

**SERVICE AGREEMENT – GENERAL PROFESSIONAL SERVICES**

**THIS SERVICE AGREEMENT** (“Agreement”) is made and entered into as of the date of the last signature below by and between **NORTH CAROLINA STATE UNIVERSITY**, c/o \_\_\_\_\_ (“NC State”) and \_\_\_\_\_ (“Client”).

NC State and Client may be referred to collectively in this Agreement as the “Parties” or each individually as a “Party.”

**WHEREAS**, NC State and Client desire to enter into this Agreement to enable NC State to provide professional services to Client; and

**WHEREAS**, the services contemplated herein are of mutual interest and benefit to NC State and Client, and will further the instructional, research, and public service objectives of NC State in a manner consistent with its status and mission as a public educational institution.

**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, NC State and Client agree as follows:

1. **Scope of Services.** NC State will supply Client with the services described in **Exhibit A** (the “Services”).
2. **Term.** NC State shall commence providing the Services on \_\_\_\_\_, and shall complete its performance of the Services on or about \_\_\_\_\_ (the “Term”), unless the Term is modified by the mutual written agreement of the Parties.
3. **Payment.** In consideration of NC State’s performance of the Services, Client shall pay to NC State an amount not to exceed \_\_\_\_\_ Dollars (\$\_\_\_\_\_) (the “Payment”). Client shall make Payment in accordance with the schedule attached hereto as **Exhibit B**. Late payment may be subject to late payment penalty and interest in accordance with applicable law, as well as collections and attorneys’ fees. NC State is under no obligation to provide to Client any financial reporting, supporting documentation, or justification of expenditures made in performance of the Services as a condition of payment.
4. **NO WARRANTY.** NC STATE MAKES NO WARRANTIES, EXPRESSED OR IMPLIED, AS TO ANY MATTER WHATSOEVER, INCLUDING WITHOUT LIMITATION, THE OWNERSHIP, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE OF ANY GOODS OR SERVICES PROVIDED. NC State makes no representation or warranty that any data, information, results, materials, or other product of its Services do not or will not infringe third party intellectual property rights. Client acknowledges that the avoidance of such infringement in the use of any

data, information, results, materials, or other product provided to Client by NC State under this Agreement shall remain the responsibility of Client.

5. **Termination.** This Agreement may be terminated by either Party upon thirty (30) days' written notice to the other Party. Upon termination by either Party, Client shall reimburse NC State for all costs and non-cancellable commitments and expenses incurred by NC State's preparation or performance of the Services prior to the date of termination, not to exceed the Payment.
  
6. **Liability.**
  - a. To the extent permitted by law, Client will defend, indemnify, and hold harmless NC State, its trustees, officers, employees, and agents from and against all claims, demands, loss, liability, expense, or damage (including attorneys' fees) arising out of injuries (including death) or property damage suffered by any person arising out of Client's use or possession of data, information, results, or materials provided by NC State under this Agreement or as a result of Client's negligence or willful misconduct.
  
  - b. Notwithstanding any other provision of this Agreement, NC State's liability, as an agency of the State of North Carolina, for any injury or property damage arising out of this Agreement or NC State's performance of the Services is subject to the immunities, procedures, and limitations of the North Carolina Tort Claims Act, Article 31 of Chapter 143 of the North Carolina General Statutes. NC State does not waive its sovereign immunity or any rights or defenses under the North Carolina Tort Claims Act.
  
7. **Confidentiality.** Any confidential or proprietary information disclosed by Client to NC State ("Confidential Information") shall be disclosed in writing and designated as confidential and/or proprietary, or if disclosed orally, shall be confirmed in writing and designated confidential and/or proprietary within thirty (30) days of such disclosure. NC State shall use the Confidential Information only for the purpose of this Agreement and further agrees that it will not disclose or publish such Confidential Information except that the foregoing restrictions shall not apply to:
  - a. Confidential Information which is or becomes publicly known through no fault of NC State;
  - b. Confidential Information learned from a third party entitled to disclose such information;
  - c. Confidential Information already known to or developed by NC State prior to receipt hereunder, or information independently developed at any time by NC State personnel not privy to the Confidential Information, as shown by NC State's written records; or
  - d. Confidential Information required to be disclosed by operation of law (including, but not limited to, the North Carolina Public Records Act) or court order.

The obligation of confidentiality imposed by this Section shall expire three (3) years following the expiration or termination of this Agreement. NC State will use a reasonable degree of care to prevent the inadvertent, accidental, unauthorized, or mistaken disclosure or use by its employees of Confidential Information.

8. **Scholarly Publications.** Client acknowledges that NC State is a non-profit, educational institution and, from time to time, publishes scholarly articles that may include aggregated and anonymous information related to the Services, adhering to accepted professional standards of anonymity and confidentiality and those obligations imposed under Section 7 of this Agreement.
9. **Use of Names.** Neither Party will use the name, marks, or symbols of the other for any commercial purpose without the express written permission of the other Party.
10. **Notices.** All notices shall be hand delivered, sent by private overnight mail service, or sent by registered or certified U.S. mail 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:

If to NC State:

\_\_\_\_\_  
North Carolina State University  
Attn: \_\_\_\_\_  
Campus Box \_\_\_\_\_  
Raleigh, NC 27695-\_\_\_\_\_

If to Client:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

11. **Independent Contractor.** Nothing herein is intended or shall be construed to establish any agency, partnership, or joint venture between Client and NC State.
12. **Force Majeure.** 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 an act of war, hostile foreign action, nuclear explosion, earthquake, hurricane, tornado, or other catastrophic natural event or act of God or reason beyond that Party's reasonable control.
13. **Entire Agreement.** This Agreement contains the entire agreement of the Parties and there are no representations, inducements or other provisions other than those expressed herein. All changes, additions or deletions to this Agreement shall be in writing and executed by the authorized representatives of both Parties.
14. **Governing Law.** 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, without regard to conflict of law provisions, and the exclusive venue for

any legal proceedings arising from or incident to this Agreement shall be the state courts sitting in Wake County, North Carolina.

15. **Severability.** Should any provision of this Agreement be declared illegal, void, or unenforceable under North Carolina law, or shall be considered severable, the Agreement shall remain in force and be binding upon the Parties hereto as though the said provision had never been included.
16. **Counterparts.** This Agreement may be executed in one or more counterparts, each of which will constitute an original, but all of which together will constitute one instrument.

**[SIGNATURE PAGE FOLLOWS]**

**IN WITNESS WHEREOF**, the authorized representatives of the Parties have executed this Agreement as of the date of the last signature below.

**NORTH CAROLINA STATE  
UNIVERSITY**

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

Name: \_\_\_\_\_

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

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

Acknowledged by:

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

Name: \_\_\_\_\_

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

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

**CLIENT**

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

Name: \_\_\_\_\_

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

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

**EXHIBIT A**

**Statement of work describing services to be provided by NC State**

**EXHIBIT B**

**Details and schedule regarding payment**