

Information Technology Services Consulting Attachment

The following are added to and a part of this Agreement:

1. After receipt of any Deliverable, Loyola will test and/or evaluate each Deliverable to demonstrate to Loyola's sole satisfaction that each Deliverable conforms to, appears and functions in accordance with this Agreement, Loyola's requirements and any applicable attachments or Specifications (the "Acceptance Test"). If a Deliverable fails the Acceptance Test, Loyola will advise Consultant as to which aspects of the Deliverable failed. Consultant will, at no cost to Loyola, promptly remedy such failure and deliver the corrected Deliverable to Loyola.
2. Consultant will, at its sole cost, obtain and supply any third party licenses required to use any Deliverables. Consultant hereby grants to Loyola, its affiliates, subsidiaries, their employees, students or anyone acting on their behalf, a perpetual, irrevocable, royalty free, nonexclusive, enterprise wide license, to use, modify, copy, update and maintain any third party materials, services and deliverables the Deliverables. Such licenses are deemed to be licenses of rights to intellectual property as defined in United States Bankruptcy Code §365(n). The licenses set forth in this Section will continue after termination of this Agreement, except if terminated due to Loyola's breach. Consultant will not have any rights of attribution in connection with the Deliverables, which will contain appropriate Loyola proprietary rights notices, if directed by Loyola.
3. Consultant's Services and Deliverables include designing, developing, installing, implementing, maintaining and updating software code, applications, web-based applications capable of being run from a Loyola web site, standard or customized electronic data interfaces, tools and/or a Loyola branded Internet Web site (the "Loyola Site"), and any computer software and development tools contained therein or otherwise necessary for the functioning of such items, in object code, source code, and other applicable forms, and all revisions, enhancements, new releases and updates (collectively the "Software") and documentation therefore. The term "Documentation" will mean user and system documentation which explains fully the operation and design of each Deliverable.
4. Consultant represents and warrants to Loyola, intending that Loyola rely thereon in entering into this Agreement, that: (a) Consultant is authorized to transfer or license the Deliverables to Loyola because all Deliverables are either (1) original work or material created and owned solely by Consultant, contain no material from and are not copied from copyrighted sources; or (2) are validly licensed or transferred from the owner; (b) the Deliverables do not infringe on any patent, copyright, trademark, trade secret, intellectual property or other right or proprietary interest of any other person or entity; (c) any Deliverables will be suitable for the intended purpose, and Consultant will furnish any documentation, manuals, licenses or warranties for such Deliverables; and (d) all Software will conform in all material respects to the Specifications, which will include the design, technical and functional capabilities, look and feel, other attributes of performance which the Software will achieve.
5. Consultant will train the Loyola personnel designated by Loyola to use and maintain the Software and any editing tools and any upgrades thereto, at a location designated by Loyola.
6. Consultant will maintain the Software, including, without limitation, by providing the source and object code for all upgrades developed during the Term, as well as Documentation of such upgrade's functionality. Loyola will have the right not to utilize any such upgrade. To the extent that integration of any upgrade into the Software requires Consultant to perform additional services, Consultant will submit a written proposal for the provision of such services.
7. Consultant will follow all Loyola, computing and campus policies while using Loyola facilities, resources or systems.

8. Consultant will provide all software, hardware materials, supplies, equipment, tools and other items necessary or desirable for Consultant to perform the Services. Consultant acknowledges that Consultant and Consultant Personnel are not authorized to use software or applications that have been licensed to Loyola. Consultant and Consultant Personnel will not use software or applications that have been licensed to Loyola.
9. The Software will not contain any spyware, Trojan horses, worms, viruses or other surveillance, destructive or disabling devices, programs or any other code not contemplated by this Agreement.
10. If Loyola demonstrates to Consultant a reproducible error in the Software, including a failure of the Software to operate in accordance with this Agreement, including Specifications or any Documentation, Consultant will at no cost to Loyola promptly correct such error and redeliver source and object code for such correction, including but not limited to providing updates, revisions, necessary patches, fixes, work arounds, modifications and replacements necessary for the Software to function and perform in accordance with this Agreement, including Specifications and Documentation. Notwithstanding the foregoing, in the event the error is critical, including any error which interferes with a significant function of the Software, Consultant will devote all necessary resources on a twenty four hour basis to resolve the error as quickly as possible.
11. Consultant has or will procure and maintain its own licenses to use any and all software, applications and other items that are necessary or desirable for Consultant to perform the Services.
12. Consultant Materials include software and algorithms, not in the public domain or licensed from any third party, which existed and were owned by Consultant prior to the Effective Date.
13. Loyola will not be liable for any unauthorized use of third party licensed materials or Consultant Materials, provided that such use is without the consent of Loyola.
14. Loyola Materials includes the Software.
15. Loyola will not be responsible or liable for any loss or damage to any equipment or property brought onto Loyola's premises by Consultant, and Consultant expressly assumes responsibility for any and all risks to such equipment or property.
16. Loyola may receive information from Consultant which is marked as confidential relating to its proprietary technical, marketing, product and/or business affairs. All such confidential information of Consultant will be held in strict confidence and will not be disclosed to third parties or used for purposes other than those contemplated by this Agreement without the prior written consent of Consultant, except as may be required by Applicable Law.
17. This Agreement will not be subject to or governed by the Uniform Computer Information Transactions Act, and electronic self-help will not be permitted hereunder.
18. Loyola will not be bound by, and any terms and conditions contained in or set forth in any shrinkwrap, clickwrap, browsewrap or other materials or on any website used by Consultant to deliver Software or other Deliverables will be null, void and without effect, even if a representative of Loyola clicked on an on screen indicator indicating acceptance, agreement or similar.