



CLIENT SERVICES MASTER AGREEMENT

(Time and Materials)

Client # 437414
Client Purchase Order#:
Master Agreement #:
Date: 5/9/17

TGI: THOR, INC.
318 Avenue I., Suite 167
Redondo Beach, CA 90277
Tel: (310) 727-1777
Fax: (310) 727-1770
E-Mail: davidr@thorgroup.com

Client: City of Merced
Address: 678 W. 18th St
Merced, CA 95340

The Client has requested that Thor, Inc. (TGI), utilizing TGI's Consultants, fulfill various consultant requirements on an on going basis. With each new consultant requested from client, a client services agreement attachment referencing this Master Agreement number and/or purchase order number is to be done. Each client services agreement attachment provides:

- a. contractor's name
- b. scope of work
- c. under the direction of name
- d. start date
- e. approximate length of assignment
- f. Standard Service Bill Rate
- g. Overtime Service Bill Rate
- h. Double-time Service Bill Rate
- i. Travel expense:
- j. Special Instructions:

TGI may change the Scope of Work upon mutual written agreement with Client of such changes.

Standard Terms and Conditions

1. Client Fees and Conditions:

- a) Fee: In consideration for the services provided by TGI to Client under this Agreement, Client hereby agrees to pay to TGI the fee, on a time and materials basis, at the rate of per hour upon submission of a TGI Consultant Verification Record signed by Client, plus any expenses which have been pre-approved by both TGI and Client.
- b) Consultant Verification Record: Each week Consultant will submit to Client a four-part Consultant Verification Record with the hours Consultant worked in that particular week. For each week TGI's Consultant works, a separate Consultant Verification Record should be used. The week ending date is always Saturday. Client shall verify the hours worked, sign the Consultant Verification Record, and retain the client copy for Client's records. Client's signature on the Consultant Verification Record legally binds Client to pay TGI for those hours. If there are any changes or corrections marked on the face of the Consultant Verification Record, Client must initial them to indicate Client's approval.
- c) Fees: The services of TGI's Consultant will be paid in accordance with each individual Consultant Agreement. The services are billed on a weekly basis for actual hours. Client agrees to pay all TGI net upon receipt of invoice. In the event that payment is extended past forty-five (45) days, Client will be subject to, and agrees to pay, a 1.0% per month late payment charge on the unpaid balance. The Consultant Verification Record signed by Client will detail and act as satisfaction of all work performed.
- d) Cancellation: If Client cancels Consultant's services on the day of engagement prior to Consultant beginning such services, then Client shall pay a four (4) hour minimum charge.
- e) Performance Satisfaction: If client is not satisfied with TGI's performance of the services under this Agreement, then Client must notify TGI in writing, within fourteen (14) days after the completion of the services, specifying in detail the reasons for the dissatisfaction.

2. Consultant's Work Parameters: Client may set the working hours of TGI's Consultant depending upon Client's requirements. An acceptable schedule and work place must be agreed upon between TGI and Client prior to the Consultant starting work. Consultants

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must be flexible in their work schedule to meet the Client's/Government's training requirement/schedule. It is Client's responsibility to make any computer system usage time or Client's personnel available to meet the demands of the Scope of Work.

3. Confidentiality:

- a) TGI shall keep confidential and not disclose any of Client's confidential or proprietary information. TGI agrees to take the same reasonable steps to safeguard Client's confidential information as TGI uses to safeguard its own confidential or proprietary information. The confidentiality obligations in this Agreement shall not apply to; (1) any information which is, or becomes, available in the public domain through no wrongful act of TGI or its representatives; (2) any information lawfully in the possession of TGI or its representatives prior to their receipt of such information from Client; (3) any information independently developed by TGI or its representatives; (4) any information received by TGI or its representatives from a third party lawfully in possession of such information and having the right to disclose such information; and (5) any information required to be disclosed by law or court order.
- b) TGI shall, at no time, have the right to use the trademarks, trade names or service marks of Client, whether existing pursuant to common law or state or federal statutes, without the prior written approval of an executive officer of Client.
- c) TGI's Consultant shall not discuss their rate of pay with any member of Client's staff.
- d) Client agrees not to discuss TGI's fees or any of the incurred costs charged to TGI by the Consultant with anyone other than a TGI Manager.
- e) TGI's Consultants are instructed to abide by the licensing agreements that accompany Client's software.

4. Ownership and Intellectual Property Rights: All work produced pursuant to this Agreement shall be the property of Client, and all intellectual property rights, including but not limited to copyrights, patents and trade secrets, arising from any existing Client-owned or newly created work developed by TGI's Consultants while performing work for Client under this Agreement shall remain Client's property. However, Client is responsible for taking all steps necessary to protect said intellectual property rights including but not limited to affixing appropriate copyright notices, registering copyrights, and applying for patents.

5. Liability: The parties hereto hereby agree that (a) TGI is only providing individual Consultants to Client under the terms of this Agreement, (b) TGI is not warranting or guaranteeing the work performance or work product of such Consultants, (c) Client is solely responsible for defining the Scope of Work, overseeing the work performed by such Consultants, and utilizing and implementing the work produced by such Consultants, (d) TGI has no liability for such Consultants' work product or for such Consultants' errors or omissions present in such work product, (e) TGI shall not be liable for any direct, indirect, incidental, special, punitive, exemplary, or consequential damages (including any loss of profits or loss of business), whether in an action or claim arising in contract, tort or otherwise, resulting from or related to this Agreement or any work performed by Consultant or any work product of Consultant, (f) any claim by Client for damages against TGI must be brought against TGI within six (6) months after the expiration or termination of this Agreement, (g) TGI's maximum liability under this Agreement shall be limited to the aggregate sum accumulated separately by each contractor paid by Client to TGI under this Agreement, specifically applicable to the individual consultant in question. (h) except for the express warranties in this Agreement, TGI DISCLAIMS ALL EXPRESS OR IMPLIED WARRANTIES IN CONNECTION WITH THIS AGREEMENT, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, and (i) TGI has no responsibility or liability for any computer software developed, written, amended or revised by Consultant, including but not limited to whether or not such computer software performs in accordance with Client's specifications or performs without interruption or error. TGI assumes no liability for consequential, direct or indirect damages resulting from work performed by a TGI Consultant.

6. Performance: TGI and its staff shall use their best efforts to complete the Scope of Work as specified to TGI by Client. In the event that the Client perceives a lack of performance of the Consultant, Client has the right to terminate this Agreement upon written notice to TGI, or to have TGI replace said Consultant, as soon as possible, with another consultant of "like" capabilities.

7. Hiring of Consultant:

- a) During the period from the date of this Agreement to the later of one (1) year after the completion of the tasks in the Scope of Work or two (2) years after the date of this Agreement, Client hereby agrees not to solicit or accept for employment (other than through TGI) the TGI Consultant on a permanent, temporary, or contract basis. This applies to any position within Client or its affiliates.
- b) Should Client breach Section 7(a), since it would be difficult to determine the amount of damage, Client hereby agrees to pay TGI, as liquidated damages, the greater of an amount equal to 20% of the dollars being earned by Consultant services on a contract basis or 20% of Consultant's first year's full-time permanent employee or consulting compensation if Consultant is hired.
- c) Any referrals of additional employment on a permanent, temporary, or contract basis, whether with Client or any other entity, which is made known, directly or indirectly, to TGI's Consultant are deemed referrals to TGI. Therefore, TGI will be entitled to compensation based upon an amount equal to 20% of the first year's compensation of the Consultant hired through such a referral. If the entity to whom that person is referred has not compensated TGI, Client shall be obligated for such charges. This applies for any position in Client's company, division of Client's company or to another company for a period of one (1) year after the completion of tasks in the Scope of Work or two (2) years after the date of this Agreement, whichever is the later.

8. No Assurance: Client acknowledges that it understands that TGI's ability to provide the services hereunder with regard to the Scope of Work is dependent upon many factors outside the control of TGI.

9. Miscellaneous:

- a) Entire Agreement: This Agreement constitutes the entire agreement among the parties hereto with regard to the subject matter hereof, and supersedes any and all other agreements, oral or written, among the parties hereto with regard to the subject matter hereof.
- b) Amendments: Except as otherwise provided in this Agreement, this Agreement shall not be modified or amended except by an instrument in writing executed by each of the parties hereto.
- c) Successors; Assignment: This Agreement and all of the provisions hereof shall be binding upon and inure to the benefit of the parties hereto and their respective successors, transferees and assignees. Neither this Agreement nor any interest herein may be transferred, directly or indirectly, or assigned by Client, in whole or in part, without the prior written consent of TGI. Any such transfer or assignment by Client without such TGI prior written consent shall be null and void.

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Date: 5/9/17

- d) Waiver: Any waiver of a provision of this Agreement must be in writing signed by the party waiving its rights and shall apply only in the specific instance and for the specific purpose given. The giving of a waiver in one instance or for one purpose shall not create any implied obligation to give a waiver in another instance or for another purpose.
- e) Headings: The headings in this Agreement are for convenience of reference only and shall not be deemed to alter or affect any provision of this Agreement.
- f) Severability; Enforceability: If any term or provision of this Agreement or any application thereof shall be invalid or unenforceable, the remainder of this Agreement and any other application of such term or provision shall not be affected thereby.
- g) Applicable Law: This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of California (other than principles of conflict of laws). No provision of this Agreement shall be construed against any party by reason of that party having drafted the same.
- h) Attorney's Fees: In the event of any dispute among the parties hereto relating to the subject matter of this Agreement, the out-of-pocket costs and reasonable attorney's fees of the prevailing party shall be paid by the other party in addition to any other relief.
- i) Arbitration: Any equitable relief sought by either party hereto (including injunctive relief) for breach of this Agreement by the other party hereto may be sought by judicial action in a court of competent jurisdiction. Except as set forth in the preceding sentence, any dispute, controversy or claim arising out of or relating to this Agreement shall be settled by binding arbitration held in Merced, CA before one (1) arbitrator pursuant to the Commercial Arbitration Rules of the American Arbitration Association then existing, and judgment on the arbitration may be entered in any court having jurisdiction over the subject matter of the controversy. The arbitrator shall not have the power to amend or modify this Agreement. If Client has any dispute, claim, or controversy relating to this Agreement, then Client must notify TGI in writing of such dispute, claim, or controversy within fourteen (14) days after the completion of the Scope of Work or the termination of this Agreement (whichever is earlier), and any such dispute, claim or controversy which is not so presented is barred and waived.
- j) Not an Agent: The parties hereto understand and agree that this Agreement does not make either party hereto an agent or legal representative of the other party hereto for any purpose whatsoever. Consultant does not have, by this Agreement or otherwise, any right or authority to assume or create any obligation or responsibility, express or implied, on behalf of or in the name of TGI or Client or to bind TGI or Client in any manner whatsoever. Both parties expressly acknowledge that Consultant is retained by TGI and not by Client, and that the parties hereto are not partners or joint ventures.
- k) Notices: All notices and other communications required under this Agreement shall be in writing and shall be sufficient in all respects if personally delivered or sent by registered or certified mail, postage prepaid, or by telecopy (with confirmed receipt), and addressed to the parties at the addresses first listed above. Any notice shall be deemed to have been delivered on the earlier of actual receipt or seventy-two (72) hours after the date it was mailed in the manner described above. Any party may change its address by a notice given to the other party in the manner set forth above.
- l) Expenses: Each party hereto will bear its own expenses incurred in connection with entering into this Agreement, unless otherwise agreed to.
- m) When requested by the Government, Consultants must show proof of a physical exam, Immunization Record or TITER lab results. Cost incurred for these requirements is the responsibility of TGI.

Date: May 9, 2017

THOR, INC.
California Corporation
TGI

By:

(Signature)

Omar A. Lupercio
(Printed Name)

Thor Contract Administrator
(Title)

Date:

Client: City of Merced

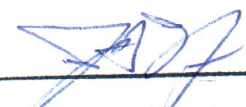
By:

(Signature)

(Printed Name)

(Title)

APPROVED AS TO FORM:

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THOR's Initials: OAL
Date: 5/9/17



Client #: 437414
Client Purchase Order #:
Master Agreement #
Job Order # 31515
Date: May 22, 2017

Client Services Agreement Consultant Attachment

Reference Master Agreement between THOR, INC. and Client
For Each Consultant

TGI: THOR, INC.
318 Avenue I, Suite 167
Redondo Beach, CA 90277
Tel: (310) 727-1777
Fax: (310) 727-1770
E-mail: davidr@thorgroup.com

Client: City of Merced
678 W 18th St
Merced, CA 95340

- a. Contractors Name: Ms. Elizabeth Berg
- b. Scope of Work: Assistance with Sungard Naviline System
- c. Under the Direction of: Mr. Jeff Bennyhoff, Director of IT
- d. Approximate Start Date: 7-1-17
- e. Approximate Length of Assignment: 1 year
- f. Standard Service Bill Rate: \$109/hour
- g. Overtime Service Bill Rate: \$109/hour
- h. Double-time Service Bill Rate: \$109/hour
- i. Travel Expense: Client agrees to pay airfare, hotel, rental car and per diem when consultant is required to be onsite.
- j. Special Instructions: Upon execution of this THOR Client Services Master Agreement and Client Services Agreement Consultant Attachment, Thor suggests the execution of Task Vetting and Support Guidelines with City of Merced as well as cover how City of Merced will use the Consultant Verification Record management tool. The twelve (12) month total billing from July 1, 2017 to June 30, 2018 for this assignment is not to exceed \$165,000 without prior approval from both THOR and Client.

Signatures:

Authorized Client Representative

Signature

Name

Title

Date

THOR, INC. Representative

Signature

Omar A. Lupercio

Name

Thor Contract Administrator

Title

May 22, 2017

Date