

MASTER SERVICES AGREEMENT
BY AND BETWEEN
THE TEXAS A&M UNIVERSITY SYSTEM
AND NGWEB SOLUTIONS, LLC

This Master Services Agreement (“Agreement”) is entered into and effective December 18, 2023 (the “Effective Date”), by and between The Texas A&M University System (hereafter referred to as “A&M System”), an agency of the state of Texas, and NGWeb Solutions, LLC, a limited liability company (hereafter referred to as “PROVIDER”). A&M System and PROVIDER are sometimes hereafter referred to as “Party” individually or “Parties” collectively.

A&M System and PROVIDER hereby agree as follows:

1. SCOPE OF WORK

PROVIDER will work with members of the A&M System (“Member” or Members”) to provide electronic signature services (“Services”) on an as needed basis. The Services include (but not limited to) in the scope of this Agreement are listed in Exhibit A, attached hereto.

2. PROVIDER OBLIGATIONS

- A. PROVIDER will perform the Services in accordance with the standards of care, skill, and diligence expected of a qualified, competent and experienced professional in the provision of the type of services required under this Agreement.
- B. PROVIDER will perform the Services substantially in accordance with PROVIDER’s marketing materials and documentation, including without limitation, any user guides, technical specifications, training materials, instructions, documented policies or other written materials regarding the Services that are posted, delivered or otherwise made available by PROVIDER to A&M System.
- C. PROVIDER will obtain, maintain in effect, and pay the cost for all licenses, permits, or certifications that may be necessary for PROVIDER’s performance of this Agreement.
- D. PROVIDER represents and warrants that there are no obligations, commitments, third party rights, or impediments of any kind that will limit or prevent PROVIDER’s performance of the Services.

3. TERM AND TERMINATION

- A. This Agreement will commence on the Effective Date and continues until the second anniversary of the Effective Date (the “Term”), unless earlier terminated as provided herein. This Agreement can be extended for two (2) additional one-year 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 A&M System and negotiated in writing with the PROVIDER.
- B. In the event of a breach of a material term of this Agreement by a Party, the non-defaulting Party may terminate this Agreement upon thirty (30) days’ prior written notice to the other Party detailing the nature of the breach and the other Party fails to fully cure the breach within such 30-day period. In the event that a Member terminates this Agreement pursuant to this Section, Member shall receive a pro-rata refund of any pre-paid amounts.
- C. A&M System may terminate this Agreement without cause upon thirty (30) days’ prior written notice to PROVIDER.
- D. A&M System may immediately terminate this Agreement if (i) the PROVIDER’s insurance coverage required under this Agreement is cancelled or non-renewed; or (ii) the PROVIDER declares

bankruptcy, is placed into involuntary bankruptcy or receivership or becomes insolvent.

- E. Termination of this Agreement for either of the reasons stated above shall not terminate any Member specific agreement or purchase order and the terms and conditions of this Agreement shall continue in full force and effect, and shall continue to apply, with respect to such Member specific agreements or purchase orders for their respective terms. Refer to Section 11.H for survivability of terms beyond termination of this Agreement.

4. PAYMENT TERMS

- A. A&M System shall not pay any costs or fees as a direct result of this Agreement. For Services rendered as a result of this Agreement, Member shall pay PROVIDER based on the pricing stated within Exhibit A, attached hereto.
- B. Each Member that chooses to utilize the Services within this Agreement will be responsible to issue a purchase order or execute its own specific agreement, which references this Agreement, and making an express assumption (in addition to A&M System) of all rights and obligations of this Agreement as applicable to such Member purchase order or Member specific agreement. A Member's entering into a purchase order or Member specific agreement will constitute a separate contract and PROVIDER will look solely to such Member (and not to A&M System or any other Member) for satisfaction of any liability arising under or relating to the procurement of Services by such Member. This process is further defined in Exhibit A, item 6.
- C. PROVIDER shall invoice Member for amounts due consistent with the payment schedule as negotiated under the Order Form. Each invoice must reference the Order Form and Member's purchase order number (if applicable) and include a description of services provided along with documentation that Member may reasonably request to support the invoice amount. Member will make payment on a properly prepared and submitted invoice in accordance with Chapter 2251, Texas Government Code (the "Texas Prompt Payment Act"), which shall govern remittance of payment and remedies for late payment and non-payment. All payments received by PROVIDER are non-refundable. If Member fails to make any payment when due, PROVIDER may revoke or suspend such Member's rights to the Services. At the end of the Term, PROVIDER may increase fees up to five percent (5%) of that Term's fees. Notwithstanding the foregoing, Member may terminate the Agreement or Applicable Order Form in the event service interruption extends for ten (10) or more days.
- D. Amounts dues under this Agreement do not include any taxes, levies, duties, or similar governmental assessments of any nature, including, without limitation, value-added taxes, sales taxes, use taxes, or withholding taxes, assessable by any jurisdiction (collectively, "Taxes"). Member is responsible for paying all Taxes associated with its purchases hereunder at the applicable rates. If PROVIDER has the legal obligation to pay or collect Taxes for which Member is responsible, PROVIDER will invoice Member and Member shall pay that amount unless Member provides PROVIDER with a valid tax exemption certificate authorized by the appropriate taxing authority. For purposes of clarity, PROVIDER is solely responsible for taxes assessable against it based on its income, property, and employees.

5. CONFIDENTIALITY

- A. The Parties anticipate that under this Agreement it may be necessary for a Party (the "Disclosing Party") to transfer information of a confidential nature ("Confidential Information") to the other Party (the "Receiving Party"). "Confidential Information" means all trade secrets, business and financial information, computer software, machine and operator instructions, business methods, procedures, know-how, and other information that relates to the business or technology of either party and that is (a) marked or identified as confidential or (b) disclosed under circumstances that

would lead the Receiving Party to reasonably believe such information is confidential. "Confidential Information" does not include information that: (i) is or becomes publicly known or available other than as a result of a breach of this Agreement by the Receiving Party; (ii) was already in the possession of the Receiving Party as the result of disclosure by an individual or entity that was not then obligated to keep that information confidential; (iii) the Disclosing Party had disclosed or discloses to an individual or entity without confidentiality restrictions; or (iv) the Receiving Party had developed or develops independently before or after the Disclosing Party discloses equivalent information to the Receiving Party.

- B. The Receiving Party shall use the same reasonable efforts to protect the Disclosing Party's Confidential Information as it uses to protect its own confidential information of a similar nature. The Receiving Party may only disclose Confidential Information to its personnel having a need to know the Confidential Information to fulfill the Receiving Party's obligations under this Agreement. The Receiving Party may not reproduce, disclose, or use Confidential Information except in performing its obligations under this Agreement. If the Receiving Party is legally required to disclose Confidential Information, the Receiving Party shall, to the extent allowed by law, promptly give the Disclosing Party written notice of the requirement so as to provide the Disclosing Party a reasonable opportunity to pursue appropriate process to prevent or limit the disclosure. If the Receiving Party complies with the terms of this Section, disclosure of that portion of the Confidential Information, which the Receiving Party is legally required to disclose, will not constitute a breach of this Agreement.
- C. The Receiving Party shall, upon request of the Disclosing Party, promptly return or destroy all materials embodying Confidential Information other than materials in electronic backup systems or otherwise not reasonably capable of being readily located and segregated without undue burden or expense, except that the Receiving Party may securely retain one (1) copy in its files solely for record purposes. The Receiving Party's obligations as to Confidential Information will survive the termination or expiration of this Agreement for a period of three (3) years.

6. COMPLIANCE WITH LAWS

- A. PROVIDER shall comply with all federal, state, and local laws, rules, and regulations applicable to the performance of its obligations under this Agreement.
- B. Each Party shall comply with U.S. export control regulations. If either Party desires to disclose to the other Party any information, technology, or data that is identified on any U.S. export control list, the disclosing Party shall advise the other Party at or before the time of intended disclosure and may not provide export-controlled information to the other Party without the written consent of the other Party. PROVIDER certifies that none of its personnel participating in the activities under this Agreement is a "restricted party" as listed on the Denied Persons List, Entity List, and Unverified List (U.S. Department of Commerce), the Debarred Parties Lists (U.S. Department of State), the Specially Designated Nationals and Blocked Persons List (U.S. Department of Treasury), or any similar governmental lists.
- C. For purposes of the Family Educational Rights and Privacy Act ("FERPA"), A&M System hereby designates PROVIDER as a school official with a legitimate educational interest in any education records (as defined in FERPA) that PROVIDER is required to create, access, receive, or maintain in order to fulfill its obligations under this Agreement. PROVIDER shall comply with FERPA as to any such education records and is prohibited from redisclosure of the education records except as provided for in this Agreement or otherwise authorized by FERPA or A&M System in writing. PROVIDER is only permitted to use the education records for the purpose of fulfilling its obligations under this Agreement and shall restrict disclosure of the education records solely to those employees, subcontractors or agents who have a need to access the education records for such

purpose. PROVIDER shall require any such subcontractors or agents to comply with the same restrictions and obligations imposed on PROVIDER in this Section, including without limitation, the prohibition on redisclosure. PROVIDER shall implement and maintain reasonable administrative, technical, and physical safeguards to secure the education records from unauthorized access, disclosure or use.

7. INDEMNIFICATION

PROVIDER shall indemnify and hold harmless A&M System, and their regents, employees and agents (collectively, the "A&M System Indemnitees") from and against any third-party claims, damages, liabilities, expense or loss asserted against A&M System Indemnitees arising out of any acts or omissions of PROVIDER or its employees or agents pertaining to the activities and obligations under this Agreement, except to the extent such liability, loss or damage arises from an A&M System Indemnitee's gross negligence or willful misconduct.

8. INSURANCE

Insurance requirements as stated within Exhibit B, attached hereto.

9. INFORMATION TECHNOLOGY

- A. **Electronic and Information Resources.** If determined to be applicable by A&M System, PROVIDER shall address all required technical standards (WCAG 2.0, Level AA) (the "Accessibility Standards") by providing a Voluntary Product Accessibility Template ("VPAT") attesting to the accessible features and capabilities of any electronic and information resources (as defined in Title 1, Chapter 213 of the Texas Administrative Code) and associated documentation and technical support (collectively, the "EIR") or provide a similarly formatted document as the VPAT attesting to the EIR's accessible features and capabilities. A&M System may test the EIR to ensure the accuracy of the VPAT response regarding conformance with the Accessibility Standards. If PROVIDER should have known, becomes aware, or is notified that the EIR do not comply with the Accessibility Standards, PROVIDER shall, in a timely manner and at no cost to A&M System, perform all necessary steps to satisfy the Accessibility Standards, including but not limited to remediation, replacement, or upgrading the EIR, or providing a suitable substitute.
- B. **Access to Agency Data.** Pursuant to Section 2054.138, Texas Government Code, PROVIDER shall implement and maintain appropriate administrative, technical, and physical security measures, including without limitation, the security control baseline required by the then-current risk and authorization management program established by the Texas Department of Information Resources ("TX-RAMP"), to safeguard and preserve the confidentiality, integrity, and availability of A&M System's data. Upon written request by TAMUS, PROVIDER shall periodically provide A&M System with evidence or certification of its compliance with the Security Controls within thirty (30) days of A&M System's such request.
- C. **Cloud Computing Services.** As of the Effective Date, PROVIDER represents and warrants that it complies with the then-current requirements of the risk and authorization management program established by the Texas Department of Information Resources ("TX-RAMP"). Pursuant to Section 2054.0593, Texas Government Code, PROVIDER shall maintain RAMP compliance and certification, as may be amended from time to time, throughout the Term, including any renewal term of this Agreement. PROVIDER shall provide A&M System with evidence of its TX-RAMP compliance and certification within thirty (30) days of A&M System request and at least thirty (30) days prior to the start of any renewal term of this Agreement.
- D. **Data Privacy.**

- i. PROVIDER shall hold A&M System's data in confidence. PROVIDER shall only use or disclose A&M System's data for the purpose of fulfilling PROVIDER's obligations under this Agreement, as required by law, or as otherwise authorized in writing by A&M System. PROVIDER shall restrict disclosure of the A&M System's data solely to those employees, subcontractors or agents of PROVIDER that have a need to access the A&M System's data in order for PROVIDER to perform its obligations under this Agreement. PROVIDER shall require any such subcontractors or agents to comply with the same restrictions and obligations imposed on PROVIDER in this Agreement.
- ii. PROVIDER shall, within two (2) business days of discovery, report to A&M System any use or disclosure of A&M System's data not authorized by this Agreement or in writing by A&M System. PROVIDER's report must identify: (a) the nature of the unauthorized use or disclosure, (b) the A&M System data used or disclosed, (c) who made the unauthorized use or received the unauthorized disclosure, (d) what PROVIDER has done or will do to mitigate any deleterious effect of the unauthorized use or disclosure, and (e) what corrective action PROVIDER has taken or will take to prevent future similar unauthorized use or disclosure. PROVIDER shall provide such other information, including a written report, as reasonably requested by A&M System.
- iii. PROVIDER must promptly notify A&M System of any legal request for A&M System's data from a third party and take (and assist A&M System in taking) appropriate steps not to disclose such A&M System data.
- iv. Within thirty (30) days of the expiration or termination of this Agreement, PROVIDER, as directed by A&M System, shall return all A&M System data to A&M System in its possession (or in the possession of any of its subcontractors or agents) or delete all such A&M System data if return is not feasible excluding any A&M System data in electronic backup systems or otherwise not reasonably capable of being readily located and segregated without undue burden or expense; provided that PROVIDER will continue to maintain the confidentiality of such A&M System data in accordance with this Agreement and will discontinue all use thereof. PROVIDER shall provide A&M System with at least ten (10) days' written notice of PROVIDER's intent to delete such A&M System data and shall confirm such deletion in writing.

10. MISCELLANEOUS

- A. **Entire Agreement.** This Agreement constitutes the entire and only agreement between the Parties hereto and supersedes any prior understanding, written or oral agreements between the Parties, or "side deals" which are not described in this Agreement. This Agreement may be amended only by a subsequent written Agreement signed by authorized representatives of both Parties. In the event of a conflict between the terms of this Agreement and any other documents constituting part of this Agreement, the terms of this Agreement shall control.
- B. **Authority to Contract.** Each Party represents and warrants that it has full right, power and authority to enter into and perform its obligations under this Agreement, and that the person signing this Agreement is duly authorized to enter into this Agreement on its behalf.
- C. **Representations & Warranties.** If PROVIDER is a business entity, PROVIDER warrants, represents, covenants, and agrees that it is duly organized, validly existing and in good standing under the laws of the state of its incorporation or organization and is duly authorized and in good standing to conduct business in the State of Texas, that it has all necessary power and has received all necessary approvals to execute and deliver this Agreement, and the individual executing this Agreement on behalf of PROVIDER has been duly authorized to act for and bind PROVIDER.

- D. **Independent Contractor.** Notwithstanding any provision of this Agreement to the contrary, the Parties hereto are independent contractors. No employer-employee, partnership, agency, or joint venture relationship is created by this Agreement or by PROVIDER's Service to A&M System. Except as specifically required under the terms of this Agreement, PROVIDER (and its representatives, agents, employees and subcontractors) will not represent themselves to be an agent or representative of A&M System. As an independent contractor, PROVIDER is solely responsible for all taxes, withholdings, and other statutory or contractual obligations of any sort, including but not limited to workers' compensation insurance. PROVIDER and its employees shall observe and abide by all applicable A&M System policies, regulations, rules and procedures, including those applicable to conduct on its premises.
- E. **Use of Name.** Each Party acknowledges that all rights in any trademarks, service marks, slogans, logos, designs, and other similar means of distinction associated with that Party (its "Marks"), including all goodwill pertaining to the Marks, are the sole property of that Party. Neither Party may use the Marks of the other without the advance written consent of that Party, except that each Party may use the name of the other Party in factual statements that, in context, are not misleading. The Parties will mutually agree in advance upon any public announcements, or communications to the media regarding this Agreement or the Services to be provided pursuant to this Agreement.
- F. **Non-Assignment.** Neither Party shall assign its rights nor delegate its duties under this Agreement without the prior written consent of the other Party. Notwithstanding the foregoing, without A&M System's consent, PROVIDER may assign this Agreement to any successor to its business or assets to which this Agreement relates, whether by merger, sale of assets, sale of stock, reorganization, or otherwise.
- G. **Severability.** In case any one or more of the provisions contained in this Agreement shall, for any reason, be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provisions hereof, and this Agreement shall be construed as if such invalid, illegal, and unenforceable provision had never been contained herein. The Parties agree that any alterations, additions, or deletions to the provisions of the Agreement that are required by changes in federal or state law or regulations are automatically incorporated into the Agreement without written amendment hereto and shall become effective on the date designated by such law or by regulation.
- H. **Survival.** Any provision of this Agreement that may reasonably be interpreted as being intended by the Parties to survive the termination or expiration of this Agreement will survive the termination or expiration of this Agreement.
- I. **Force Majeure.** 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).

- J. **Notices.** Any notice required or permitted under this Agreement must be in writing, and shall be deemed given: (i) three (3) business days after it is deposited and post-marked with the United States Postal Service, postage prepaid, certified mail, return receipt requested, (ii) the next business day after it is sent by overnight carrier, (iii) on the date sent by email transmission with electronic confirmation of receipt by the party being notified, or (iv) on the date of delivery if delivered personally. A&M System 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:

A&M System: The Texas A&M University System
301 Tarrow St., Suite 273
College Station, Texas 77840
Attention: Jeff Zimmermann
Phone: (979) 458-6410
E-mail: jzimmermann@tamus.edu

PROVIDER: NGWeb Solutions, LLC
6821 Southpoint Drive North Suite 220
Jacksonville, FL 32216
Attention: Jim Grace
Phone: 904-332-9001
Email: jim.grace@ngwebsolutions.com

- K. **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.
- L. **Venue.** Pursuant to Section 85.18(b), *Texas Education Code*, mandatory venue for all legal proceedings against A&M System is to be in the county in which the principal office of A&M System's governing officer is located.
- M. **Non-Waiver.** A&M System is an agency of the state of Texas and under the Constitution and the laws of the state of Texas possesses certain rights and privileges, is subject to certain limitations and restrictions, and only has authority as is granted to it under the Constitution and the laws of the state of Texas. PROVIDER 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, remedies, privileges, and immunities as may be provided by law, including the sovereign immunity of A&M System.
- N. **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 A&M System 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 the Deputy Chancellor and Chief Financial Officer of A&M System, who shall examine PROVIDER's claim and any counterclaim and negotiate with PROVIDER in an effort to resolve the claim. This provision and nothing in this Agreement waives A&M System's sovereign immunity to suit or liability, and A&M System has not waived its right to seek redress in the courts.
- O. **Public Information Act.** PROVIDER 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, as well as any other disclosure of

information required by applicable Texas law. Upon A&M System's written request, PROVIDER will promptly provide specified contracting information exchanged or created under this Agreement for or on behalf of A&M System to A&M System in a non-proprietary format acceptable to A&M System that is accessible by the public. PROVIDER acknowledges that A&M System 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. The requirements of Subchapter J, Chapter 552, Texas Government Code, may apply to this Agreement and PROVIDER agrees that this Agreement can be terminated if PROVIDER knowingly or intentionally fails to comply with a requirement of that subchapter.

- P. **Certification Regarding Business with Certain Countries and Organizations.** PROVIDER represents and warrants that it is not engaged in business with Iran, Sudan, or a foreign terrorist organization, as prohibited by Section 2252.152, Texas Government Code. PROVIDER acknowledges this Agreement may be terminated immediately if this certification is inaccurate.
- Q. **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. Under Section 231.006, Texas Family Code, PROVIDER certifies that it is not ineligible to receive the payments under this Agreement and acknowledges that this Agreement may be terminated and payment may be withheld if this certification is inaccurate.
- R. **Payment of Debt or Delinquency to the State.** Pursuant to Sections 2107.008 and 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.
- S. **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.
- T. **HUB Subcontracting Plan.** It is the policy of the state of Texas and A&M System to encourage the use of Historically Underutilized Businesses ("HUB") in our contracts, purchasing transactions and through subcontracting opportunities. The goal of the HUB program is to promote equal access and equal opportunity to HUB vendors in A&M System contracting and purchasing. PROVIDER has indicated it will not subcontract any of its duties or obligations under this Agreement. If PROVIDER will subcontract any of its duties and obligations under this Agreement, PROVIDER will be required to provide prior written notice to A&M System and make a good faith effort to submit a HUB subcontracting plan as required under Section 20.285 of the Texas Administrative Code.
- U. **Prohibition on Contracts with Companies Boycotting Israel.** To the extent that Chapter 2271, Texas Government Code, is applicable to this Agreement, PROVIDER certifies that (a) it does not currently boycott Israel, and (b) it will not boycott Israel during the Term of this Agreement. PROVIDER acknowledges this Agreement may be terminated and payment withheld if this certification is inaccurate.

- V. **Verification Regarding Discrimination Against Firearm Entities and Trade Associations.** To the extent that Chapter 2274, Texas Government Code, is applicable to this Agreement, PROVIDER verifies that (1) it does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association, and (2) will not discriminate during the term of this Agreement against a firearm entity or firearm trade association.
- W. **Verification Regarding Boycotting Energy Companies.** To the extent that Chapter 2274, Texas Government Code, is applicable to this Agreement, PROVIDER verifies that (1) it does not boycott energy companies, and (2) it will not boycott energy companies during the term of this Agreement. PROVIDER acknowledges this Agreement may be terminated and payment withheld of this verification is inaccurate.
- X. **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 PROVIDER and A&M System may terminate this Agreement without further duty or obligation hereunder. PROVIDER acknowledges that appropriation of funds is beyond the control of A&M System. In the event of a termination or cancellation under this Section, A&M System will not be liable to PROVIDER for any damages that are caused or associated with such termination or cancellation.
- Y. **Prior Employment.** PROVIDER acknowledges that Section 2252.901, Texas Government Code, prohibits A&M System from using state appropriated funds to enter into an employment contract, a professional services contract under Chapter 2254, or a consulting services contract under Chapter 2254 with individual who has been previously employed by A&M System during the twelve (12) month period immediately prior to the effective date of the Agreement. If PROVIDER is an individual, by signing this Agreement, PROVIDER represents and warrants that it is not a former or retired employee of A&M System that was employed by A&M System during the twelve (12) month period immediately prior to the effective date of the Agreement.
- Z. **Conflict of Interest.** PROVIDER certifies, to the best of their knowledge and belief, that no member of the A&M System's Board of Regents, nor any employee of A&M System, has a direct or indirect financial interest in PROVIDER or in the transaction that is the subject of the Agreement.
- AA. **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.
- BB. **Not Eligible for Rehire.** PROVIDER is responsible for ensuring that its employees involved in any work being performed for A&M System under this Agreement have not been designated as "Not Eligible for Rehire" as defined in System policy 32.02, *Discipline and Dismissal of Employees*, Section 4 ("NEFR Employee"). In the event A&M System becomes aware that PROVIDER has a NEFR Employee involved in any work being performed under this Agreement, A&M System will have the sole right to demand removal of such NEFR Employee from work being performed under this Agreement. Non-conformance to this requirement may be grounds for termination of this Agreement by A&M System.
- CC. **Warranty Disclaimers.** EXCEPT TO THE EXTENT EXPRESSLY SET FORTH IN THIS AGREEMENT, PROVIDER MAKES NO REPRESENTATION OR WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NONINFRINGEMENT, OR THAT THE SERVICES WILL BE ERROR-FREE OR UNINTERRUPTED, OR THAT DUE TO THE NATURE OF THE INTERNET, WHICH IS NOT IN THE CONTROL OF PROVIDER, THAT A&M SYSTEM DATA WILL BE OR REMAIN SECURE.

DD. **Limitation of Liability.** EXCEPT WITH REGARD TO BREACHES OF SECTION 6 (CONFIDENTIALITY) AND SECTION 10 (DATA PRIVACY), IN NO EVENT WILL PROVIDER BE LIABLE FOR ANY CONSEQUENTIAL, INDIRECT, SPECIAL, INCIDENTAL, OR PUNITIVE DAMAGES ARISING OUT OF OR RELATED TO THIS AGREEMENT. PROVIDER'S CUMULATIVE LIABILITY FOR ALL CLAIMS ARISING OUT OF OR RELATED TO THIS AGREEMENT WILL NOT EXCEED THE AMOUNT PAID TO PROVIDER BY A&M SYSTEM FOR THE SERVICES PROVIDED UNDER THE APPLICABLE ORDER IN THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE DATE THE CLAIM AROSE. A&M System acknowledges that these limitations reflect the allocation of risk set forth in this Agreement and that PROVIDER would not enter into this Agreement without these limitations of liability, and A&M System agrees that these limitations will apply despite any failure of essential purpose of any remedy.

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

The Texas A&M University System

DocuSigned by:
Jeff Zimmermann
BY _____
E2BE2924E69547F...
Jeff Zimmermann
Executive Director, Procurement

12/18/2023

Date

NGWeb Solutions, LLC

DocuSigned by:
Jim Grace
BY _____
86B25BC9D722427...
Jim Grace
Chief Operating Officer

12/18/2023

Date

EXHIBIT A – SCOPE OF WORK

Notwithstanding any other provision in this Agreement, PROVIDER’s performance of the Services will (1) conform to the specifications and requirements of Request for Proposal No. RFP01-21-099 (the “RFP”), which is incorporated by reference for all purposes, and (2) to the extent consistent with the RFP, will conform with PROVIDER’s proposal, dated June 15, 2020 (“PROVIDER’s Proposal”) which was submitted by PROVIDER in response to the RFP and is incorporated by reference for all purposes. To the extent that the RFP or PROVIDER’s Proposal conflict with the terms of this Agreement, the terms of this Agreement will control.

1. Discounted Pricing for Dynamic Forms for the Texas A & M System is determined by category (single department or unlimited) and student population (FTE):

Student Enrollment	One-Time Install Fee	Unlimited College Annual License Fee	Single Office Use Annual License Fee	API Set-Up/Annual Fee
Tier 1: 0 to 10,000	\$1,000	\$7,500 \$6,000	\$4,700 \$4,000	Included
Tier 2: 10,001 to 15,000	\$1,000	\$9,500 \$7,000	\$5,900 \$4,200	Included
Tier 3: 15,001 and greater	\$1,000	\$11,500 \$8,000	\$7,100 \$4,800	Included

2. Set-Up fee includes:

- Experienced Next Gen Project Manager to run the implementation;
- All tasks associated with getting the member institution up and running and successful with Dynamic Forms;
- All Single Sign On integration work, along with the API infrastructure;
- All back-end integration - data/images prepped to return to SIS, imaging or other backend systems;
- Creation of five form templates to get the member institution started;
- All initial implementation training for all users via web conferences.

3. Annual License fee includes:

- All the features associated with Dynamic Forms, including the form builder, workflow routing, integrations including SSO, API, Dynamic Forms Exchange and Payment forms and a secure and confidential application;
- All form hosting and storage;
- No limit on administrative access, end-user access or form creation;
- All support for product across the member institution;
- Two annual training classes for the member institution as well as on-demand online help;
- All product upgrades;
- Consultation on initial forms and workflows.

4. Optional services include:

Optional Services	
On-site Customer Training	\$1,500 per day+ Travel
Beyond 2 Post Implementation Training sessions via Web	\$150 per hour
Forms Workflow Consulting	\$150 per hour
Build form for you	\$150 per form

5. Optional products included:

Additional Products	
User Portal	\$2,000 annually
Atlas API Builder	\$1,000 annually

6. Member Engagement

The process for engagement with any member institution wishing to engage with Next Gen to purchase Dynamic Forms would be to complete a Next Gen Web Solutions Product License Agreement. An example of this agreement is included in Appendix A.

EXHIBIT B – INSURANCE

A. PROVIDER shall obtain and maintain, for the duration of this Agreement or longer, the minimum insurance coverage set forth below. 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 A&M System. By requiring such minimum insurance, A&M System 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 A&M System at least ten days before the effective date of the cancellation.

1. **Worker’s Compensation**

Worker’s compensation insurance with the following minimum limits of coverage:

Statutory Benefits (Coverage A)	Statutory
Employers Liability (Coverage B)	\$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 A&M System. Workers’ compensation insurance is required, and no “alternative” forms of insurance will be permitted.

2. **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;

3. **Commercial General Liability**

Commercial general liability insurance with the following minimum limits of coverage:

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 must 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.

4. **Umbrella Liability Insurance** \$5,000,000

5. **Cyber Liability**

Contractor shall procure and maintain, for the duration of this Agreement and for such length of time as is necessary to cover any and all claims, cyber liability insurance with limits not less than \$2,000,000 per

occurrence or claim, \$2,000,000 aggregate. The cyber liability policy shall be sufficiently broad to cover Contractor's duties and obligations under this Agreement and include coverage for claims involving: invasion of privacy; loss, damage, theft, alteration or other misuse of data; unauthorized exposure or breach of data; privacy event expenses such as mandatory/voluntary notification costs, credit monitoring, call center services, forensic costs, and any other fees, costs, or expenses necessary to comply with any applicable breach notification laws; privacy regulatory proceedings (including fines and penalties); cyber extortion payments; and network security.

6. Professional Liability (Errors & Omissions)

Insurance with limits of not less than \$1,000,000 each occurrence, \$2,000,000 aggregate. Such insurance will cover all professional services rendered by or on behalf of PROVIDER and its subcontractors under this Agreement. Renewal policies written on a claims-made basis will maintain the same retroactive date as in effect at the inception of this Agreement. If coverage is written on a claims-made basis, PROVIDER agrees to purchase an Extended Reporting Period Endorsement, effective for two (2) full years after the expiration or cancellation of the policy. No professional liability policy written on an occurrence form will include a sunset or similar clause that limits coverage unless such clause provides coverage for at least two (2) years after the expiration of cancellation of this Agreement.

- B. PROVIDER shall deliver to A&M System evidence of insurance on a Texas Department of Insurance approved certificate form verifying the existence and actual limits of all insurance prior to the execution and delivery of this Agreement and prior to the performance of any services by PROVIDER under this Agreement. PROVIDER shall provide additional evidence of insurance on a Texas Department of Insurance approved certificate form verifying the continued existence of all required insurance no later than thirty (30) days after each annual insurance policy renewal.
- C. Commercial General Liability and Auto Liability policies must be endorsed to name The Texas A&M University System Board of Regents ("Board of Regents") and The Texas A&M University System as additional insureds up to the actual liability limits of the policies maintained by PROVIDER. The commercial general liability additional insured endorsements must include on-going and completed operations afforded by CG 20 10 (10 01 Edition or equivalent) and CG 20 37 (10 01 Edition or equivalent). Commercial general liability and business auto liability policies must be written on a primary and non-contributory basis. Copies of each endorsement must be submitted with the certificate of insurance. The Umbrella policy, at minimum, must follow form.
- D. All insurance policies must be endorsed to provide a waiver of subrogation in favor of the Board of Regents and A&M System.
- E. All insurance policies will be endorsed to require the insurance carrier providing coverage to send notice to A&M System ten (10) days prior to the effective date of cancellation, material change, or non-renewal relating to any insurance policy.
- F. Any deductible or self-insured retention must be declared to and approved by A&M System prior to the performance of any services by PROVIDER under this Agreement. PROVIDER shall pay any deductible or self-insured retention for any loss. All deductibles and self-insured retentions must be shown on the certificates of insurance.
- G. Certificates of Insurance and Additional Insured Endorsements as required by this Agreement will be emailed to the following A&M System contact in SOProurement@tamus.edu.
- H. The insurance coverage required by this Agreement must be kept in force until all services have been fully performed and accepted by A&M System in writing.

APPENDIX A – SERVICE LEVEL AGREEMENT



SERVICE LEVEL AGREEMENT

The parties agree that the terms in the terms set forth in this Addendum below are in addition to the terms of the Application Services Provider Agreement which shall remain in full force and effect.

Customer Service:

In performing the installation and annual maintenance services described below, NG Web Solutions, LLC. warrants that: (i) Next Gen Web Solutions associates assigned to perform support and maintenance services shall have the proper degree of skill, training and background so as to perform the support and maintenance services in a competent and professional manner; (ii) it shall require all of its employees performing the maintenance services and having access to Customer's applications to agree to abide by any confidentiality and nondisclosure obligations reasonably imposed by Customer herein; (iii) Next Gen Web Solutions shall perform the support and maintenance services in a good and workmanlike manner, consistent with industry standards, and in accordance and conformity with the requirements of this Agreement.

I. Customer Support Service Level Agreement (SLA) Goals:

Error Level	Error Classification (As defined by NG)	Initial Response Time	Communicate Plan of Action
1	Critical (Emergency)	4 hours	24 hours
2	High	12 hours	48 hours
3	Medium	24 hours	14 days
4	Low	24 hours	Case by Case Basis

"Initial Response Time" is the time for a return call from Next Gen Web Solutions to Customer to acknowledge the defect and to estimate the time for delivery of the resolution.

"Resolution Response Time Goal" is the best case estimate of the time required to provide a documented fix that restores full functionality to Customer.

Critical (Emergency): Customer experiences data loss, corruption, or an essential part of the system is unusable for Customer. Unusable means that the Customer can't use an essential part of the system because of a defect. Essential parts of the system are those that the Customer needs to use the system effectively.

High: Customer's effectiveness is severely compromised due to an essential part of the system being unusable. This can be measured by comparison to previous releases of the same product or mutually agreed to quality objectives established for the product or system. Effectiveness refers to Customer's productivity provided by the system.

Medium. Customer's effectiveness is compromised, though not severely. All essential parts of the system can be used. This classification is appropriate for all parts of the system, essential or otherwise.

Low: Customer can circumvent the problem and use the system with only slight inconvenience.

Next Gen Web Solutions, LLC.'s Product Support Services-will exercise its best efforts to resolve any outstanding problem with the Software in a timely fashion. In some cases, considerably more time than outlined above will be required to develop and deliver a solution. The times listed in the table above should be used as a standard guideline and under no circumstances should be viewed as a performance guarantee of any kind.

Product Releases Service Level Agreement

So long as the Customer is current in its maintenance fees, Next Gen Web Solutions shall deliver to Customer all error corrections as soon as possible after such error corrections are created and validated. Next Gen Web Solutions shall provide to Customer the rights and licenses to use set forth herein and in accordance with the terms and conditions of the Agreement to patches that (i) are based upon or developed from the source code of the Software or (ii) contain comparable functionality as that of the Software. Next Gen Web Solutions shall provide written notice to Customer of each update, upgrade, patch and release upon general release to its Customer base.



Definitions of Levels of Support

Level 1 Support

This tier applies to installation, configuration and licensing of Next Gen Web Solutions' products:

- Verify that all necessary hardware and software requirements are fulfilled
- Assist in the execution of installation programs
- Perform licensing tasks to issue the correct licensing for an installation
- Provide assistance with establishing connections to appropriate database(s)
- Provide the necessary support to achieve basic product functionality as described in the standard documentation
- General assistance that would be expected from a typical "help desk"

Level 2 Support

This tier applies to problems or questions related to Next Gen Web Solutions' products' core functionality. Problems at this level are generally reproducible by a Support Engineer. Many solutions will be repeat solutions, possibly available in FAQ documents or a technical Knowledgebase:

- Determine if the reported problem described applies to the supported Next Gen Web Solutions product
- Attempt to duplicate the reported behavior, obtaining source code or other application components developed by the Customer, if necessary
- Attempt to provide a fix or a workaround to the problem
- Escalate the problem as an "Advanced Problem" to Next Gen Web Solutions Support Center if all of the above fail to resolve the problem.

Hours of Operation

Standard support is available during company's normal business hours (8:00 AM to 7:00 PM ET, Monday through Friday), via telephone, fax, email and Internet. After hour contact information is available to provide 24 x 7 coverage. Note: After 7:00 p.m. Eastern, any calls received will be answered the following business day.

To make things easier for you, we have established a single number for you to call, irrespective of the product you are using.

The main office number is (904) 332-9001

You can dial the extension of the person you wish to talk to as soon as you connect. Here are the extension numbers you will likely use most.

- Ext. 3224: Tara Clendenen (Dynamic Forms and/or Scholarship Manager)
- Ext. 3259: Chris Rivera (Dynamic Forms and/or Scholarship Manager)
- Ext. 3230: Rebecca Spiller (Dynamic Forms and/or Scholarship Manager)
- Ext. 3222: Ryan Silva (Dynamic Forms and/or Scholarship Manager)
- Ext. 3234: Amy Bondegard (Dynamic Forms and/or Scholarship Manager)
- Ext. 3234: Josh Kelley (Dynamic Forms and/or Scholarship Manager)
- Ext. 3219: Jim Grace (Dynamic Forms and Scholarship Manager)
- Ext. 3258: Dianne Fanning (Scholarship Manager)
- Ext. 3218: Taige Haines (JobX and/or TimesheetX)
- Ext. 3220: Sharon Gessner (JobX and/or TimesheetX)
- Ext. 3231: Justin Keach (JobX and/or TimesheetX)

If you are unsure of who you need to talk to, you will have the following options:

- Option 1: For Sales questions
- Option 2: Installation & Support questions
- Option 3: For Billing questions
- Option 4: For a company directory of extensions

Other Items:

1. NGWeb Solutions, LLC will not suspend Customer's access to contracted services that are legitimately under dispute.



2. During the term of the contract, the NGWeb Solutions, LLC will maintain appropriate insurance coverage with a reputable insurance carrier for the services provided under the agreement. Evidence of such coverage will be provided to the customer upon request.
3. Upon termination of the subscription services, the NGWeb Solutions, LLC will retain Customer’s data for 60 days at no cost to Customer. If the data is requested by Customer, NGWeb Solutions, LLC will provide Customer a copy of that data via an agreed upon mechanism by both parties depending on the type of data stored within 30 days of the request.
4. Customer has the right to access and export Customer data at any point during the contract period. The export would be performed by an agreed upon mechanism by both parties depending on the type of data stored.
5. Incident response times and target resolution times should be delineated in the contract. For example: (response time measured from time of reporting by customer);
 - Critical functions severely impacted. No workaround: 3 hours
 - Severe to moderate impact to business. Some workarounds: 1 business day
 - Default: Users can access the software and it continues to perform business critical functions: 1 business day
6. Uptime should be measured by month and be at least 99.75%, excluding scheduled maintenance.
 Planned maintenance advance notice: 5 days
 Hours of planned maintenance: 5:00 AM and 7:00 AM EST
 Maximum planned maintenance per month: 8 hours
 Any planned maintenance exceeding the maximum will be counted against the service level uptime commitment.
7. SERVICE LEVEL AGREEMENTS. In the event NGWeb Solutions, LLC fails to meet the service level criteria outlined in this addendum, Customer will be entitled to the credits set forth below.
 Except as set forth below, the total amount of credits for related issues may not exceed the amount of one month’s recurring charges for the affected Service.
 Refunds must be requested within ten (10) business days of a service interruption and will be reflected as a credit on the next month’s invoice. No credits will be issued to Customer with an undisputed balance in accounts receivable over sixty (60) days past due. In the event NGWeb Solutions, LLC fails to meet the service level criteria more than three times in a calendar month, Customer may terminate this agreement or the affected Service(s) upon notice without penalty, provided such notice is received by NGWeb Solutions, LLC within thirty (30) days of the fourth violation. The credits and termination right provided under this Section are the sole remedy for any violation of this addendum.

Downtime	Credit
3-4 hours	1/10 th of the monthly recurring charges associated with the related Service
2 occurrences of 2-3 hour duration in a 15 day period	50% of the monthly recurring charges associated with the related Service.
24 business hours*	1 month of the monthly recurring charges associated with the related Service
48 business hours	3 months of the monthly recurring charges associated with the related Service

*business hours means Monday-Friday and excluding federal holidays

10. Customer has the ability to terminate the agreement w/o penalty if the SLA has not been met for 3 months of a rolling year.
11. NGWeb Solutions, LLC performs full data back-ups nightly. Data files are encrypted and compressed. These back-up files are stored in two places:
 1. Local Jacksonville SAN for three days – rotating
 2. Saved off-site (Louisville tape) – 30 days rotating