

# Independent Consultant Agreement

## Terms and Conditions

As a Scout & Cellar Consultant (referred herein as an “Independent Consultant” or “Consultant”) of Wine Retriever LLC dba Scout & Cellar (collectively referred to as “Scout & Cellar” or the “Company”), I understand and agree that our relationship will be governed by the terms and conditions herein as follows:

- 1) **Definition of this Agreement.** As an Independent Consultant, I understand that I must comply with the terms and conditions set forth in this Agreement, including the [Scout & Cellar Policies & Procedures \(the “Policies & Procedures”\)](#) and the [Scout & Cellar Compensation Plan](#), which are both incorporated into and made a part of this Agreement. As used herein, the term “Agreement” refers to these three documents collectively. I understand that I am solely responsible for the means and methods by which I promote and market and educate consumers regarding Scout & Cellar products and its Clean-Crafted Commitment™, subject to my compliance with the Agreement. I further understand that this Agreement requires integrity, honesty and responsibility in my behavior and actions with the Company, Scout & Cellar Members, and my fellow Consultants.
- 2) **Independent Contractor Status.** A Consultant, including a Business Entity Consultant (as defined in the Policies & Procedures), shall at all times be an independent contractor and not an employee, partner, legal representative, or franchisee of Scout & Cellar. A Consultant shall not be held out as an agent of Scout & Cellar for any purpose other than described in this Agreement. No fiduciary relationship exists between the Parties. A Consultant shall, at all times, have and maintain control of the manner and means of the Consultant’s performance under this Agreement, subject to compliance with this Agreement. Consultants have no authority, either express or implied, to bind Scout & Cellar to any obligation.

Consultants shall not be treated as employees of Scout & Cellar for any purpose including, without limitation, federal, state or local tax purposes or retirement benefits. Scout & Cellar will not withhold or make payments for state or federal income tax, social security, make unemployment insurance or disability insurance contributions, or obtain workers’ compensation insurance on behalf of a Consultant. As a result, Consultants shall not receive or be entitled to receive any insurance or benefit plan sponsored by Scout & Cellar and will not be covered by Scout & Cellar’s workers’ compensation, unemployment insurance or retained coverage. Any contrary final determination by an arbitrator, court, or other tribunal shall require the amendment of this Agreement in any way necessary to establish an independent contractor relationship.

For Consultants who received \$600 or more in compensation in any calendar year, Scout & Cellar shall report their payments as required using IRS Form 1099, and the Consultants shall report all such payments to the appropriate federal, state and local taxing authorities. Consultants are fully responsible for paying applicable local, state, federal and other taxes on any income earned from the marketing and promotion of Scout & Cellar products and any payments or other monetary or non-monetary compensation under this Agreement. Scout & Cellar will not withhold or make payments for state or federal income tax, social security, make unemployment insurance or disability insurance contributions, or obtain workers' compensation insurance on behalf of a Consultant.

Consultants are solely responsible for paying all expenses incurred during the course of business, including any license requirements or fees associated with operating as an independent business or Independent Consultant, and assume the business risk in connection with their independent Scout & Cellar businesses. There is no guarantee that there is or will be a market for the Company's products or that Consultants will earn money.

I understand that I must complete and submit to the Company an IRS W-9 and shall update the W-9, as required by law, and as set forth in more detail in the Policies & Procedures.

I acknowledge and agree that Company's usual course of business is selling wine. I represent and warrant that I am not in the business of selling wine. I represent and warrant that I am in the business of marketing, promotions and education. I acknowledge and agree that Company's usual course of business is not marketing, promotions and education.

I acknowledge and agree that these acknowledgments, representations, and warranties in this section are material inducements to Company's willingness to enter into this Agreement with me, upon which Company has relied when deciding whether to enter into the Consultant Agreement with me.

- 3) **Business Kit.** I agree to purchase a non-commissionable Business Kit from Scout & Cellar. I understand that a Business Kit is the only purchase required to conduct business as a Scout & Cellar Independent Consultant. I also agree to pay any renewal fees required to extend the term of this Agreement. If you are a Montana resident, you may return your Starter Kit for a full refund within fifteen (15) days from the date of purchase. Please see the Policies & Procedures for more detailed return policies and procedures.
- 4) **Sales Tax.** I understand that a sale is not final until inputted into the Scout & Cellar online order system and that the appropriate sales/use tax amount will be charged, collected and remitted to the appropriate agencies. When my orders are placed with the Company, sales tax is charged on the actual retail price, taking into account any discounts applied.
- 5) **Services to be performed by Independent Consultants.**

- a) My Scout & Cellar business will promote, market and educate on Scout & Cellar products and its Clean-Crafted Commitment™, including wine, by conducting in-person or virtual Events or on my personal Independent Consultant website, if applicable, and tasting experiences using the Scout & Cellar process described in the Policies & Procedures. My business will promote, market and facilitate orders of Scout & Cellar products only to end users. I will inform my customers that Scout & Cellar offers a Satisfaction Guarantee Policy with respect Scout & Cellar products, and I will assist my customers with initiating a return under such policy with respect to any Scout & Cellar products.
  - b) I cannot carry inventory of wine for sale directly to Members, customers, or other Consultants. Due to the regulations of the sale of alcoholic beverages, all wine sales must be made between Scout & Cellar and the end user directly through the Company website. I also agree to promote responsible consumption of wine and not serve wine to minors or facilitate the sale of wine to minors.
  - c) Self-Hosted Wine Tastings. I understand that I may only purchase wine for tastings for my personal guests and may not purchase wine on behalf of another individual.
  - d) Wine Tasting Approved Locations. I understand that I may only conduct wine tastings in private venues where there is a designated event host who has pre-purchased wines from Scout & Cellar. Consultants may not pour wine at public events or where there is a fee to attend or a charge for alcohol.
  - e) Direct Shipping Licenses. I understand the Company, including its subsidiaries and winery partners, is the licensed entity and that all orders must be processed and fulfilled through the Company or its approved licensees. I cannot deliver or sell wines directly to customers or do anything that would jeopardize the Company's good standing and permits or licenses.
- 6) **Sponsoring Independent Consultants Responsibilities.** In the event I sponsor an applicant to be an Independent Consultant and the application is accepted by Scout & Cellar, I will accept the duties and obligations of education, support and recognition as set forth in the Agreement.
- 7) **Use of Scout & Cellar Intellectual Property.** I acknowledge that, upon Scout & Cellar's acceptance of the Agreement, Scout & Cellar has granted me a limited, non-exclusive license to use its trademarks, service marks, trade names, patents, software coding (including source code) and copyrighted materials ("Scout & Cellar Intellectual Property"), all of which is owned solely by Scout & Cellar and/or its licensors, and that my use of Scout & Cellar Intellectual Property is strictly limited by the terms of the Policies & Procedures. Examples of Scout & Cellar Intellectual Property are provided in the Policies & Procedures. I may use Scout & Cellar Intellectual Property only (a) after obtaining written permission from Scout &

Cellar prior to use, or (b) where the Scout & Cellar Intellectual Property appears on materials distributed by Scout & Cellar for use by Independent Consultants. I agree to use written, recorded or other promotional or advertising materials that have been produced, distributed and approved in writing by Scout & Cellar. Any other promotional or advertising materials I use will be used in accordance with the Policies & Procedures. All rights and licenses granted in or under this Agreement shall terminate automatically upon the termination of this Agreement.

- 8) **Site Downtime.** I acknowledge that the website for Scout & Cellar may be subject to temporary shutdowns from time to time for maintenance and/or due to causes beyond Scout & Cellar's or its vendor's reasonable control, and that Scout & Cellar shall have no liability to me by reason of any such shutdowns.
- 9) **Ownership and Use of Confidential Information.** I acknowledge that Scout & Cellar owns all product, Consultant and customer information and data that I may create or compile, including but not limited to Business Reports, Customer lists (including names, contact information, and other data), Consultant lists (including names, contact information and other data), information pertaining to Downline<sup>1</sup> genealogy, and any other information which may contain financial or business information, product and purchasing information, customer and Consultant contact and profile details, Consultant lists, operating and production procedures, product development information, financial data and marketing materials which are confidential and proprietary and constitute trade secrets belonging to Scout & Cellar (hereinafter "Confidential Information") (collectively, "Confidential Information"), and that all Confidential Information is confidential and that its disclosure could cause significant harm to Scout & Cellar. I will not use or disclose Confidential Information to any person except in strict accordance with this Agreement and will take all reasonable precautions to prevent its unauthorized dissemination, both during and after the term of this Agreement. I will not use Confidential Information to sell products or services other than Scout & Cellar products and services or in connection with any other business during the term of and after termination of this Agreement. I understand that I will be deemed to breach my obligations to Scout & Cellar with respect to Confidential Information or trade secrets if I work or perform services (including consulting or advisory services) for a competitor of Scout & Cellar in any position in which I am required to or do use, disclose or otherwise employ any Confidential Information obtained during my relationship with Scout & Cellar. I understand and agree that this provision does not prohibit me from working for another company during the term of this Agreement or after the termination of this Agreement, but requires me not to use, share or otherwise communicate

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<sup>1</sup> A Consultant's "Downline" includes the group of Consultants directly mentored by that Consultant, along with any Consultants beneath the aforementioned group.

Confidential Information (including trade secrets) to such a company or to perform services for such a company. I agree that a breach of this provision shall cause irreparable harm to Scout & Cellar and that Scout & Cellar will be entitled to injunctive relief in the event of a breach of this provision, in addition to any other legal or equitable remedies to which Scout & Cellar may be entitled. I further agree that the terms of this Agreement shall be deemed Confidential Information and shall be subject to the provisions of this Section 9. Upon Scout & Cellar's reasonable written request, I agree to return to Scout & Cellar all Confidential Information, including but not limited to all marketing collateral, marketing plans, documentation, notes, plans, drawings and copies thereof. All information is provided "AS IS" and without any warranty, express, implied or otherwise, regarding its accuracy or performance.

10) **Authorized Business and Product Claims.** Any claims that I make about my Scout & Cellar business shall be in compliance with the Policies & Procedures. I further agree to limit any claims I make about my Scout & Cellar business, including, but not limited to earnings ability, to those claims authorized or approved in writing by Scout & Cellar. I understand and acknowledge that this obligation extends to any statements I may make in response to customer inquiries about my Scout & Cellar business or any Scout & Cellar products.

11) **Conflicting Obligations.** I represent and warrant that I have no agreements, relationships, or commitments to any person or entity that conflict with the provisions of this Agreement, my obligations to Scout & Cellar under this Agreement and/or my ability to perform services under this Agreement. I will not enter into any such conflicting agreement during the term of this Agreement.

1) **Non-Solicitation.** During the term of this Consultant Agreement and for two years thereafter, a Consultant may not, using Company's trade secrets, directly or indirectly solicit any Scout & Cellar Consultant or any Scout & Cellar employee for engagement as an employee, or as an independent consultant, contractor or distributor of any direct selling or network marketing company, nor will Consultant solicit any Scout & Cellar employee to become a Consultant of Scout & Cellar during this period. "Solicit" includes (i) communicating information or offering to provide information about any other direct selling or network marketing business opportunity to a Scout & Cellar Consultant or employee; (ii) posting or messaging information about another direct selling or network marketing business opportunity on any social media site utilized by the Consultant to promote her or his Scout & Cellar business; (iii) tagging any Scout & Cellar Consultant or employee with a post on any social media site that provides information or offers to provide information about another direct selling or network marketing business opportunity; (iv) enrolling or attempting to enroll a Scout & Cellar Consultant or employee as a consultant, independent contractor or distributor in another direct selling or network marketing company. This conduct constitutes soliciting even if the Consultant's

actions are in response to an inquiry made by another person who is a Consultant or a Scout & Cellar employee; and (v) any additional actions defined as Solicitation in the "Prohibited Consultant Practices – Non-Solicitation" item in the Policies and Procedures.

2) **Release and Permission.** I hereby grant Scout & Cellar and its subsidiaries, affiliates, partners, designees, agents, successors or assigns an unrestricted, perpetual, worldwide, irrevocable, royalty-free, transferable, sub-licensable and fully paid-up license to use, reuse, license, reproduce, modify, adapt, publish, edit, translate, display, perform, distribute, transmit, broadcast, communicate to the public and otherwise exhibit throughout the world, create derivative works from, and otherwise exploit and use my name, including nicknames and social media handles, likeness, image, photograph, biographical information, testimonial information, voice, persona, opinions, comments, and in any and all media and by any means of transmission, distribution or communication, whether now known or hereafter created, including by way of example and not limitation, any television, radio, the Internet and online forums, and in audio visual works, photographs, sound recordings, marketing and public relations materials, publications and the like (collectively, "Media Materials") for advertising, publicizing, marketing and promotion of Scout & Cellar, and I waive remuneration for such use. I further waive my right to inspect or approve all preliminary, draft or finished Media Materials.

3) **Term and Termination of this Agreement.**

- a. **Term.** This Agreement is effective from the date of acceptance by Scout & Cellar and will automatically renew every twelve (12) months on the anniversary of the date I enter into this Agreement pursuant to the terms set forth in more detail in the Policies & Procedures, unless terminated earlier as provided in the Agreement.
- b. **Involuntary Termination.** Scout & Cellar may immediately terminate this Agreement in the event of any prohibited actual or attempted assignment of the Agreement, or my misrepresentation relating to Company or my Independent Consultant business, or my breach of any provision of this Agreement. If Company terminates this Agreement, the Company may reject any future reapplications by me as a Consultant and pursue all applicable legal remedies.
- c. **Voluntary Termination.** A Scout & Cellar Independent Consultant has the right to terminate this Agreement at any time, for any reason. Notice of termination must be submitted in writing to the Company at its principal place of business or via the contact form at <https://scoutandcellar.com/contact>. Notice must include the Consultant's name, address, and Consultant ID Number.

4) **Events upon Termination of this Agreement.** Upon termination of this Agreement,

- a. I will (i) within five (5) business days pay all amounts due and owing to Scout & Cellar; (ii) immediately cease representing myself as an Independent Consultant of Company; and (iii) be ineligible to receive any compensation as an Independent Consultant not earned as of the date of termination of this Agreement. I hereby authorize Company to withhold from any payments due me under the Compensation Plan any amounts due and owing to Company to the fullest extent allowed by applicable law.
  - b. I will immediately cease all use of Scout & Cellar Intellectual Property and Confidential Information (as defined in this Agreement and the Policies and Procedures) and will cease holding classes, workshops, tastings, and presentation or otherwise displaying, offering for sale or promoting Company products. I agree and acknowledge that the Policies and Procedures further describe the events that shall occur upon termination of this Agreement.
- 5) **Transferability.** Neither this Agreement nor my Scout & Cellar business may be transferred or assigned by me or operated in partnership with any other person without Scout & Cellar's prior written consent. Company may assign this Agreement at any time.
- 6) **Entire Agreement: Amendment.** This Agreement (including the Policies & Procedures and Compensation Plan) in its current form, and as may be amended by Scout & Cellar in the future, supersedes all prior communications, understandings and agreements between the parties and constitutes the entire agreement between the parties relating to its subject matter. I have carefully read and agree to comply with this Agreement and the Policies & Procedures and Compensation Plan, each of which are incorporated into and made a part of this Agreement. I understand that I must be in good standing to be eligible for bonuses or commissions from Scout & Cellar. I also understand that this Agreement may be amended by Scout & Cellar in its sole discretion, and I agree to abide by all such amendments. Notification of amendments shall be posted to my Back Office ("The Cellar"). Amendments shall become effective thirty (30) days after notice of the amendment is posted, but amended policies shall not apply retroactively to conduct that occurred prior to the effective date of the amendment, unless expressly stated otherwise. The continuation of my Scout & Cellar business or my acceptance of bonuses or commissions after the effective date of amendments shall constitute my acceptance of any and all amendments.
- 7) **Indemnification/Offset.** I will indemnify and hold harmless Company, its subsidiaries, managers, officers, employees, agents and assigns from and against any damages, claims or liabilities and expenses (including attorneys' fees) incident to my: (a) activities as an Independent Consultant including, without limitation, any unauthorized representations made by me; (b) any negligent, reckless or intentionally wrongful act of myself or my assistants, employees, contractors or agents, including with respect to



claims by third parties related to infringement of third party intellectual property rights; (c) a determination by an arbitrator, court, agency, or other tribunal that I am not an independent contractor, (d) breach by me or by my assistants, employees, contractors or agents of any of the terms of this Agreement; or (e) violation of or failure to comply with any applicable federal, state or local laws or regulations. Company shall have the right to offset any amounts owed by me to Company (including, without limitation, the repayment of commissions as a result of charge backs and/or product returns) against the amount of any commissions or bonuses owed to me to the fullest extent permitted by applicable law.

- 8) **Limitation of Damages.** TO THE EXTENT PERMITTED BY LAW, COMPANY AND ITS AFFILIATES, OFFICERS MANAGERS, ASSOCIATES AND OTHER REPRESENTATIVES SHALL NOT BE LIABLE FOR, AND I HEREBY RELEASE THE FOREGOING FROM, AND WAIVE ANY CLAIM OF ANY SPECIAL, INCIDENTAL, INDIRECT, PUNITIVE OR EXEMPLARY, OR CONSEQUENTIAL DAMAGES OF ANY KIND OR NATURE, INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOST PROFITS, LOST BUSINESS, AND LOST OPPORTUNITIES, HOWEVER CAUSED, ARISING OUT OF OR RELATING TO THE COMPANY'S PERFORMANCE, NON-PERFORMANCE, ACT OR OMISSION WITH RESPECT TO THE BUSINESS RELATIONSHIP OR OTHER MATTERS BETWEEN MYSELF AND THE COMPANY, WHETHER SUCH LIABILITY IS ASSERTED ON THE BASIS OF CONTRACT, TORT, OR OTHER THEORY OF LIABILITY (INCLUDING BUT NOT LIMITED TO NEGLIGENCE OR STRICT LIABILITY, OR OTHERWISE, EVEN IF SCOUT & CELLAR OR ITS AFFILIATES HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. FURTHERMORE, IT IS AGREED THAT ANY DAMAGE TO ME SHALL NOT EXCEED, AND IS HEREBY EXPRESSLY LIMITED TO THE AMOUNT OF PRODUCTS AND SERVICES, IF APPLICABLE, OWNED OR HELD BY ME, COMMISSIONS, BONUSES AND OVERRIDES.
- 9) **Cumulative Remedies/Waiver.** All rights, powers and remedies given to either party are cumulative, not exclusive and in addition to any and all other rights and remedies provided by law. No failure or delay of either party to exercise any power or right under this Agreement or to insist upon strict compliance by me with any obligation or provision shall constitute a waiver of such party's right to demand exact compliance therewith. Waiver by Scout & Cellar can be effective only in writing by an authorized officer of Scout & Cellar.
- 10) **Injunctive Relief.** Either Scout & Cellar or I may apply to a court of competent jurisdiction for temporary, preliminary or permanent injunctive relief on the ground that without such relief the agreement to arbitrate in this Agreement may be rendered ineffectual. For example, any breach of the confidentiality or non-solicitation provisions of this Agreement by me would cause Scout & Cellar immediate and irreparable harm that could not be made whole solely by monetary damages; therefore, seeking injunctive relief in court before or simultaneous with demanding arbitration, is appropriate.



11) **Other Terms.**

- a. I have full legal capacity to enter into this Agreement in the state in which I reside. I agree to comply with all laws, rules and regulations governing the conduct of my business.
- b. I will refer to the Company's website and/or the Policies & Procedures to confirm the Company's current states of operation, which may change at any time. I understand that I may not conduct business in any state that has not been confirmed by Scout & Cellar as an authorized state for the marketing, education and promotion of Scout & Cellar products and its Clean-Crafted Commitment™ via the Scout & Cellar program.
- c. I certify that I am not in the Upline or Downline team of any other household member who is a Scout & Cellar Independent Consultant.
- d. If any provision of this Agreement is determined to be invalid or unenforceable, that determination will not affect any other provision of this Agreement and the provision in question will be modified by the reviewing arbitrator, court, agency, or other tribunal so as to be rendered enforceable. The headings in this Agreement are inserted for convenience only and are not part of the Agreement.
- e. All written notices required by this Agreement to be given to me will be deemed effective three (3) business days after mailing to my most current mailing or immediately if sent to the email address on file with Scout & Cellar.

12) **Dispute Resolution.** I agree that any controversy, claim or dispute of whatever nature arising between me, on the one hand, and Scout & Cellar, on the other, including but not limited to those arising out of or relating to this Agreement, including the Policies & Procedures, or a breach thereof, or the commercial, economic or other relationship of a Consultant and Scout & Cellar, whether such claim is based on rights, privileges, or interests recognized by or based upon statute, contract, tort common law, or otherwise ("Dispute"), shall be settled through negotiation, mediation, or arbitration, as provided in this Section 23.

- a. **Negotiation.** If a Dispute arises, the parties shall first attempt in good faith to resolve it promptly by negotiation. Any of the parties involved in the Dispute may initiate negotiation by providing notice (the "Dispute Notice") to each involved party setting forth the subject of the Dispute and the relief sought by the party providing the Dispute Notice, and designating a representative who has full authority to negotiate and settle the Dispute.
- b. **Mediation.** At any time twenty-one (21) days or more after the Dispute Notice is provided, but prior to the initiation of arbitration, regardless of whether negotiations are continuing, any party may submit the Dispute to the American Arbitration Association ("AAA") for mediation by

providing notice of such request to all other concerned parties and providing such notice and a copy of all relevant Dispute Notices and notices responding thereto to AAA.

- c. **Arbitration.** Any Dispute not resolved in writing by negotiation or mediation shall be subject to and shall be settled exclusively by final, binding arbitration before a single arbitrator in Dallas, Texas, in accordance with the then-prevailing Commercial Arbitration Rules of AAA. No party may commence Arbitration with respect to any Dispute unless that party has pursued negotiation and, if requested, mediation, as provided herein, provided, however, that no party shall be obligated to continue to participate in negotiation or mediation if the parties have not resolved the Dispute within seventy (70) Days after the Dispute Notice was provided to any party (or a longer period as may be agreed by the parties).
- d. **Class Action Waiver.** Consultant agrees that by entering into the above agreement to arbitrate, Consultant is waiving Consultant's right to have any dispute or claim brought, heard or arbitrated as a class action lawsuit or class action arbitration, any private attorney general lawsuit or private attorney general arbitration, or any joint or consolidated lawsuit or joint or consolidated arbitration of any kind. The Parties agree that an arbitrator shall not have any authority to hear or arbitrate any class or collective action. The Parties agree that any claim that all or part of this class action waiver is unenforceable shall be determined by a state or federal court located in Dallas, Texas and not by an arbitrator. The Parties further agree that if a court determines that the limitations of this paragraph are deemed invalid or unenforceable, any putative class, private attorney general, or representative action must be brought in a court of proper jurisdiction and not in arbitration.
- e. **Dispute Documents Confidential.** All communications, whether oral, written or electronic, in any negotiation, mediation or arbitration pursuant to this Section shall be treated as confidential and those made in the course of negotiation or mediation, including any offer, promise or other statement, whether made by any of the parties, their agents, employees, experts, attorneys, or mediator or any AAA employee, shall also be treated as settlement negotiations for purposes of applicable rules of evidence and shall be inadmissible for any purpose, including impeachment, in any arbitration or other proceeding involving the parties, provided that evidence that is otherwise admissible or discoverable shall not be rendered inadmissible or non-discoverable as a result of its use in negotiation or mediation.
- f. **Costs of Dispute.** The costs of negotiation, mediation, arbitration, a proceeding for injunctive relief or an action to enforce an arbitration award, including fees and expenses of any mediator, arbitrator, AAA, or other persons independent of all parties acting with the consent of the

parties to facilitate settlement, shall be shared in equally by Consultant, on the one hand, and Scout & Cellar on the other. The parties shall bear their own legal fees and other expenses incurred in negotiation, mediation, arbitration or any court proceeding. Nothing in this paragraph shall prevent a party from seeking recovery of its/their attorney's fees and costs in any legal proceeding if such recovery is permitted by statute or applicable law.

- g. **Venue and Jurisdiction.** Any party may seek specific performance of this Section, and any party may seek to compel each other party to comply with this Section by petition to any court of competent jurisdiction. An action to enforce an arbitrator's award hereunder may be brought before any court of competent jurisdiction. For purposes of any provisional or equitable relief sought under this Section, the parties consent to exclusive jurisdiction and venue in the courts of the State of Texas residing in the City of Dallas, or the United States District Court for the Northern District of Texas. The pendency of mediation or arbitration shall not preclude a party from seeking provisional remedies in aid of the arbitration from a court of appropriate jurisdiction, and the parties agree not to defend against any application for provisional relief on the ground that mediation or arbitration is pending. Each party in any proceeding under this policy shall be responsible for its own attorney's fees, legal expenses, and costs. If any portion of this Section is held to be unenforceable for any reason, the remainder shall remain in full force and effect. Nothing in this Section shall preclude any party from seeking interim or provisional relief concerning the Dispute, including a temporary restraining order, a preliminary injunction, or an order of attachment, either prior to or during negotiation, mediation or arbitration. In the event any portion of this provision regarding arbitration is found to be unenforceable, such portion shall be severable from the remainder of this provision, which shall remain in full force and effect. Any amendment to this provision, or to the Dispute Resolution provision in the Policies & Procedures, shall not apply to: (1) a dispute arising prior to the effective date of such amendment; or (2) a Consultant who declines to participate in the Scout & Cellar Program following the Effective Date of any such amendment. Nothing in this Agreement requires arbitration of claims that as a matter of law (after application of Federal Arbitration Act preemption principles) cannot be made subject to a predispute arbitration agreement.
- h. **Governing Law.** The Federal Arbitration Act shall govern all matters relating to arbitration. The law of the State of Texas, without regard to principles of conflicts of laws, shall govern all other matters relating to or arising from the Agreement, the Scout & Cellar Business, relationship between the parties, or any other claim between the parties.

- i. **Louisiana Residents.** The foregoing dispute resolution provisions shall apply to Louisiana residents with the exception that governing law, jurisdiction, and venue shall be in Louisiana.

13) **Entire Agreement.** The Policies & Procedures are incorporated into this Agreement, along with the Compensation Plan, and constitutes the entire agreement of the parties regarding their business relationship.

14) **California Consumer Privacy Act Addendum**

The California Consumer Privacy Act of 2018, Civil Code Sections 1798.100 *et seq.* together with any amendments, rules, regulations, and decisions (the “CCPA”) impose specific obligations on the Company as a Business and on the Consultant as a Business with regard to the processing, handling, use, and protection of Personal Information of California Consumers. This CCPA Addendum sets forth the data privacy requirements imposed by the CCPA and is incorporated by reference into the Agreement.

**a. Definitions**

For purposes of this CCPA Addendum, the following terms shall mean as follows:

- i. **“Consumer”** means a natural person who is a California resident as defined under the CCPA.
- ii. **“Personal Information”** means information that identifies, relates to, describes, is reasonably capable of being associated with, or could reasonably be linked, directly or indirectly, with a particular Consumer or household received by Consultant in connection with the Services including, but not limited to, the examples of Personal Information identified in the CCPA.
- iii. **“Personal Information Breach”** means any breach of security leading to the unauthorized access and exfiltration, theft, or disclosure of nonencrypted or nonredacted Personal Information resulting from the failure to implement and maintain reasonable security procedures and practices as set forth in the CCPA.
- iv. **“Reasonable Security Procedures and Practices”** means security measures appropriate to the nature of the Personal Information that are implemented and maintained to prevent the unauthorized access and exfiltration, theft, or disclosure of nonencrypted or nonredacted Personal Information and which comply with the applicable Center for Internet Security (“CIS”) Controls.
- v. **“Sell”** means selling, renting, releasing, disclosing, disseminating, making available, transferring, or otherwise communicating orally, in writing, or by electronic or other means, a Consumer’s Personal Information by the Consultant to a third party for monetary or other valuable consideration.

- vi. **“Service Provider,”** means the Consultant and the services (“Services”) provided by the Consultant as specified in the Agreement.
- b. **Service Provider Relationship.** The Company and Consultant agree that Consultant is a separate business entity and is acting as a Service Provider to Company under the Agreement and under the CCPA. The services provided by the Consultant are specified in the Agreement. The Company may direct the Consultant to collect Personal Information directly from a Consumer on the Company’s behalf and also may provide Personal Information to the Consultant. In such event, Consultant shall be deemed a Service Provider under this CCPA Addendum and the CCPA.
- c. **Obligations of Consultant.**
  - i. Consultant shall implement Reasonable Security Procedures and Practices regarding the Personal Information.
  - ii. Consultant shall notify the Company immediately upon becoming aware of a Personal Information Breach involving the Personal Information.
  - iii. If Consultant receives a request to know or a request to delete from a Consumer regarding the Personal Information and does not comply with such request, Consultant shall explain the basis for the denial and inform the Consumer to submit the request directly to the Company and provide the Consumer with the contact information for the Company.
  - iv. Consultant, as a Service Provider, agrees that it will not:
    - 1. Sell the Personal Information;
    - 2. Retain, use, or disclose the Personal Information for any purpose other than for the specific purpose of performing the Services as specified in the Agreement; and
    - 3. Retain, use, or disclose the Personal Information outside the direct business relationship between the Consultant and the Company, including to provide services to another person or entity. However, Consultant may combine the Personal Information with personal information received from other persons or entities to which it is a Service Provider to the extent necessary to detect data security incidents, or protect against fraudulent or illegal activity.
  - v. Consultant hereby certifies that it understands the restrictions set forth in (c)(iv)(1)-(3) above.
- d. **Deletion.** Upon Company’s written request, and subject to and in accordance with all applicable laws, Consultant, as a Service Provider, agrees to promptly delete any and all Personal Information.

- e. **Termination.** The Company shall have the right to terminate the Agreement and/or CCPA Addendum in the event that Consultant is or becomes non-compliant with this CCPA Addendum or the CCPA regarding the Personal Information.

**Indemnification.** Notwithstanding any other limitation of liability or indemnity provisions to the contrary in the Agreement, if Consultant breaches any of its obligations under this CCPA Addendum or the CCPA, Consultant shall indemnify, defend, and hold the Company harmless from and against all loss, cost, harm, expense (including reasonable attorney's fees), liabilities or damages ("Damages") arising from the breach. For avoidance of doubt, Damages include (i) monetary fines and penalties issued by any regulatory or governmental authority, and (ii) amounts paid to third parties as damages or amounts paid under the Company's indemnity obligations to third parties, which shall be considered direct damages.

I acknowledge that I have read, understand and agree to the terms set forth in this Scout & Cellar Independent Consultant Agreement. I certify that all of the information provided by me in connection with becoming an Independent Consultant and in this Agreement is true and accurate. I am 21 years of age or older, and I have a valid Social Security number or individual Taxpayer Identification number.