

MASTER INDEPENDENT CONTRACTOR AGREEMENT

THIS MASTER CONSULTING AGREEMENT (the "Agreement"), made as of this ____ day of _____, 20__ (the "Effective Date"), is entered into by On The Mark Promotions, Inc., a Massachusetts corporation with a principal place of business at 306 Dartmouth Street, Suite 200, Boston, MA 02116 ("OTMP" or "the Company") and _____, an individual residing at _____ (the "Consultant").

WHEREAS, the Company desires to retain the services of the Consultant and the Consultant desires to perform certain services for the Company; and

WHEREAS, the Consultant has represented to the Company that Consultant has the requisite skills, training and experience to provide such services:

NOW THEREFORE, in consideration of the mutual covenants and promises in this Agreement and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Services

During the term of this Agreement, the Consultant agrees to perform the services specified on a specific Statement of Work in the form attached to this Agreement as Schedule A (the "Services"). The Consultant warrants that the Services performed under this Agreement will be performed in a professional and workmanlike manner, and further warrants that Consultant has the required skills and experience to perform the Services.

2. Term

Unless earlier terminated in accordance with the provisions of Section 4, the Agreement shall commence on the Effective Date and shall continue for a term of one (1) year. Thereafter, this Agreement shall automatically renew for successive one (1) year periods unless either party gives written notice to the other of its intent to not renew. Absent a written modification or extension of this Agreement executed by both parties, the Company shall not be liable for any Services provided by Consultant beyond the term of this Agreement or outside of the scope of a specific Statement of Work.

3. Compensation

A. Fees. The Company shall pay to the Consultant the consulting fees listed on a specific Statement of Work. Consultant shall provide the Company with a weekly timesheet reflecting the number of hours spent during the period and signed by the Program Manager. The Company will pay the Consultant within five (5) days of the Company's receipt of payment from its client (and Consultant hereby acknowledges that given the nature of the business payments from Company's clients varies from four to six weeks). Consultant agrees not to contact the Company's client directly regarding payment.

B. Expenses. The Company shall pay to the Consultant any actual, reasonable and customary out-of-pocket expenses required to perform the Services that have been approved in advance in writing by the Company's President. Such expenses, as well as reasonable receipts and documentation, shall be submitted with timesheets.

C. Disputes. In the event the Company disputes any portion of a timesheet or expense reimbursement request, it shall provide notice of the same to Consultant, and shall not owe such disputed portion until the matter is resolved to the parties' mutual satisfaction.

D. No Show Fees. Should Consultant fail to appear for a scheduled engagement (“no show”), then in addition to any other legal remedy available to it Company shall be entitled to impose a \$25 no show fee on Consultant.

E. No Entitlement to Employee Benefits. The Consultant shall not by virtue of this Agreement or the consulting relationship contemplated herein be entitled to any Company-provided employee benefits, coverages or privileges, including without limitation health and life insurance, pension plans, 401(k) plans, stock options, or bonus plans.

4. Termination

The Company may terminate any Statement of Work (and the Services covered thereby) or this Agreement in its entirety, with or without cause, upon five (5) business days’ written notice. In the event of any such termination, the Consultant shall be entitled to payment for Services actually performed, and expenses actually incurred, prior to the effective date of termination. Such payments shall constitute full settlement of any and all claims of the Consultant of every description against the Company. Such termination shall not prejudice any other right or remedy the Company may have against Consultant due to any failure of the Consultant to perform his or her obligations under this Agreement.

5. Cooperation

The Consultant shall use his or her best efforts in the performance of his or her obligations under this Agreement. The Consultant acknowledges that s/he has read and understands the OTMP Promotion Guidelines, the terms of which are incorporated herein by reference. The Company shall provide such access to its information and property as may be reasonably required in order to permit the Consultant to perform his or her obligations hereunder. The Consultant shall cooperate fully with the Company’s personnel, shall not interfere with the conduct of the Company’s business, and shall observe all Company rules, regulations and security requirements.

6. Publicity

Consultant authorizes the use, copying and reproduction of his/her image or photographs by OTMP and/or its clients for distribution and marketing purposes, including (without limitation) for use in OTMP’s brochure(s) and web site(s). Consultant shall not use the Company’s name or logo in any customer lists or other marketing materials, or describe publicly the nature of the work performed by Consultant for the Company under this Agreement, without the Company’s prior written consent.

7. Promotional Materials

Consultant is responsible for providing transportation to and from the promotion site. The Company may provide to Consultant certain promotional materials and equipment specific to a certain client event. Upon completion of a promotional event, Consultant agrees to return all promotional materials in accordance with the Company’s instructions. Consultant acknowledges that the Company may deduct from any service fees owed Consultant the cost of any materials that Consultant fails to return and/or returns in a damaged condition.

8. Indemnification

If notified promptly in writing of a claim that an Invention infringes any patent, copyright, trademark, trade secret or other proprietary right of any third party, the Consultant shall indemnify and hold harmless the Company and its officers, directors and employees against all costs, damages, losses and expenses (including reasonable attorney's fees) arising from such claim. The Consultant shall cooperate reasonably at his or her expense with the Company in the defense, settlement or compromise of any such claim. The Consultant shall indemnify, defend and hold harmless the Company against any expense, judgment or loss (including reasonable attorneys' fees) arising from the Consultant's breach of any of his or her obligations under this Agreement.

9. Confidential Information

A. Definition of Confidential Information. "Confidential Information" shall mean, by way of illustration and not limitation, all information (whether or not patentable or copyrightable) owned, possessed or used by the Company, including, without limitation, any Invention, formula, vendor information, customer or client information or data, trade secret, process, methodology, research, report, technical data, know how, computer program, software, software documentation, design, technology, marketing or business plan, forecast, unpublished financial statement, budget, license, price, cost and employee list that is communicated to, learned of, developed or otherwise acquired by the Consultant in the course of his or her service as a Consultant to the Company.

B. Obligation of Confidentiality. The Consultant acknowledges that his or her relationship with the Company is one of high trust and confidence and that in the course of his or her service to the Company he or she will have access to and contact with Confidential Information. The Consultant agrees that he or she will not, during the term of this Agreement or at any time thereafter, disclose to others, or use for his or her benefit or the benefit of others, any Confidential Information or Invention. Notwithstanding the foregoing, the Consultant's obligations under this Section 8 shall not apply to any information that (i) is or becomes known to the general public under circumstances involving no breach by Consultant or others of the terms of this Section 8, (ii) is generally disclosed to third parties by the Company without restriction on such third parties, or (iii) is approved for release by written authorization of the Board of Directors of the Company.

C. Client Confidentiality Issues. The Consultant agrees that he or she will also abide and agree to be bound by the terms of any confidentiality agreement that the Company has signed with a client. Upon the Consultant's request, the Company shall provide to Consultant a copy of any relevant client confidentiality agreement.

10. Independent Contractor Status

The Consultant shall perform all Services under this Agreement as an independent contractor and not as an employee of the Company. All payments made by the Company to Consultant shall be reflected on an Internal Revenue Service Form 1099, and Consultant acknowledges that he or she alone shall be responsible for any and all taxes imposed on such payments, including without limitation federal, state and local income taxes, social security contributions, and unemployment taxes. Consultant further acknowledges that as an independent contractor s/he is not eligible for either workers' compensation coverage or unemployment benefits.

There is no relationship of partnership, joint venture, employment, franchise, or agency between the parties, and Consultant is not authorized to act or attempt to act, or represent himself or herself, directly or by implication, as an agent of the Company or in any manner assume or create or attempt to assume or

create any obligation or responsibility, express or implied, on behalf of, or in the name of, the Company or to bind the Company in any manner. Consultant acknowledges that OTMP executes all agreements with its clients as an independent contract and that OTMP is not an employee of its clients.

11. Non-Solicitation

A. Employee/Consultant. Absent written approval from the Company's President, during the term of this Agreement and for a period of twenty four (24) months thereafter (the "Restricted Period"), the Consultant agrees not to solicit or induce any employee or consultant of the Company to terminate his or her employment or relationship with the Company, and not to hire (on his/her own behalf or that of any other person or entity) any employee or consultant of the Company. Consultant further agrees not to provide clients or other third parties with the names of other Company consultants or otherwise use such information for his/her own benefit.

B. Client. Absent written approval from the Company's President, during the term of this Agreement and for a period of twenty four (24) months thereafter (the "Restricted Period"), the Consultant agrees not to solicit, provide services to or do business with any client of the Company with whom Consultant worked or was introduced while working for the Company. In the event that such a client contacts Consultant directly during the Restricted Period, Consultant shall direct and refer such client(s) to the Company for follow-up and negotiation. In addition to any other legal or equitable remedies available to the Company for Consultant's breach of this Section 12(B), if Consultant provides any marketing or promotional services to any client of the Company during the Restricted Period then the Consultant shall be required to pay the Company liquidated damages in the amount of fifteen percent (15%) of the remuneration received by Consultant from said client

12. Non-Exclusivity/Conflicts of Interest

Consultant is free to provide marketing and promotional services to other entities, so long as it does not interfere with Consultant's obligations hereunder. Notwithstanding the foregoing, if Consultant believes that the provision of such services will create a conflict of interest, Consultant agrees to notify the Company prior to agreeing to provide such services.

13. Remedies

Consultant agrees that it would be difficult to measure and calculate the Company's damages from any breach of the covenants set forth in this Agreement and that any such breach would cause irreparable harm to the Company. Accordingly, at the sole discretion of the Company, Consultant agrees that in the event of any such breach, the Company will have, in addition to any other right or remedy available, the right to obtain an injunction from a court of competent jurisdiction restraining such breach or threatened breach and to specific performance of any such provision of this Agreement. The prevailing party in such a proceeding shall have the right to recover from the other the costs and expenses thereof, including reasonable attorneys' fees.

14. Entire Agreement; Amendments; Interpretation

This Agreement constitutes the entire agreement between the parties and supersedes all prior and contemporaneous agreements and understandings between the parties, whether written or oral, relating to the subject matter of this Agreement. This Agreement may be amended or modified only by a written instrument executed by both the Company and the Consultant. This Agreement shall be construed, interpreted and enforced in accordance with the laws of the Commonwealth of Massachusetts, without respect to conflict of law principles. Both parties agree that any action, demand, claim or counterclaim

relating to the terms and provisions of this Agreement, to its breach, or any other matter relating to the relationship between the Company and the Contractor shall be commenced in Massachusetts in a court of competent jurisdiction, and that venue shall exclusively lie in Massachusetts. Consultant hereby consents to personal jurisdiction in Massachusetts. This Agreement shall be binding upon, and inure to the benefit of, both parties and their respective successors and assigns, provided that the obligations and rights of the Consultant are personal and shall not be assigned by him or her.

15. Miscellaneous

No delay or omission by the Company in exercising any right under this Agreement shall operate as a waiver of that or any other right. A waiver or consent given by the Company on any one occasion shall be effective only in that instance and shall not be construed as a bar or waiver of any right on any other occasion. The captions used in this Agreement are for convenience of reference only and in no way define, limit or affect the scope or substance of any section hereof. In the event that any provision of this Agreement shall be invalid, illegal or otherwise unenforceable, the validity, legality and enforceability of the remaining provisions shall in no way be affected or impaired.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first written above.

ON THE MARK PROMOTIONS, INC.

By: _____
Print Name and Title:

CONSULTANT:
