

INDEPENDENT CONTRACTOR AGREEMENT

This Agreement is entered into as of the _____ day of _____, 20____, between _____ [insert company name], a _____ [insert type of company] with a mailing address of _____ (the "Company") and _____ [insert service provider's name], with a mailing address of _____ [insert mailing address] (the "Contractor") (the Company and the Contractor are sometimes collectively referred to herein as the "Parties.").

In consideration of the Contractor performing services for the Company and the compensation paid to the Contractor by the Company, and for other good and valuable consideration, the receipt and sufficiency of which is hereby mutually acknowledged, the Parties agree to the following terms and conditions:

- 1. Appointment of Contractor.** Subject to the terms and conditions of this Agreement, the Company hereby engages the Contractor as an independent contractor to perform the services set forth herein, and the Contractor hereby accepts such engagement.
- 2. Duties, Term, and Compensation.** The Contractor's duties ("Services"), term of engagement (as may be extended or terminated in accordance with this Agreement, the "Term"), compensation and provisions for payment thereof shall be as set forth in the estimate previously provided to the Company by the Contractor and which is attached as Exhibit A. Exhibit A may be amended in writing from time to time, or supplemented with subsequent estimates for services to be rendered by the Contractor and agreed to by the Company, and all the foregoing are collectively hereby incorporated by reference.
- 3. Expenses.** During the Term, the Contractor shall bill and the Company shall reimburse [him or her] for all reasonable and approved out-of-pocket expenses which are incurred in connection with the performance of the Services. Notwithstanding the foregoing, expenses for the time spent by Contractor in traveling to and from Company facilities, or to and from other sites in connection with the rendering of Services, shall not be reimbursable.
- 4. Written Reports.** The Company may request that project plans, progress reports and a final results report related to the Services be provided by Contractor on a monthly basis. A final results report shall be due at the conclusion of the project and shall be submitted to the Company in a confidential written report at such time. The results report shall be in such form and setting forth such information and data as is reasonably requested by the Company.
- 5. Work for Hire.** Any and all inventions, discoveries, developments and innovations (collectively, the "Inventions") conceived by the Contractor during the Term shall be considered "work for hire" and the exclusive property of the Company; and the Contractor hereby assigns all right, title, and interest in the Inventions to the Company.

Any and all Inventions are hereby licensed to the Company for use in its operations and for an infinite duration without compensation. This license is paid-up, royalty-free, and non-exclusive, and may be assigned without the Contractor's prior written approval by the Company to a wholly-owned subsidiary of the Company.

6. Confidentiality. The Contractor acknowledges that during the Term [he or she] will have access to and become acquainted with various trade secrets, inventions, innovations, processes, information, records and specifications owned or licensed by the Company and/or used by the Company in connection with the operation of its business including, without limitation, the Company's business and product processes, methods, customer and client lists, accounts and procedures (collectively, the "Confidential Information"). The Contractor shall not disclose any of the Confidential Information, directly or indirectly, or use any of the Confidential Information in any manner, either during the Term at any time thereafter, except as required in the course of this engagement with the Company.

7. Conflicts of Interest; Non-Solicitation Provision. The Contractor represents that [he or she] is free to enter into this Agreement, and that this engagement does not violate the terms of any agreement between the Contractor and any third party. Further, the Contractor, in rendering [his or her] duties, shall not utilize any invention, discovery, development, improvement, innovation, or trade secret in which [he or she] does not have a proprietary interest. During the Term, the Contractor shall devote as much of [his or her] productive time, energy and abilities to the performance of the Services as is necessary to perform the required duties in a timely and productive manner. The Contractor is expressly free to perform services for other parties while performing services for the Company. During the Term and for a period of one year thereafter, the Contractor shall not, directly or indirectly hire, solicit, or encourage to leave the Company's employment, any employee, consultant, or contractor of the Company or hire any such employee, consultant, or contractor who has left the Company's employment or contractual engagement within one year of such employment or engagement. In addition, during the Term and for a period of one year thereafter, the Contractor shall not, directly or indirectly, solicit, divert or take away or attempt to divert or take away any of Company's clients for which the Contractor provided services, as well as those clients with whom the Contractor became acquainted while engaged as an independent contractor of the Company. Contractor agrees that it will not knowingly take any action to establish a direct relationship with any of Company's clients for the provision of Services.

8. Covenant Not to Compete.

(a) Duration. During the Term of the Agreement and for one year thereafter, the Contractor will not compete (as defined below) with the Company, without the prior written consent of the Company.

(b) Scope of Prohibited Activities. The term "not compete" shall mean that the Contractor shall not: (i) serve as a partner, employee, consultant, officer, director,

manager, agent, associate, investor, or otherwise for, (ii) directly or indirectly, own, purchase, organize or take preparatory steps for the organization of, or (iii) build, design, finance, acquire, lease, operate, manage, invest in, work or consult for or otherwise affiliate with, any business in competition with or otherwise similar to the Company's business of providing patient advocacy services.

(c) Geographic Scope. The non-compete shall apply to the Contractor's activities in every part of the Territory (as defined below). "Territory" shall mean (i) all counties in the Commonwealth of Massachusetts, (ii) all other states of the United States of America and (iii) all other countries of the world; provided that, clauses (ii) and (iii) shall not apply unless the Company derives at least five percent (5%) of its gross revenues from such geographic area at any time during the Term.

(d) Significant Value. The Contractor acknowledges that:

(i) he or she will derive significant value from the Company's disclosure of its Confidential Information to enable him or her to optimize the performance of his or her contractual duties to the Company;

(ii) his or her fulfillment of the obligations contained in this Agreement, including, but not limited to, Section 6, 7 and 8, is necessary to protect the Company's Confidential Information and to preserve the value and goodwill of the Company;

(iii) the time, geographic, and scope limitations of his or her obligations under Section 8 (a), (b) and (c) are reasonable, especially in light of the Company's desire to protect its Confidential Information; and

(iv) complying with the above obligations will not preclude the Contractor from obtaining gainful employment.

(e) Separate Covenants. The covenants contained in Section 8 (a), (b) and (c) shall be construed as a series of separate covenants, one for each city, county and state of any geographic area in the Territory. Except for geographic coverage, each such separate covenant shall be deemed identical in terms to the covenant contained in Section 8 (a) and (b). If, in any judicial proceeding, a court refuses to enforce any of such separate covenants (or any part thereof), then such unenforceable covenant (or such part) shall be eliminated from this Agreement to the extent necessary to permit the remaining separate covenants (or portions thereof) to be enforced. In the event the provisions of Section 8 are deemed to exceed the time, geographic, or scope limitations permitted by applicable law, then such provisions shall be reformed to the maximum time, geographic or scope limitations, as the case may be, then permitted by such law.

9. Right to Injunction. The Parties acknowledge that the Services to be rendered by the Contractor under this Agreement and the rights and privileges granted to the Company under the Agreement are of a special, unique, unusual, and extraordinary character which gives them a peculiar value, the loss of which cannot be reasonably or

adequately compensated by damages in any action at law, and the breach by the Contractor of any of the provisions of this Agreement will cause the Company irreparable injury and damage. The Company shall be entitled to injunctive and other equitable relief in the event of, or to prevent, a breach of any provision of this Agreement by the Contractor. Resort to such equitable relief, however, shall not be construed to be a waiver of any other rights or remedies that the Company may have for damages or otherwise. The various rights and remedies of the Company under this Agreement or otherwise shall be construed to be cumulative, and no one of them shall be exclusive of any other or of any right or remedy allowed by law.

10. Termination. The Company may terminate this Agreement at any time by three (3) days' written notice to the Contractor, for any reason, whether with or without good cause or for any or no cause. In addition, if the Contractor is convicted of any crime or offense, fails or refuses to comply with the written policies or reasonable directives of the Company, is guilty of serious misconduct in connection with performance hereunder, or materially breaches and provisions of this Agreement, the Company at any time may terminate the engagement of the Contractor immediately and without prior written notice to the Contractor.

11. Return of Property. Within three (3) days of the termination of this Agreement, the Contractor agrees to return to the Company all Company products, samples, models, or other property and all documents, retaining no copies or notes, relating to the Company's business including, but not limited to, reports, abstracts, lists, correspondence, information, computer files, computer disks, and all other materials and all copies of such material obtained by the Contractor during and in connection with its services on behalf of the Company. All files, records, documents, blueprints, specifications, information, letters, notes, media lists, original artwork/creative, notebooks, and similar items relating to the Company's business, whether prepared by the Contractor or otherwise coming into its possession, shall remain the Company's exclusive property.

12. Use of Trademarks. The Contractor recognizes the Company's right, title, and interest in and to all service marks, trademarks, and trade names used by the Company and agrees not to engage in any activities or commit any acts, directly or indirectly, that may contest, dispute, or otherwise impair the Company's right, title, and interest therein, nor shall the Contractor cause diminishment of value of said trademarks or trade names through any act or representation. The Contractor shall not apply for, acquire, or claim any right, title, or interest in or to any such service marks, trademarks, or trade names, or others that may be confusingly similar to any of them, through advertising or otherwise. Effective as of the termination of this Agreement, whether by expiration or otherwise, the Contractor shall cease to use all of the Company's trademarks, marks, and trade names.

13. Nature of Relationship. Nothing in this Agreement shall be construed as creating a joint venture, partnership, franchise, agency, employer/employee, or similar relationship between the Parties, or as authorizing either Party to act as the agent of the

other. The Contractor is and will remain an independent contractor in its relationship to the Company. The Company shall not be responsible for withholding taxes with respect to the Contractor's compensation hereunder. The Contractor shall have no claim against the Company hereunder or otherwise for vacation pay, sick leave, retirement benefits, social security, worker's compensation, health or disability benefits, unemployment insurance benefits, or employee benefits of any kind.

14. Indemnification. The Contractor shall indemnify and hold harmless the Company and its officers, members, managers, employees, agents, contractors, sublicensees, affiliates, subsidiaries, successors, and assigns from and against any and all damages, liabilities, costs, expenses, claims, and/or judgments, including, without limitation, reasonable attorneys' fees and disbursements that any of them may suffer from or incur and that arise or result from (i) any gross negligence or willful misconduct of the Contractor arising from or connected with Contractor's carrying out of its duties under this Agreement, (ii) the Contractor's breach of any of its obligations, covenants, or duties under this Agreement; and (iii) any regulatory or judicial finding that the Contractor is not an independent contractor and/or is not in compliance with applicable laws related to work as an independent contractor, based on the Contractor's own actions. With regard to clause (iii), the Contractor shall assume full responsibility and liability for all taxes, assessments, and penalties imposed against the Contractor and/or the Company resulting from such finding, including but not limited to taxes, assessments, and penalties that would have been deducted from the Contractor's earnings had the Contractor been on the Company's payroll and employed as an employee of the Company.

15. Insurance. The Contractor will carry liability insurance (including malpractice insurance, if warranted) relative to any service that [he or she] performs for the Company.

16. Successors and Assigns. All of the provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, if any, successors, and assigns.

17. Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be deemed to be the same Agreement. Facsimile or electronic signatures shall be as effective as if originals.

18. Arbitration. Any controversies arising out of the terms of this Agreement or its interpretation shall be settled in _____ [insert state] in accordance with the rules of the American Arbitration Association, and the judgment upon award may be entered in any court having jurisdiction thereof.

19. Headings. Section headings are not to be considered a part of this Agreement and are not intended to be a full and accurate description of the contents hereof.

20. No Implied Waiver. The failure of either Party to insist on strict performance of any covenant or obligation under this Agreement, regardless of the length of time for which such failure continues, shall not be deemed a waiver of such Party's right to demand strict compliance in the future. No consent or waiver, express or implied, to or of any breach or default in the performance of any obligation under this Agreement shall constitute a consent or waiver to or of any other breach or default in the performance of the same or any other obligation.

21. Notices. Any and all notices, demands, or other communications required or desired to be given hereunder by any party shall be in writing and shall be validly given or made to another party if personally served, or if deposited in the United States mail, certified or registered, postage prepaid, return receipt requested. If such notice or demand is served personally, notice shall be deemed constructively made at the time of such personal service. If such notice, demand or other communication is given by mail, such notice shall be conclusively deemed given five days after deposit thereof in the United States mail addressed to the party to whom such notice, demand or other communication is to be given as follows:

If to the Contractor:

[name]
[street address]
[city, state, zip]

If to the Company:

[name of company]
[street address]
[city, state, zip]

Any party hereto may change its address for purposes of this paragraph by written notice given in the manner provided above.

22. Amendment. No amendment, change or modification of this Agreement shall be valid unless in writing signed by the Parties.

23. Entire Understanding. This Agreement and any exhibit attached hereto constitute the entire understanding and agreement of the parties, and any and all prior agreements, understandings, and representations are hereby terminated and canceled in their entirety and are of no further force and effect.

24. Representations and Warranties by Contractor. If the Contractor is a corporation or a limited liability company, the Contractor warrants and represents that it is duly

organized, validly existing and in good standing under the laws of the state of its incorporation or organization and is duly authorized and in good standing to conduct business, that it has all necessary power and has received all necessary approvals to execute and deliver the Agreement, and the individual executing this Agreement on behalf of the Contractor has been duly authorized to act for and to bind the Contractor.

25. Choice of Law; Consent to Personal Jurisdiction. This Agreement shall be governed, construed and interpreted by, through and under the Laws of the State of _____ [insert state name] (the "State"). THE INDEPENDENT CONTRACTOR EXPRESSLY CONSENTS TO THE PERSONAL JURISDICTION OF THE STATE AND FEDERAL COURTS LOCATED IN THE STATE SPECIFIED IN THIS SECTION 25 FOR ANY LAWSUIT FILED THERE AGAINST HIM OR HER BY THE COMPANY ARISING FROM OR RELATING TO THIS AGREEMENT.

IN WITNESS WHEREOF the undersigned have executed this Agreement as of the day and year first written above. The parties hereto agree that facsimile signatures shall be as effective as if originals.

[insert name of company]

By: _____ [insert name of authorized signatory]

Its: _____ [insert title or position of authorized signatory]

[contractor's name/contractor's company name]

By: _____ [name of authorized signatory]

Its: _____ [title or position]

SCHEDULE A

DUTIES, TERM, AND COMPENSATION

DUTIES: The Contractor will [describe here the work or service to be performed]. [He or she] will report directly to _____ [insert name], and to any other party designated by _____ [insert same name as above] in connection with the performance of the duties under this Agreement and shall fulfill any other duties reasonably requested by the Company and agreed to by the Contractor.

TERM: This engagement shall commence upon execution of this Agreement and shall continue in full force and effect through [date] or earlier upon completion of the Contractor's duties under this Agreement. The Agreement may only be extended thereafter by mutual agreement, unless terminated earlier by operation of and in accordance with this Agreement.

COMPENSATION: (A or B)

A. As full compensation for the services rendered pursuant to this Agreement, the Company shall pay the Contractor at the hourly rate of [dollar amount] per hour, with total payment not to exceed [dollar amount] without prior written approval by an authorized representative of the Company. Such compensation shall be payable within thirty (30) days of receipt of Contractor's monthly invoice for services rendered supported by reasonable documentation.

B. As full compensation for the services rendered pursuant to this Agreement, the Company shall pay the Contractor the sum of _____ [dollar amount], to be paid _____ [time and conditions of payment.]