

INDEPENDENT CONTRACTOR AGREEMENT

THIS INDEPENDENT CONTRACTOR AGREEMENT ("Agreement") is made by and between _____ with its principal place of business at _____ ("Agency") and _____ ("Contractor" or "I") **f/s/o** _____ ("Talent") c/o _____, effective [date], (the "Effective Date") for the purpose of setting forth the terms and conditions under which Contractor will cause Talent to perform services for Agency on a one-time basis. Agency and Contractor may be referred to herein individually as a "Party," or collectively as the "Parties."

In consideration of the mutual obligations specified in this Agreement, and any compensation paid to Contractor for his or her services, the Parties agree to the following:

- 1. Engagement of Services.** Contractor will cause Talent to perform the services more specifically described in Exhibit A attached hereto and incorporated herein by this reference, unless otherwise mutually agreed by the parties in writing (the "Services"). Contractor shall cause Talent to perform all Services in a professional manner and shall perform all such work him or herself, engaging the assistance of other individuals only with the prior written consent of Agency.
- 2. Payment:** A total fee of \$_____ USD ("Fee") shall be paid by Agency to Contractor payable upon full execution of this Agreement.

Notwithstanding the foregoing or anything contained herein to the contrary, in the event that the Sponsor is late in paying to Agency all or a portion of the Fee, then Agency shall not be obligated to pay to Contractor the late portion of such Fee until Agency receives such monies from the Sponsor, provided however nothing contained herein shall be deemed to release Agency of its obligation to pay Contractor the Fee and in no event shall such Fee be paid in full later than [date].

- 3. Schedule of Work.** Contractor shall cause Talent to devote as much time as reasonably necessary to perform and successfully complete the Services in accordance with the schedule and deadlines also set forth in Exhibit A hereto.
- 4. Independent Contractor Relationship.** Contractor is an independent Contractor, and is not an agent or employee of Agency and is not authorized to act on behalf of Agency. Contractor will not be eligible for any employee benefits, nor will Agency make deductions from any amounts payable to Contractor for taxes. Payment of all taxes due on any amounts paid to Contractor hereunder shall be the sole responsibility of Contractor.

5. Confidential Information.

5.1 Confidential Information. "Confidential Information" includes, but is not limited to, any proprietary information, techniques, models, know-how, processes, designs, analyses, inventions, formula, data, procedure, discovery, software programs, software source documents, trade secret, trade dress, copyright, patent or other intellectual property right, or any registration or application therefor, or materials relating thereto in connection with the current, future, and proposed services of either Party, its clients, suppliers, employees and customers, including financial information, customer lists, business forecasts and strategies, sales, merchandising and marketing plans, legal or other business activities or to any present or future products, prices, plans, forecasts, ideas or techniques, whether in oral, written, graphic or electronic form.

5.2 Nondisclosure and Nonuse Obligations. The Parties shall not disclose to any person the Confidential Information of the other Party. The Parties shall use the Confidential Information only for performing services under this Agreement. The Parties shall treat and protect the Confidential Information with at least the same degree of care the Parties take with their own confidential information. The Parties shall not be restricted in using any material which is (i) publicly available; (ii) already in that Party's possession or known to the Parties without restriction; (iii) rightfully obtained by the Parties from sources other than the other Party; or (iv) permitted in writing by the other Party to be disclosed prior to such disclosure.

- 6. Compliance with Applicable Laws.** Contractor warrants that all materials supplied by Contractor, and work performed by Contractor under this Agreement shall be provided or performed in compliance with all applicable laws and regulations.
- 7. Termination.** The term of this Agreement will terminate on [dae] (the "Term"). If either Party defaults in the performance of this Agreement or materially breaches any of its provisions, and does not cure same within fifteen (15) days of notice by the non-breaching party, the non-breaching Party may terminate this Agreement by giving written notification (the "Termination Notice") to the breaching Party. Termination shall be effective immediately upon receipt of the Termination Notice. For purposes of this section, material breach of this Agreement includes failure of Contractor to comply with deliverables or nonpayment by Agency after fifteen (15) days from written demand for payment. Contractor shall be paid for all services rendered in accordance with this Agreement up to the date of termination. This Agreement terminates automatically upon the occurrence of the bankruptcy or insolvency of either Party, the sale of the business of either Party, the death of either Party, gross misconduct by Contractor or breach of Section 6 herein by Contractor.
- 8. Notices.** Any notices to be given pursuant to this Agreement must be in writing to the respective addresses set forth herein or at such other address as any Party may designate in writing from time to time and delivered by: (i) personal delivery; (ii) overnight courier; (iii) telecopy or facsimile transmission with acknowledgment of receipt; or (iv) certified or registered mail, return receipt requested.
- 9. Severability.** If any provision of this Agreement is illegal, invalid or unenforceable, the legality, validity and enforceability of the remaining provisions continue.
- 10. Waiver.** Waiver by either Party of a specific breach by the other Party is not a waiver of any other breach.
- 11. Entire Agreement.** This Agreement, and any Exhibits attached hereto, constitute the entire agreement between the Parties on this subject and supersedes all prior and contemporaneous understandings and agreements, whether oral or written agreement. This Agreement may only be modified in writing signed by both Parties.
- 12. Indemnity.** Except to the extent paid in settlement from any applicable insurance policies, and to the extent permitted by applicable law, each party hereto agrees to indemnify and hold harmless the other party, and its respective affiliates, officers, agents, employees, and permitted successors and assigns against any and all third party claims, losses, damages, liabilities, penalties, punitive damages, expenses,

reasonable outside legal fees and actual, verifiable, out of pocket costs of any kind or amount whatsoever, which result from or arise out of any act or omission of the indemnifying party, its respective affiliates, officers, agents, employees, and permitted successors and assigns that occurs in connection with this Agreement, provided such claim is reduced to a final, adverse, non-appealable judgment in a court of competent jurisdiction or settled with the indemnifying party's prior written consent. This indemnification will survive the termination of this Agreement.

13. **Assignment.** Contractor may not assign or transfer any of Contractor's rights or delegate any of Contractor's obligations under this Agreement, in whole or in part, without Agency's express prior written consent, other than the right to receive payment hereunder. Any attempted assignment, transfer or delegation, without such consent, will be void. Subject to the foregoing, this Agreement will be binding upon and will inure to the benefit of the Parties' permitted successors and assigns.
14. **Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed an original and which together shall constitute one and the same instrument.
15. **Governing Law/Jurisdiction.** This Agreement will be construed in accordance with and governed by the laws of the State of California. The Parties agree that the state and federal courts in California have exclusive jurisdiction over all disputes arising out of or related to this Agreement.
16. **Legal Advice and Construction of Agreement.** Both parties hereto have received independent legal advice with respect to, and neither has relied on the other (or his or its advisors) in, entering into this Agreement.
17. **Taxes.** Contractor is solely responsible for paying, when due, all income and other taxes incurred as a result of the compensation paid by Agency to Contractor for services rendered under this Agreement. Contractor agrees to defend, indemnify, and hold harmless Agency and its affiliates from and against any and all claims, losses, fees, penalties, interest, or damages suffered by Agency or any such affiliates as a result of Contractor's failure to comply with this Section.
18. **Capacity.** In providing the Services under this Agreement, it is expressly agreed that the Contractor is acting as an independent Contractor and not as an employee. Agency and the Contractor acknowledge that this Agreement does not create a partnership or joint venture between them and is exclusively a contract for services.

Subject to the terms and conditions herein and Agency's and Sponsor's full performance of all obligations hereunder, Contractor releases from liability, Agency, its clients, employees, officers, volunteers and agents, and/or entities affiliated with the Services from any. And all claims including claims of negligence, resulting in any injury, illness (including death) or economic loss Contractor may suffer as a result of the Services, travel to and from locations where the Services shall be performed or any incidental events.

19. **Grant of Rights.** Solely during the Term, Contractor hereby grants Agency the right to (a) re-tweet and/or re-post the Posts and said postings shall not count against the total number of messages as outlined in Exhibit A, so long as no such repost is promoted or

sponsored as any form of paid media on any platform, and (b) repurpose the Post for Program-related social media on Client-owned channels (i.e. Twitter, Facebook, Instagram, Pinterest), so long as no such repurposed post is promoted or sponsored as any form of paid media on any platform. Contractor additionally grants Agency perpetual rights to use Contractor content created solely in connection with the Services as outlined in Exhibit A (the "Content"), to use, reproduce, publish, distribute and/or exhibit the Materials for internal and/or archival purposes, including research, intranet, internal sales and marketing meetings, and other non-advertising purposes (such as, without limitation, in advertising awards competitions, retrospectives and archival and/or historical sections of Client's websites, including Client's social media sites (i.e. social media posts and content shall solely remain where/when originally posted in the feed during the Term) and without further permission from or compensation to Talent.

20. Representations and Warranties. Contractor hereby represents and warrants: (a) that Contractor owns all rights to the Content (but specifically excluding any content provided by Agency or Sponsor); (b) that Contractor has full right and power to enter into this agreement; and (c) that all models and any other living persons, or the representatives of any deceased persons whose names or likenesses are used in the Content, and the owner(s) of any unique or unusual inanimate objects, which are used in the Content, have executed or will execute releases allowing use of content by Agency and that Contractor will supply Agency with copies of said releases. Agency represents and warrants that: (a) Agency shall comply with all applicable laws, rules and regulations in connection with the Content; (b) Agency shall not itself, and shall not permit any third parties to, promote or sponsor the Content as any form of paid media on any platform; (c) Agency shall obtain all third-party consents and make all third-party payments required in connection with the Content; and (d) Agency has full right and power to enter into this agreement.

21. Agency Rejection and Approval Rights. Agency reserves the right to reasonably reject Services not delivered in accordance with the specifications of this agreement as set forth on Exhibit A, including timely delivery, which is of the essence. Complaints, or notice or defects in workmanship or design of the Services, or notice of rejection of any of the Services, will be forwarded to Contractor promptly after Agency has reviewed the Content. Parties will agree to approval processes that may prevent rejection of Services, such as a concept description or storyboard for planned Services that will be approved by Agency prior to the development of Services and a formal review and approval process by Agency of the first and final drafts of Services.

22. Intellectual Property: Contractor grants Agency the right to use Talent's name, prior written approved image, prior written approved likeness, voice solely as embodied in the Content, performance solely as embodied in the Content, and character solely as embodied in the Content (collectively, the "Personality Rights") during the Term and for three (3) months following the end of the Term to promote Agency and its products (the "Products") in accordance with the terms contained herein. To ensure Contractor's compliance with the Federal Trade Commission "Guides Concerning the Use of Endorsements and Testimonials in Advertising" (the "FTC Guidelines"), Contractor hereby certifies as of the Effective Date of the Agreement to the following:

22.1 that any testimonial or endorsement made in any means of mass communication, including, without limitation, newspapers, magazines, radio, television or recognized Internet media outlets (collectively, the "Media Outlets"), by the Contractor regarding

the Program/Products shall reflect the honest opinions, findings, beliefs, and/or experiences of the Contractor with respect to the Program/Products;

22.2 that the Contractor shall promptly notify Agency if any opinions, findings, beliefs and/or experiences of the Contractor with respect to the Program/Products change from that which the Contractor have previously expressed in any Media Outlet or to Agency prior to, or during the Term of, the Agreement; and

22.3 that in connection with any testimonial or endorsement made in any Media Outlet by the Contractor regarding the Program/Products, the Contractor shall affirmatively and conspicuously disclose that Contractor is a compensated endorser of the Program/Products by using #ad or #sponsored.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the date first set forth above.

Agency

CONTRACTOR

By: _____
Name of Signor

By: _____
An Authorized Signatory

Date: _____

Date: _____

EXHIBIT A

Contractor agrees to the following scope of work and to produce the following deliverables:

SERVICES:

- Review and adapt content brief for audience and campaign
- Post between [date] and [date]
- One (1) non-dedicated YouTube video featuring Agency (the "Video")
- At least One (1) affiliated Instagram feed post announcing or supporting the Video.
 - May be video, Boomerang, or static image
- At least One (1) affiliated Instagram Story post announcing or supporting the Video
- Two (2) affiliated Facebook or Twitter feed post(s) announcing or supporting the video

POST REQUIREMENTS:

- Video title, description, and tags must be submitted for approval at least forty-eight (48) hours before the scheduled publish time. If reasonable changes are deemed necessary by Agency, Contractor agrees to cause Talent to make such changes prior to publishing. Agency shall be permitted only one round of such approval hereunder.
- Contractor must cause Talent to upload the video on the day of the week and time that follows their regular upload schedule. The post must be made during their peak traffic.
- Content and timing of all Content to be mutually agreed to by the parties
- Content should include full product name: [name]
- Content must be educational and include how easy the product is to use and how it is a time and money saver
- YouTube video should show you [details]
- Instagram post should feature the moment in the process and/or benefit that made you believe in [product name]
- Tag @[name]
- Use hashtag #_____ in the description of the Video,
- Drive followers to purchase product via _____.com, or retailer of choice in Video
- All Content must be approved by Agency in advance of being published in accordance with the terms of this Agreement, such approval not to be unreasonably withheld.
- Agency shall exercise all approvals of Content hereunder within forty-eight (48) hours of Contractor's submission of same, or such approvals shall be deemed given
- Product exclusivity three (3) days before and three (3) days after the post
- Content must be consistent with applicable laws
- Contractor shall not remove Content for one (1) year beyond the Term, but may seek written approval to delete earlier, such approval not to be unreasonably withheld.
- Follow FTC's Guides Concerning the Use of Endorsements and Testimonials in Advertising requiring that promotional statements must be truthful and accurate and must disclose the existence of a material connection with Agency by including language that readers would understand such as the use of "#ad" or "#sponsored" at the beginning of the post

OTHER

- Contractor will have direct line of contact to Agency should Contractor have questions or concerns regarding the product or campaign
- Contractor agrees to inform Agency if Talent is approached by a member of the media to speak about Agency

Initials
Agency

Initials