#

**Contracts Administration**

**6300 Ocean Drive, Unit 5731**

**Corpus Christi, Texas 78412-5731**

**FACILITY USE ADDENDUM**

**between TEXAS A&M UNIVERSITY – CORPUS CHRISTI**

**and \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

The following terms and conditions are incorporated into and form a part of the [Insert Name of Agreement] (the "Agreement") to which this Addendum is attached. “**TAMU-CC**” means Texas A&M University–Corpus Christi, a member of The Texas A&M University System, an agency of the State of Texas and “**FACILITY**” means \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

For clarification, the [Insert Name of Agreement] is being entered into by Texas A&M University–Corpus Christi, a member of The Texas A&M University System, an agency of the State of Texas. TAMU-CC requires the following changes to be made to **FACILITY’S** standard [Insert Name of Agreement].

**(Choose option by marking x in the space below)**

1. **DIRECT BILL ACCOUNT:**

\_\_\_\_\_\_ If there are any charges which accrue and are payable by **TAMU-CC,** they will be applied to a master account and direct billed. If an existing direct bill account is not already established and on file, **TAMU-CC** will submit information required to establish a direct bill account prior to the Agreement start date. Under this Agreement, the **TAMU-CC** credit card shall only be used to secure the room block. All room charges will be paid by each individual reserving a room.

1. **PAYMENT OF MASTER ACCOUNT:**

\_\_\_\_\_\_ The outstanding balance of **TAMU-CC**’s direct bill account, if any and excluding disputed charges, will be due following the event and payable within thirty (30) days from receipt of invoice. Upon resolution of any disputed charges, **FACILITY** shall invoice such remaining charges to **TAMU-CC**. Payment of the revised charges shall be payable within thirty (30) days of receipt of invoice. All past due amounts will be subject to a finance charge in accordance with the Texas Prompt Payment Act, Chapter 2251, *Texas Government Code*.

1. **PAYMENTS:**

\_\_\_\_\_\_ Payments shall be made to Facility by TAMU-CC via business check, procurement and/or travel credit card.

1. **TAX EXEMPT STATUS:** As an agency of the State of Texas, **TAMU-CC** is tax exempt. Tax exemption certification will be furnished upon request.
2. **INSURANCE:** The liability of The Texas A&M University System and its members (“System”) for personal injury and property damage is controlled by the Texas Tort Claims Act, *Texas Civil Practice and Remedies Code*, Chapter 101, Section 101.021. The limits of liability are $250,000 for each person, $500,000 for each single occurrence for bodily injury or death and $100,000 for each single occurrence for injury to or destruction of property. Following this limited exposure, System, as a state agency, is protected by the doctrine of sovereign immunity, and as such, is self-insured up to the aforementioned limits.

To expand on this limited liability, the following language defines instances when sovereign immunity may be waived:

A governmental unit in the State is liable for:

(1) Property damage, personal injury, and death proximately caused by the wrongful act or omission or the negligence of an employee acting within his scope of employment if:

1. the property damage, personal injury, or death arises from the operation or use of a motor-driven vehicle or motor-driven equipment; and
2. the employee would be personally liable to the claimant according to Texas law.

(2) Personal injury and death so caused by a condition or use of tangible personal or real property if the governmental unit would, were it a private person, be liable to the claimant according to Texas law.

1. **CANCELLATION**: In the event **TAMU-CC** must cancel the Agreement, **FACILITY** will make every effort to resell the space reserved by **TAMU-CC** in order to reduce **TAMU-CC**’s cancellation/attrition fees. Resold space will be credited to reducing any obligations that **TAMU-CC** may have incurred. **TAMU-CC** will not pay any cancellation/attrition fees until after the event date. A copy of **FACILITY**’s occupancy report, concerning the space reserved by **TAMU-CC** for the date cancelled by **TAMU-CC,** shall be delivered to **TAMU-CC** within ten (10) business days of departure date.

**TAMU-CC**, at any time prior to the event date with written notice, may cancel the Agreement with **FACILITY** without liability or penalty, in the event one or more of the following occur:

a) A Force Majeure Event as described below, renders either party’s performance inadvisable, impossible, or is materially affected. In the event of cancellation under this Item 1, **FACILITY** agrees to return any deposits paid by **TAMU-CC**. In the event **TAMU-CC** decides to continue with its reserved use of the **FACILITY** despite such circumstances, **FACILITY** will waive any fees related to a reduced-sized program or event including, but not limited to, any food and beverage attrition fees and space rental.

b) A Loss of funding event as described below.

c) There is a change in ownership or management of the **FACILITY** prior to the scheduled arrival date.

d) **FACILITY** enters into bankruptcy proceedings, becomes insolvent or subject to foreclosure, or takes any other like action for the benefit of creditors or debtors prior to the scheduled arrival date.

1. **MANDATORY STATE AGENCY CERTIFICATIONS AND PROVISIONS:**

a) **Franchise Tax Certification. FACILITY** certifies that it is not delinquent in the payment of Texas Franchise Tax.

b) **Eligibility Certification.** Under Section 2155.004, *Texas Government Code*, **FACILITY** certifies that the individual or business entity named in this bid or Agreement is not ineligible to receive the specified Agreement and acknowledges that this Agreement may be terminated and payment withheld if this certification is inaccurate.

c) **Debts or Delinquencies****.** Pursuant to Section 2252.903, *Texas Government Code*, **FACILITY** agrees that any payments owing to **FACILITY** under the Agreement may be applied directly toward certain debts or delinquencies that **FACILITY** 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.

d) **Child Support Certification.** Under Section 231.006, *Texas Family Code*, the **FACILITY** certifies that the individual or business entity named in this Agreement, bid, or application is not ineligible to receive the specified grant, loan, or payment and acknowledges that this Agreement may be terminated and payment may be withheld if this certification is inaccurate.

1. **GOVERNING LAW AND VENUE:** The validity of the Agreement and all matters pertainingthereto shall be governed and determined by the Constitution and the laws of the State ofTexas. Venue for any suit filed against **TAMU-CC** shall be Nueces County, Texas.
2. **INAPPLICABLE PROVISIONS:** None of the following provisions, if they appear in the Agreement, shall have any effect or be enforceable against **TAMU-CC**: (i) requiring **TAMU-CC** to maintain any type of insurance either for **TAMU-CC**’s benefit or for **FACILITY**’s benefit; (ii) renewing or extending the initial Agreement term or automatically continuing or renewing the original Agreement term; and (iii) binding **TAMU-CC** to any arbitration, to the decision of any arbitration board, commission, panel or other entity, or to any other alternative dispute resolution other than is provided below.
3. **DISPUTE RESOLUTION:** To the extent that Chapter 2260, *Texas Government Code*, is applicable to this Agreement, the dispute resolution process provided in Chapter 2260, and the related rules adopted by the Texas Attorney General pursuant to Chapter 2260, shall be used by TAMU-CC and Contractor to attempt to resolve any claim for breach of contract made by Contractor that cannot be resolved in the ordinary course of business. Contractor shall submit written notice of a claim of breach of contract under this Chapter to TAMU-CC Contracts Administration, who shall examine Contractor’s claim and any counterclaim and negotiate with Contractor in an effort to resolve the claim. This provision and nothing in this Agreement waives TAMU-CC’s sovereign immunity to suit or liability and TAMU-CC has not waived its right to seek redress in the courts.
4. **PUBLIC INFORMATION:**

a) **FACILITY** acknowledges that **TAMU-CC** 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 **TAMU-CC’s** written request, **FACILITY** will promptly provide specified contracting information exchanged or created under this Agreement for or on behalf of **TAMU-CC**.

c) **FACILITY** acknowledges that **TAMU-CC** 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.

d)The requirements of Subchapter J, Chapter 552, Texas Government Code, may apply to this Agreement and **FACILITY** agrees that the Agreement can be terminated if **FACILITY** knowingly or intentionally fails to comply with a requirement of that subchapter.

1. **LOSS OF FUNDING:** Performance by **TAMU-CC** under the 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 **TAMU-CC** will issue written notice to **FACILITY** and **TAMU-CC** may terminate the Agreement without further duty or obligation hereunder. **FACILITY** acknowledges that appropriation of funds is beyond the control of **TAMU-CC**.
2. **FORCE MAJEURE:** For purposes of the Agreement, “Force Majeure Event” means, neither Party shall be held liable or responsible to the other Party nor be deemed to have defaulted under or breached this Agreement for failure or delay in fulfilling or performing any obligation under this Agreement if and to the extent such failure or delay is caused by or results from causes beyond the affected Party’s reasonable control, including, but not limited to, acts of God, strikes, riots, flood, fire, epidemics, natural disaster, embargoes, war, insurrection, terrorist acts or any other circumstances of like character; provided, however, that the affected Party has not caused such force majeure event(s), shall use reasonable commercial efforts to avoid or remove such causes of nonperformance, and shall continue performance hereunder with reasonable dispatch whenever such causes are removed. Either Party shall provide the other Party with prompt written notice of any delay or failure to perform that occurs by reason of force majeure, including describing the force majeure event(s) and the actions taken to minimize the impact of such event(s).
3. **PROHIBITION ON CONTRACTS/AGREEMENTS WITH COMPANIES BOYCOTTING ISRAEL:** To the extent that Texas Government Code, Chapter 2271 applies to the Agreement, **FACILITY** certifies that (a) it does not currently boycott Israel; and (b) it will not boycott Israel during the term of the Agreement.  **FACILITY** acknowledges the Agreement may be terminated and payment withheld if this certification is inaccurate.
4. **CERTIFICATION REGARDING BUSINESS WITH CERTAIN COUNTRIES AND ORGANIZATIONS:** Pursuant to Subchapter F, Chapter 2252, Texas Government Code, **FACILITY** certifies it is not engaged in business with Iran, Sudan, or a foreign terrorist organization. **FACILITY** acknowledges this Agreement may be terminated if this certification is inaccurate
5. **RECORDS RETENTION: FACILITY** will preserve all contracting information, as defined under Texas Government Code, Section 552.003 (7), related to the Agreement for the duration of the Agreement and for seven years after the conclusion of the Agreement.
6. **PROHIBITION ON CONTRACTS/AGREEMENTS RELATED TO PERSONS INVOLVED IN HUMAN TRAFFICKING:** Under Section 2155.0061, Government Code, the **FACILITY** certifies that the individual or business entity named in the Agreement is not ineligible to receive the specified Agreement and acknowledges that the Agreement may be terminated and payment withheld if this certification is inaccurate.
7. **LIMITATIONS:** The parties are aware that there are constitutional and statutory limitations on the authority of **TAMU-CC** (a state entity) to enter into certain terms and conditions of the Agreement, including, but not limited to, authorizations of the placement of liens on **TAMU-CC**’s property; disclaimers and limitations of warranties; disclaimers and limitations of liability for damages; waivers, disclaimers and limitations of legal rights, remedies, requirements and processes; limitations of periods to bring legal action; granting control of litigation or settlement to another party; liability for acts or omissions of third parties; payment of attorneys’ fees; dispute resolution; indemnities; and confidentiality (collectively, the “Limitations”). Any Agreement terms and conditions related to the Limitations will not be binding on **TAMU-CC** except to the extent authorized by the laws and Constitution of the State of Texas. Neither the execution of the Agreement by **TAMU-CC** nor any other conduct, action, or inaction of any representative of **TAMU-CC** relating to the Agreement constitutes or is intended to constitute a waiver of **TAMU-CC**’s or the State’s sovereign immunity to suit.
8. **CONFLICT OF INTEREST:** By executing the Agreement, **FACILITY** and each person signing on behalf of **FACILITY** 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 Texas A&M University System or The Texas A&M University System Board of Regents, nor any employee, or person, whose salary is payable in whole or in part by The Texas A&M University System or its members, has direct or indirect financial interest in the award of the Agreement, or in the services to which the Agreement relates, or in any of the profits, real or potential, thereof.
9. **VERIFICATION REGARDING BOYCOTTING ENERGY COMPANIES:** To the extent that Section 2274.002, Texas Government Code applies to this Agreement, FACILITY certifies (1) does not boycott energy companies and (2) will not boycott energy companies during the term of this Agreement.
10. **VERIFICATION REGARDING DISCRIMINATION AGAINST FIREARM ENTITIES and TRADE ASSOCIATIONS:** To the extent that Section 2274.002, Texas Government Code applies to this Agreement, FACILITY certifies (1) does not have a practice, policy, guidance or directive that discriminates against a firearm entity or firearm trade association, and (2) will not discriminate against a firearm entity or firearm trade association during the term of this Agreement.
11. **ADDENDUM CONTROLLING:**  In the event there is a conflict between the terms and conditions of the Agreement and this Addendum, this Addendum will control.

In WITNESS WHEREOF, the parties have caused this Addendum to be duly executed intending to be bound thereby.

**FACILITY: TEXAS A&M UNIVERSITY**

**– CORPUS CHRISTI:**

**By:**  **By:**

**Name:**  **Name:**

**Title:**  **Title:**

**Date:** **Date:**