INDEPENDENT CONSULTANT AGREEMENT

This Agreement is made this day of , 20 , between The Catholic University of America, 620 Michigan Avenue, NE, Washington, DC 20064, a not-for-profit corporation in the District of Columbia, (herein referred to as "Owner"), and of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, (herein referred to as "Consultant").

RECITALS

Owner owns and operates an institution of higher education at the address set forth above and desires to have services provided for the Sponsored Project entitled: " ," ("Sponsored Project") under the leader­ship of: ("CUA Project Director"). Description of type of services to be provided:

Consultant agrees to perform these services for Owner under the terms and conditions set forth in this Agreement.

In consideration of the mutual promises set forth herein, it is hereby agreed by and between Owner and Consultant:

SECTION ONE

DESCRIPTION OF WORK

The work to be performed by Consultant includes all services generally performed by Consultant in Consultant's usual line of business, including, specifically, the following:

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SECTION TWO

PAYMENT

Consultant is required to submit itemized invoices for payment for specific work performed under this Agreement to the Owner on a (specify interval) basis. Final payment will be made upon verified completion of 100% of the work; expected by , 20 ; at a total cost not to exceed Dollars ($ ).

SECTION THREE

RELATIONSHIP OF PARTIES

The parties intend that the status of the Consultant is as an Independent Contractor in this Agreement. Owner is interested only in the results to be achieved and not the means for render­ing the services. The conduct and control of the work will lie solely with Consultant under the leadership of the CUA Project Director. Consultant is not to be considered an agent or employee of Owner for any purpose, and the employees or sub-consultants of Consultant are not entitled to any of the benefits that Owner provides for Owner's employees. Consultant is responsible for his/her own state and federal income tax with­holding and Social Security withholding. It is understood that Owner does not agree to use Consultant exclusively. It is further understood that Consultant is free to contract for similar services to be performed for other owners while under this Agreement with Owner.

SECTION FOUR

LIABILITY

The work to be performed under this Agreement will be performed entirely at Consultant's risk. Consultant assumes all responsibility for the condition of equipment used in the perform­ance of this Agreement. Consultant agrees to defend and hold Owner harmless from any and all claims, judgments, damages, liabilities and costs caused by, or arising out of, or in connection with providing the services as outlined herein, including, but not limited to, the use of any vehicle, owned, rented, leased or otherwise used, in the course of providing the services as outlined herein, provided by Consultant, its employees, agents and/or assigns, unless due to the negligence or willful misconduct of the Owner.

SECTION FIVE

INSURANCE

Where Consultant requires the use of a vehicle(s) in the performance of work under this Agreement, Consultant will, at all times during the term hereof and at its own expense, keep in full force and effect automobile insurance, in amounts acceptable to Owner, for property damage, bodily injury or death. Consultant has the responsibility and obligation to provide workers' compensation insurance for Consultant, Consultant's employees, agents and/or sub-consultants, except for “casual employees”. Consultant is responsible for health, accident, catastrophic and other insurance, none of which is the obligation of Owner.

For incorporated Consultants:

Consultant will carry, for the duration of this Agreement, general liability insurance in the amount of One Million Dollars ($1,000,000). All such policies of general liability and property damage insurance shall name Owner as an additional insured in respect to operations under this Agreement.

SECTION SIX

DEFAULT

If the Consultant defaults or persistently fails or neglects to carry out the work in accordance with this Agreement or fails to perform any provision of this Agreement, the Owner, after seven (7) days written notice to the Consultant and without prejudice to any other remedy it may have, may make good such deficiencies and may deduct the cost thereof from any payment then or thereafter due the Consultant or, at its option, where sufficient cause exists to justify the action, may terminate this Agreement.

If the Consultant defaults or persistently fails or neglects to carry out the work in accordance with this Agreement or fails to perform any provision of this Agreement, the Owner may provide written notice of such failure to the Consultant and seven (7) business days after such notification, and without prejudice to any other remedy it may have, Owner may:

* allow Contractor thirty (30) days to cure the failure; or
* make good such deficiencies and deduct the cost thereof from any payment then or thereafter due the Contractor; or,
* at its option, where sufficient cause exists to justify the action, terminate the Agreement.

SECTION SEVEN

CONFIDENTIAL AND PROPRIETARY INFORMATION

Consultant understands that in performing this Agreement, he/she may have access to confidential or proprietary information and trade secrets of Owner and others, including but not limited to: names, facts or information about individuals, businesses and families participating in these projects; information pertaining to University students or employees; financial or other sensitive internal matters of Owner; and/or information otherwise protected by law. It is agreed that the definition of confidential or proprietary information includes all documentary, electronic, and/or oral information made known to Consultant through any activity related to this Agreement but shall not include information made available as public information.

Consultant shall not divulge, disclose, copy, sell, data mine, or other­wise make use of any confidential or proprietary information (includ­ing but not limited to the above) of Owner, its students, employees, agents or assigns without express, advance written authorization of Owner. Consultant agrees not to download any confidential or proprietary information from Owner’s servers or network without express, advance written permission of Owner, and agrees not to take any such information off campus in any form (e.g. via laptop, disk, drive, tape, or other storage device), without the same permission of Owner. Consultant agrees that any unauthorized uses under this paragraph shall be considered a breach of this Agreement and also may subject Consultant to legal action. Consultant agrees that if s/he receives a subpoena for divulgence of confidential or proprietary information, s/he shall notify Owner prior to divulgence.

Consultant shall develop, implement, maintain and use appropriate administrative, technical and physical security measures to preserve the confidentiality, integrity and availability of all confidential or proprietary information received from, or on behalf of Owner.

This section shall survive this Agreement and shall remain in force for seventeen (17) years.

SECTION EIGHT

INTELLECTUAL PROPERTY

It is expressly agreed that any intellectual property, including (but not limited to) written materials, software, programs, or other inventions/creations that are developed by Consultant (“the Work”) pursuant to or arising out of this Agreement shall be considered "work for hire" and the intellectual property shall be the property of the Owner to the full extent of the law.

Additionally, any intellectual property, information, materials, or inventions developed by the Consultant or any sub-Consultant in the performance of this Agreement are subject to the Owner's patent policy, attached hereto and made a part hereof, and such inventions shall be disclosed pursuant thereto, as if such Consultant or sub-Consultant were an employee.

With the exception of short excerpts from others’ works, which constitute fair use, the Work will contain no material from other copyrighted works without a written consent of the copyright holder obtained by Consultant. Consultant agrees, upon timely notice from Owner, to defend, indemnify, and hold harmless Owner against any and all claims raised by reason of unlawful matter alleged to be contained in the Work or any copyright infringement claimed; the allegation of any such claim shall be grounds for Owner to retain any sums due to Consultant until such claim has been resolved.

This section shall pre-empt and control contradictory language in this agreement or any other agreement between the Owner and any third party under which these services arise.

SECTION NINE

DURATION

This Agreement shall be in force from to and in no event later than . It is agreed that time is of the essence.

SECTION TEN

TERMINATION

Either party may cancel this Agreement on ( ) days' written notice.

SECTION ELEVEN

EQUAL OPPORTUNITY

Owner is an affirmative action/equal opportunity institu­tion. During the performance of this Agreement, the Consultant and any subcontractor and their agents and employees, agrees to be bound by all applicable federal and local laws, rules, regulations, orders, instructions and other directives governing equal employment opportunity. Consultant acknowledges that the University does not discriminate in its programs and activities and assures the University that it complies with all Federal laws as applicable, including but not limited to Title IV of the Civil Rights Act of 1964, as amended; Title IX of the Education Amendments of 1972, as amended; Section 504 of the Rehabilitation Act of 1973, as amended; and the Age Discrimination in Employment Act of 1975, as amended. Consultant is on notice that any complaints received by Consultant from subcontractors or any knowledge that comes to Consultant in the course of performance of this contract regarding non-compliance with these laws will be brought to the attention of the University’s Director of Equal Opportunity at tel. 202-319-6594.

SECTION TWELVE

DRUG-FREE WORKPLACE

Owner's Drug and Alcohol Abuse Policy strictly prohibits the unlawful manufacture, distribution, dispensation, possession or use of controlled drugs or alcohol on the Owner's campus. Consultant will not permit the possession or use of any alcohol, whether lawful or not, on Owner's property. Consultant will notify the Owner in writing within five (5) days of any drug-related or alcohol-related accident or criminal offense on Owner's property involving Consultant's agents or employees. The Consultant agrees to enforce this policy for the Consultant's own employees and agents, and for any of Consultant's sub-consultants, their employees and agents.

SECTION THIRTEEN  
Force Majeure

Neither party to this Agreement shall be liable for non-performance of any obligation under this Agreement if such non-performance is caused by a Force Majeure event. “Force Majeure” means an unforeseen cause beyond the control of and without the negligence of the party claiming Force Majeure, including, but not limited to, fire, flood, other severe weather, acts of God, labor strikes, interruption of utility services, war, acts of terrorism or threats thereof, acts of government, public health and safety issues,  quarantines, epidemics, or any other unforeseeable accidents or events, in the event any such occurrence makes it impossible, inadvisable or illegal for either party to perform its obligations under this Agreement or the purpose of the Contract has been frustrated.

SECTION FOURTEEN

Governing Law

This Agreement shall be governed by and construed under the laws of the District of Columbia. This Agreement represents the entire agreement of the parties and may not be amended unless the same shall be in writing and signed by the parties.

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year first above written.

# Consultant The Catholic University of America

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Signature Sr. Director Strategic Sourcing and Procurement

Name (Print)

Title

Telephone Number

Approved by the Office of General Counsel: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Attorney Signature Date

Updated 5-22-2020