

Professional Services Agreement

Kent State University (throughout this contract, hereafter referred to as "UNIVERSITY") and Russell Reynolds Associates, Inc. (throughout this contract, hereafter referred to as "CONTRACTOR") agree that CONTRACTOR will perform the professional services set forth herein and in the attached documents upon the following terms and conditions:

1. TERM. This Agreement shall be in effect for the Term stated unless it is extended by written agreement of the parties or sooner terminated as set forth in this Agreement. The recruitment and search services upon which this agreement is based shall commence on December 1, 2018 and terminate upon the acceptance of an offer of employment for the position of President, or May 1, 2018, whichever occurs first. Certain terms of this agreement extend beyond the completion of recruitment and search services; those terms are stipulated below.
2. SCOPE. CONTRACTOR agrees to perform recruitment and search services as specifically requested by UNIVERSITY for the position of President. The Job Description for the position for which CONTRACTOR'S services are engaged shall be provided by UNIVERSITY. It is specifically understood by both parties that the terms of this Agreement apply only to the specific search described herein and that no Agreement is being entered into with respect to any specific searches not described in herein. CONTRACTOR shall have the exclusive right to represent the UNIVERSITY with regard to this search.
3. AFFIRMATIVE ACTION/ EQUAL OPPORTUNITY EMPLOYER (AA/EOE). The UNIVERSITY, as an Affirmative Action/Equal Opportunity Employer, is required by federal law to implement an applicant tracking system for hires that will allow us to analyze the pool of applicants for Affirmative Action and nondiscrimination; monitor whether the process is yielding an adequate pool of qualified minority and female applicants; and monitor for disparate treatment or unlawful adverse impact in the selection process. An "applicant" is defined as a candidate who requests to be considered for employment for a specific job opening, submits a resume as directed and expresses interest in a timely manner.

With the respect to the search described herein, both the UNIVERSITY and CONTRACTOR agree they will not unlawfully discriminate against any applicant for employment because of race, color, religion, gender (including gender identity), sexual orientation, national origin, ancestry, disability, genetic information, age, military status, or identity as a disabled veteran or veteran of the Vietnam era, recently separated veteran, or other protected veteran. The UNIVERSITY agrees it will take affirmative action to ensure that applicants are employed, and treated during employment without regard to these bases.

A. Process and Information Communication.

- i. Qualifications listed in job advertisements by CONTRACTOR should balance both the need to ensure a diverse applicant pool by stating minimum qualifications required, while targeting the best-qualified applicants by stating additional qualifications that are preferred.
- ii. CONTRACTOR will identify the stage at which qualifications are used as a screening tool.
- iii. CONTRACTOR'S outside advertisements must include the AA/EOE tagline such as:
 - a. "Kent State University is an Affirmative Action/Equal Opportunity Employer" or
 - b. "Kent State University is an AA/EOE," or simply
 - c. "AA/EOE" or "AA/EEO"

- iv. All advertisements must be approved prior to publication by the UNIVERSITY.
 - v. All persons meeting the definition of applicant must be asked to provide voluntary gender, ethnicity and race information.
 - vi. An applicant may not be offered the position or start in the posted position until the required posting period has been completed and a proper search has been conducted, which is consistent with this Agreement.
 - vii. When CONTRACTOR recommends a slate of applicants for interview or an applicant for hiring they must simultaneously present UNIVERSITY with a description of the CONTRACTOR's search process, affirmative efforts to recruit women and minorities, report indicating the applicant pool demographics and a copy of any advertisements used.
- B. Record Retention. Both parties acknowledge and agree that the EEOC and OFCCP have certain requirements and obligations concerning the hiring, applicant tracking, and record keeping of government contractors. Both parties agree to comply with these guidelines and requirements, respective to this search.

Upon the request of UNIVERSITY, CONTRACTOR will provide the contact information of those who applied for the advertised position. This will allow UNIVERSITY to meet its legal obligations in collecting the required applicant tracking information.

- C. Failure of CONTRACTOR to employ practices that comply with the requirements set forth in this section shall be considered material breaches of this Agreement and shall give UNIVERSITY the right to immediately terminate this Agreement. In addition, CONTRACTOR acknowledges that UNIVERSITY may suffer damages as a result of such breach and agrees to reimburse UNIVERSITY for any such damages. These damages would include, but not be limited to, consultant's fees for preparing a response to the Office of Federal Contract Compliance Programs or the U.S. Equal Employment Opportunity Commission.
- D. This section of this Agreement shall survive the termination of this Agreement for a period of three years. Thus, if UNIVERSITY hires someone recruited by CONTRACTOR and subsequently learns that CONTRACTOR'S process was non-compliant, UNIVERSITY shall still have recourse under this Agreement to recover any damages incurred.

4. INDEPENDENT CONTRACTOR. In the performance of the work hereunder, CONTRACTOR shall be an independent consultant and not an employee of UNIVERSITY. CONTRACTOR is not an agent of, or authorized to transact business, enter into agreements, or otherwise make commitments on behalf of UNIVERSITY unless expressly authorized in writing by an officer of UNIVERSITY. UNIVERSITY will not pay or withhold federal, state, or local income tax or other payroll tax of any kind on behalf of CONTRACTOR or his employees. CONTRACTOR is not eligible for, not entitled to, and shall not participate in any of UNIVERSITY'S pension, health, or other benefit plans. CONTRACTOR is responsible for the payment of all required payroll taxes, whether federal, state, or local in nature, including, but not limited to income taxes, Social Security taxes, Federal Unemployment Compensation taxes, and any other fees, charges, licenses, or payments required by law. CONTRACTOR indemnifies UNIVERSITY and holds it harmless against any fines, damages, assessments, or attorney fees in the event a court or administrative agency shall find that CONTRACTOR is an employee of UNIVERSITY.

5. LABOR. The CONTRACTOR agrees it is solely responsible for providing the labor to

achieve the specified requirements of the attachments. The CONTRACTOR agrees that the UNIVERSITY shall not provide training for the CONTRACTOR to perform services specified in the attachments. The CONTRACTOR agrees to be available to the UNIVERSITY on an as needed basis, and that the hours of labor are not ordinarily established by the UNIVERSITY. The CONTRACTOR understands it is free to work for any number of other persons or firms simultaneously.

6. FEES AND EXPENSES. For all services rendered by CONTRACTOR under this Agreement, CONTRACTOR shall be paid in accordance with Attachment A.

A. Invoices. All items on invoices must conform to the terms specified in Attachment A to this Agreement. The invoices must show UNIVERSITY's Agreement Number or Purchase Order Number and detail descriptions of the billing. If the name of CONTRACTOR on the invoice will be other than that shown on the face of this Agreement, both names must be indicated on the invoice. Failure to do this can result in delayed payment. CONTRACTOR must email or mail invoice (s) and statements to the UNIVERSITY address set forth in this Agreement unless otherwise instructed in writing. Invoices are payable upon receipt and shall be past due after 30 days.

B. Interest Charged. Interest charges referenced on an invoice will not be accepted by the UNIVERSITY.

7. INSURANCE. CONTRACTOR shall maintain during the term of this Agreement, at CONTRACTOR's sole expense, such insurance as stated in Attachment B to this agreement. Upon request, CONTRACTOR shall provide evidence of the level of insurance indicated in Attachment B by CONTRACTOR's Certificate of Insurance.

Insurance is to be placed with insurers that are reasonably acceptable to the UNIVERSITY. The certificates of each insurance policy are to be signed by a person authorized by the insurer to bind coverage on its behalf.

8. NOTICES. All notices and demands required hereunder shall be deemed given upon personal delivery or next business day following sending by email or reputable overnight delivery carrier or three (3) business days following sending by United States Registered or Certified Mail, postage prepaid, addressed to CONTRACTOR and UNIVERSITY at the addresses stated below.

9. WAIVER. The failure of either party at any time to enforce any right or remedy available to it under this Agreement with respect to any breach or failure by the other party shall not be construed to be a waiver of such right or remedy with respect to any other breach or failure by the other party.

10. SEVERABILITY. If a court of competent jurisdiction determines that any provision of this Agreement (including the Attachments attached hereto) is invalid or unenforceable, then such provision shall be interpreted to provide the maximum benefit permissible by law to the person entitled to the benefit thereof, the invalidity or unenforceability of that provision shall not affect the validity or enforceability of any other provision of this Agreement, and all other provisions shall remain in full force and effect.

11. HEADINGS. The headings used in this Agreement are for convenience only and are not intended to be considered in construing its terms. The use in this agreement of the terms "include", "includes", "including", and "such as" shall be deemed in all cases to be followed by the words "without limitation".

12. JURISDICTION. This Agreement shall be governed by and construed in accordance with the laws of the State of Ohio. CONTRACTOR warrants and represents that it will comply with all federal, state, and local laws applicable to performance of the work the Agreement.

13. TERMINATION. This Agreement can be terminated for convenience by UNIVERSITY before its expiration with written notice provided to CONTRACTOR at least thirty (30) days prior to the termination date. The amount, if any, which will be owed by UNIVERSITY to CONTRACTOR (or CONTRACTOR to UNIVERSITY) upon Termination is set forth in Attachment A. To the extent that the attachment does not specifically set forth any financial liability of University upon Termination, the University shall not have any such obligation.

- A. Force Majeure. This agreement is subject to cancellation or change on written notice to the CONTRACTOR in the event of causes beyond UNIVERSITY'S reasonable control, including without limitation acts of God or war, fires, earthquakes, floods, strikes, labor troubles, riots, curtailment of operations due to governmental orders or rulings, and the like.
- B. Changes. Should the parameters of the position change or the expected timeline vary significantly during the course of the search, CONTRACTOR reserves the right to cancel or renegotiate the contract with a 30-day written notice and in turn, UNIVERSITY would have the right to cancel the assignment with a 30-day written notice as well.
- C. Breach/Termination. CONTRACTOR, upon receipt of notice of termination due to breach by CONTRACTOR, shall cease work on the terminated activities under this Agreement, suspend or terminate all subcontracts relating to the suspended or terminated activities, take all necessary or appropriate steps to limit disbursements and minimize costs, and, if requested by UNIVERSITY, furnish a report, as of the date of receipt of notice of termination, describing the status of all work. CONTRACTOR shall be paid for services rendered up to the termination date in accordance with Attachment A.

14. LIABILITY. To the extent permitted by Ohio law, each party agrees only to be liable for the acts and omissions of its own officers and employees engaged in the scope of their employment arising under this Agreement, and each party hereby agrees only to be responsible for certain claims with respect to that party's actions in connection with this Agreement. It is specifically agreed that neither party shall indemnify the other party and each party agrees to be responsible for its own defense. The parties agree that nothing in this provision shall be construed as a waiver of the sovereign or qualified immunity of the University, its employees, and/or the State of Ohio beyond the waiver provided in Ohio Revised Code Section 2743.02. Notwithstanding the foregoing and only to the extent permitted under applicable law, (a) except with respect to breaches of Section 15 below, neither the UNIVERSITY nor CONTRACTOR shall be liable for consequential, indirect or punitive damages arising out of the services provided hereunder, and (b) except with respect to a party's gross negligence or willful misconduct or any liability regarding third party claims, in no event shall either party's liability, if any, relating to or arising out of the services provided hereunder exceed the Fee paid to CONTRACTOR for such services.

15. CONFIDENTIALITY. Both parties understand that this agreement, as well as records provided to or prepared on behalf of UNIVERSITY, may be subject to release under the Ohio Public Records Act codified at Ohio Rev. Code 149.43. If this agreement or other documents, including but not limited to documents provided to or prepared on behalf of the university, contain trade secrets as defined within Ohio Rev. Code Chapter 1333, such information must be identified as such by the party claiming the trade secret. The UNIVERSITY will notify CONTRACTOR upon receipt of a public record request for records CONTRACTOR has identified as containing CONTRACTOR's trade secrets, and provide an opportunity for CONTRACTOR to prevent the release of those records. The party claiming a trade secret has the burden

{1889205;2}

of proving such in any subsequent action. Any claim by a party of a "trade secret" within this agreement must be specifically stated within, or in an attachment to, this agreement. Accordingly, CONTRACTOR considers its processes, procedures, database, portal, candidate and search-related documentation and personal data, and all internal electronic and written correspondence to be confidential, proprietary information, and trade secrets.

Records provided by CONTRACTOR to the UNIVERSITY remain the property of CONTRACTOR, but may be subject to Ohio Public Records law as described above. UNIVERSITY agrees not to use any CONTRACTOR provided proprietary information as defined above for any purpose except for purposes of this Agreement and agrees not to disclose the proprietary information to any third party without the prior written consent of CONTRACTOR except as otherwise required by applicable law. UNIVERSITY shall maintain data protection processes and systems sufficient to adequately protect candidate personal information and comply with any law or regulation applicable to such information.

16. ASSIGNMENT. Neither this Agreement nor any payments, claims, or interests there under are assignable or transferable by either party without the other party's prior written approval.

17. UNIVERSITY NAME AND LOGOS. CONTRACTOR is given permission to use Kent State University's name and logos for the purposes of advertising the position that is the subject of this agreement. All other uses of the Kent State University registered marks require written permission from the University.

18. ENTIRE AGREEMENT. This Agreement, the terms and conditions of the Attachments hereto and amendments mutually agreed upon in writing are the complete and entire agreement regarding these transactions, and replace any prior oral or written communications between UNIVERSITY and CONTRACTOR. CONTRACTOR hereby warrants and represents that it is not subject to any restriction, penalty, agreement, commitment, law, rule, regulation or order which is violated by its execution and delivery of this Agreement and performance of its obligations under this Agreement. Acceptance of this Agreement must be in accordance with and strictly limited to the terms and conditions contained herein. Performance by the CONTRACTOR without an effective acknowledgment shall be deemed to be performance in accordance with the terms and conditions of this Agreement. If there is a conflict between the terms of this Agreement and the terms contained in any Attachments hereto, the language of this Agreement shall control.

By signing below, the parties warrant that they have the authority to enter into this Agreement.

The foregoing terms and conditions, as well as aforementioned Attachments A & B to this agreement, are accepted and agreed to.

For Russell Reynolds Associates, Inc.:

Name: J. P. Pihakis JETT PIHAKIS

Title: EXECUTIVE DIRECTOR

Address: 277 Park Avenue, Suite 3800, New York, NY 10172
Attn: General Counsel

Signature: J. P. Pihakis Date: 11-27-18

For Kent State University:

Name: MARK M. POLASKO

Title: SVP, FINANCE ADMINISTRATION

Address: 1125, Risman Dr., Kent, OH 44242

Signature:  Date: 12/15/18

ATTACHMENT A

TERMS AND CONDITIONS. The fee ("Fee") for the search will be equal to one-third of the successful candidate's first year total cash compensation, including salary and any additional monetary inducements offered and accepted as part of the hiring negotiations. For this assignment, the Retainer, which will be credited against the Fee as described below, will be \$170,000 (to be billed out over the first three months of the assignment), and the Administrative Charge, which covers search-related expenses that are difficult to allocate to individual searchers, will be \$9,000 (payable in three equal monthly installments along with the Retainer payments). Any excess of the Fee over the Retainer will be payable upon the completion of the assignment. Subject to early cancellation of the search pursuant to the Agreement, the Retainer is Russell's minimum fee for undertaking the search.

EXECUTIVE ASSESSMENT. As an additional service and for an additional fee, Russell Reynolds' Executive Assessment Practice can conduct two types of behavioral assessments regarding short-listed candidates.

OTHER EXPENSES. These are defined as out-of-pocket expenses such as candidate and consultant travel and advertising. Additionally, services of a third-party vendor to perform extensive negative press search are arranged through CONTRACTOR and billed to the UNIVERSITY.

- A. All expenses incurred on behalf of the UNIVERSITY in excess of \$500 each must receive prior approval from the University when possible. The UNIVERSITY recognizes that it is not always practicable to request prior approval for certain travel expenses such as transportation and meals. However, the UNIVERSITY will not approve or reimburse expenses not in compliance with university policy and Ohio law.
- B. Transportation. CONTRACTOR agrees to use cost-effective modes of transportation when conducting services related to this agreement. CONTRACTOR will not be reimbursed for the unauthorized use of luxury vehicles. Airfare and accommodations expenses require approval prior to purchase.
- C. Meals, tips and incidental expenses. The UNIVERSITY will reimburse meals (exclusive of alcoholic beverages) at the IRS standard per diem rate. The per diem allowance includes reimbursement for incidental expense such as fees and tips for porters, baggage carriers, house-cleaning and bell staff; therefore, request for reimbursement of these types of expense will be disallowed.
- D. A detailed monthly invoice will be provided by CONTRACTOR for all expenses incurred on behalf of the UNIVERSITY.
- E. Except as otherwise provided herein, no payment for extra work shall be made unless such extras and the price thereof have been authorized in writing by the UNIVERSITY.

CANCELLATION: Should the UNIVERSITY cancel this engagement, its only obligation is for the prorated Retainer and Administrative Charge and accrued expenses through the cancellation date, except that a cancellation during the first month will incur an obligation of one month's Retainer and Administrative Charge and any incurred expenses up to that point. Notwithstanding the foregoing, in the event that the engagement is terminated due to breach, both parties do not waive their right to seek offset or other contractual rights or remedies at law. If, within 12 months after cancellation of the search, the UNIVERSITY hires a candidate presented during the search for the position described in this Agreement, the UNIVERSITY shall pay CONTRACTOR the fee set forth above, less any Retainer payments previously paid, upon the candidate's acceptance of an offer of employment with the UNIVERSITY.

GUARANTEE: If a candidate CONTRACTOR places leaves the UNIVERSITY's employ within twelve (12) months of his/her start date, then, as the UNIVERSITY's exclusive remedy with respect to the termination, resignation or performance of the hired candidate, CONTRACTOR will conduct a replacement search for up to three (3) months, upon request of the UNIVERSITY and for expenses only, for the same position as the original placement, subject to the following conditions:

- i. Placement's departure is for cause, or the result of his/her inability to carry out the position's responsibilities; or
- ii. The placement resigns, except due to disability or unless the focus of the job has changed requiring an unanticipated relocation, or the compensation, responsibilities or authority of the position are significantly different than represented at the time of hiring.

ADDITIONAL HIRES: If the UNIVERSITY hires (for another position) any of the other candidates CONTRACTOR presented within one year of the completion of this search assignment, CONTRACTOR will bill the University a fee based on one-third of that placement's first year-cash compensation.

OFF LIMITS: CONTRACTOR will not recruit the placement hired into this position. CONTRACTOR will also not recruit, nor cause to be recruited, any person reporting to the placement for a period of one year after the completion of the assignment, without prior approval from the University. Notwithstanding the foregoing, this provision shall not apply with respect to any UNIVERSITY employees with whom CONTRACTOR is already in contact on the date hereof.

BACKGROUND CHECKS: Except to the extent prohibited by law, CONTRACTOR will conduct reference checks and use commercially reasonable efforts to verify educational history for the finalist candidates. Any additional background investigation regarding candidates shall be the responsibility of the UNIVERSITY. The UNIVERSITY understands that in conducting the search and the reference and educational checks, CONTRACTOR will rely on information given to it by sources, candidates, references and private contacts, and, therefore, Russell does not warrant the veracity of such information.

ATTACHMENT B: Insurance Requirements

Since this transaction will involve labor, CONTRACTOR must assure the UNIVERSITY that Workers' Compensation and the following minimum Liability and Property Damage Insurance will be in effect during the period CONTRACTOR is doing this work: Workers' Compensation coverage in the statutorily required amount in the jurisdiction where the services will be performed, and Commercial General Liability Coverage in the amount of five hundred thousand (\$500,000.00) dollars per occurrence and one million (\$1,000,000.00) dollars aggregate. Upon request, CONTRACTOR must send the Procurement Department evidence of Workers' Compensation and Liability Insurance in effect.