



crayton.communications, llc

www.crayton.com
info@crayton.com

Independent Contractor Agreement

This agreement is used when the independent contractor will perform a project for a multimedia company. The agreement assumes that the project is a simple one that does not include detailed milestones and acceptance provisions.

INDEPENDENT CONTRACTOR AGREEMENT

THIS AGREEMENT (Agreement) is entered into by and between Development Company (Devco), a corporation, and the undersigned (the Contractor).

1. Engagement of Services. Contractor agrees to perform services for Devco as follows:

(Project). Devco selected Contractor to perform these services based upon Devco receiving Contractor's personal service and therefore Contractor may not subcontract or otherwise delegate its obligations under this Agreement without Devco's prior written consent. Contractor agrees to perform the services in a professional manner.

2. Compensation.

2.1 Fees and Approved Expenses. Devco will pay Contractor the fee set forth in Exhibit A for services rendered by Contractor pursuant to this Agreement. Contractor will not be reimbursed for any expenses incurred in connection with the performance of services under this Agreement, unless those expenses are approved in advance and in writing by Devco.

2.2 Timing. Devco will pay Contractor for services and will reimburse Contractor for previously approved expenses within thirty (30) days of the date of Contractor's invoice.

3. Independent Contractor Relationship. Contractor and Devco understand, acknowledge, and agree that Contractor's relationship with Devco will be that of an independent contractor and nothing in this Agreement is intended to or should be construed to create a partnership, joint venture, or employment relationship.

4. Trade Secrets•Intellectual Property Rights.

4.1 Disclosure.

(a) Contractor agrees to disclose promptly in writing to Devco, or any person designated by Devco, all work product, including but not limited to computer programs, processes, know-how and other copyrightable material, that is conceived, developed, made or reduced to practice by Contractor within the scope of the Project.

(b) Contractor represents that his performance of all of the terms of this Agreement does not and will not breach any agreement to keep in confidence proprietary information, knowledge or data of a third party and Contractor will not disclose to Devco, or induce Devco to use, any confidential or proprietary information belonging to third parties unless such use or disclosure is authorized in writing by such owners.

(c) Contractor represents that any inventions or copyrighted works relating to Devco's actual or anticipated business or research and development which Contractor has conceived, developed, made, or reduced to practice at the time of signing this Agreement, have been disclosed in writing to Devco and attached to this Agreement as Exhibit B. These inventions and copyrighted works are not assigned to Devco. However, if Contractor uses such inventions or copyrighted works in the Project, Contractor grants to Devco a royalty-free, worldwide, perpetual, irrevocable, non-exclusive license, with the right to sublicense, to reproduce, distribute, modify, publicly perform and publicly display such inventions and copyrighted works in Devco's product based on the Project.

4.2 Confidential Information. Contractor agrees during the term of this Agreement and thereafter to take all steps reasonably necessary to hold in trust and confidence information which he knows or has reason to know is considered confidential by Devco (•Confidential Information•). Contractor agrees to use the Confidential Information solely to perform the project hereunder. Confidential Information includes, but is not limited to, technical and business information relating to Devco's inventions or products, research and development, manufacturing and engineering processes, and future business plans. Contractor's obligations with respect to the Confidential Information also extend to any third party's proprietary or confidential information disclosed to Contractor in the course of providing services to Devco. This obligation shall not extend to any information which becomes generally known to the public without breach of this Agreement. This obligation shall survive the termination of this Agreement.

4.3 No Conflict of Interest. Contractor agrees during the term of this Agreement not to accept work or enter into a contract or accept an obligation, inconsistent or incompatible with Contractor's obligations or the scope of services rendered for Devco under this Agreement.

4.4 Assignment of Work Product.

(a) Work Product• means the storyline, characters, computer software, designs, discoveries, works of authorship, formulae, processes, manufacturing techniques, inventions, improvements and ideas solely or jointly conceived, developed or reduced to practice during the Project. Contractor hereby irrevocably assigns, conveys and otherwise transfers to Devco, and its respective successors and assigns, all rights, title and interests worldwide in and to the Work Product and all proprietary rights therein, including, without limitation, all copyrights, trademarks, design patents, trade secret rights, moral rights, and all contract and licensing rights, and all claims and causes of action of any kind with respect to any of the foregoing, whether now known or hereafter to become known. In the event Contractor has any rights in and to the Work Product that cannot be assigned to Devco, Contractor hereby unconditionally and irrevocably waives the enforcement of all such rights, and all claims and causes of action of any kind with respect to any of the foregoing against Devco, its distributors and customers, whether now known or hereafter to become known and agrees, at the request and expense of Devco and its respective successors and assigns, to consent to and join in any action to enforce such rights and to procure a waiver of such rights from the holders of such rights. In the event Contractor has any rights in and to the Work Product that cannot be assigned to Devco and cannot be waived, Contractor hereby grants to Devco, and its respective successors and assigns, an exclusive, worldwide, royalty-free license during the term of the rights to reproduce, distribute, modify, publicly perform and publicly display, with the right to sublicense and assign such rights in and to the Work Product including, without limitation, the right to use in any way whatsoever the Work Product. Contractor retains no rights to use the Work Product and agrees not to challenge the validity of the ownership by Devco in the Work Product.

(b) Contractor agrees to assist Devco in any reasonable manner to obtain and enforce for Devco's benefit patents, copyrights, and other property rights covering the Work Product in any and all countries. Contractor agrees to execute, when requested, patent, copyright, or similar applications and assignments to Devco, and any other lawful documents deemed necessary by Devco to carry out the purpose of this Agreement. Contractor further agrees that the obligations and undertaking stated in this Section 4.4(b) will continue beyond the termination of Contractor's service to Devco. If called upon to render assistance under this Section 4.4(b), Contractor will be entitled to a fair and reasonable fee in addition to reimbursement of authorized expenses incurred at the prior written request of Devco.

(c) In the event that Devco is unable for any reason whatsoever to secure Contractor's signature to any lawful and necessary document required to apply for or execute any patent, copyright or other applications with respect to any Work Product (including improvements, renewals, extensions, continuations, divisions or continuations in part thereof), Contractor hereby irrevocably designates and appoints Devco and its duly authorized officers and agents as his agents and attorneys-in-fact to act for and in his behalf and instead of Contractor, to execute and file any such application and to do all other lawfully permitted acts to further the prosecution and issuance of patents, copyrights or other rights thereon with the same legal force and effect as if executed by Contractor.

4.5 Return of Devco's Property. Contractor acknowledges that Devco's sole and exclusive property includes all documents, such as drawings, manuals, notebooks, reports, sketches, records, computer programs, employee lists, customer lists and the like in his custody or possession, whether delivered to Contractor by Devco or made by Contractor in the performance of services under this Agreement, relating to the business activities of Devco or its customers or suppliers and containing any information or data whatsoever, whether or not Confidential Information. Contractor agrees to deliver promptly all of Devco's property and all copies of Devco's property in Contractor's possession to Devco at any time upon Devco's request.

4.6 Warranties. Contractor represents and warrants that:

(a) The Work Product was created solely by him, his full-time employees during the course of their employment, or independent contractors who assigned all right, title and interest in their work to Contractor;

(b) Contractor is the owner of all right, title and interest in the tangible forms of the Work Product and all intellectual property rights protecting them. The Work Product and the intellectual property rights protecting them are free and clear of all encumbrances, including, without limitation, security interests, licenses, liens, charges or other restrictions except as set forth in Exhibit C;

(c) Contractor has maintained the Work Product in confidence;

(d) the use, reproduction, distribution, or modification of the Work Product does not and will not violate the rights of any third parties in the Work Product including, but not limited to, trade secrets, trademarks, publicity, privacy, copyrights, and patents;

(e) the Work Product is not in the public domain;

(f) Contractor has full power and authority to make and enter into this Agreement.

4.7 Performance. Contractor represents and warrants that for a period of following acceptance of the Work Product (i) the will be free from defects in workmanship and materials under normal use, and (ii) that the will perform in accordance with the specifications in Exhibit A.

4.8 Indemnification. Contractor agrees to defend, indemnify, and hold harmless Devco, their officers, directors, sublicensees, employees and agents, from and against any claims, actions or demands, including without limitation reasonable legal and accounting fees, alleging or resulting from the breach of the warranties in Section 4.6. Devco shall provide notice to Contractor promptly of any such claim, suit, or proceeding and shall assist Contractor, at Contractor's expense, in defending any such claim, suit or proceeding.

5. Termination•Noninterference with Business.

5.1 Termination by Devco. Devco may terminate this Agreement for material breach at any time upon fifteen (15) days prior written notice to Contractor. Devco also may terminate this Agreement immediately in its sole discretion upon Contractor's material breach of Article 4 and/or Section 5.3 of this Agreement and/or upon any acts of gross misconduct by Contractor directly affecting this Agreement or the independent contractor relationship.

5.2 Termination by Contractor. Contractor may terminate this Agreement for material breach at any time upon fifteen (15) days prior written notice to Devco.

5.3 Noninterference with Business. During and for a period of two (2) years immediately following termination of this Agreement by either party, Contractor agrees not to solicit or induce any employee or independent contractor to terminate or breach an employment, contractual or other relationship with Devco.

6. General Provisions. This Agreement will be governed by and construed in accordance with the laws of the United States and the State of California as applied to agreements entered into and to be performed entirely within California between California residents. This Agreement, including all Exhibits to this Agreement, constitutes the entire agreement between the parties relating to this subject matter and supersedes all prior or simultaneous representations, discussions, negotiations, and agreements, whether written or oral. No term or provision hereof will be considered waived by either party, and no breach excused by either party, unless such waiver or consent is in writing signed on behalf of the party against whom the waiver is asserted. No consent by either party to, or waiver of, a breach by either party, whether express or implied, will constitute a consent to, waiver of, or excuse of any other, different, or subsequent breach by either party. Contractor may not assign its rights or obligations arising under this Agreement without Devco's prior written consent. Devco may assign its rights and obligations under this Agreement. This Agreement will be for the benefit of Devco's successors and assigns, and will be binding on Contractor's heirs, legal representatives and permitted assignees. If any dispute arises between the parties with respect to the matters covered by this Agreement which leads to a proceeding to resolve such dispute, the prevailing party in such proceeding shall be entitled to receive its reasonable attorneys' fees, expert witness fees and out-of-pocket costs incurred in connection with such proceeding, in addition to any other relief to which it may be entitled. All notices, requests and other communications required to be given under this Agreement must be in writing, and must be mailed by registered or certified mail, postage prepaid and return receipt requested, or delivered by hand to the party to whom such notice is required or permitted to be given. Any such notice will be considered to have been given when received, or if mailed, five (5) business days after it was mailed, as evidenced by the postmark. The mailing address for notice to either party will be the address shown on the signature page of this Agreement. Either party may change its mailing address by notice as provided by this Section. The following provisions shall survive termination of this Agreement: Article 4 and Section 5.3. This Agreement is effective as of , 19, and will terminate on , 19, unless terminated earlier in accordance with Section 5 above.

DEVCO _____ CONTRACTOR _____

DEVELOPMENT COMPANY _____

By: _____ By: _____

Typed name: _____ Typed name: _____

Title: _____ Title: _____

Address:

Address:

EXHIBIT A
Project and Specifications

EXHIBIT B
Prior Work Product Disclosure

EXHIBIT C
Exceptions