

## **Exhibit A to Consultant Retention Agreements**

These additional terms and conditions are required by law, as indicated herein (Additional Terms), and shall be executed by the Consultant prior to the Division of Law executing any Consultant Retention Agreement on behalf of any of its clients. These Additional Terms shall be incorporated into any Consultant Retention Agreement (Retention Agreement) executed by the Division of Law and Consultant.

**I. Consultant shall complete the following forms or otherwise satisfy the following requirements prior to the State executing a Retention Agreement with Consultant. Note that the Consultant must use the same TIN/EIN and related taxpayer identity for all of these registrations, disclosures and certifications:**

**A. Ownership Disclosure**

The Ownership Disclosure addresses the requirements of N.J.S.A. 52:25-24.2, for any contract or retention agreement and must be completed and submitted either with the proposal or with the signed Retention Agreement. The Retention Agreement cannot be finalized by the Division of Law unless and until the Ownership Disclosure is properly completed and accepted. The form can be downloaded from the Department of Treasury website under the heading Vendor Forms. It is located at:

<http://www.state.nj.us/treasury/purchase/forms/OwnershipDisclosure.pdf>

**B. Affirmative Action Supplement with Affirmative Action Employee Information Report – Form AA-302**

The Affirmative Action Supplement with Affirmative Action Employee Information Report addresses the requirements of N.J.S.A. 10:5-31 to -34 and N.J.A.C. 17:27.3.1 et seq., for any contract or retention agreement. The Consultant agrees that and the Consultant must do one of the following:

1. complete and submit the Employee Information Report either with the proposal or with the signed Retention Agreement. The Retention Agreement is not completed unless and until the form is properly completed and submitted to the Division of Law, as well as to the Contract Compliance and Audit Unit within the New Jersey Department of Treasury, Division of Purchase and Property along with a \$150.00 check. The form can be downloaded from the Department of Treasury website under the heading Vendor Forms:

<https://www.state.nj.us/treasury/purchase/forms.shtml>.

The instructions for the form are available at:

<http://www.state.nj.us/treasury/purchase/forms/EmployeeInformationReportInstructions-aa302ins.pdf>;

or

2. present a current Certificate of Employee Information Report issued by the Contract Compliance and Audit Unit within the New Jersey Department of Treasury, Division of Purchase and Property; or
3. present to the Division of Law a copy of its existing federally approved or sanctioned affirmative action report.

**C. New Jersey Business Registration**

Pursuant to N.J.S.A. 52:32-44 (b),

1. Consultant that is a legal entity (e.g. corporation, LLC, partnership, LLC) must do one of the following
  - a. submit with the signed Retention Agreement a copy of its valid New Jersey Business Registration with the current entity name, address and EIN/TIN; or
  - b. if the business has changed its name, address or EIN/TIN since it registered, update those changed items in the Division of Revenue Business Registration System; or
  - c. is not already registered with the New Jersey Division of Revenue, registration can be completed on line at the Division of Revenue website:

<http://www.state.nj.us/treasury/revenue/busregcert.shtml>;

or

2. Consultant that is a natural person and is being retained and paid in her or his individual capacity (i.e. not under the name of an LLP or LLC), fill out New Jersey FORM A REG form and return the form to the address shown the form and await notification of its registration, and then submit that to the Division with the signed retention. The FORM A REG is found at:

<https://www.state.nj.us/treasury/revenue/pdf/rega.pdf>

**D. Certification of Non-Involvement in Prohibited Activities in Iran**

Pursuant to N.J.S.A. 52:32-58, Consultant must certify that neither Consultant, nor one of its parents, subsidiaries, and/or affiliates (as explained in N.J.S.A. 52:32-56(e)(3)), is listed on the Department of the Treasury's List of Persons or Entities Engaging in Prohibited Investment Activities in Iran and that neither is involved in any of the investment activities set forth in N.J.S.A. 52:32-56(f). If Consultant is unable to so certify, Consultant shall provide a detailed and precise description of such activities. The form is available at:

<http://www.state.nj.us/treasury/purchase/forms/DisclosureofInvestmentActivitiesinIran.pdf>.

**E. New Jersey State W-9 and Vendor Questionnaire – NJStart Vendor Registration**

No Consultant shall be paid unless Consultant has properly completed New Jersey State W-9 and Vendor Questionnaire on file with the State.

If Consultant has not already registered with NJStart, it must do so. Doing so will provide all of the W-9 information required.

If the Consultant does not have a Business Registration, has not yet received back its Business Registration form from the New Jersey Division of Revenue, or has not obtained Business Registration with its current information, it will not be able to register with NJStart. One day after the Business Registration is complete, the Consultant will be able to register with NJStart.

General Information, including an explanatory video about NJStart is available at:

<http://www.state.nj.us/treasury/purchase/vendor.shtml>.

Use this link to register for or access the NJStart system:

<https://www.njstart.gov/bsol/>.

If Consultant has previously submitted a State of New Jersey W-9 and Vendor Questionnaire or has previously registered with NJStart, and has not changed its name, address or tax identification number, the firm need not register with NJStart. The firms should notify the Division of Law that its NJ Start Registration is current.

**Note:** If at any time Consultant needs to revise its W-9 for any reason, including a change in firm name, address, tax identification number, Consultant shall also be required to update its Business Registration (see Section I(C), above) and its NJStart registration, if it has not done so, to make the revisions to the W-9 and Vendor Questionnaire in the NJStart system.

**F. Two-Year Chapter 51/Executive Order 117 Certification and Disclosure of Political Contributions**

Prior to entering any Retention Agreement retention agreement under which the State will pay more than \$17,500 to the Business Entity proposed as Consultant, the Business Entity shall submit the Certification and Disclosure form, certifying that no contributions prohibited by Chapter 51 have been solicited or made by the Business Entity and reporting all contributions the Business Entity made during the preceding four years to any political organization organized under 26 U.S.C. '527 of the Internal Revenue Code that also meets the definition of a continuing political committee@ within the mean of N.J.S.A. 19:44A-3(n) and N.J.A.C. 19:25-1.7. Additional information about Chapter 51 and Executive Order 117, including a Summary and a Q&A, is available at:

<https://www.state.nj.us/treasury/purchase/forms.shtml>

The required form and instructions for completion and submission to the Deputy Attorney General prior to the finalization of the Retention Agreement are available for on the New Jersey Division of Purchase and Property's website, under the heading "Vendor Forms Required for Contract Award" at:

<https://www.state.nj.us/treasury/purchase/forms.shtml>

**Note: If Consultant has not registered with NJStart, it will need to do so before submitting its Chapter 51 form. NJStart registration is necessary for the review of the Certification and Disclosure.**

**Note: The TIN/EIN on the Business Registration, NJStart registration and Chapter 51 form must be the same.**

If the Consultant has a currently valid Two-Year Chapter 51/Executive Order 117 Vendor Certification approval from the New Jersey Division of Purchase and Property and has not made any contribution prohibited by Chapter 51 since the approval was issued, the prior notice from the Chapter 51 Unit of the current two-year approval may be submitted to the Division of Law instead of a new form.

**Consultant is required, on a continuing basis, to report any contributions and solicitations Consultant makes during the term of the Retention Agreement, and any extension(s) thereof, at the time any such contribution or solicitation is made. Failure to do so is a breach of the Retention Agreement.**

Consultant's failure to submit the form will preclude the Division of Law's countersignature of the Retention Agreement. The State Treasurer or his designee shall review the Disclosures submitted by the Consultant pursuant to this section, as well as any other pertinent information concerning the contributions or reports thereof by the intended Consultant, prior to award, or during the term of the retention agreement. If the State Treasurer determines that any contribution or action by the Consultant violated Chapter 51 and EO 117 the State Treasurer shall disqualify the Consultant from award of such contract. If the State Treasurer or his designees determines that any contribution or action constitutes a breach of contract that poses a conflict of interest, pursuant to Chapter 51 or EO 117, the State Treasurer shall disqualify the Consultant from award of such contract.

#### **G. Disclosure Requirement of P.L. 2005, c. 271**

Pursuant to P.L. 2005, c.271 ("Chapter 271") every Business Entity contracting with the State is required to disclose its (and its principals=) political contributions within the immediately preceding twelve (12) month period. No prospective Consultant will be precluded from being retained by virtue of the information provided in the Chapter 271 disclosure, provided the form is fully and accurately completed. Prior to being retained, the Consultant anticipated to be selected will be required to submit Chapter 271 disclosures if the cost of Retention Agreement is anticipated to be in excess of \$17,500. This requirement is in addition to the requirements of Chapter 51 and EO 117. The form is at:

<http://www.state.nj.us/treasury/purchase/forms/CertandDisc2706.pdf>

## **II. Consultant Certification**

### **A. Source Disclosure Certification – All Consulting Service to be provided in the United States**

Consultant's execution of these Additional Terms to the Retention Agreement will confirm that Consultant agrees, in accordance with Executive Order 129 (2004) and N.J.S.A. 52:34-13.2 (P.L.2005, c. 92), that all services performed for the Retention Agreement shall be performed within the United States.

In the event that all services performed for the Retention Agreement will NOT be performed within the United States, Consultant shall send the Deputy Attorney General who executes the Retention Agreement a letter that states with specificity the reasons why the services cannot be so performed. Any such letter shall require review and approval pursuant to N.J.S.A. 52:34-14.2 prior to execution of this Retention Agreement or the delivery of the services which will not be performed within the US. If the Letter cannot be approved, the Consultant cannot be retained.

## **III. The Consultant acknowledges that the Retention Agreement is subject to the following terms and conditions:**

### **A. Breach of Requirements of Chapter 51 and Executive Order 117 (2008)** (Also referred to as "Pay to Play Restrictions," N.J.S.A. 19:44A-20.13 to -20.25, or Executive Order 134(2004))

In order to safeguard the integrity of State government procurement by imposing restrictions to insulate the negotiation and award of State contracts, including retention agreements, from political contributions that pose the risk of improper influence, purchase of access, or the appearance thereof, the Legislature enacted P.L. 2005, c.51 (codified at N.J.S.A. 19:44A-20.13 to -20.25) (Chapter 51), on March 22, 2005, effective retroactive to October 15, 2004, superseding the terms of Executive Order 134(2004). In addition, on September 24, 2008, Executive Order 117 was issued and made

effective on November 15, 2008 (EO 117) which set forth additional limitations on the ability of executive branch agencies to contract with business entities that have made or solicited certain contributions.

Thus, pursuant to the requirements of Chapter 51 and EO 117, it shall be a material breach of the terms of the Retention Agreement for Consultant to do any of the following during the term of the Retention Agreement:

1. make or solicit a contribution in violation of the Chapter 51 or EO 117;
2. knowingly conceal or misrepresent a contribution given or received;
3. make or solicit contributions through intermediaries for the purpose of concealing or misrepresenting the source of the contribution;
4. make or solicit any contribution on the condition or with the agreement that it will be contributed to a campaign committee or any candidate of holder of the public office of Governor, or of Lieutenant Governor, or to any State, county or municipal party committee, or any legislative leadership committee;
5. engage or employ a lobbyist or Consultant with the intent or understanding that such lobbyist or Consultant would make or solicit any contribution, which if made or solicited by the business entity itself, would subject that entity to the restrictions of Chapter 51 or EO117;
6. fund contributions made by third parties, including Consultant's shareholders or business partners, family members, and employees;
7. engage in any exchange of contributions to circumvent the intent of the Chapter 51 or EO 117;or
8. directly or indirectly through or by any other person or means, do any act which would subject that entity to the restrictions of the Chapter 51 or EO 117.

#### **B. New Jersey Conflict of Interest Law**

The New Jersey Conflict of Interest Law, N.J.S.A. 52:13D-12 et seq. and Executive Order 189 (1988), prohibit certain actions by persons or entities which provide goods or services to any State Agency. Specifically:

1. No Consultant shall pay, offer to pay, or agree to pay, either directly or indirectly, any fee, commission, compensation, gift, gratuity, or other thing of value of any kind to any State officer or employee or special State officer or employee, as defined by N.J.S.A. 52:13D-13b. and e., in the Department of the Treasury or any other agency with which such Consultant transacts or offers or proposes to transact business, or to any member of the immediate family, as defined by N.J.S.A. 52:13D-13i., of any such officer or employee, or any partnership, firm, or corporation with which they are employed or associated, or in which such officer or employee has an interest within the meaning of N.J.S.A. 52:13D-13g.
2. The solicitation of any fee, commission, compensation, gift, gratuity or other thing of value by any State officer or employee or special State officer or employee from any Consultant shall be reported in writing forthwith by Consultant to the Attorney General and the Executive Commission on Ethical Standards.
3. No Consultant may, directly or indirectly, undertake any private business, commercial or entrepreneurial relationship with, whether or not pursuant to employment, contract or other agreement, express or implied, or sell any interest in such Consultant to, any State officer or employee or special State officer or employee having any duties or responsibilities in connection with the purchase, acquisition or sale of any property or services by or to any State agency or any instrumentality thereof, or with any person, firm or entity with which he is employed or associated or in which he has an interest within the meaning of N.J.S.A. 52:13D-13g. Any relationships subject to this provision shall be reported in writing forthwith to the Executive Commission on Ethical Standards, which may grant a waiver of this restriction upon application of the State officer or employee or special State officer or employee upon a finding that the present or proposed relationship does not present the potential, actuality or appearance of a conflict of interest.

4. No Consultant shall influence, or attempt to influence or cause to be influenced, any State officer or employee or special State officer or employee in his official capacity in any manner which might tend to impair the objectivity or independence of judgment of said officer or employee.
5. No Consultant shall cause or influence, or attempt to cause or influence, any State officer or employee or special State officer or employee to use, or attempt to use, his official position to secure unwarranted privileges or advantages for the Consultant or any other person.
6. The provisions cited above in paragraph H(I). through H(V) shall not be construed to prohibit a State officer or employee or special State officer or employee from receiving gifts from or contracting with Consultant under the same terms and conditions as are offered or made available to members of the general public subject to any guidelines the Executive Commission on Ethical Standards may promulgate.

**C. Obligation to Maintain Records**

Consultant shall maintain all records for products and/or services delivered under the Retention Agreement for a period of five (5) years from the date of final payment under the Retention Agreement. Such records shall be made available to the State, including the New Jersey State Comptroller, for audit and review upon request.

**D. Affirmative Action and Equal Employment Requirements:**

Pursuant to N.J.A.C. 17:27-3.5 Consultant agrees that:

1. Special Council or its or subcontractor, where applicable, will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Except with respect to affectional or sexual orientation and gender identity or expression, Consultant will ensure that equal employment opportunity is afforded to such applicants in recruitment and employment, and that all employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Such equal employment opportunity shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Consultant agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the public agency compliance officer setting forth provisions of this nondiscrimination clause;
2. Consultant or subcontractor, where applicable, will, in all solicitations or advertisements for employees placed by or on behalf of Consultant, state that all qualified applicants will receive consideration for employment without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex;
3. Consultant or subcontractor will send to each labor union, with which it has a collective bargaining agreement, if any, a notice, to be provided by the agency contracting officer, advising the labor union of the Consultant's commitments under this chapter and shall post copies of the notice in conspicuous places available to employees and applicants for employment; and
4. Consultant or subcontractor, where applicable, agrees to comply with any regulations promulgated by the Treasurer pursuant to N.J.S.A.10:5-31 et seq., as amended and supplemented from time to time, and codified at N.J.A.C. 17:27-1.1 et seq.

Further, pursuant to N.J.A.C. 17:27-3.7, Consultant agrees that:

1. Consultant and its subcontractor, if any, agrees to make good faith efforts to meet targeted county employment goals established in accordance with N.J.A.C. 17:27-5.2.
2. Consultant and its subcontractor, if any, agrees to inform in writing its appropriate recruitment agencies including, but not limited to, employment agencies, placement bureaus, colleges, universities, and labor unions, that it does not discriminate on the basis of age, race, creed, color, national origin, ancestry, marital status,

affectional or sexual orientation, gender identity or expression, disability, nationality or sex, and that it will discontinue the use of any recruitment agency which engages in direct or indirect discriminatory practices.

3. Consultant and its subcontractor, if any, agrees to revise any of its testing procedures, if necessary, to assure that all personnel testing conforms with the principles of job-related testing, as established by the statutes and court decisions of the State of New Jersey and as established by applicable Federal law and applicable Federal court decisions.
4. In conforming with the targeted employment goals, Consultant and its subcontractor, if any, agrees to review all procedures relating to transfer, upgrading, downgrading and layoff to ensure that all such actions are taken without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex, consistent with the statutes and court decisions of the State of New Jersey, and applicable Federal law and applicable Federal court decisions.

**IV. Consultant is hereby notified of the following New Jersey Statutes and their requirements:**

**A. Chapter 271 Annual Disclosure Statement Filing Requirement**

If Consultant receives contracts in excess of \$50,000 from a public entity during a calendar year, Consultant is responsible to file an annual disclosure statement on political contributions with the New Jersey Election Law Enforcement Commission (ELEC), pursuant to N.J.S.A. 19:44A-20.13 (P.L. 2005, c. 271, section 3). It is Consultant's responsibility to determine if filing is necessary. Failure to so file can result in the imposition of financing penalties by ELEC. Additional information about this requirement and the form to be filed is available from ELEC at (888)313-3532 or <https://www.elec.nj.gov/pay2play/form.html>.

**B. Set-off for State Taxes**

Pursuant to N.J.S.A. 54:49-19 et seq. (P.L. 1995, c159), and notwithstanding the provision of any other law to the contrary, whenever any taxpayer, partnership or S corporation under contract to provide goods or services or construction projects to the State of New Jersey or its agencies or instrumentalities, including the legislative and judicial branches of State government, is entitled to payment for those goods or services at the same time a taxpayer, partner or shareholder of that entity is indebted for any State tax, the Director of the Division of Taxation shall seek to set off so much of that payment as shall be necessary to satisfy the indebtedness. The amount set-off shall not allow for the deduction of any expense or other deduction which might be attributable to the taxpayer, partner, or shareholder subject to set-off under this Act.

The Director of the Division of Taxation shall give notice of the set-off to the taxpayer, partner or shareholder and provide an opportunity for a hearing within thirty (30) days of such notice under the procedures for protests established under N.J.S.A. 54:49-19. No request for conference, protest, or subsequent appeal to the Tax Court from any protest shall stay the collection of the indebtedness.

**C. Diane B. Allen Equal Pay Act**

The Diane B. Allen Equal Pay Act, L. 2018, c. 9, requires State contractors providing professional services to the State or a State entity to file information about its employee pay practices with the New Jersey Department of Labor and Workforce Development. Information about the Act and the reporting requirement is available at: <https://nj.gov/labor/equalpay/equalpay.html>

**Consultant hereby agrees to these Additional Term and Conditions:**

**Consultant Signature:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**Consultant Name:** \_\_\_\_\_

**Consultant Firm:** \_\_\_\_\_