

**INDEPENDENT CONTRACTOR SERVICES AGREEMENT**

This Agreement is between California State University Dominguez Hills Foundation (hereinafter “**Foundation**”), a California nonprofit public benefit corporation and auxiliary organization organized under Education Code 89900 et seq. for the benefit of California State University, Dominguez Hills (“**CSUDH**”), with its principal place of business at 1000 East Victoria Street, WH360, Carson, CA 90747, and \_\_\_\_\_ an \_\_\_\_\_ (the “**Independent Contractor**”), with its principal place of business at \_\_\_\_\_

As an auxiliary organization and partner of CSUDH, the Foundation provides services and develops and enhances programs that are an integral part of CSUDH’s educational mission pursuant to Title 5 of the California Code of Regulations § 42500 (a) (8).

The parties therefore agree as follows:

**1. ENGAGEMENT SERVICES**

(a) **Engagement.** The Foundation retains Independent Contractor to provide, and Independent Contractor shall provide, the services described in **Exhibit A**. Additional services or phases will require an additional contract.

(b) **Services.** Without limiting the scope of Services described in **Exhibit A**, Independent Contractor shall:

- (i) To the best of their ability, take into consideration possible future changes as a result of the Covid-19 Pandemic
- (ii) Devote as much productive time, ability and energy to the performance of duties under this agreement as may be necessary to provide the required Services in a timely and productive manner and limiting to the agreed-to scope in Exhibit A
- (iii) Perform the Services with skilled, competent and experienced personnel.
- (iv) Communicate with the Foundation about progress Independent Contractor has made in performing the Services at regular intervals as desired by the Foundation;
- (v) Supply all tools, equipment, and supplies (including printed materials, electronic devices and any other required supplies as necessary) required to perform the Services, except if Independent Contractor’s work must be performed on or with the Foundation’s equipment;

(vi) Ensure that all materials furnished to the Foundation’s personnel is of good and merchantable quality

(ix) Provide services (including the Services) and end products that are satisfactory and acceptable to the Foundation; and

(c) **Legal Compliance.** Independent Contractor shall perform the Services in accordance with standards prevailing in the Foundation’s industry, and in accordance with applicable laws, rules, or regulations. Independent Contractor shall obtain all permits or permissions required to comply with those standards, laws, rules, or regulations.

(d) **Foundation’s Obligations.** The Foundation shall make timely payments of amounts earned by Independent Contractor under this agreement.

## 2. TERM AND TERMINATION

(a) **Term.** The effective date of this Agreement is \_\_\_\_\_. Unless it is terminated earlier in accordance with subsection 2(b), this Agreement will continue until \_\_\_\_\_ (the “Term”).

(b) **Termination.** This agreement may be terminated:

- (i) by either party for a material breach of any provision of this agreement by the other party, if the other party’s material breach is not cured within 30 (thirty) days of receipt of written notice of the breach; [or]
- (ii) by the Foundation at any time and without prior notice, if Independent Contractor fails or refuses to comply with the written policies or reasonable directives of the Foundation.
- (iii) at any time and without future financial obligation upon thirty (30) days written notice to Independent Contractor by the Foundation or the Trustees of the California State University (“CSU”).

(c) **Effect of Termination.** After the termination of this agreement for any reason, the Foundation shall promptly pay Independent Contractor for Services rendered up to the effective date of the termination.

## 3. COMPENSATION

(a) **Terms and Conditions.** The Foundation shall pay Independent Contractor in accordance with **Exhibit A**.

(b) **No Payments in Certain Circumstances.** No payment will be payable to Independent Contractor under any of the following circumstances:

- (i) If prohibited under applicable government law, regulation, or policy;
  - (ii) If Independent Contractor did not directly perform or complete the Services described in **Exhibit A**.
  - (iii) If the Services performed occurred after the expiration or termination of the Term, unless otherwise agreed in writing.
  - (iv) If Foundation disputes an invoice sent by Independent Contractor, until invoice dispute has been resolved
- (c) **Taxes.** Independent Contractor is solely responsible for the payment of all income, social security, employment-related, or other taxes incurred as a result of the performance of the Services by Independent Contractor under this agreement, and for all obligations, reports, and timely notifications relating to those taxes. The Foundation has no obligation to pay or withhold any sums for those taxes.
- (d) **Other Benefits.** Independent Contractor has no claim against the Foundation under this agreement or otherwise for vacation pay, sick leave, retirement benefits, social security, worker's compensation, health or disability benefits, unemployment insurance benefits, or employee benefits of any kind.
- (e) The Independent Contractor will submit invoices monthly for Basic Services, authorized Additional Services, Revisions and Reimbursable Expenses reflecting the work accomplished in the previous billing period.
- (c) Invoices are due and payable upon receipt within 30 days of receipt. Payments should be sent to \_\_\_\_\_

#### 4. NATURE OF RELATIONSHIP

- (a) The parties acknowledge and agree that Independent Contractor is acting under its own direction and control. Independent Contractor has the sole right to perform the Services at any time, place, or location except for those services that require specific on-site participation as deemed necessary by the Foundation or Independent Contractor.
- (b) Independent Contractor shall perform the Services, and the Foundation is not required to hire, supervise, or pay any assistants to help Independent Contractor perform those Services. Foundation shall not deduct withholding taxes, social security taxes, or any other taxes required to be deducted by an employer. Further, Independent Contractor shall not be entitled to any benefits accruing to Foundation's employees other than those stated in this agreement. Independent Contractor does not have, nor shall it hold itself out as having any right, power or authority to create any contractual obligation, either express or implied, on behalf of, in the name of, or binding upon, Foundation, or to pledge credit, or to extend credit in Foundation's name unless Foundation provides prior written consent thereto.
- (c) Independent Contractor warrants that deliverables and services furnished hereunder will conform to the requirements of this Agreement (including, without limitation, all descriptions, specifications, and drawings identified in the Scope of Work, if any), and

the deliverables will be free from defects in materials and workmanship. Where the Parties have agreed to the Scope of Work directly or by reference, Independent Contractor warrants the deliverables shall provide all functionality required thereby.

## **5. INDEPENDENT STATUS**

Independent Contractor and its employees and agents, and sub-contractors, in the performance of this Agreement, shall act in an independent capacity and not as officers, employees or agents of CSU or the State of California. While Independent Contractor may be required by this Agreement to carry Worker's Compensation Insurance, in no event shall Independent Contractor and its employees and agents be entitled to unemployment or workers' compensation benefits from CSU.

## **6. PERSONNEL**

Independent Contractor shall give its personal attention to the performance of the Agreement and shall make every effort consistent with sound business practices to honor Foundation's requests regarding Independent Contractor's assignment of its employees. However, Independent Contractor maintains the sole right to determine the assignment of its employees in order to keep all phases of work under its control. If an employee of Independent Contractor is unable to perform due to illness, resignation or other factors beyond Independent Contractor's control, Independent Contractor shall use its best effort to provide suitable substitute personnel.

## **7. USE OF DATA**

Independent Contractor shall not utilize any non-public CSU information it may receive by reason of this Agreement, for pecuniary gain not contemplated by this Agreement, regardless whether Independent Contractor is or is not under contract at the time such gain is realized. CSU specific information contained in the report, survey, or other product developed by Independent Contractor pursuant to this Agreement is the property of CSU, and shall not be used in any manner by Independent Contractor unless authorized in writing by CSU.

## **8. CONFIDENTIALITY OF DATA**

(a) Independent Contractor acknowledges the privacy rights of individuals to their personal information that are expressed in the Information Practices Act (California Civil Code Section 1798 et seq.) and in California Constitution Article 1, Section 1. Independent Contractor shall maintain the privacy of personal information and protected data as confidential information. Independent Contractor shall not use, disclose, or release confidential information contained in CSU records without full compliance with applicable state and federal privacy laws, and this Agreement. Independent Contractor further acknowledges and agrees to comply with Federal privacy laws, such as the Gramm-Leach-Bliley Act (Title 15, United States Code, Sections 6801(b) and 6805(b)(2)) applicable to financial transactions, and the Family Educational Rights and

Privacy Act (Title 20, United States Code, Section 1232g) applicable to student education records and information from student education records. Independent Contractor shall maintain the privacy of confidential information and shall be financially responsible for any notifications to affected persons (after prompt consultation with CSU) whose personal information is disclosed by any security breach relating to confidential information resulting from Independent Contractor's or its personnel's acts or omissions. Further, If so requested by Foundation or CSU, Independent Contractor shall be administratively responsible for providing such notification in the most expedient time possible consistent with the methods prescribed in California Civil Code 1798.29g and 1798.82g.

(b) Independent Contractor further agrees that all financial, statistical, personal, technical and other data and information relating to Foundation's and CSU's operation designated "confidential" by Foundation or CSU, and not otherwise subject to disclosure under the California Public Records Act, and made available to Independent Contractor to perform this Agreement or which become available to Independent Contractor while performing this Agreement, shall be protected by Independent Contractor using the same level of care it takes to protect its own information of a similar nature, but in no event less than reasonable care. If required by a court of competent jurisdiction or an appropriate administrative body with legal authority to order the disclosure of confidential information or protected data, Independent Contractor will notify Foundation and CSU in writing prior to any such disclosure to give Foundation and CSU an opportunity to oppose any such disclosure. Prior to any disclosure of confidential information as required by legal process, Independent Contractor shall: (1) Notify Foundation and CSU of any actual or threatened legal compulsion of disclosure, and any actual legal obligation of disclosure, immediately upon becoming so obligated; and (2) Independent Contractor shall cooperate with any litigation or investigation proceedings concerning protected data loss or other breach of Independent Contractor's obligations under this Agreement. Any access, transmission, or storage of protected data outside the United States must be approved in writing by Foundation and CSU in advance. Independent Contractor's failure to comply with any provision of this Section shall constitute a material breach of the Agreement.

## **9. INFORMATION SECURITY REQUIREMENTS**

- (a) Independent Contractor is required to comply with CSU Information Security Requirements as described in Rider A, Supplemental Provisions for General Provisions for Service Acquisitions, by reference made a part of this agreement.
- (b) Information Security Plan  
Independent Contractor is required to maintain an Information Security Plan sufficient to protect the sensitive and/or confidential CSU data to which they have access.
- (c) Personal Security Requirements

Independent Contractor shall require all its affiliates and sub-contractors, as a condition to their engagement, to agree to be bound by provisions substantially the same as those included in this Agreement related to information security matters only. Independent Contractor shall not knowingly permit a representative or sub-contractors to have access to CSU records, confidential data, or premises of the CSU when such representative or sub-contractor has been convicted of a felony.

## **10. PATENT, COPYRIGHT, AND TRADE SECRET INDEMNITY**

- (a) Independent Contractor shall indemnify, defend, and hold harmless the State of California, Board of Trustees of the California State University, CSU, and their respective officers, agents, and employees (collectively referred to as CSU), from any and all third-party claims, costs (including without limitation reasonable attorneys' fees), and losses for infringement or violation of any Intellectual Property Right, domestic or foreign, by any product or service provided hereunder. With respect to claims arising from computer Hardware or Software manufactured by a third party and sold by Independent Contractor as a reseller, Independent Contractor will pass through to CSU, in addition to the foregoing provision, such indemnity rights as it receives from such third party ("Third-Party Obligation") and will cooperate in enforcing them; provided that if the third-party manufacturer fails to honor the Third-Party Obligation, Independent Contractor will provide CSU with indemnity protection.
  - (i) CSU will notify Independent Contractor of such claim in writing and tender its defense within a reasonable time; and
  - (ii) Independent Contractor will control the defense of any action on such claim and all negotiations for its settlement or compromise, except when substantial principles of government or public law are involved, when litigation might create precedent affecting future CSU operations or liability, or when involvement of the CSU is otherwise mandated by law. In such case no settlement shall be entered into on behalf of CSU without CSU's written approval.

## **11. WARRANTY**

Independent Contractor warrants that

- (a) deliverables and services furnished hereunder will conform to the requirements of this Agreement (including, without limitation, all descriptions, specifications, and drawings identified in the Scope of Work, if any), and
- (b) the deliverables will be free from defects in materials and workmanship. Where the Parties have agreed to specifications in the Scope of Work directly or by reference, Independent Contractor warrants the deliverables shall provide all functionality required thereby.
- (c) Independent Contractor hereby represents and warrants that the Work Product is its own original work and does not infringe upon the intellectual property rights of any third

party. Independent Contractor acknowledges that it is responsible for obtaining permission and consent from any third party whose work appears in the work produced for the Foundation by Independent Contractor, and upon written request of the Foundation, Independent Contractor shall provide proof of said permission and consent.

- (d) The Foundation hereby represents and warrants that any information, content, logo, or other design elements that it provides to Independent Contractor for inclusion in the Work Product does not infringe upon the intellectual property rights, including copyrights, patents, trademarks, or trade secrets, of any third party. The Foundation acknowledges that it is responsible for obtaining permission and consent from any third party whose work appears in any such information, content, logo or other design elements.

## **12. RIGHTS IN WORK PRODUCT**

All finished product or deliverables required under this Agreement shall be the exclusive property of the CSU and may be used at CSU's discretion.

## **13. INDEPENDENT CONTRACTOR'S STAFF**

Independent Contractor warrants that its staff assigned to performing work under this Agreement are legally able to perform such duties in the country where the work is being performed.

## **14. FORCE MAJEURE**

- (a) Neither Party shall be liable for any failure to perform its obligations under this Agreement for the period of time that it is prevented, hindered, or delayed in performing those obligations by circumstances beyond its control, including, but not limited to, fire, strike, war, riots, acts of terrorism, disaster, acts of God, acts of any governmental authority, communicable disease outbreak, epidemic or pandemic, unavailability or shortages of labor, materials, or equipment, disruption of transportation, or any other comparable event beyond the control of the Party whose performance is affected (each, a "Force Majeure Event.").
- (b) The Party claiming Force Majeure shall, as soon as reasonably practicable after the occurrence of a Force Majeure Event, provide written notice to the other Party of the nature, extent, and expected duration of the Force Majeure Event and use its diligent efforts to mitigate the effects of the Force Majeure Event upon such Party's performance under this Agreement, it being understood that upon completion of the Force Majeure Event, the Party whose performance was affected must, as soon as reasonably practicable, recommence the performance of its obligations under this Agreement.
- (c) Notwithstanding any other term in this Agreement, including, but not limited to, the foregoing subsections of this section, during the period of a Force Majeure Event affecting performance by Independent Contractor, CSU may elect to do all or any of the following:

- (i) suspend the Agreement for the duration of the Force Majeure Event and be relieved of any payment obligation for goods or services not delivered or accepted due to the Force Majeure Event;
- (ii) obtain elsewhere the goods or services not delivered or accepted due to the Force Majeure Event;
- (iii) extend the time for Independent Contractor's performance by a period equal to the duration of the Force Majeure Event; and/or
- (iv) terminate the Agreement as to any goods or services not already received with no further financial obligation if the Force Majeure Event continues to exist for more than thirty (30) days.

## **15. COVID-19**

In the event that CSU considers it necessary or prudent to cancel this Agreement due to circumstances related to COVID-19, or to any reoccurrence of the COVID-19 outbreak, CSU may do so and be relieved of any further financial obligation, risk, or other liability by providing seventy-two (72) hours prior written notice of cancellation to Independent Contractor. CSU's right to cancel the Agreement pursuant to this section shall not be limited or restricted in any manner by any other term or section of this Agreement.

## **16. MATERIAL CHANGE OF CIRCUMSTANCES**

The terms of this Agreement are based on conditions in existence on the date that Independent Contractor commences performance. In the event of a material change in the conditions that adversely affects the ability of Independent Contractor to perform its obligations, Independent Contractor shall reasonably cooperate with Foundation to minimize the impact from such change in conditions on Independent Contractor's performance and shall, if requested by Foundation, negotiate in good faith to adjust the terms of this Agreement on a mutually agreeable basis to address the impact of such material change in conditions. This provision shall not limit CSU's ability to avail itself of any rights or remedies provided to CSU by law, equity or any other term of this Agreement.

## **17. RIGHTS AND REMEDIES OF CSU FOR DEFAULT**

- (a) In the event any Deliverables furnished or services provided by Independent Contractor in the performance of this Agreement should fail to conform to the requirements herein, Foundation may reject the same, and it shall thereupon become Independent Contractor's duty to forthwith reclaim and remove all nonconforming deliverables and correct the performance of services, without expense to Foundation, and to immediately replace all such rejected items with others conforming to the specifications or samples. Should Independent Contractor fail, neglect, or refuse to do so, Foundation shall thereupon have the right, but not the obligation, to purchase in the open market, in lieu thereof, a corresponding quantity of any such items and to deduct the cost of such cover from any moneys due or that may thereafter become due to Independent Contractor.



- (b) In the event Independent Contractor fails to make prompt mutually agreed upon delivery of any item as specified in the Agreement, the same conditions as to Foundation's right, but not obligation, to purchase in the open market and receive reimbursement from Independent Contractor, as set forth in (a), above shall apply.
- (c) If the Foundation terminates this Agreement, either in whole or in part, for Independent Contractor's default or breach, Independent Contractor shall compensate Foundation, in addition to any other remedy Foundation may have available to it, for any loss or damage sustained and cost incurred by Foundation in procuring any items that Independent Contractor agreed to supply as agreed upon by both Parties.
- (d) Foundation's and CSU's rights and remedies provided above shall not be exclusive and shall be in addition to any other rights and remedies provided by law, equity or this Agreement.

## **18. REPORTING**

Independent Contractor shall report directly to the Foundation's Executive Director, or such other employees as may be designated by the Foundation.

## **19. OTHER ACTIVITIES**

During the Term, Independent Contractor is free to engage in other contracting activities, except that the Independent Contractor may not accept work, enter into contracts, or accept obligations inconsistent or incompatible with the Independent Contractor's obligations or the scope of Services to be rendered for the Foundation under this agreement.

## **20. SAFETY AND ACCIDENT PREVENTION**

In performing work under this Agreement on CSU premises, Independent Contractor shall conform to all specific safety requirements contained in this Agreement or as required by law or regulation. Independent Contractor shall take all additional precautions as the CSU may reasonably require for safety and accident prevention purposes. Independent Contractor's violation of such rules and requirements, unless promptly corrected, shall constitute a material breach of this Agreement.

In consideration for being allowed to provide services on the campus of California State University Dominguez Hills on behalf of myself and my next of kin, heirs and representatives, I release from all liability and promise not to sue the California State University Dominguez Hills Foundation, State of California, the Trustees of The California State University, California State University, Dominguez Hills and their auxiliaries, employees, officers, directors, volunteers and agents (collectively "University") from any and all claims, including claims of the University's negligence, resulting in any physical or psychological injury (including paralysis and death), illness, damages, or economic or emotional loss I may suffer because of my participation in this Activity, including travel to, from and during the Activity. I am voluntarily providing services and assume all risk in doing so. I am aware of the risks associated with traveling to/from and providing services on campus which include but are not limited to physical or psychological

injury, pain, suffering, illness, disfigurement, temporary or permanent disability (including paralysis), economic or emotional loss, and/or death. I understand that these injuries or outcomes may arise from my own or other's actions, inaction, or negligence; conditions related to travel; or the condition of the activity location(s). Nonetheless, I assume all related risks, both known or unknown to me, for the services I will provide including travel to, from and during my time as an Independent Contractor. I agree to hold the University harmless from any and all claims, including attorney's fees or damage to my personal property, that may occur as a result of the services provided including travel to, from and during the time services are given. If the University incurs any of these types of expenses, I agree to reimburse the University. If I need medical treatment, I agree to be financially responsible for any costs incurred as a result of such treatment. I am aware and understand that I should carry my own health insurance.

**21. INSURANCE REQUIREMENTS (REQUIRED FOR ENGAGEMENTS OF TEN THOUSAND DOLLARS (\$10,000.00) AND ABOVE**

The Independent Contractor shall not commence Work until it has obtained all the insurance required in this Agreement, and such insurance has been approved by the CSU.

(a) Policies and Coverage.

1. The Independent Contractor shall obtain and maintain the following policies and coverage Comprehensive or Commercial Form General Liability Insurance, on an occurrence basis, covering Work done or to be done by or on behalf of the Independent Contractor and providing insurance for bodily injury, personal injury, property damage, and contractual liability. The aggregate limit shall apply separately to the Work.
  2. Business Automobile Liability Insurance on an occurrence basis, covering owned, hired, and non-owned automobiles used by or on behalf of the Independent Contractor and providing insurance for bodily injury, property damage, and contractual liability. Such insurance shall include coverage for uninsured and underinsured motorists
  3. Worker's Compensation including Employers Liability Insurance as required by law.
- (ii) The Independent Contractor also may be required to obtain and maintain the following policies and coverage:
1. Other Insurance by agreement between the Trustees and the Independent Contractor.

(b) Verification of Coverage.

The Independent Contractor shall submit original certificates of insurance and endorsements to the policies of insurance required by the Agreement to the Trustees as evidence of the insurance coverage. Renewal certifications and endorsements shall be timely filed by the Independent Contractor for all coverage until the Work is accepted as complete. The Trustees reserve the right to require the Independent Contractor to furnish the Trustees complete, certified copies of all required insurance policies.

(c) Insurance Provisions.

Nothing in these insurance provisions shall be deemed to alter the indemnification provisions in this Agreement. The insurance policies shall contain, or be endorsed to contain, the following provisions.

- (i) For the general and automobile liability policies, the State of California, the Trustees of the California State University, the University, their officers, employees, representatives, volunteers, and agents are to be covered as additional insureds.
- (ii) For any claims related to the Work, the Independent Contractor's insurance coverage shall be primary insurance as respects the State of California, the Trustees of the California State University, the University, their officers, employees, representatives, volunteers, and agents. Any insurance or self-insurance maintained by the State of California, the Trustees of the California State University, the University, their officers, employees, representatives, volunteers, and agents shall be in excess of the Independent Contractor's insurance and shall not contribute with it.
- (iii) Each insurance policy required by this section shall state that coverage shall not be canceled by either thirty (30) Days prior written notice by certified mail, return receipt requested, has been given to the Trustees.
- (iv) The State of California, the Trustees of the California State University, the University, their officers, employees, representatives, volunteers, and agents shall not by reason of their inclusion as additional insureds incur liability to the insurance carriers for payment of premiums for such insurance.  
the Independent Contractor or the insurance carrier, except after

(d) Amount of Insurance.

- (i) For all projects, the insurance furnished by Independent Contractor under this Agreement shall provide coverage in amounts not less than the following, unless a different amount is stated in the Supplementary General Conditions:
  - 1. Comprehensive or Commercial Form General Liability Insurance--Limits of Liability  
\$2,000,000 General Aggregate  
\$1,000,000 Each Occurrence--combined single limit for bodily injury and property damage.
  - 2. Business Automobile Liability Insurance-Limits of Liability  
\$1,000,000 Each Accident-- combined single limit for bodily injury and property damage to include uninsured and underinsured motorist coverage.
  - 3. Workers' Compensation limits as required by law with Employers Liability limits of \$1,000,000. (Workers compensation is only required for contractors who hire employees to assist with the job).

(e) Acceptability of Insurers.

Insurers shall be licensed by the State of California to transact insurance and shall hold a current A.M. Best's rating of A:VII, or shall be a carrier otherwise acceptable to the University.

(f) Sub-Contractor's Insurance.

Independent Contractor shall ensure that its sub-contractors are covered by insurance of the types required by this Agreement, and that the amount of insurance for each sub-contractor is appropriate for that sub-contractor Work. Independent Contractor shall not allow any sub-contractor to commence Work on its subcontract until the insurance has been obtained, and approved by the CSU.

(g) Miscellaneous.

- (i) Any deductible under any policy of insurance required in this Agreement shall be Independent Contractor's liability.
- (ii) Acceptance of certificates of insurance by the Trustees shall not limit the Independent Contractor's liability under the Agreement.

- (iii) In the event the Independent Contractor does not comply with these insurance requirements, the Trustees may, at its option, provide insurance coverage to protect the Trustees. The cost of the insurance shall be paid by the Independent Contractor and, if prompt payment is not received, may be deducted from Agreement sums otherwise due the Independent Contractor.
- (iv) If the Trustees are damaged by the failure of Independent Contractor to provide or maintain the required insurance, the Independent Contractor shall pay the Trustees for all such damages.
- (v) The Independent Contractor's obligations to obtain and maintain all required insurance are non-delegable duties under this Agreement.
- (vi) The Independent Contractor's liability for damages proximately caused by acts of God (as defined in Public Contract Code section 7105) and not involving Independent Contractor negligence shall be limited to five percent of the Agreement.

## **22. INDEMNIFICATION**

- (a) Independent Contractor shall indemnify, defend, and hold harmless the State of California, Board of Trustees of the California State University, CSU, and their respective officers, agents and employees from any and all claims and losses accruing or resulting to any other person, firm or corporation furnishing or supplying work, service, materials or supplies in connection with the performance of this Agreement, and from any and all claims and losses accruing or resulting to any person, firm or corporation related to, arising out of or resulting from Independent Contractor's performance of this Agreement.
- (b) At all times after the effective date of this agreement, the Foundation shall indemnify the Independent Contractor from all Claims that the Independent Contractor may incur arising from the Foundation's breach of any of its obligations or representations under this agreement. However, the Foundation is not obligated to indemnify the Independent Contractor if any of these Claims result from the Independent Contractor's own actions or inactions.

## **23. GOVERNING LAW**

The laws of the state of California govern this agreement (without giving effect to its conflicts of law principles).

## **24. AMENDMENTS**

No amendment to this agreement will be effective unless it is in writing and signed by a party or its authorized representative of both the Foundation and the Independent Contractor.

## **25. INDEPENDENT CONTRACTOR'S POWER AND AUTHORITY**

Independent Contractor warrants it has full power and authority to enter into this Agreement and will hold CSU harmless from and against any loss, cost, liability, and expense (including reasonable attorney fees) arising out of any breach of this warranty. Further, Independent Contractor shall not enter into any arrangement, agreement or contract with any third party that might abridge any rights of the CSU under this Agreement.

## **26. ASSIGNMENT**

Independent Contractor shall not assign this Agreement, either in whole or in part, without Foundation's written consent, which will not be unreasonably withheld.

## **27. COUNTERPARTS; ELECTRONIC SIGNATURES**

- (a) **Counterparts.** The parties may execute this agreement in any number of counterparts, each of which is an original but all of which constitute one and the same instrument.
- (b) **Electronic Signatures.** This agreement, agreements ancillary to this agreement, and related documents entered into in connection with this agreement are signed when a party's signature is delivered by facsimile, email, or other electronic medium. These signatures must be treated in all respects as having the same force and effect as original signatures.

## **28. SEVERABILITY**

Independent Contractor and Foundation agrees that if any provision of this Agreement is found to be illegal or unenforceable, such term or provision shall be deemed stricken and the remainder of the Agreement shall remain in full force and effect. Either Party having knowledge of such term or provision shall promptly inform the other of its presumed non-applicability of such provision. Should the illegal or unenforceable provision be a material or essential term of the Agreement, the Agreement shall be terminated in a manner commensurate with the interests of both Parties, to the maximum extent reasonable.

## **29. NOTICES**

- (a) **Writing; Permitted Delivery Methods.** Each party giving or making any notice, request, demand, or other communication required or permitted by this agreement shall give that notice in writing and use one of the following types of delivery, each of which is a writing for purposes of this agreement: personal delivery, mail (registered or certified mail, postage prepaid, return-receipt requested), nationally recognized overnight courier (fees prepaid), or electronic communication through email.
- (b) **Addresses.** A party shall address hard-copy written notices under this section 29 to a party at the following addresses:

**If to the Foundation**

Attention: Tranitra Avery  
CSUDH Foundation  
1000 East Victoria Street, WH360  
Carson, CA 90747  
[tsavery@csudh.edu](mailto:tsavery@csudh.edu)

**If to the Independent Contractor**

**Please Complete**

**PAYMENT ADDRESS**

A notice is effective only if the party giving notice complies with subsections (a) and (b) and if the recipient receives the notice.

**30. WAIVER OF RIGHTS**

Any action or inaction by Foundation or CSU, or the failure of Foundation or CSU on any occasion to enforce any right or provision of this Agreement shall not be a waiver by Foundation or CSU of its rights hereunder and shall not prevent Foundation or CSU from enforcing such provision or right on any future occasion. Foundation and CSU's rights and remedies provided in this Agreement shall not be exclusive and are in addition to any other rights and remedies provided by law.

**31. TIME**

Time is of the essence in the performance of this Agreement.

**32. EXAMINATION AND AUDIT**

For contracts in excess of \$10,000, Independent Contractor shall be subject to the examination and audit by:

- (a) the Office of the University Auditor, and
- (b) the California State Auditor, for a period of three (3) years after final payment under the Agreement. The examination and audit shall be confined to those matters connected with the performance of the Agreement, including, but not limited to, the costs of administering the Agreement. Note: Authority Cited: Government Code Section 8546.7; Education Code Section 89045 (c&d), respectively.

**33. DISPUTE**

Any dispute arising under or resulting from this Agreement that is not resolved within 60 days of time by authorized representatives of Independent Contractor and CSU shall be brought to the attention of Independent Contractor's Chief Executive Officer (or designee) and CSU's Chief Business Officer (or designee) for resolution. Either Independent Contractor or CSU may request

that the CSU Vice Chancellor, Business and Finance (or designee) participate in the dispute resolution process to provide advice regarding CSU contracting policies and procedures. If this informal dispute resolution process is unsuccessful, the Parties may pursue all remedies not inconsistent with this Agreement. Despite an unresolved dispute, Independent Contractor shall continue without delay in performing its responsibilities under this Agreement. Independent Contractor shall accurately and adequately document all service it has performed under this Agreement.

### **34. CONFLICT OF INTEREST**

CSU requires a Statement of Economic Interests (California Form 700) to be filed by any Independent Contractor (or Independent Contractor) who is involved in the making or participation in the making of decisions which may foreseeably have a material effect on any CSU financial interest.

### **35. ENDORSEMENT**

Nothing contained in this Agreement shall be construed as conferring on any Party, any right to use the other Party's name as an endorsement of product/service or to advertise, promote or otherwise market any product or service without the prior written consent of the other Party. Furthermore, nothing in this Agreement shall be construed as endorsement of any commercial product or service by Foundation, the CSU, its officers or employees.

### **36. COVENANT AGAINST GRATUITIES**

Independent Contractor shall warrant that no gratuities (in the form of entertainment, gifts, or otherwise) were offered or given by Independent Contractor, or any agent or representative of Independent Contractor, to any officer or employee of CSU with a view toward securing the Agreement or securing favorable treatment with respect to any determinations concerning the performance of the Agreement. For breach or violation of this warranty, CSU shall have the right to terminate the Agreement, either in whole or in part, and any loss or damage sustained by CSU in procuring on the open market any items that Independent Contractor agreed to supply shall be borne and paid for solely by Independent Contractor. CSU's rights and remedies provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law, equity or under the Agreement.

### **37. NONDISCRIMINATION**

- (a) During the performance of this Agreement, Independent Contractor and its sub-contractors shall not unlawfully discriminate, harass or allow harassment, against any employee or applicant for employment because of sex, sexual orientation, race, color, ancestry, religious creed, national origin, disability (including HIV and AIDS), medical condition, age, marital status, and denial of family care leave. Independent Contractor



and sub-contractors shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment.

- (b) Independent Contractor and sub-contractors shall comply with the provisions of the Fair Employment and Housing Act (Government Code, Section 12990 et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285.0 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations are incorporated into this Agreement by reference and made a part hereof as if set forth in full. Independent Contractor and its sub-contractor shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement.
- (c) Independent Contractor shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the Agreement.

### **38. COMPLIANCE WITH NLRB ORDERS**

Independent Contractor declares under penalty of perjury under the laws of the State of California that no more than one final, unappeasable finding of contempt of court by a federal court has been issued against Independent Contractor within the immediately preceding two-year period because of Independent Contractor's failure to comply with an order of a federal court to comply with an order of the National Labor Relations Board. Note: Cite Authority: PCC 10296

### **39. DRUG-FREE WORKPLACE CERTIFICATION**

Independent Contractor certifies that Independent Contractor shall comply with the requirements of the Drug-Free Workplace Act of 1990 and shall provide a drug-free workplace by taking the following actions:

- (a) Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations
- (b) Establish a Drug-Free Awareness Program to inform employees about all of the following:
  - (i) the dangers of drug abuse in the workplace;
  - (ii) the person's or organization's policy of maintaining a drug-free workplace;
  - (iii) any available counseling, rehabilitation and employee assistance programs; and,
  - (iv) penalties that may be imposed upon employees for drug abuse violations.
- (c) Provide that every employee who works on the proposed or resulting Agreement:
  - (i) will receive a copy of the company's drug-free policy statement; and,

(ii) will agree to abide by the terms of the company's statement as a condition of employment on the Agreement. Note: Authority Cited: Government Code Section 8350-8357

#### **40. FORCED, CONVICT, INDENTURED AND CHILD LABOR**

By accepting a contract with Foundation, Independent Contractor:

- (a) certifies that no equipment, materials, or supplies furnished to Foundation pursuant to this Agreement have been produced in whole or in part by sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor, or with the benefit of sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor. Independent Contractor further certifies it will adhere to the Sweat-free Code of Conduct as set forth on the California Department of Industrial Relations website located at <http://www.dir.ca.gov/>, and Public Contract Code Section 6108.
- (b) agrees to cooperate fully in providing reasonable access to its records, documents, agents or employees, or premises if reasonably required by authorized officials of the State, the Department of Industrial Relations, or the Department of Justice to determine Independent Contractor's compliance with the requirements under paragraph (A).

#### **41. AMERICANS WITH DISABILITIES ACT (ADA)**

Independent Contractor warrants that it complies with California and federal disabilities laws and regulations. (Americans with Disabilities Act of 1990, 42 U.S.C. 12101 et seq). Independent Contractor hereby warrants the products or services it will provide under this Agreement comply with the accessibility requirements of Section 508 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794d), and its implementing regulations set forth at Title 36, Code of Federal Regulations, Part 1194. Independent Contractor agrees to promptly respond to and resolve any complaint regarding accessibility of its products or services. Independent Contractor further agrees to indemnify and hold harmless Foundation and CSU from any claims arising out of Independent Contractor's failure to comply with the aforesaid requirements. Failure to comply with these requirements shall constitute a material breach of this Agreement.

#### **42. DEBARMENT AND SUSPENSION**

By accepting a contract with the Foundation, Independent Contractor certifies neither it nor its principals or its sub-contractor are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any federal department or agency ([2 Code Federal Regulations \[CFR\] 180.220](#), in accordance with the Office of Management and Budget guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR Part 1986 Comp., p. 189) and 12689 (3 CFR Part 1989 Comp., p. 235)).

**43. EXPATRIATE CORPORATIONS**

Independent Contractor declares and certifies that it is not an expatriate corporation, and is not precluded from contracting with Foundation or CSU by The California Taxpayer and Shareholder Protection Act of 2003, Public Contract Code Section 10286, et seq.

**44. ENTIRE AGREEMENT**

This agreement constitutes the final agreement of the parties. It is the complete and exclusive expression of the parties' agreement about the subject matter of this agreement. Neither party was induced to enter this agreement. Except as set forth expressly in this agreement, there are no conditions precedent to this agreement's effectiveness.

**45. HEADINGS**

The descriptive headings of the sections and subsections of this agreement are for convenience only, and do not affect this agreement's construction or interpretation.

**46. NECESSARY ACTS; FURTHER ASSURANCES**

Each party shall use all reasonable efforts to take, or cause to be taken, all actions necessary or desirable to consummate and make effective the transactions this agreement contemplates or to evidence or carry out the intent and purposes of this agreement.

Each party is signing this agreement on the date stated opposite that party's signature.

**Date** \_\_\_\_\_

**California State University Dominguez Hills Foundation**

By: \_\_\_\_\_

Name: Tranitra Avery

Title: Executive Director

**Date** \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_