

Non ON LINE Consultancy Agreement



Independent Contractor Agreement for Consultants

This Agreement is made between _____ (Owner) with a principal place of business at _____ and _____ SM Engineering (Contractor), with a principal place of business at .

This Agreement will become effective on _____, 20, and will end no later than _____, 20__.

Services to Be Performed

Consultant agrees to perform the following consulting services on Owner's behalf:

Payment

(Check and complete applicable provision.)

- In consideration for the services to be performed by Consultant, Owner agrees to pay Consultant \$_____ according to the terms set out below.

OR

- In consideration for the services to be performed by Consultant, Owner agrees to pay Consultant at the rate of \$_____ per _____ according to the terms of payment set out below.

Additional Option

(Check and complete if applicable.)

- Unless otherwise agreed in writing, Owner's maximum liability for all services performed during the term of this Agreement shall not exceed \$_____.

Terms of Payment

(Check applicable provision.)

- Upon completing Consultant's services under this Agreement, Consultant shall submit an invoice. Owner shall pay Consultant the compensation described within a reasonable time after receiving Consultant's invoice.

OR

- Consultant shall be paid \$ upon signing this Agreement and the rest of the sum described above when the Consultant completes services and submits an invoice.



OR

- Owner shall pay Consultant according to the following schedule of payments.

\$_____ when an invoice is submitted and the following services are complete:

\$_____ when an invoice is submitted and the following services are complete:

\$_____ when an invoice is submitted and the following services are complete:

OR

- If paid hourly, Consultant shall submit an invoice to Owner on the last day of each month for the work performed during that month. The invoice should include: an invoice number, the dates covered by the invoice, the hours expended and a summary of the work performed. Owner shall pay Consultant's fee within a reasonable time after receiving the invoice.

Expenses

Consultant shall be responsible for all expenses incurred while performing services under this Agreement. This includes license fees, memberships and dues; automobile and other travel expenses; meals and entertainment; insurance premiums; and all salary, expenses and other compensation paid to employees or contract personnel the Consultant hires to complete the work under this Agreement.

Independent Contractor Status

Consultant is an independent contractor, not Owner's employee. Consultant's employees or contract personnel are not Owner's employees. Consultant and Owner agree to the following rights consistent with an independent contractor relationship.

- Consultant has the right to perform services for others during the term of this Agreement.
- Consultant has the sole right to control and direct the means, manner and method by which the services required by this Agreement will be performed.
- Consultant has the right to perform the services required by this Agreement at any place, location or time.
- Consultant will furnish all equipment and materials used to provide the services required by this Agreement.
- Consultant has the right to hire assistants as subcontractors, or to use employees to provide the services required by this Agreement.

- The Consultant or Consultant's employees or contract personnel shall perform the services required by this Agreement; Owner shall not hire, supervise or pay any assistants to help Consultant.
- Neither Consultant nor Consultant's employees or contract personnel shall receive any training from Owner in the skills necessary to perform the services required by this Agreement.
- Owner shall not require Consultant or Consultant's employees or contract personnel to devote full time to performing the services required by this Agreement.

Intellectual Property Ownership

Consultant assigns to Owner all rights in all designs, creations, improvements, original works of authorship, formulas, processes, know-how, techniques, inventions and all other information or items created by Consultant during the term of this Agreement. The rights assigned include title and interest in all patent, copyright, trade secret, trademark and other proprietary rights.

Consultant shall help prepare any papers that Owner considers necessary to secure any patents, copyrights, trademarks or other proprietary rights at no charge to Owner. However, Owner shall reimburse Consultant for reasonable out-of-pocket expenses incurred.

Consultant must obtain written assurances from Consultant's employees and contract personnel that they agree with this assignment.

Optional Addition

(Check if applicable.)

- Consultant agrees not to use any of the intellectual property mentioned above for the benefit of any other party without Owner's prior written permission.

Confidentiality

Consultant will not disclose or use, either during or after the term of this Agreement, any proprietary or confidential information of Owner without Owner's prior written permission except to the extent necessary to perform services on Owner's behalf.

Proprietary or confidential information includes:

- the written, printed, graphic or electronically recorded materials furnished by Owner for Consultant to use
- business plans, customer lists, operating procedures, trade secrets, design formulas, know-how and processes, computer programs and inventories, discoveries and improvements of any kind, and
- information belonging to customers and suppliers of Owner about whom Consultant gained knowledge as a result of Contractor's services to Owner.

Consultant shall not be restricted in using any material which is publicly available, already in Consultant's possession or known to Consultant without restriction, or which is rightfully obtained by Consultant from sources other than Owner.



Upon termination of Consultant's services to Owner, or at Owner's request, Consultant shall deliver to Owner all materials in Consultant's possession relating to Owner's business.

Business Permits, Certificates and Licenses

Consultant has complied with all federal, state and local laws requiring business permits, certificates and licenses required to carry out the services to be performed under this Agreement.

State and Federal Taxes

Owner will not:

- withhold FICA (Social Security and Medicare taxes) from Consultant's payments or make FICA payments on Consultant's behalf
- make state or federal unemployment compensation contributions on Consultant's behalf, or
- withhold state or federal income tax from Consultant's payments.

Consultant shall pay all taxes incurred while performing services under this Agreement—including all applicable income taxes and, if Consultant is not a corporation, self-employment (Social Security) taxes. Upon demand, Consultant shall provide Owner with proof that such payments have been made.

Fringe Benefits

Consultant understands that neither Consultant nor Consultant's employees or contract personnel are eligible to participate in any employee pension, health, vacation pay, sick pay or other fringe benefit plan of Owner.

Workers' Compensation

Owner shall not obtain workers' compensation insurance on behalf of Consultant or Consultant's employees. If Consultant hires employees to perform any work under this Agreement, Consultant will cover them with workers' compensation insurance and provide Owner with a certificate of workers' compensation insurance before the employees begin the work.

Optional Language

(Check if provision is applicable.)

If not operating as a corporation, Consultant shall obtain workers' compensation insurance coverage for Consultant. Consultant shall provide Owner with proof that such coverage has been obtained before starting work.

Unemployment Compensation

Owner shall make no state or federal unemployment compensation payments on behalf of Consultant or Consultant's employees or contract personnel. Consultant will not be entitled to these benefits in connection with work performed under this Agreement.



Insurance

Owner shall not provide any insurance coverage of any kind for Consultant or Consultant's employees or contract personnel. Consultant agrees to maintain an insurance policy of at least \$ _____ to cover any negligent acts committed by Consultant or Consultant's employees or agents while performing services under this Agreement.

Consultant shall indemnify and hold Owner harmless from any loss or liability arising from performing services under this Agreement.

Terminating the Agreement

(Check applicable provision.)

- With reasonable cause, either Owner or Consultant may terminate this Agreement, effective immediately upon giving written notice.

Reasonable cause includes:

- a material violation of this Agreement, or
- any act exposing the other party to liability to others for personal injury or property damage.

OR

- Either party may terminate this Agreement any time by giving thirty days written notice to the other party of the intent to terminate.

Exclusive Agreement

This is the entire Agreement between Consultant and Owner.

Severability

If any part of this Agreement is held unenforceable, the rest of the Agreement will continue in effect.

Applicable Law

This Agreement will be governed by the laws of the state of _____.

Notices

All notices and other communications in connection with this Agreement shall be in writing and shall be considered given as follows:

- when delivered personally to the recipient's address as stated on this Agreement
- three days after being deposited in the United States mail, with postage prepaid to the recipient's address as stated on this Agreement, or
- when sent by fax or telex to the last fax or telex number of the recipient known to the person giving notice. Notice is effective upon receipt provided that a duplicate copy of the notice is promptly given by first class mail, or the recipient delivers a written confirmation of receipt.



No Partnership

This Agreement does not create a partnership relationship. Consultant does not have authority to enter into contracts on Owner's behalf.

Resolving Disputes

(Check applicable provisions.)

- If a dispute arises under this Agreement, any party may take the matter to court.

Additional Option

- (Check if applicable.)

Alternative A

- If any court action is necessary to enforce this Agreement, the prevailing party shall be entitled to reasonable attorney fees, costs and expenses in addition to any other relief to which he or she may be entitled.

Alternative B

- If a dispute arises under this Agreement, the parties agree to first try to resolve the dispute with the help of a mutually agreed upon mediator in _____ . Any costs and fees other than attorney fees associated with the mediation shall be shared equally by the parties.

If the dispute is not resolved within 30 days after it is referred to the mediator, any party may take the matter to court.

Alternative C

- If a dispute arises under this Agreement, the parties agree to first try to resolve the dispute with the help of a mutually agreed upon mediator in _____ . Any costs and fees other than attorney fees associated with the mediation shall be shared equally by the parties.

If it proves impossible to arrive at a mutually satisfactory solution through mediation, the parties agree to submit the dispute to a mutually agreed upon arbitrator in _____ . Judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction to do so. Costs of arbitration, including attorney fees, will be allocated by the arbitrator.

Signatures

Owner: _____

Name of Owner

By: _____

Signature

Typed or Printed Name

Title: _____



Date: _____

Contractor: _____

Name of Contractor

By: _____

Signature

Typed or Printed Name

Title: _____

Taxpayer ID Number: _____

Date: _____

If Agreement Is Faxed:

Consultant and Owner agree that this Agreement will be considered signed when the signature of a party is delivered by facsimile transmission. Signatures transmitted by facsimile shall have the same effect as original signatures.