

STATE OF NORTH CAROLINA

WAKE COUNTY

PHYSICAL EDUCATION CONTRACT

This agreement is made by and between _____ (“Contractor”), having a principal place of business at _____, and North Carolina State University, c/o Department of Physical Education, Campus Box 8111, Carmichael Gym, Cates Avenue, Raleigh, NC 27695-8111, (“NC State”).

NC State and Contractor agree that contractor will perform certain services for NC State, in consideration of mutual promises to each other and sums paid. The terms of this agreement are as follows:

1. Contractor will use best efforts to provide NC State with the following professional services: _____

2. For the professional services described above, NC State shall pay the Contractor _____ Dollars (\$_____), by NC State check. NC State payment terms are NET 30 DAYS following receipt and approval of Contractor’s invoice.

3. The Contractor shall not substitute key personnel assigned to the performance of this contract without prior approval by the NC State Project Coordinator. The individual(s) designated as key personnel for purposes of this contract is/are _____. Work to be performed under this contract by the Contractor shall not be subcontracted without prior written approval of the Project Coordinator.

4. The services under this Contract are to commence on the _____ day of _____, 20____, and shall be completed by the _____ day of _____, 20____. This Contract itself shall be effective upon signature by both parties, and shall terminate upon fulfillment of all obligations hereunder or as set forth in Paragraph 5.

5. If, through any cause, the Contractor shall fail to fulfill in timely and proper manner the obligations under this agreement, NC State shall thereupon have the right to terminate this Contract by giving written notice to the Contractor of such termination and specifying the effective date thereof. In that event, all finished or unfinished assignments handled by the Contractor shall be entitled to receive just and equitable compensation for any satisfactory work completed on such project. However, the Contractor shall not be relieved of liability to NC State for damages sustained by NC State by virtue of any breach of this agreement, and NC State may withhold any payment due to the Contractor for the purpose of setoff until such time as the exact amount of damages due NC State from such breach can be determined.

NC State may terminate this agreement at any time on one (1) day notice by telephone. In such event, payment to the Contractor will be a portion of total contract sum that is equal to the percentage of work completed, or any out of pocket costs incurred by the Contractor in preparing to perform the services called for hereunder, whichever is less.

6. It is understood and agreed between the Contractor and NC State that payment of compensation specified in this agreement, its continuation or any renewal thereof, is dependent upon and subject to the allocation or appropriation of funds to NC State for the purpose set forth in this agreement.

7. Contractor shall not assign or transfer any interest in this agreement without prior written approval from NC State.

8. It is agreed between the parties hereto that the place of this contract, its situs and forum, shall be Wake County, North Carolina, and in said County and of said State such matters, whether sounding in contract or tort relating to the validity, construction, interpretation and enforcement of this agreement, be determined.

9. The Contractor agrees that he/she shall be responsible for the proper custody and care of any property furnished him/her for use in connection with the performance of this contract or purchased for this contract and will reimburse NC State for its loss or damage.

10. In fulfilling duties pursuant to the agreement, Contractor will not discriminate on the basis of race, color, national origin, sex, disability or handicap, veteran status, age, or religion.

11. Neither party shall be deemed to be in default of its obligations hereunder if and so long as it is prevented from performing such obligations by any reason beyond the party's control such as act of war, hostile foreign action, nuclear explosion, earthquake, hurricane, tornado, or other catastrophic natural event or act of God.

12. The Contractor shall be required to comply with all laws, ordinances, codes, rules, regulations, and licensing requirements that are applicable to the conduct of his/her business, including those of Federal, State, and local agencies having jurisdiction and/or authority.

13. The Contractor is retained by NC State only for the purposes and to the extent set forth in this agreement, and Contractor's relation to NC State shall during the term of this agreement be that of an independent contractor. Contractor shall not be considered as having an employee status or as being entitled to participate in any plan, arrangements, or distributions by NC State pertaining to or in connection with any qualified pension plan or providing any other health or welfare plan with similar benefits for regular employees. Contractor shall be responsible for the payment of any taxes due on any monies received by Contractor.

14. Contractor agrees to indemnify and hold harmless NC State, its trustees, officers, employees, and agents for any liability and costs arising from Contractor conduct, failure to act,

or actions in connection with Contractor performance or breach of performance under this agreement.

15. This contract and any documents incorporated specifically by reference represent the entire agreement between the parties and suspend all prior oral or written statements or agreements.

16. This contract may be amended only by written amendments duly executed by NC State and the Contractor.

17. The State or NC State auditor shall have access to persons and records as a result of all contracts or grants entered into by State agencies or political subdivisions in accordance with North Carolina General Statute §147-64.7 and Session Law 2010-194, Section 21.

18. If NC State provides the Contractor with personal identifiers as listed in N.C.G.S. §132-1.10 and in N.C.G.S. §14-133.20(b) or any other legally confidential information, Contractor hereby certifies that collection of this information from NC State is necessary for the performance of Contractor's duties and responsibilities on behalf of NC State under this Contract. Contractor further certifies that it shall maintain the confidential and exempt status of any social security number information, as required by N.C.G.S. §132-1.10(c)(1), and that it shall not re-disclose personally identifiable information as directed by State and Federal laws. Failure to abide by legally applicable security measures and disclosure restrictions may result in the interruption, suspension and/or termination of the relationship with Contractor for a period of at least five (5) years from date of violation. If Contractor experiences a security breach, as defined in N.C.G.S. §75.61(14), relating to this information, in addition to the Contractor's responsibilities under the NC Identity Theft Protection Act, Contractor shall immediately notify NC State with the information listed in N.C.G.S. §75-65(d)(1-4) and shall fully cooperate with NC State. Contractor shall indemnify NC State for any breach of confidentiality or failure of its responsibilities to protect confidential information. Specifically, these costs may include, but are not limited to, the cost of notification of affected persons as a result of its unauthorized release of NC State data provided to Contractor pursuant to the Contract.

19. NC State has determined that Contractor is a school official with a legitimate educational interest under the Family Educational Rights and Privacy Act ("FERPA"). If NC State provides the Contractor with "personally identifiable information" from a student's education record as defined by FERPA, 34 CFR §99.3, Contractor hereby certifies that collection of this information from NC State is necessary for the performance of Contractor's duties and responsibilities on behalf of NC State under this Contract. Contractor further certifies that it shall maintain the confidential status of education records in their custody, and that it shall not re-disclose personally identifiable information as directed by FERPA. Failure to abide by legally applicable security measures and disclosure restrictions may result in the interruption, suspension and/or termination of the relationship with Contractor for a period of at least five (5) years from date of violation. If Contractor experiences a security breach relating to this information or if Contractor re-discloses the information, Contractor shall immediately notify NC State. Contractor shall indemnify NC State for any breach of confidentiality or failure of its responsibilities to protect

the personally identifiable information. Specifically, these costs may include, but are not limited to, the cost of notification of affected persons as a result of its unauthorized release of NC State data provided to Contractor pursuant to the Contract.

NORTH CAROLINA STATE UNIVERSITY CONTRACTOR

Recommended by:

Project Coordinator
Date: _____

Name: _____
Title: _____
Date: _____

Authorized by:

Director of Materials Management
Date: _____