

MDRC Standard Federal Terms and Conditions

These terms are not all inclusive.

MDRC regularly updates these terms based on its evolving corporate priorities.

1. Rights to and Disposition of Data.

- a. **Definition of Contract Materials.** All reports, analyses, studies (including any tables and charts therein), questionnaires, survey and other information, and data and the database, including all computer sensible forms thereof and any related printouts thereof, that are developed by Subcontractor with Project funding exclusively for this Agreement, excluding Subcontractor's proprietary software programs, database, manuals, and other products developed prior to this Project, are hereinafter referred to as "Contract Materials." Financial reports or cost analyses and similar information incident to contract administration of Subcontractor and any approved subcontractors shall not be deemed Contract Materials.
- b. **Ownership and Use of Contract Materials.**
 - i. MDRC shall be the owner of all proprietary rights, including copyrights, in and to the Contract Materials. If for any reason the Contract Materials, or any portion thereof, are deemed not to be a work made for hire, then Subcontractor hereby irrevocably assigns, conveys, and transfers to MDRC all of its right, title, and interest in and to the Contract Materials and all intellectual property rights thereto free from any restrictions and limitations.
 - ii. Subcontractor shall not utilize (except in the performance of the work under this Agreement) or divulge any Contract Materials without MDRC's written consent. Subcontractor shall inform each of its professional employees, including individual consultants who may contribute to performance of the obligations under this Agreement, of MDRC's rights under this Agreement. During the term of this Agreement, Subcontractor shall preserve all Contract Materials in safe custody. Upon MDRC's request or at expiration of this Agreement, Subcontractor shall, upon MDRC's instruction, deliver to MDRC all or any portion of the Contract Materials.
 - iii. Advance written approval of MDRC shall be required for any and all publications, presentations, or other use of the Contract Materials. Subcontractor shall not issue publicity/advertisements, news releases, or grant any press interviews related to this Agreement or the Project, except with the advance written consent of MDRC.

- iv. Subcontractor agrees that to the extent that Subcontractor receives or is given access to data necessary for the performance of this Agreement that contains restrictive markings, Subcontractor shall treat the data in accordance with such markings unless otherwise specifically authorized in writing.
- v. Anything in this Agreement to the contrary notwithstanding, when and to the extent that Contract Materials are made public, Subcontractor shall have the same rights as the general public to utilize any such materials, including the right to make fair use of copyrighted materials.

2. Proprietary Information.

- a. Performance of this Agreement may require Subcontractor to access and use data and information proprietary to MDRC that is of such a nature that its dissemination or use, other than in performance of this Agreement, will be adverse to the interest of MDRC (“Proprietary Information”). Subcontractor understands that the Proprietary Information disclosed pursuant to this Agreement derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by, other persons who can obtain economic value from its disclosure or use.
- b. To the extent possible, MDRC shall clearly mark Proprietary Information as such at the time of disclosure. When such marking is not possible, MDRC shall provide verbal notice to Subcontractor at the time of disclosure.
- c. Neither Subcontractor nor Subcontractor’s personnel (including Subcontractor’s employees, independent contractors, and agents) shall divulge, reproduce, or release Proprietary Information in any form to any third party, either during or after the term of this Agreement, until made public by MDRC. Subcontractor shall not use, disclose, or reproduce Proprietary Information, other than as required in the performance of this Agreement. Nothing herein shall preclude the use of any data and information independently acquired by Subcontractor without such limitations.
- d. Subcontractor will protect the Proprietary Information in the same manner as it protects its own Proprietary Information of a similar nature. Disclosure of the Proprietary Information within Subcontractor’s organization shall be restricted to those individuals who are directly participating in performance under this Agreement.
- e. The foregoing terms and conditions concerning Proprietary Information shall survive the termination of this Agreement and shall remain in effect for three (3) years thereafter.

3. Management of Information.

- a. Program Information. Program Information is defined as all data and records within the custody of a program that are collected and used for its program purposes in its ordinary course of business. The program is responsible for creating and maintaining rules governing the confidentiality and security of Program Information and for communicating those rules to its program participants. Notwithstanding, once Program Information is given to MDRC or Subcontractor for research purposes, it will be subject to MDRC's rules regarding the protection of Research Information, as set forth in this Agreement.
- b. Research Information. Research Information is defined as all data and records collected for research purposes under this Agreement. The vast majority of Research Information will be treated as confidential and described herein as "Confidential Information." Confidential Information is information containing personal identifiers obtained during the course of the Project for research purposes pursuant to the promise of confidentiality. Other items of Research Information will not be Confidential Information. For example, facts regarding a site and its staff participating in the Project might be collected for research purposes thus considered Research Information, but if they are not collected pursuant to the promise of confidentiality, they will not be Confidential Information. Subcontractor will, however, institute procedures that are appropriate for all Research Information, with due regard for its sensitivity.
- c. Confidentiality of Confidential Information. Subcontractor may not disclose to third parties any Confidential Information made available to Subcontractor for the performance of this Agreement. Subcontractor must ensure that such information will be held in strict confidence, and will be used only for the purposes stated in this Agreement, and will not be disclosed or released to anyone without prior written approval from MDRC. Subcontractor agrees to comply with the provisions of any federal, state, or local privacy act applicable to the performance of this Agreement and to cause its employees and consultants, and its subcontractors and subcontractors' employees and consultants to so comply.
- d. Breach of Confidentiality of Confidential Information. Subcontractor must have policies and procedures in place for defining and handling security incidents and potential breaches affecting Confidential Information. Any breach or potential breach of confidentiality, whether through deliberate or inadvertent disclosure of Confidential Information (e.g., a laptop is lost or stolen, package sent to staff is not received) shall be reported to MDRC within 1 (one) hour of discovery of its occurrence. Subcontractor shall file an incident report as soon as is practicable. Should a breach of confidentiality occur, Subcontractor shall, to the extent

practicable, mitigate any harmful effect on individuals whose information was accessed or disclosed. Subcontractor agrees to provide compensatory and other services to any individual whose Confidential Information is accessed or disclosed, such as credit monitoring and privacy protection services for up to 1 (one) year, with the approval of MDRC. Such services will be provided solely at the expense of Subcontractor.

- e. Adverse Event Related to Confidential Information. Subcontractor will abide by provisions in the informed consent protocol approved by cognizant Institutional Review Boards pertaining to disclosure of Confidential Information, including but not limited to participant disclosure of intent to cause injury. In the event of such disclosure of any adverse incident during data collection, Subcontractor will notify MDRC immediately, will provide information regarding Subcontractor's response to the incident, and will follow any instructions issued by MDRC in response to the Adverse Event. Requirements in connection with a breach of confidentiality are set forth in the above-referenced section, "Breach of Confidentiality."
- f. Institutional Review Board ("IRB") Requirements. Subcontractor will comply with the requirements of MDRC's IRB with respect to the protections and protocols applicable to subjects and will submit to the IRB all materials required for continuing IRB oversight.
- g. Requirements for Research Involving Human Subjects. Subcontractor shall comply with all applicable federal provisions, statutes and regulations regarding the protection and privacy of human subjects including, but not limited to, the Privacy Act of 1974, 5 U.S.C. § 552a, and the Common Rule, 45 CFR Part 46. Additionally, Subcontractor shall comply with the requirements of MDRC's IRB with respect to the protections and protocols applicable to subjects and will submit to the IRB all materials required for continuing IRB oversight.
- h. Requests for Confidential Information. Upon receiving any request for Confidential Information, including through litigation or other legal action relating to the Project or through subpoena or other legal process seeking to compel production of or obtain access to any data or work under this Agreement, Subcontractor will promptly notify MDRC, and will follow MDRC's instructions with regard to any disclosure of such Confidential Information. Subcontractor will use its best efforts to cooperate with MDRC's decisions and actions to limit the disclosure of any such Confidential Information. This provision will continue to bind Subcontractor when the Agreement is completed or otherwise terminated.

- i. Subcontractor's Obligations Regarding its Staff, Consultants, and Subcontractors.
 - i. Access to Confidential Information. Subcontractor will ensure throughout the Project that all staff are provided with the minimum Confidential Information needed to accomplish specific tasks (for example, field survey staff should not be routinely provided with sensitive information if not critical for the specific task to be undertaken). Confidential Information shall only be shared with members of Subcontractor's team who have been authorized by MDRC's Project data manager to access such information.
 - ii. Confidentiality Agreements. Subcontractor will require that its employees sign an agreement to abide by policies on data security and confidentiality required by this Agreement. The agreement signed by employees shall affirm that each individual understands the importance of maintaining data security and confidentiality and agrees to abide by management and technical procedures that implement these policies. In addition, any other non-employee staff used by Subcontractor with MDRC's approval will sign a confidentiality agreement.
 - iii. Training. Subcontractor and its employees, as well as any non-employees, who are gathering or maintaining Confidential Information will receive training in requirements pertaining to human subjects before gaining access to such information. Subcontractor shall maintain documentation of such training, which it will provide to MDRC upon request.
4. Data Security of Confidential Information. Subcontractor must follow the data security requirements of the Prime Contract, as provided by MDRC and as modified from time to time, as well as any security requirements identified in this Agreement.
 - a. General. Confidential Information may not be transported and stored outside assigned storage areas except under limited circumstances and with prior written approval by MDRC.
 - b. Specific Requirements by Location.
 - i. Network Systems. Subcontractor must insure that the premises housing the network system used for processing Confidential Information is properly safeguarded from intrusion. Subcontractor shall have a documented security policy governing the secure use of its computer network and systems, including governing access to systems with the Confidential Information

- ii. Devices. Confidential Information must be stored on encrypted laptops, jump/thumb drives, and/or external hard drives. These devices might be available in encrypted formats, or files can be encrypted before storing them on portable media. When access to Confidential Information is needed outside the network infrastructure, it might be stored in laptops that encrypt data at rest, thereby preventing data from being exposed in the event the laptop is lost or stolen. Any Subcontractor use of outside laptops and or other portable storage devices attached to network infrastructure must be carefully controlled to help avoid infection by malware.
Similarly, Subcontractor must prohibit peer-to-peer networking and other kinds of connectivity that expose the network to outside access.
 - iii. Paper Files. Subcontractor must log and store all Confidential Information received in paper documents in locked storage areas with limited access on a need-to-know basis.
 - iv. Computerized Files. Subcontractor shall maintain a robust technical environment, secured by firewalls that limit access to designated network areas and requires authorized individuals to gain access via password identification systems. Subcontractor must strictly control access rights to secure areas of the server holding data files that contain Confidential Information. In the event that data files containing Confidential Information must be transmitted to or from the local network system and another location (e.g. as government agency, service provider, or subcontractor), encryption with passwords must be used to ensure file security and data integrity. When accessing secured data, storage control must be maintained by an account login ID and strong individual password.
 - v. Networks. Network administrators shall maintain the security of their systems. Virus protection, firewalls, intrusion detection, and other tools for monitoring or preventing security lapses must be kept up-to-date, similarly for operating system and software patches.
- c. Data Management. Network services for data storage and processing shall be structured to avoid proliferation of file copies to multiple workstations. Back-ups of Confidential Information (required as part of a disaster recovery plan) shall be stored in a secure off-site location.
 - d. Data Destruction. At the direction of MDRC, media containing Confidential Information must be destroyed by an appropriate fail-safe method, including physical destruction of the media itself or destruction of the contents of electronic media. Storage media (e.g. diskettes, tapes, and CDs/DVDs) that

contain or ever contained Confidential Information must be destroyed by an MDRC-approved method. Hard drive storage, if to be reused, must be wiped clean of deleted content by utilities that meet current federal standards.

- e. MDRC Collaboration Tools. In order to complete the Scope of Work, Subcontractor may receive access to certain MDRC collaboration tools (the "Tools"), including, but not limited to, SharePoint and cloud-based storage. The Tools and the information contained therein are deemed Confidential Information and all obligations outlined above apply to the Tools and the information contained therein. In order to access the Tools, MDRC will provide unique login IDs to Subcontractor personnel who have a need to access the Tools. Subcontractor will maintain a list of those individuals having access to the Tools. Upon request by MDRC, Subcontractor will provide said list to MDRC. Additionally, Subcontractor shall notify MDRC within ten (10) business days of whenever Subcontractor personnel are removed from the list of having access to the Tools (e.g. personnel leaves employ or ceases working on the Project).
- f. Subcontractor acknowledges that data security terms in this Agreement may be updated as needed and in accordance with any data sharing agreement(s) for this Project.

5. Communication.

All communication shall be between Subcontractor and MDRC, regarding the performance of services under this Agreement. If in the unlikely event communication becomes necessary between Subcontractor and the Funding Agency, Subcontractor will include MDRC in such discussions. If not possible, Subcontractor will notify MDRC immediately afterwards of any discussions held between Subcontractor and the Funding Agency. Subcontractor will copy MDRC on any and all forms of written communication, including but not limited to text messages and electronic mail, between Subcontractor and the Funding Agency.

6. Termination.

- a. Right of Termination. MDRC may terminate this Agreement in whole or in part for cause upon written notice to Subcontractor. Upon receipt of such notice, Subcontractor shall cease performance of services under this Agreement on the specified termination date. Subcontractor shall be paid for the satisfactory services performed up to the date of receipt of the termination notice or the date specified therein. Within fourteen (14) days after receiving such notice, Subcontractor shall deliver to MDRC any and all finished and unfinished work created in whole or in part with funds provided under this Agreement along with

any information or resources provided to Subcontractor by MDRC. Such work will be provided in the format specified by MDRC.

- b. Changes in Funding Under the Prime Contract. MDRC has the right, in its sole discretion, to make a corresponding adjustment to the compensation amount described above upon any revisions MDRC makes to the Scope of Work under this Agreement. Subcontractor and MDRC will proceed with performance under this Agreement, as revised.
- c. Stop Work. A Stop Work Order will be issued by MDRC to Subcontractor if it is advisable in MDRC's sole discretion to suspend work. By written Stop Work Order to Subcontractor, MDRC will require Subcontractor to stop all or any part of the work called for by this Agreement. Upon receipt of the Stop Work Order, Subcontractor will immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the Stop Work Order.

7. Changes.

This Agreement may be altered, amended, or modified only by a writing executed by duly authorized representatives of both parties. Notwithstanding, MDRC may at any time, by written order, make changes in the services to be performed by Subcontractor, within the general scope of this Agreement. Such changes include those that would reasonably follow from the COVID-19 pandemic, as determined by MDRC in its sole discretion. If a change causes an increase or decrease in cost and/or time required for performance, the parties may consider making an equitable adjustment to this Agreement.

8. Dispute Resolution.

In the event of any dispute or disagreement between the parties with respect to this Agreement, each of the parties will appoint a designated officer to meet for the purpose of endeavoring to resolve such dispute or to negotiate for an adjustment to such provision. The designated officers will record the resolution of each dispute in a form of writing, which will be communicated to all appropriate personnel.

No formal or adversarial proceedings for the resolution of a dispute may begin until the dispute resolution procedure has been elevated to the President level, in the case of MDRC, and to a commensurate level in the case of Subcontractor, and either of such officers of the parties concludes, after a good faith attempt to resolve the dispute, that amicable resolution through continued negotiation of the matter at issue does not appear likely.

9. Inspection and Acceptance.

Subcontractor agrees that for the Term of this Agreement, MDRC, the Funding Agency or its representatives shall have the right to enter Subcontractor's premises, or such other places where duties under this Agreement are being performed, to inspect, monitor, or otherwise evaluate the work being done, provided that such inspectors and evaluations shall be carried out during regular business hours and shall not unreasonably delay Subcontractor's work.

10. Insurance.

During the Term, Subcontractor shall maintain the following minimum insurance coverage and limits of liability:

- a. Worker Compensation Insurance with statutory limits including a stop gap endorsement and all states endorsement, to include Employers' Liability Insurance in an amount not less than \$1,000,000 per coverage section.
- b. Commercial General Liability Insurance written on an occurrence basis. The limit shall not be less than \$1,000,000 per occurrence or \$2,000,000 aggregate combined single limit. Coverage shall not exclude sexual abuse and molestation. Coverage shall include premises and operations; explosions, collapses, and underground hazards; products and completed operations; contractual and independent contractors; and broad-form property damage.
- c. Comprehensive Automobile Liability Insurance for owned, hired, or non-owned vehicles in an amount not less than \$1,000,000 per occurrence.
- d. Professional Liability Errors and Omissions Insurance in an amount not less than \$1,000,000 for each occurrence. Coverage shall not limit or exclude sexual abuse or molestation.
- e. Employment Practices Liability Insurance to include coverage for third parties and independent contractors at a limit of no less than \$1,000,000.
- f. Subcontractor shall provide Certificates of Insurance from its insurance carrier or agent as proof of the above required coverage and limits of liability, that include expiration dates of coverage and name MDRC as an additional insured. Subcontractor will provide the Certificates of Insurance within ten (10) days from the effective date of this Agreement. Subcontractor will use its best effort to make sure that coverage is not materially reduced or discontinued during the term of this Agreement. Certificates shall indicate that if the issuing insurer is planning to cancel or make a material change to Subcontractor's insurance, the insured will mail a written notice of cancellation or material change to the certificate holder ten (10) days before such occurrence.

- g. Subcontractor's insurance policies shall be placed in carriers licensed to do business in the states where Subcontractor conducts operations.
- h. Subcontractor shall be responsible for any policy deductibles. All policies shall contain a waiver of subrogation in favor of MDRC, when it is legally allowed.

11. Indemnification.

Subcontractor shall defend, indemnify, and hold harmless MDRC and its officers, employees and agents from any and all claims, judgments, or liabilities to which they may be subject because of any act, error, omission, mistake, negligence, or misconduct of Subcontractor, its employees, agents, representatives, or subcontractors in connection with the Agreement; provided, however, that nothing in this section shall impose any liability on Subcontractor for the acts, errors, omissions, mistakes, negligence, or misconduct of MDRC or its officers, employees, and agents.

MDRC shall defend, indemnify, and hold harmless Subcontractor and its officers, employees, agents, representatives, or subcontractors from any and all claims, judgments or liabilities to which they may be subject because of any act, error, omission, mistake, negligence, or misconduct of MDRC, its employees, agents, or representatives, in connection with the Agreement; provided, however, that nothing in this Section shall impose any liability on MDRC for the acts, errors, omissions, mistakes, negligence, or misconduct of Subcontractor or its officers, employees, and agents.

12. Equal Opportunity/Non-Discrimination.

Subcontractor shall comply with all applicable federal, state, and local civil rights and non-discrimination laws, rules, and executive orders. Additionally, the Prime Contract requires Subcontractor to adhere to certain FAR provisions including, but not limited to: FAR 52.222-21 Prohibition of Segregated Facilities (Apr 2015), FAR 52.222-26 Equal Opportunity (Sept 2016) and FAR 52.222-36 Equal Opportunity for Workers With Disabilities (June 2020).

13. Independent Contractors.

It is understood and agreed that each of the parties hereto is an independent contractor and that neither party is, nor shall be considered to be, an agent, distributor, or representative of the other. Neither party shall act or represent itself, directly or by implication, as an agent of the other or in any manner assume or create any obligation on behalf of, or in the name of, the other.

14. Representations and Warranties.

Each party represents and warrants to the other that it has the full right and authority to enter into and perform the Agreement, and is not party to any agreement or understanding in conflict with the Agreement.

Subcontractor warrants that it has the financial and operational capacities to perform the services provided for under this Agreement. Subcontractor will notify MDRC if there is a significant change in its financial or operational condition, affecting its ability to provide services under this Agreement.

Subcontractor represents that it has or shall (at its own expense) obtain all licenses, certifications, permits, approvals, inspections, and other authorizations required to perform the services. Inability or failure to obtain such items shall not excuse Subcontractor's failure to strictly comply with the terms of this Agreement.

15. Governing Law; Jurisdiction.

The Agreement shall be construed and enforced in accordance with the laws of the State of New York without regard to its conflicts of law provisions. By execution of the Agreement, the parties consent to submit to the jurisdiction and venue of the courts of the State of New York in New York County and the federal courts located within the City of New York.

16. Waiver.

No waiver of any provision of the Agreement shall be effective unless made in writing and signed by the party who is waiving a right or benefit under the Agreement. No failure on the part of any party to exercise, or delay in exercising, any right hereunder shall be deemed a waiver thereof, nor shall any single or partial exercise preclude any further or other exercise of such or any other right or be deemed a waiver of either party's rights to insist upon strict compliance thereafter.

17. Cumulative Remedies.

To the extent permitted by law, all rights and remedies existing under the Agreement are cumulative to, and not exclusive of, any rights or remedies otherwise available.

18. Reporting Executive Compensation and First-Tier Subcontract Awards.

MDRC may need to request executive compensation information from Subcontractor in order to comply with FAR 52.204-10 - Reporting Executive Compensation and First-Tier Subcontract Awards (Jun 2020). Subcontractor agrees it will provide executive compensation information if necessary.

19. Successors and Subcontracts/Consulting Agreements.

Neither this Agreement nor any rights hereunder shall be assignable or otherwise transferable by Subcontractor without the prior written consent of MDRC. Subcontractor shall not delegate or subcontract (to include consulting agreements) any performance or obligations under this agreement, except with the prior written consent of MDRC. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their permitted successors, assigns, and legal representatives.

20. Final Agreement.

The Agreement and all attachments constitute the complete and final agreement between MDRC and Subcontractor, and supersedes all prior agreements, written or oral, relating to the subject matter hereof. The invalidity or unenforceability of any particular provision of this Agreement shall not affect any of the other provisions, and this Agreement shall be construed in all respects as if such invalid or unenforceable provisions were omitted. Titles of sections are for convenience only, and neither limit nor amplify the provisions of the Agreement itself.