

# SERVICES AGREEMENT TERMS AND CONDITIONS

## SECTION 1. SERVICES.

1.1 Independent Contractor Status. Contractor is an independent contractor under this Agreement, and nothing herein creates, or will be construed to create, a partnership, joint venture, employer/employee or agency relationship between Contractor and Client. Neither party will have the power or authority to enter into agreements of any kind on behalf of the other party, or to otherwise bind or obligate the other party in any manner to any third party.

1.2 Method of Performance. Contractor will have the right to determine the method and means of performing the Services. Client will be entitled, however, to exercise general power of supervision and control over the Services performed by Contractor and to inspect and approve the Services. Contractor agrees to follow all reasonable suggestions or recommendations made by Client with respect to the performance of the Services.

1.3 Taxes. Contractor will be solely responsible for all federal, state and local taxes and related contributions attributable to the payments from Client to Contractor for Services performed. Contractor further acknowledges and agrees that Contractor is an independent contractor for federal, state and local income and employment tax purposes, including FICA and FUTA, and will not be entitled to workers' compensation or other insurance protection or benefits provided by Client.

1.4 Records Retention. Contractor will maintain complete and accurate records regarding Services performed and associated transactions, and will retain those records for at least two years after completion of those Services and those transactions or the length of time as may be required by applicable law, whichever period is longer.

## SECTION 2. COMPENSATION, EXPENSES AND PAYMENT.

2.1 Compensation. In consideration of the Services performed, Client will pay Contractor compensation in the amount, and payable at the times and in the manner, set forth in the Services Agreement.

2.2 Reimbursement of Expenses. Client will not be obligated to reimburse Contractor for or pay any charge, cost or expense incurred by Contractor in connection with its performance of Services, exercise of its rights or performance of its obligations under this Agreement, or otherwise performing hereunder, unless specifically set forth in this Agreement.

2.3 Invoices. Contractor will submit to Client invoices for Services rendered on a periodic basis as set forth in the Services Agreement. If the Services Agreement does not provide a schedule for the submission of invoices by Contractor, invoices will be submitted annually. The invoices must describe the Services performed and will list all reimbursable charges, expenses and costs on a pass-through basis. Contractor must include receipts or other appropriate documentation for the reimbursable charges, expenses and costs with the invoices or reimbursement may be denied. **Invoices are payable within 30 days of receipt of invoice.**

## SECTION 4. TERM AND TERMINATION OF AGREEMENT.

4.1 Term and Termination. This Agreement will be effective the later of the parties' signature dates to the Services Agreement.

Termination upon Breach. Notwithstanding Section 4.1, either party may terminate this Agreement upon written notice to the other party in the event that the other party (a) materially breaches any obligation hereunder and fails to cure that breach within 10 days after written notice of the breach, or (b) becomes insolvent, files a petition for bankruptcy or commences or has commenced against it proceedings relating to bankruptcy, receivership, reorganization or assignment for the benefit of creditors.

4.2 Effect of Termination. Upon any termination of this Agreement, any and all rights and obligations of the parties under this Agreement will terminate, provided that Sections 1.3, 1.4, 4.3, 5, 6, 7, 8 and 9, all rights, obligations or liabilities accrued hereunder prior to termination, and any other right, obligation or liability which by its nature or express duration extends

beyond the termination of this Agreement, will survive termination and continue in effect indefinitely or for that express duration.

SECTION 5. REPRESENTATIONS, WARRANTIES AND COVENANTS. Contractor represents, warrants and covenants to Client as follows:

5.1 Performance. All Services performed by Contractor will be performed in a workmanlike manner, with professional diligence and skill, and using sound and professional principles and practices in accordance with normally accepted industry standards.

5.2 No Infringement. To Contractor's knowledge, no Work Product (as defined below) will infringe the rights of any third party under applicable law.

5.3 No Conflict. Contractor's execution and performance of this Agreement do not and will not violate the legal or contractual rights of any third party.

5.4 Compliance. Contractor will observe and comply with applicable law that may apply to its performance of the Services.

5.5 Power and Authority; Binding Agreement. Contractor has the power and authority to execute, deliver and perform this Agreement, which constitutes a valid and binding obligation of Contractor, enforceable against Contractor in accordance with its terms. If applicable, the individual signing this Agreement on behalf of Contractor has been properly authorized and empowered to enter into, and bind Contractor to, this Agreement.

5.6 Insurance. Contractor will procure and maintain in effect (a) worker's compensation insurance that complies with applicable law and provides appropriate coverage for the Services, and (b) comprehensive general liability insurance, including contractual liability, with coverage limits that are consistent with those typically maintained by comparable businesses in Contractor's industry performing similar services.

## SECTION 6. CONFIDENTIALITY.

Contractor will treat as confidential the Work Product and any information which may be disclosed, provided or made accessible by Client under this Agreement ("Confidential Information"). Without the express written consent of Client, Contractor will not disclose Confidential Information to any third party, nor use that information, directly or indirectly, other than as contemplated by this Agreement. Notwithstanding the foregoing, Confidential Information does not include, and this Agreement imposes no obligation upon Contractor with respect to, information that Contractor demonstrates (a) was in Contractor's possession on a non-confidential basis before receipt from Client or any of its nonparty affiliates, (b) has become generally available to the public other than as a result of disclosure by Contractor or any of its nonparty affiliates, (c) has become available to Contractor on a non-confidential basis from a source other than Client or any of its nonparty affiliates, provided that the source is not known by Contractor or any of its nonparty affiliates to be bound by a confidentiality agreement with Client or any of its nonparty affiliates, or otherwise prohibited from transmitting the information to Contractor by a contractual, legal, fiduciary or other obligation, or (d) which is required to be disclosed by judicial or administrative process, provided Contractor must promptly notify Client and allow Client a reasonable time to oppose that process, if appropriate, in the sole discretion of Client.

## SECTION 7. WARRANTY DISCLAIMERS AND EXCLUSION OF LIABILITY.

CONTRACTOR PROVIDES THE SERVICES SOLELY ON AN "AS-IS" BASIS. CONTRACTOR MAKES NO EXPRESS WARRANTIES, GUARANTEES OR REPRESENTATIONS OF ANY KIND UNDER THIS AGREEMENT AND CONTRACTOR HEREBY DISCLAIMS ANY AND ALL IMPLIED WARRANTIES, INCLUDING IMPLIED WARRANTIES OF QUALITY, ACCURACY, COMPLETENESS, TIMELINESS, PERFORMANCE, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE WITH RESPECT TO

THE SERVICES AND WORK PRODUCT (AS DEFINED BELOW.) IN NO EVENT WILL EITHER PARTY BE LIABLE UNDER OR AS A RESULT OF THIS AGREEMENT, WHETHER IN CONTRACT, WARRANTY, TORT OR OTHERWISE, TO THE OTHER PARTY OR ANY OTHER PERSON CLAIMING THROUGH OR UNDER THE OTHER PARTY, FOR ANY SPECIAL, CONSEQUENTIAL, INCIDENTAL, INDIRECT, PUNITIVE OR OTHER SIMILAR DAMAGES, EVEN THOUGH ADVISED OR OTHERWISE AWARE OF THE POSSIBILITY OF THOSE DAMAGES. IN NO EVENT WILL EITHER PARTY'S TOTAL AGGREGATE LIABILITY UNDER OR AS A RESULT OF THIS AGREEMENT EXCEED THE ACTUAL AMOUNT PAID AND OWED BY CLIENT TO CONTRACTOR HEREUNDER.

#### SECTION 8. CLIENT PROPERTY.

8.1 Work Product. All work product resulting or derived from, or made in the course of performance of the Services, including any invention, research results, software program, and written material (collectively, "Work Product"), will be considered "work for hire" and, unless already in the public domain, all right, title, ownership and interest in items of Work Product will be vested exclusively in Client. Contractor will promptly execute any and all documents and instruments as may be necessary to evidence, protect, perfect or otherwise confirm Client's rights hereunder in respect of Work Product.

8.2 Other Client Property. Any and all equipment, tools, materials, records and data furnished to Contractor by Client in connection with the provision of Services by Contractor and any and all materials, records and data containing Confidential Information, including in each case all copies thereof regardless of form, format or medium (collectively, "Other Client Property"), are and will remain the sole property of Client.

#### SECTION 9. GENERAL PROVISIONS.

9.1 Binding Nature of Agreement; Assignment. All the terms and provisions of this Agreement will be binding upon and will inure to the benefit of the parties and their respective successors, permitted assigns, heirs and personal representatives. Contractor may not assign, delegate or transfer to any third party any of its rights or obligations hereunder without the prior written consent of Client.

9.2 No Third Party Beneficiaries. The terms and provisions of this Agreement are intended solely for the benefit of each party and their respective successors, permitted assigns, heirs and personal representatives and it is not the intention of the parties to confer third-party beneficiary rights upon any other individual or entity.

9.3 No Exclusive Agreement. This is not an exclusive agreement. Client is free to engage others, and Contractor is free to accept engagement by others, to provide services the same as or similar to the Services.

9.4 Governing Law. This Agreement will be governed by and will be construed, interpreted, and enforced in accordance with the laws of the State of Missouri, without reference to principles of conflicts of law.

9.5 Notices. All notices or other communications required or permitted under this Agreement must be in writing and will be considered given when delivered in person; by overnight courier service, upon written confirmation of receipt; by certified or registered mail, with proof of delivery; or by email, with confirmation of receipt, using the recipient party's address, facsimile number or email address set forth in the Services Agreement. A party may change its address or email address by notice to the other party in accordance with this section.

9.6 Entire Agreement. This Agreement contains the entire agreement between the parties with respect to the subject matter hereof, and supersedes all prior and contemporaneous agreements and understandings, inducements or conditions, express or implied, oral or written, with respect to that subject matter. The express terms hereof control and supersede any course of performance or usage of the trade inconsistent with any of the terms hereof. If any provision contained in the Services Agreement conflicts with any provision contained in these Terms and Conditions, the provision contained in the Services Agreement will govern.

9.7 Amendment. This Agreement may be amended and the terms hereof may be waived only by a written instrument signed by Client and Contractor or, in the case of a waiver, by the party waiving compliance.

9.8 No Waiver. No failure or delay by any party in exercising any right, power, or privilege hereunder will operate as a waiver of any right, power, or privilege hereunder. No waiver of any default on any one occasion will constitute a waiver of any subsequent or other default. No single or partial exercise of any right, power, or privilege will preclude the further or full exercise thereof.

9.9 Severability. The provisions of this Agreement will be considered severable, and the invalidity or unenforceability of any one or more of the provisions hereof will not affect the validity and enforceability of the other provisions hereof.

9.10 Remedies. Except as otherwise provided herein, the rights and remedies of the parties with respect to failure of a party to comply with the terms of this Agreement are not exclusive, the exercise thereof will not constitute an election of remedies and the aggrieved party will in all events be entitled to seek whatever additional remedies may be available in law or in equity.

9.11 Publicity. Contractor will not use any Client trademark, name or logo in any publicity release, advertising or other promotional activity without the prior written consent of Client.

9.12 Consent to Conduct Business Electronically. Either or both parties may use electronic records and electronic signatures for the execution and delivery of this Agreement and in connection with the matters contemplated by this Agreement. Except as otherwise specifically set forth in this Agreement, the parties may use and rely upon electronic records and signatures for all agreements, undertakings, notices, disclosures or other documents, communications or information of any type sent or received in accordance with this Agreement.

9.13 Construction; Additional Definitions. In interpreting and construing this Agreement, unless expressly stated herein to the contrary or the context requires otherwise: (a) all captions, headings and similar terms are for convenience of reference only; (b) "herein," "hereof," "hereunder," "hereby" and similar terms refer to this Agreement as a whole; (c) terms used in the plural include the singular and the masculine gender includes the feminine, in each case vice versa; (d) reference to any document means the document as amended or modified and as in effect from time to time; (e) "including," "include," "includes" and variations thereof will be construed as if followed by the phrase "without limitation"; (f) "or" and "any" have the inclusive meaning represented by the phrases "and/or" and "any or all", respectively; (g) reference to an article, section, schedule or exhibit is to an article, section, schedule or exhibit, respectively, of this Agreement; (h) "day" means "calendar day" and when calculating a period of time, the day that is the initial reference day in calculating the period will be excluded; (i) "law" means any foreign, federal, state or local law (including common law), statute, standard, code, ordinance, rule, regulation, promulgation or any order by any governmental authority; (j) "governmental authority" means any government or governmental or regulatory body thereof, or political subdivision thereof, whether federal, state, local or foreign, or any agency, instrumentality or authority thereof, or any court or arbitrator (public or private); (k) "party" and "parties" means each or all, as appropriate, of the persons who have executed and delivered this Agreement; (l) "person" means any individual, sole proprietorship, partnership, corporation, joint venture, limited liability company, estate, trust, unincorporated organization, association or other entity or governmental authority; and (m) "nonparty affiliates" means, with respect to a party, the affiliates and the members, partners, stockholders, trustees, directors, managers, officers, employees, consultants, advisors representatives, agents and subcontractors, as applicable, of that party and its affiliates. This Agreement shall be construed without regard to any presumption or rule requiring construction or interpretation against the party drafting an instrument or causing any instrument to be drafted.