



CONSULTING SERVICES AGREEMENT

MADE this day _____, by PROBYS, Inc. (PROBYS), an incorporated company having their principal offices located at One Hawthorn Place, 175 E Hawthorn Pkwy, Suite 405, Vernon Hills, IL 60061 and having a principal office at _____ (“Contractor”).

WHEREAS, the parties desire to enter into an agreement for the furnishing of certain services by the Contractor to PROBYS.

NOW THEREFORE, in consideration of the premises, the parties agree as follows;

1. SERVICES

The Contractor shall provide data processing services (the "Services") to PROBYS, on a request basis, to assist PROBYS in fulfilling its obligations to provide data processing services to its client(s) (“Client” – as per the Work Order) or for their own projects. For a period beginning on the effective date hereof and ending one year thereafter, PROBYS hereby retains Contractor, as an independent vendor, to provide the services of Individuals as may be requested by PROBYS as specified herein. Issuance of a new work order or continuation of any services under the existing work order will automatically extend this agreement.

From time to time during the term of this Agreement, as PROBYS, in its sole discretion, determines that it requires the services of an Individual, PROBYS shall request such services from Contractor. If Contractor, in its sole discretion, agrees to provide such services in accordance with PROBYS's request, the services of such Individual shall be provided by Contractor pursuant to and in accordance with a separate work order, the form of which shall be substantially as set forth in Appendix A annexed hereto and made a part hereof, which will specify the details of the particular Individual to be provided ("the "Work Order") and such Work Order shall be binding upon the parties hereto and shall be deemed to constitute a part of this Agreement as if fully set forth herein. All rights and obligations of the parties thereunder shall be deemed to apply to such Work Order as if fully set forth therein; provided, however, that in the event of any conflict between this Agreement and any Work Order, this Agreement shall control.

To the extent required by PROBYS, the Services shall be performed in association with and, as to the result but not the method or manner of performance, subject to the direction of PROBYS or others whom PROBYS may designate.

Contractor represents and warrants that each of the Individuals (a) is a full time employee of Contractor or is under contract to Contractor for the period required by PROBYS and



(b) has and will have at all times while assigned to a Work Order thereunder a valid and legal work status under the regulations of the United States Immigration and Naturalization Service.

2. **PERIOD OF PERFORMANCE AND SCHEDULE**

- A. The term of this Agreement is for a period of one (1) year commencing on date specified in the first paragraph of the contract and ending after one calendar year from the start date ("Term"). Issuance of a new work order or continuation of any services under the existing work order will automatically extend this agreement ("Term").
- B. The Contractor shall perform the Services in accordance with any schedule therefore specified by PROBYS; provided, however, that the listing of a schedule for specific elements of the Services shall not be deemed to be in limitation of the Services to be provided by the Contractor. To the extent that a schedule for performance is so specified, time is of the essence of the Contractor's performance with respect to such schedule.

3. **TERMINATION**

- A. PROBYS may, for any reason or for its convenience, terminate performance thereunder by the Contractor in whole or, from time to time, in part by written notice of termination issued by PROBYS, which notice shall state the extent to which such performance shall be terminated and the date upon which such termination shall become effective. Upon receipt of such notice the Contractor shall
 - (a) stop work on the date and to the extent specified in such notice and
 - (b) take such further action regarding termination of the Services as PROBYS may direct.
- B. In the event of such termination, the payment due the Contractor shall be that provided for in the PRICE AND PAYMENT clause up to and including the effective date of the termination and not previously paid, and this shall constitute PROBYS's only obligation to the Contractor by reason of such termination.
- C. In case, the Contractor wishes to terminate the assignment of their consultant, a two weeks written notice is a must. In the event of notice period being less than two weeks, PROBYS reserves the right to withhold payment for the last two weeks or as per the client decision.

4. **PRICE AND PAYMENT**

- A. For satisfactory performance of the Services, the Contractor shall be paid at the rate specified in Appendix A for each period of Consulting Services based on the time actually worked and for which the Client signs the timesheet.



- B. The Contractor will not be reimbursed for any expenses of travel to and from the assigned work location for performance of the Services or for any other expenses not approved by PROBYS before they are incurred.
- C. The Contractor shall submit an invoice on the first business day for the services performed in the prior period and the same shall be paid as specified in Appendix A during the Term supported by a statement of the periods of performance in such form and detail as the PROBYS Project Manager may require. Each invoice must have the relevant period client signed time sheets attached.
 - (1) All taxes of every nature and kind, including without limitation franchise, net or gross income, federal, state, license, occupation, or property taxes shall be the responsibility of the Contractor and PROBYS shall have no obligation to the Contractor therefore. Further the contractor agrees to compensate PROBYS for any payroll tax liabilities, interest, penalties and all other related cost (e.g. professional fees to handle the matter) which PROBYS may have to pay to Federal or State government and/or an attorney, which the contractor is otherwise liable to pay as the payroll taxes on the payments received under this contract to the Federal or State government and has not paid. Contractor is also responsible for all costs associated with any technical evaluation, equipment (e.g. laptop) or background check requested by the client.
 - (2) The Contractor shall keep daily time sheets for all personnel including the name, social security number, classification, number of hours worked, and description of work done. PROBYS shall have the right to examine and approve these daily time sheets prior to payment of the invoice. The Contractor shall preserve these records for two years from the date of the payment of the last invoice.

5. **REPRESENTATIONS**

The Contractor represents that all persons who will be engaged, in any manner and whether as an employee of or otherwise associated with the Contractor, in performance under this Agreement or having been introduced to the client after signing of this contract (i) are not restricted, by contract or otherwise, in any way from engaging in such performance and (ii) During the term of this contract and one year thereafter, the Contractor, Consultant and/or their agent shall not solicit any type of business from, or provide services similar to "Services", as determined by PROBYS, to the "Client" without obtaining written consent from PROBYS. In case, the Contractor, consultant and/or their agent provides such "Services" to the "Client" without the written consent of PROBYS, then the Contractor hereby agrees to pay 25% (twenty five percent) of all gross billing amount, resulting from such unauthorized business, to PROBYS as compensation for the lost business opportunity. These payments will be due to PROBYS within thirty days of the date of invoice/bill submitted by the Contractor to the "Client".



6. **RIGHTS IN DATA AND DOCUMENTATION**

- A. PROBYS and/or its client(s) shall own all work product delivered to PROBYS or its client(s) which resulted from Services of Contractor thereunder. Such work product shall be deemed to be Works Made for Hire. To the extent that any of the work product may not, by operation of law, be Works Made for Hire, Contractor hereby assigns to PROBYS the ownership of such work product. PROBYS shall have the right to obtain and hold copyrights, patent rights, registrations and similar protection, which may be available for such work product. Contractor agrees to give PROBYS such assistance as may be reasonably required to perfect such rights.
- B. To the extent that any preexisting materials of Contractor are contained in the work product delivered to PROBYS thereunder, Contractor hereby grants to PROBYS and/or its client(s) an irrevocable, worldwide, royalty free license to such preexisting materials. Such license includes, without limitation, the right to use, execute, reproduce, display, perform, distribute (internally and externally) copies of, and prepare derivative works based upon, such preexisting materials and derivative works thereof. Contractor acknowledges and agrees that PROBYS may transfer such rights to others without Contractor's approval.
- C. Except for preexisting materials, Contractor has no rights or license to use, publish, reproduce, prepare derivative works based upon, distribute, perform or display any work product produced by Contractor thereunder.
- D. Contractor warrants and represents (i) that the work product produced by Contractor thereunder shall be Contractor's original work and will not infringe upon or violate any patent, copyright, trade secret, contractual or any other proprietary right of others; (ii) that there exist no known rights, claims, causes of action or other legal rights or impediments; and (iii) that PROBYS's rights in such Work Product, as herein before set forth, shall be free and clear of any encumbrances, liens, claims, judgments, causes of action or other legal rights or impediments.
- E. The rights and obligations of the parties in respect of this RIGHTS IN DATA AND DOCUMENTATION clause shall survive completion of performance or termination or cancellation of this Agreement



7. DISCLOSURE OF INFORMATION

- A. Any unpatented or copyrighted information delivered or disclosed by PROBYS or others acting in its behalf to the Contractor incidental to or in connection with performance of or included in this Agreement, and whether such delivery or disclosure occurred before or after execution of this Agreement, shall be and remain the property of PROBYS and shall be used only to the extent necessary for performance of this Agreement and may be duplicated for or disclosed to only those persons within the Contractor's organization having a need to know for purposes of performance pursuant to this Agreement. Such information includes without limitation any information concerning PROBYS's business, plans, operations, products, methods, procedures, customers, services, equipment, systems, and facilities and proprietary information, regardless of the form or method of communication
- (1) The Contractor shall accord to all such information such protection as is necessary to prevent any other use, duplication, or disclosure, which protection shall be no less than that which the Contractor accords to its proprietary or secret information. Upon completion of performance or termination of this Agreement, the Contractor shall deliver to PROBYS or its authorized representative all items embodying such information then in its possession or shall certify that all such items have been destroyed.
- (2) The restrictions set forth above shall apply, notwithstanding the expiration of the Term or the termination of this Agreement, until such time as the Contractor can establish that such information is known to the general public provided such knowledge is not due to acts or omissions of the Contractor.
- B. Unless written consent of PROBYS shall be first obtained, the Contractor shall not at any time, notwithstanding the expiration of the Term or the termination of this Agreement, and in any manner advertise or publish or release for publication any statement mentioning PROBYS or the fact the Contractor is furnishing or has furnished or contracted to furnish the Services to PROBYS.

8. COMPLIANCE WITH LAWS

The Contractor shall, at its own expense, comply with all laws, rules, and regulations, state and federal, and assume all liabilities or obligations imposed by such laws, rules and regulations with respect to the Contractor's performance thereunder.



9. **INDEMNITY**

The Contractor shall at all times be deemed to be performing as an independent contractor and not as an agent or employee of PROBYS and the acts, errors and omissions of the Contractor's employees, consultants, agents and subcontractors of any tier shall be deemed to be those of the Contractor. To the extent not precluded by law, the Contractor shall indemnify and hold harmless PROBYS and its officers, principals, agents, representatives, clients and employees from and against any and all liability, damages, losses, claims, demands, judgments, costs and expenses of every nature and kind, by reason of, and not limited to, errors and omissions on the performance of the Contractor, or its employee(s), or its contractor(s), injury to or death of any person or damage to or destruction of property, arising out of or incidental to or in any way resulting from the acts or omissions, whether negligent or otherwise, of the Contractor, its employees, person performing the Service, subcontractors, or agents in performance under this Agreement. The Contractor shall not be responsible for any such losses, liabilities, claims, judgments, costs, demands and expenses caused by the willful misconduct of PROBYS, its officers, principals, agents, representatives or employees. In the event a claim is filed against PROBYS for which the Contractor is to be responsible under this provision, PROBYS will promptly notify the Contractor of such claim.

10. **INSURANCE**

Contractor will forward to PROBYS, prior to commencing work on the Project, a certificate of insurance verifying that Contractor is insured in policy amounts of not less than the amounts set forth below for all matters relating to its work on the Project. The certificate shall indicate that the insurance may not be canceled prior to a 30-day notification period and that PROBYS shall be immediately notified of any such notice of termination;

- A. General liability insurance (including automobile and broad form contractual coverage) against bodily injury or death of any person in the amount of one million dollars (\$1,000,000) for any one occurrence; and
- B. Insurance against liability for property damages as well as first-party fire insurance, including contents coverage for all records maintained pursuant to this Contract, in the amount of five hundred thousand dollars (\$500,000); and
- C. Worker's Compensation insurance (with minimum \$100,000 per occurrence) and Contractor agrees to maintain sufficient contractual liability insurance to cover the liabilities assumed by Contractor in connection with performing the Services.



11. **CLIENT AGREEMENT/POLICY COMPLIANCE**

Contractor agrees that their employee(s) and/or their personnel performing Services to the Client will follow Client's policies applicable to them including but not limited to the security procedures of the Client and Contractor further agrees that it will comply with all terms and conditions set by the Client in the performance of the Services.

12. **ADDITIONAL CONFIDENTIALITY AGREEMENT**

Prior to commencement of the Services, Contractor shall require that its employee(s) and/or its contractor's employees who will be actually performing the Services at the Client location to execute a confidentiality agreement as required by the Client and/or PROBYS.

13. **BREACH**

Any breach of any provision of this Agreement by Contractor or its personnel entitles PROBYS to recover from Contractor damages and injunctive relief. Contractor agrees that because monetary damages are likely to be inadequate, PROBYS shall be entitled to temporary injunctive relief (by proving to a court of likelihood of breach by Contractor) and to permanent injunctive relief (by proving to a court such breach). If PROBYS is successful in recovering damages or obtaining injunctive relief, Contractor agrees to be responsible for paying all of PROBYS expenses in seeking such relief, including all costs of bringing suit and all reasonable attorneys' fees.

14. **APPLICABLE LAW**

This contract shall be construed and enforced in accordance with, and the laws of the State of Illinois hereof shall govern the validity and performance. Any action at law or in equity arising out of this Agreement shall be brought in an appropriate court of the Lake County, State of Illinois. This agreement constitutes the entire agreement of the parties with respect to its subject matter.

15. **ENTIRE AGREEMENT**

Except as herein expressly provided, this Agreement constitutes the entire understanding between the parties hereto with respect to the subject matter hereof and shall supersede all previous negotiations, commitments, and understandings



16. **NOTICES**

All notices or requests required to be given under this Agreement and all other communications related to this Agreement shall be in writing and shall be deemed to have been duly given if personally delivered or faxed or if mailed, first class, by registered or certified mail return receipt requested, to;

PROBYS PROBYS, Inc.
175 E Hawthorn Pkwy, Suite 405, Vernon Hills, IL 60061
Tel : (847) 247-8470
Fax: (847) 247-8471
Fed Id: 36-3984423

Contractor:

Either party may change such address, designation, or title of the individuals by written notice issued and delivered as above.

17. **MODIFICATIONS**

Except as expressly provided for, no modifications to this Agreement shall be valid unless made in writing and signed by duly authorized representative of PROBYS and the Contractor, and neither the acquiescence in any performance at variance to the provisions of this Agreement nor the failure to exercise any right or enforce any obligation thereunder shall be deemed a modification of this Agreement.

SIGNED by the parties on the dates indicated.

PROBYS, Inc.

CONTRACTOR

By: _____

By: _____

Printed

Printed

Name:

Name:

Title:

Title:

Date:

Date: