

**CONSULTING AGREEMENT
BETWEEN
THE UNIVERSITY OF THE DISTRICT OF COLUMBIA
AND [CONSULTANT NAME]**

I. INTRODUCTION

This Consulting Agreement (the “**Agreement**”) is made effective as of the date of the last signature of a party hereon (the “**Effective Date**”), and is entered into by and between [CONSULTANT NAME], located at [CONSULTANT ADDRESS] (the “**Consultant**”), and the **UNIVERSITY OF THE DISTRICT OF COLUMBIA**, located at 4200 Connecticut Ave., N.W., Washington, DC 20008 (the “**University**”) with respect to certain consulting services (the “**Services**”) to be performed for the University’s benefit by the Consultant, on the terms and conditions set forth herein. Each of Consultant and University is referred to as a “**Party**” and collectively they are referred to herein as the “**Parties**.”

II. DESCRIPTION OF PARTIES AND PURPOSE

The purpose of this Agreement is to formalize the relationship between the University and the Consultant for the provision by Consultant of certain Services, as more fully described in Section III.

[Description of University Department or College performing/or receiving services under the Agreement].

[Description of the Company].

III. FEES AND SCOPE OF SERVICES

[Describe fees payable for the consulting Services.] Consultant shall submit invoices, unless the Parties agree otherwise in writing, on a monthly basis and the University will pay all true and correct invoices within 45 days of receipt. If Consultant is performing services for pay pursuant to more than one agreement, or for more than one authorizing person or department at the University, Consultant must consolidate all reported work and billings on a single monthly invoice, clearly identifying the work and source of the authorization, and submit the invoice to all such agreements’ responsible parties at the same time.

[Except as described below,] Consultant claims no pre-existing intellectual property that will be delivered as part of Consultant’s performance of the Services.

[Have Consultant list any pre-existing IP they plan to include in their deliverables, but NOT transfer ownership of to UDC.]

Consultant shall: [Description of the Services to be provided; if too detailed or lengthy, can be attached as an Exhibit.]

IV. TERM AND TERMINATION

This engagement starts on the Effective Date and continues until September 30, [REDACTED], unless earlier terminated. The Agreement may be renewed by the University for up to [two (2) one year option periods.] The Agreement may be terminated by either party upon 90 days advance written notice to the other, with or without cause. In addition, either party may terminate this Agreement for breach if such party delivers written notice to the breaching party identifying the breach with reasonable specificity and the breaching party fails to cure such breach to the other party's reasonable satisfaction within 15 days of its receipt of such notice. Each party will use diligent efforts to cease work upon actual receipt of such written notice, or the expiration of the cure period, as applicable (the date work actually ceases, or should have ceased in the exercise of such diligence, is the "**Termination**").

V. STANDARD OF CARE

The parties agree that the University has identified Consultant as being, and Consultant represents that Consultant is, uniquely capable of providing the Services. The Consultant shall perform the Services utilizing the standards of care normally and customarily exercised by professional consultants in performing comparable services under similar conditions. Consultant will determine the method, details, and means of performing the Services. Consultant will use best efforts to perform the Services in a manner satisfactory to the University and will devote the amount of time reasonably necessary to perform the Services.

VI. OWNERSHIP OF INTELLECTUAL PROPERTY AND DELIVERABLES

Except for any specific intellectual property that Consultant identified in Section III above, all information, materials, reports, drawings, literary works, software, presentations, designs, plans, concepts, ideas and other work product that Consultant creates or develops for the University as part of the Services ("**Work Product**"), including Work Product produced prior to the date of execution of this Agreement that was created for the University, shall be owned solely by the University, and Consultant hereby assigns over to the University, and hereby automatically assigns over to the University in the future for no additional consideration other than the payments Consultant is entitled to hereunder, all right, title and interest in and to such Work Product, including all copyrights, patents, trade secrets and other proprietary rights contained or embodied therein ("**Intellectual Property**"). Consultant agrees that all Work Product is "work made for hire" under Title

17 of the United States Code. Consultant shall execute all such assignments, oaths, declarations, and other documents, and shall provide all such information, documentation and assistance, as may be determined by the University to be required to effectuate the foregoing, or to perfect, enforce or defend the Intellectual Property. In the event Consultant fails or refuses to take such actions and execute such documents, Consultant hereby appoints the University's then president as Consultant's attorney-in-fact to take such actions and to execute such documents and agrees that this agency is coupled with an interest and is irrevocable. The University, in its sole discretion, shall determine the extent of the proprietary rights, if any, to be protected in or based on Work Product. Consultant shall promptly upon demand by the University, and notwithstanding any disputes, deliver over to the University all copies, drafts, Work Product in its then current state, and other materials that have been created or developed as of that point under this Agreement.

VII. REPRESENTATIONS AND WARRANTIES

Consultant makes the following material representations to the University in order to induce the University to enter into this Agreement, and acknowledges that the University has reasonably relied upon each of these representations and but for each and every one of these representations, the University would not enter into this Agreement.

- (a) With the exception of matters it identifies in writing as contributed by third parties, or in respect of public domain materials, all input into Work Product is original to the Consultant and does not violate any agreement or Intellectual Property rights of a third party;
- (b) Consultant has the qualifications, licenses (if any are required by law or necessary to perform the Services) and ability to perform the Services in a professional manner, without the advice, control, or supervision of the University. Consultant shall be solely responsible for the professional performance of the Services;
- (c) Consultant has not entered into any agreement that prohibits all or any part of the Services to be performed under this Agreement and Consultant is not under any existing obligation that would inhibit or prevent him/her from performing the Services;
- (d) Consultant has not taken any confidential or proprietary information or trade secrets of any other person or entity by whom Consultant has previously been employed or retained as a contractor, or is retained or employed by, and Consultant shall not use any such information in the performance of his/her Services; and
- (e) Consultant has not granted any rights or licenses to any intellectual property or technology that would conflict with the University's rights or Consultant's obligations under this Agreement.

If Consultant uses any of Consultant's pre-existing Intellectual Property in developing the Work Product, Consultant shall inform the University of the nature of such pre-existing rights in writing, and Consultant shall (and hereby does) grant to the University a non-exclusive, perpetual and irrevocable worldwide license and right to copy, distribute and use the Consultant's pre-existing Intellectual Property, as it subsists in the Work Product, to exploit and fully enjoy the benefits of the Work Product. Consultant and the University agree that the license granted herein to pre-existing Consultant Intellectual Property permits the University to transmit the Work Product to other consultants, strategic partners and businesses with whom the University has a contractual relationship to implement and fulfill the purpose for which the Work Product was created.

VIII. CONSISTENT WITH LAW

The Parties shall comply with all applicable laws, rules, and regulations whether now in effect or hereafter enacted or promulgated.

The Parties recognize that the student educational records are protected by the Family Educational Rights and Privacy Act (“**FERPA**”). FERPA permits disclosure of student “educational records” to “school officials” that have a “legitimate educational interest” in the information. In accordance with FERPA, the University can designate other entities, including vendors and consultants, as “other school officials.” For purpose of this Agreement only, the Consultant is determined to fall within the category of “school official.” Neither Party, their agents, nor their assignees shall disclose student educational records to any third party, except with the prior written consent of the student (or parent, where applicable) and as permitted by law. Approved re-disclosures to third parties shall not exceed the purpose for original disclosure. Further, the Consultant, should he or she disclose student educational records, is obligated to maintain a list of entities, agencies, or organizations to whom the records were disclosed, identifying which records were disclosed and the purpose for each disclosure.

Any disclosures made shall comply with University’s definition of “legitimate educational interest.” The Parties agree and warrant that they shall use student educational records solely to accomplish their obligations and solely in a manner and for purposes consistent with the terms and conditions of this Agreement and University policies and procedures. The Parties agree to take appropriate legal action against any unauthorized use or disclosure of any student educational record.

The Parties agree to comply with all Federal and District of Columbia statutes that prohibit discrimination. The Parties certify that all persons employed by and students served by the

Parties shall be treated equally without regard to race, religion, ancestry, national origin, sex, age, disability, marital status, political affiliation, or beliefs.

IX. INDEMNITY

Consultant shall indemnify and hold harmless the University, its officers, employees, trustees, agents and students from and against any and all claims, damages, judgments, actions and causes of action, including but not limited to, the cost, expenses and reasonable legal fees incurred in defending any and all such claims, actions and lawsuits, arising by reason of the acts or omissions of Consultant in the course of Consultant's performance under this Agreement. University agrees to give Consultant written notice of all such claims, damages, judgments, actions, costs, expenses and legal fees within 30 days of becoming aware of the same.

X. INSURANCE

Consultant shall provide and maintain adequate insurance coverage to address its risks and responsibilities hereunder, including [general liability insurance] in the amount of \$1 million per occurrence/\$3 million annually. Consultant shall furnish a Certificate of Insurance evidencing such insurance and shall provide University with written notice of the cancellation, modification or non-renewal of its applicable commercial insurance coverage upon the later of (a) thirty (30) days prior to, or (b) within five (5) business days of Consultant's actual notice of, such cancellation, modification or non-renewal.

XI. ANTI-DEFICIENCY CONSIDERATIONS

The Parties acknowledge and agree that University's obligations to fulfill financial obligations of any kind under this Agreement, or any subsequent agreement entered into by the Parties pursuant to this Agreement, are and shall remain subject to the provisions of (i) the federal Anti-Deficiency Act, 31 U.S.C. §§1341, 1342, 1349, 1351, (ii) the District of Columbia Anti-Deficiency Act, D.C. Official Code §§47-355,01-355,08 (2001), (iii) D.C. Official Code §47-105 (2001), and (iv) D.C. Official Code §1-204.46 (2006 Supp.), as the foregoing statutes may be amended from time to time, regardless of whether a particular obligation has been expressly so conditioned.

XII. LEGAL NOTICES

Any notice required or allowed under this Agreement shall be deemed properly given upon actual delivery, if delivery is by hand, upon receipt by the transmitting party of confirmation or answer back, if delivery is by facsimile or electronic mail, or three (3) days after delivery into the regular mail, postage prepaid by registered or certified return

receipt-requested to the parties at the address under their signature or at such other address as the parties may designate by notice given pursuant to this clause.

For the Consultant:

[insert contact information]

For University:

[insert contact information]

With a copy not constituting notice to:

Office of the General Counsel
University of the District of Columbia
4200 Connecticut Ave., Building 39, Suite 301Q
Washington, DC 20008
Attention: General Counsel

XIII. CONFIDENTIAL INFORMATION

The Parties will use, restrict, safeguard, and dispose of all information related to services provided by this Agreement in accordance with all relevant federal and local statutes, regulations, and policies.

XIV. INDEPENDENT CONTRACTOR; TAXES

In performing the Services, Consultant will be acting solely as an independent contractor, and Consultant shall not be deemed to be an employee of the University for any purpose. Neither Consultant nor the University shall have the authority to bind, commit or incur any liability on behalf of the other party or to otherwise act in any way as an agent or representative of the other party.

All payments to Consultant are net of taxes and other governmental charges (other than Consultant's income taxes), and any taxes and other governmental charges (other than Consultant's income taxes) that may be imposed with respect to any payments to Consultant shall be borne by Consultant. Consultant acknowledges that it is also liable for any income taxes that may be imposed on Consultant and any payroll taxes in respect of Consultant's employees.

XV. MISCELLANEOUS

By executing this Agreement, each Party represents to the other Party that it is authorized to enter into this Agreement, that the person signing on its behalf is duly authorized to execute this Agreement, and that no other signatures are necessary. This Agreement is made for the benefit of the Parties hereto and not for the benefit of any third party. This Agreement shall be construed in accordance with and governed by the laws of the District of Columbia, without regard to its conflicts of law provisions. All disputes and actions shall be tried solely and exclusively in the District of Columbia, and all of the parties submit to jurisdiction of District of Columbia for such purpose. This Agreement constitutes the full, final and entire agreement and understanding of Consultant and the University relating to the Services and shall control over any inconsistent or contradictory provisions contained in any correspondence, request for proposal, proposal, purchase order or other document of Consultant and/or the University and any inconsistent or contradictory oral or written statements or representations of Consultant and/or the University. No modification of the terms hereof shall be effective against either party unless and until both parties expressly agree to such modification in a written agreement signed by an authorized officer of each party. Should any provision of this Agreement be declared or be determined by any court to be illegal or invalid, the validity of the remaining parts, terms or provisions shall not be affected thereby and said illegal or invalid part, term, or provision shall be deemed not to be a part of this Agreement. This Agreement may be executed in any number of counterparts, or in different counterparts, any of which shall be deemed an original, but all of which together shall constitute one and the same agreement. Facsimile or electronically transmitted signatures shall be deemed to be originals.

XVI. LEGAL AUTHORITY

[insert DC Code or DCMR reference that authorizes the activities under the Agreement]

XVII. FISCAL IMPACT

None. [Or Specific \$\$ Amount and Payment Process]

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as follows:

[Name of Consultant]

Date

UNIVERSITY OF DISTRICT OF COLUMBIA:

Ronald Mason, Jr.
President

Date

Reviewed by the Office of General Counsel for Legal Sufficiency:

Name:
Title:

Date