



New Jersey Institute of Technology

A Public Research University

DIVISION OF CAREER DEVELOPMENT SERVICES

Civic Engagement Computer Center @ NJIT Web Development Program Hosting and Maintenance Agreement

This Agreement is entered into this _____ day of _____, _____ between **New Jersey Institute of Technology**, a public institution of higher education whose address is 323 Martin Luther King Boulevard, Newark, New Jersey 07102, (hereinafter “NJIT”) and _____, a community-based non-profit organization or other public entity, located at _____, (hereinafter “Agency”).

WHEREAS, NJIT wishes to provide its students with the opportunity to enhance their education with practical work experience and community service; and

WHEREAS, the Agency desires to utilize the services of NJIT students through the Civic Engagement Computer Center @ NJIT.

In exchange for the mutual promise contained in this Agreement, the parties agree to the following:

1. Responsibilities of NJIT: In consideration of a \$300 (**Three Hundred Dollars**) lump-sum web site hosting and maintenance fee paid by Agency to NJIT, NJIT will use its best efforts to provide information technology services to support the Agency as follows:

- a. Web site hosting - NJIT or its designated vendor shall host the Agency’s web site for a period not to exceed one calendar year from the date of this agreement. Thereafter, the Agency shall be responsible for retaining its own alternate host without further notice. The Agency hereby agrees to comply with any and all terms of any designated vendor’s hosting package and/or agreement attached hereto and made a part hereof (including email, virtual space, traffic limitations, etc.)
- b. Web site domain name registration - NJIT will assist the Agency in securing available domain names, and compiling necessary user registration information (the number of web pages within a site shall be within the sole discretion of NJIT). The Agency will own the domain name of the web site. NJIT agrees to keep all Agency passwords and sensitive hosting account information confidential.
- c. Web site maintenance – NJIT will assist the Agency in maintaining and updating the Agency’s web site for a period not to exceed one calendar year from the date of this agreement. The Agency shall be provided with no more than two (2) updates/changes to the web site per calendar month during the academic year (September – April) and once per calendar month from May - August. The Agency must notify NJIT in writing at least two (2) weeks in advance of the date of the desired change. Failure to do so may result in the completion of the update/change.

UNIVERSITY HEIGHTS
NEWARK, NJ 07102-1982
973. 596. 3100
973. 802. 1851 FAX
973. 596.6364 FAX

- d. after the requested time. All update/change requests made by the Agency will be confirmed by the NJIT via phone and/or email and/or letter.

2. Representations/Responsibilities of Agency: The Agency represents and/or agrees to the following:

- a. Non-profit organization – The Agency represents that it is a community based non-profit organization and/or public entity/agency exempt from taxation under IRS Tax Code Section 501(c)(3).
- b. Payment of required fee – The Agency agrees that it will pay the required \$300 fee for hosting and maintenance for one calendar year upon acceptance of this agreement.
- c. Submission of content material – The Agency will promptly submit desired web site material (text and/or images) to NJIT after acceptance of this agreement via removable media (floppy disk, CD-Rom, ZIP disk, or paper form). The Agency hereby agrees to permit NJIT in its sole discretion to edit content images and text for necessary technical modifications.
- d. Compliance with laws – The Agency does not/will not engage in any activities that promote hate, violence, discrimination, or any activity which violates EEO/AA regulations for NJIT, NJ and United States government. The Agency shall ensure that it does not violate any laws, rules, regulations, statutes or the like that may govern their operation and/or non-profit activities.
- e. Ownership of material – The Agency warrants that it is the sole owner or fully authorized licensor of any existing and/or future forms of copyrighted and/or patented materials, products, documentation and/or related computer software, to be used and/or provided to NJIT in the performance of this agreement. The Agency agrees to hold NJIT harmless with respect to any claim of infringement arising out of NJIT's use of content materials, text, logos and images supplied by the Agency.

3. Term/Termination: The parties agree to the following term and termination events:

- a. Term - The term of this agreement shall be one (1) year from the date of acceptance by Agency, except that the web site maintenance services described in Paragraph 1 c., shall only be provided by NJIT for that portion of its academic year occurring during such time. At the request of the Agency, web site maintenance services may be extended for each successive academic year pursuant to the terms of this agreement and with the written consent of NJIT.
- b. Termination by Agency - The Agency may terminate this agreement for any reason or no reason, upon thirty (30) days advance written notice to NJIT. If the Agency terminates this agreement within thirty (30) days of its acceptance of this agreement, a \$50 non-refundable charge will be assessed and the remaining balance of the \$300 fee will be returned to the Agency. If the Agency terminates this agreement after thirty (30) days of its acceptance of this agreement no portion of the \$300 fee will be refunded.

- c. Termination by NJIT – NJIT may also terminate this agreement for any reason or no reason, upon thirty (30) days advance written notice to the Agency. In such an event, the Agency shall be entitled to a pro rata refund based upon the number of months remaining in the period (12 months) during which the termination is made.
- d. Termination for breach – If the Agency commits a breach of its obligations hereunder, all fees paid by the Agency shall be non-refundable.

4. Ownership of Materials: All web site content materials, text, logos and images supplied by the Agency to NJIT shall remain the property of the Agency. The Agency hereby authorizes NJIT to use such content, data and/or material in providing the services required of it under this agreement. All finished web site and/or web page designs provided by NJIT shall be owned by NJIT and constitute protected copyrightable material. Copying by the Agency shall not be permitted unless with the express written permission of NJIT. NJIT hereby grants the Agency a non-exclusive, non-transferable, limited license to use its copyrightable web site and/or web page designs for community based non-profit and/or educational purposes.

5. No Agency: Neither party nor any of their respective employees or independent contractors is authorized or empowered to act as agent for the other for any purpose and shall not on behalf of the other enter into any contract, warranty, or representation as to any matter, except as specifically allowed herein and limited to the narrowest construction thereof. Neither shall be bound by the acts or conduct of the other. The Agency covenants that it will not at any time represent itself, either directly or by implication, as an agent of NJIT or as having authority to bind NJIT.

7. Limitations of Liability: UNDER NO CIRCUMSTANCES SHALL NJIT BE LIABLE TO THE AGENCY FOR INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL OR EXEMPLARY DAMAGES (EVEN IF SUCH DAMAGES ARE FORSEEABLE OR THAT PARTY HAS BEEN ADVISED OR HAS CONSTRUCTIVE KNOWLEDGE OF THE POSSIBILITY OF SUCH DAMAGES), ARISING FROM NJIT'S PERFORMANCE OR NON-PERFORMANCE PURSUANT TO ANY PROVISION OF THIS AGREEMENT OR THE OPERATION OF THE AGENCY'S WEB SITE (INCLUDING SUCH DAMAGES INCURRED BY THIRD PARTIES), SUCH AS, BUT NOT LIMITED TO, LOSS OF REVENUE OR ANTICIPATED PROFITS OR LOST BUSINESS. IN NO EVENT SHALL NJIT BE LIABLE FOR DAMAGES IN EXCESS OF THE AMOUNT RECEIVED BY IT UNDER THIS AGREEMENT. THE AGENCY'S EXCLUSIVE REMEDY FOR ANY CLAIM AGAINST NJIT ARISING OUT OF THIS AGREEMENT SHALL BE THE AMOUNT OF THE FEE PAID BY AGENCY.

8. Limitation of Warranty: NJIT EXPRESSLY DISCLAIMS ANY WARRANTIES, EXPRESS, IMPLIED, OR STATUTORY, INCLUDING BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, NJIT MAKES NO EXPRESS OR IMPLIED WARRANTIES OR REPRESENTATIONS WITH RESPECT TO HOSTING AND/OR MAINTAINING THE AGENCY'S WEB SITE, AND NJIT OR ANY OF ITS DESIGNATED VENDORS SHALL NOT BE LIABLE FOR THE CONSEQUENCES OF ANY INTERRUPTIONS OR ERRORS RELATED THERETO.

9. Disclaimer for Agency's Content: NJIT SPECIFICALLY DISCLAIMS ALL LIABILITY FOR THE AGENCY'S WEB SITE AND NJIT SPECIFICALLY DISCLAIMS ALL LIABILITY FOR ANY CONTENT CONTAINED THEREIN. EXCEPT AS EXPRESSLY SET FORTH IN THIS

AGREEMENT, NJIT MAKES NO EXPRESS OR IMPLIED WARRANTIES OR REPRESENTATIONS WITH RESPECT TO ANY PRODUCTS OR SERVICES OFFERED OR SOLD THROUGH THE AGENCY'S WEB SITE (INCLUDING, WITHOUT LIMITATION, WARRANTIES OF FITNESS, MERCHANTABILITY, NON-INFRINGEMENT OR ANY IMPLIED WARRANTIES ARISING OUT OF A COURSE OF PERFORMANCE, DEALING OR TRADE USAGE).

10. Publicity: No public statements and/or references concerning the existence or terms of this agreement shall be made or released to any medium except with the prior approval of NJIT, such approval not to be unreasonably withheld. The Agency shall not use NJIT's name, logo or other identifying mark without the express written consent of NJIT.

11. Entire Agreement: This agreement constitutes the entire understanding between the parties regarding this matter and merges any and all prior discussions, representations, promises, and warranties within its scope. There are no representations, warranties or promises not expressly set forth in this agreement. Except as expressly set forth herein, this agreement may not be modified, renewed, or extended, except in a writing, signed by both parties.

12. Indemnification: The Agency agrees to defend, indemnify, and hold harmless NJIT, its officers, trustees, agents and employees from and against all suits, claims, losses, demands or damages, including reasonable attorney's fees, arising out of, claiming to arise out of, or related to this Agreement or the work performed hereunder, except this clause shall not apply to any suits, claims, losses, demands or damages resulting from the negligence of NJIT. This clause shall survive termination of the Agreement.

13. Governing Law: This agreement shall be governed by the laws of the State of New Jersey, without regard to its conflict of laws rules and applicable copyright laws. All disputes concerning this agreement shall be venued in the Superior Court of New Jersey, Essex County, New Jersey.

AGREED TO AND ACCEPTED BY:

For Agency

By: _____

Name: _____
(print or type)

Title: _____

Date: _____

For NJIT

By: _____

Name: _____
(print or type)

Title: _____

Date: _____