

**INTERAGENCY AGREEMENT**

between

**THE NEW YORK CITY DEPARTMENT OF (Agency Name)**

and

**THE CITY UNIVERSITY OF NEW YORK**

on behalf of

**(CUNY College Name)**

for

**(Name of Services)**

**(Dates of Duration of MOU)**

This **Interagency Agreement** (“Agreement”), is made by and between the **City of New York** (the “City”), acting through its **Department of \_\_\_\_\_** (the “Agency”), and **The City University of New York** (“CUNY”), acting on behalf of \_\_\_\_\_ (the “College”). The Agency and College are referred to individually as a “Party” and collectively as the “Parties.”

**WHEREAS**, Agency is responsible for \_\_\_\_\_  
\_\_\_\_\_ ; and

**WHEREAS**, Agency seeks to \_\_\_\_\_  
\_\_\_\_\_ consistent with  
its mission to \_\_\_\_\_ as more fully  
described herein; and

**WHEREAS**, CUNY, through the College, is willing and able to provide \_\_\_\_\_  
\_\_\_\_\_ ;

**NOW THEREFORE**, in consideration of the mutual covenants set forth herein, Agency and CUNY agree as follows:

**ARTICLE 1**  
**TERM**

The term of this Agreement shall commence on \_\_\_\_\_ and expire on \_\_\_\_\_ (“Term”), unless extended by mutual agreement of the Parties or terminated at an earlier date pursuant to Article 4 herein.

**ARTICLE 2**  
**SCOPE OF SERVICES**

During the Term, College shall be responsible for providing \_\_\_\_\_ (“Program” or “Services”) set forth in the *Scope of Work and Payment Schedule*, attached hereto and made a part hereof as Exhibit A and any modifications to Exhibit A, as mutually agreed upon by the Parties in writing. Exhibits A and B [and C, if there will be a subcontract that exceeds \$20,000 in value, and Riders, if required by Agency] are hereby attached hereto.

**ARTICLE 3**  
**COMPENSATION & PAYMENT SCHEDULE**

Agency shall pay CUNY, on behalf of the College, subject to and in accordance with the procedures and restrictions set forth in this Agreement, an aggregate amount not to exceed \_\_\_\_\_ dollars (\$ \_\_\_\_\_) for all Services to be performed during the Term, as reported to, verified and approved by Agency. All payments shall be made in accordance with the “Payment Schedule” set forth in Exhibit A and the Budget, attached hereto and made a part hereof as Exhibit B. Agency shall transfer funding to CUNY via the Intra-City budget modification process for the not to exceed aggregate amount set forth herein. The Agency shall complete the necessary IETC (internal exchange transaction intra-city) payment within thirty (30) days of the receipt of each invoice, and no later than July 31st for invoices issued during the previous fiscal year.

- A. Agency hereby grants approval for all modifications to line items in the Budget that do not exceed 10% of the value of that line item. Prior to making any reallocations or other changes that would exceed this threshold, College shall submit a written request for approval of the modification to Agency. Research Foundation of The City University of New York (“RF”) shall not make any such changes without the prior approval of Agency.
- B. This Agreement is funded in whole or in part by funds secured by Agency from the [Federal, New York State, and/or] City government[s] and is subject to the availability of such funds for each City fiscal year thereof. Should there be a reduction or discontinuance of such funds by action of the [Federal, State, and/or] City government[s], Agency shall, subject to the terms of Article 4, have, in its sole discretion, the right to terminate this Agreement or to reduce the funding and the corresponding level of Services caused by such action by the [Federal, State, and/or] City government[s] provided that all program expenditures up to the date of the termination are paid in full by Agency.
- C. Without limiting any of Agency’s other rights or remedies, and subject to the subparagraphs 1 and 2 below, Agency shall have the right to recoup payments made to RF by requiring repayment by RF in the event that RF has received monies that are reasonably determined to be prohibited under this Agreement.

1. At least thirty (30) days prior to exercising its right to recoup payments, Agency shall provide written notice to RF and CUNY setting forth the nature and amount of the payments determined by Agency to be invalid or disallowed under this Agreement and the basis for such determination.
  2. RF shall have ten (10) business days after its receipt of such written notice to respond to such Agency determination in writing. Agency shall reasonably consider RF's response, if any, and will issue its reasoned explanation for its determination within ten (10) days after the receipt of RF's response.
- D. The Parties acknowledge that pursuant to a certain Agreement dated October 20, 1983 between the RF and CUNY, the RF will act as CUNY's fiscal agent to accept payment from Agency. Each Intra-City invoice shall be signed by the RF Assistant Director of Grants and Contracts and shall include the following language: *"I hereby certify that this invoice is for articles received, services rendered or amounts expended on behalf of the City of New York, that it is correct as to price and amount, that it is necessary for the proper transaction of the business of Agency, that it was incurred solely for the benefit of the City of New York, that no part of the amount claimed herein has been previously certified, and that the amount is solely for the operation of said Program described in this invoice."*

**ARTICLE 4**  
**TERMINATION & MODIFICATION**

- A. **Termination.** This Agreement may be terminated by either Party at any time upon ninety (90) days' written notice to the other Party. In the event this Agreement is terminated, Agency will pay all costs and non-cancellable third-party obligations, provided Agency has previously consented to such costs and obligations, incurred prior to the effective date of such termination.
- B. **Modification.** This Agreement may only be amended by the mutual written consent of the Parties.

**ARTICLE 5**  
**NOTICES**

All notices required by this Agreement shall be delivered by messenger, overnight delivery service or email to the following:

**To Agency:**

Agency name and address

Attn: (name and title)

Email:

**To CUNY:**

College name and address

Attn: (name and title)  
Email:

With a Copy to:  
The City University of New York  
Office of the General Counsel  
205 East 42<sup>nd</sup> Street, 11<sup>th</sup> Floor  
New York, NY 10017  
Attn: Agency \_\_\_\_\_ MOU  
Email: [ogc@cuny.edu](mailto:ogc@cuny.edu)

**To RF - For fiscal matters:**  
Assistant Director of Grants and Contracts  
The Research Foundation of CUNY  
230 West 41<sup>st</sup> Street  
New York, NY 10036  
Attn: Kyung Hur  
Email: [Kyung\\_Hur@rfcuny.org](mailto:Kyung_Hur@rfcuny.org)

**ARTICLE 6**  
**PUBLICATION AND INTELLECTUAL PROPERTY**

- A. **Publications.** CUNY shall not publish any materials nor any work dealing with any aspect of performance under this Agreement nor any of the results and accomplishments thereof (each a “Publication”), without the prior written approval of Agency, which shall not be unreasonably withheld. In the event such permission is granted, Agency shall have a perpetual, royalty-free, non-exclusive and irrevocable license to reproduce, publish, or otherwise use, and to authorize other city agencies and government entities as well as community-based organizations partnering with Agency to use for non-commercial, public purposes only, in connection with the City’s responsibilities and consistent with its authority under the City Charter or other law, that portion of each Publication that deals with performance, results and/or accomplishments under this Agreement. In preparing any of its own materials based on a Publication, Agency will give CUNY and the principal author(s) of the Publication appropriate credit.
- B. **Scholarly Research.** Notwithstanding the foregoing, if the Publication is the result of scholarly research performed under this Agreement (a “Research Publication”), consistent with CUNY’s practice of openness in research, prior written approval of Agency will not be required before publication. Instead, prior to submitting a Research Publication for publication or before any other public disclosure, CUNY will provide Agency thirty days to review the proposed Research Publication to provide comments and to identify any confidential information of Agency that may have been inadvertently included. CUNY will consider the Agency’s comments but is under no obligation to make changes to the Research Publication to address them, except with respect to confidential information. If Agency objects to a Research Publication because of the inclusion of its confidential information, CUNY shall not publish

or otherwise disclose such Research Publication until such confidential information has been removed.

- C. Instructional materials and curricula. “Instructional Materials” shall mean curricula, syllabi and any and all other instructional materials used by CUNY in connection with its educational mission, including instructional materials and curricula created by CUNY and those created by third parties. Instructional Materials are owned by CUNY and/or others pursuant to CUNY’s Intellectual Property Policy, or are used by legal right, permission and/or license to CUNY. Any Instructional Materials to be developed and/or used in connection with the Services shall be designated and described in the *Scope of Work and Payment Schedule*, attached hereto and made a part hereof as Exhibit A (“Services Instructional Materials”). To the extent that any Services Instructional Materials are newly created or adapted by CUNY and/or paid for by Agency under this Agreement, Agency shall have a perpetual, royalty-free, non-exclusive, and irrevocable license to reproduce, publish, or otherwise use, and to authorize other city agencies and government entities as well as community-based organizations partnering with Agency to use them for non-commercial, public purposes only, in connection with the City’s responsibilities and consistent with its authority under the City Charter or other law or as otherwise specified in the *Scope of Work and Payment Schedule*, attached hereto and made a part hereof as Exhibit A. In preparing any of its own materials based on Services Instructional Materials, Agency will give CUNY and the principal author(s) of the Services Instructional Materials appropriate credit.
- D. Non-instructional materials. Any and all non-Instructional Materials created by CUNY under the terms of, or specifically for use under this Agreement, shall become the exclusive property of Agency and shall be designated and described in the *Scope of Work and Payment Schedule*, attached hereto and made a part hereof as Exhibit A. CUNY shall have a perpetual, royalty-free, non-exclusive, and irrevocable license to reproduce, publish, or otherwise use the non-Instructional Materials for its non-commercial, educational purposes or as otherwise specified in the *Scope of Work and Payment Schedule*, attached hereto and made a part hereof as Exhibit A.
- E. Representation and Warranty. To the extent that any Services Instructional Materials delivered under this agreement incorporate any materials owned by CUNY faculty members, CUNY represents and warrants that it has obtained all necessary permissions and clearances, in writing, for the use of such materials under this Agreement.

## **ARTICLE 7** **CONFIDENTIALITY**

- A. All official City files or records furnished to CUNY under this Agreement containing personally identifiable information and all of the reports, data, or information that would otherwise be protected from disclosure by the Freedom of Information Law, that have been obtained, learned, developed, or filed by CUNY or the College, shall be held confidential by CUNY and the College, and shall not be disclosed by CUNY or the College to any person, organization, agency, or entity except as required by law, including, but not limited to, the Freedom of Information Law or a lawful subpoena. It is agreed and understood that should

any confidential Agency information be requested of CUNY, and CUNY determines that disclosure is required by law, CUNY shall provide Agency ten (10) days' notice and opportunity to object to the disclosure, and if requested by the Agency and not inconsistent with CUNY's obligations under law, CUNY 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 reports, information or data. This Article shall remain in full force and effect following the termination of this Agreement.

- B. The Parties acknowledge that (a) information that may be shared in connection with the Services may include personally identifiable information from education records that are subject to the Family Educational Rights and Privacy Act/FERPA ("FERPA Records"), and (b) to the extent that information is shared in connection with the Services includes FERPA Records, CUNY will not release such information from education records, other than Directory information, without obtaining a FERPA release, in a form used by the College, from the student. It is agreed and understood that should any FERPA Records be requested of Agency, Agency shall immediately notify CUNY to determine whether disclosure is authorized or required by law.

## **ARTICLE 8** **MISCELLANEOUS**

- A. CUNY and the College agree to retain and to notify RF to retain all books, records, and other documents relevant to this Agreement for six (6) years after the final payment or termination of this Agreement whichever occurs later. City, State, and Federal auditors, and any other persons duly authorized by Agency shall have full access to and the right to examine any of the books, records, and other documents.
- B. This Agreement is subject to audit and/or inspection by Federal, State, and/or Local agencies as authorized or required by law. CUNY shall cooperate and assist with all program and fiscal monitoring, evaluation, and close-out activities and audits conducted by Agency or its designees or any other entity authorized or permitted to perform or undertake any of the foregoing.
- C. If any provision contained in this Agreement is held to be unenforceable by a court of law or equity, this Agreement will be construed as if such provision did not exist and the non-enforceability of such provision will not be held to render any other provision or provisions of this Agreement unenforceable.
- D. The Services provided under this Agreement shall be performed in accordance with all applicable provisions of Federal, State, and Local laws.
- E. This Agreement contains all the terms and conditions agreed upon by the Parties, and no other Agreement, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind either of the Parties or to vary any of its terms.

- F. In the event of a conflict between the terms and conditions of this Agreement and the provisions of the *Scope of Work and Payment Schedule* attached hereto as Exhibit A, the terms and conditions of this Agreement shall control.
- G. For purposes of this Agreement, a force majeure event is an act or event beyond the control and without any fault or negligence of CUNY or the Agency (“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 Contractor. Neither Party will be deemed to be in violation of this Agreement if it is prevented from performing any of its obligations hereunder due to strikes, failure of public transportation, civil or military authority, act of public enemy, accidents, fires, explosions, or acts of nature, including, without limitation, earth quakes, floods, winds, or storms. In such an event, the intervening cause must not be through the fault of the Party asserting such an excuse, and the excused Party is obligated to promptly perform in accordance with the terms of the Agreement after the intervening cause ceases.
- H. Subject to Article 3.D, neither CUNY nor the College will assign, transfer or delegate any rights, obligations or duties under this Agreement without the prior written consent of the City. Such prior written consent will not be unreasonably withheld, delayed, or conditioned.
- I. Any subcontractors engaged to deliver direct Services pursuant to this Agreement shall be selected in accordance with applicable procurement regulations. CUNY shall direct the RF to forward to Agency a fully-executed original copy or a PDF of an approved subcontract. Subcontracts shall comply with all applicable provisions of this Agreement. For avoidance of doubt, nothing contained herein requires CUNY or the RF to comply with City procurement rules. Agency hereby grants approval for all subcontractors providing services covered by this Agreement pursuant to a subcontract in an amount that does not exceed \$20,000. Prior to entering into any subcontract for an amount greater than \$20,000, the RF shall submit a written request for the approval of the proposed subcontractor to the Agency. RF shall not enter into any subcontract for an amount greater than \$20,000 without the prior written approval of the Agency on Exhibit C hereto.
- J. In the event that CUNY requires any subcontractor to maintain insurance with regard to any operations under this Agreement and requires such subcontractor to list CUNY as an additional insured under such insurance, CUNY shall require that such entity also list the City, including its officials and employees as an additional insured.
- K. [For contracts involving federal funds: Consistent with 2 CFR Part 200, vendor agreements for this project pertaining to indirect services (i.e., services not already related to program delivery) do not require Agency approval. CUNY shall confer with Agency to confirm that an agreement with a third party is an indirect vendor agreement prior to submitting a request to RF for such third-party agreement. CUNY shall direct the RF to forward Agency a copy of the signed agreement as documentation for allowable costs. For the avoidance of doubt, the Parties understand that copies of signed contracts or other applicable documents may be requested by Agency to substantiate payment or reimbursement for allowable costs and expenses.]

L. The Parties hereto represent and warrant that the person executing this Agreement on behalf of each party has full power and authority to enter into this Agreement and that the Parties are authorized by law to perform the Services set forth in the Agreement.

*[remainder of page intentionally left blank]*



**IN WITNESS WHEREOF**, the Parties hereto have executed this Agreement on the dates appearing below their respective signatures.

**NEW YORK CITY DEPARTMENT  
OF \_\_\_\_\_**

By: \_\_\_\_\_

Name:

Title:

Date: \_\_\_\_\_

**THE CITY UNIVERSITY OF NEW YORK  
on behalf of \_\_\_\_\_ College**

APPROVED AS TO FORM

\_\_\_\_\_  
The City University of New York  
Office of the General Counsel  
Date: \_\_\_\_\_

By: \_\_\_\_\_

Name:

Title: General Counsel and Vice Chancellor  
for Legal Affairs

Date: \_\_\_\_\_

**EXHIBIT A**  
**SCOPE OF WORK**  
**PAYMENT SCHEDULE**

I. **SCOPE OF WORK**

II. **PAYMENT SCHEDULE**

**EXHIBIT B**  
**BUDGET**

1. **Fiscal Year Start:**
2. **Total Maximum Budget:**

<b>Personnel</b>	
<b>Description</b>	<b>Cost</b>
<b>Total Wages</b>	
<b>Total Fringe</b>	
<b>Total Direct Personnel Costs</b>	
<b>OTPS</b>	
<b>Description</b>	<b>Cost</b>
<b>Total OTPS</b>	
<b>Totals</b>	
<b>Description</b>	<b>Cost</b>
<b>Total Direct Cost</b>	
<b>Total Indirect Cost</b>	
<b>Grand Total</b>	

**EXHIBIT C**  
**[To Be Used For Subcontracts that Exceed \$20,000]**

**NEW YORK CITY DEPARTMENT OF (“Agency”) CUNY SUBCONTRACTOR**  
**APPROVAL FORM**

In connection with receiving New York City, New York State, or Federal funds through Agency, The City University of New York (“CUNY”) and/or CUNY Research Foundation (“RF”) intend to use the services of the vendor/consultant named below (“Subcontractor”) to assist CUNY in the performance of its obligations under its Interagency Agreement with Agency (“Agreement”). CUNY represents that its agreement with the Subcontractor will be in a form that complies with all material terms and conditions of the Agreement and will include any attachments or riders required by Agency and the source of funding. CUNY further represents that upon Agency’s approval of its proposed Subcontractor as evidenced by Agency signature below, CUNY or the RF will conduct all required reviews of the Subcontractor to ensure that the Subcontractor has the requisite responsibility and business integrity to receive public funding. **Agency** Approval is subject to CUNY and/or the RF’s compliance with all applicable procurement requirements with respect to selection and review of Subcontractor.

Name of Prime Contractor:

\_\_\_\_\_

EIN:

\_\_\_\_\_

Pin:

\_\_\_\_\_

Name of Sub-Contractor:

EIN:

\_\_\_\_\_

Sub-Contract Term:

\_\_\_\_\_

Sub-Contract Amount:     \$

\_\_\_\_\_

**APPROVED BY**

**AGENCY PROGRAM UNIT**

Program Manager:

\_\_\_\_\_  
(Print Name)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)

Telephone:

\_\_\_\_\_