



Executive Employment Agreement

Between

Dr. Eloisa Y. Klementich, CEcD
and
Invest Atlanta

This Executive Employment Agreement (the "Agreement") is entered into this 29th day of December, 2017 by and between Dr. Eloisa Y. Klementich, CEcD ("Executive"), a resident of the State of Georgia and The Atlanta Development Authority d/b/a "Invest Atlanta" a public body corporate and politic and an instrumentality of the State of Georgia, acting by and through its duly appointed Board of Directors (the "Board.")

WHEREAS, pursuant to O.C.G.A. §36-62-6(3), Invest Atlanta is authorized to make and execute contracts and other instruments necessary to exercise the powers of Invest Atlanta; and

WHEREAS, Executive possesses the necessary knowledge, skills, ability and expertise to competently perform the functions and services for which she will be engaged under this Agreement; and

WHEREAS, the parties desire to enter into this Agreement setting forth the terms and conditions of Executive's employment with Invest Atlanta.

NOW, THEREFORE, in consideration of the premises and mutual covenants and agreements hereinafter set forth, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. EMPLOYMENT DUTIES AND RESPONSIBILITIES

1.1 Position and Title. Invest Atlanta agrees to continue to employ, and the Board so appoints, Executive in the position of President and Chief Executive Officer ("Executive") and Executive hereby accepts such position and agrees to serve Invest Atlanta, comprised of The Atlanta Development Authority, the Downtown Development Authority of the City of Atlanta, the Urban Residential Finance Authority of the City of Atlanta, Georgia and the Atlanta Urban Redevelopment Agency. Executive shall perform such job duties and responsibilities assigned by the Board from time to time, which duties and responsibilities will

include general administration and supervision of all operations and personnel of Invest Atlanta, including hiring and termination of Invest Atlanta employees, and determination of such employees' (other than Executive's) compensation. Executive is authorized to sign checks, drafts, and other orders for the payment of money, notes or other evidences of indebtedness issued in the name of Invest Atlanta, grant requests, statements and reports required to be filed with federal, state or local officials or agencies. Executive shall ensure that all orders and resolutions of the Board of Directors are carried into effect. Executive shall have the right to supervise and direct the management and operations of Invest Atlanta and to make all decisions pertaining to the daily administration of Invest Atlanta. Executive shall primarily perform such duties at Invest Atlanta's offices in Atlanta, Georgia, or at such other location as may be designated by the Board.

1.2 Reporting Relationship. Executive shall report directly to the Board and shall be subject to, and shall act in accordance with, all instructions and directions of the Board.

1.3 Invest Atlanta's Policies and Procedures. In performing Executive's duties hereunder, Executive shall be subject to, and shall abide by, all applicable laws and written policies and procedures of Invest Atlanta, including, but not limited to, the Georgia Development Authorities Law, Invest Atlanta's By-laws, and adopted policies as they may be amended from time to time.

1.4 Attention to Duties. Executive agrees to perform faithfully, industriously, and to the best of Executive's ability, experience, and talents, all of the duties that may be required by the express and implicit terms of this Agreement, to the reasonable satisfaction of the Board. Executive agrees to not engage in any other gainful occupation (except as permitted by Sections 1.4 or 1.5 of this Agreement); rather, Executive agrees to devote all of her business time and energies to the business and affairs of Invest Atlanta, provided that nothing contained in this Section 1.4 will be deemed to prevent or limit Executive's right to manage Executive's personal or business investments on Executive's own personal time in accordance with Invest Atlanta's applicable policies and procedures as may be amended from time to time.

Invest Atlanta further acknowledges that Executive may be asked from time to time to be of service to other organizations, associations or causes, and the Board believes that a spirit of participation and collaboration is in Invest Atlanta's interests and, in some cases, may be central to its mission as the economic development agency for the City of Atlanta. Executive may therefore, with the written consent of the Board Chair or the Chair's designee, engage in such service to other organizations, associations or causes so long as such service does not violate Invest Atlanta's policies, create a conflict of interest on behalf of Executive with respect to Executive's performance of Executive's duties and responsibilities pursuant to this Agreement, or otherwise interfere with Executive's performance of Executive's duties and responsibilities hereunder.

1.5 Outside Compensation. Any fees or honoraria paid to Executive for services Executive renders to others in Executive's capacity as the President and CEO of Invest Atlanta shall be property of Invest Atlanta. Executive agrees not to accept compensation for outside consulting, speaking engagements, for-profit Board service or other similar commitments without specific prior approval of the Board Chair (or the Chair's designee). Notwithstanding the foregoing, in no event may Executive accept any engagement or gainful occupation, with or without compensation, which creates a potential or actual conflict of interest with Executive's duties and responsibilities as President and CEO of Invest Atlanta.

1.6 Performance Reviews. Executive's performance will be reviewed annually by the Board, commencing with the first anniversary of Executive's appointment. The review may encompass discussion and establishment of performance objectives, salary adjustment, and professional development opportunities. Executive will cooperate with the Board to establish metrics and success measures to appropriately evaluate the level of achievement related to Executive's performance, based upon an annual work plan submitted to the Board by Executive.

2. TERM OF AGREEMENT. Executive's employment under this Agreement shall begin September 1, 2017 (the "Commencement Date") and be for an initial term of three (3) years (the "Initial Term") unless earlier terminated by either party as provided in Section 5 of this Agreement. Following the Initial Term, this Agreement and Executive's employment hereunder shall automatically be renewed for successive one year periods (each a "Renewal Term"), subject to termination as provided in Section 5 hereof. As used in this Agreement, "Term" shall mean the Initial Term and any subsequent Renewal Term, as applicable.

3. COMPENSATION AND BENEFITS. Invest Atlanta shall pay to Executive as Executive's exclusive compensation for services rendered under this Agreement the following amounts, and shall offer Executive the following benefits:

3.1 Base Salary. Invest Atlanta shall pay to Executive a salary at an annual rate of three hundred, nine thousand dollars (\$309,000) ("Base Salary"), payable to Executive in regular installments through Invest Atlanta's customary payroll process, subject to customary and lawful withholdings for state and federal income tax, insurances, and other such items as may be in accordance with Invest Atlanta's policies. Annual increases in Executive's Base Salary may be granted in the sole discretion of the Board.

3.2 Transportation Allowance. During the term of this Agreement, Invest Atlanta shall pay to Executive a Transportation Allowance of \$450.00 per month, with no additional reimbursement for personal motor vehicle usage for the benefit and work of Invest Atlanta.

3.3 Benefits. During the term of this Agreement, Executive shall be entitled to participate in the employee benefit plans maintained by Invest Atlanta for its full-

time employees. Invest Atlanta reserves the right to cancel or change the benefit plans and programs it offers to its employees at any time.

3.4. Paid Time Off. Executive shall accrue sick leave, personal days, and any other leave in accordance with Invest Atlanta policies. Notwithstanding the foregoing, Executive shall be entitled to a maximum of five (5) weeks of paid vacation per calendar year (or pro rata portion for any partial year), to be taken in accordance with Invest Atlanta's policies and procedures in a manner that is not disruptive to the business of Invest Atlanta. As a matter of policy, Invest Atlanta encourages its employees to take vacation as earned. There are limits to permitted accruals and unused vacation over the maximum allowed accrual will be forfeited in accordance with Invest Atlanta's policies.

3.5 Indemnification. Executive will be eligible for coverage under Invest Atlanta's Director's & Officer's liability insurance policy, which Invest Atlanta agrees to maintain with commercially standard coverage amounts and terms, subject to the terms and conditions contained therein.

4. REIMBURSEMENT OF EXPENSES

4.1 Reimbursement for Out-of-Pocket Expenses. Executive shall be reimbursed for all appropriate and properly documented expenses; provided that such expenses are incurred in good faith and in a manner consistent with the policies of Invest Atlanta and its budget. Executive agrees to submit expense reports in a timely fashion, and further agrees to seek advance approval from the Chair of the Board or the Chair's designee for any significant expenses not included in Invest Atlanta's budget. Improperly documented expenses will not be reimbursed.

4.2 Reimbursement for Civic Association and Professional Dues and Expenses. Invest Atlanta shall reimburse Executive for all appropriate costs associated with membership and participation in approved civic and professional organizations and associations that Executive and the Board Chair deem to be in Invest Atlanta's best interests.

5. TERMINATION OF EMPLOYMENT

5.1 Termination by Death or Disability. Executive's employment hereunder shall be terminated immediately upon the death or disability of Executive. As used herein, "disability" shall mean Executive's incapacity due to physical or mental illness to substantially perform Executive's essential duties on a full-time basis for four consecutive months or for 120 days or more in any consecutive 12-month period.

5.2 Termination by Invest Atlanta Without Cause. Executive's employment hereunder may be terminated by Invest Atlanta without Cause upon sixty (60) days written notice to Executive. Executive shall immediately cease the performance of

Executive's duties hereunder if Invest Atlanta shall so request following the date of such notice.

5.3 Termination by Invest Atlanta With Cause. Executive's employment hereunder may be terminated by Invest Atlanta with Cause at any time by written notice to Executive from the Board. "Cause" shall mean (a) intentional or willful misconduct in the performance of the normal duties for which Executive has been hired; or (b)) a material breach of any term of this Agreement or failure to satisfactorily perform Executive's duties and responsibilities hereunder that is not cured within fifteen (15) business days from the date of notice to Executive from Invest Atlanta detailing such breach; or (c) failure to satisfactorily perform Executive's duties and responsibilities hereunder; or (d) commission of an act of theft, misappropriation, embezzlement, fraud, or dishonesty; or (e) conviction of any felony, or conviction of a misdemeanor involving dishonesty or moral turpitude; or (f) failure to follow Invest Atlanta's written policies, procedures, and regulations; or (g) willful or reckless engagement in conduct that is injurious to the operations, reputation, mission, or public profile of Invest Atlanta, monetarily or otherwise.

5.4 Termination by Executive Without Cause. Executive may terminate this Agreement at any time by voluntarily resigning and providing Invest Atlanta thirty (30) days' advance notice of Executive's resignation (the "Notice Period"). Upon receipt of such notice, Invest Atlanta may elect to separate Executive's employment prior to the end of the Notice Period. Invest Atlanta reserves the right to require Executive to refrain from working in Invest Atlanta's offices and/or not to undertake all or any of Executive's duties (unless otherwise instructed) during all or part of the Notice Period. During the Notice Period, Executive will remain subject to all terms and conditions of Executive's employment agreement.

5.5 Termination by Executive For Good Reason. Executive may terminate this Agreement at any time by written notice to Invest Atlanta for "Good Reason," which shall mean the occurrence of any of the following events without Executive's prior express written consent:

(i) the assignment to Executive of duties materially inconsistent with the position and status of Executive with Invest Atlanta;

(ii) a reduction by Invest Atlanta in Executive's base salary as then in effect, or the exclusion of Executive from participation in Invest Atlanta's benefit plans in which she previously participated as in effect at the date hereof, or as the same may be offered to employees from time to time during the Term;

(iii) any purported termination of the employment of Executive by Invest Atlanta which is not based on approval of a majority of the members of Invest Atlanta's Board of Directors and/or otherwise affected in accordance with this Agreement.

6. **SEVERANCE PAYMENTS ON TERMINATION.** Invest Atlanta shall not provide severance except as provided in this paragraph. Executive shall be entitled to severance if terminated by Invest Atlanta without Cause or by Executive for Good Reason during the term of employment. If Executive's employment with Invest Atlanta is terminated by Invest Atlanta without Cause or by Executive for Good Reason any time during the term of employment, Executive shall be entitled to receive severance in an amount equal to (24) months of Executive's then current Base Salary. Payment of the severance payment shall be subject to the execution and delivery by Executive of a valid separation agreement and general release, in a form acceptable to Invest Atlanta, including a release of all claims Executive may have against Invest Atlanta and all of its respective directors, officers, employees, insurers, agents, attorneys, and affiliates. The severance payments shall begin on Invest Atlanta's first regular pay day falling fourteen (14) days after Invest Atlanta has received a copy of the separation agreement and general release executed by Executive and such time for Executive to revoke his acceptance (if permitted by law) has expired. Thereafter, the severance payments shall be paid out in regular intervals in accordance with Invest Atlanta's normal payroll practices. In receiving any payments pursuant to this Section 6, Executive shall not be obligated to seek other employment or take any action by way of mitigation of the amounts payable to Executive hereunder, and such amounts shall not be reduced or terminated whether or not Executive obtains other employment. No retirement contribution shall be paid as part of the severance.

7. **RESTRICTIVE COVENANTS.**

7.1 **Invest Atlanta Business.** Executive understands and acknowledges that, from the outset and through the Term, Executive shall receive specialized training from Invest Atlanta and have access to Invest Atlanta's affiliates and Confidential Information, as defined below, the unauthorized access, use, or disclosure of which is likely to irreparably damage, affect or impair Invest Atlanta's business and business relationships. As a result, for and in consideration of the employment of Executive by Invest Atlanta, Invest Atlanta's provision of its Confidential Information, specialized training, and business relationships to Executive, and other good and valuable consideration, the receipt, adequacy and sufficiency of which are hereby acknowledged, the parties hereto covenant and agree to the protective covenants in this Section 7. As used herein, "Invest Atlanta's Business" shall mean serving as the economic development and redevelopment agency for the City of Atlanta.

7.2 **Confidential Information.** Executive agrees not to access, use, disclose or exploit, directly or indirectly, any Confidential Information except as necessary to perform Executive's duties on behalf of Invest Atlanta. "Confidential Information" means data and information (a) relating to Invest Atlanta Business, regardless of whether the data or information constitutes a trade secret under applicable law, (b) disclosed to Executive or of which Executive became aware as a consequence of Executive's relationship with Invest Atlanta, (c) having value to Invest Atlanta, (d) not generally known to competitors of Invest Atlanta, and (e) which includes trade secrets (as defined by Georgia law), methods of

operation, designs; compilations; programs; methods; techniques; drawings; processes; research and development; legal affairs; accounting; finances; actual or potential customer information and lists; customer preferences; billing rates; pricing practices; marketing, recruiting, and placement strategies; business plans; operations; existing and future services; contract expiration dates; forecasts and forecast assumptions and volumes; and other financial, marketing, services, and operations information, whether written or otherwise, and similar information. Provided, however, that Confidential Information shall not mean data or information (1) that has been voluntarily disclosed to the public by Invest Atlanta, except where such disclosure has been made by Executive without authorization from Invest Atlanta, (2) that has been independently developed and disclosed by others authorized to do so by Invest Atlanta, (3) that has otherwise entered the public domain through lawful means, or (4) is subject to disclosure pursuant to the Georgia Open Records Act, O.C.G.A. §50-18-70, *et seq.*, as determined by the General Counsel of Invest Atlanta or a court of competent jurisdiction. Confidential Information also includes any information that Invest Atlanta may receive or has received from investors or others with any understanding, express or implied, that the information would not be disclosed.

8. GENERAL PROVISIONS.

8.1 Successors and Assigns. This Agreement is intended to bind and inure to the benefit of and be enforceable by Executive, Invest Atlanta, its affiliates, and their respective heirs, executors, administrators, successors and assigns, except that Executive may not assign Executive's rights or delegate Executive's duties or obligations hereunder without the prior written consent of the Board.

8.2 Notices. Any and all notices, offers, elections, acceptances, requests, certifications and consents provided for herein shall be made in writing and delivered in person, mailed by certified mail, return receipt requested, postage prepaid, sent by reputable overnight courier or sent by telecopy or .pdf attachment to email (in each case, with a hard copy to follow by regular mail) to the recipient or recipients thereof at the addresses set forth below, or at such other address as any party shall specify to the other parties by written notice thereof. All notices shall be deemed effective as of the date of delivery in person or by facsimile or .pdf fax, or the date of mailing or deposit with a reputable overnight courier. The addresses of the parties are set forth below, or such other address as any party may specify in writing by prior written notice in accordance with the provisions of this Section 8.2.

INVEST ATLANTA:

General Counsel
133 Peachtree Street
Suite 2900
Atlanta, Georgia 30303
Telephone: 404-614-8326
Facsimile: 470-498-4100

EXECUTIVE:

Dr. Eloisa Y. Klementich
1428 Churchill Way
Marietta, Georgia 30062
Email: klementich@yahoo.com
Telephone: 404-915-1828

8.3 **Amendments; Entire Agreement.** This Agreement may not be amended or modified except by writing executed by all of the parties hereto. This Agreement constitutes the entire agreement between Executive and Invest Atlanta relating in any way to the employment of Executive, and supersedes all prior discussions, understandings and agreements between them with respect thereto.

8.4 **Contract Terms Exclusive.** This Agreement constitutes the entire agreement between the parties hereto and the parties acknowledge and agree that neither of them has made any representation with respect to the subject matter of this Agreement or any representations inducing the execution and delivery hereof except as specifically set forth herein and each of the parties hereto acknowledges that he, she or it has relied on his, her or its own judgment in entering into the same.

8.5 **Waiver of Rights.** No waiver by Invest Atlanta or Executive of a right or remedy hereunder shall be deemed to be a waiver of any other right or remedy or of any subsequent right or remedy of the same kind and no course of conduct or course of dealing or failure or delay by any party hereto in enforcing or exercising any of the provisions of this Agreement shall affect the validity, binding effect or enforceability of this Agreement or be deemed to be an implied waiver of any provision of this Agreement.

8.6 **Severability.** This Agreement shall be severable so that if any term, clause or provision hereof shall be deemed invalid or unenforceable for any reason, such invalidity or unenforceability shall not affect the remaining terms, clauses or provisions hereof; the parties intending that if any such term, clause or provision were held to be invalid prior to the execution hereof they would have executed an agreement containing all the remaining terms, clauses and provisions of this Agreement.

8.7 **Interpretation.** The parties and their respective legal counsel have actively participated in the negotiation and drafting of this Agreement, and in the event of any ambiguity or mistake herein, or any dispute among the parties with respect to the provisions hereof, no provision of this Agreement shall be construed unfavorably against any of the parties on the ground that it or its counsel was the drafter thereof.

8.8 **Choice of Law; Forum Selection.** All issues and questions concerning the construction, validity, enforcement and interpretation of this Agreement and the exhibits and schedules hereto shall be governed by, and construed in accordance with, the laws of the State of Georgia, without giving effect to any choice of law or conflict of law, rules or provisions (whether of the State of Georgia or any other jurisdiction) which would cause the application of the laws of any jurisdiction other than the State of Georgia. Any action arising out of, or relating to, this Agreement or Executive's employment or relationship with Invest Atlanta shall be brought or maintained only in the United States District Court for the Northern District of Georgia or state or superior court of Fulton County, Georgia.

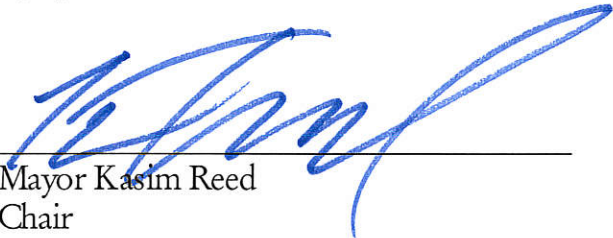
8.9 Counterparts. This Agreement may be signed in any number of counterparts, each of which shall be an original for all purposes but all when taken together shall constitute only one (1) agreement.

8.10 Intent of Payments and Benefits – 409A. It is intended that any payment or benefit which is provided pursuant to or in connection with this Agreement which is considered to be deferred compensation subject to Section 409A of the Internal Revenue Code of 1986, as amended (the “Code”), shall be paid and provided in a manner, and at such time and form, as complies with the applicable requirements of Section 409A of the Code to avoid the unfavorable tax consequences provided therein for non-compliance. For purposes of this Agreement, all rights to payments and benefits hereunder shall be treated as rights to receive a series of separate payments and benefits to the fullest extent allowed by Section 409A of the Code. Notwithstanding any other provision of this Agreement, neither Invest Atlanta nor its affiliates, members, employees, officers or agents shall be liable to Executive if any payment or benefit which is to be provided pursuant to this Agreement and which is considered deferred compensation subject to Section 409A of the Code otherwise fails to comply with, or be exempt from, the requirements of Section 409A of the Code.

Remainder of this page intentionally left blank.


IN WITNESS WHEREOF, the parties have executed this Agreement the day and year first above written.

THE ATLANTA DEVELOPMENT AUTHORITY
d/b/a INVEST ATLANTA



Mayor Kasim Reed
Chair

ATTEST:



Assistant Secretary [SEAL]



EXECUTIVE



Dr. Eloisa Y. Klementich

Sworn to and Subscribed before me this day
29th, December, 2017



Notary Public
My Commission Expires: _____

