

## SERVICE/SUPPLY AGREEMENT

This Service/Supply Agreement (“Agreement”) made between the parties identified

ARTICLE III  
Project or Scope of Work

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as

more fully described in Article IV of this Agreement (the “Work”). This description is for convenience of reference only and is not intended to modify the more detailed description set forth in this Agreement. Unless otherwise specifically set forth herein, Contractor shall supply all facilities, equipment, and personnel necessary to perform the Work.

ARTICLE IV  
Contract Documents and Performance Requirements of the Work

The terms and conditions of this Agreement are set forth herein and in the following documents, specifications, appendices and exhibits:

- 4.1 Bid Notice or RFP Solicitation \_\_\_\_\_.
- 4.2 Bidder’s Response to Bid Notice or RFP Solicitation \_\_\_\_\_.
- 4.3 Statement of Work as specified in Bid or RFP \_\_\_\_\_.
- 4.4 Standard Clauses for Hudson Valley Community College Contracts attached in Exhibit A.
- 4.5 Insurance Requirements if applicable as specified in Bid or RFP \_\_\_\_\_.

ARTICLE V  
Termination

5.1 Term and Termination.

5.1.1 Term. Unless otherwise terminated in accordance with this Agreement, the term of this agreement shall be in accordance with the term as specified in Bid Notice or RFP Solicitation, \_\_\_\_\_.

5.1.2 Termination. This Agreement may be terminated:

- a) by the non-breaching party, if a party commits a material breach of this Agreement and the breaching party fails to cure th4.63 -1.2 Tw 6rb-a1.2 Tterireal.2 Tch4.63 wi th4.63 irty

- d) if any representation in Exhibit B shall contain an untrue statement of a material fact or omit to state a material fact necessary to make statements therein not misleading
- e) as otherwise provided in this Agreement.

## ARTICLE VI

### Confidential Information

6.1 In the course of performing their respective obligations pursuant to this Agreement, either the College or Contractor may come into contact with, or acquire knowledge about, technical or business information which the other regards and treats as confidential or is required by law to treat as confidential (“Confidential Information”). Confidential Information includes information about students except Directory Information as that term is defined by the College pursuant to the Family Education Rights and Protection Act (“FERPA”). The Confidential Information may be used by the other only if required to perform its obligations under this Agreement and may only be distributed in accordance with law and to those employees who have a need to know in order to perform pursuant to this Agreement.

6.2 The obligations contained in Section 6.1 of this Agreement shall not apply to any Confidential Information lawfully in the receiving party’s possession prior to its acquisition from the other party; received in good faith from a third party not subject to any confidential obligation to the party; or which now or later becomes publicly known through no breach of confidential obligation by a party.

6.3 If either party receives a request to disclose any Confidential Information (whether pursuant to the New York State Freedom of Information Law, a valid and effective subpoena, an order issued by a court or other governmental authority), on advice of counsel that disclosure is required under applicable law, the receiving party agrees that, prior to disclosing any Confidential Information, it shall (i) notify the other of the existence and terms of such request or advice, (ii) cooperate with the other in taking legally available steps to resist or narrow any request or otherwise eliminate the need for disclosure, and, (iii) if disclosure is required, and a party seeks to quash the subpoena or otherwise narrow, limit, or eliminate the request for the party’s Confidential Information, the other shall cooperate in such action at the expense of the requesting party.

6.4 If either party is given access, whether on-site or through remote facilities, to any data about the other or a student, the receiving party will limit access and use it solely to perform its obligations within the scope of this Agreement and shall not access or attempt to access any computer system, electronic file, software or other electronic services except those required to perform its obligations under this Agreement.

6.5 The obligation of confidentiality and use with respect to Confidential Information shall survive termination of this Agreement.

## ARTICLE VII

### Force Majeure

7.1 If performance of this Agreement is prevented, restricted or interfered with by reason of acts of God, wars, civil commotion, acts of public enemy, embargo, acts of government in its sovereign capacity, labor difficulties, including without limitation, strikes, slowdowns, picketing or boycotts, or any other circumstances beyond the reasonable control and not involving any fault or negligence of the party affected, the party affected, upon giving prompt notice to the other party, shall be excused from such performance on a day-to-day basis during the continuance of such prevention, restriction, or interference (and the other party shall likewise be excused from performance of its obligations on a day-to-day basis during the same period), provided, however, that the party so affected shall use its best reasonable efforts to avoid or remove such causes of nonperformance and both parties shall proceed immediately with the performance of their obligations under this Agreement whenever such causes are removed or cease.

## ARTICLE VIII

### Taxes

8.1 Each party shall be responsible for the withholding and/or payment, as required by law, of all federal, state, and local taxes imposed on it or its employees because of the performance of work hereunder. Each party shall comply with all federal and state benefit laws applicable to it or its employees, if any, including making deductions and contributions for social security and unemployment tax. Each party further agrees to make payments to federal and appropriate state authorities for withholding, FICA and unemployment taxes.

## ARTICLE IX

### Miscellaneous

9.1 Notice. Any written notice either party may give the other concerning the subject matter of this Agreement shall be in writing and given or made by means of facsimile transmission, U.S. mail, express mail or other overnight delivery service, or hand delivery, proper postage or other charges paid and addressed or directed to the respective parties to the addresses provided in Article I of this Agreement:

Such notice shall be deemed to have been given or made or five (5) days after mailing, the day faxed (with confirmation), and the day after delivery to the postal service or other overnight delivery service.

9.2 Waiver of Terms and Conditions. Failure to enforce any of the terms or conditions of this Agreement shall not constitute a waiver of any such terms or conditions, or of

9.4 Survival of Obligations. The respective obligations of Contractor and College under this Agreement which by their nature would continue beyond the termination, cancellation or expiration of the Agreement, shall survive termination, cancellation or expiration.

9.5 Applicable Law. This Agreement, and the rights and obligations contained in it, shall be governed by and construed in accordance with the laws of the State of New York, without regard to any conflicts of law principles that would require the application of the laws of any other jurisdiction. Any action arising under this Agreement shall be brought in the Supreme Court for the County of Rensselaer or the Federal District Court for the Northern District of New York and the parties waive defense of *forum non conveniens*.

9.6 Entire Agreement. This Agreement represents the entire understanding between the parties with the respect to the provisions and cancels and supersedes all prior agreements or understandings, whether written or oral, with respect to the subject matter. This Agreement may only be modified or amended by an instrument in writing signed by duly authorized representatives of the parties.

9.7 Counterparts. This Agreement may be executed in counterparts, and when executed by both parties and delivered by each to the other, it shall be one and the same agreement.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement through their authorized representatives.

COLLEGE

CONTRACTOR

Hudson Valley Community College

\_\_\_\_\_

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

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

Title: V for Finance

Title: \_\_\_\_\_

## EXHIBIT A

### STANDARD CLAUSES FOR ALL HUDSON VALLEY COMMUNITY COLLEGE CONTRACTS

The parties to the attached contract, license, lease, amendment or other agreement of any kind (hereinafter, "the Contract" or "this Contract") agree to be bound by the following clauses which are hereby made a part of the Contract (the word "Organization" herein refers to any party other than the Hudson Valley Community College ("College"), whether a contractor, licensor, licensee, lessor, lessee or any other party):

1. NON-ASSIGNMENT CLAUSE. This Contract may not be assigned by the Organization or its right, title or interest therein

construed as, in any way or under any circumstances, creating or appointing the Organization as an agent of the College for any purpose whatsoever.

7. WORKERS' COMPENSATION BENEFITS. Contractor shall provide and maintain during the life of this Contract for the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law.

8. NON-DISCRIMINATION REQUIREMENTS. In accordance with Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional non-discrimination provisions, the Organization will not discriminate against any employee or applicant for employment because of race, creed, color, sex, national origin, age, disability or marital status, military status, sexual orientation and predisposing genetic characteristics.

9. CONFLICTING TERMS. In the event of a conflict between the terms of the Contract (including any and all attachments thereto and amendments thereof) and the terms of this



16. MODIFICATION. This writing contains the entire agreement of the parties with