

NAVAL RESERVE OFFICERS TRAINING CORPS

CROSS-ENROLLMENT AGREEMENT

AMONG

**COLUMBIA UNIVERSITY,
THE STATE UNIVERSITY OF NEW YORK MARITIME COLLEGE
AND
THE DEPARTMENT OF THE NAVY**

This Cross-Enrollment Agreement (the "Agreement") is entered into this 26th day of May, 2011 among The Trustees of Columbia University in the City of New York ("Columbia"), The State University of New York Maritime College ("SUNY Maritime") and the United States Department of the Navy acting through the Naval Reserve Officers Training Corps (the "Navy"). Columbia, SUNY Maritime and the Navy shall be collectively referred to as the "Parties." The Naval Reserve Officers Corps Program offered by the Navy that is the subject of this Agreement shall be referred to as "NROTC" or the "NROTC Program." This Agreement shall become effective on the later of the date signed by Columbia, SUNY Maritime and the Navy or when the December 22, 2010 repeal of 10 U.S.C. § 654, commonly referred to as "Don't Ask, Don't Tell", becomes effective (the "Effective Date").

RECITALS

WHEREAS, there is a long and distinguished history of participation by members of the Columbia community in military service and in the Nation's defense, including participation in the NROTC Program;

WHEREAS, Navy regulations authorize cross-enrollment of students at colleges and universities that do not have an NROTC unit at those who do;

WHEREAS, SUNY Maritime has had an NROTC Unit on campus since 1978;

WHEREAS, SUNY Maritime provides educational services pursuant to an Educational Service Agreement with the Department of the Navy (Agreement No. N00140-06-H-0058);

WHEREAS, the Parties have determined that it is desirable for Columbia students to participate in the NROTC Program through the unit hosted at SUNY Maritime (the "Unit"), and for Columbia students to have access to, and interaction with, NROTC staff on the Columbia campus; and

WHEREAS, both Columbia and the Navy wish to formally and officially establish the terms and conditions under which such opportunity for NROTC Program participation and interaction will officially occur on the Columbia campus.

WHEREFORE, the Parties agree as follows:

1. Columbia Student NROTC Participation and Eligibility. Columbia hereby agrees to authorize and permit its students to formally and officially participate in the NROTC Program. Participation shall be by both students awarded NROTC scholarships in exchange for service as commissioned officers in the Navy or Marine Corps (the "Scholarship Program Students") and those who do not receive such scholarships but who desire to pursue the course of study in order to qualify for appointment as commissioned officers in the Navy or Marine Corps (the "College Program Students"). Columbia students who are neither Scholarship Program nor College Program students may also enroll in Naval Science courses on a space available basis. Collectively, these three groups shall be called the "Students."

a. *Initial Determination of Eligibility.* Contingent on meeting SUNY Maritime enrollment requirements, Columbia students shall be eligible for NROTC Scholarships and enrollment in the SUNY Maritime NROTC Program on the same basis as students from SUNY Maritime. The determination as to whether a Columbia student qualifies as a College Program Student shall be made by the Professor of Naval Science (the "PNS") at SUNY Maritime in his or her reasonable discretion. Columbia students who are neither Scholarship Program nor College Program Students and who wish to take Naval Science courses at SUNY Maritime are eligible to do so on a space available basis after all Scholarship Program and College Program Students have first had an opportunity to enroll.

b. *Loss of Eligibility.* Columbia students enrolled in the NROTC Program will be subject to the provisions of NROTC regulations, and infractions of certain of those regulations will be grounds for leave of absence (meaning that scholarship tuition and all other benefits paid or payable by NROTC will be withheld and not be granted to the student for a declared period of time) or disenrollment from the NROTC Program (when all benefits cease). The Navy shall, whenever practicable, provide advance written notification to Columbia of its intention to place a student in the Program on leave of absence status. Placement of a student in a leave of absence or disenrolled status will automatically disallow any claim the student or Columbia may have for reimbursement for tuition, fees, textbooks or any other benefits paid or payable by NROTC subsequent to the effective date of that action until NROTC restores the student to active status in the NROTC Program. With the exception of cruises required by the NROTC Program, Columbia students enrolled in cooperative work programs will be placed on leave of absence if participation in such programs means they will not be available to participate in the NROTC Program.

2. NROTC Program Administration; Presence on Columbia Campus. The NROTC Program offered to Columbia students will be administered by the active duty member of the United States Navy or Marine Corps who is designated a Professor of Naval Science at SUNY Maritime pursuant to regulations established by the Department of the Navy. The PNS shall designate Naval officer instructors to maintain office hours on the Columbia campus at facilities to be provided by Columbia pursuant to Paragraph 3 below.

3. Facilities on the Columbia Campus. In accordance with established procedures for providing facilities on campus to affiliated organizations, Columbia agrees to provide at its sole cost, access to space and resources on campus, along with facilities maintenance, repair and janitorial services. The intent of the parties is that such space will be equivalent to the following:

a. Office space, office equipment, including telephones, computers, information technology services and Internet access, and related storage space for materials, files and the like, for two Naval officer instructors; and

b. Such additional facilities as agreed upon by Columbia and the Navy in the future.

4. Courses

a. *Enrollment.* Under procedures established by both institutions, Columbia Students shall be enrolled in courses offered by the SUNY Maritime NROTC Program concurrently and on the same basis as the students enrolled in the NROTC Program from SUNY Maritime.

b. *Scheduling.* The PNS, SUNY Maritime and Columbia shall work together in good faith to schedule these courses at times mutually agreeable to both institutions.

c. *Information About Course Offerings and Requirements.* Columbia shall provide information on its website about the NROTC program and a link to an NROTC web page providing information about NROTC requirements and courses.

d. *Course Location.* NROTC courses and additional training activities will normally be taught at SUNY Maritime.

e. *Transportation to Courses and Activities.* Columbia Students are responsible for making their own arrangements for transportation to and from those NROTC classes and activities requiring their attendance.

f. *Summer Cruises.* Columbia Scholarship and College Program Students must complete the summer training cruise(s) required by NROTC regulations. Transportation to and from summer cruises shall be paid for by NROTC.

5. Extracurricular Activities. Participation in drill, rifle, sailing or other professional development and enrichment activities conducted by the SUNY Maritime NROTC Program will be open to Columbia Scholarship and College Program Students.

6. Credit Hours; Grades; Official Transcripts.

a. *Academic Credit.* Columbia shall consider, through its faculty Committee on Instruction, awarding credit for graduation from Columbia for NROTC courses, applying the same standards that it applies to other Columbia courses. In the case of any NROTC Course that is submitted for, but not approved for, graduation credit by the Columbia Committee on Instruction, Columbia will provide to the Navy information on why the course was not approved

for such credit, so that the Navy might consider whether there would be any modifications or supplementation that could address any deficiencies in qualifying for graduation credit. The Navy shall consider but shall not be obligated to make such changes. The Navy acknowledges that the final decision as to whether academic credit will be awarded for such courses shall be made solely by Columbia.

b. *Grades for NROTC Courses.* The PNS shall provide grade reports to Columbia for each Columbia Student enrolled in NROTC Program courses taught at SUNY Maritime. Columbia shall accept all grades awarded by SUNY Maritime's Department of Naval Science for courses which Columbia has agreed to grant academic credit and shall record them in the student's official transcript and any other grade record at Columbia, include these credits in grade point average computations, and accept them for credit toward Columbia degree requirements.

c. *Record of Courses on Student Transcript.* Columbia shall record all NROTC courses taken by its Students at SUNY Maritime on the Student's official transcript, whether or not it grants academic credit for such courses.

7. Rights and Privileges of NROTC Instructors. NROTC Instructors assigned to maintain office hours on the Columbia campus will receive access to Columbia libraries, athletic facilities, athletic tickets, parking, and information technology services on the same terms as a member of the Faculty of Arts and Sciences at Columbia.

8. Resources Provided by the Navy

a. *Tuition Reimbursement for Columbia Scholarship Program Students.* SUNY Maritime will reimburse Columbia for the tuition and fees of Columbia Scholarship Program Students who are enrolled in the SUNY Maritime NROTC Program. SUNY Maritime will request the amount of reimbursement due to Columbia from the SUNY Maritime PNS in accordance with the Educational Services Agreement in force between SUNY Maritime and NROTC. NROTC will then provide such amount to SUNY Maritime for reimbursement of Columbia.

b. *Textbooks.* NROTC shall provide the required Naval Science textbooks and other curricular materials, at no cost to Columbia Scholarship Students and College Program Students. Title to these materials remains with the United States so that they at all times remain Government property. Columbia Students shall return all such materials to the PNS at the completion of the course or activity in which they are used or at such earlier time as a Columbia Student elects to withdraw from the course or activity.

c. *Uniforms.* NROTC shall provide standard Midshipman uniforms at no cost, to all Columbia Scholarship and College Program Students. These uniforms differ from those worn by SUNY Maritime students, who, by virtue of being enrolled at a maritime academy, are authorized to wear a different uniform. Ownership of uniforms and uniform items provided to Columbia Scholarship and College Program Student remains with the United States so that the uniforms at all times remain Government property. Columbia students who have been issued

uniforms and who then withdraw or are disenrolled from the NROTC Program shall return all uniform items to the PNS within a reasonable period of time after such withdrawal or disenrollment. Uniforms shall be cleaned and maintained at students' expense.

d. *Subsistence Payments.* NROTC shall ensure that subsistence payments are provided in accordance with existing regulations to eligible Columbia students enrolled in the NROTC Program.

9. General Provisions

a. *Construction/Governing Authority.* This Agreement is governed by, and shall be construed under, Federal law.

b. *No Assignment.* This Agreement may not be assigned by any Party.

c. *No Discrimination.* Enrollment and other decisions made pursuant to this Agreement shall provide equal opportunity to all and shall not unlawfully discriminate on any legally prohibited basis.

d. *Captions.* Captions and heading in this Agreement are for convenience of reference only and do not constitute an enforceable part of this Agreement.

e. *Modification and Waiver.* This Agreement may be modified from time to time in a writing signed by duly authorized representatives of all Parties. Oral modifications to this Agreement are not binding on any Party. Unless expressly stated in a writing signed by a party the waiver by a party of any act, duty, or obligation required hereunder shall not be construed as a waiver of any other, or of any future, act, duty, or obligation to be performed by that party.

f. *Notice.* Unless otherwise stated herein, notices under this Agreement shall be effective upon receipt, must be in writing, and must be served by certified, U.S. mail, return receipt requested, addressed to the Parties as follows:

COLUMBIA :

Provost
Columbia University
535 West 116th Street
205 Low Library
Mail Code 4313
New York, NY 10027
Phone: (212) 854-2404
Fax: (212) 932-0418

SUNY MARITIME :

Commanding Officer
Naval Reserve Officers Training Corps
State University of New York Maritime College
6 Pennyfield Ave.
The Bronx, NY 10465-4198
Telephone: (718) 409-7217
Fax: (718) 409-7402

NROTC :

Director of Officer Development
Naval Service Training Command
250 Dallas Street, Suite A
Pensacola, FL 32508-5268
Phone: (850) 452-4983
Fax: (850) 452-4054

The Parties shall ensure that the above information is current and shall promptly notify the other Parties of any changes to this information.

g. *Entire Agreement.* This Agreement represents the entire agreement of the Parties concerning the matters addressed herein and supersedes any prior agreements, understandings, or representations.

h. *Counterparts.* This Agreement may be signed simultaneously in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument and shall become effective when a counterpart has been signed and delivered to all the Parties.

i. *Standard Contract Clauses, State University of New York.* To the extent applicable, the terms and conditions of New York State Exhibit A, attached hereto, are incorporated in this Agreement.

10. Termination

a. *Unilateral Termination.* This Agreement may be terminated by any of the Parties on a minimum of one year's written notice provided in accordance with Paragraph 9.f. of this Agreement.

b. *Termination of NROTC Program at SUNY Maritime.* The Parties understand and agree that this Agreement is premised on the existence of an NROTC Unit at SUNY Maritime. In the event that there ceases to be an NROTC Unit at SUNY Maritime, this Agreement shall be deemed terminated, subject to the provisions of Paragraph 10.c. below.

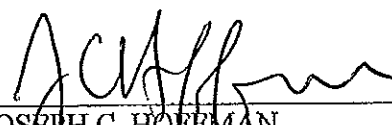
c. *Effect of Termination; Continuing Scholarship and College Program Students.*
Termination of the Agreement means that no additional Columbia Scholarship or College Program Students will be admitted into the NROTC Program but that continuing Columbia Scholarship and College Program Students will be permitted to continue their course of study under this Agreement until they graduate from Columbia. When the last of such students has graduated from Columbia, this Agreement will be of no further force or effect.

WHEREFORE, the parties have executed this Agreement as of the Effective Date.

THE TRUSTEES OF
COLUMBIA UNIVERSITY IN
THE CITY OF NEW YORK

THE STATE UNIVERSITY OF NEW YORK
MARITIME COLLEGE

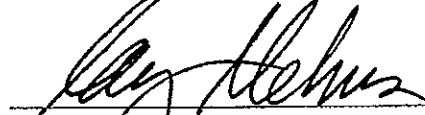
By: 
LEE C. BOLLINGER
President

By: 
DR. JOSEPH C. HOFFMAN
Provost and Vice President for Academic Affairs

Date: May 26, 2011

Date: 5/26/11

DEPARTMENT OF THE NAVY


RAY MABUS
Secretary of The Navy

Date: 5/26/2011

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 with the assent of its right to receive payment subject to Article 5-A of the State Finance Law, the vendor(s) selected to perform the services herein will be prohibited from assigning, transferring, conveying or disposing its rights, title or interest in the contract to be awarded without the prior written consent of SUNY. Provided however that 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 the contract if the vendor verifies to SUNY that the assignment, transfer, conveyance, sublease or other disposition is due to but not necessarily limited to, a reorganization, merger or consolidation of its business or enterprise. 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 by the vendor. The Contractor may, however, assign its right to receive payment without the State's prior written consent unless this contract concerns Certificates of Participation pursuant to Article 6-A of the State Finance Law.

3. COMPTROLLER'S APPROVAL. In accordance with Section 112 of the State Finance Law, Section 365 of the State Education Law, and 8 NYCRR 316, (a) for a State University campus or health care facility certified by the Vice Chancellor and Chief Financial Officer, if this contract exceeds \$250,000 for commodities, services, printing or construction, or (b) for a State University campus not certified by the Vice Chancellor and Chief Financial Officer, if this is a contract for commodities, services, printing or construction which exceeds \$50,000 or which exceeds \$75,000 by a State University health care facility not certified by the Vice Chancellor and Chief Financial Officer, or (c) if this is an amendment for any amount to a contract which, as so amended, exceeds said statutory amounts, or (d) if, by this contract, the State agrees to give something other than money, when the value or reasonably estimated value of such consideration exceeds \$10,000, it shall not be valid, effective or binding upon the State until it has been approved by the State 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 18 of the Executive Law (also known as the Human Rights Law), and all other State and Federal statutory and constitutional non-discrimination provisions, Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex, national origin, sexual orientation, age, disability, genetic predisposition or carrier status, or marital status. Furthermore, in accordance with Section 220-a 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 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-a 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.

7. NON-COLLUSIVE BIDDING REQUIREMENT. In accordance with Section 139-d of the State Finance Law, if this contract was awarded based on the submission of competitive bids: (a) by submission of its bid, 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.

(b) A bid shall not be considered for award nor shall any award be made where (a) (1), (2) and (3) above have not been complied with; provided however, that if in any case the Bidder cannot make the foregoing certification, the Bidder shall so state and shall furnish with the bid a signed statement which sets forth in detail the reasons therefor.

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 agency, 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 (6) additional years thereafter. The State Comptroller, the Attorney General and any other person or entity authorized to conduct an examination, as well as the agency or agencies 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. The State 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 State 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, the State's right to discovery in any pending or future litigation.

11. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION. (a) Federal Employer Identification Number and/or Federal Social Security Number. All invoices or New York State standard vouchers submitted for payment for the sale of goods or services or the lease of real or personal property to a New York State agency must include the payee's identification number, i.e., the seller's or lessor's identification number. The number is either the payee's Federal employer identification number or Federal social security number, or both such numbers when the payee has both such numbers. Failure to include this number or numbers may delay payment. Where the payee does not have such number or numbers, the payee, on its invoice or New York State standard voucher, 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 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 agency 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 New York State's Central

Accounting System by the Director of Accounting Operations, Office of the State Comptroller, AESOB, Albany, New York 12236.

12. EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITIES AND WOMEN. (a) In accordance with Section 312 of the Executive Law, 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:

(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, upgrading, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation;

(2) at the request of the contracting agency, Contractor shall request each employment agency, labor union, or authorized representative of workers 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 therein; 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; or (iii) banking services, insurance policies or the sale of securities. The State shall consider compliance by a contractor or subcontractor with the requirements of any federal law concerning equal employment opportunity which effectuates the purpose of this section. The contracting agency 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, the contracting agency 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 Governor's Office 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 §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 Section 165(6) of the State Finance Law, the Contractor hereby stipulates that the 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(6) of the State Finance Law), and shall permit independent monitoring of compliance with such principles.

20. OMNIBUS PROCUREMENT ACT OF 1992.

(a) In accordance with the Omnibus Procurement Act of 1992, it is the policy of NYS to encourage the use of NYS contractors and suppliers, and to promote the participation of minority- and women-owned businesses where possible, in the procurement of goods and services. Information concerning the availability of NYS subcontractors and suppliers is available from the NYS Dept. of Economic Development, which shall also include the Directory of Certified Minority- and Women-owned Businesses.

(b) Subsequent to award of procurement contracts in an amount estimated to be \$1,000,000 or more, contractors will be required to document their efforts to encourage the participation of NYS business enterprises as suppliers and subcontractors by showing that they have (i) solicited bids in a timely and adequate manner from NYS business enterprises including certified minority- or women-owned businesses, or (ii) contacted the NYS Dept. of Economic Development to obtain listings of NYS business enterprises, or (iii) placed notices for subcontractors or suppliers in newspapers, journals or other trade publications distributed in NYS, or (iv) participated in bidder outreach conferences. If a contractor determines that NY business enterprises are not available to participate in such contract, the contractor shall provide a statement indicating the method by which such determination was made. If a contractor does not intend to use subcontractors, the contractor shall provide a statement verifying such intent. Contractors shall also attest to compliance with the Federal Equal Employment Opportunity Act of 1972 (P.L. 92-261), as amended, and document efforts to provide notification to NYS residents of employment opportunities through listing any positions with the Community Services Division of the NYS Dept. of Labor, or provide for such notification in such manner as is consistent with existing collective bargaining agreements.

(c) Bidders located in foreign countries are notified that SUNY may assign or otherwise transfer offset credits created by any procurement contract of \$1,000,000 or more to third parties located in New York State.

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 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. PURCHASES OF APPAREL. In accordance with State Finance Law Section 162(4-a), the State shall not purchase any apparel from any vendor unable or unwilling to provide documentation as part of its bid (i) attesting that such apparel was manufactured in compliance with all applicable labor and occupational safety laws, including, but not limited to, child labor laws, wage and hours laws and workplace safety laws, and (ii) stating, if known, the names and addresses of each subcontractor and all manufacturing plants to be utilized by the bidder.

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

23. 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.

24. (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.