

INDEPENDENT CONTRACTOR AGREEMENT

This agreement is entered into as of _____, 20____, by and between Rensselaer Polytechnic Institute (hereinafter called "Rensselaer"), a non-profit educational institution with a principal place of business at 110 Eighth Street, Troy, New York 12180, and _____ (hereinafter called the "Contractor"), an independent contractor, with a principal place of business at _____.

Article 1. Performance of Work

- (a) Drawing on his/her knowledge, experience, ability and technical expertise, the Contractor agrees to provide such consulting services necessary to the successful completion of the above mentioned contract as may be requested by Rensselaer. The specific items of work required to be performed is set forth with particularity in the Schedule of Work (see **Exhibit A**). Contractor shall use his/her best efforts to perform such work.
- (b) The work to be performed herein shall be performed by Contractor as an independent contractor and not as an employee of Rensselaer. The Contractor will not be treated as an employee of Rensselaer for federal or state tax or other purposes, nor will Contractor be eligible for any Rensselaer employee benefits, including but not limited to workers' compensation and disability benefits. Contractor is solely responsible for the manner and means of the performance of the services to be provided herein and is solely responsible to supply and use his/her own tools or equipment that may be necessary for the performance of the work herein.
- (c) Rensselaer's principal coordinator for this agreement will be _____ at its Department of _____. All services provided for herein shall be performed to the approval of such principal coordinator.

Article 2. Term and Termination

- (a) The period of performance under this Consulting Agreement is specified as _____ through _____ for which period funds are available and allotted.
- (b) Rensselaer may immediately terminate this agreement based upon a breach of this agreement by Contractor, by delivery of written notice thereof to Contractor at Contractor's address as noted above. Either party may also terminate this agreement without cause on 30 days written notice, by notice delivered to the address of the parties as noted above; in such a case, Rensselaer will proportionately reimburse Contractor for all work expended up until the time of termination.

Article 3. Allowable Costs and Payment

- (a) Maximum Amount and Limitation

The cost of the total amount of the personnel, equipment, facilities, supplies and travel to perform the services specified herein shall not exceed \$_____.

- (b) Rate

The services will be provided at a rate not to exceed \$_____ which rate includes payment-in-full for consulting and internal supporting materials and services at Contractor's facilities, as may be required. Such materials and services will include but not be limited to such things as typing and reproducing memoranda related to this assignment, but do not include travel expenses which will be reimbursed separately and supported by receipts.

(c) Contractor hereby certifies that the rate quoted above is not higher than the rate customarily charged by the Contractor for similar services.

(d) Travel

All travel will require the prior approval of _____, who will authorize both the person performing the travel and his/her destination(s).

Travel expenses will be reimbursed in accordance with Rensselaer's policies as shown in Exhibit B.

(e) Payment

1. Payment shall be made by Rensselaer for services rendered by the Contractor at the approved rate referred to above, subject to the approval of the Principal Coordinator.

2. Invoices shall be submitted by the Contractor, which invoices shall indicate:

the nature of the services rendered (such as statistical analysis of data, participation on project advisory committees, performance of specified services, etc.);

the dates (and hours, if applicable) that services were rendered;

the relevance of the services to the project if not apparent from the nature of the services;

Invoices shall be submitted to:

Accounts Payable
Rensselaer Polytechnic Institute
P.O. Box 2800
Troy, New York 12180-2800

Other correspondence shall be submitted to:

Office of Purchasing
Rensselaer Polytechnic Institute
110 8th Street
Troy, New York 12180-3590

(f) Confidentiality

Contractor agrees to hold certain items identified by Rensselaer as Confidential Information, in accordance with the terms and conditions attached hereto as **Exhibit C** hereto.

Article 4. General Provisions

(a) Contractor shall provide such reports as requested by the principal coordinator.

(b) This agreement may not be assigned in whole or in part without the prior consent of Rensselaer.

- (c) Before any services and/or work can be performed on Rensselaer premises, evidence of insurance in force naming Rensselaer as an additional insured must be in the possession of the Rensselaer Department of Risk Management, 110 8th Street, Troy, New York 12180-3590.
- (d) Contractor agrees to indemnify Rensselaer and to hold Rensselaer harmless from and against all claims, liability, loss, damage and expenses (including but not limited to legal fees) arising from or due to any claim (including but not limited to any claim based on trademark, patent, or copyright infringement or alleged infringement) with respect to all or any part of the goods, products, systems, services and/or work covered by this agreement, and any litigation based on any such claim. Contractor shall, at Contractor's sole cost and expense, defend any such litigation brought against Rensselaer. Contractor's obligation under this paragraph shall survive Rensselaer's acceptance of, and payment for, the goods, products, systems, services and/or work.
- (e) This agreement shall be governed by the laws of the State of New York without regard to its rules concerning conflicts of laws and the parties hereto consent to the jurisdiction of either New York State Courts or US District Court for the Northern District of New York for any disputes arising hereunder, with venue to be established in either Albany or Rensselaer County, New York.
- (f) Contractor warrants and represents that he or she has the full right to enter into and execute this agreement and to undertake the obligations set forth herein.
- (g) This document contains the entire agreement of the parties, and may not be altered or amended except by a subsequent document signed by both parties.
- (h) Rensselaer's General Terms and Conditions, a copy of which is attached hereto as **Exhibit D**, is incorporated herein by reference, except to the extent expressly amended, superceded or contradicted by an express provision contained in this Independent Contractor Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

RENSELAEER POLYTECHNIC INSTITUTE

Signature

Date

Print Name

CONTRACTOR

Signature

Date

Print Name

Exhibit A
STATEMENT OF WORK

Exhibit B

RENSELAER POLYTECHNIC INSTITUTE Current Travel Policy

TRAVEL POLICY FOR OFFICIAL BUSINESS

Each traveler will be reimbursed for all necessary and reasonable expenses incurred in connection with approved travel on University business, subject to the subsistence and lodging limitations and the professional meeting limitations set forth in the current travel policy. All reimbursable travel must be authorized in advance of the trip by the person in charge of the department or budgetary unit against which the travel will be charged. The rates and policies are set forth in the current travel policy of Rensselaer Polytechnic Institute, which may be amended from time to time.

Exhibit C

Confidentiality Terms

1. RENSSELAER (hereinafter "Disclosing Party") intends to disclose to Contractor (hereinafter "Receiving Party") certain information that the Disclosing Party believes and expresses to Receiving Party to be proprietary and confidential.
2. Receiving Party is willing, subject to the terms and conditions of this Agreement, to hold in confidence such proprietary and confidential information of the Disclosing Party.
3. Information disclosed under this Agreement includes Information disclosed to the Receiving Party as deemed necessary by the Disclosing Party and only for the limited purpose of enabling the Receiving Party to comply with his obligations under the attached Independent Contractor Agreement with Disclosing Party.
4. The term "Information" as used herein shall mean, by way of example but not by way of limitation, data, diagrams, processes and methodologies, tools, technological developments of any kind and nature, in each and every case, whether or not patentable or susceptible to any other form of legal protection, and relating generally or specifically to the Disclosure's research and innovation activities.
5. The term "Confidential Information" or "Proprietary Information" as used herein means all Information owned or controlled by the Disclosing Party supplied to or obtained by the Receiving Party. Any information disclosed by either the party and designated "Confidential" or "Proprietary" by the Disclosing Party at the time of disclosure shall be treated by the Receiving Party as set forth in the Agreement. Where the confidential information has not been or cannot be reduced to written form or recorded on reproducible media (tape, disc) at the time of disclosure and such disclosure is made orally and with prior assertion of proprietary rights therein, such orally disclosed information shall be protected in accordance with this agreement, provided that the Disclosing Party furnishes the Receiving Party a complete written summary per Section 10.
6. This Agreement covers only Information disclosed during the term of the attached Independent Contractor Agreement.
7. Receiving Party's obligation shall expire five (5) years from Effective Date.
8. Receiving Party agrees to:
 - (a) maintain Information in confidence and not disclose Information to any third party except as expressly provided in this Agreement;
 - (b) not use Information except as provided for in Section 4;
 - (c) use the same degree of care, but no less than a reasonable degree of care as the Recipient uses to protect its own confidential information of a like nature to prevent disclosure of Information to third parties.
9. Receiving Party's obligations shall apply only to Information that is:
 - (a) disclosed in tangible form (written, recorded on reproducible media, etc.) and is clearly and obviously identified as "Confidential" or "Proprietary" at the time of disclosure, or
 - (b) disclosed initially in non-tangible form and identified as confidential at the time of disclosure and within twenty (20) days of the initial disclosure, is summarized and designated as "Confidential" in writing by the Disclosing Party and delivered to Receiving Party;
 - (c) the Receiving Party shall not disclose such Information to anyone except its officers and employees, who shall be informed of the confidential nature of the Information.

10. Receiving Party has no obligation with respect to any Information disclosed hereunder which:
 - (a) was in Receiving Party's possession before receipt from Disclosing Party,
 - (b) is or becomes a matter of general public knowledge through no fault of Receiving Party,
 - (c) is rightfully received by Receiving Party from a third party without an obligation of confidence,
 - (d) is disclosed by Disclosing Party to a third party without an obligation of confidence of the third party,
 - (e) is independently developed by Receiving Party; or
 - (f) is disclosed without obligation of confidence under operation of law, governmental regulation, or court order, provided Receiving Party first gives Disclosing Party notice and uses all reasonable efforts to secure confidential protection of such information.
11. All Information shall be provided by the Disclosing Party in good faith. Disclosing Party shall not be liable for any damages arising out of the use by the Receiving Party of Information that was provided for the purpose set forth in Section 4.
12. The Receiving Party retains the right to refuse to accept any confidential information of the other party that the Receiving Party considers to be nonessential to the completion of the Research Program or that the Receiving Party believes to be improperly designated.
13. Neither party transfers any rights in Information. No rights are granted under any intellectual property rights of either party. This Agreement does not create any other obligations, including agency or partnership obligations, between parties. This Agreement does not constitute an offer to sell Information.
14. Receiving Party may disclose Information received from Disclosing Party to employees, consultants or third party contractors on a need-to-know-basis, subject to confidentiality terms consistent with this Agreement. Receiving Party warrants that employees, consultants or third party contractors shall comply with the terms of this Agreement.
15. All written materials with Information, both originals and copies, provided by Disclosing Party to the Receiving Party, shall be returned to the Disclosing Party, upon request.
16. This Agreement can only be changed by a written document signed by all parties.
17. This Agreement shall be governed according to laws of New York State.
18. The terms of this Agreement shall become effective upon the Effective Date of the Independent Contractor Agreement when executed by all parties.

Exhibit D

RENSELAER GENERAL TERMS AND CONDITIONS

1. ORDER AND CONTRACT: This purchase order shall not be valid unless it has been processed by Rensselaer's purchasing department and authorized by Rensselaer. The proper purchase order number and coding will be assigned and authorized. In case of invalid purchase order, Rensselaer shall not be responsible for payment. PURCHASE ORDER NUMBER MUST APPEAR ON ALL CORRESPONDENCE.

2. RISK OF LOSS: Risk of loss shall not pass to Rensselaer until all goods, products and/or systems covered by this purchase order shall have been actually received and accepted by Rensselaer at the destination specified herein. Vendor assumes full responsibility for packing, crating, marking and transportation of all goods, products and/or systems covered by this purchase order, and full liability for loss or damage of any goods, products and/or systems in transit, notwithstanding (i) any specification herein of the method of such packing, crating, marking and/or transportation and/or (ii) any agreement by Rensselaer to pay freight, express, or other transportation charges.

3. TIME OF DELIVERY: Delivery hereunder must be made on or before the date specified in this purchase order (or, if no delivery date is specified elsewhere in this purchase order, delivery shall be made within a reasonable time, and in any event within ninety [90] days from the date of this purchase order). Time of delivery is of the essence. If any delivery date(s) cannot be met, Vendor must inform Rensselaer immediately. Such notification shall not, however, constitute a change to the delivery terms of this purchase order, unless agreed to by Rensselaer.

4. IMPROPER DELIVERY OR PERFORMANCE: In addition to other rights and remedies provided under other provisions of this purchase order, or by applicable law, Rensselaer shall have the right to refuse any goods, products, systems, services and/or work covered by this purchase order, and to cancel all or any part of this purchase order, if Vendor fails to deliver or perform all or any part of such goods, products, systems, services and/or work in accordance with the terms and conditions of this purchase order. Rensselaer's acceptance of and/or payment for any part of the goods, products, systems, services and/or work covered by this purchase order shall not bind Rensselaer to accept, or to pay for, any future goods, products, systems, services and/or work, and shall not deprive Rensselaer of the right to return any goods, products, systems, services and/or work already accepted and/or paid for by Rensselaer.

5. WARRANTIES: In addition to all other warranties made in other parts of this purchase order, or pursuant to applicable law, vendor expressly warrants all goods, products, systems, services and/or work covered by this purchase order to be merchantable, to be fit for the purpose intended by Rensselaer, to be free from defects in material and workmanship, and to be of the quality, size and dimensions ordered. No warranty shall be deemed waived by reason of Rensselaer's acceptance of, or payment for, any goods, products, systems, services and/or work.

6. SAFE AND LAWFUL PERFORMANCE: All goods, products, systems, services and/or work covered by this purchase order must comply with all applicable governmental laws, rules, regulations and ordinances, including but not limited to OSHA, ANSI, EPA and ENCON. Vendor certifies to this requirement, and Vendor hereby warrants that the goods, products, systems, services and/or work covered by this purchase order comply (and will comply) with this requirement. In the event of any violation by Vendor of this requirement, then in addition to all other rights and remedies available to Rensselaer by reason of such violation, Rensselaer shall have the right, at its sole option, to order cessation of performance of all or any part of this purchase order, and Rensselaer shall have no liability whatsoever to Vendor, or to any other person or entity, by reason of any such interruption. Nothing in this paragraph shall be construed as making Rensselaer responsible for monitoring Vendor's compliance with this requirement, nor as imposing any obligation upon Rensselaer to see to Vendor's compliance with this requirement, nor as imposing any liability upon Rensselaer for any damages resulting from any failure by Vendor to comply with this requirement.

7. ASSIGNMENT, SUBCONTRACTING: Neither party shall have any right to assign this purchase order or any benefits arising from this purchase order without prior written consent of the other party and, unless otherwise agreed upon by the non-assigning party in writing, the right of any assignee shall be subject to all setoffs, counterclaims, and other comparable rights arising hereunder.

8. INDEMNIFICATION: Vendor agrees to indemnify Rensselaer and to hold Rensselaer harmless from and against all claims, liability, loss, damage and expenses (including but not limited to legal fees) arising from or due to any claim (including but not limited to any claim based on trademark, patent, or copyright infringement or alleged infringement) with respect to all or any part of the goods, products, systems, services and/or work covered by this purchase order, and any litigation based on any such claim. Vendor shall, at Vendor's sole cost and expense, defend any such litigation brought against Rensselaer. Vendor's obligation under this paragraph shall survive Rensselaer's acceptance of, and payment for, the goods, products, systems, services and/or work.

9. LIMITATION OF LIABILITY: Rensselaer shall not be liable for any indirect, special, or consequential damages or lost profits or like expectancy damages suffered by vendor or any third party arising out of this purchase order. Rensselaer's total obligation under this purchase order is set forth in the "total" field on the face of this purchase order.

10. CHANGES: Rensselaer may, at any time, by an authorized order, and without notice to the sureties, make changes to the general scope of this purchase order in any one or more of the following: (i) drawings, designs, or specifications; (ii) method of shipment or packing; and (iii) place of delivery. If any such change causes an increase or decrease in the cost of, or in the time required for the delivery or performance of, any part of the goods, products, systems, services and/or work covered by this purchase order, an equitable adjustment shall be made in the price, or the delivery schedule, or both, specified in this purchase order, and this purchase order shall be modified in writing accordingly. Any claim by Vendor for adjustment under this clause must be asserted within 30 days from the date of receipt by Vendor of the notification of change. Where the cost of property made obsolete or excess as a result of a change is included in the Vendor's claim for adjustment, Rensselaer shall have the right to prescribe the manner of disposition of such property. However, nothing in this clause shall excuse Vendor from proceeding with this purchase order as changed.

11. INSPECTIONS: Rensselaer shall have the right (but not the obligation) to inspect the goods, products, systems, services and/or work covered by this purchase order, and the activities of Vendor under this purchase order, in such manner and at such reasonable time(s) as Rensselaer may deem appropriate. Final inspection shall be at Rensselaer's premises unless otherwise agreed by Rensselaer in writing. Any goods, products, systems, services and/or work rejected as not conforming to this purchase order shall be returned at Vendor's expense, including transportation and handling charges, if any.

12. INSURANCE: Before any services and/or work can be performed on Rensselaer premises, evidence of insurance in force naming Rensselaer as an additional insured must be in the possession of the Rensselaer Department of Risk Management, 110 8th Street, Troy, New York 12180-3590. Unless otherwise directed in writing, the following coverages are required:

**A. Comprehensive
General Liability**

Including operations and
completed operations
\$2,000,000 - occurrence
\$2,000,000 - aggregate

**B. Comprehensive
Automotive Liability**

Including owned, non-owned
and hired
Autos
\$1,000,000 combined single
limit

**C. Workers
Compensation as
required by law**

13. CANCELLATION: Rensselaer may cancel this Purchase Order in whole or in part for its sole Convenience. Upon notice of such termination, Vendor shall immediately stop all work, including shipment of goods under this purchase order and cause its suppliers and/or subcontractors to cease their work for this purchase order. In addition, but without limiting the foregoing, should this purchase order be unfilled, in whole or in part, as the delivery dates specified herein (or, if no delivery date is specified herein, within a reasonable time after the date of this purchase order, and in any event within ninety (90) days from the date of this purchase order), then in addition to all of their rights and remedies available to Rensselaer by reason of such default, Rensselaer shall have the right to cancel this purchase order, either in whole or in part by giving Vendor notice of such cancellation. In the event of cancellation by Rensselaer, Rensselaer shall have no liability hereunder other than to pay for any usable portion of the goods, products, systems, services and /or other work delivered or performed by Vendor, and accepted by Rensselaer, prior to such cancellation. Without limiting the scope or generality of the preceding portions of this paragraph, it is understood and agreed that back orders not fully delivered or performed within ninety (90) days from the date of this purchase order are subject to cancellation by Rensselaer at its sole option. Rensselaer may also terminate this purchase order in whole or in part for Cause upon seven (7) days written notice if Vendor fails to comply with any material term or condition of this purchase order or fails to comply in a material way with the requirements of this purchase order. Late delivery of goods or services or delivery of goods or services that are defective or do not conform to this Purchase Order shall be, without limitation, causes allowing the University to terminate for cause. In this event, Rensselaer will not be liable for any amounts, but Vendor shall be liable to Rensselaer for all losses, damages and expenses, including, without limitation, the excess cost of re-procuring similar goods or services; shipping charges for any items Rensselaer may at its option return to Vendor, including items already delivered, but for which Rensselaer no longer has any use because of Vendor's default; and amounts paid by Rensselaer for any items Rensselaer has received but returns to Vendor. If a determination is made that Rensselaer improperly terminated this Purchase Order for Cause, then such termination shall be deemed to have been for Rensselaer's Convenience.

14. TAXES: Except as may be otherwise expressly provided in this purchase order, the price includes all applicable Federal, State, and local taxes and duties. Vendor warrants and represents that Vendor has any and all authorizations' licenses and/or permits required to collect such taxes and duties, and Vendor agrees that Vendor shall remit the appropriate taxes and duties to the appropriate taxing authorities on or before the date on which such taxes and duties shall be due. Vendor shall indemnify Rensselaer and hold Rensselaer harmless from any liability, loss, damage and expenses (including but not limited to legal fees) arising from or due to any default or breach by Vendor under this paragraph.

15. DISPUTES: This purchase order shall be construed and enforced in accordance with the laws of the State of New York; and any legal action or proceeding concerning this purchase order shall be brought in New York State (in Rensselaer County, in the case of any New York State court action or proceeding, and in the Northern District of New York, Albany Division, in the case of any Federal Court action or proceeding).

16. RIGHT TO WITHHOLD PAYMENT: In the event that Rensselaer receives notification (oral or written, formal or informal) that a subcontractor of Vendor claims that such subcontractor is owed payment by Vendor for goods, products and/or systems provided, or services and/or work performed, in furtherance of this purchase order, then in addition to all other rights and remedies available to Rensselaer, Rensselaer shall have the right (but not the obligation) to withhold any payment due Vendor until settlement of the dispute between Vendor and such subcontractor. In no event shall Rensselaer be required to withhold any such payment, and in no event shall Rensselaer be liable to any subcontractor by reason of any failure or refusal by Rensselaer to withhold any such payment.

17. USE OF THE NAME OF RENSSELAER: The Vendor agrees not to use the name of Rensselaer, or the name of any member of Rensselaer's staff, in sales promotion work or advertising, or in any form of publicity, without the written permission of Rensselaer.

18. EXAMINATION: Vendor agrees that the Comptroller General of the United States or any of his duly authorized representatives shall, until the expiration of three years after final payment under this purchase order, have access to and the right to examine any directly pertinent books, documents, papers, and records of the Vendor involving transactions related to this purchase order. This paragraph applies only to purchase orders exceeding \$2,500 and does not apply to purchase orders for public utility services at rates established for uniform applicability to the general public.

19. EQUAL EMPLOYMENT OPPORTUNITY: This purchase order is subject to the requirements of Executive Order 11246 and the rules, regulations, and orders of the Secretary of Labor in promoting equal employment opportunities.

20. AFFIRMATIVE ACTION FOR DISABLED VETERANS & VETERANS OF THE VIETNAM ERA: This purchase order is subject to the requirements of Public Laws 92-540 and 93-508, Executive Order 11701, and the regulations of the Secretary of Labor in promoting employment opportunities for disabled and Vietnam veterans.

21. AFFIRMATIVE ACTION FOR HANDICAPPED WORKERS: This purchase order is subject to the requirements of Section 503 of the Rehabilitation Act of 1973 Public Laws 93-112 and 93-516, Executive Order 11758 and the regulations of the Secretary of Labor in promoting affirmative action in employment of the handicapped.

22. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT - OVERTIME COMPENSATION: This purchase order, to the extent that it is of a character specified in the Contract Work Hours and Safety Standards Act (40 USC 327-333), is subject to the provisions of the Act, including overtime requirements and penalties for violation thereof.

23. ANTI-KICKBACK: Rensselaer complies with all provisions of the Anti-Kickback Act of 1986 (41 USC 51-58) and all regulations published regarding the Act. Any violation must be reported to the Rensselaer immediately. Vendor agrees, by accepting this purchase order, to also comply with all provisions of the Act and all regulations regarding the Act and to reprint this paragraph in its subcontracts.

24. REQUIRED NOTICES TO VENDOR'S EMPLOYEES UNDER FEDERAL LAW: This purchase order is subject to the requirement of Executive Order 13201 and the rules and regulations promulgated thereunder at 29 CFR part 470 which may require vendor to provide required notices advising its employees of their rights under federal law pertaining to union membership.

25. SUBCONTRACTS: Vendor agrees to insert the provisions of paragraphs 18, 19, 20, 21, 22, 23 and 24 into all subcontracts.

26. ACCEPTANCE – ENTIRE AGREEMENT – CAPTIONS: This purchase order constitutes Rensselaer's offer to Vendor. Any and all prior offers by Rensselaer are withdrawn, and any and all prior offers by Vendor are rejected. Without regard to any provision to the contrary which may be contained in any form or document provided or to be provided by Vendor, Vendor's acceptance of this offer (i) shall be evidenced by Vendor's acknowledgment of this purchase order on the face hereof, or by Vendor's full or partial performance of this purchase offer, and (ii) shall be deemed to be Vendor's unqualified and unconditional acceptance of this purchase order and of all terms and conditions of this purchase order, without addition, deletion or other modification of any kind. In the event of any conflict between any term or provision set forth in this purchase order and any term or provision set forth in any document provided or to be provided by Vendor in connection with this transaction, the term or provision set forth in this purchase order shall control. Captions in this purchase order are for convenience only, and do not define, limit or expand the meaning of the captioned provisions.