

SUBVENDOR AGREEMENT

This Subvendor Agreement is made as of the ____ day of _____, 2013 by **Axius Technologies Inc ("Axius")**, and ("**Subvendor Company**"), Federal Tax identification number _____, which is a valid corporation, incorporated under the laws of the state of _____, doing business as _____.

Background

- A. Axius has entered into an agreement (as it exists from time to time, the "Client Agreement") to provide services to such Client of Axius as is identified in the Work Order attached hereto (the "Client")
- B. Axius wishes to engage Subvendor as an independent agent to perform certain services on behalf of Axius for the Client, and Subvendor wishes to perform such services as an independent Agent to Axius, all on the terms set forth in this Agreement and the Work Order.

Agreement

Accordingly, Axius and Subvendor agree as follows:

Article 1. Use of this Agreement. The services to be performed under this Agreement will be defined through Work Orders that are signed by an Authorized Representative of Subvendor and an Authorized Representative of Axius. This Agreement provides the basic terms which apply to all Work Orders.

Article 2. Services to be performed. Axius hereby retains Subvendor to perform services for Axius or its Client as set forth in the Work Order attached hereto and any additional Work Order that may be entered into in the future prior to the termination of this agreement, and Subvendor agrees to perform such services utilizing the Subvendor consultant(s) specified in the applicable Work Order.

Article 3. Compensation to Subvendor.

3.1 Fees.

3.1.1 The relevant Work Order shall indicate whether the compensation for Subvendor for the services performed by Subvendor will be based on a fixed fee as set forth in that Work Order or will be based on time and materials in accordance with the rates set forth in that Work Order. Axius will pay Subvendor's invoices, rendered as provided below, within 40 days after Axius's receipt of those invoices and corresponding Client-approved time card.

3.1.2 The terms of this subsection shall apply when compensation is to be on a time-and-materials basis. Unless otherwise specified in the relevant Work Order, Axius shall pay for the time spent by Subvendor in performing services. Subvendor shall invoice Axius in the following form:

- A. Subvendor Invoices to Axius MUST:

- Be on a company letterhead that includes Subvendor Company Name and Address.
- Be weekly in frequency.

B. The following shall also be on the Invoice for EACH consultant currently billing:

- Consultant Name
- Assigned Company (end-client)
- Week ending date –MM/DD/YY – the DD shall be a Saturday
- Hours worked that week
- Hourly rate
- Total amount due

3.1.3 **WARRANTY OF SERVICES** Axius shall submit Subvendor's technical services personnel to client according to the qualifications, experience, and project requirements of the client. It is within Axius's discretion whether to propose such personnel to Client. The work to be performed by the technical services personnel providing services under this Agreement shall be set forth by Client and stated in a Work Order (or similar form). If client chooses to terminate the services of Subvendor's personnel for any reason, including but not limited to unsatisfactory performance, Subvendor will be compensated only for services approved and paid for by Client.

3.2 **Travel Expenses.** All expenses incurred by Subvenders candidates for interviews will be borne by the Subvendor. All expenses related to Subvendor's consultant's travel and temporary living at the regular place of work contemplated by the applicable Work Order shall be the sole responsibility of Subvendor. In the event that a Subvendor consultant is required to travel to a location other than that regular place of work in connection with the provision of services under a Work Order and compensation under that Work Order is to be on a time-and-materials basis, Axius shall reimburse Subvendor for the reasonable expenses incurred for such travel and other reasonable incidental expenses relating to such travel at Subvendor's actual cost, as provided in subsection 3.1.2 of Section 3.1 (Fees) above, provided that the Subvendor has received written approval from the Client for such expenses.

3.3 **Records.** Subvendor shall maintain complete and accurate accounting records to support and document all charges under the Contract Documents. Such records shall be retained for a period of at least two (2) years following completion of the services under the Contract Documents. Axius (or an accounting organization retained by Axius) shall have access to such records upon reasonable notice for purposes of audit during normal business hours, for so long as such records are required to be maintained.

Article 4. Performance of Work.

4.1 **Performance Generally.** Subvendor represents and warrants that each of its consultants who is to perform services under this Agreement possesses the training, skills and

expertise necessary to perform those services in a competent and professional manner. Subvendor represents and warrants to Axius that the services to be provided under this Agreement shall be performed in a professional manner and shall comply with all applicable terms, conditions, covenants, representatives and warranties made by Axius to the Client of which Subvendor is given notice.

- 4.2 Client Agreement Terms. Axius will advise Subvendor of any clauses or provisions in the client Agreement which are additional to or different from those herein and applicable to the services to be provided hereunder.
- 4.3 Ownership of Work Product. Subvendor agrees that all information and data as well as every invention, discovery and improvement (collectively "Work Product") that Subvendor conceives, develops, makes, reduces to practice or acquires in performing contract services under these terms will belong to Client, without further consideration, and with no limitations whatsoever. The client shall own all right, title and interest, including any and all copyrights, patents trademarks, trade secrets and other intellectual property rights to the Work Product. To the extent permitted by law, the Work Product shall be considered a "Work Made For Hire".

Article 5. Confidential Information.

- 5.1 Confidentiality Generally. Subvendor acknowledges that, by the very nature of the services to be performed by Subvendor and / or its consultants to achieve the project for client, Subvendor's consultants may become aware of Axius's and / or client's trade secrets and other confidential information. Subvendor agrees that all such information shall be used by Subvendor and its consultants only to accomplish the project and for no other purpose.
- 5.2 Non-Disclosure, Etc. Subvendor agrees that neither it nor any of its consultants shall in any manner reveal or disseminate any of the information described herein. Subvendor understands that such trade secrets and other confidential information shall include, without limitation, rates of compensation; names, phone numbers, e-mail addresses or other contact information of the Client; all past, present and / or plans, provisions, designs, forms, formats, procedures, methods and other information relating to Client's and / or Axius's technology; technical data, products, patents, copyrights, research and development programs; legal and marketing data and other technical and business information. Subvendor shall return all such information upon the earlier of (a) demand by Axius or its client, or (b) the termination or expiration of the performance of services hereunder.
- 5.3 Certain Exclusions. Despite the foregoing, confidential information does not include information that is:

- 5.3.1 Approved for release or disclosure without restriction by Axius's Authorized Representative in writing;

Initial and Date _____

- 5.3.2 Publicly known or becomes publicly known, so long as it is not through the acts or omissions of Subvendor (or someone under Subvendor's control) that it is or becomes publicly known; or
- 5.3.3 Rightfully received by Subvendor from a third party without restriction and without violation of any agreement.

In addition, the prohibition on disclosure set forth in this Article 5 (Confidential Information) shall not prevent Subvendor from disclosing confidential information to the extent legally required to be disclosed by Subvendor under a requirement of a governmental agency or court of law having jurisdiction, but only if (1) Subvendor provides Axius with prompt notice prior to disclosure so that Axius may seek judicial protection, and (2) Subvendor discloses only that information which, in the reasonable opinion of its counsel, is required to be disclosed.

Article 6. Term and Termination.

- 6.1 Effectiveness. Once executed by both parties, this Agreement shall be effective commencing as of the date specified in the first sentence of this Agreement.
- 6.2 Term of Work Order. The term of any Work Order shall be set forth therein, subject to the termination provisions set forth in this Article, and in no event shall such term exceed the termination and / or expiration of the services to be performed for Client.
- 6.3 Notice of Termination. This Agreement may be terminated at any time by either party upon ten (10) business days written notice, prior to the termination date; provided, however that Axius may terminate upon shorter notice, or no notice, at the Clients request.
- 6.4 Effect of Termination; Survival. If this Agreement is terminated but one or more Work orders remain in effect and are not also terminated, this Agreement shall remain in effect with respect to each of those Work Orders until that particular Work Order is itself terminated or performance under that particular Work Order is completed, unless upon request of the Client, Subvendor's services are no longer required or requested. Notice by Client that the Subvendor's services are no longer requested will lead to immediate termination of this Agreement, and no further payments shall be due.
- 6.5 Effect of Termination, Payments. Upon termination, Axius shall pay contractor for all hours actually performed by Subvendor up to and including the date of termination for which the Client has signed a timecard and for which Subvendor has submitted an invoice and for which Client has paid Axius. Under no circumstances shall Axius be liable to the contractor for incidental, special, or consequential damages arising from the termination of this Agreement prior to the end of the Work Order.

- 6.6 Effect of Termination, Non competition Form Client Services. During the term of Subvendor's performance of services for a Client on behalf of Axius and one year after the termination of the performance of such services, Subvendor agrees that it will not, at the location at which the Subvendor is providing services under this Agreement or at any other office of Client within 100 miles of such office, provide or attempt to provide (or advise others of the opportunity to provide) other than through Axius, directly or indirectly, any services to any Client or any agent, representative, or vendor of Client to which Subvendor is providing or has provided services through Axius. The parties recognize that there may be occasions after the termination of this Agreement in which Subvendor is contacted to supply technical services personnel directly or indirectly to Client. These

occasions include, but are not limited to the following: (1) Client requests candidates directly from Subvendor; (2) requests from other vendors to Client for candidates from Subvendor to perform services for Client; or (3) addition of Subvendor to the Client's "vendor list" (hereafter "New Eligibility Occasions"). Subvendor agreed that, even though a New Eligibility Occasion may arise, it will refuse any request to assign any of its technical services personnel to provide services for Client, directly or indirectly in such restricted location, during the restricted period; provided, however, that Subvendor may comply with such a request by supplying its technical services personnel through Axius.

Article 7. Hiring of Party's Employees: In the event that Subvendor is in violation of this agreement or fails to pay its consultant or Client desires to continue to utilize the services of either party's employee directly or through another vendor, Subvendor shall release its employee from any non-competition agreement its employee may have signed and Subvendor further agrees to relinquish any claim to it's employee's H1-B visa if applicable.

Article 8. Compliance with Laws on use of Alien Workers: If applicable, for each employee provided by the Subvendor to Axius, Subvendor agrees and warrants that it will comply with all laws related to work being performed by alien workers in the United States including, but not limited to, the following:

- 8.1 Subvendor is a United States of America ("USA") corporation. Subvendor's technical services personnel will be employees of such corporation, and such corporation will be their employer. Accordingly, the personnel will be on the payroll of such corporation that maintains copies in the USA of all payroll, wage and hour, and similar records required by the United States Department of Labor.
- 8.2 Subvendor's Sponsored employee must have a valid H-1B visa based on a Labor condition Application ("LCA") validly filed and maintained by Subvendor. For all work performed in the USA, Subvendor's sponsored technical services personnel will be paid the higher of the actual or prevailing wage in accordance with the LCA for such work in the locality where the work is being performed. Subvendor represents that such wage will be properly stated on the LCA required to be filed with the Department of Labor for such employee, and such wage does not and will not include the value of any non-cash or in-kind benefits such as apartment or auto rentals, or any amounts reimbursed to the employee as per diem expenses, or the value of any other such fringe benefits. For each employee under this Agreement, Subvendor will provide a copy of the LCA to Axius.
- 8.3 Subvendor represents that it is responsible for and in control of the payment of wages to its employee(s) under this Agreement, and that all required federal, state and local taxes, whether income, employment, excise or of any other type, will be paid by Subvendor as

the employer of all personnel under this Agreement. In the event that Axius is requested to make payments directly to any entity other than Subvendor, which shall be in the sole discretion of Axius, and if such entity is not a USA corporation, then Subvendor shall ensure that such entity has filed with federal, state and local authorities all documentation and statements required for such entity to receive payments from Axius without any back-up or other withholding by Axius from such payments, and Subvendor will provide Axius with copies of such documentation and statements (e.g., IRS Form 4224).

- 8.4 Subvendor agrees that Axius may require the technical services personnel provided pursuant to this agreement to execute such forms as Axius may request to confirm the representations in this Agreement, including INS Form I09.

8.5 **Audit.** Subvendor hereby agrees that it will maintain work authorization papers and supporting documentation that it has for its personnel for a period of three years following the completion of any assignment pursuant to this Agreement. Such documentation includes but is not limited to a valid and executed I-9 and supporting documentation in addition to a W-4 form for each consultant. Axius and / or its Client reserve the right to audit said documents to verify work authorized status at any time during the assignment and for a period of three year following the end of any assignment.

Article 9. Additional Warranties and Indemnities:

9.1 **Status :**

9.1.1 **Benefits.** Subvendor acknowledges and agrees that it is an independent agent acting on its own account. Subvendor agrees that none of its consultant or other personnel are employees of Axius or its client, or entitled to any benefits provided or rights guaranteed by Axius or its client, or by operation of law, to their respective employees, including but not limited to group insurance, liability insurance, disability insurance, paid vacation, sick leave or other leave, retirement plans, health plans, premium "overtime" pay, severance pay, and the like.

9.1.2 **Taxes:** It is understood and agreed that Axius will make no deductions from fees paid to Subvendor for any federal or state taxes or FICA, FUTA, SDI or SUI. Subvendor agrees that it is responsible for making all required FICA, FUTA, SDI, SUI, Income Tax withholding or other payments relating to its consultants, providing worker's compensation coverage and making premium "overtime" payments.

9.1.3 **Liability:** Subvendor agrees that it shall indemnify and hold Axius and Client harmless from any and all loss resulting from any claim that Subvendor's employees are entitled to the benefits of Client unless such employees reasonably act on representations made by Client, Client's employees or Client's written corporate plans, policies and procedures.

9.2 **Insurance.** Before providing services, Subvendor will obtain for itself and its personnel at its own expense, comprehensive General Liability (GL) insurance coverage for projects covered by this agreement, for limits of liability not less than \$ 1,000,000.00 and, if available under state law, worker's compensation coverage and will name Axius as Additional Insured and provide a copy of the binder, the policy or a certificate of insurance

to Axius prior to start date. Failure by Subvendor to provide this information and maintain such insurance cause payment of invoices to be delayed until Axius's receipt of current information from Subvendor.

Article 10. Liability:

10.1 Status of Consequential Damages, Etc. : In no event shall Subvendor, Axius, Axius's other Subvendor's, or any of their respective employees, representatives or subsidiaries be liable for any consequential, indirect, punitive, incidental or special damages, whether foreseeable or unforeseeable (and whether or not they or anyone else has been advised of the possibility of such damages), whether based upon lost goodwill, lost profits, loss of use of money, loss of data or interruption in its use or availability, stoppage of work, impairment of assets or otherwise arising out of breach of any express or implied warranty, breach of contract, negligence, misrepresentation, strict liability in tort or otherwise, and whether based on any term in any Contract Document, any transaction performed or undertaken under or in connection with any contract document or otherwise.

Article 11. Miscellaneous:

11.1 Notices. : Any notice required or permitted under the Contract Documents shall be in writing and deemed given as indicated when delivered (unless the applicable contract document requires otherwise) by any of the following methods: within three (3) business days after being sent certified U.S. mail, return receipt requested, postage prepaid; upon receipt when sent by hand delivery; or within one (1) business day after being sent by reputable overnight courier, charges prepaid. Notices shall be sent to the following addresses and to the attention of the following individuals (or to such other addresses or to the attention of such other individuals as a party may specify in such a notice to the other party):

11.1.1 In the case of Subvendor:
Attn:

Telephone: Facsimile

11.1.2 In the case of Axius : Axius Technologies Inc
Attn:

Telephone: Facsimile

11.1.3 With a required copy to:
Axius Technologies Inc
Attn: Sumit Panjabi
20610 Quarterpath Trace Circle,
Sterling, VA 20165
Telephone: 703-738-6005 Facsimile: 703-991-0587

11.2 Governing Law; Venue: The Contract Documents shall be governed by and construed in all respects in accordance with the laws of the commonwealth of Virginia without regard to principles of conflicts of laws. The parties agree to the exclusive jurisdiction of the federal



and state courts located in the Country of Montgomery, in the commonwealth of Virginia, for any and all disputes arising under the Contract Documents, to the exclusion of all other federal and state courts.

- 11.3 Handling Inconsistencies between this agreement and Work Order : If there is an inconsistency between the terms of this agreement and the terms of a Work Order, the terms of this agreement shall control over the terms of that Work Order.
- 11.4 Severability. Each Work order is intended to constitute an independent and distinct agreement of the parties, even though each of them shall be construed to incorporate all applicable provisions of this agreement. If any provision of any Contract Document is held by a court of competent jurisdiction to be unenforceable or contrary to law, it shall be modified where practicable to the extent necessary so as to be enforceable (giving effect to the intention of the parties) and the remaining provisions of that Contact Document and all other Contact Documents shall not be affected.
- 11.5 Counterparts. This Agreement may be executed in separate counterparts, which together shall constitute a single instrument.
- 11.6 Authorized Agent. The agent signing below hereby certifies that she is an officer of the corporation and is duly authorized on behalf of Subvendor to enter contracts and to agree to the terms contained herein.

To show their agreement to these terms, Axius and Subvendor, acting through their Authorized Representatives, have signed and delivered this Agreement on the dates specified below but in each case as of the date specified in the first sentence of this Agreement.

SUBVENDOR COMPANY

AXIUS Technologies Inc.

Name:

Signature _____

Title :

Date : _____

Name:

Signature

Title :

Date :