

EXCERPTS FROM A CONSULTING SERVICES AGREEMENT

1. Work to be Performed. During the term of this Agreement, Consultant shall perform the tasks described in the Statement of Work attached as **Exhibit A** (the “Work”).

Note: Consider Exhibit A to be a description of a piece of software to be written by the consultant that requires general skills required for software development but not necessarily skills or specific knowledge associated with the industry of Company X.

2. Fees and Payment Terms.

a. The Consultant shall be paid a fixed fee of \$24,000 inclusive of reimbursement of expenses for the entire Work performed under this Agreement (the “Contract Fee”).

b. The Contract Fee may not be increased without the prior written approval of Company X. Consultant understands and agrees that the Contract Fee does not represent a guaranteed amount and that this Agreement is subject to termination upon notice from Company X in accordance with its terms.

c. Consultant shall not be reimbursed separately for any travel or out-of-pocket expenses incurred in the performance of Work by Consultant under this Agreement.

5. Ownership of Intellectual Property.

a. Consultant shall specifically describe and identify in **Exhibit B** any intellectual property in existence prior to this Agreement that (i) Consultant intends to use in performing under this Agreement and/or (ii) is either owned solely by Consultant or licensed to Consultant with a right to sublicense (“Background Technology”). Consultant hereby grants to Company X a non-exclusive, royalty-free, irrevocable and world-wide right, with rights to sublicense, to distribute, reproduce, make derivative works of, publicly perform, and publicly display in any form or medium, whether now known or later developed, make, have made, use, sell, import and offer for sale the Background Technology incorporated or used in the Company X Work Product (as defined below).

b. Except for Consultant’s rights in the Background Technology, Consultant irrevocably assigns to Company X all right, title and interest worldwide in and to any intellectual property created by Consultant, alone or in connection with others, in the course of performing the Work (the “Company X Work Product”) and all applicable intellectual property rights related thereto, including without limitation, copyrights, trademarks, trade secrets, patents, moral rights, contract and licensing rights. If Consultant has any right to the Company X Work Product that

cannot be assigned to Company X or waived by Consultant, Consultant unconditionally and irrevocably grants to Company X during the term of such rights, an exclusive, irrevocable, perpetual, worldwide, fully paid and royalty-free license, with rights to sublicense through multiple levels of sublicensees, to reproduce, create derivative works of, distribute, publicly perform and publicly display by all means now known or later developed, such rights. The Company X Work Product shall be works made for hire and the exclusive property of Company X to use, publish and license in its discretion. Consultant agrees to sign all documents requested by Company X necessary to effectuate such assignment, transfer and ownership and, at Company X's expense, to assist with patent and all other applications and filings, prosecution and defense in such connection. No use of the Company X Work Product may be made by Consultant without the express written consent of Company X, and Consultant shall have no rights in them.

c. IP Indemnity. Consultant agrees to defend Company X, and its directors, employees and agents, against claims, suits or actions alleging that the use of Consultant's products, work products (including the Company X Work Product), or services ("Materials") or any part thereof, infringes a copyright, trademark, patent, trade secret, or other intellectual property right of a third party and agrees to pay costs and damages (including reasonable attorneys' fees) finally awarded against Company X or paid in settlements for such infringement with respect to the use of such Materials, provided that: Consultant is notified promptly in writing of any suit or claims; and that Company X permits Consultant to defend, compromise or settle said claim of infringement and gives Consultant information, assistance, and authority to enable Consultant to do so. Consultant shall not be responsible for any unreasonable compromise or settlement made without its consent.

In the event that the Materials, or any part thereof, are held to infringe, or Consultant has reason to believe that the Materials, or any part thereof, infringes a copyright, patent, trademark, or trade secret, Consultant may, at its option: (i) procure the right for Company X to continue using the Materials; or (ii) modify or replace the Materials, or part thereof, to make it non-infringing; or (iii) in the case where (i) and (ii) are not possible, terminate this Agreement and require Company X to return all copies of the infringing Materials to Consultant, and Consultant will, within 30 days of receipt of the same, refund to Company X all monies paid under this Agreement.

16. Limitation Of Liability. IN NO EVENT WILL EITHER PARTY BE LIABLE FOR ANY SPECIAL, INDIRECT, CONSEQUENTIAL OR PUNITIVE DAMAGES INCLUDING, WITHOUT ANY LIMITATION, DAMAGES WHICH REFLECT LOST BUSINESS OR LOST PROFITS, WHETHER DAMAGES OF THIS NATURE WERE FORESEEABLE OR NOT, AND EVEN IF THAT PARTY HAD BEEN ADVISED THAT DAMAGES OF THIS NATURE WERE POSSIBLE. Each party's total liability for damages arising under this Agreement will be limited to the total of the fees (excluding expenses) which were paid to Consultant under the Statement of Work related to the damage claim. This limitation shall not apply to claims for: (i) personal injury; (ii) death; (iii) damage to real property; (iv) damage to tangible personal property (excluding software or data); (v) violation of

Section 6 “Confidentiality”, or (vi) breach of Section 5 “Ownership of Intellectual Property” including Consultant’s indemnity obligations under Section 5(c).

18. Termination. Notwithstanding Section 1 above, Company X shall have the right to terminate this Agreement if Consultant fails to perform its obligations hereunder. Company X may also terminate this Agreement, in whole or in part, for its convenience upon seven days prior written notice. In such event, Company X will pay Consultant for Work performed through the date of such termination to the extent consistent with the Statement of Work. The obligations under Sections 4, 5, 6, 7, 8, 10, 11, 13, 14, 15 and 16 of this Agreement shall survive any termination.