

# INDEPENDENT CONTRACTOR AGREEMENT

This Agreement (this "Agreement") is entered into and made effective as of (the "Effective Date"), by and between [CLIENT NAME], a Corporation organized under the laws of the State of CA, with an address of [CLIENT ADDRESS] (the "Client"), and [CONTRACTOR NAME], a Individual organized under the laws of the State of CA, with an address of [CONTRACTOR ADDRESS] (the "Contractor"). Client and Contractor are each a "Party" and together the "Parties."

## 1. Services

The Contractor shall perform the following services for the Client (the "Services"): [SERVICES]

The Contractor shall determine the means, methods, and details of performing the Services, subject to the Client's reasonable directions as to the scope of the work and the end result. The Contractor may perform the Services at the Contractor's own location, remotely, or at any location of the Contractor's choosing.

## 2. Independent Contractor Status

The Parties acknowledge and agree that the Contractor is engaged as an **independent contractor**, not as an employee, agent, partner, or joint venturer of Client. Neither the fact that Client has or retains the right to inspect the result of the Services nor any other provision of this Agreement shall be construed to create an employer-employee or principal-agent relationship between the Parties.

Specifically, the Parties agree that:

1. **Control.** The Contractor controls the means, methods, sequence, and details of performing the Services. Client controls only the scope and the end result.
2. **Hours.** The Contractor sets Contractor's own hours and work schedule and is not required to work full-time or on a set schedule for Client.
3. **Other clients.** The Contractor is free to perform services for other clients during the Term of this Agreement and is not exclusive to Client, unless otherwise agreed in writing.
4. **Tools and resources.** The Contractor supplies Contractor's own tools, equipment, and resources necessary to perform the Services, except as may be expressly provided otherwise.
5. **Subcontracting.** The Contractor may engage Contractor's own employees or subcontractors to assist with the Services. Any such subcontractors remain the sole responsibility of the Contractor and are not employees of Client.
6. **No benefits.** The Contractor is not entitled to, and Client shall not provide, any employee benefits, including health insurance, dental or vision insurance, paid vacation, paid sick leave, retirement or pension plans, workers' compensation, unemployment insurance, Family and Medical Leave Act entitlements, or any other benefit available to Client's employees.

7. **Taxes.** The Contractor is solely responsible for all federal, state, and local income taxes, self-employment tax (15.3% on net earnings), and any other taxes or payroll-type contributions applicable to the Services. Client shall not withhold any taxes from payments made under this Agreement.

### 3. Tax Reporting

Before performing any Services, the Contractor shall provide Client with a completed **IRS Form W-9** (or Form W-8BEN for non-US contractors). If total payments to the Contractor in any calendar year equal or exceed \$600, Client shall file an **IRS Form 1099-NEC** (or successor form) with the Internal Revenue Service and provide a copy to the Contractor by January 31 of the following year, in compliance with 26 U.S.C. §§6041A and 6050N.

### 4. California Independent Contractor Classification

This Agreement is governed by California law and is subject to California Labor Code §§2775–2785 (codifying the *Dynamex Operations West, Inc. v. Superior Court of Los Angeles County* decision and Assembly Bill 5). Under the "ABC test," every worker is presumed to be an employee unless the hiring entity can establish all three of the following:

- **Prong A.** The Contractor is free from the control and direction of Client in connection with the performance of the Services, both under the contract and in fact.
- **Prong B.** The Contractor performs services that are outside the usual course of Client's business.
- **Prong C.** The Contractor is customarily engaged in an independently established trade, occupation, or business of the same nature as the services performed for Client.

The Contractor represents and warrants that (i) Contractor operates an independently established business; (ii) Contractor performs similar services for other clients, or is actively seeking to do so; (iii) Contractor is free from Client's direction and control regarding the means, methods, and manner of performing the Services; and (iv) Contractor has considered whether Prong B is satisfied in light of Client's usual course of business.

Willful misclassification of a worker as an independent contractor is subject to civil penalties of \$5,000 to \$25,000 per violation under California Labor Code §226.8.

### 5. Compensation and Payment

Client shall pay the Contractor at the hourly rate of \*\*\*\* for Services performed. The Contractor shall submit invoices monthly with a summary of hours worked and a description of the Services performed. Invoices are due and payable within 30 days after receipt.

**Late payment.** Invoices not paid by the due date shall accrue interest at the annual rate of 18% (or the maximum rate permitted by applicable law, if lower) from the due date until paid.

## 6. Expense Reimbursement

Client shall reimburse the Contractor for reasonable out-of-pocket expenses directly incurred in connection with the Services, including travel, lodging, meals (excluding alcohol), supplies, and postage, subject to Client's expense policies in effect from time to time. Any single expense in excess of **\$500.00** requires prior written approval from Client. The Contractor shall submit expense receipts with the applicable invoice.

## 7. Term and Termination

**Term.** This Agreement commences on the Effective Date and continues until the Services are fully performed and accepted by Client (the "Term").

**Termination for convenience.** Either Party may terminate this Agreement without cause by giving the other Party at least **30 days'** prior written notice.

**Termination for cause.** A Party may terminate this Agreement for cause, effective immediately upon written notice, if any of the following occurs:

1. The other Party materially breaches this Agreement and fails to cure the breach within **10 days** after receiving written notice specifying the breach (where the breach is curable);
2. The other Party becomes insolvent, files for bankruptcy, makes a general assignment for the benefit of creditors, or ceases to carry on business;
3. The other Party engages in willful misconduct, gross negligence, or fraud in connection with this Agreement;
4. The Contractor is convicted of a crime that materially impairs performance of the Services; or
5. A material representation or warranty by either Party in connection with this Agreement is proven false.

**Effect of termination.** Upon termination, Client shall pay the Contractor for all Services performed through the effective date of termination and all approved expenses incurred prior to termination. The Contractor shall promptly deliver to Client all completed work product and any Client Confidential Information in Contractor's possession.

## 8. Intellectual Property — Work for Hire and Assignment

**Work product defined.** "Work Product" means all deliverables, inventions, works of authorship, software, source code, designs, text, images, video, data, documentation, and other materials created by or on behalf of the Contractor in the course of performing the Services under this Agreement.

**Work made for hire.** To the fullest extent permitted by law, all Work Product shall be deemed a "work made for hire" under the United States Copyright Act (17 U.S.C. §101) and shall be owned by Client from

the moment of its creation.

**Assignment backstop.** The Parties acknowledge that only certain categories of specially commissioned works qualify as "works made for hire" under 17 U.S.C. §101 for independent-contractor engagements. Accordingly, to the extent that any Work Product does not qualify as a work made for hire, the Contractor hereby irrevocably assigns, transfers, and conveys to Client, without any further consideration, all right, title, and interest — throughout the world and in perpetuity — in and to such Work Product, including all copyrights, patent rights, trademark rights, trade-secret rights, and other intellectual-property rights therein.

**Further assurances.** The Contractor shall, at Client's request and expense, execute any assignments, declarations, applications, or other documents, and take any other actions, reasonably necessary to perfect, record, or enforce Client's rights in the Work Product, including filing patent, copyright, and trademark applications in any jurisdiction.

**No implied license.** The Contractor retains no right, title, or interest in or to the Work Product and shall not use, license, or sublicense the Work Product for any purpose without Client's prior written consent, except as expressly permitted herein.

**Pre-existing IP.** Notwithstanding the foregoing, the Contractor retains ownership of any tools, libraries, frameworks, methodologies, templates, or other intellectual property that the Contractor owned or developed prior to, or independently of, the Services (the "Pre-Existing IP"), as identified in **Exhibit A (Pre-Existing IP)** attached hereto. To the extent any Pre-Existing IP is incorporated into the Work Product, the Contractor grants Client a perpetual, irrevocable, worldwide, royalty-free, sublicensable, non-exclusive license to use, reproduce, modify, and distribute such Pre-Existing IP solely as incorporated in the Work Product.

**Social media and digital accounts.** Any social media accounts, domain names, advertising accounts, email subscriber lists, customer databases, analytics accounts, and associated followers, contacts, connections, and account credentials that are created, acquired, or maintained by the Contractor on behalf of Client, or that are used principally to promote Client's business during the Term, are the sole property of Client. Upon termination, the Contractor shall promptly transfer all account credentials, administrative access, and associated data to Client.

## 9. Confidentiality

The Contractor shall hold all confidential information of Client in strict confidence and shall not disclose or use such information other than as reasonably necessary to perform the Services. "Confidential Information" means any non-public information disclosed by Client or learned by the Contractor in the course of the engagement, including business plans, customer lists, financial data, trade secrets, pricing, technical information, and proprietary processes.

Confidential Information does not include information that (i) was or becomes publicly known through no breach by the Contractor; (ii) was rightfully known by the Contractor without confidentiality obligation before disclosure; (iii) was independently developed by the Contractor without use of Client's Confidential Information; or (iv) is required to be disclosed by law or court order, provided the Contractor promptly notifies Client before disclosure to the extent legally permitted, cooperates with Client's efforts to obtain a protective order, and discloses only the minimum portion legally required.

Upon termination of this Agreement or Client's request, the Contractor shall return or destroy all Confidential Information and certify such return or destruction in writing within five (5) business days.

The Contractor's confidentiality obligations survive termination of this Agreement for a period of three (3) years, or indefinitely with respect to trade secrets for so long as they retain trade-secret status.

### **California Non-Compete Notice**

To the extent this Agreement contains any provision that would operate as a restraint on the Contractor's ability to engage in a lawful profession, trade, or business after termination, such provision is **void and unenforceable** under California Business & Professions Code §16600. Nothing in this Agreement shall be construed to prohibit the Contractor from competing with Client after termination or from using general skills, knowledge, and experience not specific to Client's Confidential Information or trade secrets.

### **Limitation of Liability**

**IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER FOR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, PUNITIVE, OR EXEMPLARY DAMAGES (INCLUDING LOST PROFITS, LOST REVENUE, OR LOSS OF DATA) ARISING OUT OF OR RELATING TO THIS AGREEMENT, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.** Except for breaches of confidentiality, indemnification obligations, intellectual-property infringement, or gross negligence or willful misconduct, the Contractor's aggregate liability under this Agreement shall not exceed 1 times the total fees paid to the Contractor under this Agreement in the twelve (12) months preceding the event giving rise to the claim.

### **Indemnification**

The Contractor shall indemnify, defend, and hold Client harmless from and against any third-party claims, losses, liabilities, damages, costs, and expenses (including reasonable attorneys' fees) arising out of or relating to (a) the Contractor's performance of the Services; (b) the Contractor's breach of this Agreement; (c) any claim that the Work Product infringes a third party's intellectual-property rights; or (d) the Contractor's willful misconduct, gross negligence, or violation of applicable law. Client shall indemnify and hold the Contractor harmless from third-party claims arising from Client's materials provided to the Contractor or Client's use of the Work Product outside the scope authorized herein.

## General Provisions

**Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of CA, without regard to its conflict-of-laws principles.

**Venue.** Any action or proceeding arising out of or relating to this Agreement shall be brought exclusively in the state or federal courts located in [VENUE CITY], CA, and the Parties consent to the exclusive personal jurisdiction of such courts.

**Attorney's fees.** In any action arising out of or relating to this Agreement, the prevailing Party shall be entitled to recover reasonable attorney's fees and costs from the non-prevailing Party, to the extent permitted by applicable law.

**Assignment.** Neither Party may assign this Agreement or any right or obligation hereunder without the prior written consent of the other Party, provided that Client may assign this Agreement to a successor in interest in connection with a merger, reorganization, or sale of all or substantially all of its equity or assets without the Contractor's consent.

**Survival.** Sections governing intellectual property, confidentiality, indemnification, limitation of liability, non-solicitation (if included), non-compete (if included), tax reporting, and general provisions survive termination of this Agreement.

**Waiver.** No failure or delay by a Party in exercising any right under this Agreement operates as a waiver. A waiver is effective only if in writing and signed by the waiving Party.

**Severability.** If any provision of this Agreement is held invalid, illegal, or unenforceable, the remaining provisions remain in full force and effect, and the invalid provision shall be modified to the minimum extent necessary to be enforceable while preserving the Parties' original intent.

**Entire Agreement.** This Agreement (including any exhibits and attachments) constitutes the entire agreement between the Parties with respect to its subject matter and supersedes all prior agreements, understandings, and negotiations, whether oral or written. This Agreement may be amended only by a written instrument signed by both Parties.

**Counterparts and Electronic Signatures.** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument. Electronic signatures and signatures transmitted by electronic means are deemed original signatures for all purposes under the federal ESIGN Act (15 U.S.C. §7001 et seq.) and applicable state law.

**Notices.** All notices under this Agreement shall be in writing and delivered by hand, nationally recognized overnight courier, certified mail (return receipt requested), or email to the addresses specified in the preamble. Notices are effective upon receipt.

**Headings.** Section headings are for convenience only and do not affect interpretation.

**Signatures**

The Parties have executed this Agreement as of the Effective Date.

**Client**

\_\_\_\_\_ PRINTED NAME

\_\_\_\_\_ SIGNATURE

\_\_\_\_\_ DATE

**Contractor**

\_\_\_\_\_ PRINTED NAME

\_\_\_\_\_ SIGNATURE

\_\_\_\_\_ DATE

**Exhibit A — Pre-Existing Intellectual Property**

The Contractor identifies the following Pre-Existing IP that the Contractor owns or has rights to use, and that may be incorporated into the Work Product. To the extent incorporated, Client receives the license described in Section 8 but not ownership.

| Item | Description | Owner | |-----|-----|-----| | | | | | | | | | |

*(If no pre-existing IP is used, the Contractor may write "None" above. Adding items after execution requires a written amendment signed by both Parties.)*