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## INDEPENDENT CONTRACTOR AGREEMENT

THIS INDEPENDENT CONTRACTOR AGREEMENT ("*Agreement*") is made as of the Effective Date indicated in the signature block below (the "*Effective Date*"), by and between \_\_\_\_\_, a \_\_\_\_\_ limited liability company or Sole Proprietor ("*name of company or sole proprietor*") and the undersigned "*Contractor*" ("*Contractor*") (each a "*Party*" and collectively the "*Parties*").

### RECITALS:

WHEREAS, \_\_\_\_\_ is in the business of providing \_\_\_\_\_ services related to \_\_\_\_\_ and other related items;

WHEREAS, Contractor has the skills and experience necessary to perform the services set forth hereunder for the benefit of \_\_\_\_\_ and its customers; and

WHEREAS, \_\_\_\_\_ desires to retain the services of Contractor and Contractor desires to perform such services for and on behalf of \_\_\_\_\_, each pursuant to the terms and conditions of this Agreement.

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

### AGREEMENT:

1. **SERVICES.** During the Term (defined below), Contractor shall provide those services listed on **Schedule A** hereto ("*Services*"). Contractor shall insure the safe, secure, and complete performance of the Services. If required, Contractor shall use its own materials, tools, and equipment to perform the Services.
2. **FEEES.** As consideration for the Services provided by Contractor, \_\_\_\_\_ will compensate Contractor as described in **Schedule B** to this Agreement. The Parties acknowledge that payment for the Services provided hereunder is consistent with the fair market value of such Services and is not conditioned in any way on the volume or value of any business (i) between \_\_\_\_\_ and any other party, or (ii) resulting, directly or indirectly, from any of Contractor's services hereunder.
3. **INDEPENDENT CONTRACTOR STATUS.** It is the Parties' intent that Contractor at all times, and with respect to all Services covered by this Agreement, function as and remain an independent contractor, and not an employee, officer, or agent of \_\_\_\_\_, and neither Party shall represent to third parties that Contractor is an employee, officer, or agent of \_\_\_\_\_.
  - (a) **Taxes and Compensation.** Contractor shall be solely responsible for the payment of all taxes on amounts received hereunder and shall not be

entitled to any payment or reimbursement in any form from \_\_\_\_\_ related to the payment of such taxes.

(b) *Performance of Services.* Contractor shall determine the method, details, and means of performing the Services. \_\_\_\_\_ shall have no right to, and shall not control, the manner or determine the method of accomplishment of the Services. The Services shall be performed completely and in a timely manner by Contractor.

(c) *Employees of Contractor.* Contractor may, at Contractor's own expense, employ such assistants as Contractor may deem necessary to perform the Services. \_\_\_\_\_ shall not control, direct or supervise the work of Contractor's assistants or employees in the performance of Services.

(d) *Expenses.* Contractor shall be responsible for all expenses incurred in the execution of Contractor's responsibilities pursuant to this Agreement, including, without limitation, all travel (including airfare and lodging), entertainment and dining expenses. No fines, taxes, bonds or fees imposed against Contractor, or costs of Contractor doing business, shall be reimbursable by \_\_\_\_\_.

(e) *Third-Party Agreements.* Contractor shall not have the authority to enter into contracts that bind \_\_\_\_\_ or to create obligations on the part of \_\_\_\_\_ without the prior written authorization of \_\_\_\_\_.

#### 4. TERM & TERMINATION.

(a) *Commencement.* This Agreement will commence on the Effective Date and will continue for successive, automatically renewed periods of

one (1) year, unless earlier terminated as provided for herein (the "*Term*").

(b) *Termination.* This Agreement may be terminated by either Party upon seven (7) days' written notice to the other, or immediately upon a Party's material breach of this Agreement. Written notice shall be deemed effective upon delivery if personally delivered or sent via electronic mail, on the next business day if sent via overnight courier, or three (3) days after deposit in the United States mail, postage prepaid, registered or certified mail, return receipt requested.

#### 5. CONFIDENTIALITY.

(a) *Confidential Information.* Contractor acknowledges that \_\_\_\_\_ and its affiliates have trade secrets, intellectual property and other confidential and proprietary information (collectively, the "*Confidential Information*") and that in the performance of the Services under this Agreement, Contractor will have access to such Confidential Information. For purposes of this Agreement, Confidential Information shall include, with respect to \_\_\_\_\_ (i) \_\_\_\_\_'s technology, processes, methodologies, business practices and technical information; (ii) information, lists and databases regarding \_\_\_\_\_, its customers, its assets, its suppliers, or its marketing plans, business plans, financial status, agreements, patents or trade secrets; and (iii) any and all other information, documents, items or materials deemed by \_\_\_\_\_, in its sole and exclusive discretion, as confidential or that should reasonably be understood by Contractor to be confidential at the time of such disclosure. Confidential Information includes technical information, processes and compilations of information, records, specifications and information concerning assets, and information regarding methods of doing business.



(b) **Release of Confidential Information.** During and following the Term, Contractor agrees (i) to hold Confidential Information in confidence and (ii) not to release any Confidential Information to any person (other than \_\_\_\_\_'s employees and other persons to whom \_\_\_\_\_ has authorized Contractor to disclose such information and then only to the extent that such \_\_\_\_\_ employees and other persons authorized by \_\_\_\_\_ have a need for such knowledge). Contractor agrees to use reasonable efforts to give \_\_\_\_\_ notice of any and all attempts to compel disclosure of any Confidential Information, in such a manner so as to provide \_\_\_\_\_ with written notice at least five (5) days before disclosure or within one (1) business day after Contractor is informed that such disclosure is being or shall be compelled, whichever is earlier. Such written notice shall include a description of the information to be disclosed, the court, government agency, or other forum through which the disclosure is sought, and the date by which the information is to be disclosed, and shall contain a copy of the subpoena, order or other process used to compel disclosure.

(c) **Trade Secrets.** Contractor acknowledges and agrees that he/she is forbidden from using or distributing any trade secrets related to any current or former employer, including any formula, pattern, compilation, program, device, method, technique, process, financial data, or list of actual or potential suppliers that derives independent economic value from not being generally known to or readable ascertainable by other persons ("**Trade Secrets**"), and covenants not to do so during the Term, unless such Trade Secrets are disclosed in accordance with U.S.C. § 1833 (b).

(d) **Indemnity.** Contractor agrees that Contractor will not, during the Term, improperly use or disclose to \_\_\_\_\_ or any of its employees or agents any proprietary information or trade secrets of any former or current employer or other person or entity with which Contractor has an agreement, or to which Contractor has a duty, to keep in confidence information acquired by Contractor, and that Contractor will not bring onto the premises of \_\_\_\_\_ any unpublished document, proprietary information, or trade secret belonging to such employer, person or entity unless consented to in writing by such employer, person or entity. Contractor will indemnify \_\_\_\_\_ and hold it harmless from and against all claims, liabilities, damages and expenses, including reasonable attorney fees and costs of suit, arising out of or in connection with any violation or claimed violation of a third party's rights resulting in whole or in part from the Services provided by Contractor under this Agreement.

(e) **Return of Confidential Information.** Upon the termination of this Agreement, or upon \_\_\_\_\_'s earlier request, Contractor will deliver to \_\_\_\_\_ all of \_\_\_\_\_'s property and all Confidential Information in tangible form that Contractor may have in Contractor's possession or control. Any retention by Contractor of Confidential Information following the termination of this Agreement or upon such request from \_\_\_\_\_ shall constitute a breach of this Agreement.

6. **NON-DISPARAGEMENT.** Contractor covenants and agrees that it will not, during the Term or afterwards, either directly or indirectly, disparage \_\_\_\_\_ or any of affiliates, owners, directors, managers, officers, employees, agents, or invitees or any of their family or friends.



7. NON-SOLICITATION. Contractor covenants and agrees that it will not, during the Term and for two (2) years following the termination of this Agreement (the "*Restricted Period*"), either directly or indirectly, advise, solicit, or otherwise attempt to secure the then current customers, employees, officers or agents of \_\_\_\_\_ or its affiliates as customers, employees, consultants, partners, members or principals in connection with the ownership, management, operation or control of any business competing with \_\_\_\_\_'s business. In addition, during the Restricted Period, Contractor shall neither assist nor finance any person or entity in any manner or in any way inconsistent with the intent and purpose of this Agreement.

8. NON-COMPETITION. During the Term and the Restricted Period, Contractor covenants and agrees that, except pursuant to this Agreement, it will not either directly or indirectly, by itself or on behalf of, or in conjunction with, any other person, company, partnership, corporation, or other entity, whether as an individual, agent, servant, officer, director, shareholder, lender, investor (except for a publicly-traded company in which Contractor has less than a 1% ownership interest, whether of record or beneficially), principal, consultant or in any other capacity, engage, participate or call upon, solicit, contact, or attempt to contact or solicit, or sell or offer to sell, or perform or offer to perform any services substantially similar to those offered by \_\_\_\_\_ during the Term or which are discussed in Confidential Information.

9. ASSIGNMENT. Neither this Agreement nor any right hereunder nor interest herein may be assigned or transferred by Contractor without the prior written consent of \_\_\_\_\_.

10. RELEASE OF CLAIMS AND INDEMNIFICATION. Contractor, for itself and on behalf of all persons claiming by, through or under it, its successors

and assigns, does hereby release, acquit and forever discharge \_\_\_\_\_, and all other \_\_\_\_\_ entities affiliated with \_\_\_\_\_ and all of its predecessors, successors, affiliates, parents, subsidiaries and all of its past and present corporate officers, agents, owners, members, shareholders, employees, consultants, representatives, attorneys, and all persons acting on behalf of them (collectively, "*Parties*"), from any and all claims, demands, obligations, liabilities, indebtedness, breaches of contract, breaches of duty or of any relationship, acts, omissions, misfeasance, malfeasance, agreements, damages, losses, causes of action, defenses, offsets, debts, sums of money, accounts, compensation, contracts, controversies, promises, damages, costs, losses and expenses, including, but not limited to, any claims arising out of or in any manner related to Contractor's performance of the Services, whether suspected or unsuspected, known or unknown, accrued or unaccrued, liquidated or unliquidated, existing or arising in the future (collectively, the "*Released Claims*"). Contractor shall indemnify and hold harmless \_\_\_\_\_ Parties related to any such Released Claim upon written demand from \_\_\_\_\_ to Contractor.

11. COMPLIANCE WITH LAWS. Contractor agrees to abide by all federal, state or local laws, regulations, ordinances or other legal requirements in connection with the performance of the Services. In addition, at all times during this Agreement, Contractor shall have in effect all licenses, permits and authorizations for all local, state, federal and foreign governmental agencies to the extent the same are necessary to the performance of the Services hereunder. Contractor shall not perform any Services under this Agreement for which it does not hold all necessary licenses, permits and authorizations.



12. CONFLICTING OBLIGATIONS.

(a) *Performance.* Contractor acknowledges that Contractor will be available to perform the Services in a timely and responsible manner. Failure to perform in a timely and responsible manner shall be a breach of this Agreement.

(b) *No Conflicts.* Contractor represents and warrants that Contractor has no outstanding agreement or obligation that is in conflict with any provision of this Agreement, or that would preclude Contractor from complying with the provisions hereof. Contractor further represents and warrants that Contractor will not enter into any such conflicting Agreement during the Term.

13. BREACH, LIQUIDATED DAMAGES, CONSENT TO JUDGMENT, AND EQUITABLE RELIEF. Contractor agrees that it would be impossible or inadequate to measure and calculate \_\_\_\_\_'s damages from any breach of the covenants set forth in Sections 5, 6, 7, or 8 herein. Accordingly, Contractor agrees that if Contractor breaches any of said Sections, in lieu of actual damages, and upon each Occurrence (defined below) of a breach of any of Sections 5, 6, 7, or 8, Contractor agrees that \_\_\_\_\_ may recover liquidated damages from Contractor in the amount of \$10,000.00, plus reasonable attorney fees of \$2,500.00, for a total amount of \$12,500.00 ("*Liquidated Damages*"), with interest accruing at the rate of 10% per annum, compounding annually from the date of breach. Contractor further agrees that the Liquidated Damages fairly represent the estimated actual damages and are not intended as a penalty. For the purposes of this Section, an "*Occurrence*" of disclosure shall include, without limitation, any transmittal of Confidential Information without limitation to any person, entity or enterprise in any medium or fashion other than as permitted herein, Contractor's \_\_\_\_\_ disparagement of \_\_\_\_\_ or its related affiliates and

personnel, Contractor's solicitation of unauthorized persons during the Restricted Period, or Contractor's breach of the non-competition provision. \_\_\_\_\_ will have available, in addition to any other right or remedy available, the right to obtain from any court of competent jurisdiction an injunction restraining such breach or threatened breach and specific performance of any such provision. Contractor further agrees that no bond or other security shall be required in obtaining such equitable relief and Contractor hereby consents to the issuances of such injunction and to the ordering of such specific performance.

14. MISCELLANEOUS.

(a) *Amendments and Waivers.* Any term of this Agreement may be amended or waived only with the written consent of the Parties.

(b) *Governing Law/Venue.* The validity, interpretation, construction and performance of this Agreement shall be governed by the laws of the State of Nevada, without giving effect to its principles of conflict of laws. If legal action is commenced by any of the Parties with respect to the subject matter hereof, the Parties agree that the jurisdiction and venue of such action shall be in the state or federal court of competent jurisdiction located in Clark County, Nevada. THE PARTIES FURTHER AGREE, TO THE EXTENT PERMITTED BY APPLICABLE LAW, TO WAIVE ANY RIGHT TO TRIAL BY JURY WITH RESPECT TO ANY CLAIM, COUNTERCLAIM OR ACTION ARISING FROM THE TERMS OF THIS AGREEMENT.

(c) *Legal Fees.* If any dispute arises between the Parties with respect to matters covered by this Agreement, the prevailing Party in any such dispute shall be entitled to receive its reasonable attorney fees, expert witness fees and out-of-pocket costs incurred in connection with such



dispute, in addition to any other relief to which it may be entitled.

(d) **Severability.** If one or more provisions of this Agreement are held to be unenforceable under applicable law, then such unenforceable provision shall be deemed modified so as to be enforceable (or if not subject to modification then eliminated herefrom) for the purpose of those procedures to the extent necessary to permit the remaining provisions to be enforced.

(e) **Entire Agreement.** This Agreement, including the Schedules hereto, constitutes the entire agreement of the Parties and supersedes and replaces all oral negotiations and prior writings with respect to the subject matter hereof.

(f) **Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together will constitute one and the same instrument.

(g) **Notices.** Except as otherwise provided in this Agreement, all notices required or permitted to be given hereunder shall be in writing and shall be sent by certified mail, postage prepaid, return receipt requested, or by email, in each case addressed as indicated below.

(h) **Survival.** Sections 3, 5, 6, 7, 8, 10, 13, and 14 shall survive the termination of this Agreement.

IN WITNESS WHEREOF, \_\_\_\_\_ and Contractor have executed this Agreement as of the Effective Date.

\_\_\_\_\_, LLC  
a \_\_\_\_\_ limited liability company / a Sole Proprietary  
By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Effective Date: \_\_\_\_\_

**Address:**  
street  
city, state, zip

**CONTRACTOR:**  
Print Name: \_\_\_\_\_  
Signature: \_\_\_\_\_  
Date: \_\_\_\_\_  
**Address:**  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**NOTICE:** This Agreement does not affect any immunity under 18 USC Sections 1833(b) (1) or (2), which read as follows (note that for purposes of this statute only, individuals performing work as contractors or consultants are considered to be employees):

(1) An individual shall not be held criminally or civilly liable under any Federal or State trade secret law for the disclosure of a trade secret that (A) is made (i) in confidence to a Federal, State, or local government official, either directly or indirectly, or to an attorney; and (ii) solely for the purpose of reporting or investigating a suspected violation of law; or (B) is made in a complaint or other document filed in a lawsuit or other proceeding, if such filing is made under seal.



*(2) An individual who files a lawsuit for retaliation by an employer for reporting a suspected violation of law may disclose the trade secret to the attorney of the individual and use the trade secret information in the court proceeding, if the individual (A) files any document containing the trade secret under seal; and (B) does not disclose the trade secret, except pursuant to court order.*

SCHEDULE A: DESCRIPTION OF SERVICES



SCHEDULE B: COMPENSATION

Compensation: Contractor shall be paid compensation as follows:

- Hourly: \$ \_\_\_\_\_
- Annual: \$ \_\_\_\_\_
- Other: \$ \_\_\_\_\_ per \_\_\_\_\_