

**SERVICES AGREEMENT
BETWEEN
THE TEXAS A&M UNIVERSITY SYSTEM
AND
DELOITTE & TOUCHE LLP**

This Services Agreement (“Agreement”) is made and entered into and effective upon final execution of this Agreement (the “Effective Date”), by and between The Texas A&M University System, an agency of the state of Texas (“A&M System”) and Deloitte & Touche LLP, a Delaware limited liability partnership (“Deloitte & Touche” or “D&T”), individually referred to as “Party” and collectively referred to as “the Parties”.

A&M System and Deloitte & Touche agree as follows:

1. Scope of Work

- 1.1 Deloitte & Touche will perform the scope of work set forth in Exhibit A, Scope of Work, attached hereto and incorporated for all purposes, (“Work”) in accordance with the schedule for the Work set forth in Exhibit A. A&M System will comply with its obligations and responsibilities set forth in Exhibit A. At a minimum, the Work will meet the requirements of RFP01 SOC-17-014, CUI DFARS (“RFP”), as modified by Exhibit A.
- 1.2 Deloitte & Touche will obtain, at its own cost, any and all applicable approvals, licenses, filings, registrations and permits required by federal, state or local laws, regulations or ordinances, for the performance of the Work.

2. Term

The term of this Agreement will begin on the Effective Date and expire December 31, 2017 (“Expiration Date”), unless terminated earlier as provided in this Agreement or unless the Parties agree in writing that an extension of the Expiration Date is necessary to complete the Work.

3. Deloitte & Touche’s Obligations

- 3.1 D&T confirms that neither D&T nor any subcontractor represented by D&T, or anyone acting for the subcontractor (1) has violated the antitrust laws of the state of Texas, Chapter 15, *Texas Business and Commerce Code*, or federal antitrust laws, or (2) has communicated directly or indirectly the content of D&T’s response to A&M’s procurement solicitations to any competitor or any other person engaged in a similar line of business during the procurement process for this Agreement, in connection with the Work hereunder.

- 3.2 D&T will perform the Work in accordance with applicable professional standards and in compliance with all applicable federal and state laws, in each case, in all material respects.
- 3.3 D&T represents that the partners, principals or managing directors of D&T directly in charge of the Work are duly registered and/or licensed under all applicable federal, state and local laws regulations, and ordinances.
- 3.4 D&T represents at (i) it is a Delaware limited liability partnership, (ii) it has all necessary power and has secured all necessary approvals to execute and deliver this Agreement and perform all its obligations hereunder; and (iii) the individual executing this Agreement on behalf of D&T has been duly authorized to act for and bind D&T.
- 3.5 D&T represents that neither the execution and delivery of this Agreement by D&T nor the performance of its duties and obligations under this Agreement will result in the violation of any provision of any partnership agreement by which D&T is bound, or to the best of D&T's knowledge and belief, will conflict with any order or decree of any court or governmental instrumentality relating to D&T.
- 3.6 This is a services engagement. D&T warrants that it shall perform the Work hereunder in accordance with applicable professional standards and rules. Except for the warranties set forth in this Section 3.6, D&T disclaims all other warranties, either express or implied, including, without limitation, warranties of merchantability and fitness for a particular purpose.
- 3.7 Notwithstanding the forgoing, it is understood and agreed that the Work may include advice and recommendations from D&T to A&M System, but A&M System retains all authority as to how it implements such advice and recommendations; provided, however, the provisions in this Section 3.7 shall in no manner reduce or eliminate D&T's responsibility that the Work provided to A&M System under this Agreement comply with all applicable laws, rules, and regulations.
- 3.8 A&M System shall cooperate with D&T in the performance by D&T of the Work, including, without limitation, providing D&T with reasonable facilities and timely access to data, information, and personnel of A&M System. A&M System shall be responsible for the performance of its personnel and agents and for the accuracy and completeness of all data and information provided to D&T for purposes of the performance by D&T of the Work. A&M System acknowledges and agrees that D&T's performance is partially dependent upon the timely and effective satisfaction of A&M System's responsibilities hereunder and timely decisions and approvals of A&M System in connection with the Work. D&T shall be entitled to rely on all decisions and approvals provided by the A&M System Chief Information Officer, the A&M System Project Manager, and the IT Governance Committee constituted by A&M System pursuant to Exhibit A. A&M System shall be solely responsible for, among other things: (a) making all A&M System management decisions and

performing all A&M System management functions; (b) designating a competent management member to oversee the Work; (c) evaluating the adequacy and results of the Work; (d) accepting responsibility for all implementation of the results of the Work; and (e) establishing and maintaining internal controls, including, without limitation, monitoring ongoing activities.

4. Consideration

4.1 A&M System will pay D&T for the performance of the Work under Exhibit A an amount not to exceed of \$1,997,459. In addition, travel, production costs, and related out-of-pocket expenses incurred by D&T will be billed to A&M System as incurred, at D&T's actual cost. Expenses are not expected to exceed 15% of the not to exceed amount and will be billed as incremental to the fees.

5. Payment Terms

5.1 For all work performed under Exhibit A, D&T will submit invoices to A&M System once Deliverables have been completed and accepted by A&M System in accordance with the terms of Section 10.21.

5.2 In the event of early termination of this Agreement by D&T for A&M System's breach of this Agreement prior to completion or acceptance of any Deliverables, A&M System will pay D&T (i) a pro-rata portion of the amount due for each such Deliverable, and (ii) all holdback amounts retained by A&M System.

5.3 A&M System will pay each properly documented invoice in accordance with Texas Prompt Pay laws.

5.4 If A&M System submits in advance a written request for additional services not included in the Work, and if D&T agrees to provide such services, D&T shall be paid for the performance of such services in an amount agreed upon by A&M System and D&T as evidenced by a mutually acceptable writing setting forth the additional services and compensation therefor executed by A&M System and D&T prior to the commencement of such services.

6. Ownership and Use of Work Material

6.1 Except as otherwise provided below, the tangible materials prepared by D&T or any subcontractors and specified as deliverables or work product in Exhibit A or which the Parties agree to in the performance of Exhibit A ("the Deliverables") are considered to be works for hire, and shall, upon A&M System's full and final payment to D&T for such Deliverables hereunder, become the property of A&M System for its exclusive use, re-use, copying, and distribution (as permitted herein or as required by applicable law or regulation), at any time without further compensation and, except as otherwise provided herein, without any restrictions. A&M System may, at all times, retain the originals of the Deliverables.

- 6.2 To the extent that any D&T Technology (as defined below) is contained in any of the Deliverables, D&T hereby grants A&M System, upon full and final payment to D&T hereunder, a royalty-free, fully paid-up, worldwide, nonexclusive, perpetual, non-cancelable and non-terminable license to use such D&T Technology in connection with the Deliverables. D&T has created, acquired, or otherwise has rights in, and may, in connection with the performance of the Work, employ, provide, modify, create, acquire, or otherwise obtain rights in, works of authorship, materials, information and other intellectual property (collectively, the "D&T Technology").
- 6.3 The Deliverables will not be used or published by D&T or any other party unless expressly authorized by A&M System in writing.
- 6.4 Except as otherwise provided in Section 10.20 or as otherwise required by applicable law, all Work and Deliverables shall be solely for A&M System's benefit, and are not intended to be relied upon by any person or entity other than A&M System and A&M System shall not disclose the Work or Deliverables, or refer to the Work or Deliverables in any communication, to any person or entity except (i) as specifically set forth in Exhibit A; (ii) to A&M System's contractors solely for the purpose of their providing services to A&M System relating to the subject matter of this Agreement, provided that such contractors comply with the restrictions on disclosure set forth in this sentence; or (iii) to the extent not prohibited by Texas law. A&M System, however, may create its own materials based on the content of such Work and Deliverables and use and disclose such A&M System-created materials for external purposes, provided that A&M System does not in any way, expressly or by implication, attribute such materials to D&T or its subcontractors. Nothing in this Agreement shall prevent A&M System from providing the Deliverables to other Texas state agencies (including the A&M System institutions and agencies).
- 6.5 D&T does not agree to any terms that may be construed as precluding or limiting in any way its right to
- (1) provide consulting or other work of any kind or nature whatsoever to any person or entity as D&T in its sole discretion deems appropriate, so long as applicable law does not prohibit D&T's performance of such consulting or work, or
 - (2) develop for itself, or for others, materials that are competitive with or similar to those produced as a result of the Work, irrespective of their similarity to the Work Material, so long as such materials do not include confidential information of or contain any information identifying A&M System or any of its personnel.
- 6.6 To the extent any D&T Technology provided to A&M System hereunder constitutes inventory within the meaning of section 471 of the Internal Revenue Code, such D&T Technology is licensed to A&M System by D&T as agent for D&T Product Services

LLC on the terms and conditions set forth herein. D&T represents that it has received all necessary authority to license any such D&T Technology on behalf of Deloitte Product Services LLC. The assignment and license grant in this Section 6 do not apply to any D&T Technology (including any modifications or enhancements thereto or derivative works based thereon) that is subject to a separate license agreement between A&M System and a third party, including without limitation, Deloitte Product Services LLC.

7. Default and Termination

- 7.1 In the event of a material failure by a Party to this Agreement to perform in accordance with the terms of this Agreement (“default”), the other Party may terminate this Agreement upon thirty (30) days’ written notice of termination setting forth the nature of the material failure. The termination will not be effective if the material failure is fully cured prior to the end of the thirty-day period.
- 7.2 In addition, D&T may terminate this Agreement, or any part thereof, immediately upon written notice to A&M System if it reasonably determines that (a) a governmental, regulatory, or professional entity (including, without limitation, the American Institute of Certified Public Accountants, the Public Company Accounting Oversight Board, or the Securities and Exchange Commission), or an entity having the force of law has introduced a new, or modified an existing, law, rule, regulation, interpretation, standard, or decision, the result of which would render D&T’s performance of such part(s) or all of the engagement illegal or otherwise unlawful or in conflict with independence or professional standards or rules, or (b) circumstances change such that A&M System or an affiliate thereof becomes an attest client of Deloitte & Touche LLP or an affiliate thereof such that D&T’s performance of any part of the engagement would be illegal or otherwise unlawful or in conflict with independence or professional standards or rule.
- 7.3 Termination under Sections 7.1 or 7.2 will not relieve either party from liability for any default or breach under this Agreement or any other act or omission of such party.
- 7.4 A&M System may terminate this Agreement at any time upon thirty (30) days prior notice to D&T.

8. Relationship of the Parties

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

9. Insurance

A&M System insurance requirements are stated in Exhibit B, attached hereto.

10. Miscellaneous

- 10.1 Assignment and Subcontracting. D&T's interest in this Agreement (including D&T's duties and obligations under this Agreement, and the fees due to D&T under this Agreement) may not be subcontracted, assigned, delegated, or otherwise transferred to a third party, in whole or in part, and any attempt to do so will (a) not be binding on A&M System; and (b) be a breach of this Agreement for which D&T will be subject to all remedial actions provided by Texas law. Notwithstanding the foregoing, A&M System hereby consents to D&T utilizing the affiliates or related entities set forth in Exhibit A, or other affiliates or related entities identified by D&T and agreed to by A&M System in writing.
- 10.2 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 be included in this Contract, which is certified by the signatory of the vendor hereto: "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."
- 10.3 Payment of Debt or Delinquency to the State. Pursuant to Section 2252.903, *Texas Government Code*, D&T agrees that any payments owing to D&T under this Agreement may be applied directly toward certain debts or delinquencies that D&T 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.
- 10.4 Franchise Tax Certification. If D&T is a taxable entity subject to the Texas Franchise Tax (Chapter 171, *Texas Tax Code*), then D&T certifies that it is not currently delinquent in the payment of any franchise (margin) taxes or that D&T is exempt from the payment of franchise (margin) taxes.
- 10.5 Prohibited Bids and Agreements. A state agency may not accept a bid or award a contract that includes proposed financial participation by a person who received compensation from the agency to participate in preparing the specifications or request for proposals on which the bid or contract is based. The *Texas Government Code* requires the following statement: "Under Section 2155.004, *Texas Government Code*, the vendor certifies that the individual or business entity named

in this bid or contract is not ineligible to receive the specified contract and acknowledges that this contract may be terminated and payment withheld if this certification is inaccurate.”

- 10.6 Former Employees. Section 2252.901 of the *Texas Government Code* provides that a state agency may not enter into an employment contract, a professional services contract under Chapter 2254, or a consulting services contract under Chapter 2254 with a former or retired employee of the agency before the first anniversary of the last date on which the individual was employed by the agency, if appropriated money will be used to make payments under the contract.
- 10.7 Tax Exempt Status. As an agency of the State of Texas, A&M System is tax exempt. Tax exemption certification will be furnished upon request.
- 10.8 Products and Materials Produced in Texas. A&M System and D&T agree that the Work does not require the purchase of products and materials. However, should the Work be amended to require the purchase of products or materials, D&T agrees that in accordance with Section 2155.4441, *Texas Government Code*, in performing its duties and obligations under this Agreement, D&T will to the extent practicable purchase products and materials produced in Texas when such products and materials are available at a price and time comparable to products and materials produced outside of Texas.
- 10.9 Public Information. To the extent that in connection with this Agreement, A&M System comes into possession of any trade secrets or other proprietary or confidential information of D&T that is marked as “proprietary” or “confidential” (collectively, “**Consultant Records**”), A&M System will, hold such Consultant Records in confidence and will not use or disclose such Consultant Records except (a) as permitted or required by this Agreement, (b) as required by law, rule, regulation or judicial or administrative process, or in connection with litigation pertaining hereto or in accordance with applicable professional standards or rules, (c) to the extent such records (i) are or become publicly available other than as the result of a disclosure by A&M System in breach hereof, (ii) are already known by A&M System without any obligation of confidentiality with respect thereto, or (iii) are developed by A&M System independently of any disclosures made to University hereunder, or (d) as otherwise authorized by D&T in writing. D&T acknowledges that A&M System 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.
- 10.10 Governing Law and Venue. The substantive laws of the State of Texas (and not its conflicts of law principles), USA, govern all matters arising out of or relating to this Agreement and all of the transactions it contemplates. Pursuant to Section 85.18 (b), *Texas Education Code*, venue for a state court suit filed against The Texas A&M University System, any component of The Texas A&M University System, or any officer or employee of The Texas A&M University System is in the

county in which the primary office of the chief executive officer of the system or component, as applicable, is located. At execution of this Agreement, such county is Brazos County, Texas. Venue for any suit brought against The Texas A&M University System in federal court must be in the Houston Division of the Southern District of Texas.

- 10.11 Loss of Funding. Performance by A&M System 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, A&M System will issue written notice to D&T and A&M System may terminate this Agreement without further duty or obligation hereunder. D&T acknowledges that appropriation of funds is beyond the control of A&M System.
- 10.12 State Auditor's Office. D&T 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*. D&T agrees to cooperate with the Auditor in the conduct of the audit or investigation, including without limitation, providing all records requested. D&T will include this provision in all contracts with permitted subcontractors other than affiliates or related entities of D&T.
- 10.13 Force Majeure. Neither party is required to perform any term, condition, or covenant of this Agreement or will be liable or responsible to the other for any loss or damage or for any delays or failure to perform, if performance is prevented or delayed by a natural occurrence, a fire, an act of God, an act of terrorism, or other similar occurrence, or other causes beyond the reasonable control of such party.
- 10.14 Non-Waiver. D&T expressly acknowledges that A&M System is an agency of the State of Texas and nothing in this Agreement will be construed as a waiver or relinquishment by A&M System of its right to claim such exemptions, privileges, and immunities as may be provided by law. Further, no delay or omission in exercising any right accruing upon a default in performance of this Agreement will impair any right or be construed to be a waiver of any right. A waiver of any default under this Agreement will not be construed to be a waiver of any subsequent default under this Agreement.
- 10.15 Notices. Any notice required or permitted under this Agreement must be in writing, and shall be deemed to be delivered 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, or email and will be effective when actually received. A&M System and D&T can change their respective notice address by sending to the other party a notice of the new address. Notices should be addressed as follows:

A&M System: 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

D&T: Deloitte & Touche LLP
500 West 2nd Street, Suite 1600
Austin, TX 78701
Attention: Michael S. Wyatt
Phone: (512) 226-4171
E-mail: miwyatt@deloitte.com

10.16. Dispute Resolution. The dispute resolution process provided for in Chapter 2260, *Texas Government Code*, shall be used, as further described herein, by A&M System and D&T to attempt to resolve any claim for breach of contract made by D&T:

- (A) D&T's claims for breach of this Agreement that the parties cannot resolve in the ordinary course of business shall be submitted to the negotiation process provided in Chapter 2260, subchapter B, *Texas Government Code*. To initiate the process, D&T shall submit written notice, as required by subchapter B, to Billy Hamilton, Executive Vice Chancellor and Chief Financial Officer. Said notice shall specifically state that the provisions of Chapter 2260, subchapter B, are being invoked. A copy of the notice shall also be given to all other representatives of D&T and A&M System otherwise entitled to notice under this Agreement. Compliance by D&T with subchapter B is a condition precedent to the filing of a contested case proceeding under Chapter 2260, subchapter C, *Texas Government Code*.
- (B) The contested case process provided in Chapter 2260, subchapter C, *Texas Government Code*, is D&T's sole and exclusive process for seeking a remedy for any and all alleged breaches of contract by A&M System if the parties are unable to resolve their disputes under subparagraph (A) of this paragraph.
- (C) Compliance with the contested case process provided in subchapter C is a condition precedent to seeking consent to sue from the Legislature under Chapter 107 of the *Texas Civil Practices and Remedies Code*. Neither the execution of this Agreement by A&M System nor any other conduct of any representative of A&M System relating to this Agreement shall be considered a waiver of sovereign immunity to suit.

The submission, processing and resolution of D&T's claim is governed by the published rules adopted by the Office of the Attorney General pursuant to Chapter

2260, as currently effective, hereafter enacted or subsequently amended. These rules are found at 1 T.A.C. Part 3, Chapter 68.

Neither the non-occurrence nor occurrence of an event nor the pendency of a claim constitutes grounds for the suspension of performance by D&T, in whole or in part; provided, however, that the foregoing shall not limit D&T's rights to terminate this Agreement as set forth herein.

- 10.17 Limitations. The Parties are aware that there are constitutional and statutory limitations on the authority of A&M System (a state agency) to enter into certain terms and conditions of this Agreement, including, but not limited to, those terms and conditions relating to liens on A&M System'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"), and terms and conditions related to the Limitations will not be binding on A&M System except to the extent authorized by the Constitution and the laws of the State of Texas. Neither the execution of this Agreement by A&M System nor any other conduct, action, or inaction of any representative of A&M System relating to this Agreement constitutes or is intended to constitute a waiver of A&M System's or the state's sovereign immunity to suit. The parties recognize that this Agreement is subject to, and agree to comply with, all applicable local, state, and federal laws, statutes, rules and regulations. Any provision of any law, statute, rule or regulation that invalidates any provision of this Agreement, that is inconsistent with any provision of this Agreement, or that would cause one or both of the parties hereto to be in violation of law will be deemed to have superseded the terms of this Agreement. The parties, however, will use their best efforts to accommodate the terms and intent of this Agreement to the greatest extent possible consistent with the requirements of the law and negotiate in good faith toward amendment of this Agreement in such respect.
- 10.18 Entire Agreement; Modifications. This Agreement, including its attachments, together with RFP01 SOC-17-014, CUI DFARS, and D&T's Proposal in response to RFP01 SOC-17-014, CUI DFARS, in such order of precedence and together with all supplements and addenda, supersedes all prior agreements, written or oral, between D&T and A&M System and will constitute the entire agreement and understanding between the Parties with respect to the subject matter of this Agreement. In the event of conflicts or inconsistencies between this Agreement and the proposal documents, such conflicts or inconsistencies shall be resolved by reference to the documents in the following order of precedence:
- A. Service Agreement
 - B. Attachments to Service Agreement

- C. RFP01 SOC-17-014, CUI DFARS, including all addenda, clarifications, revised offers and responses to questions
- D. D&T's Response to RFP01 SOC-17-014, CUI DFARS, including all addenda, clarifications, revised offers and responses to questions

This Agreement and each of its provisions will be binding upon the parties and may not be waived, modified, amended or altered except by a writing signed by both A&M System and D&T.

10.19 Captions. The captions of sections and subsections in this Agreement are for convenience only and will not be considered or referred to in resolving questions of interpretation or construction.

10.20 Confidentiality and Safeguarding of A&M System Records; Press Releases; Public Information. Under this Agreement D&T may (1) create, (2) receive from or on behalf of A&M System, or (3) have access to records belonging to A&M System (collectively A&M System Records"). Among other things, A&M System Records may contain social security numbers, credit card numbers, data protected or made confidential or sensitive by applicable federal and state laws, including the Gramm-Leach-Bliley Act (Public Law No: 106-102) and the Family Education Rights and Privacy Act, 20 U.S.C §1232g ("FERPA"), or information relating to computer network security or to the design, operation, or defense of a computer network which is exempt from public disclosure pursuant to Section 552.139 of the *Texas Government Code*. If D&T requires access to any A&M System Records that are subject to FERPA in connection with any Work hereunder, A&M System shall designate an A&M System official with a legitimate educational interest in such A&M System Records with the responsibility for providing such access to D&T. D&T agrees that it will: (1) hold A&M System Records in confidence and will not use or disclose A&M System Records except (a) as permitted or required by this Agreement, (B) as required by law, rule, regulation or judicial or administrative process, or in connection with litigation pertaining hereto, or in accordance with applicable professional standards or rules, (c) to the extent such records (i) are or become publically available other than as the result of a disclosure by D&T in breach hereof, (ii) are already known by D&T without any obligation of confidentiality with respect thereto, or (iii) are developed by D&T independently of any disclosures made to D&T hereunder, or (d) as otherwise authorized by A&M System in writing; (2) safeguard A&M System Records by implementing reasonable administrative, physical and technical standards designed to protect against the unauthorized disclosure of any A&M System Records that are no less rigorous than the standards by which D&T protects its own confidential information; (3) regularly monitor its operations and take reasonable measures to safeguard the confidentiality of A&M System Records in accordance with all federal and state laws that are applicable to D&T in connection with the performance of the Work, including, if and to the extent so applicable, FERPA and the Gramm-Leach-Bliley Act, and the terms of this Section 10.20; and (4) ensure that A&M System Records are not outsourced or housed outside the United States

other than to subcontractors permitted hereunder without prior A&M System authorization; and (5) comply with A&M System's policies, regulations, rules and procedures regarding access to and use of A&M System's computer systems set forth in A&M System Policy 29.01 - *Information Resources* accessible at <http://www.tamus.edu/offices/policy/policies/>, to the extent applicable to D&T its performance of the Work. Attached hereto as Exhibit C is D&T's Data Security Statement that includes a written description of the measures D&T has implemented to safeguard and maintain the confidentiality of personally identifiable information. A&M System hereby consents to D&T disclosing and A&M System Records to its subcontractors, affiliates or related entities that are performing Work in connection with the Agreement, if any, and who are bound by confidentiality obligations similar to this in this Section 10.20.

- 10.20.1 Notice of Unauthorized Use. If an unauthorized use or disclosure of any A&M System Records under D&T's control occurs, D&T will provide written notice to A&M System immediately, but no more than three (3) business days after D&T's discovery of such unauthorized use or disclosure. D&T will promptly provide A&M System with all reasonable information requested by A&M System regarding such unauthorized use or disclosure.
- 10.20.2 Return of A&M System Records. D&T agrees that within thirty (30) days after the expiration or termination of this Agreement, D&T shall destroy all A&M System Records then in D&T's possession, including all A&M System Records provided to D&T's employees, subcontractors, agents, or other affiliated persons or entities, unless directed in writing to return such records to A&M System with no copies retained by D&T or if return is not feasible, destroyed. Twenty (20) days before destruction of any A&M System Records, D&T will provide A&M System with written notice D&T's intent to destroy A&M System Records. Within five (5) days after destruction, D&T will confirm to A&M System in writing the destruction of A&M System records. Notwithstanding the foregoing, D&T shall have the right to retain copies of any A&M System Records for archival purposes to evidence D&T's Work, provided further that such A&M System Records shall continue to be subject to the terms of this Agreement.
- 10.20.3 Disclosure. If D&T discloses any A&M System Records to any of its subcontractors or agents permitted hereunder, D&T will require that such subcontractors or agents comply with this Section 10.20.
- 10.20.4 Press Releases. Except when defined as part of the Work, D&T will not make any press releases, public statements, or advertisement referring to the Project or the engagement of D&T as an independent contractor of A&M System in connection with the Project, or release any information relative to the Project for publication, advertisement or any

other purpose without the prior written approval of A&M System. The foregoing shall not prohibit D&T from (a) referring to A&M System generally in the media as a client or including A&M System in its general client lists, or (b) releasing information pertaining to the Work or the engagement of D&T hereunder as may be required by law, rule, regulation or judicial or administrative process, or in accordance with applicable professional standards or rules.

- 10.20.5 **Termination.** In addition to any other termination rights set forth in this Agreement and any other rights at law or equity, if D&T has breached any of its obligations set forth in this Section 10.20 resulting in an unauthorized disclosure of A&M System Records, A&M System may, upon written notice to D&T, immediately terminate this Agreement without opportunity to cure. D&T will be entitled to payment of any amount that will compensate D&T for the Work performed from the time of the last payment date to the termination date in accordance with this Agreement.
- 10.20.6 **Duration.** D&T's obligations under this Section 10.20 will survive expiration or termination of this Agreement for any reason.
- 10.21 **Acceptance of Deliverables.** All Deliverables shall be provided to and reviewed by A&M System consistent with the Project schedule agreed to by the parties in writing (the "Schedule"). A&M System shall approve each Deliverable that conforms in all material respects with the specifications therefor set forth in Exhibit A or as otherwise agreed by the parties in writing ("Specifications"). A&M will review the Deliverables and notify D&T within the time period set forth in the Schedule regarding any non-acceptance. Any notice of non-acceptance will state in reasonable detail how the Deliverables did not conform to their applicable Specifications and D&T shall use its reasonable business efforts to correct such any deficiencies in the Deliverables so that they conform to the their applicable Specifications. All payments owing by A&M System to D&T hereunder will become due and payable if A&M System does not deliver a notice of non-acceptance to D&T prior to the expiration of any period for A&M System review or re-review as set forth in this section.
- 10.22 **Binding Effect.** This Agreement will be binding upon and inure to the benefit of the Parties hereto and their respective permitted assigns and successors.
- 10.23 **Records.** Records relating to payments made to D&T, including reimbursable expenses pertaining to the Work will be available to A&M System or its authorized representative during reasonable business hours and will be retained for seven (7) years after final payment or abandonment of the Work. The foregoing right to inspect D&T's billing records shall not include any confidential or proprietary information of D&T or its subcontractors or their respective personnel, except to

the extent that D&T is required to make such billing records available for inspection under applicable law.

- 10.24 Severability. In case any provision of this Agreement will, for any reason, be held invalid or unenforceable in any respect, the invalidity or unenforceability will not affect any other provision of this Agreement, and this Agreement will be construed as if the invalid or unenforceable provision had not been included.
- 10.25 Indemnification and Hold Harmless. D&T shall defend, indemnify and hold harmless A&M System, its officers, employees, agents, and Board of Regents against any and all claims of third parties for (i) bodily injury, death or damage to real or tangible personal property to the extent caused by the negligence of D&T while engaged in the performance of the Work under this Agreement; or (ii) infringement by a Deliverable of any U.S. patent existing at the time of delivery, or copyright or any unauthorized use of any trade secret, except to the extent that such infringement or unauthorized use arises from, or could have been avoided except for (i) modification of the Deliverable other than by D&T or its subcontractors, or use thereof in a manner not contemplated by this Agreement, (ii) the failure of the indemnified party to use any corrections or modifications made available by D&T, (iii) information, materials, instructions, specifications, requirements or designs provided by or on behalf of the indemnified party, or (iv) the use of the Deliverable in combination with any platform, product, network or data not provided by D&T. If A&M System's use of any such Deliverable, or any portion thereof, is or is likely to be enjoined by order of a court of competent jurisdiction as such an infringement or unauthorized use, D&T, at its option and expense, shall have the right to (x) procure for A&M System the continued use of such Deliverable, (y) replace such Deliverable with a non-infringing Deliverable, or (z) modify such Deliverable so it becomes non-infringing; provided that, if (y) or (z) is the option chosen by D&T, the replacement or modified Deliverable is capable of performing substantially the same function. In the event D&T cannot reasonably procure, replace or modify such Deliverable in accordance with the immediately preceding sentence, D&T may require A&M System to cease use of such Deliverable and refund the professional fees paid to D&T with respect to the Services giving rise to such Deliverable. The foregoing provisions of this paragraph constitute the sole and exclusive remedy of the indemnified parties, and the sole and exclusive obligation of D&T, relating to a claim that any of D&T's Deliverables infringes any patent, copyright or other intellectual property right of a third party. As a condition to the indemnity obligations contained herein, A&M System shall provide D&T with prompt notice of any claim for which indemnification shall be sought hereunder and shall cooperate in all reasonable respects with the indemnifying party in connection with any such claim. Subject to the statutory duties of the Texas Attorney General, D&T shall be entitled to control the handling of any such claim and to defend or settle any such claim. D&T will only agree to any settlement that places any obligation on A&M System after approval from the Texas Office of the Attorney General.

- 10.26 D&T's Liability. D&T will be responsible for costs of repairs for damage to buildings or other A&M System tangible personal property to the extent caused by the negligence of D&T's employees while engaged in the performance of the Work under this Agreement.
- 10.27 Survival of Provisions. No expiration or termination of this Agreement will relieve either Party of any obligations under this Agreement by their nature survive expiration or termination, including Sections 10.10, 10.11, 10.12, 10.14, 10.16, 10.17, 10.20, 10.22, 10.25, 10.26 and 10.28.
- 10.28 Limitation of Liability. A&M System agrees that D&T, its subsidiaries and subcontractors, and their respective personnel will not be liable to A&M System for any claims, liabilities, or expenses relating to this Agreement ("Claims") for an aggregate amount in excess of the fees paid by A&M System to D&T pursuant to this Agreement, except to the extent resulting from the bad faith or intentional misconduct of D&T. In no event will D&T, its subsidiaries or subcontractors, or their respective personnel be liable to A&M System for any loss of use, data, goodwill, revenues, or profits (whether or not deemed to constitute a direct Claim), or any consequential, special, indirect, incidental, punitive or exemplary loss, damage, or expense relating to this Agreement. The provisions of this Section shall not apply to any Claim for which D&T has an express obligation to indemnify A&M System under this Agreement. This paragraph will be effective to the extent authorized by the Constitution and laws of the State of Texas. The term "authorized" in the previous sentence means authorized expressly or authorized implicitly within the scope of authority granted to A&M System pursuant to an authorized power under, or not otherwise prohibited by, the Constitution or laws of the State of Texas.
- 10.29 HIPAA Compliance. If D&T will need access to PHI in connection with the Work hereunder, D&T agrees that it will execute a mutually agreed upon HIPAA Business Associate Agreement ("BAA") with each institution if required so that HIPAA compliance is achieved.
- 10.30 Historically Underutilized Business Subcontracting Plan. If a subcontractor will be used to provide any commodity or service as part of the scope on a specific assignment, D&T 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, D&T 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 D&T will be expected to make a good faith effort according to the HSP instructions.

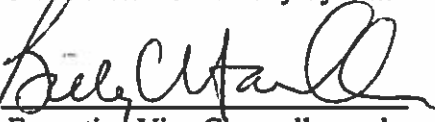
In the event that you determine you will be using a subcontractor, please contact Mr. Jeff Zimmermann from the A&M System's HUB Program at (979) 458-6410

or jzimmermann@tamus.edu for assistance in determining available HUB subcontractors and proper completion of the HSP.

10.31 Multiple Counterparts. This Agreement may be executed by each of the parties in separate counterparts; each counterpart when so executed shall be deemed an original. When executed by all parties, such counterparts shall, together, constitute and be one and the same Agreement.

IN WITNESS WHEREOF, the Parties have executed and delivered this Agreement to be effective as of the Effective Date.

The Texas A&M University System

By: 
Executive Vice Chancellor and
Chief Financial Officer

Name: Billy Hamilton

Date: 6-20-17

Deloitte & Touche LLP

By: 
Managing Director

Name: Michael S. Wyatt

Date: 06/14/2017

- EXHIBIT A - Scope of Work
- EXHIBIT B - Insurance Requirements
- EXHIBIT C - Security Statement