

TEXAS A&M UNIVERSITY FACILITY USE ADDENDUM

The following terms and conditions are incorporated into and form a part of the agreement (the "Agreement") to which this Addendum is attached. "TAMUG" means Texas A&M University at Galveston, a member of the Texas A&M University System, an agency of the State of Texas and "FACILITY" means _____.

DIRECT BILL ACCOUNT:

All charges accrued and payable by TAMUG will be applied to the master account and direct billed. If an existing direct bill account is not already established and on file, TAMUG will submit information required to establish a direct bill account prior to the Agreement start date.

PAYMENT OF MASTER ACCOUNT:

The outstanding balance of TAMUG's direct bill account, excluding disputed charges, will be due following the event and payable within thirty (30) days from receipt of invoice. Upon resolution of any disputed charges, FACILITY shall invoice such remaining charges to TAMUG. Payment of the revised charges shall be payable within thirty (30) days of receipt of invoice. All past due amounts will be subject to a finance charge in accordance with the Texas Prompt Payment Act, Chapter 2251, *Texas Government Code*.

TAX EXEMPT STATUS:

As an agency of the State of Texas, TAMUG is tax exempt. Tax exemption certification will be furnished upon request.

CANCELLATION:

In the event TAMUG must cancel the Agreement, FACILITY will make every effort to resell the space (including, but not limited to, sleeping rooms, meeting rooms, and/or conference rooms) reserved by TAMUG in order to reduce TAMUG's cancellation/attrition fees. Resold space will be credited to reducing any obligations that TAMUG may have incurred. TAMUG will not pay any cancellation/attrition fees until after the departure date. A copy of FACILITY's occupancy report, concerning the space reserved by TAMUG for the dates cancelled by TAMUG, shall be delivered to TAMUG within ten (10) business days of departure date.

TAMUG, at any time prior to the arrival date with written notice, may cancel the Agreement with FACILITY without liability or penalty, in the event one or more of the following occur:

1. A force majeure event as described below, renders either party's performance inadvisable, impossible, or is materially affected. In the event of cancellation under this Item 1, FACILITY agrees to return any deposits paid by TAMUG. In the event TAMUG decides to continue with its reserved use of the FACILITY despite such circumstances, FACILITY will waive any fees related to a reduced-sized program or event including, but not limited to, any food and beverage attrition fees and space rental.

2. There is a change in ownership or management of the **FACILITY** prior to the scheduled arrival date.
3. **FACILITY** enters into bankruptcy proceedings, becomes insolvent or subject to foreclosure, or takes any other like action for the benefit of creditors or debtors prior to the scheduled arrival date.

MANDATORY STATE AGENCY CERTIFICATIONS AND PROVISIONS:

- A. **FRANCHISE TAX CERTIFICATION.** **FACILITY** certifies that it is not delinquent in the payment of Texas Franchise Tax.
- B. **ELIGIBILITY CERTIFICATION.** Under Section 2155.004, *Texas Government Code*, **FACILITY** 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.
- C. **DEBTS OR DELINQUENCIES.** Pursuant to Section 2252.903, *Texas Government Code*, **FACILITY** agrees that any payments owing to **FACILITY** under the Agreement may be applied directly toward certain debts or delinquencies that **FACILITY** owes the State of Texas or any agency of the State of Texas regardless of when it arises, until such debt or delinquency is paid in full.
- D. **CHILD SUPPORT CERTIFICATION.** Under Section 231.006, *Texas Family Code*, the **FACILITY** 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.

GOVERNING LAW AND VENUE:

The validity of the Agreement and all matters pertaining thereto shall be governed and determined by the Constitution and the laws of the State of Texas. Venue for any suit filed against **TAMUG** shall be Brazos County.

INAPPLICABLE PROVISIONS:

None of the following provisions, if they appear in the Agreement, shall have any effect or be enforceable against **TAMUG**: (i) requiring **TAMUG** to maintain any type of insurance either for **TAMUG**'s benefit or for **FACILITY**'s benefit; (ii) renewing or extending the initial Agreement term or automatically continuing or renewing the original Agreement term; and (iii) binding **TAMUG** to any arbitration, to the decision of any arbitration board, commission, panel or other entity, or to any other alternative dispute resolution other than is provided below.

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 **TAMUG** and **FACILITY** to attempt to resolve any claim for breach of contract made by **FACILITY** that cannot be resolved in the ordinary course of business. **FACILITY** shall submit written notice of a claim of breach of contract under this Chapter to the University Contracts

Officer of TAMU, who shall examine FACILITY's claim and any counterclaim and negotiate with FACILITY in an effort to resolve the claim.

LIMITATIONS:

The parties are aware that there are constitutional and statutory limitations on the authority of TAMUG (a state agency) to enter into certain terms and conditions of the Agreement, including, but not limited to, authorizations of the placement of liens on TAMUG'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"). Any Agreement terms and conditions related to the Limitations will not be binding on TAMUG except to the extent authorized by the laws and Constitution of the State of Texas. Neither the execution of the Agreement by TAMUG nor any other conduct, action, or inaction of any representative of TAMUG relating to the Agreement constitutes or is intended to constitute a waiver of TAMUG's or the state's sovereign immunity to suit.

ADDENDUM CONTROLLING:

In the event there is a conflict between the terms and conditions of the Agreement and this Addendum, this Addendum will control.

LOSS OF FUNDING:

Performance by TAMUG under the 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 then TAMUG will issue written notice to FACILITY and TAMUG may terminate the Agreement without further duty or obligation hereunder. FACILITY acknowledges that appropriation of funds is beyond the control of TAMUG.

FORCE MAJEURE:

Neither party is required to perform any term, condition, or covenant of the 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.

NO FINANCIAL INTEREST:

To the best of FACILITY's knowledge, no member of the Board of Regents of The Texas A&M University System has a direct or indirect financial interest in the transaction that is the subject of the Agreement.

FACILITY:

TEXAS A&M UNIVERSITY AT GALVESTON

By: _____
Name: _____
Title: _____
Date: _____

By: _____
Name: _____
Title: _____
Date: _____