

THE CITY OF NEW YORK

DEPARTMENT OF DESIGN AND CONSTRUCTION

**30-30 THOMSON AVENUE
LONG ISLAND CITY, NEW YORK, NEW YORK 11101**

MASTER APPLIED CONSTRUCTION INNOVATION RESEARCH SERVICES CONTRACT

FMS NUMBER: DDCTOWNGN

**REGISTRATION
NUMBER: 20226200361**

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**CONSULTANT: New York University
665 Broadway, Suite 801
New York, NY 10012
EIN# 13-5562308**

THIS MASTER APPLIED CONSTRUCTION INNOVATION RESEARCH SERVICES CONTRACT, is made and entered into as of the September 22, 2021, by and between the City (all capitalized terms used herein shall have the meanings ascribed to them in Article 1 herein), acting by and through the Commissioner of DDC, on behalf of the City Agencies participating in Town+Gown, and and New York University, an education corporation in the State of New York, acting on behalf of the Institute.

WITNESSETH:

Whereas, the Institute is a membership-based and industry-supported academic institution at New York University-Tandon School of Engineering that conducts world-class research, educational, and outreach activities to promote innovation in construction, engineering design, and management and further aims to play a long-term, instrumental role in helping industry leaders create vibrant and sustainable communities where people want to live and work, while grooming a new generation of engineers to take on emerging challenges facing the construction industry;

Whereas, the Institute conducts its research activities within a bias-free environment and operates as a collaborative platform for industry advancement and modernization, applying research capabilities and the hands-on industry experience of its faculty to help construction leaders overcome vexing issues that often trigger cost overruns and schedule delays;

Whereas, the Institute's program design can help industry practitioners devise creative solutions to sensitive project design and construction issues, provide access to experienced and independent experts for such issues and serve as a national clearinghouse for sharing information and knowledge created in the Institute;

Whereas, the Institute's member entities can leverage its resources to improve efficiency, control costs, and help identify innovative solutions that emphasize sustainability, fiscal responsibility, and safety;

Whereas, through this Master Contract, City Agencies can procure applied construction innovation research services;

Whereas, Town+Gown is a systemic action research program aimed at collectively increasing evidence-based analysis, information transfer and understanding related to the City's physical built environment by marshaling and coordinating various analytical capacities and data sets to create an open source environment for academic-practitioner collaborations to enhance the existing culture of research and institutional knowledge base;

Whereas, Town+Gown supports resulting academic-practitioner collaborations by bridging the academic-practitioner gap on particular research projects and highlighting the importance of practice as a source of knowledge;

NOW, THEREFORE, in consideration of the mutual covenants and conditions herein contained, the parties hereto agree as follows:

ARTICLE 1 Definitions

The capitalized terms appearing in this Master Contract shall have the meanings ascribed to them below, unless a different meaning is clear from the context. Defined terms expressed in the singular can include the plural when the context requires.

Since this Master Contract authorizes a process under which many Task Orders may be awarded during its term, there are several definitions that may apply to the parties to this Master Contract to reflect the nature of the functional roles as described below:

Any combination of a Requesting City Agency and/or Requesting Public Entity becomes a Requestor when it issues a Mini RFP pursuant to Section 3.2 of this Master Contract.

The Consultant submits its Proposal in Response pursuant to Section 3.3 of this Master Contract.

The Requestor evaluates Proposal in Response, negotiates with the Consultant, awards the Task Order, which reflects any negotiated changes from the Proposal in Response, to the Consultant, and registers the Task Order with the Comptroller's Office.

A Requestor becomes a Practitioner Partner from the point of negotiating the terms of, and awarding, the Task Order.

A Consultant becomes an Academic Partner from the point of negotiating the terms of and award of the Task Order.

"Academic Partner" shall mean the Consultant from the point of negotiating the terms and award of the Task Order.

"Academic Project Coordinator" shall mean the principal investigator(s) designated by the Consultant in the Proposal in Response and the related Task Order to supervise and coordinate the Research Project under the Task Order.

“Academic Team” shall mean the personnel resources the Consultant will assign to the Project, including any Subcontractors, as described in the Task Order, subject to the terms of this Master Contract and the applicable Task Order.

“ACCO” shall mean City personnel in the position known as Agency Chief Contracting Officer to whom each City Agency Commissioner has delegated authority to organize and supervise the procurement activity of subordinate staff at each City Agency in conjunction with the CCPO.

“Administrative Code” shall mean the New York City Administrative Code.

“Authorized Representative” shall mean a person who is duly designated and authorized to act, within the limits of his or her authority, on behalf of his or her City Agency, Public Entity or Consultant.

“CCPO” shall mean the person in the position known as the City Chief Procurement Officer to whom the Mayor has delegated authority to coordinate and oversee the procurement activity of City Agencies, including the ACCOs and any Authorized Representative.

“Certain Corporation” shall mean any corporation created by the City under the New York Not-for-Profit Corporation Law, the expenses of which are paid in whole or in part from the City treasury, that is not subject to the PPB Rules by matter of application of Law but may nonetheless agree to comply with certain or all of such PPB Rules under other contracts with the City. For illustrative purposes, the New York City Economic Development Corporation, the Hudson Yards Development Corporation and the NYC Technology Development Corporation are examples of a Certain Corporation.

“Charter” shall mean the New York City Charter.

"City" shall mean The City of New York.

“City Agency” shall mean an office, position, department, division, bureau, board or commission, or an institution or agency of government, the expenses of which are paid in whole or in part from the City treasury, and that is also not a Public Entity.

“City Agency Commissioner” shall mean the commissioner of any Requesting City Agency and any Authorized Representative of such commissioner.

"Comptroller" or “Comptroller’s Office” shall mean the Office of the Comptroller of The City of

New York and any Authorized Representative.

“Consultant” shall mean the Institute; the Consultant becomes an Academic Partner from the point of negotiating the terms of and award of the Task Order.

“Day” shall mean a business day unless otherwise specifically noted to mean a calendar day. A business day refers to Monday to Friday, from 9:00 a.m. through 5:00 p.m. (EST), excluding the following City holidays: New Year’s Day, Martin Luther King, Jr. Birthday, President’s Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Election Day, Veterans Day, Thanksgiving Day, and Christmas Day.

"DDC" or “Department” shall mean the Department of Design and Construction of The City of New York, acting by and through the DDC Commissioner.

“DDC Commissioner” shall mean the Commissioner of DDC and any Authorized Representative, in the role of administrator of this Master Contract;

“Director of Town+Gown” shall mean the person at DDC, or other City Agency, responsible for managing the City’s Town+Gown program in connection with this Master Contract, and any Authorized Representative.

“FMS” shall mean the City’s Financial Management System operated by and maintained at the City’s Financial Information Systems Agency.

“Institute” shall mean the Institute of Design and Construction Innovation Hub, an administrative unit at the Tandon School of Engineering, which itself is a part of New York University, an education corporation in the State of New York.

“Institute’s Price Sheet” shall mean the price sheet on Schedule 2 hereto indicating the maximum price per hour for each category of Institute personnel on or assisting the Academic Team as listed in *Senior Project Personnel Salaries and Wage Policy* in Section 3.3 (e)(1) and as listed in *Administrative, Clerical, and Graduate and Undergraduate Student Salaries and Wages Policy* listed in Section 3.3 (e)(2), which represents the maximum prices the Institute may include in any Proposal in Response and be paid for under the related Task Order.

“Law” or “Laws” shall mean the Charter, the Administrative Code and Rules, the Constitutions and statutes of the United States and the State and any ordinance, rule or regulation having the force of law and adopted pursuant thereto, as amended, and common law.

“Master Contract” shall mean this (i) Master Applied Construction Innovation Research Services Contract, (ii) all Appendices hereto, listed below, which are incorporated into and made part of this Master Contract, and (iii) all Task Orders, which will be “child” contracts, issued under Section 3.4 of this Master Contract and registered with the Comptroller’s Office.

Appendix A *General Provisions Governing Contracts for Consultants, Professional, Technical, Human and Client Services*

Appendix B *Template Forms of Mini RFP, Proposal in Response and Task Order*

"Mayor" shall mean the Mayor of The City of New York and any Authorized Representative.

“MOCS” shall mean the Mayor’s Office of Contract Services headed by the CCPO.

“Mini RFP” shall mean the solicitation document prepared by a Requestor pursuant to Sections 2.1 and 3.2 of this Master Contract using the Mini RFP form on Appendix B-1.

"Modification" shall mean any written amendment of this Master Contract pursuant to the terms of Section 5.4 hereof and Article 9 of Appendix A.

“OMB Circular A-21” shall mean the federal Office of Management and Budget Circular A-21, as amended (See <http://www.whitehouse.gov/omb/circulars/index.html>) with respect to the Institution and attached hereto as Schedule 1.

“Organizational Character” shall mean collectively the following elements that inform Town+Gown’s program and processes:

(i) an open-source systemic action research process, open to membership and participation by built environment academics and practitioners, that aims at increasing built environment research as one way of increasing the common store of built environment knowledge;

(ii) operating from a research agenda, developed annually in collaboration with all participants, for the purposes of developing and supporting research projects, primarily of an applied nature, among its members;

(iii) disseminating the results of such research projects within the Town+Gown community, including publishing abstracts of research projects, making such research projects available on the Town+Gown website and sponsoring symposium and other types of events for the

Town+Gown community to discuss the implications of such research projects in order to change practices and policies based on such work and/or develop follow-up research in a subsequent research agenda;

(iv) supporting academic-practitioner collaborations by bridging the academic-practitioner gap on particular research projects and highlighting the importance of practice as a source of knowledge, with the Academic Partner and each Practitioner Partner as equal partners in knowledge creation ; and

(v) conserving public sector resources for research activities by developing opportunities for research projects with the Consultant's experiential learning programs, in addition to developing opportunities for applied research *via* this Master Contract.

"PPB" shall mean the City's Procurement Policy Board, the board established pursuant to Charter § 311 the function of which is to establish comprehensive and consistent procurement policies and rules that have broad application throughout the City.

"PPB Rules" shall mean the rules of the PPB as set forth in Title 9 of the Rules, § 1-01 et seq.

"Practitioner Partner" shall mean the Requestor after the Task Order is negotiated and awarded.

"Practitioner Project Manager" shall mean the person or persons designated by the Requestor in the Mini RFP and the related Task Order to supervise and coordinate the Research Project from the Practitioner Partner's perspective.

"Project Plan" shall mean the schedule for the Project and the plan describing the composition of the Academic Team and the collaborative relationship between members of the Academic Team, including any Subcontractors, and the Practitioner, set forth in a Proposal in Response and related Task Order and subject to the terms of this Master Contract.

"Proposal in Response" shall mean the proposal in response to a Mini RFP pursuant to Section 3.3 hereof, using the Proposal in Response form on Appendix B-2.

"Public Entity" shall mean (i) any authority, corporation, agency, office, board, commission or similar entity created under State law, including an entity created under State law on behalf of the City, on behalf of any other local government and on behalf of the State that participates in Town+Gown and (ii) any Certain Corporation that participates in Town+Gown.

It is intended that this Master Contract be available for use by Public Entities that are permitted under applicable Laws to use this Master Contract; provided, however, that each such Public Entity shall be held solely responsible for any and all liabilities or payments due with respect to such Public Entity as a result of any Task Order it executes pursuant to the provisions of this Master Contract. For illustrative purposes, the New York City Health and Hospitals Corporation and the New York City Water Authority are examples of Public Entities created on behalf of the City, and the Metropolitan Transportation Authority and the Empire State Development Corporation are examples of Public Entities created on behalf of the State.

As provided in Section 2.8 of this Master Contract, to the extent provisions of Appendix A relating to the PPB Rules do not apply to a Public Entity pursuant to applicable Law or conflict with applicable Law, they shall not be effective with respect to such Public Entity, and the Public Entity shall indicate, in its related Task Order, the procurement-related Laws applicable to such Public Entity.

“Public Entity Executive” shall mean the chief executive officer of a Requesting Public Entity and any Authorized Representative.

“Requesting City Agency” shall mean a City Agency that participates in Town+Gown and wishes to solicit the Consultant for applied construction innovation research services pursuant to a Mini RFP.

“Requesting Public Entity” shall mean a Public Entity that participates in Town+Gown and wishes to solicit the Consultant for applied construction innovation research services pursuant to a Mini RFP.

“Requestor” shall mean a Requesting City Agency, a Requesting Public Entity and any combination of either or both. Any number of Requesting City Agencies and/or Requesting Public Entities can prepare and submit a Mini RFP for academic research services for a Research Project under this Master Contract. A Requestor becomes a Practitioner Partner from the point of negotiating the terms of and awarding the Task Order.

“Research Project” or “Project” shall mean the applied construction innovation research services project specified by a Requestor in a Mini RFP and the resulting Task Order issued under this Master Contract.

“Rules” shall mean the Rules of The City of New York.

“Senior Project Personnel” shall mean the principal investigator(s), faculty associate members, postdoctoral researchers and other professionals designated by the Consultant, who will be

responsible for and/or participate in a significant way in the scientific or technical direction of the Project. Faculty associate members are individual other than principal investigator(s) considered by the Consultant to be a member of its faculty or who holds an appointment as a faculty member at another institution, and who will participate in the Project. A postdoctoral researcher is an individual who has received a doctoral degree (or equivalent) and is engaged in a temporary and defined period of mentored advanced training to enhance the professional skills and research independence needed to pursue his or her chosen career path. Other professional(s) are people who may or may not hold a doctoral degree or its equivalent, who are considered a professional and are not reported as a principal investigator, faculty associate, postdoctoral scholar or student. Senior Project Personnel do not include graduate students or research assistants, working part-time or full-time on the Project in a research capacity who hold at least a bachelor's degree and are enrolled in a degree program leading to an advanced degree or undergraduate students who are enrolled in a degree program (part-time or full-time) leading to a bachelor's or associate's degree.

"State" shall mean the State of New York.

"Subcontractor" shall mean any person, as an individual, a firm or corporation, providing professional or other skills, who is not an officer or employee of the Consultant or related to such officer or employee, with whom/which the Consultant intends to and/or actually contracts with to furnish academic services or services, labor, or labor and materials, or labor and equipment directly related to a Research Project as provided in Section 3.3 (e) (8) hereunder.

"Task Order" shall mean the agreement in the form of Appendix B-3, which, initiated by a Mini RFP complying with the provisions of Section 3.2 of this Master Contract and incorporating the terms and provisions of this Master Contract as required and provided therein, shall define the contractual relationship between the Requestor/Practitioner Partner and the Consultant/Academic Partner for the duration of the related Research Project, pursuant to Section 3.4 this Master Contract.

Subject to the identification of Appendix A provisions in a Mini RFP as required by Section 3.2 below, it is noted here for explanatory purposes that Appendix A contains (i) optional provisions that are available to both City Agencies and Public Entities to elect, (ii) provisions that do not apply as a matter of Law to Public Entities, and (iii) provisions that do not apply to Certain Corporations.

"Town" shall mean the non-academic entities participating in Town+Gown, including but not limited to the City Agencies and the Public Entities.

"Town+Gown" shall mean the systemic action research program established at DDC, aimed at

collectively increasing evidence-based analysis, information transfer and understanding related to the City's physical built environment.

ARTICLE 2 General Provisions

2.1 **The Requestor's Role.** Any Requesting City Agency or Requesting Public Entity, singly or jointly, may use this Master Contract to procure applied construction innovation research services, in accordance with and subject to the procedures and terms and conditions set forth, including but not limited to the provisions of Section 2.8 below.

To initiate the procurement process under this Master Contract, the Requestor shall notify the Director of Town+Gown and DDC's ACCO, as soon as practicable, that it intends to submit a draft Mini RFP to DDC for DDC's review, acceptance and submission to the Consultant pursuant to this Master Contract. After review required by the PPB Rules and this Master Contract is complete and the final Mini RFP has been accepted by DDC, DDC will send the Mini RFP to the Consultant. Pursuant to the definition of Public Entity in Article 1 of this Master Contract, DDC's review and acceptance of a Mini RFP shall be for the overlapping purposes of contract administration and Town+Gown program administration pursuant to Section 2.3; and, further, such review and acceptance shall not be construed to create any liability or payment obligation of the City with respect to such Public Entity as a result of any Task Order the Public Entity executes pursuant to the provisions of this Master Contract.

Each Research Project will be governed by a Task Order for the duration of that Research Project. As provided in Section 2.7 below, and subject to the provisions of Section 2.8 below, funding for each Research Project in a Task Order shall be provided by the Requestor. With respect to City Agency-funded Projects, the City Agency shall register the Task Order with the Comptroller's Office pursuant to Section 3.4 (d) below and shall cooperate with DDC to establish a user agency mechanism in FMS to enable the City Agency to encumber funds and make payments under its respective Task Order(s). The City Agency shall perform all vendor performance evaluations required by the PPB Rules for the Consultant.

2.2 **The Consultant's Role.** The Consultant agrees to (i) receive and (ii) respond to every Mini RFP that the Director of Town+Gown sends to it under this Master Contract pursuant to Sections 2.1, 2.3 and 3.2 hereof. Section 3-03 (j)(2)(iii) of the Rules require that each vendor respond to every solicitation for an individual task order for which it is solicited, and that the DDC ACCO may, as provided further below, determine that a vendor is in default if it fails to bid without an adequate explanation for such failure.

The Consultant may decline to send a Proposal in Response to a Mini RFP by submitting a “no bid” response within the time for submission of the proposal in response to the Task Order, as specified therein; provided, however, that the Consultant’s response indicating it could not assemble an Academic Team with the necessary expertise required to address a Mini RFP shall not be considered to be a “no bid” response. The Director of Town+Gown may inquire into the Consultant’s failure(s) to submit a “no bid” response and/or its submission of several “no bid” responses. If the Consultant fails to submit a “no bid” response and/or submits “no bid” responses for at least seventy-five percent (75%) of the Task Orders issued in a two (2) year period, the DDC ACCO shall exercise the provisions of Section 3-03(j)(2)(iii) of the Rules in the context of the process established in this paragraph.

The Consultant agrees to provide academic research services under each Task Order awarded to it on the terms and conditions specified in this Master Contract and in the applicable Task Order. The Consultant hereby certifies that it has the necessary experience, expertise, staff and resources to fulfill its obligations under this Master Contract and any Task Order to which it submits a Proposal in Response competently and efficiently. The obligations of the Consultant under this Master Contract and any Task Orders issued under this Master Contract are subject to the provisions of Appendix A entitled *General Provisions Governing Contracts for Consultants, Professional, Technical, Human and Client Services*.

2.3 DDC’s Role. As the administrator of this Master Contract, DDC shall perform tasks required of it by the PPB Rules, in addition to the tasks assigned to it in this Master Contract, for the overlapping purposes of administering this Master Contract and supporting the Town+Gown program, as described in further detail below; provided, however, that none of these provisions shall be construed to create any liability or payment obligation of the City with respect to a Public Entity as a result of any Task Order the Public Entity executes pursuant to the provisions of this Master Contract.

Subject to the provisions in this Master Contract, DDC shall administer this Master Contract and monitor its use for purposes including, but not limited to:

- reviewing, pursuant to the provisions of Section 2.1 above, draft Mini RFPs and accepting final Mini RFPs,
- submitting, to the Consultant, final Mini RFPs that conform to the provisions of Section 3.2 below,
- being available to consult with Requestors in connection with the evaluation of Proposals in Response, negotiation and award of the Task Order, and
- payment by City Agencies of the Consultant/Academic Partner under relevant Task Orders.

After appropriate review required by the PPB Rules and this Master Contract is complete and DDC is in receipt of a final Mini RFP, the Director of Town+Gown or DDC ACCO will send the Mini RFP to the Consultant.

DDC may also be a Requesting City Agency and may use this Master Contract to procure applied construction innovation research services in connection with Town+Gown pursuant to Section 2.1 above.

2.4 [Reserved]

2.5 [Reserved]

2.6 Term. This Master Contract shall commence on the date of registration by the Comptroller and shall remain in effect for a period of three (3) years. The DDC Commissioner may, at his or her sole option, renew or extend the term of this Master Contract for a period of up to two (2) years from the date of initial expiration.

In the event (1) services are required for a Research Project, (2) a Task Order for the Research Project has been executed during the term of this Master Contract, including the last day thereof, and (3) the time frame for completion of the Research Project extends beyond the term of this Master Contract, this Master Contract shall remain in effect for purposes of such Task Order through the time frame for completion of the Research Project, as set forth in the Task Order. For the purpose of this provision, the term of this Master Contract shall mean whichever of the following is the latest and actual final period of this Master Contract: (1) the term of this Master Contract, (2) the renewal term of this Master Contract, and (3) the extended term of this Master Contract as provided above.

2.7 Funding. While DDC may fund this Master Contract in a nominal amount in order to enable the Comptroller to register it, the City makes no commitment or guaranty that City Agencies will issue Mini RFPs or Task Order under this Master Contract. Requestors shall fund their Task Orders from available monies in their own budgets. Under no circumstances shall DDC be under any obligation to fund Task Orders other than those it submits on its own behalf.

City Agencies and Public Entities may use funds, such as grants from foundations, in addition to public funds, to support a Research Project related to a Task Order. The Consultant may also make available funds under its control, such as public funds other than from the City and grants from foundations, to support a Research Project related to a Task Order, whether as part of its Proposal in Response or during the pendency of a Research Project as such additional funds may become available, subject to the provisions of applicable law and Section 6.02 of Appendix A.

2.8 Applicable Procurement- and Budget-Related Laws. In the event of a Project jointly funded by any combination of City Agency and Public Entity, with an inter-agency transfer of funds from a Public Entity to a City Agency, the Public Entity shall comply with the procurement and budget requirements, to the extent permitted by applicable Law, to which the City Agency is, by Law, subject. In the event of a Project solely funded by a Public Entity, the Public Entity shall not be subject, by operation of this Master Contract, to any of the procurement and budget requirements that apply by Law to City Agencies. The Mini-RFPs and resulting Task Orders shall reflect the operation of this requirement, so that the Consultant, for Mini-RFPs, and all parties in the Task Order understand the procurement- and budget-related procedures on Research Projects applicable to Public Entities.

ARTICLE 3 Procurement Process

3.1 General. This Master Contract will be available for use by any City Agency and Public Entity to procure applied construction innovation research services of the Consultant pursuant to a process consisting of:

- the Requestor's issuance of a Mini RFP in the form of Appendix B-1 hereto, *via* the Director of Town+Gown, to the Consultant,
- the Requestor's receipt and evaluation of Proposals in Response in the form of Appendix B-2 hereto, and
- the Requestor's negotiation and award of a Task Order to the Consultant in the form of Appendix B-3, all as provided for below.

3.2 Mini RFP.

(a) After or coterminous with notifying DDC of its intent to make use of this Master Contract, a Requestor shall prepare, for review by DDC and acceptance by DDC, subject to the provisions of Section 2.3 above, a Mini RFP that includes all information the Requestor believes to be necessary and appropriate to provide.

(b) Mini RFPs issued by any Requesting City Agency, alone or with other City Agencies or Public Entities, shall comply with the requirements of PPB Rules Section 3-03, which requires, among other things, that a Mini RFP (i) indicate the due date for the receipt of Proposals in Response, (ii) specify qualitative and quantitative criteria, including price, and the respective weights of such criteria that the Requestor will use to evaluate all Proposals in Response it receives, and (iii) specify evaluation procedures and the basis for contract award that the Requestor will use in such evaluations and selection of a Consultant for an award of the Task Order.

(c) Mini RFPs issued solely by a Public Entity or Public Entities shall comply with applicable Laws, which the Public Entity or Entities shall set forth to the extent necessary or helpful in its Mini RFP. Review of such Mini RFPs or Task Orders by DDC shall not imply that DDC is passing on such compliance.

(d) As the result of provisions elsewhere in this Master Contract, as a guide for drafting Mini RFPs, the Mini RFP shall include:

- the name of the Requestor's Project Manager,
- the Requestor's expectation for the Project duration, noting whether the Requestor plans for the Project to be accomplished within the City fiscal year or over more than one (1) City fiscal year, subject to annual appropriation, and
- specific billing and invoicing requirements not otherwise provided for in this Master Contract.

(e) As the result of provisions elsewhere in this Master Contract, as a guide for drafting Mini RFPs, the Mini RFP may also provide:

- the Consultant with an option to use a percentage equivalent of academic contract effort when making requisitions for payment in place of using the hourly rate calculation required by Section 4.2(b)(3) below, and
- for a process by which the Requestor may request the Consultant(s) to provide answers to additional questions and/or written clarifications, presentations and/or demonstrations related to their Proposal in Response.

If the Requestor wishes to have any of these provisions apply in the related Task Order, they must appear in the Mini RFP.

(f) Since as a result of Town+Gown's Organizational Character, Appendix A contains optional provisions that the Requestors must elect to be effective in the related Task Order, the Requestor must indicate, in the Mini-RFP, the election of such options, including but not limited to Sections 5.05, 5.08 and 6.01 of Appendix A.

(g) Since the Master Contract is available for use by Public Entities, which are not subject to the PPB Rules, with respect to a Mini RFP made by a Public Entity Requestor alone, with other Public Entity Requestors, or with City Agency Requestor(s), the Public Entity Requestor(s) must indicate, in the Mini-RFP, the Master Contract provisions that do not apply to the Public Entity Requestor(s), including but not limited to Sections 8.09, 9.01, 11.01, 11.02, 12.02, 12.03, 12.04 and 13.06 of Appendix A, and indicate such analogous provisions, if any, that do apply under applicable Laws.

(h) After DDC accepts a final Mini RFP, pursuant to Sections 2.1 and 2.3 above, the Director of Town+Gown will distribute the final Mini RFP to the Consultant:

- in the manner required by the PPB Rules for Requesting City Agencies, or
- in the manner required by applicable Laws for Requesting Public Agencies

3.3 Proposal in Response.

(a) The Consultant shall use the Mini RFP as the basis for developing its Proposal in Response, in the form of Appendix B-2.

(b) While it is a general requirement of this Master Contract that the work force to be utilized by the Consultant shall, wherever possible, consist of and be drawn from the faculty and students of the Consultant, the Consultant may provide for sub-contracts with Subcontractors as provided in Section 3.3 (e) (8) hereof. If the Consultant wishes to sub-contract with a Subcontractor as part of its Proposal in Response, it must disclose its intention to use the services of a Subcontractor in its Proposal in Response as provided in Section 3.3 (e) (8) of this Master Contract and Appendix B-2.

(c) Submission of curriculum vitae and resumes (of no more than three (3) pages per person) for the Senior Personnel on the Academic Team, whether they are the Consultant's direct employees or Subcontractors, with the Proposal in Response, implies that such individuals will be available to perform the services on the Project, subject to the approval by the Requestor as part of the award of the Task Order pursuant to Section 3.4 (c) of this Master Contract. It is expected that such members of the Academic Team will perform the services under the Task Order; provided, however, that the Consultant/Academic Partner may replace Senior Personnel members of the Academic Team during the term of the Task Order with personnel who possess qualifications substantially similar to those being replaced, with prior written notice and justification to the Practitioner Partner. To the extent a Requestor/Practitioner Partner believes a member of the Academic Team is unable to perform services in a professional and competent manner according to the standards of the relevant field(s) and/or discipline(s), it shall have the right to raise such concerns with the Consultant/Academic Partner so that both parties have the opportunity to resolve such concerns in good faith, subject to the provisions of Section 10.02 of Appendix A.

(d) Each Proposal in Response shall contain a proposed Project budget for each City fiscal year anticipated by the Mini RFP as required by Section 3.2 above. With respect to the proposed Project budget submitted as part of the Proposal in Response, it is intended that the elements of

cost and cost principles conform to standard practice in the academic community to the extent permitted by the PPB Rules. The Consultant shall document and justify, as specified in subsection (e) below, amounts proposed for each budget line item. The Consultant may estimate and allocate amounts to any proposed Project budget item under any of the categories listed below so long as the item and amount are considered necessary, reasonable, allocable, and allowable under cost principles applicable to research and development work performed by colleges and universities funded by the federal government, as set forth in OMB Circular A-21. Such amounts and expenses budgeted shall also be consistent with the Consultant's policies and procedures and cost accounting practices used in accumulating and reporting costs.

(e) The following elements of cost and related policies and procedures, adapted from the National Science Foundation's grant requirements, shall apply to all Proposals in Response and Task Orders to the extent permitted by the PPB Rules and are further subject to the maximum price per hour for each personnel type listed in the Institute's Price Sheet. In estimating its proposed Project budget costs for its Proposal in Response, however, the Consultant should note that City Agency Requestors will consider long-distance travel as a reimbursable service payable pursuant to the provisions of Section 4.2 (c) of this Master Contract.

(1) *Senior Project Personnel Salaries and Wages Policy.* The City regards research as one of the normal functions of faculty members at institutions of higher education. Compensation for time normally spent on research within the term of appointment is deemed to be included within the faculty member's regular organizational salary, and Task Orders are not intended to augment the total salary or salary rate of faculty members during the period covered by the term of faculty appointment or to reimburse faculty members for consulting or other time in addition to a regular full-time organizational salary covering the same general period of employment. Thus, a general policy of this Master Contract is to limit salary compensation for senior project personnel to no more than three (3) months of their regular salary in any one year for work occurring during the summer months, documented in accordance with the applicable cost principles. The Requestor may consider exceptions and approve such exceptions as part of the Task Order, so long as the Consultant discloses any compensation for such personnel in excess of three (3) months in the proposed Project budget or for times other than during the summer months, with appropriate justification, which additional compensation would be subject to the Requestor's approval as part of the award of the Task Order pursuant to Section 3.4 (c) of this Master Contract.

If pursuant to Section 3.2 above, the Mini RFP provides the Consultant with an option to use a percentage equivalent of academic contract effort when making requisitions for payment in place of using the hourly rate calculation required by Section 4.2(b)(3) below,

the Consultant shall indicate in its Proposal in Response the methodology for expressing and estimating such percentage equivalents of academic contract, which methodology and estimates shall be subject to Requestor's approval as part of the award of the Task Order pursuant to Section 3.4(c) of this Master Contract.

(2) *Administrative, Clerical, and Graduate and Undergraduate Student Salaries and Wages Policy.* In most circumstances, salaries of administrative, clerical staff and graduate and undergraduate students are included as part of indirect costs as provided in Section 3.3 (e) (10) below. The Consultant may request that salaries of administrative, clerical or graduate and undergraduate student staff be treated as direct costs for a Project requiring an extensive amount of administrative, clerical or graduate and undergraduate student support and where these costs can be readily and specifically identified with the Project with a high degree of accuracy. Salaries for administrative, clerical staff or graduate and undergraduate students staff shall be budgeted as a direct cost only if this type of cost is consistently treated as a direct cost in like circumstances for the Consultant's other projects and cost objectives. The Consultant shall clearly describe the circumstances that require treating such salaries as direct costs and provide appropriate justification, which treatment would be subject to the Requestor's approval as part of the award of the Task Order pursuant to Section 3.4(c) of this Master Contract.

(3) *Academic Team Cost Procedures.* The Consultant shall list (A) the names of the principal investigators(s) and faculty associate members among the Senior Personnel assigned to the Academic Team, (B) the estimated number of full-time-equivalent person-months for each such Senior Personnel and (c) the total amount of salaries requested per year.

The Consultant shall list (A) the names and/or numbers of postdoctoral associates and other professional members of the Senior Personnel assigned to the Academic Team, (B) the number of full-time-equivalent person-months and (C) the total amount of salaries requested per year.

For graduate and undergraduate students, secretarial, clerical, technical etc. personnel whose time with the Academic Team will be charged directly to the Project, the Consultant shall provide the total number of persons and total amount of salaries requested per year in each category. Salaries requested must be consistent with the Consultant's regular practices. The related budget justification shall detail the rates of pay by individual for senior personnel, postdoctoral associates, and other professionals.

(4) *Confidential Budgetary Information.* The Consultant may request that the Requestor not release salary data on senior personnel to persons outside the Requestor entity during the evaluation and award process in Section 3.4 below, subject to any applicable requirements of the PPB Rules. In such cases, if the Requestor agrees, any public disclosure of the amounts of senior personnel salaries shall appear as a single figure and the person-months represented by that amount omitted, with such senior personnel salaries and person-months itemized in a separate statement provided to the Requestor, which includes all of the information required above for each such person to whom confidentiality applies. The Requestor will hold such detailed information privileged only to the extent permitted by the PPB Rules and other applicable Law.

(5) *Fringe Benefits.* If the Consultant's usual accounting practices provide that its contributions to employee benefits (social security, retirement, other payroll-related taxes and time off including vacation, sick, and other leave, etc.) be treated as direct costs, the Consultant may include such fringe benefits as a direct cost. These would be determined by application of a calculated fringe benefit rate for a particular class of employee (full-time or part-time) applied to the estimated salaries and wages.

(6) *Equipment.* The Consultant may estimate the costs of research equipment and apparatus not already available for the conduct of the Research Project, which has an acquisition cost of \$5,000 or more (including modifications, attachments and accessories necessary to make the property usable for the purpose for which it was purchased) and an expected service life of more than one year. The Consultant may include costs for special purpose or scientific use computers or associated hardware and software as items of equipment when necessary to accomplish the project objectives and not otherwise reasonably available. The Consultant may include costs for leasing such equipment. General-purpose office equipment (including computers for word processing, spreadsheet and similar applications, office furnishings and communications equipment) may not be included in this item of direct cost. The Consultant must adequately justify such needed equipment in the context of the Project, listing each item individually by description and estimated cost, the purchase of which equipment will be subject to Requestor's approval as part of the award of the Task Order pursuant to Section 3.4(c) of this Master Contract.

All equipment purchased by the Academic Practitioner for the Project shall, unless otherwise directed by the Practitioner Partner, be the sole property of the Practitioner Partner upon delivery to the designated location. If the Practitioner Partner desires ownership of such equipment to be otherwise, it shall direct post-Project ownership of such equipment with the Academic Partner *via* the Task Order pursuant to Section 3.4 (c) hereof. Post-Project ownership of such equipment other than with the Academic Partner

will be subject to Requestor's approval as part of the award of the Task Order pursuant to Section 3.4(c) of this Master Contract.

(7) *Long-Distance Travel.* It is expected that the Consultant and/or members of the Academic Team, as appropriate, will provide for transportation, including without limitation: (a) expenses for ordinary transportation (i.e., other than long-distance travel, as set forth below), (b) expenses for time spent by personnel commuting or traveling, and (c) related parking and toll expenses.

The Consultant may propose activities requiring long-distance travel, so long as the Consultant explains how it is necessary to accomplish the Research Project and estimates the cost. Such activities may include field work and attendance at meetings and conferences. Allowance for air travel normally will not exceed the cost of round-trip, economy airfares. Proposed activities requiring travel and related costs are subject to the Requestor's approval as part of the award of the Task Order pursuant to Section 4.3 (c) of this Master Contract.

When a City Agency is one of the Requestors, the following provisions apply:

For authorized long-distance travel, the Academic Practitioner will need separate written authorization from the City Agency before incurring expenses in excess of \$150 for long-distance travel and the City Agency will *reimburse* such expenses incurred in connection with such long-distance travel as provided below and in Section 4.2(e) of this Master Contract. Reimbursement for long distance travel shall be in accordance with the normal travel allowances of the City of New York for its own employees as provided in *Comptroller's Directive #6, Travel, Meals, Lodging and Miscellaneous Agency Expenses*. Long-distance travel shall mean travel which is in excess of 75 miles from whichever of the following locations is closer to the destination: (1) Columbus Circle, or (2) the home(s) of the Academic Practitioner's individual traveler(s). The Academic Practitioner shall not be entitled to any mark-up for overhead and/or profit on payments for long-distance travel.

(8) *Subcontractor Services.* While it is the intent of this Master Contract that the predominance of work on Research Projects be conducted by academic institutions and those entities that bridge pure academic research and practice, costs of Subcontractors providing professional and consultant services are allowable when reasonable in relation to the Proposal in Response. Fees for Subcontractor services should be comparable to the normal or customary fees charged and received by the Subcontractor for comparable services. The Consultant shall justify the proposed Subcontractor's services and provide the information for each Subcontractor employee on the Academic Team related to

expertise, primary organizational affiliation, normal daily compensation rate, and number of days of expected service. At the Requestor's request, the Consultant must be able to justify that the proposed compensation rate is reasonable. The proposed Subcontractor members of the Academic Team and related costs are subject to the Requestor's approval as part of the award of the Task Order pursuant to Section 3.4 (c) of this Master Contract, which approval, for City Agency Requestors, shall be further subject to compliance with other PPB Rule vendor integrity-related requirements.

For the convenience of reference only, the Consultant should know that subcontracts shall comply with the requirements of Section 2.07, 3.02, 4.07, 7.03, 7.08, 7.09 and 13.06 of Appendix A and, further, that certain of these provisions apply to all proposed agreements with Subcontractors.

The Consultant shall be responsible for the performance of services by its Subcontractors. Further, expenses incurred by the Consultant in connection with furnishing Subcontractors for the performance of required services under a Task Order are deemed included in the payments to the Consultant as set forth in Article 4 of this Master Contract. While the Consultant may pay its Subcontractors first and then seek reimbursement pursuant to the applicable provisions of this Master Contract, in the event the Consultant does not pay its Subcontractors prior to seeking reimbursement, the Consultant shall pay its Subcontractors the full amount due them from their proportionate share of the requisition, as paid by the City. The Consultant shall make such payment not later than five Days after receipt of payment by the City.

(9) *Specialized Computer Services.* The Consultant may request the cost of specialized computer services, including computer-based retrieval of scientific, technical and educational information, only when it is the Consultant's institutional policy to charge such costs as direct charges. The Consultant must provide a justification based on the Consultant's established computer service rates. The inclusion of such costs will be subject to Requestor's approval as part of the award of the Task Order pursuant to Section 3.4 (c) of this Master Contract.

(10) *Indirect Costs.* The Consultant shall apply the indirect cost rate(s) it has negotiated with a federal agency bound by the provisions of OMB Circular A-21 to obtain a proportional cost associated with the Requestor's facilities and administration. The amount for indirect costs shall be calculated by applying the current negotiated indirect cost rate(s) to the approved base(s), as provided by OMB Circular A-21, which resulting indirect costs will be subject to Requestor's approval as part of the award of the Task Order pursuant to Section 3.4 (c) of the Master Contract. If a Consultant does not have a current

negotiated rate agreement with a federal agency, its business officer should prepare an indirect cost proposal based on expenditures for its most recently ended fiscal year, which proposal and the resulting indirect costs will be subject to Requestor's approval as part of the award of the Task Order pursuant to Section 3.4 (c) of this Master Contract.

3.4 Evaluation, Award and Execution of Task Order.

(a) The Requestor will evaluate the Proposals in Response in accordance with evaluation criteria expressed in the Mini RFP, which shall comply with the requirements of the PPB Rules, and select the proposal that best meets the Requestor's requirements pursuant to the terms of the Mini RFP and this Master Contract and consistent with the requirements of the PPB Rules. If, pursuant to Section 3.2 above, the Mini RFP provides for a process by which the Requestor may request the Consultant(s) to provide answers to additional questions and/or written clarifications, presentations and/or demonstrations related to their Proposal in Response, the Consultant may provide such additional information or clarification at the Requestor's request.

(b) Once the Requestor has selected the Consultant for the Research Project based on its Proposal in Response, with any negotiated changes if necessary, the Requestor shall award the Proposal in Response to the Consultant, and both Consultant and Request shall execute the Proposal in Response, reflecting any negotiated changes, which then becomes the Task Order that will govern the Consultant's work on the Research Project. The Consultant's preparation of the Proposal in Response and participation in negotiating and finalizing the Task Order shall be performed at no charge to the Requestor.

(c) Total payments for all services performed and all expenses incurred pursuant to a Task Order issued under this Master Contract shall not exceed the amount of total costs negotiated by the Practitioner Partner and the Academic Partner with respect to the award of the Task Order. Task Orders shall specify an overall "Not to Exceed" amount for the services to be performed, which will be further allocated among the Project budget items in the Task Order.

Execution of a Task Order by the Practitioner Partner shall be evidence of such Practitioner Partner's approval of:

- (1) subcontractors pursuant to Sections 3.3 (b) and (e)(8) above, subject to final compliance with PPB Rule requirements and Sections 2.07, 3.02 and 4.07 of Appendix A,
- (2) Senior Personnel pursuant to Section 3.3 (c) above,

- (3) compensation beyond three months and/or utilizing a percentage equivalent of academic contract effort pursuant to Section 3.3(e)(1) above,
 - (4) treating components of an Academic Partner's facilities and administration as a direct cost pursuant to Section 3.3 (e)(2) above and/or,
 - (4) the purchase of equipment and post-Project ownership of such equipment pursuant to Section 3.3 (e)(6) above,
 - (5) the incurrence of expenses related to long-distance travel pursuant to Section 3.3 (e)(7), to be reimbursed, in the case of City Agency Requestors, pursuant to the provisions of Article 4 of this Master Contract,
 - (6) the incurrence of expenses related to computer services pursuant to Section 3.3 (e)(9) above, and
 - (7) the application of the formula to determine indirect costs pursuant to Section 3.3(e)(10) above.
- (d) DDC shall review the Task Order as necessary, with respect to any City Agency, to ensure that it meets the best interests of the City and is in accordance with the terms and conditions of this Master Contract and the PPB Rules, prior to the City Agency registering the Task Order with the Comptroller's Office.
- (e) The Academic Partner shall accomplish the Project for which a Task Order has been executed and registered, on time and within budget. The nature of academic research requires some flexibility in the timing of performance, with unforeseeable obstacles and delays. Section 4.03(a) of the PPB Rules is analogous to the National Science Foundation's practice with respect to delays in academic research and is available as a method of providing extensions of time on Task Orders for performance due to the typical delays in academic research. The Academic Partner shall not perform services under the Master Contract until a Task Order has been executed and registered with the Comptroller.
- (f) The parties shall execute as many original copies of the Task Order to permit the Academic Partner to retain one original, the Practitioner Partner to retain one original, DDC to retain one original and, for Task Orders involving City Agencies, one original to be filed with the Comptroller.
- (g) In the event of any conflict between any provision in a Task Order and any provision of this Master Contract, the provision in this Master Contract shall prevail.

ARTICLE 4 Payment Process

4.1 **Requisitions for Payment.** The Academic Partner may make requisitions for payment as its work on the Project progresses, but not more often than once a month, in the form authorized by the Practitioner Partner on Schedule 1 to the Task Order. Such requisitions for payment shall set forth the services performed by the Academic Partner and the total amount of partial payment requested, which shall be further allocated amount among the Project budget items in the Task Order set forth pursuant to Section 3.4 (c) of this Master Contract. The Academic Partner shall submit the number of originals and copies of each requisition for payment as required on such Schedule 1.

4.2 **Documentation with Requisition.** Requisitions for each time period must be accompanied by the documentation set forth below.

(a) *Project Status Report.* The Academic Partner shall submit a Project status report to indicate relation to the Project Plan in the Task Order. The nature of academic research may result in status reports being substantially the same for several months, so that an Academic Partner may, in a requisition, reference a prior status report submitted not more than 90 days before such requisition. If the date of the referenced status report is more than 90 days from the date of any requisition, payments will not be processed unless and until the Academic Partner submits an updated report.

(b) *Participation of Academic Team Members.* The Academic Partner shall submit documentation, consistent with its institutional policy, related to each member of the Academic Team whose salary or wages are the subject of the requisition, including:

- (1) Name(s) and title(s) of the Academic Team Member(s),
- (2) The hourly rate(s) applicable to such Academic Team Member(s)
- (3) The number of actual hours worked during such period on the Project by such Academic Team Member(s), or, if provided for pursuant to Sections 3.2 and 3.3(e)(1) above, the applicable percentage equivalent of academic contract effort (*e.g.*, Dr. X, project director Academic Year Rate: \$90,000; equivalent level of effort 15% = \$13,500)
- (4) Relevant background documentation for actual hours (such as time sheets) or for academic contract effort in subsection (3) above.

(c) *Reimbursable Long-Distance Travel.* For any long-distance travel for which the Academic Partner is requesting reimbursement, the Academic Partner shall submit receipted bills or any other data required by the Comptroller's *Directive #6, Travel, Meals, Lodging and Miscellaneous*

Agency Expenses.

4.3 Payment Contingent on Performance. All payments under a Task Order are contingent upon the Academic Partner's good faith effort to perform the elements described within the *Research Project Objectives* and *Work Products and Deliverables* in the Task Order in a professional and competent manner according to the standards of the relevant field(s) and/or discipline(s); provided however that, due to the nature of academic research and the value of academic freedom, the Practitioner's determination above shall not be related to or dependent on the Practitioner Partner's agreement with any of the Academic Partner's specific research results, findings, conclusions or opinions. As further provided in Appendix A to this Master Contract, the Academic Partner shall not be entitled to compensation or reimbursement with respect to any required element the Practitioner Partner determines did not reflect the Academic Partner's good faith effort to perform in a professional and competent manner according to the standards of the relevant field(s) and/or discipline(s), and the Practitioner Partner is authorized to make deductions for such elements.

ARTICLE 5 Miscellaneous

5.1. Affirmation. The Consultant affirms and declares that it is not in arrears to the City upon debt, contract or taxes, it is not a defaulter, as surety or otherwise, upon obligation to the City, it has not been declared "not responsible" or disqualified, by any agency of the City, and that, to its knowledge, there is no proceeding pending relating to its responsibility or qualification to receive public contract except as indicated in the space below:

5.2 Successors and Assigns. This Master Contract shall inure to the benefit of and shall be binding upon the City, the City Agencies, the Consultant, and, to the extent applicable, the Public Entities entering into Task Orders under this Master Contract, and their respective successors and permitted assigns.

5.3. Severability. In the event any one or more of the covenants, stipulations, promises, obligations and agreements herein on the part of the City, the City Agencies, the Consultant or the Public Entities to be performed should be contrary to law, then such covenant or covenants, stipulation or stipulations, promise or promises, obligation or obligations, or agreement or agreements shall be null and void, shall be deemed and construed to be severable from the remaining covenants, stipulations, promises, obligations and agreements herein contained and shall in no way affect the validity or enforceability of the other provisions hereof.

5.4. Amendments, Changes and Modifications. The City and the Consultant may amend, change or modify this Master Contract in any respect provided that each amendment, change or modification complies with the requirements of Section 9.01 of Appendix A and is in writing signed by an Authorized Party of DDC and the Authorized Parties of a majority of Consultant at the time of amendment, change or modification.

5.5. Disclaimer of Personal Liability. No recourse shall be had against or liability incurred by any officer or employee of the City, a City Agency, a Consultant or a Public Entity, or any person executing this Master Contract for any covenants and provisions hereof or for any claims based thereon.

5.6. Counterparts. This Master Contract may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

5.7. Headings. The headings preceding the text of the several Articles and Sections hereof and the exhibits appended hereto and any table of contents appended hereto or to copies hereof shall be solely for convenience of reference and shall not constitute a part hereof nor shall they affect its meaning, construction or effect.

5.8. Notices. Any notices or other instruments required to be given or delivered pursuant hereto and any Task Order issued hereunder shall be in writing and shall be delivered by hand against the written receipt therefor or sent by registered or certified mail as set forth below:

- To DDC, as manager of this Master Contract, addressed to the attention of Commissioner, New York City Department of Design and Construction, 30-30 Thomson Avenue, Long Island City, New York 11101;
- To Practitioner Partners, as provided in the applicable Task Order; and

- To the Consultant and Academic Partner, addressed to the attention of Jason St. Germain at 665 Broadway, Suite 801, New York, NY 10012 (additional contact information: 212-998-2121 and osp.agency@nyu.edu); and

5.9. Governing Laws. This Master Contract shall be governed and construed in accordance with the Laws of the State.

5.10 Executory Only. This Master Contract shall be deemed executory only to the extent of the moneys appropriated and available for the purpose of the Task Orders executed pursuant to this Master Contract, and no liability or account thereof shall be incurred beyond the amount of such moneys. It is therefore understood that neither this Master Contract nor any representation by any public employee or officer creates any legal or moral obligation to request, appropriate or make available moneys for the purpose of this Master Contract.

IN WITNESS WHEREOF, the parties hereto have executed original copies of this Master Contract, as of the day and year first above written or such other date as applicable, in quantities required by Section 3.4 (f) of this Master Contract.

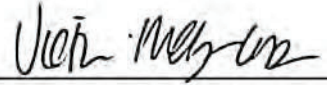
THE CITY OF NEW YORK

By: _____


Commissioner

CONSULTANT: New York University

By: _____


Victoria M. McCoy-Cosentino
Contract Officer
Office of Sponsored Programs
New York University

EIN: 13-5562308

Business contact information for the purposes of

notice hereunder:

Jason St. Germain
Office of Sponsored Programs
New York University
665 Broadway, Suite 801
New York, NY 10012

Approved as to Form and
Certified as to Legal Authority

Acting Corporation Counsel

Date: _____

ACKNOWLEDGMENT BY CORPORATION

State of _____ County of _____ ss:

On this ____ day of _____, _____ before me personally came _____, who being by me duly sworn, did depose and say that he/she resides in the City of _____ that he is the _____ of _____, the corporation described in and which executed the foregoing instrument; that he knows the seal of said corporation; that the seal affixed to the said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation; and that he signed his name thereto by like order.

Notary Public or Commissioner of Deeds

ACKNOWLEDGMENT BY COMMISSIONER

State of _____ County of _____ ss:

On this ____ day of _____, _____ before me personally came _____, to me known and known to me to be the Deputy Commissioner of the Department of Design and Construction of The City of New York, the person described as such in and who as such executed the foregoing instrument and he acknowledged to me that he executed the same as Deputy Commissioner for the purposes therein mentioned.

Notary Public or Commissioner of Deeds

Appendix A to Master Contract

(Separate Attachment)

***Appendix A for Master Applied Construction Innovation Research Service Contract
Only***

APPENDIX A

***GENERAL PROVISIONS GOVERNING CONTRACTS FOR
CONSULTANTS, PROFESSIONAL, TECHNICAL, HUMAN AND CLIENT SERVICES***

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Only***

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Appendix A for Master Applied Construction Innovation Research Service Contract Only

APPENDIX A

GENERAL PROVISIONS GOVERNING CONTRACTS FOR CONSULTANTS, PROFESSIONAL, TECHNICAL, HUMAN AND CLIENT SERVICES

ARTICLE 1 - GENERAL PROVISIONS

Section 1.01 Definitions

All capitalized terms used in this Appendix A shall have the meanings ascribed to them in Article 1 of the Master Contract, to which this Appendix A is incorporated by reference, unless defined elsewhere in this Appendix A or a different meaning is clear from the context.

The Master Contract, to which this Appendix A is attached and incorporated by reference, is a multiple award task order master contract. Under and pursuant to the terms of the Master Contract, the Consultant receives and responds Mini RFPs from Requestors and may be awarded Task Orders under the Master Contract. The provisions of this Appendix A apply to both the Master Contract and to each Task Order, and, for the purposes of this Appendix A, "Master Contract" shall be defined to include Task Order(s) related to the Mini RFP issued to the Consultant, to the extent required by the context.

Subject to the provisions of Section 2.8 of the Master Contract, the Master Contract can be used by City Agencies, which are subject to the provisions of Laws applicable to City Agencies, including the PPB Rules ("City Laws"), and Public Entities, which are not. Section 3.2 of the Master Contract and Appendices B-1 and B-3 to the Master Contract provide additional clarification about how Requestors/Practitioner Partners should draft the Mini RFP and related Task Orders to reflect differences in applicable Laws among Requesting City Agencies and Requesting Public Entities. To the extent that any provision of City Law as set forth in this Appendix A does not apply to a Public Entity, such provision shall be deemed not applicable to such Public Entity or a Certain Corporation, and provisions of Law applicable to such Public Entity or Certain Corporation, if any, shall, subject to the provisions of Section 3.2 of the Master Contract and Appendices B-1 and B-3 to the Master Contract, be deemed substituted. Further, in this Appendix A, to the extent that the context requires the defined term "City Agency Commissioner" to mean Public Entity Executive, such meaning shall be used.

ARTICLE 2 - REPRESENTATIONS AND WARRANTIES

Section 2.01 Procurement of Master Contract and Task Orders

A. The Consultant represents and warrants that no person or entity (other than an officer, partner, or employee working solely for such Consultant) has been employed or retained to solicit or secure the Master Contract upon any agreement or understanding for a commission, percentage, brokerage fee, contingent fee or any other direct or indirect compensation. Notwithstanding the preceding sentence, the Consultant may retain consultants to draft proposals, negotiate contracts, and perform other similar services with respect to Task Orders under the Master Contract. The Consultant further represents and warrants that no payment, gift, or thing of value has been made, given, or promised to obtain the Master Contract or any other agreement between the parties. The Consultant makes such representations and warranties to induce the City to enter into the Master Contract, and the City relies upon such representations and warranties in the execution of the Master Contract.

B. For any breach or violation of the representations and warranties set forth in Paragraph A above, the DDC Commissioner, acting on behalf of the applicable City Agency Commissioner, shall have the right to annul Task Orders entered into with the Consultant, without liability, entitling the City to recover all monies paid to the Consultant; and the Consultant shall not make claim for, or be entitled to recover, any sum or sums due under this Master Contract. The rights and remedies of the City provided in this Section 2.01 are not exclusive and are in addition to all other rights and remedies allowed by Law or under the Master Contract. Public Entity Executives may exercise the foregoing rights related to Task Orders on which only

Public Entities are Practitioner Partners.

Section 2.02 Conflicts of Interest

A. The Consultant represents and warrants that neither it nor any of its directors, officers, members, partners or employees, has any interest nor shall they acquire any interest, directly or indirectly, which conflicts in any manner or degree with the performance of the Master Contract or any Task Order awarded to it. The Consultant further represents and warrants that no person having such interest or possible interest shall be employed by or connected with the Consultant in the performance of the Master Contract and any Task Order awarded to it.

B. Consistent with Charter § 2604 and other related provisions of the Charter, the Administrative Code and the New York State Penal Law, no elected official or other officer or employee of the City, nor any person whose salary is payable, in whole or in part, from the City, shall participate in any decision relating to the Master Contract or any Task Order issued thereunder that affects his or her personal interest or the interest of any corporation, partnership or other entity in which he or she is, directly or indirectly, interested; nor shall any such official, officer, employee, or person have any interest in, or in the proceeds of, the Master Contract or any Task Order issued thereunder. This Paragraph B shall not prevent directors, officers, members, partners, or employees of the Consultant from participating in decisions relating to the Master Contract and any Task Order issued thereunder where their sole personal interest is in the Consultant.

C. The Consultant shall not employ a person or permit a person to serve as a member of the Board of Directors or as an officer of the Consultant if such employment or service would violate Chapter 68 of the Charter.

Section 2.03 Fair Practices

A. The Consultant and each person signing a Task Order issued under the Master Contract on its behalf shall certify, when executing Task Orders, under penalties of perjury, that to the best of its, his or her knowledge and belief:

1. The prices and other material terms set forth in any Task Order have been arrived at independently, without collusion, consultation, communication, or agreement with any Consultant as to any matter relating to such prices or terms for the purpose of restricting competition;

2. Unless otherwise required by Law or where a schedule of rates or prices is uniformly established by a government agency through regulation, policy or directive, the prices and other material terms set forth in any Task Order have not been knowingly disclosed by the Consultant, directly or indirectly, to any Consultant prior to submission of a Proposal in Response; and

3. No attempt has been made or will be made by the Consultant to induce any other Consultant to submit or not to submit a Proposal in Response for the purpose of restricting competition.

B. The fact that the Consultant (i) has published price lists, rates, or tariffs covering services being procured, (ii) has informed prospective customers of proposed or pending publication of new or revised price lists for such services, or (iii) has sold the same services to other customers at the same prices and/or terms being proposed, does not constitute, without more, a disclosure within the meaning of this Section 2.03.

Section 2.04 VENDEX

The Consultant represents and warrants that it and its principals have duly executed and filed all required VENDEX Questionnaires and, if applicable, Certificates of No Change, pursuant to PPB Rule § 2-08 and in accordance with the policies and procedures of MOCS. The Consultant understands that the City's reliance upon the accuracy and completeness of the information stated therein is a material condition to the execution of the Master Contract and any Task Order issued thereunder, and further represents and warrants that the information it and its principals have provided is accurate and complete.

Section 2.05 Political Activity

The Consultant's provision of services under the Master Contract and any Task Order issued thereunder shall not include any partisan political activity or any activity to further the election or defeat of any candidate for public, political, or party office, nor shall any of the funds provided under any Task Order issued under the Master Contract be used for such purposes.

Section 2.06 Religious Activity

There shall be no religious worship, instruction or proselytizing as part of or in connection with the Consultant's provision of services under the Master Contract or any Task Order issued thereunder, nor shall any of the funds provided under any Task Order issued under the Master Contract be used for such purposes.

Section 2.07 Unlawful Discriminatory Practices: Admin. Code § 6-123

Pursuant to Administrative Code § 6-123, the Consultant shall not engage in any unlawful discriminatory practice as defined in and pursuant to the terms of Title 8 of the City Administrative Code. The Consultant shall include a provision in any agreement with a first-level Subcontractor performing services under any Task Order issued under the Master Contract for an amount in excess of Fifty Thousand Dollars (\$50,000) that such Subcontractor shall not engage in any such unlawful discriminatory practice.

Section 2.08 Bankruptcy and Reorganization

In the event that the Consultant files for bankruptcy or reorganization under Chapter Seven or Chapter Eleven of the United States Bankruptcy Code, the Consultant shall disclose such action to DDC and the Practitioner Partner with respect to all its Task Orders within five (5) Days of filing.

ARTICLE 3 - ASSIGNMENT AND SUBCONTRACTING

Section 3.01 Assignment

A. The Consultant shall not assign, transfer, convey or otherwise dispose of the Master Contract or any Task Order issued thereunder, or the right to execute either, or the right, title or interest in or to either or any part of them, or assign, by power of attorney or otherwise, any of the monies due or to become due under any Task Order issued under the Master Contract, without the prior written consent of the DDC Commissioner and the applicable Practitioner Partner. The giving of any such consent to a particular assignment shall not dispense with the necessity of such consent to any further or other assignments. Any such assignment, transfer, conveyance or other disposition without such written consent shall be void.

B. Before entering into any such assignment, transfer, conveyance or other disposal of the Master Contract and any Task Order issued thereunder, a Consultant shall submit a written request for approval to DDC and the applicable Practitioner Partner, giving the name and address of the proposed assignee. The proposed assignee's VENDEX questionnaire must be submitted within thirty (30) calendar Days after the ACCO has granted preliminary written approval of the proposed assignee, if required. Upon the request of DDC and the applicable Practitioner Partner, such Consultant shall provide any other information demonstrating that the proposed assignee has the necessary facilities, skill, integrity, past experience and financial resources to perform the specified services in accordance with the terms and conditions of the Task Order issued under the Master Contract. DDC and the Practitioner Partner shall make a final determination in writing approving or disapproving the assignee after receiving all requested information.

C. Failure to obtain the prior written consent to such an assignment, transfer, conveyance, or other disposition may result in the revocation and annulment of the Task Order and the Master Contract with respect to the Consultant, at the option of DDC and the Practitioner Partner. The City and the applicable Practitioner Partner shall thereupon be relieved and discharged from any further liability and obligation to the Consultant, its assignees, or transferees, who shall forfeit all monies earned under the Task Order and the Master Contract, except so much as may be necessary to pay the Consultant's employees.

D. The provisions of this Section 3.01 shall not hinder, prevent, or affect an assignment by any Consultant for the benefit of its creditors made pursuant to the Laws of the State.

E. The Master Contract and any Task Order issued thereunder may be assigned, in whole or in

part, by the City to any corporation, agency, or instrumentality having authority to accept such assignment. The City shall provide the Consultant with written notice of any such assignment.

Section 3.02 Subcontracting

A. For all subcontracts in an amount that does not exceed Five Thousand Dollars (\$5,000), calculated as provided in paragraph F below, the City Agency is deemed to have granted prior approval. For such Subcontracts, the Consultant must submit monthly reports to the Practitioner Partner indicating all such Subcontractors, all such subcontracts must be in writing, and, at the request of the Department or the Practitioner Partner, the Consultant shall provide the Department of the Practitioner Partner with a copy of any such subcontract. If the procurement rules applicable to Public Entities do not permit such deemed approval, the provisions in the following paragraphs shall apply, adjusted, as needed, with respect to the PPB Rule requirements.

B. Before entering into any subcontract for an amount greater than Five Thousand Dollars (\$5,000), calculated as provided in paragraph F below, for the performance of its obligations, in whole or in part, under the Master Contract and the applicable Task Order, the Consultant shall submit a written request for the approval of the proposed Subcontractor to the Practitioner Partner, giving the name and address of the proposed Subcontractor and the portion of the services that it is to perform and furnish. At the request of the Practitioner Partner, the Consultant shall submit a copy of the proposed subcontract to the Practitioner Partner. The Consultant shall submit the proposed Subcontractor's VENDEX Questionnaire, if required, within thirty (30) calendar Days after the City Agency ACCO has granted preliminary approval of the proposed Subcontractor. Upon the request of the Practitioner Partner, the Consultant shall provide any other information demonstrating that the proposed Subcontractor has the necessary facilities, skill, integrity, past experience and financial resources to perform the specified services in accordance with the terms and conditions of this Master Contract and the applicable Task Order. The Practitioner Partner shall make a final determination in writing approving or disapproving the Subcontractor after receiving all requested information. All such subcontracts must be in writing and, at the request of the Practitioner Partner, the Consultant shall provide the Practitioner Partner with a copy of any such subcontract.

C. For any subcontract in an amount greater than Five Thousand Dollars (\$5,000) but less than equal to Twenty-five Thousand Dollars (\$25,000), calculated as provided in paragraph F below, the Consultant may deem such Practitioner Partner's approval granted if the Practitioner Partner does not issue a written approval or disapproval within thirty (30) calendar Days of the earlier of the Practitioner Partner's receipt of the written request for approval and, if applicable, thirty (30) calendar Days after the Practitioner Partner's acknowledged receipt of fully completed VENDEX Questionnaires for the Subcontractor.

D. In addition to requirements of Section 2.07, 4.07, 7.03, 7.08 and 7.09 hereof, to the extent applicable, all subcontracts shall contain provisions specifying that:

1. The work performed by the Subcontractor must be in accordance with the terms of the Master Contract and applicable Task Order;

2. Nothing contained in the subcontract between the Consultant and the Subcontractor shall impair the rights of the City;

3. Nothing contained in the subcontract between the Consultant and the Subcontractor, in the Master Contract or in the applicable Task Order shall create any contractual relation between the Subcontractor and the City; and

4. The Subcontractor specifically agrees to be bound by Section 4.07 and Article 5 of this Appendix A and specifically agrees that the City may enforce such provisions directly against the Subcontractor as if the City were a party to the subcontract.

E. The Consultant specifically agrees with respect to each Task Order for which it enters into subcontracts that it will be as fully responsible to the Practitioner Partner for the acts and omissions of its Subcontractors and of persons either directly or indirectly employed by such Subcontractors as it is for the acts and omissions of any person directly employed by it.

F. For the purposes of determining the value of a subcontract under this Section 3.02, the value of all subcontracts with the same Subcontractor shall be aggregated.

G. The Practitioner Partner may revoke the approval of a Subcontractor granted or deemed granted pursuant to Paragraphs (A) and (C) of this Section 3.02 in writing if revocation is deemed to be in the interest of the City on no fewer than ten (10) calendar Days' notice unless a shorter period is warranted by considerations of health, safety, integrity issues or other similar factors. Upon the effective date of such revocation, the Consultant shall cause the Subcontractor to cease all work under the applicable Task Order. The City shall not incur any further obligation for services performed by such Subcontractor pursuant to the Master Contract and applicable Task Order beyond the effective date of the revocation. The City shall pay for services provided by the Subcontractor prior to the effective date of revocation in accordance with the Master Contract and applicable Task Order. For Task Orders with only a Public Entity as a Practitioner Partner, if the procurement rules applicable to such Public Entity do not permit the actions described above, such provisions shall apply, adjusted as needed.

H. The Practitioner Partner's approval of a Subcontractor shall not relieve the Consultant of any of its responsibilities, duties and liabilities under the Master Contract or applicable Task Order.

I. Individual employer-employee contracts are not subcontracts subject to the requirements of this Section 3.02.

ARTICLE 4 - LABOR PROVISIONS

Section 4.01 Independent Contractor Status

The Consultant and DDC agree that the Consultant is an independent contractor and not an employee of the City, DDC or any Practitioner Partner. Accordingly, neither the Consultant nor its employees or agents will hold themselves out as, or claim to be, officers or employees of the City, or of any department, agency or unit of the City, by reason of the Master Contract or any Task Order, and they will not, by reason of the Master Contract or any Task Order, make any claim, demand or application to or for any right or benefit applicable to an officer or employee of the City, including, but not limited to, Workers' Compensation coverage, Disability Benefits coverage, Unemployment Insurance benefits, Social Security coverage or employee retirement membership or credit.

Section 4.02 Employees

All persons who are employed by the Consultant and all Subcontractors, consultants or independent contractors who are retained by the Consultant to perform services under the Master Contract and applicable Task Order are neither employees of the City nor under contract with the City. The Consultant, and not the City, DDC or any Practitioner Partner, is responsible for their work, direction, compensation, and personal conduct while engaged under the Master Contract and any applicable Task Order. Nothing in the Master Contract or any Task Order shall impose any liability or duty on the City for the acts, omissions, liabilities or obligations of the Consultant, or any officer, employee, or agent of the Consultant, or for taxes of any nature, or for any right or benefit applicable to an officer or employee of the Consultant, including, but not limited to, Workers' Compensation coverage, Disability Benefits coverage, Unemployment Insurance benefits, Social Security coverage or employee retirement membership or credit. Except as specifically stated in the Master Contract or applicable Task Order, nothing in the Master Contract or applicable Task Order shall impose any liability or duty on the City to any person or entity.

Section 4.03 Replacement of Individuals on Academic Team

The Consultant shall not have anyone perform work under the Master Contract and any applicable Task Order who does not possess the experience, knowledge and character necessary to qualify them individually for the particular services they will perform on the Project in a professional and competent manner according to the standards of the relevant field(s) and/or discipline(s). Whenever a City Agency Commissioner or Public Entity Executive shall inform the Consultant, in writing, that any individual on the Academic Team is, in his or her opinion, unable to perform services on the Project in a professional and competent manner according to the standards of the relevant field(s) and/or discipline(s), the Consultant and the City Agency Commissioner or Public Entity Executive shall have the opportunity to resolve such concerns in good faith, subject to the provisions of Section 10.02 of Appendix A, with options including but not limited to the Consultant replacing such member of the Academic Team with personnel who possess/possesses qualifications at least

substantially similar to the person being replaced; provided however. This Section 4.03 relates to Section 3.3(c) of the Master Contract and Section 4.3 of the Task Order.

Section 4.04 Minimum Wage

Except for those employees whose minimum wage is required to be fixed pursuant to Sections 220 or 230 of the New York State Labor Law or by City Administrative Code § 6-109, all persons employed by the Consultant in the performance of the Master Contract and any applicable Task Order shall be paid, without subsequent deduction or rebate, unless expressly authorized by Law, not less than the minimum wage as prescribed by Law. Any breach of this Section 4.04 shall be deemed a material breach of this Master Contract.

Section 4.05 Non-Discrimination: New York State Labor Law § 220-e [Not applicable]

A. If the Master Contract is for the construction, alteration or repair of any public building or public work or for the manufacture, sale, or distribution of materials, equipment, or supplies, the Consultant agrees, as required by New York State Labor Law § 220-e, that:

1. In the hiring of employees for the performance of work under the Master Contract or any subcontract hereunder, neither the Consultant, Subcontractor, nor any person acting on behalf of such Consultant or Subcontractor, shall by reason of race, creed, color, disability, sex or national origin discriminate against any citizen of the State who is qualified and available to perform the work to which the employment relates;

2. Neither the Consultant, Subcontractor, nor any person acting on behalf of such Consultant or Subcontractor, shall, in any manner, discriminate against or intimidate any employee hired for the performance of work under the Master Contract on account of race, creed, color, disability, sex or national origin;

3. There may be deducted from the amount payable to the Consultant by the City under the Master Contract a penalty of Fifty Dollars (\$50) for each person for each calendar Day during which such person was discriminated against or intimidated in violation of the provisions of the Master Contract; and

4. The Master Contract may be terminated by the City and all monies due or to become due hereunder may be forfeited in the event of a second or any subsequent violation of the terms or conditions of this Section 4.05.

B. The provisions of this Section shall be limited to operations performed within the territorial limits of the State.

Section 4.06 Non-Discrimination: Admin. Code § 6-108 [Not applicable]

If the Master Contract is for the construction, alteration or repair of buildings or the construction or repair of streets or highways, or for the manufacture, sale, or distribution of materials, equipment or supplies, the Consultant agrees, as required by New York City Administrative Code § 6-108, that:

A. It shall be unlawful for any person engaged in the construction, alteration or repair of buildings or engaged in the construction or repair of streets or highways pursuant to a contract with the City or engaged in the manufacture, sale or distribution of materials, equipment or supplies pursuant to a contract with the City to refuse to employ or to refuse to continue in any employment any person on account of the race, color or creed of such person.

B. It shall be unlawful for any person or any servant, agent or employee of any person, described in Paragraph A above, to ask, indicate or transmit, orally or in writing, directly or indirectly, the race, color, creed or religious affiliation of any person employed or seeking employment from such person, firm or corporation.

C. Breach of the foregoing provisions shall be deemed a breach of a material provision of the Master Contract.

D. Any person, or the employee, manager or owner of or officer of such firm or corporation who shall violate any of the provisions of this Section 4.06 shall, upon conviction thereof, be punished by a fine of

not more than One Hundred Dollars (\$100) or by imprisonment for not more than thirty (30) Days, or both.

Section 4.07 Non-Discrimination: E.O. 50 -- Equal Employment Opportunity

A. The Master Contract and any Task Order issued thereunder is subject to the requirements of City Executive Order No. 50 (1980), as amended, the Rules set forth at 66 RCNY § 10-01 et seq., and any rules and regulations promulgated thereunder (collectively, "E.O. 50"). No Task Order will be awarded unless and until these requirements have been complied with in their entirety. The Consultant agrees that it:

1. Will not discriminate unlawfully against any employee or applicant for employment because of race, creed, color, national origin, sex, age, disability, marital status, sexual orientation or citizenship status with respect to all employment decisions including, but not limited to, recruitment, hiring, upgrading, demotion, downgrading, transfer, training, rates of pay or other forms of compensation, layoff, termination, and all other terms and conditions of employment;
2. Will not discriminate unlawfully in the selection of Subcontractors on the basis of the owners', partners' or shareholders' race, color, creed, national origin, sex, age, disability, marital status, sexual orientation, or citizenship status;
3. Will state in all solicitations or advertisements for employees placed by or on behalf of the Consultant that all qualified applicants will receive consideration for employment without unlawful discrimination based on race, color, creed, national origin, sex, age, disability, marital status, sexual orientation or citizenship status, and that it is an equal employment opportunity employer;
4. Will send to each labor organization or representative of workers with which it has a collective bargaining agreement or other contract or memorandum of understanding, written notification of its equal employment opportunity commitments under E.O. 50;
5. Will furnish, before any applicable Task Order under the Master Contract is awarded, all information and reports, including an Employment Report, which are required by E.O. 50 and orders of the City Department of Small Business Services, Division of Labor Services ("DLS"); and
6. Will permit DLS to have access to all relevant books, records, and accounts for the purposes of investigation to ascertain compliance with such rules, regulations, and orders.

B. The Consultant understands that in the event of its noncompliance with the nondiscrimination clauses of this Section 4.07 or with any of such rules, regulations, or orders, such noncompliance shall constitute a material breach of the applicable Task Order under the Master Contract and noncompliance with E.O. 50. After a hearing held pursuant to the rules of DLS, the Director of DLS may direct the Commissioner to impose any or all of the following sanctions:

1. Disapproval of the Consultant; and/or
2. Suspension or termination of the Task Order issued under the Master Contract and/or the Master Contract; and/or
3. Declaring the Consultant in default of the Task Order issued under the Master Contract and/or the Master Contract; and/or
4. In lieu of any of the foregoing sanctions, imposition of an employment program.

C. Failure to comply with E.O. 50 in one or more instances may result in DDC declaring the Consultant to be non-responsible under the applicable Task Order and/or the Master Contract.

D. In addition to the requirements of Section 3.02 hereof, the Consultant agrees to include the provisions of the foregoing paragraphs in every subcontract or purchase order in excess of One Hundred Thousand Dollars (\$100,000) to which it becomes a party unless exempted by E.O. 50, so that such provisions will be binding upon each Subcontractor or vendor. The Consultant will take such action with respect to any subcontract or purchase order as may be directed by the Director of DLS as a means of enforcing such provisions including sanctions for noncompliance. A supplier of unfinished products to the Consultant needed to produce the item contracted for shall not be considered a Subcontractor or vendor for purposes of this Paragraph D.

E. The Consultant further agrees that it will refrain from entering into any Subcontract or

modification thereof subject to E.O. 50 with a Subcontractor who is not in compliance with the requirements of E.O. 50. A supplier of unfinished products to the Consultant needed to produce the item contracted for shall not be considered a Subcontractor for purposes of this Paragraph E.

F. Nothing contained in this Section 4.07 shall be construed to bar any religious or denominational institution or organization, or any organization operated for charitable or educational purposes, that is operated, supervised or controlled by or in connection with a religious organization, from lawfully limiting employment or lawfully giving preference to persons of the same religion or denomination or from lawfully making such selection as is calculated by such organization to promote the religious principles for which it is established or maintained.

ARTICLE 5 - RECORDS, AUDITS, REPORTS, AND INVESTIGATIONS

Section 5.01 Books and Records

The Consultant agrees to maintain separate and accurate books, records, documents and other evidence, and to utilize appropriate accounting procedures and practices, which sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of the Master Contract and any applicable Task Orders.

Section 5.02 Retention of Records

The Consultant agrees to retain all books, records, and other documents relevant to the Master Contract and any applicable Task Orders, including those required pursuant to Section 5.01 hereof, for six (6) years after the final payment or expiration or termination of the Master Contract or any applicable Task Order, or for a period otherwise prescribed by Law, whichever is later. In addition, if any litigation, claim, or audit concerning the Master Contract and any applicable Task Order has commenced before the expiration of such period, the records must be retained until the completion of such litigation, claim, or audit. Any books, records and other documents that are created in an electronic format in the regular course of business may be retained in an electronic format. Any books, records, and other documents that are created in the regular course of business as a paper copy may be retained in an electronic format provided that the records satisfy the requirements of New York Civil Practice Law and Rules ("CPLR") 4539(b), including the requirement that the reproduction is created in a manner "which does not permit additions, deletions, or changes without leaving a record of such additions, deletions, or changes." Furthermore, the Consultant agrees to waive any objection to the admissibility of any such books, records or other documents on the grounds that such documents do not satisfy CPLR 4539(b).

Section 5.03 Inspection

A. At any time during the term of the Master Contract and any applicable Task Order or during the record retention period set forth in Section 5.02 hereof, the City, including the applicable Practitioner Partner, DDC and DDC's Office of the Inspector General, as well as City, State and federal auditors and any other persons duly authorized by the City shall, upon reasonable notice, have full access to and the right to examine and copy all books, records, and other documents maintained or retained by or on behalf of the Consultant pursuant to this Article 5. Notwithstanding any provision herein regarding notice of inspection, all books, records and other documents of the Consultant kept pursuant to this Master Contract shall be subject to immediate inspection, review, and copying by DDC's Office of the Inspector General and/or the Comptroller without prior notice and at no additional cost to the City. The Consultant shall make such books, records and other documents available for inspection within boundaries of the City or shall reimburse the City for expenses associated with the out-of-City inspection.

B. The Practitioner Partner shall have the right to have representatives of the Practitioner Partner, DDC, the City, State or federal government present to observe the services being performed.

C. The Consultant shall not be entitled to final payment until the Consultant has complied with any request for inspection or access given under this Section 5.03.

Section 5.04 Audit

A. The Master Contract and any applicable Task Order, and all books, records, documents, and other evidence required to be maintained or retained pursuant to the Master Contract and any applicable Task Order, including all vouchers or invoices presented for payment and the books, records, and other documents upon which such vouchers or invoices are based (e.g., reports, cancelled checks, accounts, and all other similar material), are subject to audit by (i) the City, including the Comptroller, the Practitioner Partner, DDC, and DDC's Office of the Inspector General, (ii) the State, (iii) the federal government, and (iv) other persons duly authorized by the City. Such audits may include examination and review of the source and application of all funds whether from the City, the State, the federal government, private sources or otherwise.

B. Audits by the City, including the Comptroller, the Practitioner Partner, DDC and DDC's Office of the Inspector General, are performed pursuant to the powers and responsibilities conferred by the Charter and the Administrative Code, as well as all orders, rules, and regulations promulgated thereunder.

C. The Consultant shall submit any and all documentation and justification in support of expenditures or fees under the Master Contract and any applicable Task Order as may be required by the Practitioner Partner, DDC and by the Comptroller in the exercise of his/her powers under Law.

D. The Consultant shall not be entitled to final payment until the Consultant has complied with the requirements of this Section 5.04.

Section 5.05 Removal of Records from Premises

As a result of Town+Gown's Organizational Character, it is likely that much of the required data for Research Projects will be publicly available under Law and it is further expected that there will be little need for limiting use of and access to data for Research Projects; thus, the following provisions shall not apply to any Research Project. However, to the extent that (1) the Law requires certain restrictions for some or all of the data needed for a particular Research Project or (2) a Requesting City Agency or Public Entity wishes to apply some or all of following provisions to some or all of the data needed for a proposed Research Project, and, with DDC's consent, includes such provisions in the applicable Mini RFP and related Task Order, the following provisions, in whole or in part, would apply:

Where performance of the Master Contract and any applicable Task Order involves use by the Consultant of any City books, records, documents, or data (in hard copy, or electronic or other format now known or developed in the future) at City facilities or offices, the Consultant shall not remove any such data (in the format in which it originally existed, or in any other converted or derived format) from such facility or office without the prior written approval of an Authorized Representative of the Practitioner Partner. Upon the request by the Practitioner Partner at any time during the Master Contract and applicable Task Order or after the Master Contract and applicable Task Order have expired or terminated, the Consultant shall return to the Practitioner Partner any City books, records, documents, or data that has been removed from the Practitioner Partner's premises.

Section 5.06 Electronic Records

As used in this Appendix A, the terms books, records, documents, and other data refer to electronic versions as well as hard copy versions.

Section 5.07 Investigations Clauses

A. The Consultant agrees to cooperate fully and faithfully with any investigation, audit or inquiry conducted by a State or City agency or authority that is empowered directly or by designation to compel the attendance of witnesses and to examine witnesses under oath, or conducted by the inspector general of a governmental agency that is a party in interest to the transaction, submitted bid, submitted proposal, contract, lease, permit, or license that is the subject of the investigation, audit or inquiry.

B. 1. If any person, who has been advised that his or her statement, and any information from such statement, will not be used against him or her in any subsequent criminal proceeding, refuses to testify before a grand jury or other governmental agency or authority empowered directly or by designation to compel the attendance of witnesses and to examine witnesses under oath concerning the award of or

performance under any transaction, agreement, lease, permit, contract, or license entered into with the City, or State, or any political subdivision or public authority thereof, or the Port Authority of New York and New Jersey, or any local development corporation within the City, or any public benefit corporation organized under the Laws of the State, or;

2. If any person refuses to testify for a reason other than the assertion of his or her privilege against self-incrimination in an investigation, audit or inquiry conducted by a City or State governmental agency or authority empowered directly or by designation to compel the attendance of witnesses and to take testimony under oath, or by the Inspector General of the governmental agency that is a party in interest in, and is seeking testimony concerning the award of, or performance under, any transaction, agreement, lease, permit, contract, or license entered into with the City, the State, or any political subdivision thereof or any local development corporation within the City, then;

C. 1. The Commissioner whose agency is a party in interest to the transaction, submitted bid, submitted proposal, contract, lease, permit, or license shall convene a hearing, upon not fewer than five (5) Days' written notice to the parties involved, to determine if any penalties should attach for the failure of a person to testify.

2. If any non-governmental party to the hearing requests an adjournment, the Commissioner who convened the hearing may, upon granting the adjournment, suspend any contract, lease, permit, or license pending the final determination pursuant to Paragraph E below without the City incurring any penalty or damages for delay or otherwise.

D. The penalties that may attach after a final determination by the Commissioner described in Paragraph C above may include but shall not exceed:

1. The disqualification for a period not to exceed five (5) years from the date of an adverse determination for any person, or any entity of which such person was a member at the time the testimony was sought, from submitting bids for, or transacting business with, or entering into or obtaining any contract, lease, permit or license with or from the City; and/or

2. The cancellation or termination of any and all such existing City contracts, leases, permits or licenses that the refusal to testify concerns and that have not been assigned as permitted under the Master Contract or any applicable Task Order, nor the proceeds of which pledged, to an unaffiliated and unrelated institutional lender for fair value prior to the issuance of the notice scheduling the hearing, without the City incurring any penalty or damages on account of such cancellation or termination; monies lawfully due for goods delivered, work done, rentals, or fees accrued prior to the cancellation or termination shall be paid by the City.

E. The Commissioner described in Paragraph C above shall consider and address, in reaching his or her determination and in assessing an appropriate penalty, the factors in Paragraphs (1) and (2) below. He or she may also consider, if relevant and appropriate, the criteria established in Paragraphs (3) and (4) below, in addition to any other information that may be relevant and appropriate:

1. The party's good faith endeavors or lack thereof to cooperate fully and faithfully with any governmental investigation or audit, including but not limited to the discipline, discharge, or disassociation of any person failing to testify, the production of accurate and complete books and records, and the forthcoming testimony of all other members, agents, assignees or fiduciaries whose testimony is sought.

2. The relationship of the person who refused to testify to any entity that is a party to the hearing, including, but not limited to, whether the person whose testimony is sought has an ownership interest in the entity and/or the degree of authority and responsibility the person has within the entity.

3. The nexus of the testimony sought to the subject entity and its contracts, leases, permits or licenses with the City.

4. The effect a penalty may have on an unaffiliated and unrelated party or entity that has a significant interest in an entity subject to penalties under Paragraph D above, provided that the party or entity has given actual notice to the Commissioner upon the acquisition of the interest, or at the hearing called for in Paragraph (C)(1) above gives notice and proves that such interest was previously acquired. Under either circumstance, the party or entity must present evidence at the hearing demonstrating the potential adverse impact a penalty will have on such person or entity.

F. Definitions

1. The term “license” or “permit” as used in this Section 5.07 shall be defined as a license, permit, franchise, or concession not granted as a matter of right.

2. The term “person” as used in this Section 5.07 shall be defined as any natural person doing business alone or associated with another person or entity as a partner, director, officer, principal or employee.

3. The term “entity” as used in this Section 5.07 shall be defined as any firm, partnership, corporation, association, or person that receives monies, benefits, licenses, leases, or permits from or through the City, or otherwise transacts business with the City.

4. The term “member” as used in this Section 5.07 shall be defined as any person associated with another person or entity as a partner, director, officer, principal, or employee.

G. In addition to and notwithstanding any other provision of the Master Contract and any applicable Task Order, the Commissioner may in his or her sole discretion terminate the Master Contract and any applicable Task Order upon not less than three (3) Days’ written notice in the event the Consultant fails to promptly report in writing to the City Commissioner of Investigation any solicitation of money, goods, requests for future employment or other benefits or thing of value, by or on behalf of any employee of the City or other person or entity for any purpose that may be related to the procurement or obtaining of the Master Contract and any applicable Task Order by the Consultant, or affecting the performance of the Master Contract and any applicable Task Order.

Section 5.08 Confidentiality

A. Requestor’s Election of Confidentiality Provisions. As a result of Town+Gown’s Organizational Character, in particular, increasing the common store of built environment knowledge by making its Research Project results available to all members of Town+Gown and to members of the public via its webpage, it is likely that little information related to its Research Projects will be required to be confidential under Law, and it is further expected that there will be little need for requiring confidentiality with respect to data, information and reports for Research Projects developed under Town+Gown. Thus, unless the Law requires the provisions of Section 5.08 B to apply or the Requestor elects, in its Mini RFP, to have the provisions of Section 5.08 B apply to a resulting Task Order, as provided in the paragraph below, the provisions of Section 5.08 B below shall not apply to any Research Project.

To the extent, however, that (1) the Law, including but not limited to the State Freedom of Information Law (FOIL), requires confidentiality for some or all of the data, information and reports needed for a particular Research Project, and the Requesting City Agency or Public Entity expressly indicates the data, information and reports pursuant to Law, as in effect at the time of Mini RFP release, to be confidential in the applicable Mini-RFP and related Task Order, the provisions of Section 5.08 B below shall apply to such data, information and reports required to be and marked as confidential in a Mini RFP. In addition, to the extent that (2) a Requesting City Agency or Public Entity wishes to apply some or all of the following provisions to some or all of the data, information and reports for a proposed Research Project and, with DDC’s consent, expressly includes such restrictions in the applicable Mini RFP and related Task Order, the following provisions, in whole or in part, as indicated in the Mini RFP, would apply. Such data, information and reports covered by (1) or (2) above, are defined to be the “Confidential Materials”.

B. Confidentiality Requirements.

1. The Consultant agrees to hold confidential, both during and after the completion or termination of the Consortium Contract and applicable Task Order, all of the Confidential Materials furnished to the Consultant, and, consistent with the provisions of Section 6.01A or Section 6.01B, those portions of the Research Project prepared, assembled or used by the Consultant under the Consortium Contract and applicable Task Order with respect to the Confidential Materials. The Consultant agrees to maintain the confidentiality of such Confidential Materials by using a reasonable degree of care, and using at least the same degree of care that the Consultant uses to preserve the confidentiality of its own confidential information and the Consultant must use pursuant to its protocols for faculty-led research using confidential data. In the event that the data contains personally identifiable, confidential, proprietary or protected health information, including social security numbers or other personal identifying information (“Personal Identifying Information”), the Consultant shall utilize best practice methods (e.g., encryption of electronic

records) to protect the confidentiality of such data. The obligation under this Section 5.08 with respect to Confidential Materials elected under (2) above, to hold such Confidential Materials confidential shall not apply where the City or the Academic Partner would be required to disclose such Confidential Materials, under FOIL, provided that the Academic Partner provides advance notice to the Practitioner Partner, in writing or by e-mail, that it intends to disclose such Confidential Materials and, if requested by the Practitioner Partner and not inconsistent with the Academic Partner's obligations under Law, the Academic Partner shall not disclose such reports, information, or data until the City has exhausted its legal rights, if any, to prevent disclosure of all or a portion of such Confidential Materials.

In view of the fact that the Law applies to both the City and Consultants with respect to the Confidential Data, including Personal Identifying Information therein, no later than three (3) months prior to the anticipated publication date, as permitted by either Section 6.01A or Section 6.01B, the Academic Partner shall provide, to the Practitioner Partner, a draft of the article containing a certificate that the Confidential Materials used in such publication have been sufficiently aggregated or anonymized to protect Personal Identifying Information pursuant to the Academic Institution's protocols and Law for faculty-led research using confidential data. No later than one (1) month before the anticipated publication date, the Practitioner Partner shall provide a response either consenting to the publication, which consent shall not be unreasonably withheld, or identifying any Confidential Information contained therein to which consent for publication is not given. If the Practitioner Partner identifies any Confidential Information in the publication to which consent is not given, the Academic Partner shall have the right to publish the proposed publication, excluding any Confidential Information that is identified by the Practitioner Partner. Compliance with this requirement is a pre-condition to an Academic Partner's ability to publish pursuant to Section 6.01 A and Section 6.01 B to the extent that Confidential Materials are used in such publication.

2. The Consultant shall provide notice to the Practitioner Partner within three (3) Days of the discovery by the Consultant of any breach of security, as defined in Administrative Code § 10-501(b), of any data, encrypted or otherwise, in use by the Consultant that contains Personal Identifying Information, where such breach of security arises out of the acts or omissions of the Consultant or its employees, Subcontractors, or agents. Upon the discovery of such security breach, the Consultant shall take reasonable steps to remediate the cause or causes of such breach, and shall provide notice to the Practitioner Partner of such steps. In the event of such breach of security, without limiting any other right of the City, the Practitioner Partner shall have the right to withhold further payments under the Consortium Contract and applicable Task Order for the purpose of set-off in sufficient sums to cover the costs of notifications and/or other actions mandated by any Law, or administrative or judicial order, to address the breach, and including any fines or disallowances imposed by the State or federal government as a result of the disclosure. The City shall also have the right to withhold further payments hereunder and the applicable Task Order for the purpose of set-off in sufficient sums to cover the costs of credit monitoring services for the victims of such a breach of security by a national credit reporting agency, and/or any other commercially reasonable preventive measure. The Practitioner Partner shall provide the Consultant with written notice and an opportunity to comment on such measures prior to implementation. Alternatively, at the discretion of the Practitioner Partner, or if monies remaining to be earned or paid under the applicable Task Order are insufficient to cover the costs detailed above, the Consultant shall pay directly for the costs, detailed above, if any.

3. The Consultant shall restrict access to Confidential Materials to persons who have a legitimate work-related purpose to access such information. The Consultant agrees that it will instruct its officers, employees, and agents to maintain the confidentiality of any and all information required to be kept confidential by this Consortium Contract and the applicable Task Order.

4. The Consultant, and its officers, employees, and agents shall notify the Practitioner Partner, at any time either during or after completion or termination of the Consortium Contract and applicable Task Order, of any intended statement to the press or any intended issuing of any material for publication in any media of communication (print, news, television, radio, Internet, etc.) regarding the services provided or the data collected pursuant to the Consortium Contract and applicable Task Order at least twenty-four (24) hours prior to any statement to the press or at least five (5) Days prior to the submission of the material for publication, or such shorter periods as are reasonable under the circumstances. The Consultant may not issue any statement or submit any material for publication that includes Confidential Materials covered by this Section 5.08, as further subject to the provisions of either Section 6.01A or Section 6.01B, which apply to the Mini-RFP.

5. At the request of the Practitioner Partner, the Consultant shall return to the Practitioner Partner any and all Confidential Materials in the possession of the Consultant or its Subcontractors. If the Consultant or its Subcontractors are legally required to retain any Confidential Materials, the Consultant shall notify the Practitioner Partner in writing and set forth the Confidential Materials that it intends to retain and the reasons why it is legally required to retain such information. The Consultant shall confer, in good faith, with the Practitioner Partner regarding any issues that arise from the Consultant retaining such Confidential Materials. If the Practitioner Partner does not request such information, or the Law does not require otherwise, such information shall be maintained in accordance with the requirements set forth in Section 5.02.

6. The Academic Partner and the Practitioner Partner may negotiate a separate data use agreement or non-disclosure Agreement consistent with the provisions of either Section 6.01A or Section 6.01B, as applicable.

7. A breach of this Section 5.08 B shall constitute a material breach of this Consortium Contract for which in the event of unauthorized disclosure, DDC and the Practitioner Partner may terminate the Consortium Contract and applicable Task Order pursuant to Article 10. The Practitioner Partner reserves any and all other rights and remedies

ARTICLE 6 - COPYRIGHTS, PATENTS, INVENTIONS, AND ANTITRUST

Section 6.01 Copyrights

A. The Town+Gown Standard. Town+Gown's Organizational Character intends that work product generated from Task Orders be available to Town+Gown community and members of the public *via* the Town+Gown website, and since such work product may not require the level of peer-review required for academic journal or equivalent publication, the City acknowledges that an Academic Partner may wish to use the Task Order-generated work product as the basis of a peer-reviewed article for academic journal or equivalent publication.

Since one of the elements of Town+Gown's Organizational Character is supporting academic-practitioner collaborations by highlighting the importance of practice as a source of knowledge, with Academics and Practitioners as equal partners in knowledge creation, the Consultant agrees, in the event it, as an Academic Partner, wishes to use the Task Order-generated work product as the basis of a peer-reviewed article of an academic journal or equivalent publication, to include the Practitioner Partner as the equivalent of a peer reviewer, in all subsequent academic work related to the initial work product under a Task Order, including but not limited to review and comment on the drafts and to acknowledgement, as appropriate, the relevant staff members at the Practitioner Partner, all as provided in the Project Staffing and Organization in Section 2.4 of the Task Order.

To the extent any Task Order-generated work product ("Copyrightable Materials") shall be considered "work-made-for-hire" within the meaning and purview of Section 101 of the United States Copyright Act, 17 U.S.C. § 101 et seq. (the "Copyright Act"), the Consultant will be the copyright owner thereof and of all aspects, elements and components thereof in which copyright protection might exist, subject to the Practitioner Partner's reservation in the last sentence of this paragraph. To the extent that the Copyrightable Materials do not qualify as "work-made-for-hire," the Consultant will have copyright ownership in and to the Copyrightable Materials, subject to such Practitioner's reservation below. Following federal policy, the Practitioner Partner reserves a royalty-free, non-exclusive irrevocable license to reproduce, publish, or otherwise use and to authorize others to use, for purposes of the City or applicable Public Entity, the copyright in any Copyrightable Materials developed under the Master Contract and applicable Task Order.

With respect to each Task Order, the Consultant will represent and warrant that the Copyrightable Materials: (i) are wholly original material not published elsewhere (except for material that is in the public domain); (ii) do not violate any copyright law; (iii) do not constitute defamation or invasion of the right of privacy or publicity; and (iv) are not an infringement, of any kind, of the rights of any third party. Further,

the Consultant will represent and warrant, that to the extent that the Copyrightable Materials incorporate any non-original material, either the Consultant has obtained all necessary permissions and clearances, in writing, for the use of such non-original material under the Master Contract and applicable Task Order, copies of which shall be provided to the Practitioner Partner upon execution of the applicable Task Order, or such non-original material is within the fair use exception to the Copyright Act, based on the purpose and character of the use and the amount and substantiality of the particular use involved.

B. The City Standard. However, to the extent that (1) the Law requires treatment of any materials produced pursuant to a Task Order as described below or (2) a Requesting City Agency or Public Entity wishes to apply any or all of such provisions to a particular Research Project, and, with DDC's consent, includes such restrictions in the applicable Mini RFP and Task Order, the following provisions, in whole or in part, would apply. If the Requesting Agency elects the provisions of Section 6.01B, as indicated in the Mini RFP and as approved by DDC, the Requesting Agency shall also indicate in the Mini RFP the nature of the license it will grant to the Academic Partner to use the Copyrightable Materials for publication of academic articles and additional independent faculty-led research and publication purposes, subject to the applicable provisions of Section 5.08.

1. Any reports, documents, data, photographs, deliverables, and/or other materials produced pursuant to the Master Contract and applicable Task Order, and any and all drafts and/or other preliminary materials in any format related to such items produced pursuant to the Master Contract and applicable Task Order, shall upon their creation become the exclusive property of the Practitioner Partner.

2. Any reports, documents, data, photographs, deliverables, and/or other materials provided pursuant to the Master Contract and applicable Task Order ("Copyrightable Materials") shall be considered "work-made-for-hire" within the meaning and purview of Section 101 of the United States Copyright Act, 17 U.S.C. § 101 et seq. (the "Copyright Act"), and the Practitioner Partner shall be the copyright owner thereof and of all aspects, elements and components thereof in which copyright protection might exist. To the extent that the Copyrightable Materials do not qualify as "work-made-for-hire," the Consultant hereby irrevocably transfers, assigns and conveys exclusive copyright ownership in and to the Copyrightable Materials to the Practitioner Partner, free and clear of any liens, claims, or other encumbrances. The Consultant shall retain no copyright or intellectual property interest in the Copyrightable Materials. The Copyrightable Materials shall be used by the Consultant for no purpose other than in the performance of the Master Contract and applicable Task Order without the prior written permission of the Practitioner Partner. The Practitioner Partner may grant the Consultant a license to use the Copyrightable Materials on such terms as determined by the Practitioner Partner and set forth in the license.

3. The Consultant acknowledges that the City may, in its sole discretion, register copyright in the Copyrightable Materials with the United States Copyright Office or any other government agency authorized to grant copyright registrations. The Consultant shall fully cooperate in this effort, and agrees to provide any and all documentation necessary to accomplish this.

4. The Consultant represents and warrants that the Copyrightable Materials: (i) will be wholly original material not published elsewhere (except for material that is in the public domain); (ii) will not violate any copyright Law; (iii) will not constitute defamation or invasion of the right of privacy or publicity; and (iv) will not be an infringement, of any kind, of the rights of any third party. To the extent that the Copyrightable Materials incorporate any non-original material, either the Consultant shall have either obtained all necessary permissions and clearances, in writing, for the use of such non-original material under the Master Contract and applicable Task Order, copies of which shall be provided to the Practitioner Partner upon execution of an applicable Task Order or such non-original material is within the fair use exception to the Copyright Act, based on the purpose and character of the use and the amount and substantiality of the particular use involved.

5. If the services under this Master Contract are supported by a federal grant of funds, the federal and State governments reserve a royalty-free, non-exclusive irrevocable license to reproduce, publish, or otherwise use and to authorize others to use, for federal or State government purposes, the copyright in any Copyrightable Materials developed under this Master Contract.

6. If the Consultant publishes a work dealing with any aspect of performance under this Master Contract, or with the results of such performance, the City shall have a royalty-free, non-exclusive irrevocable license to reproduce, publish, or otherwise use such work for City governmental purposes.

Section 6.02 Patents and Inventions

While Town+Gown's Organizational Character intends that work product generated from Task Orders be available to Town+Gown community and members of the public *via* the Town+Gown website, it is possible that such work product may eventually lead to discoveries or solutions to problems initially identified by the Practitioner Partner that may become patentable and marketable applications and/or inventions ("discoveries or solutions"). Subject to the provisions below, the Consultant shall promptly and fully report to the Practitioner Partner and DDC any discoveries or solutions that it believes can result in patentable and/or marketable applications or inventions so that, consistent with the Practitioner Partner's reservation of a royalty-free, non-exclusive irrevocable license, the Consultant can pursue such patentable and/or marketable applications or inventions, with the Practitioner Partner, at the Practitioner Partner's election at such time, to participate:

- A. as a full partner in the process of developing resulting applications or invention, sharing, with the Academic Partner, the associated costs of pursuant any patents, or
- B. as the holder of a royalty-free license to use any resulting applications or inventions, after any necessary assignment of Practitioner Partner's interests in the discoveries and solutions.

If the services under the Master Contract and applicable Task Order are supported, in part or in whole, by a federal grant of funds, the Consultant shall also promptly and fully report to the federal government for the federal government to make a determination as to whether patent protection on such invention shall be sought and how the rights in the invention or discovery, including rights under any patent issued thereon, shall be disposed of and administered in order to protect the public interest. The Practitioner Partner's interests in any discoveries or solutions funded in part or in whole by a federal grant of funds shall be subordinated to those of the federal government.

Section 6.03 Pre-existing Rights

In no case shall Sections 6.01 and 6.02 apply to, or prevent the Consultant from asserting or protecting its rights in any discovery, invention, report, document, data, photograph, deliverable, or other material in connection with or produced pursuant to the Master Contract that existed prior to or was developed or discovered independently from the activities directly related to the Master Contract.

Section 6.04 Antitrust [Not applicable]

The Consultant hereby assigns, sells, and transfers to the City all right, title and interest in and to any claims and causes of action arising under the antitrust laws of the State or of the United States relating to the particular goods or services procured by City Agencies under the Master Contract and applicable Task Order. For Task Orders awarded and funded solely by a Public Entity, the provisions of this Section 6.04 shall apply, making such necessary alterations to reflect the sole presence of a Public Entity as a party, unless the Laws applicable to such Public Entity provides otherwise or such Public Entity provides for different provisions in its Mini-RFP and related Task Order.

ARTICLE 7 - INSURANCE

Section 7.01 Agreement to Insure

The Consultant shall not commence performing services under any applicable Task Order unless and until all insurance required by this Article 7 is in effect, and shall ensure continuous insurance coverage in the manner, form, and limits required by this Article 7 (with the minimum limits and special conditions specified in Schedule A, which will be included in each Task Order) throughout the term of all applicable Task Orders. For Task Orders awarded and funded solely by a Public Entity, the provisions of this Article 7 shall apply, making such necessary alterations to reflect the sole presence of a Public Entity as a party, unless the Laws applicable to such Public Entity provides otherwise or such Public Entity provides for different provisions in its Mini-RFP and related Task Order. For Task Orders involving any combination of City Agencies and Public Entities, the requirement(s) below of adding the City as an additional insured shall also include adding the Public Entity/Entities as additional insured(s).

Wherever this Article 7 requires that insurance coverage be “at least as broad” as a specified form (including all ISO forms), there is no obligation that the form itself be used, provided that the Consultant can demonstrate that the alternative form or endorsement or other provision contained in its policy provides coverage at least as broad as the specified form.

Section 7.02 Workers’ Compensation, Disability Benefits, and Employers’ Liability Insurance

The Consultant shall maintain workers’ compensation insurance, employers’ liability insurance, and disability benefits insurance, in accordance with Law on behalf of, or in regard to, all employees providing services under a Task Order.

Within 10 calendar days of award of a Task Order or as otherwise specified by the Department or in the Mini-RFP, and as required by N.Y. Workers’ Compensation Law §§ 57 and 220(8), the Consultant shall submit proof of Consultant’s workers’ compensation insurance and disability benefits insurance (or proof of a legal exemption) to the Practitioner Partner in a form acceptable to the New York State Workers’ Compensation Board. ACORD forms are not acceptable proof of such insurance. The following forms are acceptable:

Form C-105.2, Certificate of Workers’ Compensation Insurance;

Form U-26.3, State Insurance Fund Certificate of Workers’ Compensation Insurance;

Form SI-12, Certificate of Workers’ Compensation Self-Insurance;

Form GSI-105.2, Certificate of Participation in Worker’s Compensation Group Self-Insurance;

Form DB-120.1, Certificate of Disability Benefits Insurance;

Form DB-155, Certificate of Disability Benefits Self-Insurance;

Form CE-200 - Affidavit of Exemption;

Other forms approved by the New York State Workers’ Compensation Board; or

Other proof of insurance in a form acceptable to the City.

Section 7.03 Other Insurance

A. *Commercial General Liability Insurance.* The Consultant shall maintain commercial general liability insurance in the amounts, if any, specified in Schedule A to the Task Order, that covers operations under the Task Order. Coverage must be at least as broad as the coverage provided by the most recently issued ISO Form CG 00 01, primary and non-contributory, and “occurrence” based rather than “claims-made.” Such coverage shall list the City, together with its officials and employees, and any other entity that may be listed on Schedule A to the Task Order as an additional insured with coverage at least as broad as the most recently issued ISO Form CG 20 10 or CG 20 26.

B. *Commercial Automobile Liability Insurance.* If indicated in Schedule A to the Task Order, the Consultant shall maintain commercial automobile liability insurance for liability arising out of ownership, maintenance or use of any owned, non-owned, or hired vehicles to be used in connection with this Agreement. Coverage shall be at least as broad as the most recently issued ISO Form CA 00 01. If vehicles are used for transporting hazardous materials, the commercial automobile liability insurance shall be endorsed to provide pollution liability broadened coverage for covered vehicles (endorsement CA 99 48) as well as proof of MCS-90.

C. *Professional Liability Insurance.*

1. If indicated in Schedule A to the Task Order, the Consultant shall maintain and submit evidence of professional liability insurance or errors and omissions insurance appropriate to the type(s) of such services to be provided under this Agreement. The policy or policies shall cover the liability assumed by the Consultant under the Task Order arising out of the negligent performance of professional services or caused by an error, omission, or negligent act of the Consultant or anyone employed by the Consultant.

2. All subcontractors of the Consultant providing professional services under a Task Order for which professional liability insurance or errors and omissions insurance is reasonably commercially available shall also maintain such insurance in the amount of at least one million dollars (\$1,000,000) per claim, unless a higher amount is specified in the Task Order. At the time of the request for subcontractor approval, the Consultant shall provide to the Practitioner Partner, evidence of such professional liability insurance on a form acceptable to the Practitioner Partner.

3. Claims-made policies will be accepted for professional liability insurance. All such policies shall have an extended reporting period option or automatic coverage of not less than two years. If available as an option, the Consultant shall purchase extended reporting period coverage effective on cancellation or termination of such insurance unless a new policy is secured with a retroactive date, including at least the last policy year. The Practitioner Partner may waive this requirement in writing upon request by the Consultant, subject to the approval by the New York City Law Department.

Section 7.04 General Requirements for Insurance Coverage and Policies

A. Unless otherwise stated, all insurance required by Section 7.03 of this Agreement must:

1. be provided by companies that may lawfully issue such policies;

2. have an A.M. Best rating of at least A- / VII, a Standard & Poor's rating of at least A, a Moody's Investors Service rating of at least A3, a Fitch Ratings rating of at least A- or a similar rating by any other nationally recognized statistical rating organization acceptable to the New York City Law Department unless prior written approval is obtained from the New York City Law Department; and

3. be primary (and non-contributing) to any insurance or self-insurance maintained by the City (not applicable to professional liability insurance/errors and omissions insurance).

B. The Consultant shall be solely responsible for the payment of all premiums for all required insurance policies and all deductibles or self-insured retentions to which such policies are subject, whether or not the City is an insured under the policy.

C. There shall be no self-insurance program with regard to any insurance required under Section 7.03 unless approved in writing by the Commissioner. Any such self-insurance program shall provide the City and any other additional insured listed on Schedule A to the Task Order with all rights that would be provided by traditional insurance required under this Article 7, including but not limited to the defense obligations that insurers are required to undertake in liability policies.

D. The limits of coverage for all types of insurance for the City, including its officials and employees, and any other additional insured listed on Schedule A that must be provided to such additional insured(s) shall be the greater of (i) the minimum limits set forth in Schedule A or (ii) the limits provided to the Consultant as named insured under all primary, excess, and umbrella policies of that type of coverage. A Practitioner Partner may waive this Section 7.04(D) with respect to a Task Order upon written consent of the New York City Law Department.

Section 7.05 Proof of Insurance

A. For each policy required by Schedule A to a Task Order, the Consultant shall file proof of insurance and, where applicable, proof that the City, including its officials and employees, is an additional

insured with the Practitioner Partner within ten calendar days of award of a Task Order. The following proof is acceptable:

1. A certificate of insurance accompanied by a completed certification of insurance broker or agent (attached as Schedule 1) and any endorsements by which the City, including its officials and employees, have been made an additional insured; or

2. A copy of the insurance policy, including declarations and endorsements, certified by an authorized representative of the issuing insurance carrier.

B. Proof of insurance confirming renewals of insurance required under Section 7.03 must be submitted to the Practitioner Partner prior to the expiration date of the coverage. Such proof must meet the requirements of Section 7.05(A).

C. The Consultant shall be required to provide a complete copy of any Commercial Liability Insurance policy required by a Task Order in the event of a claim against the City that the City believes should be covered under such policy for which both the insurer has not provided the City with a defense thereunder and the Consultant has failed to provide a defense and failed to indemnify the City.

D. Acceptance by Practitioner Partner of a certificate or a policy does not excuse the Consultant from maintaining policies consistent with all provisions of this Article 7 (and ensuring that subcontractors maintain such policies) or from any liability arising from its failure to do so.

E. If the Consultant receives notice, from an insurance company or other person, that any insurance policy required under this Article 7 shall expire or be cancelled or terminated for any reason, the Consultant shall immediately forward a copy of such notice to the Practitioner Partner and DDC, and to the New York City Comptroller, Attn: Office of Contract Administration, Municipal Building, One Centre Street, Room 1005, New York, New York 10007.

Section 7.06 Miscellaneous

A. Whenever notice of loss, damage, occurrence, accident, claim, or suit is required under a policy required by Schedule A to a Task Order, the Consultant shall provide the insurer with timely notice thereof on behalf of the City. Such notice shall be given even where the Consultant may not be covered under such policy if this Article 7 and/or the Task Order requires that the City be an additional insured (for example, where one of Consultant's employees was injured in connection with services provided under the Task Order). Such notice shall expressly specify that "this notice is being given on behalf of the City of New York, including its officials and employees, as additional insured" (such notice shall also include the name of any other entity listed as an additional insured on Schedule A to the Task Order) and contain the following information to the extent known: the number of the insurance policy; the name of the named insured; the date and location of the damage, occurrence, or accident; the identity of the persons or things injured, damaged, or lost; and the title of the claim or suit, if applicable. The Consultant shall simultaneously send a copy of such notice to the City of New York c/o Insurance Claims Specialist, Affirmative Litigation Division, New York City Law Department, 100 Church Street, New York, New York 10007. If the Consultant fails to comply with the requirements of this paragraph, the Consultant shall indemnify the City, together with its officials and employees, and any other entity listed as an additional insured on Schedule A to the Task Order for all losses, judgments, settlements and expenses, including reasonable attorneys' fees, arising from an insurer's disclaimer of coverage citing late notice by or on behalf of the City together with its officials and employees, and any other entity listed as an additional insured on Schedule A to the Task Order.

B. The Consultant's failure to maintain any of the insurance required by this Article 7 and Schedule A to the Task Order shall constitute a material breach of this Agreement. Such breach shall not be waived or otherwise excused by any action or inaction by the City at any time.

C. Insurance coverage in the minimum amounts required in this Article 7 shall not relieve the Consultant or its subcontractors of any liability under this Agreement, nor shall it preclude the City from

exercising any rights or taking such other actions as are available to it under any other provisions of this Agreement or Law.

D. With respect to commercial general liability insurance required by Section 7.03 and Schedule A to a Task Order, the Consultant waives all rights against the City, including its officials and employees, and any other entity listed as an additional insured on Schedule A to a Task Order for any damages or losses that are covered under any commercial general liability insurance required under a Task Order (whether or not such insurance is actually procured or claims are paid thereunder).

E. In the event the Consultant requires any subcontractor to maintain insurance with regard to any operations under a Task Order and requires such subcontractor to list the Consultant as an additional insured under such insurance, the Consultant shall ensure that such entity also list the City, including its officials and employees, and any other entity listed as an additional insured on Schedule A to the Task Order as an additional insured. With respect to commercial general liability insurance, such coverage must be at least as broad as the most recently issued ISO form CG 20 26.

ARTICLE 8 - PROTECTION OF PERSONS AND PROPERTY AND INDEMNIFICATION

Section 8.01 Reasonable Precautions

The Consultant shall take all reasonable precautions to protect all persons and the property of the City and of others from damage, loss or injury resulting from the Consultant's and/or its Subcontractors' operations under the Master Contract and any applicable Task Order.

Section 8.02 Protection of City Property

The Consultant assumes the risk of, and shall be responsible for, any loss or damage to City property, including property and equipment leased by the City, used in the performance of the Master Contract and any applicable Task Order, where such loss or damage is caused by any tortious act, or failure to comply with the provisions of the Master Contract, any applicable Task Order or of Law by the Consultant, its officers, employees, agents or Subcontractors.

Section 8.03 Indemnification

The Consultant shall defend, indemnify and hold the City, its officers and employees harmless from any and all claims or judgments for damages on account of any injuries or death to any person or damage to any property and from costs and expenses to which the City, its officers and employees may be subjected or which it may suffer or incur that are alleged to have arisen out of or in connection with any operations of the Consultant and/or its Subcontractors to the extent resulting from any negligent act of commission or omission, any intentional tortious act, or failure to comply with the provisions of the Master Contract, any applicable Task Order or of the Laws. Insofar as the facts or Law relating to any claim would preclude the City from being completely indemnified by the Consultant, the City shall be partially indemnified by the Consultant to the fullest extent permitted by Law.

Section 8.04 Infringement Indemnification

To the extent that the provisions of Section 6.01 B (the City Standard) applies, the Consultant shall defend, indemnify and hold the City harmless from any and all claims (even if the allegations of the lawsuit are without merit) or judgments for damages and from costs and expenses to which the City may be subject to or which it may suffer or incur allegedly arising out of or in connection with any infringement by the Consultant of any copyright, trade secrets, trademark or patent rights or any other property or personal right of any third party by the Consultant and/or its Subcontractors in the performance of the Master Contract and any applicable Task Order. The Consultant shall defend, indemnify, and hold the City harmless regardless of whether or not the alleged infringement arises out of compliance with the scope of services/scope of work in any applicable Task Order. Insofar as the facts or Law relating to any claim would preclude the City from being completely indemnified by the Consultant, the City shall be partially indemnified by the Consultant to

the fullest extent permitted by Law.

Section 8.05 Indemnification Obligations Not Limited By Insurance Obligation

The indemnification provisions set forth in this Article 8 shall not be limited in any way by the Consultant's obligations to obtain and maintain insurance as provided in this Appendix A.

Section 8.06 Actions By or Against Third Parties

A. In the event any claim is made or any action brought in any way relating to the Master Contract and any applicable Task Order, other than an action between the City and the Consultant, the Consultant shall diligently render to the City without additional compensation all assistance which the City may reasonably require of the Consultant.

B. The Consultant shall report to the DDC and Practitioner Partner in writing within five (5) Days of the initiation by or against the Consultant of any legal action or proceeding in connection with or relating to the Master Contract and/or any applicable Task Order.

Section 8.07 Withholding of Payments

A. In the event that any claim is made or any action is brought against the City for which the Consultant may be required to indemnify the City pursuant to the Master Contract and any applicable Task Order, the City shall have the right to withhold further payments under the Master Contract and any applicable Task Order for the purpose of set-off in sufficient sums to cover the said claim or action.

B. In the event that any City property is lost or damaged as set forth in Section 8.02, except for normal wear and tear, the City shall have the right to withhold further payments under the Master Contract and any applicable Task Order for the purpose of set-off in sufficient sums to cover such loss or damage.

C. The City shall not, however, impose a setoff in the event that an insurance company that provided liability insurance pursuant to Article 7 above has accepted the City's tender of the claim or action without a reservation of rights.

D. The Practitioner Partner may, at its option, withhold for purposes of set-off any monies due to the Consultant under the Master Contract and any applicable Task Order up to the amount of any disallowances or questioned costs resulting from any audits of the Consultant or to the amount of any overpayment to the Consultant with regard to the Master Contract and any applicable Task Order.

E. The rights and remedies of the City provided for in this Section 8 shall not be exclusive and are in addition to any other rights and remedies provided by Law or the Master Contract and any applicable Task Order.

Section 8.08 No Third Party Rights

The provisions of the Master Contract and any applicable Task Order shall not be deemed to create any right of action in favor of third parties against the Consultant or the City or their respective officers and employees.

Section 8.09 Public Entities

For Task Orders awarded and funded solely or in part by a Public Entity/Public Entities, the provisions of this Article 8 shall apply, unless the Public Entity/Public Entities makes/make such necessary alterations in the Mini RFP and resulting Task Order, pursuant to Sections 2.8 and 3.2 of the Master Contract.

ARTICLE 9 - CONTRACT CHANGES

Section 9.01 Contract Changes

Changes to the Master Contract, as authorized in Section 5.4 of the Master Contract, any applicable

Task Order, and or any reductions pursuant to Section 10.01 A (2) below must comply with the provisions of the PPB Rules, which include approval by the DDC ACCO or Authorized Representative and/or the City Agency ACCO or Authorized Representative, as appropriate. Any amendment or change to the Master Contract and/or any applicable Task Order shall not be valid unless made in writing and signed by authorized representatives of parties as required by Section 5.4 of the Agreement. All approved amendments shall be in writing and reflected in a change order as the term is defined in the PPB Rules, which shall become a part of the Master Contract and/or applicable Task Order. Consultants deviating from the requirements of the Master Contract and/or applicable Task Order without a duly approved and executed change order document, or written contract modification or amendment, do so at their own risk.

For Task Orders awarded and funded solely or in part by a Public Entity/Public Entities, the provisions of this Section 9.01 8 shall apply, unless the Public Entity/Public Entities makes/make such necessary alterations in the Mini RFP and resulting Task Order, pursuant to Sections 2.8 and 3.2 of the Master Contract.

Section 9.02 Changes through Fault of Consultant

In the event that any change is required in the data, documents, deliverables, or other services to be provided under the Master Contract and any applicable Task Order because of the Consultant's failure to perform on the Project in a professional and competent manner, no additional compensation shall be paid to the Consultant for making such change, and the Consultant is obligated to make such change without additional compensation.

ARTICLE 10 - REDUCTIONS IN FUNDING, TERMINATION AND DEFAULT

Section 10.01 Reductions in Federal, State, City and/or Third Party Funding

A. Each Task Order under the Master Contract may be funded in whole or in part by funds secured from the federal, State and/or City governments, as well as third parties. Should there be a reduction or discontinuance of such funds by action of the federal, State and/or City governments or the applicable third party, the Practitioner Partner may

1. terminate the related Task Order, in whole, if in its judgment such termination in the best interest of the City or the Public Entity, with written notice of the termination and the reason(s) such termination are in the best interest of the City or Public Entity, subject to the procedures set forth in Sections 10.02 and 10.05 below;
2. with the advice and consent of the applicable Academic Partner, reduce the funding, level of services and/or elements of the scope of work under the Task Order occasioned by such action of federal, State and/or City governments or third parties, including, but not limited to, the reduction or elimination of services or service components or elements of the scope of work; the reduction of hours related to, or elimination of, members of the Academic Team, with corresponding reductions in the budget of, and in the total amount payable under, the related Task Order.
 - a. any such reductions shall be effective as of the date set forth in a contract change document complying with the provisions of Article 9.01 above, which shall be not fewer than thirty (30) calendar Days from the date of the Practitioner Partner and the Academic Partner agree to such reductions ("reduction effective date"),
 - b. before the reduction effective date, the Practitioner Partner shall pay for services provided in accordance with the applicable Task Order pursuant to such terms
 - c. the Practitioner Partner shall pay for any obligation necessarily incurred by the Consultant on account of the applicable Task Order before the reduction effective date but falling due after the reduction effective date, in accordance with the terms of contract change document negotiated pursuant to subsection 2 above; in no event shall such obligation be construed as including any lease or other occupancy agreement, oral or written, entered into between the Academic Partner and its landlord
 - d. the Consultant shall continue the performance of the applicable Task Order to the extent not reduced pursuant to the provisions of this subsection A 2.

Section 10.02 Termination in the Best Interest of the Practitioner or Academic Partner

A. Either Practitioner Partner or Academic Partner shall have the right to terminate the Master Contract or any Task Order, in whole, if in the judgment of its Authorized Representative such termination is in the best interest of the Practitioner Partner or the Academic Partner, with written notice to the other party of such termination and listing the reason(s) such termination are in its best interest, subject to the procedures set forth in Section 10.05 below.

B. If either the City Practitioner Partner or the Academic Partner terminates the Master Contract or any Task Order pursuant to Section 10.01 A, the following provisions apply. The Practitioner Partner shall not incur or pay any further obligation pursuant to the Master Contract and/or any applicable Task Order beyond the effective termination date established pursuant to Section 10.05. The Practitioner Partner shall pay for services provided in accordance with the Master Contract and any applicable Task Order prior to such termination date pursuant to the provisions of Section 10.05. The Practitioner Partner shall, in addition, pay any obligation necessarily incurred by the Consultant on account of the Master Contract and any applicable Task Order before receipt of a notice of termination pursuant to Section 10.05 below and falling due after the effective termination date, in accordance with the terms of the Master Contract and such applicable Task Order. In no event shall such obligation be construed as including any lease or other occupancy agreement, oral or written, entered into between the Academic Partner and its landlord.

As further provided in Section 10.05, the Academic Partner shall make available to the Practitioner Partner such Project deliverables required by the Task Order, in whatever form they are as of the effective termination date, along with other information and materials, pursuant to and subject to the applicable provisions of Sections 6.01 and 6.02, as set forth in the applicable Task Order. The City Agency Commissioner and/or Public Entity Executive, pursuant to and subject to the applicable provisions of Sections 6.01 and 6.02, as set forth in the applicable Task Order, may, with notice to the DDC Commissioner and DDC ACCO, have the remaining components of the Project and services related to such remaining Project components completed by such means and in such manner as he or she may deem advisable in accordance with applicable PPB Rules, including but not limited to a subsequent Mini RFP solicitation under the Master Contract.

Section 10.03 Consultant Default

A. A Practitioner Partner shall have the right to declare the Consultant in default of an applicable Task Order and DDC shall have the right to declare the Consultant in default of the Master Contract and any applicable Task Order:

1. Upon a breach by the Consultant of a material term or condition of the Master Contract, including performance of services under an applicable Task Order, in a professional and competent manner; solely for convenience of reference and without limiting the nature of this provision, this Appendix A makes specific references to breach in Sections 2.01 B, 3.01, 4.04, 4.05, 4.06, 4.07, 5.07, 7.09, 12.03 and 13.05.

2. Upon insolvency or the commencement of any proceeding by or against the Consultant, either voluntarily or involuntarily, under the federal bankruptcy code or relating to the insolvency, receivership, liquidation, or composition of the Consultant for the benefit of creditors;

3. If the Consultant refuses or fails to proceed with the services under an applicable Task Order pursuant to its terms;

4. If the Consultant or any of its officers, directors, partners, five percent (5%) or greater shareholders, principals, or other employee or person substantially involved in its activities are indicted or convicted after execution of the Master Contract or an applicable Task Order under any state or federal law of any of the following:

- a. a criminal offense incident to obtaining or attempting to obtain or performing a public or private contract;
- b. fraud, embezzlement, theft, bribery, forgery, falsification, or destruction of records, or receiving stolen property;
- c. a criminal violation of any state or federal antitrust law;

- d. violation of the Racketeer Influence and Corrupt Organization Act, 18 U.S.C. § 1961 et seq., or the Mail Fraud Act, 18 U.S.C. § 1341 et seq., for acts in connection with the submission of bids or proposals for a public or private contract;
- e. conspiracy to commit any act or omission that would constitute grounds for conviction or liability under any statute described in subparagraph (d) above; or
- f. an offense indicating a lack of business integrity that seriously and directly affects responsibility as a City vendor.

5. If the Consultant or any of its officers, directors, partners, five percent (5%) or greater shareholders, principals, or other employee or person substantially involved in its activities are subject to a judgment of civil liability under any state or federal antitrust law for acts or omissions in connection with the submission of bids or proposals for a public or private contract; or

6. If the Consultant or any of its officers, directors, partners, five percent (5%) or greater shareholders, principals, or other employee or person substantially involved in its activities makes or causes to be made any false, deceptive, or fraudulent material statement, or fail to make a required material statement in any bid, proposal, or application for City or other government work.

B. A Practitioner Partner and/or DDC shall exercise its right to declare the Consultant in default under the Master Contract and/or any applicable Task Order by sending the Consultant a written notice of the conditions of default, signed by the applicable City Agency Commissioner and/or Public Entity Executive and/or DDC Commissioner, setting forth the ground or grounds upon which such default is declared (the "Notice to Cure"), with a copy to the DDC Commissioner and DDC ACCO, if necessary. The Consultant shall have ten (10) calendar Days from receipt of the Notice to Cure or any longer period that is set forth in the Notice to Cure to cure the default (the "Cure Period"). The Practitioner Partner and/or DDC Commissioner may temporarily suspend services under the Master Contract and applicable Task Order pending the outcome of the default proceedings pursuant to this Section 10.03.

C. If the conditions set forth in the Notice to Cure are not cured within the Cure Period, the applicable City Agency Commissioner and/or Public Entity Executive may declare the Consultant in default pursuant to this Section 10.03. Before the applicable City Agency Commissioner and/or Public Entity Executive and/or DDC Commissioner may exercise his or her right to declare the Consultant in default, the applicable City Agency Commissioner and/or Public Entity Executive and/or DDC Commissioner shall give the Consultant an opportunity to be heard, at such Commissioner's or Executive's discretion, in writing or in person, upon not fewer than five (5) Days' notice. Such opportunity to be heard need not occur prior to the end of the Cure Period, but notice of such opportunity to be heard may be given prior to the end of the Cure Period and may be given contemporaneously with the Notice to Cure.

D. After the opportunity to be heard pursuant to the terms above, the DDC Commissioner may terminate the Master Contract with respect to the Consultant and/or the applicable City Agency Commissioner and/or Public Entity Executive may terminate the applicable Task Order, in whole, upon finding the Consultant in default pursuant to this Section 10.03, in accordance with the provisions of Section 10.05.

E. After declaring the Consultant in default, the City Agency Commissioner and/or Public Entity Executive, pursuant to and subject to the applicable provisions of Sections 6.01 and 6.02, as set forth in the applicable Task Order, may, with notice to the DDC Commissioner and DDC ACCO, have the remaining components of the Project and services related to such remaining Project components completed by such means and in such manner as he or she may deem advisable in accordance with applicable PPB Rules, including but not limited to a subsequent Mini RFP solicitation under the Master Contract.

Section 10.04 Force Majeure

A. For purposes of the Master Contract and any applicable Task Order, a force majeure event is an act or event beyond the control and without any fault or negligence of the Consultant ("Force Majeure Event"). Such events may include, but are not limited to, fire, flood, earthquake, storm or other natural disaster, civil commotion, war, terrorism, riot, and labor disputes not brought about by any act or omission of the Consultant.

B. In the event the Consultant cannot comply with the terms of the Agreement or any Task

Order (including any failure by the Consultant to make progress in the performance of the services for the Research Project) because of a Force Majeure Event, then the Consultant may ask the City Agency Commissioner and/or Public Entity Executive to excuse the nonperformance and/or terminate the applicable Task Order. If the City Agency Commissioner and/or Public Entity Executive, in his or her reasonable discretion, determines that the Consultant cannot comply with the terms of the Master Contract and applicable Task Order because of a Force Majeure Event, then the City Agency Commissioner and/or Public Entity Executive shall excuse the nonperformance and may terminate the applicable Task Order. Such a termination shall be deemed to be without cause.

C. If the City Agency Commissioner and/or Public Entity Executive terminates the applicable Task Order pursuant to this Section 10.04, the following provisions apply. The Practitioner Partner shall not incur or pay any further obligation pursuant to the applicable Task Order beyond its termination date. The Practitioner Partner shall pay for services provided in accordance with the applicable Task Order before its termination date. The Practitioner Partner shall pay any obligation necessarily incurred by the Consultant on account of the applicable Task Order before receipt of notice of termination and falling due after the termination date in accordance with the terms of the applicable Task Order. In no event shall such obligation be construed as including any lease or other occupancy agreement, oral or written, entered into between the Consultant and its landlord.

Section 10.05 Procedures for Termination

A. Any written notice of termination required by this Article 10 shall specify the applicable provision(s) under which the Master Contract and/or applicable Task Order is to be terminated and the effective date of the termination, except as otherwise provided in the Master Contract, and shall specify an effective date of termination.

For termination in the best interest or without cause, the effective date of the termination shall not be fewer than ten (10) calendar Days from the date the notice is personally delivered, or fifteen (15) calendar Days from the date the notice is either sent by certified mail, return receipt requested, or sent by fax and deposited in a post office box regularly maintained by the United States Postal Service in a postage pre-paid envelope. In the case of termination for default, the effective date of the termination shall be as set forth above or such earlier date as the Commissioner may determine.

B. Upon termination or expiration of an applicable Task Order, the Consultant shall comply with the close-out procedures of the Practitioner Partner, including but not limited to:

1. Accounting for and refunding to the Practitioner Partner, within forty-five (45) calendar Days, any unexpended funds which have been advanced to the Consultant pursuant to the applicable Task Order;

2. Furnishing within forty-five (45) calendar Days an inventory to the Practitioner Partner of all equipment, appurtenances and property purchased through or provided under the applicable Task Order and its final disposition as provided in the applicable Task Order;

3. Pursuant to and subject to the applicable provisions of Sections 6.01 and 6.02, as set forth in the applicable Task Order, turning over to the Practitioner all books, records, documents and materials specifically relating to the applicable Task Order that the Practitioner Partner has requested be turned over in addition to the deliverables in subparagraphs 4 and 5 below;

4. Submitting to the Practitioner Partner, within ninety (90) calendar Days, final deliverables including (a) a statement and report, prepared by a certified or licensed public accountant or official financial officer of the Academic Practitioner, relating to the applicable Task Order and (b) a report describing the methodological approach followed by the Academic Partner until the effective termination date and, to the extent feasible, a description of results, including component elements of the Research Project that had been substantially completed, so that the Practitioner Partner will be able to use the results of the Research Project as of the effective termination date in order to transition the remainder of the Project to another Consultant or within the Practitioner Partner entity pursuant to subparagraph 5 below; and

5. Consistent with the applicable provisions of Sections 6.01 and 6.02, as set forth in the applicable Task Order and 10.03 E of this Appendix A, providing reasonable assistance to the Practitioner Partner in the transition, if any, to another Consultant or with the Practitioner Partner entity.

Section 10.06 Miscellaneous Provisions

A. The City Agency Commissioner and/or Public Entity Executive, in addition to any other powers set forth in the Master Contract and/or applicable Task Order or by operation of Law, may suspend, in whole or in part, any part of the services to be provided under the applicable Task Order whenever in his or her judgment such suspension is required in the best interest of the City Agency and/or Public Entity, following the procedures with respect to notice set forth in Section 10.05 A. If the City Agency Commissioner and/or Public Entity Executive suspends any applicable Task Order pursuant to this Section 10.06, the City Agency and/or Public Entity shall not incur or pay any further obligation pursuant to the applicable Task Order beyond the suspension date until such suspension is lifted. The City Agency and/or Public Entity shall pay for services provided in accordance with an applicable Task Order prior to the suspension date. In addition, any obligation necessarily incurred by the Consultant on account of an applicable Task Order prior to receipt of notice of suspension and falling due during the suspension period shall be paid by the City Agency and/or Public Entity in accordance with the terms of the applicable Task Order.

B. Notwithstanding any other provisions of the Master Contract or any applicable Task Order, the Consultant shall not be relieved of liability to the Practitioner Partner for damages sustained by the Practitioner Partner by virtue of the Consultant's breach of the Master Contract or applicable Task Order, and the Practitioner Partner may withhold payments to the Consultant for the purpose of set-off in the amount of damages due to the Practitioner Partner from the Consultant.

C. The rights and remedies of the Practitioner Partner provided in this Article 10 shall not be exclusive and are in addition to all other rights and remedies provided by Law or under the Master Contract and any applicable Task Order.

ARTICLE 11 - PROMPT PAYMENT AND ELECTRONIC FUNDS TRANSFER

Section 11.01 Prompt Payment

A. The prompt payment provisions of PPB Rule § 4-06 are applicable to payments made under the Master Contract and any applicable Task Order. The Consultant shall submit a proper invoice to receive payment pursuant to the provisions of the applicable Task Order. The provisions generally require the payment to the Consultant of interest on payments made after the required payment date, as set forth in the PPB Rules. Determination of interest due will be made in accordance with the PPB Rules and the applicable rate of interest shall be the rate in effect at the time of payment.

B. For Task Orders awarded and funded solely or in part by a Public Entity/Public Entities, the provisions of this Section 11.01 shall apply, unless the Public Entity/Public Entities makes/make such necessary alterations in the Mini RFP and resulting Task Order, pursuant to Sections 2.8 and 3.2 of the Master Contract.

Section 11.02 Electronic Funds Transfer

A. For contracts valued at Twenty-Five Thousand Dollars (\$25,000) and above, in accordance with Administrative Code § 6-107.1, the Consultant agrees to accept payments under the Master Contract and any applicable Task Order from the City by electronic funds transfer. An electronic funds transfer is any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, which is initiated through an electronic terminal, telephonic instrument or computer or magnetic tape so as to order, instruct, or authorize a financial institution to debit or credit an account. Prior to the first payment made under any applicable Task Order, the Consultant shall designate one financial institution or other authorized payment agent and shall complete the "EFT Vendor Payment Enrollment Form" available from the DDC or City Agency ACCO or at <http://www.nyc.gov/dof> in order to provide the Commissioner of the Department of Finance with information necessary for the Consultant to receive electronic funds transfer payments through the designated financial institution or authorized payment agent. The crediting of the amount of a payment to the appropriate account on the books of a financial institution or other authorized payment agent designated by the Consultant shall constitute full satisfaction by the City for the amount of the payment under an applicable Task Order. The account information supplied by the Consultant to facilitate the electronic funds transfer shall remain confidential to the fullest extent provided by Law.

B. The City Agency Commissioner may waive the application of the requirements of this Section to payments on contracts entered into pursuant to Charter § 315. In addition, the Commissioner of the Department of Finance and the Comptroller may jointly issue standards pursuant to which the City Agency Commissioner may waive the requirements of this Section for payments in the following circumstances: (i) for individuals or classes of individuals for whom compliance imposes a hardship; (ii) for classifications or types of checks; or (iii) in other circumstances as may be necessary in the best interest of the City.

C. For Task Orders awarded and funded solely by a Public Entity, the provisions of this Section 11.02 shall apply unless the Public Entity/Public Entities makes/make such necessary alterations in the Mini RFP and resulting Task Order, pursuant to Sections 2.8 and 3.2 of the Master Contract.

ARTICLE 12 - CLAIMS

Section 12.01 Choice of Law

The Master Contract and any applicable Task Order shall be deemed to be executed in the City and State, regardless of the domicile of the Consultant, and shall be governed by and construed in accordance with the Laws of the State (notwithstanding New York choice of law or conflict of law principles) and the Laws of the United States, where applicable.

Section 12.02 Jurisdiction and Venue

The parties agree that any and all claims asserted by or against the Practitioner Partner arising under or related to the Agreement shall solely be heard and determined either in the courts of the United States located in the City or in the courts of the State located in the City and County of New York. The parties shall consent to the dismissal and/or transfer of any claims asserted in any other venue or forum to the proper venue or forum.

If the Consultant initiates any action contrary to the provisions of this Section 12.02, the Consultant shall be responsible for and shall promptly reimburse the Practitioner Partner for any attorneys' fees incurred by the Practitioner in removing the action to a proper court consistent with this Section 12.02.

For Task Orders awarded and funded solely or in part by a Public Entity/Public Entities, the provisions of this Section 12.02 shall apply, unless the Public Entity/Public Entities makes/make such necessary alterations in the Mini RFP and resulting Task Order, pursuant to Section 3.2 of the Master Contract.

Section 12.03 Resolution of Disputes

A. Except as provided in Subparagraphs (A)(1) and (A)(2) below, all disputes between DDC and/or a City Agency and the Consultant that arise under, or by virtue of, the Master Contract and/or an applicable Task Order shall be finally resolved in accordance with the provisions of this Section 12.03 and PPB Rule § 4-09. This procedure shall be the exclusive means of resolving any such disputes.

1. This Section 12.03 shall not apply to disputes concerning matters dealt with in other sections of the PPB Rules or to disputes involving patents, copyrights, trademarks, or trade secrets (as interpreted by the State courts) relating to proprietary rights in computer software, or to termination other than for cause.

2. For construction and construction-related services this Section 12.03 shall apply only to disputes about the scope of work delineated by the applicable Task Order, the interpretation of the Construction Contract documents, the amount to be paid for extra work or disputed work performed in connection with the Construction Contract, the conformity of the Consultant's work to the Construction Contract, and the acceptability and quality of the Consultant's work; such disputes arise when the City Engineer, City Resident Engineer, City Engineering Audit Officer, or other designee of the Agency Commissioner makes a determination with which the Consultant disagrees. For construction, this Section 12.03 shall not apply to termination of the Master Contract or applicable Task Order. [Not applicable]

B. All determinations required by this Section 12.03 shall be clearly stated, with a reasoned explanation for the determination based on the information and evidence presented to the party making the determination. Failure to make such determination within the

time required by this Section 12.03 shall be deemed a non-determination without prejudice that will allow application to the next level.

C. During such time as any dispute is being presented, heard, and considered pursuant to this Section 12.03, the terms of the Master Contract and applicable Task Order shall remain in full force and effect and, unless otherwise directed by the DDC ACCO and the City Agency ACCO, the Consultant shall continue to perform work in accordance with the Consultant Contract and applicable Task Order pursuant to its terms. Failure of the Consultant to continue the work pursuant to the provisions of this Section 12.03 shall constitute a waiver by the Consultant of any and all claims being presented pursuant to this Section 12.03 and a material breach of contract.

D. Presentation of Dispute.

1. Notice of Dispute and Agency Response. The Consultant shall present its dispute in writing ("Notice of Dispute"), with respect to the Master Contract only, to the DDC Commissioner and ACCO, and with respect to any applicable Task Order, to the City Agency Commissioner and ACCO, with a copy to the DDC Commissioner and ACCO, within the time specified herein, or, if no time is specified, within thirty (30) calendar Days of receiving written notice of the determination or action that is the subject of the dispute. This notice requirement shall not be read to replace any other notice requirements contained in the Master Contract and any applicable Task Order. The Notice of Dispute shall include all the facts, evidence, documents, or other basis upon which the Consultant relies in support of its position, as well as a detailed computation demonstrating how any amount of money claimed by the Consultant in the dispute was arrived at. Within thirty (30) calendar Days after receipt of the complete Notice of Dispute, the respective ACCO shall submit to the respective Commissioner all materials he or she deems pertinent to the dispute. Following initial submissions to the respective Commissioner, either party may demand of the other the production of any document or other material the demanding party believes may be relevant to the dispute. The requested party shall produce all relevant materials that are not otherwise protected by a legal privilege recognized by State courts. Any question of relevancy shall be determined by the respective Commissioner and such decision shall be final. Willful failure of the Consultant to produce any requested material whose relevancy the Consultant has not disputed, or whose relevancy has been affirmatively determined, shall constitute a waiver by the Consultant of its claim.

2. Commissioner Inquiry. The respective Commissioner shall examine the material and may, in his or her discretion, convene an informal conference with the Consultant and the respective ACCO to resolve the issue by mutual consent prior to reaching a determination. The respective Commissioner may seek such technical or other expertise as he or she shall deem appropriate, including the use of neutral mediators, and require any such additional material from either or both parties as he or she deems fit. The respective Commissioner's ability to render, and the effect of, a decision under this Section 12.03 shall not be impaired by any negotiations in connection with the dispute presented, regardless of whether the respective Commissioner participated therein. The respective Commissioner may and, at the request of any party to the dispute, shall compel the participation of any other Consultant with a contract related to the work of the disputed Master Contract and/or applicable Task Order and that Consultant shall be bound by the decision of such Commissioner. Any Consultant thus brought into the dispute resolution proceeding shall have the same rights and obligations under this Section 12.03 as the Consultant initiating the dispute.

3. Commissioner Determination. Within thirty (30) calendar Days after the receipt of all materials and information, or such longer time as may be agreed to by the parties, the respective Commissioner shall make his or her determination and shall deliver or send a copy of such determination to the Consultant and respective ACCO, together with a statement concerning how the decision may be appealed.

4. Finality of Commissioner Decision. The respective Commissioner's decision shall be final and binding on all parties, unless presented to the Contract Dispute Resolution Board, established pursuant to Section 4-09 of the PPB Rules, consisting of the chief administrative judge of the Office of Administrative Trials and Hearings ("OATH"), or his or her designated OATH administrative law judge, who shall act a chairperson, the CCPO or his or her designee, and a person with appropriate expertise who is not a City employee, all pursuant to the provisions of such Section 4-09 ("CDRB") and the provisions of this Section 12.03. Neither DDC nor a City Agency may take a petition to the CDRB. However, if the Consultant should take a petition to the CDRB, the DDC or a City Agency may seek, and the CDRB may render, a determination less favorable to the Consultant and more favorable to DDC or a City Agency than the decision of the

respective Commissioner.

E. Presentation of Dispute to the Comptroller. Before any dispute may be brought by the Consultant to the CDRB, the Consultant must first present its claim to the Comptroller for his or her review, investigation, and possible adjustment.

1. Time, Form, and Content of Notice. Within thirty (30) calendar Days of receipt of a decision by the respective Commissioner, the Consultant shall submit to the Comptroller and to the respective Commissioner a notice of claim regarding its dispute with DDC or the City Agency complying with the following provisions (the "Notice of Claim"). The Notice of Claim shall consist of (i) a brief statement of the substance of the dispute, the amount of money, if any, claimed and the reason(s) the Consultant contends the dispute was wrongly decided by the respective Commissioner; (ii) a copy of the decision of the respective Commissioner; and (iii) a copy of all materials submitted by the Consultant to the respective Commissioner, including the Notice of Dispute. The Consultant may not present to the Comptroller any material not presented to the respective Commissioner, except at the request of the Comptroller.

2. DDC or City Agency Staff Response. Within thirty (30) calendar Days of receipt of the Notice of Claim, DDC or the City Agency staff shall make available to the Comptroller a copy of all material submitted by DDC or the City Agency staff to the respective Commissioner in connection with the dispute. DDC or City Agency staff may not present to the Comptroller any material not presented to the respective Commissioner, except at the request of the Comptroller.

3. Comptroller Investigation. The Comptroller may investigate the claim in dispute and, in the course of such investigation, may exercise all powers provided in Administrative Code §§ 7-201 and 7-203. In addition, the Comptroller may demand of either party, and such party shall provide, whatever additional material the Comptroller deems pertinent to the claim, including original business records of the Consultant. Willful failure of the Consultant to produce within fifteen (15) calendar Days any material requested by the Comptroller shall constitute a waiver by the Consultant of its claim. The Comptroller may also schedule an informal conference to be attended by the Consultant, DDC or City Agency representatives, and any other personnel desired by the Comptroller.

4. Opportunity of Comptroller to Compromise or Adjust Claim. The Comptroller shall have forty-five (45) calendar Days from his or her receipt of all materials referred to in Paragraph (E)(3) above to investigate the disputed claim. The period for investigation and compromise may be further extended by agreement between the Consultant and the Comptroller, to a maximum of ninety (90) calendar Days from the Comptroller's receipt of all the materials. The Consultant may not present its petition to the CDRB until the period for investigation and compromise delineated in this Paragraph 4 has expired. In compromising or adjusting any claim hereunder, the Comptroller may not revise or disregard the terms of the Master Contract and/or applicable Task Order.

F. Petition to CDRB. In the event the claim has not been settled or adjusted by the Comptroller within the period provided in this Section 12.03, the Consultant, within thirty (30) calendar Days thereafter, may petition the CDRB to review the respective Commissioner determination.

1. Form and Content of Petition by the Consultant. The Consultant shall present its dispute to the CDRB in the form of a petition, which shall include (i) a brief statement of the substance of the dispute, the amount of money, if any, claimed, and the reason(s) the Consultant contends that the dispute was wrongly decided by the respective Commissioner; (ii) a copy of the decision of the respective Commissioner; (iii) copies of all materials submitted by the Consultant to the respective Commissioner; (iv) a copy of the decision of the Comptroller, if any, and (v) copies of all correspondence with, and materials submitted by the Consultant to, the Comptroller's Office. The Consultant shall concurrently submit four (4) complete sets of the petition: one (1) to the Corporation Counsel (Attn: Commercial and Real Estate Litigation Division), and three (3) to the CDRB at OATH's offices, with proof of service on the Corporation Counsel. In addition, the Consultant shall submit a copy of the statement of the substance of the dispute, cited in (i) above, to both the respective Commissioner and the Comptroller.

2. DDC or City Agency Staff Response. Within thirty (30) calendar Days of receipt of the petition by the Corporation Counsel, DDC or the City Agency staff shall respond to the statement of the Consultant and make available to the CDRB all material it submitted to the respective Commissioner and Comptroller. Three (3) complete copies of the DDC or City Agency staff response shall be submitted to the CDRB at OATH's offices and one (1) to the Consultant. Extensions of time for submittal of the DDC or City

Agency staff response shall be given as necessary upon a showing of good cause or, upon the consent of the parties, for an initial period of up to thirty (30) calendar Days.

3. Further Proceedings. The CDRB shall permit the Consultant to present its case by submission of memoranda, briefs, and oral argument. The CDRB shall also permit DDC or the City Agency to present its case in response to the Consultant by submission of memoranda, briefs, and oral argument. If requested by the Corporation Counsel, the Comptroller shall provide reasonable assistance in the preparation of DDC's or the City Agency's case. Neither the Consultant nor the DDC or the City Agency may support its case with any documentation or other material that was not considered by the Comptroller, unless requested by the CDRB. The CDRB, in its discretion, may seek such technical or other expert advice as it shall deem appropriate and may seek, on its own or upon application of a party, any such additional material from any party as it deems fit. The CDRB, in its discretion, may combine more than one dispute between the parties for concurrent resolution.

4. CDRB Determination. Within forty-five (45) calendar Days of the conclusion of all submissions and oral arguments, the CDRB shall render a decision resolving the dispute. In an unusually complex case, the CDRB may render its decision in a longer period of time, not to exceed ninety (90) calendar Days, and shall so advise the parties at the commencement of this period. The CDRB's decision must be consistent with the terms of the Master Contract and/or applicable Task Order and Law. Decisions of the CDRB shall only resolve matters before the CDRB and shall not have precedential effect with respect to matters not before the CDRB.

5. Notification of CDRB Decision. The CDRB shall send a copy of its decision to the Consultant, the respective ACCO, the Corporation Counsel, the Comptroller and the CCPO. A decision in favor of the Consultant shall be subject to the prompt payment provisions of the PPB Rules. The required payment date shall be thirty (30) calendar Days after the date the parties are formally notified of the CDRB's decision.

6. Finality of CDRB Decision. The CDRB's decision shall be final and binding on all parties. Any party may seek review of the CDRB's decision solely in the form of a challenge, filed within four (4) months of the date of the CDRB's decision, in a court of competent jurisdiction of the State, County of New York, pursuant to Article 78 of the Civil Practice Law and Rules. Such review by the court shall be limited to the question of whether or not the CDRB's decision was made in violation of lawful procedure, was affected by an error of Law, or was arbitrary and capricious or an abuse of discretion. No evidence or information shall be introduced or relied upon in such proceeding that was not presented to the CDRB in accordance with PPB Rules § 4-09.

G. Any termination, cancellation, or alleged breach of the Master Contract and any applicable Task Order before or during the pendency of any proceedings pursuant to this Section 12.03 shall not affect or impair the ability of the respective Commissioner or CDRB to make a binding and final decision pursuant to this Section 12.03.

H. For Task Orders awarded and funded solely or in part by a Public Entity/Public Entities, the provisions of this Section 12.03 shall apply, unless the Public Entity/Public Entities makes/make such necessary alterations in the Mini RFP and resulting Task Order, pursuant to Sections 2.8 and 3.2 of the Master Contract.

Section 12.04 Claims and Actions

A. Any claim against the City or DDC and/or any City Agency based on the Master Contract and/or any Task Order or arising out of the Master Contract and/or any Task Order that is not subject to dispute resolution under the PPB Rules or the Master Contract and/or any Task Order shall not be made or asserted in any legal proceeding, unless the Consultant shall have strictly complied with all requirements relating to the giving of notice and of information with respect to such claims as provided in the Master Contract and/or any Task Order.

B. No action shall be instituted or maintained on any such claims unless such action shall be commenced within six (6) months after the date of filing with the Comptroller of the certificate for the final payment under a Task Order, or within six (6) months of the termination or expiration of a Task Order, or within six (6) months after the accrual of the cause of action, whichever first occurs.

C. For Task Orders awarded and funded solely or in part by a Public Entity/Public Entities, the

provisions of this Section 12.04 shall apply, unless the Public Entity/Public Entities makes/make such necessary alterations in the Mini RFP and resulting Task Order, pursuant to Sections 2.8 and 3.2 of the Master Contract.

Section 12.05 No Claim Against Officers, Agents or Employees

No claim shall be made by the Consultant against any officer, agent, or employee of the Practitioner Partner in their personal capacity for, or on account of, anything done or omitted in connection with the Master Contract and/or any Task Order.

Section 12.06 General Release

The acceptance by the Consultant or its assignees of the final payment under any Task Order, whether by check, wire transfer, or other means, and whether pursuant to invoice, voucher, judgment of any court of competent jurisdiction or any other administrative means, shall constitute and operate as a release of the applicable Practitioner Partner from any and all claims of and liability to the Consultant, of which the Consultant was aware or should reasonably have been aware, arising out of the performance of such Task Order based on actions of the Practitioner prior to such acceptance of final payment, excepting any disputes that are the subject of pending dispute resolution procedures.

Section 12.07 No Waiver

Waiver by either the Practitioner Partner or the Consultant of a breach of any provision of the Master Contract and any Task Order shall not be deemed to be a waiver of any other or subsequent breach and shall not be construed to be a modification of the terms of the Master Contract or Task Order unless and until the same shall be agreed to in writing by the parties as set forth in Section 9.01.

ARTICLE 13 - APPLICABLE LAWS

Section 13.01 PPB Rules

The Master Contract and all Task Orders issued thereunder are subject to the PPB Rules. In the event of a conflict between the PPB Rules and a provision of the Master Contract or any Task Order, the PPB Rules shall take precedence.

Section 13.02 All Legal Provisions Deemed Included

Each and every provision required by Law to be inserted in the Master Contract or any Task Order is hereby deemed to be a part of the Master Contract and each Task Order, whether actually inserted or not.

Section 13.03 Severability / Unlawful Provisions Deemed Stricken

If the Master Contract or any Task Order contains any unlawful provision not an essential part of the Master Contract or any Task Order and which shall not appear to have been a controlling or material inducement to the making of the Master Contract or any Task Order, the unlawful provision shall be deemed of no effect and shall, upon notice by either party, be deemed stricken from the Master Contract or Task Order without affecting the binding force of the remainder.

Section 13.04 Compliance With Laws

The Consultant shall perform all services under the Master Contract and any Task Order in accordance with all applicable Laws as are in effect at the time such services are performed.

Section 13.05 Americans with Disabilities Act (ADA)

A. The Master Contract and any Task Order are subject to the provisions of Subtitle A of Title II of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12131 et seq. ("ADA") and regulations promulgated

pursuant thereto, see 28 CFR Part 35. The Consultant shall not discriminate against an individual with a disability, as defined in the ADA, in providing services, programs, or activities pursuant to the Master Contract and applicable Task Order. If directed to do so by the Practitioner Partner to ensure the Consultant's compliance with the ADA during the term of the Master Contract and/or applicable Task Order, the Consultant shall prepare a plan ("Compliance Plan") which lists its program site(s) and describes in detail, how it intends to make the services, programs and activities set forth in the scope of services in the Master Contract and applicable Task Order readily accessible and usable by individuals with disabilities at such site(s). In the event that the program site is not readily accessible and usable by individuals with disabilities, the Consultant shall also include in the Compliance Plan, a description of reasonable alternative means and methods that result in making the services, programs or activities provided under the Master Contract and applicable Task Order, readily accessible to and usable by individuals with disabilities, including but not limited to people with visual, auditory or mobility disabilities. The Consultant shall submit the Compliance Plan to the ACCO for review within ten (10) Days after being directed to do so and shall abide by the Compliance Plan and implement any action detailed in the Compliance Plan to make the services, programs, or activities accessible and usable by the disabled.

B. The Consultant's failure to either submit a Compliance Plan as required herein or implement an approved Compliance Plan may be deemed a material breach of the Master Contract and applicable Task Order and result in the City terminating the Master Contract and/or applicable Task Order with respect to the Consultant.

Section 13.06 Whistleblower Protection Expansion Act

A. In accordance with Sections 6-132 and 12-113 of the Administrative Code, respectively,

(1) The Consultant shall not take an adverse personnel action with respect to an officer or employee in retaliation for such officer or employee making a report of information concerning conduct which such officer or employee knows or reasonably believes to involve corruption, criminal activity, conflict of interest, gross mismanagement or abuse of authority by any officer or employee relating to the Master Contract or any Task Order thereunder to (i) the Commissioner of the Department of Investigation, (ii) a member of the New York City Council, the Public Advocate, or the Comptroller, or (iii) the CCPO, an ACCO or City Agency Commissioner.

(2) If any of the Consultant's officers or employees believes that he or she has been the subject of an adverse personnel action in violation of subparagraph (a) above, he or she shall be entitled to bring a cause of action against the Consultant to recover all relief necessary to make him or her whole. Such relief may include but is not limited to: (i) an injunction to restrain continued retaliation, (ii) reinstatement to the position such employee would have had but for the retaliation or to an equivalent position, (iii) reinstatement of full fringe benefits and seniority rights, (iv) payment of two (2) times back pay, plus interest, and (v) compensation for any special damages sustained as a result of the retaliation, including litigation costs and reasonable attorney's fees.

(3) The Consultant shall post, in a prominent and accessible place where employees performing work under Task Order would have access, a notice provided by the City containing information about:

(a) how its employees can report to the New York City Department of Investigation allegations of fraud, false claims, criminality or corruption arising out of or in connection with the Master Contract or any Task Order; and

(b) the rights and remedies afforded to its employees under the Administrative Code Sections 7-805 (the New York City False Claims Act) and 12-113 (the Whistleblower Protection Expansion Act) for lawful acts taken in connection with the reporting of allegations of fraud, false claims, criminality or corruption in connection with the Master Contract or any Task Order.

(4) For the purposes of this Section 13.06, "adverse personnel action" includes dismissal, demotion, suspension, disciplinary action, negative performance evaluation, any action resulting in loss of staff, office space, equipment or other benefit, failure to appoint, failure to promote, or any transfer or assignment or failure to transfer or assign against the wishes of the affected officer or employee.

(5) This Section 13.06 is applicable to all of the Consultant's subcontractors having subcontracts with a value in excess of \$100,000; accordingly, the Consultant shall include this Section 13.06 provisions in all subcontracts with a value a value in excess of \$100,000.

B. The provisions of paragraph A above are not applicable to any Task Order under the Master Contract valued at \$100,000 or less, and the provisions of subparagraphs (1), (2), (4), and (5) of paragraph A above are not applicable to any Task Order under the Master Contract if it was solicited pursuant to a finding of an emergency.

C. For Task Orders awarded and funded solely or in part by a Public Entity/Public Entities, the provisions of this Section 12.04 shall apply, unless the Public Entity/Public Entities makes/make such necessary alterations in the Mini RFP and resulting Task Order, pursuant to Sections 2.8 and 3.2 of the Master Contract.

Section 13.07 Participation in an International Boycott

A. The Consultant agrees that neither the Consultant nor any substantially-owned affiliated company is participating or shall participate in an international boycott in violation of the provisions of the federal Export Administration Act of 1979, as amended, 50 U.S.C. Appendix. §§ 2401 et seq., or the regulations of the United States Department of Commerce promulgated thereunder.

B. Upon the final determination by the Commerce Department or any other agency of the United States as to, or conviction of, the Consultant or a substantially-owned affiliated company thereof, of participation in an international boycott in violation of the provisions of the Export Administration Act of 1979, as amended, or the regulations promulgated thereunder, the Comptroller may, at his or her option, render forfeit and void the Master Contract and/or any applicable Task Order.

C. The Consultant shall comply in all respects, with the provisions of Administrative Code § 6-114 and the rules issued by the Comptroller thereunder.

Section 13.08 MacBride Principles

A. In accordance with and to the extent required by Administrative Code § 6-115.1, the Consultant stipulates that the Consultant and any individual or legal entity in which the Consultant holds a ten percent (10%) or greater ownership interest and any individual or legal entity that holds a ten percent (10%) or greater ownership interest in the Consultant either (a) have no business operations in Northern Ireland, or (b) shall take lawful steps in good faith to conduct any business operations they have in Northern Ireland in accordance with the MacBride Principles, and shall permit independent monitoring of their compliance with such principles.

B. The Consultant agrees that the covenants and representations in Paragraph A above are material conditions to the Master Contract and any applicable Task Order.

C. This Section does not apply if the Consultant is a not-for-profit corporation.

Section 13.09 Not Used

Section 13.10 Not Used

ARTICLE 14 - MISCELLANEOUS PROVISIONS

Section 14.01 Conditions Precedent

A. For the Master Contract and any applicable Task Order to be binding and effective each must be registered pursuant to Charter § 328.

B. The requirements of this Section 14.01 shall be in addition to, and not in lieu of, any approval or authorization otherwise required for the Master Contract and any applicable Task Order to be effective and for the expenditure of City funds.

Section 14.02 Merger

The written Master Contract contains and subsequent Task Orders will contain all the terms and conditions agreed upon by the parties, and no other agreement, oral or otherwise, regarding the subject matter of the Master Contract or applicable Task Order shall be deemed to exist or to bind either of the parties, or to vary any of the terms contained in the Master Contract or applicable Task Order, other than a written change, amendment or modification duly executed by both parties pursuant to Article 9 of this Appendix A and Section 6.4 of the Master Contract or Section 10.01 of this Appendix A.

Section 14.03 Headings

Headings are inserted only as a matter of convenience and therefore are not a part of and do not affect the substance of the Master Contract and any applicable Task Order.

Section 14.04 Notice

A. DDC, the Practitioner Partner, and the Consultant designate the business addresses set forth in Section 6.8 of the Master Contract and the applicable Task Order as the places where all notices, directions, or communications from one such party to the other party shall be delivered, or to which they shall be mailed. Either party may change its notice address at any time by an instrument in writing executed and acknowledged by the party making such change and delivered to the other party in the manner as specified below.

B. Any notice, direction, or communication from either party to the other shall be in writing and shall be deemed to have been given when (i) delivered personally; (ii) sent by certified mail, return receipt requested; (iii) delivered by overnight or same day courier service in a properly addressed envelope with confirmation; or (iv) sent by fax or email and, unless receipt of the fax or e-mail is acknowledged by the recipient by fax or e-mail, deposited in a post office box regularly maintained by the United States Postal Service in a properly addressed, postage pre-paid envelope.

C. Nothing in this Section 14.04 shall be deemed to serve as a waiver of any requirements for the service of notice or process in the institution of an action or proceeding as provided by Law, including the New York Civil Practice Law and Rules.

Section 14.05 Monies Withheld

When the Practitioner Partner shall have reasonable grounds for believing that: (1) the Consultant will be unable to perform the Master Contract and applicable Task Order fully and satisfactorily within the time fixed for performance; or (2) a meritorious claim exists or will exist against the Consultant or the Practitioner Partner arising out of the negligence of the Consultant or the Consultant's breach of any provision of the Master Contract and/or any applicable Task Order; then the Practitioner Partner or the Comptroller, each with notice to each other and with DDC, as administrator of the Master Contract, may withhold payment of any amount otherwise due and payable to the Consultant under the Master Contract and such Task Order. Any amount so withheld may be retained by the Practitioner Partner for such period as it may deem advisable to protect the Practitioner Partner against any loss and may, after written notice to the Consultant, be applied in satisfaction of any claim herein described. This provision is intended solely for the benefit of the Practitioner Partner, and no person shall have any right against the Practitioner Partner or claim against the City or Public Entity by reason of the Practitioner Partner's failure or refusal to withhold monies. No interest shall be payable by the Practitioner Partner on any amounts withheld under this provision. This provision is not intended to limit or in any way prejudice any other right of the Practitioner Partner.

CERTIFICATES OF INSURANCE

Instructions to New York City Agencies, Departments, and Offices

All certificates of insurance (except certificates of insurance solely evidencing Workers' Compensation Insurance, Employer's Liability Insurance, and/or Disability Benefits Insurance) must be accompanied by one of the following:

(1) the Certification by Insurance Broker or Agent on the following page setting forth the required information and signatures;

-- OR --

(2) copies of all policies as certified by an authorized representative of the issuing insurance carrier that are referenced in such certificate of insurance. If any policy is not available at the time of submission, certified binders may be submitted until such time as the policy is available, at which time a certified copy of the policy shall be submitted.

CERTIFICATION BY INSURANCE BROKER OR AGENT

NOTARY PUBLIC FOR THE STATE OF _____

Appendix B-1 to Master Contract

[Requestor logo(s) here]



[Name of Requestor's] Request for Proposals under the Master Contract (Research Project Name)

Note: Mini RFPs issued by any Requestor that is a City Agency alone or with other City Agencies or Public Entities must comply with the requirements of PPB Rules Section 3-03. Pursuant to Sections 2.3 of the Master Contract, Town+Gown will review the Mini RFP before releasing it to the Consultant to assure that it complies with the terms of the Master Contract.

I. General Items

A. Invitation to Submit Proposals in Response. [Name of Requestor] (the "Requestor") invites the Consultant under the Master Applied Construction Innovation Research Services Contract (the "Master Contract"), to submit a Proposal in Response for [Research Project Name] (the Mini RFP), pursuant to the terms and provisions of the Master Contract and this Mini RFP. All defined terms used herein but not defined have the meanings assigned to them in the Master Contract.

B. Due Date for Receipt of Proposals in Response. The Consultant shall submit is Proposal in Response ONLY via email, no later than __:__.M., _____, 202__, to [Name], [Title] at [email address]. Please note that there is a __ MB file size limit. [Note: Insert if Requestor's email has a file size limit.] If the Consultant chooses not to submit a Proposal in Response, the Consultant shall submit a No Bid Response form (which is attached to this document as Attachment A for the purpose of convenience) no later than __:__, __.M, _____, 202__, [Note: it should be same as return date above] to [Name], [Title] at [email address].

Note re: Due Dates: PPB Rule 3-03 provides guidelines. PPB Rule Section 3-03 for Competitive Sealed Proposals (which the Mini RFP is closest to) requires a minimum of 20 days (or, if Section 6-129 of the City Code applies, 27 days). It is possible to shorten the return period, such as a pressing need for expert panel advice, and it may be necessary to lengthened it when, as an example, a Mini RFP is released before the Institute is in a full academic session.

C. Inquiries and Requests from the Consultant for Clarification or Explanation. If the Consultant wishes to make an inquiry or request a clarification or explanation with respect to this Mini RFP, the Consultant must

make such inquiry or request in writing sent via email ONLY to [name], [title] at [email address], no later than __: __.M., _____, 202_. In the event the Requestor determines that it is necessary to respond to such inquiry or request in writing, such response will be furnished as an addendum to this Mini RFP (an Addendum) and will be sent to the Consultant. If the Requestor deems it necessary, it may arrange a meeting or conference call with the Consultant a prior to the submission date to address questions or concerns.

D. Addenda to Mini RFP. If the Requestor determines that it is necessary to respond to an inquiry or request for clarification or explanation from the Consultant in writing, such writing will be in the form of an Addendum to this Mini RFP, which will become part of the requirements for such Mini RFP, and sent by Town+Gown/DDC to the Consultant. In addition, it will be necessary for the Consultant to acknowledge receipt of an Addendum to a Mini RFP by attaching an original signed copy of the Addendum to its Proposal in Response.

E. The Name and Contact Information of the Requestor's Procurement Process Contact. All Proposals in Response, Inquiries or Requests for Clarification or Explanation, and receipts of any Addenda, shall be sent via email ONLY to:

[Name]

[Title], [Agency]

[Email address]

Note: The name of the person in this section will be the **only** person at the Requestor to whom the Consultant should direct (a) Proposals in Response, (b) Inquiries or Requests for Clarification or Explanation, and (c) acknowledgement of receipt of any Addendum.

II. Scope of Work

A. General Research Project Description. Note: The Requestor must describe Research Project, in the body of the Mini RFP and/or as an attachment to the Mini RFP.

B. Research Project Objectives. Note: This is where the Requestor moves from the general objectives outlined above and provides a more detailed scope of the Research Project, outlining, in greater detail, the Requestor's Project requirements in order to provide the Consultant with a good foundation for its Proposal in Response. It is important for the Requestor to be as concrete as possible in this section about time, budget and any other parameters that will express the Requestor's research needs and constraints, to the extent known. In addition, if the Requestor intends to make confidential certain data it or other entities will provide to the researchers to accomplish the Research Project, in order to comply with Law or as a matter of agency practice, the Requestor should also specifically note what data sources it will make confidential in this Section II B.

III. Format and Contents of the Proposal in Response. The Consultant's Proposal in Response must be in a form that conforms to Appendix B-2 to the Master Contract, which template form is attached to this Master

Contract as Appendix B-2. The Consultant shall not make changes to the Proposal in Response template form.

Note: The Proposal in Response from the Consultant must conform to Appendix B-2 to the Master Contract, which makes it clear that the Consultant should not make changes to the form Proposal in Response since, as anticipated in Appendix B-3, it becomes the Task Order. If the Consultant submits a Proposal in Response to the Requestor that does not follow the template form, the Requestor may deem such proposals to be non-responsive.

IV. Evaluation Criteria and Evaluation Procedures

A. Criteria. The Proposals in Response will be evaluated on the basis of criteria set forth below:

Criteria	Weight See Note below	Explanation
Experience	40%	Background and experience with respect to the disciplines and issues covered in the Research Project.
Organizational Capability	20%	Organizational capability and the clear definition of roles and duties of the members of the Academic Team, as well as clear lines of communication among them, particularly with regard to interdisciplinary and practitioner input.
Approach and Methodology	30%	Approach to the Research Project and methodologies proposed.
Cost	10%	<p>The Requestor has allocated \$ _____ for this research project. [Alternative: Proposals are expected to be in the range of \$ _____ to \$ _____.]</p> <p>Note: The nature of faculty-directed research requires the Requestor to indicate either the budgeted amount for the Research Project or a range where the budgeted amount represents the higher bound.</p>

Note: The Requestor must specify, in the Mini RFP, the qualitative and quantitative criteria, including price, and the respective weights attached to such criteria that it will use to evaluate all Proposals in Response it receives. The Consultant's cost proposal will be subject to the Institute's Price Sheet, which represents the maximum price per hour for each category of personnel working on the Project. The evaluation criteria and procedures text above, the Other Considerations and Basis of Award text below are suggestions that the Requestor may alter in its discretion subject to the Charter, PPB Rules and the Master Contract.

B. Other Considerations.

Note: In consultation with the City Law Department, city agencies may omit certain insurance required under Appendix A to the Master Contract. In order to permit the Consultant to decline to submit a Proposal in Response due to the insurance required by the Requestor and instead provide a No Bid Response, it is necessary for the Requestor to indicate here in the Mini RFP what Appendix A insurance it will require and what Appendix A insurance, if any, it will omit. Insurance required by statute cannot be omitted.

1. Insurance. If awarded the Task Order resulting from this Mini RFP, the Consultant and all of its subconsultants must not commence performing any services under the resulting Task Order until all insurance required by this Mini RFP, and the resulting Task Order, is in effect and provided satisfactorily to the Requestor. The Consultant must ensure uninterrupted and continuous insurance coverage in the manner, form, and limits required by this Mini RFP, and the resulting Task Order, throughout the entire duration of the Task Order.

The Consultant must provide the insurance as indicated below:

Article 7 – Insurance	
Types of Insurance	Minimum Limits and Special Conditions
<input checked="" type="checkbox"/> Workers' Compensation <input checked="" type="checkbox"/> Disability Benefits Insurance <input checked="" type="checkbox"/> Employers' Liability	Statutory amounts
<input type="checkbox"/> Commercial General Liability	\$_____ per occurrence \$_____ personal & advertising injury \$_____ aggregate Additional Insureds: 1. City of New York, including its officials and employees, and 2. _____ 3. _____
<input type="checkbox"/> Commercial Auto Liability	\$_____ per accident combined single limit If vehicles are used for transporting hazardous materials, the Contractor shall provide pollution liability broadened coverage for covered vehicles (endorsement CA 99 48) as well as proof of MCS 90
<input type="checkbox"/> Professional Liability/Errors & Omissions	\$1,000,000.00 per claim

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2. Subcontracting. The Master Contract, under which this Mini RFP has been issued, permits the Consultant to utilize Subcontractors (as defined in the Master Contract) as part of a Proposal in Response (see Sections 3.3(b) and 3.3(e)(8)). Please note that if the Consultant wishes to subcontract with a Subcontractor as part of its Proposal in Response, it must disclose its intention to use the services of a Subcontractor in its Proposal in Response as provided in Section 3.3 (e) (8) of the Master Contract.

3. Elections.

Note: If the Requestor wishes to exercise any or all of the options to revert to standard City provisions for Sections 5.05, 5.08 and 6.01B, Town+Gown, must consent, and those election(s) need to be stated explicitly in the Mini RFP. Town+Gown will supply the text for such elections.

Faculty-directed research in the context of the Master Contract and Town+Gown's action research methodology is intended to provide needed knowledge in an open context. As noted in Section 3.2(f), there are several provisions in Appendix A (Sections 5.05 (Removal of Records), 5.08 (Confidentiality), 6.01A (Copyrights) and 6.02 (Patents)) that reflect standard academic practice with federal contracting agencies and Town+Gown's action research principle that both practitioner and academic are equal partners in knowledge creation (the standard academic practice). Sections 5.05, 5.08, 6.01A and 6.02 reverse the pattern of rights on standard City contracts, so that the standard academic practice applies.

If, in Section II B above, the Requestor indicates that it intends to make confidential certain data it or other entities will provide to the researchers to accomplish the Research Project, in order to comply with Law or as a matter of agency practice, the Requestor should also repeat that intent here with a cross-reference to Section II B above.

C. Basis of Award. The Requestor, [Note: if a City agency] will award the Research Project to the Consultant if the Requestor determines the Proposal in Response to be the most advantageous to and in the best interest of the City, taking into consideration all the criteria and considerations which are set forth above in this Mini RFP. Award of the resulting Task Order is subject to successful negotiation of terms of the Task Order as provided in the Master Contract and the PPB Rules.

Form of No Bid Response

NO BID RESPONSE

Note: to be submitted by Mini RFP due date

RFP Name	Requestor	Proposal in Response Due Date

To: [Requestor Agency]
Town+Gown/DDC, as Master Contract Administrator

This is to certify that the Institute of Design and Construction Innovation Hub, the Consultant under the Master Applied Construction Innovation Research Service Contract, will not be submitting a Proposal in Response to the above referenced solicitation document prepared by the listed Requestor.

Reason(s) for No Submission:

- ___ Unavailability of required resources
- ___ Prior commitments
- ___ Inadequate anticipated funding Level
- ___ Project duration
- ___ Potential conflict of interest
- ___ Duplication of ongoing effort
- ___ Other (please explain)

Authorized Representative:

Name: _____
Title: _____
Signature: _____
Date: __/__/20__

Appendix B-2 to Master Contract

Note: CONSULTANTS MUST NOT CHANGE THE FORM OF THE PROPOSAL IN RESPONSE. The Proposal in Response accepted by the Requestor will form the basis of the Task Order, and it is important that this template form be unchanged. If you have questions, please contact the Requestor contact on the Mini RFP.

[Consultant logo/letterhead here]

Institute of Design and Construction Innovation Hub Proposal in Response to

[Name of Mini RFP] under the Master Contract

Prepared by [Consultant's Preparer's Name]

[Date]

Article 1. Agreement. This Proposal in Response has been prepared and submitted pursuant to the provisions of the Master Applied Construction Innovation Research Service Contract, by and between the Institute of Design and Construction Innovation Hub (the Consultant) and the New York City Department of Design and Construction (the Master Contract). All capitalized terms used, but not defined, herein shall have the meanings ascribed to them in the Master Contract.

If this Proposal in Response is accepted by the Requestor, the awarded Research Project will be governed by a Task Order, in the form of Appendix B-3 of the Master Contract, negotiated and executed, pursuant to Section 3.4 of the Master Contract and the PPB rules, by the Consultant and the Requestor, which Task Order will define the contractual relationship between the Consultant (to become the Academic Partner) and the Requestor (to become the Practitioner Partner) for the duration of the Research Project. The provision of services under the Task Order will be further governed by the terms and conditions of the Master Contract, including but not limited to those in the Mini RFP, complying with the provisions of Section 3.2 of the Master Contract, and those in the Master Contract as required and provided therein.

If this Proposal in Response is accepted by the Requestor, the Consultant agrees to accomplish the Project under a resulting Task Order after registration by the Comptroller's Office, on time and within budget. The nature of academic research requires some flexibility in the timing of performance, with unforeseeable obstacles and delays. Section 4.03(a) of the PPB Rules is analogous to the National Science Foundation's practice with respect to delays in academic research and is available as a method of providing extensions of time on Task Orders for performance due to the typical delays in academic research. The Academic Partner shall not perform services under the Master Contract until a Task Order has been executed and registered with the Comptroller.

Article 2. Proposal in Response to Mini RFP.

Note: Subject to the requirements of the Master Contract and the Mini RFP issued by the Requestor, this Proposal in Response shall be organized in a manner so as to provide the types of information as described below. Please review Section 3.3 of the Master Contract for provisions related to the Proposal in Response. Due to the standard of evaluation set forth in Section 4.3 of the Master Contract with respect to payment and the certification in Section 4.2 of this Proposal in Response, which will be repeated in the related Task

Order, it is especially important that the Consultant be as detailed, as specific and as clear as possible with respect to the elements set forth below. After an award is made based on a particular Mini RFP, these Article 2 elements of the Mini RFP become the Academic Practitioner's obligations under the resulting Task Order.

2.1 Research Project Objectives.

Note: Using the Mini RFP as the guide:

Describe the overall research project objectives and goals.

Describe, in greater detail, the scope of the research project, listing and describing the research approaches, the work to be performed and the phases of the work.

Describe the nature of the collaboration between staffs of the Requestor, as the Practitioner Partner, and the Consultant, as the Academic Partner, identifying the elements of practitioner experience that would be useful for the research, as well as any other research needs with which the Requestor could provide assistance.

2.2. Work Products and Deliverables.

Note: Using the Mini RFP as the guide:

Describe the anticipated work products and deliverables for the Research Project, including interim reports if appropriate, in a greater level of detail than above, including the form and the nature of the content.

2.3. Project Plan and Estimated Duration of Project, including Schedule.

Note: Describe the plan for the Research Project, assigning time values for elements of the scope as a schedule for the Project. City agencies must use expense funds in the City fiscal year they are appropriated; they are not permitted to roll unexpended expense funds into the following City fiscal year and must appropriate expense funds anew in each succeeding City fiscal year. Thus, for Research Project funded with City tax levy funds, it is important to demonstrate an alignment between the proposed schedule in the Project Plan and the Requestor's expressed expectation for the Project duration in the Mini RFP. Payment requisitions pursuant to Article 4 of the Master Contract require, among other things, a status report to indicate the relation of the payment requisition to the Project Plan.

2.4. Project Staffing and Organization.

Note: List the members of the Academic Team, the costs of whose work will be estimated in the chart in Section 2.5 below, and provide an organizational chart showing the Academic Team's organization for the Project.

Note: One of the elements of Town+Gown’s Organizational Character is supporting academic-practitioner collaborations by highlighting the importance of practice as a source of knowledge, with Academic Partners and Practitioner Partners as equal partners in knowledge creation. Thus, it is important to describe how the Academic Team members will interact with the Requestor’s staff and other entities, including a narrative describing the organization and interactions as they support the nature of the academic-practitioner collaboration in Section 2.1 above which will become part of the Project Plan. In such Project Plan, it will be important to anticipate how the Academic Partner will work with the Practitioner Partner on a Research Project as the equivalent of a peer reviewer on any Task Order-generated work product as contemplated by Section 6.01A of Appendix A, if the Mini RFP applies Section 6.01A to the Mini RFP for the Project.

Note: Subject to the Institute’s Price Sheet, the Consultant will estimate costs associated with the Academic Team pursuant to the provisions of Section 3.3 (d) and (e) of the Master Contract and show them on the chart in Section 2.5 below. The Consultant shall include a curriculum vitae or resume of no more than three (3) pages for each Senior Personnel member of the Academic Team, including any Subcontractors.

Note: As provided in Section 3.3 (e) (8) of the Master Contract, the Consultant may include, in the Academic Team, entities providing services as Subcontractors. To the extent a Task Order includes the services of Subcontractors, the Consultant shall be responsible for the performance of Subcontract services. For the convenience of reference only, the Consultant should know that subcontracts shall comply with the requirements of Section 2.07, 3.02, 4.07, 7.03, 7.08, 7.09 and 13.06 of Appendix A. Further, expenses incurred by the Consultant in connection with furnishing Subcontractors for the performance of required services under a Task Order are deemed included in the payments to the Consultant as set forth in Article 4 of this Master Contract. While the Consultant may pay its Subcontractors first and then seek reimbursement pursuant to the applicable provisions of this Master Contract, in the event the Consultant does not pay its Subcontractors prior to seeking reimbursement, the Consultant shall pay its Subcontractors the full amount due them from their proportionate share of the requisition, as paid by the City. The Consultant shall make such payment not later than five Days after receipt of payment by the City.

2.5. Proposed Project Budget and Not to Exceed Amount

Note: Using the chart below as a template, provide a proposed Project budget, subject to the Institute’s Price Sheet, estimating the costs of each component of the Project as provided in Section 3.3(e) of this Master Contract, and providing any require additional justification. Please provide a copy of the current OMB Circular A-21 for the negotiated indirect cost rate.

Principal Investigator/Project Director:		
Headings under Section 3.3 (e)	[columns for calculations]	Costs

Not to Exceed Amount				\$.

Article 3. Consultant’s Billing and Invoicing.

Note: The general requirements of the Master Contract, including Article 4, and any specific requirements of the Mini RFP will govern the billing and invoicing process from the Requestor’s perspective.

Note: The Consultant should list here the personnel responsible for billing and invoicing functions at the Consultant organization and related contact information.

Article 4. Representations and Warranties.

Note: This is boilerplate—do **not** make any changes to this section.

4.1. Accuracy and Completeness of Statements. The Consultant certifies that statements, representations and warranties contained in the Proposal in Response and the Master Contract, including Appendix A thereto, were true and complete as of the date they were made and are true and complete as of the date of this Proposal in Response.

Note: For convenience of reference only, the Consultant should know that Sections 2.01 (procurement of contract/task orders), 2.03 (fair practices), 2.04 (VENDEX, now Passport), 2.07 (unlawful discriminatory practices), 3.02 (e) (subcontractor performance); 4.01 (independent contractor status), 4.02 (employees), 4.07 (E.O. 50), 6.01 (copyrights) and 7.08 (insurance certificate) contain specific representations and warranties.

4.2. The Project. The Consultant certifies that all elements of the work and costs necessary to perform the Project in a professional and competent manner according to the standards of the relevant field(s) and/or discipline(s), and to meet the requirements set forth in the Mini RFP and in Section 4.3 of the Master Contract have been included in this Proposal in Response.

4.3. Academic Team Members. The Consultant represents and warrants that the members of the Academic Team possess the experience, knowledge and character necessary to qualify them individually for the particular services they will perform on the Project in a professional and competent manner pursuant to Section 4.3 of the Master Contract.

The submission of curriculum vitae and resumes for the Senior Personnel members of the Academic Team, whether they are the Consultant's direct employees or Subcontractors, with the Proposal in Response, implies that such individuals will be available to perform the services on the Project. For the Consultant who is awarded the Task Order, it is expected that such members of the Academic Team will perform the services under the Task Order; provided, however, that such Consultant may replace members of the Academic Team on the Project during the term of the Task Order with personnel who possess qualifications substantially similar to those being replaced, with prior notice to the Practitioner Partner.

To the extent the Requestor believes a member of the Academic Team is unable to perform services in a professional and competent manner according to the standards of the relevant field(s) and/or discipline(s), it shall have the right to raise such concerns with the Consultant so that both parties have the opportunity to resolve such concerns in good faith, subject to the provisions of Section 10.02 of Appendix A.

4.4. Agreement to Comply with Terms of Task Order. The Consultant agrees to comply with the terms and conditions of the Task Order and the Master Contract under which it was issued.

4.5. Conflicts of Interest. The Consultant certifies that it has implemented and is enforcing a written policy on conflicts of interest, consistent with the provisions of the National Science Foundation's AAG Chapter IV.A.; further, that, to the best of the undersigned Authorized Party's knowledge, all financial disclosures required by the conflict of interest policy were made; and that conflicts of interest, if any, were, or prior to the institution's expenditure of any funds under the award, will be, satisfactorily managed, reduced or eliminated in accordance with the Consultant's conflict of interest policy.

4.6. Training and Oversight. To the extent the Academic Team includes any postdoctoral researchers, graduate students or undergraduate students, the Consultant certifies that it has a plan to provide appropriate training and oversight in the responsible and ethical conduct of research to undergraduates, graduate students, and postdoctoral researchers.

4.7. Affirmation. The Consultant affirms and declares that it is [Note: Insert description of status under State corporation law and federal income tax law], and, further, that it is not in arrears to the City upon debt, contract or taxes, it is not a defaulter, as surety or otherwise, upon obligation to the City, it has not been declared "not responsible" or disqualified, by any agency of the City, and that, to its knowledge, there is no proceeding pending relating to its responsibility or qualification to receive public contract except as indicated in the space below:

Article 5. Task Order Execution. Execution of a resulting Task Order by the Requestor shall be evidence of its approval of the following items, *as explicitly noted above in this Proposal in Response*:

Note: This is boilerplate—do **not** make any changes to this section.

- (1) subcontractors pursuant to Sections 3.3 (b) and (e)(8) of the Master Contract, subject to final compliance with PPB Rule requirements and Sections 2.07, 3.02 and 4.07 of Appendix A,
- (2) compensation beyond three months and/or utilizing a percentage equivalent of academic contract effort pursuant to Section 3.3(e)(1) of the Master Contract,
- (3) treating components of an Academic Partner's facilities and administration as a direct cost pursuant to Section 3.3 (e)(2) of the Master Contract,
- (4) the purchase of equipment and post-Project ownership of such equipment pursuant to Section 3.3 (e)(6) of the Master Contract,
- (5) the incurrence of expenses related to long-distance travel pursuant to Section 3.3 (e)(7) of the Master Contract, to be reimbursed, in the case of City Agency Requestors, pursuant to the provisions of Article 4 of the Master Contract,
- (6) the incurrence of expenses related to computer services pursuant to Section 3.3 (e)(9) of the Master Contract, and
- (7) the application of the formula to determine indirect costs pursuant to Section 3.3(e)(10) of the Master Contract.

Article 6. Relation of Task Order to Master Contract.

Note: This is boilerplate—do not make any changes to this section.

6.1 Task Order Incorporates Terms of Master Contract. If the Requestor accepts this Proposal in Response, the resulting Task Order shall be deemed to incorporate all the terms and conditions of the Master Contract, including Appendix A thereto, even if such terms and conditions are not expressly reiterated in the Task Order.

6.2 Task Order Not an Amendment of Master Contract. Neither a Proposal in Response nor a Task Order may alter the terms and conditions of the Master Contract. The terms and conditions of the Master

Contract Agreement can only be modified by the parties in an amendment pursuant to Section 6.4 of the Master Contract, and any provision of a Task Order that would have the effect of amending a term or condition of the Master Contract shall be null and void.

Any amendments, changes or modifications of this Task Order must comply with the provisions of Section 9.01 of Appendix A.

6.3 Conflict between Task Order and Master Contract. In the event of any conflict between any provision in a resulting Task Order and any provision of the Master Contract, including Appendix A thereto, the provision in the Master Contract shall control.

SUBMITTED BY:

By: _____

Name: _____

Title: _____

Date: _____

Appendix B-3 to Master Contract

[Academic Partner logo here]

[Practitioner Partner logo here]



[Name of Requestor/Practitioner Partner's] Task Order
related to [Name of Mini RFP] (Mini RFP)
under the Master Applied Construction Innovation Research Service Contract

Note: Requestors shall comply with the requirements Section 3.4 of the Master Contract and the PPB Rules when evaluating the Proposals in Response and awarding and executing the resulting Task Order. The Task Order shall be in the form of this Appendix B-3.

Note: To the extent a Requestor (now in the Task Order, the Practitioner Partner) elected, pursuant to Section 3.2(f), certain optional provisions in Sections 5.05, 5.08 and/or 6.01B of Appendix A, the Practitioner Partner shall explicitly indicate in the Task Order such elected provisions that apply to it. In addition, any specific requirements listed in under "Other Considerations" in Section IV, B, should be repeated as appropriate in this Task Order.

Article 1. Agreement. This Task Order by and between the Institute of Design and Construction Innovation Hub (Academic Partner) and the [Requestor] (Practitioner Partner), dated as of [Note: insert date] (Task Order), which covers the Research Project, is made pursuant to the terms of the Mini RFP released by Town+Gown on behalf of the Practitioner Partner on [Note: insert date], the Proposal in Response from the Academic Partner, as accepted by the Practitioner Partner, and the Master Applied Construction Innovation Research Service Contract, by and between the Academic Partner and the New York City Department of Design and Construction (Master Contract). This Task Order incorporates all terms and provisions of the Master Contract, and all capitalized terms used, but not defined, herein will have the meanings ascribed to them in the Master Contract.

The Academic Partner will accomplish the Research Project under this Task Order, upon registration of this Task Order with the New York City Office of the Comptroller, on time and within budget.

Article 2. The Research Project.

2.1 Research Project Objectives.

Note: Insert applicable text from related Mini RFP and/or Proposal in Response

Research Project Objectives.

Note: Insert applicable text from related Mini RFP and/or Proposal in Response

Approach and Methodology

Note: Insert applicable text from related Proposal in Response

Meetings:

Note: Insert applicable text from related Proposal in Response

2.2. Work Products and Deliverables.

Note: Insert applicable text from related Proposal in Response

2.3. Project Plan and Estimated Duration of Project, including Schedule.

Note: Insert applicable text from related Proposal in Response

2.4. Project Staffing and Organization.

Note: Insert applicable text from related Proposal in Response

Note: If the Practitioner Partner made its Mini RFP subject to Appendix A, Section 6.01A, it is necessary to list, in this Section 2.4, the Practitioner Partner's team members who will be collaborating with the Academic Team on the Research Project so that when the Academic Team members begin the process of writing academic articles based on the Research Project, they will know whom to invite to participate as peers on the articles pursuant to the provisions of Section 6.01A, which provides:

Since one of the elements of Town+Gown's Organizational Character is supporting academic-practitioner collaborations by highlighting the importance of practice as a source of knowledge, with Academics and Practitioners as equal partners in knowledge creation, the Consultant agrees, in the event it, as an Academic Partner, wishes to use the Task Order-generated work product as the basis of a peer-reviewed article of an academic journal or equivalent publication, to include the Practitioner Partner as the equivalent of a peer reviewer, in all subsequent academic work related to the initial work product under a Task Order, including but not limited to review and comment on the drafts and to acknowledgement, as appropriate, the relevant staff members at the Practitioner Partner, all as provided in the Project Staffing and Organization in Section 2.4 of the Task Order.

2.5. Project Budget and Not to Exceed Amount.

The Project budget, the total amount of which is the "Maximum Task Order Amount", with the costs of each component of the Project is in the chart below (the "Milestone Deliverables and Payment Chart").

Note: Insert applicable text/chart from accepted Proposal in Response in chart format

Note: Typically, compensation for all services performed by the Academic Partner under a Task Order is paid by a lump sum that provides compensation for all labor, overhead, and profit for the performance of the services per each task under this Task Order (Lump Sum), as delineated in the Milestone Deliverables and Payment Chart that is in this section or, for complex Research Project, can become an appendix to the Task Order. Negotiations on the Task Order typically involve working from the accepted Proposal in Response document to identify each Lump Sum payment that is directly tied to the specific deliverables in the Milestone Deliverables and Payment Chart.

Note: The following language is in the Proposal in Response template: “The nature of academic research requires some flexibility in the timing of performance, with unforeseeable obstacles and delays. Section 4.03(a) of the PPB Rules is analogous to the National Science Foundation’s practice with respect to delays in academic research and is available as a method of providing extensions of time on Task Orders for performance due to the typical delays in academic research.”

Note: The Master Contract includes as Schedule 1, the Consultant’s OMB Circular A-21, and the Proposal in Response requires the Consultant to provide the current version of OMB Circular A-21.

Article 3. Academic Partner’s Billing and Invoicing.

Note: The following highlighted text has been used on prior Task Orders and is provided below as guidance in drafting the Task Order. The Practitioner Partner is free to use whatever language is consistent with its ACCO practices.

3.1. Compensation for Services.

The total compensation to the Academic Partner for the services rendered for this Research Project under this Task Order will not exceed the Maximum Task Order Amount. The Practitioner Partner is not required to pay the Academic Partner an amount in excess of the Maximum Task Order Amount as compensation for the Academic Partner’s performance of the entirety of the services under this Task Order. The Maximum Task Order Amount will not be adjusted absent an amendment issued by the Practitioner Partner pursuant to the terms of the Master Contract and registered in accordance with Section 328 of the New York City Charter and the related PPB Rules.

Compensation for all services performed by the Academic Partner under this Task Order will be paid by a lump sum that provides compensation for all labor, overhead, and profit for the performance of the services per each task under this Task Order (Lump Sum), as delineated in the Milestone Deliverables and Payment Chart in [Section 2.5 above/Appendix A to this Task Order]. Each Lump Sum payment will also be directly tied to the specific deliverables in the Milestone Deliverables and Payment chart in Appendix A. The overall budget and associated invoices will be tracked by such tasks. The Lump Sum amounts specified in the Milestone Deliverables and Payment Chart are fixed and will not be changed or adjusted for inflation or for any other reason, absent an amendment to this Task Order.

[Option when Subcontractors are Part of the Academic Team] The Practitioner Partner shall compensate the Academic Partner for Other Direct Costs (“ODCs”) that are essential for the performance of this Task Order and authorized by the Practitioner Partner. ODCs will be reimbursed at the actual cost to the Academic Partner with no provision for overhead or profit. All ODCs must be submitted with three (3) quotes for similar products to ensure that the price is fair and reasonable. The Practitioner Partner will pay for ODCs upon the final price indicated in the bill or invoice, and as a tax-exempt entity, will not pay for tax on any ODC.

All invoices submitted pursuant to this Article must indicate the portion(s) of the invoiced amount performed by a Subcontractor, and the corresponding amount of compensation that the Academic Partner will pay to that Subcontractor.

3.2. Timing of Payments.

Note: The general requirements of the Master Contract, including Article 4, and any specific requirements of the Mini RFP will govern the billing and invoicing process from the Practitioner Partner’s perspective.

Note: The following highlighted text has been used on prior Task Orders and is provided below as guidance in drafting the Task Order. The Practitioner Partner is free to use whatever language is consistent with its ACCO practices.

The Practitioner Partner will make payments to the Academic Partner upon presentation of itemized invoices, including supporting documentation, certified by the Academic Partner, and approved by the Practitioner Partner. All payments will be subject to audit by the Practitioner Partner. All such billings must be submitted in conformity with the sample invoice in Schedule 1 hereto and as discussed above in Section 3.1. The invoice for final payment to the Academic Partner will include compensation for efforts by the Academic Partner to complete the entirety of all deliverables listed in this Task Order. This payment will become due and payable only upon completion of all deliverables, the completion of all audits by the Practitioner Partner, and the approval of the entirety of all deliverables, such approval shall be determined as set forth in Article 4.3 of the Master Contract.

Contact information for billing and invoicing the Academic Practitioner:

Note: Add the information the Consultant (now Academic Partner) provided in its Proposal in Response for the personnel responsible for billing and invoicing functions at the Academic Partner organization and related contact information.

Article 4. Representations and Warranties.

4.1. Accuracy and Completeness of Statements. The Academic Partner certifies that statements, representations and warranties contained in the Proposal in Response, the Task Order, and the Master Contract, including Appendix A thereto, are true and complete as of the date they were made and are true and complete as of the date it executes this Task Order.

4.2. The Project. The Academic Practitioner certifies that all elements of the work and costs necessary to perform the Project in a professional and competent manner according to the standards of the relevant field(s) and/or discipline(s), pursuant to Section 4.3 of the Master Contract, and to meet the requirements set forth in the Mini RFP had been included in its Proposal in Response and in this Task Order.

4.3. Academic Team Members. The Academic Practitioner represents and warrants that the members of the Academic Team possess the experience, knowledge and character necessary to qualify them individually for the particular services they will perform on the Project in a professional and competent manner pursuant to Section 4.3 of the Master Contract.

The submission of curriculum vitae and resumes for the Senior Personnel members of the Academic Team, whether they are the Academic Partner's direct employees or Subcontractors, with the Proposal in Response, implies that such individuals will be available to perform the services on the Research Project. The Academic Partner expects that such members of the Academic Team will perform the services under this Task Order; provided, however, that the Academic Partner may replace members of the Academic Team on the Project during the term of the Task Order with personnel who possess qualifications substantially similar to those being replaced, with prior notice to the Practitioner Partner.

To the extent the Practitioner Partner believes a member of the Academic Team is unable to perform services in a professional and competent manner according to the standards of the relevant field(s) and/or discipline(s), it will have the right to raise such concerns with the Academic Partner so that both parties have the opportunity to resolve such concerns in good faith, subject to the provisions of Section 10.02 of Appendix A.

4.4. Agreement to Comply with Terms of Task Order. The Academic Partner agrees to comply with the terms and conditions of this Task Order and the Master Contract under which it was issued.

4.5. Conflicts of Interest. The Academic Partner certifies that it has implemented and is enforcing a written policy on conflicts of interest, consistent with the provisions of the National Science Foundation's AAG Chapter IV.A.; further, that, to the best of the undersigned Authorized Party's knowledge, all financial disclosures required by the conflict of interest policy were made; and that conflicts of interest, if any, were, or prior to the institution's expenditure of any funds under the award, will be, satisfactorily managed, reduced or eliminated in accordance with the Academic Partner's conflict of interest policy.

4.6. Training and Oversight. To the extent the Academic Team includes any postdoctoral researchers, graduate students or undergraduate students, the Academic Partner certifies that it has a plan to provide appropriate training and oversight in the responsible and ethical conduct of research to undergraduates, graduate students, and postdoctoral researchers.

4.7. Affirmation. The Consultant affirms and declares that it is [Note: insert description of Academic Partner's status under applicable state corporation law and federal income tax law], and, further, that it is not in arrears to the City upon debt, contract or taxes, it is not a defaulter, as surety or otherwise, upon

obligation to the City, it has not been declared “not responsible” or disqualified, by any agency of the City, and that, to its knowledge, there is no proceeding pending relating to its responsibility or qualification to receive public contract except as indicated in the space below:

Article 5. Task Order Execution.

Execution of this Task Order by the Practitioner Partner will be evidence of such Practitioner Partner’s approval of the following items:

- (1) subcontractors pursuant to Sections 3.3 (b) and (e)(8) of the Master Contract, subject to final compliance with PPB Rule requirements and Sections 2.07, 3.02 and 4.07 of Appendix A,
- (2) compensation beyond three months and/or utilizing a percentage equivalent of academic contract effort pursuant to Section 3.3(e)(1) of the Master Contract,
- (3) treating components of an Academic Partner’s facilities and administration as a direct cost pursuant to Section 3.3 (e)(2) of the Master Contract,
- (4) the purchase of equipment and post-Project ownership of such equipment pursuant to Section 3.3 (e)(6) of the Master Contract,
- (5) the incurrence of expenses related to long-distance travel pursuant to Section 3.3 (e)(7) of the Master Contract, to be reimbursed, in the case of City Agency Requestors, pursuant to the provisions of Article 4 of the Master Contract,
- (6) the incurrence of expenses related to computer services pursuant to Section 3.3 (e)(9) of the Master Contract, and
- (7) the application of the formula to determine indirect costs pursuant to Section 3.3(e)(10) of the Master Contract.

Article 6. Relation of Task Order to Master Contract.

6.1 Task Order Incorporates Terms of Master Contract. This Task Order will be deemed to incorporate all the terms and conditions of the Master Contract, including Appendix A thereto, even if such terms and conditions are not expressly reiterated in this Task Order.

6.2 Task Order Not an Amendment of Master Contract. This Task Order shall not alter the terms and conditions of the Master Contract. The terms and conditions of the Master Contract can only be modified by the parties in an amendment pursuant to Section 6.4 of the Master Contract, and any provision of a Task Order that would have the effect of amending a term or condition of the Master Contract will be null and void.

Any amendments, changes or modifications of this Task Order must comply with the provisions of Section 9.01 of Appendix A.

6.3 Conflict between Task Order and Master Contract. In the event of any conflict between any provision in this Task Order and any provision of the Master Contract, including Appendix A thereto, the provision in the Master Contract will control.

Article 7. Notices. Any notices or other instruments required to be given or delivered pursuant this Task Order and the Master Contract under which it was issued will be in writing and will be delivered by hand against the written receipt therefor or sent by registered or certified mail as set forth below:

To the Practitioner Partner, [Note: insert information];

To Academic Partner, [Note: insert information]; and

To DDC, as manager of this Master Contract, addressed to the attention of Commissioner, New York City Department of Design and Construction, 30-30 Thomson Avenue, Long Island City, New York 11101.

The parties hereto have executed original copies of this Master Contract, as of the last date below or such other date as applicable, in quantities required by Section 3.4 (f) of the Master Contract.

[Academic Partner]

AGREED TO AND ACCEPTED BY:

By: _____

Name: _____

Title: _____

Date: _____

[Practitioner Partner]

AGREED TO AND ACCEPTED BY:

By: _____

Name: _____

Title: _____

Date: _____

[For Task Orders of City Agencies only]
ACCEPTED BY DDC,
as Administrator of Master Contract,

By: _____

Name: _____

Title: _____

Date: _____

Article 7 -- Insurance	
Types of Insurance (per Article 7 in its entirety, including listed paragraph)	Minimum Limits and Special Conditions
<ul style="list-style-type: none"> ■ Workers' Compensation §7.02 ■ Disability Benefits Insurance §7.02 ■ Employers' Liability §7.02 	Statutory amounts.
<ul style="list-style-type: none"> ■ Commercial General Liability §7.03(A) 	<p>\$_____ per occurrence</p> <p>\$_____ personal & advertising injury</p> <p>\$_____ aggregate</p> <p>Additional Insureds:</p> <p>1. City of New York, including its officials and employees, and</p> <p>2. _____</p> <p>3. _____</p>
<ul style="list-style-type: none"> □ Commercial Auto Liability §7.03(B) 	<p>\$_____ per accident combined single limit</p> <p>If vehicles are used for transporting hazardous materials, the Contractor shall provide pollution liability broadened coverage for covered vehicles (endorsement CA 99 48) as well as proof of MCS 90</p>
<ul style="list-style-type: none"> □ Professional Liability/Errors & Omissions <p style="text-align: right;">§7.03(C)</p>	\$1,000,000.00 per claim

Certification of Insurance Broker or Agent

CERTIFICATES OF INSURANCE

Instructions to New York City Agencies, Departments, and Offices

All certificates of insurance (except certificates of insurance solely evidencing Workers' Compensation Insurance, Employer's Liability Insurance, and/or Disability Benefits Insurance) must be accompanied by one of the following:

the Certification by Insurance Broker or Agent on the following page setting forth the required information and signatures;

-- OR --

copies of all policies as certified by an authorized representative of the issuing insurance carrier that are referenced in such certificate of insurance. If any policy is not available at the time of submission, certified binders may be submitted until such time as the policy is available, at which time a certified copy of the policy shall be submitted.

CITY OF NEW YORK
CERTIFICATION BY INSURANCE BROKER OR AGENT

The undersigned insurance broker or agent represents to the City of New York that the attached Certificate of Insurance is accurate in all material respects.

[Name of broker or agent (typewritten)]

[Address of broker or agent (typewritten)]

[Email address of broker or agent (typewritten)]

[Phone number/Fax number of broker or agent (typewritten)]

[Signature of authorized official, broker, or agent]

[Name and title of authorized official, broker, or agent (typewritten)]

State of)

) ss.:

County of)

Sworn to before me this ____ day of _____ 20__

NOTARY PUBLIC FOR THE STATE OF _____

Agency form of Requisition of Payment

Requestor/Practitioner Partner to insert agency form of
Requisition for Payment pursuant to Section 4.1 of the Master Contract.

Schedule 1 to Master Contract

Insert Institute's OMB Circular A-21

COLLEGES AND UNIVERSITIES RATE AGREEMENT

EIN: 1135562308A1

DATE: 09/17/2020

ORGANIZATION:

FILING REF.: The preceding
agreement was dated
10/11/2019

New York University

105 East 17th Street, 3rd floor

New York, NY 10003-2170

The rates approved in this agreement are for use on grants, contracts and other agreements with the Federal Government, subject to the conditions in Section III.

SECTION I: INDIRECT COST RATES

RATE TYPES: FIXED FINAL PROV. (PROVISIONAL) PRED. (PREDETERMINED)

EFFECTIVE PERIOD

<u>TYPE</u>	<u>FROM</u>	<u>TO</u>	<u>RATE(%)</u>	<u>LOCATION</u>	<u>APPLICABLE TO</u>
PROV.	09/01/2018	Until Amended	58.50	On-Campus	Research
PROV.	09/01/2018	Until Amended	26.00	Off-Campus	Research
PROV.	09/01/2018	Until Amended	62.50	On-Campus	Instruction
PROV.	09/01/2018	Until Amended	26.00	Off-Campus	Instruction
PROV.	09/01/2018	Until Amended	31.80	On-Campus	Other Sponsored Programs
PROV.	09/01/2018	Until Amended	26.00	Off-Campus	Other Sponsored Programs

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ORGANIZATION: New York University

AGREEMENT DATE: 9/17/2020

*BASE

Modified total direct costs, consisting of all direct salaries and wages, applicable fringe benefits, materials and supplies, services, travel and up to the first \$25,000 of each subaward (regardless of the period of performance of the subawards under the award). Modified total direct costs shall exclude equipment, capital expenditures, charges for patient care, rental costs, tuition remission, scholarships and fellowships, participant support costs and the portion of each subaward in excess of \$25,000. Other items may only be excluded when necessary to avoid a serious inequity in the distribution of indirect costs, and with the approval of the cognizant agency for indirect costs.

ORGANIZATION: New York University

AGREEMENT DATE: 9/17/2020

SECTION I: FRINGE BENEFIT RATES**

<u>TYPE</u>	<u>FROM</u>	<u>TO</u>	<u>RATE(%)</u>	<u>LOCATION</u>	<u>APPLICABLE TO</u>
FIXED	9/1/2020	8/31/2021	30.00	All	All Employees
PROV.	9/1/2021	Until amended	30.00	All	All Employees

** DESCRIPTION OF FRINGE BENEFITS RATE BASE:

Salaries and wages.

ORGANIZATION: New York University

AGREEMENT DATE: 9/17/2020

SECTION II: SPECIAL REMARKS

TREATMENT OF FRINGE BENEFITS:

The fringe benefits are charged using the rate(s) listed in the Fringe Benefits Section of this Agreement. The fringe benefits included in the rate(s) are listed below.

TREATMENT OF PAID ABSENCES

Vacation, holiday, sick leave pay and other paid absences are included in salaries and wages and are claimed on grants, contracts and other agreements as part of the normal cost for salaries and wages. Separate claims are not made for the cost of these paid absences.

OFF-CAMPUS DEFINITION: For all activities performed in facilities not owned by the institution and to which rent is directly allocated to the project(s) the off-campus rate will apply. Grants or contracts will not be subject to more than one F&A cost rate. If more than 50% of a project is performed off-campus, the off-campus rate will apply to the entire project.

ORGANIZATION: New York University

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(1) The fringe benefit costs listed below are reimbursed through the fringe benefit rate: Annuity, Group Insurance, Major Medical, Hospitalization, FICA, Workmen's Compensation, Dental Plan, Pensions, Unemployment Insurance, NYS Disability Insurance, Tuition Remission (Employee only), Travel Insurance and Disability Income Protection.

(2) Equipment means tangible personal property (including information technology systems) having a useful life of more than one year and a per-unit acquisition cost which equals or exceeds \$3,000.

(3) The NYU Tandon School of Engineering (formerly, Polytechnic Institute) was legally integrated with New York University as of January 1, 2014. Their Provisional All Programs indirect costs rates will be 38.5% and 20%, for on-campus and off-campus respectively, from 9/1/2018 until amended. The Tandon School and New York University may at times perform work on the same awards. The approved indirect cost rates for each entity, can be applied to these awards based upon the effort performed at each site.

(4) New York University School of Medicine (SOM) is a separate legal entity from New York University (NYU), with their own negotiated indirect costs rates in a separate rate agreement. For subawards that are issued from NYU to SOM, the negotiated indirect costs rates for SOM should apply. For subawards that are issued from SOM to NYU, the negotiated indirect costs rates for NYU should apply.

(5) This rate agreement updates fringe benefits rates only.

(6) The next fringe benefit rate proposal based on fiscal year ended 8/31/2020 actual costs is due by 2/28/2021. The F&A cost rate proposal based on fiscal year ended 8/31/2017 actual costs is currently under review.

ORGANIZATION: New York University

AGREEMENT DATE: 9/17/2020

SECTION III: GENERAL

A. LIMITATIONS:

The rates in this Agreement are subject to any statutory or administrative limitations and apply to a given grant, contract or other agreement only to the extent that funds are available. Acceptance of the rates is subject to the following conditions: (1) Only costs incurred by the organization were included in its facilities and administrative cost pools as finally accepted; such costs are legal obligations of the organization and are allowable under the governing cost principles; (2) The same costs that have been treated as facilities and administrative costs are not claimed as direct costs; (3) Similar types of costs have been accorded consistent accounting treatment; and (4) The information provided by the organization which was used to establish the rates is not later found to be materially incomplete or inaccurate by the Federal Government. In such situations the rate(s) would be subject to renegotiation at the discretion of the Federal Government.

B. ACCOUNTING CHANGES:

This Agreement is based on the accounting system purported by the organization to be in effect during the Agreement period. Changes to the method of accounting for costs which affect the amount of reimbursement resulting from the use of this Agreement require prior approval of the authorized representative of the cognizant agency. Such changes include, but are not limited to, changes in the charging of a particular type of cost from facilities and administrative to direct. Failure to obtain approval may result in cost disallowances.

C. FIXED RATES:

If a fixed rate is in this Agreement, it is based on an estimate of the costs for the period covered by the rate. When the actual costs for this period are determined, an adjustment will be made to a rate of a future year(s) to compensate for the difference between the costs used to establish the fixed rate and actual costs.

D. USE BY OTHER FEDERAL AGENCIES:

The rates in this Agreement were approved in accordance with the authority in Title 2 of the Code of Federal Regulations, Part 200 (2 CFR 200), and should be applied to grants, contracts and other agreements covered by 2 CFR 200, subject to any limitations in A above. The organization may provide copies of the Agreement to other Federal Agencies to give them early notification of the Agreement.

E. OTHER:

If any Federal contract, grant or other agreement is reimbursing facilities and administrative costs by a means other than the approved rate(s) in this Agreement, the organization should (1) credit such costs to the affected programs, and (2) apply the approved rate(s) to the appropriate base to identify the proper amount of facilities and administrative costs allocable to these programs.

BY THE INSTITUTION:

New York University

{INSTITUTION}

{SIGNATURE}

{NAME}

{TITLE}

{DATE}

ON BEHALF OF THE FEDERAL GOVERNMENT:

DEPARTMENT OF HEALTH AND HUMAN SERVICES

AGENCY: Darryl W. Mayes

-S

{SIGNATURE}

Darryl W. Mayes

{NAME}

Deputy Director, Cost Allocation Services

{TITLE}

9/17/2020

{DATE} 4970

HHS REPRESENTATIVE:

Michael Leonard

Telephone:

(212) 264-2069

Schedule 2 to Master Contract

Insert Institute’s Price Sheet

PERSONNEL	TITLE	NAME	Monthly Base	Hourly Unloaded	Fringe	Tuition	Overhead	Fully Burdened
Senior Key/Personnel	Industry Professor	Michael Horodniceanu	\$ 18,563	\$107.09	\$ 32.13		\$ -	\$139.22
	Professor	Magued Iskander	\$ 26,667	\$153.85	\$ 46.15		\$ -	\$200.00
	Professor	Kaan Ozbay	\$ 26,658	\$153.80	\$ 46.14		\$ -	\$199.94
	Professor	Debra Laefer	\$ 30,912	\$178.34	\$ 53.50		\$ -	\$231.84
	Associate Professor	Semiha Ergan	\$ 13,922	\$ 80.32	\$ 24.10		\$ -	\$104.41
	Associate Professor	Masoud Ghandehari	\$ 11,486	\$ 66.27	\$ 19.88		\$ -	\$ 86.15
	Associate Professor	Elena Prassas	\$ 11,228	\$ 64.78	\$ 19.43		\$ -	\$ 84.21
	Assistant Professor	Joseph Chow	\$ 14,522	\$ 83.78	\$ 25.13		\$ -	\$108.92
	Assistant Professor	Andrea Silverman	\$ 13,849	\$ 79.90	\$ 23.97		\$ -	\$103.87
	Assistant Professor	Chen Feng	\$ 13,256	\$ 76.48	\$ 22.94		\$ -	\$ 99.42
	Assistant Professor	Jennifer Apell	\$ 13,111	\$ 75.64	\$ 22.69		\$ -	\$ 98.34
	Industry Professor	Jose Ulerio	\$ 11,585	\$ 66.84	\$ 20.05		\$ -	\$ 86.89
	Industry Professor	Anne Ronan	\$ 13,081	\$ 75.47	\$ 22.64		\$ -	\$ 98.11
	Industry Professor	Moshen Hossein	\$ 11,398	\$ 65.76	\$ 19.73		\$ -	\$ 85.49
	Industry Professor	Weihoa Jin	\$ 11,104	\$ 64.07	\$ 19.22		\$ -	\$ 83.28
	Industry Professor	Lawrence Chiarelli	\$ 15,647	\$ 90.27	\$ 27.08		\$ -	\$117.36
Administrative	Research Professor	Frank DarConte	\$ 5,011	\$ 28.91	\$ 8.67		\$ -	\$ 37.59
	Associate Director	Judith Cooper	\$ 9,350	\$ 53.94	\$ 16.18		\$ -	\$ 70.13
	Executive Director	William Raisch	\$ 4,167	\$ 24.04	\$ 7.21		\$ -	\$ 31.25
Graduate Research Assistant	Managing Director	Shri Iyre	\$ 12,250	\$ 70.67	\$ 21.20		\$ -	\$ 91.88
	Graduate Student	Shree Preetham Garaga	\$ 3,333	\$ 19.23	\$ 5.77	\$ 9.81	\$ -	\$ 34.81