

**MODEL INDEPENDENT CONTRACTOR AGREEMENT**  
(Short Form—Individual)

THIS INDEPENDENT CONTRACTOR AGREEMENT (together with any attachments referred to below, the "Agreement") is dated as of \_\_\_\_\_, 200\_, by and between the ABC ASSOCIATION, a \_\_\_\_\_ not-for-profit corporation ("ABC"), and \_\_\_\_\_ (Social Security # \_\_\_\_\_), an individual independent contractor ("Contractor"). ABC and Contractor are also referred to as the "parties" and each as a "party." The parties, intending legally and equitably to be bound, agree as follows:

**1. Work to Be Performed.** Contractor agrees to perform the work described in **Attachment A** (the "Work"), and shall report in writing to ABC with whatever frequency and regarding whatever subject matter ABC may require to keep ABC informed about Contractor's activities under this Agreement.

**2. Period for Performance.** The period for performance of the Work shall commence on \_\_\_\_\_, 200\_, and shall automatically be extended for successive \_\_\_\_ periods, unless (a) either party sends written notice of its desire not to extend thirty (30) days before the end of any such period (including the initial period), or (b) this Agreement is earlier terminated pursuant to **Section 10**. Contractor shall promptly inform ABC in writing of any actual or potential delay in the timely performance of the Work, and the reason(s) for such delay.

**3. Compensation.**

**3.1. Contract Type.** (*select one*)

**Cost Reimbursement Contract.** Contractor shall be reimbursed by ABC for all direct and indirect costs incurred in connection with the Work up to an amount equal to \$\_\_\_\_\_ (the "Maximum Cost Reimbursement Contract Amount"), in accordance with the budget attached hereto as **Attachment B** (the "Project Budget"). ABC shall not be liable for the reimbursement of any cost incurred by Contractor in excess of the Project Budget. Cost items specified in this Agreement as requiring the prior written approval of ABC will not be reimbursed without such approval. Contractor will submit invoices for reimbursement on a monthly basis.

Under a cost reimbursement contract, Contractor must maintain books, records, documents, and other evidence of its accounting and billing procedures and practices reflecting all direct and indirect costs in connection with the Work, and shall retain such records for a period of three (3) years after the expiration or termination of this Agreement. If any litigation, claim or audit is commenced before expiration of the three (3) year period, the records shall be retained until all litigation, claims or audit findings involving the records have been resolved. These records shall be subject at all reasonable times to inspection by authorized employees or agents of ABC.

**Fixed Price Contract.** This is a fixed-price contract for \$\_\_\_\_\_ (the "Fixed Contract Amount"). Contractor will submit invoices for payment in accordance with one of the following schedules (*select one*):

**Fixed Schedule Invoicing:** Contractor will submit invoices for payment as follows:

\_\_\_\_\_% shall be paid on execution of this Agreement;

\_\_\_\_\_% shall be paid \_\_\_\_ days after the Work has commenced; and

\_\_\_\_\_% shall be paid \_\_\_\_ days after acceptance of the Work by ABC.

**Monthly Invoicing:** Contractor will submit invoices monthly as Work is performed.

**Hourly Rate Contract.** Contractor shall be compensated at a rate of \$\_\_\_.00 (the "Hourly Rate") for each hour spent performing the Work. Contractor shall be limited to \_\_\_\_\_ ( ) hours of work per calendar week. Contractor will submit invoices for payment on a weekly basis for work performed during the immediately preceding calendar week.

**3.2. Submission and Payment of Invoices.** Contractor shall submit invoices for performance of the Work at the intervals specified in Section 3.1. Invoices shall be submitted to the ABC Staff Contact. To be considered properly prepared, invoices must include: (a) invoice number; (b) invoice date and billing period; and (c) total due on invoice. Invoices under *cost reimbursement contracts* must also include (i) total labor costs broken out by task; (ii) other direct costs by category; (iii) indirect costs by category; and (iv) current and cumulative amount for each line item. Invoices under *hourly rate contracts* must also include a description of tasks performed and hours spent performing such tasks broken out by day. Subject to the terms of this Agreement, ABC shall pay each properly prepared invoice no later than thirty (30) days after receipt.

**3.3. Reduction or Withholding of Payment.** In addition to any other remedies available to ABC, if, in ABC's reasonable determination, Contractor fails to perform in accordance with the terms of this Agreement, ABC may refuse or limit approval of any invoices for payment, and may reduce or withhold payments to Contractor until such time as ABC reasonably determines that Contractor has met the performance terms established by this Agreement. ABC shall promptly notify Contractor of any such withholding of payment.

**3.4. ABC Staff Contact.** ABC's initial representative with respect to this Agreement (the "ABC Staff Contact") is \_\_\_\_\_. The ABC Staff Contact may be changed by ABC from time to time; ABC will promptly notify Contractor of any such change.

**4. Changes and Modifications.** Any material change to the Work or the terms of this Agreement must be set forth in a writing signed by the parties. Contractor promptly shall notify ABC in writing of any change in the Work that Contractor reasonably determines is necessary. Such notice shall specify (a) the particular elements of Work for which Contractor is seeking a change, (b) the reason for the requested change, and (c) the impact, if any, that the requested change will have on (i) the Fixed Contract Amount, (ii) time for performance or (iii) any other terms or conditions of this Agreement.

**5. Confidential Information.** During the term of this Agreement, Contractor may receive or have access to data and information that is confidential and proprietary to ABC. All such data and information ("Confidential Information") made available to, disclosed to, or otherwise made known to Contractor in connection with this Agreement shall be considered the sole property of ABC. Confidential Information may be used by Contractor only for purposes of performing the obligations of Contractor hereunder. Contractor shall not disclose Confidential Information to any third party without the prior written consent of ABC. Contractor shall not use or duplicate any proprietary information belonging to or supplied by ABC, except as authorized by ABC. These obligations of confidentiality and non-disclosure shall remain in effect for a period of five (5) years following the expiration or earlier termination of this Agreement.

**6. Copyrights, Trademarks and Inventions.** For purposes of this Section 6, the terms "works," "trademark," and "invention" include anything created for ABC by Contractor, whether alone or with others, and whether they be independent contractors, employees, or agents of ABC.

**6.2. Work Made for Hire.** During the performance of this Agreement, Contractor may create certain works for ABC that may be copyrighted under United States law. To the extent that any such works are created, Contractor will be considered to have created a work made for hire as defined in 17 USC §§ 101 et seq. and ABC shall have the sole right to the copyright. In the event that any work created by Contractor does not qualify as a work for hire, Contractor agrees to assign its right, title and interest in and to the work to ABC.

**6.3. Title to Works, Trademarks, and Inventions Produced.** It is understood and agreed that the entire right, title, and interest throughout the world in and to all works, trademarks, and/or inventions that are conceived of or produced, whether or not reduced to practice, by Contractor, either solely or jointly with others, in connection with or as related to the performance of this Agreement, shall be and hereby are vested and assigned by Contractor to ABC. With respect to copyrighted materials, Contractor further agrees that ABC is assigned all rights, including the right to edit and create derivative works from the

materials, and the right to any and all commercial reproduction, transmission, display, performance or distribution of the materials or any derivative works based on the materials via any means currently existing or developed or discovered in the future, including, without limitation, posting to the Internet, CD, DVD or other digital format.

**6.4. Further Assurances.** Contractor agrees to execute any and all documents and to do all other lawful acts as may be required by ABC to establish and protect such rights.

**7. Indemnification.** Contractor hereby agrees to indemnify and hold harmless ABC and its directors, officers and employees from any and all liabilities, losses, costs, damages, claims, liens, judgments, penalties, fines, attorneys' fees, court costs and other legal expenses, insurance policy deductibles and all other expenses arising out of or related to (a) any intentional or grossly negligent act or omission of Contractor, or (b) Contractor's failure to perform any of its obligations under this Agreement. Such indemnity shall apply to the fullest extent permitted by applicable law. Contractor's obligations under this **Section 7** shall survive the expiration or termination of this Agreement unless specifically waived in writing by ABC after such expiration or termination.

**8. Independent Contractor Status.** The relationship of Contractor to ABC is that of an independent contractor, and nothing in this Agreement shall be construed as creating any other relationship. Contractor shall comply with all laws and assume all risks incident to its status as an independent contractor. Contractor covenants and agrees to pay all applicable federal, state and local income taxes, associated payroll and business taxes, licenses and fees, and such insurance as is necessary for Contractor's protection in connection with Work performed under this Agreement; no such taxes or fees shall be withheld or paid by ABC on behalf of Contractor. **Contractor acknowledges and agrees that it is responsible for paying, according to applicable law, Contractor's income taxes, if any. Contractor further acknowledges and agrees that it may be liable for self-employment (social security) tax, to be paid by Contractor according to applicable law. No workers' compensation insurance shall be obtained by ABC covering Contractor.**

**9. Disputes.** If the parties are unable to settle a dispute relating to this Agreement, either party, on written notice to the other party, shall submit the dispute to arbitration in accordance with the rules of the American Arbitration Association in the State of \_\_\_\_\_. Judgment on the arbitration award may be entered in any court having jurisdiction.

**10. Termination.** Either party may terminate this Agreement at any time on thirty (30) days advance written notice to the other party. ABC may terminate this Agreement immediately on notice to Contractor if any of the following circumstances occurs: (a) Contractor fails timely to deliver the goods or perform the services required by this Agreement; (b) Contractor fails to perform any of the other material provisions of this Agreement or so fails to make progress with the Work as to endanger performance of this Agreement in accordance with its terms; (c) Contractor ceases to operate Contractor's business; or (d) a material conflict of interest arises pursuant to Section 11.

**10.1 Transfer of and Payment for Completed Deliverables and Materials.** In the event of a termination of this Agreement as provided in this **Section 10**, ABC may require Contractor to transfer and deliver to ABC, in the manner directed by ABC, (a) any completed deliverables, works and research materials (collectively, "Completed Deliverables"), and (b) such partially completed deliverables, works, research materials, and information (collectively, the "Materials") as Contractor has produced or acquired for the performance of this Agreement. Contractor further agrees to protect and preserve property in the possession of Contractor in which ABC has an interest. Payment for Completed Deliverables delivered to and accepted by ABC shall be at the price specified in this Agreement. Payment for Materials delivered to and accepted by ABC that are necessary or convenient to the protection and preservation of property shall be at a price designed to reimburse Contractor for the reasonable value of the Work performed without profit. ABC may withhold monies otherwise due to Contractor for Completed Deliverables and/or Materials in such amounts as ABC determines necessary to protect ABC against loss due to outstanding liens or claims against the same. The provisions of this **Section 10.1** shall survive the termination of this Agreement.

**11. Conflict of Interest.** Contractor represents and warrants that it has no business, professional, personal, or other interest, including, but not limited to, the representation of other clients, that would conflict with the performance of its obligations under this Agreement. If any such actual or potential conflict of interest arises, Contractor shall immediately inform ABC in writing. If, in the reasonable judgment of ABC, such conflict poses a material conflict with the performance of Contractor's obligations hereunder, ABC may terminate the Agreement immediately on written notice to Contractor; such termination shall be effective on receipt of such notice by Contractor.

**12. Entire Agreement.** This Agreement constitutes the entire agreement between the parties and supersedes all prior agreements relating to the subject matter hereof.

**13. Severability.** The invalidity in whole or in part of any provision of this Agreement shall not affect the validity of other provisions.

**14. Amendments; Waivers.** This Agreement may only be modified in writing, signed by the parties in interest at the time of such modification. No waiver by either party of any provision hereof shall be deemed a waiver of any other provision hereof or of any subsequent breach by ABC or Contractor of the same or any other provision. Either party's consent to, or approval of, any act shall not be deemed to render unnecessary the obtaining of such party's consent to or approval of any subsequent act.

**15. Notices.** All notices and demands of any kind which either party may be required or wish to serve on the other in connection with this Agreement shall be in writing and may be served personally or by fax, certified mail, or commercial overnight delivery, with constructive receipt deemed to have occurred one (1) calendar day after the mailing, sending or transmitting of such notice, to the following addresses or fax numbers:

If to ABC:  
ABC

\_\_\_\_\_

Attn: \_\_\_\_\_

Fax: \_\_\_\_ - \_\_\_\_ - \_\_\_\_\_

If to Contractor:

\_\_\_\_\_

\_\_\_\_\_

Fax: \_\_\_\_ - \_\_\_\_ - \_\_\_\_\_

**16. Binding Effect.** This Agreement shall bind the parties, their respective heirs, personal representatives, successors and assigns.

**17. Choice of Law.** This Agreement shall be governed by and interpreted solely in accordance with the laws of the State of \_\_\_\_\_, except for its conflict-of-laws or choice-of-law principles.

IN WITNESS WHEREOF, ABC and Contractor, intending to be legally and equitably bound, have caused this Agreement to be executed as of the date first above written.

**ABC ASSOCIATION**

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

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Approved for Execution:

\_\_\_\_\_

**[CONTRACTOR]**

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

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

ATTACHMENT A

DESCRIPTION OF THE WORK

See attached.