

## ***Agreement for Consulting Services***

This services agreement (the agreement) is made effective on the date of signed execution, by and between EQ Lead, LLC (EQLead) and the Kenton County Fiscal Court (KCFC) with corporate offices located at 1840 Simon Kenton Way, Covington, KY 41012

THE PARTIES AGREE AS FOLLOWS:

### **Scope of Services**

**1.1** EQLead will provide KCFC, with coaching and consulting services as mutually agreed upon and described in the attached statement of work. All coaching and consulting services to be provided hereunder will be referred to as services. The parties may use this agreement for multiple statements of work, if necessary. Each statement of work must reference this agreement.

**1.2** Statements of work will be written documents setting forth at a minimum:

- a. A complete, sufficiently detailed description of the types of services to be rendered.
- b. The applicable billing rates for the services to be rendered (service fees).
- c. Any additional terms and conditions to which the parties may agree.

**1.3** The parties contemplate that it may be desirable to make changes to the statement(s) of work. Before performing any work associated with any such change, a written change order shall set forth the necessary revisions to the statement(s) of work, and the parties, shall agree in writing that such work constitutes a change from the original statement of work, as amended, and that they further agree to the change provisions set forth in the change order. Each change order shall be numbered serially and executed by EQLead and KCFC.

**1.4** Executive staff of KCFC and EQLead will review the status of the services, statement(s) of work, change orders, invoices and estimates as may be required. EQLead and KCFC agree to execute and maintain copies of any necessary status reports.

### **Obligations**

**2.1** KCFC will provide other support services as both the company and EQLead subsequently agree and identify in the statement of work.

### **Services and Fees and Expenses**

**3.1** KCFC shall be responsible for all service fees as identified in the applicable statement(s) of work (and change orders, as applicable) as those services are provided.

**3.2** EQLead will invoice KCFC for the service fees once per calendar month or as otherwise described within the statement of work. KCFC agrees to remit full payment to accounts payable within two weeks upon its receipt of the invoice.

## **Term and Termination**

**4.1** This agreement shall commence as of the executed agreement date and shall remain in force through the completion of all statement(s) of work or until formally terminated and noticed in writing. This agreement is voluntarily entered into and is at-will. That is, either party is free to terminate the services agreement at will, at any time, with or without cause.

## **Proprietary Rights: Confidential information**

**5.1** EQLead agrees that the work products from the services provided to KCFC shall be owned by KCFC. Nothing contained in this section 5.1 shall be construed as prohibiting EQLead from utilizing in any manner, knowledge and experience of a general nature acquired in the performance of services for KCFC.

**5.2** Confidential information includes all information identified by a disclosing party as proprietary and confidential, which confidential information shall remain the sole property of the disclosing party unless the ownership of such confidential information is otherwise expressly set forth in the agreement. Items will not be considered confidential information if: (a) available to public other than by a breach of an agreement by the recipient; (b) rightfully received from a third party not in breach of any obligation of any confidentiality; (c) independently developed by one party without access to the confidential information of the other; or (d) rightly known to the recipient at the time of disclosure as verified by its written records. EQ-i 2.0 assessment results and individual coaching notes are considered proprietary and shall remain the property of EQLead.

**5.3** Each party agrees that it shall not use for any purpose or disclose to any third party any confidential information of the other party without the express written consent of the other party. Each party agrees to safeguard the confidential information of the other party against use or disclosure other than as authorized by or pursuant to this agreement through measures, and exercising a degree of care, which are at least as protective as those, EQLead or KCFC, as the case may be, exercises in safeguarding the confidentiality of its own proprietary information, but no less than a reasonable degree of care under the circumstances. Each party shall permit access to the confidential information of the other party only to those individuals (a) who have entered into a written nondisclosure agreement with the other party on terms equally as restrictive as those set forth herein, and (b) who require access in performance of their duties to the other party in connection with the other party's rights under this agreement.

**5.4** Each party acknowledges that the wrongful use or disclosure of confidential information of the other party may result in irreparable harm for which there will be no adequate remedy at law. In the event of a breach by the other party or any of its officers, employees or agents of its or their obligations under this Section 5, the non-breaching party may immediately terminate this agreement without liability to the other party and may bring an appropriate legal action to enjoin such breach and shall be entitled to recover from the breaching party reasonable legal fees and cost in addition to other appropriate relief.

## **Warranties**

**6.1** EQLead warrants that the services to be provided under this agreement shall be performed in a professional manner conforming to generally accepted industry standards and practices. KCFC agrees that EQLead's sole and exclusive obligation with respect to the services covered by this limited warranty

shall be, at EQLead's sole discretion, to correct the nonconformity or to refund the service fees paid for the affected executive consulting services.

## **General Provisions**

**7.1** The relationship of EQLead to that of KCFC is of an independent contractor. Personnel of both parties are neither agents nor employees of the other party for federal tax purposes or any other purpose whatsoever and are not entitled to any employee benefits of the other party.

**7.2** No delay, failure, or default in performance of any obligation by either party, excepting all obligations to make payments hereunder, shall constitute a breach of this agreement to the extent caused by force majeure.

**7.3** Any assignment in violation of these terms is void.

**7.4** Any controversy or claim arising out of or relating to this agreement, or the breach thereof, shall be conclusively resolved through binding arbitration under the Commercial Arbitration Rules of the American Arbitration Association. Judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. Each party shall bear its own costs and attorney fees, unless the arbitration award specifically provides otherwise.

**7.5** All communications between the parties with respect to any of the provisions of this agreement shall be in writing, and shall be sent by personal delivery, or e-mail to KCFC or to EQLead as set forth in the preamble of this agreement, until such time as either party provided the other not less than ten (10) days prior written notice of a change of address in accordance with these provisions.

**7.6** The validity of this agreement and the rights, obligations and relations of the parties hereunder shall be construed and determined under and in accordance with the laws of the Commonwealth of Kentucky; provided, however, that if any provision of the agreement is determined by a court of competent jurisdiction to be in violation of any applicable law or otherwise invalid or unenforceable, such provision shall to such extent as it shall be determined to be illegal, invalid or unenforceable under such law be deemed null and void, but this agreement shall otherwise remain in full force. After arbitration, as specified in Section 7.4, any suit to enforce any provision of this agreement, or any right, remedy or other matter arising from the arbitration, will be brought exclusively in the state or federal courts located in Kentucky. EQLead and KCFC agree and consent to the venue in and to the in-person jurisdiction of the aforementioned courts.

**7.7** Any modification or amendment of any provision of this agreement must be in writing and bear the signature of the duly authorized representatives of both parties. The failure of any party to enforce any right it is granted herein, or to require the performance by the other party hereto of any provision of this agreement, or the waiver by any party of any breach of this agreement, shall not prevent a subsequent exercise or enforcement of such provisions or be deemed a waiver of any subsequent breach of this agreement. All provisions of this agreement which by their own terms take effect upon the termination of this agreement or by their nature survive termination (including without limitation the provisions of Sections 3, 5, 6, 7) shall survive such termination.

**7.8** This agreement, all attached schedules and all other agreements referred to herein or to be delivered by the parties pursuant hereto, represents the entire understanding and agreement between

the parties with respect to the subject matter hereof, and merges all prior discussions between them and supersedes and replaces any and every other agreement or understanding which may have existed between the parties to the extent that any such agreement or understanding relates to providing services to KCFC. KCFC hereby acknowledges that it has not reasonable relied on any other representation or statement that is not contained in this agreement or made by a person or entity other than EQLead. To the extent, if any, that the terms and conditions of KCFC's orders or other correspondence are inconsistent with this agreement, this agreement shall control.

**7.9** Nothing contained in any company documents shall in any way modify this at-will policy, and the at-will policy cannot be modified in any way by oral or written representation made by anyone employed by KCFC. Upon termination of this agreement, EQLead must return all documentation, equipment or other materials provided by KCFC during the term of this agreement.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed by their duly authorized representatives as of the agreement date first above written.

**Employer Information:**

Representative name:

Kenton County Fiscal Court  
Joe Shriver, County Administrator

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

**Consultant/Contractor Information:**

David A. Rust, Ed.D.

EQ Lead, LLC

Signature: \_\_\_\_\_

Date: \_\_\_\_\_