

# **INDEPENDENT CONTRACTOR AGREEMENT**



*PRIVATE & CONFIDENTIAL*

EFFECTIVE DATE \_\_\_\_\_

**THIS INDEPENDENT CONTRACTOR AGREEMENT** (the "Agreement") is between **OFFSITE PRODUCTIONS LLC** (hereinafter "Offsite"), located at 167 Canal St. #400, New York, NY 10013, and \_\_\_\_\_ located at \_\_\_\_\_ address (hereinafter referred to as the "Independent Contractor" or "Contractor") (collectively referred to herein as the "Parties"). The Parties therefore agree to as follows:

## **1. TERM AND TERMINATION**

**1.1** This Agreement takes effect immediately as of the Effective Date, and remains in full force and effect until the Contractor has completed the Services (the "Term"), unless earlier terminated under this Section 1.

**1.2** Either party may terminate this Agreement with or without cause by providing the other party five (5) days prior written notice of such intention.

## **2. INDEPENDENT CONTRACTOR SERVICES**

**2.1** During the term, Offsite shall engage the Independent Contractor to provide: Editing, Animation, Design, Post-production Services (the "Services"), or other such services as mutually agreed upon in writing by the Parties.

**2.2** The Independent Contractor shall notify Offsite of any change(s) to the Independent Contractor's schedule that could adversely affect the availability of the Independent Contractor, whether known or unknown at the time of this Agreement, no later than twelve (12) hours prior to such change(s).

**2.3** The work performed by the Independent Contractor shall be performed at a rate of \_\_\_\_\_, agreed upon by the Parties on a "per project" basis. Such rates will fluctuate given the particular project.

**2.4** Offsite shall not be responsible for any taxes derived from the Contractor's net income or for the withholding and/or payment of any taxes or other legal requirements applicable to the Contractor.

**2.5** The Independent Contractor shall perform the Services in accordance with the best-practice standards prevailing in the Contractor's industry, and in accordance with all applicable laws, rules, or regulations. The Independent Contractor shall obtain all necessary

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business permits, certificates and licenses required to comply with those laws, rules, or regulations.

### **3. INDEPENDENT CONTRACTOR STATUS**

**3.1** The Parties intend that the Independent Contractor be engaged as an Independent Contractor of Offsite. Nothing contained in this Agreement will be construed to create the relationship of employer and employee, principal and agent, partnership or joint venture, or any other fiduciary relationship.

**3.2** The Independent Contractor may not act as agent for, or on behalf of, Offsite, or to represent Offsite, or bind Offsite in any manner.

**3.3** The Independent Contractor will not be entitled to any benefits afforded to the employees of Offsite.

### **4. TRADEMARKS AND OWNERSHIP OF WORK PRODUCT**

**4.1** The Parties intend that, to the extent the work product or a portion of the work product created by the Contractor qualifies as a “work made-for-hire,” it will be so deemed a work made-for-hire. If the work product or any portion of the work product does not qualify as a work made-for-hire, and/or as otherwise necessary to ensure Offsite’s complete ownership of all rights, titles and interest in the work product, the Contractor shall transfer and assign Offsite all rights, titles and interests throughout the world in and to any and all work product. This transfer and assignment includes, but is not limited to, the right to publish, distribute, make derivative works of, edit, alter or otherwise the work product in any way Offsite sees fit.

**4.2** The Independent Contractor may use, reproduce, and distribute Offsite’s service marks, trademarks, and trade names (collectively “Offsite’s Marks”) (if any) solely in connection with the performance of the Services outlined in this Agreement. Any goodwill received from this use will accrue to Offsite, which will remain the sole owner of the service marks, trademarks, and/or trade names. The Independent Contractor may not engage in activities or commit acts, directly or indirectly, that may contest, dispute, or otherwise impair Offsite’s interest in Offsite’s Marks. The Independent Contractor may not cause diminishment of value of the Offsite’s Marks through any act or representation. The Independent Contractor may not apply for, acquire, or claim any interest in any of Offsite’s Marks or other service marks, trademarks, or trade names that may be confusingly similar to any of them, through advertising or otherwise. At the expiration or earlier termination of this Agreement, the Independent Contractor will have no further right to use Offsite’s Marks, unless Offsite provides written approval for each such use.

**4.3** The Independent Contractor has no right or interest in any work or product resulting from the Services the Independent Contractor performs for Offsite, or any of the documents,

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reports, or other materials the Independent Contractor creates in connection with those Services, and has no right to or interest in any copyright to such work. Such work has been specially commissioned or ordered by Offsite as a "work made-for- hire," and Offsite is therefore the author and owner of all copyrights and/or ownership rights to such work.

### **5. REPRESENTATIONS**

Both Parties represent that they are fully authorized and empowered to enter into this Agreement, and that the performance of the obligations under this Agreement will not violate or infringe upon the rights of any third-party, or violate any agreement between the Parties and any other persons, firm or organization or any law or governmental regulation.

### **6. INDEMNIFICATION**

The Independent Contractor shall indemnify and hold harmless Offsite, its affiliates, and its respective officers, directors, agents and employees from any and all claims, demands, losses, causes of action, damage, lawsuits, judgments, including attorneys' fees and costs, arising out of, or relating to, the Independent Contractor's services under this Agreement

### **7. CONFIDENTIAL INFORMATION**

**7.1** The Parties agree that Confidential Information of a party might include, but not be limited to, that party's: (1) business plans, methods, and practices; (2) personnel, customers, and suppliers; (3) inventions, processes, methods, products, patent applications, and other proprietary rights; or (4) specifications, drawings, sketches, models, samples, tools, computer programs, technical information, or other related information.

**7.2** Either party may disclose confidential information to the other party in confidence provided that the disclosing party identifies such information as proprietary and confidential either by marking it, in the case of written materials, or, in the case of information that is disclosed orally or written materials that are not marked, by notifying the other party of the proprietary and confidential nature of the information, such notification is to be done orally, by e-mail or written correspondence, or via other means of communication as might be appropriate.

**7.3** When informed of the proprietary and confidential nature of confidential information that has been disclosed by the other party, the receiving party ("Recipient") shall, for a period of two (2) years from the date of disclosure, refrain from disclosing such confidential information to any contractor or other third-party without prior, written approval from the disclosing party and shall protect such confidential information from inadvertent disclosure to a third-party using the same care and diligence that the Recipient uses to protect its own proprietary and confidential information, but in no case less than reasonable care. The Recipient shall ensure that each of its employees, officers, directors, or agents who has access to confidential

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information disclosed under this Agreement is informed of its proprietary and confidential nature and is required to abide by the terms of this Agreement. The Recipient of confidential information disclosed under this Agreement shall promptly notify the disclosing party of any disclosure of such confidential information in violation of this Agreement or of any subpoena or other legal process requiring production or disclosure of said confidential information.

**7.4** All confidential information disclosed under this Agreement shall be and remain the property of the disclosing party and nothing contained in this Agreement shall be construed as granting or conferring any rights to such confidential information on the other party. The Recipient shall honor any request from the disclosing party to promptly return or destroy all copies of confidential information disclosed under this Agreement and all notes related to such confidential information. The Parties agree that the disclosing party will suffer irreparable injury if its confidential information is made public, released to a third-party, or otherwise disclosed in breach of this Agreement and that the disclosing party shall be entitled to obtain injunctive relief against a threatened breach or continuation of any such breach and, in the event of such breach, an award of actual and exemplary damages from any court of competent jurisdiction.

**7.5** Notwithstanding the above, the Parties agree that information shall not be deemed confidential information and the Recipient shall have no obligation to hold in confidence such information, where such information: (a) is already known to the Recipient, having been disclosed to the Recipient by a third-party without such third-party having an obligation of confidentiality to the disclosing party; or (b) is or becomes publicly known through no wrongful act of the Recipient, its employees, officers, directors, or agents; or (c) is independently developed by the Recipient without reference to any confidential information disclosed hereunder; or (d) is approved for release (and only to the extent so approved) by the disclosing party; or (e) is disclosed pursuant to the lawful requirement of a court or governmental agency or where required.

## **8. NON-SOLICITATION OF CUSTOMERS AND EMPLOYEES**

To protect Offsite's legitimate protectable interests in, among other things, Offsite's Confidential Information, customer relationships, and goodwill, both during my service to Offsite and for a period of twenty-four (24) months following my separation from Offsite for any reason (the "Restricted Period"), I shall not directly or indirectly (a) solicit, attempt to solicit, contact, call upon, or assist any third party in soliciting, attempting to solicit, contacting, or calling upon any person, company, entity, or firm who is then a customer or client of Offsite or any of its affiliates, or who was a customer or client of Offsite during the six (6)-month period immediately prior to my last day of service to Offsite, for the purposes of marketing, selling, or providing to any such party any services or products offered by or available from Offsite or any of its affiliates or interfering with Offsite's actual or prospective relationships with those customers, clients, or prospects; or (b) hire, solicit, engage, or attempt to hire, solicit, or engage any employee or independent contractor of Offsite or any one of its

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subsidiaries to terminate his or her employment or contractor relationship with Offsite, or to interfere in any other way with Offsite's relationships with its employees or independent contractors.

### **9. NON-COMPETE COVENANT**

**9.1** The Independent Contractor agrees that Offsite may provide the Independent Contractor with access to trade secrets, clients and other confidential data. The Independent Contractor agrees to keep such information confidential and not to use said information for his or her own benefit or disclose any such information to any third-party.

**9.2** During the term of this Agreement and for a period of twenty-four (24) months after the expiration or termination of this Agreement for any reason, each party hereto (the "Covenanting Party") agrees that it shall not: (a) directly or indirectly induce by any means any customers or clients of the other party to patronize the Covenanting Party or any similar business; (b) directly or indirectly request or advise by any means any customer or client of the other party to withdraw, curtail, or cancel such customer's or client's business with the other party; (c) directly or indirectly disclose to any other person, partnership, corporation or association, the names or addresses of any of the customers or clients of the other party; or (d) induce or attempt to induce any employee, agent or former employee or agent of the other party to leave the employ of the other party, or hire any such employee, agent or former employee or agent in any business or capacity.

### **10. LIABILITY**

Offsite shall not be liable to the Independent Contractor for any special, indirect, incidental, punitive, or consequential damages arising from or related to this Agreement, including bodily injury, death, loss of revenue, or profits or other benefits, and claims by any third party, even if the Parties have been advised of the possibility of such damages. The foregoing limitation applies to all causes of action in the aggregate, including without limitation to breach of contract, breach of warranty, negligence, strict liability, and other torts.

### **11. MISCELLANEOUS PROVISIONS**

**11.1** This Agreement, and any accompanying appendices, duplicates, or copies, constitutes the entire agreement between the Parties with respect to the subject matter of this Agreement, and supersedes all prior negotiations, agreements, representations, and understandings of any kind, whether written or oral, between the parties, preceding the date of this Agreement.

**11.2** This Agreement may be amended only by written agreement duly executed by an authorized representative of each party.

**11.3** If any provision or provisions of this Agreement shall be held unenforceable for any

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reason, then such provision shall be modified to reflect the parties' intention. All remaining provisions of this Agreement shall remain in full force and effect for the duration of this Agreement.

**11.4** This Agreement shall not be assigned by either party without the express consent of the other party.

**11.5** A failure or delay in exercising any right, power or privilege in respect of this Agreement will not be presumed to operate as a waiver, and a single or partial exercise of any right, power or privilege will not be presumed to preclude any subsequent or further exercise, of that right, power or privilege or the exercise of any other right, power or privilege.

## **12. GOVERNING LAW AND CONSENT TO JURISDICTION AND VENUE**

**12.1** This Agreement is to be governed, construed, and enforced according to the Laws of the **STATE OF NEW YORK**, without regard to its conflict of laws rules

**12.2** Each party hereby irrevocably consents to the exclusive jurisdiction and venue of court located within Kings Country New York, **NEW YORK** in connection with any matter arising out of this Agreement or the transactions contemplated under this Agreement.

**THIS AGREEMENT** constitutes the complete and exclusive agreement between the parties concerning its subject matter and supersedes all prior or contemporaneous agreements or understandings, written or oral, concerning the subject matter described herein.

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

\_\_\_\_\_  
Contractor Signature

\_\_\_\_\_  
Offsite Signature

\_\_\_\_\_  
Contractor Name

\_\_\_\_\_  
Offsite Name

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date