



## Independent Contractor Agreement

This Independent Contractor Agreement (this “**Agreement**”) dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ (the “**Effective Date**”) is entered into by and between Spelman College, 350 Spelman Lane SW, Atlanta, Georgia 30314, (“**Spelman**” or the “**College**”), and \_\_\_\_\_ whose address for notices is \_\_\_\_\_, an independent contractor (the “**Contractor**”), whose Federal Employer Identification Number is: \_\_\_\_\_. In consideration of the mutual promises contained herein, the College and Contractor agree as follows:

**Article 1 - Services:** The Contractor’s responsibility under this Agreement is to provide professional services as set forth in the Scope of Work detailed in Attachment “A” to this Agreement (the “**Services**”).

**Article 2 - Schedule:** The Contractor shall commence providing Services on \_\_\_\_\_, 20\_\_ and complete all Services by \_\_\_\_\_, 20\_\_.

### Article 3 - Payment:

- A. The total amount to be paid by the College for the complete performance of the Services and “out of pocket” expenses shall not exceed \$\_\_\_\_\_ Dollars without a prior written modification to this Agreement. The Contractor shall bill the College in accordance with the payment schedule set forth in Attachment “A” *only* for Services rendered toward the completion of the Scope of Work. The College shall have no obligation to pay the Contractor until the Contractor submits reasonable evidence, in a manner satisfactory to the College, of completion of the Services for which it is being billed. The College will not be obligated to pay for Services billed but not rendered.
- B. The College shall reimburse Contractor within 30 days after the College’s receipt of a written invoice with appropriate documentation of Services performed. Invoices must reference the current purchase order number.
- C. “Out-of-Pocket” expenses will be reimbursed up to an amount not to exceed \$\_\_\_\_\_ Dollars, and in accordance with the list of the types of expenditures eligible for reimbursement as outlined on Attachment “A”. All requests for payment of out-of-pocket expenses must include copies of paid receipts, invoices, or other documentation for the College to determine that the expense was actually incurred and necessary in performance of the Services.
- D. Services that will result in fees exceeding \$1,000.00 shall require fully executed signatures to this Agreement.

**Article 4 - Independent Contractor Relationship:** Spelman and the Contractor are independent contractors, and no agency, partnership, joint venture, or employer-employee relationship is intended or created by this Agreement. All persons, including third parties, engaged to perform any portion of the Services shall at all times, and in all places, be subject to the Contractor’s sole direction, supervision, and control. The Contractor shall exercise control over the means and manner in which it and its employees perform the Services. The Contractor does not have the power or authority to bind the College in any promise, agreement, or representation other than as specifically provided for in the Agreement.

**Article 5 - Prohibition on Certain Engagements:** Individuals who are currently employed or who have been employed by the College within the past 12 months as staff, faculty, or student workers cannot be paid as Independent Contractors. These individuals must be treated as employees. **DO NOT COMPLETE OR SUBMIT THIS FORM FOR APPROVAL IF THE AFOREMENTIONED APPLIES.**

**Article 6 - Liability:** The Contractor shall not commence the provision of any Services until it has provided proof of the following (minimum) insurance requirements: (i) comprehensive general liability insurance (minimum limit of \$1,000,000); and (ii) workers’

compensation insurance in an amount adequate to cover legal requirements for all its employees in accordance with laws of the State of Georgia.

**Article 7 - Indemnification:** The Contractor shall indemnify and save harmless and defend the College, its agents, and employees from and against all claims, liability and losses, which may arise from any act or omission of the Contractor, its agents, or employees in the performance of Services.

**Article 8 - Confidentiality:** This Article governs the protection of Confidential Information that the College provides to the Contractor, or to which the Contractor otherwise has access, under this Agreement.

- A. **Scope.** Subject to Section B (Exceptions), the term “**Confidential Information**” means information that meets one of the following two criteria: the information either (i) is identified by a “CONFIDENTIAL” legend or similar legend, or (ii) is obtained under circumstances such that the Contractor knew or reasonably should have known that the information should be treated as confidential. “Confidential Information” includes inventions, specifications, drawings, models, samples, reports, plans, financial information, work-in-progress, forecasts, computer programs or documentation, and all other technical, financial, intellectual, or business information or data.
- B. **Exceptions.** The Contractor’s obligations of confidentiality and non-use shall not apply where the Contractor shows that the information (that would otherwise qualify as Confidential Information): (i) is or after the Effective Date becomes publicly available or part of the public domain through no wrongful act, fault, or negligence on the part of the Contractor; (ii) was in the possession of the Contractor at the time of the Contractor’s receipt of the Confidential Information and was not otherwise subject to an existing agreement of confidentiality; (iii) is received from a third party without restriction and without breach of any obligation of confidentiality to the College; or (iv) was independently developed by the Contractor without reliance on the College’s Confidential Information.
- C. **Confidentiality.** The Contractor shall not access, use, or disclose any Confidential Information except as expressly permitted under this Agreement. The Contractor shall protect the Confidential Information with the same level of care it uses for its own confidential information of like nature; provided, however, that the Contractor shall at a minimum use reasonable care to protect the Confidential Information. The Contractor shall be entitled to disclose the Confidential Information to its employees or third party service providers; provided that each such employee or service provider: (i) has a need to know the Confidential Information for the purposes of this Agreement, and (ii) has been apprised of and agrees to the restrictions in this Agreement.
- D. **Compelled Disclosure.** Nothing herein shall prevent the Contractor from disclosing any Confidential Information as necessary pursuant to any court order, lawful requirement of a governmental agency, or when disclosure is required by operation of law (including disclosures pursuant to any applicable securities laws and regulations); provided, however, that prior to any such disclosure, the Contractor (i) promptly notifies the College in writing of such requirement to disclose, and (ii) reasonably cooperates with the College in protecting against or minimizing such disclosure, or in obtaining a protective order.

**Article 9 - Qualified Personnel; Personnel Conduct.** The Contractor represents and warrants that: (i) the Services shall be performed in a good, workmanlike, and timely manner by fully qualified personnel, and (ii) while on College’s premises, the Contractor’s personnel shall conduct themselves in a professional and businesslike manner and shall comply at all times with the College’s administrative and security requirements and policies including, but not limited to, any relating to security, network access, confidentiality, business ethics and conduct, health and safety, and applicable human resources policies, guidelines, and procedures.

**Article 10 - Ownership of Work Product:** All right, title, and interest (including intellectual property rights) in and to any invention, work product, idea, or creation conceived, developed, or produced during the performance of the Services (including, but not limited to, creative, copy, scripts, story boards, writing, copyrights, trademarks, art, music, software and documentation, business systems or ideas, and research projects) (collectively, the “**Deliverables**”) shall constitute “works made for hire” and be the exclusive property of the College whether created individually by the Contractor or jointly with the College, on or off premises, and the Contractor hereby assigns to the College any and all rights, title, and interest (including intellectual property rights) in such Deliverables. To the extent that the Deliverables do not constitute works made for hire, the Contractor hereby transfers and assigns to the College all of the Contractor’s right, title, and interest in and to such Deliverables (including all associated intellectual property rights), and the Contractor further agrees to sign all documentation and otherwise provide all assistance requested by the College to perfect such assignment and transfer. The Contractor represents and warrants that no Deliverables shall infringe a third party’s intellectual property rights and may otherwise be used and reproduced for any purpose whatsoever, including advertising, promotion and trade purposes, without violating the personal or property rights or any third persons, including any intellectual property rights.

**Article 11 - Termination:** This Agreement may be terminated with thirty (30) days' prior written notice to the other party at the appropriate address given above or designated by a party in writing. In the event of such a termination, the Contractor shall be paid for all Services performed prior to the termination date and accepted by the College. Upon termination or expiration of this Agreement for any reason, or upon request by the College, the Contractor shall at the College's direction either: (i) return to the College all Confidential Information in the Contractor's possession or control, or (ii) destroy all such Confidential Information and certify to such destruction in writing.

**Article 12 - Certification Regarding Debarment and suspension:** Contractor/Consultant certifies that they have not been debarred, suspended, proposed for debarment, declared ineligible, or otherwise excluded from participation in federal assistance programs or activities, and will report such if happens under the period of this agreement.

**Article 13 - Record Retention and Access:** Any and all records pertaining to the Services (i.e., invoices, receipts, intellectual property, etc.), must be maintained by the Contractor and retained three (3) years after any termination or expiration of this Agreement. If this Agreement is funded by federal dollars, pursuant to federal regulations, all records must be additionally readily accessible to the granting agency. The Contractor shall produce all such records to the College promptly upon request.

**Article 14 - General:** This Agreement shall be governed and construed under the laws of the State of Georgia without regard to its conflicts of law provisions. Exclusive jurisdiction and venue for actions related to this Agreement shall be the state or federal courts located in the judicial district that includes Atlanta, Georgia. Both parties consent to the jurisdiction of such courts and the laying of venue in such judicial district with respect to any such action. This Agreement constitutes the entire agreement between Contractor and Spelman and supersedes all prior negotiations, understandings, or agreements (oral or written) between the parties regarding the subject matter of this Agreement (and all past dealing or industry custom). No modification to this Agreement shall be effective unless in writing and signed by the party against which enforcement is sought. The failure of either party to enforce its rights under this Agreement at any time for any period shall not be construed as a waiver of such rights, and the exercise of one right or remedy shall not be deemed a waiver of any other right or remedy. If any provision of this Agreement is determined to be illegal or unenforceable, that provision shall be limited or eliminated to the minimum extent necessary so that this Agreement shall otherwise remain in full force and effect and enforceable. Neither party shall be liable for a failure or delay in the performance of its obligations under this Agreement due to strikes (except with respect to its own labor force), shortages, pandemics, riots, insurrection, Acts of God, war, governmental action, power or connectivity interruptions, or other force majeure or other causes beyond the reasonable control of such party. All notices under this Agreement shall be in writing, in English, and delivered to the parties at their respective addresses. Notices shall be deemed to have been duly given: (i) when received, if personally delivered; (ii) when receipt is electronically confirmed, if transmitted by facsimile or electronic mail; (iii) the day after being sent, if sent for next day delivery by recognized overnight delivery service; or (iv) upon receipt, if sent by certified or registered mail, return receipt requested. This Agreement may not be assigned, in whole or in part, by the Contractor without the College's written consent (which shall not be unreasonably withheld). This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which shall be taken together and deemed to be one instrument. A photocopy, facsimile, or scanned copy of a signature on this Agreement shall have the same force and effect as an original ink signature. Except as expressly stated herein, no remedy conferred by any of the provisions of this Agreement is intended to be exclusive of any other remedy, and each remedy is cumulative and in addition to every other remedy available to a party hereunder or otherwise existing at law, in equity, by statute, or otherwise. The election of any one or more remedies by either party shall not constitute a waiver of the right to pursue any other available remedies.

**Article 15 – Cybersecurity Requirement:** This Independent Contractor Agreement as signed must adhere to the following requirement as specified regarding Cybersecurity. If access is permitted to use the Spelman College platform in any way to complete this project, it must be used only for this purpose. It is required that the identified consultant as name in this ICA is the only person permitted to use such access. This access should not be used to check any personal emails/personal searches, etc. and non-transferrable. The College will hold the consultant in breach of this contract, which may result in immediate termination if the aforementioned requirement is not adhered to. The Consultant may be held liable for monetary damages resulting in a cyberbreach up to two times the amount of this contract in the event that such cyberbreach is proven to be the result of prohibited activity as outlined in this addendum. This Article shall be governed and construed under the laws of the State of Georgia as does the ICA that has been signed.

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

**CONTRACTOR**

**SPELMAN COLLEGE**

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

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

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Budget Manager

\_\_\_\_\_  
Vendor Name

\_\_\_\_\_  
Provost/Division VP

\_\_\_\_\_  
Vendor Address

\_\_\_\_\_  
Administrative Services

\_\_\_\_\_  
Vendor City, State, Zip

\_\_\_\_\_  
VP or Assoc. VP for Business & Financial Affairs

**ATTACHMENT "A"**

**INDEPENDENT CONTRACTOR AGREEMENT**

1. **CONTRACTOR:** \_\_\_\_\_  
(NAME)

\_\_\_\_\_  
(STREET)

\_\_\_\_\_  
(CITY, STATE, ZIP CODE)

Telephone: (\_\_\_\_) \_\_\_\_ - \_\_\_\_\_ Email: \_\_\_\_\_

2. **SCOPE OF WORK** (attach additional pages if necessary): \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

3. **RATE and/or PAYMENT SCHEDULE:** \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

"Out-of-Pocket" Expenditures are restricted to the following expense item: \_\_\_\_\_

4. **KEY PERSONNEL** Assigned to project (resumes may be required in some instances):

\_\_\_\_\_  
(Print) SSN/ID #: \_\_\_\_\_

\_\_\_\_\_  
(Print) SSN/ID #: \_\_\_\_\_

\_\_\_\_\_  
(Print) SSN/ID #: \_\_\_\_\_

Contractor's Signature: \_\_\_\_\_

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