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**Independent Contractor Agreement**

**Guidelines**

**Independent Contractors/Consultants**

An independent contractor/consultant is defined as a person or firm that provides expertise, knowledge or services that are not readily available at the College (or that are not available on a timely basis). In addition, an independent contractor performs a specific task for a stated rate or sum of money for a limited or designated time. When an Independent Contractor is hired, the College/department must state the scope and time period of the work. The contractor/consultant is responsible for performing the work in a professional manner and for determining how, when and by whom the work is to be done. The College may request a list of key personnel assigned to a project and/or a resume of the qualifications of those individuals.

Prior to committing to pay an individual as an independent contractor, the requester must have the contractor complete an **Independent Contractor Agreement** (with attachments if applicable), and obtain approval from the department’s chairperson. **If the contractor has not conducted business with Spelman College, it will be necessary that a Vendor Profile be completed and approved.** The Banner requisition and Independent Contractor Agreement process should follow.

The Budget Manager, Provost/Division VP, VP for Business and Financial Affairs and Treasurer or the Associate VP for Business and Financial Affairs, the Director of Administrative Services or the Manager of Procurement Services (if designated) are required to sign the Independent Contractor Agreement. The Independent Contractor Agreement is not final and does not bind the College until these individuals have executed this Agreement. The approved Agreement should be forwarded to Procurement Services with the appropriate Banner requisition number noted. The approvals from Business and Financial Affairs are done only after proper approvals are received from the requester. All Independent Contractor Agreements of $1000.00 or more will require the above signature approvals.

**Note:**

**The first step that must be completed when hiring an Independent Contractor is to submit an online Banner requisition which provides approval authority in Banner from department chairpersons. After all supporting documents, (Independent Contractor Agreement with approvals as noted in the preceding paragraph, Vendor Profiles, etc.) have been received and approved, Administrative Services will generate a Purchase Order in Banner, which is the final approval that permits the hire of the Independent Contractor.**

**Special Note: Individuals who are currently employed or who have been employed at the College within the past 12 months as staff, faculty, or student workers cannot be paid as Independent Contractors.**

**Independent Contractor Checklist**

Mistakenly classifying an employee as an independent contractor can result in significant fines and penalties by the IRS. There are 20 factors used by the IRS to determine whether you have enough control over a worker to be an employer. Though these rules are intended only as a guide--the IRS says the importance of each factor depends on the individual circumstances--they should be helpful in determining whether you wield enough control to show an employer-employee relationship. If you answer “Yes” to all of the first four questions, you are probably dealing with an independent contractor; “Yes” to any of questions 5 through 20 means your worker is probably an employee.

1. **Profit or loss**. Can the worker make a profit or suffer a loss as a result of the work, aside from the money earned from the project? (This should involve real economic risks not just the risk of not getting paid.)
2. **Investment.** Does the worker have an investment in the equipment and facilities used to do the work? (The greater the investment, the more likely independent contractor status.)
3. **Works for more than one firm**. Does the person work for more than one company at a time? (This tends to indicate the independent contractor status, but is not conclusive since employees can also work for more than one employer.)
4. **Services offered to the general public**. Does the worker offer services to the general public?
5. **Instructions**. Do you have the right to give the worker instructions about when, where, and how to work? (This shows control over the worker.)
6. **Training**. Do you train the worker to do the job in a particular way? (Independent contractors are already trained.)
7. **Integration**. Are the worker’s services so important to your business that they have become a necessary part of the business? (This may show that the worker is subject to your control.)
8. **Services rendered personally**. Must the worker provide the services personally as opposed to delegating tasks to someone else? (This indicates that you are interested in the methods employed and not just the results.)
9. **Hiring Assistants**. Do you hire, supervise, and pay the worker’s assistants? (Independent contractors hire and pay their own staff.)
10. **Continuing relationship**. Is there an ongoing relationship between the worker and yourself? (A relationship can be considered ongoing if services are performed frequently, but irregularly.)
11. **Work hours**. Do you set the worker’s hours? (Independent contractors are masters of their own time.)
12. **Full-time work**. Must the worker spend all of his or her time on your job? (Independent contractors choose when and where they will work.)
13. **Work done on premises**. Must the individual work on your premises, or do you control the route or location where the work must be performed? (Answering no does not by itself mean independent contractor status.)
14. **Sequence**. Do you have the right to determine the order in which services are performed? (This shows control over the worker.)
15. **Reports.** Must the worker give you reports accounting for his or her actions? (Thismay show lack of independence.)
16. **Pay Schedules**.Do you pay the worker by hour, week, or month? (Independent contractors are generally paid by the job or commission; although by industry practice, some are paid by the hour.)
17. **Expenses.** Do you pay the worker’s business or travel costs? (This tends to show control.)
18. **Tools and materials.** Do you provide the worker with equipment, tools, or materials? (Independent contractors generally supply the materials for the job and use their own tools and equipment.)
19. **Right to fire.** Can you fire the worker? (An independent contractor cannot be fired without subjecting you to the risk of breach of contract lawsuit.)
20. **Worker’s right to quit.** Can the worker quit at any time without incurring liability? (An independent contractor has a legal obligation to complete the contract.)

These rules are subject to change without notice from the Internal Revenue Service and U.S. Department of Treasury.

See attached Independent Contractor Agreement

***Independent Contractor Agreement***



This Agreement dated this\_\_\_\_\_\_\_\_day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_20\_\_\_\_\_\_is between Spelman College,

350 Spelman Lane, Atlanta, Georgia 30314, (hereinafter referred to as the “College”) and\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ whose address for notices is \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, an independent contractor, hereinafter

referred to as 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.

Article 2 – Schedule: The Contractor shall commence services on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_20\_\_\_\_\_and complete all services by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_20\_\_\_\_\_\_.

Article 3 – Payment:

A. The total amount to be paid by the College under this agreement for services and “out of pocket” expenses shall not

exceed \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Dollars ($\_\_\_\_\_\_\_\_\_\_\_\_) without written modification to this Agreement. The Contractor will bill the College in accordance with the payment schedule set forth in Attachment “A” to this Agreement *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 work for which it is being billed. The College will not be obligated to pay for services billed but not rendered.

B. The College will reimburse Contractor within 30 days after receipt of a written invoice to the College with appropriate documentation of work performed. Invoices must reference the current purchase order number.

C. Out-of-Pocket” expenses will be reimbursed up to an amount not to exceed $\_\_\_\_\_\_\_\_\_\_\_\_\_, and in accordance with the list of the types of expenditures eligible for reimbursement as outlined on Attachment “A” of this Agreement. All requests for payment of “out-of-pocket” expenses eligible for reimbursement under the terms of this Agreement shall include copies of paid receipts, invoices or other documentation sufficient to establish that the expense was actually incurred and necessary in performance of the Scope of Work described in Attachment “A” of the Agreement.

D. Agreements that will pay the Contractor $1000.00 or more will require fully executed signatures as detailed before the Agreement can be approved.

Article 4 – Independent Contractor Relationship: The Contractor is, and shall be, in the performance of all work services and activities under this Agreement, an Independent Contractor, and not an employee or agent of the College. All persons engaged in any of the work of services performed under this Agreement 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 work, and in all respects the Contractor’s relationship and the relationship of its employees to the College shall be that of an Independent Contractor and not as employees or agents of the College. The Contractor does not have the power or authority to bind the College in any promise, agreement, or representation other than specifically provided for in the Agreement.

**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 would have to be treated as employees.**

**DO NOT COMPLETE OR SUBMIT THIS FORM FOR APPROVAL IF THE AFOREMENTIONED APPLIES.**

Article 5 – Liability: The Contractor shall not commence work under this Agreement until it has shown proof of the following (minimum) insurance requirements.

Comprehensive General Liability Insurance (Minimum limit of $1,000,000)

Workmen’s Compensation Insurance in an amount adequate to cover legal requirements for all its employees in accordance with laws of the State of Georgia

Article 6 – Indemnification: The Contractor shall indemnify and save harmless and defend the College, its agents and employees from and against all claims, liability and loses, which may arise from any act or omission of the Contractor, its agents, or employees in the performance or services under this agreement.

**ATTACHMENT “A” TO INDEPENDENT CONTRACTOR AGREEMENT**

Requisition Number:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

1. CONTRACTOR:

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 (NAME)

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 (STREET)

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 (CITY, STATE, ZIP CODE)

 Telephone #: (\_\_\_\_\_\_\_) \_\_\_\_\_\_\_ - \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

II. Scope of Work: Attach additional pages (including PO reference) if necessary\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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III. Rates and/or Payment Schedule\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

IV. Key Personnel Assigned to Project (Resumes may be required in some instances):

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_SSN/ID#\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 (Print)

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 (Print)

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_SSN/ID#\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 (Print)

Contractor’s Signature:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Date:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Spelman Representative:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Article 7 – Confidentiality: All business information or other confidential or proprietary information that may come into the possession of the Contractor while performing work under this agreement shall be treated as confidential. Contractor agrees to take strict precautions against disclosure of such information to third parties during and after the term of the agreement. This obligation of confidentiality shall survive for 5 years following the completion of Contractor’s services.

Article 8 – Ownership of Work Product: All right, title, and interest in and to any invention, work product, idea or creation conceived, developed or produced during the performance of services under this Agreement (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) shall be property of the College whether created individually by the Contractor or jointly with the College, on or off premises. Contractor also warrants that all material, including musical, literary or artistic work that is furnished to the College pursuant to this Agreement may be used and reproduced for any purpose whatsoever, including advertising, promotion and trade purposes, without violating the personal or property rights or any persons and without infringing any copyright, trademark or patent.

The Contractor hereby assigns to the College any and all rights, title and interest in work performed by the Contractor under this Agreement, and to any proprietary rights and intellectual property rights in such work.

Article 9 – 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 proper work performed up to the termination date.

Article 10 – Record Retention and Access:

Any and all records pertaining to the contracted project (i.e. invoices, receipts, intellectual property, etc), must be readily accessible to the Contractor and retained three (3) years after the end of the contract. If this contract is funded by federal dollars, pursuant to federal regulations, all records must be additionally readily accessible to the granting agency.

This agreement shall be governed and construed under the laws of the State of Georgia.

I have read this agreement prior to signing:

CONTRACTOR SPELMAN COLLEGE

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

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 (Signature) Budget Manager

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 (Vendor Name) Provost/Div. VP

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 (Vendor Address) Administrative Services

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 (Vendor City, State & Zip Code) VP or Assoc. VP for

 Business and Financial Affairs

 Revised 12/14