

**FLORIDA INTERNATIONAL UNIVERSITY**  
**INDEPENDENT CONTRACTOR AGREEMENT**

This Independent Contractor Agreement (“Agreement”) is entered into on the date fully executed below, by and between \_\_\_\_\_, with a principal place of business at \_\_\_\_\_ (“Contractor”) and The Florida International University Board of Trustees, on behalf of its (Enter Department Name) \_\_\_\_\_ (“FIU”).

WHEREAS, Contractor has proposed to provide certain services for FIU, and

WHEREAS, the parties hereto desire to reduce the terms of their agreement to a writing.

NOW THEREFORE, for and in consideration of the mutual covenants contained herein, and for other good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereby agree as follows:

**1. Recitals.** The above recitals are true and correct and are incorporated herein by this reference.

**2. Services.** Contractor agrees to perform and provide to FIU the services (“Services”) described in Exhibit A attached and incorporated by this reference. Contractor’s individual(s) designated as key personnel for the purposes of this Agreement is/are

\_\_\_\_\_  
 (“Key Personnel”). Contractor may reassign or substitute Key Personnel upon consent by FIU, whose consent shall not be unreasonably withheld, or upon the unavailability of assigned Key Personnel due to illness or other factors beyond Contractor’s control.

**3. Term.** The term of this Agreement shall begin upon execution of this Agreement and continue, unless otherwise terminated pursuant to the terms hereof, through (Enter date of Termination) \_\_\_\_\_ or until Services are fully rendered, whichever is later.

**4. Fee for Services.** As full compensation, inclusive of any and all expenses, for the Services to be provided by Contractor hereunder, FIU agrees to pay Contractor a fee of (Enter Amount in Words) \_\_\_\_\_ dollars- \$ \_\_\_\_\_ (“Fee”). Contractor shall submit to FIU monthly invoices for the Fee for those Services rendered, in arrears. FIU will designate a representative to serve as FIU’s point of contact for the Contractor’s submission of invoices and questions concerning payment status.

**5. Payment.** Contractor shall submit bills for Fees in detail sufficient for a proper pre-and post-audit. Contractor is responsible for any taxes due under this Agreement. FIU’s performance and obligation to pay under the Agreement is contingent upon the legislature’s annual appropriation. FIU will make payment in accordance with Florida Administrative Code Rule 6C8-7.032 entitled “Prompt Payment.” Upon receipt of goods or services, FIU has five (5) business days to inspect and approve the goods or services,

unless Agreement specifies a greater period of time. If FIU does not issue payment within 40 days of receipt of a proper invoice, FIU will pay to Contractor, an interest penalty at the rate established pursuant to §55.03(1) Fla. Stat. if the interest exceeds one dollar (\$1.00). Vendors experiencing payment problems may contact the Vendor Ombudsman at (305) 348-2101.

**6. Confidentiality of Information.** If Contractor is exposed to FIU's confidential information, Contractor will keep such information confidential and will act in accordance with any guidelines and applicable laws (such as FERPA and the Gramm-Leach Bliley Act.) FIU will respond to public records requests without any duty to give Contractor prior notice. If Contractor is acting as a consultant to FIU and is representing FIU's interests in dealings with other third parties, Contractor shall not accept employment with or act as an independent contractor for such third parties for a period of one year after this Agreement is terminated. This provision shall survive termination of the Agreement.

**7. Indemnification/Copyright and Intellectual Property.** If Contractor uses copyrighted materials or documents not owned by FIU ("Copyrighted Materials") in Contractor's performance of the Agreement, Contractor represents and warrants that it owns, or is licensed to use and to authorize others to use, the Copyrighted Materials. Contractor will, at its expense, defend any suit brought against FIU and will indemnify FIU against an award of damages and costs made against FIU by a settlement or final judgment of a court that is based on a claim that FIU's use of the Copyrighted Materials infringes a trademark or copyright of a third party. This provision shall survive termination of the Agreement.

#### **8. General Provisions.**

A. Nothing in this Agreement shall be construed as an indemnification of the Contractor by the FIU or as a waiver of sovereign immunity beyond that provided in Fla. Stat. §768.28.

B. FIU is self-insured, and will provide its Certificate of Insurance upon request; FIU is not required to obtain additional insurance for this Agreement.

#### **9. Termination.**

A. **Termination at Will.** This Agreement may be terminated by FIU by written notice to Contractor of such intent to terminate at least ten (10) days prior to the effective date of such termination.

B. **Termination for Cause.** Notwithstanding the provisions of subsection 6(a) above, FIU may, upon five (5) days' written notice to Contractor setting forth with specificity the basis for the termination, terminate this Agreement for Cause. For purposes of this Agreement, "Cause" is defined as Contractor's failure to perform the Services within the time specified herein or any extension thereof or Contractor's failure to adhere to any terms of this Agreement.

C. If this Agreement is terminated, FIU shall only be liable for payment of goods received and services rendered prior to the date of termination and accepted by FIU.

**10. Insurance.** Throughout the term of the Agreement, Contractor shall maintain, at its sole expense, the following minimum insurance coverage: (i) comprehensive or commercial general liability and property damage insurance with minimum limits of \$1,000,000 per occurrence and \$3,000,000 in the aggregate, and (ii) workers

compensation insurance as required by all applicable workers compensation laws, for its protection and the protection of the University. All policies of insurance shall name the Florida International University Board of Trustees, Florida International University, the Florida Board of Governors, the State of Florida, and their respective trustees, officers, agents and employees as additional insureds. Contractor shall furnish University with certificates of such insurance or other evidence satisfactory to University prior to the performance of any services under the Agreement.

All insurance coverage shall be written through a reputable and responsible company licensed to do business in the State of Florida and acceptable to FIU. The Certificate of Insurance shall contain a statement that the policies will not be modified or canceled without thirty (30) days advance written notice to FIU.

**11. Force Majeure.** Neither party shall be deemed to be in default of its obligations hereunder if and so long as it is prevented from performing such obligations by an act of war, hostile foreign action, labor strike, nuclear explosion, earthquake, hurricane, tornado, or other catastrophic natural event or act of God.

**12. Compliance with Laws.** Contractor shall comply with all laws, ordinances, codes, rules, regulations, and licensing requirements that are applicable to the conduct of its business, including those of Federal, State, and local agencies having jurisdiction and/or authority over it.

**13. Independent Contractor.** Contractor is retained by FIU only for those purposes and to the extent set forth in this Agreement, and Contractor's relation to FIU shall, during the term of this Agreement, be that of independent contractor. Contractor is not and shall not be considered as having an employee status or as being entitled to participate in any plan, arrangements, or distributions by FIU pertaining to or in connection with any qualified pension plan or providing any other health or welfare plan with similar benefits for regular FIU employees. Contractor is responsible for the payment of any taxes on any monies received by Contractor.

**14. Prohibitions.** Unless expressly and specifically authorized in writing by FIU in advance, Contractor is prohibited from engaging in any of the following:

- A. incurring any debt or obligation on behalf of FIU;
- B. entering into any contract, arrangement, or transaction which binds FIU to any extent or creates any obligation on FIU; and/or
- C. utilizing FIU's name, credit, reputation, good-will, resources, and/or assets for any purpose without prior and explicit written approval of FIU.

**15. Indemnification.** Contractor is responsible for its performance under this Agreement. Contractor agrees to release, indemnify, defend and hold harmless Florida International University, the FIU Board of Trustees, the Florida Board of Governors, the State of Florida and their respective trustees, officers, employees and agents of and from any and all liability, fines, royalties, fees, taxes, suits, claims, demands and actions, costs, attorneys fees and expenses of any kind or nature whatsoever ("Losses") for any loss of life, personal, bodily or economic injury or damage or loss to property arising out of the negligent acts, errors or omissions of Contractor, its officers, agents, employees and

contractors; and from and against any orders, judgments or decrees which may be entered pursuant thereto. This obligation shall survive the termination of this Agreement.

**16. Entire Agreement.** This Agreement and any documents incorporated specifically by reference represent the entire agreement between the parties and supercedes all prior oral or written statements or agreements. This Agreement may only be amended by written amendments duly executed by the parties hereto.

**17. Notices.** Any notice to either party hereunder must be in writing and signed by the party giving it, and served: 1) by hand; 2) through the United States Mail, postage prepaid, registered or certified, return receipt requested; or 3) through expedited mail or package service, if a receipt showing the delivery has been retained, and addressed as follows:

To FIU:

Florida International University

Address: \_\_\_\_\_

\_\_\_\_\_

Attn: \_\_\_\_\_

To Contractor:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Attn: \_\_\_\_\_

Notice is effective upon receipt.

**18. Assignment.** This Agreement may not be assigned by Contractor without the express written consent of FIU. This Agreement shall be binding upon and inure to the benefit of the parties hereto.

**19. Governing Law.** This Agreement shall be construed, interpreted, enforced and governed by and under the laws of State of Florida. Exclusive jurisdiction and venue of any actions arising out of, or relating to or in any way connected with this Agreement shall be in Miami-Dade County, Florida.

**20. Software.** If Contractor is providing software, FIU may create and retain a copy of the software and related documentation for back up and disaster recovery purposes, and for archival purposes for use after this Agreement is terminated.

**21. Survival.** Any provision of this Agreement providing for performance by either party after termination of this Agreement shall survive such termination and continue to be effective and enforceable.

The duly authorized representatives of the parties hereby execute this Independent Contractor Agreement.

The Florida International University  
Board of Trustees

\_\_\_\_\_  
Signature

Print Name: \_\_\_\_\_

Print Title: \_\_\_\_\_

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

Contractor:  
\_\_\_\_\_

\_\_\_\_\_  
Signature

Print Name: \_\_\_\_\_

Print Title: \_\_\_\_\_

Contractor's Federal Tax ID Number  
\_\_\_\_\_

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

**Exhibit "A"**

**Scope of Work**

*[Enter Scope of Work- specify work to be completed, deliverables and due dates, etc]*