

**Master Price Agreement Between  
Midwestern Higher Education Commission**

**And**

**Duff & Phelps LLC**

This Master Price Agreement, and supplements thereto, dated June 1, 2017 (the "Effective Date") is made between the Midwestern Higher Education Commission, ("MHEC") located at 105 Fifth Avenue South, Suite 450 Minneapolis, MN 55401, and Duff & Phelps, LLC, ("Duff & Phelps") located at 801 Warrenville Road, Lisle, IL 60532.

WHEREAS, MHEC has been formed by the Midwestern Higher Education Compact ("Compact") to provide greater higher education opportunities and services in the Midwestern region, with the aim of furthering regional access to, research in and choice of higher education for the citizens residing in the several states which are parties to the Compact; the member states of the Compact are Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota and Wisconsin ("MHEC Member States").

WHEREAS, pursuant to its mission MHEC established the MHEC Master Property Program of Insurance ("MPP" or "Master Property Program"), under which, among other things, participating institutions purchase property insurance on a group basis whose terms, conditions, and premium costs are negotiated and effected on a consistent basis among and for the benefit of all members of the MHEC Master Property Program.

WHEREAS, MHEC has formed an alliance with the Western Interstate Compact for Higher Education ("WICHE"), a sister Compact, to allow Institutions in WICHE Member States access to MHEC's Programs of Insurance subject to approval of MHEC and/or a Program Leadership Committee; the member states of WICHE are Alaska, Arizona, California, Colorado, Hawaii, Idaho, Montana, Nevada, New Mexico, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming ("WICHE Member States").

WHEREAS, MHEC has formed an alliance with the New England Board of Higher Education ("NEBHE"), a sister Compact, to allow Institutions in NEBHE Member States access to MHEC's Programs of Insurance subject to approval of MHEC and/or a Program Leadership Committee; the member states of NEBHE are Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont ("NEBHE Member States").

Whereas, as part of the Master Property Program, MHEC desires to offer MPP Participating Member institutions the option to obtain property insurance valuation services; and pursuant to such desires conducted a competitive sourcing event for property insurance valuation services.

Whereas, amongst other things, Duff & Phelps offers property insurance valuation services.

Whereas, upon completion of the property insurance valuation services RFP MHEC awarded a bid to Duff & Phelps.

Now therefore, in consideration of the covenants and provisions in this Agreement, the parties agree as follows:

- 1. Scope of Agreement:** Duff & Phelps will make available property insurance valuation services as is more fully set forth in Exhibit A (Services) and MHEC will endorse the same, to the MPP Participating Institutions. Each individual MPP Participating Institution shall determine, at its sole discretion, whether or not to utilize the Services offered by Duff & Phelps and the scope of the Services to be rendered. A MPP Participating Institution that determines it wants to utilize the Services offered by Duff & Phelps through the Master Price Agreement shall enter into a separate contract with the Duff & Phelps ("Services Contract"). The pricing for such Services shall be as set forth in the Master Price Agreement. All other terms and conditions of the Services Contract shall be negotiated between the MPP Participating Institution and Duff & Phelps.. MHEC does not guarantee that any MPP Participating Institution will utilize the Master Price Agreement to enter into Service Contract(s) with Duff & Phelps or will purchase the Services or any other services from Duff & Phelps.
- 2. Eligibility:** The benefits of this Master Price Agreement shall only be made available to MPP Participating Institutions. MPP Participating Institution shall be defined as a public or not-for-profit higher education institution that has received the approval of MHEC and has elected to purchase insurance on a group basis under the MHEC Master Property Program. The MPP Participating Institutions as of the Effective Date of this Master Price Agreement are listed in the attached Exhibit B. MHEC will notify Duff & Phelps when new MPP Participating Institutions have joined the Master Property Program or when a MPP Participating Institution leaves the Master Property Program.
- 3. Master Price Agreement Term:** This Master Price Agreement shall become effective on June 1, 2017, and shall remain in effect, unless otherwise terminated pursuant to the terms of this Agreement, for a period of three (3) years from the Effective Date ("Initial Term"). The Master Price Agreement may be mutually renewed for up to two (2) additional one-year terms, upon written agreement of the parties.
- 4. Pricing:** Duff & Phelps shall make their property evaluation services available to MPP Participating Institutions pursuant to the pricing set forth in Exhibit C.
- 5. Relationship of the Parties:** MHEC and Duff & Phelps acknowledge and agree that the relationship arising from this Master Price Agreement does not constitute an agency, joint venture, partnership or employee relationship between them. Duff & Phelps is not employed by MHEC and shall not accrue leave, retirement, insurance, bonding or any other benefits afforded to employees of MHEC as a result of this Master Price Agreement. Neither MHEC nor Duff & Phelps shall have the authority to bind the other party or contract or otherwise make representations as to the policies and procedures of the other party except as specifically authorized by this Master Price Agreement. Further, each Party acknowledges and agrees that it

is not a party to, nor liable under, any contract or other business arrangement between the other party and any MPP Participating Institution.

**6. Representations, Warranties and Covenants:** Duff & Phelps hereby represents, warrants and covenants to MHEC as follows:

- 6.1 Duff & Phelps has all licenses necessary to lawfully perform the Services and that, during the Initial Term and/or any successive term, Duff & Phelps shall remain properly and duly licensed. Duff & Phelps shall immediately notify MHEC of any non-renewal, revocation or lapse of any such licenses.
- 6.2 As it relates to its performance under this Agreement, Duff & Phelps has complied, and will continue to comply, with all laws, rules and regulations of any and all local state and federal government agencies.
- 6.3 Duff & Phelps has all rights and licenses (where applicable) to use all materials, processes, articles or devices that enter into, or form a part of, the Services performed pursuant to this Agreement.
- 6.4 In connection with the furnishing of Services under this Agreement, Duff & Phelps shall not discriminate against any recipients of Services or employees or applicants for employment on the basis of race, color religion, national origin, sex, age, disability, or veteran status.
- 6.5 In its performance of this Agreement, Duff & Phelps shall comply with federal laws, rules and regulations applicable to subcontractors of government contracts including those relating to equal employment opportunity and affirmative action in the employment of minorities (Executive Order 11246), women (Executive Order 11375), persons with disabilities (29USC 706 and Executive Order 11758), and certain veterans (38 USC 4212 formerly (2012)) contracting with business concerns with small disadvantaged business concerns (Publication L. 95-507). Contract clauses required by the Government in such circumstances are incorporated into any resulting agreement by reference.
- 6.6 All Services will be rendered by Duff & Phelps in a professional manner, consistent with the generally accepted standards of skill and care exercised by other professional property insurance valuation service providers on projects of comparable scope and complexity.
- 6.7 Duff & Phelps is sufficiently experienced, properly qualified, registered, equipped, organized, and financed to perform the Services in compliance with the terms of this Agreement.
- 6.8 Duff & Phelps will devote such time, personnel and resources to the performance of its duties under this Agreement as is reasonably necessary to the proper performance of its duties hereunder and reasonable deadlines set by MHEC or MPP Participating Institution.
- 6.9 Duff & Phelps further certifies and represents that, in connection with its activities with or for MHEC, it:
  - a) Will comply with the laws, rules and regulations of all applicable jurisdictions which would include but not be limited to, all applicable Federal, State and Local bribery, conflicts of interest and ethics laws.

b) Will not, directly or indirectly, make or authorize any payments or gifts, or offers or promises of payments or gifts or things of value, directly or indirectly, to any official or employee of any national, state, or local government; to any candidate for public office; or to any political party, or any officer or employee thereof.

c) Will not pay, or offer, or agree to pay any political contributions in respect of any business for which it provides or may have provided services to MHEC.

d) Will not tender, directly or indirectly, any commission or finders or referral fee to any person or firm in connection with its activities on behalf of MHEC.

6.10 Duff & Phelps certifies and represents that:

- a) No personnel of Duff & Phelps who exercises any functions or responsibilities in connection with the review or approval of this Agreement or carrying out of any such work, shall, prior to the completion of said work, voluntarily acquire any personal interest, direct or indirect, which is incompatible or in conflict with the ethical or lawful discharge and fulfillment of his or her functions and responsibilities with respect to carrying out said work.
- b) Any such person who acquires an incompatible or conflicting personal interest, on or after the effective date of this Agreement, or who involuntarily acquires any such incompatible or conflicting personal interest, shall immediately disclose his or her interest to MHEC in writing. Thereafter, he or she shall not participate in any action affecting the work under this Agreement, unless MHEC shall determine in its sole discretion that, in the light of the personal interest disclosed, his or her participation in any action would not be contrary to the public interest.

6.11 Duff & Phelps certifies and represents that:

- a) It has not been convicted of or pleaded guilty to a criminal offense, including one involving fraud, corruption, or moral turpitude, that it is not now, to the best of its knowledge, the subject of any government investigation for such offenses, and that it is not now listed by any government agency as debarred, suspended, proposed for suspension or debarment, or otherwise ineligible for government programs or contracts.
- b) If, during the term of this Agreement, Duff & Phelps is so convicted or pleads guilty, becomes subject of any such investigation or is so listed or otherwise becomes so ineligible, Duff & Phelps shall immediately notify MHEC of the change in status, and MHEC will have the right to terminate this Agreement.

7 **Indemnification:** Duff & Phelps agrees to indemnify, protect, defend, and save harmless MHEC, its Commissioners and employees from any third party claims, along with all damages, liabilities, costs and reasonable expenses (including all reasonable attorneys' fees) reasonably incurred in connection with such claims due to (i) the fraud, gross negligence or willful misconduct of Duff

&Phelps; (ii) Duff & Phelps' breach of its confidentiality obligations herein or violation of applicable law; (iii) Duff & Phelps' violation of a third party's intellectual property rights; or (iv) bodily injury, death, or damage, loss or destruction of tangible property caused by the negligence of Duff & Phelps. MHEC shall indemnify and hold harmless Duff & Phelps and its affiliates, including each of their respective employees, from and against any and all liabilities, losses, costs, and reasonable expenses, including but not limited to, reasonable legal fees and expenses and billable hours of client service personnel, which arise from or relate to non-client third-party claims based on reliance or purported reliance on Duff & Phelps' work product arising from MHEC's unauthorized disclosure of said work product or other alleged loss or damage caused to or alleged by any non-client entity arising from MHEC's unauthorized disclosure of Duff & Phelps' work product.

## **8 Termination:**

8.1 This Master Price Agreement may be terminated by either party giving ninety (90) days written notice to the other of termination.

8.2 Notwithstanding anything herein contained to the contrary, this Master Price Agreement may be terminated immediately by MHEC as follows:

a) in the event that Duff & Phelps fails to fulfill its obligations set forth in this Master Price Agreement, including, without limitation, due to illness or incapacity or a breach by Duff & Phelps of any representations, warranties, and covenants set forth in this Master Price Agreement; or

b) in the event of consistent failure of Duff & Phelps to meet the terms and conditions of Service Contracts entered into by Duff & Phelps with MPP Participating Institutions; or

c) in the event of dishonesty of Duff & Phelps or conduct on the part of Duff & Phelps intended or likely to injure the business or reputation of MHEC, MPP Participating Institution(s) or the Master Property Program, or commission by Duff & Phelps or any of its employees of any fraudulent or unlawful act, whether related to its performance under this Master Price Agreement or not.

d) in the event of the dissolution of the Master Property Program for whatever reason, including but not limited to, through the acts or omissions of MHEC.

8.3 In the event of termination or expiration of this Master Price Agreement, those Service Contracts entered into prior to the effective date of termination or expiration of the Master Price Agreement shall remain in full force and effect as if the Master Price Agreement had not terminated or expired.

8.4 Termination of the Master Price Agreement shall in no way limit any parties' remedies at law or equity.

**9 Insurance:** Duff & Phelps shall obtain and maintain the minimum insurance coverage as set forth in attached Exhibit D. By requiring such minimum insurance, MHEC and the MPP Participating Institutions shall not be deemed or construed to have assessed the risk that may be applicable to Duff & Phelps. Duff & Phelps shall assess its own risks and, if it deems appropriate and/or prudent, maintain higher limits and/or broader coverages. Duff & Phelps is not relieved of any liability or other obligations assumed pursuant to the Master Price Agreement by reason of its failure to obtain or maintain insurance in sufficient amounts, duration, or types. Certificate(s) evidencing all

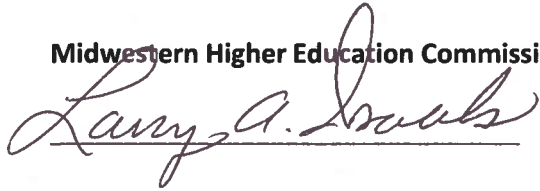
coverage must be furnished to MHEC prior to beginning of the work performed. Renewal certificate must be submitted within 30 days of coverage expiration dates.

- 10 **MHEC Not Liable for Program Member Institutions:** Unless otherwise agreed in writing, MHEC shall not be liable to Duff & Phelps for any acts or omissions of any MPP Participating Institution, including the failure to make any payments due for services performed. Similarly, unless otherwise agreed to in writing, no MPP Participating Institution shall be liable for any other MPP Participating Institution's acts or omissions, including the failure to make any payments due for services performed.
- 11 Except with respect to indemnification obligations herein, In no event shall either party be liable to the other under this Agreement, under any legal theory, for any amount in excess of the greater of the total professional fees paid or payable to Duff & Phelps under the Services Contract to which the claim relates.
- 12 **Accounting Practices:** Duff & Phelps shall maintain, during the term of the Master Price Agreement, all books of account, accounting records, reports, and records in accordance with generally accepted accounting practices and standards for records directly related to this Master Price Agreement and Service Contracts entered into pursuant to this Master Price Agreement. Duff & Phelps agree to make available to MHEC, MPP Participating Institutions, and the MPP Participating Institution's respective State during normal business hours, all books of account, reports, and records directly relating to this Master Price Agreement and Service Contracts entered into pursuant to this Master Price Agreement for the duration of the contract and retain them for a minimum period of six (6) years beyond the last day of the Master Price Agreement term.
- 13 **Auditing Policy:** Duff & Phelps will cooperate with any outside auditor employed by MHEC, a MPP Participating Institution, a MPP Participating Institution's State, or an auditor employed by a MPP Participating Institution or a MPP Participating Institution's State, for the sake of monitoring that Duff & Phelps is complying with the terms of this Master Price Agreement or a Service Contract. If discrepancies are found and they appear to be unintentional, Duff & Phelps will correct the situation and return any overpayments that may have been made by any MPP Participating Institution. Any appearance of intentional wrong doing by Duff & Phelps will be cause for the immediate cancellation of this Master Price Agreement and/or a Service Contract and the difference of overpayment shall be reimbursed to the affected MPP Participating Institution. Nothing set forth in this Agreement shall require Duff & Phelps to grant MHEC any network or physical access to Duff & Phelps' systems or infrastructure, material non-public information not related to the services, or third party confidential information.
- 14 **Reports:** To the extent agreed in the applicable Services Contract, Duff & Phelps will be required to provide to any requesting MPP Participating Institutions, MHEC, MHEC representatives (including MHEC'S Master Property Program Administrator and the Master Property Program insurers) all agreed upon final reports at no charge. Failure to provide these reports may result in cancellation of the agreement.

- 15 **Use of Data:** Duff & Phelps agrees that it will keep confidential the features of any technical or proprietary information furnished by the MPP Participating Institutions, and use such items only in the services rendered and not otherwise, unless the MPP Participating Institution's written consent is first obtained. All information and data supplied by MHEC and MPP Participating Institutions pursuant to this Master Price Agreement and resulting Service Contracts shall remain the sole property of MHEC and the MPP Participating institutions.
- 16 **Advertising:** Duff & Phelps shall not appropriate or make use of the name or other identifying marks or property of MHEC or MPP Participating Institutions in its advertising or marketing without the prior written consent of MHEC or the MPP Participating Institution. Duff & Phelps will not make any representation of MHEC's or MPP participating Institution's opinion or position as to the quality or effectiveness of the services that are the subject of this Master Price Agreement without the prior written consent of MHEC or the MPP Participating Institution.
- 17 **Assignment:** Neither party shall sell, transfer, assign or otherwise dispose of this Master Price Agreement or any portion thereof, or of any right, title, or interest therein without the prior written consent of the other party. This consent requirement includes reassignment of this Master Price Agreement due to change in ownership, merger, or acquisition of a party or its subsidiary or affiliated corporations.
- 18 **Governing Law:** This Master Price Agreement shall be governed by and construed and enforced in accordance with the laws of the State of Minnesota.
- 19 **Third Parties:** Duff & Phelps acknowledges and agrees that MHEC is acting in compliance with its purpose for the benefit of itself and the MHEC Compact to solicit from Duff & Phelps favorable pricing for the purchase by MPP Participating Institutions of property insurance valuation services. The MPP Participating Institutions shall be considered third party beneficiaries under this Master Price Agreement for purposes of enforcing Duff & Phelps obligations pursuant to the Master Price Agreement. Except for the forgoing, nothing herein expressed or implied is intended or shall be construed to confer upon or give to any person or entity, other than the parties hereto, any rights or remedies by reason of this Agreement.
- 20 **Entire Agreement:** Except as otherwise specifically set forth herein, this Master Price Agreement sets forth the entire agreement between Duff & Phelps and MHEC, and supersedes any and all prior agreements and undertakings with respect to the subject matter hereof. If any provision of this Agreement is rendered invalid or unenforceable by judicial, legislative or administrative action, it is the intention of the parties that the provision be construed to be rewritten so as to make it valid and enforceable, and the remaining provisions hereof shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

The parties to this Master Price Agreement, by their representatives signing below, agree with the terms of this Master Price Agreement and further certify that their respective signatories are duly authorized to execute this Master Price Agreement.

**Midwestern Higher Education Commission**



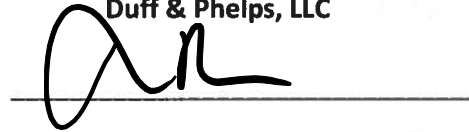
Title

President

Date

8-22-2017

**Duff & Phelps, LLC**



Title

Managing Director

Date

8-22-2017