

COOPERATIVE AGREEMENT NO. 23-PUENTE-CC-23
between
THE REGENTS OF THE UNIVERSITY OF CALIFORNIA
on behalf of
THE PUENTE PROJECT
and
FOOTHILL-DEANZA COMMUNITY COLLEGE DISTRICT
on behalf of

FOOTHILL COLLEGE

Fiscal Years 2023-24, 2024-25, 2025-26

This Agreement ("**Agreement**"), effective as of **July 1, 2023** ("**Effective Date**"), is by and between The Regents of the University of California ("**University**"), on behalf of The Puente Project ("**Puente**") and the **Foothill-DeAnza Community College District** on behalf of **Foothill College** ("**Recipient**"). "**Party**" hereinafter refers to each Party individually, or collectively as "**Parties**."

WHEREAS, University administers Puente, which has established guidelines for Puente community college programs, provides training for Recipient personnel who are implementing these programs, and requires Recipients to meet certain reporting requirements ("**Program**"); and

WHEREAS, The mission of Puente is to increase the number of educationally disadvantaged students who enroll in four-year colleges and universities, earn degrees, and return to the community as leaders and mentors to future generations; and

WHEREAS, The California Community Colleges and University have entered into an agreement which calls for increased transfers to the University of California system and expansion of Puente;

NOW, THEREFORE, intending to be legally bound, the parties agree as follows:

1. TERM.

This Agreement shall commence on the Effective Date and terminates on **June 30, 2026** ("**Term**"), unless earlier terminated in accordance with the terms of this Agreement. University is under no obligation to extend this Agreement.

2. STATEMENT OF WORK.

A. University and Recipient shall each fulfill its responsibilities as described in Exhibit A, attached hereto, to provide a program for educationally underrepresented students at **Foothill College**.

3. AWARD AMOUNT AND FINANCIAL ACCOUNTING.

A. University will provide one-time implementation funds of **\$75,000** for fiscal year 2023-24. Mentor support funds in the amount of **\$5,000** to be provided in fiscal years 2024-25 and 2025-

26.

If sufficient funds are not appropriated by the State of California for this Program, or if funding for any fiscal year is reduced or deleted, this Agreement shall either be canceled pursuant to the applicable Agreement termination provisions or amended to reflect a reduction in funds.

1. Implementation Funds provided under this Agreement are to be used for Puente student enrichment programs and activities such as field trips, college visits, and costs associated with programmatic events such as Noche de Familia and the Transfer Motivational Conference. Approved associated costs also include Puente-branded materials and items for promotional purposes. Implementation Funds may not be used for program coordinators' salaries.
 2. Mentor Funds provided under this Agreement are to be used for mentor activities such as meetings, and orientations, cultural field trips including food during these functions.
 3. Funds may not be used for student scholarships and cash equivalents.
 4. Interest earned on funds provided through this Agreement may only be used for purposes of the project herein supported. Any unexpended funds must be returned to the University of California. The check, made out to the Regents of the University of California, shall be remitted to the Puente Statewide Office by September 30 for each fiscal year.
 5. Allowable costs and financial administration shall be governed by Recipient's institutional standards and those set forth in this Agreement.
 6. Recipient shall maintain accounts, records, and other evidence pertaining to all costs incurred for the Puente program, including those covered from other sources.
 7. University and Puente shall have access to and the right to examine and audit any directly pertinent books, documents, papers and records for three years after expiration or termination of this Agreement.
 8. Financial reports and line item budgets may be periodically requested by the Puente Executive Director for programmatic reasons.
- B. Puente will provide continued support in the form of instructor, counselor, and mentor training as described in Exhibit B. Recipient will comply with all terms set forth in this Agreement.

4. TERMINATION.

- A. Either Party may terminate this Agreement, with or without cause, by giving thirty (30) days' written notice to the other Party. Unexpended advance payment balances must be returned to University within sixty (60) days of termination.

- B. All provisions which, by their nature, extend beyond the Term will survive termination of this Agreement, including but not limited to, Sections 4 (**Termination**), 5 (**Information Handling and Publication**), 8 (**Limitation of Liability**), 9 (**Indemnification**), 10 (**Insurance**), 11 (**University Trademarks**), 12 (**Copyright**), and 13 (**Use of Puente Name**).

5. INFORMATION HANDLING AND PUBLICATION.

- A. Recipient agrees to comply with all applicable laws, including but not limited to applicable provisions of the Federal Family Educational Rights and Privacy Act (“FERPA”), the State of California Education Code, the State Information Practices Act, in its collection, storage, handling, and transmission of student data under this Agreement. Recipient shall not collect any information (whether by interview, questionnaire from students, parents or the public) in the name of the University, Puente or the Puente Statewide Office except as expressly provided for in the Programmatic Reporting Requirements, detailed in Exhibit A, Programmatic Reporting Requirements, or any other provision of this Agreement.
- B. Recipient may publish results of its local Puente site activity provided that such publications (printed, visual, or sound) contain an acknowledgment of participation in Puente, administered by the University, and a statement that findings, conclusions, and recommendations are those of the author or Recipient personnel only and do not necessarily represent the view of the University and the Puente Statewide Office. Two copies of all such publications must be electronically furnished to the Puente Executive Director following publication. Such publications may include sections of larger reports that describe Recipient activities.

6. AFFIRMATIVE ACTION/NON-DISCRIMINATION

Recipient agrees that when applicable, the following are incorporated herein as though set forth in full: the non-discrimination and affirmative action clauses contained in Executive Order 11246, as amended, relative to equal employment opportunity for all persons without regard to race, color, religion, sex or national origin, and the implementing rules and regulations contained in Title 41, part 60-1.4 of the Code of Federal Regulations, as amended; the non-discrimination and affirmative action clause contained in Section 503 of the Rehabilitation Act of 1973, as amended, relative to the employment and advancement in employment of qualified individual(s) with a disability without discrimination, and the implementing rules and regulations in Title 41, part 60-741.5 of the Code of Federal Regulations; the non-discrimination and affirmative action clause of the Vietnam Era Veterans Readjustment Assistance Act of 1974 relative to the employment and advancement in employment of qualified disabled veterans, recently separated veterans, Vietnam era veterans, veterans who served on active duty in the U.S. military, ground, naval or air service during a war or in a campaign or expedition for which a campaign badge has been authorized, and Armed Forces service medal veterans, without discrimination, and the implementing rules and regulations in Title 41, parts 60-250.5 and 60-300.5 of the Code of Federal Regulations; Title II of the Genetic Information Nondiscrimination Act of 2008 which prohibits employment discrimination based on genetic information (including family medical history); and the nondiscrimination clause required by California Government Code Section 12990(c) relative to equal employment opportunity for all persons without regard to race, religious creed, color, national origin, ancestry, physical or mental disability, medical condition (cancer-related or genetic characteristics), marital status, sex (including but not limited to pregnancy and gender identity), age, or sexual orientation,

and the implementing rules and regulations of Title 2, Division 4, Chapter 5, Section 8107 of the California Code of Regulations.

7. DISCLAIMER OF WARRANTY.

THE UNIVERSITY AND CEP MAKE NO WARRANTIES, EITHER EXPRESS OR IMPLIED, AS TO THE SERVICES, THE DELIVERABLES, OR THE RESULTS PROVIDED UNDER THIS AGREEMENT, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT. THE RECIPIENT ACKNOWLEDGES THAT THE SERVICES, THE DELIVERABLES, AND THE RESULTS ARE PROVIDED ON AN "AS IS" BASIS AND WITHOUT WARRANTIES OF ANY KIND. THE RECIPIENT FURTHER ACKNOWLEDGES THAT IT USES SUCH SERVICES, DELIVERABLES, AND RESULTS AT ITS OWN RISK. THE UNIVERSITY SHALL BEAR NO RESPONSIBILITY FOR THE SUCCESS OR FAILURE OF THE SERVICES, DELIVERABLES, OR RESULTS.

8. LIMITATION OF LIABILITY.

EACH PARTY SHALL NOT BE LIABLE FOR ANY INDIRECT, CONSEQUENTIAL, INCIDENTAL, SPECIAL, PUNITIVE, OR EXEMPLARY DAMAGES OF ANY KIND ARISING OUT OF OR IN ANY WAY RELATED TO THIS AGREEMENT, WHETHER IN WARRANTY, TORT, CONTRACT, OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, LOSS OF PROFITS OR LOSS OF GOOD WILL.

9. INDEMNIFICATION

Each Party shall indemnify, defend and hold the other party, its officers, agents, and employees, harmless from and against any and all liability, loss, expense, including reasonable attorney's fees, or claims for injury or damages (collectively, "Claims") arising out of the performance of this Agreement but only in proportion to and to the extent such Claims are caused by or result from the negligent or intentional acts or omissions of the indemnifying party, its officers, agents, or employees. Each Party agrees to provide the other Party with prompt notice of any such claim or action and to permit the other Party to defend any claim or action, and to cooperate fully in such defense. Neither Party shall settle nor shall consent to the entry of any judgment in any action, suit or proceeding without the consent of the other Party, and such consent not be unreasonably withheld, conditioned, or delayed.

10. INSURANCE

A. Recipient shall keep in full force and effect during the term of this Agreement, at Recipient's sole expense, insurance ("Insurance") as follows:

- i. Commercial Form General Liability Insurance or an equivalent funded program of self-insurance as follows:
 - a. Each Occurrence \$1,000,000
 - b. Products/Completed Operations \$1,000,000
 - c. Personal and Advertising Injury \$1,000,000
 - d. General Aggregate \$3,000,000

- ii. Business Automobile Liability Insurance for owned, scheduled, non-owned or hired automobiles with a combined single limit of \$1,000,000 per occurrence.
- iii. Workers Compensation as required by applicable law.
- iv. Such other insurance in such amounts which from time to time may be reasonably required by the mutual consent of the University and the Recipient against other insurable risks relating to performance of this Agreement.
- iv. If the Insurance is written on a claims made form, it shall continue for three (3) years following termination of this Agreement. The Insurance shall provide for a retroactive date of placement prior to or coinciding with the Effective Date of this Agreement.
- v. University shall be named as an additional insured on the General Liability and Business Automobile insurance, in proportion to and to the extent of the negligent acts or omissions of Recipient or Recipient's officers, employees and agents.
- v. Within thirty (30) days of the execution of this Agreement, Recipient shall furnish University with a Certificate of Insurance evidencing compliance with the Insurance provisions of this Agreement and requiring 30 days advance written notice to the University of any modification, change, or cancellation with respect to the Insurance.
- vi. The Insurance shall be primary with respect to the University, its officers, agents, and employees, and any self-insurance maintained by the University shall be in excess of and non-contributory to the Insurance.
- vii. The Insurance coverages required shall not in any way limit the liability of the Recipient.

11. UNIVERSITY TRADEMARKS.

The Recipient shall not use the name of the University of California, any abbreviation thereof, any name of which "University of California" is a part, or any trademarks or logos of the University ("**University Marks**"), in any commercial context (including, without limitation, on products, in media (including websites), and in advertisements), or in cases when such use may imply an endorsement or sponsorship of the Organization, its products or services. All such uses of the University's name and trademarks must receive prior written consent from The Regents of the University of California through the Office of Business Contracts and Brand Protection, who can be reached at bcbp@berkeley.edu. At all times, the Partner agrees to comply with California Education Code Section 92000.

University Marks are and shall remain exclusively the property of the University. The Recipient shall not, neither directly nor indirectly, obtain or attempt to obtain during the Term hereof or at any time thereafter, any right, title or interest in or to University Marks, and the Recipient hereby expressly waives any right

which it may have in University Marks. The Recipient recognizes the University's exclusive ownership of University Marks.

12. COPYRIGHT.

To the extent any of the Program materials delivered pursuant to the terms of this Agreement incorporate any of the University's preexisting copyrighted materials, the University hereby grants to Recipient the right to use such materials but only as incorporated in the Puente Program curriculum as delivered under this Agreement and only to the extent necessary to effect the delivery of such programs. The University shall own the copyright of any copyrightable materials developed in the performance of this Agreement. The University hereby grants to the Recipient a royalty-free, nonexclusive license to use all materials delivered to Recipient under this Agreement solely as necessary to perform this Agreement. The Recipient may not use such materials for any other purpose without the prior written approval of the University. Any breach of this provision shall be deemed to be a material breach of this Agreement upon the occurrence of which the University may terminate this Agreement effective immediately without impairing any other rights or remedies available to the University under the law. All copies of such information in written, graphic or other tangible form shall be returned to University upon termination of this Agreement. All non-public information relating to the materials or the program shall be kept confidential by Recipient, shall be used only in performing hereunder, and may not be used for any other purposes without the prior written approval of CEP's Assistant Vice Chancellor.

13. USE OF PUENTE NAME.

It is hereby recognized that the use of the term "Puente Project" is to apply only to programs that have been authorized by the Puente Executive Director. The Recipient must advise the Executive Director or their designee of any planned proposals which solicit funds for the Puente program or any program which is modeled on Puente as soon as possible.

Any public announcements using a press release must receive prior authorization from the Puente Executive Director or their designee. Any publication produced by the Recipient, which includes a description of Puente, shall use the following description, ad verbatim:

"Since 1981, the Puente Project has led the state in providing equitable instruction, academic counseling, and mentoring to support students marginalized by the educational system. Its mission is to increase the number of educationally underrepresented students who enroll in four-year colleges and universities, earn college degrees and return to the community as mentors and leaders to future generations. Puente is open to all students."

If a more in-depth description (for example, a brief history of the program, numbers of students and sites served, etc.) or if a deviation from this standard description is requested, the Recipient will contact the Puente Statewide Office.

14. RELATIONSHIP OF THE PARTIES.

In the performance of this Agreement, the Parties, and their officers, agents and employees, shall act as independent contractors. Nothing in this Agreement shall create, or be construed to be, a joint

venture, association, partnership, franchise or other form of business relationship. At no time will the employees, agents or assigns of one Party be considered the employees of the other Party for any purpose, including but not limited to workers' compensation purposes. Neither Party will have the right to obligate or bind the other in any manner whatsoever.

15. GOVERNING LAW.

This Agreement shall be governed by and interpreted according to the laws of the State of California, without regard to its conflict of laws provisions.

16. COMPLIANCE WITH LAW.

Each Party shall comply with all applicable federal, state and local laws and regulations in connection with its activities pursuant to this Agreement.

17. FORCE MAJEURE.

If any Party fails to timely perform its obligations (other than payment obligations) under this Agreement because of natural disasters, labor disputes, strikes, actions of governmental authority, acts of terrorism or war, whether actual or threatened, judicial orders, epidemics, quarantine, public health or travel restrictions or other causes beyond the reasonable control of the Party obligated to perform, then that Party's performance will be excused for the duration of such force majeure event. In the event of force majeure, the Parties may agree to alternative methods of performance that mitigate the effect of force majeure, subject to mutual agreement as to the terms thereof (including the payment of additional amounts).

18. WAIVER

Any failure of either Party to enforce any of the terms or conditions of this Agreement shall not constitute a waiver and shall not affect or impair such terms or conditions in any way, nor shall it impair the right of such party to avail itself of such remedies as it may have available for any breach of this Agreement.

19. ASSIGNMENT

Partner may not assign this Agreement, or any part hereof, without the written consent of University, which consent or refusal to consent shall be in the absolute discretion of the University and may be granted or withheld without any reason given.

20. SEVERABILITY

In the event any portion of this Agreement is declared illegal, unenforceable, invalid or void by a court of competent jurisdiction. Such portion shall be severed from this Agreement, and the remaining provisions shall remain in full force and effect.

21. INTEGRATION

This Agreement, including any and all exhibits, attachments, and appendices, constitutes the entire understanding and agreement between the parties as to all matters contained herein, and supersedes any and all prior agreements, representations and understandings of the parties.

22. COUNTERPARTS

This Agreement may be executed in two or more counterparts, which may be transmitted via facsimile or electronically, each of which shall be deemed an original and all of which together shall constitute one instrument.

23. AMENDMENT

This Agreement may be amended or modified only by mutual written agreement of the parties.

24. ATTORNEY FEES

In any litigation, arbitration or other proceeding by which one party either seeks to enforce its rights under this Agreement or seeks a declaration of any rights or obligations under this Agreement, the prevailing party shall be awarded reasonable attorney fees, together with any costs and expenses incurred.

25. REPRESENTATIONS

University and Partner each represents that it has full authority to enter into and perform its obligations under this Agreement.

26. NOTICES.

The following staff are the contacts to resolve any issues arising through activities conducted under this agreement.

University/Puente Contacts:

Program Matters

Grace Ebron: Community College Director, Puente Project, (510) 846-6275, ebron@berkeley.edu

Fiscal and Contractual Matters

Veronica Villaseñor, Associate Director of Administration, Puente Project, (510) 423-8143, thepuenteproject@berkeley.edu

Cooperative Agreement No. 23-PUENTE-CC-23
UCB Puente Project, Foothill College

July 1, 2023 to June 30, 2026

Recipient Contacts:

Program Matters

Name: Maritza Jackson Sandoval; Ajani M. Byrd

Title: Puente Faculty Coordinator; Dean of Equity

Email: jacksonsandovalmaritza@fhda.edu; byrdajani@fhda.edu

Fiscal and Contractual Matters

Name: Mario Murillo; Sirisha Pingali

Title: Accountant; Director, Budget Operations

Email: murillomario@fhda.edu; pingalisirisha@fhda.edu

Notice pursuant to this Agreement shall be in writing to the above addresses or to such other address that either Party may, by written notice, later designate to the other. Notice shall be effective on the date sent by fax or e-mail or delivered personally, or three days after the date of deposit with the U.S. Postal Service, certified mail return receipt requested.

[signature page to follow]

Cooperative Agreement No. 23-PUENTE-CC-23
UCB Puente Project, Foothill College

July 1, 2023 to June 30, 2026

IN WITNESS WHEREOF, the parties have duly executed this Agreement as of the Effective Date.

**FOOTHILL-DEANZA COMMUNITY
COLLEGE DISTRICT**

**THE REGENTS OF THE UNIVERSITY OF
CALIFORNIA**

Kristina Whalen
Kristina Whalen (Aug 12, 2023 06:52 PDT)

College President/Superintendent Signature

Kristina Whalen

College President/Superintendent Print

Date

Signature

Name & Title

Date

EXHIBIT A

I. RESPONSIBILITIES OF THE RECIPIENT

A. PROGRAM REQUIREMENTS

1. Recipient shall offer a two-semester sequence of courses consisting of transfer English courses in the fall and spring semesters of 2023-24, 2024-25 and 2025-26 terms for designated Puente students who qualify using the English class assessment process for the Community College(s) and as outlined in the Puente Community College Program Implementation Guidelines. Recipient shall also offer co-requisite course(s) at its discretion.
2. Recipient agrees to schedule each semester a Puente-linked Personal Development/Guidance (PD) course taught by the Puente counselor.
3. Recipient shall provide services including teaching, counseling, and mentoring components to first-year Puente students, and counseling and follow-up services until the student transfers to a four-year college or leaves the Recipient.
4. Recipient's Puente students will be afforded Priority Registration Days or Enrollment Days to provide enhanced opportunity for desired course registrations/schedules.
5. Recipient agrees to release counselor(s) and instructor(s) to attend all required Puente training sessions and to take students on field trips to colleges and cultural events. Recipient agrees to reimburse Program Faculty for use of privately-owned vehicles for travel to Puente trainings.
6. New team members selected for Puente are required to participate in the Puente Summer Institute (PSI), a week-long residential, foundational training held in the summer.
7. Any deviation from these requirements must be communicated in writing and in consultation with the Puente Community College Director or their designee.

B. PROGRAMMATIC REPORTING REQUIREMENTS

Recipient will provide student and college data necessary to determine the impact of Puente. Data collected include, but are not limited to: student information forms, student activities surveys, official course transcript grades for each term, student update forms, and statistics regarding the college's ethnic breakdown, retention/graduation rates, transfer rates, and other measures of student achievement that comprise the California Community College Student Success Metrics. Students will also participate in interviews, complete questionnaires, and/or complete other assessment instruments necessary to evaluate the effectiveness of the program. In no case will Puente share or publish data which identifies individual students without a release form signed by the student.

Recipient shall report student participation—in Phases 1, 2, and 3—in the Puente Program through the California Community College Chancellor's Office MIS system with data element SG06, 30 days after the conclusion of each term. Recipient programs that fail to submit required Puente data and Chancellor's Office SG06 data will not be eligible to receive Puente program funds.

Data Collection Schedule: Puente relies on data to inform its programmatic decision-making, so it is imperative that programs submit student data by adhering to deadlines. Data is collected for each year that this agreement is in effect, from Puente program faculty, and submitted to the Puente Statewide Office as designated below:

FALL TERM:

<u>Item</u>	<u>Due Date</u>
Student Online Registration	End of Term
SG06 Data	End of Term

SPRING TERM

<u>Item</u>	<u>Due Date</u>
Student online data questionnaire	End of Term
SG06 Data	End of Term

C. STAFFING

Recipient shall select and hire the following staff:

1. A **full-time Writing Instructor** whose schedule enables him or her to serve as a full team participant. The Writing Instructor shall be assigned to the Puente class and shall also receive reassigned time equal to a composition class for Puente co-coordination. Puente program coordinators should not coordinate or manage another major program assignment such as senate president, department chair, or related.
2. A **full-time Counselor** whose schedule enables them to serve as a full team participant. The counselor shall be assigned to instruct the Puente class each semester. The Puente counselor will be re-assigned 50% of FTE contract to support the current cohort (Phase 1 and 2) and Phase 3 students of the Puente program. Puente program coordinators should not coordinate or manage another major program assignment such as MESA, EOPS, department chair or related.
3. **Clerical assistance** for Puente of at least 10 hours a week.
4. Additional faculty and/or staff such as Ethnic Studies, Mathematics, mentor coordinators, and graduate interns should be integrated in consultation with the Puente Project State Office. Professional development and training of additional faculty/staff may be subject to be funded by the respective college.

In order to assure that students receive continuity of program services, temporary, part-time, or hourly counselors or writing instructors will not be approved.

Faculty will be selected according to criteria in the Puente Community College guidelines. Recipient maintains final selection discretion.

Any changes in Recipient's teaching or counseling staff must be discussed in advance with the Puente Community College Director or their designee. Personnel changes or additions made without prior consultation may result in the Recipient paying for the cost of training the replacement staff. This cost is \$3,400 per person.

Recipient shall consult with the Puente Community College Director or their designee if any additional staff (reading and math instructors, tutorial or mentoring personnel) will be working with the Puente Project.

D. OFFICE AND ADMINISTRATIVE SUPPORT

Recipient shall provide office and administrative support in accordance with the following:

1. Recipient shall contribute from its own resources at least \$10,000 for each year that this agreement is in effect. Funds may be used for student field trips, trips to universities, participation in the annual student motivational conference, mentor, academic and cultural activities, food, office supplies, books and curriculum materials.
2. Recipient is responsible for providing office space in the counseling department area for the counselor, including access to a computer terminal for scheduling and counseling students. Office and equipment shall be

provided by the beginning of the first day of instruction.

3. Recipient agrees to provide office space and access to a computer terminal for clerical assistance. Office and equipment shall be provided by the first day of instruction.
4. Recipient shall provide direct administrative oversight of the Puente administrative/program operational funds, and agrees to provide to the Puente on-site team access and authority to spend stated funds. The Recipient share of the Puente operating costs shall be in place by September 15 for each fiscal year.

EXHIBIT B

I. RESPONSIBILITIES OF PUENTE

A. TRAINING AND PROGRAM SUPPORT

Puente will provide the following staff development programs at no cost to Recipient:

1. Puente Summer Institute: Initial mandatory training (week-long, residential) for new counselors and writing instructors selected to participate in Puente. Training program will include instruction on improving student writing, incorporating literature focusing on the Latinx experience, as well as other multicultural literature; effective counseling strategies; incorporating mentoring into the curriculum; working as a team to establish and implement the program; and program accountability.
2. Ongoing training for instructors, counselors and mentor coordinators (where applicable) participating in Puente, consisting of at least two regional or statewide training sessions and area network meetings annually as needed.
3. Ongoing support and resources for training.
4. Ongoing support provided by Puente statewide office staff through site visitations, telephone and email consultations.
5. Instructor, counselor and mentor resource materials.

B. ASSESSMENT

Puente will provide ongoing program assessment, including student outcome data analysis, statewide and local site assessment, data collection and reports.

C. CONDITIONS AFFECTING PERFORMANCE CLAUSE

Each Party recognizes, understands and acknowledges that the Parties' performance of the terms of this Agreement may be affected by the COVID-19 pandemic and its international, national, local and institutional legal, regulatory, policy and practical restrictions, limitations, implications and eventualities (collectively, the "COVID-19 Considerations"), and that cancellation or postponement may be required. Neither party will have liability to the other for delays or inability to perform their obligations (other than payment obligations) to the extent caused by the COVID- 19 pandemic or compliance with the COVID-19 Considerations. The Parties agree that they may need to address such restrictions, limitations, implications and eventualities, and may settle on alternative methods of performance, subject to mutual agreement as to the terms thereof.