services or breach of any representations or obligations under this Agreement, unless due to the sole negligence or willful misconduct of the University.

1. **Insurance**

Before the commencement of any work, or the providing of any service, Vendor shall provide the University with a valid certificate of insurance showing evidence of the requested coverages and in amounts with such insurance companies that have A.M. Best ratings of at least A (VII) or better. The Vendor, will at its own expense and at all times while this Agreement is in effect, keep in full force and effect the following:

1. Workers’ Compensation insurance as required by law,

2. Employee liability insurance as required by law with limits of $100,000 each accident, $100,000 each employee and $500,000 policy limit,

3. Comprehensive General Liability Insurance (primary) with limits of not less than one million dollars ($1,000,000) combined single limit per occurrence/two million dollars ($2,000,000) aggregate for bodily injury, personal injury and property damage liability coverage including all premises and operations, products/completed operations, independent contractors, separation of insureds, defense and contractual liability,

4. Business Automobile Liability Insurance with limits not less than:

Bodily Injury (including Death) One Million Dollars ($1,000,000) per person or per accident; and

Property Damage. One Million Dollars ($1,000,000) per accident

Or,

Combined Single Limit for Bodily Injury One Million Dollars ($1,000,000) per accident

 and Property Damage,

5. Umbrella Liability, which provides additional limits for the Employers Liability, General Liability and Automobile Liability with limits of five million dollars ($5,000,000) per occurrence and five million dollars ($5,000,000) aggregate, and

6. If applicable, Vendor shall maintain professional liability insurance for claims arising from real or alleged errors, omissions, or negligent acts committed in the performance of professional or technical services associated with this Agreement with limits of at least one million dollars ($1,000,000) per claim.

The Catholic University, its officers, employees, volunteers shall be named as an additional insured on a primary, non-contributory basis for liability arising directly or indirectly from services on all policies, except for the workers compensation.

A certificate evidencing such insurance coverages shall be sent to: Department of Environmental Health & Safety, Marist Annex, 620 Michigan Ave, NE 20064, or emailed to: cua-ehs@cua.edu.

1. **Term**

This Agreement is in force from \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ to \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, unless terminated sooner pursuant to Section 7. It is agreed that time is of the essence.

1. **Termination**

The University may terminate this Agreement for convenience, without penalty or liability, with fifteen (15) days written notice to Vendor.

If Vendor fails to perform Services in accordance with this Agreement or breaches any provision of this Agreement, and after five (5) days written notice to Vendor of such failure or breach, the University may at its sole discretion:

1. make good such deficiencies and deduct the cost of the same from any payment then or thereafter due the Vendor; and/or
2. terminate the Agreement.

Upon any termination, Vendor will deliver or release to the University all work, work-in-progress, or University property, and the University will pay Vendor for all work performed.

1. **Compliance**

Vendor agrees to comply, and will ensure that its employees, agents, and assigns comply, with all applicable international, federal, state and local laws, rules, regulations and ordinances, as well as all policies and procedures applicable to University contractors, in its performance pursuant to this Agreement. In particular and without limitation, Vendor will comply with all federal, state and local laws regarding equal employment opportunity and nondiscrimination, the Family Educational Rights and Privacy Act, The Americans with Disabilities Act and the Rehabilitation Act, anti-terrorism laws and regulations, the Foreign Corrupt Practices Act, the Drug-Free Workplace Act of 1988, and the Drug Free Schools and Communities Act amendments of 1989, and any laws or regulations controlling the export of goods, technology, software, and services.

If Vendor is providing software or other educational materials, Vendor certifies that its product meets the accessibility standards set forth in WCAG 2.0 Level AA for web based technology and Section 508 of the Rehabilitation Act and The Americans with Disabilities Act for other EIT (Electronic and Information Technology).

Any employee or agent of Vendor who fails to comply with an applicable law, rule, regulation, ordinance or University policy may, at the request and discretion of the University, be removed from the University’s campus and any work pursuant to this Agreement.

1. **Force Majeure**

Neither party to this Agreement shall be liable for non-performance of any obligation under this Agreement if such non-performance is caused by a Force Majeure event. “Force Majeure” means an unforeseeable cause beyond the control of and without the negligence of the party claiming Force Majeure, including, but not limited to, fire, flood, other severe weather, acts of God, labor strikes, interruption of utility services, war, acts of terrorism, acts of government, and other unforeseeable accidents.

1. **Confidentiality and Proprietary Information**

Vendor shall develop, implement, maintain and use appropriate administrative, technical and physical security measures to preserve the confidentiality, integrity and availability of all confidential and/or proprietary information received from, or on behalf of the University, in whatever form received and/or retained which shall be commercially reasonable and shall additionally be not less effective than Vendor’s protection of its own confidential and/or proprietary data.

Vendor understands that in performing this Agreement, Vendor may have access to confidential and/or proprietary information and/or trade secrets of University and others, including but not limited to: names, facts or information about individuals, businesses and families participating in these projects; information pertaining to University students or employees; financial or other sensitive internal matters of University; and information otherwise protected by law. It is agreed that the definition of confidential or proprietary information includes all documentary, electronic, or oral information made known to Vendor through any activity related to this Agreement however marked but shall not include information made available as public information.

Outside of meeting its obligations under this Agreement, Vendor shall not divulge, disclose, copy, sell, data mine, or otherwise make use of any confidential or proprietary information (including but not limited to the above) of the University, its students, employees, agents or assigns without express, advance written authorization of University. Outside of meeting its obligations under this Agreement, Vendor agrees not to retain any confidential or proprietary information from the University without express, advance written permission of University. Vendor agrees that any unauthorized uses under this paragraph shall be considered a breach of this Agreement and also may subject Vendor to legal action. Vendor agrees that if it receives a subpoena seeking confidential or proprietary information relating to this Agreement, the Vendor shall consult the University prior to providing the information.

1. **Vendor Access to University systems**

In any circumstance when Vendor has access to University non-public information system resources, it is the sole responsibility of Vendor to:

1. Ensure that its access does not result in any access by unauthorized individuals,
2. Ensure that its access does not unreasonably negatively impact such information system resources,
3. Protect access to all types of login credentials, as well as access to information contained on or transmitted through University information system resources, including through proper use, handling and destruction of such information, and
4. Ensure that in connecting to or accessing any component of the University’s information systems that Vendor uses only appropriately secured and maintained technology and, in the event Vendor is provided with University technology for this purpose, does not alter the configuration of such a device without appropriate University authorization.
5. **Vendor Providing Outside Hosted Services**

In the event vendor is providing services hosted outside of CUA’s proprietary network then vendor shall implement administrative, physical and technical safeguards to protect non-public data that are no less rigorous than accepted industry practices. Prior to the execution of any agreement, vendor shall provide to CUA a copy of its current 27001compliance certification and, additionally, its SSAE 16 report.

If vendor is contracted to use credit, debit or other payment cardholder information on behalf of CUA then vendor shall at all times remain in compliance with the current Payment Card Industry Data Security Standard and shall require the same of any entity on which vendor relies in support of payment processing for any CUA activity.  Vendor shall attest to this compliance prior to the execution of a contract where such services are being provided and shall attest to their continued compliance on an annual basis.

1. **Subcontractors**

Vendor agrees that any transaction or contract between Vendor and a third party (“Subcontractor”) is solely between the Vendor and the Subcontractor. If Vendor engages a Subcontractor, Vendor will enter into a written agreement with Subcontractor that, at minimum, requires Subcontractor to agree to all applicable terms in this Agreement.

1. **Intellectual Property**

Any intellectual property, including (but not limited to) written materials, software, programs, or other inventions/creations that are developed by Vendor pursuant to or arising out of this Agreement shall be considered "work for hire" and the intellectual property shall be the property of the University to the full extent of the law.

Notwithstanding any language to the contrary, Vendor agrees to indemnify, defend and hold the University harmless from any and all claims, judgments, damages, liabilities, expenses and costs caused by, arising out of, or in relation to Vendor’s (or its employees, agents, assigns) infringement or alleged infringement of any U.S. patent, copyright, trademark, or other intellectual property right.

1. **Entire Agreement**

This Agreement, together with any attachment, constitutes the entire Agreement between the University and Vendor with respect to the subject matter hereof. If the University has signed Vendor’s contract, proposal, or statement of work, such documents are incorporated into this Agreement. Should a conflict arise between this Agreement and any of Vendor’s documents, the terms of this Agreement prevail.

1. **General Provisions**
2. This Agreement may not be modified or amended except by written instrument signed by both Parties.
3. This Agreement shall be governed by the laws of the District of Columbia. Any dispute arising under or in connection with this Agreement will be brought solely in the District of Columbia.
4. If any of the provisions of this Agreement are held by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement will not be affected, and every provision of this Agreement will be valid and enforceable to the fullest extent permitted by law.
5. Neither one or more waivers by any party of any breach of this Agreement, or any failure to enforce the terms of this Agreement, shall be deemed or construed as a subsequent waiver of any other breaches of this Agreement.
6. This Agreement may not be assigned and its duties may not be delegated without prior written consent of the other party.
7. This Agreement may be executed in counterparts, each of which shall be deemed an original, but taken together shall constitute one instrument.
8. Vendor may not use the name or any logo, trademark or other indicia of the University without the prior written consent of an authorized representative of the University.
9. All representations, indemnification, and confidentiality terms and provisions shall survive the expiration or termination of this Agreement.
10. The Headings in this Agreement are for convenience only and shall not affect its interpretation.

IN WITNESS WHEREOF, the Parties hereto knowingly and voluntarily executed this Agreement as of the date set forth below:

The Catholic University of America                                   Vendor

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

Signature                                                                                 Signature

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

Print Name                                                                              Print Name

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

Date                                                                                          Date