**STEPHEN F. AUSTIN STATE UNIVERSITY**

SERVICES AGREEMENT

Whereas the undersigned Insert Name of Contractor (Contractor) hereby enters into this Agreement with Stephen F. Austin State University, a member of The University of Texas System, (SFASU) to provide the following designated services and/or products on the dates agreed to below:

(The kinds and amounts of services to be rendered must be specifically listed and in sufficient detail to clearly describe the services contracted for.)

If Contractor is providing services under this Agreement, Contractor shall, in accordance with Section 2155.4441 of the *Texas Government Code*, purchase products and materials produced in Texas when such products and materials are available at a price and delivery time comparable to products and materials produced outside of Texas.

Stephen F. Austin State University will provide the above stated Contractor with the following materials to complete the task, all other materials to be supplied by Contractor:

(Describe all materials such as sound equipment, etc., that will be provided to the contractor.)

Contractor also warrants that he/she is qualified to provide the specified services and/or products, as documented by attachments that follow. Stephen F. Austin State University acknowledges that Contractor was asked to provide this service because of his/her expertise in his/her field and not because of his/her official status.

(List attached exhibits such as resumes, etc., if none delete)

This agreement shall begin on DATE, and shall terminate on DATE. This agreement may be terminated by either party upon thirty (30) days written notice or immediately by SFASU in the event of breach by Contractor.

Travel:

Contractor shall be responsible for any and all travel expenses.

Contractor shall be reimbursed for travel conducted in the pursuit of this Agreement and appropriate per diem. Documentation of travel costs (original receipts) shall be provided by the contractor for all travel related expenses except mileage on personal automobile. Original receipts are required for travel expenses related to hotel, rental car, commercial coach airfare, parking, taxi, etc. Hotel expenses shall be reimbursed at no more than $93.00 per night, plus taxes. Mileage will be tallied using the shortest route between two points as indicated by Google Maps and shall be reimbursed at a rate of 54.5 cents per mile. Receipts are not required for meals; however, they shall not exceed $51.00 per day. Meals will not be provided unless overnight travel is incurred.

SFASU will pay for the following travel directly:

Fees:

Contractor shall be paid $ (words and figures) for contracted services, including any and all preparation time. This agreement shall not exceed $ (words and figures), excluding travel and per diem as described herein.

Subject to and in accordance with Chapter 2251, Government Code, SFASU will pay Contractor the Fees and reimburse applicable Travel Expenses, no later than 30 days after the later of 1) performance of the Services; or 2) receipt of invoice and travel receipts.

All reimbursements and payments depend on any required certifications by Contractor being made or submitted no later than five working days after termination of the contracted services. Reimbursement and payment will be made at the rate specified, subject to satisfactory performance and progress having been determined by the Project Director, designated below.

SFASU is exempt from Texas Sales & Use Tax on goods and services in accordance with §151.309, Tax Code, and Title 34 Texas Administrative Code §3.322, and is not required to provide a tax exemption certificate to establish its tax-exempt status.

Termination:

SFASU may terminate this Agreement with or without cause upon ten (10) days prior written notice to Contractor. SFASU will pay Contractor for Services satisfactorily performed through the date of termination. Notwithstanding any provision to the contrary, SFASU will not pay Contractor Fees or reimburse Travel Expenses incurred after the date Contractor is given notice that Contractor could have avoided or mitigated.

Relationship of the Parties:

Contractor is an independent contractor and is not an employee, partner, joint venturer, or agent of SFASU. Contractor will not bind nor attempt to bind SFASU to any agreement. Contractor shall be responsible for all expenses necessary to carry out the services under this agreement, and shall not be reimbursed by SFASU for such expenses except as otherwise provided in this agreement.

Confidentiality and Safeguarding of SFASU Records; Press Releases; Public Information.

Under this Agreement, Contractor may (1) create, (2) receive from or on behalf of SFASU, or (3) have access to, records or record systems (SFASU Records). However, SFASU will not provide to Contractor, and Contractor will never seek to access, any SFASU Records that contain personally identifiable information regarding any individual that is not available to any requestor under the Texas Public Information Act (TPIA), Chapter 552, Government Code, including “directory information” of any student who has opted to prohibit the release of their “directory information” as that term is defined under the Family Educational Rights and Privacy Act, 20 U.S.C. §1232g, and its implementing regulations. Contractor will: (1) hold SFASU Records in strict confidence and will not use or disclose SFASU Records except as (a) permitted or required by this Agreement, (b) required by Applicable Laws, or (c) otherwise authorized by SFASU in writing; (2) safeguard SFASU Records according to reasonable administrative, physical and technical standards (such as standards established by the National Institute of Standards and Technology and the Center for Internet Security, as well as the Payment Card Industry Data Security Standards) that are no less rigorous than the standards by which Contractor protects its own confidential information; (3) continually monitor its operations and take any action necessary to assure that SFASU Records are safeguarded and the confidentiality of SFASU Records is maintained in accordance with all Applicable Laws and the terms of this Agreement; and (4) comply with SFASU Rules regarding access to and use of SFASU’s computer systems, including UT165 at <http://www.utsystem.edu/board-of-regents/policy-library/policies/uts165-information-resources-use-and-security-policy>. At the request of SFASU, Contractor agrees to provide SFASU with a written summary of the procedures Contractor uses to safeguard and maintain the confidentiality of SFASU Records.

* + - **Return of SFASU Records.** Contractor agrees that within thirty (30) days after the expiration or termination of this Agreement all SFASU Records created or received from or on behalf of SFASU, will be (1) returned to SFASU, with no copies retained by Contractor; or (2) if return is not feasible, destroyed. Twenty (20) days before destruction of any SFASU Records, Contractor will provide SFASU with written notice of Contractor’s intent to destroy SFASU Records. Within five (5) days after destruction, Contractor will confirm to SFASU in writing the destruction of SFASU Records.
    - **Press Releases.** Except when defined as part of the Services, Contractor will not make any press releases, public statements, or advertisement referring to the Project or the engagement of Contractor in connection with the Project, or release any information relative to the Project for publication, advertisement or any other purpose without the prior written approval of SFASU.
      * **Public Information.** SFASU adheres to Applicable Laws (including opinions of the Texas Attorney General) related to disclosure of public information under TPIA. In accordance with §552.002 of TPIA and §2252.907, Government Code, at no additional charge to SFASU, Contractor will make any information created or exchanged with SFASU pursuant to this Agreement (and not otherwise exempt from disclosure under TPIA) available in a format reasonably requested by SFASU that is accessible by the public.

FERPA Compliance:

To the extent applicable, Contractor agrees to hold student information, including any personally identifiable student information or education records as those terms are defined under federal law, (“Confidential Data”) in strict confidence and warrants to SFASU that it will use reasonable industry practices to establish and maintain adequate procedures to ensure the confidentiality and privacy of such Confidential Data from unauthorized use or disclosure in violation of the Federal Family Educational Rights and Privacy Act (“The Buckley Amendment or “FERPA”), 20 USC 1232 g and not to use or disclose Confidential Data except as permitted or required by this Contract, as required by law, or as otherwise authorized by SFASU in writing. Contractor further agrees not to use Confidential Data for any purpose other than the purpose for which the disclosure to Contractor was made. Contractor shall continue to maintain the confidentiality and privacy of the Confidential Data retained in its system after cancellation, expiration or other conclusion of this Agreement. Upon termination, cancellation, expiration or other conclusion of this Contract, Contractor shall return all Confidential Data to SFASU or, if return is not feasible, destroy any and all Confidential Data.  If Contractor destroys the information, it shall provide SFASU with a certificate confirming the date of destruction of the data. Contractor shall develop, implement, maintain and use appropriate administrative, technical and physical security measures to preserve the confidentiality, integrity and availability of all electronically maintained or transmitted Confidential Data received from, or on behalf of SFASU or its students. These measures will be extended by contract to all subcontractors used by Contractor. Contractor shall, within one day of discovery, report to SFASU any use or disclosure of confidential information not authorized by this agreement or in writing by SFASU. Following this report, Contractor will conduct a timely and thorough investigation in an attempt to identify: (i) the nature of the unauthorized use or disclosure, (ii) the data used or disclosed, and (iii) who made the unauthorized use or received the unauthorized disclosure.  At the conclusion of this investigation, Contractor will furnish a confidential written report to SFASU indicating the results of the investigation, what Contractor has done or shall do to mitigate any deleterious effect of the unauthorized use or disclosure, and what corrective action Contractor has taken or shall take to prevent future similar unauthorized use or disclosure.

Insurance:

CONTRACTOR ACKNOWLEDGES AND UNDERSTANDS THAT SFASU DOES NOT MAINTAIN AND WILL NOT OBTAIN INSURANCE OF ANY TYPE TO PROTECT CONTRACTOR AGAINST ANY LOSS, DAMAGE OR INJURY THAT MAY IN ANY WAY RESULT FROM CONTRACTOR’S PERFORMANCE OF THE SERVICES. CONTRACTOR HEREBY RELEASES SFASU PARTIES FROM ANY AND ALL LIABILITY FOR ANY LOSS, DAMAGE, INJURY OR COSTS RELATING TO THE PERFORMANCE OF THE SERVICES, SFASU’S USE OF THE WORK MATERIAL, AND SFASU’S RELIANCE ON THE SERVICES.

Indemnification:

CONTRACTOR WILL INDEMNIFY, HOLD HARMLESS AND DEFEND SFASU AND ITS BOARD, OFFICERS, AGENTS, AND EMPLOYEES, FROM AND AGAINST ALL LIABILITIES, DAMAGES, CLAIMS, DEMANDS, ACTIONS (LEGAL OR EQUITABLE), AND COSTS AND EXPENSES (INCLUDING ATTORNEYS’ FEES INCURRED IN INVESTIGATING, DEFENDING OR SETTLING ANY OF THE FOREGOING CLAIMS), OF ANY KIND OR NATURE, ARISING FROM CONTRACTOR’S PERFORMANCE OF THE SERVICES THAT ARE CAUSED IN WHOLE OR IN PARTY BY ANY NEGLIGENT ACT OR OMISSION, OR WILLFUL MISCONDUCT, OF CONTRACTOR OR ANY CONTRACTOR PARTIES FOR WHOSE ACTS CONTRACTOR MAY BE LIABLE. THE PROVISIONS OF THIS SECTION WILL NOT BE CONSTRUED TO ELIMINATE OR REDUCE ANY OTHER INDEMNIFICATION OR RIGHT WHICH ANY INDEMNITEE HAS BY LAW OR EQUITY. SFASU WILL BE ENTITLED TO BE REPRESENTED BY COUNSEL IT SELECTS AT ITS OWN EXPENSE. IN ADDITION, CONTRACTOR WILL INDEMNIFY, HOLD HARMLESS AND DEFEND SFASU FROM AND AGAINST ALL CLAIMS ARISING FROM INFRINGEMENT OR ALLEGED INFRINGEMENT OF ANY INTELLECTUAL PROPERTY RIGHT ARISING BY OR OUT OF THE PERFORMANCE OF SERVICES.

Risk of Loss:

All work performed by Contractor pursuant to this Agreement will be at Contractor’s exclusive risk until final and complete acceptance of the work by SFASU. In the case of any loss or damage to the work prior to SFASU’s acceptance, such loss or damage will be Contractor’s responsibility. Delivery of any goods to SFASU pursuant to this Agreement must be FOB destination.

Force Majeure:

Neither party hereto will be liable or responsible to the other for any loss or damage or for any delays or failure to perform arising out of or caused, directly or indirectly, by circumstances beyond its reasonable control including acts of God, strikes, national, state or local health emergency, war, riots, flood, fire, sabotage, governmental authority, or any other circumstances (“Force Majeure Occurrence”). Provided, however, in the event of a Force Majeure Occurrence, Contractor agrees to use their best efforts to mitigate the impact of the occurrence so that SFASU may continue to provide mission critical services during the Force Majeure Occurrence.

Warranties and Representations:

* **Compliance with Law and Policy.** Contractor will comply with: (a) all applicable federal, state and local laws (Applicable Laws), and (b) for Services performed on SFASU premises, the Rules and Regulations of the University of Texas System Board of Regents (Board) at http://www.utsystem.edu/bor/rules/ and the policies of UT System at <https://www.utsystem.edu/sites/policy-library/uts-policies>. Neither Contractor, nor anyone acting for a firm, corporation or institution represented by Contractor, has (1) violated the antitrust laws of the State of Texas (ref. Chapter 15, *Business and Commerce Code*), or federal antitrust laws, or (2) communicated directly or indirectly the content of Contractor’s response to any SFASU procurement solicitation to any competitor or other person engaged in a similar line of business during the procurement process for this Agreement.
* **Performance**. Contractor warrants that it will perform the Services in a good and workmanlike manner and in accordance with commercially reasonable standards of Contractor’s profession or business.
* **Legal Name**. Contractor represents and agrees that this Agreement reflects Contractor’s full and correct legal name.
* **Ethics Matters; No Financial Interest**. Contractor and its officers, employees, agents, representatives and permitted subcontractors (Contractor Parties) have read and understand UT System’s Conflicts of Interest Policy available at http://www.utsystem.edu/board-of-regents/policy-library/policies/uts180-conflicts-interest-commitment-outside-actvities, UT System’s Standards of Conduct Guide available at https://www.utsystem.edu/documents/docs/policies-rules/ut-system-administration-standards-conduct-guide, and applicable state ethics laws and rules available at https://www.utsystem.edu/offices/systemwide-compliance/ethics (Ethics Guidance). Contractor will not assist or cause SFASU, Board, officers, employees, agents or representatives (SFASU Parties) to violate Ethics Guidance. Contractor represents and warrants that no member of the Board has a direct or indirect financial interest in the transaction that is the subject of this Agreement.

Title IX:

SFASU strictly adheres to Title IX of the Education Amendments of 1972, the federal Campus Sexual Violence Elimination Act; United States Department of Education regulations and directives; and SFASU’s sexual harassment policy and procedures (“Regulations”).  Specifically, the Regulations apply to all students, employees, visitors, and other third parties on SFASU-controlled property, including institutions and entities with whom SFASU places its students.  Further, such Regulations prohibit unequal treatment on the basis of sex as well as sexual harassment and sexual misconduct. As a condition of employment, enrollment, doing business, or being permitted on the campus, the above-mentioned individuals, organizations, and entities must agree to:  1) Report immediately to the Title IX coordinator any and all claims of sex discrimination or sexual misconduct; 2) Cooperate with SFASU’s Title IX investigation; and, 3) Cooperate fully with all sanctions that SFASU may impose against such individual, organization, or entity, who is found to have violated the Regulations.  If the individual, organization, or entity fails to adhere to any of the aforementioned requirements, SFASU reserves the right to take appropriate action, including but not necessarily limited to, immediate removal from campus; discipline of employees and students (including termination of employment and/or expulsion from school); and termination of business or contractual relationships.

Additional Statutory Provisions:

* **Venue; Governing Law**. Nacogdoches County, Texas, will be the proper place of venue for suit on or in respect of this Agreement. This Agreement, all of its terms and conditions, all rights and obligations of the parties, and all claims arising out of or relating to this Agreement, will be construed, interpreted and applied in accordance with, governed by and enforced under, the laws of the State of Texas.
* **Breach of Contract Claims**. To the extent that Chapter 2260, Government Code, is applicable to this Agreement and not preempted by other applicable law, the Chapter 2260 dispute resolution process, will be used by SFASU and Contractor to attempt to resolve any breach of contract claim made by Contractor that cannot be resolved in the ordinary course of business. The Vice President for Financial Affairs will examine the claim, and any counterclaim, and negotiate with Contractor in an effort to resolve those claims. Neither the execution of this Agreement, nor any other conduct, action or inaction of any SFASU Party relating to this Agreement constitutes or is intended to constitute a waiver of SFASU’s or the state's sovereign immunity to suit. SFASU has not and does not waive its right to seek redress in the courts.
* **Payment of Debt or Delinquency to the State**. Pursuant to Sections 2107.008 and 2252.903, *Government Code*, Contractor agrees that any payments owing to Contractor under this Agreement may be applied directly to any debt or delinquency that Contractor owes the State of Texas or any Texas agency, regardless of when the debt or delinquency arises, until paid in full.
* **Child Support Certification**. Pursuant to §231.006, *Family Code*, Contractor certifies that it is not ineligible to receive the award of or payments under this Agreement and acknowledges that this Agreement may be terminated and payment withheld if this certification is inaccurate.
* **Contractor Certification regarding Boycotting Israel**. Pursuant to Chapter 2271, *Texas Government Code*, Contractor certifies Contractor (1) does not currently boycott Israel; and (2) will not boycott Israel during the Term of this Agreement. Contractor acknowledges this Agreement may be terminated and payment withheld if this certification is inaccurate.
* **Contractor Certification regarding Business with Certain Countries and Organizations**. Pursuant to Subchapter F, Chapter 2252, *Texas Government Code*, Contractor certifies Contractor is not engaged in business with Iran, Sudan, or a foreign terrorist organization. Contractor acknowledges this Agreement may be terminated and payment withheld if this certification is inaccurate.
* **Statements and Bond**. If Services are performed on SFASU premises, Contractor will comply with all requirements of Subchapter C, Chapter 2252, *Government Code*, including the provision of financial statements, payment statements derived from sales tax reports, and bonds.
* **Texas State Auditor’s Office (Auditor)**. Acceptance of funds under this Agreement constitutes acceptance of authority of Auditor, to conduct an audit or investigation in connection with those funds pursuant to Sections 51.9335(c), *Education Code*. Contractor agrees to cooperate with Auditor in the conduct of an audit or investigation, including providing all records requested. Contractor will include this provision in all contracts with permitted subcontractors.
* **Loss of Funding**. Performance by SFASU may be dependent upon the appropriation and allotment of funds by the Texas State Legislature (Legislature) and allocation of funds by Board. If the Legislature fails to appropriate or allot the necessary funds or the Board fails to allocate the necessary funds, SFASU may terminate this Agreement immediately without liability.
* **Contractor Verification Regarding Discrimination Against Firearm Entities or Trade Associations**. To the extent applicable pursuant to Chapter 2274, *Texas Government Code* (enacted by SB 19, 87th Texas Legislature, Regular Session (2021)), Contractor verifies (1) it does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association and (2) it will not discriminate during the term of this Agreement against a firearm entity or firearm trade association. Contractor acknowledges this Agreement may be terminated and payment withheld if this verification is inaccurate.
* **Contractor Verification Regarding Boycotting Energy Companies**. To the extent applicable pursuant to Chapter 2274, *Texas Government Code* (enacted by SB 13, 87th Texas Legislature, Regular Session (2021)), Contractor verifies (1) it does not boycott energy companies and (2) it will not boycott energy companies during the term of this Agreement. Contractor acknowledges this Agreement may be terminated and payment withheld if this verification is inaccurate.
* **Contractor Certification Regarding COVID-19 Vaccination**. Pursuant to Section 161.0085, *Texas Health and Safety Code* (enacted by SB 968, 87th Texas Legislature, Regular Session (2021)), Contractor certifies that it does not require a customer to provide any documentation certifying the customer's COVID-19 vaccination or post-transmission recovery on entry to, to gain access to, or to receive service from Contractor’s business. Contractor acknowledges this Agreement may be terminated and payment withheld if this certification is inaccurate.
* **Federal Requirements for Telecommunications Equipment or Services**.

(a) Contractor represents that it will not provide covered telecommunications equipment or services, as defined in 2 CFR § 200.216, to SFASU in the performance of this Agreement or any contract, subcontract, or other contractual instrument resulting from this Agreement.

(b) In the event Contractor identifies covered telecommunications equipment or services, as defined in 2 CFR § 200.216, used as a substantial or essential component of any system, or as critical technology as part of any system, during performance of this Agreement, or Contractor is notified of such by a subcontractor at any tier or by any other source, Contractor shall report information about the contract, equipment item, and mitigation measures to SFASU within one business day, and provide SFASU with an update within ten business days that includes measures to prevent recurrence.

* **Debarment and Suspension**. Under Presidential Executive Order 12549 and Executive Order 12689, SFASU may not contract with parties listed on the General Services Administration's System for Award Management (SAM). SAM identifies (via active exclusions) entities that have been debarred, suspended, or excluded from receiving federal contracts, subcontracts, or federal assistance and benefits. In compliance with the Code of Federal Regulations (CFR) Section 180.300, the SFASU includes suspension/debarment provisions in its purchase orders. By accepting the SFASU’s purchase order, the supplier is certifying that, to the best of its knowledge, the supplier and/or any of its principals are not suspended or debarred. Contractor certifies that it is not subject to debarment or suspension by the U.S. government and the Texas government. Further, Contractor certifies that it is not subject to a vendor hold by the State of Texas. Contractor certifies that it is not subject to debarment or suspension by the Texas Comptroller.
* **Cybersecurity Training Program**. If Contractor has access to SFASU’s computer(s), then, pursuant to Section 2054.5192, Texas Government Code, Contractor and its subcontractors, officers, and employees must complete a cybersecurity training program certified under Section 2054.519, *Texas Government Code* and selected by SFASU. The cybersecurity training program must be completed by Contractor and its subcontractors, officers, and employees during the term and any renewal period of this Agreement. Contractor shall verify completion of the program to the SFASU.
* **Contractor Compliance and Certification Relating to Cloud Computing Services**. Section 2054.0593 of the *Texas Government Code* requires the Texas Department of Information Resources (DIR) to establish and implement a state risk and authorization management program to provide a standardized approach for security assessment, authorization, and continuous monitoring of cloud computing services that process the data of Texas state agencies. DIR by rule shall prescribe (1) the categories and characteristics of cloud computing services subject to the state risk and authorization management program and (2) the requirements for certification through the program of vendors that provide cloud computing services. DIR shall evaluate vendors to determine whether a vendor qualifies for a certification issued by DIR reflecting compliance with program requirements.

This agreement contains the entire agreement between the parties and supersedes any and all prior agreements, arrangements, and understanding, oral or written between the parties relating to this agreement. This agreement may not be modified except by mutual written agreement of the parties executed subsequent to this agreement.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, Project Director Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, University: Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, Contractor Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

***For Contractor who are individuals, initial below****:*

By initialing here \_\_\_\_\_\_\_\_\_\_, I represent that I am a citizen of the United States or a U.S. Lawful Permanent Resident.