
INDEPENDENT CONTRACTOR AGREEMENT

CONTRACT No.FC1001234A

SERVICES FOR THE PROJECT NAME PROJECT

This Agreement is made by and between The Trustees of Princeton University, a New Jersey not-for-profit educational corporation (“University”), and Company Name, Street Address, City, State Zip (“Contractor”), and is effective as of Month DD, YYYY.

For good and valuable consideration, the parties agree as follows:

1. **ENTIRE AGREEMENT.** The following terms and conditions and any documents incorporated by reference or attached hereto, shall constitute the complete and exclusive statement of the agreement between University and Contractor with respect to the services purchased hereunder (the “Services”). This Agreement may be modified only pursuant to a written instrument signed by authorized representatives of both parties. The invalidity in whole or in part of any provision of this Agreement shall not affect the validity of other provisions. To the extent that Contractor’s terms and conditions, if any, shall conflict with this Agreement, the latter shall control. Either party’s failure to insist upon the performance of any term of this Agreement shall not be construed as a waiver of that party’s present or future right to such performance and each party’s obligations in respect thereto shall continue in full force and effect. The headings in this Agreement have been inserted solely for convenient reference and shall be ignored in its construction.

Unless specifically included as a part of the documents referenced or incorporated herein, any and all prior negotiations and writings of every kind concerning this Contract or the services described herein are superseded and supplanted by this Contract. Any changes to the provisions of this Contract made following the execution of this Contract shall be made only by written Amendment/Change Order to the Contract.

2. **GENERAL PURPOSE.** The general purpose of this Agreement is to engage the services of Contractor to provide and perform Services for the Project Name Project. Contractor will perform services under the direction of the Princeton University Project Manager, Project Manager or his designated Field Manager. Scope of work and tasks to be performed are more fully detailed in the following documents that are attached herein or incorporated by reference:

- List all Scope of Work documents here

3. **TERM:** The effective term of this Agreement shall be from **Start Date** through **End Date**.
4. **SCHEDULE:** The schedule for the work to be performed under this agreement shall be established and coordinated by the Princeton University Project Manager or his designee. The schedule shall be adhered to by the Contractor unless the term is otherwise extended by the University. Contractor acknowledges that time is of the essence in the performance of the services under this agreement. Contractor shall be responsible to University for any damage caused by the failure by Contractor to comply with the schedule.
5. **INDEPENDENT CONTRACTOR.** In performing hereunder, Contractor and its employees, agents, subcontractors and representatives shall be as independent contractors and not as employees or agents of University. All persons furnished or retained by Contractor in connection with this

Agreement are so furnished or retained as Contractor's employees or agents. Contractor shall not transact business, enter into agreements, or otherwise make commitments on behalf of University unless expressly authorized in writing by University. Neither Contractor nor its employees, agents, subcontractors or representatives shall be entitled to benefits provided by University to its employees, including but not limited to fringe benefits, worker's compensation, health and unemployment insurance, and pension plans. University shall not pay or withhold federal, state, or local income or other payroll taxes on behalf of Contractor or its employees, agents, subcontractors or representatives. Contractor agrees to report and pay all applicable taxes. Contractor shall defend, indemnify and hold harmless University from and against any and all liability for the payment of taxes, interest and/or penalties, as well as damages and costs, including attorney's fees, in connection with any claim or finding that Contractor and/or its employees, agents, subcontractors or representatives are employees of University.

6. **WARRANTIES.** Contractor warrants that all Services shall conform to the specifications of this Agreement and shall be performed in a professional and workmanlike manner. Contractor further warrants that the Services shall comply with all applicable laws, rules and regulations and shall not infringe any intellectual, property, proprietary or contractual right of any third party.
7. **FINAL INSPECTION AND ACCEPTANCE.** All Services shall be subject to University's final inspection and acceptance, notwithstanding any prior payment or preliminary inspection on the part of University. University shall provide written notice of its final acceptance within thirty (30) days from the date of the completion of the Services (the "Final Acceptance"). University's failure to provide such notice shall be deemed Final Acceptance. While Final Acceptance is pending, University may return to Contractor non-conforming Services and/or require Contractor to correct or replace such non-conforming Services, in each case at no cost to University. In the event University does not require any such correction or replacement, Contractor shall promptly refund all payments received for non-conforming Services that University returns. Such remedy shall not limit any other rights or remedies as may be available at law, in equity or under this Agreement. University is not required to accept partial or incomplete delivery. Acceptance of any part of the Services shall not bind University to accept any future delivery nor deprive University of any right that the University may have to return Services already accepted.
8. **COMPENSATION AND PAYMENT:**
 - a. The Contractor agrees to perform the services described in this contract for the total "fixed price lump sum" or "Not-to-Exceed (NTE) amount" of **\$##,###,###.##**. [Include the following sentence if this is an Hourly NTE type arrangement] The Contractor shall be paid at the rate of **\$xxx.xx per hour** plus any actual reimbursable travel or business expenses up to this NTE amount.
 - b. Contractor is an independent contractor and shall be solely responsible for all taxes, contributions and premiums with respect to the payments hereunder. **If this Agreement contemplates reimbursement of Contractor's travel and/or other business expenses, Contractor agrees to provide University with a signed Business Expense Report, supported by original receipts, for reimbursement of actual expenses incurred. Actual, allowable costs will be reimbursed and no mark-up will be permitted.**
 - c. Contractor shall prepare and submit monthly invoices to request payments under this Contract. Invoices shall be typed or computer-generated and include the following minimum information: FPO Contract Number **FC1001234A**; Contractor's company/business name; a sequential invoice number or other unique invoice identifier; the invoice amount; and the invoice date. Invoice documents together with any required supporting documentation shall be scanned or converted

into a single PDF file. Contractor shall electronically submit the invoice to Princeton University by uploading the PDF file through the FPO Contract Payment Request Portal website located at: <https://facnet.princeton.edu/invoice/>.

- d. Payments will be made to the Contractor within 30 days after receipt by the Princeton University Contract Administrator of each invoice that is submitted in proper form and substance. Release of payments will be conditioned upon review and approval of the invoice by Princeton University's Administrative and Technical Representatives.

9. TERMINATION:

- a. University may terminate this Agreement at any time, in whole or in part, by written notice to Contractor. Upon receiving notice of termination, Contractor shall immediately cease all performance hereunder and shall cause its suppliers and subcontractors (if any) to stop all work in connection with this Agreement. If such termination is for University's convenience, University, after deducting any amount(s) previously paid, shall pay for all Services rendered by Contractor, as well as any reasonable costs incurred by Contractor, up to the time of termination but not including Contractor's lost profits. Under no circumstances shall Contractor be entitled to recover more than the price of the Services as stated in this Agreement. Upon receiving notice of University's termination for convenience, Contractor shall use its best efforts to reduce or mitigate any costs incurred in connection with the Services.
- b. Either party may, without prejudice to any other rights or remedies provided at law, in equity or under this Agreement, by written notice to the other party, terminate this Agreement in whole or in part under any of the following circumstances:
 - i. If the non-terminating party applies for bankruptcy, makes an assignment for the benefit of creditors, or is in receivership; or
 - ii. If the non-terminating party fails to perform any of the terms of this Agreement and so fails to cure such failure within thirty (30) days after receiving notice from the terminating party; or
 - iii. If the non-terminating party fails to make progress such that the terminating party has reason to question the non-terminating party's ability to perform and the non-terminating party fails to provide adequate assurance of its ability to perform within a period of thirty (30) days after receiving notice from the terminating party.

In the event University terminates this Agreement pursuant to this subparagraph b, Contractor shall also be obligated to pay any direct damages, including but not limited to all additional costs that University may incur in finding replacement Services, as well as any consequential and incidental damages incurred by University. In the event Contractor terminates this Agreement pursuant to this subparagraph b, University shall not be liable for consequential and incidental damages incurred by Contractor and in no circumstances shall University's liability exceed the price of the Services as stated in this Agreement.

- c. Upon termination of this Agreement, University, in addition to any other rights or remedies available at law, in equity or under this Agreement, may require Contractor to transfer title to and deliver to University, in the manner and to the extent directed by University, any goods, plans, drawings, or other materials that Contractor has specifically produced or acquired for the performance of this Agreement ("Performance Materials"). Payment for such Performance Materials shall be at the price specified in this Agreement or as otherwise agreed upon by the parties.

10. **FORCE MAJEURE.** Except with respect to defaults of Contractor's subcontractors, Contractor shall not be liable for any excess costs incurred by University if Contractor's failure to perform arises out of causes beyond the control and without the fault or negligence of Contractor and despite the best efforts of Contractor. Such causes include acts of God, acts of University, acts of a government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes and freight embargoes. If failure to perform is caused by default of Contractor's subcontractor, and if such default arises out of causes beyond the control of both Contractor and its subcontractor, and without the fault or negligence of and despite the best efforts by either of them, Contractor shall not be liable for any excess costs for failure to perform, unless the goods, materials or services to be furnished by Contractor's subcontractor were reasonably obtainable from other sources in sufficient time to permit Contractor to meet the required delivery schedule.

11. **OWNERSHIP.** University shall own all data, information and other work arising directly from Contractor's performance hereunder. University shall at all times have access to review the ongoing work of Contractor for purposes of inspecting same and determining that work is being performed in accordance with the terms of this Agreement. Immediately upon termination of this Agreement for any reason, all such data, information and other work, in whatever form, shall be turned over to University.

Any works of authorship developed in the course of performance under this Agreement shall be deemed works-for-hire under federal copyright law and all ownership rights to such copyrightable works shall be the property of University. Should any works of authorship not constitute works-for-hire under federal copyright law, Contractor hereby grants, transfers, assigns and conveys to University and its successors and assigns, Contractor's entire right, title, and interest in and to such works or any part thereof, including but not limited to the following rights: to reproduce; to prepare derivative works; to distribute by sale, license or other transfer; to perform publicly; to display; and to secure copyrights and renewals, reissues and extensions of any such copyrights in the United States of America or any foreign country.

Any patentable invention conceived or reduced to practice in the course of performance under this Agreement shall be the property of University. All trademark or other intellectual property rights arising directly from Contractor's performance under this Agreement shall be the property of University.

Whether a copyright, patent, trademark or other intellectual property right shall be maintained or registered in the United States of America or any foreign country shall be at the sole discretion of University. Contractor agrees to cooperate fully with University in the preparation and execution of all documents necessary or incidental to the protection and preservation of the rights granted herein to University. Contractor warrants and represents that the Services provided hereunder will not infringe, individually or collectively, any copyright, patent, trademark or other intellectual property right of any third party.

12. **UNIVERSITY EQUIPMENT.** All materials, tools, equipment and other property either furnished by University to Contractor or individually paid for by University ("University Equipment") shall remain the property of University, but Contractor shall assume all risks of and be entirely responsible for any losses or damages arising from its use of University Equipment. Upon completion or termination of this Agreement, Contractor shall promptly return all University Equipment in the condition in which Contractor received it, taking into account reasonable wear and tear.

13. **CONFIDENTIAL INFORMATION.** Contractor shall treat as confidential all non-public information disclosed by University in connection with this Agreement, including but not limited to written or oral

communications, education records (as defined under the Family Educational Rights and Privacy Act of 1974 (FERPA)), personal data, plans, specifications, and other data (collectively, "Confidential Information"). The terms and conditions of this Agreement shall also be deemed Confidential Information. Contractor shall not disclose Confidential Information to any third party except as University authorizes, and shall only disclose it to those within Contractor's organization who need to use it in performance of this Agreement. Upon completion or termination of this Agreement, Contractor shall return or destroy all such Confidential Information (except for this Agreement), or otherwise dispose of it as University may approve. This provision is not intended to restrict Contractor's right to use or disclose information that is already known to the public or rightfully obtained without restriction from other sources. Contractor shall defend, indemnify and hold harmless University from and against any and all claims, demands, damages, liabilities, expenses, losses of every nature and kind, including but not limited to attorney's fees and costs, sustained or alleged to have been sustained by University as a result of any disclosure or use of any Confidential Information in violation of this Agreement.

- 14. **USE OF PRINCETON NAME OR MARKS.** Contractor shall not use University's name or trademarks in connection with any advertising, marketing or other promotional efforts or materials without the prior written approval of University.
- 15. **APPLICABLE LAW/VENUE.** All disputes regarding the construction, interpretation and the parties' obligations under this Agreement shall be governed by the laws of the State of New Jersey, notwithstanding any of that state's laws to the contrary. The venue and jurisdiction for the resolution of any such disputes shall be Mercer County, New Jersey.
- 16. **INDEMNIFICATION.** Contractor shall defend, indemnify and hold harmless University, its officers, employees, trustees, agents and representatives from and against any and all claims, demands, damages, liabilities, expenses, losses of every nature and kind, including but not limited to attorney's fees and costs, (collectively, "Claims") sustained or alleged to have been sustained in connection with or arising out of the performance hereunder of Contractor, its agents, employees, subcontractors and consultants, even in the event University is alleged or found to be partially negligent. However, Contractor shall not be obligated to so indemnify University in the event University is proven to be solely negligent.

If any Claims alleging infringement of intellectual property rights, including but not limited to Claims of patent or copyright infringement or misappropriation of trade secrets, are brought against University in connection with University's use of any goods or materials that Contractor specifically produces for the performance of this Agreement, Contractor shall not only indemnify University as set forth above but also, upon University's request, shall procure for University the right to continue to use such goods or materials, or replace or modify such goods or materials, such that the alleged infringement is removed; provided, however, that such alleged infringement does not arise solely from University's alteration or modification of the goods or materials.

- 17. **INSURANCE:** Contractor shall maintain and keep in force at Contractor's expense the following minimum insurance coverages:
 - a. **Workers Compensation (WC)** Statutory Minimum
 - b. **Employer's Liability (WC)** \$500,000 Minimum

c. **General Liability (GL):** Commercial General Liability including Contractual, Premises Operations, Products and Completed Operations, Independent Contractors/Vendors and Personal Injury, Bodily Injury and Property Damage.

Each Occurrence\$2,000,000 Minimum
Aggregate..... \$2,000,000 Minimum

d. **Automobile Liability (AL):** \$1,000,000

AL insurance is required when vehicles used by Contractor are used in the performance of Services hereunder.

e. **Professional Liability (PL):** Contractor may be required to maintain Professional Liability Insurance in the amount of \$2 million per occurrence/aggregate if Contractor is required to maintain a professional license in order to practice his/her profession. Professions to which this may apply include, but are not limited to, architects, engineers, attorneys, physicians, nurses and physical therapists.

All policies shall be underwritten by a carrier rated at least "A-" in Best's Key Rating Guide. "The Trustees of Princeton University, including its officers, employees and agents" shall be named as additional insureds in the General Liability policy specified above. Certificate(s) evidencing the above insurance coverages—with a statement that University is an additional insured and that the insurance afforded is primary insurance as to any other valid and collectible insurance in force—shall be sent to University's Purchasing Department, 701 Carnegie Center, Suite 154, Princeton, NJ 08540, before Contractor's performance begins. Renewal certificates shall be provided annually until Contractor's performance has been completed and accepted. Evidence of Workers Compensation, Employer's Liability and Automobile Liability insurance is not mandatory if Contractor will not be doing business on, or making visits or deliveries to, University's property.

Contractor shall be solely responsible for payment of premiums and deductibles for all of the required insurance. Should any of the required insurance policies be cancelled or materially changed, Contractor shall provide thirty (30) days prior written notice to University's Purchasing Department. Contractor shall not change the levels of coverage or permit coverage to expire until all the Services have been completed and accepted. Contractor shall not enter upon University property to perform hereunder unless Contractor is and remains insured in accordance with the above requirements. Contractor shall indemnify University for any loss suffered by University for the failure of Contractor to be so insured.

Contractor shall assess its own risk hereunder. If Contractor in its sole discretion deems it appropriate and/or prudent, Contractor shall maintain higher limits and/or broader insurance coverages than the minimum required by University above. Contractor shall not be relieved of any liability or other obligations hereunder by reason of its failure to obtain or maintain insurance in sufficient amounts, duration or types.

18. **FEDERAL AND STATE FUNDS.** If the Purchase Order indicates that University is paying for the Services with funds received from the federal government or the New Jersey Educational Facilities Authority (NJEFA), Contractor hereby acknowledges that any such Services are or may be subject to a number of regulations and University requirements. In the case of funds received from the federal government, such regulations and University requirements include, but are not limited to, Department of Labor Regulations implementing Executive Order 13496 at 29 CFR Part 471, Appendix A to Subpart A; the Office of Management and Budget's Circular A-110; Federal Acquisition Regulations (FAR); Defense Federal Acquisition Regulations (DFAR); Public Law 95-507; and Princeton

University's Terms and Conditions Which Are a Part of Purchase Orders Issued Under Government Contracts or Grants. In the case of funds received from the NJEFA, such regulations and University requirements include, but are not limited to, the New Jersey Prevailing Wage Act, N.J.S.A. 34:11-56-25; and Princeton University's Prevailing Wage Act Requirements for NJEFA Funded Projects. These additional federal and state regulations and University requirements are hereby incorporated by reference fully as if they were set forth at length herein. Contractor shall be solely responsible for obtaining and complying with any and all University requirements, copies of which may be obtained at Buying Basics.

19. **CONFLICTS AND ETHICAL STANDARDS OF CONDUCT.** Contractor affirms that, to the best of Contractor's knowledge, there exist no conflicts of interests between Contractor and University or its employees. In the event of change in Contractor's interests, Contractor shall inform University regarding any conflicts of interest that arise or are likely to arise as a result of such change. Contractor hereby represents that it has neither received nor given gifts or gratuities to any member of the Princeton University community, nor participated in any other unethical conduct in connection with this Agreement. If, at any time, University determines that Contractor is in violation of any representation under this Paragraph, University may cancel this Agreement upon written notice to Contractor, and University shall have no further obligation to Contractor.
20. **EQUAL OPPORTUNITY EMPLOYER.** University is an Equal Opportunity Employer. Pursuant to Executive Orders 11246 and 11375, Section 503 of the Rehabilitation Act of 1973 and Section 402 of the Vietnam-Era Veterans Readjustment Act of 1974, University has developed Affirmative Action Plans that have been filed with and approved by the U.S. Department of Labor's Office of Federal Contract Compliance Programs, and are available for review upon request. Contractor (and subcontractor, if applicable) shall abide by the requirements of 41 CFR §§ 60-1.4(a), 60-300.5(a), and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, national origin, protected veteran status or disability.

Contractor also warrants that it will comply with all applicable executive orders, and federal, state, and local laws, regulations, and rules, and, University policies, as appropriate, relating to nondiscrimination, equal employment opportunity, and affirmative action.
21. **COMPLIANCE WITH SARBANES-OXLEY.** To the extent that Contractor is a company regulated or covered by the Sarbanes-Oxley Act, as amended, compliance with Sarbanes-Oxley is a condition of doing business with University and failure to be in compliance shall be considered a material breach of this Agreement.
22. **SALES AND EXCISE TAX EXEMPTIONS.** As a non-profit educational institution, University is exempt from Federal Excise Tax under Public Law No. 85-859 (Exemption No. A110656) and from New Jersey Sales Taxes (Exemption No. EO-210-634-501), New Jersey Excise Taxes (Exemption No. A-11083) and certain other states' taxes as may be applicable, unless otherwise stated herein. Contractor shall take all steps necessary to ensure that these exemptions are utilized to the maximum benefit of University. Contractor shall not charge University any tax for which an exemption is applicable.
23. **ASSIGNMENTS AND SUBCONTRACTING.** Neither party shall assign or delegate its rights and obligations under this Agreement without the prior written consent of the non-assigning or non-delegating party.

24. **MISCELLANEOUS.** Each notice, request or demand given or required to be given pursuant to this Agreement shall be in writing and shall be deemed sufficiently given if deposited in the United States mail, with first-class postage prepaid, and addressed to the intended recipient at the address set forth below or such other address as the parties may agree upon. Contractor warrants that it will comply with all federal, state and local laws applicable to its performance hereunder. The parties warrant that they have the authority to enter into this Agreement and that entering into this Agreement is not restricted or prohibited by any existing agreement to which they are parties.
25. **SURVIVAL.** This and Paragraphs 1, 5, 6, 9, 11, 12, 13, 14, 15, 16, 17, 18, 23 and 24 hereunder shall survive the termination of this Agreement for any reason.
26. **NEW JERSEY PREVAILING WAGE ACT:**
- a. The New Jersey Prevailing Wage Act (NJPA) [] is [X] is **not** applicable to this Contract.
 - b. Pursuant to the provisions of N.J.S.A. 18A:72A-5.1 et seq., which govern contracts financed in whole or in part by the New Jersey Educational Facilities Authority, the Contractor hereby acknowledges that the Contract is subject to the provisions, duties, obligations, remedies and penalties of the New Jersey Prevailing Wage Act, Chapter 150 of the New Jersey Laws of 1963, New Jersey Department of Labor and Industry, as amended (N.J.S.A. 34: 11-56.25, et seq.).
 - c. Wage and fringe benefit rates shall be paid to all workmen as required under N.J.S.A. 34: 11-56.25, et seq. The Contractor shall obtain the applicable Wage Rate Determination, as promulgated by the State of New Jersey Department of Labor and Workforce Development, which is set forth at www.state.nj.us/labor/lse/lspubcon.html. The Wage Rate Determination in effect as of the effective date of this Contract shall govern this Contract. The Contractor shall maintain in its file a copy of the applicable Wage Rate Determination, which shall be made available to Princeton University upon request.
 - d. The Contractor shall prepare and retain (and shall cause its Subcontractors at all tiers to prepare and submit to the Contractor for retention) Weekly Certified Payrolls in accordance with N.J.S.A. 34: 11-56.25, et seq., commencing with the first of the Contractor's Work on the Project and continuing uninterrupted until the completion of its Work. With each invoice or payment application, the Contractor shall provide a written certification that it has complied with the prevailing wage requirements. Failure of the Contractor to prepare and submit its certification in a timely manner, proper in form and substance, may result in the withholding of progress payment(s) or final payment until such time as the Contractor corrects any such deficiencies with respect to the submission of its certification. In addition, if it is determined that any worker has been paid less than the prevailing wage required, Princeton University may terminate the Contract or the subcontract in accordance with N.J.S.A. 34: 11-56.27.
 - e. The Contractor and each Subcontractor shall maintain records and make them available for inspection in accordance with N.J.S.A. 34: 11-56.29. The Contractor and each Subcontractor shall post the prevailing wage rates in accordance with N.J.S.A. 34: 11-56.32. The Contractor and each Subcontractor shall be registered in accordance with N.J.S.A. 34:11-56.52.
 - f. As a condition to final payment under the Contract, the Contractor shall file the written statements required by N.J.S.A. 34: 11-56.33, proper in form and substance.
 - g. To the fullest extent permitted by law, the Contractor and each Subcontractor shall defend, indemnify and hold Princeton University and its officers, directors, employees, agents and assigns harmless from and against any and all loss, damage, liability, expense, claims, demands, and causes of action of any kind (including reasonable attorney's fees and administrative costs,

incurred by Princeton University), arising or allegedly arising, in any way from or in connection with the Contractor’s or any Subcontractor’s failure to comply with the New Jersey Prevailing Wage Act, N.J.S.A. 34: 11-56.25, et seq.

IN WITNESS WHEREOF, the Parties hereto have executed this Contract:

**ON BEHALF OF
COMPANY NAME**

BY: _____

PRINTED: _____

TITLE: _____

DATE: _____

**ON BEHALF OF
THE TRUSTEES OF PRINCETON UNIVERSITY**

BY: _____

PRINTED: KyuJung Whang

TITLE: Vice President for Facilities

DATE: _____

Princeton University–Contract Funding Summary

Department	Fund	Account	Program	Site	Project	Amount
#####	A####	####		#####	#####	\$##,###,###.##
#####	A####	####		#####	#####	\$##,###,###.##
CONTRACT TOTAL						\$##,###,###.##