

**LION SPORTS PROPERTIES**

**ATHLETIC PARTNERSHIP PROPOSAL**

This agreement is by and between Texas A&M University-Commerce, a member of the Texas A&M University System, an Agency of the State of Texas, (hereafter referred to as “University”) and **VENDOR** (hereafter referred to as “**VENDOR**”). It is primarily an agreement for **VENDOR** to partner and occupy advertising space on the University’s Commerce, Texas campus. Further, as part of this agreement, the University shall provide to **VENDOR** advertising through various mediums and contact points, as outlined in this agreement.

**I. Brand Exposure Elements**

**DIGITAL SIGNAGE**

**VENDOR** will receive:

**PROGRAM ADVERTISING**

**VENDOR** will receive:

**PUBLIC ADDRESS RECOGNITION**

**VENDOR** will receive:

**II. VENDOR Investment**

* **$\_\_\_\_\_\_\_\_\_\_\_\_ during each year of the agreement.**

SIGNAGE: All signage will be agreed upon by both parties and produced at the expense of VENDOR (including but not limited to all artwork, production, shipping, and installation charges).

**III. Principles of Agreement**

**Abandonment or Default**

If the VENDOR defaults on the Agreement, the University reserves the right to cancel the Agreement without notice. In the event of abandonment or default, VENDOR will be responsible for paying damages to the University including but not limited to re-procurement costs, and any consequential damages to the State of Texas or the University resulting from VENDOR’s non-performance.

**Agency of the State of Texas**

The University is an agency of the State of Texas and nothing in this Agreement waives or relinquishes the University’s right to claim any exemptions, privileges, and immunities as may be provided by law.

**Amendments**

This agreement may be amended only upon written agreement between the University and **VENDOR**; however, any amendment of this Agreement that conflicts with the laws of the State of Texas shall be void ab initio.

**Assignments**

Without the prior written consent of the University, **VENDOR** may not assign this Agreement, in completely or in part, and may not assign any right or duty required under it.

**Dispute Resolution Process**

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, shall be used by A&M-Commerce and **VENDOR** to attempt to resolve any claim for breach of Agreement made by **VENDOR** that cannot be resolved in the ordinary course of business. **VENDOR** shall submit written notice of a claim of breach of Agreement under this Chapter to the President and CEO, who shall examine **VENDOR** claim and any counterclaim and negotiate with **VENDOR** in an effort to resolve the claim.

**Force Majeure**

Neither **VENDOR** nor the University shall be liable to the other for any delay in, or failure of performance, of any requirement included under this agreement caused by force majeure. The existence of such causes of delay or failure shall extend the period of performance until after the causes of delay or failure have been removed provided the non-performing party exercises all reasonable due diligence to perform. Force majeure is defined as acts of God, war, fires, explosions, hurricanes, floods, failure of transportation, or other causes that are beyond the reasonable control of either party and that by exercise of due foresight such party could not reasonably have been expected to avoid, and which, by the exercise of all reasonable due diligence, such party is unable to overcome. Each party must inform the other in writing, with proof of receipt, within three (3) business days of the existence of such force majeure, or otherwise waive this right as a defense.

**Governing Law and Venue**

The substantive laws of the State of Texas (and not its conflicts of law principles), USA, govern all matters arising out of or relating to this Agreement and all of the transactions it contemplates. Pursuant to Section 85.18 (b), Texas Education Code, venue for a state court suit filed against The Texas A&M University System, any member of The Texas A&M University System, or any officer or employee of The Texas A&M University System is in the county in which the primary office of the chief executive officer of the system or member, as applicable, is located. At execution of this Agreement, such county is Hunt County, Texas. Venue for any suit brought against The Texas A&M University System in federal court must be in the Houston Division of the Southern District of Texas.

**Indemnification**

**VENDOR agrees to indemnify and hold harmless the University from any claim, damage, liability, expense or loss to the extent arising out of VENDOR’s negligent or willful errors or omissions under this Agreement.**

VENDOR shall also indemnify, save and hold harmless the State of Texas and the University from and against claims of patent, trademark, copyright, trade secret or other proprietary rights, violations or infringements arising from the State’s or VENDOR’s use of or acquisition of any services or other items provided to the State of Texas by VENDOR or otherwise to which the State of Texas has access as a result of VENDOR’s performance under this Agreement

The University shall notify VENDOR of any such claim within a reasonable time of the University’s receiving notice of any such claim. If VENDOR is notified of any claim subject to this section, VENDOR shall notify the University of such claim within five (5) business days of such notice. No settlement of any such claim shall be made by VENDOR without the University prior written approval and all settlement negotiations shall be in consultation with the Office of the Attorney General. VENDOR shall reimburse the State of Texas for any claims, damages, losses, costs, expenses, judgments or any other amounts, including, but not limited to, attorneys' fees and court costs, arising from any such claim. VENDOR shall pay all reasonable costs of the State’s counsel and shall also pay costs of multiple counsel, if required to avoid conflicts of interest.

**Independent Contractor**

VENDOR or VENDOR’s employees, representatives, agents and any subcontractors shall serve as an independent contractor in providing the services under this Agreement. VENDOR or VENDOR’s employees, representatives, agents and any subcontractors shall not be employees of the University. Should VENDOR subcontract any of the services required in this Agreement, VENDOR expressly understands and acknowledges that in entering into such subcontract(s), the University is in no manner liable to any subcontractor(s) of VENDOR. In no event shall this provision relieve bidder of the responsibility for ensuring that the services rendered under all subcontracts are rendered in compliance with this Agreement.

**Public Information**

(a) **VENDOR** acknowledges that the University 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.

(b) Upon University’s written request, **VENDOR** will provide specified public information exchanged or created under this Agreement that is not otherwise excepted from disclosure under chapter 552, Texas Government Code, to the University in a non-proprietary format acceptable to the University. As used in this provision, “public information” has the meaning assigned Section 552.002, Texas Government Code, but only includes information to which University has a right of access.

(c) **VENDOR** acknowledges that the University may be required to post a copy of the fully executed Agreement on its Internet website in compliance with Section 2261.253(a)(1), Texas Government Code.

**Term of Agreement**

The term of this agreement shall be for one (1) fiscal year “Initial Term” commencing on September 1, 2017 and ending on August 31, 2018.

**Terms of Payment**

As payment for benefits set forth in this agreement, **VENDOR** shall provide to the University the amount of $\_\_\_\_\_\_\_\_\_\_ (Dollar Amount) in cash each year for advertising. The first payment will be due upon execution of the Agreement and each subsequent payment, if applicable, will be due on or before the 1st of each fiscal year for the term of the Agreement.

**Termination**

(a) Convenience

The University may, in its sole discretion, terminate this Agreement upon thirty (30) days’ written notice to VENDOR. Such notice may be provided by facsimile or certified mail return receipt requested and is effective upon VENDOR’s receipt. In the event of such termination, the VENDOR shall, unless otherwise mutually agreed upon in writing, cease all work immediately upon the effective date of termination. University shall be liable only for payments for any goods or services ordered from the VENDOR before the termination date.

(b) Cause/Default

In the event of substantial failure by VENDOR to perform in accordance with the terms of this Agreement, the University may terminate this Agreement upon fifteen (15) days written notice of termination setting forth the nature of the failure (the termination shall not be effective if the failure is fully cured prior to the end of the fifteen-day period), provided that said failure is through no fault of the University.

(c) Rights upon Termination or Expiration

In the event that the Agreement is terminated for any reason, or upon its expiration, the University shall retain ownership of all associated work products and documentation obtained from VENDOR under the Agreement. Further, the University and the State of Texas shall not be liable to VENDOR for any damages, claims, losses, or any other amounts arising from or related to any such termination. However, VENDOR may be entitled to the remedies provided in Texas Government Code, Chapter 2260. No later than the first calendar day after the termination of this Agreement, or at the University request, VENDOR shall deliver to the University all completed, or partially completed, work and any and all documentation or other products and results of these services.

IN WITNESS WHEREOF, the parties hereto have entered into this Agreement as of the date first signed or the first day of the Initial Term, whichever is sooner.

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**Tim McMurray Date [INSERT NAME] Date**

Director of Athletics Owner

Texas A&M University-Commerce VENDOR

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**Dr. Brian McGinley Date Date**

Assistant Director of Procurement Services

Texas A&M University-Commerce