

## INDIVIDUAL CONSULTING AGREEMENT

This Consulting Agreement (“Agreement”), effective as of \_\_\_\_\_, is entered into by the R Consortium (“RC”), and \_\_\_\_\_ (the “Contractor”), who resides at \_\_\_\_\_.

- Duties.** RC engages the Contractor to provide the services set forth in a Project Plan in the form set forth on **Exhibit A** to this Agreement that is signed by the Contractor and an authorized representative of RC. If the terms of the Project Plan directly conflict with the terms of this Agreement, the terms of the Project Plan will prevail.
- Intellectual Property.** Any intellectual property rights that arise in the performance of work hereunder shall be retained by Contractor. Deliverables shall be made publicly available by Contractor under the open source license (as defined <https://opensource.org/osd-annotated>) that is specified in the applicable Project Plan.
- Developer Certificate of Origin.** Contractor certifies that he or she has the right to perform the work without violating any obligations that the Contractor has to any third party such as, but not limited to, any obligation of confidentiality or agreement with any employer or policy of any university or institution, and that Contractor will deliver all materials to RC with a Developer’s Certificate of Origin:

### Developer's Certificate of Origin 1.1

By making a contribution to this project, I certify that:

- The contribution was created in whole or in part by me and I have the right to submit it under the open source license indicated in the file; or
- The contribution is based upon previous work that, to the best of my knowledge, is covered under an appropriate open source license and I have the right under that license to submit that work with modifications, whether created in whole or in part by me, under the same open source license (unless I am permitted to submit under a different license), as indicated in the file; or
- The contribution was provided directly to me by some other person who certified (a), (b) or (c) and I have not modified it.
- I understand and agree that this project and the contribution are public and that a record of the contribution (including all personal information I submit with it, including my sign-off) is maintained indefinitely and may be redistributed consistent with this project or the open source license(s) involved.

4. **Payment.** RC will pay the Contractor as stated in the Project Plan. RC shall pay undisputed invoices within thirty days of receipt. If RC disputes any invoice then RC may withhold payment and promptly notify the Contractor in writing of the dispute, and the Contractor shall have ten calendar days in which to remedy such deficiency to the reasonable satisfaction of RC. Except as expressly set forth in a Project Plan or which are approved in advance in writing by an authorized representative of RC, Contractor shall be solely responsible for any expenses incurred by Contractor in connection with the performance of Contractor’s duties hereunder.

5. **Taxes.** The Contractor shall be responsible for all self-employment, social security and other taxes, fines, penalties or other liability to any federal state or local jurisdiction with taxing authority. The Contractor indemnifies and holds harmless RC from any claim of liability of any kind by any taxing authority as a result of the payments made under this Agreement.

6. **Status of Contractor.** The Contractor shall not represent itself as an agent of RC for any purpose, and has no authority to bind RC in any manner whatsoever. The Contractor's relationship with RC is solely that of an independent contractor, and nothing in this Agreement creates a partnership, agency, joint venture, employment or any other type of relationship. The Contractor shall not be entitled to any rights or benefits (such as retirement, group health etc.) provided to RC employees. All activities and work performed under this Agreement will be at the Contractor's own risk and liability.

7. **Time Commitment.** Consistent with the parties' intent that the relationship created by this Agreement be that of service recipient and independent contractor, Contractor shall not be required to devote any particular hours or specified period of time during the term of this Agreement; however, Contractor shall use all reasonable efforts to meet agreed upon Milestones. Contractor shall retain the exclusive right to control and direct all details of the services that Contractor performs hereunder, including where, when and how the services are to be performed.

8. **Non-Exclusivity.** Consistent with the parties' intent that the relationship created by this Agreement be that of service recipient and independent contractor, Contractor shall have the right to perform services for others during the duration of this Agreement.

9. **Compliance with Law and Policies.** In performing the work required under this Agreement, the Contractor shall comply with all applicable laws and regulations and RC policies communicated to Contractor.

10. **Limitation of Liability.** **IN NO EVENT WILL EITHER PARTY BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES (INCLUDING LOSS OF BUSINESS PROFITS) ARISING OUT OF OR RELATING TO THIS AGREEMENT, HOWEVER CAUSED, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. EACH PARTY'S LIABILITY FOR ANY AND ALL CAUSES OF ACTION, CLAIMS AND DAMAGES ARISING OUT OF OR RELATING TO THIS AGREEMENT SHALL IN NO EVENT EXCEED, IN THE AGGREGATE, THE TOTAL OF ALL FEES PAID AND TO BE PAID BY RC TO DEVELOPER PURSUANT TO THIS AGREEMENT.**

11. **Data Protection.** Contractor consents to RC holding and processing any personal data collected about Contractor for the purpose of administering and managing RC.

12. **Term.** This Agreement shall commence on the Effective Date until terminated in accordance with this Section. Either party may terminate this Agreement and/or any Project Plan at any time on thirty (30) days' written notice. Upon any termination by Contractor, Contractor shall complete and deliver all Milestones that are scheduled to occur within such thirty day period. Upon any termination, RC shall make payments due for Milestones that are satisfactorily completed and delivered within such thirty day period. The provisions of Sections 2 through 12 shall survive termination of this Agreement.

13. **Miscellaneous.**

a. **Notice.** Any notice required or permitted under this Agreement shall be in writing and shall be deemed given upon the earlier of (i) when it is personally delivered, or (ii) three days after having been mailed by certified mail, postage prepaid, return receipt requested to the address set forth below, or to such other address as the person to whom notice is to be given may have previously furnished to the other in writing in the manner set forth herein.

**R Consortium:**

**Contractor:**

b. **Amendment.** No amendment or modification of this Agreement or any Project Plan hereunder shall be valid unless in writing and signed by the parties.

c. **Governing Law.** This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of \_\_\_\_\_, without giving effect to the principles of conflicts of law thereof.

d. **Entire Agreement.** This Agreement contains the entire understanding of Contractor and RC with respect to the work to be performed pursuant to the Statements of Work executed by the parties pursuant to this Agreement and supersedes any and all prior understandings, written or oral.

**R CONSORTIUM**

**CONTRACTOR**

By: \_\_\_\_\_  
Name:  
Title:

By: \_\_\_\_\_  
Name:  
Title:

**Exhibit A**

**Project Plan**

1) Contractor: \_\_\_\_\_

2) Description of Services and Payment: Services will be provided as follows:

*[Contractor must establish Milestones that will be met and the related deliverables that will demonstrate completion, and the payment related to the achievement of each Milestone. This agreement is not structured to pay on a monthly basis or to pay for hours spent.]*

<b><u>Milestone</u></b>	<b><u>Deliverable</u></b>	<b><u>Date for Delivery</u></b>	<b><u>Payment for Completion of Milestone</u></b>

All Deliverables will be delivered in source and object code form. All third party materials that may be associated with the Deliverables will be identified with all applicable licensing information. To the extent third party materials have been modified, the modifications and the author (s)of the modifications will be identified. All materials necessary to comply with all applicable licenses will be included.

3) Designated Outbound Open Source License: The Deliverables shall be made available by Contractor under the following open source license(s): \_\_\_\_\_.

4) Invoicing: Contractor to invoice RC upon the acceptance by RC of each Milestone Deliverable.

**TRAVEL AND OTHER EXPENSES** - RC will reimburse Contractors for reasonable travel or other expenses incurred by Contractor in association with the work to be performed ONLY if requested and approved in writing in advance by an authorized representative of RC. Contractor will invoice RC for such pre-approved expenses within a month of incurring the expense and will submit original receipts along with the invoice.