

## CONSULTING AGREEMENT

THIS CONSULTING AGREEMENT is made as of this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between \_\_\_\_\_ (the "Customer"), a(n) \_\_\_\_\_ corporation, with its principal place of business at \_\_\_\_\_ and WSI, Incorporated (the "Consultant") an Illinois corporation having a place of business at 940 Evergreen Lane, Schererville, IN 46375.

### Background

The Customer is a provider of \_\_\_\_\_ services. The Consultant has expertise and experience in areas beneficial to the Customer and desires to consult with the Customer in the Consultant's area of expertise. Based on the Consultant's experience, the Customer desires to retain the services of the Consultant and the Consultant desires to render such services on the terms and conditions set forth below.

IN CONSIDERATION of the foregoing and of the mutual covenants set forth below, the parties, intending to be legally bound, agree as follows:

1. Retention as Consultant. The Customer hereby retains the Consultant, and the Consultant hereby agrees to render consulting services to the Customer, upon the terms and conditions set forth herein.

2. Duties. The Consultant covenants and agrees that, as an independent corporation, it will perform the services mutually agreed upon between the Consultant and the Customer.

The Consultant agrees that at mutually agreed times, the Consultant will send, via a mutually agreed upon method, a status report to \_\_\_\_\_, or to such other representatives as the Customer may designate, outlining the following items: list of work items for the period just ended, deliverables and accomplishments for each of the work items, number of hours spent working on each item during the period just ended, and a list of any additional expenses attributable directly to the work being done for the Customer, e.g. phone bills for calls made to, or on behalf of, the Customer, with itemized bills detailing the expenses attached.

3. Consultant Status. The parties recognize that the employees and representatives of the Consultant are not employees, agents, co-venturers, or representatives of the Customer and that the Customer will not incur any liability as the result of actions of employees and representatives of the Consultant. The employees and representatives of the Consultant shall at all times disclose that they are contracted consultants to the Customer and shall not represent to any third party that they are employees, agents, co-venturers, or representatives of the Customer other than as expressly authorized by the Customer. The Customer shall not withhold any funds from the Consultant for tax or other governmental purposes, and the Consultant shall be responsible for the payment of same. Employees and representatives of the Consultant shall not be entitled to receive any employment benefits offered to employees of the Customer, including but not limited to: workers' compensation coverage; savings or profit sharing plans; stock option, incentive or other bonus plans; health, dental or life insurance coverage; and paid vacations. The Customer shall not exercise control over the employees and representatives of the Consultant.

4. Compensation. The Customer shall pay to the Consultant, as compensation for the services to be rendered, the sums as defined in Schedule A and Schedule B to this agreement. The Customer shall not be obligated to provide a minimum number of hours of work, nor shall the Consultant be entitled to receive any compensation for hours not actually worked.

The Customer shall also reimburse the Consultant for all ordinary and necessary expenses incurred in connection with the performance of its services hereunder, provided that timely notice of such expenses is sent to and approved by an appropriate officer or other authorized representative of the Customer. The Consultant shall report to \_\_\_\_\_, or to such other employee of the Customer as the Customer may designate from time to time.

The Customer shall process payments to the Consultant monthly for all undisputed invoices presented by the Consultant under this Agreement but in no case shall the Consultant be paid later than thirty (30) days after the receipt of such undisputed invoices. In the case of a dispute, \_\_\_\_\_ or such other representative as the Customer may designate, will discuss the controversial items with Consultant and attempt to resolve the dispute.

5. Term. This Agreement shall commence on the date first written above and shall continue indefinitely until such time as either the Consultant or the Customer terminates the Agreement as provided below.

6. Termination. The parties agree that either the Customer or the Consultant through written notice may terminate the Consultant's engagement under this Agreement at any time for any reason or for no reason.

7. Covenant of Nondisclosure. The Consultant shall not, at any time during or after the term of this Agreement, in any manner, either directly or indirectly, divulge, disclose, or communicate to any person, firm, corporation or other entity, or use for its own benefit or for the benefit of any other person, firm, corporation or other entity, and not for the benefit of the Customer, any information acquired from the Customer or its affiliates, without the express prior written consent of an authorized executive officer of the Customer.

8. Rights to Work. The parties acknowledge that any work created by the Consultant in connection with the performance of services for the Customer pursuant hereto is being created at the insistence of the Customer and shall be deemed "work made for hire" under the United States copyright laws.

The Customer shall have the right to use the whole work, any part or parts thereof, or none of the work, as it sees fit. The Customer may alter the work, add to it, or combine it with any other work or works, at its sole discretion. Notwithstanding the foregoing, all original material submitted by the Consultant as part of the work or as part of the process of creating the work, including but not limited to network designs, equipment listings, specifications, documentation, and notes, shall be the property of the Customer whether or not the Customer uses such material. No rights are reserved by the Consultant.

Title to all material and documentation furnished by the Customer to the Consultant or delivered by the Customer into the Consultant's possession shall remain with the Customer. The Consultant shall immediately return all such material or documentation within seven (7) days of any request or upon the termination or conclusion of its engagement under this Agreement, whichever shall occur first.

9. Export Regulations. The Consultant acknowledges his obligations to control access to technical data under the U.S. Export Laws and Regulations and agrees to adhere to such laws and regulations with regard to any technical data received under this Agreement.

10. Adherence to Laws. The Consultant agrees that in carrying out its duties and responsibilities under this Agreement, it will neither undertake nor cause, nor permit to be undertaken, any activity which either (i) is illegal under any laws, decrees, rules, or regulations in effect in either the United States or any other country in which the Customer has a business interest; or (ii) would have the effect of causing the Customer to be in violation of any laws, decrees, rules, or regulations in effect in either the United States or any other country in which the Customer has a business interest.

The Consultant agrees to notify the Customer immediately of any extortive solicitation, demand, or other request for anything of value, by or on behalf of any entity or individual, relating to the subject matter of this Agreement.

11. Indemnification. The Consultant shall defend, indemnify and hold harmless the Customer and its officers, directors, employees, agents, parent, subsidiaries and other affiliates, from and against any and all damages, costs, liability, and expense whatsoever (including attorneys' fees and related disbursements) incurred by reason of (a) any failure by the Consultant to perform any covenant or agreement of the

Consultant set forth herein; (b) injury to or death of any person or any damage to or loss of property which is due to the negligence and/or willful acts of the Consultant; or (c) any breach by the Consultant of any representation, warranty, covenant or agreement under this Agreement.

## 12. Miscellaneous

12.1 Cooperation. The Consultant agrees that at any time and from time to time, upon the request of the Customer, to do, execute, acknowledge and deliver, or cause to be done, executed, acknowledged and delivered, all such further acts, documents and instruments as may be required to effect any of the transactions contemplated by this Agreement.

12.2 Amendments. This Agreement replaces and supersedes all prior consulting agreements, and any other agreements relating to the subject matter hereof, between the parties to this agreement. No alteration, modification, amendment or other change of this Agreement shall be binding on the parties unless in writing, approved and executed by authorized executive officers of the Consultant and the Customer whether by operation of law or otherwise.

12.3 Assignment. This Agreement is not assignable by the Consultant, whether by operation of law or otherwise.

12.4 Governing Law. This Agreement shall be governed by and interpreted, construed and enforced in accordance with the laws of the State of Indiana, excluding conflicts of laws principles, and both parties further consent to jurisdiction by the state and federal courts sitting in the State of Indiana.

12.5 Invalidity. The terms of this Agreement shall be severable so that if any term, clause, or provision hereof shall be deemed invalid or unenforceable for any reason by a court of competent jurisdiction, such invalidity or unenforceability shall not affect the remaining terms, clauses and provisions hereof, the parties intending that if any such term, clause or provision were held to be invalid prior to the execution hereof, they would have executed an agreement containing the remaining terms, clauses and provisions of this Agreement.

12.6 Waiver of Breach. The waiver by either party hereto of any breach of the terms and conditions hereof will not be considered a modification of any provision, nor shall such a waiver act to bar the enforcement of any subsequent breach.

12.7 Background, Enumerations and Headings. The "Background," enumerations and headings contained in this Agreement are for convenience of reference only and are not intended to have any substantive significance in interpreting this Agreement.

12.8 Warranty. As an inducement for the Customer to enter into this Agreement, the Consultant represents and warrants to Customer that all services, work and deliverables to be performed hereunder shall be performed in a professional and workmanlike manner, in accordance with the highest industry standards.

12.9. Limitation of Liability. TO THE EXTENT NOT PROHIBITED BY LAW, IN NO EVENT SHALL WSI BE LIABLE FOR PERSONAL INJURY, OR ANY INCIDENTAL, SPECIAL, INDIRECT OR CONSEQUENTIAL DAMAGES WHATSOEVER, INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF PROFITS, LOSS OF DATA, BUSINESS INTERRUPTION OR ANY OTHER COMMERCIAL DAMAGES OR LOSSES, ARISING OUT OF OR RELATED TO WSI'S ABILITY OR INABILITY TO PROVIDE THE SERVICES ENCOMPASSED BY THIS AGREEMENT, HOWEVER CAUSED, REGARDLESS OF THE THEORY OF LIABILITY (CONTRACT, TORT OR OTHERWISE) AND EVEN IF WSI HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. SOME JURISDICTIONS DO NOT ALLOW THE LIMITATION OF LIABILITY FOR PERSONAL INJURY, OR OF INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THIS LIMITATION MAY NOT APPLY TO YOU. In no event shall WSI's total liability to Company for all damages (other than as may be required by applicable law in cases involving personal injury) exceed the

amount of fifty dollars (\$50.00). The foregoing limitations will apply even if the above stated remedy fails of its essential purpose.

IN WITNESS WHEREOF, the parties have executed this Agreement effective the date first written above.

Customer:\_\_\_\_\_

Consultant: WSI, Incorporated

Signature:\_\_\_\_\_

Signature:\_\_\_\_\_

Print Name:\_\_\_\_\_

Print Name:\_\_\_\_\_

Print Title:\_\_\_\_\_

Print Title:\_\_\_\_\_

Date:\_\_\_\_\_

Date:\_\_\_\_\_