

PROFESSIONAL SERVICES AGREEMENT

THIS PROFESSIONAL SERVICES AGREEMENT, dated as of _____, 20__ (this "Agreement"), is made and entered into by and between William Marsh Rice University, a Texas non-profit corporation ("Rice"), and _____, a _____ corporation ("Consultant"), with reference to the following:

- A. Rice desires certain professional services in connection with _____.
- B. Consultant is qualified and desires to render such professional services to Rice as further described in this Agreement.

NOW, THEREFORE, in consideration of the foregoing, the provisions contained herein and the mutual benefits to be derived herefrom, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Consultant and Rice agree as follows:

1. Services and Deliverables.

1.1 Scope of Work; Communications. Consultant shall provide services to Rice to assist Rice in connection with _____.
The details of such services are set forth in the Statement of Work attached hereto as Exhibit A.

1.2 Standard of Performance. Consultant represents and warrants that it has the necessary knowledge, experience, abilities, skills and resources to perform its obligations under this Agreement, and agrees to perform its obligations under this Agreement in a professional manner, consistent with prevailing industry standards and practices.

1.3 Licenses and Permits; Compliance with Law. Consultant represents and warrants that it has all licenses and permits necessary to conduct its business and perform its obligations under this Agreement, and agrees to comply with all applicable federal, state and local statutes, regulations, codes, ordinances and policies in performing its obligations under this Agreement.

1.4 Independent Contractor Relationship. The parties intend that Consultant's relationship to Rice in providing services hereunder shall be that of an independent contractor. Nothing in this Agreement, nor any performance hereunder, is intended or shall be construed to create a partnership, joint venture or relationship of agency or employment between Rice and Consultant. In providing services hereunder, Consultant shall represent itself to third parties as an independent contractor to Rice and shall not hold itself

out as having any authority to obligate Rice.

1.5 Confidentiality; Name or Logo Use. Consultant shall treat all information disclosed by Rice pursuant to this Agreement as confidential, and Consultant shall not disclose or use any such information except as required in connection with the performance of its obligations under this Agreement. Consultant shall not use Rice's name or logos in any manner or media (including, but not limited to, press releases, promotions, advertisements or solicitations) without the prior written approval of Rice.

2. Assignment of Rights Regarding Deliverables.

2.1 Assignment. Consultant does hereby assign, grant, and deliver to Rice, and Rice hereby accepts, the entire worldwide right, title, and interest of every kind and nature whatsoever in and to the deliverables under this Agreement, including but not limited to any related intellectual property rights.

2.2 Title. Consultant represents and warrants that it owns all right, title, and interest in and to the deliverables under this Agreement, and that such rights are not the subject of any encumbrances, liens, or legal claims of ownership by any third party.

2.3 Non-Infringement. Consultant represents and warrants to the best of their knowledge that the use of the deliverables under this Agreement shall not infringe or otherwise violate the trademark, trade dress, patent, trade secret, copyright, or other intellectual property rights of any third party.

3. Fee; Expenses; Invoicing.

3.1 Fee; Expenses. In consideration of Consultant performing its obligations under this Agreement, Rice will pay Consultant fee(s) as described in Exhibit B. Consultant shall be responsible and liable for any and all costs and expenses related to the performance of its obligations under this Agreement.

3.2 Invoicing. Consultant will provide Rice with an invoice supporting any request for fee payment.

4. Term; Termination; Survival.

4.1 Term. This Agreement shall have an initial term of _____ months commencing on the date of this Agreement, unless sooner terminated pursuant to Section 4.2 below.

4.2 Termination. This Agreement may be terminated prior to the completion of Consultant's services (i) by written agreement of the parties, or (ii) by either

party upon a breach of this Agreement (including, but not limited to, Consultant's services being deemed unsatisfactory by Rice) by the other party that remains uncured 10 days after receiving written notice of such breach from the terminating party. In the event of a termination of this Agreement pursuant to this Section 4.2, Rice and Consultant will in good faith negotiate an appropriate reduction in the fees payable to Consultant pursuant to Section 3.1 above.

4.3 Survival. Notwithstanding anything in this Agreement to the contrary, the provisions of Section 5 below shall survive any expiration or termination of this Agreement, and each party shall remain obligated to the other party under all provisions of this Agreement that expressly or by their nature extend beyond and survive the expiration or termination of this Agreement.

5. Insurance; Indemnification.

5.1 Insurance. Consultant has, and shall maintain during the term of this Agreement, insurance policies that are approved by Rice's Director of Risk Management, including, but not limited to, workers' compensation insurance, commercial general liability insurance, automobile liability insurance, professional liability insurance and excess liability insurance. Prior to performing services hereunder, Consultant shall provide Rice with certificates of insurance evidencing such policies. In addition, such policies shall provide that (i) Rice is named as an additional insured (with the exception of the professional liability insurance policy), (ii) coverage shall not be invalidated by any act, omission or negligence of Rice, (iii) coverage is on a "claims occurring" basis and not a "claims made" basis, and (iv) all rights of subrogation are waived as against Rice and its insurers. Consultant shall provide Rice with at least 30 days' prior written notice if such coverage shall be canceled, terminated, reduced, restricted, limited or materially changed. In addition, any commercial general liability insurance shall include coverage for Consultant's independent contractors and blanket contractual coverage for Consultant's obligations and liabilities under this Agreement, including, but not limited to, the indemnification obligations set forth in Section 5.2 below.

5.2 Indemnification. **Consultant shall indemnify, hold harmless, protect and defend Rice and its trustees, officers, employees and representatives (the "Indemnified Parties") for, from and against any and all demands, claims, suits, damages, losses, liabilities, costs and expenses, including, but not limited to, court costs and attorneys' fees (the "Indemnified Matters"), of any nature whatsoever (including, but not limited to, damage to or loss of property, bodily injury or death), directly or indirectly arising out of or in connection with the performance of Consultant's obligations under this Agreement. Consultant's indemnification obligations under this Section 5.2 shall apply whether the Indemnified Matters are due in part to the concurrent fault or negligence**

of the Indemnified Parties or others, but shall not extend to such concurrent fault or negligence. Consultant's defense obligations under this Section 5.2 shall be with attorneys approved by Rice, which approval shall not be unreasonably withheld.

6. Miscellaneous.

6.1 Power and Authority; Due Authorization; No Conflict; Enforceability. Each party represents and warrants to the other party that (i) such party has the power and authority to execute, deliver and perform its obligations under this Agreement, (ii) the execution, delivery and performance of this Agreement have been duly authorized by such party and do not and shall not conflict with any agreement or instrument to which it is bound, and (iii) this Agreement constitutes the legal, valid and binding obligation of such party, enforceable against it in accordance with its terms.

6.2 Entire Agreement; Severability; Further Assurances. This Agreement, including any exhibits attached hereto, constitutes the entire agreement between the parties, and supersedes all prior and contemporaneous agreements, understandings and negotiations, with respect to the subject matter hereof. In the event any provision of this Agreement is determined to be invalid or unenforceable, it is the desire and intention of the parties that such invalidity or unenforceability not invalidate or render unenforceable the remainder of the Agreement and that such provision be reformed and construed in such a manner that it will, to the maximum extent practicable, be deemed valid and enforceable, and the rights and obligations of the parties shall be construed and enforced accordingly. Each party shall execute and deliver such further documents and take such further actions as may be required or reasonably requested by the other party to effectuate the purposes of this Agreement.

6.3 No Assignment; No Amendment; No Waiver. This Agreement (i) may not be assigned or transferred, in whole or in part, by operation of law or otherwise, by either party without the prior written consent of the other party, and (ii) may not be amended or modified, by course of conduct or otherwise, except in a writing duly executed by each of the parties. Any waiver of any provision of this Agreement shall be in writing duly executed by the waiving party. The failure or delay by either party to seek redress for any breach or default under this Agreement, or to insist upon the strict performance of any provision of this Agreement, shall not constitute a waiver thereof or of any other provision of this Agreement, and such party shall have all remedies provided herein and at law and in equity with respect to such act and any subsequent act constituting the same.

6.4 Governing Law; Jurisdiction and Venue; Attorneys' Fees. This Agreement shall be governed by, and construed and enforced in accordance with, the laws

of the State of Texas (without regard to the conflicts or choice of law principles thereof). The parties irrevocably consent to the jurisdiction of the State of Texas, and agree that any court of competent jurisdiction sitting in Harris County, Texas, shall be an appropriate and convenient place of venue to resolve any dispute with respect to this Agreement. In the event either party commences any proceeding against the other party with respect to this Agreement, the parties agree that the prevailing party (as determined by the authority before whom such proceeding is commenced) shall be entitled to recover reasonable attorneys' fees and costs as may be incurred in connection therewith in addition to any such other relief as may be granted.

6.5 Construction of Agreement. The parties acknowledge and agree that both parties substantially participated in negotiating the provisions of this Agreement; and, therefore, the parties agree that this Agreement shall not be construed more favorably toward one party than the other party as a result of one party primarily drafting the Agreement. The section and other headings in this Agreement are for convenience of reference only and shall not be construed, expressly or by implication, so as to affect the meaning or interpretation of any of the provisions hereof.

6.6 Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.

IN WITNESS WHEREOF, Consultant and Rice have duly executed and delivered this Agreement as of the date first written above.

William Marsh Rice University

By _____
Name: _____
Title: _____

By _____
Name: _____
Title: _____