# CONSULTING AGREEMENT (COMPANY)

The Parties to this Consulting Agreement (the "Agreement") are TEACHERS COLLEGE, COLUMBIA UNIVERSITY, a not-for-profit corporation of the State of New York having offices located at 525 West 120th Street, New York, New York 10027 on behalf of the [Full Name of TC Office/Department] (the "College") and **[Full Name of Consultant]**, a company with an address at [Full Address of Consultant, including zip code] ("Consultant") cumulatively or individually referred to as the Party or Parties.

The Parties agree as follows:

1. Services: Consultant agrees to complete the consulting services (the "Services") described in the Scope of Work (the "Services"), set out in schedule A, which is attached to and made a part of the Agreement.
2. Period of Performance: This Agreement will begin on **[Start Date]** and continue through **[End Date]**

(the "Term" of the Agreement).

1. Consideration: In compensation for the Services, Consultant will be paid an amount not to exceed

**[TOTAL COMPENSATION DUE TO CONSULTANT IN WORDS, INCLUDING**

**REIMBURSEMENTS] DOLLARS ($0.00)** during the Term of this Agreement. Such compensation inclusive of all expenses related to providing the Services. The College will not be responsible for unanticipated expenses unless an authorized representative of the College approves the expenses in writing before the expenses are incurred.

1. Method of Payment: Consultant will bill the College no later than ten (10) business days after the completion of the Services. Consultant's acceptance of final payment for the Services will release the College from all liability to Consultant under this Agreement.
2. Notification: Notices required under this Agreement must be in writing and delivered in person, by nationally recognized courier services (e.g., FedEx), by certified mail with return receipt request, or facsimile with confirmation, to:

## To Consultant:

Technical Matters and Invoicing Name: [Name of Consultant Company]

Contact person: [Name of Company Contact] Address: [Address Line 1]

[Address Line 2] [City, State, Zip Code]

Phone: [Telephone Number] Email: [Email Address] Fax: [Fax]

Agreement and Legal Matters (if different) Name: [Name of Company Contact] Address: [Address Line 1]

[Address Line 2] [City, State, Zip Code]

Phone: [Telephone Number] Email: [Email]

Fax: [Fax]

## To College:

Technical Matters and Invoicing Teachers College, Columbia University [Name of TC Office/Department]

Attn: [TC Contact handling invoicing and technical matters]

525 West 120th Street

Box #: [Mailbox # of TC Contact] New York, NY 10027

Phone: [TC Telephone Number] Email: [TC Email]

Agreement and Legal Matters Office of the General Counsel

Teachers College, Columbia University 525 West 120th Street, Box #83

New York, NY 10027

Phone: (212) 678-4164

Fax: (212) 678-8306

Email: generalcounsel@tc.columbia.edu

1. Independent Contractor Status:
	1. Consultant affirms that it meets the requirements for being an Independent Contractor under all applicable laws.
	2. Consultant, and not the College, will exercise sole control over the manner and means by which their Services are performed and/or product is delivered.
	3. Consultant is not an agent of the College and therefore is not authorized to transact business or make any commitments for the College unless expressly authorized in writing by an officer of the College.
	4. The College does not pay or withhold federal, state, or local income tax or other payroll tax of any kind on behalf of Consultant or its employees. Neither Consultant nor Consultant's employees are eligible for or entitled to participate in any of the College's pension, health, or other benefit plans. Consultant is responsible for the payment of all required employment-related taxes and fees, payroll taxes, including, but not limited to, income taxes, Social Security taxes, Federal Unemployment Compensation taxes, and any other fees, charges, licenses, or payments required by federal, state or local law.
2. Records and Audit: Consultant certifies that it meets the applicable audit requirements of the College and maintains books and records as required by the Internal Revenue Service. The College, or its authorized representatives, will, until seven (7) years after final payment under this Agreement, have access to any of Consultant's records related to this Agreement for the purpose of conducting audits. If any unsubstantiated payment or overpayment is discovered as a result of any such audit, Consultant agrees to repay the College within thirty (30) calendar days of a request for repayment or, if the Services are not yet complete, Consultant authorizes the College to reduce any payments due by the amount of the unsubstantiated payment or overpayment. The period of access for records will continue after all disputes are settled.
3. Conflict of Interest:
	1. Consultant will disclose any known or potential conflict of interest during the Term of the Agreement. This disclosure will initially be made in writing to the Office of General Counsel by accurately completing the College's online Conflict of Interest Form ("COI"), available at this link [tc.edu/coi\_companies\_form](http://tc.edu/coi_companies_form). Any subsequent conflicts or any situations or activities that might give the appearance of a conflict of interest must be immediately reported to the Office of General Counsel by emailing the office at generalcounsel@tc.columbia.edu.
	2. For purposes of this paragraph, the term "conflict of interest" or "potential conflict of interest" means any situation or circumstance in which Consultant, its directors, agents or any of his/her family members or any affiliated business or associate either (i) has an existing or potential financial or other material interest that impairs or might appear to impair the individual's independence or objectivity of judgment in the discharge of responsibilities to the College, or (ii) receives a financial or other material benefit from knowledge of information obtained from or confidential to the College or, (iii) has the opportunity to influence business decisions internal or external to the College in a way that could lead to personal or other gain or advantage, or, (iv) have any other relationship with the College.
	3. If, at any time, the College determines that Consultant is in violation of any representation under this Paragraph, College may immediately terminate this Agreement upon written notice to Consultant, and the College will have no further obligation to Consultant under this Agreement. The College reserves the right to take any other lawful action against any consultant who has failed to fully disclose any conflict or potential conflict of interest.
4. Assignment: Consultant may not assign, delegate or subcontract the Services, either in whole or in part, without the prior written consent of the College, which the College may grant or withhold in its discretion.
5. Insurance: Consultant will provide all applicable copies of insurance certiﬁcates, endorsements, and waivers provided in Schedule B. **Work cannot begin until the insurance requirements are met.**
6. Indemnifications and Limitation on Liability:
	1. Consultant agrees to defend, indemnify, and hold harmless the College and its affiliates, trustees, officers, agents, and employees from any liability or loss arising from Consultant's performance under this Agreement. The College reserves the right to retain funds, which would be due to Consultant under this Agreement until all disputes are settled.
	2. No limitation on liability will apply to Consultant's obligation to indemnify **Teachers College, Columbia University its affiliates, trustees, officers, agents and employees, volunteers, and representatives**, or to Consultant's obligation to provide insurance, nor will it reduce the payment of proceeds from any insurance coverage that Consultant is obligated to furnish under this Agreement.
	3. There will be no limitation on liability for any violation of the Family Educational Rights and Privacy Act ("FERPA") or The Health Insurance Portability and Accountability Act of 1996 ("HIPAA").
7. Confidentiality:
	1. If Consultant, its employees, agents, and sub consultants receive or have access to confidential or proprietary information of the College, Consultant will hold such information confidential and not disclose or use the information in any way other than to complete the Services. The Term "Confidential or Proprietary Information" means any nonpublic information concerning the College or its officers, directors, trustees, alumni, students, or programs.
	2. Consultant's confidentiality obligations include maintaining appropriate safeguards to avoid loss or damage and prevent unauthorized access to or disclosure of any Confidential or Proprietary Information.
	3. Consultant, its employees, agents or subconsultants agree to comply with any applicable confidentiality provisions of FERPA and HIPAA, as applicable.
	4. Upon completion or Termination of this Agreement, Consultant will return or destroy all such Confidential or Proprietary Information as instructed by the College, unless otherwise agreed in writing.
8. Force Majeure and Measures to Prevent the Spread of Infectious Disease:
	1. Neither Party will be liable for any delay or failure to perform its obligation under this Agreement if prevented from doing so by acts of God, acts of war, acts of civil disturbance or terrorism, governmental restraints, **outbreaks of infectious disease (including quarantines and limitations on activities that result therefrom),** utility or communications failures, or any other causes that the affected Party could not, with reasonable care, control or prevent. If such an event occurs, the affected Party will notify the other Party, and both will use their best efforts to resume their obligations under this Agreement. If the delay or failure continues for longer than thirty (30) days, the unaffected Party may terminate this Agreement upon not less than five (5) days written notice to the affected Party.
	2. The College agrees to abide by all governmental advice and orders for closure, and the Consultant, along with all of its employees, contractors and subcontractors agree to abide by all applicable governmental advice or orders for quarantine, self-quarantine, isolation, or self-isolation designed to reduce the spread of epidemic disease. If this situation occurs and affects performance under this Agreement, the affected Party may invoke this Force Majeure Clause
9. Payments to Employees and Solicitation of Gratuities: Consultant agrees that no part of any amount paid to Consultant under this Agreement will be paid directly or indirectly to an employee of the College as wages, entertainment, compensation, or gifts.
10. Choice of Law/Jurisdiction: This Agreement will be governed and interpreted in accordance with the laws of the State of New York without regard to conflict of law principles. The location and jurisdiction for resolving any disputes arising under this Agreement will be in the State or Federal court located in the County, City, and State of New York.
11. Legal Fees: If any legal action arises from this Agreement, the prevailing Party determined by the court, arbitrator, or administrative agency, will be entitled to reasonable legal fees, costs, and expenses incurred in or related to the legal action.
12. Use of Name: Neither Party to this Agreement will make use of the other's name, logo, symbol, image, or that of any member of the other's staff for any purpose, including but not limited to publicity or advertising purposes without prior written approval of the other Party in each instance.
13. Inspection: The College will have access to the Services in progress at all times for inspection and quality review.
14. Property: All College property must be returned to the College at the end of the Term of this Agreement in the condition in which Consultant received it, allowing for reasonable wear and tear. If Consultant, its employees, and subconsultant losses or damage any of the College's property, the liability for damage or loss will be based on the actual replacement cost determined by the College.
15. Rights in Data and Work Product:
	1. Work Product is all work created under this Agreement, including all information and material (in any form) relating to the Services ("Work Product"). Work Product will include but is not limited to data obtained and customized work product conceived, developed, or reduced to practice, together with all other information of a scientific, technical, or artistic nature. The College will retain exclusive intellectual property rights in all Work Product. The term Work Product herein does not include work previously created or copyrighted by others and not created under this Agreement. Consultant will make all work product available to the College, not later than the time of completion of the Services, or the Termination of this Agreement, as provided below.
	2. Any works of authorship developed under this Agreement will be deemed works-made-for-hire under federal copyright law and all ownership rights will be the property of College. Should any works of authorship not constitute works-made-for-hire under federal copyright law, Consultant hereby grants, transfers, assigns, and conveys to College and its successors and assigns, Consultant'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.
	3. All intellectual property rights arising under this Agreement will be the property of the College. Whether any intellectual property right will be maintained or registered in the United States of America or any foreign country will be at the sole discretion of College. Consultant agrees to cooperate fully with College to prepare and execute all documents necessary or incidental to the protection and preservation of the intellectual property rights granted to College.
	4. Consultant will assure that the Services will not infringe on the intellectual property right of any third party. Consultant shall defend, indemnify, and hold harmless the College, its trustees, officers, directors, employees, and agents for any liability and any related costs and reasonable attorney's fees incurred due to any actual or alleged infringement.
	5. Consultant agrees that all Services will be conducted lawfully and ethically. Consultant will not distort or give false information or act in any other fraudulent or criminal manner in gathering information under the Agreement.
16. Right of Entry: The College will make arrangements to allow Consultant access to College facilities as required under this Agreement. Storage space will not be provided unless otherwise agreed to in writing.
17. Waiver: In the event of a breach or default, the failure of either Party to exercise any right or remedy available under this Agreement will not be deemed a waiver of (i) such right or remedy; (ii) the requirement of punctual performance; or (iii) any right or remedy in connection with any other breach or default.
18. Quality of Work: Consultant agrees that all Services performed under this Agreement will conform to the specifications of the College, be free from errors and be of professional quality according to applicable industry

standards. Upon notice by the College, Consultant will promptly correct any defects without charge to the College.

1. Compliance with Americans with Disabilities Act, other Applicable Laws, and College Rules:
	1. Consultant must certify via the Voluntary Product Accessibility Template ("VPAT") that its electronic and information technology products and services are in compliance with the Americans with Disabilities Act ("ADA"). Additionally, the College uses the completed VPAT to assess electronic and information technology products and services' accessibility. At a minimum, the Consultant must specify how its products or services' features and functional characteristics meet the Section 508 Standards. The VPAT template is available at <https://www.itic.org/policy/accessibility/>. Consultant shall defend, indemnify and hold harmless the College, its trustees, officers, directors, employees and agents for any liability and any related costs and reasonable attorney's fees related to any claim that its products or services do not comply with the ADA.
	2. Consultant will comply with all applicable laws, rules, regulations, orders, requirements, policies, and procedures in performing the Services, including any funders' requirements.
2. Sexual Harassment Prevention Training Requirement: Consultant acknowledges that New York law requires Consultant to complete sexual harassment prevention training if Consultant provides services to the College for more than 80 hours and 90 days in a calendar year. In this case, Consultant shall complete sexual harassment prevention training and shall provide the College with a certificate of completion before commencing any services for the College. Additionally, Consultant shall review and retain a copy of the College's internal complaint process to address sexual harassment claims. Consultant shall defend, indemnify, and hold harmless the College, its trustees, officers, employees, students, and agents from and against any and all actions, claims, damages, penalties, or any other liabilities that arise or result from Consultant’s breach of its obligations in this section, including, but not limited to, the failure to complete the required sexual harassment prevention training, failure to provide a valid certificate of completion for the training, and failure to review and retain a copy of the College’s internal complaint process to address sexual harassment claims.
3. Tax Exemption**:** Consultant will take all steps necessary to ensure that the College's tax exemptions are utilized to the maximum benefit of College.
4. Severability and Modifications:
	1. If any part of this Agreement is unenforceable, but would be enforceable if appropriately modified, then the provision will apply with the modification necessary to make it valid.
	2. If any part of this Agreement is unenforceable and cannot be modified, the remaining portion of this Agreement will continue in a manner that is consistent with the parties' intentions.
5. Termination and Return of Materials:
	1. The College may terminate this Agreement immediately in the event of a material breach by Consultant.
	2. The College may terminate this Agreement without cause upon fourteen (14) days written notice to Consultant unless the parties mutually agree to a shorter notice period.
	3. In the event of any termination, or, at any time, upon College's written request, Consultant will: (i) immediately return to College any College proprietary materials and information in Consultant's possession or control, including without limitation all College Confidential Information and any deliverables under development; and

(ii) at College's request, cooperate with College in the transition of the work performed under this Agreement by the College or its designee.

1. Effect of Termination: Upon the expiration of this Agreement, each Party will be released from all obligations after the date of such Termination, except (1) that any termination of this Agreement will not release Consultant's obligations under Sections 4, 6, 7, 11, 12, 15, 16, 17, 20, 22, 23, 24 and 27 of this Agreement, nor will any such termination relieve Consultant or the College from any liability arising from any breach of this Agreement; and

(2) Consultant will be reimbursed for all approved costs incurred prior to notice of Termination in accordance with the terms and conditions of this Agreement.

1. Amendments: This Agreement contains the entire Agreement between the Parties. Changes to the terms and conditions of this Agreement must be made in writing and signed by authorized representatives of each Party.

The Parties execute this Agreement by their duly authorized representatives as of [Effective Date].

TEACHERS COLLEGE, COLUMBIA UNIVERSITY

CONSULTANT – [FULL NAME OF CONSULTANT COMPANY]

By: Name: [Name of TC Approved Signer] Title: [Title of TC Approved Signer]

Date:

By:

Name: [Name of Representative] Title: [Title if applicable]

Date:

## Schedule A

**Scope of Work for Services**

[Name of Consultant Company]

[Complete Scope of Work for project. See Sample Scope of Work on the OGC website!]

# Schedule B

**CONTRACT INSURANCE REQUIREMENTS**

After the award and prior to the start of work, the contractors must provide evidence in the form of current **Certificates of Insurance** and a **copy** of the "**Additional Insured Endorsement"** certifying the following **applicable** coverages. **Failure to furnish will result in work not being allowed to commence.**

1. All vendors shall provide Certificates of Insurance evidencing the following and shall maintain at their own cost and expense, the following types and amounts of primary insurance with insurers rated "**A-" "VII"** or better by **AM Best and licensed in the State of New York**:
	1. If the Consultant is a company:

**WORKERS' COMPENSATION COVERAGE AND EMPLOYERS' LIABILITY**: Insurance covering all employees for Workers' Compensation in accordance with the laws of the State of New York and a minimum limit of **$1,000,000 for bodily injury by each employee, accident and by disease under the Employers' Liability.** Such insurance shall be primary over other collectible insurance that may apply. **Teachers College Columbia University their affiliates, trustees, officers, agents and employees, volunteers, and representatives must be named as an additional insured and shall provide a waiver of subrogation in favor of Teacher College Columbia University their affiliate, trustees, officers, agents and employees, volunteers, and representatives**

* 1. If the Consultant uses vehicle(s) to perform services:

**AUTOMOBILE LIABILITY**: Insurance for all owned, non-owned, and hired vehicles with limits of liability of at least

$1,000,000 combined single limit per accident for bodily injury and property damage. **Teachers College Columbia University their affiliates, trustees, officers, agents and employees, volunteers, and representatives must be named as an additional insured and shall provide a waiver of subrogation in favor of Teacher College Columbia University their affiliate, trustees, officers, agents and employees, volunteers, and representatives**. Such insurance shall be primary over other collectible insurance that may apply. The required limits of insurance can be satisfied by any combination of primary and umbrella/excess insurance coverage

* 1. If Consultant's services extend to the premises of the College or any third party in contract with the College: **COMMERCIAL GENERAL LIABILITY**: Insurance with a minimum of $1,000,000, which coverage is to include completed operations, advertising injury, bodily injury, property damage, personal-injury, subcontractors, independent contractors and contractual liability with annual limits of liability of not less than $1,000,000 combined single limit per occurrence. Such insurance shall be primary over other collectible insurance that may apply. **Teachers College Columbia University their affiliates, trustees, officers, agents and employees, volunteers, and representatives must be named as an additional insured and shall provide a waiver of subrogation in favor of Teacher College Columbia University their affiliate, trustees, officers, agents and employees, volunteers, and representatives**. To the extent permitted by applicable law, Contractor will at its own cost and expense, obtain and maintain in full force and effect during the term of this Agreement and for (3) years thereafter and any such other insurance coverage that is appropriate for Contractor's field and adequate to meet Contractor's obligation under this Agreement.
	2. If the Consultant is unable to meet requirements (ii) and (iii) above:

**UMBRELLA / EXCESS LIABILITY:** Umbrella / Excess Liability insurance coverage of not less than US $5,000,000 over the employer's liability, automobile liability, and commercial general liability coverages listed above. **Teachers College Columbia University their affiliates, trustees, officers, agents and employees, volunteers, and representatives must be named as an additional insured.** Such insurance shall be primary over other collectible insurance that may apply. The required limits of insurance can be satisfied by any combination of primary and umbrella/excess insurance coverage.

* 1. If Consultant is delivering a work product:

**PROFESSIONAL LIABILITY (ERRORS AND OMISSIONS):** Insurance covering with limits of not less than

$5,000,000 per claim and $5,000,000 in the aggregate per for any coverage and for any coverage maintained on a **"claims-made" policy, for three (3) years following the term of this Agreement or completion of all Services associated with this Agreement, whichever is later.**

* 1. If Consultant is developing a website or working with the College's electronic data or network:

**Cyber Liability, E-Risk, Network Liability and/or Computer Fraud:** Insurance covering with limits of not less than

$5,000,000 per claim and $5,000,000 in the aggregate per for any coverage and for any coverage maintained on a **"claims-made" policy, for three (3) years following the term of this Agreement or completion of all Services associated with this Agreement, whichever is later.**

* 1. If Consultant is required to maintain a professional designation or license, such as an architect or engineers: Insurance covering with limits of not less than $5,000,000 per claim and $5,000,000 in the aggregate per for any coverage and for any coverage maintained on a **"claims-made" policy, for three (3) years following the term of this Agreement or completion of all Services associated with this Agreement, whichever is later.**
	2. If Consultant works with children:

**Molestation Coverage:** Insurance covering with limits of not less than $5,000,000 per claim and $5,000,000 in the aggregate per for any coverage and for any coverage maintained on a **"claims-made" policy, for three (3) years following the term of this Agreement or completion of all Services associated with this Agreement, whichever is later. Teachers College, Columbia University, their affiliates, trustees, officers, agents and employees, volunteers, and representatives must be named as an additional insured. Such insurance shall be primary over other collectible insurance that may apply. The required limits of insurance can be satisfied by any combination of primary and umbrella/excess insurance coverage.**

* 1. If Consultant works with property or funds of the College:

**CRIME / EMPLOYEE DISHONESTY INSURANCE:** Must maintain coverage for employee dishonesty, loss of money and securities and other tangible property belonging to customer resulting directly from a fraudulent or dishonest act by a supplier employee, while performing supplier's professional services for the Customer with limits of not less than **$1,000,000 per claim**, naming **Teachers College Columbia University their affiliates, trustees, officers, agents and employees, volunteers, and representatives** as loss payee.

* 1. If Consultant works with poisonous substance, chemical waste or pesticide:

**POISONOUS SUBSTANCE, CHEMICAL WASTE AND PESTICIDE DISPOSAL CONTRACTORS**: Must maintain

Commercial General Liability insurance with a minimum combined single limit of $5,000,000 for bodily injury and property damage and be endorsed to include Pollution Legal Liability. Alternatively, separate, stand alone, Commercial General Liability and Pollution Legal Liability policies each with limits of $5,000,000 is acceptable and any coverage maintained on a "**claims-made" policy, for three (3) years following the term of this Agreement or completion of all Services associated with this Agreement, whichever is later.**

* 1. If Consultant works with Asbestos:

**ASBESTOS REMOVAL AND MONITORING CONTRACTORS**: Must maintain Pollution Legal Liability insurance with the minimum limits of $5,000,000 combined single limit and for any coverage maintained on a **"claims-made" policy, for three (3) years following the term of this Agreement or completion of all Services associated with this Agreement, whichever is later.**

* 1. If Consultant provides bussing or transportation services:

**BUS/TRANSPORTATION VENDORS**: Must maintain Business Auto Liability insurance coverage for all owned, non-owned or hired vehicles which **Teachers College Columbia University their affiliates, trustees, officers, agents and employees, volunteers, and representatives must be named as an additional insured in this policy**. For vehicles with seating capacity of eighteen (18) or more, a $5,000,000 combined single limit of liability is required.

1. **ADDITIONAL INSURANCE OBLIGATION**: The amount and coverage of such vendor and contractor's insurance shall not limit or expand vendors and contractor's liability nor relieve either Party of any rights or other obligations under this Agreement. Any deductibles, self-insured retentions, loss limits, and any other retention shall be the responsibility of vendors and contractors.
2. **LIMITATION OF LIABILITY:**

"Notwithstanding any other provision in this Agreement to the contrary, no limitation of liability or similar restriction or limitation shall apply to vendor's obligation to indemnify **Teachers College Columbia University their affiliates, trustees, officers, agents and employees, volunteers, and representatives**, or to vendor's obligation to provide insurance, nor shall it

operate to limit or reduce the payment of proceeds from any insurance coverage that vendor is obligated to furnish under this Agreement."

1. **CERTIFICATE OF INSURANCE REQUIREMENT:** All certificates shall contain the provision that the insurance shall not be cancelled for any reason, except after thirty (30) days written notice and indicate the nature of work being performed or goods/services being furnished. **Failure to furnish will result in work not being allowed to commence. For new contracts with vendors all certificate of insurance should be provided along with the signed contract and a copy of the Additional Insured Endorsement.**

All certificate of insurance must include the following information within the description section:

**Additional Insured Language: Teachers College, Columbia University their affiliates, trustees, officers, agents and employees, volunteers, and representatives are named as an additional insured and shall provide a waiver of subrogation in favor of Teacher College, Columbia University, and affiliates. Such insurance shall be primary over other collectible insurance that may apply**

**Job description with project number(s) and Teachers College's "purchase order" number**

Please send all **Certificates of Insurance** and a **copy** of the **additional insured endorsement** to the Risk Management and Insurance, Teachers College, Columbia University, 525 W. 120th Street – Box 30, New York, NY 10027. Electronic copy of the Certificate of Insurance is acceptable in lieu of direct mail. Please send it to controllers\_office@tc.columbia.edu and include the following within the subject line: **"CERTIFICATE OF INSURANCE" with the policy expiration date and the Vendor's name (ABC).**