

SOFTWARE CONSULTING AGREEMENT

AGREEMENT made this ___th day of _____, _____, by Kersey, Scott & Associates LLC, whose address is _____, _____, hereinafter referred to as the "Consultant", and _____, whose principal place of business is located at _____, _____, hereinafter referred to as "Company".

WHEREAS, the Company desires to engage the services of the Consultant to perform for the Company consulting services regarding the functions for the operation of custom software solutions as an independent contractor and not as an employee;

NOW, THEREFORE, it is agreed as follows:

1. Term

- 1.1. The respective duties and obligations of the contracting parties shall be for a period of 1 year commencing on ___th, _____ and may be terminated by either party giving fifteen (15) days' written notice to the other party at the addresses stated above or at an address chosen subsequent to the execution of this agreement and duly communicated to the party giving notice.
- 1.2. This Agreement shall automatically renew for successive one-year periods after the initial Term, unless otherwise terminated as provided in 1.1.

2. Consultations

- 2.1. Consultant shall be available to consult with the Board of Directors, the officers of the Company, and the heads of the administrative staff, at reasonable times, concerning matters pertaining to the custom software solutions utilized by, or under consideration of, the Company. Consultant shall not represent the Company, its Board of Directors, its officers or any other members of the Company in any transactions or communications nor shall Consultant make claim to do so.

3. Independent Contractor

- 3.1. Both the Company and the Consultant agree that the Consultant will act as an independent contractor in the performance of its duties under this agreement. The parties to this agreement recognize that this agreement does not create any actual or apparent agency, partnership, franchise, or relationship of employer and employee between the parties. The Consultant is not authorized to enter into or commit the Company to any agreements, and the Consultant shall not represent itself as the agent or legal representative of the Company.
- 3.2. Accordingly, the Consultant shall be responsible for payment of all taxes including Federal, State and local taxes arising out of the Consultant's activities in accordance with this agreement, including by way of illustration but not limitation, Federal and State income tax, Social Security tax, unemployment insurance, and any other taxes or insurance as required.

4. Place Where Services Will Be Rendered

- 4.1. The Consultant will perform most services in accordance with this agreement at a location of Consultant's discretion. In addition the Consultant will perform services on the telephone and at such other places as necessary to perform these services in accordance with this agreement.

5. Employment of Others

- 5.1. The Company may from time to time request that the Consultant arrange for the services of others. All costs to the Consultant for those services will be paid by the Company but in no event shall the Consultant employ others without the prior authorization of the Company.

Initials (Company): _____

Initials (Consultant): _____

6. Payment to Consultant

6.1. The Consultant will be paid at the rate of \$____ per hour for work performed in accordance with this agreement. The Company will reimburse the Consultant for reasonable and necessary expenses incurred in the performance of the services; provided, however, that all such expenses shall be subject to Company's prior written approval. The Consultant will submit an itemized statement setting forth the time spent and services rendered, and the Company will pay the Consultant the amounts due as indicated by statements submitted by the Consultant within _____ (__) days of receipt. The itemized statement will be delivered to the Company via paper or electronic format on the Monday following the week in which any work occurred.

7. Liability

7.1. With regard to the services to be performed by the Consultant pursuant to the terms of this agreement, the Consultant shall not be liable to the Company, or to anyone who may claim any right due to any relationship with the Company, for any acts or omissions in the performance of services on the part of the Consultant or on the part of the agents or employees of the Consultant, except when said acts or omissions of the Consultant are due to willful misconduct or gross negligence. The Company shall hold the Consultant free and harmless from any obligations, costs, claims, judgments, attorneys' fees, and attachments arising from or growing out of the services rendered to the Company pursuant to the terms of this agreement or in any way connected with the rendering of services, except when the same shall arise due to the willful misconduct or gross negligence of the Consultant and the Consultant is adjudged to be guilty of willful misconduct or gross negligence by a court of competent jurisdiction.

8. Arbitration

8.1. Any controversy or claim arising out of or relating to this agreement, or the breach thereof, shall be settled by arbitration in accordance of the rules of the American Arbitration Association, and judgment upon the award rendered by the arbitrator(s) shall be entered in any court having jurisdiction thereof. For that purpose, the parties hereto consent to the jurisdiction and venue of an appropriate court located in Maricopa County, State of Arizona.

8.2. In the event that litigation results from or arises out of this Agreement or the performance thereof, the parties agree to reimburse the prevailing party's reasonable attorney's fees, court costs, and all other expenses, whether or not taxable by the court as costs, in addition to any other relief to which the prevailing party may be entitled. In such event, no action shall be entertained by said court or any court of competent jurisdiction if filed more than one year subsequent to the date the cause(s) of action actually accrued regardless of whether damages were otherwise as of said time calculable.

9. Confidential Information

9.1. The Consultant agrees that any information received by the Consultant during any furtherance of the Consultant's obligations in accordance with this agreement, which concerns the personal, financial or other affairs of the Company will be treated by the Consultant in full confidence and will not be revealed to any other persons, firms or organizations. The Consultant shall not, without the prior written consent of the Company, use the Company's name in any advertising or promotional literature or publish any articles relating to the Company, this agreement, or the services and shall not otherwise refer to the retention of Consultant to render consulting services hereunder.

Initials (Company): _____

Initials (Consultant): _____

10. Proprietary Rights

- 10.1. The Consultant acknowledges that it has no right to or interest in its work or product resulting from the Services performed hereunder, or any of the documents, reports or other materials created by the Consultant in connection with such Services, nor any right to or interest in any copyright therein. The Consultant acknowledges that the Services and the products thereof (hereinafter referred to as the "Materials") have been specially commissioned or ordered by the Company as "works made-for-hire" as that term is used in the Copyright Law of the United States, and that the Company is therefore to be deemed the author of and is the owner of all copyrights in and to such Materials.
- 10.2. In the event that such Materials, or any portion thereof, are for any reason deemed not to have been works made-for-hire, the Consultant hereby assigns to the Company any and all right, title, and interest Consultant may have in and to such Materials, including all copyrights, all publishing rights, and all rights to use, reproduce, and otherwise exploit the Materials in any and all formats or media and all channels, whether now known or hereafter created. The Consultant agrees to execute such instruments as the Company may from time to time deem necessary or desirable to evidence, establish, maintain, and protect the Company's ownership of such Materials, and all other rights, title, and interest therein.
- 10.3. Notwithstanding the foregoing, the Company acknowledges that the Consultant's ability to carry out the work required is heavily dependent upon the Consultant's past experience in the industry and in providing similar services to others and they expect to continue such work in the future. Subject to the confidentiality provisions this Agreement, generic information communicated to the Company in the course of this project either orally, in the form of presentations, or in documents that report such general industry knowledge is not subject to the terms of 10.1 & 10.2 above.

IN WITNESS WHEREOF, the parties have hereunto executed this Agreement on the ___th day of _____, _____.

"Company"

Witness

By:

"Consultant"

Witness

By:

Initials (Company): _____

Initials (Consultant): _____