**WSU Contract #**

**AGREEMENT BETWEEN**

**WASHINGTON STATE UNIVERSITY**

## AND

**[other party]**

**1. Parties:** This Agreement (Agreement) is between Washington State University, an institution of higher education and an agency of the state of Washington (WSU), through its [insert department/college name], and [insert vendor/entity name], a [insert type of vendor/entity], ([insert the shorthand name that will be used in this Agreement]), located at [insert address]. In this Agreement, the above entities are jointly referred to as Parties or individually as Party.

**2. Purpose:** This Agreement provides the terms and conditions for [insert department/college name]’s provision of [insert brief description of what is being provided under the Agreement] to [other party].

**THE PARTIES AGREE**:

**3. Responsibilities of the Parties:** [In this section, please include specific details about the personnel, equipment, efforts, other resources, and/or deliverables obligated by each Party.]

 **3.1 WSU will provide the following:**

 3.1.1.

 3.1.2.

 3.1.3.

 **3.2** **[other party] will provide the following:**

 3.2.1.

 3.2.2.

 3.2.3.

**4. Effective Date:** Subject to its other provisions, this Agreement will be effective when the last signatory executes this Agreement.

**5. Termination Date:** Subject to its other provisions, this Agreement will end on [month] [date], 20[year], unless terminated sooner as provided in this Agreement. The period between the Effective Date and the termination date set forth in this section will be called the “Initial Term.”

**6. Parties May Extend This Agreement:** [If the ability to extend is desired, add the following: This Agreement may be extended beyond the Initial Term upon the mutual written consent of the Parties for \_\_\_ additional terms of \_\_\_ years each.]

# 7. Advance Payments Prohibited: In compliance with state law, no advance payment will be made by WSU for any goods, work, or services provided under this Agreement.

**8. Compensation:**

#

#  8.1. Maximum Compensation: The maximum compensation to be paid under this Agreement will be $ [written dollar amount].

#  8.2 Calculating Compensation: The method for determining compensation under this Agreement will be as follows:

8.1.1. [insert specific details, e.g., hourly rate, lump sum, incentives, etc.]

 8.1.2.

**8.3. Reimbursement of Expenses:** Expenses reimbursed under this Agreement will be:

 8.2.1. [e.g., travel, mileage, postage, etc.]

 8.2.2.

**9. Invoices and Payments:**

**9.1. Invoices:** [other party] will submit for payment properly executed invoices or invoice vouchers, with supporting documentation, to:

[insert contact information]

All documentation to include work performed and by whom, date accomplished, hours worked, tasks completed, dollars to be charged, etc.

**9.2. Payments:** Payments for satisfactory performance under this Agreement will be made in U.S. dollars to:

[insert contact information]

**9.3. Interest:** All amounts past due will bear interest at one percent (1%) per month.

**10. Use of Marks:** The name, trademarks or logos of WSU or of any of its departments or personnel will not be used in any manner by [other party] without the prior written permission of the authorized representative of WSU. [If reciprocal clause is desired: Neither Party will use the name, trademarks or logos of the other Party in any manner without prior written approval of the authorized representative of the other Party.]

**11. Intellectual Property**: If Intellectual Property or data is developed under this Agreement, the Party creating the Intellectual Property will own that Intellectual Property or Data.

**12. Independent Capacity:** The employees or agents of each Party engaged in the performance of this Agreement will continue to be employees or agents of that Party and will not be considered for any purpose to be employees or agents of the other Party.

**13. No Discrimination**: There will be no discrimination in the performance of this Agreement on the basis of race, religion, creed, color, national origin, sex, marital status, sexual orientation (including gender identity), age, genetic history, honorably discharged veteran or military status, the presence of any sensory, mental, or physical disability, the use of a trained dog guide or service animal by a person with a disability, or any other protected status, in compliance with applicable state and federal law.

**14. Act Consistent with Law:** The Parties will comply with all federal, state, and local laws applicable to their activities in the performance of this Agreement.

**15. Records:**

 **15.1 Retention:** The Parties will each maintain books, records, documents, and other evidence which sufficiently reflect all direct and indirect costs expended by either Party in the performance of this Agreement. These records will be subject to inspection, review, or audit by authorized personnel of both Parties, other personnel authorized in writing by either Party, the Office of the State Auditor, and federal officials authorized by law. All books, records, documents, and other material relevant to this Agreement will be retained for six (6) years after expiration or in accordance with any other applicable retention period imposed by any state or federal law, should any such law impose a retention period other than six (6) years. The Office of the State Auditor, federal auditors, and any persons authorized by the Parties will have full access and the right to examine any of these materials during the retention period.

 **15.2 Disclosure to Third Parties:** Records and documents, in any medium, furnished by one Party to the other Party, will remain the property of the furnishing Party, unless otherwise agreed. Except as required by law, the receiving Party will not disclose this material to a third party without first notifying the furnishing Party and giving it a reasonable opportunity to respond. Each Party will use reasonable security procedures and protections to assure that records and documents provided by the other Party are not erroneously disclosed to a third party.

 **15.3 Disclosure Through Public Records Request:** The Parties understand that WSU is a public entity subject to the Washington Public Records Act, RCW 42.56. If WSU receives a Public Records Act request for WSU’s records regarding this Agreement or actions taken under this Agreement, and WSU’s Public Records Officer either determines that no exemption to disclosure applies or is unable to determine whether an exemption to disclosure applies, WSU will notify [other party] of the request and the date that such records will be released to the requester unless [other party] obtains a court order enjoining that disclosure. If [other party] fails to obtain a court order enjoining disclosure, [other party] gives WSU full authority to release the records on the date specified, and [other party] understands it has thereby given up all rights to challenge the disclosure in any forum.

# 16. Termination:

#  16.1 Termination for Convenience: Either Party may terminate this Agreement for any reason upon at least [written number of days] ([##]) days prior written notification to the other Party. The Parties will be liable only for obligations incurred up to the date of such termination.

**16.2 Termination for Cause:** If either Party does not fulfill in a timely and proper manner its obligations under this Agreement, or if either Party materially violates any of these terms and conditions, the aggrieved Party will give the other Party written notice of such failure or violation. The responsible Party will be given the opportunity to correct the violation or failure within fifteen (15) business days. If the failure or violation is not corrected, this Agreement may be terminated immediately by written notice of the aggrieved Party to the other Party.

**16.3 Termination for Change in Funding:** In the event funding from state, federal, or other sources is withdrawn, reduced, or limited in any way after the Effective Date of this Agreement and prior to normal completion, WSU may terminate this Agreement without advance notice, subject to renegotiation under those new funding limitations and conditions.

**16.4 Obligations On Termination:** Upon notice of termination, Parties will use reasonable best efforts to revoke any financial obligations incurred and will avoid incurring any additional costs in connection with this Agreement. Parties will be compensated only for the deliverables or services actually performed, or reimbursed only for expenses actually and reasonably incurred, through the effective date of termination.

# 17. Amendments: This Agreement may be amended by mutual agreement of the Parties. Such amendment will be binding only if it is in writing and signed by personnel authorized to bind each of the Parties.

# 18. Dispute Resolution: If a dispute arises under this Agreement that the Parties cannot resolve, the dispute will be determined by a dispute panel in the following manner: each Party to this Agreement will appoint one member to the dispute panel. The members so appointed will jointly appoint one additional member to the dispute panel to make a panel of three members. The dispute board so constituted will review the facts, contract terms, and applicable statutes and rules and make a determination of the dispute. The determination of the dispute panel will be final and binding on the Parties. The Parties will share equally the costs, if any, for the services of the dispute panel.

**19**. **Hold Harmless:** Each Party to this Agreement shall be responsible for its own acts and/or omissions and those of its officers, employees, and agents in the performance of this Agreement. No Party to this Agreement shall be responsible for the acts and omissions of those entities or individuals not a Party to this Agreement.

**20. Insurance**: [Other party] agrees to obtain and/or maintain a general liability policy of insurance of at least one million dollars ($1,000,000) per occurrence, and two million dollars ($2,000,000) aggregate, during the time this Agreement is in effect. [Add other insurance requirements as applicable, e.g., property & casualty insurance, workers compensation, etc.]

**21. WSU Insurance/Tort Claims:** WSU and its officers, employees, and agents, while acting in good faith within the scope of their official WSU duties, are covered by the State of Washington Self-Insurance Program and the Tort Claims Act (RCW 4.92.060, et seq.), and successful claims against WSU and its employees, officers, and agents in the performance of their official WSU duties in good faith under this Agreement will be paid from the tort claims liability account as provided in RCW 4.92.130.

# 22. Governing Law and Venue: This Agreement will be governed by the laws of the State of Washington without regard to the conflict of law rules of any jurisdiction. Every dispute concerning this Agreement must be resolved in the applicable courts in Whitman County, State of Washington. The Parties agree to the exclusive personal jurisdiction, subject matter jurisdiction, and venue of these courts.

**23. Construction of Agreement:**

**23.1 Headings:** Headings in this Agreement are for convenience of reference and will not affect its interpretation.

**23.2 Joint Drafting:** This Agreement is a negotiated document and will be deemed to have been drafted jointly by the Parties, and no rule of construction or interpretation will apply against any particular Party based on the contention that the Agreement was drafted by the other Party.

**23.3 Conflicts:** In the event of an inconsistency in the terms of this Agreement, or between its terms and any applicable statute or rule, the inconsistency will be resolved by giving precedence in the following order:

23.3.1. Applicable state and federal statutes and rules;

23.3.2. Statement of work as set forth in Section 3 of this Agreement; and

23.3.3. Statement of work as set forth in Section 3 of this Agreement; and

# 24. Assignment: The work to be provided under this Agreement and any claim arising from this Agreement or performance of this Agreement is not assignable or delegable by either Party in whole or in part without the prior written consent of the other Party. Any assignment will be effective only if written, signed by the authorized representatives of each Party, and attached to this Agreement.

# 25. Notice: Any Notice required under this Agreement must be in writing, signed by the applicable Party, properly addressed to the contact person designated in this section, and: delivered in person, electronically or via facsimile to be effective upon receipt; delivered by recognized overnight courier service to be effective the next business day; or, deposited in the United States Postal Service mail, postage pre-paid, to be effective three (3) business days after mailing.

**For WSU:**

Name:

College or Department:

Address:

E-mail Address:

Telephone:

Fax Number:

**For** **[Vendor/Entity]:**

Name:

Address:

E-mail Address:

Telephone:

Fax Number:

**26. Force Majeure**: Neither Party will be considered in default or breach of this Agreement due to a delay or failure in performance caused by an event beyond the Party’s control, including, without limitation: an act of God; fire; war; flood; strike; riot; labor dispute; act of terrorism; national or public disaster; change in controlling law, order, or decree of governmental agency; or technical failure (including the failure of all or part of the equipment of others).If the delay continues for more than thirty (30) calendar days, or for such other period of time as the Parties shall agree in writing, the Party injured by the other’s inability to perform may terminate this Agreement with written notice.

**27. Severability:** If any provision of this Agreement is held invalid, such invalidity will not affect the other provisions of this Agreement which can be given effect without the invalid provision, if such remainder conforms to the requirements of applicable law and the fundamental purpose of this Agreement, and to this end the provisions of this Agreement are declared to be severable.

**28. Complete Agreement:** This Agreement, and the documents expressly incorporated in this Agreement, contains all the terms and conditions agreed upon by the Parties. No other understandings, oral or otherwise, regarding the subject matter of this Agreement will be deemed to exist or to bind any of the Parties.

**29. Waiver:** A failure by either Party to exercise its rights under this Agreement will not preclude that Party from subsequent exercise of such rights and will not constitute a waiver of any other rights under this Agreement unless stated to be such in a writing signed by an authorized representative of the Party and attached to the original Agreement.

**30.** **Survivability:** The sections in this Agreement that would, by their nature, survive the termination of this Agreement shall so survive.

**31. Counterparts:** Upon agreement by the Parties, (a) this Agreement may be executed in any number of counterparts which taken together will constitute a single instrument, and (b) execution and delivery of this Agreement may be evidenced by facsimile transmission, electronic transmission, transmission by mail, or transmission in person.

**32. Definitions*:*** *[as needed; delete entire section if unnecessary]*

**33. Incorporated Documents:** Each of the documents listed below is attached as an exhibit to this Agreement and by this reference, incorporated herein:

*[or, if supplementary documents are too voluminous or for another reason cannot practically be attached, substitute the following: “Each of the documents listed below is, by this reference, incorporated into this Agreement as though set out in full:”]*

 33.1 *[List documents/exhibits as necessary]*

 33.2

**34. Signatures:** The Parties affirm that the individuals signing this Agreement have been granted the authority to do so and by their signature affirm that the Parties will comply with the terms and conditions of this Agreement.

**Washington State University** **[other party]**

Recommended:

Name: Name:

Title: Title:

Date: Date:

Approved:

Name: Name:

Title: Title:

Date: Date: