

INDEPENDENT CONTRACTOR AGREEMENT FORM

SCHOOL OF LAW



This Agreement is made this _____ day of _____ 20____ by and between Santa Clara University ("SCU" or "Client"), Santa Clara, California, 95053, and _____

whose address for notices is _____ ("Contractor").

In consideration of the normal promises set forth in this agreement, SCU and Contractor hereby agree as follows:

1. SERVICES: Subject to the terms and conditions of this agreement and on a non-exclusive basis, Contractor agrees to perform the following services to SCU (the "Services"): (Check applicable box)

- The services are described in Attachment A attached hereto.
- The project and scope of services are described immediately below:

Contractor will determine the method, details and means of performing the Services. Contractor agrees that he/she shall at all times exercise a high degree of diligence, skill and integrity in performing the Services hereunder. Contractor shall have no right to purchase goods or services in the name of SCU, execute or make contracts in the name of SCU, or obligate SCU in any way.

2. TERM: This agreement will become effective on or about the date set forth above or as stipulated in Attachment A or amendments and will continue until the completion of Services unless earlier terminated as set forth in Paragraph 9 below.

3. SCU REPRESENTATIVE: _____, telephone _____, shall act as SCU's representative during the performance of this agreement. SCU may change the designated representative from time to time upon reasonable notice to Contractor.

4. PAYMENT: (Check applicable box)

- SCU shall pay Contractor dollars _____ for work to be performed in accordance with this agreement at the conclusion of the Services; or
- SCU shall pay Contractor as described in Attachment A and any subsequent attachment that is attached pursuant to Paragraph ___ below.

Contractor shall be responsible for all expenses necessary to carry out the Services, and shall not be reimbursed by SCU for any such expenses, except as follows:

SCU shall have no obligation to pay Contractor until completion of the Services to be provided hereunder, to SCU's reasonable satisfaction. Expenses incurred by Contractor in performance of this agreement shall be reimbursed only if approved in writing by SCU prior to being incurred by Contractor. Contractor shall submit to SCU receipts for all expenses incurred before reimbursement shall be made by SCU. SCU shall report all payments made herein to the appropriate governmental entity. SCU will reimburse Contractor within 30 days after Contractor delivers his/her written invoice to SCU with any appropriate documentation of work performed. Contractor will submit a written invoice detailing provided at least every thirty (30) days, together with such other documentation of work performed as SCU may reasonably request. It should be submitted to the following SCU address:

5. MODIFICATIONS OF WORK: SCU reserves the right, without liability, to make changes in the Services to be provided hereunder, including alterations, reduction therein or additions thereto. Upon receipt by the Contractor of SCU's notification of a contemplated change, the Contractor shall (1) if requested by SCU, provide an estimate for the increase or decrease in cost due to the contemplated change, (2) notify SCU of any estimated change in the completion date, and (3) advise SCU in writing if the contemplated changes shall effect the Contractor's ability to meet the completion dates or schedules of the agreement.

6. RELATIONSHIP OF PARTIES: The parties intend, and Contractor acknowledges, that Contractor enters into this agreement, and will remain throughout the term of the agreement, as an independent contractor. Contractor agrees that he/she is not and will not become an employee, partner, agent, servant or principal of Client while this agreement is in affect. Contractor agrees that he/she is not entitled to the rights or benefits afforded to SCU employees.

Contractor agrees that SCU may withhold from payment to Contractor any amounts which SCU determines is required to be withheld by applicable law.

Copies of insurance policies or certificates of insurance evidencing required coverage will be supplied to SCU upon SCU request.

Unless there is a need to perform services on the University premises, all work is to be completed at the Contractor's place of business or other appropriate location.

Contractor is responsible for supplying all tools and/or equipment, and/or materials necessary for the successful completion of the Services. In addition, the Contractor shall take all necessary precautions to store all materials and equipment in a safe and appropriate manner. The acceptance or use of any such equipment by Contractor shall be construed to mean that Contractor accepts full responsibility for, and agrees to indemnify SCU against any and all loss, liability, and claims for any injury or change whatsoever resulting from the use, misuse, or failure of such equipment even if such equipment is furnished, rented, or loaned to Contractor by SCU.

Contractor agrees and acknowledges that he/she is solely responsible for determining the method and means by which Contractor will accomplish the Services and otherwise fulfill Contractor's obligations hereunder. Contractor further agrees that he will be solely responsible for the professional performance of the services except as may be specifically set forth in this agreement. Contractor represents that he/she has the necessary qualifications, skills, necessary licenses and ability to perform the Services hereunder in a competent, professional manner without the advice or direction of SCU. Failure to perform all of the Services required under this agreement constitutes a material breach of the agreement. Neither this agreement nor any duties or obligations hereunder may be assigned by either of the parties without the prior written consent of the other.

Contractor is free to hire, supervise and pay assistants to aide in the performance of the Services. All persons engaged in any of the work or services performed pursuant to this agreement shall at all times, and in all places, be subject to the Contractor's sole direction, supervision, and control. Contractor shall exercise control over the means and manner in which it and its employees perform the work, and in all respects the Contractor's relationship and the relationship of its employees to SCU shall be that of an independent contractor and not as employees or agents of SCU. Contractor warrants and represents that all of his/her employees are treated equally during employment without regard to race, color, religion, physical handicap, sex, age or nationality.

Contractor acknowledges he/she is eligible to work in the United States as required by the provisions of the Federal Immigration Reform and Control Act of 1986, and that any individual employed by the contractor to assist in this project is eligible to work in the United States.

7. NON-EXCLUSIVE: SCU does not agree to use Contractor exclusively; nor does SCU agree to provide any minimum amount of work. Contractor is free to contract for similar services to be performed for others while under contract with SCU. Contractor agrees that such other services shall not impair, impede or conflict in any way with the services Contractor is to provide under this agreement. Contractor may not subcontract in SCU's name for services Contractor is to provide under this agreement. This agreement may not be assigned by Contractor. Nothing contained in this agreement shall be construed to place the parties in the relationship of partners or joint ventures and neither party shall have the right to obligate or bind the other in any manner. Contractor agrees that he/she will not hold himself/herself out as an authorized agent to bind SCU in any manner

8. INDEMNIFICATION: Contractor shall indemnify, defend, and hold harmless, SCU and its officers, trustees, employees, and/or agents, from and against any and all claims, demands, suits, loss, damage, injury, and liability, including costs, expenses and reasonable attorney's fees incurred in connection therewith, arising from a breach of or in any way connected with any of Contractor's representations and warranties herein, or resulting from the acts or omissions of the Contractor, Contractor's agents, or subcontractors during Contractor's performance of this agreement, or from the death or injury of any person or persons, including employees of SCU, or from the damage or destruction of any work or properties, attributable to or resulting from Contractor's performance of the Services.

9. TERMINATION: Notwithstanding any other provision of this agreement, either party may terminate this agreement at any time by giving ten days written notice to the other party or as agreed in Attachment A. Unless otherwise terminated as provided in this agreement, this agreement will continue in effect until the Services provided for in this agreement have been fully and completely performed. If either party defaults in the performance of this agreement or breaches any of its provisions, the non-breaching party may terminate this agreement by giving written notification to the breaching party. Termination will take effect immediately on receipt of notice by the breaching party or five days after the mailing of notice, whichever occurs first.

10. CONFIDENTIALITY: Contractor acknowledges that, in the course of performing work under this agreement, Contractor may come into the possession of business information or other confidential or proprietary information of SCU ("Confidential Information"). Contractor agrees that Confidential Information is the sole property of SCU and further agrees to treat all such Confidential Information as confidential and will not disclose such information to third parties

during and/or after the term of this agreement except with SCU's written approval, and only to the extent necessary to perform the Services under this agreement. This prohibition also applies to Contractor's employees, agents, and subcontractors. At the termination of this agreement, Contractor shall promptly return to SCU all copies of Confidential Information furnished by SCU and all material prepared for or in connection with the work for SCU in his/her possession. This obligation of confidentiality shall survive termination of this agreement.

11. OWNERSHIP OF WORK PRODUCT: Contractor agrees, without limitation, reservation or condition, that all Services and any elements thereof created, performed, contributed or prepared by Contractor pursuant to this agreement and/or while performing services under this agreement, including without limitation all copyrights, patents, rights of reproduction, and rights of ownership to any physical works of art embodied therein, will be assigned to SCU as the sole and exclusive property of SCU and SCU's assigns, nominees and successors, as will any copyrights, patents or trademarks obtained by Contractor while performing services under this agreement. On request and at SCU's expense, Contractor agrees to help SCU obtain patents and copyrights for any new developments. This includes providing data, plans, specifications, descriptions, documentation, and other information, as well as assisting SCU in completing any required application or registration.

12. WARRANTIES: Contractor warrants that all works produced by him/her shall be made in a professional and competent manner and suitable for the purpose intended. Contractor represents and warrants that its work shall not infringe any patent, trademark, copyright, or other proprietary right. Contractor further warrants that its work will not contain any technical limiting devices. Should any claim of infringements be brought against SCU, Contractor shall indemnify, defend and hold SCU harmless from and against any and all claims, actions, liabilities, expenses, costs and demands together with attorney fees relating to or arising from any such claim or any patent, design, copyright, trademark, proprietary right, right of privacy, or similar action, suit or proceeding.

13. ARBITRATION: Any and all disputes, claims or controversies arising out of or relating in any way to this agreement, its performance or breach, including, without limitation, the validity, scope and enforceability of the agreement to arbitrate, shall be resolved exclusively by final and binding arbitration. Any arbitration shall be conducted in accordance with the Rules of JAMS/Endispute then in effect, notwithstanding anything to the contrary in the Rules of JAMS/Endispute (or if said rules are not in effect, then in accordance with the rules set forth in Title 9 of the California Code of Civil Procedure, beginning with section 1280 et seq.). The arbitrator selected shall have full authority to grant the parties all remedies available under this agreement, as well as all statutorily available remedies. Absent agreement by the parties on an arbitrator, the arbitrator will be selected by JAMS/Endispute. If for any reason JAMS/Endispute is unable to select an arbitrator, then the Presiding Judge of the Superior Court of California, Santa Clara County shall select an arbitrator. Any award rendered shall be final, binding, and conclusive upon the parties and may be entered in any state or federal court having jurisdiction, subject to the judicial review required by California law. This agreement to arbitrate disputes, claims, and controversies does not prohibit or limit either party's right to seek equitable relief from a court, including but not limited to injunctive relief, pending the resolution of the dispute by arbitration. In consideration of each party's agreement to submit to arbitration all disputes with regard to this agreement as provided in this Section 16, each party agrees that the arbitration provisions hereof shall provide the exclusive remedy (save and except with respect to the equitable relief referenced herein) and EACH PARTY EXPRESSLY WAIVES ANY RIGHT HE/SHE OR IT MAY OTHERWISE HAVE TO SEEK REDRESS IN ANY OTHER FORUM INCLUDING A TRIAL BY JURY.

14. SURVIVAL OF TERMS: The terms, provisions, representations and warranties in this agreement shall survive the delivery of services, payment therefore, and the termination or expiration of this agreement.

15. NON-WAIVER: No terms or provisions of this agreement shall be deemed waived and no breach excused, unless such a waiver or consent shall be in writing and signed by the party claimed to have waived or consented. Any consent by any party to, or waiver of, a breach by the other, whether expressed or implied by operation of law, shall not constitute a consent to, waiver of, or excuse for any other different or subsequent breach.

16. INVALID PROVISION: If any provision of this agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions will continue in full force and effect without being impaired or invalidated in any way.

17. GOVERNING LAWS: This agreement shall be governed by and construed in accordance with the laws of the state of California.

18. REFERENCES: Contractor hereby authorizes SCU or SCU's agent(s) to investigate Contractor's references, to communicate with Contractor's former or current clients concerning the same, and to make an independent investigation of Contractor's former or current clients concerning the same, and to make an independent investigation of Contractor's character, conduct, and employment record and to keep and preserve records of such investigations. In compliance with the Fair Credit and Reporting Act (15 U.S.C.S. Section 1681) Contractor is advised that a routine investigative consumer report may be conducted relative to the Contractor's character, general reputation, personal characteristics and credit history. Contractor has a right to request the source of this information and the nature and scope to the investigation, if one is conducted.

19. NOTICES: Service of any notice required or permitted under this agreement shall be sufficient if by personal delivery in writing to Contractor or if sent certified or overnight mail, postage prepaid to either party at the respective addresses set forth above. Such notices shall be effective upon delivery or the date delivery is attempted and refused. Each party may change the address above by giving written notice in accordance with this paragraph.

20. ENTIRE AGREEMENT: This agreement and the Attachments now or hereafter attached, if executed by both parties, supersedes any and all agreement, either oral or written, between the parties with respect to the rendering of services by Contractor for SCU and contains all of the representations, covenants, and agreements between the parties with respect to the rendering of those services. Each party to this agreement acknowledges that no representations, inducements, promises or agreements, orally or otherwise, have been made by any party, or anyone acting on behalf of any party, which are not contained in this agreement, and that no other agreement, statement, or promise not contained in this agreement will be valid or binding. This agreement shall not be modified except by a writing signed by both parties. Additional projects may be added or changes may be made to the project described in Attachment A by completing and attaching hereto a new Attachment substantially in the form of Attachment A (but recaptioining it as a new Attachment in appropriate alphabetical order beginning with "B") and having both parties execute any such Attachment.

In witness whereof, the parties have executed this agreement on the date and year first above written.

Independent Contractor

By: _____

Santa Clara University

By: _____

Dean or Equivalent: _____