

**Exhibit A**

**Contract for Professional Services**

The University of North Carolina (“UNC”), which encompasses 17 diverse institutions, including a constituent high school, and other educational, research, and public service affiliated entities (“UNC institutions and affiliated entities”), and [LAW FIRM NAME] (“Contractor”), whose principal office is located at [FIRM ADDRESS], for the respective considerations and conditions set forth below, mutually enter into this Contract for Professional Services (“Contract”) as of the date last signed below (“Effective Date”). UNC and Contractor are sometimes referred to individually as a party (“Party”) and collectively as the parties (“Parties”).

**1.** **SERVICES AND TERM.** Contractor shall be available to provide legal services as Intellectual Property Counsel to UNC and/or UNC Institutions and affiliated entities, as needed and on a periodic basis, primarily concerning patent, trademark, copyright, and trade secret matters. In addition, the scope of services is expected to include, but is not necessarily limited to, the following types of work (“Services”):

1. Advice, informal or formal, counsel, and review of documents
2. Creation, handling, filing, and/or prosecution of patent, trademark, or other intellectual property applications
3. Services related to technology transfer and licensing
4. Preparation of written opinions regarding inventorship, patentability, and infringement
5. Prosecution and/or defense of infringement claims
6. Organizational risk management and compliance activities
7. Advice, support, and representation in investigations and enforcement matters

 This Contract will be administered and overseen by the Office of Legal Affairs for UNC, and the Senior Vice President and General Counsel will serve as the point of contact for all issues related to this Contract. Pursuant to this Contract, UNC and UNC institutions and affiliated entities are responsible for engaging Contractor on an individual basis under this Contract prior to receiving Services (Individual Engagement). At that time, UNC and/or UNC institutions and affiliated entities shall propose the scope of services for the Individual Engagement, negotiate fees not to exceed those contained in this Contract, and may provide institutional terms and conditions in addition to the terms in this Contract in a format similar to the “Scope of Work and Supplemental Terms and Conditions,” attached hereto as Exhibit B (Exhibit B). Selected law firm(s) will be engaged on particular matters by the general counsel of UNC and/or UNC institutions and affiliated entities, depending on the Individual Engagement. Services for Individual Engagements will be performed under the direction of the respective general counsel of UNC and/or UNC institutions and affiliated entities with responsibility for the Individual Engagement.

For each Individual Engagement, the terms of Exhibit B, as agreed upon by UNC and/or the respective UNC institutions and affiliated entities with Contractor, shall be incorporated by reference into this Contract as if fully set out, to provide additional description of the Services to be provided. Consequently, Services for an Individual Engagement shall be performed in accordance with the terms and conditions of this Contract and the respective Exhibit B. In the event of a conflict between the provisions of this Contract and any applicable Exhibit B, the terms and conditions of this Contract shall prevail.

The term of this Contract will take place between the Effective Date and May 31, 2027 (Term). UNC reserves the right to extend this Contract, at its discretion, for up to two additional years. The term of any Individual Engagement shall be agreed upon by UNC or the respective UNC institutions and affiliated entities with the Contractor in a completed Exhibit B, not to exceed the Term of this Contract.

**2.** **WARRANTY OF SERVICES.** Contractor warrants that Contractor is in the business of providing the Services, is fully able to perform the work in accordance with the highest professional standards, and will perform the agreed assignments within such times and in the form agreed to herein.

**3.** **PAYMENT.** Contractor agrees that the following fee structure includes the maximum fee rates available to UNC and all UNC institutions and affiliated entities, but these maximum fee rates will not preclude the negotiation of a lower fee structure for Individual Engagements:

|  |
| --- |
| **Maximum Hourly Rates** |
| **Category of Professional** | **Maximum Hourly Rate Range** |
| Partners | [Numeral] |
| Special Counsel | [Numeral] |
| Associates | [Numeral] |
| Paralegal | [Numeral] |
| **Maximum Flat Rates and Other Special Fee Arrangements** |
| **Type of Service** | **Maximum Fee** |
| [Special Obligation] | [Numeral] |
| [Special Obligation] | [Numeral] |
| [Special Obligation] | [Numeral] |

In consideration of the Services rendered by Contractor for an Individual Engagement, the respective UNC institutions and affiliated entities that enter into Exhibit B with Contractor agree to pay Contractor in accordance with the terms in Exhibit B. Contractor will bill for Services under this Contract as required by institutional guidelines and individual retainers, which will be accomplished in such a manner as to permit thorough monitoring of legal services. UNC and UNC institutions and affiliated entities engaging the Services will not authorize payment for Services that fail to comply with the terms and conditions stated herein this Contract and the applicable Exhibit B, that are excessive or disproportionate in time or task, or that are contrary to any policy, term, or condition as may be specified by applicable law, the North Carolina Attorney General or the Board of Governors of the University of North Carolina.

**4.** **EXPENSES.** Incidental office expenses, such as photocopies, facsimiles, mailing postage, courier fees and office supplies will not be reimbursed as they are considered routine firm overhead. Occasional and extraordinary expenses, such as court filing fees, court reporters, expert witnesses and extraordinary photocopy costs, may be reimbursable if itemized with appropriate receipts or other appropriate documentation. No fees or expenses will be paid for travel time or mileage, except in cases when the attorney's travel exceeds 50 miles round-trip. Attorney travel in excess of 50 miles round-trip may be reimbursed depending on the fee arrangement if itemized with receipts or appropriate documentation, in accordance with guidelines of UNC or the respective UNC institutions and affiliated entities.

**5.** **WAIVER OF PERFORMANCE BOND.** Because satisfactory performance is required prior to payment under this Contract, a performance bond otherwise required of contractors by regulations of the State of North Carolina is hereby waived.

**6.** **INSURANCE.** Contractor shall furnish all workers’ compensation, liability insurance, and other insurance as may be required to protect Contractor and the State of North Carolina from claims that may result from the performance of this Contract.

**7. ASSIGNMENT.** This Contract shall not be assigned without prior written approval from both Parties. In the event of an assignment under this Contract, all right and obligations of the Parties shall inure to the benefit of the Parties.

**8.** **USE OF CONTRACT FOR ADVERTISING.** Contractor may not use this Contract for advertising purposes without the prior written approval of UNC.

**9.** **USE OF NAMES AND MARKS.** Contractor will not use the marks or names of UNC, UNC institutions and affiliated entities for any purposes without prior written approval of UNC or the respective UNC institutions and affiliated entities.

**10.** **RECORDS.** UNC complies with the North Carolina Public Records Act, and this Contract may be made available for inspection and copying in response to requests under the Act. N.C.G.S. Chapter 132. UNC will, however, to the extent consistent with the Act, withhold confidential or proprietary information that constitutes a trade secret under N.C.G.S. § 132-1.2 and the North Carolina Trade Secrets Protection Act, N.C.G.S. § 66-152, et seq. Contractor is responsible for labeling each portion of this Contract which contains a trade secret, as defined in N.C.G.S. § 132-1.2 and N.C.G.S. § 66-152, et seq., with the word “Proprietary” or “Confidential.” If such designations are challenged, your firm will be responsible for establishing to requestors that any information your firm labeled as “Proprietary” or “Confidential” constitutes a trade secret under applicable law. Any documents and other materials, including itemized statements of activity, time, and effort, created or received by Contractor in the course of the representation shall be the property of the Contractor unless and until such documents and materials are delivered to UNC or the applicable UNC institutions and affiliated entities.

**11.** **CONFIDENTIALITY.** Contractor acknowledges that in order to perform the Services called for in this Contract, it shall be necessary for UNC, UNC Institutions, or affiliated entities to disclose to Contractor certain confidential information (Confidential Information). Such Confidential Information may include, but is not limited to, personnel or student information, business plans, certain sensitive public security information, and any other information the disclosure of which could cause harm to UNC, UNC Institutions, or affiliated entities or could be prohibited by law, regulation, or policy, including but not limited to Chapters 132, 143, and 126 of the North Carolina General Statutes; 20 U.S.C. § 1232g; 34 CFR Part 99; and 45 CFR Parts 160, 162, and 164. Contractor agrees that it shall not disclose, transfer, disseminate, publicly divulge, publish, use, copy, or allow access to any such Confidential Information to any third parties, except as authorized in writing by UNC or the appropriate UNC institutions and affiliated entities, or as required by a court order issued by a court of competent jurisdiction. Contractor shall not use Confidential Information for any purpose other than within the scope and in the course of performing the Services.

**12.** **GOVERNING LAW AND COURTS**. This Contract and all related contracts will be governed in all respects, whether as to validity, construction, capacity or otherwise, by the laws of the State of North Carolina, without regard to its conflict of laws rules. Any litigation with respect to this Contract and any resulting contract shall be brought only in the state courts of North Carolina.

**13. ENGAGEMENT AND TERMINATION.** UNC and UNC Institutions and affiliated entities are under no obligation to engage the Services of Contractor on any particular matter or Individual Engagement. UNC and UNC institutions and affiliated entities may elect to engage other firms and attorneys on matters within the scope of this Contract at any time. UNC reserves the right to terminate this Contract with written notice to Contractor without cause or liability of any kind. In that event, all finished or unfinished work prepared by Contractor under the Contract shall, at the option of UNC or the appropriate UNC institutions and affiliated entities, become UNC’s property. If the Contract is terminated by UNC as provided herein, Contractor shall be paid for Services satisfactorily completed, less payment or compensation previously made.

**14. AVAILABILITY OF FUNDS.** As required by § 143C-6-8 of the North Carolina General Statutes, this Contract and related contracts are subject to the availability, appropriation, or grant of state, federal, or other funds to pay amounts due or to perform under this Contract.

**15.** **COMPLIANCE WITH STATE AND FEDERAL LAWS. The Parties shall comply with all federal, state, and municipal laws, rules, and regulations that are applicable to the negotiation and performance of this Contract. Contractor shall abide by the requirements of 41 CFR 60-1.4(a), 60-300.5(a), and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity, national origin, or appropriate inquiries regarding compensation. Contractor and subcontractors will take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, protected veteran status, disability, or appropriate inquiries regarding compensation.** Contractor shall also comply with such policies, procedures, or guidelines issued now and in the future by the UNC System Office for providing the Services contemplated by this Contract.

**16. E-VERIFY.** As required by Section 143-133.3 of the North Carolina General Statutes, Contractor certifies that it, and each of its subcontractors, verifies the work authorization of each of its employees under E-Verify or otherwise complies with Article 2 of Chapter 64 of the North Carolina General Statutes.

**17.** **ENTIRE AGREEMENT.** This Contract, including attachments, addenda, and exhibits incorporated herein by reference, 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.

**18.** **NO AGENCY OR EMPLOYMENT RELATIONSHIP.** This Contract shall in no way be interpreted as creating an agency or employment relationship between the Parties.

**19.** **SEVERABILITY.** 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 Contract shall continue to be binding on the Parties.

**20.** **MODIFICATION IN WRITING.** This Contract may be modified only by written amendment executed by the authorized representatives of both Parties. Each Party represents and warrants that the authorized representatives identified below have authority to enter into this Contract on behalf of the Parties.

**21. NOTICE FOR FORMER STATE EMPLOYEES NOW RETIRED AND RECEIVING STATE RETIREMENT SYSTEM BENEFITS.** State retirees returning to work for a state entity, even as an independent contractor, may be at risk of losing their retirement benefit and having to repay benefits already received. Under the State definition of "retirement," a State employee may only receive their retirement benefit when that person has: (1) completely separated from active service with "no intent or agreement, express or implied, to return"; and (2) not performed work of any kind for the State, including "part-time, temporary, substitute, or contractor service," during the first six months following retirement.

Earnings limits for State retirees also apply. The formation of a corporation does not exempt retired employees from the statutory earnings cap. If the corporation is formed for the purpose of providing services to a State employer based on a contract, and the employees are primarily State retirees, then the corporation is not exempt from earnings restrictions. However, if a retiree goes to work for an established corporation that (1) has multiple employees 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 restrictions under N.C.G.S.135-3(8)(c).

**22. ACCESS TO PERSONS AND RECORDS.** The State Auditor, UNC’s auditor, and the joint Legislative Commission on Governmental Operations and legislative employees whose primary responsibility is to provide professional or administrative services to the commission, may audit the records of Contractor during and after the term of this Contract to verify accounts and data affecting fees or performance of this Contract in accordance with North Carolina General Statutes § 143- 49(9) and § 147-64.7.

**23.** **ADVERSE REPRESENTATION**. Contractor expressly agrees that Contractor will not (a) represent other parties in any action adverse to UNC or employees of UNC in their official capacities, or (b) engage in representation of another client which will materially limit Contractor’s representation of UNC, including UNC institutions and affiliated entities, without prior informed, written consent, which shall be obtained by contacting the Senior Vice President and General Counsel of UNC whom will, when appropriate, obtain consent from (a) the general counsel of the respective UNC institutions and affiliated entities seeking to engage or currently engaging the Services of the Contractor, and (b) the general counsel of the respective UNC institutions and affiliated entities that may be affected by the representation. This prohibition extends to any member of Contractor’s firm. The Contractor shall be under a continuing duty to promptly notify the Senior Vice President and General Counsel of UNC of any representation adverse to UNC.

**24.** **APPOINTMENT**. Notwithstanding anything that may appear to be to the contrary, UNC reserves the right to appoint any law firms or individuals it deems most appropriate to represent UNC in any engagement. While it is UNC’s intention to delegate work described in this Contract only to the attorneys or firms selected under its associated RFP, UNC retains the right to make a different selection or handle any particular matter in-house if, in its judgment, the needs of UNC require it. UNC makes no guarantee as to any request for representation or volume of work that may be referred under this appointment, only that the Contractor may be considered approved for representation under the terms of this Contract and its associated RFP.

**25.** **CHANGES IN PERSONNEL**. UNC retains the right to approve or disapprove any proposed changes in the attorneys and personnel who may serve as counsel or who may provide services under this Contract, including any subcontractors. If counsel wishes to substitute personnel, counsel shall provide UNC and/or the respective UNC institutions and affiliated entities with advance written notice. Billings of any unauthorized personnel will not be paid.

**26.** **SUBCONTRACTORS** **(court reporters, expert witnesses, for example).** Contractor shall be obligated as follows:

a. Either to (1) pay any authorized subcontractor within fourteen (14) days of the selected firm’s receipt of payment from UNC, and/or UNC institutions and affiliated entities for the proportionate share of the payment received for work performed by such authorized subcontractor under the Contract; or (2) notify UNC, the relevant UNC institutions and affiliated entities and such authorized subcontractor, in writing, of any intention to withhold payment and the reason.

b. These provisions apply to each subcontractor performing under the primary Contract. Counsel’s obligation to pay an interest charge or fee to a subcontractor shall not be construed to be an obligation of UNC.

c. No work performed on behalf of UNC may be subcontracted without prior written approval of UNC or the engaging UNC institutions and affiliated entities.

**27. NO RESTRICTIONS.** There shall be no copyright, trade secret, or other restrictions upon the uses to which UNC may put work product delivered to it.

**28.** **ACCESS TO PERSONS AND RECORDS.** The State Auditor, UNC System Office’s auditor, and the joint Legislative Commission on Governmental Operations and legislative employees whose primary responsibility is to provide professional or administrative services to the commission, may audit the records of Contractor during and after the term of this Contract to verify accounts and data affecting fees or performance of this Contract in accordance with North Carolina General Statutes § 143- 49(9) and § 147-64.7.

**29. NO CONSULTATION FEE.** There shall be no fee for consultations regarding fees, costs, development of budgets, and feasibility nor shall there be any monthly retainer payable to Contractor as a result of this Contract. Any agreement regarding a monthly retainer, or fixed charge for “informal advice,” however denominated, must be separately agreed to and expressly set forth in Exhibit B.

In agreement to the foregoing, the Parties, or their authorized representatives, hereby affix their signatures.

|  |  |
| --- | --- |
| **[LAW FIRM NAME]** | **UNIVERSITY OF NORTH CAROLINA SYSTEM OFFICE** |
| By:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| Name:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | Name:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| Title:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | Title:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| Date:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | Date:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |

**SAMPLE Exhibit B:**

**Scope of Work and Supplemental Terms and Conditions**

In accordance with the Contract for Professional Services between [LAW FIRM NAME]and the University of North Carolina dated [DATE], the terms of which are incorporated by reference into this document as if fully set out herein, [ENGAGING UNC INSTITUTION OR AFFILIATED ENTITY] and [LAW FIRM], for the respective considerations and conditions set forth below, mutually enter into this engagement as of [DATE], as follows:

* + - 1. **SCOPE OF WORK.** [INSERT DESCRIPTION OF WORK TO BE PERFORMED, INCLUDING THE INDIVIDUAL DIRECTING THE WORK]
			2. **TERM.** [INSERT TERM]
			3. **PAYMENT AND BILLING.** [INSERT DETAILS ABOUT PAYMENT]
			4. **OTHER TERMS.** [INSERT ANY SUPPLEMENTAL TERMS NOT ALREADY ADDRESSED IN THE CONTRACT]