**MEMORANDUM OF AGREEMENT**Between

**WRIGHT STATE UNIVERSITY**

**And**

**­­­­­­­­­\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

This Agreement is made between the Board of Trustees of Wright State University, an instrumentality of the State of Ohio (“University”), and \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (‘Company”), acting as an independent agent and not as an employee of the University, whose business address (non-PO Box) is \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, to furnish certain items/services as described in Company’s proposal dated \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

The following shall be observed:

1. **Description of Work to be Provided**

Company agrees to perform \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ to the satisfaction of the University and with the standard of professional care and skill customarily provided in the performance of such services.

1. **Scope of Work to be Provided**

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

1. **Reporting**

In performing services under this Agreement, Company shall report to:

 **Name:** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ **Phone:** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ **E-mail:** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 **Department:** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ **Room/Bldg:** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**Campus:** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

1. **Period of Service and Termination**

The period of service shall be from \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ through \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, except as otherwise agreed to in writing by the University. Either party may terminate this agreement at any time by providing the other party with forty-five (45) days prior written notice. This agreement can be terminated for breach of any terms and conditions of the referenced documents of this agreement if such breech is not cured within thirty (30) days after receiving written notice of breach.

1. **Fees and other Costs**

a. Professional services fee is not to exceed $­­­­\_\_\_\_\_\_\_\_ as indicated in Company’s proposal dated \_\_\_\_\_\_\_. Total professional services fee in a given contract timeframe is not to exceed One Hundred, Forty-Nine Thousand Dollars ($149,000). If Company becomes entitled to payments that exceed the threshold specified herein, University shall prepare a contract modification allowing payments in excess of the stated threshold and submit the same for review by Wright State University officials with appropriate contracting authority and/or to the Wright State University Board of Trustees. This Paragraph shall not be construed to increase the total compensation paid or payable to Company as specified elsewhere in this Agreement, or to alter the formula by which such compensation is calculated, but only to serve as firm cap on Wright State University’s financial obligations and thus conform this Agreement to Wright State University’s policies regarding contract dollar amounts and signature authority. *(Add additional information regarding cost if detail is available; i.e, hourly rate, payment schedule, etc…)*

b. Travel expenses, if applicable, must be itemized separately; actual and reasonable expenses in accordance with University Wright Way Policy 5601 relating to travel expenses will be reimbursed with Company’s invoice. *(Remove if not applicable)*

c. All reimbursable expenses, if applicable, such as supplies, photography, communication expenses and
reproduction are not to exceed 10% of the total fee indicated above and shall be billed at cost. *(Remove if not applicable)*

d. Payment will be made thirty (30) days after receipt of invoice from Company to University Contact
 Person.

1. **Representations**
	1. Company represents that it is not debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
	2. Company affirms that to the best of its knowledge, there exists no actual or potential conflict between Company and University, and its services under this Agreement, and in the event of change in either its private interests or service under this Agreement, Company will inform the University regarding possible conflict of interest which may arise as a result of such change.
	3. Company affirms that it will not assign any of its rights, nor delegate any of its duties and responsibilities under this Agreement, without prior written consent of the University. Any assignment or delegation not consented to, may void this Agreement in its entirety.
	4. Company affirms that it will not, in any manner, use the credit or the name of the University in connection with its business or affairs except as specifically authorized in writing prior to such use.
	5. Company acknowledges that any intellectual property developed under this Agreement will be owned by Wright State University. Company affirms that it will take all steps necessary to assign intellectual property to the University and will execute all legal documentation to obtain protection of the intellectual property.
	6. Except as specifically authorized in writing by the University, information and other data developed or acquired by or furnished to Company in the performance of this Agreement shall be used only in connection with services provided to the University and shall be the exclusive property of the University.
	7. Company affirms that it will observe and abide by all applicable laws and regulations, including, but not limited to, those of the University relative to conduct on its premises.
2. **Indemnification**

Company agrees that any personal injury to Company or third parties or any property damage incurred in the course of the performance of services shall be the responsibility of the Company, except to the extent caused by the sole fault or negligence of the University.

Company shall indemnify and hold harmless the University, its board members, officers, employees, agents and students from and against any direct costs, losses, damages, liabilities, expenses, demands and judgments, including court costs and attorney fees, which may arise out of Company’s performance of services as outlined herein, or which may arise out of the infringement of the copyright patent, or other proprietary rights of third parties.

1. **Boycott Restrictions**

Pursuant to Ohio Revised Code §9.76(B) Company represents and warrants that it is not boycotting any jurisdiction, including Israel, with which the state of Ohio can enjoy open trade, and will not institute any such boycott during the contract period.

1. **Insurance**

The company must provide General Liability insurance coverage with limits of $1,000,000 per occurrence for bodily injury and property damage. The policy will be endorsed to include Wright State University as an additional insured. A Certificate of Insurance evidencing the coverage and the additional insured endorsement must be received by WSU before the work can begin.   WSU reserves the right to cancel the contract if the certificate is not received.

1. **Failure of Appropriation**

If the Wright State University's Board of Trustees determines that the Ohio General Assembly has failed to

appropriate sufficient monies in any fiscal year for payments due under this Agreement, then a Non-Appropriation shall be deemed to have occurred. If a Non-Appropriation occurs, then the Wright State

University will provide written notice immediately upon such occurrence and this Agreement shall terminate

without penalty or expense to the Wright State University.

1. **Notice**

 Any notice to either party must be in writing signed by the party giving it, and shall be served either personally or by registered or certified mail addressed as follows:

**To the University:**

André Butler with copy to Contact Person
Assistant Director, Contract Services
Wright State University\_\_\_\_\_\_\_\_\_
3640 Colonel Glenn Hwy\_\_\_\_\_\_\_\_
Dayton, OH 45435\_\_\_\_\_\_\_\_\_\_\_\_\_
 **To Company:**

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

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

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1. **Other Provisions**

This Agreement, Company’s proposal dated \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_and University’s Procurement Terms and Conditions ([www.wright.edu/admin/purchase](http://www.wright.edu/admin/purchase)) constitutes the entire understanding between the parties with respect to the subject matter and may not be amended except by an Addendum signed by Company and authorized representative of the University. In the event of any conflict between this Agreement, Company’s proposal dated \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, and University’s Procurement Terms and Conditions, the provisions of the University’s procurement Terms and Conditions shall control.

This Agreement shall be governed by and in accordance with the laws of the State of Ohio. Any legal action arising pursuant to this Agreement shall be brought in a court of competent jurisdiction in the State of Ohio.

The terms of this Agreement are severable such that if any term or provision is declared by a court of competent jurisdiction to be illegal, void, or unenforceable, the remainder of the provisions shall continue to be valid and enforceable.

**For Wright State University For** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Sign \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Sign \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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

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

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

**Exhibit A – Scope of Work**