



## **Engineering Service Agreement**

This agreement is entered into as of the last date signed by the parties (the "Effective Date") between EM Engineering Solutions LLC, [whose principal place of residence is at / a United States corporation with its principal place of business at 52377 Aspen Dr, South Lyon, MI, United States, 48178] ("EM ") and [Internal Testing] Test Data Solutions, [whose principal place of residence is at / a United States corporation with its principal place of business at 52377 Aspen Dr, South Lyon, MI, United States, 48178] ("TDS").

The agreement was made for the purpose of establishing the terms, conditions, standards, procedures, rights, and responsibilities held by each Party in the performance of contract engineering services by EM Engineering Solutions LLC.

### **1 Start of Engineering Services**

#### **1.1 EM's Pre-Service Signing Duty**

Before the start of contract engineering services, EM must communicate with TDS addressing the details, deadlines, deliverables, and budget for each deliverable in the statements of work in this agreement. EM, to the best of its ability, must provide an accurate quotation for the performance of contract engineering services related to each statement of work.

#### **1.2 TDS's Pre-Service Signing Duty**

TDS agrees and acknowledges that EM, to the best of its ability, has provided the quotation for the performance of contract engineering services in good faith, using current, proven, and approved design methods for all mechanical and electrical engineering, and/or other analyses, referenced in EM's terms of service, which are incorporated herein by reference. TDS acknowledges that the quotation provided by EM is an estimate for the performance of contract engineering services and is subject to variance by no more than +/- 20%. In the case that the final invoice differs from the agreed variance range of the quotation, EM must send a notice in writing to TDS detailing the reasons for the difference from the quotation variance range before the final invoice is sent to TDS. TDS and EM must come to an agreement on the readjustment of the budget as a result of this difference.

#### **1.3 Security Deposit**

TDS acknowledges that EM, to the best of its ability, has provided a quotation for the performance of contract engineering services necessary to execute the deliverables in this Statement of Work, as such, TDS agrees to place a security deposit of no less than 10% of the



provided quotation's grand total with a maximum of \$5,000.00 to execute this Statement of Work. No contract engineering services will be provided by EM until the Security Deposit Invoice has been fully resolved within the invoicing terms set forth in EM's terms of service, which are incorporated herein by reference. EM will apply the security deposit as a credit towards TDS's final invoice of the performance of contract engineering services in this Statement of Work.

## **2 Terms of Service**

### **2.1 Terms Of Service Applied To This Agreement**

The sole terms of service for contract engineering services to which TDS, with principal places of business in United States, agrees, are set forth in EM's Terms of Service available at <https://emengineeringsolutions.com/terms-of-service> are hereby applied to this agreement. TDS acknowledges that these terms continually update and are automatically applied to this agreement. TDS's continued use of EM's services constitutes acceptance to any modification of these terms therein.

### **2.2 Amendments**

Any other writings pertaining to, but not limited to: requests for proposals, confirmations, purchase orders, or other documents, shall not form a part of the agreement between TDS and EM unless the additional terms are set forth and are in writing signed by EM and TDS in which EM and TDS expressly agree to additional or modified terms and conditions defined in "AMENDMENTS" in this agreement.

## **3 Services**

### **3.1 Deliverables**

EM shall provide TDS with the contract engineering services and products described in the Statements of Work (the deliverables).

### **3.2 Service Types**

EM will to the best of its ability implement design, development, and analysis methods from the engineering disciplines of mechanical, electrical, software, and embedded firmware engineering to perform contract engineering services to develop and manufacture the deliverables. All applicable services are located on EM's website available at <https://emengineeringsolutions.com/solutions>.



### **3.3 Extended Servicing**

EM's methods of contract engineering services are not limited to those defined in this agreement. If TDS requires a specific service not offered by EM, TDS must submit a proposal in writing for EM to perform said contract engineering services. TDS hereby acknowledges the risks involved with the performance of contract engineering services untested by EM. TDS and EM must come to an agreement on the hourly rate for the performance of said contract engineering service, signed by both parties, thereby, submitting the proposal.

## **4 Changes to Services**

### **4.1 Notice of Necessary Changes**

TDS shall promptly notify EM in writing of any change to the deliverables TDS reasonably determines is necessary.

### **4.2 Contents of Notice**

TDS shall include in its notice to EM

1. the particular elements of the deliverables it seeks to change,
2. the reason for the requested change, and
3. the impact, if any, that the requested change will have on
  - i. the [price] [amount],
  - ii. time for [performance / delivery], or
  - iii. any other terms or conditions of this agreement.

### **4.3 Changes Made in Writing**

Any changes to the deliverables must be in writing and signed by each party.

## **5 Design Standards**

EM will perform contract engineering services under the standards for each engineering discipline defined in EM's terms of service, which are incorporated herein by reference.

## **6 Deliverables & Statements of Work**

### **6.1 Standards for Statements of Work**

Statements of Work is the documentation method required to assign all necessary details, quantitative and qualitative, to deliverables to utilize contract engineering services performed by



EM in executing the deliverable. All Statements of Work will be created under the standards of Statements of Work set forth in EM's terms of service, which are incorporated herein by reference.

## **6.2 Standards for Deliverables**

All Deliverables in a Statement of Work are to be created and developed under the standards set forth in EM's terms of service, which are incorporated herein by reference. EM will perform contract engineering services to complete all deliverables in each Statement of Work under current, proven, and approved design methods for all mechanical, electrical, software, and embedded firmware engineering, and/or other analyses set forth in EM's terms of service, which are incorporated herein by reference.

## **6.3 Severability**

Either party may terminate any individual Deliverable or Statement of Work without affecting the remaining agreement or any other Statement of Work or Deliverable.

## **7 Schedule & Scope of Work**

### **7.1 Work Days**

EM is to perform contract engineering services needed to create deliverables defined in each statement of work in this agreement starting from the agreed upon start date and ending on the statement of work execution, on all business days on the hours outlined on EM's website, excluding all US federally recognized holidays. EM must notify and communicate with TDS if EM experiences any conflicts of work for any standard Work Day.

### **7.2 Scope of Work**

EM must adhere to the scope of work document outlined by TDS in accordance to EM's contract engineering design process set forth in EM's terms of service, which are incorporated herein by reference.

## **8 Ownership of Intellectual Property**

TDS reserves the right to all property, physical and intellectual, created only during the performance of contract engineering services while developing the deliverables in the statements of work in this agreement. EM withholds all property developed under this agreement until TDS has paid all bills, invoices, fines, and dues arising from the performance of contract engineering services in this agreement. TDS's failure to pay all outstanding bills, invoices, fines, and dues will



result in TDS forfeiting all property gained during this agreement. EM will then declare this agreement to be in default and assume full ownership of all property. Once all bills, invoices, fines, and dues are paid, transference of ownership of property will occur, set forth in in EM's terms of service, which are incorporated herein by reference.

## **9 Budget**

TDS must provide EM in a clear, concisely written document, each budget that is expected to be adhered to in the agreed upon during the execution of the statements of work in this agreement. TDS's budget must adhere to the guides outlined in EM's terms of service, which are incorporated herein by reference. In return, EM must adhere to all budgets and deadlines TDS has set forth for the performance of contract engineering services necessary to execute the statements of work in this agreement. If EM believes it cannot reasonably stay within budgets provided by TDS, EM must send a proposal to TDS, amending the budget set by TDS to properly achieve the quality and standards needed to produce the deliverables outlined in any agreement.

## **10 Compensation**

All prices are deemed as net, as such, The Agreeing Party shall pay EM's list price for the performance of each contract engineering service, in freely available United States Dollars (USD), as listed on EM's website available at <https://emengineeringsolutions.com/solutions>.

## **11 Payment of Compensation**

EM shall invoice TDS bi-weekly [one [1] Billing Period] for the duration of the performance of contract engineering services. Both Parties agree that the sole terms for invoicing and payment of compensation are set in EM's terms of service, which are incorporated herein by reference.

## **12 Acceptance and Rejection**

### **12.1 Inspection Period**

The Agreeing Party will have 14 Business Days after it receives each deliverable to inspect and test the deliverable to ensure it meets the acceptance criteria outlined in the applicable Statement of Work (the "Inspection Period").

### **12.2 Acceptance**

If in The Agreeing Party's opinion, the deliverable meets the acceptance criteria, The Agreeing Party shall accept the deliverable and notify EM that it is accepting the deliverable.



### **12.3 Deemed Acceptance**

The Agreeing Party will be deemed to have accepted the deliverable if

1. The Agreeing Party fails to notify EM on or before the expiration of the Inspection Period, or
2. if during the Inspection Period, The Agreeing Party uses or attempts to use the deliverable beyond what is necessary for inspection and testing and in a way a reasonable person would consider consistent with The Agreeing Party having accepted the deliverable from EM.

### **12.4 Rejection**

If in The Agreeing Party's opinion, the deliverable fails in a material way to meet the acceptance criteria, The Agreeing Party may reject the deliverable by delivering to EM a written list detailing each failure to satisfy the acceptance criteria.

### **12.5 Opportunity to Cure**

If The Agreeing Party rejects the deliverable, EM will have 3 opportunities to promptly cure each failure in the deliverable and re-deliver the deliverable to The Agreeing Party to re-inspect and test.

### **12.6 Continued Failure to Cure**

If in The Agreeing Party's opinion, EM's corrections fail to satisfy the acceptance criteria 3 times, The Agreeing Party may either

1. terminate this agreement, or
2. adjust the acceptance criteria for that deliverable, and
3. require EM to pay the Adjustment Fee.

### **12.7 Adjustment Fee**

"Adjustment Fee" means 10% of deliverable value with a maximum of \$1500.

### **12.8 Liquidated Damages Statement**

The Agreeing Party acknowledges that

1. the actual damages likely to result from the late delivery of a deliverable, due to EM's failure to comply with the Acceptance Criteria, are difficult to estimate when entering this agreement and would be difficult for The Agreeing Party to prove,



2. and The Agreeing Party agrees that EM's payment of the Adjustment Fees serves to compensate The Agreeing Party for EM's failure to timely deliver a deliverable that complies with its acceptance criteria, not to serve as punishment for any such breach by EM.

## **13 Delivery**

### **13.1 Interpretation**

Contract engineering services delivery dates shall be interpreted as estimated, and in no event shall such dates be construed as falling within the meaning of "time is of the essence" unless otherwise stated in a Statement of Work for a specific deliverable. In such a case, EM will follow its terms of service to complete the deliverable in the assigned work period, working with TDS to amend deadlines should it see them unfit for the service provided.

### **13.2 Liabilities**

EM shall not be held liable to TDS for any costs or damages due to nonperformance under this Agreement set forth in in EM's terms of service, which are incorporated herein by reference.

## **14 Default and Dispute Resolution**

In the event of a work stoppage called by or caused by TDS lasting more than five (5) working days, the contract may be declared by EM to be in default. In the event of a contract default, both parties shall negotiate in good faith to resume work as soon as possible under the standards of dispute resolutions set forth in EM's terms of service, which are incorporated herein by reference. Work shall be resumed as soon as all issues are resolved, and an amended contract is put in place under the principles of EM's terms of service, which are incorporated herein by reference. It is understood that resumption is on a "time available basis", as other commitments may have been made in the interim.

## **15 Term**

This agreement shall commence on the Effective Date and shall continue indefinitely unless terminated earlier in accordance with the terms of this Agreement (the "Term").

## **16 Confidentiality Obligations**

The Parties agree that any confidential information disclosed during the term of this Agreement shall be governed by the terms and conditions defined and set forth in the Mutual Non-Disclosure Agreement dated MM/DD/YYYY, executed between EM Engineering Solutions LLC and [Internal Testing] Test Data Solutions (the "NDA"). The provisions of the NDA shall remain in



full force and effect and apply to all disclosures of confidential information under this Agreement, as if incorporated herein by reference.

## **17 Termination**

Either party may terminate this agreement for any reason on thirty (30) Business Days' notice to the other party.

## **18 Insurance**

Each party shall maintain the insurance necessary to cover its obligations and responsibilities under this agreement in accordance with EM's terms of service, which are incorporated herein by reference, or any amount required by Law, whichever is less.

## **19 Indemnification**

Indemnification procedures and standards are to be carried out in accordance with EM's terms of service, which are incorporated herein by reference.

## **20 Force Majeure**

A party shall not be liable for any failure of or delay in the performance of this agreement under the guidelines set forth in EM's terms of service, which are incorporated herein by reference.

## **21 No Warranty**

Unless otherwise listed in a Statement of Work, all deliverables are provided "as is," with all faults, defects, bugs, and errors per EM's terms of service, which are incorporated herein by reference.

## **22 Severability**

If any part of this agreement is declared unenforceable or invalid, the remainder will continue to be valid and enforceable.

## **23 Assignment and Successors**

1. **Assignment.** Neither party may assign this agreement or any of their rights or obligations under this agreement without the prior written consent of the other party.
2. **Successors.** This agreement benefits and binds the parties and their respective heirs, successors, executors, administrators, legal and personal representatives, and permitted assigns.

## **24 Governing Law**

This agreement shall be governed, construed, and enforced in accordance with the laws of the State of Michigan and the federal laws of the United States applicable therein, without regard to its conflict of laws principles.





## **25 Amendment and Alteration**

If at any time during the continuance of this Agreement, the parties hereto shall deem it necessary or expedient to make any alteration in any article, clause, matter, or thing herein contained for the more advantageous or satisfactory management of the business, they may do so in writing signed by them endorsed on these articles and all such alteration shall be adhered to and have the same effect as if they had been originally embodied in and formed part of this Agreement.

## **26 Entire Agreement**

This agreement represents the entire understanding between the parties with respect to its subject matter and supersedes any previous communication or agreements that may exist.

## **27 Counterparts**

This agreement may be signed in any number of counterparts, each of which is an original and all of which taken together form one single document. Signatures delivered by email in PDF format or facsimile shall be effective.

By their signatures below, the Parties have executed this agreement by their duly authorized representatives.

### **EM Engineering Solutions LLC**

Signee Full Name: Christopher M. Hycki

Title: Founder and Owner-Operator, Head of Mechanical and Electrical Design

Date:

Email: chrishycki@emengineeringsolutions.com

Phone: +1 (248) 916-2598

Billing Address: 52377 Aspen Dr, South Lyon, MI 48178, United States

Signature:

### **[Internal Testing] Test Data Solutions**

Signee Full Name:

Title:

Date:

Email:

Phone:

Billing Address:

Signature: