

AGREEMENT FOR INSTRUCTIONAL CONSULTING SERVICES

In consideration of the mutual promises contained in this Agreement, **IO Education LLC**, a Delaware limited liability company ("Company"), and _____, an individual with an address of _____, _____ ("Consultant") agree as follows:

1. **Description of Instructional Services.** Consultant will provide to Company the Instructional services described in one or more Statements of Work executed by the parties from time to time and attached collectively as Exhibit A (respectively, the "SOW" and the "Services").
2. **Compensation.** Consultant will be compensated by Company for providing the Services at either the hourly rate, daily rate or on a fixed fee basis (as applicable) as provided in each SOW, subject to any budgetary caps or other limitations set forth in each such SOW. If compensation is at an hourly or daily rate, Consultant will submit invoices and accompanying timesheets on a monthly basis, indicating (by day) the number of hours worked and a general description of the Services performed. If compensation is on a fixed fee basis, Consultant will submit one or more invoices upon the completion of the Services, or upon completion of any milestones specified in the SOW. Provided the Services have been performed to the Company's satisfaction, the Company will pay properly submitted invoices within twenty days of submission.
3. **Change Orders.** Consultant shall not be entitled to any additional compensation for any changes, additions to, or deletions from an SOW unless such additional compensation is expressly stated in a written Change Order to the SOW, signed by the parties.
4. **Status.** Consultant is retained as an independent contractor, and is not an employee, agent, representative or joint venture partner of Company. As such, Consultant will not be eligible for any employee benefit plans offered or sponsored by the Company, and Consultant will be responsible for Consultant's own payroll tax and similar tax obligations. The Company will report the amounts paid to Consultant on Form 1099, and Consultant has furnished (or will immediately furnish) a Form W-9 to the Company certifying Consultant's federal tax identification number for such purpose. Consultant shall not seek enter into any contract or commitment on behalf of Company. Company shall not be liable for any debts or other liabilities of Consultant.
5. **Subcontractors.** Consultant may not engage any subcontractor(s) to perform any portion of the Services without the advance written consent of the Company. If subcontractors are so engaged, Consultant shall have responsibility for directing and managing such subcontractors, and the engagement of subcontractors will not relieve Consultant from responsibility for portions of the Services that they provide. Consultant shall have sole responsibility for paying any such subcontractors, unless the Company has agreed in advance, solely for Consultant's convenience, to pay one or more of such subcontractors on Consultant's behalf and at Consultant's direction.
6. **Acceptance of Deliverables.** Upon completion of the Services or each applicable portion thereof, or upon completion of any deliverable, or as otherwise directed by the project manager designated by the Company, Consultant shall present such deliverable and/or notify Company of completion. The Company shall then determine whether the Services or deliverables are acceptable according to Company's satisfaction and any performance criteria agreed to by the parties. If any of such Services or deliverables do not meet with Company's satisfaction and any performance criteria or specification agreed upon by Company and Consultant, Consultant agrees to re-perform at Company's request and in Company's sole discretion such Services or deliverables to meet with Company's satisfaction and such agreed upon performance criteria or specifications without additional compensation.

Consultant shall provide deliverables in a format acceptable to Company. Company shall provide a written notification of acceptance, which will not serve as a waiver of any rights relating to failure of Consultant to perform under the Agreement. Consultant shall not proceed to the next phase of any phased program without the written authorization from Company's project manager. Company shall pay Consultant for authorized work after Company's acceptance as defined in this Section in the time frame agreed above. Company shall not be liable for any unauthorized work, costs or expenses on a phase prior to authorization to proceed.

7. **Intellectual Property.** In this Agreement, "Intellectual Property" means all works, literary or other written works, pictorial, graphic and sculptural works, architectural works, works of visual art, and any other work that may be the subject matter of copyright protection; any word, symbol, device, product configuration, slogan or any combination thereof used to distinguish or identify goods or services or any other identifiers that may be subject matter of trademark protection, including all applications and registrations relating thereto, and all associated goodwill, and advertising and marketing concepts; information; data; ideas; concepts; formulas; designs; models; drawings; trade secrets; all creations and inventions, including all processes, machines, manufactures and compositions of matter and any other invention that may be the subject matter of patent protection; all statutory protection obtained or obtainable on any of the foregoing; and all causes of action, or rights of enforcement, relating to any of the foregoing.

Consultant agrees to assign to Company, and does hereby assign to Company, all worldwide right, title and interest in and to all Intellectual Property that is created, made, conceived, reduced to practice or authored by, or on behalf of, Consultant, or any subcontractors or other persons provided by Consultant either solely or jointly with others, in connection with the performance of the Services or in connection with the use of information, materials or facilities of the Company received by Consultant during the term of this Agreement. Company shall be free to make, have made, use, offer for sale, sell, modify, translate, and import products utilizing the Intellectual Property assigned to Company. Consultant shall promptly disclose to the Company all Intellectual Property created by Consultant during the term of this Agreement.

Consultant shall execute or cause to be executed all documents and perform such acts as may be necessary, useful or convenient to secure or enforce for the Company statutory protection including patent, trademark, trade secret or copyright protection throughout the world for all Intellectual Property assigned to the Company pursuant to this Section 5. In addition, any Intellectual Property which may properly qualify as a *work made for hire* under the U.S. Copyright laws will be a *work made for hire* and will be owned by the Company.

Notwithstanding the foregoing, Consultant shall retain ownership of any Intellectual Property that was created by Consultant (alone or with others) entirely before term of this Agreement, provided that Consultant can clearly document the same as having pre-existed the date of this Agreement. It is also understood that this Agreement does not cause the assignment or require the assignment of any Intellectual Property that (i) does not arise in any respect out of the Services performed under this Agreement and does not relate in any respect to the scope of the Services that Consultant has been engaged to perform under this Agreement, and (ii) is developed without using any of the Company's equipment, supplies, facilities or Intellectual Property.

If Consultant has any employees, or if (subject to Section 2) any Services will be performed by subcontractors, Consultant shall either:

- a. provide Company with a copy of a written agreement with each of its employees and subcontractors prior to their performance of any services relating to this Agreement, or any SOW, through which all rights to Intellectual Property created, made, conceived, reduced to practice or authored by Consultant's employee(s) that relate in any way to such services, this Agreement, or any SOW, are assigned to, and owned by, Consultant, and thereby subject to the preceding assignment; or
- b. require that all persons or entities (employees or subcontractors) it provides to perform the services under this Agreement, or under any SOW, shall execute an instrument assigning such Intellectual Property to Company prior to commencing work under this Agreement or any SOW, and Consultant shall provide Company with a copy of such instrument.

8. **Warranties.** Consultant represents and warrants to Company that:

- a. Consultant has the experience and ability as may be necessary to perform all required Services with a high standard of quality;
- b. The Services will be performed in a workmanlike and professional manner and all Services, deliverables, equipment, materials and reports furnished will be as represented by Consultant, suitable for Company's business purposes and in conformance with the SOW provided to Consultant;
- c. Consultant has the right to enter into and fully perform this Agreement, and no Services, equipment, materials or reports furnished to Company will in any way infringe upon, or violate, any applicable law, rule or regulation, any contract with a third party or any rights of any third person, including, without limitation, rights under patent, trade secret, trademark or copyright laws; and
- d. If Consultant is not an individual, then with respect to all individuals that Consultant provides to perform the Services required under this Agreement, if required by law, Consultant shall make or cause to be made any required tax payments and tax withholding, and shall verify such individuals as being legally able to work in the United States.

9. **Indemnity.** Unless arising solely from the negligence of Company, Consultant shall defend, indemnify and hold harmless Company from and against all losses, including without limitation, reasonable attorneys' fees and court costs, suffered or incurred by the Company as a result of any claim, threatened claim, liability or cause of action (including without limitation claims alleging intellectual property infringement by Consultant) arising out of or related to Consultant's performance under this Agreement and/or Consultant's breach of its representations or warranties herein.

10. **Term.** This Agreement will be effective as of the effective date and will continue until all obligations under this Agreement have been performed. The Company may terminate this Agreement at any time without cause upon written notice to Consultant. Upon receipt of a notice of termination, Consultant shall immediately discontinue all Services under this Agreement. In the event of termination of this Agreement, Company shall have no liability to Consultant, except to pay for authorized work performed by Consultant up to the date of Consultant's receipt of such notice and any additional work separately authorized in writing by the Company. Upon termination, Consultant shall return all copies of Company data, records or other materials and shall deliver to the Company all work in progress, including incomplete work.

11. **Confidential Information.** Consultant acknowledges that this Agreement creates a confidential relationship between Consultant and the Company. That confidential relationship is the basis on which Company has disclosed, and may in the future disclose, the Company's commercially valuable, proprietary, confidential information pertaining to the services, deliverables and equipment relevant to this Agreement (or any SOW), some of which may be held by the Company as a trade secret. Consultant shall safeguard all material, whether written or otherwise, which the Company supplies to it and will not copy or duplicate such materials without the Company's prior written consent. Consultant shall take such precautions as requested by the Company, including returning all materials and any copies or derivatives thereof. Consultant shall keep in strict secrecy and confidence any and all information (whether in print, in electronic media, including on computer disks or tapes, or in any other media, and whether internally generated or used by the Company under contract with a third party) that Consultant develops, obtains or has access to during the performance of services under this Agreement, and which has not been publicly disclosed and is not a matter of common knowledge in the areas of business in which the Company is engaged, including without limitation, customer lists and records, technical data, Intellectual Property, information regarding sales, costs, pricing, marketing, contracts with third parties, plans for product or market or service developments or improvements, research records, computer programs including source code and object code, computer interfaces or interface mechanisms, processes, business and strategic plans, financial forecasts, compositions, formulas, data (including cost data), drawings, specifications, reports, procedures, techniques, methods, machines, equipment, technology, research and development programs, customer uses and requirements, inventions, ideas, concepts, improvements or copyrights, and any other information that derives economic value, either directly or indirectly, from being confidential or proprietary to, or trade secrets of, the Company or its actual or potential customers (any such information shall be referred to herein as "Confidential Information").

Consultant agrees that such Confidential Information is, and shall remain, the exclusive property of the Company and that, both during and after the term of this Agreement, without the prior written consent of the Company, Consultant (a) shall not use or disclose, or cause to be disclosed, any Confidential Information to any third person, partnership, joint venture, company, corporation, other business organization or other third party; (b) shall not take, transmit or receive from any office of the Company, or other location, for Consultant's use or the use of any third party, any document, paper, computer-generated media or other property of Company containing, or relating to, Confidential Information (unless necessary to the performance of Consultant's performance of its obligations under this Agreement); and (c) upon request by Company, or upon the termination of this Agreement or any SOW, shall immediately deliver to the Company any document, paper, computer/electronic-generated media or other property of Company (and all copies of the same) in Consultant's possession or under its control that contains, or relates to, Confidential Information, or is otherwise the property of the Company (for a termination of a SOW, but not this Agreement as a whole, Consultant shall return to the Company the Confidential Information pertinent to the terminated SOW).

12. **Non-Solicitation.** Consultant agrees that during the period of this Agreement and for one (1) year after the date the termination of this Agreement for any reason whatsoever, Consultant, and its officers, managers, employees, agents, affiliates, and/or subsidiaries shall not, either directly or through others, (i) solicit, or attempt to solicit, any employee, independent contractor or consultant of Company to become an employee, consultant or independent contractor to, or for, any other person or entity; and (ii) solicit any customers of Company with whom Consultant, and/or its officers, managers, employees, agents, affiliates and/or subsidiaries, had contact, or whose identity they learned, as a result of Consultant's relationship with Company under this Agreement, for any product or service competitive with or similar to any product or service then offered by the Company.

13. **Injunctive Relief.** In the event of a breach or threatened breach of any provision of this Agreement relating to Intellectual Property or Confidential Information, the parties agree that damages that would be suffered by the Company will not be fully compensable in money damages alone, and accordingly, the Company or the third party owner of the applicable Intellectual Property, Confidential Information or trade secrets will, in addition to other available legal or equitable remedies, be entitled to an injunction against such breach or threatened breach without any requirement to post bond as a condition of such relief.

14. **Company Name.** Consultant shall not publish or use the name of the Company in any advertising, sales promotion or publicity matter relating to services, equipment, materials, products and reports furnished by Consultant without the Company's prior written approval.

15. **Miscellaneous.** This Agreement sets forth the complete understanding of the parties in respect of the subject matter of this Agreement and supersedes all prior agreements with respect to the subject matter hereof. The parties may modify this Agreement only by written instrument signed by each of the parties hereto. Failure by either party to enforce a provision of this Agreement shall not constitute a waiver of that or any other provision of the Agreement. This Agreement shall be construed under and governed by the laws in the State of Delaware, and any dispute arising in connection with the transactions contemplated by this Agreement will be brought solely before the courts of the laws of the State of Delaware or the federal courts sitting therein. The rights and remedies of the parties under this Agreement are in addition to, and not in limitation of those, otherwise imposed or available in law or equity. The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement. All provisions of this Agreement, or of any SOW, that by their nature would survive the termination of this Agreement, or such SOW, shall so survive, including without limitation Sections 7 through 15.

* * *

The parties have executed this Agreement effective as of _____, 20__ (the "Effective Date").

[CONSULTANT NAME]

IO Education LLC

1380 Peachtree Industrial Blvd #200
Suwanee, GA 30024

By:

By:

Title:

Consultant, Individually

**Terms and Conditions of Consulting Agreement
between IO Education LLC and _____**

Exhibit A

Statement of Work No. 1

This Statement of Work ("SOW") is executed pursuant to, and is made a part of, the Agreement for Instructional Services by and between **IO Education, LLC** (the "Company") and _____ ("Consultant") dated as of _____, 20__ (the "Agreement"). This SOW is subject to the terms and conditions of the Agreement.

A. Description of Services

Instructional services, as follows:

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[Consultant is required to spend a minimum of ____ () hours per week physically co-located with the development team.] *[fill in or delete as applicable]* Services will be performed using Consultant's own equipment and at Consultant's own premises, except as provided in the immediately preceding sentence and other periodic meetings with Company representatives, which may be held on the Company's premises or elsewhere.

B. Compensation

Consultant will be paid at the rate of _____ Dollars (\$____.00) per hour of Services performed, subject to a maximum of _____ hours per week. The maximum amount of all Consulting Fees authorized under this SOW is _____ Thousand Dollars (\$____,000). Consultant will submit invoices and timesheets as set forth in Section 2 of the Agreement.

* * *

IN WITNESS WHEREOF, the undersigned have executed this Statement of Work as of the Effective Date of the Agreement.

[CONSULTANT NAME]

IO Education LLC

By: _____

By: _____

Consultant, Individually

Title: _____

Date: _____

Date: _____