

INDEPENDENT CONTRACTOR AGREEMENT

THIS INDEPENDENT CONTRACTOR AGREEMENT ("Agreement"), dated as of _____ (the "Effective Date,") by and between _____ (the "Employer,") and _____ (the "Contractor,") is made and entered in _____, and is based in part on the existence of the following facts:

RECITALS

Employer is willing to engage Contractor, and Contractor is willing to be engaged by Employer, as an Independent Contractor, on the following terms, covenants and conditions. In consideration of the mutual covenants and promises of the parties, Employer and Contractor covenant and agree as follows:

1. Engagement. The Employer hereby engages the Contractor for and during the term hereof. The Contractor hereby accepts engagement under the terms and conditions set forth in this Agreement. The Contractor shall be engaged as an independent contractor of the Employer to perform the following duties: _____
2. Independent Contractor Status. The parties acknowledge and agree that the Contractor is, for all purposes, an independent contractor, and that this Agreement does not create an employment relationship, a partnership, joint venture, or any other relationship other than that of independent contractor. Contractor acknowledges that, as an independent contractor:
 - a. Contractor understands that they are responsible for payment of all federal and state self-employment, income and social security taxes in compliance with applicable law and the Employer has no obligation to make or withhold these payments;
 - b. Contractor shall not be required to make reports, keep records, investigate complaints or credit ratings, make adjustments, attend meetings or conferences, nor in any respect be subject to the orders, direction or control of Employer as to the amount of time they shall spend in the pursuit of this Agreement, the manner of their performance, or the details of their work, and Contractor may adopt and follow or change such arrangements as they choose with regard thereto;
 - c. Contractor understands that they are not covered by Workers' Compensation or Unemployment Compensation unless Contractor contracts for such coverage on their own behalf;
 - d. Contractor understands that they are not entitled to receive employment benefits, if any, provided by the Employer such as vacation, disability, or sick leave, medical or life insurance, or retirement plan participation;
 - e. Contractor shall be responsible for payment of all costs and expenses incurred by Contractor in the performance of this Agreement, including, but not limited to, costs of any agents, independent contractors, or employees hired by Contractor, office rental or maintenance expenses, office materials or supplies, and travel or entertainment costs. The Employer shall have no duty or obligation to provide or pay for any of these services;
 - f. Contractor shall conduct themselves in the conduct of their activities hereunder so as not to denigrate the name and reputation of the Employer. The Employer may terminate this Agreement at any time if the conduct of the Contractor, in the Employer's opinion, does or is likely to denigrate same whether due to drunkenness, drug-taking, criminal behavior or other conduct likely to cause disrepute on the Employer. Contractor shall hold the Employer harmless from all claims, damages, losses and expenses reasonably attributable to Contractor's negligence, wrongful acts or misrepresentations in the exercise of Contractor's right(s) hereunder; and
 - g. Contractor shall not be prohibited from engaging other work, business, occupation, employment, or activity while this Agreement is in effect as long as it does not compete with the Employer.
3. Performance by Contractor. Contractor shall use their best efforts to perform the duties listed above in Section 1. However, Contractor shall determine, in their sole discretion, the manner of Contractor's performance of this Agreement. Contractor shall determine the working hours, the number of hours required to perform, and when, how and where (subject to any territory limitations) to solicit orders. Contractor may hire or employ other agents, employees, or independent contractors to assist Contractor in performing all or part of this Agreement, provided, however, that such agents, employees or independent contractors shall not be agents, employees or independent contractors of the Employer, and Contractor shall be solely responsible for all costs, expenses, salaries, fees, taxes, insurance, and other expenses arising out of Contractor's use of these personnel
4. Term.
5. Compensation.
6. Offset. The Employer shall have the right to deduct from any amounts due the Contractor hereunder any obligations owed by the Contractor to the Employer.
7. Trade Secrets.
 - a. The Contractor shall be responsible for development of their own materials to perform its duties under this Agreement. However, the Employer agrees to be available to provide assistance and advice upon Contractor's reasonable request. In addition, the Employer agrees to make available and explain to Contractor any pertinent tangible aids or other materials that the Employer may have on hand or obtain. The Contractor shall have no obligation to accept or use these materials.
 - b. All materials shall remain the property of Employer, and all materials shall be returned to Employer immediately upon termination of this Agreement. If Contractor fails to return any materials within ten (10) days of any demand made by

Employer, the Contractor agrees to pay Employer \$5,000.00 as damages, and this amount shall be deducted from any payment due Contractor.

- C. The Contractor recognizes and acknowledges that the Employer's list of customers and other information used by it in the conduct of its business which may be known to the Contractor, developed by the Contractor or disclosed to the Contractor during the term of this Agreement constitutes a valuable and unique asset of the business of the Employer. Contractor agrees that he or she will never directly or indirectly, use, disseminate or disclose such information without the express written consent of the Employer.
- d. The Employer may provide the Contractor information concerning and access to various financial, technical, and competitive information, including the information set forth in paragraph (c) above, belonging to the Employer, and known as the Employer's "Trade Secrets". The Contractor agrees not to misuse, misappropriate, or disclose in writing, orally or by electronic means, any Trade Secrets, directly or indirectly, to any other person or use them during the term of this Agreement, or after its conclusion, without the expressed written consent of the Employer. All files, documents, equipment, software, and similar items, whether existing physically or in electronic format, that contain or pertain to the Employer's Trade Secrets are and will remain the property of the Employer. The Trade Secrets may not be removed from the Contractor's work area without permission of the Employer, and must be returned to the Employer at the conclusion of this Agreement. Information maintained on-line must not be transferred to the Contractor's personal computer system or any other system not controlled by the Employer. The Contractor agrees not to make and keep copies of any Trade Secret information for personal use, and agrees to return any copies made for backup during the course of employment on termination of this Agreement.

8. Termination of the Agreement.

- a. If there is a breach of any provision of the Agreement by Contractor, this Agreement may, at Employer's option, be immediately terminated.
- b. Either party may terminate this agreement for any reason provided they provide _____ days' notice to the other party. Written notice may be sent by registered mail or any method acceptable to the other parties. Termination shall become effective on the date specified in the notice or _____ days after the notice is delivered, whichever is later.
- c. Upon termination of this Agreement, Contractor shall no longer be entitled to compensation under this Agreement, except that Contractor shall remain entitled to those commissions paid on services that are rendered and fully performed by the Contractor prior to the date of termination.

9. Severability. If any provision contained in this Agreement is determined by a court of competent jurisdiction to be void, illegal or unenforceable, in whole or in part, then the other provisions contained herein shall remain in full force and effect as if the provision which was determined to be void, illegal, or unenforceable had not been contained herein.

10. Waiver, Modification, and Integration. The waiver by any party hereto of a breach of any provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach by any party. This instrument contains the entire agreement of the parties concerning engagement and supersedes all prior and contemporaneous representations, understandings and agreements, either oral or in writing, between the parties hereto with respect to the engagement of the Contractor by the Employer and all such prior or contemporaneous representations, understandings and agreements, both oral and written, are hereby terminated. This Agreement may not be modified, altered or amended except by written agreement of all the parties hereto.

11. Binding Effect. This Agreement shall be binding and effective upon the parties and their respective successors. Neither party shall assign this Agreement without the prior written consent of the other party.

12. Enforcement of the Agreement. The validity, effect and construction of this Agreement shall be governed by the laws of the State of _____. Contractor agrees that any conflict arising under or in connection with this Agreement, including but not limited to, any proceeding to enforce or construe this Agreement shall be brought, tried and resolved in the applicable federal or state courts having jurisdiction in the State of _____. EACH PARTY HEREBY CONSENTS TO THE EXCLUSIVE PERSONAL JURISDICTION AND VENUE OF THE COURTS, STATE AND FEDERAL, HAVING JURISDICTION IN THE STATE OF _____.

13. Representation of Contractor. The Contractor hereby represents and warrants that Contractor has read and understood all the provisions of this Agreement. Contractor further represents and warrants that the Contractor has not previously assumed any obligations inconsistent with those contained in this Agreement. The Contractor further represents and warrants to the Client that the Contractor has entered into this Agreement pursuant to Employer's own initiative and that this Agreement is not in contravention of any existing commitments. The Contractor acknowledges that the Client has entered into this Agreement in reliance upon the foregoing representations of the Employer.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written effective as of the Effective Date.

Independent Contractor Agreement

Instruction Sheet

What is it?

An independent contractor agreement is a contract between an employer (whether an entity or an individual) and an independent contractor (whether an entity or individual) for the provision of services.

Why would I need it?

When two parties want to create the independent contractor employment relationship, they will need a written agreement outlining the terms, covenants and conditions of the arrangement. Our version of the agreement provides the necessary terms to ensure that (i) the contractor will be legally recognized as an independent contractor and not as an employee; (ii) the parties are on the same page about essential elements of the arrangement, such as compensation, required services, and the term of engagement; (iii) the employer's rights concerning their confidential information are protected; and (iv) each party understands what to do in case there is a breach or they want to terminate the agreement.

What Do I Do with this Agreement?*

1) Review

- Both parties should read through the agreement to become familiar with its terms and ensure all of the information is correct.

2) Execution

- To make this agreement binding, both the employer and the contractor must sign the agreement.

3) Post-Execution

- After executing the agreement, both parties should retain a copy for their personal records.

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