

COLBY COLLEGE
WATERVILLE, MAINE
INDEPENDENT CONTRACTOR MEMORANDUM AGREEMENT

This agreement between the President and Trustees of Colby College (the "College") and _____ (the "Contractor"), defines the terms under which the Contractor will provide services as an independent contractor to the College. The Contractor agrees to furnish services to the College as follows:

Date(s): _____ Location: _____

Description of service: _____

Fee for services and other costs billable to the College: _____
(Fees shall not be paid on an hourly basis without prior approval from the Director of Risk Management or Associate Controller.)

Other conditions: _____ Department: _____ Approved By: _____ Cost Center: _____

It is understood and agreed that:

- a) The Contractor is a United States citizen or a United States resident for federal tax purposes. If not, please place an "X" here _____ and state your country of residence: _____.
- b) The Contractor in executing this agreement and in providing services under this agreement is an independent contractor. The Contractor and the employees of the Contractor will not be considered employees of the College for any purpose or in any respect.
- c) The Contractor, if self-employed, will pay self-employment taxes with respect to all amounts paid by the College to the Contractor hereunder.
- d) The Contractor will bear sole responsibility for all assistants of the Contractor, and to the extent those assistants are employees, shall bear sole responsibility for supervising their work and their workers' compensation, unemployment compensation, and all applicable taxes and benefits, and will indemnify and hold the College harmless with respect thereto.
- e) The College assumes no responsibility for any withholding taxes, FICA (Social Security and Medicare) contributions, workers' compensation, unemployment compensation, or any other taxes, payments, benefits or contributions.
- f) The Contractor will control the means and progress of the services hereunder except as to the final results, and will perform those services to the satisfaction of the College. The Contractor will not assign this agreement to any person or legal entity.
- g) The Contractor warrants that Contractor has a substantive investment in the facilities, tools, instruments, materials, and knowledge used in connection with services provided hereunder.
- h) Contractor warrants that Contractor is customarily engaged in an independently established trade, occupation, profession or business to provide the services.
- i) This is not an exclusive arrangement and Contractor may provide similar services to other clients.
- j) Contractor shall indemnify the College against any claims arising from Contractor's professional negligence.
- k) This agreement will be governed by the laws of the State of Maine and will be binding upon and inure to the benefit of the parties, their legal representatives, successors, and assigns.
- l) As part of Contractor's engagement, Contractor may have access to confidential information belonging to the College. Contractor shall: (i) maintain in strictest confidence such confidential information and use such confidential information only for purposes of the engagement; (ii) not disclose any such confidential information outside of Contractor's business organization and only disclose or permit the use of such confidential information on a need to know basis; and (iii) return such confidential information to the College upon the expiration or termination of the engagement or agreement.
- m) This Agreement is terminable by either party at any time, with or without cause, effective upon notice to the other party. If the College exercises its right to terminate the Agreement, any obligation it may otherwise have under this Agreement shall cease immediately, except that it shall be obligated to compensate Contractor for work performed up to the time of termination. If Contractor exercises its right to terminate the Agreement, any obligation it may otherwise have under this Agreement shall cease immediately.

Work Made for Hire

It is understood and agreed that:

- a) **Work Made For Hire.** The parties acknowledge and agree that the College has retained the services of Contractor to prepare certain **text, narratives, writings, diagrams, data, artwork, illustrations, graphics, and other material** in whatever form created, collected, prepared and provided by Contractor in connection with the College's _____ (collectively, the "Work"). Contractor expressly understands, acknowledges, and agrees that:
 - (1) Contractor has been specially commissioned by the College to assist in the production of the Work as a "work made for hire" within the meaning of the copyright laws and that, as a result, any and all rights, title and interest in and to the Work, and all elements thereof, including copyright therein, and including all rights in the Work made by Contractor prior to the execution of this Agreement, shall at all times belong solely and exclusively to the College for any purpose and for use in any manner, form or media the College may make or authorize others to make throughout the world in perpetuity; and
 - (2) the College may, in the exercise of its sole discretion, change, alter, edit, revise, and add to or subtract from the Work, reproduce the Work, combine the Work with material furnished or created by others, and otherwise use the Work in any manner or form it desires; and
 - (3) the College shall have the sole and exclusive right to publish, distribute, transmit, display, exhibit, exploit, project, license, perform, advertise, promote (collectively "distribution" and/or "distribute," as applicable) the Work (in whole or in part) in any and all media and by any and all means and channels of distribution, whether now known or hereafter devised, in perpetuity and throughout the world, in all languages and in such manner and to such extent, if at all, as the College in its sole discretion shall determine; and
 - (4) neither the suspension nor termination of Contractor's services nor the expiration of this Agreement shall in any way adversely affect such ownership of the Work in the College; and
 - (5) in the event that, for any reason whatsoever, the Work shall not be considered a "work made for hire" under the copyright laws, then Contractor hereby grants and assigns to the College, its successors and assigns, all of Contractor's right, title and interest in and to the Work including, but not limited to, the copyright therein throughout the world (and any renewal, extension or reversion of copyright now or hereafter provided), and all other rights in the Work of any nature whatsoever, whether now known or hereafter devised.
- b) **Further Assurances.** If requested by the College, Contractor agrees to do all things necessary, at the College's expense, to assist the College in obtaining copyrights or other proprietary rights in the Work. Contractor agrees to execute such documents and instruments as may be necessary to implement and carry out the provisions of this paragraph. All materials prepared by Contractor in connection with this paragraph will become the property of the College when prepared, whether delivered to the College or not, and will, together with any materials furnished by the College pursuant to this paragraph, be delivered to the College upon request.

In witness whereof, each of the parties has caused this agreement to be executed by an individual authorized to enter into contracts on its behalf.

Contractor
Signature: _____

Title: _____

College
By: _____
Elizabeth McGlinn (Under \$5,000)
Title: Associate Controller

Substitute W-9 (to be completed by Contractor)

Name: _____

Address: _____
_____**Check appropriate line for federal tax**

____ Individual/Sole Proprietor

____ C Corporation

____ S Corporate

____ Partnership

____ Trust/Estate

____ Limited Liability Company

(C=C Corporation, S=S Corporation, P=Partnership)

Exemptions

Exempt Payee Code (if any) _____

Exemption from FATCA reporting code
(if any) _____

Part I - Taxpayer Identification No./ Social Security No. _____ or Employer Identification No. _____

Part II - Certification - Under penalties of perjury, I certify that:

1) The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and

2) I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and

3) I am a U.S. citizen or other U.S. person (an individual who is a U.S. citizen or U.S. resident alien).

4) The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

Certification Instructions - You must cross out item 2) above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return.

Signature: _____

Date _____

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