

Memorandum of Agreement for

**The Recreational UAS Safety Test
(TRUST)**

Between

FEDERAL AVIATION ADMINISTRATION (FAA)

And



February, 2021

ARTICLE 1. PARTIES & DEFINITIONS

1.1 Parties.

The parties to this Memorandum of Agreement (“Agreement”) are the Federal Aviation Administration (FAA) and the Test Administrator (TA),_____. The parties do hereby agree and obligate themselves to abide by the rights, responsibilities, and other conditions as defined in this Agreement.

1.2 Definitions.

The Recreational UAS Safety Test (TRUST):

The aeronautical knowledge and safety test (named The Recreational UAS Safety Test, or TRUST) required by Title 49 of the United States Code (49 U.S.C.) § 44809¹

Test Platform:

In order facilitate the goal of making the test accessible and available to the largest viable audience, the FAA will approve test administrators (TAs) to deliver the TRUST content to their customers via Learning Management Systems (LMS). LMS may vary in complexity and technological capabilities, but all systems must be available electronically, and conform to the Operating Rules.

Test Administrator:

The FAA is authorizing private third party entities to package and deliver the TRUST content provided by the FAA. Test Administrators must operate in accordance with the Operating Rules.

ARTICLE 2. SCOPE

2.1 Purpose.

This Agreement is the agreement between the FAA and_____, establishing that the FAA will provide TRUST content to_____, enabling this party to administer the TRUST to the public or its customers.

The purpose of this Agreement between the FAA and_____ is to identify the rights, responsibilities, and other conditions for both parties in order to enact the desired service connection.

2.2 Goals and Objectives to be accomplished.

The parties are bound by a duty of good faith and best effort in achieving the goals of this Agreement. The FAA agrees to provide TRUST content. The FAA also agrees to allow the TA to administer the TRUST in accordance with the Operating Rules. Pursuant to this Agreement, the FAA and _____ agree to the following procedures, restrictions and responsibilities:

¹Titled: The Exception for Limited Recreational Operation of Unmanned Aircraft

2.2.1 Description.

This section describes and specifies the context and purpose of the information used and what equipment and systems will be used for distribution of the training and testing content, for purposes of administering the TRUST.

2.2.1.2 General information and guidelines regarding the aforementioned provisions for connection and transmission of information, to and from the FAA's APIs, is contained in the Operating Rules document (pending).

2.2.1.3 The TA must develop and maintain its own applications to package and deliver the provided content in accordance with the Operating Rules.

2.2.1.4 The FAA will provide the TRUST content to TAs electronically. The TA may not alter any of the TRUST content. For example, TAs may not alter the wording of the FAA provided training modules, the questions, or the answers. TAs are allowed to vary the sequence of answers so that the answer to a specific question is not always 'A'. TAs are permitted to add training content, but no additional questions, in accordance with the Operating Rules. The TA may format the visual presentation of the content in a manner best suited to their target audience.

2.2.1.5 This Agreement covers the requirements for administering the TRUST per 49 U.S.C. § 44809(g)(1).

2.2.1.6 TA will retain responses to the TRUST examination only for quality assurance purposes. Permitted purposes are for feedback to the FAA on the content of the TRUST examination, the TA's administration of the TRUST examination, or any other purpose necessary to evaluate and examine the delivery of the TRUST examination.

2.3 Roles and Responsibilities.

2.3.1 FAA – Supplier of TRUST content.

2.3.1.1 The FAA is responsible for providing the TRUST content to approved TAs in an electronic format.

2.3.1.2 The FAA reserves the right to update the TRUST content at any time. The FAA will provide written notice thirty (30) calendar days in advance of such changes absent good cause for earlier or immediate changes.

2.3.1.3 The FAA reserves the right to notify _____ as not in compliance with this Agreement and to direct the interruption or termination of approval to act as a TA. Non-compliance is defined as any failure to adhere to the terms of this Agreement or the Operating Rules. The FAA will permit a fifteen (15) calendar day period for _____ to remedy a non-compliance, absent good cause for earlier or immediate interruption or

termination of access.

- 2.3.1.4 The FAA reserves the right to modify this Agreement or the Operating Rules if the FAA determines, at its sole discretion that the modification is in the best interests of the United States Government, the aviation industry, or the general public. The FAA will provide written notice thirty (30) calendar days in advance, absent good cause for earlier or immediate modification. Upon receipt of such notice, _____ may, upon receipt of the notice or modification, (a) raise an objection, which the FAA will consider, or (b) terminate this Agreement without the advance written notice required by article 8. In the event that the Agreement or the Operating Rules are updated or modified, _____ is responsible, at its own expense, for providing and maintaining any hardware, software, communications equipment, and any other resources needed to continue to administer the TRUST.
- 2.3.1.5 The FAA reserves the right to discontinue service in whole or in part for any reason, including but not limited to the following: the need for this service no longer exists, the FAA no longer has sufficient funding available in connection with this service, or _____'s use of the service conflicts with any law, regulation, policy, guidance, terms of the agreement, or the mission of the FAA. The FAA will provide written notice thirty (30) calendar days in advance absent good cause for earlier or immediate discontinuance.
- 2.3.2.1 _____ must comply with the Operating Rules. The applicable version of the Operating Rules and of all other documents referenced or incorporated in this Agreement are the most-recent versions approved by the FAA and directly or constructively provided to _____; this includes versions approved and provided after execution of this Agreement. It is the responsibility of the TA to ensure compliance with the current Operating Rules. The latest versions will always be available on the FAA's website.
- 2.3.2.2 Costs to administer the TRUST: _____ agrees to provide and maintain any hardware, software, communications equipment, and any other resources needed to design and administer the TRUST. _____ agrees not to charge test takers for administering the TRUST directly or indirectly.
- 2.3.2.3 _____ agrees to contact the FAA for matters related to TRUST Test Administration. In order to change POC information, _____ must notify the FAA thirty (30) calendar days in advance of the proposed change request.
- 2.3.2.4 In the event that _____ ceases operations as a TA, it will notify the FAA immediately. On the date operations cease, the TA also agrees to

remove the TRUST from their LMS and all references to the TRUST and their agreement with the FAA to administer the TRUST from any publications or websites.

ARTICLE 3. NO COSTS

No funds are obligated under this Agreement. Each TA will bear the full cost it incurs in performing, managing, and administering its responsibilities under this Agreement.

The TAs agree to not charge a fee to test takers directly or indirectly to take the test or for test administration.

The costs for which the FAA are responsible include but are not limited to all costs incurred in the establishment and maintenance of the TRUST content that will be provided to the TAs.

The costs for which _____ is responsible include, but are not limited to, all developmental costs incurred in the establishment and maintenance of _____'s servers and software, and all costs associated with the connection and communications lines required to administer TRUST.

ARTICLE 4. PERIOD OF AGREEMENT AND EFFECTIVE DATE

This Agreement will be effective on the date of the last signature below and will terminate 24 calendar months from the date of execution, unless the parties mutually agree to continue it and modify the end date accordingly. By signing this agreement, _____ certifies that it takes no exception to the articles of this Agreement.

ARTICLE 5. LEGAL AUTHORITY

This Agreement is entered into under the authority of 49 U.S.C. § 106(1) and (m), which authorizes agreements and other transactions on such terms and conditions as the Administrator determines necessary.

ARTICLE 6. REIMBURSEMENT AND ACCOUNTING ARRANGEMENTS

This section is intentionally left blank.

ARTICLE 7. CHANGES AND MODIFICATIONS

Changes and modifications to this Agreement must be made by written amendment and signed by the FAA Contracting Officer and an authorized representative of _____ . Notwithstanding the previous sentence, a unilateral modification by the FAA is effective upon the FAA Contracting Officer's sending the modification, signed by the FAA Contracting Officer, to _____'s POC via email, regardless of whether an authorized representative of _____ has signed.

ARTICLE 8. TERMINATION

In addition to the termination rights in article 2, either party may terminate this Agreement with or without cause at any time prior to its expiration date by giving the other party at least thirty (30) calendar days prior written notice of termination. The FAA may also require that _____ cease administering TRUST; upon notice of such a requirement, _____ may terminate this Agreement without advance written notice. The FAA will conduct reviews of any authorized TA to ensure ongoing compliance with the Memorandum of Agreement (MOA) and the Operating Rules. Reviews will be conducted in accordance with the Operating Rules and are required for continued TA authorization.

The FAA has the ability to unilaterally terminate the ability of the TA to administer TRUST due to national security or policy reasons upon written notice to the TA.

The TA will cease administering TRUST within 24 hours of receipt of the written termination notice.

ARTICLE 9. ORDER OF PRECEDENCE

In the event of any inconsistency between the terms of this Agreement and its attachments, the inconsistency must be resolved by giving preference in the following order:

- A. The Agreement
- B. The Attachments

ARTICLE 10. TYPE AND CONSTRUCTION OF THE AGREEMENT

This Agreement is an "other transaction" authorized by 49 U.S.C § 106 (1) and (m) is not a procurement contract, grant, or cooperative agreement. This Agreement is not intended to be, nor must it be construed as, creating a partnership, corporation, or other business organization. Nothing in this Agreement must be construed as incorporating by reference or implication any provision of Federal acquisition law or regulation.

ARTICLE 11. DISPUTES

Where possible, disputes will be resolved by informal discussion between the parties. In the

event the parties are unable to resolve any disagreement through good-faith negotiations, the dispute will be referred to the Office of Dispute Resolution for Acquisition (ODRA) for non-binding mediation (see 14 C.F.R. Part 17).

ARTICLE 12. WARRANTIES

The FAA makes no express or implied warranties as to any matter arising under this Agreement, including but not limited to the accuracy of information included in the TRUST AP API services, or as to the ownership, merchantability, or fitness for a particular purpose of any property, including any equipment, device, software, or data that may be provided under this Agreement.

ARTICLE 13. INSURANCE

_____ must arrange by insurance for reasonable protection of itself from and against all liability to third parties arising out of, or related to, its performance of this Agreement.

ARTICLE 14. LIMITATION OF LIABILITY

The parties agree that the FAA assumes no liability under this Agreement for any losses arising out of any action or inaction by _____. The parties agree that the FAA assumes no liability under this Agreement for any losses arising out of any action or inaction by the FAA or its agents, officers, employees, or representatives. In no event must the FAA be liable for claims for consequential, punitive, special, or incidental damages; lost profits; or other indirect damages.

ARTICLE 15. INDEMNITY

_____ agrees to indemnify and hold harmless the Government and its agents, officers, employees, and representatives (the Indemnified Parties) from and against all claims, demands, damages, liabilities, losses, suits, and judgments, including the costs and expenses incident thereto (collectively, Claims), that may accrue against, be suffered by, be charged to, or be recoverable from the Indemnified Parties arising out of acts or omissions of FAA and the United States government in connection with this Agreement

ARTICLE 16. CIVIL RIGHTS ACT

_____ must comply with Title VI of the Civil Rights Act of 1964 relating to nondiscrimination in federally assisted programs.

ARTICLE 17. OFFICIALS NOT TO BENEFIT

AMS clauses 3.2.5-1, "Officials Not to Benefit," and 3.2.5-7, "Disclosure Regarding

Payments to Influence Certain Federal Transactions,” are incorporated by reference into this Agreement.

ARTICLE 18. PROTECTION OF INFORMATION

The FAA reserves the right to share all information with any department, agency, or instrumentality of the United States Government and other state, local, tribal, or territorial governments in accordance with federal law and regulation. The FAA also reserves the right to share all information as necessary for analysis and performance of all National Airspace System (NAS) contracts and agreements, subject to FAA use and disclosure provisions. The FAA will process any request under the Freedom of Information Act (FOIA), 5 U.S.C. § 552, or the Privacy Act, 5 U.S.C. § 552a, for any information to which the FAA maintains control in accordance with these statutes. _____

_____ must not provide to the FAA any information potentially protected under the Privacy Act unless the information is specifically requested by the FAA. For the sole purpose of this article, *information* means any communication or representation of knowledge such as facts, data, opinions in any medium or form, including textual, numerical, graphic, cartographic, narrative, visual, or software form, provided to or by _____ in the course of its activities under this Agreement.

a) and its contractors agree to abide by any restrictive- use conditions on any information, whether or not such information bears a restrictive-use marking or legend, and not to, without written authorization from the FAA Contracting Officer, knowingly disclose to others or use for any purpose other than that described in this Agreement any information unless the Government has previously made the information available to the public.

b) _____ must protect all such information from unauthorized use or disclosure to any individual or organization except in accordance with the aforesaid agreement. This article does not limit _____’s (or any of its contractors’) right to use or disclose in accordance with the aforesaid agreement any information legally obtained and given permission by the FAA to share or disclose.

c) _____ agrees to protect all Personally Identifiable Information (PII) data that is collected, handled, shared, or stored, for the purpose of processing or managing TRUST certifications (e.g., the test taker’s first name, last name, phone number, and email address).

- i) TA must delete the token with PII as soon as Completion Certificate is produced and the TAs verify that it has been successfully submitted to the FAA.
- ii) TAs may collect tokens with PII on test takers for other purposes related to the test taker as a member of the organization. The TA may not store tokens in a manner such that they are retrievable by the test taker’s unique identifier, or otherwise linked or linkable to the test taker.

d) To the extent _____ collects or uses personal information obtained directly from children under thirteen (13) years of age, _____ agrees to comply with all obligations (if applicable) of the Children’s Online Privacy Protection Act (15 U.S.C. §§ 6501-6505) and the implementing regulations at 16 CFR Part 312.

e) Rights in data

For the purpose of administering an examination and issuing a TRUST completion certificate, only the following information may be temporarily collected from the individual:

- First and last name
- Email address

i) The FAA does not retain rights in data to the first and last name and email address of the test taker. Upon issuance of a TRUST completion certificate with the corresponding token number, this identifying information must be removed from a TA's data servers or LMS account before the token is submitted to the FAA.

f) Except as the FAA Contracting Officer specifically authorizes, upon cessation of this Agreement, _____ must return to the FAA all information obtained from the Government, including all copies, modifications, adaptations, or combinations thereof. Information obtained from other individuals or organizations must be disposed of in accordance with _____'s agreements with those individuals or organizations. _____ must further certify to the FAA Contracting Officer that all copies, modifications, adaptations, or combinations of such information that cannot reasonably be returned to the FAA have been deleted from the records of _____ contractors' parent companies, agents, subsidiaries, and affiliates and destroyed.

ARTICLE 19. SECURITY

_____ must abide by all security regulations and procedures specified in this Agreement and FAA orders. Furthermore, _____ agrees to not retain any Personally Identifiable Information (PII) for the purpose of taking the TRUST, any longer than is needed to produce the test certificate of completion.

The term "PII," as defined in OMB Memorandum M-07-1616 refers to information that can be used to distinguish or trace an individual's identity, either alone or when combined with other personal or identifying information that is linked or linkable to a specific individual. The definition of PII is not anchored to any single category of information or technology. Rather, it requires a case-by-case assessment of the specific risk that an individual can be identified. In performing this assessment, it is important for an agency to recognize that non-PII can become PII whenever additional information is made publicly available - in any medium and from any source - that, when combined with other available information, could be used to identify an individual.

ARTICLE 20. GOVERNING LAW

This Agreement shall be governed and interpreted by Federal Law.

ARTICLE 21. PUBLICITY AND PUBLICATION

_____ is prohibited from announcing their selection as a TA until the FAA issues the signed MOA. _____ and the FAA reserve the right to publicly disclose and to publish the results of activities produced as a result of the test administration obtained under this Agreement. The FAA has fourteen (14) business days from receipt of the request to disapprove the request. If the FAA does not respond within 14 business days, _____ may publicly disclose or submit for publication the results. _____ must delay or refrain from disclosing or publishing the results of activities produced as a result of the test administration obtained under this Agreement at FAA’s written request regardless of an earlier failure to disapprove disclosure or publication of such results.

ARTICLE 22. CLAUSES IN RELATED AGREEMENTS

_____ agrees to include the substance of the obligations placed upon it in articles 12, 14, 16, 17, 18, 19, and 21 in all contracts and agreements with third parties substantially related to this agreement, including but not limited to third parties connecting indirectly to the Test Administrators platform by connecting directly to _____’s network.

ARTICLE 23. SURVIVAL

The obligations in articles 9, 11, 12, 14, 15, 16, 17, 18, 19, 20, 21, 22, and 24 will survive the expiration, termination or other end, by any means, of this Agreement.

ARTICLE 24. ENTIRE AGREEMENT

This document is the entire agreement of the parties, who accept the terms of this Agreement as shown by their signatures below. In the event the parties duly execute any amendment to this Agreement, the terms of such amendment must supersede the terms of this Agreement to the extent of any inconsistency.

AGREED:

(Test Administrator)

BY: _____
[Insert name and title]
(_____ Representative)

DATE: _____

Federal Aviation Administration
(U. S. Government Service Provider)

BY: _____
FAA Contracting Officer, AAQ-450
(U. S. Government Representative)

DATE: _____

BY: _____
[Insert name and title]

DATE: _____