

PARKING SERVICES AND MANAGEMENT AGREEMENT

AGREEMENT made this 10TH day of May, 2019 by and between DMC PARKING MGMT LLC d/b/a Medical Center Parking (herein called the "Manager"), a New York limited liability company, with its offices at 544 47th Avenue Long Island City, NY 11101, and Faculty Student Association of Downstate Medical Center (herein called the "FSA"), having an address, at 450 Clarkson Avenue MSC 1219, Brooklyn, New York 11203.

WHEREAS, FSA has been designated by SUNY Downstate Medical Center ("SUNY DMC") to operate its parking services for employees, faculty, students, patients and visitors;

WHEREAS, the FSA is licensed and authorized to use the free-standing parking garage building and ancillary facilities located at 329 Clarkson Avenue, Brooklyn, New York (herein called the "Garage"); and a surface lot located at 324 Winthrop Street, Brooklyn, New York , and a surface lot located at 349, 355, 259 Lenox Road and 774, 778 New York Avenue, Brooklyn, New York, and a surface lot at 225 Clarkson Avenue, Brooklyn New York (herein called the "Lots" and collectively, "Parking Facilities").

WHEREAS, Manager's affiliate, Kings County Parking ("KCP") responded to a request for information from FSA and Manager's Owner subsequently created Manager to specifically provide services to FSA described herein;

WHEREAS, the Manager's affiliate, KCP, manages the free-standing parking garage building and ancillary facilities located at 581 Clarkson Ave., Brooklyn, NY 11203 (herein called the "KCP Garage"); and a surface lot located at 600 Albany Ave., Brooklyn, NY 11203 (herein called the "KCP Lot");

WHEREAS, the Manager has arranged with KCP to allocate and provide up to 200 access cards, subject to availability, to FSA, allocated among, and exclusively for use at the KCP Lot and the KCP Garage, with 50 of such access cards contemplated for the KCP Garage only, in accordance with the Manager's and KCP's Procedures (the "Procedures", Exhibit A, attached hereto and made a part hereof) at the rate and guidelines offered to the employees of Kings County Hospital, as same may be amended from time to time; and

WHEREAS, the Manager has the capacity to provide parking services at the Parking Facilities licensed by FSA;

WHEREAS, the FSA desires to engage the Manager to manage SUNY Downstate's parking needs and to provide additional parking spaces, and the Manager desires to provide such services;

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained herein the FSA and the Manager agree as follows:

1. Engagement: (a) The FSA hereby engages the Manager and the Manager accepts engagement by the FSA to manage the parking operations at the Parking Facilities in a manner substantially similar to the current manner employed by KCP parking facilities in accordance with the terms and conditions hereinafter set forth. FSA and Manager agree that the commencement dates of parking services at the individual Parking Facility and at the KCP Garage and KCP Lot may be staggered. Exhibit D sets forth the various commencement dates for Manager's obligations. In addition, FSA engages the Manager to provide valet services at the designated entrance(s) of SUNY Downstate Medical Center as of the date set forth in Exhibit D.

(b) The responsibilities of the Manager are delineated further in Exhibit B , attached hereto and made part hereof, which shall be subject to revision from time to time in writing by the contract Designees set forth in Paragraph 15(d) herein. However, revisions resulting in contract cost impacts shall require a contract amendment executed by both parties.

(c) As of the Commencement date, or at another a date mutually agreed upon by the parties, the Manager will provide and mobilize for the provision of the aforementioned parking services at the KCP Garage and KCP Lot. Evidence of the Manager's authority to utilize and to provide parking services at the KCP Garage and KCP Lot required herein is attached hereto as Exhibit G and made a part hereof. The parties agree that the Manager requires sixty (60) days notice prior to the commencement date of the parking services. In the event that the notice is received after May 28, 2019 and the Manager is unable to provide the entire 200 parking access cards as of the commencement date of such services for whatever reason, Manager will provide all access cards that are available as of the commencement date and will provide FSA with the remainder of the access cards as they become available. FSA shall pay Manager the associated costs in accordance with Exhibit D commencing as of the date that services begin and will pay for only parking access privileges actually provided to the FSA. Manager will make available to FSA additional parking access cards, if available, at such rates as the parties may agree upon.

(d) The services, procedures, rules and protocols to be followed at each Parking Facility, KCP Lot and KCP garage (collectively "All Parking Facilities") are set forth in Exhibits A and B. FSA and the Manager will work together to assure that assignment to specific Parking

Facilities will accommodate the staggered and off-peak work hours and access needs of assigned parkers as necessary.

(e) The parties acknowledge that Manager has already proceeded with the procurement and programming of the revenue equipment described in Exhibit E and that FSA is obligated to pay for such equipment as provided herein.

(f) For the purposes of this Agreement, the Commencement Date shall be the date first entered herein.

2. Assignment of Parking Privileges: FSA, or its designee, shall have the final authority to grant or revoke permission to park, and to issue or revoke parking passes to individuals who park at the facilities described herein. FSA shall collect all fees for use of the Parking Facilities. FSA, or its designee in addition to providing passes, shall provide Manager with a list of all individuals authorized to park in All Parking Facilities. FSA may authorize daily use of the parking facilities for visitors to SUNY DMC.

3. Staff: (a) The Manager shall provide, at its expense, such home office and on-site supervisory and administrative personnel as shall be necessary to adequately supervise Manager's employees at the Parking Facilities and as shall be necessary generally for the performance by the Manager of its operation, maintenance, reporting and other obligations under this Agreement

(b) The Manager shall employ at the Parking Facilities a sufficient number of competent and courteous personnel capable of managing, operating and maintaining the

Parking Facilities in accordance with the terms and conditions hereof, as determined by the Manager. Any new personnel shall be screened by the Manager before hiring and all Manager's employees', regardless of worksite, shall be employed, disciplined, discharged, promoted and directed in the performance of their duties by the Manager. All personnel shall wear neat and clean uniforms, provided by the Manager. All Parking Facilities personnel except for those employees who are currently employed by Manager, KCP or its affiliates as of the date hereof and who will continue to be assigned to the KCP garage or KCP parking lot, shall be subject to a background screening consistent with the requirements of Exhibit C, attached hereto and made part hereof. The Manager shall be responsible for all labor and employment issues concerning the employees at the Parking Facilities.

4. Hours of Operation and Procedures: (a) The Parking Facilities shall be kept open and staffed for business from 6am – 10pm, Monday – Friday, or as otherwise provided in Exhibit B, with the exception of hospital holidays, weather permitting. On these days, the Parking Facilities will operate in a lesser capacity than provided in Exhibit B. In the event that FSA requires after hours access to the Parking Facilities for vehicles that remain at the facilities after closing, at the close of business, the Manager will deliver the keys to the Public Safety Office for customers' retrieval, as is its customary policy. Spaces provided by KCP at the KCP Garage will be accessible 24 hours each day. This schedule may be changed by FSA upon thirty (30) days written notice to the Manager, subject to the Manager's approval, or by a mutually agreed written revision or amendment to Exhibit B.

(b) In the event of emergency weather conditions or upon notice of FSA of exigent circumstances which warrant operation of the Parking Facilities outside of its usual

operating hours or an increased or decreased need for access to the KCP Garage and/or KCP Lot, Parking Manager shall have the discretion to direct parkers to facilities other than those to which they are assigned. FSA shall be invoiced accordingly, if Manager incurs additional costs to accommodate the weather emergency or exigent circumstances.

5. Term and Cancellation: (a) The initial term of this Agreement shall be for the five (5) year period commencing on the Commencement Date, first noted herein through April 30 , 2024 ("the initial contract period"). This Agreement may be renewed for additional five (5) year term, exercised by written notice of intent to renew delivered to Manager by FSA no later than one hundred twenty (120) days prior to the expiration of the initial contract period.

(b) However, in the event that either FSA or Manager shall desire to terminate this Agreement, without cause, the canceling party shall give the other party one hundred twenty (120) days written notice of its intent to do so and the last day of the month in the month containing the date which is one hundred twenty (120) days from the date of such notice shall be the expiration date of this Agreement.

(c) Should either party elect to terminate the agreement prior to the expiration of the initial five year term for any reason, then FSA will reimburse the Manager for the then-current balance of the revenue control equipment and booth structures incurred by the Manager to implement this Agreement. Exhibit F sets forth FSA's reimbursement obligations. At FSA's option, FSA may take ownership of the equipment, but upon any event of termination or cancellation as set forth herein, FSA shall reimburse Manager of the balance of such equipment costs within thirty (30) days of the effective date of termination and enter into a

new maintenance agreement with [redacted] Inc. In order to allow continued use of the [redacted] Software owned by [redacted], Inc. (the "Software") or advise Manager that FSA elects not to take ownership and/or enter into a new maintenance agreement, in which case Manager shall be authorized to return all copies of the Software to [redacted]

[redacted] FSA agrees not to allow copies of the Software to be utilized at any other facility not licensed to do so and to indemnify and hold harmless Manager from any and all claims of unauthorized use of the Software at the Parking Facilities following termination of the agreement in the event that FSA does not enter into a direct licensing agreement with [redacted] systems for the Software.

(d) In the event either party shall be in breach of this Agreement or shall commit a fraudulent act related to this Agreement, the offended party may cancel this Agreement, at any time, on sixty (60) days written notice (the "Cancellation Notice"). At any time prior to the expiration of the sixty (60) day period specified in the Cancellation Notice, the breaching party may cure, and provided the default is cured or the defaulting party commences diligent and good faith efforts to cure a nonmonetary default during that sixty (60) day period, the Cancellation Notice shall be deemed withdrawn and this Agreement shall continue to be of full force and effect for the remainder of the unexpired term.

6. Compensation: (a) The FSA shall pay to the Manager and the Manager shall accept from the FSA as compensation, a Monthly Base Management Fee of up to \$170,119.79, provided that all parking services for all Parking Facilities have commenced and in accordance with pricing set forth in Exhibit D, attached hereto and made a part hereof or, in the event that all parking services have not commenced, FSA shall pay all costs associated with services actually

provided. Manager shall invoice FSA in advance in corresponding equal monthly installments on the first of each month during the term of this Agreement. In the event this Agreement commences on a day other than the first of the month then Manager shall invoice FSA and FSA agrees to pay to Manager the prorated sum of such monthly installment for the days said parking services are to be provided. FSA shall pay all undisputed invoices, including those for additional services as described herein, within thirty (30) days of receipt.

(b) The parties may agree to commence services at specific Parking Facilities and KCP parking facilities on a staggered basis. In the event that the parties agree that parking services will commence in this manner, implementation of service at each lot will commence upon sixty (60) day written notice from FSA ("Implementation Date"). FSA shall compensate Manager in accordance with Exhibits D and E for each facility and service as of the Implementation Date. Notwithstanding the foregoing, payment for all equipment installed by the Manager shall commence on May 15, 2019, provided that Manager has entered into agreements for the provision of the equipment and has initiated customization of the equipment and Invoiced FSA accordingly.

(c) Upon the final payment by FSA of compensation of the outstanding balance relating to revenue equipment and/or booth structures, FSA shall receive a written notice from Manager that payment for the equipment has been made in full and all subsequent annual and monthly base costs shall be adjusted accordingly.

(d) For each subsequent year of the initial five (5) year term, on each anniversary of the Commencement Date, the Monthly Base Management Fee shall increase by

the greater of the change in the Consumer Price Index published by the U.S. Bureau of Labor Statistics between the month of execution of this Agreement and the month in which the anniversary date occurs or two percent (2%) on a yearly basis; however, in addition to such yearly increases in the Monthly Base Management Fee, FSA shall pay to Manager any increases in the rates charged by KCP for the access cards allocated among KCP Lot and the KCP Garage, provided that at all times FSA is charged the same discounted rate that KCP charges Kings County Hospital Center employees. Sales tax is excluded since Manager is not collecting revenue. Manager reserves the right to adjust its fee in the event of a change in state or federal law, including but not limited to any mandated payments of a greater minimum wage than that which is in effect upon the date of this Agreement or in the event Manager's actual costs of procuring the insurance required hereunder substantially increases, as evidenced by quotes received from at least three sources, provided that FSA is given sixty (60) days advance written notice.

(e) For subsequent renewal terms, if any, the annual base management fee shall continue to increase by the higher three (3%) percent, or the increase in the Consumer Price Index for the New York City metropolitan area, as published by the Federal Government's Bureau of Labor Statistics.

(f) Notwithstanding the foregoing, the base amount may be adjusted from time to time to take in account the reduction or increase of services resulting from the removal or addition of parking sites, including the individual Lots managed by the FSA. The deletion or addition of a parking site will be provided upon sixty (60) days notice and will consult with Manager in advance as circumstances as permit.

7. Compliance with Laws: The Manager covenants that it will comply with all Federal, State and Municipal laws, ordinances, and regulations pertaining to the business conducted therein by the Manger including, without limitation by specification, laws relating to equal opportunity employment and Federal, State and Municipal tax and withholding laws.

8. Maintenance: (a) The Manager shall provide and/or install and maintain the revenue and control equipment in accordance with the attached Equipment List (Exhibit E), attached hereto and made a part hereof.

(b) The FSA (or its agent) will be responsible for all other maintenance and repair, including snow removal of the Parking Facilities and maintenance of the structures and mechanical systems including repair and maintenance of the booth ("FSA's Work") and compliance with all Federal, State and Municipal law governing the structural and architectural elements of the Parking Facilities. In the event that the parties agree, Manager may engage snow removal services and such other agreed upon services and Manager will invoice FSA for such additional services, including Manager's administrative fee of fifteen percent, for such services not expressly provided for in this Agreement. FSA shall not be responsible for repairing any damage to structures and mechanical systems caused by the Manager and/or its employees and/or agents. Neither FSA nor any of its agents or affiliates shall have any responsibilities for maintaining or repairing the KCP Garage and KCP Lot.

(c) The Manager will consult with the FSA on maintenance and repair matters and furnish recommendations to FSA, so that the FSA may accomplish its maintenance

obligations in a timely and economical manner. Such consultation may be performed by a staff professional of the Manager.

(d) The expense for the Manager's work under this Paragraph shall be included in the Base Management Fee.

(e) The expense for the FSA'S Work under this Paragraph shall be separate and apart from the Base Management Fee and shall be paid by FSA outside of this Agreement.

(f) In the event that Manager discovers or is given notice of a defective or dangerous condition at any of the Parking Facilities, Manager shall notify FSA of such defect or dangerous condition, take such commercially reasonable actions as may be required to prevent access by the public to any such dangerous condition or defect at FSA's expense, and, if requested by FSA and agreed to by Manager, consult with FSA regarding any required repairs. Manager shall not be liable to FSA for any failure to warn or to provide notice to FSA unless Manager has received actual notice or reason to know of the defect or dangerous condition. FSA agrees to reimburse Manager for the costs of any emergency repairs done at FSA's direction.

9. Insurance: The obligations of the Manager relating to insurance are set forth below:

(a) The Manager shall obtain and maintain, with respect to all persons employed by it to provide services hereunder, Worker's Compensation Insurance and Disability Insurance in statutory limits, providing FSA with Certificate Forms C-105.2 and DB 102.1 showing FSA as Certificate Holder.

(b) The Manager shall obtain and maintain the Garage Liability insurance (including bodily injury to customers of the Parking Facilities and KCP Garage and KCP Lot and to third parties, including but not limited to Manager's employees and agents, and property damage, as well as malicious mischief and vandalism. Such insurance shall be in the amount of \$1 million, at a minimum.

(c) The Manager shall obtain and maintain Garagekeepers Legal Liability Insurance, with limits of maximum liability not less than \$250,000.

(d) The Manager shall obtain and maintain Commercial Liability (including bodily injury to customers of the Parking Facilities and KCP Garage and KCP Lot, and property damage) in the amounts of \$1 million per occurrence and \$2 million in the aggregate.

(e) The Manager will obtain and maintain Commercial Automobile insurance (owned, if applicable, and non-owned vehicles) for not less than \$1 million per occurrence.

(f) The Manager shall obtain and maintain Umbrella Liability insurance not less than \$5 million per occurrence and \$5 million in the aggregate.

(g) Until such time that the ownership of the revenue equipment and two booths have been transferred to the FSA, the Manager shall maintain insurance coverage on such equipment and booths.

Certificates evidencing all of the foregoing insurance above, shall be furnished by each party to the other and such certificates shall contain an endorsement requiring the insurance carrier to provide at least thirty (30) days written notice in the event of cancellation or material

change. The Manager shall name as additional insureds, on all policies, The Faculty Student Association of Downstate Medical Center, Inc., the State of New York, the State University of New York the Health Science Center at Brooklyn Foundation, Inc., and SUNY Downstate Medical Center. In addition, FSA shall be a Certificate Holder for all policies required to be maintained by Manager. All Premiums with respect to the policies described above shall be paid by the Manager and shall constitute operating expenses. Such policies shall be subject to the approval of the FSA for adequacy and form of protection and the coverage of such policies may be changed in the sole commercially reasonable discretion of the FSA. Deductible amounts and any losses in excess of insurance coverage required to be carried by the Manager under this Paragraph shall be paid by the Manager, but if determined to be the responsibility or incurred due to the gross negligence or willful misconduct of the FSA, shall be reimbursed by the FSA to the Manager. Any losses not covered by insurance and for which the FSA is determined to be liable shall be paid by FSA separately.

10. Indemnities:

The Manger shall defend, indemnify and hold harmless, the Faculty Student Association, State University of New of York, the Health Science Center at Brooklyn Foundation, Inc., SUNY Downstate Medical Center and the State of New York ("Indemnitees") from and against any claim, damage, fine, judgment, expenses or charge suffered, imposed, assessed or incurred (including those made by third parties) for any violation or occasioned by any act, neglect or omission of the Manager and its Affiliates, their officers, employees, agents or subcontractors. The Manager shall defend, indemnify and hold harmless the indemnitees from and against legal

proceedings, judgments or damages which may arise as the result of the provision of services by Manager and its subcontracting of any services provided hereunder. Notwithstanding any provision to the contrary, the FSA shall defend, indemnify and hold the Manager harmless from and against any and all actions, costs, claims, losses, expenses and/or damages sustained by the Manager and its Affiliates and solely attributable to FSA's gross negligence or willful misconduct.

The foregoing provisions shall not create right of subrogation for the benefit of any insurer against either the Manager (or its affiliates) or the FSA, and all insurance policies provided for in this Agreement shall specifically waive the right of subrogation.

11. Capital Improvements and Equipment: (a) The Manager shall supply and install at the Parking Facilities the equipment, materials, software and other items as per Exhibits B, C and D.

(b) The Manager, on the written request of FSA and at the FSA's sole cost and expense, shall promptly make alterations or improvements to the Parking Facilities which, in FSA's opinion, are required or desirable. In connection with any such alterations and improvements, FSA shall provide Manager with tax exempt purchase certificates, a tax exempt letter or such other documentation as may be reasonably required establishing FSA's status as an Exempt Organization exempt from New York State and local sales and use taxes on its purchases.

(c) If the FSA requests the Manager to purchase any equipment or material, or to take responsibility for any alteration or improvement as a general contractor, then in such

event, the costs of such equipment or material, or alteration or improvement, as the case may be, shall be paid by the FSA.

12. Assignment: The Manager shall not assign this Agreement, or assign any of its rights or delegate any of its duties hereunder, except to KCP, without the prior written consent of the FSA, which consent shall not be unreasonable withheld or delayed. The transfer of a controlling interest in Manager or the operation control thereof shall be deemed an assignment of this Agreement. Notwithstanding anything to the contrary set forth herein, the following transactions shall not be deemed assignments and may be made without the consent of FSA: (i) transfers of interest in Manager: (between and among the existing shareholders of Manager, entities controlled thereby or affiliated therewith and/or issue of any of the foregoing (if individuals) and/or trusts for the benefit of any member and/or the spouse and/or issue of any member, and; and (ii) transfers of interests in Manager by reason of death or by operation of law. The parties agree that any obligation that is required to be performed by Manager pursuant to this Agreement may be performed by KCP provided that the prior consent of FSA is obtained.

13. Permits and Licenses: FSA and Manager agree that no additional municipal or other permits, other than as currently maintained, if any, are required for Manager to provide the scope of services as contemplated herein. In the event that it is determined by such agencies having jurisdiction that any additional permits or licenses shall be required, Manager reserves the right to curtail such services so as to obviate the need for such permits or licenses, or if directed by FSA, FSA and Manager shall cooperate to obtain such permits or licenses as may be

required and the expenses associated with obtaining such licenses and permits as make be required shall be borne by FSA.

14. Sales Tax: FSA shall maintain records and file reports and returns and shall collect and remit sales or other similar taxes and shall submit to audits thereof.

15. Additional Matters: (a) Upon FSA's request, after notice to Manager of an objection to employees conduct, affording Manager an opportunity to take appropriate remedial steps, the Manager shall immediately remove any of its employees or agents whose work is being performed in a manner which FSA, in its sole discretion, determines to be unsatisfactory, objectionable, unsafe or not in compliance with this Agreement.

(b) In performing its engagement under this Agreement, the Manager shall advise and consult with FSA with respect to safety and security, rates and fees, assignment of spaces, and the preparation, content, display and distribution of all signage, brochures and other written materials, all of which are subject to FSA's approval. FSA acknowledges and agrees that all final decision making authority and associated costs with respect the aforestated shall belong to FSA, FSA's decisions with respect to the aforestated shall not be deemed to be made in reliance on the advice of the Manager, the Manager shall not incur any independent legal liability or duty with respect to the aforestated, and FSA shall bear the full legal responsibility for such decisions.

(c) The Manager's operation of the Parking Facilities shall include monitoring the facilities for stored, abandoned or stolen vehicles, and Manager will report all such vehicles to

FSA, and at FSA's direction, will cause such vehicles to be towed (at the Customer's expense), and, if directed by FSA, disposed of by private sale, auction, or otherwise.

(d) For the purposes of this Agreement, the
shall be FSA's Designee to administer responsibilities under this Agreement and

shall be Manager's Designee for the day to day operations. The parties may change their respective Designee by giving written notice to the other party. Until such time as notice is given of the change of Designee, either party may rely upon any notice, approval or other communication or directive received from or given to the aforestated Designees.

(e) This agreement and exhibits attached hereto and all information shared by FSA or its affiliates with Manager pursuant to this Agreement, and all information arising from or related to the activities of either party pursuant to the management of parking services shall be treated as confidential by Manager and FSA. Confidential information shall not be disclosed to any third party, except (i) with the nondisclosing party's prior written consent, (ii) as may be required by law or regulation, (iii) as may be required in the event that either party commences litigation to enforce the terms of this agreement, or (iv) in response to a subpoena issued by a court or tribunal of competent jurisdiction, a proper Freedom of Information Law request or other valid legal process. In the event confidential information must be disclosed by law or regulation, the disclosing party shall provide advanced written notice to the nondisclosing party. These confidentiality provisions shall survive the expiration or early termination of this Agreement. Notwithstanding the foregoing, it is understood that FSA may provide a summary

of this Agreement or copies of this agreement, in whole or in part, to state regulatory agencies and/or SUNY DMC and its affiliated organizations, including its unions.

(f) Manager shall not discriminate against any employee or applicant for employment or Customer because of race, creed, sex, national origin, age, disability or marital status and shall comply with all applicable anti-discrimination laws.

(g) Manager shall establish a system to receive and timely process any claim of damage or property loss made by owners or authorized users of vehicles.

16. Communication: Any notice, approval or other communication required hereunder shall be deemed given if sent by certified mail to the address set forth on page 1 hereof or to such other address as was last designated by written notice. Notice shall be deemed to be given upon receipt thereof.

17. Modification: This Agreement shall constitute the entire agreement between the parties hereto, and it may not be amended, except by a writing executed by both FSA and the Manager.

18. Benefits and Burdens: The terms and conditions thereof shall be binding upon and shall inure to the benefit of the FSA, the Manager and their respective successors, but shall not inure to the benefit of any third parties.

19. No Partnership or Joint Venture: Nothing herein shall be construed to create a partnership or other joint venture between the Manager and the FSA. The contract shall be between FSA and Manager, and neither the State University of New York nor the State of New York shall be construed to create a partnership or other joint venture between the Manager

and FSA. This contract is a subcontract for services by FSA and is subject to the provisions of the underlying contract and any amendments thereof between State University of New York and FSA, and termination of the underlying agreement in whole or applicable part by State University for any reason whatsoever shall cause the simultaneous termination of this subcontract without penalty of any kind; however, FSA shall be responsible for payment of all costs accrued up until the date of termination. Manager acknowledges that FSA's authority with respect to the Parking Facilities is based upon an agreement by and between the FSA and the Health Science Center at Brooklyn Foundation and termination of the underlying agreement in whole or applicable part by the Health Science Center at Brooklyn Foundation for an reason shall result in a corresponding removal of a Parking Facility location or termination of this agreement altogether. A copy of FSA's standard contract clauses is hereby attached hereto and made part of as Exhibit H.

20. Loss or Damage to Premises: In case of any substantial loss of or damage to the Parking Facilities, KCP Garage or KCP Lot as the result of taking under the power of eminent domain, or by fire, storm or other casualty, the respective owner of the affected facility may elect to repair or restore the Premises at the owner's expense. Neither Manager nor FSA shall be responsible for repairing or restoring the affected Premises. If any portion of the Premises remains suitable for parking and Manager continues its operations, Manager shall be entitled to receive its Management Fees for the period during which such operations are continued. If the respective owner of the affected facility decides not to repair or restore the damaged premises, FSA and Manager will amend this Agreement to take into account changed circumstances.

21. Applicable Law and Venue: This Agreement shall be interpreted in accordance with the laws of the State of New York. Manager agrees that in the event of any litigation hereunder same shall be heard in the Courts of the City of New York or State of New York in Kings County.
22. NYS VendRep System: As a subcontractor of FSA performing services for SUNY DMC, Manager agrees to enroll and maintain during the term of this Agreement and any extensions, its records in the New York State Office of State Controller (OSC) VendRep System and its associated Vendor Responsibility Questionnaire (VRQ) through the NYS OSC VendREp System, Website: <https://www.osc.state.ny.us/vendrep/>, or successor website.
23. Entire Agreement: This Agreement and its exhibits incorporated herein constitutes the entire Agreement between the parties, and supersedes and replaces all prior oral Agreements between the parties relating to the subject matter.
24. Service of Process: In addition to the methods of service allowed by the NY Civil Practice Law and Rules (CPLR), the parties hereby consent to service of process by registered or certified mail, return receipt requested. Service hereunder shall be complete upon the actual receipt of process by the party to be served or upon the serving party's receipt of the return thereof by the United States Postal Service as refused or undeliverable. Service by either party to the last known address of the party to be served shall be sufficient. The party served shall have thirty (30) calendar days after service hereunder is complete in which to respond.
25. Severability: Whenever possible, each provision of this Agreement shall be interpreted in such a manner as to be effective and valid under applicable law. However, if any provision of this Agreement shall be prohibited by or invalid under such law, it shall be deemed modified to conform to the minimum requirements of such law or, if for any reason it is not deemed so

modified, it shall be prohibited or invalid only to the extent of such prohibition or invalidity without the remainder thereof or any other such provision being prohibited or invalid.

26. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which when taken together shall constitute one and the same instrument. Each counterpart may be delivered by facsimile or email transmission. The signature page of any counterpart may be detached therefrom without impairing the legal effect of the signature(s) thereon provided such signature page is attached to any other counterpart identical thereto.

IN WITNESS WHEREOF, the FSA and the Manager have caused this Agreement to be executed as of the date first set forth above.

FACULTY STUDENT ASSOCIATION OF DOWNSTATE MEDICAL CENTER:

By: _____
Name:
Title: PRESIDENT

**DMC PARKING MGT LLC,
MANAGER:**

By: _____
Name:
Title:

LIST OF EXHIBITS

Exhibit

- A Kings County Parking Rules and Guidelines
- B Downstate Parking Scope of Work and Parking Procedures and Responsibilities by Lot
- C Background Check Requirements
- D Charges, Total and by Lot and Service
- E Equipment List
- F Equipment Reimbursement Requirements
- G Assignment by Kings County Parking to DMC Parking Management
- H FSA Standard Contract Clauses

CONTRACT EXHIBIT A

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Exhibit A



581 Clarkson Avenue Brooklyn, New York 11203
Tel: (718) 245-5337 Fax: (718) 245-2298

PARKING RULES AND GUIDELINES

1. All monthly payments must be received no later than the 5th of the month.
2. Payments received after the 5th of the month will be subject to a \$10.00 Late fee. Customers that attempt to make monthly payment after the 10th will have to park daily for the rest of the month.
3. All checks returned for insufficient funds will incur a \$35.00 charge per returned item and are subject to additional late fees.
4. Kings County Parking assumes no responsibility for loss through fire, theft, collision or otherwise to cars, motorcycles, bikes or contents.
5. Storage is not allowed on the premises unless approved by Kings County Parking. Note: Monthly parking, whether reserved or non-reserved, is only for working hours.
6. Stored vehicles must leave a key.
7. 24 Hour Reserved spaces cannot be shared at anytime without approval of Kings County Parking.
8. Under no circumstances should anyone block other vehicles or park in "No Standing" designated areas. Without exception, such violators are subject to be ticketed and or towed at their sole expense.
9. If you are a monthly parker, and have forgotten your access card/hang tag, you must take a ticket upon entry and come to the office to validate that ticket to be able to exit. If you forget your Hang Tag you must contact the parking office.
10. If either a hang tag or access card is lost or damaged, you must come to the office and pay for an additional card or tag.
11. Monthly rates are not pro-rated, without exception. Parking is on a month-to-month basis, 1st of the month to the following 1st of the month.
12. Please display vehicle tags in a visible manner. We will not be responsible if your vehicle has been ticketed, booted, or towed because it was not identifiable.
13. Any vehicle left without payment for more than 30 days are subject to lien.
14. Kings Count Parking reserves the right to valet park any and all vehicles.
15. Pursuant to law, Operator's liability for loss or damage of Vehicle by fire, theft or explosion limited to \$25,000 unless additional fee paid when Vehicle is first parked.
16. Operator assumes no responsibility for damage in connection with Vehicle equipment failure.
17. In the event of valet parking, damage claims will not be recognized unless customer checks condition of Vehicle with attendant upon entering and before leaving.

CONTRACT EXHIBIT B

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EXHIBIT B

Parking Scope of Work For FSA-DMCParkingLLC Contract

The FSA require management of a mix of valet and self parking locations at the following lots:

- 329 Clarkson Avenue (self park and valet)
- 324 Winthrop Street (self park)
- 225 Clarkson Avenue (valet)
- 355 Lenox Road (valet)
- 445 Lenox Road (valet)

And up to 200 parking access cards to the following lots:

- 581 Clarkson Avenue Garage (up to 50 cards; self park)
- 600 Albany Avenue (up to 150 cards; self park and valet)

Further detail about procedures and responsibilities will be elaborated upon in the following lot specific sections. In an effort to minimize cost, the only 24 hour facility will be 581 Clarkson Ave.

When other Parking Facilities close at 10pm, any customer that was unable to retrieve their vehicle prior to 10pm, the procedure is as follows:

- Any vehicle left in 581 Clarkson Avenue and 600 Albany Avenue that were self parked, the customer will be able to exit on their own by swiping their access card. If vehicle was valet parked, Customer will obtain vehicle keys from KCP Office at 581 Clarkson Ave.
- Any Vehicle left in other Parking Facilities: Customers must contact DMC University Police (718-270-2626) for transportation and lot access, subject to resources available at the time, to (1) if vehicle was valet parked, retrieve their keys from the KCP Office (581 Clarkson Ave), then (2) provide transportation and access to the Parking Facility in which their vehicle is parked
- Alternatively, all afterhours vehicles may be retrieved by Customer at the start of the following business day.

Parking Procedures and Responsibilities by Lot (pages follow):

324 Winthrop Street: Service Start Up Date 7/1/19

Hours of Operation: 5am – 10pm Monday – Friday

Parking type: Self Parking

Arrival Procedures: FSA or its designee will assign all monthly parkers to this lot along with a barcoded permit sticker to be placed on vehicle. If vehicle has no permit sticker, Attendant will search : database for vehicle license plate, or employee name based on a Downstate ID card. Customers will enter at the entrance on Parkside Avenue or Winthrop Street. Parkers will be greeted by an attendant that will verify that they have authorization to park in the lot.

Departure Procedures: The attendant assigned to the lot will place cones at the entrance at 3pm and visual monitor the gate from the Winthrop Ave side of the lot. This lot will be staffed as it currently is and allow for entrance and exiting from both sides

Closing Procedures: At 10pm the attendant will close both entrances, secure the booth, and make an inventory list of cars left in the lot overnight.

Daily Schedule: One attendant from 5am – 2pm

One attendant 6am – 10am

One attendant from 2pm – 10pm

One Attendant from 3pm – 7pm

FSA or its designee Responsibilities:

- Snow Removal.
- Garbage Disposal.
- Assigning employees to the lot on a daily and monthly basis and provide permits that can be visually inspected for proof of parking authorization.
- Provision records for monthly authorized parkers so that DMC Parking Attendant can verify parkers using their Downstate ID Card in the event that a permit is not on the vehicle.
- Handle all claims of damage/vandalism in the self parking area
- Provide Data, Telephone, Electricity and existing booth
- Provide all signage and ancillary indicators.
- Provide cameras scenes to DMC PARKING MGMT LLC

Establish the maximum number of daily parkers that upon displaying a Downstate ID Card to the attendant can park, being issued a daily parking ticket that the customer must pay before exiting the parking lot.

DMC PARKING MGMT LLC Responsibilities:

- Attend parking lot with two attendants
 - o Parkside Ave Entrance from 5am to 10pm: 1 attendant each shift;
Total of 17 hours/day Monday through Friday
 - o Winthrop St Exit from 6am to 10am, and 3pm to 7pm: 1 attendant each shift; Total of 8 hours/day
- Visually inspect all Monthly permits for accuracy and approve temporary cars by verifying customer identity from a master list or electronic system
- Advise FSA or its designee of any claims of damage or vandalism
- Advise FSA or its designee of any unsafe conditions when Manager has notice or reason to know of said condition
- Light cleaning and sweeping of the lot
- Provide all consumables
- Provide to DMC University Police an inventory list for vehicles remaining upon lot closure
- Secure booth, equipment, and lot for closure

329 Clarkson Avenue: Service Start-Up date Upon 60 Days Notice

Hours of Operation: 6am – 10pm Monday – Friday

Parking type: Self Parking and Valet

Arrival Procedures: FSA or its designee will assign all monthly parkers to this lot along with a barcoded permit sticker to be placed on vehicle. If vehicle has no permit sticker, Attendant will search database for vehicle license plate, or employee name based on a Downstate ID card. Parkers will be greeted by an attendant. The car will be visually inspected for damage. Damages will be recorded on hand held scanners and recorded in a database. Customers will be issued a three-part ticket. One part for the customer, one part for the key, one part for the vehicle. All customers that can park in a space will be able to leave the garage with their key. Any car blocking a space or an aisle will be required to leave a key (valet). Tickets will be initialed by the valet that parked the vehicle.

Departure Procedures: All customers will present a claim check for their vehicle. An attendant will retrieve the vehicle and inspect the car for damage upon departure. Vehicles that are left in aisles or that are blocking spaces will be placed into dedicated lock up spaces as they become available. Tickets will be initialed by any attendant the moves or delivers a vehicle.

Closing Procedures: At approximately 9pm an inventory of all keys and vehicles will be collected. At 10pm, all keys will be brought to the KCP office for afterhours retrieval. DMC will provide to DMC University Police an inventory list for vehicles remaining upon lot closure. The garage, equipment, and booth will be secured for the following morning. This lot will be used for weather or exigent circumstances overnight parking.

Daily Schedule: One attendant/valet 6am – 2pm

One attendant/valet 2pm – 10pm

One valet 6am – 12pm

One valet 8am – 6pm

FSA (or its designee) Responsibilities:

- Snow Removal
- Garbage Disposal
- Assigning all employees and staff to the 329 Clarkson Ave garage
- Provide an electronic list of all authorized parkers so an attendant can verify parkers that do not have a bar code or valid ID.
- Provide access to all camera scenes that exist in the garage and install entrance and exit cameras at the front exit with a minimum of 4 mega pixel quality
- Provide all signage and ancillary indicators
- Provide Data, Telephone, Electric and existing booth
- Signage

DMC PARKING MGMT LLC Responsibilities:

- Staff 329 Clarkson Avenue from 6am – 10pm, Monday through Friday
- Handle all accident and damage claims.
- Light cleaning and sweeping of lot
- Provide key inventory list and all leftover keys to KCP Office. Provide to DMC University Police an inventory list for vehicles remaining upon lot closure.
- Provide all consumables
- Advise FSA or its designee of any unsafe conditions when Manager has notice or reason to know of said condition
- Secure booth and lot for closure
- Provide Insurance, revenue control equipment, monthly maintenance of equipment

355 Lenox Road: Service Start Up Date 5/28/19

Hours of Operation: 6am – 10pm Monday – Friday

Parking type: Valet and Self Park

Arrival Procedures: FSA or its designee will assign all monthly parkers to this lot along with a barcoded permit sticker to be placed on vehicle. If vehicle has no permit sticker, attendant will search database for vehicle license plate, or employee name based on a Downstate ID card.

Parkers will be greeted by an attendant. The car will be visually inspected for damage. Damages will be recorded on hand held scanners and recorded in a database. Customers will be issued a three-part ticket. One part for the customer, one part for the key, one part for the vehicle. All customers that can park in a dedicated space will be able to leave the lot with their key. Any car blocking a space or an aisle will be required to leave a key. Tickets will be initialed by the valet that parked/moved/delivered the vehicle.

Departure Procedures: All customers will present a claim check for their vehicle. An attendant will retrieve the vehicle and inspect the car for damage upon departure. Vehicles that are left in aisles or that are blocking spaces will be placed into dedicated lock up spaces as they become available. Tickets will be initialed by any attendant the moves or delivers a vehicle.

Closing Procedures: At approximately 9pm an inventory of all keys and vehicles will be collected. At 10pm, all keys will be brought to the KCP office for afterhours retrieval. The garage equipment and booth will be secured for the following morning.

Daily Schedule: One attendant/valet 6am - 2pm

One attendant/valet 2pm - 10pm

One valet 6am - 2pm

One valet 8am - 4pm

One valet 2pm - 8pm

FSA (or its designee) Responsibilities:

- Snow Removal
- Garbage Disposal
- Assigning all employees and staff to the ESP Parking lot
- Provide a Master list of all authorized parkers so an attendant can verify parkers that do not have a bar code or valid ID.
- Install two cameras at the entrance with a minimum of 4 megapixels to verify damages at entry and exit
- Provide Data, Telephone, Electric to booth that KCP will provide
- Any additional build out to booth required including but not limited to countertops, electric Boxes, key boxes, battery backups
- Install entrance and exit cameras at the front exit with a minimum of 4 mega pixel quality
- Install a rolling gate at the curb cut on Lenox Road.
- Remove existing ESP parking signage
- Provide all signage and ancillary indicators
- Shelter for waiting customers
- Signage

DMC PARKING MGMT LLC Responsibilities:

- Staff 329 Clarkson Avenue from 6am – 10pm, Monday through Friday
- Handle all accident and damage claims
- Light cleaning and sweeping of lot
- Provide leftover vehicle keys to KCP Office.
- Provide to DMC University Police an inventory list for vehicles remaining upon lot closure.
- Provide all consumables
- Advise FSA or its designee of any unsafe conditions when Manager has notice or reason to know of said condition
- Secure booth and lot for closure
- Provide Insurance, revenue control equipment, monthly maintenance of equipment

Lenox Road Entrance Valet: Service Start Up date 5/28/19

Hours of Operation: 6am – 6pm Monday – Friday

Parking Type: Valet

Arrival Procedures: Daily customers will approach a valet podium on Lenox Rd and greeted by attendant. They will be issued a 3-part ticket that will be generated from a scanner. All of the vehicle's information will be recorded in a database. The attendant receiving the car will inspect the car for damage and take pictures as necessary. Manager has discretion to determine which lot(s) will be used to support entrance valet parking and will advise its employees as to which parking facility is designated to park entrance valeted vehicles. Customers will be instructed to call or text before arriving for their vehicle so that a high quality service may be provided and low wait times will be experienced. Customers will also be instructed that they must request their vehicle prior to 6p.m. All tickets will be signed by the valet that is handling the vehicle.

Departure Procedures: Daily customer will be instructed to call in advance of pick up. Once a request for a vehicle is made the valets at the podium will contact the employees in the lot. The car will be assigned to a valet for delivery. The valet and lot supervisor will inspect the car for damages and sign off on the ticket. The car will be shuttled over to the valet podium for pickup. Customers should pay for the daily ticket before pickup at the payment kiosks or via online payment portal. Customers will be able to pay at the valet podium until all other revenue control equipment is in place.

Closing Procedures: Daily customers will be informed that after 6p.m. all keys will be brought to the Downstate KCP parking Office. Customers arriving after 6pm will have to retrieve their vehicle from this area prior to 10pm. Any cars left over will be retrieved the next business day. All leftover keys will be turned over to KCP parking Office at 10p.m. Provide to DMC University Police an inventory list for vehicles remaining upon lot closure.

Daily Schedule: One attendant/valet 6am – 1pm

One attendant/valet 1pm – 7pm

One Valet 6am – 1pm

One Valet 8am – 2pm

One Valet 1pm – 7pm

DMC Parking has planned to staff this similarly to the current operations and is expected to provide approximately 60 valet spaces on a revolving basis

FSA (or its designee) Responsibilities:

- Provide booth and valet podium
- Garbage Disposal
- Snow Removal
- Provide data, telephone, and electric
- Provide all signage and ancillary indicators
- Shelter for waiting customers (445Lenox Rd hospital lobby)
- Signage

DMC PARKING MGMT LLC Responsibilities:

- Staff Lenox Road Valet from 6am – 6pm Monday – Friday
- Handle all accident and damage claims
- Provide all leftover keys to KCP Office.
- Provide all consumables
- Secure booth and lot for closure
- Advise FSA or its designee of any unsafe conditions when Manager has notice of or reason to know of said condition
- Provide Insurance, revenue control equipment, monthly maintenance of equipment
- During initial service start up, and until payment kiosks and web portal payment systems are in place(On or about 7/15/2019), DMC Parking attendants shall collect daily customer fees and turn over all proceeds to FSA on a daily basis.

225 Clarkson Avenue: Service Start Up Date 5/28/19

Hours of Operation: 6am – 10pm Monday – Friday

Parking type: Valet

Arrival Procedures: FSA or its designee will assign all monthly parkers to this lot along with a barcoded permit sticker to be placed on vehicle. If vehicle has no permit sticker Attendant will search database for vehicle license plate, or employee name based on a Downstate ID card .

Parkers will be greeted by an attendant. The car will be visually inspected for damage. Damages will be recorded on hand held scanners and recorded in a database. Customers will be issued a three-part ticket. One part for the customer, one part for the key, one part for the vehicle. All Parkers will be required to leave their keys. Tickets will be initialed by the valet that parks/moves/delivers the vehicle.

Departure Procedures: All customers will present a claim check for their vehicle. An attendant will retrieve the vehicle and inspect the car for damage upon departure. Vehicles that are left in Aisles or that are blocking spaces will be placed into dedicated lock up spaces as they become available. Tickets will be initialed by any attendant the moves or delivers a vehicle. In the event that a customer loses a claim check they will need to provide identification and the registration for the vehicle.

Closing Procedures: At approximately 9pm an inventory of all keys and vehicles will be collected. All vehicle keys will be brought to the KCP office for after hours retrieval at 10pm. The lot and booth will be secured for the following morning.

Daily Schedule: One attendant/valet 6am – 2pm

One attendant/valet 1pm – 7pm

One valet 6am – 1pm

One valet 8am – 2pm

One valet 1pm – 7pm

FSA Responsibilities:

- Snow Removal
- Garbage Disposal
- Assigning all employees and staff to the 225 Clarkson parking lot
- Provide a Master list of all authorized parkers so an attendant can verify parkers that do not have a bar code or valid ID.
- Install two cameras at the entrance with a minimum of 4 megapixels to verify damages at entry and exit
- Provide Data, Telephone, Electric to booth which KCP will supply
- Any additional build out to booth required including but not limited to countertops, electric Boxes, key boxes, battery backups
- Provide signage reflecting Downstate staff only
- Shelter for waiting customers
- Signage

DMC PARKING MGMT LLC Responsibilities:

- Staff 225 Clarkson Avenue from 6am – 10pm, Monday through Friday
- Handle all accident and damage claims
- Light cleaning and sweeping of lot
- Provide key inventory list and all leftover keys to KCP parking Office.
- Provide to DMC University Police an inventory list for vehicles remaining upon lot closure
- Provide all consumables
- Advise FSA or its designee of any unsafe conditions when Manager has notice or reason to know of said condition
- Secure booth and lot for closure
- Provide Insurance, revenue control equipment, monthly maintenance of equipment

581 Clarkson Avenue: Service Start Up Date TBD (60 days notice)

Hours of Operation: 24 hours

Parking Type: Self Parking

Arrival Procedures: FSA or its designee will assign all monthly parkers to this lot. DMC PARKING MGMT LLC will provide 50 access cards for this facility when and if available. These cards should be issued to 50 overnight or 24 hour parkers as this will be the only lot that accommodates people on a 24-hour basis. Parkers will swipe their access card at the entrance gate and find an available space. They will lock up their vehicle and leave the facility.

Departure Procedures: All parkers will enter the facility and retrieve their vehicle on their own. They will swipe their access card at the exit gate and leave the facility.

FSA Responsibilities:

- Assign all monthly employees and staff to 581 Clarkson Avenue

DMC PARKING MGMT LLC Responsibilities:

- Snow removal
- Provide all signage and ancillary indicators
- Staffing of 581 Clarkson Avenue 24hrs/day
- Handle all accident and damage claims
- Provide all consumables
- Provide insurance, revenue control equipment, monthly maintenance of equipment

Notes:

* DMC PARKING MGMT LLC Guidelines will apply at this location. A copy of the guidelines has been attached for review. These guidelines are subject to change at DMC PARKING MGMT LLC's discretion.

* DMC PARKING MGMT LLC will provide the first 50 access cards at no charge. Additional cards will be provided for \$30/access card

*This will be the only lot designated for 24hour parking in effort to keep costs down as much as possible

* DMC PARKING MGMT LLC reserves the right to valet any and all cars at 581 Clarkson avenue at its discretion

600 Albany Avenue: Service Start Up Date TBD (60 days notice)

Hours of Operation: 6 am – 10pm Monday – Friday

Parking Type: Valet and Self Park

Arrival Procedures: FSA or its designee will assign all employees and staff to the 600 Albany Ave. DMC PARKING MGMT LLC will provide 150 access cards for this facility when and if available. Customers will enter from entrances at 600 Albany Avenue and 591 Kingston Avenue by swiping their access card at a reader. All parkers will be sent to lock up parking spaces. These customers will be able to leave the lot with their keys. Once all of the lock up spaces are full, parkers will be greeted by an attendant. The car will be visually inspected for damage. Damages will be recorded on hand held scanners and recorded in a database. Customers will be issued a three-part ticket. One part for the customer, one part for the key, one part for the vehicle. All Parkers will be required to leave their keys. Tickets will be initialed by the valet that parks/moves/delivers the vehicle.

Departure Procedures: All customers will present a claim check for their vehicle. An attendant will retrieve the vehicle and inspect the car for damage upon departure. Vehicles that are left in aisles or that are blocking spaces will be placed into dedicated lock up spaces as they become available. Tickets will be initialed by any attendant that moves or delivers a vehicle.

Closing Procedures: At approximately 9pm an inventory of all keys and vehicles will be collected. All keys will be brought to the University Police office for afterhours retrieval at 10pm. The lot, equipment and booth will be secured for the following morning.

FSA (or its designee) Responsibilities:

- Assigning all employees and staff to the 600 Albany Ave lot
- Provide a Master list of all authorized parkers so an attendant can verify parkers that do not have a bar code or valid ID.

DMC PARKING MGMT LLC Responsibilities:

- Snow Removal
- Staff 600 Albany Avenue from 6am – 10pm, Monday through Friday
- Handle all accident and damage claims
- Light cleaning and sweeping of lot
- Provide key inventory list to 581 Clarkson Avenue for afterhours pickup.
- Provide all consumables
- Secure booth and lot for closure
- Provide all signage and ancillary indicators
- Provide Insurance, revenue control equipment, monthly maintenance of equipment

Notes:

* DMC PARKING MGMT LLC Guidelines will apply at this location. A copy of the guidelines has been attached for review. These guidelines are subject to change at DMC PARKING MGMT LLC's discretion.

* DMC PARKING MGMT LLC will provide the first 150 access cards at no charge. Additional cards will be provided for \$30/access card

CONTRACT EXHIBIT C

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EXHIBIT C

At the FSA's expense, the Manager is required to perform background checks on all employees assigned to work at the Parking Facilities and at the entrance(s) of SUNY Downstate Medical Center using an appropriate consumer reporting agency and a written report stating whether an individual has been convicted of a crime under any federal or state law. The written report will be available to the FSA upon request. The criminal background check performed by the Manager shall meet the following specifications: (a) a Social Security Trace will be performed to verify that the social security number is valid; (b) confirmation of valid drivers license and driving history and (c) a search shall be performed of all criminal records (felony and misdemeanor) for all counties in which the individual has been known to have resided, under his or her current name as well as under alias or maiden names assigned to the social security number. In the event of unfavorable or adverse results (i.e., a conviction), the FSA will meet with the Manager to review the information and render a determination as to whether assignment of such individual is acceptable.

In the event that the Manager is required to pay the cost of such background checks, the Manager shall be reimbursed its actual costs of such background checks in accordance with the terms of the Agreement.

CONTRACT EXHIBIT D

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Exhibit D
FEES AND COSTS
and IMPLEMENTATION DATES

Monthly Parking Service Fees:

329 Clarkson Avenue	\$19,987.18
324 Winthrop Street	\$17,899.93
355 Lenox Road	\$22,426.66
225 Clarkson Avenue	\$23,508.86
600 Albany Avenue	\$25,500.00
(150 access cards)	
581 Clarkson Avenue	\$11,000.00
(50 access cards)	
445 Lenox Road Valet services	\$17,939.79
(Hospital entrance valet services)	
Subtotal	\$138,262.42

Implementation Date:

Upon 60 days notice
July 1, 2019
May 28, 2019
May 28, 2019
Upon 60 days notice
Upon 60 days notice
May 28, 2019

Monthly Equipment Fees:

Revenue Control Equipment	
2 Attendant Booths	
Subtotal	\$15,857.37

When operating 5 FSA locations
When operating 4 FSA locations
When operating 3 FSA locations

**TOTAL
MONTHLY FEE**

\$170,119.79
\$149,132.61
\$130,232.68

v.5/9/19

CONTRACT EXHIBIT E

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**EXHIBIT E
EQUIPMENT LIST**

Setup Costs	Qty
Pay-On-Foot Unit w/Cash & EMV Credit Card	2
Mobile Valet Unit w/LPR & Wireless Printer & Carrying Case	12
EMV Credit Card Reader for Mobile Valet Unit	3
4-Slot Cradle & Battery Charger for Mobile Valet Units	6
4-Slot Battery Charger for Mobile Valet Printers	6
Backup Cellular Modem w/Antenna	1
Wi-Fi wireless Access Point	6
LocalMaster Server w/Equipment Lockbox	6
8-Port Managed Ethernet Switch	6
Custom Software (Web/Mobile Payment Portal for Tickets)	1
Custom Software - Web/Mobile Monthly Account Portal	1
Installation, Configuration, Testing & 12 Hours On-Site Training	1
Shipping	1
Tax	
Total	Setup Costs

Monthly Fees	Qty
Hosting & Data Backup	6
Pay-On-Foot Unit Software Support	2
Pay-On-Foot Hardware Maintenance	2
Mobile Valet Unit Software Support	12
Mobile Valet Unit Depot Service & Maintenance	12
LocalMaster Software Support	6
Back Office Software Support	6
Cellular Data Service	1
Web/Mobile Payments Software Support & Maintenance	1
Web/Mobile Payments Website Hosting, SSL Certificate & Security Monitoring	1
Web/Mobile Monthly Account Website Hosting, SSL Certificate & Security Monitoring	1
Tax	
Total	Fees

CONTRACT EXHIBIT F

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EXHIBIT F									
DUE UPON EARLY CONTRACT TERMINATION									
TOTAL									
Principal									
Month Balance									
1	\$296,951.76								
2	\$289,471.80								
3	\$281,944.92								
4	\$274,370.81								
5	\$266,749.17								
6	\$259,079.69								
7	\$251,362.06								
8	\$243,595.97								
9	\$235,781.11								
10	\$227,917.17								
11	\$220,003.82								
12	\$212,040.74								
13	\$204,027.63								
14	\$195,964.14								
15	\$187,849.97								
16	\$179,684.77								
17	\$171,468.22								
18	\$163,200.00								
19	\$154,879.75								
20	\$146,507.16								
21	\$138,081.88								
22	\$129,603.57								
23	\$121,071.88								
24	\$112,486.48								
25	\$103,847.02								
26	\$95,153.14								
27	\$86,404.51								
28	\$77,600.75								
29	\$68,741.52								
30	\$59,826.46								
31	\$50,855.20								
32	\$41,827.39								
33	\$32,742.66								
34	\$23,600.64								
35	\$14,400.96								
36	\$5,143.26								
37	\$4,928.95								
38	\$4,714.65								
39	\$4,500.35								
40	\$4,286.05								
41	\$4,071.74								
42	\$3,857.44								
43	\$3,643.14								
44	\$3,428.84								
45	\$3,214.53								
46	\$3,000.23								
47	\$2,785.93								
48	\$2,571.63								
49	\$2,357.33								
50	\$2,143.02								
51	\$1,928.72								
52	\$1,714.42								
53	\$1,500.12								
54	\$1,285.81								
55	\$1,071.51								
56	\$857.21								
57	\$642.91								
58	\$428.60								
59	\$214.30								
60	\$0.00								

CONTRACT EXHIBIT G

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EXHIBIT G

PARKING ACCESS CARDS LICENSE AGREEMENT

THIS PARKING ACCESS CARDS AGREEMENT ("Agreement"), executed this ____ day of May, 2019, (the "Effective Date") by and between King County Parking (herein called the "Licensor"), a New York limited liability company, with its offices at 544 47th Avenue Long Island City, NY 11101 and DMC PARKING MGMT LLC d/b/a Medical Center Parking (herein called the "Licensee"), a New York limited liability company, with its offices at 544 47th Avenue Long Island City, NY 11101.

WITNESSETH:

WHEREAS, Licensee is entering into or has entered into a certain Parking Services and Management Agreement (the "Management Agreement") with the Faculty Student Association of Downstate Medical Center (herein called the "FSA").

WHEREAS, Licensor manages the free-standing parking garage building and ancillary facilities located at 581 Clarkson Ave., Brooklyn, NY 11203 (herein called the "KCP Garage"), and a surface lot located at 600 Albany Ave., Brooklyn, NY 11203 (herein called the "KCP Lot"), and has the authority to sell and assign parking access cards to the KCP Garage and KCP Lot;

WHEREAS, pursuant to the Management Agreement, Licensee has agreed to make available up to 200 access cards, subject to availability, to FSA, allocated among, and exclusively for use at the KCP Lot and the KCP Garage, with 50 of such access cards contemplated for the KCP Garage only; and

WHEREAS, Licensor is willing to enter into this Agreement for parking access cards at the KCP Garage and KCP Lot under the terms and conditions set forth in this Agreement.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

1. **Assignment of Parking Access Cards.** Licensors agrees to assign to Licensee, or at the election of Licensors and Licensee, issue directly to FSA up to 200 access cards, subject to availability, allocated among, and exclusively for use at the KCP Lot and the KCP Garage, with 50 of such access cards contemplated for the KCP Garage only.

2. **Term.** The term of this Agreement shall run concurrently with the Management Agreement; however, Licensors may cancel this Agreement, in whole or in part, upon 120 days written notice to Licensee.

3. **Rate and Guidelines.** The use of the access cards shall be subject to Licensors's procedures and guidelines, as same may be amended from time to time by Licensors, incorporated herein by reference, and shall be made available at the same rate offered to employees of Kings County Hospital, as same may be amended from time to time.

4. **Change in Number of Spaces.** Licensors and Licensee may mutually agree to expand or decrease the number of access cards under this Agreement at the same payment rate and terms and conditions.

5. **License.** Licensors and Licensee agree that this Agreement is a license to use the parking spaces now or hereafter assigned and that nothing herein will be construed or interpreted to make this a lease agreement or convert this Agreement into a landlord-tenant relationship.

6. **No Third-Party Beneficiary Rights.** This Agreement is not intended to and shall not be construed to give any third-party any interest or rights (including, without limitation, any third-party beneficiary rights) with respect to or in connection with any agreement or provision

contained herein or contemplated hereby. No person or entity other than the parties signing this Agreement shall have any right to enforce any provision of this Agreement, even if indirectly benefited by it.

7. Applicable Law. This Agreement shall be interpreted in accordance with the laws of the State of New York. Manager agrees that in the event of any litigation hereunder same shall be heard in the Courts of the City of New York or State of New York in Kings County.

IN WITNESS WHEREOF, Licensors and Licensee have caused this Agreement to be executed as of the date first set forth above.

KING COUNTY PARKING LLC, Licensor

By: _____
Name: _____
Title: _____

DMC PARKING MGT LLC, Licensee

By: _____
Name: _____
Title: _____

CONTRACT EXHIBIT H

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Exhibit H
FSA Standard Sub-Contractor Clauses

- I. The contract shall be between the auxiliary service corporation, (hereinafter referred to as "Corporation") and the successful vendor who will be a subcontractor of the Corporation (hereinafter referred to as "Contractor"), and neither the State University of New York nor the State of New York shall be parties to this contract.
- II. The Contractor shall save, keep harmless and defend the State of New York, the State University of New York and the Corporation against any and all liability for claims and costs of whatsoever kind and nature for injury to or death of any person or persons and for loss or damage to any property, whether owned by State University of New York or otherwise, occurring in connection with or in any way incident to or arising out of the occupancy, use, service, operations, or performance of work in connection with this contract, resulting in whole or in part from the negligent or intentional acts or omissions of Contractor, its officers, employees, agents, subcontractors or representatives of Contractor. In the event insurance is provided by the Contractor under this agreement the Corporation, the Campus, the State University of New York and the State of New York shall be included as additional insureds.
- III. This contract is a subcontract for services by the Corporation and as such is subject to the provisions of the underlying contract and any amendments thereof between State University of New York and the Corporation, and termination of the underlying agreement in whole or applicable part by State University of New York for any reason whatsoever shall cause the simultaneous termination of this subcontract without penalty of any kind.
- IV. This contract may not be assigned by the Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet or disposed of without the previous consent, in writing, of the Corporation and any attempts to assign the contract without the Corporation's written consent are null and void.
- V. This contract shall be void and of no force and effect unless Contractor shall provide and maintain coverage during the life of this contract or for the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law.
- VI. Contractor shall not discriminate against any employee or applicant for employment because of race, creed, color, sex, national origin, age, disability or marital status. Furthermore, if this is a contract for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that this contract shall be performed within the State of New York, Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. If this is a building service contract as defined in Section 230 of the Labor Law, then Contractor agrees that neither it nor its subcontracts shall, by reason of race, creed, color, national origin, age, sex or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. Contractor is subject to fines of \$50.00 per person for any violation of this provision as well as possible termination of this contract and forfeiture of all moneys due hereunder for a second or subsequent violation.
- VII. If this is a public work contract covered by Article 8 of the Labor Law or a building service contract covered by Article 9 thereof, neither Contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said statutes, except as otherwise provided in the Labor Law and as set forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, Contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as determined by the State Labor Department in accordance with the Labor Law.
- VIII. If this contract was awarded based upon the submission of bids, Contractor (Bidder) certifies, and each person signing on behalf of the Bidder certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of its knowledge and belief: (1) the prices in this bid have been arrived at independently without collusion, consultation, communication or agreement for the purpose of restricting competition, as to any matter relating to such prices, with any other bidder or with any competitor; (2) unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by the Bidder and will not be knowingly disclosed by the Bidder prior to opening, directly or indirectly, to any other bidder or to any competitor; and (3) no attempt has been made or will be made by the Bidder to induce any other person, partnership or corporation to submit or not to submit a bid for the purpose of restricting competition.
- IX. The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertinent to performance under this contract (hereinafter, collectively, the "Records"). The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. FSA and any other person or entity authorized to conduct an examination of this contract, shall have access to the Records during normal business hours at an office of the Contractor within the State of New York or, if no such office is available, at a mutually agreeable and reasonable venue within the State, for the term specified above for the purposes of inspection, auditing and copying. FSA shall take reasonable steps to protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute") provided that: (i) the Contractor shall timely inform FSA, in writing, that said Records should not be disclosed; and (ii) said Records shall be sufficiently identified; and (iii) designation of said Records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, FSA's right to discovery in any pending or future litigation.
- X. FSA shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but not be limited to, FSA's option to withhold for the purposes of set-off any moneys due to the Contractor under this contract up to any amounts due and owing to the FSA with regard to this contract, any other contract with any State department or agency, including any contract for a term commencing prior to the term of this contract, plus any amounts due and owing to the FSA for any other reason.
- XI. In addition to the methods of service allowed by the NY Civil Practice Law and Rules (CPLR) Contractor hereby consents to service of process upon it by registered or certified mail, return receipt requested. Service hereunder shall be complete upon Contractors actual receipt or process or upon FSA's receipt of the return thereof by the United States Postal Service as refused or undeliverable. Service by FSA to the last known address shall be sufficient. Contractor shall have thirty (30) calendar days after service hereunder is complete in which to respond.
- XII. This contract shall be governed by the laws of the State of New York except where the Federal supremacy clause requires otherwise.
- XIII. Disputes involving this contract, including the breach or alleged breach thereof, may not be submitted to binding arbitration except where statutorily authorized but must, instead, be heard in a court of competent jurisdiction of the State of New York.
- XIV. As a subcontractor of FSA, to the extent applicable, Contractors shall comply or not otherwise violate or commit any act in contravention of SUNY Standard Exhibits A and A-1.
- XV. 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 EXHIBIT A, the terms of this EXHIBIT A shall control.

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

1. EXECUTORY CLAUSE. In accordance with Section 41 of the State Finance Law, the State shall have no liability under this contract to the Contractor or to anyone else beyond funds appropriated and available for this contract.

2. PROHIBITION AGAINST ASSIGNMENT Except for the assignment of its right to receive payments subject to Article 5-A of the State Finance Law, the Contractor selected to perform the services herein are prohibited in accordance with Section 138 of the State Finance Law from assigning, transferring, conveying, subletting or otherwise disposing of its rights, title or interest in the contract without the prior written consent of SUNY and attempts to do so are null and void. Notwithstanding the foregoing, SUNY may, with the concurrence of the New York Office of State Comptroller, waive prior written consent of the assignment, transfer, conveyance, sublease or other disposition of a contract let pursuant to Article XI of the State Finance Law if the assignment, transfer, conveyance, sublease or other disposition is due to a reorganization, merger or consolidation of Contractor's its business entity or enterprise and Contractor so certifies to SUNY. SUNY retains the right, as provided in Section 138 of the State Finance Law, to accept or reject an assignment, transfer, conveyance, sublease or other disposition of the contract, and to require that any Contractor demonstrate its responsibility to do business with SUNY.

3. COMPTROLLER'S APPROVAL. (a) In accordance with Section 112 of the State Finance Law, Section 355 of New York State Education Law, and 8 NYCRR 316, Comptroller's approval is not required for the following contracts: (i) materials; (ii) equipment and supplies, including computer equipment; (iii) motor vehicles; (iv) construction; (v) construction-related services; (vi) printing; and (vii) goods for State University health care facilities, including contracts for goods made with joint or group purchasing arrangements.

(b) Comptroller's approval is required for the following contracts: (i) contracts for services not listed in Paragraph (3)(a) above made by a State University campus or health care facility certified by the Vice Chancellor and Chief Financial Officer, if the contract value exceeds \$250,000; (ii) contracts for services not listed in Paragraph (3)(a) above made by a State University campus not certified by the Vice Chancellor and Chief Financial Officer, if the contract value exceeds \$50,000; (iii) contracts for services not listed in Paragraph (3)(a) above made by health care facilities not certified by the Vice Chancellor and Chief Financial Officer, if the contract value exceeds \$75,000; (iv) contracts whereby the State University agrees to give something other than money, when the value or reasonably estimated value of such consideration exceeds \$10,000; (v) contracts for real property transactions if the contract value exceeds \$50,000; (vi) all other contracts not listed in Paragraph (3)(a) above, if the contract value exceeds \$50,000, e.g. SUNY acquisition of a business and New York State Finance Article 11-B contracts and (vii) amendments for any amount to contracts not listed in Paragraph (3)(a) above, when as so amended, the contract exceeds the threshold amounts stated in Paragraph (b) herein. However, such pre-approval shall not be required for any contract established as a centralized contract through the Office of General Services or

for a purchase order or other transaction issued under such centralized contract.

(c) Any contract that requires Comptroller approval shall not be valid, effective or binding upon the State University until it has been approved by the Comptroller and filed in the Comptroller's office.

4. WORKERS' COMPENSATION BENEFITS. In accordance with Section 142 of the State Finance Law, this contract shall be void and of no force and effect unless the Contractor shall provide and maintain coverage 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.

5. NON-DISCRIMINATION REQUIREMENTS. To the extent required by 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 Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex, (including gender identity or expression), national origin, sexual orientation, military status, age, disability, predisposing genetic characteristics, marital status or domestic violence victim status. Furthermore, in accordance with Section 220-e of the Labor Law, if this is a contract for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that this contract shall be performed within the State of New York, Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex, or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. If this is a building service contract as defined in Section 230 of the Labor Law, then, in accordance with Section 239 thereof, Contractor agrees that neither it nor its subcontractors shall by reason of race, creed, color, national origin, age, sex or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. Contractor is subject to fines of \$50.00 per person per day for any violation of Section 220-e or Section 239 as well as possible termination of this contract and forfeiture of all moneys due hereunder for a second or subsequent violation.

6. WAGE AND HOURS PROVISIONS. If this is a public work contract covered by Article 8 of the Labor Law or a building service contract covered by Article 9 thereof, neither Contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said statutes, except as otherwise provided in the Labor Law and as set forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, Contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as determined by the State Labor Department in accordance with the Labor Law. Additionally, effective April 28, 2008, if this is a public work

contract covered by Article 8 of the Labor Law, the Contractor understands and agrees that the filing of payrolls in a manner consistent with Subdivision 3-a of Section 220 of the Labor Law shall be a condition precedent to payment by SUNY of any SUNY-approved sums due and owing for work done upon the project.

7. NON-COLLUSIVE BIDDING CERTIFICATION. In accordance with Section 139-d of the State Finance Law, if this contract was awarded based on the submission of competitive bids, Contractor affirms, under penalty of perjury, and each person signing on behalf of Contractor, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of its knowledge and belief that its bid was arrived at independently and without collusion aimed at restricting competition. Contractor further affirms that, at the time, Contractor submitted its bid, an authorized and responsible person executed and delivered it to SUNY a non-collusive bidding certification on Contractor's behalf.

8. INTERNATIONAL BOYCOTT PROHIBITION. In accordance with Section 220-f of the Labor Law and Section 139-h of the State Finance Law, if this contract exceeds \$5,000, the Contractor agrees, as a material condition of the contract, that neither the Contractor nor any substantially owned or affiliated person, firm, partnership or corporation has participated, is participating, or shall participate in an international boycott in violation of the federal Export Administration Act of 1979 (50 USC App. Sections 2401 *et seq.*) or regulations thereunder. If such Contractor, or any of the aforesaid affiliates of Contractor, is convicted or is otherwise found to have violated said laws or regulations upon the final determination of the United States Commerce Department or any other appropriate agency of the United States subsequent to the contract's execution, such contract, amendment or modification thereto shall be rendered forfeit and void. The Contractor shall so notify the State Comptroller within five (5) business days of such conviction, determination or disposition of appeal (2 NYCRR 105.4).

9. SET-OFF RIGHTS. The State shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but not be limited to, the State's option to withhold for the purposes of set-off any moneys due to the Contractor under this contract up to any amounts due and owing to the State with regard to this contract, any other contract with any State department or agency, including any contract for a term commencing prior to the term of this contract, plus any amounts due and owing to the State for any other reason including, without limitation, tax delinquencies or monetary penalties relative thereto. The State shall exercise its set-off rights in accordance with normal State practices including, in cases of set-off pursuant to an audit, the finalization of such audit by the State, its representatives, or the State Comptroller.

10. RECORDS. The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertinent to performance under this contract (hereinafter, collectively, "the Records"). The Records must be kept for the balance of the calendar year in which they were made and for six

(8) additional years thereafter. The State Comptroller, the Attorney General and any other person or entity authorized to conduct an examination, as SUNY and its representatives and entities involved in this contract, shall have access to the Records during normal business hours at an office of the Contractor within the State of New York or, if no such office is available, at a mutually agreeable and reasonable venue within the State, for the term specified above for the purposes of inspection, auditing and copying. SUNY shall take reasonable steps to protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute") provided that: (i) the Contractor shall timely inform an appropriate SUNY official, in writing, that said Records should not be disclosed; and (ii) said Records shall be sufficiently identified; and (iii) designation of said Records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, SUNY's or the State's right to discovery in any pending or future litigation.

11. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION.

Identification Number(s). Every Invoice or New York State Claim for Payment submitted to the State University of New York by a payee, for payment for the sale of goods or services or for transactions (e.g., leases, easements, licenses, etc.) related to real or personal property must include the payee's identification number. The number is any or all of the following: (i) the payee's Federal employer identification number, (ii) the payee's Federal social security number, and/or (iii) the payee's Vendor Identification Number assigned by the Statewide Financial System. Failure to include such number or numbers may delay payment. Where the payee does not have such number or numbers, the payee, on its Invoice or Claim for Payment, must give the reason or reasons why the payee does not have such number or numbers.

(b) Privacy Notification. (1) The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by the seller or lessor to the State University of New York is mandatory. The principal purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax returns or may have understated their tax liabilities and to generally identify persons affected by the taxes administered by the Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law. (2) The personal information is requested by the purchasing unit of the State University of New York contracting to purchase the goods or services or lease the real or personal property covered by this contract or lease. The information is maintained in the Statewide Financial System by the Vendor Management Unit within the Bureau of State Expenditures, Office of the State Comptroller, 110 State Street, Albany, New York 12236.

12. EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITIES AND WOMEN.

(a) In accordance with Section 312 of the Executive Law and 5 NYCRR 143, if this contract is: (i) a written agreement or purchase order instrument, providing for a total expenditure in excess of \$25,000.00, whereby a contracting agency is committed to expend or does expend funds in return for labor, services, supplies, equipment, materials or any combination of the foregoing, to be performed for, or rendered or furnished to the contracting agency; or (ii) a written agreement in excess of \$100,000.00 whereby a contracting agency is committed to expend or does expend funds for the acquisition,

construction, demolition, replacement, major repair or renovation of real property and improvements thereon; or (iii) a written agreement in excess of \$100,000.00 whereby the owner of a State assisted housing project is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon for such project, then the following shall apply, and by signing this agreement the Contractor certifies and affirms that it is Contractor's equal employment opportunity policy that:

(1) The Contractor will not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability or marital status, and will undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination. Affirmative action shall mean recruitment, employment, job assignment, promotion, upgradings, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation;

(2) at SUNY's request, Contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union or representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of the Contractor's obligations herein; and

(3) Contractor shall state, in all solicitations or advertisements for employees, that, in the performance of the State contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.

(b) Contractor will include the provisions of "1", "2" and "3", above, in every subcontract over \$25,000.00 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the "Work") except where the Work is for the beneficial use of the Contractor. Section 312 does not apply to: (i) work, goods or services unrelated to this contract; or (ii) employment outside New York State. The State shall consider compliance by a Contractor or sub-contractor with the requirements of any federal law concerning equal employment opportunity which effectuates the purpose of this section. SUNY shall determine whether the imposition of the requirements of the provisions hereof duplicate or conflict with any such federal law and if such duplication or conflict exists, SUNY shall waive the applicability of Section 312 to the extent of such duplication or conflict. Contractor will comply with all duly promulgated and lawful rules and regulations of the Department of Economic Development's Division of Minority and Women's Business Development pertaining hereto.

13. **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 Exhibit A, the terms of this Exhibit A shall control.

14. **GOVERNING LAW.** This contract shall be governed by the laws of the State of New York except where the Federal supremacy clause requires otherwise.

15. **LATE PAYMENT.** Timeliness of payment and any interest to be paid to Contractor for late payment shall be governed by Article 11-A of the State Finance Law to the extent required by law.

16. **NO ARBITRATION.** Disputes involving this contract, including the breach or alleged breach

thereof, may not be submitted to binding arbitration (except where statutorily authorized) but must, instead, be heard in a court of competent jurisdiction of the State of New York.

17. **SERVICE OF PROCESS.** In addition to the methods of service allowed by the State Civil Practice Law & Rules ("CPLR"), Contractor hereby consents to service of process upon it by registered or certified mail, return receipt requested. Service hereunder shall be complete upon Contractor's actual receipt of process or upon the State's receipt of the return thereof by the United States Postal Service as refused or undeliverable. Contractor must promptly notify the State, in writing, of each and every change of address to which service of process can be made. Service by the State to the last known address shall be sufficient. Contractor will have thirty (30) calendar days after service hereunder is complete in which to respond.

18. **PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS.** The Contractor certifies and warrants that all wood products to be used under this contract award will be in accordance with, but not limited to, the specifications and provisions of State Finance Law §165 (Use of Tropical Hardwoods), which prohibits purchase and use of tropical hardwoods, unless specifically exempted, by the State or any governmental agency or political subdivision or public benefit corporation. Qualification for an exemption under this law will be the responsibility of the contractor to establish to meet with the approval of the State. In addition, when any portion of this contract involving the use of woods, whether supply or installation, is to be performed by any subcontractor, the prime Contractor will indicate and certify in the submitted bid proposal that the subcontractor has been informed and is in compliance with specifications and provisions regarding use of tropical hardwoods as detailed in Section 165 of the State Finance Law. Any such use must meet with the approval of the State, otherwise, the bid may not be considered responsive. Under bidder certification, proof of qualification for exemption will be the responsibility of the Contractor to meet with the approval of the State.

19. **MacBRIDE FAIR EMPLOYMENT PRINCIPLES.** In accordance with the MacBride Fair Employment Principles (Chapter 807 of the Laws of 1992), the Contractor hereby stipulates that Contractor and any individual or legal entity in which the Contractor holds a ten percent or greater ownership interest and any individual or legal entity that holds a ten percent or greater ownership interest in the Contractor either (a) have no business operations in Northern Ireland, or (b) shall take lawful steps in good faith to conduct any business operations in Northern Ireland in accordance with the MacBride Fair Employment Principles (as described in Section 165(5) of the State Finance Law), and shall permit independent monitoring of compliance with such principles.

20. **OMNIBUS PROCUREMENT ACT OF 1992.** It is the policy of New York State to maximize opportunities for the participation of New York State business enterprises, including minority and women-owned business enterprises as bidders, subcontractors and suppliers on its procurement contracts.

Information on the availability of New York State subcontractors and suppliers is available from:

NYS Department of Economic Development
Division for Small Business
30 South Pearl St, 7th Floor
Albany, NY 12245
Tel: 518-292-5100
Fax: 518-292-6884
email: opa@esd.ny.gov

A directory of certified minority and women-

owned business enterprises is available from:

NYS Department of Economic Development
Division of Minority and Women's Business
Development
633 Third Avenue
New York, NY 10017
212-803-2414

email: mwbecertification@esd.ny.gov
<https://ny.newmycontracts.com/FrontEnd/VendorSearchPublic.asp>

The Omnibus Procurement Act of 1992 requires that by signing this bid proposal or contract, as applicable, Contractors certify that whenever the total bid amount is greater than \$1 million:

(a) The Contractor has made reasonable efforts to encourage the participation of New York State residents of employment opportunities on this project through listing any such positions with the Job Search Division of the New York State Department of Labor, or providing such notification in such manner as is consistent with existing collective bargaining contracts or agreements. The contractor agrees to document these efforts and to provide said documentation to the State upon request; and

(b) The Contractor has complied with the Federal Equal Employment Opportunity Act of 1972 (P.L. 92-281), as amended;

(c) The Contractor agrees to make reasonable efforts to provide notification to New York State residents of employment opportunities on this project through listing any such positions with the Job Search Division of the New York State Department of Labor, or providing such notification in such manner as is consistent with existing collective bargaining contracts or agreements. The contractor agrees to document these efforts and to provide said documentation to the State upon request; and

(d) The Contractor acknowledges notice that SUNY may seek to obtain offset credits from foreign countries as a result of this contract and agrees to cooperate with SUNY in these efforts.

21. RECIPROCITY AND SANCTIONS

PROVISIONS. Bidders are hereby notified that if their principal place of business is located in a country, nation, province, state or political subdivision that penalizes New York State vendors, and if the goods or services they offer will be substantially produced or performed outside New York State, the Omnibus Procurement Act of 1994 and 2000 amendments (Chapter 684 and Chapter 383, respectively) require that they be denied contracts which they would otherwise obtain. Contact the NYS Department of Economic Development, Division for Small Business, 30 South Pearl Street, Albany, New York 12245, for a current list of jurisdictions subject to this

provision.

22. COMPLIANCE WITH NEW YORK STATE INFORMATION SECURITY BREACH AND NOTIFICATION ACT. Contractor shall comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law Section 899-aa; State Technology Law Section 208).

23. COMPLIANCE WITH CONSULTANT DISCLOSURE LAW If this is a contract for consulting services, defined for purposes of this requirement to include analysis, evaluation, research, training, data processing, computer programming, engineering, environmental health and mental health services, accounting, auditing, paralegal, legal or similar services, then in accordance with Section 163(4-g) of the State Finance Law, the Contractor shall timely, accurately and properly comply with the requirement to submit an annual employment report for the contract to SUNY, the Department of Civil Service and the State Comptroller.

24. PURCHASES OF APPAREL AND SPORTS EQUIPMENT. In accordance with State Finance Law Section 165(7), SUNY may determine that a bidder on a contract for the purchase of apparel or sports equipment is not a responsible bidder as defined in State Finance Law Section 163 based on (a) the labor standards applicable to the manufacture of the apparel or sports equipment, including employee compensation, working conditions, employee rights to form unions and the use of child labor; or (b) bidder's failure to provide information sufficient for SUNY to determine the labor conditions applicable to the manufacture of the apparel or sports equipment.

25. PROCUREMENT LOBBYING. To the extent this agreement is a "procurement contract" as defined by State Finance Law Sections 139-j and 139-k, by signing this agreement the contractor certifies and affirms that all disclosures made in accordance with State Finance Law Sections 139-j and 139-k are complete, true and accurate. In the event such certification is found to be intentionally false or intentionally incomplete, the State may terminate the agreement by providing written notification to the Contractor in accordance with the terms of the agreement.

26. CERTIFICATION OF REGISTRATION TO COLLECT SALES AND COMPENSATING USE TAX BY CERTAIN STATE CONTRACTORS, AFFILIATES AND SUBCONTRACTORS. To the extent this agreement is a contract as defined by Tax Law Section 5-a, if the Contractor fails to make the certification required by Tax Law

Section 5-a or if during the term of the contract, the Department of Taxation and Finance or SUNY discovers that the certification, made under penalty of perjury, is false, then such failure to file or false certification shall be a material breach of this contract and this contract may be terminated, by providing written notification to the Contractor in accordance with the terms of the agreement, if SUNY determines that such action is in the best interests of the State.

27. IRAN DIVESTMENT ACT. By entering into this Agreement, Contractor certifies in accordance with State Finance Law §165-a that it is not on the "Entities Determined to be Non-Responsive Bidders/Offers pursuant to the New York State Iran Divestment Act of 2012" ("Prohibited Entities List") posted at: <http://www.oag.ny.gov/about/regs/docs/11istofEntities.pdf>

Contractor further certifies that it will not utilize on this Contract any subcontractor that is identified on the Prohibited Entities List. Contractor agrees that should it seek to renew or extend this Contract, it must provide the same certification at the time the Contract is renewed or extended. Contractor also agrees that any proposed Assignee of this Contract will be required to certify that it is not on the Prohibited Entities List before the contract assignment will be approved by the State.

During the term of the Contract, should the state agency receive information that a person (as defined in State Finance Law §165-a) is in violation of the above-referenced certifications, the state agency will review such information and offer the person an opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in the investment activity which is in violation of the Act within 90 days after the determination of such violation, then the state agency shall take such action as may be appropriate and provided for by law, rule, or contract, including, but not limited to, imposing sanctions, seeking compliance, recovering damages, or declaring the Contractor in default.

The state agency reserves the right to reject any bid, request for assignment, renewal or extension for an entity that appears on the Prohibited Entities List prior to the award, assignment, renewal or extension of a contract, and to pursue a responsibility review with respect to any entity that is awarded a contract and appears on the Prohibited Entities list after contract award.

THE FOLLOWING PROVISIONS SHALL APPLY ONLY TO THOSE CONTRACTS TO WHICH A HOSPITAL OR OTHER HEALTH SERVICE FACILITY IS A PARTY

28. Notwithstanding any other provision in this contract, the hospital or other health service facility remains responsible for insuring that any service provided pursuant to this contract complies with all pertinent provisions of Federal, state and local statutes, rules and regulations. In the foregoing sentence, the word "service" shall be construed to refer to the health care service rendered by the hospital or other health service facility.

29. (a) In accordance with the 1980 Omnibus Reconciliation Act (Public Law 96-499), Contractor hereby agrees that until the expiration of four years after the furnishing of services under this agreement, Contractor shall make available upon written request to the Secretary of Health and Human Services, or upon request, to the Comptroller General of the United States or any of their duly authorized representatives, copies of this contract, books, documents and records of the Contractor that are necessary to certify the nature and extent of the costs hereunder.

(b) If Contractor carries out any of the duties of the contract hereunder, through a subcontract having a value or cost of \$10,000 or more over a twelve-month period, such subcontract shall contain a clause to the effect that, until the expiration of four years after the furnishing of such services pursuant to such subcontract, the subcontractor shall make available upon written request to the Secretary of Health and Human Services or upon request to the Comptroller General of the United States, or any of their duly authorized representatives, copies of the subcontract and books, documents and records of the subcontractor that are necessary to verify the nature and extent of the costs of such subcontract.

(c) The provisions of this section shall apply only to such contracts as are within the definition established by the Health Care Financing Administration, as may be amended or modified from time to time.

1. **DEFINITIONS.** The following terms shall be defined in accordance with Section 310 of the Executive Law:

STATE CONTRACT herein referred to as "State Contract", shall mean: (a) a written agreement or purchase order instrument, providing for a total expenditure in excess of twenty-five thousand dollars (\$25,000.00), whereby the State University of New York ("University") is committed to expend or does expend funds in return for labor, services including but not limited to legal, financial and other professional services, supplies, equipment, materials or a combination of the foregoing, to be performed for, or rendered or furnished to the University; (b) a written agreement in excess of one hundred thousand dollars (\$100,000.00) whereby the University is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon; and (c) a written agreement in excess of one hundred thousand dollars (\$100,000.00) whereby the University as an owner of a state assisted housing project is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon for such project.

SUBCONTRACT herein referred to as "Subcontract", shall mean any agreement for a total expenditure in excess of \$25,000 providing for services, including non-staffing expenditures, supplies or materials of any kind between a State agency and a prime contractor, in which a portion of the prime contractor's obligation under the State contract is undertaken or assumed by a business enterprise not controlled by the prime contractor.

WOMEN-OWNED BUSINESS ENTERPRISE herein referred to as "WBE", shall mean a business enterprise, including a sole proprietorship, partnership or corporation that is: (a) at least fifty-one percent (51%) owned by one or more United States citizens or permanent resident aliens who are women; (b) an enterprise in which the ownership interest of such women is real, substantial and continuing; (c) an enterprise in which such women ownership has and exercises the authority to control independently the day-to-day business decisions of the enterprise; (d) an enterprise authorized to do business in this state and independently owned and operated; (e) an enterprise owned by an individual or individuals, whose ownership, control and operation are relied upon for certification, with a personal net worth that does not exceed three million five hundred thousand dollars (\$3,500,000), as adjusted annually on the first of January for inflation according to the consumer price index of the previous year; and (f) an enterprise that is a small business pursuant to subdivision twenty of this section.

A firm owned by a minority group member who is also a woman may be certified as a minority-owned business enterprise, a

women-owned business enterprise, or both, and may be counted towards either a minority-owned business enterprise goal or a women-owned business enterprise goal, in regard to any Contract or any goal, set by an agency or authority, but such participation may not be counted towards both such goals. Such an enterprise's participation in a Contract may not be divided between the minority-owned business enterprise goal and the women-owned business enterprise goal.

MINORITY-OWNED BUSINESS ENTERPRISE herein referred to as "MBE", shall mean a business enterprise, including a sole proprietorship, partnership or corporation that is: (a) at least fifty-one percent (51%) owned by one or more minority group members; (b) an enterprise in which such minority ownership is real, substantial and continuing; (c) an enterprise in which such minority ownership has and exercises the authority to control independently the day-to-day business decisions of the enterprise; (d) an enterprise authorized to do business in this state and independently owned and operated; (e) an enterprise owned by an individual or individuals, whose ownership, control and operation are relied upon for certification, with a personal net worth that does not exceed three million five hundred thousand dollars (\$3,500,000.00), as adjusted annually on the first of January for inflation according to the consumer price index of the previous year; and (f) an enterprise that is a small business pursuant to subdivision twenty of this section.

MINORITY GROUP MEMBER shall mean a United States citizen or permanent resident alien who is and can demonstrate membership in one of the following groups: (a) Black persons having origins in any of the Black African racial groups; (b) Hispanic persons of Mexican, Puerto Rican, Dominican, Cuban, Central or South American of either Indian or Hispanic origin, regardless of race; (c) Native American or Alaskan native persons having origins in any of the original peoples of North America; (d) Asian and Pacific Islander persons having origins in any of the Far East countries, South East Asia, the Indian Subcontinent or Pacific Islands.

CERTIFIED ENTERPRISE OR BUSINESS shall mean a business verified as a minority or women-owned business enterprise pursuant to section 314 of the Executive Law. A business enterprise which has been approved by the New York Division of Minority & Women Business Development ("DMWBD") for minority or women-owned enterprise status subsequent to verification that the business enterprise is owned, operated, and controlled by minority group members or women, and that also meets the financial requirements set forth in the regulations.

2. **TERMS.** The parties to the attached State Contract agree to be bound by the following provisions which are made a part hereof (the word "Contractor" herein refers to any party other than the University:

1(a) Contractor and its Subcontractors shall undertake or continue existing programs of affirmative action to ensure that minority group

members and women are afforded equal employment opportunities without discrimination. For these purposes, affirmative action shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation.

(b) Prior to the award of a State Contract, the Contractor shall submit an equal employment opportunity (EEO) policy statement to the University within the time frame established by the University.

(c) As part of the Contractor's EEO policy statement, the Contractor, as a precondition to entering into a valid and binding State Contract, shall agree to the following in the performance of the State Contract: (i) The Contractor will not discriminate against any employee or applicant for employment, will undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination, and shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force on State Contracts; (ii) The Contractor shall state in all solicitations or advertisements for employees that, in the performance of the State Contract, all qualified applicants will be afforded equal employment opportunities without discrimination; (iii) At the request of the University the Contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union, or representative will not discriminate, and that such union or representative will affirmatively cooperate in the implementation of the Contractor's obligations herein.

(d) Except for construction contracts, prior to an award of a State Contract, the Contractor shall submit to the contracting agency a staffing plan of the anticipated work force to be utilized on the State Contract or, where required, information on the Contractor's total work force, including apprentices, broken down by specified ethnic background, gender, and Federal occupational categories or other appropriate categories specified by the contracting agency. The form of the staffing plan shall be supplied by the contracting agency. If Contractor fails to provide a staffing plan, or in the alternative, a description of its entire work force, the University may reject Contractor's bid, unless Contractor either commits to provide such information at a later date or provides a reasonable justification in writing for its failure to provide the same.

(e) After an award of a State Contract, the Contractor shall submit to the University a workforce utilization report, in a form and manner required by the agency, of the work force actually utilized on the State Contract, broken down by specified ethnic background, gender, and Federal occupational categories or other appropriate categories specified by the University.

(f) The Contractor shall include the provisions of this section in every Subcontract
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in such a manner that the requirements of the provisions will be binding upon each Subcontractor as to work in connection with the State Contract, including the requirement that Subcontractors shall undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination, and, when requested, provide to the Contractor Information on the ethnic background, gender, and Federal occupational categories of the employees to be utilized on the State Contract.

(g) To ensure compliance with the requirements of this paragraph, the University shall inquire of a Contractor whether the work force to be utilized in the performance of the State Contract can be separated out from the Contractor's and/or Subcontractors' total work force and where the work of the State Contract is to be performed. For Contractors who are unable to separate the portion of their work force which will be utilized for the performance of this State Contract, Contractor shall provide reports describing its entire work force by the specified ethnic background, gender, and Federal Occupational Categories, or other appropriate categories which the agency may specify.

(h) The University may require the Contractor and any Subcontractor to submit compliance reports, pursuant to the regulations relating to their operations and implementation of their affirmative action or equal employment opportunity program in effect as of the date the State Contract is executed.

(i) If a Contractor or Subcontractor does not have an existing affirmative action program, the University may provide to the Contractor or Subcontractor a model plan of an affirmative action program. Upon request, the Director of DMWBD shall provide a contracting agency with a model plan of an affirmative action program.

(j) Upon request, DMWBD shall provide the University with information on specific recruitment sources for minority group members and woman, and contracting agencies shall make such information available to Contractors

2. Contractor must provide the names, addresses and federal identification numbers of certified minority- and women-owned business enterprises which the Contractor intends to use to perform the State Contract and a description of the Contract scope of work which the Contractor intends to structure to increase the participation by Certified minority- and/or women-owned business enterprises on the State Contract, and the estimated or, if known, actual dollar amounts to be paid to and performance dates of each component of a State Contract which the Contractor intends to be performed by a certified minority- or woman-owned business enterprise. In the event the Contractor responding to University solicitation is joint venture, teaming agreement, or other similar arrangement that includes a minority- and women owned business enterprise, the Contractor must submit for review and approval: i. the name, address, telephone number and federal identification of each partner or party to the agreement; ii. the federal identification number of the joint venture or entity established to respond to the solicitation, if applicable; iii. A copy of the joint venture, teaming or other similar arrangement which describes the percentage of interest owned by each party to the agreement and the

value added by each party; iv. A copy of the mentor-protégé agreement between the parties, if applicable, and if not described in the joint venture, teaming agreement, or other similar arrangement.

3. PARTICIPATION BY MINORITY GROUP MEMBERS AND WOMEN. The University shall determine whether Contractor has made conscientious and active efforts to employ and utilize minority group members and women to perform this State Contract based upon an analysis of the following factors:

(a) Whether Contractor established and maintained a current list of recruitment sources for minority group members and women, and whether Contractor provided written notification to such recruitment sources that contractor had employment opportunities at the time such opportunities became available.

(b) Whether Contractor sent letters to recruiting sources, labor unions, or authorized representatives of workers with which contractor has a collective bargaining or other agreement or understanding requesting assistance in locating minority group members and women for employment.

(c) Whether Contractor disseminated its EEO policy by including it in any advertising in the news media, and in particular, in minority and women news media.

(d) Whether Contractor has attempted to provide information concerning its EEO policy to Subcontractors with which it does business or had anticipated doing business.

(e) Whether internal procedures exist for, at a minimum, annual dissemination of the EEO policy to employees, specifically to employees having any responsibility for hiring, assignment, layoff, termination, or other employment decisions. Such dissemination may occur through distribution of employee policy manuals and handbooks, annual reports, staff meetings and public postings.

(f) Whether Contractor encourages and utilizes minority group members and women employees to assist in recruiting other employees.

(g) Whether Contractor has apprentice training programs approved by the N.Y.S. Department of Labor which provides for training and hiring of minority group members and women.

(h) Whether the terms of this section have been incorporated into each Subcontract which is entered into by the Contractor.

4. PARTICIPATION BY MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES. Based upon an analysis of the following factors, the University shall determine whether Contractor has made good faith efforts to provide for meaningful participation by minority-owned and women-owned business enterprises which have been certified by DMWBD:

(a) Whether Contractor has actively solicited bids for Subcontracts from qualified M/WBES, including those firms listed on the Directory of Certified Minority and Women-Owned Business Enterprises, and has documented its good faith efforts towards meeting minority and women owned business enterprise utilization plans by providing, copies of solicitations, copies of any advertisements for participation by certified minority- and women-owned business enterprises timely published in appropriate

general circulation, trade and minority- or women-oriented publications, together with the listing(s) and date(s) of the publications of such advertisements; dates of attendance at any pre-bid, pre-award, or other meetings, if any, scheduled by the University, with certified minority- and women-owned business enterprises, and the reasons why any such firm was not selected to participate on the project.

(b) Whether Contractor has attempted to make project plans and specifications available to firms who are not members of associations with plan rooms and reduce fees for firms who are disadvantaged.

(c) Whether Contractor has utilized the services of organizations which provide technical assistance in connection with M/WBE participation.

(d) Whether Contractor has structured its Subcontracts so that opportunities exist to complete smaller portions of work.

(e) Whether Contractor has encouraged the formation of joint ventures, partnerships, or other similar arrangements among Subcontractors.

(f) Whether Contractor has requested the services of the Department of Economic Development (DED) to assist Subcontractors' efforts to satisfy bonding requirement.

(g) Whether Contractor has made progress payments promptly to its Subcontractors.

(h) Whether the terms of this section have been incorporated into each Subcontract which is entered into by the Contractor. It shall be the responsibility of Contractor to ensure compliance by every Subcontractor with these provisions.

5. GOALS. (a) GOALS FOR MINORITY AND WOMEN WORK FORCE PARTICIPATION.

(i) The University shall include relevant work force availability data, which is provided by the DMWBD, in all documents which solicit bids for State Contracts and shall make efforts to assist Contractors in utilizing such data to determine expected levels of participation for minority group members and women on State Contracts.

(ii) Contractor shall exert good faith efforts to achieve such goals for minority and women's participation. To successfully achieve such goals, the employment of minority group members and women by Contractor must be substantially uniform during the entire term of this State Contract. In addition, Contractor should not participate in the transfer of employees from one employer or project to another for the sole purpose of achieving goals for minority and women's participation.

(b) GOALS FOR MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES PARTICIPATION.

For all State Contracts in excess of \$25,000.00 whereby the University is committed to expend or does expend funds in return for labor, services including but not limited to legal, financial and other professional services, supplies, equipment, materials or a combination of the foregoing or all State Contracts in excess of \$100,000.00 whereby the University is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon, Contractor shall exert good faith efforts to

achieve a participation goal of _____ percent (____%) for Certified Minority-Owned Business Enterprises and _____ percent (____%) for Certified Women-Owned Business Enterprises.

6. ENFORCEMENT. The University will be responsible for enforcement of each Contractor's compliance with these provisions. Contractor, and each Subcontractor, shall permit the University access to its books, records and accounts for the purpose of investigating and determining whether Contractor or Subcontractor is in compliance with the requirements of Article 15-A of the Executive Law. If the University determines that a Contractor or Subcontractor may not be in compliance with these provisions, the University may make every reasonable effort to resolve the issue and assist the Contractor or Subcontractor in its efforts to comply with these provisions. If the University is unable to

resolve the issue of noncompliance, the University may file a complaint with the DMWBD.

7. DAMAGES FOR NON COMPLIANCE.

Where the University determines that Contractor is not in compliance with the requirements of the Contract and Contractor refuses to comply with such requirements, or if Contractor is found to have willfully and intentionally failed to comply with the MWBE participation goals, Contractor shall be obligated to pay liquidated damages to the University. Such liquidated damages shall be calculated as an amount equaling the difference between:

a. All sums identified for payment to MWBEs had the Contractor achieved the contractual MWBE goals; and

b. All sums actually paid to MWBEs for work performed or materials supplied under the Contract.

In the event a determination has been made which requires the payment of liquidated damages and such identified sums have not been withheld by the University, Contractor shall pay such liquidated damages to the University within sixty (60) days after such damages are assessed, unless prior to the expiration of such sixtieth day, the Contractor has filed a complaint with the Director of the Division of Minority and Woman Business Development pursuant to Subdivision 8 of Section 313 of the Executive Law in which event the liquidated damages shall be payable if Director renders a decision in favor of the University.