

# GENERAL SERVICE AGREEMENT

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This Service Agreement (the "Agreement") is made and entered into as of , (the "Effective Date"), by and between (the "Company" or "Client"), . ')?>RECIPIENT\_REPRESENTATIVE\_NAME')?> located at , , and , . located at , , (the "Service Provider").

*WHEREAS*, the Company is engaged in the business of , and thus providing ;

*WHEREAS*, the Service Provider independently engaged in the business of , and thus providing .

*WHEREAS*, the Company desires to hire the Service Provider to perform those services as described herein this Service Agreement, and as such, the Service Provider does herein desire to provide such services in accordance with the terms and conditions of this Agreement.

*NOW THEREFORE*, in consideration of the mutual promises established and set forth herein, the Company and Service Provider hereby acknowledge and agree as follows:

## **SERVICE PROVIDER DUTIES & RESPONSIBILITIES**

### **Services:**

It shall be agreed upon, that during the term of this Agreement the Service Provider shall provide the services ("Services") that are described within the attached Schedule 1 (the "Schedules") and on any such additional consecutively numbered supplementary schedules, as which may be executed at any time by both parties to this Agreement. Each attached, or subsequently attached Schedule shall contain a description of the deliverables required to be provided by the Service Provider (collectively "Deliverables"), a description of any completion deadlines that pertain to the Deliverables and a description of the corresponding payment terms, including any partial payments for completion of designated milestones comprising each Deliverable.

### **Service Provider's Control Over Services Provided:**

The Service Provider shall retain the unqualified right of control over the means, manner and methods by which their Services are rendered and performed, and the right to perform those Services at the location(s) and time(s) that the Service Provider independently determines and sets forth. The Service Provider shall be responsible for providing all equipment, materials and supplies that the Service Provider determines shall be required to timely provide those Services which have been requested by the Service Recipient.

### **Compliance with Applicable Law:**

The Service Provider shall be responsible for complying with any and all applicable federal, state and local laws, rules, ordinances, regulations, and/or codes that pertain to the performance of the Services requested and provided. The Service Provider's failure to comply with the responsibilities and duties described in this Paragraph shall constitute a material breach of the Agreement.

### **Insurance:**

The Service Provider agrees to secure and maintain, at the Service Providers sole cost and expense, Worker's Compensation Coverage where required by law and General Liability Insurance, as required by the Company.

**Permits and Licenses:**

The Service Provider shall be responsible for acquiring and maintaining, during the term of this Agreement, any and all permits, licenses and authorizations, if applicable, required to conduct the Service Provider's business and to perform the Services requested. The Service Provider's failure to comply with the responsibilities and duties herein described in the Paragraph shall constitute a material breach of this Agreement.

**Taxes:**

The Service Provider shall be solely responsible for filing all tax returns, tax declarations and tax schedules, and for the payment of all taxes required when due, with respect to any and all compensation earned by the Service Provider as set forth in accordance to this Agreement. The Service Provider's failure to comply with the duties described herein this Paragraph shall constitute a material breach of this Agreement.

**Worker's Compensation Insurance:**

The Service Provider shall comply with the applicable worker's compensations laws with respect to Service Provider and Service Provider's personnel, and shall provide to the Company a certificate verifying worker's compensation insurance coverage upon request from the Company. The Service Provider's failure to comply with the duties herein described in this Paragraph shall constitute a material breach of this Agreement.

**DUTIES IMPOSED ON THE COMPANY**

**Fees:**

The Service Provider's entire compensation for the performance of the Services provided hereunder shall be set forth in specific detail contained within the Schedule that corresponds to the specific Services provided and shall be payable solely by the Company. As a material term of the compensation arrangement agreed to by these parties, the Service Provider agrees that the fees described in the Schedule represents the entire compensation to which the Service Provider shall be entitled for performing the corresponding Services, and that the Service Provider is not eligible for any additional compensation in the form of cash or in the form of employee benefits under any plans or programs maintained by the Company or its clients, including, but not limited to, any bonus, paid time off, health, pension and incentive compensation (collectively, "Benefit Plans"). If for any reason the Service Provider is deemed to be a common-law employee of the Company by any governmental agency, court or other entity, the Service Provider hereby waives any right to, and agrees to neither seek nor accept any benefits under the Benefit Plans, even if the terms thereof the Service Provider would be eligible to receive such benefits.

**Form 1099 Compliance:**

The Company shall report the amounts it pays the Service Provider on IRS Form 1099, to the extent so required under the Internal Revenue Code.

**No Reimbursements:**

The Service Provider shall not be entitled to any reimbursement by the Company for any cost or expenses outside of what has been originally agreed upon for compensation to the Service Provider from the Company and set forth in the herein attached Schedule.

**INDEPENDENT CONTRACTOR RELATIONSHIP**

For all intent and purposes, including, but not limited to the Federal Insurance Contributions Act ("FICA"), The Self Employment Contributions Act ("SECA"), the Social Security Act, the Federal Unemployment Tax Act ("FUTA"), the Internal Revenue Code and any and all other federal, state and local laws, rules and regulations, each party hereto, including its officers, agents and employees, shall be at all times an independent contractor relative to the other party. Nothing in this Agreement shall be construed to make or render either party, including any of its officers, agents or employees, an agent, servant or employee of, or a joint venture of or with the other.

### **OWNERSHIP AND ASSIGNMENT OF WORK PRODUCT**

The Service Provider does herein agree that any and all Work Product will be the exclusive property of the Company, and in consideration of this Agreement, without further compensation, hereby assigns, and (as necessary) agrees to assign, to the Company all right, title, and interest to all Work Product that:

(a) relates to:

(i) all or any aspect of the Company's actual or anticipated business, research, and development or existing or future products or services, or

(ii) an actual or demonstrably anticipated research or development project of the Company;

(b) is conceived, created, and reduced to practice, developed, or made entirely or in any part:

(i) during which time services are provided or on Company time, or using any equipment, supplies, facilities, assets, materials, information (including, without limitation, Confidential Information) or resources of any of the Company's (including, without limitation, any intellectual property rights); or

(c) results from any work performed by the Service Provider for the Company. Any creative works, discoveries, designs, software, computer programs, inventions, improvements, modifications, enhancements, know-how, product, formula or formulation, concept or idea that the Service Provider has within one year following the cessation or termination of the Service Provider with the Company shall be deemed to be Work Product owned by the Company under this Section, unless otherwise proven by the Service Provider to have been outside each of the criteria specified above in this Section.

### **CONFIDENTIALITY- UNAUTHORIZED DISCLOSURE**

Within or after the services period, the Service Provider shall at no time divulge, release, or remove for his/her use or that of any other individual or company, any documentation, information, or knowledge pertaining to the operation or business of the Company or any of its subsidiaries or affiliates, obtained or made available to him/her during the course of their employment with the company, subsidiaries or affiliates. Furthermore, the Company and the Service Provider agree as follows:

(a) Confidential Information shall include, but is not limited to, all non-public information, written or oral, whether disclosed directly or indirectly, through any means of communication or observation by the Service Recipient or any of its affiliates or representatives to or for the benefit of the Service Provider.

(b) Confidential information excludes that which is public knowledge.

- (c) Employee shall not copy or modify any Confidential Information without prior written consent of the Company.
- (d) The Service Provider shall, upon termination of this Agreement, (whether voluntary or involuntarily), or upon request of the Service Recipient, immediately return to the Company any and all property in their possession or that which may be under their control or care, including but not limited any proprietary information, customer names and lists, trade secrets, intellectual property, written documents, plans, recordings, software, accounting or financial information and/or any other materials of a confidential nature.

**Unauthorized Disclosure:**

Should the Service Provider, during, or after termination of employment, disclose or threaten to disclose any information of a confidential nature, the Service Provider shall be deemed in violation of this agreement, and the Company at that time shall be entitled to obtain an injunction to restrain the Service Provider from disclosing or further disclosing, in whole or in part, Confidential Information. The Company shall also be entitled to pursue other legal remedies, as may be deemed appropriate, for any loss and/or damages incurred as a result of any unauthorized disclosure made by the Service Provider during or after termination of their services.

**TERMS AND TERMINATION**

The terms of the herein contained Agreement shall commence on the previously established effective date and shall continue as such in full effect and force thereafter until such time as the deliverables are completed as required of the Service Provider in accordance to an outstanding Schedule. Any Schedule given or provided to the Service Provider shall remain within an outstanding status until such time as the Deliverable specified therein has been completed or this Agreement has otherwise been terminated.

**Breach Cause for Termination:**

This Agreement may be terminated at any time by either party should a material breach by the other party remain uncured thirty (30) days after submission of written notice being provided of the breach thereof, or a shorter period of time as may be specified within this Agreement or within the applicable Schedule provided to the Service Provider by the Company.

**Return of Company Property:**

At the end of the Service Providers contract or upon termination of their services, whether voluntary or involuntary, said Service Provider shall immediately return to the Company any and all company property including, but not limited to, the following:

- (a) Key or Key Card(s) granting access to the building and/or offices or area's located within the building;
- (b) Company Car (if applicable);
- (c) Company Identification (ID);
- (d) Computer (if applicable);

- (e) Business Cards (if applicable);
- (f) Company Credit Cards (if applicable); and any
- (g) Company related documents and/or material.

The Company reserves the right, and shall be entitled to pursue any legal remedies, as may be deemed appropriate, for any loss and/or damages incurred as a result of the Service Providers failure to return Company property after termination of their services.

## **INDEMNIFICATION**

Both parties shall guarantee, guard against and hold harmless the other party, any current or former employees, shareholders, partners or any ownership interest and agents from and/or against any alleged claim, including, but not limited to third-party claims, demands, loss, damages and or expense, including any legal or attorney fees that may be in relation to:

- a) any negligence, recklessness or any willful misconduct of the indemnifying party or any other party under the direction or control of the indemnifying party;
- b) any material breach of this Agreement by the indemnifying party, or
- c) any damage, loss or destruction relating to any property of the indemnifying party or their client or clients, injury or death to any individuals that may result from the actions or inactions of any employee, agent or subcontractor of the indemnifying party as such damage may arise out of or is in the course of fulfilling their obligations under and with relation to this Agreement, and to the extent that such damage may be due to any negligence, unlawful conduct, omission or default of the indemnifying party, their employees, agents or subcontractors.

## **GENERAL**

### **Work Product:**

The Service Provider herein acknowledges and agrees that all work of authorship performed for the Client/Company shall be subject to the Client's/Company's direction and control and that such work constitute Work for Hire Work Product pursuant to *United States Code Title 17 – Chapter 2 – Sections 201 & 202 Ownership of Copyright & Material*.

### **Nonrestrictive Relationship:**

The herein named parties' relationship shall be considered nonrestrictive and the Service Provider shall have the right to perform services for others during the term of this Agreement that would include any services that may be similar to those which are or may be supplied by the Service Provider.

### **Exempt:**

Neither party named herein, shall be held liable for or believed to be in breach of this Agreement by way of any delay, or failure to perform as necessitated by this Agreement as a consequence of any cause or condition that may be beyond either party's reasonable control and of which either party may be unable to overcome by the use or exercise of reasonable diligence.

### **Notice:**

Both parties, when required, shall provide written notice or communication by:

- 1) personal delivery,
- 2) facsimile,
- 3) overnight carrier, or
- 4) a written notice mailed by certified mail, return receipt requested, provided that such notice is addressed to the parties at the addresses set forth below:

**(i) Company:**

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**(ii) Service Provider:**

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,

**No Relinquishment:**

Any waiver or relinquishment for any breach of any term, condition or provision hereof and shall not be deemed to be a waiver of any other breach of the same or any other provision.

**Full and Complete Agreement:**

This Agreement has set forth the full and complete agreement and shall supersede any and all prior agreements between the parties concerning all aspects of the subject matter herein contained. The Agreement may not and shall not be amended except by way of a written instrument that must be signed by both parties named hereto.

**Delegation:**

The herein contained Agreement may not and shall not be assigned by the Service Provider without first providing prior written consent of the Company. The Company, however, may assign, delegate or make transfer of the Agreement to another entity that controls, is controlled by or that is under common control with, the Company now or in the future, or which may succeed to its business through a sale, merger or other corporate transactions. However, all rights and obligations shall be assumed by the assignee, transferee, or successor without modification.

**Formation, Severability, Endurance:**

In any event that any provision of this Agreement conflicts with the law pursuant to which this Agreement is to be construed or if any other provision is held to be invalid by a court within the jurisdiction over the parties to this Agreement, and

(iii) that any such provision shall be deemed to be restated to reflect, as nearly as possible, the original intentions of the parties in accordance with applicable law, and

(iv) in the remaining terms of this Agreement shall remain in full force and effect.

All provisions of this Agreement, which by their nature should reasonably survive the termination of this Agreement, and shall survive the termination of this Agreement.

**Counterparts:**

This Agreement may be and shall be executed in counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same document.

**ARBITRATION AND DISPUTE RESOLUTION**

The herein contained Agreement shall be governed by, construed and enforced pursuant with the laws of the State of , without giving any effect to any conflicts of law provisions. Any and all disputes between the Company, and including but not limited to its affiliates, shareholders, directors, officers, employees, agents, successors, attorneys and assigns, and the Service Provider, including their affiliates, shareholders, directors, officers, employees, agents, successors, attorneys and/or assigns, relating in any manner whatsoever to this Agreement ("Arbitral Claims"), and shall be resolved by and through the use of arbitration. Arbitration of such claims shall be done in accordance with the Commercial Arbitration Rules of the American Arbitration Association, as amended, and shall be conducted within the jurisdiction in which the company is located. The Federal Arbitration Act shall govern the interpretation and enforcement of this paragraph. The fees associated with the arbitrator shall be shared equally by both parties. The parties agree that this paragraph shall survive the termination of the Agreement.

*IN WITNESS WHEREOF*, the parties hereto, each acting pursuant with due and proper authority, have executed this Agreement as of the aforementioned Effective Date.

**COMPANY**

**SERVICE PROVIDER**

By: \_\_\_\_\_  
Company Name:

By: \_\_\_\_\_  
Provider Name:

Print Recipient Representative Name: .  
Title:  
Date:

Print Provider Representative Name: .  
Title:  
Date:

# DELIVERABLE SERVICES AGREEMENT SCHEDULE

BY AND BETWEEN  
AND  
EFFECTIVE DATE OF

Description of Services to be performed by Service Provider:

Provide

Description of Deliverables to be produced by the Service Provider:

Payment term and methods:

Total Compensation:

Payment Terms:

Payment Date:

Payment Method:

Deadline for Deliverable Milestones:

by

Any Additional Terms and Conditions:

COMPANY

SERVICE PROVIDER

By: \_\_\_\_\_  
Company Name:

By: \_\_\_\_\_  
Provider Name:

Print Recipient Representative Name: .  
Title:  
Date:

Print Provider Representative Name: .  
Title:  
Date: