

## TEXAS A&M UNIVERSITY INTERNATIONAL SERVICE PROVIDER AGREEMENT

The following terms and conditions form the Master Agreement ("Agreement") between InSitu Programs ("ISP"), an independent international service provider, with business address of 25 de Mayo 457, Piso 4, Buenos Aires 1002, Argentina and Texas A&M University ("TAMU"), a member of The Texas A&M University System ("TAMUS"), an agency of the State of Texas, on behalf of its Department of the Study Abroad Programs Office, for customized international programs that TAMU and ISP conduct during the term thereof.

ISP shall provide TAMU with certain services in accordance with the terms and conditions of this Agreement. The specific services will be outlined in the individual Program Itineraries prepared by ISP and submitted to TAMU.

TAMU and ISP hereby agree as follows:

### 1. Definitions

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The "Effective Date" of this Agreement refers to the date of the last signature. The "Program" refers to any and all services that ISP provides the Participant. The "Participant" refers to TAMU students ~~and faculty~~ who use ISP services.

ISP and TAMU are each a "Party" and together are "Parties" to this Agreement. The "Itineraries" refer to documents outlining the details of a Program to include, but not limited to, services provided by ISP and costs paid by TAMU.

The "Term" refers to the effective term of this Agreement beginning on the Effective Date and for a period of FIVE years from the Effective Date.

### 2. Development of Study Abroad Programs

TAMU hereby engages ISP to assist in the development and administration of study abroad Programs upon the terms and conditions provided in this Agreement. The study abroad Programs to be conducted pursuant to this Agreement will be developed in coordination with the Department of the Study Abroad Programs Office at TAMU. The exact number, times, dates, and costs of the Programs to be offered by TAMU under this Agreement will be determined each semester by mutual written agreement between TAMU and ISP in the form of a Program Itinerary. Each Program is subject to, and will not contain any terms serving to modify, the terms and conditions of this Master Agreement.

TAMU agrees to make all reasonable efforts to meet minimum enrollment numbers for the different Programs developed by ISP.

### 3. Prices and Payment Terms

When a faculty member accompanies the TAMU students on a study abroad Program developed by ISP, the faculty member's costs (entry fees, transportation, hotel, meals for included dinners) to participate in all activities that ISP will organize on behalf of TAMU are included in the cost per student. ISP will outline the exact number, times, dates, and costs of the separate Programs to be offered in each Program Itinerary.

These Program Itineraries will be made available approximately three (3) months prior to the start of a Program. ISP will send invoices to the TAMU Department of the Study Abroad Programs Office 5 weeks before payment is due. The Program Itineraries, invoices and payments will be in US dollars or prior agreed upon alternative currency.

ISP will include in the pricing of the Program Itineraries all fees, currency conversion costs, taxes and other costs or charges on all payments and transfers to ISP, exclusive of any income taxes calculated on ISP's net income.

All payments under this Agreement shall be due as detailed in each Program Itinerary, and payment in full will be due to ISP prior to the arrival of the Participants of the ISP Program. Payment shall be made as stipulated on the invoice.

The cost for individual Programs shall be as set forth in the Program Itinerary, and ISP 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 Program Itinerary without prior written consent of TAMU.

#### **4. Cancellation Policy**

All cancellations must be received in writing at the ISP office on or before the cancellation date noted on the Program Itinerary. ISP will outline a cancellation schedule and refund policy for each separate Program. Any potential refunds to TAMU or the individual Participants will be made within 60 business days from the Program cancellation date. The exchange rate for any refund will be the same as used on the Program Itinerary.

In the event that ISP cancels the Program for any reason and is not able to provide an alternative Program that is acceptable to TAMU, it shall, within 30 calendar days after cancellation of the Program, refund to TAMU and/or each Program Participant respective, 100% of TAMU's and the Participant's payment. 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 a cancellation due to a force majeure event.

#### **5. Host Families**

If a TAMU student expresses dissatisfaction or discomfort with the host family, ISP will relocate the student to a different host family at no additional cost to TAMU. ISP will notify the Department of the Study Abroad Programs Office at TAMU of the relocation. Any claims that result from loss or damage caused by a TAMU student will be the sole responsibility of the student, not TAMU.

#### **6. Liability Release and Indemnity**

TAMU understands that there are certain dangers, hazards, and risks involved in international travel and in the activities included in the Program, that could include serious or even mortal injuries and property damage. To cover part of these risks, ISP has contracted general and professional liability insurance. With knowledge of the content of the terms and conditions of the general and professional liability insurance as well as the dangers, hazards, and risks of such activities, TAMU releases and holds

harmless ISP and its representatives and subcontractors from and against any and all liability for any harm, injury, damage, claims, demands, actions, causes of action, costs, and expenses of any nature, except as may result directly or indirectly out of any negligent act or omission of ISP or its subcontractors, as far as such liabilities exceed the coverage of the liability insurance. This release and hold harmless provision applies to TAMU only to the extent permitted by Texas law.

~~TAMU understands that the Participant may be required to sign a Program contract and liability release form. ISP will email the contract to the Participant and ask that she submit it signed to ISP.~~

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**7. Insurance and Safety**

ISP will, at its sole cost and expense, maintain in effect during the period of the Agreement, the general and professional liability insurance described in the section above and any employee compensation insurance as may be required by the laws of the country in which ISP is organized. ISP 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. ISP acknowledges that TAMU, in entering into this Agreement, reasonably expects ISP 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 TAMUS, TAMU, and their respective regents, employees, Participants, and any third parties.

**8. 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.

**9. Relation of Parties**

The relationship between the Parties under this Agreement shall be that of independent contractors. Nothing herein shall be construed to create any relationship of joint venture, partnership or agency between the parties. As independent contractors, each Party is responsible for its own debts, obligations, acts and omissions, including payment of all required withholding, social security and other taxes or benefits of its employees. Neither Party shall have authority to make any statements, representations or commitments of any kind, or to take any action which shall be binding on the other Party, except as may be explicitly provided for herein or authorized in writing.

**10. Subcontracting**

ISP may freely, at will, subcontract any of its obligations under this Agreement.

**11. Severability**

If one or more provisions of this Agreement is held to be unenforceable under applicable law, the unenforceable portion will not affect any other provision of this Agreement, this Agreement will be construed as if the unenforceable provision was

not present, and the Parties will negotiate in good faith to replace the unenforceable provision with an enforceable provision with effect nearest to that of the provision being replaced.

#### **12. Waiver**

Failure of either Party to insist upon the performance of any term, covenant, or condition in this Agreement, or to exercise any rights under this Agreement, will not be construed as a waiver or relinquishment of the future performance of any such term, covenant, or condition, or the future exercise of any such right, and the obligation of each Party with respect to such future performance will continue in full force and effect. ISP expressly acknowledges that TAMU is an agency of the State of Texas and nothing in this Agreement will be construed as a waiver or relinquishment by TAMU of its right to claim such exemptions, privileges, and immunities as may be provided by law.

#### **13. Governing Law and Forum**

This Agreement shall be governed by and construed in accordance with the laws of the State of Texas, excluding its choice of law provisions. In addition, pursuant to Section 85.18(b), Texas Education Code, mandatory venue for all legal proceedings against TAMU is to be in the county in which the principal office of the TAMU governing officer is located.

#### **14. Representations and Warranties**

ISP 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 in 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 ISP has been duly authorized to act for and bind ISP.

#### **15. Indemnification**

ISP agrees to indemnify and hold TAMUS, TAMU, and their respective regents, employee, and agents harmless against any and all claims, demands, damages, liabilities and costs which directly or indirectly arise out of any negligent act or omission of ISP, its agents, or employees, pertaining to its activities under this Agreement, except in all cases to the extent arising from the negligence or intentional misconduct of any regent, employee or agent of TAMUS or TAMU.

#### **16. Use of TAMU's Name, Logo and Trademarks**

ISP recognizes and acknowledges that TAMU is the sole owner of its name, logo and trademarks (collectively, "TAMU Marks") and has the right of exclusive use and control. Neither ISP nor any of its employees or agents shall use TAMU's Marks without the prior written approval of TAMU.



## 17. Compliance with Applicable Laws

Both Parties and their agents shall comply with all applicable federal, state and local laws. Furthermore, ISP, 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.

## 18. Modification

No modification, amendment, addition to, or waiver of the provisions of the Agreement shall be valid or enforceable unless made in writing and signed by both of the Parties.

## 19. ISP Certification regarding boycott of Israel

Pursuant to Chapter 2270, Texas Government Code, ISP certifies ISP 1) does not currently boycott Israel and 2) will not boycott Israel during the term of any ensuing purchase order or contract. ISP acknowledges its purchase order or contract with TAMU may be terminated and payment withheld if this certification is inaccurate.

## 20. ISP certification regarding business with certain countries and organizations.

Pursuant to Subchapter F, Chapter 2252, Texas Government Code, ISP certifies ISP is not engaged in business with Sudan, Iran or a foreign terrorist organization. ISP acknowledges its purchase order or contract with TAMU may be terminated and payment withheld if this certification is inaccurate.

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.

INSITU PROGRAMS

TEXAS A&M UNIVERSITY

\_\_\_\_\_  
Agustin Vignale,  
Director

\_\_\_\_\_  
Dr. Michael J. Benedik  
Vice Provost & Chief International Officer

January 10th 2019  
\_\_\_\_\_  
Date

March 8, 2019  
\_\_\_\_\_  
Date