| State of \_\_\_\_\_\_\_\_\_\_ | No |
| --- | --- |
| **Sole proprietor/Independent Contractor Agreement** | |

This agreement (“the Agreement”) is made as of this [\_\_] day of [\_\_], [\_\_], (“the Effective Date”) by and between [\_\_] (“the Client”), located at [\_\_], and [\_\_] (“the Independent Contractor”), located at [\_\_]. Client and Independent Contractor may each be referred to in this Agreement as a “Party” and collectively as the “Parties.”

1. Confidentiality

1.1 In case the Independent Contractor will be exposed to Confidential Information of the Client in the course of performing the Services, the Independent Contractor agrees to hold in strict confidence and not to disclose to any third party, other than its employees, agents and professional advisors, any information, product, document or other material of any nature relating to or concerning the Client, that is provided or made available to the Independent Contractor either before or after the date of execution of this Agreement.

1.2 “Confidential Information” shall mean any data or information that is competitively sensitive material and not generally known to the public, including, but not limited to, information relating to development and plans, marketing strategies, finance, operations, systems, proprietary concepts, documentation, reports, data, specifications, computer software, source code, object code, flow charts, data, databases, inventions, know-how, trade secrets, customer lists, customer relationships, customer profiles, supplier lists, supplier relationships, supplier profiles, pricing, sales estimates, business plans and internal performance results relating to past, present or future business activities, technical information, designs, processes, procedures, formulas or improvements, which the Client considers confidential and proprietary. The Independent Contractor acknowledges and agrees that the Confidential Information is valuable property of the Client, developed over a long period of time at substantial expense and that it is worthy of protection. Confidential Information shall not include information which: (i) is or becomes rightfully in the public domain without any fault of the Independent Contractor; (ii) is received by the Independent Contractor from a third party who or which is not under any obligation of confidentiality or restriction regarding the use or disclosure of such information, or (iii) is disclosed within the scope of the law to the public or to a third party without a duty of confidentiality. If the Independent Contractor asserts one of the abovementioned three exceptions to the Confidential Information, then the Independent Contractor shall prove such assertion by proper forms of documentary evidence.

1.3 Except as otherwise expressly permitted in this Agreement, the Independent Contractor shall not disclose or use in any manner, directly or indirectly, any Confidential Information either during the term of this Agreement or at any time thereafter, except as required to perform the Services or with the Client’s prior written consent.

 1.4 All Confidential Information disclosed to the Independent Contractor by the Client: (i) is and shall remain the sole and exclusive property of the Client, and (ii) is disclosed or permitted to be acquired by the Independent Contractor solely in reliance on the Independent Contractor’s reliability to maintain the Confidential Information in confidence and not to use or disclose the Confidential Information to any other person. Except as expressly provided herein, this Agreement does not confer any right, license, ownership or other interest in or title to the Confidential Information to the Independent Contractor.

2. Independent Contractor

2.1 The Parties agree and acknowledge that the Independent Contractor is an independent contractor and is not, for any purpose, an employee of the Client. The Independent Contractor does not have any authority to enter into agreements or contracts on behalf of the Client, and shall not represent that it possesses any such authority. The Independent Contractor shall not be entitled to any of the Client’s benefits, including, but not limited to, coverage under medical, dental, retirement, or other plans. The Client shall not be obligated to pay worker's compensation insurance, unemployment compensation, social security tax, withholding tax or other taxes or withholdings for or on behalf of the Independent Contractor in connection with the performance of the Services under this Agreement. Nothing contained in this Agreement shall be deemed or construed by the Parties to create the relationship of a partnership, a joint venture, or any other fiduciary relationship.

3. Ownership of the Work Product

3.1 The Parties agree that all work product, information, or other materials created and developed by the Independent Contractor in connection with the performance of the Services under this Agreement and any resulting intellectual property rights (collectively, the “Work Product”) are the sole and exclusive property of: [\_\_]

3.2 Client. The Parties acknowledge that the Work Product shall, to the extent permitted by law, be considered a “work made for hire” within the definition of Section 101 of the Copyright Act of 1976, as amended, (the “Copyright Act”) and that the Client is deemed to be the author and is the owner of all copyright and all other rights therein. If the work product is not deemed to be a “work made for hire” under the Copyright Act, then the Independent Contractor hereby assigns to the Client all of the Independent Contractor’s rights, title, and interest in the Work Product, including but not limited to all copyrights, publishing rights and rights to use, reproduce and otherwise exploit the Work Product in any and all formats, media, and all channels, whether now known or hereafter created.

3.3 Independent Contractor. The Independent Contractor grants to the Client a limited, non-exclusive license to use the Work Product. The Work Product is to be used only by the Client, and the Client may not assign, transfer, lease or sublicense any Work Product to any person or entity without the Independent Contractor’s prior written consent.

4.  Term and Termination

4.1 The Independent Contractor’s engagement with the Client under this Agreement shall commence on \_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_ (Effective term) and will remain in full force and effect for [\_\_\_\_\_] - until [\_\_\_\_\_\_] provided however that the Parties may sign a new Independent Contractor Agreement at least 10 days prior to expiration of the Term. Termination of the Independent Contractor's engagement under any of the following circumstances shall not constitute a breach of this Agreement: (a) with cause, by either party upon a written notice; (b) by the Client for convenience with or without any cause or reason whatsoever at any time, without notice and the Client shall not be obliged to provide any explanations to the Independent Contractor or any third party for such termination whatsoever; (c) death or disability of the Independent Contractor or a key employee thereof that prevents the Independent Contractor from performing work under this Agreement; or (d) the date the Independent Contractor becomes an employee of the company.

4.2 At the time of termination, Independent Contractor agrees to return all Client property used in performance of the Services, including but not limited to computers, cell phones, keys, reports, and other equipment and documents. The Independent Contractor shall reimburse the Client for any Client property lost or damaged in an amount equal to the market price of such property.

5. Non-Solicitation (INITIAL if you want to include this clause. CROSS OUT if you do not.)

5.1 The Independent Contractor agrees and covenants that for a period of \_\_\_\_\_\_\_\_\_\_\_ months following the termination of this Agreement, the Independent Contractor will not, directly or indirectly, solicit any officer, director or employee, or any customer, client, supplier or vendor of the Client for the purpose of inducing such party to terminate its relationship with the Client in favor of the Independent Contractor or another business directly or indirectly in competition with the Client.

6. Mutual Representations and Warranties

6.1 Both Client and Independent Contractor represent and warrant that each Party has full power, authority, and right to execute and deliver this Agreement, has full power and authority to perform its obligations under this Agreement, and has taken all necessary actions to authorize the execution and delivery of this Agreement. No other consents are necessary to enter into or perform this Agreement.

7. Independent Contractor Representation and Warranties

7.1 The Independent Contractor represents and warrants that it has all the necessary licenses, permits, and registrations, if any, required to perform the Services under this Agreement in accordance with applicable federal, state, and local laws, rules, and regulations and that it will perform the Services according to the Client’s guidelines and specifications and with the standard of care prevailing in the industry.

8. Indemnification

8.1 The Independent Contractor shall indemnify and hold harmless Client from any damages, claims, liabilities, loss, and expenses, including reasonable attorney’s fees, arising out of any act or omission of the Independent Contractor in performing the Services or the breach of any provision of this Agreement by the Independent Contractor.

9.  Governing Law

9.1 The terms of this Agreement and the rights of the Parties hereto shall be governed exclusively by the laws of the State of \_\_\_\_\_\_\_\_\_\_, without regard to its conflicts of law provisions.

10. Binding Effect

10.1 This Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns.

11. Miscellaneous

11.1 Assignment. The interests of the Independent Contractor are personal to Independent Contractor and cannot be assigned, transferred, or sold without the prior written consent of the Client.

11. 2 Entire Agreement. This Agreement constitutes the entire agreement between the Parties hereto with respect the subject matter hereof, and supersedes all prior negotiations, understandings, and agreements between the Parties.

11.3 Amendments. No supplement, modification, or amendment of this Agreement will be binding unless executed in writing by both of the Parties.

11.4 Notices. Any notice or other communication given or made to either Party under this Agreement shall be in writing and delivered by hand, sent by overnight courier service, or sent by certified or registered mail, return receipt requested, to the address stated above or to another address as that Party may subsequently designate by notice, and shall be deemed given on the date of delivery.

11.5 Waiver.  Neither Party shall be deemed to have waived any provision of this Agreement or the exercise of any rights held under this Agreement unless such waiver is made expressly and in writing. Waiver by either Party of a breach or violation of any provision of this Agreement shall not constitute a waiver of any subsequent or other breach or violation.

11.6 Further Assurances.  At the request of one Party, the other Party shall execute and deliver such other documents and take such other actions as may be reasonably necessary to effect the terms of this Agreement.

IN WITNESS WHEREOF, this Agreement has been executed and delivered as of the date first written above.

|  |  |  |
| --- | --- | --- |
| **Client**Signature |  | **Client**Full Name |

|  |  |  |
| --- | --- | --- |
| **Independent Contractor** Signature |  | **Independent Contractor** Full Name |

## Annex 1

## WORK DESCRIPTION, COMPENSATION TERMS, AND SCHEDULE

This Annex is attached to and made a part of the Independent Contractor Agreement entered into by [\_\_\_\_] (Client) and [\_\_\_\_\_] (Independent Contractor) dated [\_\_\_\_\_\_\_].

## 1. Scope of Services and Schedule

1.1 The Independent Contractor shall provide the following services to the Client (the “Services”): [description of services]. In addition, the Independent Contractor shall perform such other duties and tasks, or changes to the Services, as may be agreed upon by the Parties.

1.2 Description of Services:

[\_\_\_\_\_]

[\_\_\_\_\_]

[\_\_\_\_\_]

2. Compensation. In consideration for the Independent Contractor’s performance of the Services, the Client shall pay the Independent Contractor: (Check one)

2.1 ☐ A Fixed Wage. Client shall pay the Independent Contractor $\_\_\_\_\_\_\_ ☐ per hour ☐ per week ☐ per month ☐ per year ☐ other: \_\_\_\_\_\_\_\_\_\_. The Independent Contractor will be paid: (Check one)

☐ Weekly. The Independent Contractor will be paid on \_\_\_\_\_\_\_\_\_\_ [Day of the week] of every week.

☐ Monthly. The Independent Contractor will be paid on the \_\_\_\_\_\_\_\_\_\_ [Day of the month] of every month.

☐ After the Independent Contractor sends the Client an invoice, the Independent Contractor will be paid within \_\_\_\_\_\_\_\_\_\_ days after the Independent Contractor’s invoice is received. The Independent Contractor will submit invoices for payment ☐ at the end of every week ☐ on the \_\_\_\_\_\_\_\_\_\_ [Day of the month] of every month ☐ within \_\_\_\_\_\_\_\_\_\_ days after completion of the services ☐ other: \_\_\_\_\_\_\_\_\_\_.

☐ Other: \_\_\_\_\_\_\_\_\_\_.

2.2 ☐ A Set Fee. The Client shall pay the Independent Contractor $\_\_\_\_\_\_\_: (Check one)

☐ After the Independent Contractor completes the Services.

☐ After the Independent Contractor sends the Client an invoice. The Client shall pay the Independent Contractor within \_\_\_\_\_\_\_\_\_\_ days after receiving the Independent Contractor’s invoice. The Independent Contractor will submit invoices for payment ☐ at the end of every week ☐ on the \_\_\_\_\_\_\_\_\_\_ [Day of the month] of every month ☐ within \_\_\_\_\_\_\_\_\_\_ days after completion of the services ☐ other: \_\_\_\_\_\_\_\_\_\_.

☐ Other: \_\_\_\_\_\_\_\_\_\_.

2.3 ☐ After Completing Certain Milestones. The Client shall pay the Independent Contractor according to the following schedule: $\_\_\_\_\_\_\_ for \_\_\_\_\_\_\_\_\_\_ [Milestone]. $\_\_\_\_\_\_\_ for \_\_\_\_\_\_\_\_\_\_ [Milestone]. The Independent Contractor shall be paid: (Check one)

☐ After the completion of each milestone.

☐ After the Independent Contractor sends the Client an invoice. The Client shall pay the Independent Contractor within \_\_\_\_\_\_\_\_\_\_ days after receiving the Independent Contractor’s invoice. The Independent Contractor shall submit invoices for payment ☐ at the end of every week ☐ on the \_\_\_\_\_\_\_\_\_\_ [Day of the month] of every month ☐ within \_\_\_\_\_\_\_\_\_\_ days after completion of the services ☐ other: \_\_\_\_\_\_\_\_\_\_.

☐ Other: \_\_\_\_\_\_\_\_\_\_.

2.4 ☐ Other. \_\_\_\_\_\_\_\_\_\_.

3. Expenses. (Check one)

☐ The Client shall reimburse the Independent Contractor for expenses. Except as otherwise specified in this Agreement, the Client shall reimburse the Independent Contractor for all pre-approved, reasonable, and necessary costs and expenses incurred in connection with the performance of the Services.

* The Client shall NOT reimburse the Independent Contractor for expenses. All costs and expenses incurred by the Independent Contractor in connection with the performance of the Services shall be the sole responsibility of and paid by the Independent Contractor.

4. Agreement

4.1 This Annex is entered into by the following signatories who are legally empowered and authorized to execute this Annex. The effective date shall be the date of the latter of the signatures to this Annex.

|  |  |  |
| --- | --- | --- |
| **Client**Signature |  | **Client**Full Name |

|  |  |  |
| --- | --- | --- |
| **Independent Contractor** Signature |  | **Independent Contractor** Full Name |