

Consulting Agreement

Date of Agreement: _____

Consultant: _____

Address: _____

Client: _____

Address: _____

For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

1. Services: Consultant shall render to Client the services set forth on **Exhibit "A"** (the "Services") on the terms and conditions set forth in this Agreement. THIS IS A LIMITED SCOPE CONSULTING ENGAGEMENT. CONSULTANT IS NOT SERVING AS AN AGENT OR BUSINESS BROKER HEREUNDER AND ALL DUTIES COMMENSURATE WITH SUCH AN AGENCY OR BROKER RELATIONSHIP ARE HEREBY EXCLUDED AND DISCLAIMED. CONSULTANT IS NOT ENGAGED TO PREPARE DEFINITIVE TRANSACTION AGREEMENTS OR PROVIDE ACCOUNTING, LEGAL OR TAX ADVICE. FOR SUCH ADVICE, CLIENT MUST CONSULT APPROPRIATE PROFESSIONALS.

2. Fees and Expenses: Consultant shall be paid as set forth on **Exhibit "A"** attached hereto. Payment of invoices for fees and expenses shall be due on receipt. If any sums due to Consultant are not paid within 14 days, interest shall accrue thereon at the rate of 1.5% per month until paid in full.

3. Term/Termination: The term of this Agreement shall commence on the Date of Agreement and continue until the Services are completed. This Agreement may be terminated earlier by either party immediately with cause, being breach of this Agreement and failure to cure within ten (10) days following written notice of breach, or by Consultant, upon thirty (30) days prior written notice without cause.

4. Relationship: Consultant is an independent contractor, and Consultant shall not in any way be deemed a partner, joint venturer or employee of Client in connection with Services rendered pursuant to this Agreement. No relationship of employer and employee is created by this Agreement.

5. Client Information: All information provided and representations made by Client will be accurate and complete in all material respects. Consultant may rely upon the accuracy and completeness of all such information without independent verification.

6. Non-Exclusivity: The Services rendered by Consultant pursuant to this Agreement are non-exclusive. Consultant may render services to such other parties or entities as Consultant may desire, provided that the rendition of such services is not otherwise contrary to any other term or provision of this Agreement.

7. Proprietary Rights: Unless otherwise agreed in writing, all copyrights and other proprietary rights of Consultant which are incorporated into the work hereunder or arising out of the performance of the Services are and shall remain the proprietary rights of Consultant, and Client is granted a perpetual, worldwide, royalty free right and license to use and copy the same.

8. No Warranties: ALL WARRANTIES, CONDITIONS, REPRESENTATIONS, INDEMNITIES AND GUARANTEES, WHETHER EXPRESS OR IMPLIED, ARISING BY LAW, CUSTOM, PRIOR ORAL OR WRITTEN STATEMENTS BY CONSULTANT OR OTHERWISE ARE HEREBY OVERRIDDEN, EXCLUDED AND DISCLAIMED. CONSULTANT MAKES NO GUARANTY AS TO THE RESULTS OF CONSULTANT'S SERVICES.

9. No Consequential Damages: NEITHER PARTY WILL BE LIABLE TO THE OTHER PARTY FOR ANY CONSEQUENTIAL, INDIRECT, SPECIAL, PUNITIVE OR INCIDENTAL DAMAGES.

10. Limited Remedy: In the event Consultant fails to exercise due care in providing services, resulting in material damage to Client for which Consultant is otherwise liable hereunder, the exclusive remedy against Consultant shall be damages which shall not exceed the total fees paid to Consultant under this Agreement.

11. Indemnity: Client shall indemnify, defend and hold Consultant harmless from any and all claims, liability, costs, damages and expenses, including without limitation attorneys' fees, arising out of or relating to the services provided by Consultant under this Agreement brought by any third party except to the extent Consultant's actions are found to constitute willful misconduct.

12. Severability: In the event that any provision or covenant of this Agreement is held to be unenforceable or invalid, such provision or covenant shall be deemed modified to the minimum extent necessary to make it valid and enforceable, and the validity and enforceability of the remaining provisions and covenants of this Agreement shall not be affected thereby.

13. Governing Law: This Agreement has been executed in and shall be governed by the laws of the State of California. Venue for any and all controversies involving this Agreement shall be the County in which the Consultant's office is located.

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14. Mediation: As a condition precedent to initiation of any legal action or arbitration proceeding by either party, Consultant and Client shall mediate any dispute or claim between them arising out of this Agreement or any resulting relationship or transaction between such parties. Either party may demand mediation by notice to the other party, which notice shall state the nature of the dispute to be resolved. From the date such notice is given, the parties shall agree upon a mediator not later than the tenth business day thereafter. If the parties cannot agree upon a mediator, the matter shall be submitted to the American Arbitration Association ("AAA") for appointment of a mediator and to conduct the mediation. Mediation shall occur in the county in which the Consultant's office is located. The parties shall have 45 days from the selection of the mediator to commence the first mediation session. The parties shall share all mediation costs equally. The parties agree that any mediated settlement agreement may be converted to an arbitration award or judgment (or both) and enforced according to the governing rules of civil procedure. Should either party fail to participate timely and in good faith in the selection process for the mediator, or in the mediation process, such party will be deemed to have refused mediation, and that party shall not be entitled to attorney fees that might be otherwise available to it in any subsequent court action or arbitration.

15. Attorney Fees: In any action to construe or enforce this Agreement, the prevailing party shall be entitled to recover its reasonable attorneys' fees and costs in addition to any damages or other remedy awarded.

16. Amendment: No amendment or variation of the terms of this Agreement, with or without consideration, shall be valid unless made in writing and signed by all of the parties to this Agreement at the time of such amendment.

17. Entire Agreement: This Agreement contains the entire understanding between the parties concerning the subject matter contained herein. There are no representations, agreements, arrangements or understandings, oral or written, between or among the parties, relating to the subject matter of this Agreement which are not fully expressed herein. Any changes to this Agreement must be in writing, signed by the parties.

THE UNDERSIGNED ACKNOWLEDGES READING AND UNDERSTANDING THE TERMS AND CONDITIONS ABOVE. IF THE UNDERSIGNED IS A PARTNERSHIP, CORPORATION, LLC OR OTHER ENTITY, THE PERSON SIGNING BELOW ON BEHALF OF SUCH ENTITY REPRESENTS AND WARRANTS THAT HE OR SHE HAS THE FULL AUTHORITY TO ENTER INTO THIS AGREEMENT ON BEHALF OF SAID ENTITY AND ITS OWNERS. THE UNDERSIGNED FURTHER ACKNOWLEDGES HAVING RECEIVED A FULLY COMPLETED COPY OF THIS AGREEMENT AND PERSONALLY GUARANTEES ITS PERFORMANCE.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

CONSULTANT:

CLIENT:

By: _____

By: _____

Title: _____

Title: _____

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EXHIBIT "A"

Consultant's Services:

Provide limited scope value calculations and written verbal report on _____ (business).

Assist Client to prepare business for possible sale.

Using Client information, prepare a confidential information memorandum, executive summary.

Analyze business operations, assets, financial information, agreements and other records.

Advise Client on offering terms, marketing strategy and/or selling process.

Other:

Consultant's Fees and Expenses:

Fixed fee of \$ _____, payable _____.

Fees at the hourly rate of \$ _____, with an initial retainer of \$ _____ due upon signing this Agreement. The retainer is not an estimate of total fees.

Expenses: Client agrees to reimburse Consultant's reasonable out of pocket costs incurred on Client's behalf in carrying out the Services, including but not limited to postage, third-party data and research, advertising, mileage, out of town travel, clerical at \$ _____ per hour, specialist sub-contractors, and

_____. Consultant will obtain Client's prior approval of all expenses over \$ _____ per expense or \$ _____ per month.

Other:

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