

NEW YORK CITY HOUSING AUTHORITY
MICRO PURCHASE ORDER REQUEST (Under \$10K)
Professional Services

Requestor Name & Contact Number: _____ Department/Development: _____

Detailed Description of Work Required (An itemized list of material and labor must be included): (THIS SECTION TO BE COMPLETED BY NYCHA REPRESENTATIVE)

If Additional Detailed Description of Work Required, please continue on page 2.

THIS SECTION TO BE COMPLETED BY VENDOR WITH AN ATTACHED ITEMIZED QUOTE:

VENDOR NAME: _____ FEDERAL TAX I.D. NO.: _____

VENDOR ADDRESS: _____
Street City State Zip Code

E-Mail: _____ TELEPHONE NO.: _____

QUOTE VALID UNTIL: _____

ANTICIPATED START DATE: _____ ANTICIPATED END DATE: _____

The following is the proposal (the "Proposal") for above mentioned scope of work (the "work"):

MATERIAL COST: (Total must be itemized on the quote) \$ _____
 LABOR COST: (Total-must be itemized (titles & rates) on quote) \$ _____
 OVERHEAD \$ _____
 PROFIT: \$ _____
TOTAL COST: \$ _____

- I acknowledge receipt of NYCHA's Terms & Conditions
- The undersigned hereby proposes, on behalf of the Vendor, to furnish all labor, materials, equipment, permits, insurance, pay all applicable taxes and perform all obligations necessary to perform the Work in accordance with the Contract as defined below. The undersigned further understands and agrees that if NYCHA accepts such Proposal, NYCHA shall award a purchase order (the "Purchase Order"), signed by NYCHA, to the Vendor for the Work and such Purchase Order shall constitute NYCHA's acceptance of Vendor's Proposal and, such Purchase Order, together with the Proposal and NYCHA's Contract Terms and Conditions (the receipt of which has been acknowledged above by Vendor), shall form a binding contract between NYCHA and the Vendor (the "Contract"). The undersigned hereby certifies that it is authorized on behalf of the Vendor to bind the Vendor to such Contract.

NAME OF VENDOR REPRESENTATIVE SUBMITTING THIS QUOTE:

Print Name, Title (authorized to bind the Vendor) Signature Date

Required Documents (For NYCHA use ONLY)

Requestor received the following with quote:

| YES | N/A | REQUIRED INFORMATION | COMMENT |
|-----|-----|---|---------|
| | | Copy of unexpired applicable license | |
| | | Copy of current insurance certificate | |
| | | Completed Section 3 Acknowledgment (must be attached) | |
| | | Completed Debarment Certification (must be attached) | |

Print Name, Title Signature Date

[Empty box for Additional Detailed Description of Work Required]

NYCHA GENERAL TERMS AND CONDITIONS

Table of Contents

| | | |
|-----|---|----|
| 1. | GENERAL WARRANTY AS TO PERFORMANCE..... | 1 |
| 2. | NON-DISCRIMINATION | 1 |
| 3. | EMPLOYMENT, TRAINING, AND CONTRACTING OPPORTUNITIES FOR LOW-INCOME PERSONS, SECTION 3 OF THE HOUSING AND URBAN DEVELOPMENT ACT OF 1968..... | 3 |
| 4. | COVENANT AGAINST FEES FOR SOLICITATION | 4 |
| 5. | WARRANTY OF NO DISABILITY; WARRANTY OF REQUIRED APPROVALS..... | 4 |
| 6. | OFFICIALS NOT TO BENEFIT | 4 |
| 7. | INTEREST BY MEMBERS OF LOCAL AUTHORITY AND LOCAL GOVERNING BODY | 5 |
| 8. | COMPLIANCE WITH LAWS | 5 |
| 9. | COMPLIANCE WITH ENVIRONMENTAL LAWS AND ENERGY STANDARDS..... | 6 |
| 10. | INSURANCE REQUIREMENTS..... | 6 |
| 11. | INDEMNIFICATION..... | 9 |
| 12. | DEFENSE AND SETTLEMENT OF MATTERS TO WHICH INDEMNITY PROVISIONS APPLY..... | 9 |
| 13. | FINAL PAYMENT AND RELEASE..... | 10 |
| 14. | RIGHT TO AUDIT; MAINTENANCE OF BOOKS AND RECORDS..... | 10 |
| 15. | OWNERSHIP OF WORK | 10 |
| 16. | PROMOTIONAL LITERATURE..... | 11 |
| 17. | CONFIDENTIALITY | 11 |
| 18. | ASSIGNMENT; DELEGATION AND SUBCONTRACTING..... | 16 |
| 19. | SUSPENSION OF SERVICES..... | 17 |
| 20. | TERMINATION OF AGREEMENT FOR CONVENIENCE..... | 17 |
| 21. | TERMINATION OF AGREEMENT OTHER THAN FOR CONVENIENCE..... | 17 |
| 22. | INVESTIGATIONS; CANCELLATION AND DISQUALIFICATION UNDER CERTAIN CIRCUMSTANCES | 18 |
| 23. | CHANGED CIRCUMSTANCES..... | 20 |
| 24. | DISPUTES | 20 |
| 25. | NEW YORK LAW..... | 20 |
| 26. | LIMITATION OF ACTIONS; WAIVER OF TRIAL BY JURY | 21 |
| 27. | DAMAGES | 21 |
| 28. | SEVERABILITY | 21 |
| 29. | MODIFICATION; AMENDMENT OR SUPPLEMENT | 21 |
| 30. | ARM’S-LENGTH TRANSACTION -- WAIVER OF CONTRA PROFERENTEM RULE | 22 |
| 31. | NO BRIBE, KICKBACK OR OTHER INDUCEMENT..... | 22 |
| 32. | PROHIBITION ON USE OF TROPICAL HARDWOODS..... | 22 |
| 33. | NYCHA’S RIGHT TO WITHHOLD MONEY OUT OF PAYMENTS..... | 22 |

| | | |
|-----|--|----|
| 34. | CONTRACTING WITH MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES..... | 22 |
| 35. | CHANGES | 23 |
| 36. | ORGANIZATIONAL CONFLICTS OF INTEREST..... | 23 |
| 37. | CONSULTANT’S STATUS..... | 24 |
| 38. | OTHER CONSULTANTS | 24 |
| 39. | LIENS | 24 |
| 40. | PROCUREMENT OF RECOVERED MATERIALS | 24 |
| 41. | LIMITATION ON PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS | 24 |
| 42. | DEBARMENT AND SUSPENSION | 28 |
| 43. | BYRD ANTI-LOBBYING AMENDMENT | 28 |
| 44. | HUD REPORTING REQUIREMENTS..... | 29 |
| 45. | PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT | 29 |
| 46. | DOMESTIC PREFERENCES FOR PROCUREMENTS..... | 29 |
| 47. | INTELLECTUAL PROPERTY INFRINGEMENT..... | 30 |

1. GENERAL WARRANTY AS TO PERFORMANCE

Consultant shall use its best efforts and professional skills in accordance with applicable professional standards and with the terms of the Agreement in order to perform and complete the Services.

2. NON-DISCRIMINATION

- (a) In connection with performance of the Services, Consultant shall not discriminate against employees or applicants for employment because of age, alienage or citizenship status, color, creed, physical or mental disability (in regard to any position for which the employee or applicant for employment is qualified), gender (including sexual harassment), marital or familial status, military service, national origin, prior arrest record, race, religion, sex, sexual orientation, gender identity, and status as a victim of domestic violence or for any other unlawful reason.
- (b) Consultant shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their age, alienage or citizenship status, color, creed, physical or mental disability (in regard to any position for which the employee or applicant for employment is qualified), gender (including sexual harassment), marital or familial status, military service, national origin, prior arrest record, race, religion, sex, sexual orientation, gender identity, and status as a victim of domestic violence or for any other unlawful reason. Such action shall include, but not be limited to, (i) employment, (ii) upgrading, (iii) promotion, award of tenure, demotion, (iv) transfer, (v) recruitment or recruitment advertising, (vi) layoff or termination, right of return from layoff and rehiring (vii) rates of pay or other forms of compensation and changes in compensation, (viii) selection and financial support for training, including apprenticeship, professional meetings, conferences, and other related activities, and selection for leaves of absence to pursue training, (ix) job assignments, job classifications, organizational structures, position descriptions, lines of progression, and seniority lists, (x) leaves of absence, sick leave, or any other leave, (xi) fringe benefits available by virtue of employment (xii) activities sponsored by the Consultant including social or recreational programs, and (xiii) any other term, condition, or privilege of employment.
- (c) Consultant shall, in all solicitations or advertisements for employees placed by or on behalf of Consultant, state that all qualified applicants will receive consideration for employment without regard to age, alienage or citizenship status, color, creed, physical or mental disability (in regard to any position for which the employee or applicant for employment is qualified), gender (including sexual harassment), marital or familial status, military service, national origin, prior arrest record, race, religion, sex, sexual orientation, gender identity, and status as a victim of domestic violence or for any other unlawful reason. Consultant shall send, to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, the notice to be provided by NYCHA advising the labor union or workers' representative of Consultant's commitments under this Section 2 and section 503 of the Rehabilitation Act of 1973, as amended, and post copies of the notice in conspicuous places available to employees and applicants for employment.

The Consultant agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the Director, Office of Federal Contract Compliance Programs (such form(s) can be found at <https://www.dol.gov/agencies/ofccp/posters> (last visited August 11, 2022)). Such notices shall state the rights of applicants and employees as well as the Consultant's

obligation under the law to take affirmative action to employ and advance in employment qualified employees and applicants with disabilities.

The Consultant must ensure that applicants or employees with disabilities are provided the notice in a form that is accessible and understandable to the individual applicant or employee (e.g., providing Braille or large print versions of the notice, or posting a copy of the notice at a lower height for easy viewing by a person using a wheelchair). With respect to employees who do not work at a physical location of the Consultant, Consultant will satisfy its posting obligations by posting such notices in an electronic format, provided that the Consultant provides computers, or access to computers, that can access the electronic posting to such employees, or the Consultant has actual knowledge that such employees otherwise are able to access the electronically posted notices. Electronic notices for employees must be posted in a conspicuous location and format on the company's intranet or sent by electronic mail to employees. An electronic posting must be used by the Consultant to notify job applicants of their rights if the Consultant utilizes an electronic application process. Such electronic applicant notice must be conspicuously stored with, or as part of, the electronic application.

- (d) Consultant shall not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the Consultant's legal duty to furnish information.
- (e) Consultant shall comply with Executive Order 11246, as amended, and the rules, regulations, and orders of the Secretary of Labor.
- (f) Consultant shall furnish all information and reports required by Executive Order 11246, as amended and by rules, regulations and orders of the Secretary of Labor, or pursuant thereto. Consultant shall permit access to its books, records, and accounts by the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- (g) In the event of a determination that Consultant is not in compliance with this Section 2 or any rule, regulation, or order of the Secretary of Labor, the Agreement may be canceled, terminated, or suspended in whole or in part, and Consultant may be declared ineligible for further government contracts, or federally assisted construction contracts under the procedures authorized in Executive Order 11246, as amended. In addition, sanctions may be imposed and remedies invoked against Consultant as provided in Executive Order 11246, as amended, the rules, regulations, and orders of the Secretary of Labor, or as otherwise provided by law.
- (h) Consultant shall include the terms and conditions of this Section 2 [i.e., provisions equivalent to those set forth in paragraphs (a) through (g) of this Section] in every subcontract or purchase order, and cause its Subcontractors (as hereinafter defined) to include the same in all of their subcontracts, at every tier, unless exempted by the rules, regulations, or orders of the Secretary of Labor issued under Executive Order 11246, as amended, or orders of the Secretary issued pursuant to section 503 of the Rehabilitation

Act of 1973, as amended, so that these terms and conditions will be binding upon each of its subconsultants, subcontractors or vendors (“**Subcontractor(s)**”) and all subcontractors or subconsultants of the Subcontractors at all tiers performing Services or supplying materials or supplies under the Agreement. Consultant shall take such action with respect to any subcontract or purchase order as the Secretary of the Department of Housing and Urban Development (“**HUD**”), the Secretary of Labor, or the Director of the Office of Federal Contract Compliance Programs may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided that if Consultant becomes involved in, or is threatened with, litigation with a Subcontractor as a result of such direction, Consultant may request the United States to enter into the litigation to protect the interests of the United States.

3. EMPLOYMENT, TRAINING, AND CONTRACTING OPPORTUNITIES FOR LOW-INCOME PERSONS, SECTION 3 OF THE HOUSING AND URBAN DEVELOPMENT ACT OF 1968

Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (“**Section 3**”) ensures that employment and other economic opportunities generated by HUD financial assistance shall be directed to low- and very low-income persons, particularly those who are recipients of government assistance for housing. Consultant agrees to comply with the HUD regulations in 24 Code of Federal Regulations (“**CFR**”) part 75 that implement Section 3 (“**24 CFR 75**”), as applicable to the Services. Specifically, Consultant shall make, and cause its Subcontractors to make, best efforts to provide employment and training opportunities generated by the Services to Section 3 workers and to award contracts and subcontracts to business concerns that provide economic opportunities to Section 3 workers, and shall include contract language requiring compliance with Section 3 in any Subcontracts used to perform the Services. During the Term, Consultant shall report to NYCHA the number of paid hours Section 3 worker(s) spent performing Services pursuant to the Agreement in accordance with NYCHA’s reporting requirements. The Consultant acknowledges and agrees that the Section 3 regulations in 24 CFR part 75: (a) replace, in their entirety, the Section 3 regulations formerly set forth in 24 CFR 135 and therefore in the event of any conflict between the regulations and requirements set forth in 24 CFR 75 and 24 CFR 135 the regulations and requirements set forth in 24 CFR 75 shall prevail, notwithstanding any reference to 24 CFR 135 that may be set forth in the Agreement; and (b) are incorporated by reference into the Agreement and the obligations and requirements in 24 CFR 75 shall be fully, and contractually, binding on the Consultant notwithstanding the funding source for payments made to the Consultant pursuant to the Agreement. For the avoidance of doubt:

- (a) if NYCHA pays Consultant with funds which are not subject to 24 CFR 75, then regardless of the inapplicability by statute of Section 3 to the Agreement and Services, the Consultant shall have the contractual obligation under the Agreement to comply with the requirements of 24 CFR 75 as if 24 CFR 75 applied to the Agreement and Services; and
- (b) if the Services performed under the Agreement are, or include, professional Services which may or may not require an advanced degree or professional license (collectively, “**Professional Services**”), then the Consultant is contractually obligated, regardless of the applicability of the Section 3 regulations to the Services by statute, to:
 - (i) report to NYCHA the number of paid hours Section 3 worker(s) spent performing Services pursuant to the Agreement in accordance with NYCHA’s reporting requirements, including, but not limited to, paid hours of Professional Services, and

- (ii) if the Consultant does not hire Section 3 worker(s) to perform the Professional Services under the Agreement, the Consultant shall submit to NYCHA with its proposal submission or as otherwise directed by NYCHA, its Section 3 Other Economic Opportunities Plan (or such other NYCHA reporting form) (“**OEO Plan**”) for NYCHA’s review and approval. Consultant shall comply with the approved OEO Plan, as such may be modified and revised by Consultant at the direction and approval of NYCHA’s Resident Economic Empowerment and Sustainability Department (or such other NYCHA department charged with the administration and oversight of the OEO Plan). Such final NYCHA approved OEO Plan shall be incorporated by reference into the Agreement and made a part thereof without further action on the part of the Parties.

4. COVENANT AGAINST FEES FOR SOLICITATION

Consultant warrants that it has not employed any third party to solicit or secure the Agreement based upon any agreement calling for any payment for such services, including, without limitation, the payment of a commission, percentage, credit or contingent fee (collectively referred to as a “**Commission**”). Breach of this warranty gives NYCHA the right to immediately terminate the Agreement or, at its discretion, to deduct from Consultant’s compensation the amount of such Commission.

5. WARRANTY OF NO DISABILITY; WARRANTY OF REQUIRED APPROVALS

- (a) Consultant represents and warrants that it is not now under any disability, by reason of (i) contractual restriction on its employment, (ii) custom or practice, (iii) a filing by (or against) Consultant for protection under the United States Bankruptcy Code, or (iv) any other legal or financial obligation imposed on or incurred by Consultant, which would prevent it from the full, faithful and timely completion of the Services. Consultant covenants that, during the Term it shall not incur any such disability, nor permit such disability to exist.
- (b) Consultant represents and warrants that: (i) it has obtained any and all permits, registrations, licenses, and any other third party consents and approvals that are necessary for Consultant to perform the Services (collectively, “**Approvals**”) and all such Approvals are currently in full force and effect and shall be in full force and effect for as long as Consultant has any obligation to perform the Services; and (ii) Consultant’s performance of the Services and/or the creation and delivery of any product in connection therewith will not infringe upon, violate, or breach any law, regulation, third party rights (including, without limitation, any third party intellectual property or proprietary rights) or any third party agreement.

6. OFFICIALS NOT TO BENEFIT

No member of, or delegate to, the Congress of the United States or the New York State or City government, or Member of NYCHA (as defined below), shall be permitted by Consultant to any share or part of the Agreement or any benefit that may arise from the Agreement, but this provision shall not be construed to extend to the Agreement if made with a corporation for its general benefit. For purposes of these NYCHA General Terms and Conditions, the term “**Member(s)**” shall refer to the individuals appointed by the mayor of the City of New York (the “**City**”) to NYCHA pursuant to Section 402(3) of the Public Housing Law.

7. INTEREST BY MEMBERS OF LOCAL AUTHORITY AND LOCAL GOVERNING BODY

No Member, officer or employee of NYCHA, no member of the governing body of the jurisdiction in which NYCHA is situated and no other public official of such locality or localities who exercises any functions or responsibilities with respect to the Services covered by the Agreement may, during his or her tenure and for one year after such tenure, have any interest, direct or indirect, in the Agreement or the proceeds thereof.

8. COMPLIANCE WITH LAWS

(a) Consultant represents and warrants that: (a) it is, and shall remain during the Term, in compliance with all applicable laws, ordinances and codes of the federal, state and local governments which are directly or indirectly related to the Services, and (b) it shall perform the Services in compliance with all rules, regulations and orders of any governmental authority or agency having jurisdiction over, or interest in, NYCHA or the Agreement.

(b) Subcontractor Compliance

- i. The Consultant represents and warrants that its Subcontractors, and all subcontractors or sub-consultants of the Subcontractors at all tiers performing Services or supplying materials or supplies under the Agreement, including, but not limited to, their employees, consultants, sub-consultants, suppliers (including, but not limited to, suppliers of materials, goods, supplies, equipment or otherwise), agents, and volunteers (such employees, consultants, sub-consultants, suppliers, agents, and volunteers hereinafter referred to as the “**Party(ies) Performing Services**”) (i) are, and shall remain for so long as this Agreement is in effect, in compliance with all applicable laws, ordinances and codes of the federal, state and local governments which are directly or indirectly related to the Services, including, but not limited to, licensing and compliance requirements, and (ii) shall perform the Services in compliance with all applicable laws, rules, regulations, ordinances and codes of the federal, state and local governments or agency having jurisdiction over, or interest in, NYCHA or the Agreement, including, but not limited to all provisions of New York State Labor Law and Public Health Law. The Consultant is fully responsible for all Subcontractors’ of all tiers, and the Parties Performing Services’ compliance with the terms of this Agreement and the acts or omissions of all Subcontractors of all tiers and the acts or omissions of the Parties Performing Services.
- b. The Consultant shall cause all Subcontractors of all tiers and all of the Parties Performing Services to comply with, all applicable laws, rules, regulations, ordinances, and codes of the federal, state and local governments, or any agency having jurisdiction over, or interest in, NYCHA or the Agreement, including, but not limited to, all licensing and compliance requirements related and applicable to the Agreement and the performance of the Services and all provisions of New York State law including, but not limited to, the Labor Law and the Public Health Law.
- c. NYCHA and the Consultant are the only parties to the Agreement. No subcontract and no approval of any Subcontractor of any tier, or Party Performing Services, shall create or be deemed to create any rights in favor of such Subcontractor or Party Performing Service against NYCHA or create any contractual relationship between NYCHA and any Subcontractor or any of the Parties Performing Services. The Consultant shall ensure and cause all Subcontractors of any tier and Parties Performing Services under the Agreement, to fully (i) perform the Services in strict accordance with the requirements of the Agreement, and (ii) abide by all terms and conditions of the Agreement. The Consultant shall be responsible and

liable for any breach, default, or failure on the part of a Subcontractor of any tier and/or any Parties Performing Services to comply with the foregoing requirements.

9. COMPLIANCE WITH ENVIRONMENTAL LAWS AND ENERGY STANDARDS

Consultant agrees to comply with: (a) all applicable standards, orders or requirements of the Clean Air Act, as amended (42 U.S.C. Section 7602) [formerly 42 U.S.C. Section 1857(h)], the Clean Water Act, as amended (33 U.S.C. Section 1368), Executive Order 11738 and all implementing regulations promulgated by the Environmental Protection Agency (40 CFR Part 15); and (b) all mandatory standards and policies relating to energy efficiency contained in the New York State energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163), and any other applicable laws or amendments thereto.

10. INSURANCE REQUIREMENTS

The Consultant shall obtain and maintain throughout the Term of the Agreement the types and amounts of insurance outlined in **Rider 1** hereto compliant with the terms and conditions therein as well as each of the following terms and conditions:

- (a) **No Services or Scope of Work Excluded** - Insurance policies shall not exclude claims arising out of or in any way related to the Services, scope of work or operations contemplated within the scope of this Agreement whether or not such Services, scope of work, or operations are performed directly by the Consultant, its Subcontractors, the subcontractors or sub-consultants of the Subcontractors at all tiers performing Services or supplying materials or supplies under the Agreement, or by any Parties Performing Services.
- (b) **Severability of Interests - No Employer Exclusions** - Liability insurance policies required by this Agreement must not exclude coverage to NYCHA and NYCHA's Related Parties (as hereinafter defined) as additional insureds for any claim, which alleges or in any way involves the injury to the Consultant, the Consultant's employees or the owners or employees of any Subcontractor, the Subcontractor's subcontractors or sub-consultants at all tiers performing Services or supplying materials or supplies under the Agreement, or any Party Performing Services which may occur in the course of performing Services pursuant to the Agreement. Liability insurance policies must include an industry standard "Severability of Interests" or "Separation of Insureds" clauses providing that no policy exclusion, term or condition applicable to the Consultant shall affect the availability of coverage to any additional insured. "NYCHA's Related Parties" shall include any entity or individual for whom, pursuant to contract or law, NYCHA has an obligation to defend, indemnify and/or hold harmless from "Indemnified Losses" (as defined in Section 11(b) below) arising out of the Services including, without limitation, NYCHA's agents, Members (as defined in Section 6 above), employees, successors, assigns, business and government affiliates and partners.
- (c) **Change in Risk** - NYCHA reserves the right to revise the types and amounts of insurance required due to any material change in the services, scope of work or operations which may increase the potential liability of any party, as determined at NYCHA's sole discretion.
- (d) **Compliance** - Certificates of Insurance and supplementary documentation demonstrating compliance with these requirements shall be submitted (i) upon execution of this Agreement, (ii) upon each required insurance policy renewal, and (iii) upon demand of NYCHA. Consultant shall deliver to NYCHA or its designee, or cause

its licensed or certified insurance professionals to deliver to NYCHA or its designee, Certificates of Insurance and supplementary documentation certifying compliance with any and all requirements as and when required by NYCHA, including via online submission and certification (including E-signature) of such documents or via email delivery. Insurance documentation sent through the mail will not be considered received or accepted by NYCHA unless delivered in accordance with the specific directions of NYCHA or its designee.

Requirements may only be waived by NYCHA's Risk Management Department, General Counsel, or Office of the Chair.

However, NYCHA will grant the following pre-defined conditional waivers:

1. **Auto Liability Insurance Waiver** – will be granted provided Consultant covenants in writing that no vehicles will be used by Consultant, Subcontractor, any of the Subcontractor's subcontractors or sub-consultants at all tiers performing Services or supplying materials or supplies under the Agreement, or any Party Performing Services on or from any NYCHA property during the Term of this Agreement.
2. **Workers Compensation Waiver** – if Consultant (i) is a sole proprietor, (ii) has no employees or staff of any type, (iii) is legally exempt from New York State Workers Compensation Law, and (iv) only works with contractors insured for Workers Compensation in compliance with New York State law, then NYCHA will accept New York State's CE-200 form, or any successor and equivalent form authorized by the State of New York, in lieu of the required Workers Compensation insurance.

(e) Insurance Compliance Failure - Failure to maintain required insurance coverage for the duration of the Agreement and any extension thereof, shall be deemed a breach of the Agreement. In the event of failure to maintain the required insurance, and in addition to any other rights and remedies available under the Agreement, at law or in equity, NYCHA reserves the right at its sole discretion to withhold payment, stop Services or terminate this Agreement.

(f) Insurers – All insurance must be underwritten by insurance companies that are licensed, admitted, approved, or otherwise legally permitted to transact insurance business in the state of New York and which have a minimum AM Best policyholder rating of A- or greater and a minimum AM Best financial size category of VII or greater. Insurance may alternately be underwritten by a Lloyd's of London syndicate or surplus lines insurers authorized to underwrite business in the State of New York.

(g) High Retention or Deductible / Self-Insurance & Alternative Risk Financing – Insurance policies with retentions or deductibles in excess of fifty thousand dollars (\$50,000) or insurance programs including self-insurance, captive insurance, participation in risk purchasing groups or other alternative risk financing mechanisms must be disclosed to and approved by NYCHA's Risk Management Department prior to being utilized to satisfy the requirements of this Agreement.

(h) Notice of Cancellation – Where commercially available, each insurance policy must be endorsed to provide that such policy may not be canceled without at least thirty (30) days' prior written notice to NYCHA for any reason excepting non-payment of premium for which policy must provide ten (10) days prior written notice of cancellation.

- (i) **Types of Insurance** – Insurance requirements may be satisfied through any combination of primary and excess insurance which is otherwise compliant with these requirements.
- (j) Blanket insurance policies covering the Services along with other locations and operations of the Consultant are permissible, provided such policies are otherwise compliant with these requirements.
- (k) **Claims-Made Insurance** – If the Consultant maintains required insurance on a Claims-Made basis, meaning any insurance triggered by the date of the filing of a claim as opposed to the date of the occurrence of a covered loss, then such insurance coverage must remain in effect throughout the statute of limitations applicable to any claims which may be made under that policy, whether or not compliance is monitored by NYCHA.
- (l) **Minimum Limits** – The limits of insurance required herein are the minimum required by NYCHA and does not cap or limit Consultant’s liability under this Agreement. Such minimum limits do not cap or limit NYCHA’s right to seek any available coverage or protection under the insurance policies of the Consultant, whether or not required herein.
- (m) **NYCHA’s Insurance** – Consultant acknowledges that NYCHA may maintain insurance policies or self-insurance funds which address NYCHA’s liability and other risk exposure with respect to the Services. Consultant acknowledges that neither Consultant, Subcontractor, the Subcontractor’s subcontractors or sub-consultants at all tiers performing Services or supplying materials or supplies under the Agreement, or Parties Performing Services, nor the insurers thereof have any right to or expectation of insurance coverage, protection or proceeds from NYCHA’s insurance policies or self-insurance funds.
- (n) **Subcontractors** – Consultant shall require by contract, and shall enforce the requirement that Subcontractors obtain and maintain no less than one million (\$1,000,000) per occurrence or accident in General Liability and Auto Liability insurance limits, as well as statutorily required Workers Compensation insurance policies, subject to all of the same terms and conditions and providing equivalent protection to NYCHA as required of Consultant by this Agreement, with such insurance being applicable to any incident or occurrence arising from the acts or omissions of the Subcontractor with respect to the Services or this Agreement.

If applicable per (n)1 and 2 below, Consultant shall require by contract, and shall enforce the requirement that Subcontractor obtain and maintain the following additional types and amounts of insurance:

1. Professional Liability Insurance of no less than one million dollars (\$1,000,000) per claim applicable to licensed or specialized professional services of design, architecture or engineering or legal, financial or medical services being provided by the Subcontractor.
2. Pollution Legal Liability Insurance of no less than one million dollars (\$1,000,000) per claim or incident for any treatment, handling, transport or abatement of hazardous material performed by the Subcontractor. This insurance must name NYCHA as an additional insured.

It shall be Consultant’s sole responsibility to monitor and enforce the compliance of Subcontractors with the provisions of this section. Consultant shall provide to NYCHA evidence and documentation of such compliance as and when requested by NYCHA.

11. INDEMNIFICATION

- (a) **Indemnification.** To the fullest extent permitted by law, the Consultant hereby agrees to indemnify, defend (with counsel reasonably acceptable to NYCHA), and hold NYCHA, and NYCHA's Related Parties harmless from and against all "**Indemnified Losses**" (as defined below) that may arise against NYCHA and NYCHA's Related Parties arising out of or in any way related to the acts or omissions of the Consultant, or the acts or omissions of its employees, agents, licensees, invitees, contractors, Subcontractors, any of Subcontractor's subcontractors or sub-consultants at all tiers performing Services or supplying materials or supplies under the Agreement, any Parties Performing Services, or any other entity or person involved in providing the Services under the Agreement except to the extent, and only to the extent, such losses arise from the acts or omissions of NYCHA.
- (b) "**Indemnified Losses**" are defined as damages, losses, liabilities, costs, expenses, obligations, penalties, fines, impositions, fees, interest, attorneys' fees (including any attorneys' fees incurred in enforcing this indemnity), consultants' fees, expert fees, levies, a decline in value, lien removal or bonding costs, claims, litigation, demands, defenses, judgments, suits, proceedings, disbursements, and settlements, of any kind and nature whatsoever.
- (c) The Consultant hereby covenants and agrees that the obligations, indemnities and liabilities of the Consultant in this Section shall:
1. incept upon the Effective Date of this Agreement and shall survive the expiration, revocation, termination or expiration of this Agreement;
 2. be triggered by notice to Consultant by NYCHA, which shall include a summary of the details of the Indemnified Loss as known to NYCHA at the time of notice and NYCHA's direction as to how Consultant shall indemnify, defend or hold NYCHA harmless including, without limitation the reimbursement of costs, the assumption of legal defense and/or the extension of insurance coverage. The Consultant shall respond within ten (10) business days affirming the Consultant's agreement therewith or advising the NYCHA of any dispute or reservation of rights with respect to the Indemnified Loss. If NYCHA seeks legal defense from the Consultant or its insurer under this Agreement, NYCHA shall provide all reasonable cooperation requested by the Consultant, its insurer or either of their respective attorneys;
 3. not be limited in any way to the availability or applicability of insurance available to the Consultant or Subcontractor, whether or not such insurance is required under this Agreement; and
 4. apply in addition to any other indemnification provided herein.

12. DEFENSE AND SETTLEMENT OF MATTERS TO WHICH INDEMNITY PROVISIONS APPLY

NYCHA agrees to notify Consultant of any action or claim with respect to which the indemnity provisions of the prior Section may apply. Consultant shall have the obligation to conduct the defense and settlement of such actions or claims at NYCHA's option; provided, however, that (a) if there is a reasonable probability that any action or claim for which Consultant is to provide indemnity to NYCHA hereunder may adversely affect NYCHA or any of its Members, officers, employees or agents (other than as a result of money damages or other money payments), NYCHA then has the exclusive right to defend, compromise or settle such action or claim; and (b) Consultant must

not, without NYCHA's prior written consent, settle or compromise, or consent to the entry of any judgment in connection with, any such action or claim, if such settlement, compromise or judgment; (i) does not include as an unconditional term thereof an unconditional release of NYCHA and its Members, officers, employees and agents by the claimant or the plaintiff, from all liability regarding such action or claim; and/or (ii) requires NYCHA (or any of its Members, officers, employees and/or agents) to make any admission, acknowledgment, or acceptance of any wrongdoing, negligence, or other liability.

13. FINAL PAYMENT AND RELEASE

Prior to NYCHA's final payment to Consultant, whether upon completion of the Services or as a result of NYCHA's right to terminate the Agreement as provided in the Agreement, and as a condition precedent to such final payment, Consultant must execute and deliver to NYCHA, in a form acceptable to NYCHA, a release by Consultant of NYCHA from all claims against NYCHA arising under and by virtue of the Agreement, other than such good-faith claims, if any, reasonably believed by Consultant to be owed, as may be specifically excepted by Consultant in stated amounts set forth in the release. In the event that a release is not forthcoming to NYCHA, the acceptance, without formal written exception, by Consultant of a check with notice advising that the check is designated as "Final Payment" is, and operates as, a release of NYCHA from any and all claims by, and all liability to, Consultant in connection with the Services and for every act, omission and neglect of NYCHA and others relating to or arising out of the Agreement.

14. RIGHT TO AUDIT; MAINTENANCE OF BOOKS AND RECORDS

- (a) NYCHA, any agency providing funds to NYCHA, the Office of the Inspector General for NYCHA, and the Comptroller General of the United States or any of their duly authorized officers have the right to perform an audit of Consultant's finances and the books and records related to its performance under the Agreement, including, without limitation, the financial arrangement with anyone that Consultant may delegate to discharge any part of its obligations under the Agreement.
- (b) Consultant must include a clause substantially similar to Section 14(a) above in all of its agreements with Subcontractors which exceed \$10,000.00.
- (c) Consultant agrees to maintain all records and supporting materials for the Services for a period of six years following the later of (i) the end of the duration of the Agreement, or (ii) such time as NYCHA makes final payments and all other pending matters related to the Agreement (including, without limitation, litigation, claims and appeals) are closed (the "**Retention Period**"). Prior to the expiration of the Retention Period, NYCHA, in its sole discretion and upon written notice to the Consultant, may extend the Retention Period for an additional one-year.

15. OWNERSHIP OF WORK

Consultant waives any claim or right it has, or may have, against NYCHA or any third party as it may relate to ownership of the product of the Services. Consultant waives all such claims or rights, including, but not limited to, all rights throughout the world of reproduction and distribution on any medium by any means, art or method and all rights in copyright, trademark and patent. Consultant agrees to assign and transfer to NYCHA all rights of every kind in connection with each and every discovery or invention or idea, and any and all expressions thereof of whatsoever nature that arise out of, or are developed in the course of the performance of the Agreement, and in and to any and all electronic, written, audio or visual expressions thereof, and shall turn over such expressions

thereof upon NYCHA's demand therefor and upon the expiration or earlier termination of the Agreement. Specifically, and without in any way limiting the generality of the foregoing, Consultant expressly grants all rights of every kind in any and all material that was not in existence prior to the Agreement but that Consultant or any of its employees or Subcontractors may create or develop in the course of the delivery of Services to NYCHA, whether or not the product of the delivery of such Services constitutes a "work made for hire" as defined in 17 U.S.C. Section 201(b). Further, and notwithstanding the foregoing or anything to the contrary contained in the Agreement, in the event Consultant desires to incorporate any intellectual property or other proprietary items owned by Consultant prior to the date of the Agreement into any product of the Services that will be owned by NYCHA, Consultant shall: (a) inform NYCHA, in writing, before incorporating such intellectual property and/or proprietary item into any such product; and (b) NYCHA is hereby granted and shall have a non-exclusive, royalty-free, perpetual, irrevocable, worldwide license to make, have made, modify, and use such item as part of or in connection with such product. Consultant must, without unreasonable delay, cooperate in any proceeding (including, but not limited to, filing for and obtaining any trademark, patent or copyright registration) and execute any document, including, without limitation, an assignment of trademark, copyright or of letters patent, which NYCHA may reasonably require to show evidence of its ownership of any such copyrights, patents, trademarks or other rights. Consultant agrees that its obligations under this Section shall survive the expiration or earlier termination of the Agreement.

16. PROMOTIONAL LITERATURE

Consultant shall not, without the express prior written approval of NYCHA, (i) use the terms "New York City Housing Authority," "NYCHA," "The City of New York Housing Authority" or any derivation thereof in promotional literature or advertisements (except for use in client lists), (ii) describe the Services in any proposals to potential customers of Consultant or promotional literature or advertisements, or (iii) disseminate or disclose information or material to the general public, news media, or any person or organization.

17. CONFIDENTIALITY

(a) The Parties anticipate that Consultant may acquire access to information and data about the operations (including, but not limited to, information concerning NYCHA's assets and financial data), the staff and the resident population of NYCHA (the "**Confidential Information**"). To the extent that Consultant or any Subcontractor, any of the Subcontractor's subcontractors or sub-consultants at all tiers performing Services or supplying materials or supplies under the Agreement, or any Party Performing Services obtains any Confidential Information, and in furtherance of the Federal Privacy Act of 1974 (as amended), Consultant shall, and shall ensure that such Subcontractor, subcontractor or sub-consultant at all tiers performing Services or supplying materials or supplies under the Agreement, or Party Performing Services who receives Confidential Information shall: (i) protect and preserve the confidentiality of such Confidential Information with the same care and diligence with which it protects and preserves its own most secret business information; (ii) use such Confidential Information only in the performance of its obligations arising under the Agreement; and (iii) make no disclosure of such Confidential Information other than to an employee of NYCHA or to an employee or Subcontractor in the course of such Consultant employee's or Subcontractor's provision of Services under the Agreement. In addition, Consultant agrees to obtain a written commitment from each employee, Subcontractor, Subcontractor's subcontractors or sub-consultants at all tiers performing Services or supplying materials or supplies under the Agreement, or any Party Performing Services that it may use in its performance of the Agreement to be bound by the terms of this Section, and, in such case: (i) Consultant agrees to make available the original copy of any such commitment upon written request from NYCHA from time to time; and (ii) Consultant shall be liable

for any breach of such confidentiality obligations by any such employee, or Subcontractor. Consultant agrees that the obligation of confidentiality set forth in this Section shall survive the termination or expiration of the Agreement. Upon the termination of the Agreement for any reason, Consultant must surrender immediately to NYCHA all materials provided by NYCHA or prepared by Consultant under the Agreement; provided, however, that Consultant may retain a copy of all materials prepared by Consultant as part of its work papers, which shall be treated by Consultant as Confidential Information.

- (b) Consultant understands and acknowledges that NYCHA is not making any representation or warranty, express or implied, as to the accuracy or completeness of the Confidential Information, and Consultant agrees that NYCHA shall have no liability to Consultant or any of its employees or Subcontractors that may be based upon or relate to any errors therein or omissions therefrom.
- (c) If Consultant or any of its employees, Subcontractors, subcontractors or sub-consultants of the Subcontractor at all tiers performing Services or supplying materials or supplies under the Agreement, or any Party Performing Services is required (by law, regulation, deposition, interrogatory, request for documents, subpoena, civil investigative demand or similar process) to disclose any of the Confidential Information, it shall provide NYCHA with written notice of such requirement promptly upon learning of it so as to allow NYCHA sufficient time to obtain an appropriate injunction or other protective remedy and shall fully cooperate with NYCHA in obtaining such injunction or other protective remedy. Thereafter, and in the event that such injunction or protective remedy is not obtained for any reason whatsoever (or is obtained only with respect to a portion of the Confidential Information), Consultant shall (and shall direct its employees, Subcontractors, and agents, subcontractors or sub-consultants of the Subcontractor at all tiers performing Services or supplying materials or supplies under the Agreement, or any Party Performing Services, as applicable, to do likewise) only furnish that portion of the Confidential Information which, in the opinion of its counsel, it is legally required and only in the manner legally required and shall exercise commercially reasonable efforts to obtain assurances that confidential treatment shall be accorded to any of the Confidential Information so disclosed.
- (d) Consultant agrees that a breach of this Section 17 may result in irrevocable harm and damage to NYCHA which would be difficult to measure. Therefore, without limiting any of NYCHA's rights and remedies set forth in the Agreement, in the event of any breach or threatened breach of this Section 17 by Consultant or any of its employees, Subcontractors, agents, subcontractors or sub-consultants of the Subcontractor at all tiers performing Services or supplying materials or supplies under the Agreement, or any Party Performing Service, NYCHA shall be entitled to equitable relief, including injunctions and orders for specific performance, in addition to all other remedies available at law or in equity, without any requirement to post a bond or other security and without having to establish irrevocable harm.
- (e) If the Services include Consultant receiving from NYCHA either "PII" or "NYCHA Data" (as defined in Subsection (f) below), then, in addition to the requirements of Subsections (a)–(d) of this Section 17, Subsection (f) shall apply to Consultant, and Consultant shall ensure that Section 17(f) applies to its Subcontractors, subcontractors or sub-consultants of the Subcontractor at all tiers performing Services or supplying materials or supplies under the Agreement, or any Party Performing Service.
- (f) Personally Identifiable Information and NYCHA Data.
 - i. Definitions. PII and NYCHA Data. Personally identifiable information ("PII") is data or information, whether in hard copy, electronic media or any other form, which on its own or coupled with other

information, can be used to distinguish or trace an individual's identity. PII includes, but is not limited to:

- A. An individual's name (first name and last name, or first initial and last name), phone number, address or social security number.
- B. Any combination of: (1) one of the following items with an item identified in paragraph (f)(i)(A) above, or (2) any combination of two of the following items:
 - (I) date of birth;
 - (II) credit and/or debit card information;
 - (III) income and/or credit history;
 - (IV) bank account information;
 - (V) driver's license number;
 - (VI) passport number;
 - (VII) tax return;
 - (VIII) asset statement;
 - (IX) other financial or personal information; and/or
 - (X) other information concerning citizenship or immigration status, or ethnic or religious data.
- C. Any number, code, or combination of numbers and codes, such as account number, security code, access code, or password allowing access to or use of an individual's financial or credit account.
- D. Individually identifiable information created and collected as part of research projects.
- E. Health information such as medical records (in hard copy or electronic form).
- F. Biometric information such as DNA, fingerprint, and photographic facial images.

"NYCHA Data" shall include, among other information, PII and Confidential Information as defined in Section 17(a) above. NYCHA Data shall not include public records that by law must be made available to the general public. To the extent there is any uncertainty as to whether any data or information constitutes NYCHA Data, the data or information in question shall be treated as NYCHA Data until a determination is made by NYCHA.

- ii. Data Confidentiality. Consultant shall maintain appropriate measures designed to ensure the confidentiality and security of NYCHA Data, protect against any anticipated hazards or threats to the integrity or security of NYCHA Data, protect against unauthorized access to or disclosure of NYCHA Data, and prevent any other action that could result in substantial harm to NYCHA or an individual identified with the NYCHA Data in Consultant's custody.
- iii. Compliance with Laws and NYCHA Procedures. Consultant will not knowingly permit any of Consultant's personnel to have access to any NYCHA Data if the person has been convicted of a crime in connection with (A) a dishonest act, breach of trust, or money laundering, or has agreed to enter into a pretrial diversion or similar program in connection with a prosecution for such

offense, as described in Section 19 of the Federal Deposit Insurance Act, 12 U.S.C. §1829(a); or (B) a felony. Consultant must, to the extent permitted by law, conduct a check of public records in all of the person's states of residence and employment for at least the last five years in order to verify the above. Consultant also agrees to comply with NYCHA's Standard Procedures concerning privacy and all applicable state and federal laws and regulations.

- iv. Network Security. Consultant agrees at all times to maintain commercially reasonable network security coverage that, at a minimum, includes: network firewall provisioning, intrusion detection/prevention, vulnerability scanning, security patching, and periodic third-party penetration testing. Likewise, Consultant agrees to maintain network security coverage that, at a minimum, conforms to current NIST or ISO standards as may be updated and amended from time to time.

- v. Data Security. Consultant agrees to protect and maintain the security of NYCHA's Data with protection security measures that include maintaining secure environments that are patched and up to date with all appropriate critical and severe security updates as designated by a relevant authority (e.g., Microsoft updates notifications) and the use of an industry standard endpoint detection and response agent. Consultant also agrees to conform to the following measures to protect and secure NYCHA Data:
 - A. Data Transmission. Consultant agrees that any and all transmission or exchange of NYCHA Data with NYCHA and/or any other parties, solely in accordance with Section 17(f)(vi) below, shall take place via secure means (e.g., HTTPS, FTPS, SFTP or equivalent means).

 - B. Data Storage and Backup. Consultant agrees that any and all NYCHA Data will be stored, processed, and maintained solely on designated servers and that no NYCHA Data at any time will be processed on or transferred to any portable or laptop computing device or any portable storage medium. All servers, storage, backups, and network paths utilized in the delivery of the service shall be contained within the states, districts, and territories of the United States unless specifically agreed to in writing by a NYCHA officer with signature authority. Consultant agrees to store all NYCHA Data stored as part of its backup and recovery processes in encrypted form, using no less than 128 bit key.

 - C. Data Re-Use. Consultant agrees that any and all data exchanged shall be used expressly and solely for the purposes enumerated in the Agreement between NYCHA and Consultant. NYCHA Data shall not be distributed, repurposed or shared across other applications, environments, or business units of Consultant. As required by law, Consultant further agrees that no NYCHA Data of any kind shall be revealed, transmitted, exchanged or otherwise passed to third parties or interested parties.

- vi. End of Agreement Data Handling. Consultant agrees that upon termination of the Agreement it shall return all NYCHA Data in a useable electronic form, and erase, destroy, and render unreadable all NYCHA Data in its entirety in a manner that prevents its physical reconstruction, and certify in writing that these actions have been completed within 30 calendar days of the termination of the Agreement or within seven days of NYCHA's request, whichever shall come first.

- vii. Data Breach. In the event of a breach of any of Consultant's security obligations or any other event requiring notification under an applicable law ("**Notification Event**"), Consultant shall notify NYCHA immediately and inform all such individuals in accordance with applicable law and indemnify, hold harmless and defend NYCHA and its Members, officers, and employees from and against any claims, damages, or other harm related to such Notification Event. In addition to the NYCHA personnel identified in the Agreement, Consultant shall also provide notification of a notification event to the Chief Privacy Officer via e-mail at privacy@nycha.nyc.gov, and to NYCHA's Risk Management Department via telephone at (212) 306-6682 and mail sent to: New York City Housing Authority, 90 Church Street, 6th Floor, New York, NY 10007-2919, Attention: Risk Management Department. For purposes of clarity, a Notification Event shall include, but not be limited to, any situation where NYCHA Data, whether physical or electronic, is disclosed to, or can be accessed by, an individual who is not authorized to access the information or when NYCHA Data is used for an unauthorized purpose. Consultant shall notify NYCHA if it has experienced, or suspects it has experienced, a Notification Event within (i) 48 hours of a suspected Notification Event and (ii) within 24 hours of a confirmed Notification Event. Consultant shall investigate all Notification Events in a manner that meets or exceeds industry standards at their sole cost and expense and promptly provide NYCHA with all material information that is discovered. If NYCHA determines that NYCHA is required under applicable law, regulation, or HUD guidance, including, but not limited to, HUD Notice PIH 2015-06, to notify individuals affected by the Notification Event, Consultant agrees to reimburse NYCHA the costs of such notifications.
- viii. Mandatory Disclosure of NYCHA Data. If Consultant or any of its employees is required (by law, regulation, deposition, interrogatory, request for documents, subpoena, civil investigative demand or similar process) to disclose any of the NYCHA Data, it shall provide NYCHA with written notice of such requirement promptly upon learning of it so as to allow NYCHA sufficient time to obtain an appropriate injunction or other protective remedy and shall fully cooperate with NYCHA in obtaining such injunction or other protective remedy. Thereafter, and in the event that such injunction or protective remedy is not obtained for any reason whatsoever (or is obtained only with respect to a portion of the NYCHA Data), Consultant shall (and shall direct its employees and agents, as applicable, to do likewise) only furnish that portion of the NYCHA Data which, in the opinion of its counsel, it is legally required and only in the manner legally required and shall exercise commercially reasonable efforts to obtain assurances that confidential treatment shall be accorded to any of the NYCHA Data so disclosed. In addition to the NYCHA personnel identified in the Agreement, Consultant shall also provide notification of a notification event to the Chief Privacy Officer via e-mail at privacy@nycha.nyc.gov, and to NYCHA's Risk Management Department via telephone at (212) 306-6682 and mail sent to: New York City Housing Authority, 90 Church Street, 6th Floor, New York, NY 10007-2919, Attention: Risk Management Department.
- ix. Remedies for Disclosure of NYCHA Data. Consultant agrees that any breach of the requirements with respect to NYCHA Data set forth in the Agreement may result in irrevocable harm and damage to NYCHA which would be difficult to measure. Therefore, without limiting any of NYCHA's rights and remedies set forth in the Agreement, in the event of any breach or threatened breach of any such requirements under the Agreement by Consultant or any of its employees or agents, NYCHA shall be entitled to equitable relief, including injunctions and orders for specific performance, in addition to all other remedies available at law or in equity, without any requirement to post a bond or other security and without having to establish irrevocable harm.

- x. Safekeeping and Security. Consultant shall protect all keys, access codes, combinations, access cards, personal identification numbers and similar security codes and identifiers issued to Consultant's employees, or agents. Consultant agrees to require its employees to promptly report a lost or stolen access device or information.

18. ASSIGNMENT; DELEGATION AND SUBCONTRACTING

- (a) The Agreement and the rights and duties under the Agreement must not be assigned, delegated or subcontracted by Consultant without the prior written consent of NYCHA, and any purported assignment, delegation or subcontracting of the Agreement without said consent of NYCHA is void. In addition to the requirements of Section 34 below, when issuing solicitations for subcontractors, Consultant shall take affirmative steps to include minority-owned, women-owned, and small business enterprises since it is the policy of NYCHA to ensure that all businesses have an equal opportunity to participate in all aspects of NYCHA's procurement of goods and services. Consultant shall state in all solicitations or advertisements for bids for subcontractors placed by or on behalf of Consultant that all qualified businesses will receive consideration for subcontracts without regard to the age, alienage or citizenship status, color, creed, physical or mental disability (in regard to any position for which the employee or applicant for employment is qualified, gender (including sexual harassment), marital or familial status, military service, national origin, prior arrest record, race, religion, sex, sexual orientation, gender identity, and status as a victim of domestic violence or for any other unlawful reason of the owners, partners, management or stockholders of a business. In order to fulfill the Agreement's contracting requirements as set forth in Section 34 below, Consultant and subcontractors must be certified by the New York City Department of Small Businesses ("**SBS**").
- (b) Minority-owned, women-owned, and small business enterprises are defined as follows:
 - (i) Minority business enterprise ("**MBE**") means a business that is at least 51% owned by one or more minority group members; or, in the case of a publicly-owned business, one in which at least 51% of its voting stock is owned by one or more minority group members, and whose management and daily business operations are controlled by one or more such individuals. For this purpose, minority group members include: (A) Black persons having origins in any of the Black African racial groups; (B) Hispanic persons of Mexican, Puerto Rican, Dominican, Cuban, Central or South American descent of either Indian or Hispanic origin, regardless of race; (C) Native American or Alaskan native persons having origins in any of the original peoples of North America; (D) Asian and Pacific Islander persons having origins in any of the Far East countries, Southeast Asia, the Indian subcontinent or the Pacific Islands; and (E) those groups of United States citizens or resident legal aliens designated by the Small Business Administration or any group designated by the Secretary of the United States Department of Housing and Urban Development.
 - (ii) Women business enterprise ("**WBE**") means a business that is at least 51% owned by one or more women who are United States citizens or resident legal aliens; or, in the case of publicly-owned businesses, one in which at least 51% of the stock is owned by one or more women who are United States citizens or resident legal aliens, and whose management and daily operations of the business are controlled by one or more such women.
 - (iii) Small business enterprise means a business that is owned by one or more persons who are United States citizens or resident legal aliens, with a place of business located in the United States,

operates primarily within the United States and is sized consistently with the requirements set forth in 13 CFR Section 121.201, which defines size standards for small businesses, based on either annual receipts or the number of employees.

19. SUSPENSION OF SERVICES

NYCHA may order Consultant to suspend the Services, in whole or in part, for NYCHA's convenience for such period of time as it may deem appropriate; provided, however, that where such suspension is made for an unreasonable period of time, an adjustment will be made for any increase in the cost of performance of the Services caused by such suspension. No adjustment will be made, however, where the work is suspended or delayed by any other cause, including, without limitation, the fault, negligence or improper performance of Consultant.

20. TERMINATION OF AGREEMENT FOR CONVENIENCE

NYCHA has sole discretion to terminate the Agreement, in whole or in part, at any time for its convenience upon prior written notice to Consultant of NYCHA's intention to terminate the Agreement. Such termination may be for any reason or for no reason. After receipt of such notice, Consultant must cease all work under the Agreement, unless otherwise directed in the notice. Consultant will be entitled to payment for the Services, as defined in the Agreement, performed up to the time of termination stated in such notice, provided that NYCHA first receives and approves a request for payment and an invoice.

21. TERMINATION OF AGREEMENT OTHER THAN FOR CONVENIENCE

- (a) If Consultant breaches, violates or defaults on any of the terms of the Agreement, NYCHA has the right to give Consultant written notice specifying the nature of the breach, violation or default. Thereafter, Consultant has 30 calendar days, or such shorter period as NYCHA in its sole discretion may require under the circumstances, after Consultant's receipt of such notice to remedy the breach, violation or default. In the event that Consultant fails to remedy the breach, violation or default within such 30 calendar-day period, or such shorter period as NYCHA in its sole discretion may require under the circumstances, NYCHA then has the right to immediately terminate the Agreement by sending Consultant a written "Notice of Default and Termination." NYCHA's determination that Consultant has failed to remedy the breach, violation or default and that the Agreement is terminated shall be conclusive, final and binding on the Parties and such a finding shall preclude Consultant from commencing a plenary action for any damages relating to the Agreement. If Consultant protests NYCHA's determination, Consultant may commence a proceeding under Article 78 of the New York Civil Practice Law and Rules, which proceeding must be maintained in a court of competent jurisdiction sitting in the City and County of New York.
- (b) If NYCHA breaches, violates or defaults on any of the terms of the Agreement, Consultant has the right to give NYCHA written notice specifying the nature of the breach, violation or default. Thereafter, NYCHA has 30 calendar days after NYCHA's receipt of such notice to remedy the breach, violation or default. In the event that NYCHA fails to remedy the breach, violation or default within such 30 calendar-day period, Consultant then has the right to immediately terminate the Agreement. Termination of the Agreement under this provision shall not give rise to any claim against NYCHA for damages, including, without limitation, for lost profits, or for compensation in addition to that provided hereunder.
- (c) In the event of any termination under Section 21(a), Consultant is not entitled to any further payment for any Services performed until such time as any dispute regarding Consultant's default or any damages

incurred by NYCHA has either been resolved to the satisfaction of both Parties or been adjudicated finally beyond any applicable appeal.

22. INVESTIGATIONS; CANCELLATION AND DISQUALIFICATION UNDER CERTAIN CIRCUMSTANCES

- (a) The Parties to the Agreement agree to cooperate fully and faithfully with any investigation, audit or inquiry conducted by a State of New York (“**State**”) or City governmental 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 NYCHA with respect to the transaction, submitted bid, submitted proposal, Agreement, contract, lease, license, or person dealing with NYCHA that is the subject of the investigation, audit or inquiry.
- i. 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, contract, lease or license entered into with NYCHA, the City, the 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 of New York, or;
 - ii. 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 NYCHA, and is seeking testimony concerning the award of, or performance under, any transaction, Agreement, contract, lease or license entered into with NYCHA, the City, the State, or any political subdivision thereof or any local development corporation within the City; then;
 - iii. The Chair and Chief Executive Officer (the “**Chair and CEO**”) of NYCHA, or his/her designee, shall convene a hearing, upon no less 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.
 - iv. If any non-governmental party to the hearing requests an adjournment, the Chair and CEO of NYCHA, or his/her designee, may, upon granting the adjournment, suspend any Agreement, contract, lease or license with such party pending the final determination pursuant to subsection (b) below without NYCHA incurring any penalty or damages for delay or otherwise.
- (b) The penalties which may attach a final determination by the Chair and CEO of NYCHA, or his/her designee, may include but shall not exceed:
- i. 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 agreement, contract, lease or license with or from NYCHA; and/or

- ii. The cancellation or termination of any and all such existing NYCHA agreements contracts, leases or licenses that the refusal to testify concerns and that have not been assigned as permitted under the Agreement, 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 NYCHA 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 NYCHA.
- (c) The Chair and CEO of NYCHA, or his/her designee, shall consider and address in reaching his or her determination and in assessing an appropriate penalty the factors in Articles (i) and (ii) immediately below. He or she may also consider, if relevant and appropriate, the criteria established in Articles (3) and (4) immediately below in addition to any other information which may be relevant and appropriate;
- i. 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.
 - ii. 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.
 - iii. The nexus of the testimony sought to the subject entity and its agreements, contracts, leases or licenses with NYCHA.
 - iv. 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 subsection (b) above, provided that the party or entity has given actual notice to the Chair and CEO of NYCHA, or his/her designee, upon the acquisition of the interest, or at the hearing called for in Section 22(a)(iii) 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.
- (d) As used in this Section, the below terms are defined as follows:
- i. "license": A license not granted as a matter of right.
 - ii. "person": any natural person doing business alone or associated with another person or entity as a partner, director, officer, principal or employee.
 - iii. "entity": any firm, partnership, corporation, association, or person that receives monies, benefits, licenses, or leases from NYCHA or otherwise transacts business with NYCHA.
 - iv. "member": any person associated with another person or entity as a partner, director, officer, principal or employee.

- (e) In addition to and notwithstanding any other provision of this Agreement, the Chair and CEO of NYCHA, or his/her designee, may in his or her sole discretion terminate the Agreement upon not less than three (3) days written notice in the event Consultant fails to promptly report in writing to the Commissioner of the Department of Investigation of the City of New York any solicitation of money, goods, requests for future employment or other benefit or thing of value, by or on behalf of any employee of NYCHA or other person, firm corporation or entity for any purpose which may be related to the procurement or obtaining of the Agreement by Consultant, or affecting the performance of the Agreement.

23. CHANGED CIRCUMSTANCES

If, at any time after the execution of the Agreement by the Parties, NYCHA is informed of “Changed Circumstances” (as defined in this Section) with regard to Consultant, and NYCHA, in its sole discretion, determines that under such Changed Circumstances the continuation of the Agreement would be contrary to NYCHA’s best interests, then NYCHA, in its sole discretion, may terminate the Agreement upon one calendar day’s prior written notice to Consultant. As used in this Section, the term “**Changed Circumstances**” shall mean: (a) the initiation of any type of investigation by any federal, state or local governmental department, agency, authority or other instrumentality (including by the Office of the Inspector General of NYCHA), or by any federal, state or local prosecutor’s office, into any activity or operation of Consultant or any director, officer, principal shareholder, partner or other principal, or Subcontractor; or (b) the return of any federal or state grand jury indictment against Consultant or any director, officer, principal shareholder, partner or other principal, or Subcontractor; or (c) the filing of any information by any federal, state or local prosecutor charging Consultant or any director, officer, principal shareholder, partner or other principal, or Subcontractor with the commission of any felony. In the event of any termination under this Section, Consultant is entitled to payment as provided under Section 22 above, entitled “Termination of Agreement for Convenience,” except that NYCHA has the right to part or all of any profit that would otherwise be payable under such Section in the event the investigation or indictment pertains, in whole or in part, to the solicitation, award or performance of the Agreement.

24. DISPUTES

All claims by Consultant shall be made in writing and submitted to NYCHA. In the event that Consultant has a dispute with NYCHA under the Agreement, including any claims for damages for the alleged breach thereof which are not disposed of by written agreement, Consultant must, within 30 calendar days after such dispute has arisen, notify NYCHA in writing of Consultant’s contention and submit its claim, specifying the nature of the claim and the sum claimed. If the dispute arises prior to the performance of the related duties, the written notice must be submitted prior to the commencement of such duties. In any event, Consultant must proceed diligently with its duties under the Agreement pending final resolution of any request for relief, claim, appeal or action arising under the Agreement, and comply with any decision of NYCHA. Consultant must further proceed in compliance with the written instructions of NYCHA, and such compliance is not deemed to be a waiver of Consultant’s right to pursue its claim, provided it has first given the notice required by this Section. The filing by the Consultant of the written notice required by this Section within the time limited herein shall be a condition precedent (unless such condition is waived by NYCHA in writing) to the settlement of any claim or to the Consultant’s right to resort to any proceeding or action to recover therein, and failure by the Consultant to timely file such notice shall be deemed to be a conclusive and binding determination that the Consultant has no claim against NYCHA and shall be deemed a waiver by the Consultant of all claims for additional compensation or for damages.

25. NEW YORK LAW

The Agreement and performance of it are governed by and are to be construed in accordance with the laws of the State of New York, excluding New York's rules regarding conflicts of laws. Any and all proceedings relating to the subject matter of the Agreement must be maintained in the state courts sitting in the City and County of New York, which courts have exclusive jurisdiction for such purpose. The Parties hereby consent to submit themselves to the jurisdiction of such courts with respect to any proceedings arising out of, under or related to the Agreement.

26. LIMITATION OF ACTIONS; WAIVER OF TRIAL BY JURY

- (a) No action or special proceeding will lie or be maintained by Consultant, its permitted assignees, designees, successors in interest, or anyone claiming under Consultant, against NYCHA: (i) based upon any claim arising out of, under or related to the Agreement, or by reason of any act, omission or requirement of NYCHA, unless such action or special proceeding is commenced within one year after the date of final payment under the Agreement; or (ii) based upon any claim for monies to be retained for any period after the date of final payment under the Agreement, unless such action or special proceeding is commenced within one year after such monies become due and payable under the terms of the Agreement; or (iii) if the Agreement is terminated, rescinded, revoked, annulled, or abandoned under its terms, unless such action or special proceeding is commenced within one year after the date of termination, rescission, revocation, annulment, or abandonment. Nothing in the Agreement is deemed to extend any applicable statute of limitations. Consultant, its permitted assignees, designees, successors in interest, or anyone claiming under it is not entitled to any additional time to begin anew any other action or special proceeding, if an action or special proceeding commenced within the times specified in this Section is dismissed or discontinued, notwithstanding any provisions in the Civil Practice Law and Rules of the State of New York to the contrary.
- (b) NYCHA and Consultant agree to, and they each hereby do, waive trial by jury in any action, counterclaim or third party action brought by either of the Parties against the other based on any claim or other matter arising out of, under or related to the Agreement; provided, however, that there shall be excepted from the foregoing waiver of trial by jury any action based upon a claim for damages for personal injuries or death.

27. DAMAGES

Consultant hereby agrees that in no event will NYCHA be liable to Consultant for any special, punitive, incidental or consequential damages, including, without limitation, lost profits or lost business opportunity.

28. SEVERABILITY

If any provision of the Agreement is held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions are in no way affected or impaired and the remaining provisions remain in full force and effect, and the invalid, illegal or unenforceable provision will be replaced by a mutually acceptable provision which, being valid, legal and enforceable, comes closest to the intention of the Parties underlying the invalid, illegal or unenforceable provision.

29. MODIFICATION; AMENDMENT OR SUPPLEMENT

The Agreement constitutes the entire agreement between the Parties, and any modification, amendment or supplement to the Agreement is not valid or enforceable against either Party unless it is in writing and signed by duly authorized officers of both Parties.

30. ARM'S-LENGTH TRANSACTION -- WAIVER OF CONTRA PROFERENTEM RULE

The Agreement has been freely negotiated by both Parties. In the event of any controversy, dispute or contest over the meaning, interpretation, validity or enforceability of the Agreement, or any of its terms or conditions, there shall be no inference, presumption or conclusion drawn whatsoever against either Party by virtue of that Party's having drafted the Agreement or any portion thereof.

31. NO BRIBE, KICKBACK OR OTHER INDUCEMENT

Consultant represents to NYCHA and hereby covenants that Consultant has not and will not engage in any scheme or practice that seeks to solicit, pay or receive as payment, or to deliver to anyone, any sum or thing of value (including, without limitation, the performance of any service) that may constitute or be construed as a bribe, kick-back, or other inducement that in any manner may prejudice NYCHA's interests or compromise the duty owed by anyone to NYCHA. Consultant acknowledges that NYCHA is relying upon this representation and covenant as a material inducement to enter into the Agreement with Consultant.

32. PROHIBITION ON USE OF TROPICAL HARDWOODS

Tropical hardwoods and tropical hardwood products, as defined in Section 165 of the State Finance Law, must not be obtained or utilized in the performance of the Agreement, except as expressly permitted by the said Section 165. Any bid, proposal or other response to a solicitation for bid or proposal that proposes or calls for the use of any tropical hardwood or tropical hardwood product in the performance of the Agreement is non-responsive.

33. NYCHA'S RIGHT TO WITHHOLD MONEY OUT OF PAYMENTS

If the Services are not performed in strict accordance with the Agreement, or if the services of any other agreement between Consultant herein and NYCHA are not performed in strict accordance with that agreement's terms, or if NYCHA has a claim against Consultant for any other reason whatsoever, or if any claim is made against NYCHA, just or unjust (including claims for wrongful death and for injuries to person or property), arising out of or in connection with the Agreement or Consultant's performance of the Services, NYCHA shall have the right to withhold out of any payment, final or otherwise, such sums as NYCHA may deem ample to protect it against delays or loss or to assure the payment of such claims.

34. CONTRACTING WITH MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES

(a) In furtherance and not in limitation of Section 18 above, and subject to paragraph (b) below, during the Term of the Agreement, the Consultant agrees to fulfill the Agreement's contracting requirements with MBEs and WBEs (collectively, "**M/WBEs**") that are certified as such by the SBS. These requirements are described in greater detail in NYCHA's Contracting With Minority and Women-Owned Business Enterprises requirements, attached as an Exhibit to the Agreement, and shall be fulfilled by the Consultant in accordance with the Consultant's approved M/WBE Utilization Plan submitted to NYCHA as part of the Consultant's Proposal and made part of the Agreement.

- (b) In the event the Consultant requested and was granted a waiver (“**M/WBE Waiver**”) by NYCHA in connection with NYCHA’s Contracting With Minority and Women-Owned Business Enterprises requirements, then such requirements shall not apply to the extent a M/WBE Waiver is granted by NYCHA. A copy of the approved M/WBE Waiver is attached to the Agreement as an Exhibit (if applicable).

35. CHANGES

- (a) NYCHA may at any time, by written order, and without notice to the sureties, if any, make changes within the general scope of the Agreement in the Services to be performed or supplies to be delivered.
- (b) If any such change causes an increase or decrease in the hourly rate, the Maximum Fee/Not-to-Exceed Amount, or the time required for performance of any part of the Services, whether or not changed by the order, or otherwise affects the conditions of the Agreement, NYCHA shall make an equitable adjustment in the Maximum Fee/Not-to-Exceed Amount, the hourly rate, the delivery schedule, or other affected terms, and shall modify the Agreement accordingly.
- (c) Consultant must assert its right to an equitable adjustment under this Section 35 within 30 calendar days from the date of receipt of the written order. However, if NYCHA decides that the facts justify it, NYCHA may receive and act upon a proposal submitted before final payment of the Agreement.
- (d) Failure to agree to any adjustment shall be a dispute under Section 24 of these NYCHA General Terms and Conditions. However, nothing in this Section 35 shall excuse Consultant from proceeding with the Agreement as changed.
- (e) No Services for which an additional cost or fee will be charged by Consultant shall be furnished without the prior written consent of NYCHA.

36. ORGANIZATIONAL CONFLICTS OF INTEREST

- (a) Consultant warrants that to the best of its knowledge and belief and except as otherwise disclosed, it does not have any organizational conflict of interest which is defined as a situation in which the nature of the Services under the Agreement and Consultant’s organizational, financial, contractual or other interests are such that: (i) award of the Agreement may result in an unfair competitive advantage; or (ii) Consultant’s objectivity in performing the Services may be impaired.
- (b) Consultant agrees that if after award it discovers an organizational conflict of interest with respect to the Agreement or any task/delivery order under the Agreement, Consultant shall make an immediate and full disclosure in writing to NYCHA which shall include a description of the action which Consultant has taken or intends to take to eliminate or neutralize the conflict. NYCHA may, however, terminate the Agreement or task/delivery order for the convenience of NYCHA if it would be in the best interest of NYCHA.
- (c) In the event Consultant was aware of an organizational conflict of interest before the award of the Agreement and intentionally did not disclose the conflict to NYCHA, NYCHA may terminate the Agreement for default (i.e., Other Than Convenience).
- (d) The terms of this Section 36 shall be included in all subcontracts and consulting agreements wherein the

work to be performed is similar to the Services provided by Consultant. Consultant shall include in such subcontracts and consulting agreements any necessary provisions to eliminate or neutralize conflicts of interest.

37. CONSULTANT'S STATUS

It is understood that Consultant is an independent contractor and is not to be considered an employee of NYCHA, or assume any right, privilege or duties of an employee, and shall save harmless NYCHA and its Members, officers, and employees from claims, suits, actions and costs of every description resulting from Consultant's activities on behalf of NYCHA in connection with the Agreement.

38. OTHER CONSULTANTS

NYCHA may undertake or award other contracts for additional work at or near the site(s) of the Services to be performed under the Agreement. Consultant shall fully cooperate with the other consultants and with NYCHA and HUD employees and shall carefully adapt scheduling and performing the Services under the Agreement to accommodate the additional work, heeding any direction that may be provided by NYCHA. Consultant shall not commit or permit any act that will interfere with the performance of work by any other consultant or NYCHA employee.

39. LIENS

Consultant is prohibited from placing a lien on NYCHA's property. This prohibition shall apply to all subcontractors.

40. PROCUREMENT OF RECOVERED MATERIALS

- (a) In accordance with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, Consultant shall procure items designated in guidelines of the Environmental Protection Agency (the "EPA") at 40 CFR Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition. Consultant shall procure items designated in the EPA guidelines that contain the highest percentage of recovered materials practicable unless Consultant determines that such items: (i) are not reasonably available in a reasonable period of time; (ii) fail to meet reasonable performance standards, which shall be determined on the basis of the guidelines of the National Institute of Standards and Technology, if applicable to the item; or (iii) are only available at an unreasonable price.
- (b) Section 40(a) shall apply to items purchased under the Agreement where: (i) Consultant purchases in excess of \$10,000 of the item under the Agreement; or (ii) during the preceding Federal fiscal year, Consultant: (A) purchased any amount of the items for use under a contract that was funded with Federal appropriations and was with a Federal agency or a State agency or agency of a political subdivision of a State; and (B) purchased a total of in excess of \$10,000 of the item both under and outside that contract.

41. LIMITATION ON PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS

(a) Definitions. As used in this clause:

“Agency”, as defined in 5 U.S.C. 552(f), includes Federal executive departments and agencies as well as independent regulatory commissions and Government corporations, as defined in 31 U.S.C. 9101(1).

“Covered Federal Action” means any of the following Federal actions:

- (i) the awarding of any Federal contract;
- (ii) the making of any Federal grant;
- (iii) the making of any Federal loan;
- (iv) the entering into of any cooperative agreement; and,
- (v) the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

Covered Federal action does not include receiving from an agency a commitment providing for the United States to insure or guarantee a loan.

“Indian tribe” and “tribal organization” have the meaning provided in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450B). Alaskan Natives are included under the definitions of Indian tribes in that Act.

“Influencing or attempting to influence” means making, with the intent to influence, any communication to or appearance before an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with any covered Federal action.

“Local government” means a unit of government in a State and, if chartered, established, or otherwise recognized by a State for the performance of a governmental duty, including a local public authority, a special district, an intrastate district, a council of governments, a sponsor group representative organization, and any other instrumentality of a local government.

“Officer or employee of an agency” includes the following individuals who are employed by an agency:

- (A) An individual who is appointed to a position in the Government under title 5, U.S.C., including a position under a temporary appointment;
- (B) A member of the uniformed services as defined in section 202, title 18, U.S.C.;
- (C) A special Government employee as defined in section 202, title 18, U.S.C.; and,
- (D) An individual who is a member of a Federal advisory committee, as defined by the Federal Advisory Committee Act, title 5, appendix 2.

“Person” means an individual, corporation, company, association, authority, firm, partnership, society, State, and local government, regardless of whether such entity is operated for profit or not for profit. This term excludes an Indian tribe, tribal organization, or other Indian organization with respect to expenditures specifically permitted by other Federal law.

“Recipient” includes all contractors, subcontractors at any tier, and subgrantees at any tier of the recipient

of funds received in connection with a Federal contract, grant, loan, or cooperative agreement. The term excludes an Indian tribe, tribal organization, or any other Indian organization with respect to expenditures specifically permitted by other Federal law.

“Regularly employed” means, with respect to an officer or employee of a person requesting or receiving a Federal contract, grant, loan, or cooperative agreement, an officer or employee who is employed by such person for at least 130 working days within one year immediately preceding the date of the submission that initiates agency consideration of such person for receipt of such contract, grant, loan, or cooperative agreement. An officer or employee who is employed by such person for less than 130 working days within one year immediately preceding the date of submission that initiates agency consideration of such person shall be considered to be regularly employed as soon as he or she is employed by such person for 130 working days.

“State” means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, a territory or possession of the United States, an agency or instrumentality of a State, and a multi-State, regional, or interstate entity having governmental duties and powers.

(b) Prohibition.

(i) Section 1352 of title 31, U.S.C. provides in part that no appropriated funds may be expended by the recipient of a Federal contract, grant, loan, or cooperative agreement to pay any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with any of the following covered Federal actions: the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(ii) The prohibition does not apply as follows:

(A) Agency and legislative liaison by Own Employees.

(I) The prohibition on the use of appropriated funds, in paragraph (b)(i) of this Section 41, does not apply in the case of a payment of reasonable compensation made to an officer or employee of a person requesting or receiving a Federal contract, grant, loan, or cooperative agreement, if the payment is for agency and legislative activities not directly related to a covered Federal action.

(II) For purposes of paragraph (b)(ii)(A)(I) of this Section 41, providing any information specifically requested by an agency or Congress is permitted at any time.

(III) The following agency and legislative liaison activities are permitted at any time only where they are not related to a specific solicitation for any covered Federal action:

(a) Discussing with an agency (including individual demonstrations) the

qualities and characteristics of the person's products or services, conditions or terms of sale, and service capabilities; and

(b) Technical discussions and other activities regarding the application or adaptation of the person's products or services for an agency's use.

(IV) The following agency and legislative liaison activities are permitted where they are prior to formal solicitation of any covered Federal action:

(a) Providing any information not specifically requested but necessary for an agency to make an informed decision about initiation of a covered Federal action;

(b) Technical discussions regarding the preparation of an unsolicited proposal prior to its official submission; and

(c) Capability presentations by persons seeking awards from an agency pursuant to the provisions of the Small Business Act, as amended by Public Law 95-507 and other subsequent amendments.

(V) Only those activities expressly authorized by subdivision (b)(ii)(A)(I) of this clause are permitted under this clause.

(B) Professional and technical services.

(I) The prohibition on the use of appropriated funds, in subparagraph (b)(i) of this Section 41, does not apply in the case of:

(a) A payment of reasonable compensation made to an officer or employee of a person requesting or receiving a covered Federal action or an extension, continuation, renewal, amendment, or modification of a covered Federal action, if payment is for professional or technical services rendered directly in the preparation, submission, or negotiation of any bid, proposal, or application for that Federal action or for meeting requirements imposed by or pursuant to law as a condition for receiving that Federal action.

(b) Any reasonable payment to a person, other than an officer or employee of a person requesting or receiving a covered Federal action or an extension, continuation, renewal, amendment, or modification of a covered Federal action if the payment is for professional or technical services rendered directly in the preparation, submission, or negotiation of any bid, proposal, or application for that Federal action or for meeting requirements imposed by or pursuant to law as a condition for receiving that Federal action. Persons other than officers or employees of a person requesting or receiving a covered Federal action include consultants and trade associations.

- (II) For purposes of sub-Section 41(b)(ii)(B)(I), “professional and technical services” shall be limited to advice and analysis directly applying any professional or technical discipline.
- (III) Requirements imposed by or pursuant to law as a condition for receiving a covered Federal award include those required by law or regulation, or reasonably expected to be required by law or regulation, and any other requirements in the actual award documents.
- (IV) Only those services expressly authorized by subdivisions (b)(ii)(B)(I)(a) and (b) of this section are permitted under this clause.

(C) Selling activities by independent sales representatives. The prohibition on the use of appropriated funds, in subparagraph (b)(i) of this Section 42, does not apply to the following selling activities before an agency by independent sales representatives, provided such activities are prior to formal solicitation by an agency and are specifically limited to the merits of the matter:

- (I) Discussing with an agency (including individual demonstration) the qualities and characteristics of the person’s products or services, conditions or terms of sale, and service capabilities; and
- (II) Technical discussions and other activities regarding the application or adaptation of the person's products or services for an agency’s use.

- (c) Agreement. In accepting any contract, grant, cooperative agreement, or loan resulting from this solicitation, the person submitting the offer agrees not to make any payment prohibited by this clause.
- (d) Penalties. Any person who makes an expenditure prohibited under paragraph (b) of this Section 42 shall be subject to civil penalties as provided for by 31 U.S.C. 1352. An imposition of a civil penalty does not prevent the Government from seeking any other remedy that may be applicable.
- (e) Cost Allowability. Nothing in this clause is to be interpreted to make allowable or reasonable any costs which would be unallowable or unreasonable in accordance with Part 31 of the Federal Acquisition Regulation (FAR), or OMB Circulars dealing with cost allowability for recipients of assistance agreements. Conversely, costs made specifically unallowable by the requirements in this clause will not be made allowable under any of the provisions of FAR Part 31 or the relevant OMB Circulars.

42. DEBARMENT AND SUSPENSION

No subcontract shall be made to parties listed on the General Service Administration’s “List of Parties Excluded from Federal Procurement or Non-Procurement Programs” in accordance with Executive Orders 12549 and 12689, “Debarment and Suspension.” This list contains the names of parties debarred, suspended, or otherwise excluded by agencies, and contractors declared ineligible under statutory or regulatory authority other than Executive Order 12549.

43. BYRD ANTI-LOBBYING AMENDMENT

If the Agreement's Maximum Fee/Not-to-Exceed Amount is \$100,000 or more, each tier shall certify to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes places in connection with obtaining any Federal award. Such disclosures shall be forwarded from tier to tier up to NYCHA.

44. HUD REPORTING REQUIREMENTS

Consultant shall complete and submit all reports, in such form and according to such schedule, as may be required by NYCHA to comply with HUD requirements and regulations pertaining to reporting.

45. PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT

In compliance with 2 CFR 200.216, Consultant shall not obligate or expend funds received from NYCHA to procure or obtain, extend or renew a contract to procure or obtain, or enter into a contract (or extend or renew a contract) to procure or obtain covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Public Law 115-232, section 889, "covered telecommunications equipment or services" means any of the following:

- (a) Telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).
- (b) For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).
- (c) Telecommunications or video surveillance services provided by Huawei Technologies Company, ZTE Corporation, Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities), or using any of the equipment listed in 45(a) or (b) above.
- (d) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

46. DOMESTIC PREFERENCES FOR PROCUREMENTS

To the greatest extent practicable, Consultant shall provide a preference for the purchase, acquisition, or use of

goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products) in compliance with 2 CFR 200.322. For purposes of this section, “produced in the United States” means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States, and “manufactured products” means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

47. INTELLECTUAL PROPERTY INFRINGEMENT

In furtherance of Section 5 and Section 11, if as part of the Services, Consultant provides NYCHA with the use of any intellectual property, proprietary item, and/or proprietary right, including but not limited to a United States Letters Patent, trademark, service mark, copyright, and/or trade secret (“**Intellectual Property**”), and if a third party claim for infringement, unfair competition, theft, or any other claim related to such Intellectual Property is brought against NYCHA or the Consultant to prevent NYCHA’s use of such, Consultant will use its best efforts to secure and maintain for NYCHA the unrestricted right to the continued use of such intellectual property, proprietary item, and/or proprietary right including but not limited to the use of any affected deliverable or product of the Services.

RIDER 1

NYCHA INSURANCE REQUIREMENTS

01-Standard – NYCHA Insurance Requirements

| COVERAGE TYPE | EXTENT OF REQUIREMENT | MINIMUM LIMITS | FORMS & REQUIRED ENDORSEMENTS |
|---|-----------------------|---|---|
| Workers' Compensation/Employer's Liability | Mandatory for ALL | Workers' Compensation: Statutory for the State of New York Minimum Employer's Liability: \$1,000,000 Each Employee \$1,000,000 Each Accident \$1,000,000 Policy Limit | Form: As required in the State of New York Endorsements: <ul style="list-style-type: none"> • Waiver of Subrogation • Primary & Non-Contributory Clause • New York State Amendatory Endorsement or All Other States Endorsement for companies domiciled outside of New York |
| Commercial General Liability | Mandatory for ALL | \$1,000,000 per Occurrence \$2,000,000 General Aggregate \$2,000,000 Products/Completed Operations \$1,000,000 Personal/Advertising Injury \$5,000 Medical Expense | Form: General Liability Form ISO CG 00 01 or equivalent Endorsements: <ul style="list-style-type: none"> • NYCHA as Additional Insured • Waiver of Subrogation • Primary & Non-Contributory Clause • Separation of Insureds Clause |
| Business Auto Liability | Mandatory for ALL | \$1,000,000 Combined Single Limit | Form: Business Auto Form CA 00 01 or equivalent Coverage to be applicable to Owned, Non-Owned and/or Hired Autos Endorsements: <ul style="list-style-type: none"> • NYCHA as Additional Insured • Waiver of Subrogation • Primary & Non-Contributory Clause • Separation of Insureds Clause |

- All policies must:
 - be written by insurers authorized or licensed to do business in the State of New York.
 - be written by insurers with minimum AM Best Rating of "A minus" and Financial Size Category of "VII".
 - be endorsed to provide NYCHA 30 days written notice of material change or cancellation, excluding non-payment.
 - name NYC Housing Authority as additional insured; the Certificate Holder Address is: **New York City Housing Authority, Risk Management Department, 90 Church Street, 6th Floor, New York, NY 10007**
- Contractors are required to confirm and maintain proof of coverage for all their subcontractors for the duration of the contract.

01-Standard – NYCHA Insurance Requirements

- Commercial Lessees are required to maintain \$300,000 Damages to Rented Premises in the General Liability Policy
- Policies **must not exclude** any operation within the scope of the contract or services to be provided to NYCHA
- Contractors should refer to the Solicitation documents (request for proposal/quote, agreement, application, etc.) for additional insurance requirements or instructions.
- Limits can be adjusted depending on scope and size of contract.

Section 3 Acknowledgment

Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u ("Section 3"), and its implementing regulations, provide certain requirements for contractors to employ low- and very low-income persons and public housing residents and to use business concerns substantially owned by low-and very low-income persons and public housing residents in the performance of work on certain federally assisted Developments as specifically set forth below.

For the purposes of the requirements under Section 3, a contractor means an entity that contracts with the Authority to perform work generated by the expenditure of certain federal funds or for work in connection with a Section 3 Covered Development (as hereinafter defined). In addition, a subcontractor means an entity (other than a person who is an employee of the Contractor) that has a contract with a contractor to undertake a portion of the contractor's obligation for the performance of work generated by the expenditure of Section 3 Covered Assistance (as hereinafter defined) or for work in connection with a Section 3 Covered Development (this ordinarily does not include subcontracts for the purchase of supplies or materials, except whenever a subcontract for supplies or materials includes the installation of same). The contractor must comply with, and must cause its subcontractors to comply with, the provisions of the Section 3 Clause as defined in the terms and conditions.

CONTRACTORS RESPONSIBILITIES FOR SECTION 3 COMPLIANCE

1. If the contractor has the need to hire new person(s) to complete the contract, the contractor is required to contact the Office of Resident Economic Empowerment Sustainability (REES) at 718-289-8100 for possible sourcing of Category 1 & 2 residents.
1. The contractor agrees to submit a completed and signed NYCHA Form 136.005, Section 3 Hiring Summary with each payment request to the NYCHA department administering the contract even if there are no new hires or subcontracting to report.
2. The contractor agrees to direct their newly created employment and/or subcontracting opportunities to Section 3 residents and Section 3 business concerns.

The contractor further certifies to comply with the Section 3 regulations. The Contractor's Section 3 Plan Officer agrees to meet with NYCHA residents and staff and provide documentation and reports required by NYCHA to confirm compliance with Section 3 requirements. Failure to comply may be deemed a material breach of this contract and may result in sanctions, termination of this contract and/or unsatisfactory performance evaluation, cautions reported, and affect award of future contracts.

By signing I acknowledge the above: _____

Company Title: _____

Date: _____

PAID SICK LEAVE LAW CONTRACT RIDER

Introduction and General Provisions

The Earned Sick Time Act, also known as the Paid Sick Leave Law ("**PSLL**"), requires covered employees who annually perform more than 80 hours of work in New York City to be provided with paid sick time. ¹ All parties contracting with NYCHA (collectively, "**Contractors**") of the New York City Housing Authority ("**NYCHA**") may be required to provide sick time pursuant to the PSLL.

The PSLL became effective on April 1, 2014, and is codified at Title 20, Chapter 8, of the New York City Administrative Code. It is administered by the City of New York's Department of Consumer Affairs ("**DCA**"); DCA's rules promulgated under the PSLL are codified at Chapter 7 of Title 6 of the Rules of the City of New York ("**Rules**").

Contractor agrees to comply in all respects with the PSLL and the Rules, and as amended, if applicable, in the performance of this agreement, contract or purchase order (collectively, "**Contract**"). Contractor further acknowledges that such compliance is a material term of this Contract and that failure to comply with the PSLL in performance of this Contract may result in its termination.

Contractor must notify NYCHA's Supply Management Department within ten (10) days of receipt of a complaint (whether oral or written) regarding the PSLL involving the performance of this Contract. Such written notification must be sent in a sealed envelope indicating "PSLL Notice" on the outside thereof to: New York City Housing Authority, Supply Management & Procurement, 90 Church Street, New York, NY 10007, Attn: Interim Director of Supply Management & Procurement.

Additionally, Contractor must cooperate with DCA's education efforts and must comply with DCA's subpoenas and other document demands as set forth in the PSLL and Rules.

The PSLL is summarized below for the convenience of Contractor. Contractor is advised to review the PSLL and Rules in their entirety. On the website www.nyc.gov/PaidSickLeave there are links to the PSLL and the associated Rules as well as additional resources for employers, such as Frequently Asked Questions, timekeeping tools and model forms, and an event calendar of upcoming presentations and webinars at which Contractor can get more information about how to comply with the PSLL. Contractor acknowledges that it is responsible for compliance with the PSLL notwithstanding any inconsistent language contained herein.

¹ Pursuant to the PSLL, if fewer than five employees work for the same employer, as determined pursuant to New York City Administrative Code §20-912(g), such employer has the option of providing such employees uncompensated sick time.

Pursuant to the PSL and the Rules:

Applicability, Accrual, and Use

An employee who works within the City of New York for more than 80 hours in any consecutive 12 - month period designated by the employer as its "calendar year" pursuant to the PSL ("Year") must be provided sick time. Employers must provide a minimum of one (1) hour of sick time for every 30 hours worked by an employee and compensation for such sick time must be provided at the greater of the employee's regular hourly rate or the minimum wage. Employers are not required to provide more than 40 hours of sick time to an employee in any Year.

An employee has the right to determine how much sick time he or she will use, provided that employers may set a reasonable minimum increment for the use of sick time not to exceed four (4) hours per day. In addition, an employee may carry over up to 40 hours of unused sick time to the following Year, provided that no employer is required to allow the use of more than 40 hours of sick time in a Year or carry over unused paid sick time if the employee is paid for such unused sick time and the employer provides the employee with at least the legally required amount of paid sick time for such employee for the immediately subsequent Year on the first day of such Year.

An employee entitled to sick time pursuant to the PSL may use sick time for any of the following:

- such employee's mental illness, physical illness, injury, or health condition or the care of such illness, injury, or condition or such employee's need for medical diagnosis or preventive medical care;
- such employee's care of a family member (an employee's child, spouse, domestic partner, parent, sibling, grandchild or grandparent, or the child or parent of an employee's spouse or domestic partner) who has a mental illness, physical illness, injury or health condition or who has a need for medical diagnosis or preventive medical care;
- closure of such employee's place of business by order of a public official due to a public health emergency; or
- such employee's need to care for a child whose school or childcare provider has been closed due to a public health emergency.

An employer must not require an employee, as a condition of taking sick time, to search for a replacement. However, an employer may require an employee to provide: reasonable notice of the need to use sick time; reasonable documentation that the use of sick time was needed for a reason above if for an absence of more than three consecutive work days; and/or written confirmation that an employee used sick time pursuant to the PSL. However, an employer may not require documentation specifying the nature of a medical condition or otherwise require disclosure of the details of a medical condition as a condition of providing sick time and health information obtained solely due to an employee's use of sick time pursuant to the PSL: must be treated by the employer as confidential.

If an employer chooses to impose any permissible discretionary requirement as a condition of using sick time, it must provide to all employees a written policy containing those requirements, using a delivery method that reasonably ensures that employees receive the policy. If such employer has not provided its written policy, it may not deny sick time to an employee because of non-compliance with such a policy.

Sick time to which an employee is entitled must be paid no later than the payday for the next regular payroll period beginning after the sick time was used.

Exemptions and Exceptions

Notwithstanding the above, the PSLL does not apply to any of the following:

- an independent contractor who does not meet the definition of employee under section 190(2) of the New York State Labor Law;
- an employee covered by a valid collective bargaining agreement in effect on April 1, 2014, until the termination of such agreement;
- an employee in the construction or grocery industry covered by a valid collective bargaining agreement if the provisions of the PSLL are expressly waived in such collective bargaining agreement;
- an employee covered by another valid collective bargaining agreement if such provisions are expressly waived in such agreement and such agreement provides a benefit comparable to that provided by the PSLL for such employee;
- an audiologist, occupational therapist, physical therapist, or speech language pathologist who is licensed by the New York State Department of Education and who calls in for work assignments at will, determines his or her own schedule, has the ability to reject or accept any assignment referred to him or her, and is paid an average hourly wage that is at least four times the federal minimum wage;
- an employee in a work study program under Section 2753 of Chapter 42 of the United States Code;
- an employee whose work is compensated by a qualified scholarship program as that term is defined in the Internal Revenue Code, Section 117 of Chapter 20 of the United States Code; or
- a participant in a Work Experience Program (WEP) under section 336-c of the New York State Social Services Law.

Retaliation Prohibited

An employer may not threaten or engage in retaliation against an employee for exercising or attempting in good faith to exercise any right provided by the PSLL. In addition, an employer may not interfere with any investigation, proceeding, or hearing pursuant to the PSLL.

Notice of Rights

An employer must provide its employees with written notice of their rights pursuant to the PSSL. Such notice must be in English and the primary language spoken by an employee, provided that DCA has made available a translation into such language. Downloadable notices are available on DCA's website at <http://www.nyc.gov/html/dca/html/law/PaidSickLeave.shtml>.

Any person or entity that willfully violates these notice requirements is subject to a civil penalty in an amount not to exceed 50 dollars for each employee who was not given appropriate notice.

Records

An employer must retain records documenting its compliance with the PSSL for a period of at least three (3) years, and must allow DCA to access such records in furtherance of an investigation related to an alleged violation of the PSSL.

Enforcement and Penalties

Upon receiving a complaint alleging a violation of the PSSL, DCA has the right to investigate such complaint and attempt to resolve it through mediation. Within 30 days of written notification of a complaint by DCA, or sooner in certain circumstances, the employer must provide DCA with a written response and such other information as DCA may request. If DCA believes that a violation of the PSSL has occurred, it has the right to issue a notice of violation to the employer.

DCA has the power to grant an employee or former employee all appropriate relief as set forth in New York City Administrative Code 20-924(d). Such relief may include, among other remedies, treble damages for the wages that should have been paid, damages for unlawful retaliation, and damages and reinstatement for unlawful discharge. In addition, DCA may impose on an employer found to have violated the PSSL civil penalties not to exceed \$500 for a first violation, \$750 for a second violation within two (2) years of the first violation, and \$1,000 for each succeeding violation within two years of the previous violation.

More Generous Policies and Other Legal Requirements

Nothing in the PSSL is intended to discourage, prohibit, diminish, or impair the adoption or retention of a more generous sick time policy, or the obligation of an employer to comply with any contract, collective bargaining agreement, employment benefit plan or other agreement providing more generous sick time. The PSSL provides minimum requirements pertaining to sick time and does not preempt, limit or otherwise affect the applicability of any other law, regulation, rule, requirement, policy or standard that provides for greater accrual or use by employees of sick leave or time, whether paid or unpaid, or that extends other protections to employees. The PSSL may not be construed as creating or imposing any requirement in conflict with any federal or state law, rule or regulation.

SUBCONTRACTOR DEBARMENT CERTIFICATION FORM

The subcontractor/subconsultant/vendor/supplier identified below (collectively “**Subcontractor**”) certifies that, neither the Subcontractor nor any owner, partner, director, officer, or principal of the Subcontractor, nor any person in a position with management responsibility or responsibility for the administration of federal, state, or local funds:

- (a) Is presently debarred, suspended, proposed for debarment, and declared ineligible or voluntarily excluded from covered transactions by any federal or state department/agency, which includes, but is not limited to, the Federal Excluded Parties List, the HUD Limited Denial of Participation List, the New York State Department of Labor’s Ineligibility List, and the New York City School Construction Authority’s Ineligibility List;
- (b) Has within a three-year period preceding this Certification been convicted of or had a civil judgment rendered against it for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public transaction or contract (federal, state, or local); violation of federal or state antitrust statutes; or commission of embezzlement, theft, forgery, bribery, unlawful gratuities, falsification or destruction of records, making false statements, or receiving stolen property;
- (c) Is presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state, or local) with commission of any of the offenses enumerated in paragraph (b) above; or
- (d) Has within a three-year period preceding this certification had one or more public transactions or contracts (federal, state, or local) terminated for cause or default.

The Subcontractor (check appropriate box and provide requested information):

- (i) is registered with Dun & Bradstreet (“**D&B**”) and has been assigned the following DUNS Number: _____; or
- (ii) is not registered with D&B.

The Subcontractor further certifies that it shall not knowingly enter into any transaction with any subcontractor, subconsultant, material supplier, or vendor who is debarred, suspended, declared ineligible, or voluntarily excluded from covered transactions by any federal or state department/agency.

If the Subcontractor is unable to sign this Certification, they shall attach a written and signed explanation hereto and provide same to the entity bidding or proposing on the New York City Housing Authority (“**NYCHA**”) procurement, or already under contract with NYCHA.

I acknowledge that it is a criminal offense to make a false statement or misrepresentation in this Certification. If I do so, I may be subject to criminal prosecution, and such misrepresentation may be, among other things, considered by NYCHA in connection with any future bid by the Subcontractor on future procurements with the agency.

Dated this _____ day of _____, 20 _____

By _____
Authorized Signature for Subcontractor

Name: Title:

BIDDER/PROPOSER DEBARMENT CERTIFICATION FORM

The Bidder/Proposer (collectively “**Bidder**”) certifies that, neither the Bidder nor any owner, partner, director, officer, or principal of the Bidder, nor any person in a position with management responsibility or responsibility for the administration of federal, state, or local funds:

- (a) Is presently debarred, suspended, proposed for debarment, and declared ineligible or voluntarily excluded from covered transactions by any federal or state department/agency, which includes, but is not limited to, the Federal Excluded Parties List, the HUD Limited Denial of Participation List, the New York State Department of Labor’s Ineligibility List, and the New York City School Construction Authority’s Ineligibility List;
- (b) Has within a three-year period preceding this Certification been convicted of or had a civil judgment rendered against it for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public transaction or contract (federal, state, or local); violation of federal or state antitrust statutes; or commission of embezzlement, theft, forgery, bribery, unlawful gratuities, falsification or destruction of records, making false statements, or receiving stolen property;
- (c) Is presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state, or local) with commission of any of the offenses enumerated in paragraph (b) above; or
- (d) Has within a three-year period preceding this certification had one or more public transactions or contracts (federal, state, or local) terminated for cause or default.

The Bidder (check appropriate box and provide requested information):

- (i) is registered with Dun & Bradstreet (“**D&B**”) and has been assigned the following DUNS Number: _____; or
- (ii) is not registered with D&B.

The Bidder further certifies and confirms that:

- (a) It has checked whether all of its proposed subcontractors, subconsultants, material suppliers, and/or vendors are debarred, suspended, declared ineligible, or voluntarily excluded from covered transactions by any federal or state department/agency;
- (b) It shall have an ongoing obligation to undertake the requirements of (a) immediately above if awarded a contract/agreement by NYCHA and seeks to engage a new subcontractor, subconsultant, material supplier, and/or vendor during the term of such contract/agreement;
- (c) It shall not knowingly enter into any transaction with any subcontractor, subconsultant, material supplier, or vendor who is debarred, suspended, declared ineligible, or voluntarily excluded from covered transactions by any federal or state department/agency; and
- (d) It will require all subcontractors, subconsultants, material suppliers, and/or vendors at all tiers to undertake the obligations set forth in (a) and (b) immediately above and contractually commit them to the requirement set forth in (c) immediately above.

If the Bidder is unable to sign this Certification, they shall attach a written and signed explanation hereto as part of their bid/proposal.

I acknowledge that it is a criminal offense to make a false statement or misrepresentation in this Certification. If I do so, I may be subject to criminal prosecution, and such misrepresentation may be, among other things, considered by the New York City Housing Authority in connection with the Bidder's responsibility status on future procurements with the agency.

Dated this _____ day of _____, 20 _____

By _____
Authorized Signature for Bidder/Proposer

Name: Title:
