**MARQUETTE UNIVERSITY**

**CONSULTING AGREEMENT**

This Consulting Agreement (“**Agreement**”) is effective as of October 18, 2019 (“**Effective Date**”) between MARQUETTE UNIVERSITY, a Wisconsin nonstock corporation (“**MU**”) and BEMBÉ DRUM AND DANCE, INC., 4407 South Adams Avenue, Milwaukee, Wisconsin 53207 (“**Consultant**”).

RECITAL

MU and Consultant desire to enter into this Agreement to provide for each party’s responsibilities with respect to the Project services described on the attached Exhibit A (“**Services**”). The Services support Professional Services Contract #C028868 between the Milwaukee Board of School Directors and MU for the project entitled, “Peace Works for MPS Success Center” (the “**Project**”). The Project’s Principal Investigator is Mr. Patrick Kennelly, Director, Center for Peacemaking (“Principal Investigator”).

AGREEMENT

MU and Consultant agree as follows:

1. Consultant Responsibilities; Fees and Payments. Consultant will perform the Services, and MU will pay Consultant, as set forth on Exhibit A. Consultant is an independent contractor and will be solely and personally responsible for all federal, state and local taxes, contributions and premiums with regard to such payments.
2. Term and Termination. The term of this Agreement will run from the Effective Date of this Agreement until completion of the Services and payment by MU. Either party may terminate this Agreement for material breach of this Agreement. MU may immediately terminate this Agreement upon the death or incapacity of Consultant to provide for the timely completion of the Services.

In addition, MU may, at any time and for its convenience, terminate this Agreement in whole or in part by written notice to the Consultant. Upon receipt of the notice, Consultant will discontinue the Services to be terminated at the time and in the manner set forth in the notice, or if none, immediately. In addition, Consultant will also make all commercially reasonable efforts to secure the cancellation of any subcontract and material orders not fully performed on terms satisfactory to MU. Consultant will be entitled to receive progress payments for all completed work and unrecovered costs associated with the cancellation of outstanding subcontracts and material orders.

1. Ownership of Work Product. All deliverables prepared under this Agreement by Consultant are “works for hire.” Accordingly, Consultant hereby sells, assigns, grants and transfers to MU all right, title and interest in any inventions, reports, documents, software or other materials prepared by Consultant for MU under this Agreement. Consultant represents and warrants to MU that no third party will have any rights in any reports, documents or other copyrighted materials prepared by Consultant for MU under this Agreement and that Consultant has the authority to deliver title to any reports, documents or other copyrighted materials prepared by Consultant for MU under this Agreement. Consultant agrees to provide all necessary assistance, and sign all documents, necessary for MU to perfect its ownership at MU’s cost.
2. Relationship. The parties are independent contractors. Nothing in this Agreement will be construed to create or imply any joint venture, employer/employee, principal/agent or partnership relationship between the parties. Consultant will not become an employee of MU. Neither party is authorized to nor will either party represent itself as the agent, representative, partner or joint venture of the other party unless agreed upon by both parties in specified circumstances. Consultant will make clear to all third-parties that Consultant is an independent contractor and consultant to MU and that Consultant is not an employee or official of MU. Neither party will have the authority to nor will either party attempt to assume any obligation by or on behalf of the other party.
3. Insurance. During the term of this Agreement, each party will maintain the following insurance policies from insurers licensed to do business in the State of Wisconsin: (a) Commercial general liability (CGL) insurance of not less than $1,000,000/occurrence and $2,000,000 aggregate; (b) Worker’s Compensation insurance in accordance with applicable state statutory limits; (c) Automobile insurance in the amount of $1,000,000 (including coverage for insured, uninsured, underinsured, owned and non-owned vehicles). Both parties agree that such insurance may not be revoked, reduced or changed in a material way without at least thirty (30) days advance written notice to the other party. Certificates of insurance will be provided upon request.

6. Hold Harmless. To the fullest extent permitted by law, each party agrees to indemnify, defend, and hold harmless the other party, and its agents, officers, directors and employees, from and against all losses, damages, liabilities, settlements or expenses, including costs and reasonable attorney’s fees, by reason of liability for damages including suits at law or in equity, caused by a party’s intentionally wrongful or negligent acts or omissions connected with its performance under this Agreement.

7. Nondisclosure of Confidential Information. Consultant will not, either directly or indirectly, as an employee, agent, consultant, shareholder or in any other capacity, use or disclose any confidential or proprietary information, including without limitation employee and student data, technical data, software, financial data and mailing lists (“**Confidential Information**”) of MU for any purpose other than performance of the Services. Unless Consultant has obtained the prior written consent of MU, Consultant will not disclose the Confidential Information to any third parties and Consultant will limit disclosure of the Confidential Information to Consultant employees with a need to know the Confidential Information. Consultant agrees that it is responsible for any breach of this Agreement by its officers, directors, shareholders, employees, consultants and agents. Confidential Information will not include any information that Consultant can demonstrate by written evidence: (a) was known to Consultant prior to the disclosure to Consultant by MU; or (b) has become public knowledge without a breach of this Agreement or other confidentiality obligation.

8. Delivery of Documents. MU may discontinue furnishing or making available access to Confidential Information at any time in the sole discretion of MU. Upon demand by MU, Consultant will promptly deliver to MU all Confidential Information and all correspondence, designs, sketches, drawings, manuals, letters, notes, computer diskettes, computer or voice tapes, notebooks, reports or any other documents or media embodying or concerning the Confidential Information that came into Consultant’s possession by any means whatsoever, during the performance of the Services.

9. Expenses. Except as expressly provided to the contrary in this Agreement, all expenses incurred by the parties will be the sole responsibility of the party who ordered the service or incurred the expense.

10. Governing Law. This Agreement will be governed by and construed exclusively in accordance with the laws of the State of Wisconsin, regardless of choice of law requirements. The parties hereby consent to the jurisdiction of the state courts and federal courts of for any suit, action or proceeding arising out of or related to this Agreement and expressly waive any and all objections they may have as to venue in any Wisconsin courts.

11. Assignment. This Agreement may not be assigned without the written consent of the other party. Consultant’s services are personal in nature and may not be assigned or delegated to any other person.

12. Entire Agreement. This Agreement represents the entire Agreement between the parties and supersedes any prior oral or written understandings with respect to the Services. This Agreement may only be amended in writing signed by the parties. Upon execution, this Agreement will be a valid and binding obligation of each party and enforceable in accordance with its terms.

CONSULTANT MARQUETTE UNIVERSITY

By: By:

Katherine Durben, Executive Director

Print Name: Research and Sponsored Programs

SSN:

**EXHIBIT A**

**Services and Fees**

**Description of Services:**

Consultant is a cultural performing arts program in the City of Milwaukee that inspires music and performance skills, intergenerational connection, and cultural identity exploration with Milwaukee youth (ages 5-19) and their families through percussion-based Afro-Latino musical culture. Consultant’s staff provide music-as-therapy sessions where special instruments are used, and the entire workshop is therapeutic. These sessions provide space for self-expression, non-verbal connection with others in the group, breathing regulation through rhythmic playing, the use of vibrations from unique instruments to relax the body, among others. Consultant will provide three times - weekly drum and dance workshops to students at the MPS Success Center in 60-minute sessions (including games, breaks, and a self-determined pace). Emphasis would be placed on a therapy-based curriculum, with cultural and historical pieces woven into the classes so that participants have a “piece” to perform for each other or those individuals they invite. The program will take place throughout the Traditional MPS school year, and in the summer JTerm. Teaching time will include preparation, reporting, and meeting with Center staff.

**Service Deliverables (if any):**

See above.

**Date(s) for Services:**

August 1, 2019 through July 31, 2020

**Date for Final Completion of Services:**

July 31, 2020

**Payment for Services:**

Not to exceed $29,950 over the term of this Agreement.

**Payment Date(s) and Conditions:**

An initial payment of $14,975 will be made upon full execution of this Agreement.

CONSULTANT will provide monthly cost reports to MU. When expenditure of the initial payment has been satisfactorily documented, MU will issue a second and final payment of $14,975, subject to the same reporting requirements.

Monthly cost reports should be e-mailed to Sherri Walker in the Center for Peacemaking at [sherri.walker@marquette.edu](mailto:sherri.walker@marquette.edu).