

## SERVICES AGREEMENT To DIR-TSO-2692

The DIR Contract, DIR-TSO-2692 and this Service Agreement (the "Agreement") between Pinnacle Business Systems, Inc., an Oklahoma corporation ("PBS") and CUSTOMER, sets forth the terms and conditions pursuant to which PBS agrees to provide services to CUSTOMER and by which CUSTOMER agrees to obtain such services from PBS.

### 1. Services

1.1 **Statement of Work.** PBS agrees to provide to ("CUSTOMER") certain computer and/or programming services (the "Services") under the terms and conditions set forth herein (the "Services Terms"). CUSTOMER agrees to pay for the Services in the manner described herein. To the extent allowable by DIR Contract No. DIR-TSO-2692. The scope of the Services to be performed, project schedule and fees and rates for such Services are detailed in the written SOW(s) attached hereto or hereinafter attached hereto (as modified, amended or changed, from time to time.) CUSTOMER acknowledges and agrees that these Services Terms govern services only and do not involve the sales of goods.

1.2 **Non-Exclusivity.** To the extent allowable by DIR Contract No. DIR-TSO-2692, The Services Terms shall not preclude PBS from providing services to others that may result in computer programming techniques, products and documentation that are competitive, whether or not such materials are similar to materials developed by PBS pursuant to the Services Terms.

### 2. Payment

2.1 **Payment Terms.** Invoicing and payment shall be in accordance with the terms of the SOW, which must be in accordance with the Appendix A, Sections 8.I and 8.J. of the DIR Contract Number DIR-TSO-2692.

2.2 **Fees and Expenses.** CUSTOMER shall pay fees for the Services performed by PBS in accordance with the schedule of fees included in the SOW; in which fees must conform to Appendix C, Pricing Index of the DIR Contract, DIR-TSO-2692,

### 3. Scheduling of Resources; Change Orders

3.1 **Scheduling of Resources.** PBS will satisfy CUSTOMER'S resource requirements for Services under the SOW, and will inform CUSTOMER of the status thereof. PBS is not required to schedule resources or provide Services if CUSTOMER has undisputed invoices that are more than thirty (30) days past due.

#### 3.2 New SOW; Change Orders

3.2.1 To the extent allowable by DIR Contract No. DIR-TSO-2692, the parties agree that from time to time during the terms of the Agreement, CUSTOMER may request, or PBS may propose, that PBS perform additional services or implement a change to the Services reflected in an existing SOW including, without limitation, (a) a change to the scope of Services described in the SOW, or (b) a change in the prioritization or manner in which PBS is performing the Services (each, a "Change"). PBS reserves the right to assess a rework or cancellation charge or adjust the fee schedule applicable to the work if CUSTOMER notifies PBS of a change or cancellation after acceptance of this Agreement or the applicable SOW.

3.2.2 To the extent allowable by DIR Contract No. DIR-TSO-2692, in the event of a proposed new SOW for additional services, such SOW shall only be effective upon acceptance in writing by both parties. Upon acceptance, such SOW shall be incorporated by reference herein and the work set forth therein shall constitute the Services.

3.2.3 To the extent allowable by DIR Contract No. DIR-TSO-2692, in the event of the occurrence of a mutually agreed Change, PBS shall prepare and provide to CUSTOMER a proposed change order. PBS shall include in the proposed change order the effect, if any, the Change will have on PBS' schedule of delivery of the Services, and if there will be any effect on the estimated cost or other CUSTOMER payments under the Services Terms. PBS shall not be responsible or liable for any delays, costs or damages resulting from CUSTOMER'S rejection of, or delay in approving, a proposed change order relating to a Change.

### 4. Responsibilities

4.1 **Of PBS.** PBS will provide personnel, expertise, technical and project management resource(s) to perform the Services outlined in the SOW, and will assign a Project Manager who will serve as the primary contact for PBS to interface with CUSTOMER for the Services.

4.2 **Of CUSTOMER.** CUSTOMER will provide a suitable work environment to include work space, terminal, access to pc based printer, remote access to systems (if applicable), access to outside telephone line that can be used for Internet access, etc., and will assign a Project Manager who will serve as the primary contact for CUSTOMER to interface with PBS for the Services. The SOW sets forth the name(s) of customer's Authorized Representative(s) who are authorized to request and approve any changes to the SOW. CUSTOMER shall provide PBS with safe access to CUSTOMER'S facilities to the extent necessary for PBS to fulfill its obligations. CUSTOMER shall promptly notify PBS of any unsafe conditions to which PBS resources could be exposed at any of CUSTOMER'S facilities. CUSTOMER will comply with all federal, state and local laws applicable to the transactions occurring under this Agreement, including without limitation payment of all sales and use taxes applicable to transactions occurring under this Agreement.

4.3 **Use of Subcontractors.** PBS may use subcontractors listed in Appendix B, HUB Subcontracting Plan of the DIR Contract, DIR-TSO-2692 without the consent of CUSTOMER. PBS will not be relieved of its obligations hereunder by use of any such subcontractors. If CUSTOMER reasonably determines that the performance or conduct of any PBS subcontractor is unsatisfactory, CUSTOMER may notify PBS in writing of such determination, indicating with specificity all reasons therefore, and PBS will promptly take all necessary actions to remedy the performance or conduct of such subcontractor.

4.4 **Employees.** CUSTOMER agrees to immediately report to PBS all accidents and injuries involving PBS employees assigned to CUSTOMER. The Services Terms are between PBS and CUSTOMER and create no individual rights in or for PBS employees.

4.5 **Discrimination.** PBS is an equal opportunity employer and does not discriminate on the basis of race, gender, national origin, age, disability, religion or veteran status. PBS reserves the right to immediately remove any of its employees from CUSTOMER'S premises if CUSTOMER is not in compliance with federal or state requirements governing the workplace. Such immediate removal will not constitute a breach of the Agreement by PBS or cause for termination of the Agreement by CUSTOMER.

4.6 Invention shall be in accordance with Appendix A, Section 5 of the DIR Contract, DIR-TSO-2692.

4.7 **Confidential Information; Intellectual Property Agreement.** PBS agrees that information received by and provided to or by CUSTOMER in connection with the Services concerning the personal, financial or other affairs of the CUSTOMER, are confidential. PBS will not disclose this information to any other entity or individual, except for such disclosures to its employees, consultants and equipment providers as may be necessary to perform its obligations under the Agreement, or the Services Terms, or as may be required by applicable law or a court of competent jurisdiction. This is a permanent obligation and will survive termination of the Agreement for any reason for a period of three years.

5. **Indemnification; Exclusive Remedies; Limitation of Liability**

5.1 **Indemnification.** Indemnification shall be in accordance with Appendix A, Section 10.A of the DIR Contract, DIR-TSO-2692.

5.2 **Limitation of Liability.** Limitation of Liability shall be in accordance with Appendix A, Section 10.K. of the DIR Contract, DIR-TSO-2692.

6. **Warranties.** PBS warrants that PBS will perform the Services in a timely, competent and professional manner, and substantially in accordance with the description in the SOW. CUSTOMER acknowledges and agrees that with respect to the software that is the subject of the Services, CUSTOMER is relying solely on the representations and warranties of the licensor of such software. Without limiting the generality of the foregoing, CUSTOMER acknowledges and agrees that PBS does not make any representations or warranties with respect to the software that is the subject of the Services and that PBS shall not be liable or responsible for the subject software or any defects thereof or any liabilities or obligations of the licensor of such software.

7. **No Solicitation.** During the term of this Agreement and for a period of one year following the completion or termination of any Services provided hereunder, PBS and CUSTOMER hereby agrees that neither PBS nor CUSTOMER nor any of its their direct or indirect subsidiaries or affiliates (i.e., entities or persons controlled by or under common control of PBS or CUSTOMER) will, directly or indirectly, solicit to employ or employ, or otherwise engage the services of, any persons employed or retained as independent contractors by of the current employees or independent contractors of PBS or CUSTOMER at the time of termination of this Agreement for so long as they are employed or engaged by PBS or CUSTOMER for performance of the services that are the subject of this agreement and for a period of one (1) year from the termination of their employment or services, without obtaining the prior written consent of PBS or CUSTOMER. This provision will survive the termination of the Agreement, unless DIR or CUSTOMER terminates for cause. This foregoing limitations on solicitation shall not apply to DIR or CUSTOMER hiring such persons in response to publicly advertised employment opportunities.

8. **Independent Contractor.** Under the Agreement, PBS shall be an independent contractor. The Agreement shall not be construed as creating a partnership, joint venture, agency or employment relationship, or as granting a franchise under either federal or state law.

9. **Miscellaneous.**

9.1 **Notices.** Notices shall be in accordance with Appendix A, Section 12 of the DIR Contract, DIR-TSO-2692.

9.2 **Termination.** Termination shall be in accordance with Appendix A, Section 11.B of the DIR Contract, DIR-TSO-2692.

9.3 **Assignment.** Assignment shall be in accordance with Appendix A, Section 4.D. of the DIR Contract, DIR-TSO-2692.

9.4 **No Implied Rights or Remedies; Third Party Beneficiaries.** Except as otherwise expressly provided herein, nothing herein expressed or implied is intended or shall be construed to create any third party beneficiary rights or confer upon or give to any person, firm, or corporation, other than the parties hereto and their respective successors and assigns, any rights or remedies under or by reason of this Agreement.

9.5 **Entire Agreement.** The DIR Contract, DIR-TSO-2692 and this Agreement embodies the entire agreement and understanding between the parties hereto relating to the subject matter hereof and supersedes any prior agreements and understandings relating to the subject matter hereof. In the event of any conflict between the terms set forth herein and any other document referenced herein, the terms set forth in the DIR Contract, DIR-TSO-2692 shall control. CUSTOMER EXPRESSLY WARRANTS, REPRESENTS AND ACKNOWLEDGES THAT NO PROMISE, AGREEMENT, REPRESENTATION OR STATEMENT HAS BEEN MADE TO CUSTOMER, OTHER THAN THOSE EXPRESSLY STATED IN WRITING IN DIR CONTRACT, DIR-TSO-2692 AND THIS AGREEMENT, UPON WHICH CUSTOMER HAS RELIED IN ENTERING INTO THIS AGREEMENT, AND CUSTOMER EXPRESSLY WAIVES AND DISCLAIMS ANY CLAIMS AGAINST PBS FOR FRAUD OR FRAUDULENT INDUCEMENT TO ENTER INTO THIS AGREEMENT IN RELIANCE UPON OR BASED UPON ANY SUCH PROMISES, AGREEMENTS, REPRESENTATIONS OR STATEMENTS.

9.6 **Severability.** If any part or provision of this Agreement is or shall be deemed violative of any applicable laws, rules or regulations, such legal invalidity shall not void this Agreement or affect the remaining terms and provisions of this Agreement, and this Agreement shall be construed and interpreted to comport with all such laws, rules or regulations to the maximum extent possible.

9.7 **Dispute Resolution.** Dispute Resolution shall be in accordance with Appendix A, Section 11.A of the DIR Contract No. DIR-TSO-2692.

9.8 **Force Majeure.** Force Majeure shall be in accordance with Appendix A, Section 11.C. of the DIR Contract, DIR-TSO-2692.

9.9 **Applicable Law.** This Agreement and the rights and obligations of the parties hereto shall be construed under and governed by the laws of the State of Texas, without giving effect to principles of conflict of laws.

9.10 **Counterparts.** This Agreement may be executed in any number of counterparts and any party hereto may execute any such counterpart, each of which when executed and delivered (which deliveries may be made by facsimile) shall be deemed to be an original, and all of which counterparts taken together shall constitute but one and the same instrument.



The undersigned Customer agrees and accepts all of the terms and conditions of the Services Agreement.

<b>Agreed to:</b>
Pinnacle Business Systems, Inc. 3824 S. Boulevard Suite 200 Edmond, OK. 73013
By:
Authorized signature
Print Name:
Title:
Date:

<b>Agreed to:</b>
By:
Authorized signature
Print Name:
Title:
Date: