

AN AGREEMENT  
BY AND BETWEEN  
THE TEXAS A&M UNIVERSITY SYSTEM OFFICES  
AND MANATT HEALTH STRATEGIES, LLC

This Services Agreement (“Agreement”) is entered into and effective September 3, 2019 (the “Effective Date”), by and between The Texas A&M University System (hereafter referred to as “TAMUS”), an agency of the state of Texas, and Manatt Health Strategies, LLC (hereafter referred to as “PROVIDER” or “MHS”). TAMUS and PROVIDER are sometimes hereafter referred to as “Party” individually or “Parties” collectively.

TAMUS and PROVIDER hereby agree as follows:

**1. SCOPE OF WORK**

- A. PROVIDER will perform the work as described in the Scope of Work (“SOW”), attached hereto as Exhibit A. The SOW, together with its exhibits and attachments appended thereto, and all terms and conditions therein, are hereby incorporated into this Agreement.

**2. TERM OF THE AGREEMENT**

The initial term of this Agreement shall begin September 3, 2019 and will extend until December 31, 2019. This Agreement can be extended for additional terms upon written agreement of both parties. Any extensions shall be at the same terms and conditions plus any approved changes to be determined by TAMUS and negotiated in writing with the PROVIDER.

**3. PAYMENT TERMS**

- A. For the services rendered under this Agreement, TAMUS shall pay PROVIDER \$275,000. This amount does not include payment for reasonable and necessary travel expenses. The maximum amount allowed for reimbursables is \$41,250.
- B. PROVIDER will invoice TAMUS in three equal payments upon completion of each milestone identified in Section III of the Scope of Work listed in Section 1. Should the engagement be terminated for convenience by TAMUS between milestones, MHS will prepare a “stub” invoice to recognize the fraction of work completed subsequent to the preceding milestone. For reimbursement of travel expenses, PROVIDER’S invoice(s) must include supporting documents. Payment will be made to PROVIDER upon approval of such invoice by TAMUS. 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 30<sup>th</sup> day unless a discount has been arranged for more immediate payment.
- C. Business-related travel, lodging and/or meal expenses will be reimbursed by TAMUS according to the State of Texas rates, rules, and regulations relating to class of travel and related matters (<http://www.window.state.tx.us/procurement/prog/stmp/>). PROVIDER is required to submit all travel receipts when requesting reimbursement. Under no circumstance will the PROVIDER be reimbursed for alcohol purchases. State travel rates are subject to change without notice and will be adjusted accordingly. Mileage rates will

be calculated from point-to-point (PROVIDER's place of business to job site) using the State of Texas mileage. Should the contract be renewed for an additional term, travel reimbursement amounts will be renegotiated at that time.

- D. All payments shall be made by electronic direct deposit. PROVIDER is required to complete and submit to TAMUS a Vendor Direct Deposit Authorization form prior to the first payment request. The form can be accessed at:

<https://www.tamus.edu/business/budgets-and-accounting/accounting/general/>

- E. All invoices must reference the TAMUS purchase order number (which will be provided to PROVIDER within 15 days of the execution of this Agreement) and description of services and milestone achieved.

#### 4. **DEFAULT AND TERMINATION**

- A. In the event of substantial failure by PROVIDER to perform in accordance with the terms hereof, TAMUS 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 TAMUS.
- B. TAMUS may terminate this Agreement at any time upon thirty (30) days prior notice to PROVIDER.

#### 5. **PUBLIC INFORMATION**

- A. PROVIDER acknowledges that TAMUS 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 TAMUS's written request, PROVIDER 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 TAMUS in a non-proprietary format acceptable to TAMUS. As used in this provision, "public information" has the meaning assigned Section 552.002, *Texas Government Code*, but only includes information to which TAMUS has a right of access.
- C. PROVIDER acknowledges that TAMUS 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 TAMUS and PROVIDER to attempt to resolve any claim for breach of contract made by PROVIDER that cannot be resolved in the ordinary course of business. PROVIDER shall submit written notice of a claim under this Chapter to the Deputy Chancellor and Chief Financial Officer for TAMUS, who shall examine PROVIDER's claim and any counterclaim and negotiate with PROVIDER in an effort to resolve the claim. TAMUS shall submit written notice of any claim or counterclaim under

this Agreement to the General Counsel for PROVIDER. Such claims and any counterclaims shall be examined by the respective recipient and the Parties shall negotiate in an effort to resolve the claim(s).

7. **INSURANCE**

A. This process is described in Exhibit B, attached hereto.

8. **MISCELLANEOUS**

- A. **Indemnification. PROVIDER agrees to indemnify and hold harmless TAMUS from any claim, damage, liability, expense or loss to the extent arising out of PROVIDER's intentional misconduct or violation of any law under this Agreement.**
- B. **Independent Contractor.** PROVIDER is an independent contractor, and neither PROVIDER nor any employee of PROVIDER shall be deemed to be an agent or employee of TAMUS. TAMUS will have no responsibility to provide transportation, insurance or other fringe benefits normally associated with employee status. PROVIDER shall observe and abide by all applicable laws and regulations, policies and procedures, including but not limited to those of TAMUS 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*, PROVIDER agrees that any payments owing to PROVIDER under this Agreement may be applied directly toward certain debts or delinquencies that PROVIDER 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.** PROVIDER acknowledges and understands that Section 2252.901, *Texas Government Code*, prohibits TAMUS 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 PROVIDER is an individual, by signing this Agreement, PROVIDER 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 PROVIDER is a taxable entity subject to the Texas Franchise Tax (Chapter 171, *Texas Tax Code*), then PROVIDER certifies that it is not currently delinquent in the payment of any franchise (margin) taxes or that PROVIDER is exempt from the payment of franchise (margin) taxes.

- G. **State Auditor's Office.** PROVIDER 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*. PROVIDER agrees to cooperate with the Auditor in the conduct of the audit or investigation, including without limitation, providing all records requested. PROVIDER 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.** PROVIDER shall neither assign its rights nor delegate its duties under this Agreement without the prior written consent of TAMUS.
- L. **HUB Subcontracting Plan.** If a subcontractor will be used to provide any commodity or service as part of the scope on a specific assignment, the PROVIDER will be required to make a good faith effort and complete the state of Texas HSP found at <https://www.tamus.edu/business/hub-procurement/hub-programs-3/system-offices-hub-program/>. If there are pre-existing agreements in place with companies who will be hired as subcontractors, the PROVIDER will show those companies as subcontractors on the HSP and provide an explanation as to why solicitations were not done, e.g. contractual requirements. If no pre-existing agreements with companies who will be hired as subcontractors exist, then the PROVIDER will be expected to make a good faith effort according to the HSP instructions.
- In the event that you determine you will be using a subcontractor, please contact Mr. Jeff Zimmermann from the A&M System's HUB Program at (979) 458-6410 or [jzimmermann@tamus.edu](mailto:jzimmermann@tamus.edu) for assistance in determining available HUB subcontractors and proper completion of the HSP.
- M. **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.
- N. **Loss of Funding.** Performance by TAMUS 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, TAMUS will issue written notice to PROVIDER and TAMUS may terminate this Agreement without further

duty or obligation hereunder. PROVIDER acknowledges that appropriation of funds is beyond the control of TAMUS.

- O. **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.
- P. **Venue.** Pursuant to Section 85.18, *Texas Education Code*, venue for any suit filed against TAMUS shall be in the county in which the primary office of the chief executive officer of TAMUS is located, which is Brazos County, Texas.
- Q. **Non-Waiver.** PROVIDER expressly acknowledges that TAMUS is an agency of the State of Texas and nothing in this Agreement will be construed as a waiver or relinquishment by TAMUS of its right to claim such exemptions, privileges, and immunities as may be provided by law.
- R. **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.
- S. **Prohibition on Contracts with Companies Boycotting Israel.** To the extent that Texas Government Code, Chapter 2270 applies to 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 or becomes inaccurate.
- T. **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 or becomes inaccurate.
- U. **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. TAMUS and PROVIDER can change their respective notice address by sending to the other party a notice of the new address. Notices should be addressed as follows:

TAMUS:                   The Texas A&M University System  
301 Tarrow St., Suite 361  
College Station, Texas 77840  
Attention: Jeff Zimmermann  
Phone: (979) 458-6410  
Fax: (979) 458-6250

E-mail: [jzimmermann@tamus.edu](mailto:jzimmermann@tamus.edu)

PROVIDER: Manatt Health Strategies, LLC  
Attn: Tom Enders  
7 Times Sq, NY, NY 10036  
Phone: 917-882-6791  
Fax:  
Email: Tenders@manatt.com

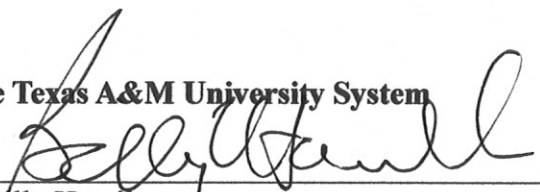
- V. **Nature of Services and Confidentiality of Information.** It is understood that Manatt, Phelps & Phillips, LLP (the “Firm”) will not provide legal services in connection with this matter. If TAMUS wishes to retain the Firm in connection with this or any other matter, such retention will require a separate written agreement. MHS will provide consulting services and not legal services or advice. (The nature of the services is described in the Statement of Work, which is part of the Agreement). MHS may engage professionals to render these services, which may include attorneys who are partners or associates of the Firm. Even though an attorney is involved, MHS is not a law firm and neither MHS nor any persons engaged by MHS in connection with this matter who happen to be attorneys will be providing legal services to TAMUS. Accordingly, none of the protections of the attorney-client relationship or the attorney-client privilege for communications will exist with respect to the services rendered by MHS. MHS will treat TAMUS’s information as confidential, however, the communications between TAMUS and MHS will not be protected by the attorney-client privilege.
- W. **Client.** PROVIDER’s sole client is TAMUS, including its subordinate affiliates, Texas A&M University and the Texas A&M University Health Science Center, but not any other related or affiliated person, subsidiary, affiliated corporation or entity, nor any other system, component, unit, agency, or instrumentality of, or supported by, the State of Texas, nor any of their respective officers, directors, agents, members, partners, stakeholders, or employees, (collectively, “Affiliates”). MHS and the Firm are and will continue to be free to be adverse to Affiliates in any unrelated matters. PROVIDER’s advice may not be relied on by anyone but TAMUS, Texas A&M University and the Texas A&M University Health Science Center.
- X. **Other Conflicts of Interest.**
- i. **Relationship with Manatt, Phelps & Phillips, LLP.** MHS is a wholly owned subsidiary of the Firm, which is a law firm. This means that the Firm has a financial interest in the work performed by MHS.
  - ii. **Relationships with Other Clients.** The Firm and MHS represent many clients in the health care industry, among others. The Firm and MHS have confidentiality obligations to its other clients, and MHS will not have any obligation to disclose or use in connection with this engagement any information that it learns in the course of any other representation, even if it would be helpful to TAMUS. MHS will apply these same confidentiality standards to information it learns in the course of its representation of TAMUS. In addition, the Firm may be asked to represent one or more clients in matters adverse to TAMUS or its interests in the future. TAMUS

hereby agrees that it will not seek to proscribe, limit, or disqualify the Firm from any such adverse representation; however, that the Firm will not undertake any such adverse representation if it relates directly to MHS's work for TAMUS, nor will the Firm engage in any litigation, arbitration or other formal dispute resolution proceedings adverse to TAMUS while MHS or the Firm is representing TAMUS. Otherwise, neither the Firm nor MHS will be limited in representing other clients, even if they are directly or indirectly adverse to TAMUS in transactions, negotiations or regulatory, legislative or public policy matters, and TAMUS waives any conflict of interest that may exist by virtue of any such adverse representation (it being understood that TAMUS's waiver does not permit MHS to use any of TAMUS' confidential information).

**Y. Document Retention and Destruction.** In the course of PROVIDER's provision of services and/or representation of TAMUS, PROVIDER is likely to come into possession of copies or originals of documents or other materials belonging to TAMUS or others (collectively, "materials"). PROVIDER shall retain all such documents or materials for seven (7) years after termination or expiration of this Agreement. Alternatively, PROVIDER may return all such documents and materials to TAMUS. If TAMUS does not request delivery of the materials before the end of the seven-year period, PROVIDER will have no further obligation to retain the materials and may, at its sole discretion, destroy the materials without further notice to TAMUS.

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

**The Texas A&M University System**

By   
Billy Hamilton  
Exec. Vice Chancellor & Chief Financial Officer

8/7/19  
Date

**Manatt Health Strategies, LLC**

By   
Thomas O. Enders  
Senior Managing Partner

08-02-2019  
Date