



SA TECHNOLOGIES INC

Professional Service Agreement

THIS PROFESSIONAL SERVICE AGREEMENT ("Agreement") is made and entered into this _____, by and between **SA Technologies, Inc.**, a Delaware Corporation, with offices at 2700 Augustine Dr Suite 285 Santa Clara CA 95054 and fed id 300027016 hereafter ("**SAT**") and _____ ("**CONTRACTOR**"), a _____ Corporation, with Office at _____ Fed id _____

RECITALS

WHEREAS, CONTRACTOR possess skills required by SAT client(s) ("**Client**" or "**Clients**") and CONTRACTOR will provide temporary contract services to SAT Client through SAT to fulfill temporary IT needs on an as-needed basis ("**Services**"). SAT Client also includes Client's Client.

WHEREAS, CONTRACTOR has represented to SAT that CONTRACTOR employees possess the training, knowledge, skills, abilities and experience necessary to perform the services described in work order(s) applicable to each assignment ("**Work Order**"), a copy of such Work Order is incorporated herein as Exhibit A.

WHEREAS, At Client's request, CONTRACTOR resumes and other materials applicable to qualification and experience shall be provided to SAT in a timely manner, and thereafter made available to Client by SAT. SAT may request references, which shall be provided to SAT by CONTRACTOR in a timely manner.

NOW THEREFORE, the parties hereby agree as follows:

DECLARATIONS

1. PAYMENT AND FEES:

1.1 CONTRACTOR shall Invoice SAT and will be paid for all approved hours as at an hourly rate outlined for each individual Work Order. All invoices must be submitted no later than 30 days of providing the services. SAT / Client will not be responsible for any expenses incurred for this project unless otherwise agreed to in advance in writing.

1.2 **Approved Timesheet needs to be submitted on weekly basis to SAT, not later than Monday Noon. A representative of the Client will verify the record by signing the same. Timesheets will be faxed to SAT (Fax# 650-963-3238) or emailed at bhavin@satincorp.com**

1.3 A Professional Invoice with **Monthly billing** will be emailed / faxed to Accounts payable, SA Technologies Inc. SAT will pay CONTRACTOR within **45 days** from the receipt of Invoice from the Contractor subject to 1. The timesheet are approved by the client. 2. There are no delivery issues

1.4. It is understood and agreed that if the client refuses to accept and pay SAT for Contractor's (Contractors employee's) work, Contractor agrees that SAT has no liability otherwise. Upon written demand from SAT, Contractor will refund to SAT any payments previously made for which the hours / expenses is in question. If the Contractor refuses to refund such payment, SAT has right to deduct these payments from any payments due from SAT to Contractor.

Initial: _____



1.5. Special Pay: No Overtime pay unless pre-authorized by the Project Manager.

1.6 Termination due to non-performance: If the Client decides to terminate the service of the above consultant within two weeks of the start date due to non-performance, no payment will be made to Contractor unless the payment is received from the Client.

Accounts Payable Contact:

Bhavin Goda
Direct: 408-329-6911
Fax: 650-963-3238
bhavin@satincorp.com

1.7 CONTRACTOR agrees that during the period of contract and thereafter CONTRACTOR or any of its employees, directly or indirectly, shall not disclose to Client or any of its representatives, the hourly rates negotiated between CONTRACTOR and SAT. In case of default, CONTRACTOR shall be liable for the damages caused to SAT.

2. BENEFITS.

2.1 CONTRACTOR is not employee of SAT or Client. CONTRACTOR is not entitled to any benefits from SAT, including but not limited to group insurance, liability insurance, disability insurance, paid vacation, sick leave or other leave, retirement plans, health plans, or overtime pay.

2.2 It is understood and agreed that SAT will make no deductions from fees paid to CONTRACTOR for any federal or state taxes or FICA relating to CONTRACTOR, and SAT and Client have no obligation to provide Worker's Compensation coverage for Personnel or to make any overtime payments and to make required FICA, FUTA, income tax withholding or any other payments required by law related to such CONTRACTOR.

3. NON-COMPETITION and NON-SOLICITATION

In addition to obligations and duties set forth in the Non-solicitation Agreement, entered into by and between the Parties, and incorporated herein by reference, CONTRACTOR agrees that during the term of this Agreement plus any renewals, and for a period of one (1) year thereafter, neither CONTRACTOR nor its employees shall: (i) directly or indirectly provide services in any capacity for any Client to whom CONTRACTOR has been introduced through SAT or (ii) retain or attempt to retain, directly or indirectly, for itself or for another party, the services of any other SAT CONTRACTORs or employees to which CONTRACTOR has been introduced or has received information about through SAT. This provision may be waived on a case by-case basis as will be agreed between the two parties in writing.

Nothing in the above paragraphs is meant to exclude CONTRACTOR from responding to opportunities, as long as the opportunities did not arise out of or from CONTRACTOR's position with SAT or the Client.

4. INSURANCE

Throughout the term of this Agreement, CONTRACTOR shall maintain workers compensation insurance as required by law, comprehensive general liability insurance with coverage of at least one million dollars (\$1,000,000) and professional errors and omissions insurance with coverage of at least one million dollars (\$1,000,000). CONTRACTOR must provide SAT with Certificates of insurance or self-insurance evidencing the above coverage, and naming SAT as an additional insured under CONTRACTOR's general liability coverage, and as an additional certificate holder

Initial: _____



under CONTRACTOR's errors and omissions coverage before payment can be made to CONTRACTOR. CONTRACTOR shall provide SAT with prompt written notice of any material change.

5. TERM and TERMINATION.

5.1 This Agreement shall become effective on the Effective Date and will remain in force until 1 year after completion of the Services. **Either party may terminate this Agreement (i) for cause upon 2 weeks written notice to the other party, unless the breach is susceptible of being cured and is cured within the 2 weeks' notice period; or (ii) immediately and automatically if SAT's Client determines SAT's Services are no longer required or if SAT's client evaluates CONTRACTORS employee performance unsatisfactory. SAT might not be able to provide any notice under such circumstances.**

5.2 Both parties has the right to terminate the Services stated in **Exhibit "A"** upon providing two (2) weeks written notice to each other.

5.3 If for any reason, other than the consultant leaving the employment of CONTRACTOR, CONTRACTOR does not deliver consultant on the agreed upon start date as specified in the Exhibit "A", or removes and/or terminates the consultant's assignment before the end date stated in the Exhibit "A" without providing the required two (2) weeks' notice, CONTRACTOR agrees that it will be liable to SAT for damages equal to two (2) weeks' of billings as normally billed to the client for the services of said consultant.

5.4 SAT shall have the right, at any time, to request removal of any Consultant whom SAT and/or SAT's Client deems unsatisfactory. Upon such request, CONTRACTOR shall use all reasonable efforts to promptly replace such removed Consultant with a substitute employee of CONTRACTOR acceptable to SAT and/or SAT's Client, having skills and training suitable to perform the Services at no additional charge to SAT.

6. CONFIDENTIALITY.

6.1 CONTRACTOR acknowledges that by the nature of this Agreement, CONTRACTOR will likely become privy to or aware of certain SAT trade secrets and other confidential information (collectively, "Confidential Information"). CONTRACTOR acknowledges that any such Confidential Information includes, without limitation, the identity of SAT Clients, their staffing needs, SAT's marketing, management, business practices, and manner of operation and services.

6.2 CONTRACTOR further acknowledges that all Confidential Information is proprietary to SAT, Client, and clients or customers of Client, and hereby agrees to maintain that information in confidence and utilize it only as necessary for its performance under this Agreement. CONTRACTOR agrees that it will not reproduce in any way, divulge, or remove from the premises of SAT, any client, or the customers or clients of any client, at any time, during or after providing services, any tangible or intangible property whatsoever which could reasonably be construed as constituting Confidential Information of SAT, any client, or the customers or clients of any client.

6.3 CONTRACTOR agrees to take all reasonable measures to protect the confidentiality of and avoid disclosure or unauthorized use or possession of the Confidential Information in order to prevent such Confidential Information from falling into the public domain or the possession of persons other than those persons authorized by this Agreement to have such Confidentiality Information. Such measures shall include the highest degree of care that CONTRACTOR utilizes

Initial: _____



to protect its own confidential information of a similar nature. CONTRACTOR further agrees to ensure that Confidential Information is utilized within its organization on a "need-to-know" basis and that any and all persons made privy to any such Confidential Information shall be advised of: its proprietary nature, the fact that it may be used only as necessary to CONTRACTOR's performance under the terms of this Agreement, and the obligation to maintain its confidentiality.

6.4 For purposes of this Agreement, Confidential Information shall not include information that: (a) was generally known and available in the public domain at the time it was disclosed or becomes generally known and available in the public domain through no fault of CONTRACTOR; (b) was actually known to CONTRACTOR at the time of its disclosure as documented by CONTRACTOR files in existence prior to its disclosure; (c) is a copyright symbol as disclosed with the prior written approval of the disclosing party; (d) was independently developed by CONTRACTOR without any use of the Confidential Information and by employees or other agents of CONTRACTOR who have not been exposed to the Confidential Information in CONTRACTOR files; or (e) becomes known to CONTRACTOR from a source other than SAT that had obtained any such Confidential Information legitimately and provided same to CONTRACTOR without breaching any applicable non-disclosure obligation regarding same.

6.5 CONTRACTOR shall notify SAT in writing, promptly upon discovery of the loss of any item containing Confidential Information, or of any circumstances of which CONTRACTOR has knowledge surrounding any unauthorized possession, use or knowledge of Confidential Information.

6.6 CONTRACTOR agrees that a breach of any provision of this Section 5 by CONTRACTOR or its personnel, agents, temporary contract personnel, or any other third party subject to the control and or direction of CONTRACTOR, will likely cause immediate and irreparable injury to SAT of a nature not readily remedied by the payment of money or fiscal damages.

6.7 The confidentiality obligations of this Section 5 shall survive the expiration or termination of this Agreement for as long as the Confidential Information is not generally known in the business in which SAT and CONTRACTOR are engaged (through means that do not constitute a breach of the confidentiality provisions of this Agreement), but in no event for a period of more than two (2) years following any such expiration or termination.

7. INDEMNIFICATION.

7.1 CONTRACTOR shall indemnify and hold harmless SAT, and its officers, directors, agents, owners, employees, for any claims, lawsuits, damages, brought or liabilities (or actions or proceedings in respect thereof) imposed against SAT by reason of gross negligence and willful misconduct of CONTRACTOR or its Personnel.

7.2 CONTRACTOR shall reimburse SAT for all legal and other expenses incurred in connection with investigating or defending any such loss, claim, damage, liability, action or proceeding in connection with pending or threatened litigation in which SAT is a party; provided, however, that CONTRACTOR will not be liable in any such case for losses, claims, damages, liabilities or expenses that a tribunal of competent jurisdiction shall have found in a ruling to have arisen primarily from the gross negligence, negligence or willful misconduct of SAT

7.3 The provisions of this Agreement relating to indemnification and contribution shall survive termination or modification of CONTRACTOR's engagement and shall be binding upon any successors or assigns of CONTRACTOR.

Initial: _____



8. OWNERSHIP OF WORK.

8.1 CONTRACTOR agrees that all documents, deliverables, software, systems, Designs, disks, tapes and any other materials created in whole or in part by CONTRACTOR or Personnel in connection with Services, this Agreement or the relationship(s) contemplated by this Agreement, are referred to herein collectively as the "Work Product." The parties agree that the Work Product shall belong to SAT's Client, and that Client shall have the right to use the Work Product, any part or parts thereof, or none of the Work Product, may alter the Work Product, add to it, or combine it with any other work or works, as determined by Client in its sole discretion.

8.2 CONTRACTOR will immediately disclose to Client all discoveries, inventions, Enhancements, improvements and similar creations made, in whole or in part, by CONTRACTOR in connection with Services. Consistent with CONTRACTOR's recognition of Client's complete ownership and control rights in the Work Product, CONTRACTOR agrees not to use the Work Product created under this Agreement for the benefit of any party other than the SAT or Client.

8.3 CONTRACTOR agrees to execute any documents required by Client to register its rights to implement the provisions herein. CONTRACTOR affirms that the fee it has negotiated for the services performed under this Agreement includes payment for assigning such rights to Client.

9. CONTRACTOR's WARRANTIES AND REPRESENTATIONS.

CONTRACTOR warrants that:

9.1 All Services will be performed in a professional and workmanlike manner consistent with applicable industry standards by CONTRACTOR and/or its personnel who are qualified by a combination of training and experience;

9.2 All information presented to SAT and/or SAT's Client related to the skills, qualifications and work status of CONTRACTOR's employee(s) is accurate and valid;

9.3 All persons presented to SAT for consideration of contract positions will be employees of CONTRACTOR. In the event the consultant named in Exhibit "A" is working under a "work visa" status, CONTRACTOR agrees that it is the legal holder of said visa. Upon request by SAT, CONTRACTOR will provide a copy of said visa to SAT. If CONTRACTOR is unable to provide said copy, and unless mutually agreed upon in writing by the parties, this Agreement will become null and void. If at any time SAT discovers that the Consultant/employees are not the direct employee or has been Sub-Contracted from a third party by the CONTRACTOR, SAT reserves the right, at its discretion to hire the Consultant directly on its payroll or deal directly with the Consultants employer and engage the Consultant's services directly from his/her employer without any involvement of the CONTRACTOR.

9.4 CONTRACTOR will not have any discussions with SAT's Client or other third parties regarding the terms and conditions of this Agreement. The rate(s) charged by CONTRACTOR pursuant to this Agreement shall be a confidential matter between SAT and CONTRACTOR and shall not be divulged to any other party, including SAT's Client;

9.5 CONTRACTOR's relationship with SAT is that of an independent CONTRACTOR and nothing in this Agreement shall be construed as creating a partnership, joint venture or employer-employee relationship. Neither CONTRACTOR nor SAT shall be or become liable or bound by any representation, act or omission whatsoever of the other; and

Initial: _____



9.6 CONTRACTOR shall be solely responsible for the payment of its Consultants and its employees for work performed pursuant to this Agreement. CONTRACTOR will pay its non-exempt employees for overtime work and agrees that it will comply with the Fair Labor Standards Act and with other applicable federal and state wage/hour laws including any obligation to provide overtime pay as defined by law. Neither CONTRACTOR nor any Consultant will be entitled to any of the benefits which SAT may make available to its employees, such as group insurance, profit sharing, or retirement benefits. CONTRACTOR shall be solely responsible for the employer's share of applicable state and local taxes, federal taxes, workers' compensation received by CONTRACTOR's employees.

10. TERM.

10.1 The initial term of this Agreement shall be one (1) year.

10.2 The term shall be automatically extended on an annual basis for Two (2) additional one (1) year terms unless either party should give Notice of its intent not to renew, which Notice shall be provided not less than sixty (60) days prior to the applicable anniversary date.

10.3 The term and any subsequent renews shall be extended to cover the duration of any existing Work Order.

11. NOTICE.

All notices permitted or required under this Agreement shall be in writing and shall be by personal delivery, a nationally recognized overnight courier service, facsimile transmission or certified or registered mail, return receipt requested. Notices shall be deemed given upon the earlier of actual receipt or one (1) day after deposit with the courier service, receipt by sender of confirmation of electronic transmission or five (5) days after deposit with the U.S. Postal Service. Notices shall be sent to the addresses listed below, or to such other address as either party may specify in writing.

If to SA Technologies (SAT):

SA Technologies Inc.
Attn: Contract Administrator
2700 Augustine Drive, Suite 285
Santa Clara, CA 95054

If to CONTRACTOR:

Attn:

12. DISPUTE RESOLUTION.

12.1 All disputes, claims, and causes of action in law or equity arising from or relating to this Agreement or its enforcement, performance, breach, or interpretation shall be resolved by submission of the matter to a binding arbitration pursuant to the Commercial Arbitration Rules of the American Arbitration Association before a sole arbitrator. The parties further agree that, after initiating the arbitration proceedings but prior to the arbitration hearing, they shall submit the matter to mediation before a mediator agreed upon by the parties.

12.2 Should mediation not resolve the matter and either of the parties find it necessary to proceed to binding arbitration to enforce any provision of this Agreement, the prevailing party in a binding arbitration shall be entitled to its reasonable attorneys' fees, costs and expenses incurred in both the arbitration, mediation and any other proceedings necessitated by the opposing parties' actions, as determined by the arbitrator or other tribunal, including the total cost of retaining an

Initial: _____



arbitrator or mediator. THE PARTIES HEREBY KNOWINGLY AND VOLUNTARILY WAIVE THEIR RIGHT TO A JURY OR ANY RIGHTS TO APPEAL.

12.3 Should a breach of this Agreement, such as the confidentiality provisions of Section 6, the non-solicitation provisions or the non-competition provisions of Section 3 result in the likelihood of irreparable harm, either party may seek judicial relief or equitable remedies, such as restraining orders, notwithstanding the preference stated in this Section 13 for arbitration as the primary means of dispute resolution hereunder.

13. JURISDICTION AND VENUE.

CONTRACTOR hereby agrees that any litigation, arbitration, mediation or other proceeding arising from this Agreement, the relationship between CONTRACTOR and SAT or CONTRACTOR's performance of the Services, shall take place within Santa Clara County, California, or within the United States District Court, Northern District of California. CONTRACTOR further agrees that the Santa Clara County Superior Court or the United States District Court, Northern District of California, shall have in personam jurisdiction and venue over CONTRACTOR and that CONTRACTOR and Personnel hereby submit to the exclusive in personam jurisdiction and venue of such courts.

14. SEVERABILITY.

In case any provision of this Agreement shall be declared invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby, shall remain in full force and effect, and shall be binding upon the parties hereto. The parties further agree to replace any such void or unenforceable provisions of this Agreement with valid and enforceable provisions, which will achieve, to the extent possible, the economic, business and other purposes of the void or unenforceable provisions.

15. ATTORNEYS' FEES.

In the event of any controversy, claim or dispute between the parties arising out of or relating to this Agreement, or the enforcement of the provision hereof, the prevailing party shall be entitled to recover its costs and expenses, including, but not limited to, reasonable attorneys' incurred in connection therewith.

16. COUNTERPARTS.

This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties have executed this Teaming Agreement as of the date first set forth above.

SA TECHNOLOGIES INC

Signature:

CONTRACTOR:

Signature:

Name: Manoj Joshi
Title: Vice President
Date:

Name:
Title:
Date:

Initial: _____



Professional Service Agreement Addendum

Exhibit A – Work Order

Date:

From: SA Technologies Inc To: _____

In accordance with the Professional Service Agreement signed between the undersigned parties on _____ it is agreed as follows (Subject to Background Check, Employment & Educational Verification):

1. Project Description/Title: _____
2. Client / Project Location: _____
3. Project Duration / Project Start Date: _____
4. Name of Consultant: _____
5. Professional Fees: _____

Any change in Project Request will be done by mutual consent.

SA TECHNOLOGIES INC

Signature:

CONTRACTOR:

Signature:

Name: Manoj Joshi
Title: Vice President
Date:

Name:
Title:
Date:

Initial: _____