Cal Poly Corporation

Independent Contractor Services Agreement

This Services Agreement (“Agreement”) is effective as of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, between the Cal Poly Corporation ("CPC"), with principal office at Building 1, Cal Poly State University, San Luis Obispo, CA 93407, and the independent contractor, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (“\_\_\_\_\_\_\_\_\_\_\_” or “Contractor”), \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, in support of California Polytechnic State University (“University”). CPC is a nonprofit corporation whose mission is to provide support services to University. The University is not authorized to enter into any contract, lease or other arrangement in CPC’s name, or for CPC’s account, or by which CPC would be legally bound or held liable.

1. **Term.** The term of this Agreement shall commence per the dates stated in Schedule A: Statement of Work and terminate upon completion of the work, or the termination date, set forth in Schedule A, unless terminated sooner in accordance with Section 11 Termination of this Agreement.
2. **Scope of Services.** Contractor agrees to provide the CPC with \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ for (College/Department) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (“Services”), as requested by CPC. Such Services will more specifically consist of the work identified in the attached Schedule A: Statement of Work.
3. **Compensation for services and expenses.**  In consideration of the Services provided by Contractor, CPC agrees to reimburse Contractor in accordance with fees for services and expenses as set forth in the Schedule A: Statement of Work.
   1. **Invoices.** Contractor shall submit detailed invoices for all services rendered.
   2. **Costs.** Contractor shall be responsible for all costs and expenses incident to the performance of services for CPC as outlined in Schedule A: Statement of Work, including but not limited to, all costs of equipment provided by Contractor, all employee, agent, and subcontractor costs, all fees, fines, licenses, bonds, or taxes required or imposed against Contractor or Contractor's employees, agents or subcontractors and all other of Contractor's costs of doing business.
      1. Unless otherwise specified herein, CPC shall not be responsible for any expenses incurred by the Contractor in the performance of services under this Agreement. If the CPC agrees to reimburse any costs, the costs must be reasonable and will be reimbursed at actual costs, and only for expenses for which receipts are submitted. Travel expense reimbursement is per CPC policy and procedures, unless otherwise agreed. All expenses and purchases will be expended per CPC policy and procedures.
   3. **Tools.** Contractor will supply all tools and instruments required to perform the services under this Agreement. Contractor is not required to purchase or rent any tools, equipment or services from CPC.
4. **Independent Contractor relationship.** Contractor’s relationship to CPC shall be that of an independent contractor and Contractor shall not represent to any third party that its relationship is otherwise. No relationship of employer and employee, principal and agent, partnership or joint venture with CPC or University is created hereby.
   1. Contractor shall assume all of the rights, obligations and liabilities attributable to it as an independent contractor, including the control, direction, supervision and payment for any agents, subcontractors, or employees of Contractor in performance of the Services.
   2. Contractor will determine the method, details and means of performing the Services, and CPC shall have no right to, and shall not, control the manner or determine the method of accomplishing Contractor’s services. CPC does, however, retain complete and exclusive authority to control and dictate the outcome and deliverables of the Services.
   3. As the CPC is not the employer of Contractor, CPC will not pay or withhold income taxes or other payroll taxes of any kind on behalf of the Contractor or its employees or subcontractors.
   4. Contractor shall have only the authority expressly granted by this Agreement. Except as expressly provided in this Agreement, Contractor is not authorized to enter into any contract, lease or other arrangement in CPC’s or University’s name, or for CPC’s or University’s account or by which CPC or University would be legally bound or held liable.
5. **Services Standards.** Contractor affirms that Contractor has the appropriate skill and experience to provide the Services requested by CPC. Contractor shall perform the work diligently and consistent with professional skill and care and the orderly progress of the Work. Time is of the essence in this Agreement. Contractor’s Services will be performed to CPC’s reasonable satisfaction and be in accordance with sound professional practices and standards. Contractor’s Services will be performed in strict compliance with all federal, provincial/state and local laws, regulations and ordinances.
6. **Payment.** CPC shall pay the amount due and not disputed within thirty (30) days of receipt of an invoice, which invoice is anticipated to be sent to the CPC at least monthly for completed work. In the event an amount is disputed, CPC may withhold payment for such amount, and the parties agree to promptly negotiate in good faith to resolve the dispute. CPC shall pay any disputed amounts promptly upon the resolution of such dispute is such amounts are found to be valid.
7. **Change orders for Services or the costs.** Any changes CPC requests to the work in Schedule A: Statement of Work must be in writing. Contractor must then provide CPC with a cost estimate and the parties must agree in writing to the changes and to the cost of the change. Such change documents (“Change Order”) will become part of this Agreement. Any changes in costs to be paid by CPC must be agreed upon in writing by the parties. CPC is not liable for charges for work beyond the scope of this Agreement that are not set forth in a Change Order per this provision.
8. **Ownership of work product.** Originals of all drawings, specifications, reports, records, documents and other materials whether in hard copy or electronic form that is prepared by Contractor, its employees, subcontractors or agents in the performance of this Agreement, shall be the property of CPC and shall be delivered to CPC upon the termination of this Agreement, or upon the earlier request of CPC. Contractor shall have no claim for further engagement or additional compensation as a result of the exercise by CPC of its full rights of ownership of the documents and materials hereunder. Contractor may retain copies of such documents for its own use. The drawings, specifications, reports, records, documents and other materials prepared by Contractor in the performance of services under this Agreement shall not be released publicly without the prior written approval of CPC or as required by law.
9. **Confidentiality.** All data and information submitted or made available to Contractor by CPC, University or any other person while working on this project, unless otherwise publicly available, and all data and information and other work developed by Contractor under this Agreement (“Confidential Information”) shall be utilized by Contractor in connection with this Agreement only. Except as required otherwise by law, such Confidential Information shall not be made available by Contractor to any other person without the prior written consent of CPC, which consent shall not be unreasonably withheld.
   1. “Confidential information” shall include any information that is proprietary or competitively sensitive other than any information which:
      1. Is known to the party to which disclosure is made at the time of the disclosure or
      2. Is or becomes known to the public generally through no fault or other action of the party to which disclosure is made, or
      3. Is obtained lawfully from a third party who is not known by the party to which disclosure is made to be have obtained such information directly or indirectly from the disclosing party, or
      4. is developed by employees, agents or representative of the party to which disclosure is made as a result of their own efforts and not as a direct or indirect result of the disclosure of the same information by the disclosing party.
   2. Contractor shall not disclose to any other entity or person any information regarding the activities of CPC, except as required by law or as authorized by CPC. Further, neither Contractor nor its employees, agents or subcontractors thereof shall utilize the aforementioned information for pecuniary gain not contemplated by the terms of this Agreement, regardless of whether or not the Agreement is in effect at the time such gain is realized. CPC shall not disclose to any other entity or person any information regarding the activities of Contractor that Contractor has designated in a written notice to CPC to be confidential, except as required by law or as authorized by Contractor.
10. **Indemnification.** Contractor shall indemnify and hold harmless Cal Poly Corporation, California Polytechnic State University, and the Trustees of the California State University, and all directors, officers, employees, volunteers and agents, against any and all liability, personal or otherwise, however imposed or claimed, including attorney's fees and other legal expenses, and claims of infringement of intellectual or other property rights, arising out of or in connection with the Services or this Agreement, except such loss or damage that was caused by the negligence or willful misconduct of CPC .
11. **Termination.**
    1. **Termination by CPC.** CPC may terminate this Agreement at any time without cause, upon submitting notice of termination to Contractor. Upon notice of termination, Contractor shall not commence new work, but shall complete any work previously approved by CPC and that CPC specifically requests completion upon termination of this Agreement, for which CPC shall be responsible for and shall pay within 30 days of receipt of approved invoices for such work.
    2. **Termination by Contractor.** The Contractor may terminate this Agreement at any time without cause upon thirty (30) days’ written notice to the CPC. The obligations imposed by Sections 9 Confidentiality and Section 10 Indemnification of this Agreement, as well as any licenses granted, hereunder shall survive termination under this Agreement.
12. **Insurance.** Unless otherwise agreed in writing by CPC, Contractor shall maintain the following insurance in full force and effect for the duration of this Agreement, unless otherwise agreed to in writing by CPC:
    1. **Liability insurance.** Automobile and liability insurance with an insurance carrier satisfactory to CPC, which insurance shall include protection against claims arising from personal injury, including death resulting therefrom, and damage to property resulting from any actual occurrence arising out of performance of this Agreement. The amount of insurance shall not be less than single limit coverage applying to bodily and personal injury including death resulting therefrom, and property damage or a combination thereof in an amount not less than $1,000,000.
       1. The following endorsements will be attached to the policy or policies:
          1. The policy shall cover on a “per occurrence” basis, not on an "accident" basis.
          2. The policy will cover personal injury as well as bodily injury.
          3. Broad form property damage liability will be afforded.
          4. CPC, University, its members, manager, employees, agents, and consultants shall be named as additional insureds under the policy. The policy shall stipulate that the insurance will operate as primary insurance and that no other insurance effected by CPC or University will be called upon to contribute to a cost thereunder.
          5. The policy shall provide for contractual liability, either on a blanket basis or by identifying this Agreement, within a contractual liability endorsement.
          6. CPC shall be given thirty days notice prior to cancellation or reduction in coverage of the insurance.
          7. Contractor will provide a certified copy of each policy per to CPC for review and acceptance.
    2. **Worker's Compensation Insurance.** In accordance with the provisions of Section 3700 of the California Labor Code, Contractor shall be insured against liability for Workers' Compensation or hold self-insurance for health insurance and provide proof upon request to CPC. Contractor agrees to comply with such provisions before commencing any work under this Agreement.
    3. **Automobile Liability.** Service Provider will provide proof of automobile insurance for ownership, maintenance and/or use of Automobiles, including coverage for uninsured and underinsured motorists if the work includes the use of a personal automobile. (Business Auto insurance is required on Contractor-owned or operated commercial vehicles or any business-owned or operated vehicles of Contractor and used on the University campus.)
    4. **Additional Insured.** Additional Insured Endorsements. Service Provider may be required to provide an additional insured endorsement for the General Liability policy, and if Business Automobile insurance is required, for the business insurance coverage. The additional insureds are to be named as follows:

Cal Poly Corporation, California Polytechnic State University, the Trustees of California State University, the directors, employees, officers, and volunteers with respect to liability arising out of work or operations performed by or on behalf of Service Provider, including materials, parts or equipment furnished in connection with such work or operations.

1. **General Terms and Conditions.**
   1. **Non-discrimination/Affirmative Action.** Contractor agrees to maintain a work environment free of discriminatory practices and to comply with all applicable Federal, State and local non-discrimination/affirmative action laws.
   2. **Drug-Free Workplace.** Contractor agrees to maintain a drug-free workplace and remain in compliance with the Drug-Free Workplace Act of 1988 and any subsequent amendments thereto.
   3. **Americans With Disabilities.** Contractor agrees to remain in compliance with the Americans With Disabilities Act of 1990, and any subsequent amendments thereto.
   4. **Modification.** This Agreement may only be modified by a written amendment, expressly stated as such, that is signed by authorized representatives of both parties.
   5. **Assignment.** Contractor shall not assign or transfer this Agreement or any interest herein without the prior written consent of CPC.
   6. **Subcontracting.** The rights or duties of this Agreement may not be assigned or delegated by Contractor, nor may Contractor retain subcontractors, without the prior written consent of CPC. The subcontractors and their employees shall function as subcontractors to Contractor, not as parties to any contract with CPC for the work described herein.
   7. **Nonwaiver.** Failure of either party to exercise any of its rights under this Agreement on one occasion shall not waive its right or exercise the same on another occasion.
   8. **Force Majeure.** Neither party to this Agreement shall be responsible for any delays or failure to perform any provision of this Agreement due to acts of God, strikes or other disturbances, war, insurrection, embargoes, governmental restrictions, acts of governments or governmental authorities, or other causes beyond the control of such party.
   9. **Notices.** Any notice, invoice, requests, approval or consent specifically provided for or permitted to be given under this Agreement must be in writing and delivered in person or sent via U.S. mail, overnight carrier or facsimile to the aforementioned addresses.
   10. **Severability.** If any provision of this Agreement is held invalid, such invalidity shall not affect other provisions of this Agreement. The parties agree to promptly negotiate in good faith to modify such invalid provision consistent with the intent and spirit of this Agreement.
   11. **Venue and Law.** The laws of the State of California will govern this Agreement. Should either party institute legal suit or action arising out of this Agreement, it is stipulated that the venue of such suit or action shall be in San Luis Obispo County, California.
   12. **Entire Agreement.** This Agreement incorporates by reference Schedule A Statement of Work, and constitutes the entirety of the agreement between Contractor and CPC, unless otherwise modified by the parties in writing and signed by both parties. Some provisions may require more specificity, such as deliverables and Services, and the parties agree to negotiate in good faith to detail these provisions for written modification of this Agreement.

IN WITNESS WHEREOF, this Agreement has been executed by duly authorized representatives of the parties.

Cal Poly Corporation

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Starr Lee

Associate Executive Director,

Administration & Legal Affairs

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Date

Concurrence:

CPC Project Manager

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Dept head/College Title\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Date

Contractor

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Printed Name\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Title\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Date

**Contact Information for Contractor lead (if Contractor is a company)**

Printed Name\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Phone Number\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Email \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

SCHEDULE A

**STATEMENT OF WORK**

This is an addendum to Independent Contractor Agreement effective (date) \_\_\_\_\_\_\_\_\_\_\_\_ between Cal Poly Corporation and Contractor (name)\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Term of this Statement of Work is from \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_to\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

(May be up to 2 years as a master agreement)

Project Name:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Project Duration:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Amount: *Fixed amount of\_\_\_\_\_\_\_\_\_\_* ***OR*** *not to exceed\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ ; and not to exceed \_\_\_\_\_\_\_\_\_\_\_\_ in travel expenses; and not to exceed \_\_\_\_\_\_\_\_\_\_\_\_ for other expenses,* ***for total not to exceed*** *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.*

1. The Project Manager for CPC is: (Dept/College person) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, phone/contact info\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.
2. The Project Manager for Contractor is (name)\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, phone/contact email

for Contractor\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

1. All work is billed on monthly basis based on\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

*(Per month?, Hours worked? Actual ? Add details).* Billing for Contractor for the project will include labor, materials, overhead and profit, use of equipment, any costs of employment by Contractor, and cost of insurance.

1. Check here if applicable:  Other services or expenses shall not exceed $\_\_\_\_\_\_\_\_\_\_\_\_\_, and include out of pocket expenses that are not part of normal overhead expenses of Contractor such as postage, newswires, clipping services, video duplication, graphics services, publications research, and messenger services on an actual cost basis. Any expense that will exceed *$150* will be pre-approved by the CPC Project Manager prior to expenditure by the Contractor.
2. Travel between Service Provider's office and the Project Site, to be billed at cost, and not to exceed $\_\_\_\_\_\_\_\_\_\_\_\_\_, with travel expense reimbursement per CPC policy and procedures, unless otherwise agreed prior to travel.
3. Project Site(s) are *Contractor site and* \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.
4. Contractor agrees to perform the following service(s) (Indicate below if a description of services is

attached)\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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This agreement may not be automatically renewed or extended. An addendum for an extension of the project description or term may be agreed upon by the parties based on a specific task description and fee schedule, and may include additions or modifications to the scope of this agreement.

CPC Project Manager

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Dept head/College Title\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Date

Contractor

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Printed Name\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Title\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Date