

**MASTER SERVICES AGREEMENT
BETWEEN
TEXAS A&M UNIVERSITY
AND
RRG CONSULTING, INC.**

This Master Services Agreement (“Agreement”) is between Texas A&M University, a member of The Texas A&M University System (“TAMUS”), an agency of the State of Texas, through its Center for Population Health and Aging (“Texas A&M”) and RRG Consulting, Inc., (“Provider”). Provider is a subject matter expert in the field of online course development and hosting, and Texas A&M desires to utilize such expertise to develop continuing professional education courses. Texas A&M and Provider therefore agree as follows:

1. TASK ORDERS

- A. Texas A&M may, from time to time, authorize Provider to perform services (the “Services”) under this Agreement through the execution of numbered, written task orders containing definitive statements of work (each a “Task Order”).
- B. The parties shall follow the following protocol to generate Task Orders:
 - (1) Upon contemplation of the proposed Services, Texas A&M shall submit to Provider a description of the proposed Services including a statement of work and a budget.
 - (2) Provider shall consider the proposed Services and negotiate with Texas A&M as to the statement of work and budget.
 - (3) Upon Texas A&M’s concurrence, Texas A&M shall generate a Task Order substantially in the form attached as Attachment A, to be executed by the parties.
- C. A Task Order may only be modified by written amendment signed by both parties.

2. TERM

This Agreement commences on July 1, 2020 (the “Effective Date”) and, unless earlier terminated under Section 4, terminates on June 30, 2025 (the “Completion Date”). The Completion Date may be modified or extended only by written agreement of the parties. If any Task Order initiated while this Agreement is in effect extends beyond the termination of this Agreement, that Task Order will remain in effect until the Task Order terminates.

3. PAYMENT TERMS

- A. As compensation for the performance of the Services, Texas A&M shall pay Provider according to the terms of each Task Order. Time periods for payments due under this Agreement are governed by the Texas Prompt Payment Act (Texas Government Code Chapter 2251).
- B. Provider shall submit invoices to Texas A&M at the following address: 212 Adriance Lab Road Suite 360, College Station, TX 77843.
- C. Texas A&M shall submit payments to Provider at the following address: 490 Stony Brook, College Station, TX 77845.

4. TERMINATION

- A. Texas A&M may terminate this Agreement or any Task Order for convenience effective upon 30 days’ written notice.
- B. Either party may terminate this Agreement or any Task Order effective upon written notice to the other party if the other party materially breaches any term of this Agreement and fails to cure such breach within 30 days after receiving written notice of the breach. If the breach is incurable, the non-breaching party may terminate this Agreement or the Task Order effective immediately upon written notice to the breaching party.

5. DELIVERABLES

- A. Provider acknowledges that, subject to Section 5B, all deliverables provided by Provider under this Agreement (“Deliverables”) will be works made for hire and the copyright and all other rights in the Deliverables will be the sole and exclusive property of Texas A&M. If for any reason the Deliverables would not be works made for hire, Provider, subject to Section 5B, hereby assigns to Texas A&M, automatically upon creation, the entire interest in the copyright in the Deliverables and any works based upon, derived from, or incorporating the Deliverables. At the written request of Texas A&M, Provider shall promptly provide Texas A&M, or sign for Texas A&M, any additional documents necessary to consummate the transactions provided for in this Agreement. Provider shall obtain and maintain written agreements with its employees and any independent contractors with terms sufficient for Provider to comply with this Section 5A.
- B. Texas A&M acknowledges that Provider owns or holds licenses to use and sublicense preexisting code, applets, subroutines, and other development or authoring tools for providing the Deliverables (the “Tools”). Provider retains its ownership or license to the Tools and hereby grants Texas A&M a nonexclusive, perpetual, irrevocable license to use the Tools for purposes of exercising Texas A&M’s rights in the Deliverables and for all updates and revisions to the Deliverables.
- C. Provider certifies that:
 - (1) Provider has full power to enter into this Agreement and to convey all rights that are granted in this Agreement, and that Provider’s contributions to the Deliverables (excluding any Tools) are original and are not owned by another outside

party, in whole or in part, and that the copyrights and other rights in Provider's contributions to the Deliverables (excluding any Tools) are not assigned to another outside party; and

- (2) Provider's contributions to the Deliverables do not infringe upon or violate any personal or property rights of others; Provider's contributions to the Deliverables contain no scandalous, libelous, defamatory, or other unlawful material in violation of any right of copyright or privacy, or is in any other manner actionable; and that there are no rights outstanding that would diminish, encumber, or impair the full enjoyment or exercise of the rights granted to Texas A&M.

D. As to any judicial, administrative, or arbitration action, suit, claim, investigation, or proceeding (collectively, "Proceeding") brought by someone other than Provider against Texas A&M, TAMUS, or its regents, officers, employees, agents, consultants, or advisors (collectively, "Indemnitees") and involves a claim or claims that, if true, would constitute a breach of one or more of Provider's certifications in this Agreement, Provider shall indemnify those Indemnitees against any amount awarded in, or paid in settlement of, any Proceeding, including any interest, and any out-of-pocket expense incurred in defending a Proceeding or in any related investigation or negotiation, including court filing fees, court costs, arbitration fees, witness fees, and attorneys' and other professionals' fees and disbursements. Should a Proceeding be brought, Texas A&M may, in addition to any other available remedies, withhold any payments that may be due Provider under this Agreement.

E. This Section 5 will survive the termination of this Agreement.

6. ACCESS BY INDIVIDUALS WITH DISABILITIES

Provider represents and warrants that the electronic and information resources and all associated information, documentation, and support that it provides to Texas A&M under this Agreement (collectively, the "EIRs") comply with the applicable requirements set forth in Title 1, Chapter 213 of the Texas Administrative Code and Title 1, Chapter 206, §206.70 of the Texas Administrative Code (as authorized by Chapter 2054, Subchapter M of the Texas Government Code). To the extent Provider becomes aware that the EIRs, or any portion thereof, do not comply, then Provider shall, at no cost to Texas A&M, either (1) perform all necessary remediation or (2) replace the EIRs with new EIRs.

7. PUBLIC INFORMATION

Provider acknowledges that Texas A&M 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. Upon Texas A&M's written request, Provider shall promptly provide specified contracting information exchanged or created under this Agreement for or on behalf of Texas A&M. Provider acknowledges that Texas A&M may be required to post a copy of this Agreement on its website in compliance with Section 2261.253(a)(1), Texas Government Code and that the requirements of Subchapter J, Chapter 552, Texas Government Code, may apply to this Agreement and so this Agreement can be terminated if Provider knowingly or intentionally fails to comply with a requirement of that subchapter.

8. DISPUTE RESOLUTION

The parties shall use 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, 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 the University Contracts Officer of Texas A&M, who shall examine Provider's claim and any counterclaim and negotiate with Provider in an effort to resolve the claim.

9. 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, under penalty of perjury, that to the best of their knowledge and belief, no member of TAMUS or the TAMUS Board of Regents, nor any employee or person whose salary is payable in whole or in part by Texas A&M or TAMUS, 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.

10. PAYMENT CARD INDUSTRY COMPLIANCE

Provider acknowledges responsibility for the security of cardholder data it possesses or otherwise stores, processes or transmits on behalf of Texas A&M University, or to the extent that Provider could impact the security of the cardholder data environment. Provider attests that, as of the Effective Date of this Agreement, it has complied with all applicable requirements to be considered PCI DSS compliant, has performed the necessary steps to validate its compliance with the PCI DSS, and will maintain such compliance for the life of this Agreement. For purposes of this Agreement, "PCI DSS" means the most current version of the Payment Card Industry Data Security Standard administered by the Payment Card Industry Security Standards Council. Provider agrees to supply evidence of its most recent validation of compliance upon execution of this Agreement and annually for the length of the Agreement. Provider will immediately notify Texas A&M if it learns it is no longer PCI DSS compliant and will immediately remediate the non-compliance status. In no event shall Provider's notification to Texas A&M be later than seven (7) calendar days after Provider learns it is no longer PCI DSS compliant. Provider acknowledges that unauthorized access to the

cardholder data environment (“a cardholder data breach”) resulting from a lapse in Provider’s security obligations is grounds for early termination of this Agreement without penalty, at Texas A&M’s discretion. Provider agrees to comply with all applicable laws requiring notification of individuals in the event of a cardholder data breach. In the event of a cardholder data breach resulting from a lapse in Provider’s security obligations, Provider agrees to assume responsibility for informing all such individuals in accordance with applicable law. Provider further agrees to indemnify, hold harmless, and defend Texas A&M and its agents and employees from and against any claims, damages, or other harm related to a cardholder data breach. This provision survives termination of the Agreement.

11. GENERAL PROVISIONS

- A. Provider shall neither assign its rights nor delegate its duties under this Agreement without the prior written consent of Texas A&M.
- B. This Agreement is not intended to create a partnership or joint venture between Texas A&M and Provider. Neither party may bind the other or otherwise act in any way as the representative of the other, unless specifically authorized, in advance and in writing, to do so, and then only for the limited purpose stated in such authorization. This Agreement is not intended to make employees of either party into employees of the other; nor is it intended to make the employees of either party entitled or eligible to participate in any benefits or privileges given or extended by the other party to its employees.
- C. Provider shall observe and abide by all applicable laws and regulations, policies and procedures, including but not limited to, those of Texas A&M relative to conduct on its premises.
- D. This Agreement and any Task Orders contain the entire understanding of the parties as to the Services, and supersede all other written and oral agreements between the parties as to the Services. The parties may execute other contracts, but those will not alter this Agreement unless expressly stated in writing. Each party hereby objects to any different or additional terms on any purchase order, invoice, acknowledgement, or other form.
- E. The substantive laws of the State of Texas (and not its conflicts of law principles) govern all matters arising out of or relating to this Agreement and all of the transactions it contemplates. Venue for any claim arising out of or relating to this Agreement and all of the transactions it contemplates is as provided under Texas law.
- F. 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.
- G. 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. Texas A&M and Provider can change their respective notice address by sending to the other party a notice of the new address. Notices must be addressed as follows:

Texas A&M:	Texas A&M University Center for Population Health and Aging 1266 TAMU College Station, TX 77843-1266 ATTN: Co-Directors Telephone: (979) 436-9336 Email: healthyaging@tamu.edu
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With a copy to:	Texas A&M University Department of Contract Administration 1182 TAMU College Station, TX 77843-1182 ATTN: Executive Director Telephone: (979) 845-0099 Fax: (979) 862-7130 Email: contracts@tamu.edu
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Provider:	RRG Consulting, Inc. 4920 Stony Brook College Station, TX 77845 ATTN: Dr. James Guinn Telephone: (979) 774-6101 Email: jim@rrgconsult.com
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- H. Texas A&M may require Provider to perform a criminal background check on any employee or representative of Provider who conducts business pursuant to this Agreement on the campus of Texas A&M.

- I. Under Section 231.006, Texas Family Code, 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 contractor or applicant certifies that the individual or business entity named in this Agreement, bid, or application is not ineligible to receive the specified grant, loan, or payment and acknowledges that this Agreement may be terminated and payment may be withheld if this certification is inaccurate."
- J. Pursuant to Section 2252.903, Texas Government Code, Provider acknowledges 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.
- K. Provider acknowledges that Texas A&M is an agency of the State of Texas and nothing in this Agreement waives or relinquishes Texas A&M's right to claim such exemptions, privileges, or immunities as may be provided by law.
- L. Provider acknowledges that performance by Texas A&M 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, Texas A&M shall issue written notice to Provider and Texas A&M may terminate this Agreement without further duty or obligation. Provider acknowledges that appropriation of funds is beyond the control of Texas A&M.
- M. Under Section 2155.004, Texas Government Code, Provider certifies that Provider is not ineligible to receive the specified contract and acknowledges that this Agreement may be terminated and payment withheld if this certification is inaccurate.
- N. Provider acknowledges 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 shall cooperate with the Auditor in the conduct of the audit or investigation, including without limitation, providing all records requested. Provider shall include this provision in all contracts with permitted subcontractors.
- O. Neither party will be in breach of its obligations under this Agreement (other than payment obligations) or incur any liability to the other party for any losses or damages of any nature whatsoever incurred or suffered by that other party if and to the extent that it is prevented from carrying out those obligations by, or such losses or damages are caused by, a Force Majeure, except to the extent that the relevant breach of its obligations would have occurred, or the relevant losses or damages would have arisen, even if the Force Majeure had not occurred. Force Majeure is defined as: 1) acts of God; 2) war; 3) act(s) of terrorism; 4) fires; 5) explosions; 6) natural disasters, to include without limitation, hurricanes, floods, and tornadoes; 7) failure of transportation; 8) strike(s); 9) loss or shortage of transportation facilities; 10) lockout, or commandeering of materials, products, plants or facilities by the government or other order (both federal and state); 11) interruptions by government or court orders (both federal and state); 12) present and future orders of any regulatory body having proper jurisdiction; 13) civil disturbances, to include without limitation, riots, rebellions, and insurrections; 14) epidemic(s), pandemic(s), or other national, state, or regional emergency(ies); and 15) any other cause not enumerated in this provision, but which is beyond the reasonable control of the party whose performance is affected and which by the exercise of all reasonable due diligence, such party is unable to overcome. Such excuse from performance will be effective only to the extent and duration of the Force Majeure event(s) causing the failure or delay in performance and provided that the affected party has not caused such Force Majeure event(s) to occur and continues to use diligent, good faith efforts to avoid the effects of such Force Majeure event(s) and to perform the obligation(s). Written notice of a party's failure or delay in performance due to Force Majeure must be given within a reasonable time after its occurrence and which notice must describe the Force Majeure event(s) and the actions taken to minimize the impact of such Force Majeure event(s). Notwithstanding the foregoing, a party's financial inability to perform its obligations shall in no event constitute a Force Majeure.
- P. Each provision of this Agreement is severable. If any provision is rendered invalid or unenforceable by statute or regulations or declared null and void by any court of competent jurisdiction, the remaining provisions will remain in full force and effect if the essential terms of this Agreement remain valid, legal, and enforceable.
- Q. To the extent that Texas Government Code, Chapter 2270 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.
- R. Pursuant to Subchapter F, Chapter 2252, Texas Government Code, Provider certifies Provider is not engaged in business with Iran, Sudan, or a foreign terrorist organization. Provider acknowledges this Agreement may be terminated and payment withheld if this certification is inaccurate.
- S. A state agency may not accept a bid or award a contract, including a contract for which purchasing authority is delegated to a state agency, that includes proposed financial participation by a person who, during the five-year period preceding the date of the bid or award, has been convicted of any offense related to the direct support or promotion of human trafficking. A bid or award subject to the requirements of this section must include the following statement: "Under Section 2155.0061, Government Code, the vendor 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."

- T. Provider shall ensure that its employees participating in the Services have not been designated by TAMUS as Not Eligible for Rehire as defined in TAMUS Policy 32.02, Section 4. Non-conformance to this requirement may be grounds for termination of this Agreement.

The parties have signed this Agreement on the date indicated below their signatures.

TEXAS A&M UNIVERSITY**RRG CONSULTING, INC.**

Jeff Burton, CPA

Name

Associate VP for Finance & Administration and CFO

Title

8/13/2020

Date

Phil Carey

Name

CFO

Title

Aug 11, 2020

Date