

INDEPENDENT CONTRACTOR AGREEMENT

This Independent Contract Agreement (“Agreement”) is made and entered into as of the ____ day of _____, 20__, by and between _____ (“Inspector”) and _____ (“Contractor”). Inspector desires to retain Contractor as an independent contractor to perform home and/or commercial inspections for Inspector. In consideration of the mutual promises contained herein, the parties agree as follows:

1. TERM OF CONTRACT

This Agreement will become effective upon its execution and will continue until terminated in accordance with the provisions of this Agreement.

2. INDEPENDENT CONTRACTOR STATUS

(a) No Employment Relationship

It is the express intention of the parties that Contractor is an independent contractor and not an employee, agent, joint venturer or partner of the Inspector. Nothing in this Agreement shall in any way be interpreted or construed as creating or establishing the relationship of employer and employee between Inspector Contractor or any employee or agent of the Contractor. Both parties acknowledge that Contractor is not an employee for state or federal tax purposes. As an independent contractor, Contractor is not entitled to any employee benefits of the Inspector. Contractor shall retain the right to perform services for others during the term of this Agreement so long as these services (i) are not inconsistent or incompatible with Contractor’s obligations under this Agreement; or (ii) do not violate Section 4 of this Agreement.

(b) No Authority to Bind Inspector

Contractor has no authority to act, to enter into any contract, or to incur any liability on behalf of the Inspector.

3. SERVICES TO BE PERFORMED BY CONTRACTOR

(a) Availability and Description of Services

Contractor agrees to be available at reasonable times upon reasonable request by the Inspector during the term of this Agreement, and to perform the requested home and/or commercial inspections (“Services”).

(b) Work Product

Contractor agrees that Inspector shall own all data, compilations, analyses and reports generated by Contractor in connection with the Services. Ownership rights shall include, but are not limited to, all rights associated with publications, trade secrets, copyrights, trademarks and patents. Contractor shall treat such data, compilations, analyses and reports as Confidential Information (as defined below), subject to the protections of this Agreement.

(c) Method of Performing Services

Contractor will determine the method, details and means of performing the above-described services. Inspector shall have no right to, and shall not, control the manner or determine the method of accomplishing Contractor’s services. Contractor agrees to exercise the highest degree of professionalism and to utilize his/her expertise in providing such services.

4. **CONFIDENTIAL INFORMATION**

(a) **Definition of Confidential Information**

As used in this Agreement, the term “Confidential Information” shall mean all trade secrets or confidential or proprietary information of the Inspector. By way of illustration and not limitation, “Confidential Information” shall include the Inspector’s research and development plans or projects, data and reports; computer materials such as programs, instructions, source and object code, and printouts; formulas; inventions, developments and discoveries; product testing information; business improvements, processes, marketing and selling ideas; business plans (whether pursued or not); budgets; unpublished financial statements; licenses; pricing, pricing strategy and cost data; information regarding the skills and compensation of employees of the Inspector; the identities of the Inspector’s clients and potential clients, customers and potential customers (hereinafter referred to collectively as “Customers”); the particular preferences, likes, dislikes and needs of those Customers; Customer information regarding contact persons, pricing sales calls, timing, sales terms, and service plans; methods, practices, strategies, forecasts, know-how, and other marketing techniques; the identities of key accounts and potential key accounts; the identities of the Inspector’s suppliers and contractors, all information about those supplier and contractor relationships such as contact person(s), pricing and other terms; and, of appropriate, information concerning patient data of the Inspector or its Customers.

(b) **Non-Use and Non-Disclosure of Confidential Information**

Contractor agrees that, except as required by judicial order or governmental laws or regulations, Contractor will not, during or subsequent to the term of this Agreement (i) use the Inspector’s Confidential Information for any purpose whatsoever other than the performance of Contractor’s Services or (ii) disclose the Inspector’s Confidential Information to any third party. It is understood that the Inspector’s Confidential Information shall remain the sole property of the Inspector. Contractor further agrees to take all reasonable precautions to prevent any unauthorized use or disclosure of the Inspector’s Confidential.

(c) **Injunctive Relief**

Contractor acknowledges that any remedy at law for the breach or threatened breach of this Section 4 would be inadequate to fully and properly protect Inspector and, therefore, Contractor agrees that Inspector shall be entitled to injunctive relief in addition to other available remedies; *provided, however*, that nothing contained herein shall be construed as prohibiting Inspector from pursuing any other remedies available in law or in equity for such breach or threatened breach.

(d) **Return of Confidential Information**

Upon the termination of this Agreement or upon the Inspector’s earlier request, Contractor will return to the Inspector any and all Inspector property, including property containing Confidential Information, that Contractor has in Contractor’s possession or control.

(e) **Survival**

The provisions of this Section 4 shall survive expiration or termination of this Agreement.

5. **COMPENSATION**

(a) **Rate of Pay**

Inspector agrees to pay Contractor as follows:

(b) **Invoices and Payment of Compensation**

Contractor agrees to submit to the Inspector itemized invoices for Services rendered during each month by the fifteenth day of the following month, which will include a description of the topics written and the nature of the services provided.

(c) **Expenses**

Contractor shall be responsible for all costs and expenses incident to the performance of Services for Inspector, including but not limited to, all costs of equipment provided by Contractor and all fees, fines, licenses, bonds or taxes required of or imposed against Contractor. Inspector shall be responsible for no expenses incurred by Contractor in performing Services for Inspector.

(d) **Time**

The number of hours that Contractor will perform Services each month, or the number of topics written each month, will be determined by mutual Agreement between Contractor and Inspector. Inspector is under no obligation to offer any projects or hours to Contractor under this Agreement.

6. **OBLIGATIONS OF CONTRACTOR**

(a) **Tools and Instrumentalities**

Contractor will supply all tools and instrumentalities required to perform the Services.

(b) **State and Federal Taxes**

As an independent contractor, Contractor is responsible for paying all required state and federal taxes and making contributions to the government-sponsored benefit programs. In particular:

- Inspector will not withhold FICA (Social Security) from Contractor's payments;
- Inspector will not make state or federal unemployment insurance contributions on Contractor's behalf;
- Inspector will not withhold state or federal income tax from payment to Contractor; and
- Inspector will not obtain workers' compensation insurance on behalf of Contractor.

Inspector will issue an Internal Revenue Service Form 1099 with respect to Contractor's fees. Contractor agrees to accept exclusive liability for complying with all applicable state and federal laws governing self-employed individuals including obligations such as payment of quarterly taxes, social security, disability and other contributions based on the fees paid to the Contractor under this Agreement. Contractor agrees to indemnify and hold Inspector harmless to the extent Inspector becomes obligated to pay any of the above taxes or incurs any similar liabilities.

(c) **Insurance Requirements**

For the term of this Agreement, Contractor agrees to maintain a policy of insurance to cover: (a) claims under workers' compensation and state disability laws; (b) claims for damages for bodily injury, sickness, disease or death which arise out of any negligent act or omission of Contractor; and (c) claims for damages because of injury to or destruction of tangible or intangible property, including loss of use resulting therefrom, which arise out of any negligent act or omission of Contractor. Contractor agrees to maintain professional liability coverage for errors and omissions in connection with services provided to Inspector, and name Inspector as an Additional Insured on such policies of insurance, for a period no less than (3) three years following termination of services provided by Contractor to Inspector.

(d) **Indemnities**

Contractor will indemnify Inspector and hold it harmless from and against, and at Inspector's option defend against, all claims, damages, losses and expenses as they are accrued, including court costs and reasonable fees and expenses of attorneys, expert witnesses and other professionals, arising out of or resulting from:

- (i) any action by a third party against Inspector that is based on any claim that any of Contractor's Services or their results, or Inspector's use of their results, infringe a patent, copyright or other proprietary right or incorporates any misappropriated trade secrets;
- (ii) any action by a third party that is based on any negligent act or omission or willful conduct of Contractor or employees or contractors of Contractor and which results in: (i) any bodily injury, sickness, disease or death, (ii) any injury or destruction to tangible or intangible property (including computer programs and data) or any loss of use resulting therefrom; or (iii) any violation of any statute, ordinance, or regulation; and
- (iii) any determination by a court or agency that Contractor is not an independent contractor.

(e) **Solicitation of Employees, Customers**

Contractor agrees that during the term of this Agreement and for one (1) year following the termination of this Agreement, Contractor will not (i) directly or indirectly solicit, or attempt to solicit any employee of the Inspector to terminate his or her relationship with the Inspector in order to become an employee, Contractor or independent contractor for any other person or entity, or (ii) solicit, interfere with, or endeavor to entice away from the Inspector, any of its Customers that contractor or Contractor's assistants, employees or agents had contact with as a result of performing Services for the Inspector.

7. **CONFLICTING OBLIGATIONS, TAINTED INFORMATION**

Contractor certifies that s/he has no outstanding agreement or obligation that is in conflict with any of the provisions of this Agreement, or that would preclude Contractor from complying with the provisions hereof, and further certifies that Contractor will not enter into any such conflicting agreement during the term of this Agreement. Moreover, Contractor represents and warrants that Contractor will not: (i) use, rely upon or obtain any benefit from any Tainted Information (as hereinafter defined) in rendering Services to the Inspector (ii) provide or disclose to Inspector any information which Contractor believes or has reason to believe may be Tainted Information; or (iii) induce any other person to use, rely upon or disclose to Inspector Tainted Information in rendering Services to Inspector. "Tainted Information" shall mean any trade secret or other nonpublic technical or business information of any kind of a third party, including but not limited to designs, computer programs, techniques, interfaces, protocols, file structures, marketing plans, product plans, business strategies, financial information, forecasts, personnel information, customer lists, or information relating to research, design, development, manufacturing or pricing, which such third party has not intentionally made generally known or disclosed through official announcement or disclosure.

8. **TERMINATION OF AGREEMENT**

Either party may terminate this Agreement on thirty day's written notice to the other party. Inspector may terminate this Agreement for good cause immediately by written notice, and in that event Inspector will not be liable to Contractor for any work performed by Contractor after such notice has been sent.

9. **GENERAL PROVISIONS**

(a) **No Assignment**

Neither this Agreement nor any duties, obligations or rights under it may be assigned by Contractor without the Inspector's prior written consent. Any attempted assignment or delegation of this Agreement by Contractor without the express written consent of Inspector will be void.

(b) **Notices**

Any notices in connection with this Agreement may be given by either party to the other, in writing, by personal delivery, by email, or by mail, registered or certified, postage prepaid with return receipt requested. Mailed notices shall be addressed to the parties at the addresses appearing in the introductory paragraph of this Agreement, but each party may change the address by written notice to the other party. Notices delivered personally will be deemed communicated as of actual receipt; mailed notices will be deemed communicated as of two days after mailing.

(c) **Entire Agreement of the Parties**

This Agreement, including supersedes any and all agreements, either oral or written, between the parties hereto with respect to the performance Services by Contractor for Inspector and contains all the covenants and agreements between the parties with respect to the performance of such Services in any manner whatsoever. Each party to this Agreement acknowledges that no representations, inducements, promises, or agreements, orally or otherwise, have been made by any party, or anyone acting on behalf of any party, which are not contained herein, and that no other agreement, statement or promise not contained in this Agreement shall be valid or binding. Any modification of this Agreement will be effective only if it is in writing signed by each party.

(d) **Headings**

Headings of sections and subsections in this Agreement have been included solely for convenience and reference and are not a part of this Agreement.

(e) **Severability**

If one or more of the provisions in this Agreement is deemed invalid, void or unenforceable by law, then the remaining provisions will continue in full force and effect. Moreover, if any one or more of the provisions contained in this Agreement shall be held to be excessively broad or partially invalid, illegal or unenforceable, it shall be construed by limiting and reducing it, so as to be enforceable to the extent compatible with the applicable law as it shall appear.

(f) **Waiver**

No waiver by the Inspector of any breach of this Agreement shall be a waiver of any preceding or succeeding breach. No waiver by the Inspector of any right under this Agreement shall be construed as a waiver of any other right.

(g) **Attorneys' Fees; Venue**

If any action at law or in equity, including an action for declaratory relief, is brought to enforce or interpret the provisions of this Agreement, the prevailing party will be entitled to reasonable attorneys' fees, which may be set by the court in the same action or in a separate action brought for that purpose, in addition to any other relief to which that party may be entitled. The parties agree that the exclusive venue for any litigation arising out of this Agreement shall be in the county and state where Inspector has his/its principal place of business.

(h) **Governing Law**

This Agreement will be governed by and construed in accordance with the laws of the State of _____.

Dated this ___ day of _____, 20___.

INSPECTOR

CONTRACTOR
