

Terms & Conditions of Service for Contract/Service Projects

1 TERMS AND CONDITIONS OF SERVICE

The Computing Infrastructure Research Centre (CIRC) at McMaster University (the 'Facility'), on behalf of McMaster University (the 'University') and as an independent contractor, will perform the service specified in the foregoing pages of this document (the 'Service') for **Lorem Ipsum, Inc.** ('The Client'). The service is subject to the following terms.

1.1 Invoicing and payment

- 1.1.1 The Client will pay to the University the service fee provided in Section 6 (the 'Service Fee'), plus any applicable taxes, in accordance with the payment provisions set out in this agreement.
- 1.1.2 If payment is not received within due date, interest will be accrued at the rate of 2% per month.
- 1.1.3 Invoices that remain overdue for ninety (90) days may be handed over to an external agency for collection at the discretion of the University.

1.2 Term of service

- 1.2.1 The Service shall commence on **July 32nd, 2099** and be completed by **August 64th, 3018**, subject to delays beyond the control of the University.

1.3 Service results

- 1.3.1 'Service Results' mean any and all conclusions and information on which the same are based developed in the provision of the Service, including, but not limited to, complications, notes, data and reports. Service Results do not include any background intellectual property or intellectual property developed or utilized by the University in the provision of the Service, the Client acquiring no interest in, or the right to use, any such intellectual property as a result of this Agreement. 'Background Intellectual Property' means proprietary or confidential information of the University to facilitate the Service and includes methods, techniques, processes or computer codes or other background intellectual property utilized by

the University for the conduct of the Service, and which may or may not be required in order to practice the Service Results.

- 1.3.2 All Service Results will be the property of the Client. The Client grants to the University a non-exclusive, perpetual, royalty free license to use the Service results without identification of, or connection to, the Client for educational, non-commercial and internal research purposes.

1.4 Confidentiality

- 1.4.1 Each of the University and the Client may disclose information it considers confidential to the other to facilitate the Service. Each party will use all reasonable efforts to treat and keep confidential, and cause its officers, employees, students to treat and keep confidential, any such information received by it from the other marked 'Confidential' and in no event will such efforts be less than the degree of care and discretion the Client exercises in protecting its own confidential information. Any such information will be disclosed within the Client's organization on a "need to know" basis.

- 1.4.2 Confidential information does not include information that: (a) was in the Client's possession before receipt from the disclosing party, as established by written records; (b) becomes generally known to the public without breach of the Agreement by the Client; (c) is received by the Client from a third party which had no duty of confidentiality with respect to it; (d) is independently developed by the Client, as established by written records; (e) is required by law or court order to be disclosed; (f) is disclosed by the Client with the disclosing party's prior written approval.

1.5 Use of university name

- 1.5.1 The Client agrees that it will not use or employ the name of the Facility or the University or any of its Departments, faculty or employees, in any way without the prior written consent of the University.

1.6 Warranty

- 1.6.1 The University possesses the necessary skills, expertise and experience to perform the Service in accordance with the provisions of this Agreement and will perform the Service using reasonable care and skill. Except as otherwise provided in this Agreement, the University, its officers, employees, students and agents make no representations or warranties, either express or implied, as to any matter including, without limitation, the existence or non-existence of competing technology, the condition, quality or freedom from error of the Service Results or any part thereof, or its merchantability or fitness for any particular purpose and all

warranties and conditions, expressed or implied, statutory or otherwise, are hereby disclaimed.

1.7 Indemnification and limitation of liability

- 1.7.1 The Client will defend, indemnify and hold harmless the University (including its officers, employees, students and agents) from all liabilities, demands, damages, expenses and losses arising out of the use by the Client or by any party acting on behalf of or under authorization from the Client of the Service Results or out of any use, sale or other disposition of any product or technique which is the subject of the Service or is created or modified based on the Service Results.
- 1.7.2 In no event will the University be liable to the Client for any breaches of contract or for torts or otherwise arising from or in relation to this Agreement or matter or activities dealt with herein in excess of the aggregate amounts paid by the Client to the University pursuant hereto.

1.8 Governing law

- 1.8.1 This Terms of Service shall be governed by, and construed in accordance with, the laws of the Province of Ontario. If any provision or part thereof of this Invoice and Terms of Service is determined by a Court of competent jurisdiction to be prohibited by, or invalid, illegal or unenforceable under, applicable law, then, such provision or part thereof shall be deemed amended to conform to applicable laws so as to be valid or enforceable or, if it cannot be amended without materially altering the intention of the Parties, then such provision or part thereof shall be stricken without invalidating the remainder of such provision or the remaining provisions of this Invoice and Terms of Service.