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SERVICES/PERSONNEL AGREEMENT

Between

THE HAVEN

and

THE HAVEN BUTTERFLY FOUNDATION

THIS AGREEMENT (the “Agreement”) is entered into effective as of the 1st day of March, 2021 (the “Effective Date”), between The Haven, an Arizona nonprofit corporation (“Provider” or “The Haven”), and The Haven Butterfly the Foundation, an Arizona nonprofit corporation (“Recipient” or the “the Foundation”).

RECITALS

A. Provider, The Haven, is a tax-exempt public charity within the meaning of Section 501(c)(3) of the Internal Revenue Code (the “Code”) and The Haven has facilities and personnel with various skills that may be useful to the Foundation for the reasons described herein.

B. Recipient, the Foundation, is a public charity, which at the time of entering into this Agreement is in the process of making its IRS application for recognition as a tax-exempt organization described in Sections 501(c)(3) and 509(a)(3) of the Code. Its tax-exempt purpose is as a supporting organization of The Haven, more specifically to raise, maintain and provide funds in furtherance of The Haven’s mission.

C. For various business reasons, the Foundation desires to utilize certain facilities and personnel of The Haven because of the symbiotic nature of The Haven’s mission and that of the Foundation. The Foundation desires to obtain through this Agreement the use of The Haven’s office space and related facilities (“Office Space”), computers, telephones, copying machines, office equipment, materials and supplies (collectively, “Office Equipment”) to the extent it is used in the provisions of services by certain executive management, accounting, administrative, and professional services provided by Personnel (as defined in Section 4), and The Haven desires to provide such Office Facilities, Office Equipment and Personnel to the Foundation in furtherance of the Foundation’s mission.

D. The parties desire to properly account for and track the use of the Office Facilities, Office Equipment and Personnel by each entity and the parties agree that allocations made pursuant to this Agreement will facilitate the accounting and recordkeeping of the entities.

TERMS AND CONDITIONS

For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Allocated Share. For the purposes of this Agreement, the term “Allocated Share” shall mean the percentage deemed to be applicable for the utilization of certain Office Equipment by each party (as set forth in Section 3) that is equal to the weighted percentage of time Personnel performed services for the Foundation in proportion to the time Personnel performed services for The Haven. The Allocated Share shall be calculated by The Haven on a quarterly or month basis.

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2. Payment of Amounts Due; Decision to Collect Amounts.
 - a) Invoicing. Within fifteen days of the end of a calendar quarter, The Haven shall, on a quarterly or monthly basis, give to the Foundation an invoice with an itemized statement of the amount of the Foundation's Allocated Share of the Office Equipment Costs, the actual Payroll Costs, and the actual Charges.
 - b) Payments; Notice; Accruals of Amounts Due.
 - i. Informational Purposes; Amount Due & Due Date. Until such time as The Haven determines otherwise, and provides 30 days' written notice of the change as provided in section 2.b.ii., below, the Foundation shall not be required to pay any amounts invoiced for its Allocated Share, and no due date will be included for payment. Upon The Haven's notice to begin charging the Foundation for all or a percentage of its Allocated Share, as provided in section 2.b.ii., below, the invoices shall thereafter include the amount due and a due date.
 - ii. Notice of Intent to Charge. At any time during the Term of this Agreement, The Haven, in its sole and absolute discretion, may decide to begin charging the Foundation some or all of the Foundation's Allocated Share as reflected in the quarterly invoices provided by The Haven in accordance with this Section 2 and Agreement. In order to begin charging the Foundation under the provisions of this Agreement, The Haven shall provide the Foundation's Board Chair and Treasurer with written notice, not later than 30 days prior to the next invoice date, that The Haven will begin charging the Foundation all or a designated percentage of the Allocated Share as stated on the invoices going forward. Thereafter, the invoices shall state the amount due and a due date as provided in section 2.b.iii.
 - iii. Payment Due Date. For all Allocated Share amounts invoiced and due to The Haven, payments due shall be paid by the Foundation within 10 business days of the date on the invoice.
 - iv. No Accrual of Amounts. The Haven shall not accrue as an account receivable or debt owed from the Foundation, nor shall the Foundation record as a liability owed to The Haven, any amount of an Allocated Share that was calculated both prior to the notice required by section 2.b.ii. having been given and the Foundation not having made a payment timely as required by section 2.b.iii.

3. Use of Office Facilities and Office Equipment.

- (a) Use of Facilities. The Haven has the right to exclusive use of the Office Facilities of The Haven. The Foundation shall be entitled to use a portion of the Office Facilities from time to time, as designated by The Haven. The Foundation shall comply with all laws, regulations and rules respecting the use of the Office Facilities. The Foundation shall not use, or permit the use of, the Office Facilities such as to constitute a nuisance. The Foundation shall take reasonable care of the Office Facilities used by it.

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(b) Use of Equipment. The Haven has the right to exclusive use of the Office Equipment of The Haven. The Foundation shall be entitled to use a portion of the Office Equipment from time to time, as designated by The Haven. The Foundation shall comply with all laws, regulations and rules respecting the use of the Office Equipment. The Foundation shall not use, or permit the use of, the Office Equipment such as to constitute a nuisance. The Foundation shall take reasonable care of the Office Equipment used by it.

(c) Costs and Charges. The Haven is required to pay costs and expenses attributable to the occupancy of the Office Facilities and will from time to time purchase office furnishings and office supplies (collectively, the “Office Facility Costs”). Computers, printers, phones, printer paper, ink cartridges, supplies, and all related materials shall, to the extent possible, be purchased by the Foundation for projects of the Foundation.

(i) For items such as computers, printers, and phones used by The Haven Personnel who are working for both The Haven and the Foundation, an allocation of costs shall be based upon the overall allocation of costs for someone based on the allocation of time to expenses (the “Office Equipment Costs”).

(ii) The Foundation shall pay its Allocated Share for Office Facilities and Office Equipment Costs in accordance with Section 2 above and the Foundation shall be charged the following amounts (the “Charges”) for the use of the following identified Office Equipment and Facilities:

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| • Long distance calls | At Actual Cost on a Proportional Basis |
| • Copies | At Actual Cost |
| • Postage | At Actual Cost |
| • Utilities | At Actual Cost on a Proportional Basis |
| • Supplies and Refreshments
for a Foundation event | At Actual Cost |

(d) Indemnification and Underpayment or Underallocation. The Foundation shall be responsible for any damage, breakage or cleaning required as caused by its use of the Office Equipment and shall indemnify and hold harmless The Haven for any claims arising from the Foundation’s use of the Office Equipment. Additionally, in the event the Internal Revenue Service makes a determination that Office Facility Costs, Charges or Payroll Costs were in some manner underallocated or otherwise underpaid in any amount by the Foundation to The Haven, the Foundation agrees to pay The Haven the amount of such underpayment or underallocation within 10 days of receipt of notice of such underpayment.

4. Personnel.

(a) Definition of Personnel. “Personnel” shall mean those employees of Provider who are necessary, on a full- or part-time basis, as may be designated, to perform the operations and functions of the Foundation, and who are provided from time to time by Provider to the Foundation pursuant to this Agreement.

(b) Use of Personnel. Commencing on the Effective Date and continuing during the Term, The Haven shall provide Personnel to the Foundation. The Foundation may set duties to be performed by Personnel, including providing appropriate titles for Personnel to use in the course of providing services to the Foundation pursuant to this and other agreements.

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(c) Record Keeping. Each of the Personnel performing services for both The Haven and the Foundation shall keep accurate and complete records of the time spent providing services to each party, and specific costs incurred for the benefit of each party. Personnel will be directed to provide each party with the records of time spent providing services to each party and Charges incurred for the benefit of a party.

(d) Provider/Recipient Duties. The Haven shall be responsible for (i) payment of wages to Personnel; (ii) collection, reporting and payment of applicable federal, state and local payroll taxes; (iii) administration and payment of employee benefit plans and workers' compensation insurance; and (iv) completion, reporting and maintenance of payroll and benefit records, with the exception of actual hours worked, which shall be maintained and verified by each party. The Foundation shall pay The Haven the Payroll Costs for all services it received in an amount equal to the percentage of time Personnel performed services for the Foundation in proportion to the time Personnel performed services for The Haven.

(e) Insurance. The Foundation shall obtain and maintain any comprehensive general liability insurance in an amount mutually agreed upon by the parties insuring each party against bodily injury, death and property damage liability arising from Personnel acts in the performance of services for the Foundation. Directors and Officers Insurance shall be provided by The Haven and charged to the Foundation.

(f) Definition of Payroll Costs. "Payroll Costs" shall mean all compensation and benefits paid with respect to any Personnel for services provided to The Haven and/or the Foundation, including any costs associated with insurance and retirement benefits, savings or welfare plans, payroll taxes, workers' compensation, other employment related contributions or payments required to be made to any governmental entities, and any other fringe benefits or direct costs relating to the employment of such Personnel, such as reimbursements for business expenses incurred by Personnel, provided that in no event shall Payroll Costs associated with an Personnel be other than for the performance of personal services which are reasonable and necessary to carry out the exempt purpose of The Haven and/or the Foundation nor shall the Payroll Costs be excessive within the meaning of the Treasury Regulations governing self-dealing between a disqualified person and an exempt organization. The costs of any insurance or retirement benefits shall be measured by the amount of any employer contribution or by the employer portion of any premium for such benefits. Payroll Costs with respect to a Personnel shall continue during normal periods of an Personnel's absence from work for vacation, sick leave, legal holidays and emergency conditions.

5. Term. This Agreement shall commence as of the Effective Date and shall remain in full force and effect until terminated by either party upon 90 days prior written notice to the other party.

6. Modification or Waiver. No modification of this Agreement shall be deemed effective unless in writing and signed by the parties and any waiver granted shall not be deemed effective unless in writing, executed by the party against whom enforcement of the waiver is sought.

7. Applicable Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Arizona and applicable federal law, without regard to any conflict of laws principles.

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8. Cooperation. Each of the parties shall cooperate in good faith to accomplish the objectives of this Agreement, and shall execute such additional documents and take such further acts as may be reasonably necessary to further the purpose and intent of this Agreement.

9. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the parties and their respective successors in interest and assigns.

10. Severability. If any provision of this Agreement is declared void, unenforceable, or in any manner constitutes an excess benefit transaction with a disqualified person, such provision shall be deemed severed from this Agreement, and this Agreement shall otherwise remain in full force and effect.

11. Entire Agreement. This Agreement supersedes all prior agreements, written or oral, with respect to the subject matter of this Agreement.

12. Relationship. Nothing contained herein shall authorize either party to bind the other in any way, other than as expressly set forth herein.

13. No Third Party Beneficiaries. Nothing herein, express or implied, is intended to or shall confer upon any other person any legal or equitable right, benefit or remedy of any nature.

14. Counterparts. This Agreement may be executed in two or more original or facsimile counterparts, each of which shall be deemed an original and all of which together shall constitute but one and the same instrument.

IN WITNESS WHEREOF, the parties have authorized their representatives to execute this Agreement and this Agreement is executed as of the Effective Date.

THE HAVEN
An Arizona nonprofit corporation

**THE HAVEN BUTTERFLY
FOUNDATION**
an Arizona nonprofit corporation

By _____

By _____