

## EDITORIAL SERVICES AGREEMENT

This Agreement is made and entered into by and between The Institute of Electrical and Electronics Engineers, Incorporated (“IEEE”), a New York not-for-profit corporation with offices at 445 Hoes Lane, Piscataway, New Jersey 08855-1331 and **[editor name, description location]** (“Editor”).

### RECITALS

WHEREAS, IEEE is a not-for-profit, educational and scientific organization of more than 360,000 individual members engaged in technical publishing, the conducting of conferences and related scientific and educational activities;

WHEREAS, IEEE owns and publishes the peer-review publication identified in Schedule A (the “Publication”);

WHEREAS, Editor has the qualifications to serve as an editor for the Publication and IEEE wishes for Editor to serve as an editor for the Publication;

NOW, THEREFORE, in consideration of the premises and mutual covenants contained in this Agreement and other good and valuable consideration, the parties agree as follows:

### 1. EDITOR’S RESPONSIBILITIES

1.1 Editor shall be responsible for providing editorial services for the Publication as specified in Schedule A (the “Services”).

1.2 Editor shall perform Services in a manner that is consistent with the Operations Manual of the IEEE Publication Products and Services Board (the “Operations Manual”) and in a manner that will ensure the consistently high quality of all published contributions. Editor is responsible for obtaining and reviewing the Operations Manual at: <http://www.ieee.org/web/publications/pubtoolsandpolicyinfo/>.

1.3 Editor shall adhere to the operating budget for the Publication as determined annually by the IEEE organizational unit identified in Schedule A as the sponsor of the Publication.

### 2. OVERSIGHT BY IEEE

Notwithstanding anything to the contrary herein, Editor acknowledges and agrees that IEEE has ultimate responsibility for its publications and that IEEE retains the right to make changes to, delete from, add to or modify the Publication in any manner IEEE may deem desirable in accordance with the Operations Manual.

### 3. PAYMENT

IEEE shall provide **[amount]** in funding to Editor for performance of the Services. IEEE shall not be responsible for any other payments to Editor unless such payments have been set forth in Schedule A or pre-approved in writing by IEEE.

#### **4. INTELLECTUAL PROPERTY RIGHTS**

4.1 Editor acknowledges and agrees that IEEE is the owner of the Publication and retains all rights, title and interest in the Publication, including, but not limited to, all trademarks and copyrights.

4.2 To the extent that any of the Services result in Editor's creation of any works, including, but not limited to, textual, audio, visual or audiovisual works and source code ("Works"), each such Work shall be deemed specially commissioned by IEEE and shall be considered a "work made for hire" as that term is defined in the United States Copyright Act. Editor acknowledges and agrees that IEEE is and shall be considered the author of each such Work and shall at all times be the sole owner of all rights in and to each such Work. IEEE shall also have the exclusive right (but not the obligation) to obtain copyright registration of, or relating to, any and all such Works in the name of IEEE, or in such other name or names as IEEE may elect, and to obtain renewals thereof. If, for any reason, it is determined that any such Works are not works made for hire, then this Agreement shall be deemed an assignment to IEEE of all rights in and to such Works, without any further compensation to Editor. Editor agrees to execute and deliver to IEEE, promptly upon request, any documents that IEEE may reasonably request to evidence IEEE's exclusive rights as provided above and to enable or assist IEEE to obtain and protect such rights.

#### **5. REPRESENTATIONS, WARRANTIES AND INDEMNIFICATION**

5.1 Editor represents and warrants that (a) all Services will be rendered using sound, professional practices in a competent and professional manner and in accordance with the Operations Manual; (b) no Services rendered or deliverables created by Editor under this Agreement will, with the knowledge of Editor, violate the copyright, patent, trademark, trade secret or other right of any third party; (c) Editor has disclosed to IEEE any and all other obligations, arrangements, agreements or interests of Editor that may constitute or give rise to an actual or apparent conflict of interest on the part of Editor given the nature and terms of this Agreement; and (d) Editor is not now under any obligation of a contractual or other nature to any person, firm, corporation or other entity that is inconsistent or in conflict with this Agreement, or that would prevent, limit or impair the execution of this Agreement or the performance by Editor of Editor's obligations hereunder.

5.2 IEEE agrees, to the extent permitted by law, to indemnify Editor from and against any and all claims, liabilities and/or expenses (including attorneys' fees and expenses) incurred by Editor (collectively, "Losses") that arise from Editor's performance of the Services to the same extent and subject to the same conditions and limitations as a volunteer or employee of a duly authorized IEEE activity is entitled to indemnification pursuant to IEEE Bylaw I-300.3.

5.3 Editor shall give prompt written notice to IEEE of any Loss or threat of Loss and cooperate fully with IEEE in the defense or settlement of such Loss. IEEE shall have sole and complete control over the defense or settlement of any Loss.

## 6. CONFIDENTIAL INFORMATION

6.1 “Confidential Information” as used herein means information identified by either party as “Confidential” and/or “Proprietary,” or information that, under the circumstances, ought reasonably be treated as confidential and/or proprietary. “Confidential Information” shall include, but not be limited to, technical information, market research, membership data, analyses, studies, developments, processes, present and/or future product information, pricing information, business plans and other documents, information and materials that contain or reflect such information.

6.2 Neither party may disclose to a third party Confidential Information of the other party. The receiving party shall use the same degree of care as it uses to protect the confidentiality of its own confidential information of like nature, but no less than a reasonable degree of care, to maintain in confidence the Confidential Information of the disclosing party. The foregoing obligations shall not apply to any Confidential Information that: (a) can be demonstrated to have been publicly known at the time of the disclosing party’s disclosure of such Confidential Information to the receiving party; (b) becomes part of the public domain or publicly known, by publication or otherwise, not due to any unauthorized act or omission by the receiving party; (c) can be demonstrated to have been independently developed or acquired by the receiving party without reference to or reliance upon such Confidential Information, as evidenced by the receiving party’s written records; (d) is provided to the receiving party by a third party who is under no obligation to the disclosing party to keep the information confidential; (e) is required to be disclosed by law, provided that the receiving party takes reasonable and lawful actions to avoid and/or minimize such disclosure and promptly notifies the disclosing party so that the disclosing party may take lawful actions to avoid and/or minimize such disclosure; (f) was in the receiving party’s possession on a non-confidential basis prior to receipt from the disclosing party; or (g) is expressly approved for release by written authorization of the disclosing party.

6.3 Unless otherwise expressly authorized by the disclosing party, the terms and conditions of this Section 6 shall apply during the duration of this Agreement and for a period of two (2) years thereafter.

## 7. TERM AND TERMINATION

7.1 The term of this Agreement shall be from **[date]** through **[date]**, unless sooner terminated pursuant to the provisions herein.

7.2 Notwithstanding anything to the contrary herein, this Agreement may be terminated: (a) by the non-breaching party upon the occurrence of a material breach of the other party’s obligations under this Agreement, which breach is not cured within thirty (30) days after receipt of written notice of breach from the non-breaching party; (b) by IEEE upon thirty (30) days written notice.

7.3 Notwithstanding the termination of this Agreement for any reason, neither party shall be relieved of any duty, obligation, debt or liability that arose or accrued prior to the termination of this Agreement.

7.4 Upon termination of this Agreement for any reason, Editor shall promptly: (a) return to IEEE all materials provided by IEEE to Editor under this Agreement; and (b) deliver to IEEE all deliverables and portions thereof created under this Agreement.

## 8. RELATIONSHIP OF PARTIES

8.1 Editor shall maintain offices separate from those of IEEE. In rendering the Services, Editor shall be acting as an independent contractor and not as an employee or agent of IEEE. Editor shall have no claims or rights to receive or participate in any employee benefit plans or arrangements of IEEE. As an independent contractor, Editor shall have no authority, express or implied, to commit or obligate IEEE in any manner whatsoever, except as is necessary and proper to carry out the Services or as set forth from time to time in writing by an authorized representative of IEEE, which authorization may be general or specific. Nothing contained in this Agreement shall be construed or applied to create a partnership or joint venture. Editor shall be responsible for the payment of all federal, state and local taxes payable with respect to all amounts paid to Editor under this Agreement; provided, however, that if IEEE is determined to be liable for collection and/or remittance of any such taxes, Editor shall immediately reimburse IEEE for all such payments made by IEEE.

8.2 Except for the funding and other amounts set forth in Section 3, Editor shall bear all expenses incurred in connection with his or her rendering of the Services.

## 9. MISCELLANEOUS

9.1 This Agreement, including any schedules attached hereto, constitutes the entire agreement between the parties and supersedes any and all prior written or oral promises or representations concerning the subject matter hereof. No amendments to or modifications of this Agreement shall be binding upon either party unless in writing signed by both parties.

9.2 Neither the waiver by either party hereto of any breach of or default under any of the provisions of this Agreement nor the failure to exercise any rights hereunder shall be construed as a waiver of any subsequent breach or default or as a waiver of any such rights or provisions hereunder.

9.3 If any part of this Agreement shall be held to be invalid or unenforceable under applicable law, such part shall be ineffective to the extent of such invalidity or unenforceability only, without in any way affecting the remaining parts of this Agreement.

9.4 All notices, consents and other communications hereunder shall be made in writing, by mail or courier, with verified receipt, to the addressees designated below:

**[IEEE designee; address]**

**IEEE Contract Administration, 445 Hoes Lane, Piscataway, NJ 08854**

**[Editor designee; address]**

9.5 This Agreement shall be governed by and construed in accordance with the laws of the United States of America and the State of New York, without regard to conflicts of laws principles. All disputes and/or claims arising under this Agreement shall be brought before a single arbitrator knowledgeable about editorial services agreements pursuant to the Commercial Arbitration Rules of the American Arbitration Association then in effect. All proceedings shall be conducted in New York, New York in the English language. Notwithstanding the foregoing, either party may seek immediate injunctive relief from any court of competent jurisdiction to protect its proprietary rights.

9.6 Any prevention of or delay in either party's performance hereunder due to labor disputes, acts of God, governmental restrictions, enemy or hostile governmental action, fire or other casualty or other causes beyond such party's control shall excuse such party's performance of its obligations hereunder for a period equal to the duration of any such prevention or delay.

9.7 This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns. Neither party may assign this Agreement or its rights or duties hereunder without the prior written consent of the other party, which consent shall not unreasonably be withheld.

9.8 The provisions of this Agreement that should by their nature survive termination of this Agreement shall survive such termination, including, but not limited to, Sections 4, 5, 6 7.3, 7.4, 8 and 9.

9.9 This Agreement may be executed in one or more counterparts, each of which when so executed and delivered shall be deemed an original, but all of which together shall constitute one and the same instrument.

**THE INSTITUTE OF ELECTRICAL AND  
ELECTRONICS ENGINEERS,  
INCORPORATED**

**[EDITOR]**

By: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

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

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

**SCHEDULE A**

**RESPONSIBILITIES OF EDITOR**

- The Editor is: **[insert name]**
  - The Editor's title is:  Editor-in-Chief;  Associate Editor;  Special Issue Editor
- The Publication is: **[insert name of publication]**
  - It is a (check one)  peer-reviewed journal,  magazine;  newsletter
- Sponsoring IEEE Organizational Unit(s): **[insert name(s)]**
  - Authorized supervising officer of Sponsoring OU: **[insert name (typically vp publications)]**

Editor is to provide the following editorial services (check all that apply):

<input type="checkbox"/> Prepare editorial content sufficient for <b>[insert number]</b> of issues annually, totaling <b>[insert number]</b> of pages annually	<input type="checkbox"/> Prepare editorial content in a timely manner so that all issues are finished no later than <b>[insert number]</b> of weeks after the scheduled issue date	<input type="checkbox"/> Appoint up to <b>[insert number]</b> associate editors consistent with procedures of sponsoring OU and supervise their work so that it is consistent with the Operations Manual
<input type="checkbox"/> Prepare original scholarly research articles for publication by selecting from articles submitted	<input type="checkbox"/> Appoint members of the editorial advisory board consistent with procedures of sponsoring OU and hold an annual meeting of that group	<input type="checkbox"/> Recruit editors to coordinate special issues and supervise their work so that it is consistent with this Agreement
<input type="checkbox"/> Write or otherwise obtain articles that introduce the contents of each issue	<input type="checkbox"/> Write or otherwise obtain articles about activities of the sponsoring OU	<input type="checkbox"/> Write or otherwise obtain articles about industry news, including events and new product introductions
<input type="checkbox"/> Provide clerical support for the Editor's office	<input type="checkbox"/> Hire and supervise the work of paid freelance writers	<input type="checkbox"/> Recruit and supervise the work of unpaid volunteer contributors
<input type="checkbox"/> Manage peer review process	<input type="checkbox"/> Arrange for illustrations to be obtained for articles	<input type="checkbox"/> Create layout and prepare finished pages for publication

IEEE is to provide the following editorial services (check all that apply):

<input type="checkbox"/> Peer review system (Manuscript Central)	<input type="checkbox"/> Clerical support for Editor's office	<input type="checkbox"/> Cost for high-speed internet connection at rate not to exceed <b>[insert dollar value]</b> per month
<input type="checkbox"/> Editing services through the IEEE Publications Dept.	<input type="checkbox"/> Production services through the IEEE Publications Dept.	<input type="checkbox"/> Cost for travel up to <b>[insert dollar value]</b> per year
<input type="checkbox"/> Editing services through <b>[insert description of alternative]</b>	<input type="checkbox"/> Production services through <b>[insert description of alternative]</b>	<input type="checkbox"/> etc.
<input type="checkbox"/> etc.	<input type="checkbox"/> etc.	<input type="checkbox"/> etc.

**THE INSTITUTE OF ELECTRICAL AND ELECTRONICS ENGINEERS, INCORPORATED**

**[EDITOR]**

By: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

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

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

**SCHEDULE B: STATEMENT OF WORK NO. 1**

**1. DESCRIPTION OF WORK**

- Detailed description of all services to be provided by Supplier
- Detailed description of all deliverables to be provided by Supplier
- Acceptance criteria
- Schedule for performance

**2. IEEE AND THIRD PARTY RESPONSIBILITIES**

- Detailed description of all services to be provided by the IEEE and third party
- Detailed description of all deliverables to be provided by the IEEE and third party

**3. FEES AND PAYMENT SCHEDULE**

**THE INSTITUTE OF ELECTRICAL AND  
ELECTRONICS ENGINEERS,  
INCORPORATED**

By: \_\_\_\_\_

Title: \_\_\_\_\_

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

**[EDITOR]**

By: \_\_\_\_\_

Title: \_\_\_\_\_

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