

**TRINITY UNIVERSITY
CONSULTING MASTER SERVICES AGREEMENT**

This CONSULTING MASTER SERVICES AGREEMENT (this “Agreement”) is entered into as of _____ (Effective Date), by and between Trinity University, an agency and institution of higher education of the State of Texas (hereafter referred to as “TRINITY”) and _____(hereafter referred to as “CONSULTANT”).

RECITALS

WHEREAS, TRINITY anticipates that the Services of a CONSULTANT will be necessary and desirable; and

WHEREAS, CONSULTANT desires to enter into an agreement with TRINITY to provide Services as described under this Agreement;

NOW THEREFORE, in consideration of the mutual agreement of the parties as to the terms, conditions, and obligations stated herein, the sufficiency of which consideration is hereby acknowledged, the parties agree as follows:

AGREEMENT

In consideration of the premises and the mutual agreements of the parties contained herein, the parties hereby agree as follows:

1. APPOINTMENT AND RELATIONSHIP OF PARTIES

1.1 Engagement. TRINITY hereby engages the CONSULTANT to provide the Consulting Services, and CONSULTANT hereby accepts such engagement, pursuant to the terms and conditions contained herein.

1.2 Independent Contractor. CONSULTANT shall at all times be an independent contractor as to TRINITY and nothing in this Agreement is intended, nor shall anything be construed, to create between TRINITY and CONSULTANT any relationship of principal and agent, employer and employee, partnership or joint venture, and they shall not represent themselves otherwise.

1.3 Liability for Obligations and Taxes. CONSULTANT shall be liable for their own debts, obligations, acts or omissions, including but not limited to the payment of social security taxes, federal, state and city income taxes, workers’ compensation insurance, public liability insurance, and all other required taxes and insurance applicable under existing laws.

2. CONSULTING SERVICES AND COMPENSATION

2.1 Timing and Compensation. The Consultant shall perform the services in the timeframe and for the compensation set forth in the Statement of Work, Exhibit A. Unless otherwise indicated in the Statement of Work, Consultant shall be responsible for invoicing Trinity upon completion of the work.

2.2 Venue of Consulting Services. The parties hereto acknowledge and agree that the Consulting Services shall be performed at TRINITY (the “Venue”)

3. TAX EXEMPT STATUS

TRINITY is exempt from Texas Sales & Use Tax for the contracted Consulting Services in accordance with Section 151.310, *Texas Tax Code*, and Title 34 *Texas Administrative Code* (“TAC”) Section 3.322.

4. INHERENT RISK

The CONSULTANT acknowledges and agrees that they are cognizant of, and shall bear all risk of loss or damage related to, all the inherent dangers and risks involved in the performance of the Consulting Services at the Venue, including but not limited to bodily injury.

5. COMPLIANCE

5.1 Compliance with Law and Policy. The CONSULTANT and its employees and agents will perform their obligations under this Agreement in compliance with all applicable laws, regulations, ordinances rules and TRINITY policies. CONSULTANT and its employees and agents shall comply with all policies, rules, and written or unwritten directives of TRINITY, including but not limited to Alcohol, Drugs, Weapons, Tobacco-Free, Anti-Harassment, and Sexual Misconduct. TRINITY policies are available on its website.

5.2 Permits, Licenses, Etc. CONSULTANT shall secure, pay for and comply with all permits, licenses and approvals necessary for proper execution and completion of the Consulting Services. CONSULTANT shall provide copies of any permits, licenses or approvals to TRINITY, upon request by TRINITY.

5.3 Non-Discrimination. **The parties to this Agreement will abide by the requirements of 41 CFR 60-1.4(a), 60-300.5(a), and 60-741.5(a). These regulations prohibit discrimination against qualified individuals on the basis of their status as protected veterans or individuals with disabilities, and prohibits discrimination on the basis of race, color, religion, sex, sexual orientation, gender identity or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, protected veteran status or disability.**

6. INSURANCE

6.1 Types of Insurance. Until all of CONSULTANT’s obligations hereunder have been fully performed, CONSULTANT shall maintain, and shall also ensure that each of CONSULTANT’s contractors and subcontractors at every tier employed directly or indirectly by CONSULTANT maintains with insurance companies licensed to do business in the State of Texas and that have an A.M. Best rating of A- or better, the types of insurance and with the minimum limits as provided herein.

CONSULTANT shall maintain, at their sole cost, the following types of insurance:

- Commercial General Liability insurance, including but not limited to personal and advertising injury, bodily injury, property damage, premises and contractual liability, in the amount of at least one million dollars (\$1,000,000) per occurrence, combined single limit for bodily injury and property damage;
- Automobile Liability insurance with minimum occurrence and combined single limits of one million dollars (\$1,000,000) providing coverage for “Any Autos” including owned, leased, non-owned and hired vehicles;
- Workers’ Compensation insurance as required by law (Statutory Benefits) and Employer’s Liability coverage of one million dollars (\$1,000,000) per occurrence covering all of the CONSULTANT’s employees. Such insurance shall be in full force and effective at all times CONSULTANT and any of their employees, agents, subcontractors is or are at the Venue.
- Professional Liability insurance with minimum occurrence limits of one million dollars (\$1,000,000).

6.2 Insurance Obligations. The insurance policies required under this Section, require notice to TRINITY 30 days before termination or restrictive amendment; must contain a waiver of subrogation rights as to TRINITY, contain cross-liability and severability of interests coverage, and be primary and non-contributory. CONSULTANT shall provide TRINITY with Certificates of Insurance for all of the insurance policies required under this section with written endorsement of Trinity University as an Additional Insured where applicable and other evidence of the required coverage as requested at least 5 business days prior to the effective date of this Agreement and annually thereafter.

- If CONSULTANT does not subscribe to Workers’ Compensation, CONSULTANT agrees to self-insure for injuries or illnesses to its employees, contractors, subcontractors, consultants, agents, etc. arising out of the scope of work for the Consulting Services rendered under this Agreement.

7. TERMINATION

7.1 Termination Without Cause. This Agreement may be terminated upon the mutual written consent of the CONSULTANT and TRINITY. Notwithstanding any provision of this Agreement to the contrary, TRINITY may terminate this Agreement without cause and without penalty, at any time, upon at least thirty (30) days prior written notice to the CONSULTANT.

7.2 Termination for Cause. TRINITY may terminate this Agreement at any time, effective immediately upon written notice to the CONSULTANT, if (i) the CONSULTANT defaults in their duties or obligations under this Agreement, (ii) a petition for relief in bankruptcy or reorganization or arrangement is filed by or against the CONSULTANT or any affiliate of the CONSULTANT, (iii) TRINITY develops a good faith concern that any provision of the Agreement, or implementation thereof, violates any law, regulation or other applicable authority, or (iv) TRINITY develops a good faith concern that an act or omission by the CONSULTANT is, or could become, a detriment to the students of TRINITY. The CONSULTANT may terminate this Agreement, effective immediately upon written notice to TRINITY, if TRINITY defaults in

its obligations under this Agreement and the default is not cured within thirty (30) days after receipt by TRINITY with written notice thereof setting forth the default.

7.3 Force Majeure Event. Notwithstanding anything to the contrary herein, this Agreement may be terminated upon the occurrence of a Force Majeure Event (as defined in Section 11.7).

7.4 Effect of Termination. The termination of the Agreement for any reason shall not affect any right, obligation or liability which has accrued under this Agreement on or before the effective date of such termination. Upon termination of this Agreement for any reason, CONSULTANT will cooperate with TRINITY and do all things reasonably necessary to achieve an efficient transition of the Consulting Services without detriment to the rights of TRINITY. Without limiting the foregoing, the CONSULTANT will, before receiving final payment of any fees, deliver to TRINITY or to such person or persons as TRINITY may direct, all documents, including without limitation, permits, books, records and accounts, insurance policies, files and other materials relating to TRINITY.

8. INDEMNIFICATION AND LIMITATION OF LIABILITY

8.1. Indemnification. To the fullest extent permitted by law, CONSULTANT agrees to indemnify, defend, and hold harmless TRINITY, its trustees, officers, employees, agents, and volunteers from any and all liabilities, claims, demands, expenses or costs, including attorneys' fees, arising out of any breach by the CONSULTANT of the CONSULTANT's obligations or representations and warranties under this Agreement, and the acts or omissions of the CONSULTANT or any of their suppliers, officers, agents, guests, affiliates, or contractors with respect to providing the Consulting Services contemplated herein. Such right to indemnity under this Agreement shall be in addition to, rather than to the exclusion of, the rights of the TRINITY at law or in equity. This Section shall survive any termination of this Agreement.

8.2. Consequential or Other Damages. In no event will TRINITY or any of its trustees, officers, employees, agents, and volunteers be liable to the CONSULTANT or any other person or entity for payment of any consequential, incidental, punitive or other special damages arising from a failure to perform its obligations under this Agreement, including but not limited to lost profits.

9. CONFIDENTIAL INFORMATION/SAFEGUARD STANDARD

9.1 Confidential Information. Confidential Information includes, but is not limited to information that would be reasonably understood as confidential or proprietary or is designated as such in writing and includes, but is not limited to: confidential personnel information; private health information; student academic information; student financial information (including addresses, phone numbers, bank and credit card account numbers, income and credit histories, and Social Security numbers); credit card information received in the course of business by TRINITY; information pertaining to TRINITY'S operations (such as financial and statistical records, strategic plans, internal reports, memos, contracts, peer review information, communications, etc.); and information pertaining to third parties who work with or on behalf of TRINITY (such as computer programs, client and vendor proprietary information, source code, proprietary technology, etc.).

9.2 FERPA. CONSULTANT acknowledges that certain information about TRINITY's student(s) may be shared in conjunction with the activities performed under this Agreement and that this information is protected by the Family and Educational Rights and Privacy Act of 1974 (20 U.S. C. 1232g). To the

extent that CONSULTANT has access to “education records” under this contract, it is deemed a “school official,” as each of these terms are defined under FERPA. CONSULTANT agrees that it shall not use education records for any purpose other than in the performance of this contract. Except as required by law, CONSULTANT shall not disclose or share education records with any third party unless permitted by the terms of this Agreement. Nothing contained herein precludes the parties from sharing information with one another so that each can perform its respective responsibilities.

9.3 Exceptions to Confidential Information. The foregoing restrictions shall not apply to information that the CONSULTANT can demonstrate (1) was generally known prior to the date of disclosure of the same to the CONSULTANT by TRINITY; (2) was in the CONSULTANT’S possession prior to the date of disclosure of the same to the CONSULTANT by TRINITY; (3) becomes generally known through no act or omission by the CONSULTANT; (4) is supplied to the CONSULTANT, subsequent to the date of disclosure of the same to the CONSULTANT by TRINITY, by a third party not under an obligation of confidentiality with respect to such information; or (5) is required to be disclosed by law or pursuant to an order of a court or other governmental agency of competent jurisdiction, in which case the CONSULTANT shall promptly notify TRINITY of such requirement to afford the Institution an opportunity to prevent or limit such disclosure.

9.4 Confidentiality Policies. As a CONSULTANT with access to Confidential Information, the CONSULTANT is required to conduct itself in strict conformance with applicable federal and state laws, the European Union General Data Protection Regulation, as well as the TRINITY’S policies governing Confidential Information. In that regard, the CONSULTANT hereby agrees to use Confidential Information only as needed to perform the specific functions assigned to the CONSULTANT, to access Confidential Information only for which it has a need-to-know basis based upon its role, to not in any way divulge, copy, release, sell, loan, review, alter or destroy any Confidential Information except as properly authorized within the scope of the CONSULTANT’S role, and to not misuse Confidential Information or carelessly handle Confidential Information.

9.5 Return of Confidential Information. Upon completion of the Consulting Services or upon termination of this Agreement, CONSULTANT shall within thirty (30) days, return to TRINITY or secure return from any subcontractor to TRINITY, all Confidential Information of the TRINITY without retaining any copies thereof and shall certify the same to TRINITY in writing within ten (10) days after such completion or termination.

9.6 Breach of Confidential Information. If the CONSULTANT experiences a security breach concerning any Confidential Information, then the CONSULTANT will a) fully comply with its obligations under any applicable law; b) immediately notify TRINITY; and c) fully cooperate with TRINITY in carrying out its obligations under any applicable law.

9.7 Criminal Background Check and Credit History. As required by TRINITY policy, CONSULTANT agrees that it will conduct local, state, and national criminal background checks and review of the national sex offender database, in addition to any other background checks required by applicable law and consistent with the duties and responsibilities associated with such individuals’ positions, locations of work and other possible factors, prior to allowing an employee to perform services on campus or to have access to TRINITY’s Confidential Information, as determined by TRINITY, and will require the same of any subcontractors, agents, or consultants assigned to do work for TRINITY. CONSULTANT further agrees that all employees, subcontractors, agents, or consultants are obligated to observe covenants of confidentiality. A credit history report is also required for individuals who may be assigned

to finance and accounting positions. Any individuals who have criminal or civil convictions may not be assigned to TRINITY without consultation with TRINITY in accordance with local, state, and federal law, including the Equal Employment Opportunity Commission's Enforcement Guidance on the Consideration of Arrest and Conviction Records in Employment Decisions. TRINITY reserves the right to not allow assignment to Trinity. Any individuals with civil convictions related to financial wrongdoing including, but not limited to, embezzlement, fraud, money laundering, theft or other acts indicating dishonesty may not be assigned to TRINITY if such assignment would involve access to financial information, private personal information, social security numbers, or other types of confidential or proprietary information as determined by TRINITY. Any individuals who have criminal convictions that suggest that they could pose a threat to the health and safety of children may not be assigned to TRINITY if such assignment would involve access to or interaction with children. For any individuals who will have access to residence halls or other secure areas a criminal background check is required. This group includes, but is not limited to residence hall assistants, supervisors and counselors; Physical Plant and janitorial staff; food services, concessions, and auxiliary services personnel. Any individuals who have a criminal history may not be assigned to TRINITY if such assignment would involve access to residence halls or secure areas. This check must also include a social security trace to ensure identity.

10. NO INFRINGEMENT OR MISAPPROPRIATION

10.1 CONSULTANT represents and warrants that the Consulting Services to be performed hereunder by CONSULTANT will not infringe or misappropriate intellectual property rights including, without limitation, any patent, trademark, copyright, mask right, trade secret or proprietary know-how of others, and that CONSULTANT will indemnify, defend, and hold harmless TRINITY, its trustees, officers, employees, agents, volunteers, guests and contractors from any and all liabilities, claims, demands, expenses or costs, including attorneys' fees, arising out of any such infringements or misappropriations. The CONSULTANT also represents that they are not bound by any agreement that would be violated by CONSULTANT's performance of the Consulting Services or by CONSULTANT's fulfillment of their obligations hereunder.

10.2 Work for Hire. The parties agree that any copyrightable work product created by the CONSULTANT in relation to the Consulting Services provided under this Agreement shall constitute "work made for hire" under federal copyright law and all ownership rights to such work belong to TRINITY. In the event that the work is determined not to be a "work made for hire", this Agreement shall operate as an irrevocable assignment by the CONSULTANT to TRINITY of the copyright in the work, including all right, title and interest therein.

11. MISCELLANEOUS

11.1 No Recording of Performance. No audio or visual recording of the Consulting Services shall be made by either party hereto without the prior mutual written consent of the parties hereto.

11.2 No Waiver. Any failure or delay in the enforcement of the rights detailed in this Agreement by CONSULTANT or TRINITY shall not constitute a waiver of those rights or be deemed a basis for estoppel. CONSULTANT and TRINITY may exercise their rights under this Agreement despite the delay or failure to enforce the rights.

11.3 Notices. All notices and other communications required or permitted hereunder shall be in writing and shall be mailed by certified or registered mail, postage prepaid, return receipt requested; delivered by

hand, messenger or reputable overnight courier; or delivered via electronic communication and shall be deemed given when received at the addresses set forth below, or at such other address furnished in writing to the other parties hereto.

If to TRINITY:

If to the CONSULTANT:

11.4 Paragraph Headings. The paragraph headings used in this Agreement are descriptive only and have no legal force or effect whatever.

11.5 Use of Pronouns. The use of the neuter, singular pronoun to refer to a party described in this Agreement shall be deemed a proper reference whether the party is an individual, a partnership, a corporation, or group of two or more individuals, partnerships or corporations. The grammatical changes required to make the provisions of this Agreement applicable to corporations, partnerships, individuals, or groups of individuals, and to females as well as males shall in all instances be assumed as though in case fully expressed.

11.6 Severability. If any provision of this Agreement shall, for any reason, be held to violate any applicable law, and so much of the Agreement is held to be unenforceable, then the invalidity of such a specific provision in this Agreement shall not be held to invalidate any other provisions of this Agreement, which other provisions shall remain in full force and effect unless removal of the invalid provisions destroys the legitimate purposes of this Agreement, in which event this Agreement shall be canceled.

11.7 Force Majeure. Neither party hereto shall be liable or deemed to be in default for any delay or failure in performance under this Agreement or other interruption of service deemed to result, directly or indirectly, from acts of God, civil or military authority, acts of public enemy, war, acts of terrorism, accidents, fires, explosions, earthquakes, floods, failure of transportation, strikes or other work interruptions other than by either party's employees, pandemic, epidemic, or other outbreaks of diseases or other infections, or any other similar cause beyond the reasonable control of either party (a "Force Majeure Event").

11.8 Subcontracting and Assignment. The Consulting Services to be performed hereunder are personal to CONSULTANT and CONSULTANT shall not assign, transfer, or delegate any of their rights, interest or obligations under this Agreement, including a subcontract, without TRINITY's prior written consent, which TRINITY may grant or withhold in its sole and absolute discretion. CONSULTANT shall also not collaterally assign this Agreement or any payments due or to become due hereunder without prior written consent of TRINITY, which TRINITY may grant or withhold in its sole and absolute discretion.

11.9 Waiver of Subrogation. Notwithstanding anything to the contrary herein, to the extent that any claim herein described is or would be covered by any insurance policies carried or required to be carried by the CONSULTANT hereunder, and to the fullest extent permitted by applicable law, CONSULTANT hereby waives any and all claims, and releases TRINITY from any and all liability or responsibility to the CONSULTANT or anyone claiming through or under the CONSULTANT, by way of subrogation or otherwise, for any (i) loss or damage to any building, structure, or other tangible property (ii) liability for personal injury or other tortious conduct, or (iii) losses under workers' compensation laws and benefits, even though such loss, damages, or liability might be caused by the negligence of such party, its agents, contractors, invitees, or employees. Nothing contained herein should be construed as any obligation of TRINITY to require other parties to waive any rights of subrogation they may possess against or with

respect to the CONSULTANT.

11.10 Entire Agreement. This Agreement represents the entire agreement by and between the parties, except as otherwise provided in this Agreement, and it may not be changed except by written amendment duly executed by all parties. In the event of a conflict or inconsistency, the terms and provisions of TRINITY’s Consulting Master Services Agreement shall govern and control.

11.11 Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same Agreement. A facsimile or electronic signature of a party shall have full force and effect.

11.12 Governing Law and Venue. This Agreement shall be subject to and governed by the laws of the State of Texas, excluding any conflicts-of-law rule or principle that might refer the construction or interpretation of this Agreement to the laws of another state. Each of the parties hereby consents to the jurisdiction of the state and federal courts in the State of Texas. Venue for its enforcement shall be in Bexar County, Texas.

IN WITNESS WHEREOF, the parties have executed this Agreement by their duly authorized officers or representatives as indicated by their signatures below, effective as of the date written above.

CONSULTANT Signature required prior to submission for TRINITY signature.

TRINITY UNIVERSITY

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

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

Note: Fully executed agreements are required for payment. Contracting authority for Trinity University is limited. All contract agreements must be signed by an Authorized Representative or a Designated Authorized Signator of Trinity University. To view the Authorized Representatives for Trinity please see the [Contract Policy and Procedures](#). To view the list of Designated Authorized Signators please see: <https://drive.google.com/drive/folders/10TucECN6uOqoyvecErVi1q6psBx6EXw>.

Department Review: _____ Date: _____
Print Name and Department

**EXHIBIT A
STATEMENT OF WORK**

This Statement of Work is entered into pursuant to the Consulting Master Services Agreement between _____ (CONSULTANT) and Trinity University (TRINITY) dated _____. Except as otherwise expressly agreed in this Statement of Work, all terms and conditions set forth in the Consulting Master Services Agreement shall govern.

Department and Individual Requesting Consulting Services:

Professional Services/Deliverables:

Term – Start Date and Completion Date:

Compensation:

Ownership of Deliverables:

IN WITNESS WHEREOF, the parties have executed this Statement of Work by their duly authorized officers or representatives as indicated by their signatures below, effective as of the date written above.

Consultant

Trinity University

Signature

Signature

Name

Name

Date

Date

This Exhibit is hereby incorporated into the Consulting Master Services Agreement between Trinity and Consultant.

