

# BUSINESS CONTRACT

[CLIENT.Company], with a business address at [CLIENT ADDRESS] ("Client"), and [COMPANY.Company], with a business address at [COMPANY ADDRESS] ("Provider"), enter into this Business Contract (this "Business Contract" or this "Agreement") for the performance of services as set forth in the statement of work (each, a "Statement of Work") attached to and made part of this Agreement, from time to time as Exhibits, on the following terms and conditions:

## 1. SCOPE OF WORK.

The work to be performed by Provider under this Business Contract ("Services") shall be as set forth in Provider's Statements of Work. Provider will exercise its best efforts to complete the Services in a professional and diligent manner, on the schedule and at the price stated in each Statement of Work. Provider shall supply, at Provider's sole expense, all necessary off-site equipment, tools, materials, and/or supplies, if any, to perform the Services. If Client provides any equipment, tools and/or materials, it will be used exclusively for Client related projects and it will be returned at the conclusion of the work described in this Agreement. No subcontractors or consultants shall be engaged to carry out any part of the Services without prior written permission of Client. Client shall have the right at any time to request the immediate replacement of Provider's personnel.

## 2. TERM.

The term of this Agreement is for [NUMBER OF YEARS] years from the date of its execution by Provider or until the completion of the work described in any Statement of Work, whichever is later.

## 3. PAYMENT.

Provider will invoice Client for Services performed within [NUMBER OF DAYS OF PERFORMANCE] days of performance. Client will pay Provider as set forth in each Statement of Work within [NUMBER OF DAYS OF RECEIPT] days of receipt and acceptance of such invoice. It is understood that payments to Provider for services rendered shall be made in full as agreed, without any deductions for taxes of any kind whatsoever, in conformity with Provider's

status as an independent contractor.

## 4. ACCEPTANCE.

The Deliverables, as defined in each Statement of Work, shall be deemed accepted by Client upon completion of the following acceptance test: (a) immediately upon receipt of said Deliverables, Client shall promptly, but in any event not more than 10 business days ("Acceptance Period"), perform testing of the Deliverables to confirm that the Deliverables perform in accordance with the documentation or other standards applicable thereto as set forth in the applicable Statement of Work; (b) Within 2 business days following the end of the Acceptance Period, Client shall either provide Provider with written acceptance of the Deliverables, or deliver to Provider a detailed written statement of nonconformities to be corrected prior to Client's acceptance of the Deliverables. Any such written statement of nonconformities shall provide sufficient detail to enable Provider to remedy the failure to conform to the completion criteria contained in the applicable Statement of Work. Unless otherwise agreed to in writing by the parties, Provider will redeliver corrected Deliverables to Client within a reasonable amount of time after receipt of such statement of nonconformities. Following redelivery of corrected Deliverables, a new acceptance test shall be immediately commenced by Client. If Client fails to provide a written acceptance or a written statement of nonconformities within two (2) business days following the last Acceptance Period, or such other mutually acceptable period, of initial receipt of said Deliverables, the Deliverables shall be deemed immediately accepted by Client.

## 5. INTELLECTUAL PROPERTY.

1. Client will retain ownership of any data, information or intellectual property furnished to Provider in connection with this Agreement. Client will own any intellectual property that results from the Services, including without limitation software (in both machine-readable form and in source code form), data, and other information, excluding any intellectual property generated by Provider in performing the Services that relates solely to Provider's business, which shall be the property of Provider; provided that Client shall have the right to use such Provider intellectual property in accordance with the following license terms:
  1. Client may use Provider Intellectual Property solely in connection with the services, for the purpose for which those products were originally purchased.
  2. Client may not transfer, sell, or otherwise dispose of any Provider Proprietary Items without the prior written consent of Provider.

3. This license gives no title or ownership rights in Provider Intellectual Property or related intellectual property to Client.
4. If software source code is delivered to Client under this license, Client agrees to keep the source code strictly confidential. If software object code is delivered, Client will not copy or modify the software or subject the software to any process intended to create computer source code from Provider Intellectual Property.
5. Client agrees to retain or reproduce on all copies of any Provider Intellectual Property all copyright notices and other proprietary legends and all trademarks or service marks of Provider.
6. Client will have no rights to assign or sell the license granted herein to others.
7. Separate licensing agreements will be negotiated for any of Provider's commercial off-the-shelf type products, if such items are ordered by Client.

## 6. CONFIDENTIALITY.

For purposes of this Agreement, the term "Information" shall mean any information that Provider may receive from Client pursuant to this Agreement where such information (a) if Provider receives it in written form, is marked "Confidential" and (b) if Provider does not receive it in written form, is declared by Client in writing to be confidential within thirty (30) days after disclosure.

Provider shall maintain the Information in confidence with the same degree of care it holds its own confidential information. Provider shall not use the Information except to perform the Services. Provider will disclose the Information only to its officers and employees directly concerned with the Statements of Work, but will neither disclose the Information to any third party nor use the Information for any other purpose.

Provider's obligation of nondisclosure and the limitations upon the right to use the Information shall not apply to the extent that Provider can demonstrate that the Information: (a) was in the possession of Provider prior to the time of disclosure; or (b) is or becomes public knowledge through no fault or omission of Provider; or (c) is obtained by Provider from a third party under no obligation of confidentiality to Client. All Information will be returned or, in the case of the Statements of Work, delivered to Client upon termination of this Business Contract for any reason, except for one copy, which Provider may use for the sole purpose of determining its continuing confidentiality obligation to Client under this Agreement.

All obligations of Provider under this Section shall survive the termination of this Agreement for a period of five (5) years.

## 7. INDEMNIFICATION.

Provider understands that, since Provider is an independent contractor, any personal injury or property damage suffered by Provider in the course of carrying out any duties under this Agreement will be Provider's sole responsibility. No worker's compensation insurance shall be obtained by Client concerning Provider or any of Provider's employees. Provider shall comply with worker's compensation laws and shall provide a certificate of worker's compensation insurance, where applicable. Client agrees to indemnify and hold Provider harmless against all claims, demands, suits, liabilities, losses, damages or injuries (collectively "Liabilities") that arise out of Client's use of the Services, except to the extent such Liabilities result from the negligence or wrong doing of Provider. Provider agrees to indemnify and hold Client harmless against all claims, demands, suits, liabilities, losses, damages or injuries that arise out of Provider's performance of this Agreement, except to the extent such Liabilities result from the negligence or wrong doing of Client.

## 8. LIMITATION OF LIABILITY.

In no event will either party be liable for any SPECIAL, INDIRECT, CONSEQUENTIAL, OR INCIDENTAL DAMAGES.

## 9. NOTICES.

Any notices permitted or required pursuant to this Agreement shall be deemed effective if made in writing and sent, postage prepaid, return receipt requested, or by overnight delivery as follows:

If to Client: [CLIENT ADDRESS]

Invoices should be sent to the following address: [INVOICING ADDRESS]

If to Provider: [COMPANY ADDRESS]

## 10. ENTIRE AGREEMENT.

This Agreement sets forth the entire agreement between Client and Provider as to its subject matter. None of the terms of this Business Contract shall be amended except in writing signed by both parties.

## 11. TERMINATION FOR CONVENIENCE.

Client may terminate this Agreement or any Statement of Work without cause by giving [NUMBER OF DAYS NOTICE] days notice to Provider in writing. If Client terminates this Agreement, Client's only obligation shall be to pay Provider for the Services performed up to the date of termination, at the rate provided, for Time and Material-type Statements of Work, under the applicable Statements of Work. For Fixed Price type Statements of Work, Client shall be obligated to pay for all completed Deliverables plus any work-in-progress up to the date of termination. Upon termination or expiration of this Agreement, Provider will assemble and turn over in an orderly fashion to authorized representatives of Client all documents, write-ups, notes, computer programs, and other material related to the Services. Client may terminate this Agreement immediately for cause and shall incur no liability for Services not satisfactorily performed.

## 12. TERMINATION FOR BREACH.

If either party breaches this Agreement, the other may terminate this Agreement if the breaching party does not cure the breach within thirty (30) days of written notice of same. Termination shall be without prejudice to any rights which may have been accrued to either party before termination.

## 13. FORCE MAJEURE.

Neither Client nor Provider shall be liable for failure of or delay in performing obligations set forth in this Agreement, and neither shall be deemed in breach of its obligations, if such failure or delay is due to natural disasters or any causes reasonably beyond the control of Client or Provider.

## 14. AUTHORITY AND COMPLIANCE.

Provider has the right and authority to enter into and perform its obligations under this

Agreement. Provider will perform all of its obligations under this Agreement in accordance with all applicable governmental laws, rules and regulations.

## 15. CHOICE OF LAW.

This Agreement shall be construed in accordance with the laws of the State of[STATE].

IN WITNESS WHEREOF the parties have caused this Business Contract to be executed and delivered by their duly authorized representatives.

[COMPANY.Company]

\_\_\_\_\_  
[COMPANY.FirstName] [COMPANY.LastName]  
[COMPANY TITLE]

[CLIENT.Company]

\_\_\_\_\_  
[CLIENT.FirstName] [CLIENT.LastName]  
[CLIENT TITLE]