

**INCENTIVES AGREEMENT
SEGUIN ECONOMIC DEVELOPMENT CORPORATION AND
TEXAS STATE TECHNICAL COLLEGE**

This Incentives Agreement (this “Agreement”) is entered into to be effective as of the Effective Date (as defined in Article III below), by and between the Seguin Economic Development Corporation, located in Guadalupe County, Texas, a Texas non-profit industrial development corporation under the Development Corporation Act and governed by TEX. LOC. GOV. CODE chapters 501, 502 and 504 and the Texas Non-Profit Corporation Act (hereinafter sometimes called “SEDC”), created by, and for the benefit of the City of Seguin, Texas (hereinafter the called the “City”), and Texas State Technical College, a coeducational two-year institution of higher education and an agency of the State of Texas, acting by and through its Chancellor or their designee (hereinafter sometimes called “TSTC”). The SEDC and TSTC hereinafter may be referred to individually as a “Party” or collectively as the “Parties” to this Agreement.

RECITALS

WHEREAS, the Development Corporation Act of 1979, as amended (Section 501.001 et seq, Texas Local Government Code, formerly the Development Corporation Act of 1979) (the “Act”) authorizes a development corporation to fund certain projects as defined by the Act; and

WHEREAS, Texas State Technical College provides courses of study in technical vocational education, with an emphasis on advanced or emerging technical programs not commonly offered by public junior colleges; and

WHEREAS, the Federation for Advanced Manufacturing Education Advanced Manufacturing Technician Program (“AMT Program”) is a nationally-recognized apprenticeship program that leverages a work/learn framework to weave technical knowledge, professional behaviors and distinct manufacturing core exercises into a focused co-op experience to build global-best, entry-level, multiskilled maintenance technicians; and

WHEREAS, the Texas Federation for Advanced Manufacturing Education (“TX FAME”) is a partnership of regional manufacturers whose purpose is to implement dual-track, apprenticeship-style training that will create a pipeline of highly-skilled workers; and

WHEREAS, The TX FAME Lone Star Chapter, the State’s third FAME Chapter, was founded by thirteen New Braunfels and Seguin regional employers who will actively sponsor students through the program starting in the Fall of 2023; and

WHEREAS, on November 11, 2022, the Lone Star Chapter and TSTC entered into an Off—Campus Workforce Education Agreement (attached hereto and marked as Exhibit 1), pursuant to §51.981 of the Texas Education Code, wherein TSTC is provide the educational component for the AMT Program to the Lone Star Chapter, and the Lone Star Chapter is to secure, provide or purchase all equipment as outlined in the Off—Campus Workforce Education Agreement, and, all of which will be undertaken out of the Central Texas Technology Center (CTTC) in New Braunfels (the “Project”); and

WHEREAS, TSTC is seeking a Performance-Based Cash Grant from the SEDC to help offset certain costs associated with the acquisition of equipment necessary for the successful establishment of the Project; and

WHEREAS, Texas Local Government Code §501.105 authorizes the SEDC to provide financial incentives to TSTC pursuant to the Performance-Based Cash Grant, for the purchase of new equipment required to support and start up the TX FAME Lone Star Chapter AMT Program, the total equipment costs of which are estimated to range from \$2.2 to \$2.5 million; and

WHEREAS, such financial incentives are in addition to financial commitments by local industry partners, totaling approximately \$200,000.00; and

WHEREAS, the SEDC is also pursuing a High Demand Job Training (HDJT) Program Grant in the amount of up to \$150,000.00, with the SEDC committing to leverage funding up to \$150,000.00; and

WHEREAS, the New Braunfels Economic Development Corporation (NBEDC) is also committing to leverage funding up to \$150,000.00 in conjunction with the SEDC's pursuit of a High Demand Job Training (HDTJ) Program Grant; and

WHEREAS, notwithstanding the anticipated industry partner financial commitments and grants described supra, funding is still needed in the approximate amount of \$1,661,881.37 to purchase the equipment necessary for the Project; and

WHEREAS, both the SEDC and the NBEDC are proposing financial incentive Agreements with TSTC, for the purchase of equipment for the Lone Star Chapter AMT Program, in a total amount not to exceed \$1,661,881.37, and which will be paid to TSTC on a reimbursement basis after TSTC purchases the equipment up front and meets certain performance obligations over the term of the agreement. Total SEDC financial participation for this project will not exceed \$830,940.69, or one-half of the total amount; and

WHEREAS, the Parties are executing and entering into this Agreement to set forth certain terms and obligations of the Parties; and

WHEREAS, the Parties recognize that all agreements of the Parties hereto and all terms and provisions hereof are subject to the laws of the State of Texas and all rules, regulations and interpretations of any agency or subdivision thereof at any time governing the subject matters hereof; and

WHEREAS, the Parties agree that all conditions precedent for this Agreement to become a binding agreement have occurred and been complied with, including all requirements pursuant to the Texas Open Meetings Act and all public notices and hearings; if any, have been conducted in accordance with Texas law; and

WHEREAS, on the Effective Date, the commitments contained in this Agreement shall become legally binding obligations of the Parties.

NOW, THEREFORE, in consideration of the mutual covenants, benefits and agreements described and contained in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged and further described herein, the Parties agree as follows:

ARTICLE I RECITALS

1. Recitals. The recitals set forth above are declared true and correct by the Parties and are hereby incorporated as part of this Agreement.

ARTICLE II AUTHORITY AND TERM

1. Authority. The SEDC's execution of this Agreement is authorized by the Act and constitutes a valid and binding obligation of the SEDC. TSTC's execution of this Agreement is authorized by the appropriate authority and constitutes a valid and binding obligation of TSTC.

2. Term. This Agreement shall become enforceable upon the Effective Date, hereinafter established, and shall continue until the Expiration Date, hereinafter established, unless terminated sooner or extended by written mutual agreement of the Parties in the manner provided for herein.

3. Purpose. The purpose of this Agreement is to formalize the agreements between TSTC and the SEDC and specifically state the covenants and representations of the Parties, and the incentives associated with TSTC's commitment to abide by the provisions of the Act and to abide by the terms of this Agreement which has been approved by the SEDC and TSTC as complying with the specific requirements of the Act. It is expressly agreed that this Agreement constitutes a single transaction.

4. Administration of Agreement. Upon the Effective Date, the SEDC delegates the administration and oversight of this Agreement to the Executive Director of the SEDC. Any proposed amendments to the Agreement shall require the approval of the Board of Directors of the SEDC.

ARTICLE III DEFINITIONS

As used in this Agreement, the following terms shall have the meanings ascribed below. All undefined terms shall retain their usual and customary meaning as ascribed by common and ordinary usage.

"Compliance Reporting Form" shall mean the certification by TSTC on a form provided by the SEDC that the obligations outlined within this Agreement have been fulfilled.

“Effective Date” shall be the date of the last signing by a Party to this Agreement.

“Equipment” shall mean all of the equipment listed under Exhibit B of the Off—Campus Workforce Education Agreement (attached as Exhibit 1) as may be amended from time to time.

“Expiration Date” shall mean the date of termination provided for under Article VII of this Agreement.

“Force Majeure” shall mean any contingency or cause beyond the reasonable control of a Party, including, without limitation, natural disasters or other acts of God or the public enemy, war, riot, civil commotion, insurrection, government or de facto governmental action, fires, explosions, floods, strikes, lock-outs, slowdowns, work stoppages, unusual and unforeseeable delay that results from an interruption or failure of any public utilities, (e.g., electricity, gas, water), terrorism, bioterrorism, pandemic or epidemic.

“Performance-Based Cash Grant” or “PBC Grant” shall have the meaning set forth in Article V, Section 1.

ARTICLE IV PERFORMANCE OBLIGATIONS OF TSTC

The obligation of the SEDC to pay funds from the PBC Grant shall be conditioned upon TSTC’s continued compliance with and satisfaction of each of TSTC’s obligations under this Article IV (the “Performance Obligations”).

1. TSTC shall (a) provide all equipment under the Off—Campus Workforce Education Agreement and (b) provide to the SEDC proof of purchase of equipment and installation costs under the Off—Campus Workforce Education Agreement, as shown in Exhibit B;
2. TSTC shall provide training and workforce education pursuant to the Off-Campus Workforce Education Agreement (attached as Exhibit 1);
3. TSTC shall comply with Federal, State, and Local laws, rules and guidelines;
4. TSTC shall submit the Compliance Reporting Form, along with receipts and other documentation which may be required by the SEDC to confirm the purchase of equipment referenced in this Agreement; and
5. Any funds not encumbered or used for this project shall be returned to the SEDC.

Payment of Legal Fees. Each Party shall bear its own legal fees in connection with the negotiation of this Agreement. TSTC commits to reimburse the SEDC for the necessary legal fees in the preparation of any amendment to this Agreement, if and when such amendment is requested by TSTC. Timely payment shall be made within sixty (60) days of submittal of invoice to TSTC by the SEDC or its assigns. SEDC commits to reimburse TSTC for the necessary legal fees in the preparation of any amendment to this Agreement, if and when such amendment is requested by the SEDC. Timely payment shall be made within sixty (60) days of submittal of invoice to the SEDC by TSTC.

**ARTICLE V
SEDC OBLIGATIONS**

1. PBC Grant. Subject to the conditions provided herein, and beginning with the Fall 2023 semester, if TSTC fulfills each of the requirements specified in Article IV, SEDC shall release incremental portions of the PBC Grant funds, which total **\$830,940.69**, to TSTC after the start of each semester for the AMT Program Cohort 1, and in accordance with the following schedule:

- (a) Distribution 1 – A cash grant in the amount of **\$207,735.17** shall be paid to TSTC at the beginning of the Fall 2023 semester, and no later than 30 days following the receipt by the SEDC of the Compliance Reporting Form certifying that TSTC has started Semester 1 for the AMT Program.
- (b) Distribution 2 – A cash grant in the amount of **\$207,735.17** shall be paid to TSTC at the beginning of the Spring 2024 semester, and no later than 30 days following the receipt by the SEDC of the Compliance Reporting Form certifying that TSTC has started Semester 2 for the AMT Program.
- (c) Distribution 3 – A cash grant in the amount of **\$166,188.14** shall be paid to TSTC at the beginning of the Summer 2024 semester, and no later than 30 days following the receipt by the SEDC of the Compliance Reporting Form certifying that TSTC has started Semester 3 for the AMT Program.
- (d) Distribution 4 – A cash grant in the amount of **\$166,188.14** shall be paid to TSTC at the beginning of the Fall 2024 semester, and no later than 30 days following the receipt by the SEDC of the Compliance Reporting Form certifying that TSTC has started Semester 4 for the AMT Program.
- (e) Distribution 5 – A cash grant in the amount of **\$83,094.07** shall be paid to TSTC at the beginning of the Spring 2025 semester no later than 30 days, and upon the receipt by the SEDC of the Compliance Reporting Form certifying that TSTC has started Semester 5 for the AMT Program.

2. In no event shall the SEDC grant payments to TSTC pursuant to this Agreement exceed \$830,940.69.

3. TSTC will provide any internal backup that the SEDC may request to verify compliance of the Performance Obligations of TSTC. The Compliance Reporting Form will be provided to TSTC by the SEDC.

4. If the SEDC determines that TSTC has not complied with the requirements of this Agreement for a particular semester, then TSTC will not be eligible for a grant payment for that semester; however, TSTC may submit a request for a grant payment at the beginning of the next semester but under no circumstance may TSTC receive more than five payments from the SEDC.

**ARTICLE VI
COVENANTS AND DUTIES**

1. Covenants and Duties. TSTC makes the following covenants and warranties to the SEDC and agrees to timely and fully perform the obligations and duties contained in Article IV of this Agreement.

(a) The execution of this Agreement has been duly authorized by TSTC, and the individual signing this Agreement is authorized to execute such Agreement and bind TSTC. Said authorization, signing, and binding effect is not in contravention of any law, rule, regulation, or of the provisions of TSTC's organizational documents, or of any agreement or instrument to which TSTC is a party to or by which it may be bound.

(b) TSTC agrees to obtain or cause to be obtained, all necessary permits and approvals from all governmental agencies having jurisdiction over the Project.

(c) To the extent allowed by the laws and the constitution of the State of Texas, TSTC shall be responsible for paying, or causing to be paid, to any governmental agencies having jurisdiction over the Project the cost of all applicable permit fees and licenses required for the Project. TSTC agrees to develop the Project in accordance with the ordinances, rules, and regulations of the jurisdiction in effect on the date the Project was designed, unless specified otherwise in this Agreement or in another agreement between the Parties.

(d) TSTC agrees to commence and complete the Project in strict accordance with this Agreement.

(e) TSTC shall cooperate with the SEDC in providing all necessary information to assist the SEDC in complying with this Agreement.

(f) During the term of this Agreement, TSTC agrees to not knowingly employ any undocumented workers as part of the Project, and, if convicted of a violation under 8 U.S.C. Section 1324a (1), TSTC shall be in Default (as defined below). TSTC is not liable for an unknown violation of this Section by an affiliate of TSTC or by a person with whom TSTC contracts, provided however that identical federal law requirements provided for herein shall be included as part of any agreement or contract which TSTC enters into with any subsidiary, assignee, affiliate, or franchisee for which the PBC Grant provided herein will be used.

2. SEDC's Covenants and Duties.

(a) The SEDC represents and warrants to TSTC that the execution of this Agreement has been duly authorized by the SEDC, and the individual signing this Agreement is empowered to execute such Agreement and bind the SEDC. Said authorization, signing, and binding effect is not in contravention of any law, rule, regulation, or of the provisions of the SEDC's organizational documents, or of any

agreement or instrument to which the SEDC is a party to or by which it may be bound.

(b) SEDC shall cooperate with TSTC in providing all necessary information and documentation to assist TSTC in complying with this Agreement.

ARTICLE VII TERMINATION

1. Termination. This Agreement shall terminate upon the earliest occurrence of any one or more of the following:

- (a) The mutual agreement of the Parties, as reflected in writing signed by the Parties;
- (b) TSTC satisfying all the Performance Obligations set forth in Article IV; or
- (c) The SEDC electing to terminate this Agreement by written notice to TSTC following an Event of Default by TSTC.

ARTICLE VIII DEFAULT

1. TSTC's Events of Default. The following shall be considered an "Default" by TSTC:

- (a) Failure of TSTC to timely perform any term, covenant, obligation, duty, or agreement contained in this Agreement, including without limitation its Performance Obligations; or
- (b) SEDC determines that any representation or warranty contained herein in or in any financial statement, certificate, report or opinion prepared and submitted to SEDC in connection with or pursuant to the requirements of this Agreement was false, incorrect or misleading in any material respect when made.

2. SEDC Events of Default. SEDC failure to fulfill any obligation set forth within the terms and conditions of this Agreement shall be deemed a "Default" by the SEDC.

3. Remedies for Default.

- (a) In the event of Default by TSTC, the SEDC shall give TSTC written notice of such Default and if TSTC has not cured such Default within 60 days after receipt of such Notice, an "Event of Default" by TSTC shall have occurred. Upon the occurrence and during the continuance of an Event of Default by TSTC, the SEDC shall have the right to terminate this Agreement, and pursue all rights and remedies provided by applicable law. After such

termination by the SEDC, the SEDC shall have no further obligation to TSTC under this Agreement.

- (b) In the event of Default by the SEDC, TSTC shall give the SEDC written notice of such Default and if the SEDC has not cured such Default within 60 days after receipt of such Notice, an “Event of Default” by the SEDC shall have occurred. Upon the occurrence and during the continuance of an Event of Default by the SEDC, TSTC shall have the right to terminate this Agreement, and pursue all rights and remedies provided by applicable law. After such termination by TSTC, TSTC shall have no further obligation to the SEDC under this Agreement.

ARTICLE IX MISCELLANEOUS

1. Binding Agreement. The terms and conditions of this Agreement shall be binding on and inure to the benefit of the Parties, and their respective successors and assigns. This Agreement is contingent upon the performance of the Performance Obligations by TSTC. This Agreement is not binding until it has been approved by the Seguin Economic Development Corporation and the City of Seguin; upon said approval, the Executive Director of the SEDC shall be responsible for the administration of this Agreement and shall have the authority to execute any instruments, duly approved by the SEDC, on behalf of the Parties related thereto. This Agreement is also not binding until the City of New Braunfels has, thorough official action of its governing body, requested the SEDC to exercise its powers within the New Braunfels municipal boundaries pursuant to Sec. 501.159, Tex. Gov’t Code.

2. Mutual Assistance. The Parties will do all things reasonably necessary or appropriate to carry out the terms and provisions of this Agreement and to aid and assist each other in carrying out such terms and provisions.

3. Independent Contractors.

- (a) It is expressly understood and agreed by all Parties hereto that in performing their services hereunder, TSTC at no time will be acting as an agent of the SEDC and that all consultants or contractors engaged by TSTC respectively will be independent contractors of TSTC; and nothing contained in this Agreement is intended by the Parties to create a partnership or joint venture between the Parties and any implication to the contrary is hereby expressly disavowed. The Parties hereto understand and agree that the SEDC will not be liable for any claims that may be asserted by any third party occurring in connection with services performed by TSTC respectively under this Agreement, unless any such claims are due to the fault of the SEDC.
- (b) By entering into this Agreement, except as specifically set forth herein, the Parties do not waive, and shall not be deemed to have waived, any rights, immunities, or defenses either may have, including the defense of parties, and nothing contained herein shall ever be construed as a waiver of

sovereign or official immunity by TSTC or the SEDC, with such rights being expressly reserved to the fullest extent authorized by law and to the same extent which existed prior to the execution hereof.

- (c) No employee of TSTC or the SEDC, or any board member, or agent of TSTC or the SEDC, shall be personally responsible for any liability arising under or growing out of this Agreement.

Notice. Any notice required by or permitted under this Agreement must be in writing. Notice may be given by certified or registered mail, personal delivery, courier delivery, or e-mail and will be effective when received, provided that (a) any notice received on a Saturday, Sunday, or holiday will be deemed to have been received on the next day that is not a Saturday, Sunday, or holiday and (b) any notice received after 5:00 P.M. local time at the place of delivery on a day that is not a Saturday, Sunday, or holiday will be deemed to have been received on the next day that is not a Saturday, Sunday, or holiday. Any address for notice may be changed by not less than ten days' prior written notice given as provided herein.

If intended for SEDC: Seguin Economic Development Corporation
Attention: Executive Director
211 N River St.
Seguin, TX 78155

With a copy to:
Denton, Navarro, Rocha, Bernal, & Zech, PC
Attention: Allison Bastian-Rodriguez
701 E. Harrison, Suite 100
Harlingen, Texas 78550

If to TSTC: Texas State Technical College
Attention: Michael L. Reeser
TSTC CEO & Chancellor
3801 Campus Drive
Waco, Texas 76705

With a copy to:
TSTC Office of General Counsel
3801 Campus Drive
Waco, Texas 76705

4. Governmental Records. All invoices, records and other documents required for submission to the City pursuant to the terms of this Agreement are Governmental Records for the purposes of Texas Penal Code Section 37.10.

5. Governing Law. The Agreement shall be governed by the laws of the State of Texas, and the venue for any action concerning this Agreement shall be in McLennan County or

Travis County as required by [§135.55, Texas Education Code](#). The Parties agree to submit to the personal and subject matter jurisdiction of said court.

6. Amendment. This Agreement and its Exhibits may be amended by mutual written agreement of the Parties, as approved by the Board of Directors by the SEDC and the City of Seguin; notwithstanding the foregoing, in the event the Equipment list provided in Exhibit B of the Off—Campus Workforce Education Agreement is amended, the SEDC Executive Director is authorized to approve such amendment without SEDC and City approval so long as the amendments include a statement certifying that such equipment as provided by the amendment is necessary for and will be used for the purposes contemplated in this Agreement.

7. Legal Construction. In the event any one or more of the provisions contained in this Agreement shall, for any reason, be held invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect other provisions of this Agreement, and it is the intention of the Parties to this Agreement that, in lieu of each provision that is found to be illegal, invalid, or unenforceable, a provision be added to this Agreement which is legal, valid and enforceable and is as similar in terms as possible to the provision found to be illegal, invalid, or unenforceable.

8. Interpretation. Each of the Parties has been represented by counsel of their choosing in the negotiation and preparation of this Agreement. Regardless of which Party prepared the initial draft of this Agreement, this Agreement shall, in the event of any dispute, whatever its meaning or application, be interpreted fairly and reasonably and neither more strongly for or against any Party.

9. Entire Agreement. This Agreement constitutes the entire agreement between the Parties with respect to the subject matter covered in this Agreement. There is no other collateral oral or written agreement between the Parties that, in any manner, relates to the subject matter of this Agreement, except as provided for in any Exhibits attached hereto or duly executed amendments to this Agreement.

10. Paragraph Headings. The paragraph headings contained in this Agreement are for convenience only and will in no way enlarge or limit the scope or meaning of the various and several paragraphs.

11. Counterparts. This Agreement may be executed in counterparts. Each of the counterparts shall be deemed an original instrument, but all of the counterparts shall constitute one and the same instrument.

12. Exhibits. Any Exhibits attached hereto are incorporated by reference for all purposes.

13. Survival of Covenants. Any of the representations, warranties, covenants, and obligations of the Parties, as well as any rights and benefits of the Parties, pertaining to a period of time following the termination of this Agreement shall survive termination.

14. Additional Instruments. The Parties agree and covenant to cooperate, negotiate in good faith, and to execute such other and further instruments and documents as may be reasonably required to fulfill the public purposes provided for and included within this Agreement.

15. Force Majeure. Whenever a period of time is herein prescribed for action to be taken by TSTC, TSTC shall not be liable or responsible for, and there shall be excluded from the computation of any such period of time, any delays due to causes of any kind whatsoever which are caused by Force Majeure.

16. Time Periods. Unless otherwise expressly provided herein, all periods for delivery or review and the like will be determined on a "calendar" day basis. If any date for performance, approval, delivery or Closing falls on a Saturday, Sunday or legal holiday (state or federal) in the State of Texas, the time therefor will be extended to the next day which is not a Saturday, Sunday or legal holiday.

[SIGNATURE PAGES IMMEDIATELY FOLLOWING]

Executed on this _____ day of _____, 2023

TSTC:

Texas State Technical College

By: _____
Michael L. Reeser
CEO and Chancellor

Executed on this _____ day of _____, 2023

**SEGUIN ECONOMIC DEVELOPMENT
CORPORATION**

By: _____
Name: Joshua Schneuker
Title: Executive Director

APPROVED AS TO FORM:

By: _____
Allison A. Bastian-Rodriguez, SEDC Attorney

EXHIBIT 1
Off—Campus Workforce Education Agreement (placeholder)

OFF-CAMPUS WORKFORCE EDUCATION AGREEMENT

This Off-Campus Workforce Education Agreement (“Agreement”) is made and entered into by and between **Texas State Technical College**, an institution of higher education and an agency of the State of Texas (hereinafter referred to as “TSTC”), and the **Texas FAME—Lone Star Chapter** and its **Manufacturing Partners**, (hereinafter collectively referred to as “Client”), a partnership of regional manufacturers, with its local place of business at 211 North River Street, Seguin, Texas 78155. Client and TSTC may individually be referred to as a “Party” or collectively as “Parties” to this Agreement.

WHEREAS, TSTC and Texas FAME—Lone Star Chapter through its members have had a strong, mutually beneficial relationship, which both parties intend to strengthen and continue; and

WHEREAS, the Parties are simultaneously entering into an off-campus workforce education agreement for a new advanced manufacturing work/study learning activity which includes an associate-level degree, known as the Advanced Manufacturing Technician Program (“AMT Program” or “Training Program”); and

WHEREAS, the Parties will work together and cooperate on program development, education, and operation for the benefit of TSTC’s students and Manufacturing Partners, and for current and future multi-skilled technicians in Texas; and

WHEREAS, this Agreement will enhance the ability of the Parties to provide education and training to their students and employees thereby supporting the community and the businesses therein; and

WHEREAS, the Parties desire to enter into this Agreement, pursuant to §51.981, Texas Education Code, wherein TSTC will provide workforce education to Texas FAME—Lone Star Chapter and its Manufacturing Partners’ employees and/or TSTC’s students; and

WHEREAS, with this Agreement, the Parties seek to define the responsibilities and understanding of Parties in relation to education, training, and development delivered as part of the AMT Program at a location mutually agreeable to both parties;

NOW, THEREFORE, in consideration of the valuable benefit to be derived, and of the mutual benefits that shall be received by the Parties hereto, and in consideration of the covenants, conditions, agreements, and understandings hereinafter set forth, the Parties hereby agree as follows:

Article 1. TSTC RESPONSIBILITIES

- 1.01 Description of Training Services. TSTC will provide the Off-Campus Workforce Education described below (the “Training Services”):
- (a) TSTC will develop and provide training and workforce education pursuant to §51.981, Texas Education Code, entitled “AMT Program” also known as Industrial Systems - Advanced Manufacturing Technology Program (“Training Program”).
 - (b) TSTC will provide a qualified TSTC Faculty Instructor, to develop and teach the Training Program (“Instructor”).
 - (c) TSTC Instructor(s) will provide 20 classes totaling 1,680 contact hours/60 credit hours of training for up to 20 (cohort 1) and up to 40 (subsequent cohorts) Texas FAME - Lone Star Chapter and its Manufacturing Partners employees and/or TSTC’s students.
 - (d) TSTC will provide all training materials adequate for a class of at least 20 trainees, but Client shall have the responsibility to provide all equipment shown in the attached Exhibit B.

- (e) TSTC faculty will monitor participation to ensure student success and in compliance with any Federal guidelines.
- (f) Instructor will assign a final letter grade based on TSTC grading procedures.
- (g) Instructor will provide a Course Syllabus describing content and schedule for the Training Program.
- (h) Instructor will administer an "End of Course Survey" at the completion of the Training Program and return to TSTC following the completion of the class.
- (i) The Training Services will be administered as further described in the attached Exhibit A

1.02 Schedule of Training. TSTC will provide the Training Services according to the attached Exhibit A. Changes to the attached Exhibit A may be made if mutually agreed upon, in writing, by both Parties.

1.03 Location of Training. Classes will be held in New Braunfels, Texas utilizing the TSTC Off-Campus Workforce classroom.

1.04 Course Materials. Instructors will provide a list of required books, materials and tools as part of the syllabus.

1.05 Independent Contractor. For all purposes of this Agreement and notwithstanding any provision of this Agreement to the contrary, TSTC is an independent contractor.

1.06 Order of Precedence. In case of any inconsistency, conflict, or ambiguity among the Agreement and any of the documents specified in this sub-article, the following attached documents which are incorporated hereto, shall govern in the following order:

- (a) This Agreement
- (b) Exhibit A
- (c) Exhibit B

1.07 Enrollment Provision. All AMT students shall adhere to all TSTC admissions and enrollment policies or procedures, including those in the [Student Catalog and Handbook](#).

Article 2. CLIENT'S GENERAL SERVICES AND RESPONSIBILITIES

2.01 General. Client warrants, represents, covenants, and agrees that it is duly organized, validly existing and in good standing under the laws of the state of its incorporation or organization and is duly authorized and in good standing to conduct business in the State of Texas, that it has all necessary power and has received all necessary approvals to execute and deliver the Agreement, and the individual executing the Agreement on behalf of Client has been duly authorized to act for and bind Client. Further, Client warrants, covenants and represents that, prior to the beginning negotiations with TSTC to enter into this Agreement, all conditions precedent contained in §51.981 of the Texas Education Code had been satisfied.

2.02 Point of Contact. Client has agreed that Jason Dinscore will serve as a consistent point of contact ("POC") for Instructor and Project Manager. Client will adequately communicate with employees to ensure they participate in all classes and complete the program successfully.

2.03 Compliance with Applicable Laws and Regulations. Client will comply with and will be responsible for requiring its officers and employees to comply with, all applicable federal, state, and local laws and regulations, and the rules and regulations of TSTC.

Article 3. TERM OF AGREEMENT

- 3.01 Initial Term: This initial term of this Agreement shall begin on the date the Agreement is signed by the TSTC delegated authority, who shall sign after Client signs and shall continue for Twelve Months after that date unless renewed or terminated in accordance with the terms of the Agreement.
- 3.02 Renewal Term: The Agreement shall automatically renew for subsequent terms, each subsequent Renewal Term being Twelve Months in length.

Article 4. FINANCIAL PROVISIONS, AND PAYMENT AND INVOICING

- 4.01 Payment. The funding for the AMT Program shall be as follows:
- (a) TSTC will provide and fund the AMT Program through normal tuition processes and other usual funding activities of TSTC;
 - (b) Texas FAME—Lone Star Chapter will sponsor AMT Program students through the two-year AMT Program, with the Manufacturing Partners to determine rates of pay and other direct and indirect compensation matters for AMT Program students;
 - (c) The Parties may negotiate at any time on other issues regarding full program recovery costs and funding, such as new or donated equipment, facility modifications, program promotions, etc.
- 4.02 Invoicing. If applicable, TSTC will invoice Client prior to the start of the Training Services, which will be payable before training begins.

Article 5. INDEMNIFICATION

- 5.01 CLIENT SHALL DEFEND, INDEMNIFY AND HOLD HARMLESS THE STATE OF TEXAS AND TSTC, AND/OR THEIR OFFICERS, AGENTS, EMPLOYEES, REPRESENTATIVES, CONTRACTORS, ASSIGNEES, AND/OR DESIGNEES FROM ANY AND ALL LIABILITY, ACTIONS, CLAIMS, DEMANDS, OR SUITS, AND ALL RELATED COSTS, ATTORNEY FEES, AND EXPENSES ARISING OUT OF, OR RESULTING FROM ANY ACTS OR OMISSIONS OF CLIENT OR ITS AGENTS, EMPLOYEES, SUBCONTRACTORS, IN THE EXECUTION OR PERFORMANCE OF THE AGREEMENT. THE DEFENSE SHALL BE COORDINATED BY CLIENT WITH THE OFFICE OF THE TEXAS ATTORNEY GENERAL WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND CLIENT MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE OFFICE OF THE TEXAS ATTORNEY GENERAL. CLIENT AND TSTC AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM. THIS PARAGRAPH IS NOT INTENDED TO AND SHALL NOT BE CONSTRUED TO REQUIRE CLIENT TO INDEMNIFY OR HOLD HARMLESS THE STATE OR TSTC FOR ANY CLAIMS OR LIABILITIES RESULTING FROM THE NEGLIGENT ACTS OR OMISSIONS OF TSTC OR ITS EMPLOYEES.

Article 6. INSURANCE

- 6.01 The Texas Tort Claims Act allows for the liability of a state employee under certain limited circumstances and also sets the maximum amounts recoverable. Based on this law, the Client agrees to waive any requirement for an insurance certificate evidencing comprehensive liability coverage. A copy of the Texas Tort Claims Act will be provided upon request.
- 6.02 CLIENT ACKNOWLEDGES AND UNDERSTANDS THAT TSTC DOES NOT MAINTAIN AND WILL NOT OBTAIN INSURANCE OF ANY TYPE TO PROTECT CLIENT AGAINST ANY LOSS, DAMAGE

OR INJURY THAT MAY IN ANY WAY RESULT FROM TSTC'S PERFORMANCE OF THE THIS AGREEMENT.

Article 7. CONFIDENTIALITY

- 7.01 All information owned, possessed, or used by TSTC that is communicated to, learned, developed or otherwise acquired for Client in the performance of the Training Services by TSTC, that is not generally known to the public, will be confidential and Client will not, beginning on the date of first association or communication between TSTC and Client and continuing throughout the term of this Agreement and any time thereafter, disclose, communicate or divulge, or permit disclosure, communication or divulgence, to another or use for Client's own benefit or the benefit of another, any confidential information, unless required by law.
- 7.02 FERPA Protection of Confidential Data. To the extent that 34 Code of Federal Regulations § 99.33(a)(2) is applicable, Client agrees to abide by the limitations on re-disclosure of personally identifiable information from education records set forth in The Family Educational Rights and Privacy Act and with the terms set forth in this sub-article. 34 FR 99.33 (a)(2) states that the officers, employees, and agents of a party that receives education record information from TSTC may use the information, but only for the purposes for which the disclosure was made. Definition: Covered data and information (CDI) includes paper and electronic student education record information supplied by Institution, as well as any data provided by TSTC's students to Client. Acknowledgment of Access to CDI: Client acknowledges that the Agreement allows Client access to CDI. Prohibition on Unauthorized Use or Disclosure of CDI: Client agrees to hold CDI in strict confidence. Client shall not use or disclose CDI received from or on behalf of TSTC (or its students) except as permitted or required by the Agreement, as required by law, or as otherwise authorized in writing by TSTC. Client agrees not to use CDI for any purpose other than the purpose for which the disclosure was made. Upon termination, cancellation, expiration or other conclusion of the Agreement, Client shall return all CDI to TSTC or, if return is not feasible, destroy any and all CDI. Reporting of Unauthorized Disclosures or Misuse of Covered Data and Information: Client shall, within one day of discovery, report to TSTC any use or disclosure of CDI not authorized by this Agreement or in writing by TSTC. Client's report shall identify: (i) the nature of the unauthorized use or disclosure, (ii) the CDI used or disclosed, (iii) who made the unauthorized use or received the unauthorized disclosure, (iv) what Client has done or shall do to mitigate any deleterious effect of the unauthorized use or disclosure, and (v) what corrective action Client has taken or shall take to prevent future similar unauthorized use or disclosure. Client shall provide such other information, including a written report, as reasonably requested by Institution.
- 7.03 Protected Data Security. For purposes of this sub-article, "TSTC Confidential Information" means records maintained by TSTC, and records obtained by Client from TSTC under this Agreement, including (1) records and data provided electronically, on paper, or via online access or e-mail, (2) records and data that Client has converted into another format or medium (such as handwritten or electronic notes), and (3) records and data incorporated in any manner into Client's records, files or data compilations.
- (a) To the extent applicable, Client shall protect the confidentiality of TSTC Confidential Information and comply with all statutory, regulatory and Agreement requirements. Client's protection of the confidentiality of TSTC Confidential Information will survive the termination of this Agreement. Client shall be responsible and liable for any and all damages resulting from a breach by Client including damages and losses of third parties. Client shall reimburse TSTC for any costs incurred by TSTC in reimbursing third parties damaged by Client's breach and costs incurred in attempts by TSTC to limit third party losses resulting from Client's breach. Client agrees to accept liability for any damage to TSTC's hardware, software, or TSTC Confidential Information when such damage is caused by the actions or negligence of employees, contractors, sub-contractors or agents of Client, whether or not the individual was an authorized User under this Agreement.

- (b) Security Breach Notification. To the extent applicable, Client agrees to notify TSTC as soon as it becomes aware of any actual or unintended access of the TSTC data that may access, process, or store data, files, confidential information or personal data produced under, provided under or related to this Agreement or any Scope of Work subject to this Agreement. Unintended access includes, but is not limited to, compromise by a computer worm, search engine web crawler, password compromise or access by an unauthorized individual or automated program. Client agrees to notify TSTC within twenty-four (24) hours of the discovery of the actual or suspected unintended access.
- (c) Disposal. To the extent applicable, Client shall dispose of any TSTC Confidential Information and any copies thereof after the limited purposes of the Agreement or any Statements of Work are achieved, except for TSTC Confidential Information possessed by any court. Disposal means the return of TSTC Confidential Information to TSTC or the destruction of TSTC Confidential Information, as directed by TSTC. Disposal includes deletion of personal identifiers in lieu of destruction. In any case, Client shall dispose of all TSTC Confidential Information within thirty (30) calendar days after the termination, cancellation, or expiration of the Agreement.
- (d) Access Limited. To the extent applicable, Client shall limit access to TSTC Confidential Information to Client's employees who need access to achieve the limited purposes of the Agreement or any related Statement of Work.
- (e) Mobile Device and Removal. To the extent applicable, Client shall not place TSTC Confidential Information on mobile, remote, or portable storage devices, or remove storage media from Client's facility, without the prior written authorization of TSTC.
- (f) Acceptance Testing. To the extent applicable, upon receipt of the initial feature set of Client's services prior to launch of Client's services, or any subsequent enhancements to Client's services both Parties will test the Deliverable for compliance with the specifications in the detailed design document provided to TSTC by Client in accordance with TSTC's launch checklist (Acceptance Testing). If a dispute arises regarding testing criteria, TSTC will make the final determination. Acceptance of any Deliverable will occur upon the earlier of either: (a) Client's receipt of a notice from TSTC stating that the Deliverable has met the Acceptance Criteria; or (b) 60 days, or other mutually agreeable time period, after the date of delivery, unless notice of non-acceptance (including specific reasons for non-acceptance) is provided to Client within the 60-day period. Client will use commercially reasonable efforts to correct any non-conformance in a timely manner. The Parties will provide each other with commercially reasonable assistance as necessary to correct any non-conformance, including information necessary to recreate the error or non-conformity identified. The Parties will work together in good faith to complete Acceptance Testing according to any applicable development schedule. Upon successful completion of Acceptance Testing the Parties will notify each other of final acceptance.
- (g) Cybersecurity Training. If applicable, Client represents and warrants that it will comply with the requirements of Section 2054.5192 of the Texas Government Code relating to cybersecurity training and required verification of completion of the training program.
- (h) Biometric Identifier. If applicable, Client represents and warrants that it will comply with the requirements of Chapter 560 of the Texas Government Code relating to the disclosure of a biometric identifier.

- (i) Cloud Computing State Risk and Authorization Management Program. If applicable, pursuant to Section 2054.0593(d)-(f) of the Texas Government Code, relating to cloud computing state risk and authorization management program, Client represents and warrants that it complies with the requirements of the state risk and authorization management program and Client agrees that throughout the term of the contract it shall maintain its certifications and comply with the program requirements in the performance of the contract.

7.04 Notwithstanding any provisions of this Agreement to the contrary, Client understands that TSTC will comply with the Texas Public Information Act, Chapter 552, Texas Government Code, as interpreted by judicial opinions and opinions of the Attorney General of the State of Texas. TSTC agrees to notify Client of a request for information related to Client's work under this Agreement. Client will cooperate with TSTC in the production of documents responsive to the request. Client may request that TSTC seek an opinion from the Attorney General of the State of Texas. However, TSTC will not honor Client's request for an opinion if the request is not based upon a reasonable interpretation of the Texas Public Information Act. Additionally, Client shall notify TSTC's Office of General Counsel of receipt of any third party requests for information that was provided by the State of Texas for use in conducting this Agreement. Client understands this Agreement and all data and other information generated or otherwise obtained in the performance of its responsibilities under this Agreement may be subject to the Texas Public Information Act. Client agrees to maintain the confidentiality of information received from the State of Texas during the performance of this Agreement, including information which discloses confidential personal information particularly, but not limited to, social security numbers.

If applicable, Client represents and warrants that it will comply with the requirements of Section 552.372(a) of the Texas Government Code. Except as provided by Section 552.374(c) of the Texas Government Code, the requirements of Subchapter J, Chapter 552 of the Government Code, may apply to the contract and the Client agrees that the contract can be terminated if the Client knowingly or intentionally fails to comply with a requirement of that subchapter.

Article 8. PUBLICITY

Except when defined as part of the Services, Client will not make any press releases, public statements, or advertisement referring to the Services or the engagement of Client as an independent Client of TSTC in connection with the Services, or release any information relative to the Services for publication, advertisement or any other purpose without the prior written approval of TSTC, which approval may be withdrawn by TSTC with written notice to Client. All name, logos and symbols of TSTC ("TSTC Marks") are owned by the Board of Regents. No displays or other advertising may state/imply that TSTC endorses a particular Client's services. Any use of TSTC marks must have prior written approval of TSTC. In specific instances Client can reference TSTC by name but only as a customer of Client and may appear on Client's promotional material or website so long as reference does not endorse Client. Client will obtain assurances similar to those contained in this Article from persons, contractors, and subcontractors retained by Client.

Article 9. NOTICES

9.01 Any and all notices, demands, or other communications required or desired to be given hereunder by any Party shall be in writing and shall be validly given or made to the other Party if personally served, or if deposited in the United States mail, certified or registered, postage prepaid, return receipt requested. If such notice or demand is served personally, notice shall be deemed constructively made at the time of such personal service. If such notice, demand or other communication is given by mail, such notice shall be conclusively deemed given five days after deposit thereof in the United States mail addressed to the Party to whom such notice, demand or other communication is to be given at the addresses as listed below. Either

Party hereto may change its address for purposes of this paragraph by written notice given in the manner provided above.

If to TSTC:
TSTC Legal Division
Office of General Counsel
3801 Campus Drive
Waco, TX 76705

With copies to:
TSTC Procurement Division
Office of Contract Administration
3801 Campus Drive
Waco, TX 76705
ContractAdmin@tstc.edu

If to Client:
Texas FAME—Lone Star Chapter and its Manufacturing Partners
Jason Dinscore
Area Manager Quality Systems
1 Steel Mill Drive, Seguin, Texas 78155
Jason.dinscore@cmc.com

Article 10. DISPUTE RESOLUTION

10.01 Dispute Resolution. If applicable, the dispute resolution process provided for in Chapter 2260 of the Texas Government Code, as it may be amended from time to time, must be used to attempt to resolve any dispute arising under the Agreement.

Article 11. CONFLICT OF INTEREST; ANTITRUST

11.01 Conflict of Interest. TSTC officers and employees may not have a direct or indirect interest, including financial and other interests, engage in a business transaction or professional activity, or incur any obligation of any nature, that is in substantial conflict with the proper discharge of the officer's or employee's duties in the public interest. A TSTC officer or employee will not: 1) accept or solicit any gift, favor, or service that might reasonably tend to influence the officer or employee in the discharge of official duties or that the officer or employee knows, or should know, is being offered with the intent to influence the officer's or employee's official conduct; 2) accept other employment or engage in a business or professional activity that the officer or employee might reasonably expect would require or induce the officer or employee to disclose confidential information acquired by reason of the official position; 3) accept other employment or compensation that could reasonably be expected to impair the officer's or employee's independence of judgment in the performance of their official duties; 4) make personal investments that could reasonably be expected to create a substantial conflict between the officer's or employee's private interest and the public interest; or 5) intentionally or knowingly solicit, accept or agree to accept any benefit for having exercised the officer's or employee's official powers or performed their official duties in favor of another. TSTC may not use appropriated money to compensate a state employee who violates a standard of conduct. In accordance with the Texas Constitution, an officer or employee of the state may not, directly or indirectly, profit by or have a pecuniary interest in the preparation, printing, duplication, or sale of a publication or other printed material issued by a department or agency of the executive branch. A person who violates this provision may be dismissed from TSTC employment. Pursuant to Section 2155.003 of the Texas Government Code, Client represents and warrants that it has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a

public servant in connection with the Agreement. Client represents and warrants that the provision of goods and services or other performance under the Agreement will not constitute an actual or potential conflict of interest or reasonably create an appearance of impropriety.

- 11.02 **No Financial Interest.** Client and its employees, agents, representatives and subcontractors have read and understand TSTC's Conflicts of Interest Policy HR 2.1.12 available at <https://www.tstc.edu/about/governance/> as of **April 28, 2022**, and applicable state ethics laws and rules available at <https://www.ethics.state.tx.us/> as of **April 28, 2022**. Neither Client nor its employees, agents, representatives or subcontractors will assist or cause TSTC employees to violate TSTC's Conflicts of Interest Policy or applicable state ethics laws or rules. Client represents and warrants that no member of the Board has a direct or indirect financial interest in the transaction that is the subject of this Agreement.
- 11.03 **Antitrust.** Client represents and warrants that, in accordance with Section 2155.005 of the Texas Government Code, neither Client nor the firm, corporation, partnership, or institution represented by Client, or anyone acting for such a firm, corporation or institution has (1) violated any provision of the Texas Free Enterprise and Antitrust Act of 1983, Chapter 15 of the Texas Business and Commerce Code, or the federal antitrust laws, or (2) communicated directly or indirectly the contents of this Agreement to any competitor or any other person engaged in the same line of business as Client.

Article 12. COMPLIANCE WITH LAW

- 12.01 **Tax Delinquency.** If Client is a taxable entity as defined by Chapter 171, Texas Tax Code, then Client certifies that it is not currently delinquent in the payment of any taxes due under such Chapter, or that Client is exempt from the payment of those taxes, or that Client is an out-of-state taxable entity that is not subject to those taxes, whichever is applicable.
- 12.02 **Eligibility Certification.** Pursuant to Sections 2155.004, 2155.006, 2261.053, and 2155.077, Texas Government Code, Client certifies that the individual or business entity named in the Agreement is not ineligible to receive the award of or payments under the Agreement and acknowledges that the Agreement may be terminated and payment withheld if these certifications are inaccurate.
- 12.03 **Texas Family Code Child Support Certification.** To the extent applicable, pursuant to Section 231.006, Texas Family Code, Client certifies that it is not ineligible to receive the award of or payments under the Agreement and acknowledges that the Agreement may be terminated and payment may be withheld if this certification is inaccurate.
- 12.04 **COVID-19 Vaccine Passport Prohibition.** The Client certifies that it will comply with the requirements of Texas Health and Safety Code, Section 161.0085(c).
- 12.05 **Critical Infrastructure Affirmation.** If applicable, pursuant to Texas Government Code Section 2274.0102, Client certifies that neither it nor its parent company, nor affiliate of Client or its parent company is: (1) majority owned or controlled by citizens or governmental entities of China, Iran, North Korea, Russia, or any other country designated by the Governor under Texas Government Code Section 2274.0103, or (2) headquartered in any of those countries.
- 12.06 **Energy Company Boycotts.** If Client is required to make a verification pursuant to Section 2274.002 of the Texas Government Code, Client certifies that Client does not boycott energy companies and will not boycott energy companies during the term of the Agreement.
- 12.07 **Firearm Entities and Trade Associations Discrimination.** If Client is required to make a verification pursuant to Section 2274.002 of the Texas Government Code, Client verifies that it (1) does not have a practice, policy,

guidance, or directive that discriminates against a firearm entity or firearm trade association and (2) will not discriminate during the term of the contract against a firearm entity or firearm trade association.

- 12.08 Franchise Tax Certification. Client certifies that (a) it is not currently delinquent in the payment of any franchise taxes due under Chapter 171 of the Texas Tax Code, or (b) that the Client is exempt from the payment of such taxes, or (c) that the Client is an out-of-state corporation or limited liability company that is not subject to the Texas Franchise Tax, whichever is applicable.
- 12.09 Excluded Parties. If applicable, Client verifies and certifies that a) pursuant to Subchapter F, Chapter 2252 of the Texas Government Code, Client is not engaged in business with Iran, Sudan, or a foreign terrorist organization b) pursuant to the provisions of Chapter 2271 of the Texas Government Code, Client does not boycott Israel and will not boycott Israel during the term of the Agreement and c) Client is not listed in the prohibited vendors list authorized by Executive Order No. 13224, "Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism", published by the United States Department of the Treasury, Office of Foreign Assets Control. Client acknowledges this Agreement may be terminated and payment withheld if this certification is inaccurate
- 12.10 Products and Materials Produced in Texas. If Client will provide services under the Agreement, Client covenants and agrees that in accordance with Section 2155.4441, Texas Government Code, in performing its duties and obligations under the Agreement, Client will purchase products and materials produced in Texas when such products and materials are available at a price and delivery time comparable to products and materials produced outside of Texas.

Article 13. TERMINATION

- 13.01 Termination of a Training Program. Any Party may terminate this Agreement for any reason. However, in the event of the termination of this Agreement, the Parties agree that closure of the Training Program will be performed in accordance with all policies and procedures of the Southern Association of Colleges and Schools Commission on Colleges.
- 13.02 Survival of Terms Following Termination. Notwithstanding the termination or expiration of this Agreement, the provisions of this Agreement regarding indemnification, confidentiality, records, right to audit, dispute resolution, invoice and fees verification, and default shall survive the termination or expiration dates of this Agreement.
- 13.03 Rights and Remedies. The termination of this Agreement shall not affect any right or remedy that has accrued to either Party at the time of termination.
- 13.04 Work Material. All drawings, specifications, plans, computations, sketches, data, records, photographs, tapes, renderings, models, publications, statements, accounts, reports, studies, and other materials prepared by TSTC in connection with the Training Services (collectively, "Work Material"), are the property of TSTC and for its use and re-use at any time. The Work Material will not be used or published by Client or any other party unless expressly authorized by TSTC in writing. Client will treat all Work Material as confidential.
- 13.05 Fund Appropriation. Performance by TSTC under this Agreement may be dependent upon the appropriation and allotment of funds by the Texas State Legislature (the "Legislature") and/or allocation of funds by the Board of Regents of Texas State Technical College (the "Board"). If the Legislature fails to appropriate or allot the necessary funds, or the Board fails to allocate the necessary funds, then TSTC will issue written notice to Client and TSTC may terminate the Agreement without further duty or obligation hereunder. Client acknowledges that appropriation, allotment, and allocation of funds are beyond the control of TSTC.

Article 14. OTHER TERMS AND CONDITIONS

- 14.01 **Outside Terms and Conditions.** Except for those specifically listed in Article 1, TSTC rejects and will not be bound by Client's (1) "click-wrap" terms and conditions, (2) "browse-wrap" terms and conditions, (3) "shrink-wrap" terms and conditions, (4) other terms and conditions which can be found on an internet webpage or (5) any other terms and conditions on the Client's quote, proposal, order form, scope of work document, invoice, acknowledgement or similar documents, hereinafter collectively referred to as "Outside Terms and Conditions". Said Outside Terms and Conditions will not bind TSTC or be made applicable to the Agreement, unless said Outside Terms and Conditions are in writing and signed by a duly authorized representative of each Party. If in the event Outside Terms and Conditions are made applicable to the Agreement, the Outside Terms and Conditions will be incorporated into sub-article 1.06 **Order of Precedence** and assume least precedence in the Order of Precedence.
- 14.02 **Entire Agreement.** Notwithstanding the provisions in Article 1, this Agreement supersedes all prior agreements, written or oral, between Client and TSTC and will constitute the entire Agreement and understanding between the Parties with respect to the subject matter hereof. The Agreement and each of its provisions will be binding upon the Parties and may not be waived, modified, amended or altered except in writing signed by TSTC and Client in approved Change Orders and memorialized in an amendment to this Agreement.
- 14.03 **Binding Effect.** This Agreement shall be binding upon and inure to the benefit of the Parties and their respective permitted assigns and successors.
- 14.04 **Assignment.** As outlined in 2262.056 of the Texas Government Code, Client shall not assign its rights under the Agreement or delegate the performance of its duties under the Agreement without prior written approval from TSTC. Any attempted assignment in violation of this provision is void and without effect.
- 14.05 **Venue; Governing Law.** As required by Chapter 135 of the Texas Education Code, McLennan County or Travis County, Texas, will be the proper place of venue for suit on or in respect of the Agreement. The Agreement and all of the rights and obligations of the Parties hereto and all of the terms and conditions hereof will be construed, interpreted and applied in accordance with and governed by and enforced under the laws of the State of Texas.
- 14.06 **Counterparts.** This Agreement may be executed in counterparts, each of which will be deemed an original, but all of which together will constitute one and the same agreement. Signatures to this Agreement transmitted by facsimile transmission, by electronic mail in "portable document format" (".pdf") form, or by any other electronic means intended to preserve the original graphic and pictorial appearance of a document, will have the same effect as physical delivery of the paper document bearing the original signature.
- 14.07 **Captions.** The captions of Articles and subarticles in this Agreement are for convenience only and will not be considered or referred to in resolving questions of interpretation or construction.
- 14.08 **Force Majeure.** Neither Party to the Agreement will be liable or responsible to the other for any loss or damage, or for any delays or failure to perform, due to causes beyond its reasonable control including, but not limited to, acts of God, strikes, epidemics, pandemics, war, riots, flood, fire, sabotage, or any other circumstances of like character ("Force Majeure Occurrence"). However, the TSTC may extend the Term in an amount necessary for TSTC to complete performance under the Agreement, due to delays caused by the Force Majeure Occurrence.
- 14.09 **Severability.** If any provision of this Agreement is held by a court of law to be illegal, invalid or unenforceable, (a) that provision shall be deemed amended to achieve as nearly as possible the same

economic effect as the original provision, and (b) the legality, validity and enforceability of the remaining provisions of this Agreement shall not be affected or impaired thereby.

14.10 Waivers.

1. Parties. No delay or omission by either Party in exercising any right or power arising from non-compliance or failure of performance by the other Party with any of the provisions of this Agreement shall impair or constitute a waiver of any such right or power. A waiver by either Party of any covenant or condition of this Agreement shall not be construed as a waiver of any subsequent breach of that or of any other covenant or condition of the Agreement.
2. State. Nothing in this Agreement shall be construed as a waiver of the State of Texas' or TSTC's sovereign immunity. This Agreement shall not constitute or be construed as a waiver of any of the privileges, rights, defenses, remedies, or immunities available to the State of Texas. The failure to enforce, or any delay in the enforcement, of any privileges, rights, defenses, remedies, or immunities available to the State of Texas under this Agreement or under applicable law shall not constitute a waiver of such privileges, rights, defenses, remedies or immunities or be considered as a basis for estoppel. TSTC does not waive any privileges, rights, defenses, or immunities available to TSTC by entering into this Agreement or by its conduct, or by the conduct of any representative of TSTC, prior to or subsequent to entering into this Agreement.

14.11 Limitations. If applicable, Client is aware that there may be constitutional and statutory limitations on the authority of TSTC, as an agency of the State of Texas, to enter into certain terms and conditions of the documents in sub-article 1.06, including, but not limited to, those terms and conditions relating to liens on TSTC's property; disclaimers and limitations of warranties; disclaimers and limitations of liability for damages; waivers, disclaimers and limitations of legal rights, remedies, requirements and processes; jury waivers; limitations of periods to bring legal action; granting control of litigation or settlement to another party; liability for acts or omissions of third parties; payment of attorneys' fees; dispute resolution; indemnities; insurance requirements; and confidentiality (collectively, the "Limitations"), and terms and conditions related to the Limitations will not be binding on TSTC, except to the extent authorized by the laws and Constitution of the State of Texas.

14.12 Non-Discrimination and Inappropriate Behaviors. In the performance of this Agreement, Client shall not discriminate on the basis of race, color, sex, religion, national origin, or disability in violation of any applicable federal, state or local law. Further, Client shall perform all of its obligations and duties under this Agreement in accordance with all TSTC policies regarding discrimination, sexual harassment, drug and alcohol use, and other inappropriate behaviors.

14.13 Disaster Recovery Plan. If applicable, in accordance with 13 TAC § 6.94(a)(9), Client shall provide to TSTC the descriptions of its business continuity and disaster recovery plans upon the request of TSTC.

IN WITNESS WHEREOF, duly authorized representatives of the Parties have agreed to the terms of this Agreement and thereby execute and deliver this Agreement to the other Party.

TSTC
TEXAS STATE TECHNICAL COLLEGE

By: 
(Authorized Signature)

Michael L. Reeser
(Printed Name)

CEO & Chancellor
(Title)

11/3/22
(Date)

CLIENT
Texas FAME—Lone Star Chapter


(Authorized Signature)

Jason Dinscore
(Printed Name)

President, TX FAME Lone Star Chapter
(Title)

06/01/2022
(Date)

CLIENT
Manufacturing Partners


(Authorized Signature)

William VanderWaal
(Printed Name)

Director of Mill Operation CMC Steel Texas
(Title)

06/01/2022
(Date)

CLIENT
Manufacturing Partners


(Authorized Signature)

Freddy Ramirez
(Printed Name)

Technical Supervisor
(Title)

6/14/2022
(Date)

CLIENT
Manufacturing Partners



(Authorized Signature)

Jason Schroeder
(Printed Name)

CFO
(Title)

6/15/2022
(Date)

CLIENT
Manufacturing Partners

DocuSigned by:

47A8E7C4F40543B

(Authorized Signature)

Linda Munoz

(Printed Name)


Director,

(Title)

6/16/2022

(Date)

CLIENT
Manufacturing Partners

DocuSigned by:

03360F44333174E0

(Authorized Signature)

Keith Forcinito

(Printed Name)

President

(Title)

6/16/2022

(Date)

CLIENT
Manufacturing Partners

DocuSigned by:

448C0508F365457

(Authorized Signature)

Bill Stipanovich

(Printed Name)

Operations Manager -DETEX

(Title)

6/14/2022

(Date)

CLIENT
Manufacturing Partners

DocuSigned by:

0DCE6A456207A43

(Authorized Signature)

Ken Kuehler

(Printed Name)

President

(Title)

6/16/2022

(Date)

Exhibit A

Date:	06/01/2022		Effective:	Fall 2023						
Colleague ID:	IST.AMT.AAS		CIP Code:	15.0613					Location:	
Award Title:	Industrial Systems - Advanced Manufacturing Technology		Award Type:	AAS					New Braunfels, TX	
Dept Name:	Industrial Systems		Department Code:	IST						
Major:	IST	Industrial System	Modality	Hybrid						
Rubric	Num	Course Title	CIP	Lec	Lab	Ext	Cont	SCH	Pre-req	
Semester 1										
INMT	1373	Industrial Print Reading	15.1301	2	4	0	96	3	or MCHN 1302	
ELPT	1311	Basic Electrical Theory	46.0301	2	4	0	96	3		
INMT	1305	Introduction to Industrial Maintenance	15.0613	2	4	0	96	3		
ACGM	X3XX	Gen Ed Mathematics Elective		3	0	0	48	3		
		Semester Totals		9	12	0	336	12		
Semester 2										
ELPT	1341	Motor Control	46.0301	2	4	0	96	3	AACT 1371 or ELPT 1311 or CETT 1303 or IEIR 1371	
HYDR	1305	Basic Hydraulics	15.1103	2	4	0	96	3		
INMT	2303	Pumps, Compressors & Mechanical Drives	15.0613	2	4	0	96	3	INMT 1305	
SPCH	X3XX	Speech Elective		3	0	0	48	3		
		Semester Totals		9	12	0	336	12		
Semester 3										
WLOG	1391	Special Topics in Welder / Welding Technologist	48.0508	2	4	0	96	3		
MCHN	1338	Basic Machine Shop I	48.0501	2	4	0	96	3		
ELPT	2305	Motors & Transformers	46.0301	2	4	0	96	3	ELPT 1341	

Exhibit A

Training Services

(a) TSTC will:

1. Provide classroom and laboratory space, 1 full-time AMT Program director on a 12-month contract and 1 faculty instructor per cohort for instruction for the purpose of offering the AMT Program (the AMT Program director can also serve as a faculty member for meeting the requirements of this agreement); and
2. Offer the AMT Program at the TSTC Off-Campus Workforce instructional site, though parts or all of the AMT Program may be offered at other mutually agreeable locations; and
3. Provide a learning environment which emulates an open bay manufacturing environment, to be known as the FAME Technical Center, to strengthen the learning model. Ensure that the FAME Technical Center meets the minimum standards set for a FAME Technical Center in the FAME national standard. In accordance with standard AMT Program practice facilitate students to constantly maintain the FAME Technical Center in a model Visual Workplace Organization (5S) condition and a model Industrial Safety Practice condition, including full safety lock-out practice; and
4. Work with Texas FAME—Lone Star Chapter to ensure AMT Program instructors integrate the following five Manufacturing Core Exercises (MCEs) into daily instruction per the FAME model:
 - i. Semester 1: MCE-1: Safety Culture, establishing a learning environment and practices which promote safety and a culture of safety,
 - ii. Semester 2: MCE-2: Visual Workplace Organization (5S), setting a standard of lean workplace organization and material usage,
 - iii. Semester 3: MCE-3: Lean Manufacturing lean manufacturing principles and practices,
 - iv. Semester 4: MCE-4: Problem Solving, a structured 8-step problem solving model,
 - v. Semester 5: MCE-5: Machine Reliability, a practice to lengthen Mean-Time-Between-Failure for machines and systems; and
5. Strongly support student and employer recruiting activities, working in partnership with Texas FAME—Lone Star Chapter to develop a comprehensive recruitment strategy.
6. Work with Texas FAME—Lone Star Chapter in maintaining minimum student numbers to sustain TSTC classes, and to support the competitive position of U.S. manufacturing in the global market; and
7. Provide awareness of the FAME AMT program on relevant college webpages and any application links to the program should be routed through the FAME Student Portal and a link to the respective chapter page under FAME-USA.com should be included so that prospective students can make an informed enrollment decision; and
8. Actively identify and promote awareness of any potential funding opportunities that either TSTC solely or in partnership with the Client could be used to reduce program costs and improve quality of delivery and it will be incumbent upon the Client to support such efforts; and
9. Follow all Texas FAME—Lone Star Chapter policies and regulations regarding security and safety to the extent not conflicting with TSTC policies and procedures; and
10. Work closely with related organizations and strengthen national partnerships (e.g., Automotive Manufacturing Technical Education Collaborative or AMTEC, National Career Pathways Network) to continually improve the AMT Program and other related programs, if applicable; and
11. Provide all statutorily required insurance when using- instructional facilities; and
 - i. Ensure that AMT Program instructors: Are trained in all five MCEs and FAME Professional Behaviors prior to instructing AMT Program students by requiring all new instructors to attend the next available FAME training, or, when available and/or necessary, requiring participation in equivalent virtual instruction as made available by FAME USA; Ensure AMT instructors meet TSTC faculty credential requirements as defined in Statewide Operating Standard (SOS) ES 1.11, Faculty Credentials; and
 - ii. Ensure that all college-side portions of the Manufacturing Core Exercise workbook activities are completed by students and confirmed by instructors in the AMT Student Portfolio and FAME Student Portal; and

Exhibit A

- iii. Create and share with Texas FAME—Lone Star Chapter an operational lesson plan per course highlighting expected course competencies which employers can then reference for related onsite instruction and work experience; and
 - iv. Record and report student timeliness and attendance with such information available for employer review between meetings noting that absences should be reported to the employer as they occur in order to quickly ascertain whether intervention is warranted to ensure the student maintains good standing in the program; and
 - v. Fully and effectively use the AMT Student Portfolio, ensure that students do their part in fully maintaining the portfolio, and ensure that portfolios are stored together in a commonly accessible location for students, faculty, FAME employers, and AMT Program visitors; and
 - vi. Review student progress throughout semester and develop 'at risk' plan if needed; and
 - vii. Familiarize themselves with employer needs through annual or more frequent tours to better understand respective equipment and technology training needs; and
12. Assign an AMT Program advisor or success coach; and
13. Provide academic advising, support services, and related pre-enrollment activities for prospective and current AMT students; and
14. Provide early alert referrals, in the event a student is determined to be "at risk", make appropriate referrals as needed to other college departments, provide referrals to community-based organizations that can address student's barriers beyond academic challenges; and
15. Ensure that if non-AMT Program students, faculty, etc. co-use the FAME Technical Center or any other AMT Program designated learning spaces that they fully conform to AMT Program standards and practices and sustain the environment in a model visual workplace organization/5S and industrial safety practice condition; and
16. Support the annual AMT Program Orientation for each class start which entails AMT Program Orientation, MCE-1 Safety Culture training, Professional Behaviors Introduction and AMT Program Practices training; and
17. Provide a structured schedule that maintains a minimum of eight hours (lunch does not count) of education and development for each official school day, typically two days each week for each week of the semester; and
 - i. Courses will be delivered utilizing an instructional method determined by the College. For courses taught in a hybrid modality, for example, the lecture component of the course is delivered 100% online and the lab component delivered face-to-face. Students participating in classes delivered online by the College are not required to be at the off-site location to receive instruction. Online courses that are delivered 100% online are accessible at any time or location where a student has a computer and internet access; and
18. Participate in the planned AMT Program management and development practices for providers of the FAME/AMT Program. This includes:
 - i. Participate in the Manufacturing Institute's FAME Academy Fall 2022 – Spring 2023 to gain familiarity with the FAME model; and
 - ii. Send at least one representative to the annual FAME Conference; and
 - iii. Ensure FAME instructors participate in related FAME training, as referenced in 11.i. of Exhibit A; and
19. Support instructor(s) to model practices and methods delivered through FAME USA training related to the five Manufacturing Core Exercises and the delivery of Professional Behaviors, including modeling FAME Professional Dress; this shall include:
 - i. Teach, develop, and enforce Professional Behaviors as taught through FAME USA training; and
 - ii. Support AMT-organized and led Safety Discussions; and
 - iii. Fully implement and support Pocket Card activities as taught through FAME USA training; and
 - iv. Conclude each class with Return to 5S Home Position.

Exhibit A

(b) Texas FAME—Lone Star Chapter will:

1. Give on-going consideration for assistance with new and/or contemporary equipment to keep the AMT Program up-to-date and relevant, and will provide on-going advice and consultation to help maintain TSTC's manufacturing program at the forefront of the educational field; and
2. Provide equipment as outlined in Exhibit B; and
3. Provide reasonable school-sponsored access to company facilities to all AMT Program students and faculty for the purpose of learning-centered educational visits, tours, and demonstrations; and
4. Assist TSTC with advice and consultation, and other considerations as agreed to by both parties, at such time that TSTC establishes an emulated open-bay manufacturing learning space; and
5. Provide direct advice, consultation and assistance as agreed to by both parties, to support TSTC in establishing a learning environment and practices which promote the five MCEs; and
6. Sponsor students each year in the AMT Program in sufficient numbers to meet minimum class number requirements for TSTC to sustain classes and therefore the AMT Program; and
7. Work cooperatively with TSTC to engage other manufacturers in AMT Program participation, to assist TSTC in sustaining the AMT Program, and to support the competitive position of U.S. manufacturing in the global market; and
8. Assist TSTC with information, planning, and consultation in facilitation of AMT Program websites; and
9. Seek opportunities for additional funding to reduce AMT Program costs, and to assist with appropriate information when TSTC is preparing applications or requests for funding to assist the AMT Program; and
10. Assist TSTC in understanding and implementing industrial standards of safety and security, both to increase safety in the AMT Program and to better prepare students for functioning in an industrial setting, and will follow TSTC policies and regulations regarding safety and security when on TSTC property; and
11. Work closely with TSTC to continually improve the AMT Program; and
12. Give consideration to TSTC for employee training when TSTC can meet such needs; and
13. Designate, as needed, an employer representative to assist vetting of AMT instructors as requested by TSTC in order to ensure appropriate manufacturing experience for such hires as a best practice.

Class	Manufacturer	Vendor	Model	Equipment name or description	Size (ft. LxWxH)	Requirements	Voltage/Phase	Amos	Water	Sewer	Natural Gas	Compressed air	Quantity	Price	Extension
INMT 1373															
INMT 1373	Miller		Multimatice 235	Multi process Welder Torch kit			240V	50					10	\$3,000.00	\$30,000.00
WLDG 1391	Victor												10	\$600.00	\$6,000.00
WLDG 1391	Westward DeWalt	Grainger	22RN78 4D754	Welding/Cutting Gas Bottles Welding Screen Angle Grinders			120V						30	\$400.00	\$12,000.00
INMT 1305													20	\$165.00	\$3,300.00
INMT 1305													10	\$90.00	\$900.00
INMT 1305													1	\$10,000.00	\$10,000.00
INMT 1305													3	\$1,599.00	\$4,797.00
INMT 1305													10	\$821.86	\$8,218.60
INMT 1305													5	\$713.00	\$3,565.00
INMT 1305													5	\$191.89	\$959.45
INMT 1305													4	\$2,082.49	\$8,329.96
INMT 1305													2	\$93.09	\$186.18
INMT 1305													1	\$1,465.00	\$1,465.00
INMT 1305													1	\$289.28	\$289.28
INMT 1305													1	\$2,860.00	\$2,860.00
INMT 1305													20	\$135.00	\$2,700.00
MCHN 1338															
MCHN 1338	Grizzly		G8688	Mini Lathe			120(1)	20					5	\$825.00	\$4,125.00
MCHN 1338	Grizzly		G0781	Mini Milling Machine			120(1)	20					5	\$1,000.00	\$5,000.00
MCHN 1338	Vectrax		9623916/9167752	Lathe			240 3 -phase						2	\$12,100.00	\$24,200.00
MCHN 1338	Vectrax		21CSA	Mill			240 3 -phase						2	\$11,600.00	\$23,200.00
MCHN 1338	Vectrax		94423167	surface Grinder									1	\$15,275.00	\$15,275.00
HYDR 1305. RBTC 1309 (can also be used for ELPT 1311)															
HYDR 1305 & RBTC 1309	Amatrol			Hydraulic/Pneumatic Trainer			120v	15					Y	\$48,000.00	\$480,000.00
RBTC 1301. ELPT 1311. ELPT 1341. INMT 2345. ELPT 2305. & ELPT 2331															
ATC			8036-10	Industrial Controls			3/240						8	\$30,919.00	\$247,352.00
ATC			986844	Phase Converter									8	\$4,550.00	\$36,400.00
ATC			8036-30	Speed Controls									16	\$4,036.00	\$64,576.00
ATC			8036-40	Sensors									16	\$4,536.00	\$72,576.00
ELPT 2319	AMATROL		990-PARCLIF	Portable PLC Trainers			120v	6					8	\$11,950.00	\$95,600.00
ELPT 2319	AMATROL		82-RRSM	PLC Software Computer									8	\$805.00	\$6,440.00
ELPT 2319	DELL			Computer									8	\$2,000.00	\$16,000.00
INMT 2301. INMT 2303															
INMT 2301	SQI		SAT-2	Alignment Trainer									10	\$2,475.00	\$24,750.00
INMT 2301	Tech-Labs		550-RGB1	Anatrol Rigging Learning System									2	\$18,745.00	\$37,490.00
INMT 2301	Tech-Labs			Laser Alignment									2	\$17,020.00	\$34,040.00
INMT 2303	Tech-Labs		970-ME1	Anatrol Mechanical Drive Trainer									Y	\$16,815.00	\$84,075.00
INMT 2303	Tech Labs		950-PM1	Anatrol Pump Learning System									Y	\$15,854.00	\$79,270.00
RBTC 1343 & INMT 2345															
INMT 2345	DAC		440	Troubleshooting Trainer									10	\$4,295.00	\$42,950.00
				AMTEC Simulator									1	\$200,000.00	\$200,000.00

Estimate
Rentals will be cheaper
[Welding Screen](#)
[Angle Grinder](#)

[Measurement Kit](#)

[Grinder](#)

[Alignment Trainer](#)

