

INDEPENDENT CONTRACTOR AGREEMENT

This Agreement, made this ___ day of _____, 20__ between _____, hereinafter referred to as "Company", located at _____ and _____, hereinafter referred to as "Independent Contractor", collectively referred to as the "Parties".

RECITALS

Independent Contractor is engaged in the business and ministry of providing pastoral care and chaplaincy services. Independent Contractor represents that he has complied with all Federal, State, and local laws regarding business permits, sales permits, licenses, reporting requirements, tax withholding requirements, and other legal requirements of any kind that may be required to carry out said business and the Scope of Work which is to be performed as an Independent Contractor pursuant to this Agreement. Independent Contractor is or remains open to conducting similar tasks or activities for entities other than the Company and holds himself out to the public to be a separate business entity.

Company desires to engage and contract for the services of the Independent Contractor to perform certain tasks as set forth below. Independent Contractor desires to enter into this Agreement and perform as an independent contractor for the Company and is willing to do so on the terms and conditions set forth below.

NOW, THEREFORE, in consideration of the above recitals and the mutual promises and conditions contained in this Agreement, the Parties agree as follows:

STATUS OF INDEPENDENT CONTRACTOR

1. This Agreement does not constitute a hiring by either party. It is the parties' mutual intention that Independent Contractor shall have an independent contractor status and not be an employee for any purposes, including, but not limited to, the application of the Federal Insurance Contribution Act, the Social Security Act, the Federal Unemployment Tax Act, the provisions of the Internal Revenue Code, the State Revenue and Taxation Code relating to income tax withholding at the source of income, the Workers' Compensation Insurance Code, 401(k) and other benefit payments, and third party liability claims. Independent Contractor shall retain sole and absolute discretion in the manner and means of carrying out his activities and responsibilities under this Agreement. This Agreement shall not be considered or construed to be a partnership or joint venture, and the Company shall not be liable for any obligations incurred by Independent Contractor unless specifically authorized in writing. Independent Contractor shall not act as an agent of the Company, ostensibly or otherwise, nor bind the Company in any manner, unless specifically authorized to do so in writing.

TASKS, DUTIES, AND SCOPE OF WORK

2. Independent Contractor agrees to perform on-site pastoral care and chaplaincy services in accordance with Company’s Pastoral Care Employee Assistance Program Policy (the “Policy”), for four hours each week or as may otherwise be agreed upon by the parties (the “Scope of Work”). The term of this Agreement will run until _____, 20__ unless earlier terminated as outlined below. Independent Contractor shall not be entitled to engage in any activities which are not expressly set forth by this Agreement.
3. The books and records related to the Scope of Work set forth in this Agreement shall be maintained by the Independent Contractor at the Independent Contractor’s principal place of business and open to inspection by Company during regular working hours, except with respect to confidential employee information as described in the Policy.
4. Independent Contractor shall be responsible to the management team of the Company, but Independent Contractor will not be required to follow or establish a regular or daily work schedule. Independent Contractor shall be given access to Company equipment and supplies for the completion of tasks and duties set forth pursuant to this Agreement. Independent Contractor will not utilize the equipment, supplies or offices of Company for completion of tasks and duties unrelated to this Agreement. Any advice given to Independent Contractor regarding the Scope of Work shall be considered a suggestion only, not an instruction. Company retains the right to inspect, stop, or alter the work of Independent Contractor to assure its conformity with this Agreement.

COMPENSATION

5. Independent Contractor shall be entitled to compensation for performing those tasks and duties related to the Scope of Work as follows:
\$_____ per _____ for all hours worked. Hours should be at ___ or less per week, with exceptions approved by _____ prior to the hours being worked.
6. Such compensation shall become due and payable to Independent Contractor upon receiving an invoice and shall be paid according to the normal Company processing rules for outstanding invoices.

NOTICE CONCERNING WITHHOLDING OF TAXES

7. Independent Contractor recognizes and understands that it will receive an IRS 1099 statement and related tax statements, and will be required to file corporate and/or individual tax returns and to pay taxes in accordance with all provisions of applicable Federal and State law. Independent Contractor hereby promises and agrees to indemnify the Company for any damages or expenses, including attorney's fees, and legal expenses, incurred by the Company as a result of Independent Contractor's failure to make such required payments.

AGREEMENT TO WAIVE RIGHTS TO BENEFITS

8. Independent Contractor acknowledges and agrees that Independent Contractor does not have the right to receive any benefits given by Company to its employees, including, but not limited to, health benefits, vacation and sick leave benefits, and profit sharing plans. This agreement is applicable to all non-salary benefits which might otherwise be found to accrue to Independent Contractor by virtue of his services to Company, and is effective for the entire duration of Independent Contractor's agreement with Company. This agreement is effective independently of Independent Contractor's employment status as adjudged for taxation purposes or for any other purpose.

TERMINATION

9. This Agreement may be terminated at any time by either party giving thirty (30) days written notice. Such termination shall not prejudice any other remedy to which the terminating party may be entitled, either by law, in equity, or under this Agreement.

NON-DISCLOSURE OF TRADE SECRETS, CUSTOMER LISTS AND OTHER PROPRIETARY INFORMATION

10. Independent Contractor agrees not to disclose or communicate, in any manner, either during the term of this Agreement or following the termination hereof, proprietary information about Company, its operations, clientele, employees or any other proprietary information, that relate to the business of Company including, but not limited to, the names of its customers, its marketing strategies, operations, or any other information of any kind which would be deemed confidential, a trade secret, a customer list, or other form of proprietary information of Company. Independent Contractor acknowledges that the above information is material and confidential and that it affects the profitability of Company. Independent Contractor understands that any breach of this provision, or that of any other Confidentiality and Non-Disclosure Agreement, is a material breach of this Agreement. To the extent Independent Contractor feels the need to disclose confidential information, he may do so only after obtaining written authorization from [an officer] of the Company. Notwithstanding anything to the contrary contained in this paragraph, Independent Contractor may disclose information received from employees during the Scope of Work as required by applicable law or as permitted by the Policy. The terms of this paragraph shall survive the termination of this Agreement.

NON-SOLICITATION COVENANT

11. Independent Contractors shall not, during the Agreement and for a period of one year immediately following termination of this Agreement, either directly or indirectly, call on, solicit, or take away, or attempt to call on, solicit, or take away, any of the customers or clients of the Company on whom Independent Contractor called or became acquainted with during the term of this Agreement, either for his own benefit, or for the benefit of any other person, firm, corporation or organization. The terms of this paragraph shall survive the termination of this Agreement.

NON-RECRUIT COVENANT

12. Independent Contractor shall not, during this Agreement and for a period of one year immediately following termination of this Agreement, either directly or indirectly, recruit any of Company's employees for the purpose of any other business. The terms of this paragraph shall survive the termination of this Agreement.

RETURN OF PROPERTY

13. On termination of this Agreement, or whenever requested by the parties, Independent Contractor shall immediately deliver to Company all property in Independent Contractor's possession, or under his care and control, belonging to Company, including but not limited to, proprietary information, customer lists, trade secrets, intellectual property, computers, equipment, tools, documents, plans, recordings, software, and all related records or accounting ledgers. Notwithstanding the foregoing, Independent Contractor shall not be required to provide to Company any confidential employee information except as set forth in the Policy.

EXPENSE ACCOUNTS

14. Independent Contractor and the Company agree to maintain separate accounts in regards to all expenses related to performing the Scope of Work. Independent Contractor is solely responsible for payment of expenses incurred pursuant to this Agreement unless provided otherwise in writing by the CEO of the Company. Independent Contractor agrees to execute and deliver any agreements and documents prepared by Company and to do all other lawful acts required to establish document and protect such rights.

WORKS FOR HIRE

15. Independent Contractor agrees that the Scope of Work and all tasks, duties, results, inventions and intellectual property developed or performed pursuant to this Agreement are considered "works made for hire" and that the results of said work is by virtue of this Agreement assigned to the Company and shall be the sole property of Company for all purposes, including, but not limited to, copyright, trademark, service mark, patent, and trade secret laws.

LEGAL COMPLIANCE

16. Independent Contractor is encouraged to treat all company employees, customers, clients, business partners and other affiliates with respect and responsibility. Independent Contractor is required to comply with all laws, ethical codes and Company policies, procedures, rules or regulations, including those forbidding sexual harassment, discrimination, and unfair business practices.

LICENSING, WORKERS' COMPENSATION AND GENERAL LIABILITY INSURANCE

17. Independent Contractor agrees to immediately supply the Company with proof of any licensing status required to perform the Scope of Work pursuant to this Agreement,

Workers' Compensation Coverage where required by law, and General Liability Insurance, if required by the Company.

PERSONS HIRED BY INDEPENDENT CONTRACTOR

18. It is not anticipated that the Independent Contractor will require additional assistance to complete the Scope of Work, and Independent Contractor shall not employ or engage any other person to perform the Scope of Work except upon the prior written consent of Company. If Independent Contractor, upon the consent of Company, hires any individuals to assist in performing the tasks and duties necessary to complete the Scope of Work, they shall be the employees of Independent Contractor unless specifically indicated otherwise in an agreement signed by all parties. Independent Contractor shall immediately provide proof of Workers' Compensation insurance and General Liability insurance covering said employees, upon request of the Company.

NOTICES

19. Any notice to be given hereunder by any party to the other may be affected either by personal delivery in writing, or by mail, registered or certified, postage pre-paid with return receipt requested. Mailed notices shall be addressed to the parties at the addresses appearing in the introductory paragraphs of this Agreement, but each party may change its address by written notice in accordance with this paragraph. Notices delivered personally shall be deemed communicated as of actual receipt; mailed notices shall be deemed communicated as of five (5) days after mailing. Independent Contractor agrees to keep Company current as to his business and mailing addresses, as well as telephone, facsimile, e-mail and pager numbers.

ATTORNEY'S FEES AND COSTS

20. If any action at law or in equity is necessary to enforce or interpret the terms of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees, costs and necessary disbursements incurred both before and after judgment in addition to any other relief to which such party may be entitled.

MEDIATION AND ARBITRATION

21. Any controversy between the parties to this Agreement involving the construction or application of any of the terms, provisions, or conditions of this Agreement, shall, on written request of either party served on the other, be submitted first to mediation and then if still unresolved to binding arbitration. Said mediation or binding arbitration shall comply with and be governed by the provisions of the American Arbitration Association for Commercial Disputes unless the Parties stipulate otherwise. The attorneys' fees and costs of arbitration shall be borne by the losing party, as set forth in paragraph 20 above, unless the parties stipulate otherwise, or in such proportions as the arbitrator shall decide.

INDEMNIFICATION

22. Company shall indemnify, defend and hold harmless Independent Contractor from and against any and all claims, losses, judgments, expenses and costs (including reasonable attorneys' fees) arising from or relating to Independent Contractor's services under this

Agreement, except to the extent that such arise from or relate to the negligent acts, willful misconduct, or violation of law of Independent Contractor.

23. Independent Contractor shall indemnify, defend and hold harmless Company from and against any and all claims, losses, judgments, expenses and costs (including reasonable attorneys' fees) arising from or relating to negligent acts, willful misconduct, or violations of law of Independent Contractor.

CONTAINMENT OF ENTIRE AGREEMENT

24. This Agreement is an independent document and supersedes any and all other Agreements, either oral or in writing, between the parties hereto, except for any separately signed Confidentiality, Trade Secret, Non-Compete or Non-Disclosure Agreements to the extent that such terms are not in conflict with those set forth herein.

REPRESENTATION

25. Each party of this Agreement acknowledges that no representations, inducements, promises or agreements, orally or otherwise, have been made by any party hereto, or anyone acting on behalf of any party hereto, which are not embodied herein, and that no other agreement, statement or promise not contained in this Agreement shall be valid or binding. Any modification of this Agreement shall be effective only if it is in writing, signed and dated by all parties hereto.

PARTIAL INVALIDITY

26. If any provision of this Agreement is held by a Court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions shall nevertheless continue in full force and effect without being impaired or invalidated in any way.

GOVERNING LAW AND JURISDICTION

27. This Agreement shall be governed by, and construed under, the laws of the State of South Dakota. Jurisdiction and venue for all purposes shall be in Lincoln County, South Dakota.

Executed this _____ day of _____, 20____.

Independent Contractor's Signature

Date

Independent Contractor's Name Printed

Company Representative

Date