Master Services Agreement

Between Trey Research and Bellows College

This Master Services Agreement (the "Agreement") is made and entered into as of April 20, 2024 (the "Effective Date") by and between Trey Research, a Delaware corporation with its principal place of business at 123 Main Street, Suite 100, Wilmington, DE 19801 ("Trey Research") and Bellows College, a nonprofit educational institution with its principal place of business at 456 College Avenue, Bellows, MA 02134 ("Bellows College"). Trey Research and Bellows College are each a "Party" and collectively the "Parties".

# 1. Scope of Services

1.1 Trey Research agrees to provide Bellows College with software development, consulting, and training services (the "Services") as described in one or more Statements of Work ("SOWs") that will be executed by the Parties from time to time. Each SOW will specify the scope, deliverables, schedule, fees, and payment terms for the Services to be performed under that SOW. Each SOW will be subject to and governed by the terms and conditions of this Agreement.

1.2 Trey Research will perform the Services in a professional and workmanlike manner, in accordance with the applicable industry standards and best practices, and in compliance with all applicable laws and regulations.

1.3 Trey Research will assign qualified personnel to perform the Services and will use reasonable efforts to maintain continuity of such personnel throughout the term of each SOW. Trey Research may replace or reassign any personnel at its discretion, provided that such replacement or reassignment does not adversely affect the quality or timeliness of the Services.

# 2. Fees and Expenses

2.1 Bellows College agrees to pay Trey Research the fees for the Services as set forth in each SOW. Unless otherwise specified in a SOW, Trey Research will invoice Bellows College monthly in arrears for the Services performed in the preceding month, and Bellows College will pay each invoice within 30 days of receipt.

2.2 In addition to the fees, Bellows College will reimburse Trey Research for all reasonable and necessary travel and out-of-pocket expenses incurred by Trey Research in connection with the performance of the Services, subject to Bellows College's prior written approval and receipt of appropriate documentation. Trey Research will invoice Bellows College for such expenses monthly in arrears, and Bellows College will pay each invoice within 60 days of receipt.

2.3 All fees and expenses are exclusive of any applicable taxes, which will be the responsibility of Bellows College, except for taxes based on Trey Research's income.

# 3. Term and Termination

3.1 This Agreement will commence on the Effective Date and will continue until terminated by either Party in accordance with this Section 3.

3.2 Either Party may terminate this Agreement for any reason or no reason upon 30 days' prior written notice to the other Party.

3.3 Either Party may terminate this Agreement immediately upon written notice to the other Party if the other Party: (a) breaches any material term or condition of this Agreement and fails to cure such breach within 15 days of receiving written notice of such breach; (b) becomes insolvent, files for bankruptcy, makes an assignment for the benefit of creditors, or ceases to do business in the ordinary course; or (c) violates any applicable law or regulation in the performance of its obligations under this Agreement.

3.4 Upon termination of this Agreement, all SOWs in effect as of the date of termination will automatically terminate, unless otherwise agreed by the Parties in writing. Termination of this Agreement or any SOW will not affect the rights and obligations of the Parties that accrued prior to the date of termination.

3.5 Upon termination of this Agreement or any SOW, Trey Research will promptly deliver to Bellows College all work product, materials, and deliverables that have been completed or are in progress as of the date of termination, subject to Bellows College's payment of all fees and expenses due to Trey Research under this Agreement or the applicable SOW.

3.6 The following sections of this Agreement will survive the termination of this Agreement: 4, 5, 6, 7, 8, 9, 10, 11, and 12.

# 4. Confidentiality

4.1 For the purposes of this Agreement, "Confidential Information" means any information, in any form or medium, that is disclosed by or on behalf of one Party (the "Disclosing Party") to the other Party (the "Receiving Party") and that is marked or designated as confidential, or that by its nature or the circumstances of its disclosure should reasonably be understood to be confidential. Confidential Information includes, without limitation, the terms and conditions of this Agreement, the SOWs, the work product, the deliverables, the business plans, the financial information, the technical information, the trade secrets, and the customer data of the Disclosing Party.

4.2 The Receiving Party agrees to: (a) use the Confidential Information of the Disclosing Party only for the purposes of performing its obligations or exercising its rights under this Agreement; (b) protect the Confidential Information of the Disclosing Party from unauthorized use, access, or disclosure using at least the same degree of care that it uses to protect its own confidential information, but in no event less than a reasonable degree of care; and (c) not disclose the Confidential Information of the Disclosing Party to any third party, except to its employees, contractors, agents, or advisors who have a need to know such Confidential Information for the purposes of this Agreement and who are bound by confidentiality obligations at least as restrictive as those in this Agreement.

4.3 The obligations of confidentiality under this Agreement do not apply to any information that: (a) was already known to the Receiving Party without restriction before receiving it from the Disclosing Party; (b) was independently developed by the Receiving Party without reference to or use of the Confidential Information of the Disclosing Party; (c) was lawfully obtained by the Receiving Party from a third party who was not under any obligation of confidentiality to the Disclosing Party; or (d) is or becomes publicly available through no fault or breach of the Receiving Party.

4.4 The Receiving Party may disclose the Confidential Information of the Disclosing Party to the extent required by law or court order, provided that the Receiving Party gives the Disclosing Party prior written notice of such disclosure and cooperates with the Disclosing Party to seek a protective order or other appropriate remedy.

4.5 Upon the termination of this Agreement or at the request of the Disclosing Party, the Receiving Party will return or destroy all Confidential Information of the Disclosing Party in its possession or control, except for copies that are required to be retained by law or for backup purposes. The Receiving Party will certify in writing its compliance with this section upon request.

# 5. Ownership of Work Product

5.1 Trey Research agrees that all work product and deliverables created or developed by Trey Research or its personnel in the course of performing the Services under this Agreement or any SOW (collectively, the "Work Product") are the sole and exclusive property of Bellows College.

5.2 Trey Research hereby assigns to Bellows College all right, title, and interest in and to the Work Product, including all intellectual property rights therein. Trey Research will execute and deliver any documents and take any actions that Bellows College may reasonably request to perfect, protect, or enforce Bellows College's rights in the Work Product.

5.3 Trey Research grants to Bellows College a non-exclusive, worldwide, royalty-free, perpetual, irrevocable license to use, copy, modify, distribute, and create derivative works of any pre-existing materials, software, or intellectual property that Trey Research incorporates or embeds into the Work Product, to the extent necessary for Bellows College to use the Work Product for its intended purposes.

# 6. Warranties and Disclaimers

6.1 Trey Research warrants that: (a) it has the right and authority to enter into this Agreement and to perform the Services; (b) it will perform the Services in a professional and workmanlike manner, in accordance with the applicable industry standards and best practices, and in compliance with all applicable laws and regulations; (c) the Work Product will conform in all material respects to the specifications and requirements set forth in the applicable SOW; and (d) the Work Product will not infringe or misappropriate any third party's intellectual property rights.

6.2 Bellows College warrants that: (a) it has the right and authority to enter into this Agreement and to receive the Services; (b) it will provide Trey Research with all information, cooperation, and assistance that Trey Research may reasonably request or require to perform the Services; and (c) it will not use the Services or the Work Product for any unlawful or prohibited purpose.

6.3 EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, THE SERVICES AND THE WORK PRODUCT ARE PROVIDED "AS IS" AND "AS AVAILABLE", WITHOUT ANY WARRANTIES OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE. TO THE FULLEST EXTENT PERMITTED BY LAW, TREY RESEARCH AND BELLOWS COLLEGE DISCLAIM ALL WARRANTIES, INCLUDING, BUT NOT LIMITED TO, THE WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, AND TITLE.

# 7. Limitation of Liability

7.1 IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, EXEMPLARY, OR PUNITIVE DAMAGES, INCLUDING, BUT NOT LIMITED TO, DAMAGES FOR LOSS OF PROFITS, REVENUE, BUSINESS, GOODWILL, DATA, OR USE, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, THE SERVICES, OR THE WORK PRODUCT, WHETHER SUCH LIABILITY ARISES FROM ANY CLAIM BASED ON CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY, OR ANY OTHER LEGAL THEORY, AND WHETHER OR NOT THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

7.2 THE AGGREGATE LIABILITY OF EACH PARTY TO THE OTHER PARTY FOR ALL CLAIMS ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, THE SERVICES, OR THE WORK PRODUCT, WHETHER IN CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY, OR ANY OTHER LEGAL THEORY, WILL NOT EXCEED THE TOTAL AMOUNT OF FEES PAID OR PAYABLE BY BELLOWS COLLEGE TO TREY RESEARCH UNDER THIS AGREEMENT DURING THE 12 MONTHS PRECEDING THE DATE ON WHICH THE CLAIM AROSE.

7.3 THE LIMITATIONS OF LIABILITY IN THIS SECTION 7 WILL NOT APPLY TO: (A) ANY BREACH OF SECTION 4 (CONFIDENTIALITY) OR SECTION 5 (OWNERSHIP OF WORK PRODUCT); (B) ANY INFRINGEMENT OR MISAPPROPRIATION OF A PARTY'S INTELLECTUAL PROPERTY RIGHTS BY THE OTHER PARTY; (C) ANY LIABILITY THAT CANNOT BE EXCLUDED OR LIMITED BY APPLICABLE LAW; OR (D) ANY OBLIGATION OF INDEMNIFICATION UNDER SECTION 9 (INDEMNIFICATION).

# 8. Indemnification

8.1 Trey Research agrees to indemnify, defend, and hold harmless Bellows College and its officers, directors, employees, agents, and affiliates from and against any and all claims, liabilities, damages, losses, costs, and expenses (including reasonable attorneys' fees) arising out of or relating to: (a) any breach or alleged breach by Trey Research of any representation, warranty, covenant, or obligation under this Agreement; or (b) any infringement or misappropriation of any third party's intellectual property rights by the Services or the Work Product, except to the extent that such infringement or misappropriation is caused by Bellows College's use of the Services or the Work Product in violation of this Agreement or the applicable SOW.

8.2 Bellows College agrees to indemnify, defend, and hold harmless Trey Research and its officers, directors, employees, agents, and affiliates from and against any and all claims, liabilities, damages, losses, costs, and expenses (including reasonable attorneys' fees) arising out of or relating to: (a) any breach or alleged breach by Bellows College of any representation, warranty, covenant, or obligation under this Agreement; or (b) any infringement or misappropriation of any third party's intellectual property rights by any materials, data, or information provided by Bellows College to Trey Research for the purposes of performing the Services, except to the extent that such infringement or misappropriation is caused by Trey Research's use of such materials, data, or information in violation of this Agreement or the applicable SOW.

8.3 The indemnified party will promptly notify the indemnifying party in writing of any claim for which indemnification is sought and will cooperate with the indemnifying party in the defense of such claim. The indemnifying party will have the sole and exclusive right to control the defense and settlement of any such claim, provided that it will not settle any claim without the prior written consent of the indemnified party, which consent will not be unreasonably withheld or delayed. The indemnified party will have the right to participate in the defense of any such claim at its own expense and with its own counsel.

# 9. Dispute Resolution

9.1 The Parties agree to use their best efforts to resolve any dispute, controversy, or claim arising out of or relating to this Agreement or the Services amicably and in good faith through negotiations between their authorized representatives.

9.2 If the Parties are unable to resolve any dispute, controversy, or claim arising out of or relating to this Agreement or the Services within 30 days of the initiation of such negotiations, then either Party may submit such dispute, controversy, or claim to binding arbitration administered by the American Arbitration Association ("AAA") under its Commercial Arbitration Rules. The arbitration will be conducted by a single arbitrator mutually agreed upon by the Parties, or, if the Parties fail to agree on an arbitrator within 10 days of the submission of the dispute, controversy, or claim to arbitration, by a single arbitrator appointed by the AAA. The arbitration will be held in Boston, Massachusetts, unless otherwise agreed by the Parties in writing. The arbitration will be conducted in the English language and will be governed by the Federal Arbitration Act, 9 U.S.C. §§ 1-16. The arbitrator will have the authority to award any remedy or relief that a court of competent jurisdiction could order or grant, including, without limitation, specific performance of any obligation created under this Agreement, the issuance of an injunction, or the imposition of sanctions for abuse or frustration of the arbitration process. The arbitrator will issue a written decision that includes the essential findings and conclusions on which the decision is based. The decision of the arbitrator will be final and binding on the Parties and may be enforced in any court of competent jurisdiction.

9.3 The Parties agree that any arbitration proceedings, and any information, documents, or materials exchanged or disclosed in connection with such proceedings, will be confidential and will not be disclosed to any third party without the prior written consent of the other Party, except as required by law or court order. The Parties further agree that the arbitration proceedings will be conducted on an individual basis and not as a class, collective, consolidated, or representative action. The Parties waive any right to participate in or join any class, collective, consolidated, or representative action involving any dispute, controversy, or claim arising out of or relating to this Agreement or the Services.

# 10. Notices

10.1 All notices, requests, consents, and other communications under this Agreement must be in writing and must be delivered by hand, by registered or certified mail (postage prepaid and return receipt requested), by reputable overnight courier (with tracking number and signature confirmation), or by email (with confirmation of receipt), to the addresses or email addresses set forth below, or to such other addresses or email addresses as the Parties may designate by notice in accordance with this section:

* If to Trey Research:
* Trey Research
* 123 Main Street, Suite 100
* Wilmington, DE 19801
* Attn: John Smith, CEO
* Email: john.smith@treyresearch.com
* If to Bellows College:
* Bellows College
* 456 College Avenue
* Bellows, MA 02134
* Attn: Jordan Mitchell, CIO
* Email: jordanm@bellows.edu

10.2 All notices, requests, consents, and other communications under this Agreement will be deemed to have been given and received: (a) if delivered by hand, on the date of delivery; (b) if mailed, on the date of receipt as indicated by the return receipt; (c) if delivered by overnight courier, on the date of receipt as indicated by the tracking number and signature confirmation; or (d) if delivered by email, on the date of confirmation of receipt.

# 11. General Provisions

11.1 This Agreement, together with the SOWs, constitutes the entire agreement between the Parties with respect to the subject matter hereof and supersedes all prior or contemporaneous agreements, understandings, representations, or communications, whether written or oral, relating to the same subject matter.

11.2 This Agreement may not be amended, modified, or supplemented except by a written instrument signed by both Parties.

11.3 This Agreement may not be assigned or transferred by either Party without the prior written consent of the other Party, except that either Party may assign this Agreement to an affiliate or to a successor in interest in connection with a merger, acquisition, reorganization, or sale of all or substantially all of its assets or business to which this Agreement relates. Any attempted assignment or transfer in violation of this section will be null and void. Subject to the foregoing, this Agreement will be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns.

11.4 This Agreement will be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts, without regard to its conflicts of laws principles.