**Template Agreement for Consulting Services**

Insert the appropriate information in place of the **red, bolded text** within this template. Once you have finished, please make sure to delete all content above the dotted line, create a new title, and delete all comments and instructions from the document.

Please note: this information is provided for risk management purposes only, and should not be construed as legal advice. You may wish to have contracts reviewed by an attorney or other legal professional.

This Agreement is made between the Trustees of Smith College ("College") and **[Name of Business]**, a corporation with its principal place of business in **[Business’ City, State]** and with authority to do business in the Commonwealth of Massachusetts ("Consultant").

Whereas the College desires to obtain the services of Consultant and Consultant represents it has expertise and experience to provide the services described herein for the benefit of the College therefore the parties agree as follows:

**1.0 Scope of Services**1.1 Consultant agrees to perform such professional services as are set forth in Appendix A to this Agreement which is incorporated herein by this reference. Consultant will perform such services with the standard of professional care and skill customarily provided in the performance of such services. Consultant agrees to perform as set forth in Appendix A to the satisfaction of College.

1.2 The parties may from time-to-time extend the scope of services and deliverables or omit services and deliverables previously agreed to, and the provisions of this Agreement shall apply to all such additions and omissions. All such additions and omissions must be in a writing executed by both parties in order to be effective.

1.3 Any discrepancy or conflict between the terms or conditions in Appendix A and the terms of this Agreement shall be decided in favor of this Agreement.

**2.0 Fees and Expenses**2.1 College agrees to pay a maximum fee of **[spelled-out number of dollars] [($####.##)]** for services and deliverables rendered by Consultant hereunder, including all amounts already paid.

2.2 The total fee, and any reimbursement for incidental out-of-pocket expenses identified in section 2.4, shall be payable upon completion of the work. An application for payment of fees and expenses, accompanied by proper documentation, including receipts, shall be submitted by Consultant to College upon completion of the work, said application to cover and include all fees earned and expenses incurred. Consultant shall be deemed to have waived its right to payment for any fees earned or expenses incurred if not included on the application. College reserves the right to require reasonable additional supporting documentation from Consultant. All applications for payment shall be on forms acceptable to or approved by College.

2.3 Consultant agrees that Consultant is solely responsible for payment of income, social security, and other employment taxes due to the proper taxing authorities, and that College will not deduct such taxes from any payments to Consultant hereunder. Consultant agrees to indemnify, defend, and hold harmless the College and its governing board, officers, employees, and agents from and against any and all costs, losses, damages, liabilities, expenses, demands, and judgments, including court costs and attorney’s fees, relating to the payment of income, social security, and other employment taxes.

2.4 College shall reimburse the following incidental out-of-pocket expenses:

1. Airplane travel for \_\_\_ person(s) (coach only), not to exceed $\_\_\_\_\_ .
2. One rental car in an amount not to exceed $\_\_\_\_\_\_\_ per day.
3. Lodging for \_\_\_ person(s) for \_\_\_ night(s) not to exceed $\_\_\_\_\_ per day.
4. Meals for \_\_\_ person(s) for \_\_\_\_ day(s) not to exceed $\_\_\_\_\_ per day.
5. Other as follows:

**3.0 Term**
The services to be rendered by Consultant under this Agreement shall commence not later than \_\_\_\_\_\_\_\_\_, 20\_\_, and be completed by \_\_\_\_\_\_\_\_\_\_\_, 20\_\_. Time is of the essence of this Agreement. This term may be extended beyond such completion date if College agrees to the extension in writing.

**4.0 Contractor's Capacity and Responsibilities**4.1 It is expressly understood that Consultant is an independent contractor and not the agent, partner, or employee of College. Consultant and Consultant's workers are not employees of College and are not entitled to tax withholding, Workers' Compensation, unemployment compensation, or any employee benefits, statutory or otherwise.

4.2 Consultant shall not have the authority to enter into any contract or agreement to bind College and shall not represent to anyone that Consultant has such authority.

4.3 Consultant represents and warrants to College that in performing the services called for hereunder Consultant will not be in breach of any agreement with a third party.

**5.0 Confidentiality of Information**5.1 Consultant agrees to keep confidential and not to disclose to third parties any information provided by College pursuant to or learned by Consultant during the course of this Agreement unless Consultant has received the prior written consent of College to make such disclosure. This provision shall survive expiration and termination of this Agreement. This obligation of confidentiality does not extend to any information that: 1) Was in the possession of Consultant at the time of disclosure by College, directly or indirectly; 2) Is or shall become, through no fault of Consultant, available to the general public; or 3) Is independently developed and hereafter supplied to Consultant by a third party without restriction or disclosure.

**6.0 Property Rights and Reports**
6.1  Consultant agrees that any intellectual property including but not limited to computer programs, software, documentation, copyrightable work, discoveries, inventions, or improvements developed by Consultant solely, or with others, resulting from the performance of services pursuant to this Agreement is the property of College, and Consultant hereby agrees to assign all rights therein to College. Consultant further agrees to provide College with any assistance which College may require to obtain patents or copyright registrations, including the execution of any documents submitted by College.

6.2  Consultant shall provide five (5) copies of the deliverables to be provided under this Agreement on or before **[date of deadline]**. College shall be considered the author thereof, and the sole and exclusive owner throughout the world forever of all rights existing therein, including all manuscripts, reports, sketches, drafts, notes, maps, memoranda, etc., relating to the work, and all revisions, editions, and versions thereof in all languages, forms, and media now or hereafter known and developed.

6.3  This provision shall survive expiration and termination of this Agreement.

**7.0 Suspension or Termination of Contract**College reserves the right to suspend indefinitely or terminate the contract and the services to be rendered by Consultant for any reason upon seven (7) days' prior written notice. In the event of termination prior to completion of all work described in Section 1.0, the amount of the total fee to be paid Consultant shall be determined by College on the basis of the portion of the total work actually completed up to the time of such termination.

**8.0 Insurance**8.1  Consultant shall at its own expense obtain and maintain:

8.1.1 Comprehensive general liability insurance, covering bodily injury in the sum of not less than one-million dollars ($1,000,000) per person and one-million dollars ($1,000,000) per occurrence and property damage in the amount of not less than one-million dollars ($1,000,000) per occurrence;

8.1.2 Workers’ compensation insurance in accordance with the laws of the Commonwealth of Massachusetts;

8.1.3 Comprehensive automobile liability insurance, including operation of owned, non-owned, and hired automobiles, covering bodily injury in the sum of not less than one-million dollars ($1,000,000) per person and one-million dollars ($1,000,000) per occurrence and property damage in the amount of not less than one-million dollars ($1,000,000) per occurrence;

8.1.4 If available generally to members of Consultant's profession, professional liability (errors and omissions) insurance on a claims made basis with limits of liability of not less than one million dollars ($1,000,000).

8.2  All insurance required hereunder shall be maintained in full force and effect in a company or companies reasonably satisfactory to the College and shall be maintained at Consultant’s expense. All insurance required hereunder shall name “The Trustees of the Smith College, its agents, its employees, and its assigns” as additional insureds and shall contain a clause requiring written notice to the College thirty (30) days in advance of the cancellation, non-renewal, or material modification of said insurance as evidenced by return receipt of United States certified mail. Certificates of insurance shall be supplied contemporaneously with the execution and delivery of a final contract. Said certificates shall evidence compliance with all provisions of this section 8.0.

**9.0 Indemnification and Hold Harmless**
9.1 Consultant agrees that any damage to property owned by the Consultant or personal or bodily injury to Consultant incurred in the course of performance of the Consulting Services shall be the sole responsibility of Consultant and the Consultant holds the College harmless from any such loss or damage.

9.2 Consultant agrees to indemnify, defend, and hold harmless the College and its trustees, officers, employees, and agents from and against any and all costs, losses, damages, liabilities, expenses, demands, and judgments, including court costs and attorney's fees, which may arise out of Consultant's performance of the Consulting Services, except to the extent such are caused by the negligence of College.

**10.0 Notice**Any notice under this Agreement shall be in writing and be delivered in person or by public or private courier service (including U.S. Postal Service Express Mail) or certified mail with return receipt requested or by facsimile. All notices shall be addressed to the parties at the following addresses or at such other addresses as the parties may from time to time direct in writing:

**The College:
[Name of Department]**

**[Mailing Address of Department]** Smith College
Northampton, MA 01063

Phone: **(xxx) xxx-xxxx**
 Fax:  **(xxx) xxx-xxxx**

**The Consultant:**

**[Consultant’s Address]**

Phone: **(xxx) xxx-xxxx**
 Fax: **(xxx) xxx-xxxx**

Any notice shall be deemed to have been given on the earlier of: (a) actual delivery or refusal to accept delivery, (b) the date of mailing by certified mail, or (c) the day facsimile delivery is verified. Actual notice, however and from whomever received, shall always be effective.

**11.0 Entire Agreement; Modification**
This Agreement (and its attachments, if any) constitutes the entire understanding between the parties with respect to the subject matter hereof and may not be amended except by an agreement signed by Consultant and an authorized representative of College. It is expressly understood and agreed that e-mail correspondence shall not be considered to be “a writing” under the terms of this agreement.

**12.0 Mediation / Choice of Laws /** **Jurisdiction**
The parties agree that any disputes that may arise as a result of this Agreement or the provision of products or services as a result of this Agreement will first be attempted to be resolved through discussion between the parties. If the dispute cannot be resolved on terms satisfactory to both parties, the parties shall in good faith enter into mediation to resolve the dispute. Upon failure to mediate any such disputes in good faith, the parties may resolve the dispute through any other legal means available, including arbitration or litigation without requirement of a specific legal forum. The laws of the Commonwealth of Massachusetts shall govern the validity, construction and effect of this Agreement. All mediations, arbitrations or lawsuits arising out of this Agreement, wherever derived, shall be resolved in Hampshire County in the Commonwealth of Massachusetts.

**13.0  Severability**The terms of this Agreement are severable such that if any term or provision is declared by a court of competent jurisdiction to be illegal, void, or unenforceable, the remainder of the provisions shall continue to be valid and enforceable.

**14.0 Governing Law**The laws of the Commonwealth of Massachusetts shall govern the validity, construction and effect of this Agreement.  All lawsuits arising out of this agreement, wherever derived, shall be resolved in [...]  County in the Commonwealth of Massachusetts.

**15.0 Assignment**
Consultant may not assign the rights or delegate the obligations under this Agreement without College's prior written consent.

**16.0 Representations and Warranties**Consultant represents and warrants the following: (a) that it is financially solvent, able to pay its debts as they mature, and possessed of sufficient working capital to provide the equipment and goods, complete the services, and perform its obligations hereunder; (b) that it is able to furnish any of the plant, tools, materials, supplies, equipment, and labor required to complete the services required and perform all of its obligations hereunder and has sufficient experience and competence to do so; (c) that it is authorized to do business in Massachusetts, properly licensed by all necessary governmental and public and quasi-public authorities having jurisdiction over it and the services, equipment, and goods required hereunder, and has or will obtain all licenses and permits required by law; and (d) that it has familiarized itself with the local conditions under which this agreement is to be performed.

**17.0 Compliance with Rules, Regulations, and Instructions**Consultant shall follow and comply with all rules and regulations of the College and the reasonable instructions of College personnel. The College reserves the right to require the removal of any worker it deems unsatisfactory for any reason.

IN WITNESS WHEREOF, the authorized representatives of the parties have executed this Agreement:

College:

The Trustees of the Smith College

By \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Title \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Date\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Consultant:

**[Name of Consultant]**

By \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Title \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Date\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_