

THIS CONTRACT EXPIRES 60 DAYS FROM RECEIPT BY CUSTOMER IF NOT EXECUTED.

**NORTH CAROLINA STATE UNIVERSITY
College of Engineering
Institute for Next Generation IT Systems Service Center
SERVICE AGREEMENT**

Rev 7/2013

Number _____ **Date** _____

THIS SERVICE AGREEMENT (the "Agreement") entered by and between North Carolina State University on behalf of its College of Engineering, Institute for Next Generation IT System Service Center ("NC State"), and _____ ("Customer").

WHEREAS, NC State wishes to supply services to Customer; and,

WHEREAS, the services contemplated herein are of mutual interest and benefit to NC State and Customer, and will further the instructional, research, and public service objectives of NC State in a manner consistent with its status as a public educational institution; and,

WHEREAS, Customer desires to acquire the services to be provided; and,

WHEREAS, Customer represents that these funds are private funds not Federal or State appropriated funds.

NOW, THEREFORE, in exchange of the mutual promises contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, NC State and Customer agree as follows:

1. **Scope of Services.** NC State agrees to supply Customer with the services described in **Exhibit A** (the "Services"), attached hereto and incorporated by reference as if fully set forth herein.
2. **Delivery.** NC State shall commence providing the Services on _____, 20__ (the "Commencement Date") and unless it requests and receives a time extension, intends to complete its performance of the Services on or about _____, 20__.
3. **Payment.** The parties agree this is a fixed price agreement. In consideration of the Services provided pursuant to this Agreement, Customer shall pay NC State _____ Dollars (\$ _____) (the "Payment"). Customer shall make Payment according to the following schedule:
 - a. Payment in full within thirty (30) days of NC State's provision of a single invoice; or

- b. Equal installment payments of _____ Dollars (\$_____) due on the Commencement Date and the last business day of each month during the term of this Agreement; or
- c. Customized payments based on the payment plan described in Exhibit A.

Checks shall be made payable to NC State University. NC State may submit invoices electronically to the address below.

Invoicing address:

Name: _____

Title: _____

Email Address: _____

Remittance Address:

Name: _____

Address: _____

- 4. **Project Manager.** NC State shall provide the Services under the supervision of the Director of its OSCAR Lab or an equally qualified senior technical staff member.
- 5. **Intellectual Property.** Neither party transfers by operation of this Agreement any intellectual property rights owned by either party now or hereafter acquired in connection with its performance under this Agreement. Should any invention potential arise during the work, the parties shall execute a separate Sponsored Project Agreement (“SPA”).
- 6. **Communications Content.** Neither party shall use the name of the other in any form of advertising or publicity, or in the promotion of a commercial product without the express written permission of the other party.
- 7. **Independent Contractor.** Nothing herein is intended or shall be construed to establish any agency, partnership, or joint venture between Customer and NC State.
- 8. **Termination.** This Agreement may be terminated by either party upon thirty (30) days’ written notice to the other party. Should NC State's performance of the Services under this Agreement be terminated before the scheduled completion for any reason, NC State shall be entitled to receive just and equitable compensation for the satisfactory Services rendered as of the date of termination, and the parties agree to negotiate in good faith an equitable adjustment to the Payment.
- 9. **Indemnification.** Customer shall indemnify, defend, and hold harmless NC State, its Trustees, officers, agents, and employees from all loss, cost, and expense in connection with or arising out of any liability or claim of liability for injury or damages to persons or property sustained or claimed to have been sustained by anyone whomsoever, by reason

of the performance of this Agreement, or by any act or omission of Customer or any of its officers, agents, employees, guests, patrons, or invitees.

10. **Tort Claims Act.** NC State's liability for bodily injury, property damage or any other matter sounding in tort is determined in accordance with the provisions, procedures, and limits of the North Carolina Tort Claims Act, N.C.G.S. 143-291, et seq., and NC State's assertion of sovereign immunity.

11. **Notices.** All notices shall be hand delivered, sent by private overnight mail service, or sent by registered or certified U.S. mail and addressed to the party to receive such notice at the address given below, or such other address as may hereafter be designated by notice in writing:

If to NC State: Institute for NEXT Generation IT Systems (ITng)
 North Carolina State University
 Attn: Executive Director
 Campus Box 7914
 Raleigh, NC 27695-7914

If to Customer: _____

12. **Force Majeure.** Neither party shall be deemed to be in default of its obligations hereunder if and so long as it is prevented from performing such obligations by an act of war, hostile foreign action, nuclear explosion, earthquake, hurricane, tornado, or other catastrophic natural event or act of God.

13. **Entire Agreement.** This Agreement contains the entire agreement of the parties and there are no representations, inducements or other provisions other than those expressed herein. All changes, additions or deletions to this Agreement shall be in writing and executed by the authorized representatives of both parties.

14. **Governing Law.** This Agreement and the rights and obligations of the parties hereto shall be interpreted, construed and enforced in accordance with the laws of the State of North Carolina, and the exclusive venue for any legal proceedings arising from or incident to this Agreement shall be the state courts sitting in Wake County, North Carolina.

15. **Severability.** Should any non-material provision of this Agreement be declared illegal, void, or unenforceable under North Carolina law, or shall be considered severable, the Agreement shall remain in force and be binding upon the parties hereto as though the said provision had never been included.

IN WITNESS THEREOF, the parties have executed this Agreement in duplicate originals, one of which is retained by each of the parties, effective the day and year first written above.

NORTH CAROLINA STATE UNIVERSITY CUSTOMER

Proposed by:

Name: _____
Title: Project Manager
Date: _____

Name: _____
Title: _____
Date: _____

Authorized by:

Name: _____
Title: Executive Director
Date: _____