

CONTRACT FOR LEGAL/CONSULTANT SERVICES

THIS WRITTEN CONTRACT LEGAL/CONSULTANT SERVICES (hereinafter referred to as "Contract") is entered into on _____, by and between _____ (hereinafter referred to as "Client") and Arthur R. Botham, Jr. A Law Corp and Zachary Tyson (hereinafter referred to as "Attorneys and/or Consultants").

1. CONDITIONS

This Contract will not take effect, and Attorney will have no obligation to provide legal services, until Client returns a signed copy of this Contract.

2. SCOPE OF CONTRACT

Client hires Attorney to provide legal services in connection with client's representative and individual claims against her employer, MDM Holdings. This contract specifically excludes any and all claims for workers compensation and/or personal injuries that may have arisen or may yet arise out of her employment with employer. Furthermore, this Contract does not include any representation or legal services in connection with reimbursement of any medical provider or insurance carrier for any workers compensation claims against the Client in connection with this accident. Client_____.

This Contract does not require Attorney to represent Client in any interlocutory appeal or appeal from the judgment or verdict of the trial court or arbitration of the original judgment or award, or in any proceeding to execute on the judgment, unless Client and Attorney agree that Attorney will provide such services and also agree upon additional fees to be paid to Attorney for such services. Services to be rendered in said matters will require the execution of a separate retainer agreement.

Attorney's duties under this Agreement shall *not* include providing tax advice to Client.

3. RESPONSIBILITIES OF THE PARTIES

Attorney shall provide those legal services reasonably required to represent Client in prosecuting the claims described in Paragraph 2 and will take reasonable steps to keep Client informed of progress and developments, and to respond promptly to Client's inquiries.

Client agrees to be truthful with Attorney, to cooperate with Attorney, to keep Attorney informed of any information and developments which may come to the Client's attention, to abide by this Contract, to pay Attorney's bills in a timely manner, and to keep Attorney advised of Client's address, telephone number and whereabouts. Client agrees to appear at all legal proceedings when Attorney

deems it necessary, and generally to cooperate fully with Attorney in all matters related to the preparation and presentation of Client's claims.

4. LEGAL FEES

The amount Attorney will receive for contingent attorneys' fees for the legal services to be provided under this agreement will be as follows: forty percent (40%) of any Gross Recovery.

Gross Recovery" means the total amount received in connection with the Claim (whether by settlement, award, judgment, or otherwise). If payment of all or any part of the amount to be received will be deferred (such as in the case of an annuity, a structured settlement, or periodic payments), the "total amount received," for purposes of calculating the attorneys' fees, will be the initial lump-sum payment plus the present value, as of the time of the settlement, final arbitration award, or final judgment, of the payments to be received thereafter. All attorneys' fees will be paid out of the initial lump-sum payment. If the payment is insufficient to pay the attorneys' fees in full, the balance will be paid from subsequent payments of the recovery before any distribution to Client.

If there is no recovery, Attorney will receive no contingent attorneys' fees.

Client has been informed and understands that any ordered or agreed attorneys' fees paid or awarded from any other party are the sole property of Attorney and shall be paid directly to Attorney and not included in any calculation of recovery, costs, or fees, except as provided in this agreement. If an order or agreement is made or entered for attorneys' fees and if the amount of such ordered or agreed attorneys' fees is equal to, or greater than, the contingent attorneys' fees to which Attorney would otherwise be entitled under this Agreement, Attorney agrees to accept such ordered or agreed attorneys' fees as payment in full for services rendered under this Agreement.

If ordered or agreed attorneys' fees are less than the attorneys' fees to which Attorney would otherwise be entitled under this Agreement, Attorney may elect to be paid either a) contingent attorneys' fee; or else b) the ordered or agreed attorneys' fees. Attorney election to be paid the contingent attorneys' fee will operate as an assignment to Client of Attorney's entire interest in any payment(s) made by, or ordered to be made by, another party, such that those payment(s) shall be included in "Gross Recovery" above.

Client acknowledges and agrees that Attorney's hourly rate for legal services are as follows: Attorney: \$550 per hour; Paralegal: \$75 per hour. Client acknowledges Attorney's hourly rate as reasonable for purposes of any lien.

5. DIVISION OF ATTORNEY'S FEE

Attorney may elect to divide the attorney fees received for the legal services provided under this agreement with one or more other attorneys he chooses to work with on Client's matter. Should he elect to do so, Attorney will obtain Client's written consent to said division of fees after a full disclosure is made to Client in writing that a division of fees will be made, and of the terms of such division.

6. BILLING PRACTICES

Attorney bills in minimum units of 0.2 hours (12 minutes) for any task.

7. COSTS AND OTHER CHARGES IN GENERAL

Attorney will incur various costs and expenses in performing legal and consulting services under this Contract. Client agrees to pay for those costs and expenses incurred. Costs and expenses include, but are not limited to: a file setup charge of \$50.00, sheriffs', marshals' and process servers' fees, court filing fees, other charges assessed by courts and other public agencies, court reporters' fees, jury fees, deposition costs, mediation or arbitration fees, witness fees, long distance telephone charges, messenger and other delivery fees, postage, charges for computer research and outside assisted legal research, investigation costs, consultants' fees, expert witness fees and expenses, mileage at \$.57 a mile (or the prevailing rate paid to Federal employees), and parking, photocopying at \$.20 per page and other reproduction, facsimiles (transmissions and receptions) at \$1.00 a page (for receiving and sending), and similar items.

Further, Attorney may, at Attorney's option, require Client to advance funds to cover Attorney's fees and costs and other charges as described above, which are anticipated by Attorney to be incurred on Client's behalf during the course of Attorney's representation of Client. If Attorney requires Client to advance funds to cover Attorney's anticipated fees and costs and other charges as described above, Client agrees to advance said funds. However, Attorney may, at Attorney's option and discretion, advance any or all costs and expenses on Client's behalf as Attorney deems appropriate.

If Attorney advances such costs and expenses on Client's behalf, Client is responsible for reimbursing Attorney for such costs and expenses upon demand, regardless of the ultimate outcome of the Client's case.

Client expressly agrees to pay attorney a one-time non-refundable retainer of \$2,500.00 (two-thousand five-hundred dollars). Said fees are deemed earned upon request. Alternatively, in lieu of paying the retainer, Client expressly agrees to grant attorney full settlement authority for all claims on Client's behalf against all parties, and attorney may settle the entire case without further consent from Client. Client agrees that he or she has been given the option to withdraw

consent and pay the retainer agreement by giving attorney written notice and making full payment within 24 hours of the date and time Client so advises attorney of his or her election to do so. _____

8. LIEN

By signing and returning this fee agreement to Attorney, Client grants Attorney a lien for all unpaid attorney fees and costs advanced on all claims or causes of action that are the subject of Attorney's representation of Client under this Agreement and on all proceeds of any recover obtained, whether by settlement, award, order, or judgment.

Client is aware, and acknowledges, that this lien may significantly impair Client's interest because Attorney may be able to delay payment of any recovery or settlement funds to Client until any disputes with Attorney about unpaid attorney fees and costs advances have been resolved.

Client acknowledges that Client has been advised to seek independent legal advice about granting Attorney this lien, and has had a reasonable opportunity to do so. By signing this fee agreement and returning it to Attorney, Client represents that Client has either obtained legal advice about this lien or has decided that it was unnecessary to do so.

9. DISCHARGE AND WITHDRAWAL

Client may discharge Attorney at any time by written notice effective when received by Attorney. Unless specifically agreed by Attorney and Client, Attorney will provide no further services and advance no further costs on Client's behalf after receipt of the notice. If Attorney is Client's attorney of record in any proceeding, Client will execute and return a substitution of attorney form immediately on its receipt from Attorney.

Notwithstanding the discharge, Client will be obligated to pay Attorney out of any recovery a reasonable attorney fee for all services provided and to reimburse Attorney out of any recovery for all costs advanced.

Attorney may withdraw from representing Client on any grounds allowed by California Law and the California Rules of Professional Conduct. Among the reasons which would constitute good cause for Attorney's withdrawal from representing Client would be Client's breach of this Contract, including, but not limited to: Client's failure to pay Attorney's bills in a timely manner, as outlined in paragraph three (3) above, Client's refusal to cooperate with Attorney or to follow his advice in material matters, or any fact or circumstance that would render Attorney's continued representation of Client unlawful or unethical.

Attorney and Client agree to sign any documents reasonably necessary to effect or complete Attorney's discharge or withdrawal.

If Client discharges attorney, or if attorney withdraws for cause, client agrees to pay Attorney's hourly fee of \$550.00 per hour, plus \$75.00 per hour for Attorney's paralegal's fees. Payment to the attorney if attorney withdraws for cause will be due whether or not there is a recovery.

Should Client elect to discharge Attorney after a settlement offer has been obtained and submitted to Client for consideration but before settlement is consummated, Client hereby grants to Attorney a lien equal to 40% of the amount of said settlement offer. Client agrees to pay Attorney said amount within ten (10) days of the date said monies are received by Client or Client's subsequent attorney.

10. Fee Disputes:

a. San Diego County Bar Arbitration

In the event that a dispute arises between attorney and client over payment of fees, client agrees to institute an arbitration proceeding with the San Diego County Bar Association for the resolution of the dispute, either client on their own initiative, or upon receipt by you of a "notice of Client's Right to Fee Arbitration" from us. Failure to request such arbitration shall constitute a waiver of client's arbitration rights.

b. Attorney's fees

In any lawsuit brought by attorney to recover unpaid fees and/or costs, the prevailing party shall be entitled to reimbursement for reasonable attorneys' fees and costs related to said action.

DISPUTE RESOLUTION WHERE CLIENT SEEKS AFFIRMATIVE RELIEF:

a. MEDIATION

In the event a dispute arises between the parties hereto, where client claims that attorney owes client any money for any action arising out of or connected to attorneys' representation of client, including but not limited to, all tort or contract causes of action, claims based on claimed breach of fiduciary duty, constructive fraud, negligent misrepresentation and fraud, and all other claims as to legal malpractice, as to whether any legal service rendered was unnecessary or unauthorized or improperly, negligently, or incompetently rendered, client agrees that said dispute will initially be mediated before JAMS dispute resolution services in San Diego, California. The parties agree to split the cost of mediation 50% per party, attorney(s) and client(s).

b. Arbitration

If the mediation between the parties hereto is unsuccessful in resolving the dispute, the parties agree that the dispute will thereafter be determined by submission to binding arbitration as provided by California law under the California Arbitration Act (Code of Civil Procedure 1280-1294.2), and not by a lawsuit or resort to court process (except as California law provides for judicial review of arbitration proceedings). Both parties to this contract, by entering into it, are giving up their constitutional rights to submit any malpractice or other affirmative relief claim connected to attorneys' representation of client to a jury or court trial. All parties hereby waive all rights to have any such dispute decided in a court of law. Discovery related to said arbitration shall be conducted as set forth in California Code of Civil Procedure section 1283.05. The cost of arbitration, excluding legal fees and costs, shall be borne by the losing party or in such proportion as the arbitrator shall decide. The sole and exclusive venue for arbitration and or any legal dispute shall be San Diego County, California. The parties hereby stipulate that any petition or motion to enforce an arbitration award may be served on the other party by first class mail.

c. Waiver of right to jury trial.

In any dispute arising between attorney(s) and client(s) out of this contract for representation, each party agrees to waive their right to jury trial.

10. STRUCTURED SETTLEMENT

It is further agreed that in the event of a structured settlement, Attorney shall be entitled to his proportionate fee in one lump sum immediately upon the execution of the settlement agreement. Said fee shall be calculated by multiplying the percentage above by the reasonable present value of the total sum of the payment as determined by a duly qualified actuary.

11. FEE NOT SET BY LAW

Attorney's contingency fee, as set forth above, is not set by law and other attorneys may charge more or less than the fee charged in this Contract.

12. TERMINATION, AND CONCLUSION AND DISPOSITION OF CLIENT'S FILE AND RECORDS

Upon the termination or conclusion of services, all unpaid charges for services rendered and costs incurred or advanced through the termination or conclusion date shall become immediately due and payable. Client has a right to receive copies of the records pertaining to his or her case in Attorney's file at any

time upon request.

At the termination of services under this Agreement, Attorney will release promptly to Client, *upon written request by the Client*, all of Client's papers and property, subject to any protective order or nondisclosure agreement. Client agrees that after three (3) years have passed following the conclusion of Client's matter, Attorney may destroy or dispose of Client's papers and property without further notice to Client. If Client does not want his or her papers and property destroyed by Attorney, he or she must make separate arrangements with Attorney for the retrieval of the file.

"Client's papers and property" include, but are not limited to, correspondence, deposition transcripts, exhibits, experts' reports, legal documents, physical evidence, photographs, and other items necessary to Client's representation, whether Client has paid for them or not, to the extent necessary to avoid prejudicing the Client's interest, and include an electronic version of these documents.

13. DISCLAIMER OF GUARANTEE

Attorney makes no promises or guarantees to Client about the outcome of matters in which he represents Client, and nothing in this Contract shall be construed as such a promise or guarantee.

14. WRITTEN CONTRACT REQUIRED BY LAW

This document contains the entire agreement of the parties. No other agreement, statement, or promise made on or before the effective date of this Agreement will be binding on the parties. Client shall be presumed to be in agreement with all the provisions set forth in this document when Client duly signs it.

15. PLACE OF PERFORMANCE OF CONTRACT

Client consents and agrees that the place of the performance of this Contract shall be San Diego, California.

16. EFFECTIVE DATE

This Contract will take effect when Client has performed the conditions stated in paragraph one (1). but its effective date will be retroactive to the date Attorney first provided services. The date at the beginning of the Contract is for reference only. Even if this Contract does not take effect, Client will be obligated to pay Attorney for the reasonable value of any services Attorney may have performed for Client.

17. CELL PHONE AND EMAIL AGREEMENT

"Client" has retained Arthur R. Botham, Jr. Esq., to perform legal services pursuant to a fee agreement which has been executed between Client and Attorneys ("the Parties"). Client has provided to Attorney his or her cellular telephone number and electronic mail address and has authorized Attorney to contact him or her thereby. Client understands that communication via cellular telephone number and electronic mail is neither secure nor private and the security of such communications may be compromised without the knowledge of Attorney or Client.

Client holds Attorneys, their employees, officers, representatives, agents, heirs and assigns harmless and without fault for any breach of confidential information that arises out of communication between Attorney and Client via electronic mail and cellular telephone.

18. ACKNOWLEDGMENT

Client's signature hereon acknowledges an understanding that any duty or liability to Client arising from the engagement contemplated hereby is solely the responsibility of the Arthur R. Botham, Jr. and is not shared with any other Attorney officing at 2169 First Avenue, San Diego, CA.

It is understood and acknowledged that by virtue of this Contract an attorney-client relationship is established between the Client below and Arthur R. Botham, Jr. and, and not between any other lawyers having an office at 2169 First Avenue.

DATE: _____
CLIENT: _____

DATE: _____
Arthur R. Botham, Jr.

DATE: _____
Zachary T. Tyson