

CONTRACT # _____
CHARGE TO UNIVERSITY ACCOUNT # _____
CONTRACT AMOUNT _____

**TEXAS A&M UNIVERSITY-TEXARKANA
CONSULTANT AGREEMENT**

This Services Agreement (“Agreement”) is entered into and effective upon final execution of this Agreement (the “Effective Date”), by and between **TEXAS A&M UNIVERSITY-TEXARKANA** (hereafter referred to as “**A&M-TEXARKANA**”), an agency of the State of Texas, and _____ (hereafter referred to as “**CONSULTANT**”). **A&M-TEXARKANA** and **CONSULTANT** are sometimes hereafter referred to as “Party” individually or “Parties” collectively).

A&M-TEXARKANA and **CONSULTANT** hereby agree as follows:

1. SCOPE OF WORK

A. _____

2. TERM OF THE AGREEMENT

The Initial Term of this Agreement shall begin as of the [Click here to enter a date.](#), and will end [Click here to enter a date.](#)

3. PAYMENT TERMS

A. **A&M-TEXARKANA** shall compensate the **CONSULTANT** for the services as described in Section 1, Scope of Work. Payment for services will not exceed DOLLAR AMOUNT for the Initial Term of the Agreement. Compensation by **A&M-TEXARKANA** to **CONSULTANT** shall be all inclusive of any and all expenses incurred by **CONSULTANT** in providing services under this Agreement, including but not limited to travel expenses. **A&M-TEXARKANA** will provide food, lodging, transportation and/or other travel costs as agreed upon and within the State of Texas travel guidelines.

B. Payments will be made upon receipt of **CONSULTANT**'s invoice(s) and subsequent approval by **A&M-TEXARKANA** representative. It is the policy of the state of Texas to make payment on a properly prepared and submitted invoice within thirty (30) days of the latter of any final acceptance of performance or the receipt of a properly submitted invoice, in conformance with the Texas Prompt Payment law. Generally, payment will be made on the 30th day unless a discount has been arranged for more immediate payment. A single invoicing format may be submitted.

- C. All payments shall be made by electronic direct deposit. **CONSULTANT** is required to complete and submit to **A&M-TEXARKANA** a Direct Deposit Authorization form prior to the first payment request. The form can be accessed at www.windows.state.tx.us/taxinfo/taxforms/74-176.pdf.
- D. All invoices must reference the **A&M-TEXARKANA** purchase order number (which will be provided to **CONSULTANT** within 15 days of the execution of this Agreement) and description of services provided to include but not limited to time, deliverables, and activities.
- E. Invoices are to be sent to the **A&M-TEXARKANA** Procurement Department at the address listed in Section 7q. The invoices must include a summary of services performed. The invoices will be paid upon approval by an **A&M-TEXARKANA** representative.

4. DEFAULT AND TERMINATION

- A. In the event of substantial failure by **CONSULTANT** to perform in accordance with the terms hereof, **A&M-TEXARKANA** may terminate this Agreement upon fifteen (15) days written notice of termination setting forth the nature of the failure (the termination shall not be effective if the failure is fully cured prior to the end of the fifteen-day period), provided that said failure is through no fault of **A&M-TEXARKANA**.
- B. **A&M-TEXARKANA** may terminate this Agreement at any time upon seven (7) days prior notice to **CONSULTANT**. Upon termination pursuant to this paragraph, **CONSULTANT** shall be entitled to payment of such amount as shall compensate **CONSULTANT** for the services satisfactorily performed from the time of the last payment date to the termination date in accordance with this Agreement. **A&M-TEXARKANA** shall not be required to reimburse **CONSULTANT** for any services performed or expenses incurred after the date of termination notice.

5. PUBLIC INFORMATION

(a) **CONSULTANT** acknowledges that **A&M-TEXARKANA** is obligated to strictly comply with the Public Information Act, Chapter 552, *Texas Government Code*, in responding to any request for public information pertaining to this Agreement, as well as any other disclosure of information required by applicable Texas law.

(b) Upon **A&M-TEXARKANA**'s written request, **CONSULTANT** will provide specified public information exchanged or created under this Agreement that is not otherwise excepted from disclosure under chapter 552, *Texas Government Code*, to **A&M-TEXARKANA** in a non-proprietary format acceptable to **A&M-TEXARKANA**. As used in this provision, "public information" has the meaning assigned Section 552.002, *Texas Government Code*, but only includes information to which **A&M-TEXARKANA** has a right of access.

(c) **CONSULTANT** acknowledges that **A&M-TEXARKANA** may be required to post a copy of the fully executed Agreement on its Internet website in compliance with Section 2261.253(a)(1), *Texas Government Code*.

6. DISPUTE RESOLUTION

The dispute resolution process provided in Chapter 2260, *Texas Government Code*, and the related rules adopted by the Texas Attorney General pursuant to Chapter 2260, shall be used by **A&M-TEXARKANA** and **CONSULTANT** to attempt to resolve any claim for breach of contract made by **CONSULTANT** that cannot be resolved in the ordinary course of business. **CONSULTANT** shall submit written notice of a claim of breach of contract under this Chapter to **DR. EMILY CUTRER A&M-TEXARKANA**, who shall examine **CONSULTANT's** claim and any counterclaim and negotiate with **CONSULTANT** in an effort to resolve the claim.

7. MISCELLANEOUS

A. **Indemnification.** **CONSULTANT agrees to indemnify and hold harmless A&M-TEXARKANA from any claim, damage, liability, expense or loss to the extent arising out of CONSULTANT's negligent or willful errors or omissions under this Agreement.**

B. **Independent Contractor.** **CONSULTANT** is an independent contractor, and neither **CONSULTANT** nor any employee of **CONSULTANT** shall be deemed to be an agent or employee of **A&M-TEXARKANA**. **CONSULTANT** will have no responsibility to provide transportation, insurance or other fringe benefits normally associated with employee status. **CONSULTANT** shall observe and abide by all applicable laws and regulations, policies and procedures, including but not limited to those of **A&M-TEXARKANA** relative to conduct on its premises.

C. **Delinquent Child Support Obligations.** A child support obligor who is more than 30 days delinquent in paying child support and a business entity in which the obligor is a sole proprietor, partner, shareholder, or owner with an ownership interest of at least 25 percent is not eligible to receive payments from state funds under an agreement to provide property, materials, or services until all arrearages have been paid or the obligor is in compliance with a written repayment agreement or court order as to any existing delinquency. The *Texas Family Code* requires the following statement: "Under Section 231.006, *Texas Family Code*, the vendor or applicant certifies that the individual or business entity named in this contract, bid, or application is not ineligible to receive the specified grant, loan, or payment and acknowledges that this contract may be terminated and payment may be withheld if this certification is inaccurate."

D. **Payment of Debt or Delinquency to the State.** Pursuant to Section 2252.903, *Texas Government Code*, **CONSULTANT** agrees that any payments owing to **CONSULTANT** under this Agreement may be applied directly toward certain

debts or delinquencies that **CONSULTANT** owes the State of Texas or any agency of the State of Texas regardless of when they arise, until such debts or delinquencies are paid in full.

- E. Previous Employment.** **CONSULTANT** acknowledges and understands that Section 2252.901, *Texas Government Code*, prohibits **A&M-TEXARKANA** from using state appropriated funds to enter into any employment contract, consulting contract, or professional services contract with any individual who has been previously employed, as an employee, by the agency within the past twelve (12) months. If **CONSULTANT** is an individual, by signing this Agreement, **CONSULTANT** certifies that Section 2252.901, *Texas Government Code*, does not prohibit the use of state appropriated funds for satisfying the payment obligations herein.
- F. Franchise Tax Certification.** If **CONSULTANT** is a taxable entity subject to the Texas Franchise Tax (Chapter 171, *Texas Tax Code*), then **CONSULTANT** certifies that it is not currently delinquent in the payment of any franchise (margin) taxes or that **CONSULTANT** is exempt from the payment of franchise (margin) taxes.
- G. State Auditor's Office.** **CONSULTANT** understands that acceptance of funds under this Agreement constitutes acceptance of the authority of the Texas State Auditor's Office, or any successor agency (collectively, "Auditor"), to conduct an audit or investigation in connection with those funds pursuant to Section 51.9335(c), *Texas Education Code*. **CONSULTANT** agrees to cooperate with the Auditor in the conduct of the audit or investigation, including without limitation, providing all records requested. **CONSULTANT** will include this provision in all contracts with permitted subcontractors.
- H. Entire Agreement.** This Agreement constitutes the sole agreement of the parties and supersedes any other oral or written understanding or agreement pertaining to the subject matter of this Agreement. This Agreement may not be amended or otherwise altered except upon the written agreement of both parties.
- I. Severability.** If any provisions of this Agreement are rendered or declared illegal for any reason, or shall be invalid or unenforceable, such provision shall be modified or deleted in such manner so as to afford the Party for whose benefit it was intended the fullest benefit commensurate with making this Agreement, as modified, enforceable, and the remainder of this Agreement and the application of such provision to other persons or circumstances shall not be affected thereby, but shall be enforced to the greatest extent permitted by applicable law.
- J. Headings.** Headings appear solely for convenience of reference. Such headings are not part of this Agreement and shall not be used to construe it.
- K. Non-Assignment.** **CONSULTANT** shall neither assign its rights nor delegate its duties under this Agreement without the prior written consent of **A&M-TEXARKANA**.

- L. Force Majeure.** Neither party is required to perform any term, condition, or covenant of this Agreement, if performance is prevented or delayed by a natural occurrence, a fire, an act of God, an act of terrorism, or other similar occurrence, the cause of which is not reasonably within the control of such party and which by due diligence it is unable to prevent or overcome.
- M. Loss of Funding.** Performance by **A&M-TEXARKANA** under this Agreement may be dependent upon the appropriation and allotment of funds by the Texas State Legislature (the “Legislature”). If the Legislature fails to appropriate or allot the necessary funds, **A&M-TEXARKANA** will issue written notice to **CONSULTANT** and **A&M-TEXARKANA** may terminate this Agreement without further duty or obligation hereunder. **CONSULTANT** acknowledges that appropriation of funds is beyond the control of **A&M-TEXARKANA**.
- N. Governing Law.** The validity of this Agreement and all matters pertaining to this Agreement, including but not limited to, matters of performance, non-performance, breach, remedies, procedures, rights, duties, and interpretation or construction, shall be governed and determined by the Constitution and the laws of the State of Texas.
- O. Venue.** Pursuant to Section 85.18, *Texas Education Code*, venue for any suit filed against **A&M-TEXARKANA** shall be in the county in which the primary office of the chief executive officer of **A&M-TEXARKANA** is located, which is Bowie County, Texas.
- P. Non-Waiver.** **CONSULTANT** expressly acknowledges that **A&M-TEXARKANA** is an agency of the State of Texas and nothing in this Agreement will be construed as a waiver or relinquishment by **A&M-TEXARKANA** of its right to claim such exemptions, privileges, and immunities as may be provided by law.
- Q. Conflict of Interest.** By executing this Agreement, **PROVIDER** and each person signing on behalf of **PROVIDER** certifies, and in the case of a sole proprietorship, partnership or corporation, each party thereto certifies as to its own organization, that to the best of their knowledge and belief, no member of The A&M System or The A&M System Board of Regents, nor any employee, or person, whose salary is payable in whole or in part by The A&M System, has direct or indirect financial interest in the award of this Agreement, or in the services to which this Agreement relates, or in any of the profits, real or potential, thereof.
- R. Prohibition on Contracts with Companies Boycotting Israel.** By executing this Agreement, the **PROVIDER** certifies it does not and will not, during the performance of this contract, boycott Israel. **PROVIDER** acknowledges this Agreement may be terminated if this certification is inaccurate.

S. Certification Regarding Business with Certain Countries and Organizations. Pursuant to Subchapter F, Chapter 2252, Texas Government Code, PROVIDER certifies it is not engaged in business with Iran, Sudan, or a foreign terrorist organization. PROVIDER acknowledges this Agreement may be terminated if this certification is inaccurate.

T. Notices. Any notice required or permitted under this Agreement must be in writing, and shall be deemed to be delivered (whether actually received or not) when deposited with the United States Postal Service, postage prepaid, certified mail, return receipt requested, and addressed to the intended recipient at the address set out below. Notice may also be given by regular mail, personal delivery, courier delivery, facsimile transmission, email or other commercially reasonable means and will be effective when actually received. **A&M-TEXARKANA** and **CONSULTANT** can change their respective notice address by sending to the other party a notice of the new address. Notices should be addressed as follows:

A&M-TEXARKANA: Mr. James Scogin
VP for Finance & Administration
7101 University Ave.
Texarkana, TX 75503
903-223-3110
james.scogin@tamut.edu

CONSULTANT:

Tax ID number:

IN WITNESS WHEREOF, intending to be bound, the Parties have entered into this Agreement as of the Effective Date.

Texas A&M University-Texarkana

Recommend Approval:

By _____
Tammy Graham
Executive Assistant to the Vice President for
Finance & Administration

Date

Approvals:

By _____
James Scogin
Vice President for Finance & Administration

Date

By _____
Dr. David Yells
Vice President for Academic Affairs and Provost
(IF APPLICABLE)

Date

By _____
Kathy Williams
Vice President of Enrollment Management
(IF APPLICABLE)

Date

By _____
Dr. Emily F. Cutrer
President & CEO
(IF APPLICABLE)

Date

CONSULTANT'S NAME

By _____
[Click or tap here to enter text.](#)

Date

Revised October 18, 2017