

WINSTON-SALEM STATE UNIVERSITY

PROFESSIONAL SERVICES AGREEMENT

This Professional Services Agreement (“Agreement”) is made as of the date of last signature below (the “Effective Date”) by and between Winston-Salem State University (the "University") and **Enter Name of Company / Contractor / Individual Contractor** ("Contractor"). The University and Contractor may be referenced collectively in this Agreement as the Parties or each individually as a Party.

WHEREAS, Contractor has submitted to the University a proposal for the performance of certain services; and,

WHEREAS, the University desires to enter into an agreement with Contractor for the performance of these services.

NOW, THEREFORE, in exchange of the mutual promises contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the University and Contractor agree as follows:

1. **SCOPE OF SERVICES.** Contractor agrees to supply the University with the services described in Exhibit A (the “Services”), attached hereto and incorporated by reference as if fully set forth herein.
2. **TERM.** The term of this Agreement shall commence on the Effective Date and all Services shall be completed by **Enter End Date of Services** **Enter End Time of Services** **Enter Time Zone** (“Term”).
3. **PAYMENT AND EXPENSES.** In consideration for Contractor’s Services, the University shall compensate Contractor as detailed in Exhibit B (the “Compensation”). The University's payment terms are Net 30 after receipt of an accurately itemized invoice or acceptance of goods and or services, whichever is later, unless discounted payment terms are negotiated and stated in Exhibit B. The itemized invoice must be submitted to WSSU Disbursement Services via email, acctpayablestaff@wssu.edu, or mail to 601 S. Martin Luther King Jr. Drive, Winston-Salem, NC 27110.

Contractor is responsible for all travel, meals, lodging, and such other expenses as Contractor may incur in the fulfillment of this Agreement, unless otherwise specified in Exhibit B. Payment of compensation specified in this Agreement is dependent upon and subject to the allocation, appropriation or availability of funds to the University for the purpose set forth in this Agreement.

4. **TAX WITHHOLDING.** Contractor acknowledges and agrees that under North Carolina law non-resident (out-of-state) Contractors are subject to a compensation

withholding assessment amounting to four percent (4%) of any annual compensation greater than \$1,500.00 for the following services: a performance; an entertainment or athletic event; a speech; the creation of a film, radio, or television program.

5. **CONTRACTOR'S OBLIGATIONS.**

- A. **Key Personnel.** Contractor shall not substitute key personnel assigned to the performance of this Agreement without the prior written approval of the University. Key personnel are set forth in Exhibit A.
- B. **Care of Property.** Contractor shall be responsible for the proper custody and care of any property furnished by the University to Contractor for use in connection with the provision of Services, and Contractor shall reimburse the University for loss or damage to any such property.
- C. **Subcontracting, Assignment, and Transfer Prohibited.** Due to Contractor's unique abilities, this Agreement is for personal services and Contractor shall not subcontract, assign, or transfer any interest in this Agreement without prior written approval of the University. Contractor shall remain responsible for all obligations under this Agreement.
- D. **Workmanship and Quality of Services.** Contractor shall perform the Services in a workmanlike and professional manner, to the reasonable satisfaction of the University, that conforms with the scope of work described in Exhibit A and all prevailing industry, commercial, academic, and professional standards.
- E. **Compliance with Employment Regulations.** Contractor shall comply with all federal and state requirements concerning equal opportunity and non-discrimination in employment and shall treat all employees equally without regard to their age, color, disability, gender identity, genetic information, national origin, race, religion, sex (including pregnancy), sexual orientation, or veteran status.
- F. **Compliance with Applicable Law.** Contractor shall comply with all federal, state, and local laws, ordinances, codes, rules, regulations, and licensing requirements applicable to the conduct of its business and the provision of the Services. If Contractor will have access to student data, then Contractor agrees herein the University is an educational institution subject to the Family Educational Rights and Privacy Act ("FERPA"), 20 U.S.C. Section 1232[g], et seq., and that in the performance of its work hereunder, it acknowledges that it will have access to student information. Contractor warrants and represents that it (i) is familiar with the requirements of FERPA and the United States Department of Education regulations promulgated thereunder, (ii) will not use or allow access to personally identifiable information from education records, except in accordance with the requirements established by the University; (iii) will not use education records for any purpose other than the purposes contracted hereunder; and (iv) shall ensure

compliance with such requirements by itself and any of its contractors or sub-contractors.

6. INTELLECTUAL PROPERTY AND COPYRIGHT.

- A. All intellectual property, including but not limited to, patentable inventions, patentable plants, novel plant varieties, copyrightable works, mask works, trademarks, service marks and trade secrets invented, developed, created or discovered by Contractor in performance of this Agreement shall be the property of the University. Notwithstanding the foregoing, Contractor shall retain ownership of all intellectual property created by the Contractor prior to execution of this Agreement (“Pre-existing IP”) and any improvements or modifications of Pre-existing IP created pursuant to this Agreement and Contractor hereby grants the University an unrestricted, irrevocable, royalty free right to use such Pre-existing IP to the extent necessary to use the Services or any deliverables provided hereunder.
- B. Copyright in and to any copyrightable work, including, but not limited to, copy, art, negatives, photographs, designs, text, software, or documentation created as part of Contractor’s provision of Services shall vest in the University. Works of authorship and contributions to works of authorship created by Contractor in connection with its provision of Services are hereby agreed to be “works made for hire” within the meaning of 17 U.S.C. 201. However, if the University is not able to obtain copyright ownership under the statutory provisions for “works made for hire,” then Contractor hereby assigns to the University all right, title, and interest in such works and contributions.
- C. Contractor agrees to provide the University with any and all reasonable assistance which the University may require to file patent applications, to obtain copyright registrations, or to perfect its title in any such inventions or works, including the execution of any documents submitted by the University.
- D. Contractor warrants that its Services do not infringe the copyright of others and agrees to release, discharge and hold harmless the University, its employees and agents, all persons acting under its authority, and those for whom it is acting, from all claims, causes of action and liability of any kind, in law or equity, based upon or arising out of the Services or this Agreement including, without limitation, claims of libel, slander, invasion of privacy, right of publicity, defamation, trademark infringement, and copyright infringement.

7. CONFIDENTIAL INFORMATION.

- A. Contractor acknowledges that in connection with Contractor’s Services, the University, another governmental agency, university, or a company may disclose to Contractor confidential and proprietary information and trade secrets, and that the

Contractor may also create such information within the scope and in the course of performing the Services ("Confidential Information"). Such Confidential Information may include, but is not limited to, research data, notebooks, drawings, technology, know-how, marketing plans, business plans, and any other information the disclosure of which could cause competitive harm to the owner.

Notwithstanding the above, Confidential Information shall not include any information that: (i) was at the time of disclosure part of the public domain by publication or otherwise; (ii) became part of the public domain after disclosure to Contractor by publication or otherwise, except by breach of this Agreement; (iii) was already lawfully in Contractor's possession at the time it was received under this Agreement; (iv) was lawfully received from a third party who was under no obligation of confidentiality; (v) was independently developed by Contractor without reference to Confidential Information; or (vi) is required to be disclosed by law, regulation or judicial process.

B. Contractor agrees that during the Term of this Agreement and for a period of five (5) years thereafter, Contractor will not disclose, disseminate, publicly divulge, or publish any Confidential Information without the owner's written consent. Further, the Contractor will not use the Confidential Information for any purpose other than this Agreement.

C. Upon termination of the Agreement, all records, drawings, notebooks and other documents pertaining to Confidential Information, whether prepared by the Contractor or others, shall be returned to the University or the owner.

8. **WAIVER OF PERFORMANCE BOND.** Because satisfactory performance is required prior to payment under this contract, a performance bond otherwise required of Contractor by regulations of the State of North Carolina is waived.
9. **BACKGROUND CHECK.** Contractor is responsible for the performance of all individuals performing Services under this Agreement. Prior to commencing any Services, Contractor will at its expense (a) provide WSSU with a list ("List") of all individuals who may be assigned to perform Services, and (b) have an appropriate criminal background screening performed in line with WSSU standards for employment, concerning each individual. Contractor will not knowingly assign any individual to provide Services who has a history of unacceptable criminal conduct, including violent or sexual offenses. Contractor will update the List each time there is a change in the individuals assigned to perform Services. In addition, Contractor shall not tolerate any prohibited behavior on the jobsite and shall immediately remove from the jobsite any direct or indirect employee who is found to be engaging in any prohibited behavior.
10. **INSURANCE.** Without limiting or diminishing the Contractor's obligation to indemnify or hold the Winston-Salem State University and the State of North Carolina harmless, Contractor shall procure and maintain or cause to be maintained, at its sole cost and expense, the following insurance coverages as may be applicable during the term of this Agreement. As respects to the insurance section only, University herein

refers to the Winston-Salem State University, and its officers, board of trustees, employees, elected or appointed officials, agents or representatives as Additional Insureds.

- A. **Workers' Compensation:** If the Contractor has employees as defined by the State of North Carolina, the Contractor shall maintain statutory Workers' Compensation Insurance (Coverage A) as prescribed by the laws of the State of North Carolina. Policy shall include Employers' Liability (Coverage B) including Occupational Disease with limits not less than \$1,000,000 per person per accident. The policy shall be endorsed to waive subrogation in favor of the University and State of North Carolina.
- B. **Commercial General Liability:** Commercial General Liability insurance coverage, including but not limited to, premises liability, unmodified contractual liability, products and completed operations liability, personal and advertising injury, and cross liability coverage, covering claims which may arise from or out of the University's performance of its obligations hereunder. Policy shall name the University as Additional Insured. Policy's limit of liability shall not be less than \$1,000,000 per occurrence combined single limit. If such insurance contains a general aggregate limit, it shall apply separately to this agreement or be no less than two (2) times the occurrence limit.
- C. **Vehicle Liability:** If vehicles or mobile equipment are used in the performance of the obligations under this Agreement, then Contractor shall maintain liability insurance for all owned, non-owned or hired vehicles so used in an amount not less than \$1,000,000 per occurrence combined single limit. If such insurance contains a general aggregate limit, it shall apply separately to this agreement or be no less than two (2) times the occurrence limit. Policy shall name the University as Additional Insureds.
- D. **Professional Liability:** If Contractor is providing professional services (including but not limited engineering, doctor, or lawyer services), Contractor shall maintain Professional Liability Insurance providing coverage for the Contractor's performance of work included within this Agreement, with a limit of liability of not less than \$1,000,000 per occurrence and \$2,000,000 annual aggregate. If Contractor's Professional Liability Insurance is written on a claims made basis rather than an occurrence basis, such insurance shall continue through the term of this Agreement and Contractor shall purchase at his sole expense either 1) an Extended Reporting Endorsement (also, known as Tail Coverage); or 2) Prior Dates Coverage from new insurer with a retroactive date back to the date of, or prior to, the inception of this Agreement; or 3) demonstrate through Certificates of Insurance that Contractor has Maintained continuous coverage with the same or original insurer. Coverage provided under items; 1), 2), or 3) will continue as long as the law allows.

E. Insurance Requirements for IT Contractor Services: Contractor shall procure and maintain for the duration of the contract insurance against claims for injuries to person or damages to property which may arise from or in connection with the performance of the work hereunder by the Contractor, its agents, representatives, or employees. Contractor shall procure and maintain for the duration of the contract insurance claims arising out of their services and including, but not limited to loss, damage, theft or other misuse of data, infringement of intellectual property, invasion of privacy and breach of data. Cyber Liability Insurance, with limits not less than \$2,000,000 per occurrence or claim, \$2,000,000 aggregate. Coverage shall be sufficiently broad to respond to the duties and obligations as is undertaken by Contractor in this agreement and shall include, but not limited to, claims involving infringement of intellectual property, including but not limited to infringement of copyright, trademark, trade dress, invasion of privacy violations, information theft, damage to or destruction of electronic information, release of private information, alteration of electronic information, extortion and network security. The policy shall provide coverage for breach response costs as well as regulatory fines and penalties as well as credit monitoring expenses with limits sufficient to respond to these obligations. If the Contractor maintains broader coverage and/or higher limits than the minimums shown above, the University requires and shall be entitled to the broader coverage and/or higher limits maintained by the Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the University.

F. Insurance Requirements for Aviation Services Including Unmanned Aircraft's (Drones): Coverage shall be at least as broad as:

- 1) Aviation Liability Insurance on an "occurrence" basis, including products and completed operations, property damage, bodily injury with limits no less than \$1,000,000 per occurrence, and \$2,000,000 in the aggregate. This coverage may also be provided by endorsement to a Commercial General Liability policy. In that event then:
- 2) Commercial General Liability: Insurance Services Office Form CG 00 01 covering CGL on an "occurrence" basis, including products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than \$2,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location (ISO CG 25 03 or 25 04) or the general aggregate limit shall be twice the required occurrence limit.
- 3) If the owner/operator of the unmanned aircraft maintains broader coverage and/or higher limits than the minimums shown above, the University requires and shall be entitled to the broader coverage and/or higher limits maintained by the owner/operator. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the University.

G. General Insurance Provisions - All lines:

- 1) Any insurance carrier providing insurance coverage hereunder shall be admitted to the State of North Carolina and have an A M BEST rating of not less than A:

VIII (A:8) unless such requirements are waived, in writing, by the University risk manager. If the University's risk manager waives a requirement for a particular insurer such waiver is only valid for that specific insurer and only for one policy term.

- 2) The Contractor must declare its insurance self-insured retention for each coverage required herein. If any such self-insured retention exceed \$500,000 per occurrence each such retention shall have the prior written consent of the University's risk manager before the commencement of operations under this Agreement. Upon notification of self-insured retention unacceptable to the University, and at the election of the University's risk manager, Contractor's carriers shall either; 1) reduce or eliminate such self-insured retention as respects this Agreement with the University, or 2) procure a bond which guarantees payment of losses and related investigations, claims administration, and defense costs and expenses.
- 3) Contractor shall cause Contractor's insurance carrier(s) to furnish the Winston-Salem State University with either 1) a properly executed original Certificate(s) of Insurance and certified original copies of Endorsements effecting coverage as required herein, and 2) if requested to do so orally or in writing by the University's risk manager, provide original certified copies of policies including all endorsements and all attachments thereto, showing such insurance is in full force and effect. Further, said certificate(s) and policies of insurance shall contain the covenant of the insurance carrier(s) that a minimum of thirty (30) days written notice shall be given to the Winston-Salem State University prior to any material modification, cancellation, expiration or reduction in coverage of such insurance. If Contractor insurance carrier(s) policies do not meet the minimum notice requirement found herein, Contractor shall cause Contractor's insurance carrier(s) to furnish a 30-day Notice of Cancellation Endorsement.
- 4) In the event of a material modification, cancellation, expiration, or reduction in coverage, this Agreement shall terminate forthwith, unless the University receives, prior to such effective date, another properly executed original Certificate of Insurance and original copies of endorsements or certified original policies, including all endorsements and attachments thereto evidencing coverage's set forth herein and the insurance required herein is in full force and effect. Contractor shall not commence operations until the University has been furnished original Certificate (s) of Insurance and certified original copies of endorsements and if requested, certified original policies of insurance including all endorsements and any and all other attachments as required in this Section. An individual authorized by the insurance carrier to do so on its behalf shall sign the original endorsements for each policy and the Certificate of Insurance.
- 5) It is understood and agreed to by the parties hereto that the Contractor's insurance shall be construed as primary insurance, and the University's insurance and/or deductibles and/or self-insured retention's or self-insured programs shall not be construed as contributory.

- 6) If, during the term of this Agreement or any extension thereof, there is a material change in the scope of services; or, there is a material change in the equipment to be used in the performance of the scope of work; or, the term of this Agreement, including any extensions thereof, exceeds five (5) years; the University reserves the right to adjust the types of insurance and the monetary limits of liability required under this Agreement, if in the University risk management's reasonable judgment, the amount or type of insurance carried by the Contractor has become inadequate.
- 7) Contractor shall pass down the insurance obligations contained herein to all tiers of subcontractors working under this Agreement.
- 8) The insurance requirements contained in this Agreement may be met with a program(s) of self-insurance acceptable to the University. Contractor agrees to notify the University of any claim by a third party or any incident or event that may give rise to a claim arising from the performance of this Agreement.

11. TERMINATION.

- A. The University may terminate this Agreement at any time by providing ten (10) days' written notice to Contractor.
- B. If Contractor shall fail to provide the Services or fulfill its obligations in a timely and proper manner under this Agreement for any reason, including the voluntary or involuntary declaration of bankruptcy, the University shall have the right to terminate this Agreement upon written notice to Contractor and termination shall be effective immediately upon receipt. Contractor shall cease performance immediately upon receipt of such notice.
- C. In the event of early termination, Contractor shall be entitled to receive just and equitable compensation only for costs incurred prior to receipt of notice of termination and for the Services satisfactorily rendered as of the date of termination and delivered to the University. Contractor shall be responsible to the University for damages sustained by the University as a result of Contractor's breach of this Agreement, and the University may withhold any payment due to Contractor for the purpose of setoff until such time as the University can determine the exact amount of damages due the University as a result of Contractor's breach.
- D. All promises, requirements, terms, conditions, provisions, representations, guarantees, and warranties contained herein shall survive the expiration or termination date of this Agreement unless specifically provided otherwise herein, or unless superseded by applicable federal or state statutes of limitations.

12. **INDEPENDENT CONTRACTOR.** Contractor shall be considered to be an independent contractor and as such shall be wholly responsible for the work to be performed and for the supervision of its employees in connection with its provision of the Services. Nothing herein is intended or shall be construed to establish any agency, partnership, or joint venture between Contractor and the University. Contractor

represents that it has, or will secure at its own expense, all personnel required in performing the Services under this Agreement. Such employees shall not be employees of or have any individual contractual relationship with the University.

13. LIABILITY.

- A. Contractor shall indemnify, defend, and hold harmless the University, its trustees, officers, agents, and employees, from liability of any kind, including all claims and losses for injuries to persons or damage to property accruing or resulting to any other person, firm, or corporation furnishing or supplying work, services, materials, or supplies in connection with the performance of this Agreement, and from any and all claims and losses accruing or resulting to any person, firm, or corporation that may be injured or damaged by Contractor in the performance of this Agreement. This representation and warranty shall survive the termination or expiration of this Agreement.
- B. The University's liability for bodily injury, property damage or any other matter sounding in tort is determined in accordance with the provisions, procedures, and limits of the North Carolina Tort Claims Act, Article 31 of Chapter 143 of the North Carolina General Statutes. the University does not waive its sovereign immunity or any rights or defenses under the North Carolina Tort Claims Act.

14. **NOTICES.** All notices shall be in writing and addressed to the party to receive such notice at the address given below, or such other address as may hereafter be designated by notice in writing. Notices may be sent by email, fax, hand delivery, private overnight mail service, or registered or certified U.S. mail. Notice will be deemed received on the completion of the third (3rd) business day following the documented date of deposit with the United States Postal Service.

If to the University for Agreement purposes:

Richard R. Fleming, C.P.M.
Director of Purchasing Services
601 S. Martin Luther King, Jr. Drive
Winston-Salem, North Carolina 27110
Fax: 336-750-8894
Email: flemingrr@wssu.edu

If to the University for Services purposes:

Enter Name of WSSU Employee
Enter Employee Title
Enter Street Address
Enter City / State / Zip
Enter Employee Telephone Number

Enter Employee Email Address

If to the Contractor:

Enter Name of Company / Contractor / Individual Contractor

Enter Name of Contact

Enter Street Address or PO Box

Enter City / State / Zip

Enter Telephone Number

Enter Fax Number (delete if not applicable)

Enter Email Address

15. **GOVERNING LAW; EXCLUSIVE JURISDICTION.** This Agreement and the rights and obligations of the Parties hereto shall be interpreted, construed and enforced in accordance with the laws of the State of North Carolina, and the exclusive venue for any legal proceedings arising from or incident to this Agreement shall be the state courts sitting in Forsyth County, North Carolina.
16. **ENTIRE AGREEMENT.** This contract states the entire agreement between the parties as of the date of the final signature below in respect to the subject matter of the agreement and supersedes any previous written or oral representations, statements, negotiations, or agreements. All changes, additions or deletions to this Agreement shall be in writing and executed by the authorized representatives of both Parties. If any part of this contract is held to be in violation of any law, the provisions held to be invalid shall be of no force and effect, but all of the other provisions of this Agreement shall continue to be binding on the parties.
17. **NO WAIVER.** The waiver by the University of any agreement, condition, or provision contained in this Agreement will not be deemed a waiver of any subsequent breach or any other agreement, condition, or provision contained in this Agreement, nor will any custom or practice that may develop between the Parties in the administration of the terms of this Agreement be construed to waive or lessen the right of the University to insist upon Contractor's performance in strict accordance with the terms of this Agreement.
18. **FORCE MAJEURE.** Notwithstanding any other term of this Agreement, if either Party's performance of obligations under this Agreement is materially hampered, interrupted, or interfered with; or is made illegal, impossible, or so difficult or expensive as to be commercially impracticable by an act of force majeure, then upon demonstrating the exercise of reasonable diligence to comply with its obligations under this Agreement, the affected party shall be excused from performance or underperformance of this Agreement.

For purposes of this provision, any such cause shall constitute force majeure and shall include, but not be limited to, the following: act of God; unavoidable accident; epidemic, pandemic or public health emergency; fire; casualty; lockout; act of public enemy or terrorism; war, riot or civil commotion; enactment of law or order of governmental instrumentality; strike or other labor dispute; earthquake, tornado, hurricane, inclement weather, or other event of a catastrophic nature that requires the closure of, or limitation of services on, the University campus; or, other cause of a similar magnitude; or the enactment, issuance, or operation of any municipal, county, State, or federal law, ordinance or executive, administrative, governmental, or judicial regulation, order or decree; any local or national emergency; or, any other unforeseeable event beyond the Parties' control.

Both parties agree to follow US Government guidelines regarding COVID-19 pandemic precautions. In the event that the services being rendered occur on campus and are part of a large in-person gathering, and if the CDC recommends against large in-person gatherings or nonessential air travel, the service will be rescheduled to a mutually agreeable date or reformatted appropriately to comply with guidelines.

19. **MISCELLANEOUS.** Neither Party shall use this contract for advertising purposes without the prior written approval of the University or use the marks or name of the other Party for any purposes without prior written approval of the University.
20. **AUDITOR'S ACCESS.** Auditors for the State of North Carolina or WSSU shall have access to persons and records resulting from this Agreement in accordance with N.C.G.S. § 147-64.7.
21. **EQUAL OPPORTUNITY FOR VEVRAA PROTECTED VETERANS.** This contractor and subcontractor shall abide by the requirements of 41 CFR 60-300.5(a). This regulation prohibits discrimination against qualified protected veterans and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified protected veterans.
22. **AMENDMENTS.** Any modifications to this Agreement, including, but not limited to, modifications made on the face of this Agreement must be in writing signed by both parties.
23. **MERGER.** This Agreement states the final and exclusive agreement between the parties and supersedes all prior negotiations and agreements for the Services.
24. **SEVERABILITY.** If any provisions or portions thereof are declared invalid, illegal, or unenforceable, this Agreement will be construed as if such invalid, illegal, or unenforceable provisions were removed.
25. **HEADINGS.** The headings of the sections, paragraphs, and subparagraphs of this Agreement are for convenience only and do not affect the construction or interpretation

of any provisions.

26. **CONSTRUCTION.** The parties agree that this Agreement will be construed as if the parties drafted this Agreement jointly with no presumption or burden of proof arising which would favor or disfavor either party by virtue of this Agreement's authorship.
27. **EXECUTION OF COUNTERPARTS.** This Agreement may be executed in two or more counterparts, each of which together shall be deemed an original, but all of which together shall constitute one and the same instrument. In the event that any signature is delivered by facsimile or e-mail transmission of a ".pdf" format data file, such signature shall be valid with the same force and effect as if such facsimile or ".pdf" signature page were an original thereof.
28. **DEBARMENT.** Neither the Contractor nor any of its Affiliates (a) has been debarred by the State or Federal government, (b) is subject to debarment proceedings by the State or Federal government or (c) will use, in any capacity, in connection with the activities to be performed under this Agreement, any Person that has been debarred, or who is the subject of debarment proceedings by the State or Federal government. If either Party learns that a Person performing on its behalf under this Agreement has been debarred by the State or Federal government, or has become the subject of debarment proceedings by the State or Federal government, such Party shall promptly notify the other Party and shall prohibit such Person from further performance on its behalf under this Agreement.
29. **NOTICE FOR FORMER STATE EMPLOYEES NOW RETIRED AND RECEIVING STATE RETIREMENT SYSTEM BENEFITS.**

Legal restrictions on State retirees returning to work for a state entity, even as an independent contractor, pose risks that retirees not following the law will lose his/her retirement benefit, and will have to repay benefits already received. Under the new definition of "retirement," a newly retired State employee is only eligible to receive his/her retirement benefit from State Retirement, when that person has: 1) completely separated from active service with "no intent or agreement, express or implied, to return" to State work; and 2) not performed work of any kind for the State, including "part-time, temporary, substitute, or contractor service," during the first six months after the date of the retirement.

Earnings limits for State retirees are also in place. The formation of a corporation, in and of itself, does not exempt retired employees from the earnings cap provided under the retirement statute. If the corporation is formed for the purpose of providing services to a State employer, the employees are made up primarily of State retirees and would render service to State employers based on a contract then this does not meet the test for being exempt from the earnings restrictions. Even though the agreement or contract is with the corporation, the individual beneficiary is rendering service to a former or associated employer. Any money received as compensation pursuant to that contract would count as part of the State retirees' re-employment earnings under N.C.G.S.135-3(8)c. On the other hand, if a retired member leaves the State and goes to work for an

established corporation that 1) has multiple employees who are not predominately former State employees, and 2) the corporation provides contract services to multiple employers that are not Public agencies, then those earnings would not be subject to the earnings restrictions.

IN WITNESS WHEREOF, the parties have caused this Agreement to be signed by their respective authorized representatives.

WINSTON-SALEM STATE UNIVERSITY

Signature: _____

Name: _____

Title: _____

Date: _____

ENTER NAME OF COMPANY / CONTRACTOR / INDIVIDUAL CONTRACTOR

Signature: _____

Name: _____

Title: _____

Date: _____

EXHIBIT A
to
PROFESSIONAL SERVICES AGREEMENT
between
WINSTON-SALEM STATE UNIVERSITY
and

ENTER NAME OF COMPANY / CONTRACTOR / INDIVIDUAL CONTRACTOR

SERVICES

The Contractor shall provide the following service(s) as directed by **Enter Name of Principle Investigator (PI)**, the University's Representative under this Agreement:

Use this area and, if needed, onto other pages, to enter a detailed description of the services being provided by the Contractor. If milestones are expected/required, indicate the milestone and the timeframe for each here.

EXHIBIT B
to
PROFESSIONAL SERVICES AGREEMENT
between
WINSTON-SALEM STATE UNIVERSITY
and

ENTER NAME OF COMPANY / CONTRACTOR / INDIVIDUAL CONTRACTOR

COMPENSATION

1. FUND NUMBER: Enter Fund Number Here

ACCOUNT NUMBER: Enter Account Number Here

GRANT TRACKING NUMBER: Enter Grant Tracking Number Here (if applicable)

GRANT AWARDED FROM: Enter Grant Awarded From Here (if applicable)

The University shall compensate Contractor for the Work to be performed under this Agreement as designated in Exhibit A, and any attachments upon receipt of an itemized invoice of services rendered:

Choose *one* of the editable fields below to use and *delete* the other fields, along with this sentence.

at the rate of \$Insert Dollar Amount per hour, such rate to remain fixed for the term of this Agreement.

at a fee of \$Insert Dollar Amount per event, such amount to remain fixed for the term of this Agreement.

at the fixed sum of \$Insert Dollar Amount.

at the rate of \$Insert Dollar Amount per hour, not to exceed \$Insert Total Contract Amount for the duration of the Agreement.

in the total amount of \$Insert Dollar Amount, in accordance with the scheduled shown: List Milestones With Payment Amounts or Percentages

As an agency of the State of North Carolina, the University may not make any advance payment(s) or deposit(s) prior to the completion of contracted services. Payment will be made per the preference indicated by the Contractor when registering with WSSU, either by ACH (Direct Deposit) or by University check mailed to the address on this Agreement. State law prohibits the University from agreeing to any acceleration clauses.