



4390 SW 73rd Ave • Miami • Florida • 33155 • Tel. 786-788-6930

Agreement To Perform Professional Consulting Services

This AGREEMENT ("Contract") is made effective today (the "Effective Date") by and between (see Quote, Order, On-Line Sale Invoice or Payment for Info) ("Client") located at (see Quote, Order, On-Line Sale, Invoice or Payment for Info) ("Client Location") and IVI Technologies, Inc., an Florida corporation, located at 4390 SW 73rd Ave, Miami, Florida 33155 ("IVI Technologies").

WHEREAS, this Contract includes any Statement of Work ("SOW") and all exhibits and addenda if any, which are in writing and expressly reference this Contract; and

WHEREAS, each SOW entered into by and between the parties shall constitute a separate professional services engagement and shall incorporate therein all of the terms and conditions of this Contract and contain such additional terms and conditions as agreed upon in writing; and

WHEREAS, each SOW is enforceable according to the terms and conditions contained therein and in the event of a conflict between the language of this Contract and any SOW related hereto, the language of the SOW shall prevail with respect to that SOW.

NOW, THEREFORE, the parties agree to the following terms and conditions:

I. Scope of Agreement. This Contract shall apply to all technology and solution consultation services provided by IVI Technologies to Client ("Services"), including but not limited to, special studies, design and architecture, system configuration, coding/programming, application design, systems analysis and development, project management, implementation, legacy system modification, installation, evaluation, training, technical documentation and system support.

II. Location. The Services will be performed at the Client's and IVI Technologies' facilities as required in accordance with the applicable SOW.

III. Statements of Work. The Services shall be set forth in individual SOWs, which shall be substantially in the format of attached "Exhibit A," and which, upon execution by both parties shall be incorporated herein by this reference. The Services shall be performed by IVI Technologies' architects, engineers, programmers, consultants, project managers and various other IVI Technologies technical specialists, employees and subcontractors (collectively the "Consultants") in a professional and workmanlike manner, consistent with the degree of care and skill that would be exercised under similar circumstances by reputable professionals performing comparable consulting services. Each party will designate a project manager ("Project Manager") as the main interface between them for this Contract and each SOW.

IV. Cost of Service. The cost of hardware, software and Services will be defined in the individual SOW under its "Cost Proposal" section. The Client shall reimburse IVI Technologies for all reasonable travel and other expenses incurred by IVI Technologies in connection with performance of the Services and in accordance with the applicable SOW. All amounts payable by Client to IVI Technologies under this Contract are exclusive of any tax, levy or similar governmental charge that may be assessed by any jurisdiction, whether based on gross revenue, the delivery, possession or use of the hardware, software or Services, the execution or performance of this Contract or otherwise, except for net income, net worth or franchise taxes assessed on IVI Technologies outside of the Client Location (as hereafter defined). If, under the laws of the Client Location, IVI Technologies is required to withhold any tax on such payments, then the amount of the payment will be automatically increased to totally offset such tax, so that the amount actually remitted to IVI Technologies, net of all taxes, equals the amount invoiced or otherwise due. Client will promptly furnish IVI Technologies with the official receipt of payment of these taxes to the appropriate taxing

authority. Client will pay all other taxes, levies or similar governmental charges or provide IVI Technologies with a certificate of exemption acceptable to the taxing authority.

V. Facilities to be Provided by Client (if needed) . The Client shall supply IVI Technologies with a suitable office space working environment and other materials reasonable and necessary for IVI Technologies to provide the Services as defined in the SOWs.

VI. Confidentiality. The Client will provide all sample data and other raw materials necessary to complete any project and will cooperate in making employees sufficiently trained, qualified and available to work with IVI Technologies. At such time as any data or other raw material comprising Client Materials (as hereafter defined) provided to IVI Technologies by Client is no longer needed by IVI Technologies, such Client Materials in the possession of IVI Technologies shall be returned within 10 days to the Client. Client warrants that it owns and/or has clear right and title to any and all such Client Materials that are provided to or placed in the possession of IVI Technologies in the completion and delivery of the Services.

VII. Limitation of Liability. IVI TECHNOLOGIES AND ITS AFFILIATES SHALL NOT BE LIABLE TO CLIENT FOR ANY CONSEQUENTIAL, INCIDENTAL, PUNITIVE OR SPECIAL DAMAGES (INCLUDING, WITHOUT LIMITATION, LOST PROFITS) INCURRED BY CLIENT AS A RESULT OF ANY BREACH OF THIS CONTRACT OR ARISING OUT OF THIS CONTRACT OR THE USE OR INABILITY TO USE ANY HARDWARE, SOFTWARE, OR DUE TO ANY OF THE SERVICES, INCLUDING, BUT NOT LIMITED TO, ANY LOST PROFITS OR COST SAVINGS, EVEN IF CLIENT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN ANY EVENT, IT IS AGREED THAT THE LIABILITY OF IVI TECHNOLOGIES AND ITS AFFILIATES TO CLIENT FOR ANY REASON AND UPON ANY CAUSE OF ACTION SHALL BE LIMITED TO THE AMOUNT IN PAYMENTS ACTUALLY RECEIVED BY IVI TECHNOLOGIES FROM CLIENT UNDER THIS CONTRACT. THIS LIMITATION APPLIES TO ALL CAUSES OF ACTION IN THE AGGREGATE, INCLUDING, WITHOUT LIMITATION, TO BREACH OF CONTRACT, BREACH OF WARRANTY, NEGLIGENCE, STRICT LIABILITY, MISREPRESENTATIONS AND OTHER TORTS. No action, regardless of form, arising out of the Services under this Contract may be brought by either party more than one (1) year after the cause of action has been discovered, except that an action for nonpayment may be brought within one (1) year after the date of last payment or the date on which the last payment became due.

VIII. Indemnifications. IVI Technologies will indemnify Client and defend any action brought against Client to the extent such action is based on a claim that software developed by IVI Technologies under this Contract infringes any United States patent or copyright, so long as Client notifies IVI Technologies in writing as soon as it learns of the claim and in no event later than three days after initiation of any legal action. IVI Technologies shall have sole control over the defense of such action and any negotiations for settlement or compromise of such action. If the software becomes, or in IVI Technologies' opinion is likely to become, the subject of a patent or copyright infringement claim, IVI Technologies may either secure a license for Client to continue using the software or replace or modify such software to make it non-infringing, or may terminate the Contract by written notice and refund fees paid under this Contract to Client.

Client agrees to indemnify, defend and hold harmless IVI Technologies, its affiliates and their respective shareholders, officers, directors, employees, agents, successors and assigns (collectively the "Indemnified IVI Technologies Parties") from and against any and all claims, demands, suits, actions, liabilities, losses, including, but not limited to, costs, reasonable attorney's fees, expenses, judgments or damages, resulting from any other party's claim made or suit brought against the Indemnified IVI Technologies Parties resulting from Client's negligent or willful acts or omissions or those of persons engaged by Client, its agents or subcontractors, or resulting from Client's improper use of the hardware, software, or Services, or arising out of any material breach by Client, its agents or subcontractors of any provision of this Contract. IVI Technologies shall notify Client promptly in writing of any such claim, action, suit or proceeding and provide Client such assistance in the defense and settlement of any such claim, action, suit or proceeding as Client may reasonably request. Client shall have sole control of the defense of any such claim, action, suit or proceeding and any related settlement negotiations.

IX. Payment. IVI Technologies will submit invoices twice a month, on the 15th and 30th, for Services rendered, expenses incurred and hardware and/or software delivered consistent with the terms and conditions governing such in each SOW. Payment for said expenses and hardware and/or software are due within thirty (30) days after invoice date. Payment for Services rendered by IVI Technologies pursuant to the terms of this Contract, as stated in the "Cost Proposal" section of the associated SOW, are due within thirty (30) days after invoice date. Client will pay all amounts due to IVI Technologies pursuant to this Contract in U.S. Dollars at IVI Technologies' offices in Miami, FL, U.S.A., or other place outside of the Client Location

that IVI Technologies may designate via the method required in the applicable SOW. All currency conversions required under this Contract will be made at the official rate of exchange for purchases of U.S. dollars on the date of payment. Any late payment will accrue interest at the lesser of (i) the LIBOR rate quoted on the date that the payment became past due, plus 5%, and (ii) the maximum interest allowable under the laws under which interest is regulated in the applicable jurisdiction for Client's Location. Client will pay any late payment charge upon remitting the principal amount to IVI Technologies.

Bills not paid within the thirty (30) day period shall thereafter accrue interest at the rate of one and one-half percent (1.5%) per month on the amount outstanding. The Client must notify IVI Technologies, in writing, within ten (10) days after the date of invoice, if the Client disputes the invoice as incorrect.

X. Ownership of Programs. All written material furnished by Client and any associated documentation created or provided by Client ("Client Materials") shall be returned to Client upon completion of the project and shall remain the exclusive property of the Client. Any custom computer code developed by IVI Technologies pursuant to this Contract as "work for hire" ("Developed Materials") shall be delivered to Client upon completion of the project and shall be the non-exclusive property of the Client, provided, however, that Client grants to IVI Technologies a non-exclusive, perpetual, worldwide, royalty free license in the Developed Materials. This Contract shall not preclude IVI Technologies from consulting with other clients or providing service to clients who are in competition with the Client or restrict IVI Technologies' personnel except as expressly provided herein. It is understood and agreed that in the performance of its obligations, hereunder, IVI Technologies shall at all times act in the capacity of an independent contractor and not as an employee, partner, agent, joint venturer, or principal of Client.

XI. Insurance. IVI Technologies agrees to maintain all insurance required by law, including but not limited to Worker's Compensation and Employee Liability Insurance, covering all of IVI Technologies' employees.

XII. Agreement Not To Employ. IVI Technologies agrees not to hire, employ, contract with, or solicit for hire any employees of the Client during the term of this Contract, and thereafter, until the later to occur of one (1) year following the expiration or termination of this Contract and one (1) year following the termination of the subject employee by the Client. Client agrees not to hire, employ, contract with, or solicit for hire any employees of IVI Technologies during the term of this Contract and thereafter, until the later to occur of one (1) year following the expiration or termination of this Contract and one (1) year following the termination of the subject employee by IVI Technologies.

XIII. Termination. Either party will have just cause to terminate this Contract immediately upon notice to the other or to refuse to renew this Contract, without judicial or administrative notice or resolution, upon the occurrence of any termination event specified below or elsewhere in this Contract.

a) Breach. A party or any of its employees materially breaches any obligation under this Contract and fails to cure the breach to the non-breaching party's satisfaction within 10 days after such party demands its cure.

b) Normal Business. A party ceases to conduct business in the normal course, becomes insolvent, enters into suspension of payments, moratorium, reorganization or bankruptcy, makes a general assignment for the benefit of creditors, admits in writing its inability to pay debts as they mature, suffers or permits the appointment of a receiver for its business or assets, or avails itself of or becomes subject to any other judicial or administrative proceeding that relates to insolvency or protection of creditors' rights.

c) Personnel Deficiency. Client may request that IVI Technologies terminate the Services of any IVI Technologies personnel upon five days advance, written notification for non-performance or non-professional conduct at the Client's discretion.

XIV. Force Majeure. Any time periods described in this Contract, or SOWs attached, shall be extended by any time delays ("Unavoidable Delays") occurring due to causes beyond the reasonable control of the parties including, but not limited to, "acts of God," strikes, lockouts, protests, riots, insurrection, war, unavailability of materials, flood, extreme weather, fire, or other natural calamity, and/or acts of governmental authority. Unavoidable Delays shall not include delays due to inability or failure to obtain financing or inadequate financial resources

XV. Miscellaneous

a) This Contract constitutes the entire agreement between parties and supersedes any proposal, oral, or written, and all other communications between the parties relating to this Contract, with the exception of any SOW which may, in the event of a conflict related to the language of this Contract and the specific SOW, take precedence. No modification hereof is effective unless written and signed by the parties.

b) Any notices, payments or statements required or permitted under this Contract shall be considered given or mailed if sent certified mail to either of the parties and addressed:

On-Line

1. If to IVI Technologies, Inc., at:

IVI Technologies
4390 SW 73rd Ave
Miami, FL 33155
Attention: _____

2. If to Client, at:

(see Quote, Order, On-Line Sale, Invoice or Payment for Info)

Attention: _____

c) The recitals first set forth above are true and correct and incorporated herein by this reference.

d) THIS AGREEMENT SHALL BE GOVERNED BY THE SUBSTANTIVE LAWS OF THE STATE OF FLORIDA, UNITED STATES OF AMERICA, WITHOUT REGARD TO ITS CHOICE OF LAW PRINCIPLES. Client and IVI Technologies exclude the United Nations Convention on Contracts for the International Sale of Goods from this Contract and any transaction between them that may be implemented in connection with this Contract. Any dispute or claim arising out of or relating to this Contract, or the interpretation, breach, termination or validity hereof, shall be submitted to and settled by arbitration upon the written request of either party with notice to the other party. Such arbitration shall be conducted under the auspices and rules of the American Arbitration Association. The arbitration proceedings shall be conducted in English in Miami, Florida. No arbitrator shall have the authority to award punitive damages. The award of the arbitration tribunal shall be final and binding upon the parties, and either party may apply to a court of competent jurisdiction for enforcement of such award. The parties hereby irrevocably consent to the exclusive jurisdiction of the state and federal courts located in Miami, Florida, in any action arising out of or relating to this Contract, and waive any other venue to which either party might be entitled by domicile or otherwise.

e) Client acknowledges that the hardware, software and/or Services and all related technical information, documents and materials are subject to export controls under the U.S. Export Administration Regulations. Client will (i) comply strictly with all legal requirements established under these controls, (ii) cooperate fully with IVI Technologies in any official or unofficial audit or inspection that relates to these controls and (iii) not export, re-export, divert, transfer or disclose, directly or indirectly, any hardware, software or Service or related technical information, document or material or direct products thereof to any of the following countries or to any national or resident thereof, unless Client has obtained the prior written authorization of IVI Technologies and the U.S. Commerce Department and any relevant local governmental authority: Afghanistan, Albania, Bulgaria, Cambodia, Cuba, Czech and Slovak Federative Republic, Iran, Iraq, Laos, Libya, Mongolia, North Korea, People's Republic of China, Poland, Romania, Syria, Vietnam and the jurisdiction that formerly comprised the Union of Soviet Socialist Republics (including Estonia, Latvia and Lithuania) and the South African Military and Police Authorities. Upon notice to Client, IVI Technologies may modify this list to conform to changes in the U.S. Export Control Regulations

f) Notwithstanding any translation of this Contract into any other language, the English text shall govern.

g) If any arbitration, action at law or in equity is brought to enforce or interpret the provisions of this Contract, the prevailing party in such action shall be entitled to reimbursement for reasonable attorneys' fees, arbitrators' fees and costs.

h) This Contract may be signed in counterparts, which together shall constitute one agreement, effective as of the latest date when completely signed by all parties to this Contract, and facsimile or other electronic signatures shall be deemed acceptable as valid and authentic original signatures.

[THIS SPACE INTENTIONALLY BLANK; SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties to this Contract have caused it to be executed on their behalf by their duly authorized representatives and have affixed their seals as of the Effective Date above.

For Company:
**(see Quote, Order, On-Line Sale, Invoice,
or Payment for Info)**

For IVI Technologies:

4390 SW 73rd Ave _____
Miami, FL 33155 _____

By _____

Print Name _____

Title _____

By _____

Print Name _____

Title _____

On-Line