

STATE OF TEXAS §
COUNTY OF TRAVIS §

Division Number: 216	Program Name: IDEA
Org. Code:	Legal/Funding Authority:
Speed Chart:	
Payee Name: AvenirEducation	Payee ID: 1813850646
ISAS Contract #: 3723	PO #:

Amendment No. 1

**AMENDMENT TO
STANDARD CONTRACT
BETWEEN
TEXAS EDUCATION AGENCY
AND**

AvenirEducation Inc. dba SPEDx
NAME OF CONTRACTOR

It is mutually understood and agreed by and between the undersigned contracting parties of the above numbered contract to amend said Contract effective September 1, 2017 as follows:

ARTICLE II. PERIOD OF CONTRACT

TEA is exercising option to renew Contract 3723 to begin September 1, 2017 to end August 31, 2018. Additionally, the amendment addresses an unanticipated timing issue which would extend the Contract current deliverables to allow for increased participation of districts and regional Education Service Center staff in current contract deliverables. Future renewals are contingent on the Texas Legislature appropriating funds for the project under the same or different terms.

ARTICLE III. PURPOSE OF CONTRACT

Contractor shall perform all of the functions and duties set described herein in this Amendment, which are attached hereto and incorporated by reference. The "Revised Budget" and "Revised Billing Schedule", labeled Attachment A and "Revised Task Plan & Task Level Costs", labeled Attachment B.

ARTICLE IV. PAYMENT UNDER CONTRACT

TEA shall pay to Contractor by State of Texas warrant(s) the amount of \$420,000 for the period 9/1/2017 – 9/30/2017 and \$2,320,410.29 for the period of 10/1/2017 – 8/30/20 for the performance, satisfactory to the TEA, of Contractor's functions and duties under the Amendment. Payment to Contractor by TEA will be made in accordance with the attached Fiscal Year 2018 Budget and Task Plan.

Contract Amount	\$2,100,000.00
Amendment Amount	\$2,320,418.30
Contract Total	<u>\$4,420,418.30</u>

ARTICLE V. SPECIAL PROVISIONS

Attached hereto and incorporated herein by reference are the General Provisions and the Special Provisions indicated below with an "X" beside each:

Special Provisions, Program Specific

Texas Government Code §2252.901 prohibits the agency into entering into an employment contract, a professional services contract, or a consulting services contract with a former or retired TEA employee before the first anniversary of their last date of regular employment. If TEA enters into a "professional services" contract with a corporation, firm, or other business entity that employs a former or retired employee during the first year of the past employee's departure from the agency, the former or retired employee is restricted from performing services on projects that the employee worked on while employed at TEA.

Texas Government Code §572.069. CERTAIN EMPLOYMENT FOR FORMER STATE OFFICER OR EMPLOYEE RESTRICTED. A former state officer or employee of a state agency who during the period of state service or employment participated on behalf of a state agency in a procurement or contract negotiation involving a person may not accept employment from that person before the second anniversary of the date the officer's or employee's service or employment with the state agency ceased.

Effective 01/01/17, the mileage reimbursement rate is 53.5¢. The Comptroller's website for travel rules and regulations – textravel: <https://fm.xcpa.state.tx.us/fmx/travel/textravel/index.php>. Receipts must be made available for programmatic or financial audit, by TEA and by others authorized by law or regulation to make such an audit, for a period of not less than seven years.

All other terms and conditions of the original contract and amendments remain the same and are incorporated herein as if specifically written.

It is agreed and accepted by a person authorized to bind Contractor that all Terms and Conditions of this Amendment are effective commencing on the above date.

Typed Name: Richard Nyankori, CEO
Typed Title: owner



Authorized Signature

This section reserved for Agency use.

I, an authorized official of Agency, hereby certify that this contract is in compliance with the authorizing program statute and applicable regulations and authorize the services to be performed as written above.


AGREED and accepted on behalf of Agency this 29 day of September 2017 (month/year) by a person authorized to bind Agency.

Return electronic copy to:

TEAContracts@tea.texas.gov

Or by mail to:

Norma Barrera, Purchasing and Contracts
Texas Education Agency
1701 North Congress Avenue, Room 2-125
Austin, Texas 78701-1494



Mike Morath
Commissioner of Education

Special Provisions – Program Specific

Section K. Texas Education Agency Terms and Conditions

The Agency requests, in conjunction with the Contractor's FERPA responsibilities outlined in Section K of the Texas Education Agency Terms and Conditions Addendum, the Contractor implement additional security and confidentiality measures, described in Attachment C as "Statement of Data Security & Confidentiality Measures" and "SPEDx's Data Security Practices", applicable to the collection of interview and survey data from parents, students and teachers.

**ATTACHMENT A
REVISED BUDGET**

The budget tables below present a side-by-side comparison of current scope of work and amended scope of work.

Workstream	Current SOW	Amendment
Internal Fact Base	\$1,230,000.00	-
External Fact Base	-	\$59,980.30
Vision & Targets	\$150,000.00	-
Initial Change Strategy	\$520,000.00	-
18/36 Month Strategic Plan	-	\$714,963.25
Design Team Blueprints; Implementation Plan Development and Support	\$200,000.00	\$1,158,731.70
Total	\$2,100,000.00	\$1,933,675.25
Incidentals (~20% of contract)	-	\$386,735.05
TOTAL	\$2,100,000.00	\$2,320,410.30

Revised Billing Schedule

Invoice Period	SPEDx Invoice Date¹	Projected TEA Disbursement Date	Amount Billed
September 1, 2017 - September 30, 2017	October 1, 2017 ²	November 1, 2017	\$806,735.05
October 1, 2017 - October 31, 2017	November 1, 2017	December 1, 2017	\$175,788.66
November 1, 2017 - November 30, 2017	December 1, 2017	January 1, 2018	\$175,788.66
December 1, 2017 - December 31, 2017	January 1, 2018	February 1, 2018	\$175,788.66
December 1, 2017 - January 31, 2018	February 1, 2018	March 1, 2018	\$175,788.66
February 1, 2018 - February 28, 2018	March 1, 2018	April 1, 2018	\$175,788.66
March 1, 2018 - March 31, 2018	April 1, 2018	May 1, 2018	\$175,788.66
April 1, 2018 - April 30, 2018	May 1, 2018	June 1, 2018	\$175,788.66
May 1, 2018 - May 31, 2018	June 1, 2018	July 1, 2018	\$175,788.66
June 1, 2018 - June 30, 2018	July 1, 2018	August 1, 2018	\$175,788.66
July 1, 2018 - July 31, 2018	August 1, 2018	September 1, 2018	\$175,788.66
August 1, 2018 - August 31, 2018	August 31, 2018 ³	October 1, 2018	\$175,788.66
			\$2,740,410.30

NOTES

¹ When a the 1st does not fall a recognized business day (i.e., federal/state holidays or weekends), SPEDx will bill on the first prior recognized business day.

² This invoice completes the final installment payment under current contract (\$420,000) and pre-bills 20% of new contract amount (\$386,735.05).

³ This payment may reflect catchup or claw back.

ATTACHMENT B

REVISED TASK PLAN AND TASK-LEVEL COSTS

Deliverable: Policy Evaluation

Workstream: Establish a Robust Fact Base—External Environment

Type of Deliverable	Deliverable Description	Total
Analytical Report that address Tasks 1-5	SPEDx will conduct a policy evaluation to help the TEA understand how well their current policies advance its goals and priorities for students with disabilities in six key policy areas: 1) Part C to Part B Transition, 2) Early Identification & Child Find, 3) Specialized Instruction, 4) Related Services, 5) Secondary Transition, and 6) Least Restrictive Environment. Our evaluation framework focuses on the effects (i.e., Equity, Unintended Effects, and Effectiveness) and implementation (i.e., Cost, Feasibility and acceptability) of the policy. The evaluation is specifically tied to what policy levers are needed to advance the TEA's special education priorities. The TEA will receive a detailed evaluation report with concrete suggestions for how to align or realign policies to meet its current goals as part of its proposed strategic planning process. Additionally, the TEA will use this deliverable to develop incentive structures. This deliverable includes two rounds of revision (Draft, TEA reviews, SPEDx revises) between TEA and SPEDx.	\$35,010.94
Sub-Deliverables	<p>Milestones</p> <ol style="list-style-type: none"> 1. Confirm analytical approach and timeline with client 2. Identify policy set to be included in analytic sample 3. Conduct analysis (Effects and Implementation framework) 4. Synthesize findings and provide/present report to stakeholders 5. Summarize policy implications for strategic planning. <p>Process</p> <ol style="list-style-type: none"> 1) Internal meetings to refine analytical approach options. 2) Meeting with TEA to select an analytical approach option. 3) Send confirmation of approach and timeline to TEA. 1) SPEDx selects TEA policies to include in evaluation based on six key policy areas. 2) TEA approves selection. 3) Summary report provided to TEA Conduct analysis as approved and planned 1) Identify themes, patterns, trends, insights. 2) Write draft report. 3) Present draft report for comment to TEA 1) Complete final revision, 2) Formally present report to TEA, 3) Complete follow-ups as necessary 	TOTAL
Timeline: Documentation of Analytical Approach		\$1,465.50
List of Policies: Documentation of Data Collection Parameters		\$5,067.60
Initial Analysis Report		\$14,815.84
Draft Report; Revised Report		\$6,334.50
Final Report; Presentation		\$7,327.50

Deliverable: SEA Benchmarking Study

Workstream: Establish a Robust Fact Base—External Environment

Type of Deliverable	Deliverable Description	Total
Analytical Report that address Tasks 1-5	Benchmarking is a way of discovering what is the best performance being achieved in the field. This information can then be used to identify gaps in an the Agency's processes in order to achieve its objectives and meet it priorities.SPEDx will conduct a benchmarking study to help the TEA understand how the TEA's special education goals/priorities, major functions, staffing/organizational structure, budget, OSEP rankings, compared to comparably state departments of education. The goal of the benchmarking study is to provide the Agency with information needed to develop its strategic plan.	\$24,969.36
Sub-Deliverables	Key Milestones/Tasks	Total
Timeline: Documentation of Analytical Approach	1. Confirm approach and timeline with client	\$2,344.80
List of SEAs: Documentation of Data Collection Parameters	2. Determine which SEAs to include in study and areas for comparison (eg. budget, org structure, priorities, rankings, practices/approaches, oversight, educator/leader support, technology, etc.) and program areas (transition, related services, LRE, specialized instruction, etc.)	\$5,173.18
Initial Analysis Report	3. Conduct analysis	\$2,669.03
Draft Report: Revised Report	4. Synthesize findings and provide/present report to stakeholders	\$7,601.40
Final Report: Presentation	5. Summarize implications for strategic planning	\$7,180.95

Deliverable: 18/36Strategic Plan

Workstream: Strategic Plan

Type of Deliverable	Deliverable Description	Total
Strategic Plan (Strategic Priorities, Action Plan, Monitoring Plan) that address tasks below	SPEDx will assist the Agency in developing a strategic plan for advancing the Agency's vision, mission, and priorities related to special education in TEXAS through SY20-21. The plan is informed by a rigorous factbase comprised of both internal (IEP analysis and empathy interviews) and external (i.e., SEA benchmarking study and Policy Evaluation) sources. The factbases are part of existing work streams in the present contract and proposed workstreams in the amended contract. The strategic plan consists of five parts: 1) Statement of Vision and Core Beliefs, 2) Priorities/Goals/Objectives, 3) Action Plan to achieve goals, 4) Performance Management Plan to monitor implementation of plan, 5) Communications and Stakeholder Investment Plan. Each piece of the strategic plan is developed through a series of writing workshops to include SPEDx and TEA staff and external experts with related subject matter expertise.	\$714,963.25
Sub-Deliverables	Key Milestones/Tasks	Total
	Process	

WORKSHOP 1: DEVELOP VISION & CORE BELIEFS		
STRATEGIC PLAN PART 1: Statement of Vision and Core Beliefs		\$112,140.23
Conduct Workshop	1) During this workshop participants complete an initial draft of Part 1 of the strategic plan. SPEDx manages and facilitates workshop logistics. 2) Use internal facibase to create baseline set of vision and belief statements. This step involves understanding prevailing mindset and what shifts in mindset the TEA would like to see among internal and external actors; 3) Vet plan with internal and external reviewers to hone language and ensure clarity of purpose and intent. 4) Review and revise drafts (2 rounds) and obtain sign-off.	1) Identify workshop participants. Engage external experts as necessary. 2) Schedule workshop and attend to logistics. 3) Facilitate workshop. 4) Complete initial draft post workshop.
Initial draft of vision and belief statements		\$9,501.75
Feedback report on initial set of belief statements		\$5,067.60
Final draft complete and approved		\$10,070.88
Sub-Deliverables	Key Milestones/Tasks	Process
STRATEGIC PLAN PART 2: Action Plan		Total
Conduct Workshop	1) During this workshop participants complete an initial draft of Part 3 of the strategic plan. SPEDx manages and facilitates workshop logistics. 2) Draft detailed action plan to operationalize priorities, goals, and objectives determined in previous workshop with action steps, timelines, responsibilities, accountability, and cost estimates. 3) Vet plan with internal and external reviewers to hone language and ensure clarity of purpose and intent. 4) Review and revise drafts (2 rounds) and obtain sign-off.	1) Identify workshop participants. Engage external experts as necessary. 2) Schedule workshop and attend to logistics. 3) Facilitate workshop. 4) Workshop participants complete initial draft of Part 3 post workshop. 5) Vet plan with internal and external reviewers.
Draft of initial action plan section of strategic plan		\$175,000.00
Feedback report on action plan		\$16,892.00
Final draft complete and approved		\$8,446.00
Sub-Deliverables	Key Milestones/Tasks	Process
STRATEGIC PLAN PART 3: Performance Management Plan		Total
Set-up and Conduct Workshop	1) During this workshop participants complete an initial draft of Part 4 of the strategic plan. SPEDx manages and facilitates workshop logistics. 2) Draft includes metrics needed to monitor the plan, scorecard template, and routines for assessing progress toward goals.	1) Identify workshop participants. Engage external experts as necessary. 2) Schedule workshop and attend to logistics. 3) Facilitate workshop. 4) Workshop participants complete initial draft of Part 4 of the strategic plan post workshop
Draft of initial performance management plan section of strategic plan—scorecard, metrics, and monitoring routines		\$61,250.00
		\$8,446.00
		\$76,853.66

Feedback report on performance management section	3) Vet plan with internal and external reviewers to hone language and ensure clarity of purpose and intent.	5) Vet plan with internal and external reviewers.	\$3,800.70
Final draft complete and approved	4) Review and revise drafts (2 rounds) and obtain sign-off.	6) Revise plan as necessary. 7) Present second draft to TEA for comment. 8) Revise second draft and present TEA with final draft. 9) Obtain sign off from TEA.	\$3,356.96
Sub-Deliverables	Key Milestones/Tasks	Process	Total
STRATEGIC PLAN PART 4: Communications Plan & Stakeholder Investment Plan	WORKSHOP 4: DEVELOP COMMUNICATIONS PLAN & STAKEHOLDER INVESTMENT PLAN		\$158,060.48
Set-up and Conduct Workshop	1) During this workshop participants complete an initial draft of Part 5 of the strategic plan. SPEDx manages and facilitates workshop logistics.	1) Identify workshop participants. Engage external experts as necessary. 2) Schedule workshop and attend to logistics. 3) Facilitate workshop.	\$87,500.00
Draft of initial communications plan; Draft of initial stakeholder engagement plan	Develop Communications Plan for Stakeholder Investment. The communications plan will present ways the plan will be communicated internally and externally. Internally, the communications plan will include 1) Develop "access narratives" to appeal to both hearts and minds of stakeholders. 2) Show how to connect the plan to employees. 3) Identify and train external champions for the plan. 4) SPEDx will develop protocols and agendas for in-person stakeholder charrettes (does not include attending charrettes).	4) Workshop participants complete initial draft of Part 5 of the strategic plan.	\$52,032.88
Feedback report on performance management section	3) Vet plan with internal and external reviewers to hone language and ensure clarity of purpose and intent.	5) Vet plan with internal and external reviewers.	\$10,135.20
Final draft complete and approved	4) Review and revise drafts (2 rounds) and obtain sign-off.	6) Revise plan as necessary. 7) Present second draft to TEA for comment. 8) Revise second draft and present TEA with final draft. 9) Obtain sign off from TEA.	\$8,392.40
Competitive Grant Protocol; "Design Pilot" Guidance Document	Develop a strategy and codify it in a document that details what types of incentives the Agency can use to incentivize actions by stakeholders which would help the Agency meet its 18/36 special education goals. Specifically, the document would contain a plan for instituting competitive grants that utilize elements of design thinking to guide development of pilots that when scaled would help the Agency achieve its special education goals and stimulate innovation in special education by districts and education service centers.	1) SPEDx creates a draft protocol for implementing competitive grant program aligned to SPED priorities and a draft guidance document for conducting and implementing "Design Pilots" 2) TEA reacts to initial drafts. 3) SPEDx revises drafts and submits for final approval or revisions. 4) Final approval of competitive grant protocol and guidance for design pilots. 5) SPEDx submits print-ready versions of documents.	\$157,500.00

Deliverable: 18/36 Month Plan & Design Pilots Implementation

Workstream: Design Team Blueprints; Implementation Plan Development and Support

Type of Deliverable	Deliverable Description	Total
Implementation Support	SPEDx will assist the Agency in implementing its strategic plan by 1) helping co-design and support implementation of 8 pilot projects linked to priorities in strategic plan, 2) Adding capacity to key TEA staff during the implementation of the plan with both planned and ad hoc division-related projects during term of the contract.	\$1,134,231.70
Sub-Deliverables	Key Milestones/Tasks	Total
Co-design 4 additional pilot projects; Pilot project blueprint; Pilot Project Monitoring Plan; Pilot Project Plan Coach	1) Identify pilot design team. 2) Provide additional training to team as necessary. 3) Co-develop a pilot project blueprint. 3) Develop monitoring plan for blue print	\$498,750.00
Project Plan Coaching Support; Weekly and monthly status updates	SPEDx will allocate a part-time coach to help implement blueprint and coach design team leads as necessary (~8hrs/week). Includes bi-weekly coaching session as well as in-person shadowing and individual team workshop/planning support	\$89,981.70
Co-implement Project Design Showcase Day; Event agenda; Attendee List, Logistical Support	1) Determine event agenda; 2) Publicize event, 3) Provide logistical support to TEA needed for event. 4) Co-lead event	\$175,000.00
Provide key TEA staff with implementation support strategic plan; Weekly and monthly status updates	1) New Resource (1760 hrs--100% time) to support Justin and new SPED liaisons beginning from October 2017 - August 2018.	\$220,000.00
Provide key TEA staff with implementation support of contract and amended contract; Weekly and monthly status updates	1) Provide 1408 hrs--60% time to support Executive Director in any aspect of current scope; 2) Provide support to implement the strategic plan 3) Implement other adhoc projects aligned to overall contract objective to enhance the agency's state-level obligations to supporting students with disabilities as required by federal mandates through the Individuals with Disabilities in Education Act (IDEA), the Texas Administrative Code, and the Texas Education Code. The standard of a "free and appropriate education" must be calculated so that students with disabilities have the chance to make meaningful, "appropriately ambitious" progress that results in commensurate academic proficiency applicable to all students.	\$175,000.00

ATTACHMENT C

STATEMENT OF DATA SECURITY AND CONFIDENTIALITY MEASURES

The Agency requests that the Contractor implement additional data security and confidentiality measures as follows:

Should SPEDx determine that interviews, focus groups, or other methods collecting data from parents, students and teachers using audio or video recordings are an appropriate research methodology to employ for the purposes of this evaluation, TEA will not have access to personally identifiable audio or video recordings or to crosswalks that link de-identified recordings to personally identified information.

Once SPEDx has transcribed these recordings as appropriate to the evaluation, SPEDx will destroy the recordings themselves, maintaining only written transcripts. Upon completion of the contract period, crosswalks will also be destroyed. Only anonymized transcripts of recordings will be made available to TEA at any time during or after the contract period.

Should SPEDx determine that surveys are an appropriate research methodology to employ for the purpose of this evaluation, TEA will have no right to access personally identifiable survey data or crosswalks that link de-identified survey data to personally identified information. Upon completion of the contract, crosswalks will be destroyed. Only anonymized survey data will be made available to TEA at any time during or after the Contract period.

Further the Agency proposes incorporating the SPEDx Data Security Practices as Attachment D to the Contract.

ATTACHMENT D SPEDx Data Security Practices

AUTHORIZATION

TEA Contract #3723 establishes SPEDx as agent of the TEA for purposes of the services provided under the Agreement. Further Section K of Contract, "Texas Education Agency Contract Terms and Conditions" sets forth SPEDx's obligations under Family Educational Rights and Privacy Act, 20 U.S.C. Section 1232(g), et seq., ("FERPA") and Tex. Gov. Code Section 552.114. Accordingly, SPEDx serves an "Educational Official" for the TEA specifically for the purposes of the data collection activity described in "Access to Confidential" Form and in Addendum A of TEA Contract #3723.

STORAGE

SPEDx shall retain the raw data at a single location and shall not make a copy or extract of the data available to anyone except personnel who have a need for the data to perform the services referenced above and who have signed a Non-Disclosure Agreement. SPEDx shall maintain the data in hard copy or electronic form, in an area that has limited access only to SPEDx's authorized personnel. SPEDx shall not permit removal of the data from the limited access area. SPEDx will ensure that access to the data maintained on computer files or databases is controlled by password protection and double authentication. SPEDx shall establish procedures, based on the type of data provided, to ensure that the target data cannot be extracted from a computer file or database by unauthorized individuals. SPEDx shall maintain all printouts, discs, or other physical products containing student-level data in locked cabinets, file drawers, or other secure locations when not in use.

ACCESS & REVOCATION OF ACCESS:

SPEDx will protect its data assets through security measures that assure the proper use of the data when accessed. Every data item will be classified by SPEDx's Lead Data Scientist to have an appropriate security access level. Data access is password protected and requires double authentication. Sign-In credentials expire periodically and must be manually granted by the Lead Data Scientist. The Lead Data Scientist can revoke Data access at any time. Access is instantly revoked by the Lead Data Scientist when an authorized person no longer is authorized and/or is terminated from the company.

DATA PROTECTION:

SPEDx's Data Protection Policy is excerpted below:

Covered Individuals

Employees of our company must comply with this Data Protection Policy. Contractors, consultants, partners and any other external entity are also covered. Generally, our policy refers to anyone we collaborate with or acts on our behalf and may need occasional access to data.

Policy Elements

As part of our operations, we need to obtain and process information. This Data includes any offline or online data that makes a person identifiable such as names, addresses, usernames and passwords, digital footprints, photographs, birth date, social security numbers, individualized education plan and special education data, financial data etc. ("Data")

Once this Data is available to us, the following rules apply.

The Data will be:

- *Accurate and kept up-to-date*
- *Collected fairly and in compliance with all applicable law*
- *Processed by the company within its legal and moral boundaries*
- *Protected against any unauthorized or illegal access by internal or external parties*

Our Data will not be:

- *Communicated informally*
- *Transferred to organizations, states or countries that do not have adequate data protection policies*
- *Distributed to any party other than the ones agreed upon by the data's owner (exempting legitimate requests from law enforcement authorities)*

In addition to ways of handling the Data the company has direct obligations towards organizations to whom the Data belongs. Specifically we must:

- *Let organizations know which of their data is collected*
- *Inform organizations about how we'll process their data*
- *Inform organizations about who has access to their information and storage policies*

- Have provisions in cases of lost, corrupted or compromised data
- Allow organizations to request that we modify, reduce or correct data contained in our databases

Actions

To exercise data protection we're committed to:

- Restrict and monitor access to sensitive data
- Train employees in online privacy and security measures
- Build secure networks to protect online data from cyberattacks
- Establish clear procedures for reporting privacy breaches or data misuse
- Include contract clauses or communicate statements on how we handle data
- Establish data protection practices (e.g., secure locks, data encryption, frequent backups, access authorization etc.)

Disciplinary Consequences

All principles described in this policy must be strictly followed. A breach of data protection guidelines will invoke disciplinary and possibly legal action, including termination.

CONFIDENTIALITY AGREEMENT:

1. Please find SPEDx confidentiality agreement in the attached MOU. This MOU is used with entities that share student-level data with SPEDx. This MOU is executed with each district participating in the IEP analysis project.
2. Each SPEDx employee or contractor with access to the Data is required to execute the attached NDA.

Generally, our confidentiality agreement provides for the following:

"Confidential Information" shall mean any information of a proprietary or confidential nature that is provided by either Party to the other (either oral, written, or digital) (including any director, officer, employee, agent, or representative of the other) or obtained by either Party from the other (including any director, officer, employee, agent, or representative of the other) including, but not limited to, that which relates to technical data, research, product plans, products, markets, software, programming code (source and object), algorithms, developments, inventions, processes, designs, drawings, engineering, hardware configuration information, or marketing or finances of the disclosing Party. Without limitation of the foregoing, all Avenir Data shall be the Confidential Information of Avenir, and the Licensor Data is the Confidential Information of Licensor. Confidential Information shall not include: (i) information that is publicly known or available, or becomes publicly known or available, without breach of this Agreement; (ii) any information already (i.e., prior to disclosure by the other Party) rightfully in the possession of the receiving Party without an obligation of confidence; (iii) any information that is rightfully received by the receiving Party from a non-party who is not bound to an obligation of confidence; or (iv) any information that is independently developed by the receiving Party of the disclosing Party and which can be verified through reasonable documentation.

"Confidentiality Obligation" Each Party agrees to preserve the confidentiality of all Confidential Information of the other Party, and shall not, without the prior written consent of the other Party, disclose or make available to any person, or use for its own benefit other than as contemplated by this Agreement, any Confidential Information of the other Party. Each Party shall exercise reasonable efforts to safeguard the Confidential Information received from the other. Upon termination or expiration of this Agreement, each Party shall return to the other Party, upon request, all Confidential Information of the other Party and promptly certify in writing to the other Party, if requested by the other party, that all such Confidential Information has been returned. The obligations of confidentiality shall survive any termination or expiration of this Agreement for a minimum of seven years or longer if such information remains a trade secret.

DATA DESTRUCTION & AUDIT :

Data Destruction Terms

SPEDx shall, under supervision of the TEA if requested, destroy the raw data provided to SPEDx, including all copies, whether in electronic or hard copy form, when the services are completed or this Agreement is terminated, whichever occurs first. In some cases, SPEDx retains a non-personally identified analytical dataset derived from the raw data and transformed through SPEDx's proprietary algorithms and supplemental databases used to conduct the required analysis.

When Data is terminated, SPEDx directs all employees who were authorized to use the data to certify that they have destroyed:

- Physical media on which the restricted data products were distributed.
- Other materials, which include (but are not limited to) backup media, printed listings, and lab notes.

Destruction Procedures

All raw data files (e.g., all copies of the original restricted data and of all files derived in whole or in part from the restricted data) will be destroyed when the Agreement is terminated. SPEDx utilizes multiple approaches depending upon the media and storage method used. These procedures will result in making all provided files inaccessible. Typically, unless otherwise requested, SPEDx will destroy data through any of the following means:

1. Physical destruction of the device(s) (e.g., CDs, DVDs, tapes, diskettes) on which the restricted data files were stored.
2. Secure erasure of storage media followed by reformatting.
3. Secure deletion of individual folders and/or files.
4. Shredding of paper documents.

For any portable solid-state-drive (SSD) devices:

SPEDx's procedures follow recommendations outlined by Michael Wei et al. at University of California, San Diego. Although SSD devices have built-in commands for data erasure may not be totally effective, SPEDx will

1. Implement whole disk encryption; save keys.
2. Carry out secure data work.
3. At end of project, delete keys.
4. Reformat SSD.

After completion of one of the above destruction procedures, the SPEDx will issue a Data File Destruction Affidavit to the Agency. The Agency may request an audit or independent certification of destruction.