

AN AGREEMENT
BY AND BETWEEN
THE TEXAS A&M UNIVERSITY SYSTEM OFFICES
AND RBR AVIATION

This Services Agreement (“Agreement”) is entered into and effective (the “Effective Date”) upon execution, by and between The Texas A&M University System (hereafter referred to as “A&M System”), an agency of the state of Texas, and RBR Aviation (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 A&M System to provide aircraft maintenance services for three (3) A&M System owned aircraft. The services included (but not limited to) in the scope of this Agreement are listed in Exhibit A, attached hereto.

2. TERM OF THE AGREEMENT

The initial term of this Agreement shall begin upon execution of this Agreement. The maintenance program for the 2007 Cessna Citation XLS (12AM) aircraft shall begin upon execution of this Agreement. The maintenance program for the 1989 Beechcraft King Air (90AM) and 2000 Beechcraft King Air (96AM) will begin September 1, 2020. For all aircraft, the initial term of this Agreement and all services provided within the scope as stated in Section 1 above will expire as of August 31, 2022. This Agreement can be extended for up to three 2-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.

3. PAYMENT TERMS

- A. For the services rendered under this Agreement, A&M System shall pay PROVIDER according to the terms and pricing stated in Exhibit B, attached hereto. The monthly maintenance fee of \$1,200 per month, per aircraft shall be invoiced at the beginning of each month to the Texas A&M Regional Flight Director.
- B. It is the policy of the state of Texas to make payment on a properly prepared and submitted invoice within thirty (30) days of the latter of any final acceptance of performance or the receipt of a properly submitted invoice, in conformance with the Texas Prompt Payment law. Generally, payment will be made on the 30th day unless other stated payment terms apply.
- C. All payments shall be made by electronic direct deposit. PROVIDER is required to complete and submit to A&M System a Vendor Direct Deposit Authorization form prior to the first payment request. The form can be accessed at;
<https://www.tamus.edu/business/budgets-and-accounting/accounting/general/>
- D. All invoices shall reference the A&M System contract number or purchase order number as applicable and include a description of services provided to include but not limited to time, deliverables, and activities.

4. DEFAULT AND TERMINATION

- A. In the event of substantial failure by PROVIDER to perform in accordance with the terms hereof, A&M System may terminate this Agreement upon fifteen (15) days written notice of termination

setting forth the nature of the failure (the termination shall not be effective if the failure is fully cured prior to the end of the fifteen-day period), provided that said failure is through no fault of A&M System.

- B. A&M System may terminate this Agreement at any time upon thirty (30) days prior notice to PROVIDER.

5. PUBLIC INFORMATION

- A. 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.
- B. 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.
- C. 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.
- D. The requirements of Subchapter J, Chapter 552, Texas Government Code, may apply to this agreement and the PROVIDER agrees that the agreement can be terminated if the PROVIDER knowingly or intentionally fails to comply with a requirement of that subchapter.

6. DISPUTE RESOLUTION

The dispute resolution process provided in Chapter 2260, *Texas Government Code*, and the related rules adopted by the Texas Attorney General pursuant to Chapter 2260, shall be used by 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 Billy Hamilton, Deputy Chancellor and Chief Financial Officer for A&M System, who shall examine PROVIDER's claim and any counterclaim and negotiate with PROVIDER in an effort to resolve the claim.

7. INSURANCE

Insurance requirements are stated in Exhibit C, attached hereto.

8. MISCELLANEOUS

- A. **Indemnification.** PROVIDER agrees to indemnify and hold harmless A&M System from any claim, damage, liability, expense or loss to the extent arising out of PROVIDER's negligent or willful errors or omissions under this Agreement.
- B. **Independent Contractor.** PROVIDER is an independent contractor, and neither PROVIDER nor any employee of PROVIDER shall be deemed to be an agent or employee of A&M System. A&M System will have no responsibility to provide transportation, insurance or other fringe benefits normally associated with employee status. PROVIDER shall observe and abide by all applicable laws and regulations, policies and procedures, including but not limited to those of A&M System relative to conduct on its premises.
- C. **Delinquent Child Support Obligations.** A child support obligor who is more than 30 days delinquent in paying child support and a business entity in which the obligor is a sole proprietor, partner, shareholder, or owner with an ownership interest of at least 25 percent is not eligible to receive payments from state funds under an agreement to provide property, materials, or services

until all arrearages have been paid or the obligor is in compliance with a written repayment agreement or court order as to any existing delinquency. The *Texas Family Code* requires the following statement: "Under Section 231.006, *Texas Family Code*, the vendor or applicant certifies that the individual or business entity named in this contract, bid, or application is not ineligible to receive the specified grant, loan, or payment and acknowledges that this contract may be terminated and payment may be withheld if this certification is inaccurate."

- D. **Payment of Debt or Delinquency to the State.** Pursuant to Section 2252.903, *Texas Government Code*, PROVIDER agrees that any payments owing to PROVIDER under this Agreement may be applied directly toward certain debts or delinquencies that PROVIDER owes the State of Texas or any agency of the State of Texas regardless of when they arise, until such debts or delinquencies are paid in full.
- E. **Previous Employment.** PROVIDER acknowledges and understands that Section 2252.901, *Texas Government Code*, prohibits A&M System from using state appropriated funds to enter into any employment contract, consulting contract, or professional services contract with any individual who has been previously employed, as an employee, by the agency within the past twelve (12) months. If PROVIDER is an individual, by signing this Agreement, PROVIDER certifies that Section 2252.901, *Texas Government Code*, does not prohibit the use of state appropriated funds for satisfying the payment obligations herein.
- F. **Not Eligible for Rehire.** PROVIDER is responsible to ensure that employees participating in work for any A&M System member have not been designated by the A&M System as Not Eligible for Rehire as defined in System policy 32.02, Section 4. Non-conformance to this requirement may be grounds for termination of this Agreement.
- G. **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.
- H. **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.
- I. **Entire Agreement.** This Agreement constitutes the sole agreement of the parties and supersedes any other oral or written understanding or agreement pertaining to the subject matter of this Agreement. This Agreement may not be amended or otherwise altered except upon the written agreement of both parties.
- J. **Severability.** If any provisions of this Agreement are rendered or declared illegal for any reason, or shall be invalid or unenforceable, such provision shall be modified or deleted in such manner so as to afford the Party for whose benefit it was intended the fullest benefit commensurate with making this Agreement, as modified, enforceable, and the remainder of this Agreement and the application of such provision to other persons or circumstances shall not be affected thereby, but shall be enforced to the greatest extent permitted by applicable law.
- K. **Headings.** Headings appear solely for convenience of reference. Such headings are not part of this Agreement and shall not be used to construe it.

- L. **Non-Assignment.** PROVIDER shall neither assign its rights nor delegate its duties under this Agreement without the prior written consent of A&M System.
- M. **HUB Subcontracting Plan.** If a subcontractor will be used to provide any commodity or service as part of the scope on a specific assignment, the PROVIDER will be required to make a good faith effort and complete the state of Texas HSP found at <https://www.tamus.edu/business/hub-procurement/hub-programs-3/system-offices-hub-program/>. If there are pre-existing agreements in place with companies who will be hired as subcontractors, the PROVIDER will show those companies as subcontractors on the HSP and provide an explanation as to why solicitations were not done, e.g. contractual requirements. If no pre-existing agreements with companies who will be hired as subcontractors exist, then the PROVIDER will be expected to make a good faith effort according to the HSP instructions.
- In the event that you determine you will be using a subcontractor, please contact Keith Williams from the A&M System's HUB Program at (979) 458-3265 or kwilliams@tamus.edu for assistance in determining available HUB subcontractors and proper completion of the HSP.
- N. **Force Majeure.** Neither party is required to perform any term, condition, or covenant of this Agreement, if performance is prevented or delayed by a natural occurrence, a fire, an act of God, an act of terrorism, or other similar occurrence, the cause of which is not reasonably within the control of such party and which by due diligence it is unable to prevent or overcome.
- O. **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.
- P. **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.
- Q. **Venue.** Pursuant to Section 85.18, *Texas Education Code*, venue for any suit filed against A&M System shall be in the county in which the primary office of the chief executive officer of A&M System is located, which is Brazos County, Texas.
- R. **Non-Waiver.** 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, privileges, and immunities as may be provided by law.
- S. **Conflict of Interest.** By executing this Agreement, PROVIDER and each person signing on behalf of PROVIDER certifies, and in the case of a sole proprietorship, partnership or corporation, each party thereto certifies as to its own organization, that to the best of their knowledge and belief, no member of The A&M System or The A&M System Board of Regents, nor any employee, or person, whose salary is payable in whole or in part by The A&M System, has direct or indirect financial interest in the award of this Agreement, or in the services to which this Agreement relates, or in any of the profits, real or potential, thereof.
- T. **Prohibition on Contracts with Companies Boycotting Israel.** To the extent that Texas Government Code, Chapter 2271 applies 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.

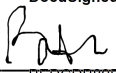
- U. **Certification Regarding Business with Certain Countries and Organizations.** Pursuant to Subchapter F, Chapter 2252, Texas Government Code, PROVIDER certifies it is not engaged in business with Iran, Sudan, or a foreign terrorist organization. PROVIDER acknowledges this Purchase Order may be terminated if this certification is or becomes inaccurate.
- V. **Prohibition on Contracts Related to Persons Involved in Human Trafficking.** Under Section 2155.0061, Government Code, the vendor certifies that the individual or business entity named in this 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.
- W. **Records Retention.** PROVIDER will preserve all contracting information, as defined under Texas Government Code, Section 552.003 (7), related to the Agreement for the duration of the Agreement and for seven years after the conclusion of the Agreement.
- X. **Notices.** Any notice required or permitted under this Agreement must be in writing, and shall be deemed to be delivered (whether actually received or not) when deposited with the United States Postal Service, postage prepaid, certified mail, return receipt requested, and addressed to the intended recipient at the address set out below. Notice may also be given by regular mail, personal delivery, courier delivery, facsimile transmission, email or other commercially reasonable means and will be effective when actually received. 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: zimmermann@tamus.edu

PROVIDER: RBR Aviation
 7515 Lemmon Avenue
 Dallas, TX 75209
 Attention: Chris Todtenhausen
 Phone: (214) 351-6604
 Email: chris@rbraviation.com

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

The Texas A&M University System

DocuSigned by:

 By _____
 BE0CDB89EA78479...
 Billy Hamilton
 Deputy Chancellor & Chief Financial Officer

8/10/2020 | 14:24:07 CDT

 Date

RBR Aviation

DocuSigned by:

 By _____
 C30221DABBFB45C...
 Chris Todtenhausen

8/10/2020 | 10:10:21 CDT

 Date

VP Business Development

EXHIBIT A – SCOPE

RBR Aviation is a FAA Part 145 Repair Station and as such can perform all scheduled and unscheduled maintenance for the three aircraft. RBR shall provide a Tier 2 Maintenance Management Program to include the following:

1. **Maintenance Tracking Management** – RBR will monitor the aircraft maintenance tracking systems utilized by the A&M System. Subscription costs of any tracking system utilized by the A&M System are the sole responsibility of the A&M System.
2. **Scheduling** – Full Collaboration with A&M System flight department schedules and priority scheduling and maintenance timing.
3. **Due Items** – RBR will notify the A&M System of all upcoming due maintenance items for each of the aircrafts.
4. **Complete Oversight** – Complete vendor compliance and oversight including: Drug Program | Training | Approved Data | Tooling | Housing
5. **Aircraft & engine Logbooks** – Comprehensive aircraft & engine logbook entry oversight and auditing
6. **Audit Support** – Records retention and audit support. Entries to the logbooks and all pertinent paperwork are the property of the A&M System. Upon expiration or termination of this Agreement all documentation must be provided to the A&M System Flight Director.
7. **AOG** – Technical AOG support

Remote AOG Support

This section describes the process to be followed for all offsite and unscheduled repairs and needed technical assistance.

The A&M System Flight Director will contact the RBR AOG number provided and speak to a live person for each event. Diagnosis will follow this below process:

1. Aircraft Discrepancy
 - a. Major/Minor Simple/Complex MEL/No MEL
 - b. Parts Requirements
 - c. Location
 - d. Equipment
2. Recommendation
 - a. Pilot can MEL
 - b. Certificated Technician Required (3rd Party option or RBR required)
 - c. Decision by RBR and Flight Department for next step

If a recovery plan is required, RBR Aviation will take the lead in the coordination of either sending their skilled technicians to the location or vetting and locating the best Third-Party option for the recovery plan. A network of pre-vetted maintenance providers around the country with relationships and expertise that support and complement RBR's service offerings will be utilized.

EXHIBIT B – PRICING**I. Maintenance Program**

Tier 2 Maintenance Management Program with a Flat Monthly Rate for the following aircraft:

1.	2007 Cessna Citation XLS	N12AM serial #560XL-5676	\$1,200.00
2.	1989 Beechcraft King Air	N90AM serial BB-1328	\$1,200.00
3.	2000 Beechcraft King Air	N96AM serial BB-1713	\$1,200.00

II. Home Base Requirements

RBR Aviation (RBR) is positioned approximately 180 miles North of College Station, TX. With the limited maintenance support in College Station, RBR will schedule work to be performed at the Dallas Love Field Airport (KDAL) location when possible. Travel expenses will apply when needed to perform work in College Station, TX as listed within section III. Rates.

III. Rates

Regular Rate	M-F, 8:00 – 5:00		\$107/hour
Overtime Rate	Outside normal hours M-F		\$140/hour
Holiday Rate	(National Observed Holiday)		\$140/hour
Mileage	IRS standard mileage rate	(360 miles roundtrip @ \$.575)	\$207.00
Labor driving	2 employee requirement	(12 hours @ \$107)	\$1,284.00
Rental Equip	Truck/manlift if needed	Invoice cost plus 10%, no miles	TBD
Lodging/Meals	(if required)	Travel expenses plus 10%	TBD

IV. Scheduled/Unscheduled Inspection Maintenance

- a. All Scheduled Maintenance Inspections will be quoted in advance with competitive industry flat rates. Scheduled Inspections are quoted as a flat rate; the detail is broken out into estimated labor hours, anticipated parts, etc.
- b. An estimate will be provided for all discrepancies and only those approved in writing by the A&M System Flight Director may be performed.
- c. Discrepancies generated from inspections will be performed at the applicable rates above in section **III. Rates**.
- d. All work performed will be in accordance with the manufacture's maintenance manuals and industry standard practices, with return to service per FAA Part 145 requirements.
- e. All relevant documentation will be incorporated into the physical aircraft logs, including any third-party tracking information.
- f. Unscheduled maintenance travel expenses are not covered in the monthly fee and shall be invoiced as stated above.
- g. Unscheduled maintenance will follow all the scheduled maintenance pricing and service recording guidelines.

EXHIBIT C – INSURANCE

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

Insurance:

<u>Coverage</u>	<u>Limit</u>
A. <u>Worker's Compensation</u>	
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

B. <u>Commercial General Liability</u>	
Each Occurrence Limit	\$1,000,000
General Aggregate Limit	\$2,000,000
Products / Completed Operations	\$1,000,000
Personal / Advertising Injury	\$1,000,000
Damage to rented Premises	\$300,000
Medical Payments	\$5,000

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

- C. **Bailee Legal Liability Coverage:** Respondent shall maintain bailee legal liability coverage at Respondent's expense, and keep in effect during the term of the contract with combined single limit per occurrence of not less than \$1,000,000. The policy shall contain a no benefit to bailee provision and require all insurance payments to be made directly to the System. Such policy will provide at minimum, coverage for fire, water/flood, burglary, wind damage, robbery, explosion, lightning and collision.

- D. PROVIDER will 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 after the execution and delivery of this Agreement and prior to the performance of any services by PROVIDER under this Agreement. Additional evidence of insurance will be provided 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.

All insurance policies, with the exception of worker's compensation, employer's liability and professional liability will be endorsed and name The Board of Regents for and on behalf of The Texas A&M University System and The Texas A&M University System as Additional Insureds up to the actual liability limits of the policies maintained by PROVIDER. Commercial General Liability and Business Auto Liability will be endorsed to provide primary and non-contributory coverage. The Commercial General Liability Additional Insured endorsement will include on-going and completed operations and will be submitted with the Certificates of Insurance.

All insurance policies will be endorsed to provide a waiver of subrogation in favor of The Board of Regents of The Texas A&M University System and The Texas A&M University System. No policy will be canceled without unconditional written notice to A&M System at least ten days before the effective date of the cancellation. **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 required in this Exhibit C.

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 is responsible to pay any deductible or self-insured retention for any loss. All deductibles and self-insured retentions will be shown on the Certificates of Insurance.

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.

The insurance coverage required by this Agreement will be kept in force until all services have been fully performed and accepted by A&M System in writing, except as may be noted.