

7. Status of the Independent Contractor. RIT and the Independent Contractor intend that the relationship established between them pursuant to this Contract shall be that of client and independent contractor. No agent, employee, or servant of the Independent Contractor shall be or shall be deemed to be an employee, agent or servant of RIT. RIT is interested only in the results obtained under this Contract consistent with paragraph 8 below. The manner and means of conducting the work are under the sole control of the Independent Contractor. None of the employee benefits provided by RIT to its employees, including, but not limited to, workers' compensation insurance, disability insurance and unemployment insurance, is available from RIT to the Independent Contractor or to the employees, agents or servants of the Independent Contractor. The Independent Contractor will be solely and entirely responsible for its acts and for the acts of its agents, employees, servants and subcontractors during the performance of this Contract. Nothing in this Contract shall be construed to make the Independent Contractor an agent of RIT. Independent Contractor is not authorized to enter into any contract or assume any obligation on behalf of RIT.

8. RIT's Right to Inspect. In the performance of the services, the Independent Contractor has the authority to control and direct the performance of the details of the work; RIT is interested only in the results obtained. However, the work contemplated herein must meet RIT's standards and approval and shall be subject to the RIT's general right of inspection and supervision to secure the satisfactory completion thereof. The Independent Contractor agrees to comply with all federal, state and local laws, rules and regulations that are now or hereafter applicable to the Independent Contractor. RIT will designate a representative who shall be authorized to act for RIT in all matters related to the Independent Contractor's performance of the services.

9. Insurance. Independent Contractor shall, at its own expense, maintain insurance as outlined below with minimum limits as referenced. Rochester Institute of Technology shall be named as an additional insured on policies providing coverage for A and C below;

Note: For Contracts providing goods/services to the RIT Inn, in addition to RIT's name, include as an additional insured "The 5257 West Henrietta Road, LLC." For Contracts providing goods/services to the RIT High Technology Incubator, Inc., in addition to RIT's name, include as an additional insured "RIT High Technology Incubator, Inc."

A) Commercial General Liability (1986 ISO form or later) with minimum limits of \$1,000,000 per occurrence/\$2,000,000 aggregate written on an occurrence basis.

B) Auto Liability (including owned, hired and non-owned autos): \$1,000,000 combined single limit (each accident).

C) Excess Liability: \$3,000,000 minimum limits in excess of underlying limits. The umbrella shall be no more restrictive than underlying coverage.

D) Worker's Compensation and Employer's Liability: Statutory New York State limits.

Additionally, if applicable:

E) Professional Liability: Minimum limits of \$1,000,000. Coverage shall be maintained for at least four years subsequent to the termination date of this contract; during such four-year period, Independent Contractor shall assure that there is no change to the retroactive date of coverage.

These coverage's and limits are to be considered minimum requirements under this contract and in no way limit the liability of Independent Contractor.

This insurance shall be written by a company licensed to do business in New York State with a minimum A.M. Best rating of A- VII. Each policy shall provide for notification to RIT thirty (30) days prior to termination, material change or restrictive amendments. The insurance companies issuing the policies shall have no recourse against RIT for payment of any premiums

or for any assessments under any form or policy. RIT reserves the right to request copies of insurance policies.

The insurance policies referred to above shall be primary insurance ahead of any insurance carried by RIT with respect to the Contract. Independent Contractor shall furnish written consent of the insurer to the primacy of these policies if requested by RIT.

Independent Contractor shall provide a certificate of insurance to RIT evidencing this coverage prior to performance of the Contract and annually thereafter, at policy renewal dates throughout the period services/goods are provided by the Independent Contractor. This certificate of insurance should also note any self-insured retention/deductible amounts for each policy.

10. Indemnification. Notwithstanding the availability and policy limits of any insurance, Independent Contractor, shall defend, indemnify and hold harmless RIT and its trustees, officers and employees ("Indemnified Parties") against any claims made or legal actions brought against an Indemnified Party(ies) by any person or entity as a result of injuries, damages, expenses and losses actually or allegedly incurred by such a person or entity ("Liabilities") arising out of or relating to Independent Contractor's performance or failure to perform pursuant to this Contract, except where the Liabilities are the result of the Indemnified Party's own direct and sole negligence. Independent Contractor's obligation shall include the cost of the Indemnified Party(ies)' defense against such claims or actions. This obligation shall survive the termination, completion or expiration of this Contract. Independent Contractor agrees to promptly notify RIT of any claim or action brought in connection with this Contract and thereupon shall promptly take over and defend any such claim or action.

11. Assignments of Rights. The parties recognize that it is possible the Independent Contractor may create "work product", i.e., suggestions, inventions, discoveries, and improvements, whether patentable or unpatentable, and software or other materials subject to copyright, created or conceived in the course of performing the services hereunder, as a result of that work, or as a result of receiving proprietary information from RIT. The Independent Contractor agrees to and does hereby assign to RIT, without additional remuneration, all right, title and interest in and to such work product conceived or first reduced to written form or to practice either: (i) in the course, or as a result, of the work performed during the term of this Contract, or (ii) during the twelve months immediately following termination or expiration of this Contract providing they are, in any substantial way, based upon or created as a result of the work performed during the term of this Contract. The Independent Contractor agrees to promptly disclose to RIT all such work product. The rights assigned to RIT shall include, but not be limited to, all intellectual property rights, and the right to prosecute infringement of those rights.

12. Confidentiality. If in the course of the Independent Contractor's services hereunder, the Independent Contractor receives proprietary information of RIT relating to RIT's business, operations, equipment, or products, the Independent Contractor will retain all such information in confidence and will not disclose it, except to its own and RIT's employees in the necessary course of the performance of the Independent Contractor's services hereunder. However, nothing herein will prevent disclosures by the Independent Contractor of any information after it is available to the general public in a printed publication, or of any information that was already available to the Independent Contractor from written documents in the Independent Contractor's possession at the time such information was acquired from the Institute, or of any information furnished to the Independent Contractor by a third party. The Independent Contractor shall protect the confidential information against unauthorized disclosure using the same degree of care, but no less than a reasonable degree of care, as the Independent Contractor uses to protect its own confidential information of a like nature. The Independent Contractor will insure that each employee or subcontractor agrees to similar confidentiality requirements.

13. Personally Identifiable Information. Independent Contractor shall not have access to the personally identifiable information of any RIT student, staff, or faculty member. Personally identifiable information shall mean that information which is prohibited from disclosure by state or federal law. To the extent that Independent Contractor comes in contact with, observes, or uses any personally identifiable information, Independent Contractor warrants and represents that it shall immediately bring such contact, observation, or use to the attention of RIT. Should Independent Contractor require access to the personally identifiable information of any RIT student, staff, or faculty member in order to supply goods or perform services for RIT, Independent Contractor warrants and represents that it shall notify RIT in writing of the reason for access to this personally identifiable information, execute any additional contract or addendum required by RIT prior to access to this personally identifiable information, take all reasonable steps to prevent the unauthorized access to this personally identifiable information while in the possession of Independent Contractor, and comply with the notification requirements of any applicable state or federal statute in the event of an unauthorized access to this personally identifiable information, at no additional cost to RIT.

14. Conduct of Personnel. While at any RIT location, Independent Contractor's personnel, agents and subcontractors shall comply with all reasonable requests, standard rules, and regulations of RIT regarding personal and professional conduct, including without limitation any security or privacy requirements, and shall otherwise conduct themselves in a professional manner.

15. Use of RIT's Name. Independent Contractor agrees not to use (a) RIT's name, (b) the name of any employee, student or agent of RIT, or (c) any trademarks, service marks or trade names owned or controlled by RIT, in any sales, promotional, advertising or other publication, without the express prior written permission of RIT. In no event shall Independent Contractor, its employees, agents, or subcontractors represent themselves as employees or agents of RIT.

16. Assignment. None of Independent Contractor's duties to perform its obligations under this Contract may be delegated or assigned to another party without the written consent of RIT. RIT may assign this Contract to any affiliate, or successor in interest to all or any part of its operations without prior notice to Independent Contractor.

17. Waiver. No waiver by RIT of any provision or breach of this Contract shall be deemed a waiver of any other provision or subsequent breach, nor shall any such waiver constitute a continuing waiver. Delay or failure of RIT to insist on strict performance of any provision of this Contract or to exercise and rights or remedies hereunder shall not be deemed a waiver.

18. Severability. If any part of this Contract should be held invalid by operation of law or by a tribunal of competent jurisdiction, the balance of this Contract shall continue in full force and effect. The part held invalid shall be modified as required by law or the tribunal of competent jurisdiction.

19. Counterparts. This Contract may be executed in counterparts, each of which will be deemed an original, and all of which constitute one and the same instrument. Each Party will execute and promptly deliver to the other Party a copy of this Contract bearing an Original Signature. "Original Signature" means a copy of a signature of a Party that is reproduced or transmitted via email or a .pdf file, photocopy, facsimile, or other process of complete and accurate reproduction and transmission.

20. Governing Law. This Contract shall be governed by the laws of the State of New York, without regard to its conflict of law principles, and the parties commit to the exclusive jurisdiction and venue of the state and federal courts located in Monroe County, New York to adjudicate any dispute arising under or relating to this Contract.

21. Notices. All notices and other communications hereunder shall be in writing and shall be and mailed by certified mail return receipt requested or by Federal Express to the party to be notified at its address listed above (or at such different addresses as the party to receive the notice so designates by written notice to the other party).

22. Entire Agreement. This Contract, including all attachments referred to herein, embodies the entire agreement and understanding by and between the parties with respect to the subject matter herein referred to, and no representations, promises, agreements, or understandings, written or oral, not herein contained shall be of any force or effect. No change or modification shall be valid or binding unless the same is in writing and signed by both parties.

ROCHESTER INSTITUTE OF TECHNOLOGY INDEPENDENT CONTRACTOR

V.P., Dean, Dept. Head or Director Date _____
Independent Contractor Date

Attachment A

In the space below, please describe in detail the following (or attach on a separate page(s)):

Scope of Work:

Place of Work (location), if applicable

Contract Term

Initial of Independent Contractor _____

Initial of RIT _____