

INDEPENDENT CONTRACTOR AGREEMENT

Employer Note: This Agreement should be used for **general information purposes** only, and should be tailored to fit the particular needs of your company in consultation with qualified employment law counsel. Note that the IRS is not required to follow a contract stating that a worker is an independent contractor, responsible for paying his or her own self-employment tax. Ultimately, how the parties work together determines whether the worker is an employee or an independent contractor. Misclassification of workers can expose your company to potential liability, so it is important to make this determination carefully and with the assistance of counsel if necessary.

This Agreement is entered into as of _____, 20____, between _____
("Company") and _____ ("Independent Contractor").

In consideration of the promises and agreements contained herein, the parties agree as follows:

1. Engagement. Subject to the terms and conditions set forth in this Agreement, the Company hereby engages the Independent Contractor to perform services for the Company as set forth herein, and the Independent Contractor hereby accepts such engagement.

2. Term. This Agreement shall commence on _____, 20____ and shall continue [until the Independent Contractor's satisfactory completion of the services performed hereunder as determined by the Company] *or* [until terminated in writing by the Company] *or* [on a mutually agreed upon basis unless terminated in writing by the Company].

3. Services to Be Performed. During the term of this Agreement, the Independent Contractor shall perform services required by the Company as follows:

Or [The Independent Contractor agrees to perform the services described in Exhibit A, which is attached hereto.]

4. Performance of Tasks. The Independent Contractor shall have control and discretion over the means and manner of performance of the services in achieving the result of the work to be performed. The Independent Contractor shall supply all necessary equipment, materials and supplies and shall not rely on the equipment or offices of the Company for completion of the services to be performed pursuant to this Agreement. The Company retains the right to inspect, stop, or alter the work of the Independent Contractor to assure its conformity with this Agreement.

5. Time Requirements. The Independent Contractor will not be required to follow or establish a regular or daily work schedule, but shall devote during the term of this Agreement the time, energy and skill as necessary to perform the services of this engagement and shall, periodically or at any time upon the request of the Company, submit information as to the amount of time worked and scope of work performed.

6. Compensation. For services performed pursuant to this Agreement, the Company agrees to pay the Independent Contractor [the amount of \$_____ per hour] *or* [a flat fee of \$_____], to be paid [on a monthly basis or as otherwise required under state law] *or* [upon satisfactory completion of the engagement as determined by the Company]. Federal, state, and local income tax and payroll tax of any kind shall not be withheld or paid by the Company on behalf of the Independent Contractor. The parties agree that the Company will not obtain any workers' compensation coverage that covers the Independent Contractor, and further agree that in no event shall any workers' compensation insurance benefits be paid to Independent Contractor by Company. The Independent Contractor understands that he or she is responsible to pay, according to law, the Independent Contractor's income and other employment taxes and understands that he or she may be liable for self-employment taxes (Social Security and Medicare) to be paid by the Independent Contractor according to law. In addition, the Company shall not be liable to the Independent Contractor for any expenses paid or incurred by the Independent Contractor unless otherwise agreed to in writing.

7. Right to Benefits. The Independent Contractor expressly acknowledges and agrees that the Independent Contractor is not an employee of the Company, and as such is not entitled to and will have no claim to Company benefits provided to employees, including but not limited to, health benefits, vacation and sick leave benefits, or profit sharing or pension plans (such as 401(k) plans), shares or bonuses.

8. Independent Contractor Status. This Agreement does not constitute a hiring by either party. Under this Agreement, the Independent Contractor shall have an independent contractor status and shall not be an employee for any purpose, including but not limited to, the application of the Federal Insurance Contribution Act, the Social Security Act, the Federal Unemployment Tax Act, the provisions of the Internal Revenue Code, any state revenue and taxation code relating to income tax withholding at the source of income, workers' compensation, and other benefit payments and third party liability claims. To the extent applicable, the Independent Contractor shall procure sufficient insurance to cover general liability, personal injury, and property damage. This Agreement shall not be considered or construed to be a partnership or joint venture, and the Company shall not be liable for any obligations incurred by the Independent Contractor unless specifically authorized in writing. The Independent Contractor shall act solely as an independent contractor and not as an employee or an agent of the Company. The Independent Contractor is not authorized to enter into contracts or agreements on behalf of the Company or to otherwise bind the Company in any manner or create obligations of the Company to third parties.

9. Professional Responsibility. Nothing in this Agreement shall be construed to interfere with or otherwise affect the rendering of services by the Independent Contractor in accordance with his or her independent and professional judgment. The Independent Contractor shall perform the services in a good and workmanlike manner and in accordance with generally accepted industry practices.

10. Conflicts of Interest. The Independent Contractor shall not act as an agent for, consultant to, or as an officer, employee, or other representative of any subcontractor or supplier to the Company. The Independent Contractor shall not serve in any of the foregoing capacities

for any of the Company's competitors or prospective competitors, without giving prior written notification to the Company. The Independent Contractor hereby warrants that there is no conflict of interest between the Independent Contractor's other employment, if any, or other contracts, if any, and the activities to be performed hereunder. The Independent Contractor shall advise the Company if a conflict of interest arises in the future.

11. Work Made for Hire. The Independent Contractor agrees that the services to be performed pursuant to this Agreement, including all tasks, duties, results, inventions and intellectual property developed or performed pursuant to this Agreement, are considered "work made for hire" as defined in 17 U.S.C. Section 101, and that any such work is by virtue of this Agreement assigned to the Company and shall be the sole property of Company for all purposes, including, but not limited to, copyright, trademark, service mark, patent, and trade secret laws. In the event that any work created by the Independent Contractor does not qualify as a work made for hire, the Independent Contractor agrees to assign his or her right in the work to the Company. The Independent Contractor agrees to execute any and all documents prepared by the Company and to do all other lawful acts as may be required by the Company to establish, document, and protect such rights.

12. Termination. This Agreement may be terminated prior to the completion or achievement of the services to be performed by either party giving ___ days' written notice. Upon the termination of this Agreement it is understood that that the relationship between the parties has ended and the Company shall not be liable for, nor shall the Independent Contractor be liable to perform, any services or expenses incurred after the receipt of notice of termination. Such termination shall not prejudice any other remedy to which the terminating party may be entitled, either by law, in equity, or under this Agreement.

13. Indemnification and Hold Harmless. The Independent Contractor agrees to indemnify and hold harmless the Company from any and all claims by the Independent Contractor, which may arise out of and in the course of the performance of his or her duties hereunder. This section shall not affect any other remedies either party may have under this Agreement. The Independent Contractor expressly waives any and all claims for unemployment benefits and/or workers' compensation benefits, and shall maintain same as necessary in connection with the performance of services required by the Company.

14. Confidentiality/Non-Disclosure. The Independent Contractor agrees not to disclose or communicate, in any manner, either during or after the term of this Agreement, any proprietary information about the Company, including but not limited to, the names of its customers, marketing strategies, operations, or any other information of any kind which would be deemed confidential, a trade secret, a customer list, or other form of proprietary information of the Company. The Independent Contractor understands that any breach of this provision, or that of any other Confidentiality and Non-Disclosure Agreement, is a material breach of this Agreement. Upon termination or expiration of this Agreement, the Independent Contractor shall deliver all records, data, information, and other documents produced or acquired during the performance of this Agreement and all copies thereof to the Company. Such material shall remain the property of the Company.

15. Non-Solicitation. The Independent Contractor shall not, during the term of this Agreement and for a period of *one year* immediately following termination of this Agreement, either directly or indirectly, call on, solicit, or take away, or attempt to call on, solicit, or take away, any of the customers or clients of the Company on whom Independent Contractor called or became acquainted with during the term of this Agreement, either for his or her own benefit, or for the benefit of any other person, firm, corporation or organization.

16. Entire Agreement. This Agreement constitutes the entire agreement between the parties and supersedes any and all other agreements, either oral or in writing, between the parties, except for any separately signed Confidentiality, Trade Secret, Non-Compete or Non-Disclosure Agreements to the extent that these terms are not in conflict with those set forth therein.

17. Severability. If any term of this Agreement is invalid or unenforceable under any statute, regulation, ordinance or other rule of law, such term will be deemed reformed or deleted and the remaining provisions will remain in full force and effect.

18. Governing Law and Jurisdiction. This Agreement shall be governed by, and construed under, the laws of the State of _____. Jurisdiction and venue for all purposes shall be in the County of _____, State of _____.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the date first written above.

Company:

Independent Contractor:

By _____

By _____

(Print Name)

(Print Name)

Title