Saint Michael's College

PROFESSIONAL SERVICES CONTRACT

This Professional Services Contract (hereinafter referred to as the Agreement) is entered into as of the _____ day of _____, 20_____, between Saint Michael's College (hereinafter referred to as the College) and _____, (hereinafter referred to as the Contractor), acting as an independent contractor and not as an employee of the College. (The term "Contractor" also encompasses/includes all representatives and employees of the Contractor.) Contractor's business address is _____ and Social Security Number or Federal Identification Number is _____. The Contractor is to furnish certain product(s)/service(s) described in the Contractor's proposal dated _____. The following terms and services conditions shall be observed:

- In performing services under this Agreement, Contractor shall be deemed an independent contractor.
- Contractor will be held exclusively responsible for determining the means and methods for solely performing the services described in Section I and Schedule A (if applicable).
- The product(s)/service(s) of this Agreement shall not be subcontracted by Contractor; any attempt to do so shall render this Agreement null and void.
- All of Contractor's activities related to this Agreement will be at its own risk and Contractor is hereby given notice of its responsibility for arrangements to guard against physical, financial and other risks as appropriate.
- Contractor shall observe and abide by all applicable laws and regulations, including, but not limited to, those of the College relative to conduct on the premises.
- It is mutually agreed by the parties that Contractor will receive no fringe benefits. This includes, but is not limited to: Unemployment benefits and Workers Compensation Insurance, and also that there will be no monies withheld from Contractor's compensation for income taxes or for any other purpose and therefore Contractor shall be solely responsible for its own taxes of whatever nature. Contractor is acting strictly as an independent contractor hereunder and therefore, no agency or partnership shall exist between the parties.
- A W-9 (Request for Taxpayer Identification Number & Certification) form must be included with this contract. You may obtain this form from: www.irs.gov

I. DESCRIPTION OF WORK TO BE PROVIDED

II. REPORTING

In performing services hereunder, Contractor shall report to _____.

III. PERIOD OF SERVICE AND TERMINATION

The period of service shall be from _____ through _____. Terms of this contract may not extend beyond the end of the current Saint Michael's fiscal year. Advance termination of the contract can be made by either party with 30 days written notice.

The College may immediately terminate this contract if the Contractor has breached any provisions of this contract. The following events shall be deemed to be a breach by Contractor of its obligations. However, the following list shall not be deemed to be all inclusive:

A. Any failure by Contractor to timely perform its obligations.

B. Contractor shall cease doing business.

C. Contractor shall file for protection under any state or federal bankruptcy or similar laws.

D. Contractor shall make an assignment for the benefit of its creditors.

E. A receiver, trustee, liquidator or conservator shall be appointed for Contractor.

IV. TIMELY PERFORMANCE

Contractor shall perform all work required of it under this contract in a timely manner. Any unreasonable delay by Contractor in the performance of such work shall be a breach of this contract.

V. FEES AND OTHER COSTS

The College will pay fees to Contractor for services performed hereunder as follows:

A. Total consulting fee is not to exceed _____, to be paid on actual hours completed at rates shown in Contractor's proposal dated _____.

B. Travel expenses, where applicable, must be itemized separately and be in compliance with Saint Michael's College's Travel Policy. Actual and reasonable costs under no circumstances are to exceed Saint Michael's Travel Policy.

C. An invoice shall be submitted by Contractor to _____. Upon their review and approval, the invoice will be submitted to Accounts Payable for review and approval. An acceptable invoice must: detail expenses apart from fees, reflect the rate of progress toward completion of project, and include only necessary and reasonable expenses related to the project. Once invoice is approved and all expenses are properly documented, Contractor can expect payment within 30 days.

D. Any reimbursable expenses that have been previously approved by the College, such as supplies, photography, communication expenses and reproduction shall be billed to the College at cost. In order to be reimbursed, explicit documentation of each item must accompany the request and the relationship to the project must be evident.

VI. RECORDS AUDIT

During the performance of services required of the Contractor by this Agreement and for a period of two years after its completion, the Contractor shall maintain auditable records of all charges pertaining to this Agreement and shall make such records available to the College as the College may reasonably require.

VII. CHANGES

The College may at any time, through a written change notice, make changes within the scope of work or period of performance of this Agreement. Contractor and College shall negotiate an equitable adjustment, if appropriate, in the terms of this Agreement to cover any such change. No payment for associated costs shall be made unless such are performed pursuant to a written change notice.

VIII. TAXES

The College will pay all taxes lawfully imposed on it with respect to services described under this Agreement. The Contractor will pay all taxes lawfully imposed upon it with respect to this Agreement.

IX. ASSIGNMENT

The Contractor may not assign or transfer this Agreement or any item therein or claim thereunder without prior written approval of the College.

X. PATENTS AND COPYRIGHT

A. In the event any invention or discovery is made or conceived by the Contractor in the course of or in connection with this Agreement, Contractor shall furnish the College with complete information with respect thereto and the College shall have the sole power to determine whether and where a patent application shall be filed. The College will also determine the disposition of title to and all rights regarding any application or patent that may result. Contractor will, at the College expense, execute all documents and do all things necessary or proper with respect to such patent application.

B. Whenever any copyright is secured in connection with the transcription or publication of the results of research financed by this Agreement, title and all rights to such copyright will vest in the College.

C. If the contract is funded under a Government Prime Contract or Grant, which provides a different disposition for items A. and B. above, the latter will govern.

XI. TECHNICAL INFORMATION, RECORDS AND REPORTS

All notes, designs, drawings, memoranda, reports, computer programs (including supporting data which may be included in cards, tapes, discs, drums and the like), and other technical data, if any, furnished by the Contractor pursuant to the provisions of this Agreement or developed by the Contractor in connection with the performance of services hereunder shall become the property of the College. All such notes, designs, drawings, memoranda, reports and other technical data shall be delivered to the College upon demand, and the College shall have the right to use them for any purpose which it may deem desirable without compensating the Contractor or any other person or persons for the use thereof. No information, reports, etc., developed herein may be reproduced without College consent.

XII. CONFIDENTIALITY

Contractor shall consider all information furnished by the College to be confidential and shall not disclose any such information to any person, or use such information for any purpose other than performing this Agreement, unless the Contractor obtains written permission from the College to do so. This applies to drawings, specifications and any and all other materials prepared by the Contractor for the College in connection with this Agreement. Contractor shall not advertise or publish the fact that the College has contracted with the Contractor, nor shall any information relative to the Agreement be disclosed without the College's written permission. Unless otherwise agreed in writing, no commercial, financial or technical information disclosed in any manner or at any time by Contractor to the College shall be deemed secret or confidential. The College shall have no rights against the Contractor with respect thereto except such rights as may exist under patent laws.

XIII. THIRD PARTY ACCESS TO PERSONAL, STUDENT, OR FINANCIAL INFORMATION

If the terms of a contract or statement of work call for third party access to Saint Michael's College's information systems, including networked computing systems, application or file servers, and/or software applications or systems, that store or provide access to potentially sensitive or Confidential Information, the following provision must be included with the contract as an addendum:

Restriction of Use of Confidential Information
For purposes of this addendum, Confidential Information is defined as any and all information whose collection, disclosure, protection, and disposition is governed by state or federal law or regulation, particularly information subject to the Family Educational Rights and Privacy Act (FERPA), the Gramm-Leach-Bliley Act (GLBA), or sections 1347 and 1349 of the Vermont Revised Code. This information includes, but is not limited to, Social Security Numbers, student records, financial records regarding students (or their parents or sponsors), financial and personal information regarding College employees, and other personally identifiable information identified by law.

_____ (Contractor) agrees to hold any and all Confidential Information obtained from the College, its students, faculty, staff, or other agents in the performance of this Agreement in strictest confidence, and shall not use or disclose such Confidential Information except as permitted or required by this Agreement or by law or as otherwise agreed to in writing by Saint Michael's College.

The Contractor warrants and represents that it shall, at all times, comply with FERPA, GLBA and other applicable federal and state statutes. The contractor also warrants that, in the event of a security breach (within its control) covered under sections 1347 and 1349 of the Vermont Revised Code, the Contractor shall bear all responsibility and expense for complying with the disclosure and notification requirements of the statute.

The Contractor agrees that it will protect the Confidential Information it receives according to commercially acceptable standards and no less rigorously than it protects its own Confidential Information. Specifically, the Contractor shall implement, maintain, and use appropriate administrative, technical, and physical security measures to preserve the confidentially, integrity, and availability of all electronically managed Confidential Information.

The Contractor agrees, upon termination, cancellation, expiration, or other conclusion of this Agreement, within 30 days to return to the College or if return is not feasible, destroy and not retain any copies (and furnish the College with an appropriate Certificate of Destruction) of any and all Confidential Information that is in its possession.

The obligations of this Agreement shall not apply to any information which is/was (a) already in the public domain through no breach of this Agreement, including but not limited to information available through College's web site(s); (b) lawfully in the Contractor's possession prior to receipt from the College, its faculty, staff or students; or (c) received by the Contractor independently from a person or entity free to lawfully disclose such information other than the College, its faculty, staff, or students.

XIV. DRUG FREE WORK PLACE

Contractor shall comply with all applicable federal, state and local laws regarding smoke free and drug free work places and shall make a good faith effort to ensure that any of its employees or permitted subcontractors engaged in the work being performed hereunder do not purchase, transfer, use or possess illegal drugs or alcohol or abuse prescription drugs in any way.

XV. LIABILITY

The Contractor shall perform the work under this agreement as an independent Contractor and agrees that the College is to be free from all liabilities and damages resulting from or arising out of the Contractor's performance or activities hereunder. In addition, the Contractor will indemnify and hold harmless the College from all such liabilities and damages.

XVI. ACKNOWLEDGMENT OF SPONSORSHIP

Use of the name of the College, except in an acknowledgment of sponsorship of this research, in publication, news releases, advertising, speeches, technical papers, photographs and other releases of information regarding this Agreement or data developed hereunder, may not be made except upon written approval from the College.

XVII. CONFLICT OF INTEREST

Contractor affirms that to the best of its knowledge, there exists no actual or potential Conflict of Interest between Contractor and College and its services under this Agreement. In the event of change in either its private interests or services under this Agreement, Contractor will inform the College regarding possible Conflict of Interest which may arise as a result of such change. Contractor also affirms that there exists no actual or potential conflict between a College employee and Contractor.

XVIII. AFFIRMATIVE ACTION

The Contractor certifies that it is an equal opportunity employer and that, during the performance of this Agreement, it will comply with all federal, state and local laws, orders, rules and regulations.

XIX. JURISDICTION AND VENUE

All questions relating to the validity, interpretation, performance or enforcement of this Agreement, and any claims arising from or related to this Agreement, shall be governed by and construed in accordance with the laws of the State of Vermont, without regard to the principle of conflict of laws. Any litigation arising from or related to this Agreement may be brought only in the federal or state courts of Vermont with appropriate jurisdiction, and the parties irrevocably consent to the jurisdiction and venue of such.

XX. CONTRACTOR'S PROPOSAL

Contractor's proposal, if applicable, dated _____, shall become part of this Agreement as Schedule A.

XXI. ENTIRE AGREEMENT

This document constitutes the entire agreement between the parties. Neither party may modify or amend the terms of this contract, except in a written agreement signed by both parties.

CONTRACTOR

By _____

Title _____

Date _____

Saint Michael's College
INITIATING DEPARTMENT

By _____

Title _____

Dept. _____

Date _____

Budget Number to be charged:_____

Authorized Signature for Budget: _____

Saint Michael's College
PURCHASING DEPARTMENT

By _____

Title _____

Date _____