

AN AGREEMENT
BY AND BETWEEN
THE TEXAS A&M UNIVERSITY SYSTEM OFFICES
AND SOUTHWEST SPECIAL RISK INSURANCE

This Services Agreement (“Agreement”) is entered into effective upon final execution of this agreement (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 Southwest Special Risk Insurance (hereafter referred to as “PROVIDER”). 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

PROVIDER will provide services to TAMUS for insurance brokerage services as outlined in RFP01 RISK-15-016, and further described in Exhibit A, attached hereto.

2. TERM OF THE AGREEMENT

The Term of this Agreement shall begin as of the Effective Date, and will end August 31, 2016. The agreement may be extended for four (4) additional one-year terms, providing all parties mutually agree on the extension. 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. PROVIDER shall invoice TAMUS monthly for the services described in Exhibit A. Payment will be made to PROVIDER upon approval of such invoices 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 30th day unless a discount has been arranged for more immediate payment. A single invoicing format may be submitted.
- B. All payments shall be made by electronic direct deposit. PROVIDER is required to complete and submit to TAMUS a Direct Deposit Authorization form prior to the payment request. The form can be accessed at: <http://www.window.state.tx.us/taxinfo/taxforms/74-176.pdf>.
- C. 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 provided to include but not limited to time, deliverables, and activities.

- D. Invoices are to be sent to the TAMUS Procurement Department at the address listed in Section 7q. The invoices will be paid upon approval by a TAMUS representative within the Office of the Chancellor.

4. TERMINATION

TAMUS may terminate this Agreement at any time upon fifteen (15) days prior notice to PROVIDER.

5. PUBLIC INFORMATION

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.

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 of breach of contract under this Chapter to Billy Hamilton, Executive Vice 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.

7. 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 negligent or willful errors or omissions 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. PROVIDER 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. Force Majeure.** Neither party is required to perform any term, condition, or covenant of this Agreement, if performance is prevented or delayed by a natural occurrence, a fire, an act of God, an act of terrorism, or other similar occurrence, the cause of which is not reasonably within the control of such party and which by due diligence it is unable to prevent or overcome.
- M. Loss of Funding.** Performance by 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.
- N. Governing Law.** The validity of this Agreement and all matters pertaining to this Agreement, including but not limited to, matters of performance, non-performance, breach, remedies, procedures, rights, duties, and interpretation or construction, shall be governed and determined by the Constitution and the laws of the State of Texas.
- O. Venue.** Pursuant to Section 85.18, *Texas Education Code*, venue for any suit filed against 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.
- P. 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.
- Q. HUB Subcontracting Plan.** If a subcontractor will be used to provide any commodity or service as part of this scope, the PROVIDER will be required to make a good faith effort and complete the state of Texas HSP found at <http://www.tamus.edu/business/facilities-planning-construction/forms-guidelines-wage-rates/>. 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 for assistance in determining available HUB subcontractors and proper completion of the HSP.

R. Insurance. As outlined in Exhibit B.

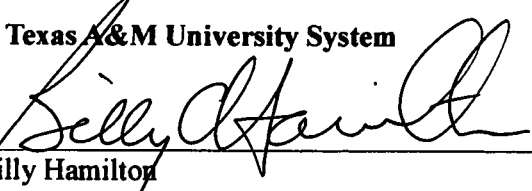
S. Notices. Any notice required or permitted under this Agreement must be in writing, and shall be deemed to be delivered (whether actually received or not) when deposited with the United States Postal Service, postage prepaid, certified mail, return receipt requested, and addressed to the intended recipient 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.
College Station, Texas 77840
Attention: Jeff Zimmermann
Phone: (979) 458-6410
Fax: (979) 458-6250
E-mail: jzimmermann@tamus.edu

PROVIDER: Southwest Special Risk Insurance
3116 West 5th St., Suite 106
Fort Worth, Texas 76107
Attention: Jill Faulder
Phone: (817) 923-1111
Email: jill@swinsurance.com

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
Executive Vice Chancellor & CFO

10/20/2015

Date

Southwest Special Risk Insurance

By *Jui Tuleau*

Date *9-25-15*

EXHIBIT A – SCOPE OF WORK

PROVIDER may provide any of the insurance services below as requested by TAMUS Risk Management.

- 1) Implementation of Insurance Program
 - a) Notify the A&M System of new insurance products
 - b) Provide marketing recommendations
 - c) Provide access to necessary insurance markets
 - d) Prepare program specifications and underwriting submissions
 - e) Assist in the selection of the insurers most suitable for risk
 - f) Awareness and access to specialty insurance markets
 - g) Assemble and format the A&M System's data for consideration by insurance carriers.
 - h) Upon System Risk Management's request, identify carriers who can provide the insurance coverage and programs required by the A&M System.
 - i) Provide a written summary of quotations and declinations from insurance carriers including analysis and comparison of program alternatives with best recommendation
 - j) Facilitate negotiations with insurance carriers who submit the most favorable quotes to maximize the System's coverage and to minimize its costs. Broker shall maintain complete records of the quote solicitation process and shall provide copies of such records to System Risk Management.
 - k) Confirm policies issued conform to specifications.
 - l) Provide written policy outlines including but not limited to coverage type, policy number, insurance carrier, renewal date, and exclusions.
 - m) If requested by System Risk Management, bind coverage and maintain insurance policies and coverage without lapses.
 - n) Verify that rates and premiums are properly calculated and charged.
 - o) Communicate information between System Risk Management and selected insurance carriers including information regarding policy renewals, premium pay-ins, audit returns and buy-out provisions.
 - p) Schedule meetings between the A&M System and selected insurance carriers.
 - q) Request, implement and monitor coverage changes requested by the A&M System.
 - r) Prorate insurance premiums by component institution.
 - s) Contractor shall pay all premiums to the insurance carrier and then be reimbursed by System Risk Management and/or System member institutions
- 2) Policyholder Services Provided by PROVIDER
 - a) Coordinate data gathering functions and processes between all parties
 - b) Organize and attend meetings as requested by the A&M System and document meeting discussions
 - c) Communicate with and secure all data required by insurance carrier or requested by the A&M System.
 - d) Thoroughly review all existing coverage and make written recommendations to System Risk Management regarding any changes in coverage based on such things as unintentional self-insurance, gaps in coverage, overlapping coverage, restrictive limits, higher education industry trends and projections and cost of coverage.

- e) Issue insurance binders, certificates, and policies when requested or required.
 - f) Coordinate ongoing insurer services among parties
 - g) Verify the accuracy of any bills, audits, and other premium adjustments.
 - h) Provide annual comprehensive loss history for all policies during renewal process
 - i) Answer phone calls and field questions during regular business hours and be available during non-business hours for emergency claim submission and other services.
- 3) Safety and Loss Prevention Services
- a) When designated by the A&M System prior to the purchase of a policy, conduct inspections, tests and other safety and loss prevention services.
 - b) Have the capacity to secure safety and loss prevention services from carriers for application with the System and its member institutions
- 4) Claims Handling
- a) When requested by the A&M System, communicate information to insurance carrier, report and monitor claims activity.
 - b) Provide or obtain from carrier periodic loss runs as requested by the A&M System.
 - c) Provide third party administrator claim functions if requested by System Risk Management.
- 5) Information and Services Carriers
- a) The company must agree to furnish the insured: (sample reports requested with your proposal)
 - i) Reports on cost of claims on a monthly basis, including reserves status
 - ii) Status report on any claim as requested by the insured
 - iii) Reports of its investigation of claims to include statements from injured and/or witnesses, when requested
 - iv) Photographs along with the appraisal of damages relating to the claim, when requested
 - b) PROVIDER shall be capable of electronic data submission. The PROVIDERs system shall be capable of interfacing with the System Risk Management and Safety and this service will be provided at no charge. Any software or upgrades will also be provided at no charge. The Company shall provide on-line access that allows the A&M System's Risk Management and Safety Office to monitor pending claims, reserves, adjuster notes, and final settlements. PROVIDERs shall provide training as needed to the A&M System Office of Risk Management in the utilization of software.
 - c) The carrier is expected to represent and defend the named insured in any matter of litigation covered by the policy. However, the carrier and its designated counsel will keep the Risk Management Department and the System General Counsel informed of the status of any and all litigation claims filed under the policy.
 - d) Successful company shall upon award provide insurance cards for all fleet and scheduled vehicles covered under all policies. The cards are to be forwarded express mail to Risk Management and Safety prior to the effective date and shall be collated in stacks of 25 for easy distribution.
 - e) Deductible billings shall be individually invoiced per claim on a monthly basis. The billings shall include but not be limited to the following: name of claimant; date of

accident; system driver; System Member; Department; Amount of Invoice; and Insurance Company federal Tax Identification Number. A summary listing each invoice should accompany the billings. The bill amount shall be supported by individual claim records. A sample deductible bill shall be submitted with each proposal.

- f) Verification of Qualifications - All companies submitting proposals must meet the following minimum qualifications:
 - i) Shall be licensed by the State of Texas and permitted to contract with the State of Texas or any of its Subdivisions.
 - ii) Be recommended in the latest edition of Best's Key Rating Guide and have at least a policyholder's rating of "A" and a Financial Size Category Rating of at least XI.
 - iii) Any agents of record must be appointed by the carrier. The A&M System is to be informed of the agent's office location and the agents serviced to be provided.
 - iv) Agents of record and carrier shall have toll free "800" number for accessibility during the policy period.

EXHIBIT B – INSURANCE

PROVIDER shall obtain and maintain, for the duration of this Agreement or longer, the minimum insurance coverage set forth below. With the exception of Professional Liability (E&O), all coverage shall be written on an occurrence basis. All coverage shall be underwritten by companies authorized to do business in the State of Texas or eligible surplus lines insurers operating in accordance with the Texas Insurance Code and have a financial strength rating of A- or better and a financial strength rating of VII or better as measured by A.M. Best Company or otherwise acceptable to MEMBER. By requiring such minimum insurance, the Owner shall not be deemed or construed to have assessed the risk that may be applicable to PROVIDER under this Agreement. PROVIDER shall assess its own risks and if it deems appropriate and/or prudent, maintain higher limits and/or broader coverage. PROVIDER is not relieved of any liability or other obligations assumed pursuant to this Agreement by reason of its failure to obtain or maintain insurance in sufficient amounts, duration, or types. No policy will be canceled without unconditional written notice to MEMBER at least ten days before the effective date of the cancellation.

Insurance:

Coverage

Limit

A. Worker's Compensation

Statutory Benefits (Coverage A)
Employers Liability (Coverage B)

Statutory
\$1,000,000 Each Accident
\$1,000,000 Disease/Employee
\$1,000,000 Disease/Policy Limit

Workers' Compensation policy must include under Item 3.A. on the information page of the workers' compensation policy the state in which work is to be performed for [Member]. Workers' compensation insurance is required, and no "alternative" forms of insurance will be permitted

B. Automobile Liability

Business Auto Liability Insurance covering all owned, non-owned or hired automobiles, with limits of not less than \$1,000,000 Single Limit of liability per accident for Bodily Injury and Property Damage;

If a separate Business Auto Liability policy is not available, coverage for hired and non-owned auto liability may be endorsed on the Commercial General Liability policy.

Additional Endorsements

The Auto and Commercial General Liability Policies shall name the Texas A&M University System Board of Regents for and on behalf of The Texas A&M University System and the MEMBER as additional insured's.)]

C. Commercial General Liability

Each Occurrence Limit	\$1,000,000
General Aggregate Limit	\$2,000,000
Products / Completed Operations	\$1,000,000
Personal / Advertising Injury	\$1,000,000
Damage to rented Premises	\$300,000
Medical Payments	\$5,000

The required commercial general liability policy will be issued on a form that insures PROVIDER's or its subcontractors' liability for bodily injury (including death), property damage, personal and advertising injury assumed under the terms of this Agreement

D. Professional Liability \$1,000,000