

PROFESSIONAL SERVICES AGREEMENT

This Professional Services Agreement, together with the attached Terms and Conditions (individually and collectively, this "Agreement") is made by and between _____ ("Contractor") and Miami University ("Miami"). Neither party shall have any obligation to the other party until the Final Authorization for Miami has signed this Agreement.

Miami has the need for the professional services of a contractor with the particular training, ability, knowledge and experience possessed by Contractor. In consideration of a sum of no more than \$ _____ (the "Fee") to be paid to Contractor by Miami, Contractor agrees to perform the following services (the "Services"):

Nature of the Service (provide details):

Dates/times Services will be provided: ____/____/____ through: ____/____/____

Location where Services will be performed: _____

Materials needed to provide the Services: _____

Supplier of the materials needed: _____

Name of Person & Department for whom the Services will be rendered:

(Type/Print)

(Department)

Funding source for payment: _____

(Division)

THIS AGREEMENT REQUIRES THAT THE OPERS FORM, INDEPENDENT CONTRACTOR: ACKNOWLEDGMENT, AND IRS FORM W-9 ARE COMPLETED, SIGNED, AND RETURNED BY CONTRACTOR TO THE DEPARTMENT UNDER WHICH THE PROFESSIONAL AGREEMENT WAS INITIATED.

TERMS AND CONDITIONS

- Performance Standard. Contractor will perform the Services in a timely, professional, and workmanlike manner with a level of care, skill, practice, and judgment consistent with generally recognized industry standards and practices for similar services, and will devote adequate resources to meet Contractor's obligations under this Agreement.
- Deliverables; Grant of License. If the Services require Contractor to deliver documents, work product, and other materials to Miami (the "Deliverables"), then Miami is, and shall be, the sole and exclusive owner of all right, title, and interest in and to such Deliverables, including all intellectual property rights therein. Contractor agrees that with respect to any Deliverables that may qualify as "work made for hire" as defined in 17 U.S.C. §101, such Deliverables are hereby deemed a "work made for hire" for Miami. To the extent that any of the Deliverables do not constitute a "work made for hire," Contractor hereby irrevocably assigns, without additional consideration, all right, title, and interest throughout the world in and to the Deliverables, including all intellectual property rights therein. Contractor hereby represents, warrants, and covenants (as applicable) that the Deliverables and Miami's use thereof will not infringe any intellectual property right of any third party. The representation, warranty, and covenant made in the immediately preceding sentence shall survive the expiration or earlier termination of this Agreement.
- Speaking Engagements; Grant of License. If the Services involve a speaking engagement, the making of a presentation, or any similar services ("Speaking Engagement"), then Miami shall have the right to make and use photographs, motion picture films, videotapes and/or audio recordings made by Miami, through its employees or agents, of the Speaking Engagement, including images of Contractor (collectively, "Presentation Material"). Miami may use Presentation Materials for any legitimate purpose, including, without limitation, placing the Presentation Material on Miami's websites or in any publication produced or sponsored by Miami. By signing this Agreement, Contractor grants to Miami an irrevocable, royalty-free, fully paid-up, non-exclusive license to use, display, publish, exhibit, create derivative works from, and distribute all or portions of the photographs, films, videotapes, audio recordings and copies of images recorded from the Speaking Engagement and all Presentation Material.
- Payment. Payment to Contractor of the Fee shall constitute payment in full for the performance of the Services and delivery of the Deliverables. Unless the payment of the Fee is disputed in good faith by Miami, the Fee will be payable to Contractor within thirty (30) days of the completion of the Services and delivery of the Deliverables.
- Relationship of the Parties. The Contractor is engaged as an independent contractor and will be responsible for any federal or state taxes applicable to this payment. The Contractor will not be eligible for any federal social security, industrial accident, or unemployment insurance benefits under this Agreement, except as a self-employed individual. The University will report the amount of all payments applicable, including any expenses, in accordance with federal Internal Revenue Service rules. The Contractor is engaged as an independent contractor and, as such, no contributions to an Ohio public retirement system (*i.e.*, OPERS or STRS) will be made by Miami and no deductions from the amounts paid to Contractor under this Agreement will be taken for contributions to a retirement system.
- Damage to Miami's Property. Contractor shall be responsible for any damage to the Miami's real or personal property that occur while performing the Services on Miami's property, including all costs incurred to clean, repair, or replace such property.
- Compliance with Miami Policies. If the Services are to be completed on Miami's property, then Contractor shall comply with all rules and regulations of Miami, including, without limitation, MUPIM 3.6 (Policy Prohibiting Harassment and Discrimination), MUPIM 16.4 (Building and Grounds), MUPIM 19.2 (Responsible Use of University Computing Resources at Miami University), and MUPIM 19.3 (Illegal or Unauthorized Use of University Computing Resources). Copies of all of Miami's policies can be accessed at the following website: <http://blogs.miamioh.edu/miamipolicies/>.

8. Compliance with Laws. Contractor shall perform the Services and deliver the Deliverables in compliance with all applicable federal, state, and local statutes, regulations, ordinances, and rules.
9. Non-Discrimination. Contractor does not and will not discriminate on the basis of religion, race, color, creed, national or ethnic origin, sex, age, disability, political affiliation, gender identity or expression, sexual orientation, pregnancy, or status as a veteran or member of the military.
10. Termination. At any time, without cause and without incurring any additional obligation to Contractor, Miami may terminate this Agreement for its convenience by providing Contractor with at least ten (10) days' prior written notice. Further, Miami may immediately terminate this Agreement without further liability to Contractor in the event Contractor materially breaches this Agreement, or if Contractor violates **Section 7**, **Section 8**, or **Section 9** of this Agreement.
11. Governing Law; Submission to Jurisdiction. This Agreement, and all matters arising out of or relating to this Agreement, shall be governed by and construed in accordance with the internal laws of the State of Ohio without giving effect to any choice or conflict of law provision or rule that would require or permit the application of the laws of any jurisdiction other than those of the State of Ohio. Any legal suit, action, or proceeding, whether sounding in contract, tort, or otherwise, arising out of or related to this Agreement shall be instituted exclusively in the courts of competent jurisdiction located in the State of Ohio, and each party irrevocably submits to the exclusive jurisdiction of such courts. The parties agree that nothing in this Agreement shall be construed as a waiver of the sovereign immunity of Miami and/or the State of Ohio beyond the waiver provided in Section 2743.02 of the Ohio Revised Code. The terms of this **Section 11** shall survive the expiration or earlier termination of this Agreement.
12. Trademarks and Logos. Contractor is prohibited from using, and agrees not to use, directly or indirectly, any of Miami's names, trademarks, or logos without first obtaining Miami's prior written consent. Any consents provided by Miami hereunder shall automatically terminate upon the expiration or earlier termination of this Agreement.
13. Public Records Act. Contractor acknowledges that Miami is subject to the Ohio Public Records Act (Ohio Revised Code Chapter 149) (the "Act"), and that the Act requires Miami to disclose certain records if requested by the public. Nothing contained in this Agreement shall prevent Miami from fully and completely complying with the Act, and Miami reserves the right to disclose any information that Miami believes, in its sole discretion, is subject to the Act or any public records request, including, without limitation, the contents of this Agreement. The terms of this **Section 13** shall survive the expiration or earlier termination of this Agreement.
14. Entire Agreement; Modification; Wavier; Severability. This Agreement contains the entire agreement of the parties with respect to the subject matter hereof and shall supersede and replace any and all other prior or contemporaneous discussions, negotiations, agreements or understandings between the parties, whether written or oral, regarding the subject matter hereof. No waiver, amendment, or modification of any provision of this Agreement shall be effective unless in writing and signed by the party against whom such waiver, amendment or modification is sought to be enforced. No consent by either party to, or waiver of, a breach by either party shall constitute a consent to or waiver of any other different or subsequent breach by either party. If any provision of this Agreement shall be unenforceable or invalid under any applicable law or be so held by applicable court decision, the remaining provisions of this Agreement shall remain in full force and effect. The unenforceable or invalid provision shall be changed and interpreted so as to best accomplish the objectives of such provision within the limits of applicable law or applicable court decisions.

[Signature Page Follows]

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Signature Page

IN WITNESS WHEREOF, the authorized representatives of each party has signed this Agreement on the dates indicated below, to be effective for all purposes as of the date that the Final Authorization for Miami has signed this Agreement.

CONTRACTOR:

Name (Type/Print)

Signature Date

REQUESTOR FOR MIAMI UNIVERSITY:

Name (Type/Print)

Title

Signature Date

APPROVER FOR MIAMI:

Department Chair/Director Date

Dean/Head of Office Date

FINAL AUTHORIZATION FOR MIAMI:

Academic Personnel (Provost) or Human Resources Date