AGREEMENT BETWEEN

**TEXAS STATE UNIVERSITY**

**AND**

**[NAME OF INTERNATIONAL SERVICE PROVIDER]**

This Agreement is made between Texas State University (hereinafter referred to as “Texas State” or “University”), a member of The Texas State University System (“TSUS”), an agency of the State of Texas, with a business address of 601 University Drive, San Marcos, Texas 78666, and PROVIDER (hereinafter referred to as “Provider”), an independent service provider, with a business address of [COMPLETE ADDRESS].

The purpose of this Agreement is to outline the terms and conditions for customized education abroad programs that Texas State and Provider may conduct during the term thereof. The specific services and individual program details for each program will be outlined in a separate appendix in accordance with the terms of the Agreement and submitted to Texas State. This Agreement shall not be construed as an obligation to Provider to develop education abroad programming for Texas State.

In consideration of the mutual promises and covenants contained in the Agreement, Texas State and Provider agree as follows:

1. **DEFINITIONS**
   1. The “Program” refers to any and all services that Provider provides the participant.
   2. The “Participant” refers to Texas State students and faculty who use Provider services.
   3. Provider and Texas State are each a “Party” and together are “Parties” to this Agreement.
   4. The “Appendix” refers to documents outlining the details of an individual program to include, but not limited to, services provided by Provider and costs paid by Texas State.
2. **STATEMENT OF WORK**

Texas State herby engages Provider to assist in the development and administration of education abroad programs upon the terms and conditions provided in this Agreement. The education abroad programs to be conducted pursuant to this Agreement will be developed in coordination with the Education Abroad Office at Texas State. The details of the program including the number of students and faculty participants, program dates, cost per student, payment schedule, and cancellation terms will be determined by mutual written agreement between Texas State and Provider in a separate Appendix. Once a program has started, any itinerary changes must be approved by Texas State. Each program is subject to, and will not contain any terms serving to modify, the terms and conditions of this Agreement. Texas State agrees to make all reasonable efforts to meet minimum enrollment numbers for the different programs developed by Provider.

1. **TERM OF AGREEMENT**

3.1 Term: The term of this Agreement shall begin on [date] and shall expire on [date], unless terminated in accordance with the terms of the Agreement. Texas State shall have the option to renew the Agreement for [amount] additional [number] year terms. Total not to exceed amount of the agreement shall be limited to [amount] per the life of the contract agreement. Total expenditures shall not exceed this amount. Texas State does not guarantee any minimum or maximum amounts or programs on awarded contracts. The term of the Agreement may be amended by mutual written agreement by both parties.

1. **Authorized Contract Sum**

4.1 Contract Sum: Allowable fees for each specifically authorized Program will be established per individual Appendices. Invoices for authorized work performed by the Provider shall not exceed the fees established for any portion of authorized work. Established fee amounts shall not be increased except by written amendment to a previously issued Appendix executed by Texas State and Provider.

4.2 No Minimum Amount of Work: Texas State makes no representations regarding the amount or type of services, if any, that Provider will be asked to provide to Texas State during the term of this Agreement. It is expressly understood that Texas State is under no obligation to request services from Provider and no minimum amount of work is required or contemplated under this Agreement. All Appendices will be made by Texas State on an as-needed basis, subject to future agreement on the scope of the work and the fee.

4.3 Contract Limits: This contract may not reach or exceed [dollar amount] for the term of the agreement.

1. **PRICES AND PAYMENT TERMS**

When a faculty member accompanies participants on an education abroad program developed by Provider, the faculty member’s costs (entry fees, transportation, hotel, meals for included dinners) to participate in all activities that Provider will organize on behalf of Texas State are included in the cost per student. The Appendix will be made available as early as possible from the proposed program start date. Provider will send invoices to the Texas State Education Abroad Office no later than five (5) weeks before payment is due. The Appendix, invoices and payments will be in U.S. dollars.

* 1. All payments under this Agreement shall be due as detailed in each Appendix, and payment in full will be due to Provider prior to the arrival of the participants of the Provider program.
  2. Payment shall be made in accordance with “Prompt Pay” provision of Texas Government Code Section 2251, or alternate payment terms agreed to by both Parties in an Appendix.
  3. The cost for individual programs shall be as set forth in the Appendix, and Provider shall not increase the prices or change the schedule of program activities or materially reduce the kind or quality of program goods and services as outlined and agreed upon in each Appendix without prior written consent of Texas State.
  4. University, an agency of the State of Texas, is exempt from Texas Sales & Use Tax on the Work in accordance with Section 151.309, Texas Tax Code, and Title 34 Texas Administrative Code ("TAC") Section 3.322.

**6**. **FINANCIAL RESOURCES**

Provider shall ensure that there are adequate financial resources to perform the type, magnitude, and quality of work specified in the program proposal. Upon request, Provider shall demonstrate adequacy of financial resources or ability to obtain required resources.

**7. PROGRAM CANCELLATION POLICY**

All cancellations must be received by Provider in writing on or before the cancellation date specified in the Appendix. Provider will outline a cancellation schedule and refund policy for each separate program. Any potential refunds to Texas State will be made within thirty (30) business days from the program cancellation date. Provider shall absorb any exchange or transfer fees incurred.

* 1. In the event that Provider cancels the program for any reason and is not able to provide an alternative program that is acceptable to Texas State, it shall, within thirty (30) business days after cancellation of the program, refund to Texas State 100 percent of all payments made toward the program. No refund will be required in the event of a cancellation due to a force majeure event as defined below. Both Parties agree to negotiate in good faith for all cancellations due to a force majeure event.

**8. DEFAULT AND TERMINATION**

8.1 If either party substantially fails to perform in accordance with the terms of this agreement, the other party 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.

8.2 The University may, without cause, terminate this Agreement at any time, without cause, upon giving fifteen (15) days advance notice to the Provider. Upon termination pursuant to this section, Provider will receive payment for the services satisfactorily performed up to the termination date, provided the Provider shall have delivered to the University a final report describing the work completed to the date of termination. University shall not reimburse the Provider for any services performed or expenses incurred after the date of the termination notice.

**9. ALTERNATIVE DISPUTE RESOLUTION**

The dispute resolution process provided for in Chapter 2260 of the Texas Government Code shall be used by Texas State and Provider to attempt to resolve any claim for breach of contract made by Provider.

**10. INDEMNIFICATION**

Provider will and does hereby agree to indemnify, protect, defend with counsel approved by Texas State, and hold harmless Texas State, TSUS and their regents, officers, directors, attorneys, employees, representatives and agents (collectively "indemnitees") from and against all damages, losses, liens, causes of action, suits, judgments, expenses, and other claims of any nature, kind, or description, including reasonable attorneys' fees incurred in investigating, defending or settling any of the foregoing (collectively "claims") by any person or entity, arising out of, caused by, or resulting from this agreement or the services provided under this agreement, to the extent caused, in whole or in part, by the acts, omissions, or willful misconduct of Provider, or its agents, employees, subcontractors, suppliers or anyone directly employed by Provider or anyone for whose acts Provider may be liable. In addition, Provider will indemnify, protect, defend with counsel approved by university, and hold harmless the indemnitees from and against all claims arising from infringement or alleged infringement of any patent, copyright, trademark or other intellectual property rights arising out of, in connection with, or resulting from this agreement or the goods or services provided under this agreement. The provisions of this section will not be construed to eliminate or reduce any other indemnification or right, which any indemnitee has, by law or equity. In the event of litigation, university agrees to cooperate reasonably with Provider. All parties will be entitled to be represented by counsel at their own expense.

**11. INSURANCE**

Provider will maintain in effect during the period of the Agreement, general liability insurance and any employee compensation insurance as may be required by the laws of the country in which Provider is organized. The policies shall be primary and name TSUS and Texas State, their Regents, and employees as additional insureds. The additional insured status must cover completed operations as well.

**12. TRAINING AND SAFETY**

Provider certifies that it and its employees have the background, training, experience and necessary licenses to perform properly the services to be delivered under this Agreement. Provider acknowledges that Texas State, in entering into this Agreement, reasonably expects Provider to be aware of all applicable safety standards and necessary safety procedures and practices to be able to perform the services to be delivered under this Agreement without injury to TSUS, Texas State, and their respective regents, employees, participants, and any third parties.

**13. FORCE MAJEURE**

Except as otherwise provided, neither Provider nor Texas State, shall be liable to the other for any delay in, or failure of performance, of a requirement contained in this Agreement caused by Force Majeure. The existence of such causes of delay or failure shall extend the period of performance until after the causes of delay or failure have been removed, provided the non-performing Party exercises all reasonable due diligence to perform. “Force Majeure” is defined as acts of God, war, strike, fires, explosions, pandemics and epidemics, or other causes that are beyond the reasonable control of either Party and that by exercise of due foresight such Party could not reasonably have been expected to avoid, and which, by the exercise of all reasonable due diligence, such Party is unable to overcome.

**14. INDEPENDENT CONTRACTOR**

Provider shall operate as an independent contractor, and neither Provider nor any employee of the Provider shall be deemed an agent or employee of the University. Provider is solely responsible for determining the means and methods for performing services described.

**15. ASSIGNMENT AND SUBCONTRACTING**

The Provider’s duties and obligations under this Agreement and the fees due to the Provider under this Agreement may not be subcontracted, assigned, delegated, or otherwise transferred to a third party, in whole or in part. The Provider’s duties and obligations under this Agreement do not include the use of subcontractors for things like buses, train travel, hotels, etc. except as otherwise noted in the appendix.

Any attempt to do so will:

(a) not be binding on University; and

(b) be a breach of this Agreement for which Provider will be subject to all remedial actions provided by Applicable Laws, including Chapter 2161, Texas Government Code, and 34 TAC Chapter 20,§§20.101 -20.108. The benefits and burdens of this Agreement are assignable by Texas State.

**16. SEVERABILITY**

In case any provision of this Agreement, for any reason, will be held invalid or unenforceable in any respect, the invalidity or unenforceability will not affect any other provision of this Agreement, and this Agreement will be construed as if the invalid or unenforceable provision had not been included.

**17. VENUE AND GOVERNING LAW**

Travis County, Texas, will be the proper place of venue for suit on or in respect to this Agreement. This Agreement and all of the rights and obligations of the Parties and all of the terms and conditions will be construed, interpreted and applied in accordance with and governed by and enforced under the laws of the State of Texas. Nothing in this Agreement or any attachments hereto shall be construed as a waiver of the constitutional, statutory, or common-law rights, privileges, immunities or defenses of the Parties. To the extent the terms of this paragraph conflicts with any other provision in this contract, the terms of this paragraph shall control.

**18. REPRESENTATION AND WARRANTIES**

Provider warrants, represents, covenants, and agrees that it is duly organized, validly existing and in good standing under the laws of the state or country of its incorporation or organization and is duly authorized and in good standing to conduct business with the State of Texas, that it has all necessary power and has received all necessary approvals to execute and deliver the Agreement, and the individual executing the Agreement on behalf of Provider has been duly authorized to act for and bind Provider.

**19. LIMITATIONS**

The Parties are aware that there are constitutional and statutory limitations on the authority of Texas State (a state agency) to enter into certain terms and conditions that may be a part of this Agreement, including those terms and conditions relating to liens on Texas State'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 act or omissions of third parties; payment of attorneys' fees; dispute resolution; indemnities; and confidentiality (collectively, the "limitations"), and terms and conditions related to the limitations will not be binding on Texas State except to the extent authorized by the laws and constitution of the state of Texas.

**20. ENTIRE AGREEMENT; MODIFICATIONS**

This Agreement supersedes all prior agreements, written or oral, between Provider and Texas State and will constitute the entire Agreement and understanding between the Parties with respect to the subject matter of this Agreement. This Agreement and each of its provisions will be binding upon the Parties and may not be waived, modified, amended or altered except in writing and signed by Texas State and Provider.

**21. COMPLIANCE WITH APPLICABLE LAWS**

Both Parties and their agents shall comply with all applicable federal, state and local laws. Furthermore, Provider, its subcontractors, and agents shall comply with all applicable international laws, codes and regulations of the countries and localities in which services are provided, including, but not limited to, requirements relative to health and safety, permits and licensing of vehicles and drivers, vessels and crews.

21.1. In accordance with Texas Education Code, Section 51.9335(h), any agreement for the acquisition of goods and services to which an institution of higher education is a party, any provision required by applicable law to be included in the Agreement is considered to be a part of the executed Agreement without regard to:

a) whether the provision appears on the face of the Agreement; or

b) whether the Agreement includes any provision to the contrary.

**22.** **NO BOYCOTT** – Pursuant to Section 2270.002 of the Texas Government Code, Provider certifies that either (i) it meets an exemption criterion under Section 2270.002; or (ii) it does not boycott Israel and will not boycott Israel during the term of this contract. Provider shall state in this agreement any facts that make it exempt from the boycott certification.

**23. NONDISCRIMINATION**

In their execution of this agreement, all Providers, subcontractors, their respective employees, and others acting by or through them shall comply with all federal and state laws prohibiting discrimination, harassment, and sexual misconduct. To the extent not in conflict with federal or state law, the parties agree not to discriminate on the basis of race, color, national origin, age, sex, religion, disability, veterans’ status, sexual orientation, gender identity or gender expression. Any breach of this covenant may result in termination of this agreement.

**24. PUBLIC INFORMATION**

Texas State strictly adheres to all statutes, court decisions and the opinions of the Texas Attorney General with respect to disclosure of public information under the Texas Public Information Act, Chapter 552, Texas Government Code. Provider is required to make any information created or exchanged with the state pursuant to this Agreement that is not otherwise excepted from disclosure under the Texas Public Information Act, available in a format that is accessible by the public at no additional charge to the state. The following format(s) shall be deemed to be in compliance with this provision: electronic files in Word, PDF, or similar generally accessible format.

**25. PRESS RELEASES**

Except when defined as part of the Statement of Work, Provider will not make any press releases, public statements, or advertisement referring to the Statement of Work or the engagement of Provider as an independent contractor of Texas State in connection with the Work, or release any information relative to the Statement of Work for publication, advertisement or any other purpose without the prior written approval of Texas State.

**26. USE OF TEXAS STATE UNIVERSITY NAME, LOGO AND TRADEMARK**S

Provider recognizes and acknowledges that Texas State is the sole owner of its name, logo, and trademarks (collectively, “Texas State Marks”) and has the right of exclusive use and control. Neither Provider nor any of its employees or agents shall use Texas State Marks without the prior written approval of Texas State.

**27.** **ETHICS PROVISION -** Associated Time & Parking Controls acknowledges that the Texas Government Code, Section 2261.251(a) and 2261.252 require an initial determination in this higher education contract that no Texas State University System Regent, the Chancellor, Vice Chancellor and General Counsel, the University President or Director of Procurement has a 1% interest (or other interest prohibited by law) in Associated Time & Parking Controls or any affiliated company. The Parties also assert that this Agreement complies with Texas Government Code, Section 2252.908 which requires a business entity to submit a Disclosure of Interested Parties (Disclosure), as prescribed by the Texas Ethics Commission, to the government entity (University) at the time the signed contract (or amendment) is submitted. Within 30 days after the Disclosure is filed, the University will file a copy of the Disclosure with the Texas Ethics Commission.

**28. LOSS OF FUNDING** - Performance by Texas State University under the Agreement may be dependent upon the appropriation and allotment of funds by the Texas State Legislature (the "Legislature") and/or allocation of funds by the Board of Regents of The Texas State University System (the "Board"). If the Legislature fails to appropriate or allot the necessary funds, or the Board fails to allocate the necessary funds, then Texas State University will issue written notice to Provider and Texas State University may terminate the Agreement without further duty or obligation hereunder. Provider acknowledges that appropriation, allotment, and allocation of funds are beyond the control of Texas State University.

**29. STATE AUDITOR’S OFFICE-** Provider understands that acceptance of funds under this Agreement constitutes acceptance of the authority of the State of Texas Auditor's Office or any successor agency ("Auditor"), to conduct an audit or investigation in connection with those funds pursuant to Sections 51.9335(c), Texas Education Code. Provider shall cooperate with any authorized agents of the State of Texas and shall provide them with prompt access to all of the Work as requested. Provider's failure to comply with this requirement shall constitute a material breach of Agreement and shall authorize Texas State University and the State of Texas to assess immediately appropriate damages for such failure. Provider acknowledges and understands that the acceptance of funds under Agreement shall constitute consent to an audit by the State Auditor, Comptroller or other agency of the State of Texas. Provider shall ensure that this paragraph concerning the State’s authority to audit funds received indirectly by subcontractors through Provider and the requirement to cooperate is included in any subcontract it awards. Furthermore, under the direction of the legislative audit committee, an entity that is the subject of an audit or investigation by the State Auditor must provide the State Auditor with access to any information the State Auditor considers relevant to the investigation or audit.

**30. RIGHT TO AUDIT** - Provider agrees that Texas State University, or any of its duly authorized representatives, at any time during the term of this Agreement, will have access to, and the right to audit and examine, any pertinent books, documents, papers, and records of Provider (such as sales receipts, salary lists, itemized expenses and disbursements, time reports, equipment charges, overtime reports, etc.), and related Provider's charges incurred in its performance under this Agreement. Such records will be kept by Provider for a period of four years after Final Payment under this Agreement. Provider agrees to refund to Texas State University within thirty days of being notified by Texas University of any overpayments disclosed by any audits.

**31. CYBERSECURITY TRAINING PROGRAM** - Pursuant to Section 2054.5192, Texas Government Code, Provider and its subcontractors, officers, and employees, who are provided credentials granting access to University’s computer system also known as University’s information system, must complete a cybersecurity training program certified under Section 2054.519, Texas Government Code as selected by University. The cybersecurity training program must be completed during the term and any renewal period of this Agreement. Provider shall verify in writing completion of the program to University within the first thirty (30) calendar days of the term and any renewal period of this Agreement. Failure to comply with the requirements of this section are grounds for termination for cause of this Agreement.

**32. TAX CERTIFICATION** - To the extent applicable, if Provider is a taxable entity as defined by Chapter 171, Texas Tax Code (“Chapter 171”), then Provider certifies that it is not currently delinquent in the payment of any taxes due under Chapter 171, or that Provider is exempt from the payment of those taxes, or that Provider is an out-of-state taxable entity that is not subject to those taxes, whichever is applicable.

**33. ELIGIBILITY CERTIFICATIONS** - To the extent applicable, pursuant to Sections 2155.004 and 2155.006, Texas Government Code, Provider certifies that the individual or business entity named in the Agreement is not ineligible to receive the award of or payments under the Agreement and acknowledges that the Agreement may be terminated and payment withheld if these certifications are inaccurate.

**34. PAYMENT OF DEBT OR DELINQUENCY TO THE STATE** - To the extent applicable, pursuant to Sections 2107.008 and 2252.903, Texas Government Code, Provider agrees that any payments owing to Provider under the Agreement may be applied directly toward any debt or delinquency that Provider 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.

**35. TEXAS FAMILY CODE CHILD SUPPORT CERTIFICATION -** To the extent applicable, pursuant to Section 231.006, Texas Family Code, Provider certifies that it is not ineligible to receive the award of or payments under the Agreement and acknowledges that the Agreement may be terminated, and payment may be withheld if this certification is inaccurate.

**37. NOTICES**

Except as otherwise provided in this section, all notices, consents, approvals, demands, requests or other communications provided for or permitted to be given under any of the provisions of this Agreement will be in writing and will be sent to the individuals identified below or other person or address as may be given in writing by Texas State to Provider in accordance with this section, or other person or address as may be given in writing by University to Provider in accordance with this section.

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| --- | --- | --- | --- | --- |
| If to Texas State: | |  | If to Provider: | |
| Name: | Isis de la O |  | Name: |  |
| Address: | 601 University Drive San Marcos, Texas 78666 U.S.A. |  | Address: |  |
| Phone: | 512-245-1967 |  | Phone: |  |
| Email: | Ig02@txstate.edu |  | Email: |  |

IN WITNESS WHEREOF, this Agreement together with its attachment constitutes the entire agreement between the parties regarding the subject matter hereof and supersedes any and all prior negotiations, promises, commitments, undertakings, and agreements of the parties relating thereto. Duly authorized representatives of Texas State and Provider have executed and delivered this Agreement effective as of the date of the last signature below.

PROVIDER

|  |
| --- |
|  |
| Signature |
| Name |
| Title |
| Date |

TEXAS STATE UNIVERSITY

|  |  |
| --- | --- |
|  | |
| Signature |
| Name | |
| Title | |
| Date | |