

# Independent Contractor Agreement for Professional Services



By and Between

**Gettysburg College** and

### Contractor Information

Name   
Title   
Address   
City, State, Zip   
Social Security Number

Check one of the following:  US citizen/ Resident  Non-resident Alien

**Article 1 - The Work:** Contractor shall perform all Work hereunder in accordance with the terms and conditions of this Contract and the following as noted:

Statement of Work  Specifications  Design Drawings  Software

*Statement of Work including scope, reporting relationship, location, and term of service.*

*(Attach rider if necessary)*

Contractor shall furnish any and all personnel and all other items necessary for the performance and completion of all Work authorized hereunder unless noted below.

Articles 1 through 6 of this document, the Professional Services General Terms and Conditions below, and any Exhibits attached hereto or referenced herein shall constitute the entire Contract between the parties.

**Article 2 - Items Provided by the College:** Items to be specifically provided by Gettysburg College are as follows:

**Article 3 - Compensation:** For satisfactory performance of the Work hereunder, Gettysburg College agrees to pay the Contractor in the manner and at times specified in Article 4, and the Contractor agrees to accept as full and complete payment for providing such Work, compensations as follows:

*Include all agreed upon amounts, expenses, bonuses, etc.*

**Article 4 - Manner and Times of Payment:** Contractor's compensation is to be paid

Prior to final payment hereunder, and as a condition precedent thereto, Contractor shall satisfy the requirements of Clause 14 of the Professional Services General Terms and Conditions below.

**Article 5 - Term:** Begin date:  End date:

Both parties may agree to extend the services beyond that date, with compensation as follows:

**Article 6 - Changes:** Gettysburg College reserves the right to make changes, additions, and/or deletions to the Work as it deems necessary. All changes, additions, or deletions shall be made in writing and accepted by both parties before Contractor proceeds with such Work. Contractor shall make no changes, additions, or deletions to the Work without Gettysburg College's prior written instructions or consent. The cost of such changes, additions, or deletions shall be accepted by both parties in writing before Contractor proceeds with such Work.

Contractor shall make no changes, additions, and/or deletions to any Article or term of this Contract without the written approval of Gettysburg College.

**In Witness Whereof,** and intending to be legally bound hereby, the parties execute this Contract.

This Contract is subject to the Professional Services General Terms and Conditions below and incorporated herein by reference.

**Gettysburg College**  
By:   
Authorized Signature Date

**Contractor**  
By:   
Authorized Signature Date

**INDEPENDENT CONTRACTOR AGREEMENT  
FOR PROFESSIONAL SERVICES  
GENERAL TERMS AND CONDITIONS**

**1) COMMENCEMENT OF WORK:** Contractor shall commence and carry on the Work under this Contract and shall supply and be represented by competent supervision acceptable to Gettysburg College, who shall be authorized to act for Contractor in all matters. All directions concerning the Work given in writing to such supervision shall be as binding as if given directly to Contractor. All skilled personnel employed in connection with the Contract shall qualify therefore by experience or ability. Gettysburg College may require Contractor to submit proof of such experience and qualifications. Contractor shall employ the necessary safety and security practices as are normal or as required by law for the type of Work authorized hereunder. Should Gettysburg College so require, Contractor shall comply with Gettysburg College's safety and security requirements. Contractor shall replace any of its personnel whose Work, at the discretion of Gettysburg College, is contrary to the requirements of this Contract. Contractor shall not subcontract any obligations hereunder without prior written approval of Gettysburg College. Contractor shall comply with all local, state and federal rules, regulations, orders, directives and statutes applicable to wage and employment practices, and shall act in the best interest of Gettysburg College on matters which affect area practices and might tend to set precedents.

**2) DUE DILIGENCE:** Performance of this Contract by each party shall be pursued with due diligence in all requirements. However, neither party shall be liable for any loss or damage for delay or nonperformance due to causes not reasonably within its control. In the event of any delay resulting from such causes, the time for performance and payment hereunder shall be extended for a period of time reasonable necessary to overcome the effect of such delays. In the event of any delay or nonperformance caused by such uncontrollable forces, the party affected shall promptly notify the other in writing of the nature, cause, date of commencement and the anticipated extent of such delay, and shall indicate whether it is anticipated that the completion dates would be affected.

**3) RECORDS AND AUDIT:** Contractor shall keep accurate records of account for all Work performed hereunder, and shall provide copies of it (except of that Work for which a fixed price has been quoted) to Gettysburg College as required by Gettysburg College. Gettysburg College shall have the right, at all reasonable, times during regular business hours, to inspect and audit such records. Contractor shall preserve such records for 36 months after termination/cancellation/completion of this Contract.

**4) WARRANTIES AND REMEDIES:** Contractor warrants that all professional services performed by Contractor hereunder shall be in accordance with sound and currently accepted practices and principles normally employed in the industry for the services provided and that the Work shall conform to the specifications provided in Article 1 of the Contract. Contractor further warrants that all program code and all specifications, including but not limited to design specifications and programming specifications and all other documentation and deliverables, and all work-in-process, works of authorship, inventions, techniques, concepts, know-how, ideas, and other intellectual property created, developed, conceived or reduced to practice by Contractor hereunder, either solely or jointly with others does not and shall not infringe upon any patent, trademark, copyright, trade secret or other proprietary right of

any third party. Gettysburg College shall notify Contractor if and in what respect Gettysburg College determines that any of the said Warranties have not been met. Contractor, at its expense, shall promptly provide the professional services required to meet the Warranties.

**5) TITLE TO PROPERTY:** Gettysburg College shall have title to all Work, including all Intellectual Property, completed or in process and to all machinery, equipment, materials and supplies, the cost of which has been paid to Contractor. All studies, designs, drawings, plans, specifications, test results, inventions, patent rights (including data produced by computer or other electronic means and stored on disc, tape or any other form) and other data in any form and in whatever state of completion prepared by Contractor shall be the property of Gettysburg College upon completion or termination of this Contract. Gettysburg College shall have the right to use same for any purpose whatsoever without right on the part of Contractor to any additional compensation therefor.

**6) INTELLECTUAL PROPERTY INFRINGEMENT:** Contractor agrees to defend, indemnify and hold Gettysburg College, its parent, subsidiaries and affiliates, as well as the employees and agents of Gettysburg College, its officers, invitees, partners and their respective partners, parents, parent-affiliated companies, assigns, and successors in interest, against any and all losses, liabilities, judgments, awards, and costs, including reasonable attorney fees and expenses arising out of or in any way related to any claim that Client's use, possession or sale of the Intellectual Property infringes or violates the patent, trademark, copyright, trade secret or other proprietary right of any third party, and Contractor further agrees to settle and defend at its sole expense all suits or proceedings arising out of the foregoing. If an infringement is found to have been committed, College may require Contractor, at Contractor's sole expense, to procure for College the right to continue to use the infringing item with equivalent products or services that do not infringe upon any third party's rights, or modify the infringing item so that no infringement is committed, or if none of the foregoing alternatives is possible, take back the infringing item and refund to College an amount equal to the full amount paid by College to Contractor for the Work.

**7) TERMINATION, CANCELLATION AND SUSPENSION:** If Contractor shall be adjudged bankrupt, or become insolvent, or file for voluntary bankruptcy or be subjected to involuntary bankruptcy proceedings, or enter receivership proceedings, or make an assignment for the benefit of creditors, or if Contractor should persistently or repeatedly refuse or should fail, except in cases for which extension of time is provided, to supply enough properly skilled workmen or proper materials, or if Contractor should fail to perform the Work, or any part thereof, with the diligence necessary to insure its progress and completion as prescribed by the time schedule and shall fail to take such steps to remedy such default within five (5) days after written notice thereof from Gettysburg College as Gettysburg College shall direct, or should Contractor fail to make prompt payment to vendors or subcontractors for materials or labor or otherwise is guilty of a violation of any provision of this Contract, then Gettysburg College, without prejudice to any of the other rights or remedies expressly provided for herein, may terminate this Contract, or any part hereof, by written notice to Contractor and shall have the right thereafter to take possession

of all materials, equipment and the like. In such cases of termination, Gettysburg College shall be relieved of all further obligations hereunder and Contractor shall be liable to Gettysburg College for all costs incurred by Gettysburg College in completing such Work in excess of the total compensation herein defined. Upon 15 days written notice, Gettysburg College, at its option, may cancel this Contract at any time, whether or not Contractor is in default of any of its obligations hereunder. Upon any such cancellation, Contractor agrees to waive any claim for damages, including loss of anticipated profits on account thereof. However, provided that Contractor is not in default of its obligations hereunder, Gettysburg College agrees that Contractor shall be paid an amount which when added to all installments previously paid will equal the sum of all costs properly incurred prior to date of cancellation, plus earned profit on such incurred costs, but in no event shall such amount be greater than the Contract price. Such earned profit shall bear the same relationship to such incurred costs as the profit increment of the Contract price bears to the costs increment of such Contract price. Gettysburg College reserves the right to verify the amounts of such costs and profit increments through an audit of Contractor's records. Gettysburg College reserves the right to suspend the Work of the Contractor at any time in Gettysburg College's sole discretion. Gettysburg College shall give Contractor written notice of said suspension of Work. Gettysburg College agrees to pay Contractor for its costs, charges, and expenses arising out of the suspension of this Contract caused by the exercise of Gettysburg College's rights set forth herein. Costs, charges and expenses shall be exclusive of anticipated profit. Contractor shall include the foregoing provisions in all subcontracts in which it enters to the end that Gettysburg College and Contractor shall have the rights therein set forth with respect to each subcontractor.

**8) INDEPENDENT CONTRACTOR:** Contractor agrees that it is an independent Contractor in the performance of any Work hereunder and that neither it nor its employees shall be considered employees of Gettysburg College. Contractor shall retain control or direction of the manner and method of performance of Work under this Contract and Gettysburg College shall have the right of supervision merely as to the results of the Work. Gettysburg College shall not be responsible for the direct payment of any withholding taxes, social security payments, payments under workmen's compensation or other insurance premiums, or other charges of any kind or nature, except as specifically outlined herein. Contractor hereby certifies that it will deduct and pay over to the proper governmental authority and withholding taxes or similar assessments which an employer is required to deduct and pay over and Contractor accepts exclusive liability for any payroll taxes or contributions imposed by any federal, state or other governmental authority, covering its agents or employees.

**9) LIABILITY AND INDEMNITY:** Contractor agrees to defend and indemnify Gettysburg College, as well as the employees, agents, officers, and trustees of Gettysburg College, against all loss, damage, and expense which it may sustain or for which it will become liable on account of injury to or death of persons, or on account of damage to or destruction of property resulting from the performance of work under this Contract by Contractor or its subcontractors, or due to or arising in any manner from the wrongful act or negligence of Contractor or its subcontractors of any employee of any of them. This clause shall survive termination of this Contract.

**10) COMPLIANCE WITH LAWS:** Contractor agrees that all Work performed under this Contract shall conform with all applicable federal, state and local laws, regulations and executive orders, and all amendments thereto, unless specifically exempt.

**11) ACCEPTANCE:** When all Work is completed Contractor shall so notify Gettysburg College, and Gettysburg College shall have the right to a final review of the Work including any and all records and reports maintained by Contractor in connection with the Work. Gettysburg College shall either notify Contractor of its acceptance of the Work or issue to Contractor a description of deficiencies requiring correction in order for the Work to conform to the Contract requirements. Upon correction to Gettysburg College's satisfaction of such deficiencies by Contractor, Gettysburg College shall be deemed to have accepted the Work.

**12) INSURANCE:** When performing hereunder, Contractor shall carry and maintain comprehensive public liability insurance, including contractual liability, property damage, workers' compensation, and employer's liability insurance with coverage satisfactory to Gettysburg College. Prior to commencement of any services to be performed hereunder, if requested, Contractor shall deliver to Gettysburg College certificates of such insurance naming Gettysburg College as an additional insured, and which stipulate that not less than 30 days' notice will be given Gettysburg College prior to termination or reduction of the limits of coverage.

**13) PERFORMANCE BOND:** If requested by Gettysburg College, Contractor shall furnish a performance and payment bond covering the faithful performance of this Contract. Such bond shall be in the form and amount and with a surety satisfactory to Gettysburg College. The cost of such bond shall be paid by Gettysburg College.

**14) TAXES:** Unless otherwise required by law, Contractor has exclusive liability for all sales, use, excise and other taxes, charges, or contributions with respect to or imposed on any material or equipment supplied or Work performed by Contractor, including such taxes or contributions imposed on the wages, salaries or other remuneration paid to persons employed by Contractor or its subcontractors in the performance of this Contract. Contractor shall pay all such taxes, charges, or contributions before delinquency or discount date and shall hold Gettysburg College harmless from any liability and expense by reason of Contractor's failure to pay such taxes, charges or contributions.

**15) USE OF GETTYSBURG COLLEGE'S PREMISES:** All Work shall be performed in such a manner as to cause a minimum of interference with Gettysburg College's operations and the operations of other contractors on the premises. Contractor shall take all necessary and proper precautions to protect Gettysburg College's premises and all persons and property thereon from damage or injury.

**16) LIENS:** Upon completion of the Work and as a condition precedent to final payment, Contractor shall deliver to Gettysburg College a full release of liens form as Gettysburg College may require. Contractor shall not permit any lien, including a tax lien, or charge to attach in the Work or the premises upon which the Work is being performed. If any such lien does so become attached, Contractor shall promptly procure its release and hold Gettysburg College harmless from such losses, costs, damages or expenses incidental thereto including court costs and attorney's fees.

**17) FORCE MAJEURE:** If, because of force majeure, either party hereto is unable to carry out any of its obligations under this Contract, other than the obligations to pay money due hereunder, and if such party promptly gives to the other party hereto written notice of such force majeure, then the obligations of the party giving such notice shall be suspended to the extent made necessary by such force majeure and during its continuance, provided that the party giving such notice shall use its best efforts to remedy such force majeure insofar as possible with all reasonable dispatch. The term "force majeure" as used herein shall mean any causes beyond the control of the party affected

thereby, such as, but not limited to, acts of God, acts of public enemy, insurrections, riots, strikes, lockouts, labor disputes, fires, explosions, floods, breakdowns or damage to plants, equipment or facilities, embargoes, orders or acts of civil or military authority, or other causes of a similar nature. Upon the cessation of the force majeure event, the party that had given original notice shall again promptly give notice to the other party of such cessation.

**18) NONDISCLOSURE:** It is recognized by the parties to this Agreement that the performance of services under this Agreement is likely to give or require access to confidential information of Gettysburg College and necessitate contact with others engaged in confidential work for Gettysburg College. Contractor agrees that during the period of performance of services pursuant to this Agreement, and for a period of five (5) years thereafter, Contractor agrees to keep secret and treat confidentially all confidential information of Gettysburg College, including, but not limited to, all confidential information pertaining to student records, student financial records, students' family financial records, donor lists, fund raising activities and any other confidential information compiled or maintained internally by Gettysburg College concerning the operation of Gettysburg College. Contractor shall use at least the same degree of care to protect confidential information received hereunder as it does to protect and safeguard its own confidential information of a like nature, but in any event no less than a reasonable degree of care. Upon termination of performance of services pursuant to this Agreement, Contractor agrees to promptly return to Gettysburg College any and all documents made or obtained by Contractor or its employees in the course of performance of services pertaining to or containing any of the confidential information referred to above, and not to make any written record of such information nor disclose such information to others nor to make any use of such information.

**19) OWNERSHIP:** The elements of the Work subject to copyright ownership and protection are and shall be deemed to be works made for hire within the meaning of the U.S. Copyright Act, and all rights, title and interest in and to the Work, including, without limitation, copyright, are owned by Gettysburg College. In addition, Contractor hereby sells assigns and transfers to Gettysburg College all of its right, title and interest, if any, in and to the Work, including, without limitation, copyright, free and clear of any claims, rights, liens or encumbrances. Contractor hereby covenants and agrees that it will execute any and all documents and papers reasonably requested by College to evidence the transfer of any rights in the Work to Gettysburg College, including, but not limited to, documents and papers relating the assignment of copyrights. Contractor acknowledges College's exclusive right, title and interest, including, without limitation, copyrights, in and to the Work, and shall not in any way, directly or indirectly, do or cause to be done any act or thing contesting or in any way impairing or tending to impair any part of said right, title and interest. Contractor shall not in any manner represent that it has any ownership interest in the Work. It is further understood that Gettysburg College may use the Work in any manner Gettysburg College sees fit.

**20) AMENDMENTS/NOTICES:** No amendment, modification or supplement to this Contract shall be binding unless it is in writing, signed by both parties' authorized representatives. All notices under this Contract shall be in writing and addressed to Gettysburg College or Contractor as the case may be and directed to the individuals specified in this Contract.

**21) WAIVERS:** No waiver by either party of any breach of any of the covenants or conditions herein contained shall be construed a waiver of any succeeding breach of the same or of any other covenant or condition.

**22) EFFECT OF GETTYSBURG COLLEGE'S APPROVAL:** Any approval of Gettysburg College shall not relieve Contractor of any duty, responsibility or obligation imposed on it by any provision of this Contract.

**23) ENTIRETY OF CONTRACT:** The parties agree that this Contract sets forth their entire agreement and there are no promises or understandings other than those stated herein.

**24) ASSIGNMENT:** Neither this Contract nor any claim against Gettysburg College arising directly or indirectly out of or in connection with this Contract shall be assignable by Contractor without Gettysburg College's consent in writing. This Contract shall be binding upon and inure to the benefit of the parties to this Contract and their respective successors and permitted assigns.

**25) AUTHORITY:** Contractor agrees that the Contractor shall not have the authority to enter into any contract or agreement to bind Gettysburg College and shall not represent to any party that the Contractor has such authority.

**26) SEPARABILITY OF PROVISIONS:** The invalidity, illegality and unenforceability of any provision(s) of this Contract shall in no way affect or impair the validity, legality and enforceability of the remaining provisions hereof.

**27) SURVIVAL:** The provisions of Sections 4, 6, 18, and 19 of these Terms and Conditions shall survive the expiration or other termination of this Contract.

**28) GOVERNING LAW:** This Contract shall be governed by and interpreted in accordance with the laws of the Commonwealth of Pennsylvania.

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