

## **CONSULTING AGREEMENT**

This Agreement is made effective as of \_\_\_\_\_, by and between \_\_\_\_\_, and \_\_\_\_\_.

In this Agreement, the party who is contracting to receive services shall be referred to as "\_\_\_\_\_", and the party who will be providing the services shall be referred to as "\_\_\_\_\_".

\_\_\_\_\_ has a background in \_\_\_\_\_ and is willing to provide services to \_\_\_\_\_ based on this background.

\_\_\_\_\_ desires to have services provided by \_\_\_\_\_.

Therefore, the parties agree as follows:

**1. DESCRIPTION OF SERVICES.** Beginning on \_\_\_\_\_, \_\_\_\_\_ will provide the following services (collectively, the "Services"):  
\_\_\_\_\_

**2. PERFORMANCE OF SERVICES.** The manner in which the Services are to be performed and the specific hours to be worked by \_\_\_\_\_ shall be determined by \_\_\_\_\_ will rely on \_\_\_\_\_ to work as many hours as may be reasonably necessary to fulfill \_\_\_\_\_'s obligations under this Agreement.

**3. PAYMENT.** \_\_\_\_\_ will pay a fee to \_\_\_\_\_ for the Services in the amount of \$\_\_\_\_\_. This fee shall be payable in a lump sum upon completion of the Services.

**4. EXPENSE REIMBURSEMENT.** \_\_\_\_\_ shall pay all "out-of-pocket" expenses, and shall not be entitled to reimbursement from \_\_\_\_\_.

**5. NEW PROJECT APPROVAL.** \_\_\_\_\_ and \_\_\_\_\_ recognize that \_\_\_\_\_'s Services will include working on various projects for \_\_\_\_\_. \_\_\_\_\_ shall obtain the approval of \_\_\_\_\_ prior to the commencement of a new project.

**6. TERM/TERMINATION.** This Agreement shall terminate automatically upon completion by \_\_\_\_\_ of the Services required by this Agreement.

**7. RELATIONSHIP OF PARTIES.** It is understood by the parties that \_\_\_\_\_ is an independent contractor with respect to \_\_\_\_\_, and not an employee of \_\_\_\_\_. \_\_\_\_\_ will not provide fringe benefits, including health insurance benefits, paid

vacation, or any other employee benefit, for the benefit of \_\_\_\_\_.

**8. DISCLOSURE.** \_\_\_\_\_ is required to disclose any outside activities or interests, including ownership or participation in the development of prior inventions, that conflict or may conflict with the best interests of \_\_\_\_\_. Prompt disclosure is required under this paragraph if the activity or interest is related, directly or indirectly, to:

- a product or product line of \_\_\_\_\_
- a manufacturing process of \_\_\_\_\_
- any activity that \_\_\_\_\_ may be involved with on behalf of \_\_\_\_\_

**9. EMPLOYEES.** \_\_\_\_\_'s employees, if any, who perform services for \_\_\_\_\_ under this Agreement shall also be bound by the provisions of this Agreement.

**10. INJURIES.** \_\_\_\_\_ acknowledges \_\_\_\_\_'s obligation to obtain appropriate insurance coverage for the benefit of \_\_\_\_\_ (and \_\_\_\_\_'s employees, if any). \_\_\_\_\_ waives any rights to recovery from \_\_\_\_\_ for any injuries that \_\_\_\_\_ (and/or \_\_\_\_\_'s employees) may sustain while performing services under this Agreement and that are a result of the negligence of \_\_\_\_\_ or \_\_\_\_\_'s employees.

**11. INDEMNIFICATION.** \_\_\_\_\_ agrees to indemnify and hold harmless \_\_\_\_\_ from all claims, losses, expenses, fees including attorney fees, costs, and judgments that may be asserted against \_\_\_\_\_ that result from the acts or omissions of \_\_\_\_\_, \_\_\_\_\_'s employees, if any, and \_\_\_\_\_'s agents.

**12. ASSIGNMENT.** \_\_\_\_\_'s obligations under this Agreement may not be assigned or transferred to any other person, firm, or corporation without the prior written consent of \_\_\_\_\_.

**13. INTELLECTUAL PROPERTY.** The following provisions shall apply with respect to copyrightable works, ideas, discoveries, inventions, applications for patents, and patents (collectively, "Intellectual Property"):

*a. Consultant's Intellectual Property.* \_\_\_\_\_ personally holds an interest in the Intellectual Property that is described on the attached Exhibit A and which is not subject to this Agreement.

*b. Development of Intellectual Property.* Any improvements to Intellectual Property items listed on Exhibit A, further inventions or improvements, and any new items of Intellectual Property discovered or developed by \_\_\_\_\_ (or \_\_\_\_\_'s employees, if any) during the term of this Agreement shall be the property of \_\_\_\_\_. \_\_\_\_\_ shall sign all documents necessary to perfect the rights of \_\_\_\_\_ in such Intellectual Property, including the filing and/or prosecution of any applications for copyrights or patents. Upon request,

\_\_\_\_\_ shall sign all documents necessary to assign the rights to such Intellectual Property to \_\_\_\_\_.

**14. CONFIDENTIALITY.** \_\_\_\_\_ recognizes that \_\_\_\_\_ has and will have the following information:

- inventions
- machinery
- products
- prices
- apparatus
- costs
- discounts
- future plans
- business affairs
- process information
- trade secrets
- technical information
- customer lists
- copyrights

and other proprietary information (collectively, "Information") which are valuable, special and unique assets of \_\_\_\_\_ and need to be protected from improper disclosure. In consideration for the disclosure of the Information, \_\_\_\_\_ agrees that \_\_\_\_\_ will not at any time or in any manner, either directly or indirectly, use any Information for \_\_\_\_\_'s own benefit, or divulge, disclose, or communicate in any manner any Information to any third party without the prior written consent of \_\_\_\_\_. \_\_\_\_\_ will protect the Information and treat it as strictly confidential. A violation of this paragraph shall be a material violation of this Agreement.

**15. UNAUTHORIZED DISCLOSURE OF INFORMATION.** If it appears that \_\_\_\_\_ has disclosed (or has threatened to disclose) Information in violation of this Agreement, \_\_\_\_\_ shall be entitled to an injunction to restrain \_\_\_\_\_ from disclosing, in whole or in part, such Information, or from providing any services to any party to whom such Information has been disclosed or may be disclosed. \_\_\_\_\_ shall not be prohibited by this provision from pursuing other remedies, including a claim for losses and damages.

**16. CONFIDENTIALITY AFTER TERMINATION.** The confidentiality provisions of this Agreement shall remain in full force and effect after the termination of this Agreement.

**17. SERVICES TO THIRD PARTIES.** \_\_\_\_\_ shall not provide any consulting services to any third party during the term of this Agreement, unless \_\_\_\_\_ has obtained \_\_\_\_\_'s prior written consent.

**18. NON-COMPETE AGREEMENT.** Recognizing that the various items of Information are special and unique assets of \_\_\_\_\_ that need to be protected from disclosure, and in consideration of the disclosure of the Information, \_\_\_\_\_ agrees and covenants that for a period of 10 years following the termination of this Agreement, whether such termination is

voluntary or involuntary, \_\_\_\_\_ will not directly or indirectly engage in any business competitive with \_\_\_\_\_. This covenant shall apply to the geographical area that includes all of the State of \_\_\_\_\_. Directly or indirectly engaging in any competitive business includes, but is not limited to, (i) engaging in a business as owner, partner, or agent, (ii) becoming an employee of any third party that is engaged in such business, or (iii) becoming interested directly or indirectly in any such business, or (iv) soliciting any customer of \_\_\_\_\_ for the benefit of a third party that is engaged in such business. \_\_\_\_\_ agrees that this non-compete provision will not adversely affect the livelihood of \_\_\_\_\_.

**19. RETURN OF RECORDS.** Upon termination of this Agreement, \_\_\_\_\_ shall deliver all records, notes, data, memoranda, models, and equipment of any nature that are in \_\_\_\_\_'s possession or under \_\_\_\_\_'s control and that are \_\_\_\_\_'s property or relate to \_\_\_\_\_'s business.

**20. NOTICES.** All notices required or permitted under this Agreement shall be in writing and shall be deemed delivered when delivered in person or deposited in the United States mail, postage prepaid, addressed as follows:

IF for \_\_\_\_\_:  
  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

IF for \_\_\_\_\_:  
  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Such address may be changed from time to time by either party by providing written notice to the other in the manner set forth above.

**21. ENTIRE AGREEMENT.** This Agreement contains the entire agreement of the parties and there are no other promises or conditions in any other agreement whether oral or written. This Agreement supersedes any prior written or oral agreements between the parties.

**22. AMENDMENT.** This Agreement may be modified or amended if the amendment is made in writing and is signed by both parties.

**23. SEVERABILITY.** If any provision of this Agreement shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court finds that any provision of this Agreement is invalid or unenforceable, but that by limiting such provision it would become valid and enforceable, then such provision shall be deemed to be written, construed, and enforced as so limited.

**24. WAIVER OF CONTRACTUAL RIGHT.** The failure of either party to enforce any provision of this Agreement shall not be construed as a waiver or limitation of that party's right to subsequently enforce and compel strict compliance with every provision of this Agreement.

**25. APPLICABLE LAW.** This Agreement shall be governed by the laws of the State of \_\_\_\_\_.

Party receiving services:

\_\_\_\_\_

By: \_\_\_\_\_

\_\_\_\_\_

Party providing services:

\_\_\_\_\_

By: \_\_\_\_\_

\_\_\_\_\_

**EXHIBIT A**  
*Intellectual Property*

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