

CONTRACT#: _____
CHARGE TO UNIVERSITY ACCT#: _____
TOTAL CONTRACT AMOUNT: \$ _____

**TEXAS A&M UNIVERSITY-TEXARKANA
EXTERNAL REVIEWER AGREEMENT**

This External Reviewer Agreement (“Agreement”) is entered into between **TEXAS A&M UNIVERSITY-TEXARKANA (“A&M-TEXARKANA”)**, a member of The Texas A&M University System, an agency of the State of Texas, and _____ (“**REVIEWER**”), collectively referred to as “the Parties”. The purpose of this Agreement, the services to be performed, and the responsibilities of **REVIEWER** are fully described in ATTACHMENT 1 of this Agreement. The Parties agree as follows:

I. **Standard of Care.** **REVIEWER** agrees to perform the services to a standard of professional care, skill, and diligence normally provided in the performance of similar services. It is understood that during the performance of services **REVIEWER** will not be eligible for any **A&M-TEXARKANA** benefits.

II. **Term.** This Agreement will commence on the _____ day of _____, 20__ (“Effective Date”) and end on the _____ day of _____, 20___. Either party may terminate this Agreement with ten (10) days written notice to the other.

III. **Consideration.** **A&M-TEXARKANA** will compensate **REVIEWER** \$ _____. **A&M-TEXARKANA** will make payment within thirty (30) days of the receipt of a correct invoice. **REVIEWER** expressly understands and agrees any and all travel, lodging, and meal reimbursements, if any, will be in accordance with State of Texas Travel Guidelines only.

IV. **Relationship of the Parties.** For all purposes of this Agreement and notwithstanding any provision of this Agreement to the contrary, **REVIEWER** is an independent contractor and is not a state employee, partner, joint venture, or agent of **A&M-TEXARKANA**. **REVIEWER** will not bind nor attempt to bind University to any agreement or contract. As an independent contractor, **REVIEWER** is solely responsible for all taxes, withholdings, and other statutory or contractual obligations of any sort, including but not limited to workers’ compensation insurance.

V. **Taxes and State Contracting Requirement**

- a. **Franchise Tax Certification.** **REVIEWER** certifies that, upon the Effective Date of this Agreement, either **REVIEWER** (1) is not delinquent in payment of State of Texas corporate franchise taxes, or (2) is not subject to the payment of such taxes. **REVIEWER** agrees that any false statement with respect to franchise tax status shall be a material breach, and **A&M-TEXARKANA** may terminate this Agreement upon written notice to **REVIEWER**.
- b. **Tax Reporting.** Any earnings derived from services rendered by **REVIEWER** are subject to income taxes and such earnings will be reported at the end of each calendar year by **A&M-TEXARKANA**. It is understood **REVIEWER** is responsible for paying all applicable federal or state taxes on the compensation paid to **REVIEWER** by **A&M-TEXARKANA**. **REVIEWER** expressly agrees to pay any and all Unrelated Business Income Taxes (UBIT) which may be levied against **A&M-TEXARKANA** as a result of the activities of **REVIEWER** under this Agreement. Payment of such taxes, assessments, and charges, when and if levied or assessed, will be made by **REVIEWER** directly to the taxing or assessing authority charged with collection of such taxes, assessments, and charges with written proof of such payment provided within five (5) business days of payment.
- c. **Payment of Debt or Delinquency to the State.** Pursuant to Sections 2107.008 and 2252.903 of the Government Code, **REVIEWER** agrees that any payments owing to **REVIEWER** under this Agreement may be applied directly toward any debt or delinquency that **REVIEWER** owes the State of Texas or any agency of the State of Texas regardless of when it arises, until such debt or delinquency is paid in full. "Debt or delinquency" means a debt, tax delinquency, student loan delinquency, or child support delinquency that results in a payment law prohibiting the comptroller from issuing a warrant or initiating an electronic funds transfer.
- d. **Delinquent Child Support Obligations.** A child support obligor who is more than thirty (30) days delinquent in paying child support and a business entity in which obligor is a sole proprietor, partner, shareholder, or owner with an ownership interest of at least twenty-five (25) percent is not eligible to receive payments from state funds under a contract 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. By executing this Agreement, **REVIEWER** certifies that the individual or business entity named in this Agreement is eligible to receive payment from the state and acknowledges that this Agreement may be terminated and payment may be withheld if this certification is inaccurate. (TEX. FAMILY CODE § 231.006).

- e. Public Information Act. **REVIEWER** 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.
- f. State Auditor's Office. **REVIEWER** 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*, **REVIEWER** agrees to cooperate with the Auditor in the conduct of the audit or investigation, including without limitation, providing all records requested. **REVIEWER** will include this provision in all contracts with permitted subcontractors.
- g. Previous Employment. **REVIEWER** 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 **REVIEWER** is an individual, by signing this Agreement, **REVIEWER** certifies that Section 2252.901, *Texas Government Code*, does not prohibit the use of state appropriated funds for satisfying the payment obligations herein.

VII. Proprietary Information.

- a. **REVIEWER** shall maintain the confidentiality of all proprietary information provided by **A&M-TEXARKANA**. All information considered by **A&M-TEXARKANA** to be proprietary shall be marked by **A&M-TEXARKANA** prior to delivery to **REVIEWER**.
- b. Any programs, data or other materials furnished by **A&M-TEXARKANA** for use in connection with the services performed under this Agreement shall remain the sole property of **A&M-TEXARKANA** and shall be returned to **A&M-TEXARKANA** upon termination of this Agreement.

VIII. Notice. 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 **REVIEWER** can change their respective notice address by sending to the other party a notice of the new address. Notices should be addressed as follows:

For **A&M-TEXARKANA**:

For **REVIEWER**:

**TEXAS A&M UNIVERSITY-
TEXARKANA**
7101 University Avenue
Texarkana, TX 75503
Phone: (903) 223-3111

Name: Click here to enter text.
Address: Click here to enter text.
City/State/Zip: Click here to enter text.
Phone: Click here to enter text.
Tax ID#: Click here to enter text.

IX. Miscellaneous.

a. Entire Agreement. This Agreement supersedes all prior agreements, written or oral, between **A&M-TEXARKANA** and **REVIEWER** and constitutes the entire Agreement and understanding between the Parties with respect to the subject matter hereof. The Agreement and each of its provisions will be binding upon the Parties and may not be waived, modified, amended or altered except by a writing signed by **A&M-TEXARKANA** and the **REVIEWER**.

b. Assignment. This Agreement is not assignable without the express written agreement of both Parties. Notwithstanding any attempt to assign this Agreement, the **REVIEWER** shall remain fully liable on this Agreement and shall not be released from performing any of the terms, covenants and conditions of this Agreement, unless an assignment is agreed to in writing by both Parties.

c. Severability. If a provision contained in this Agreement is held to be invalid, illegal, or unenforceable for any reason, it shall not affect any other provision of this Agreement. It is the intent of the Parties that if any provision is held to be invalid, illegal or unenforceable, there shall be added in lieu thereof a valid and enforceable provision as similar in terms to such provision as possible.

d. Non-Appropriation. 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 then **A&M-TEXARKANA** will issue written notice to **REVIEWER** and **A&M-TEXARKANA** may terminate this Agreement without further duty or obligation hereunder. **REVIEWER** acknowledges that appropriation of funds is beyond the control of **A&M-TEXARKANA**.

e. Governing Law and Venue. The substantive laws of the State of Texas (and not its conflicts of law principles), USA, govern all matters arising out of or relating to this Agreement and all of the transactions it contemplates. Pursuant to Section 85.18 (b), *Texas Education Code*, venue for a state court suit filed against **A&M-TEXARKANA**, or The Texas A&M University System, or any officer or employee of The Texas A&M University System is in the county in which the primary office of the chief executive officer of the system or component, as applicable, is located. At execution of this

Agreement, such county is Bowie County, Texas. Venue for any suit brought against The Texas A&M University System in federal court must be in the Houston Division of the Southern District of Texas.

f. Dispute Resolution.

1. The dispute resolution process provided for in Chapter 2260 of the Government Code shall be used, as further described herein, by **A&M-TEXARKANA** and **REVIEWER** to attempt to resolve any claim for breach of contract made by **REVIEWER**:
 - a. **REVIEWER**'s claims for breach of this contract that the parties cannot resolve in the ordinary course of business shall be submitted to the negotiation process provided in Chapter 2260, subchapter B, of the Government Code. To initiate the process, **REVIEWER** shall submit written notice, as required by subchapter B, to the President of Texas A&M University-Texarkana, 7101 University Avenue, Texarkana, TX 75503. Said notice shall specifically state that the provisions of Chapter 2260, subchapter B, are being invoked. A copy of the notice shall also be given to all other representatives of **REVIEWER** and **A&M-TEXARKANA** otherwise entitled to notice under the parties, contract. Compliance by **REVIEWER** with subchapter B is a condition precedent to the filing of a contested case proceeding under Chapter 2260, subchapter C, of the Texas Government Code.
 - b. The contested case process provided in Chapter 2260, subchapter C, of the Texas Government Code is **REVIEWER'S** sole and exclusive process for seeking a remedy for any and all alleged breaches of contract by **A&M-TEXARKANA** if the parties are unable to resolve their disputes under subparagraph (A) of this paragraph.
 - c. Compliance with the contested case process provided in subchapter C is a condition precedent to seeking consent to sue from the Legislature under Chapter 107 of the Civil Practices and Remedies Code. Neither the execution of this contract by **A&M-TEXARKANA** nor any other conduct of any representative of **A&M-TEXARKANA** relating to the contract shall be considered a waiver of sovereign immunity to suit.
 - d. The submission, processing and resolution of **REVIEWER**'s claim is governed by the published rules adopted by the Office of the Attorney General pursuant to Chapter 2260, as currently effective, hereafter enacted or subsequently amended. These rules are found in the Texas Administrative Code.

- e. Neither the non-occurrence nor occurrence of an event nor the pendency of a claim constitutes grounds for the suspension of performance by **REVIEWER**, in whole or in part.

- g. **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.

- h. **Prohibition on Contracts with Companies Boycotting Israel.** To the extent that Texas Government Code, Chapter 2270 applies to this Agreement, PROVIDER certifies that (a) it does not currently boycott Israel; and (b) it will not boycott Israel during the term of this Agreement. PROVIDER acknowledges this Agreement may be terminated and payment withheld if this certification is inaccurate.

- i. **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.

[Remainder of Page Intentionally Left Blank. Signature Page Follows]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed intending thereby to be legally bound.

“REVIEWER”

Reviewer’s Name _____ Date

“TEXAS A&M UNIVERSITY-TEXARKANA”

Recommend Approval:

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

Approvals:

Dean for the College of [Click here to enter text.](#) _____ Date

Dr. David Yells (IF APPLICABLE) _____ Date
VPAA & Provost

Kathy Williams (IF APPLICABLE) _____ Date
Vice President for Enrollment Management

Jeff Hinton _____ Date
Executive Vice President for Finance and Administration

