

[Appendix A]

Nest time you need an agreement, use this one. It has stood the test of time and can cover just about any eventuality. How do I know that, I've used it for ten years and it was put together by some very expensive legal experts.

### **SAMPLE CONSULTANCY AGREEMENT**

**BETWEEN:**        **Name here** (Hereinafter referred as the Company)

**AND:**            **Name here** (Hereinafter referred to as the Consultant)

**WHEREAS:**

Whereas the Company wishes to obtain advisory and consulting services from the Consultant as its independent external consultant for business development and the Consultant agrees to assist the Company with such services as an independent external consultant under the terms and the conditions set forth in this Agreement.

### **NOW THEREFORE IT HAS BEEN AGREED AS FOLLOWS:**

#### **Article 1    Subject**

1. The Company hereby appoints the Consultant as its external consultant and the Consultant hereby agrees to provide independent advisory and consulting services to the Company in the field of (to be completed)
2. The tasks of the Consultant shall consist in the development of new clients (approved in advance by the Company) in the aforestated field including discussion of terms and conditions with actual or potential clients but with the exception of the signing of any contractual undertaking in that respect, unless specifically authorised by the Company.
3. The Consultant shall carry out its services as specified in the present Consultancy Agreement.

#### **Article 2    Duration and termination**

1. This contract (hereafter the Agreement) shall enter into force for an indefinite duration on (to be completed)
2. The present Agreement may be terminated by each party with one (1) month advance written notice per commenced period of seniority of one (1) year and without exceeding in total six (6) months sent by registered mail, which takes effect the third working day following the date of mailing. The end of the notice coinciding with the end of the calendar month.
3. In the event that the serious misconduct or serious fault is of such a nature that it renders impossible the definitive continuation of any professional relationship, the aggrieved party shall have the right to terminate the Consulting Agreement at once, without notice or indemnity, by sending a registered letter to the other party in which the termination is effected and by sending, also by registered mail, within seven (7) days thereof the facts or reason justifying such termination for cause.
4. The Agreement shall automatically terminate in case of death or disability of the Consultant without notice or indemnity.

### Article3 Conditions of performance of services

1. The Consultant shall perform the services in a completely independent manner and under its sole responsibility. The Consultant cannot commit or otherwise bind the Company unless specifically authorised by the Company. The services provided under this contract shall be rendered by the Consultant, via its President or via any other person designated by the Consultant subject to the prior express approval of the Company.
2. The Consultant shall perform the services conscientiously and shall devote his best efforts and abilities thereto, at such time during the term thereof, in such manner as the Company and the Consultant shall mutually agree.
3. The Consultant shall perform his activities under the present Agreement on an entirely independent basis and will never act or consider himself as an employee or agent of the Company. This agreement shall not constitute a partnership between the parties hereto.

Without prejudice to its general obligation of proper performance of the services, the Consultant shall be able, with complete freedom and independence, to organise its activities and shall only have to render account of the specific duties or services accomplished under the present Agreement, but shall not be required to account for his working methods. The Company

shall never exert over the Consultant any part of authority, which an employer is normally vested with.

The Consultant is solely responsible for the payment of the social security contributions and tax obligations, including VAT, with respect to the fees paid under the present Agreement.

4. This Consultancy Agreement is non-exclusive. The Company is free to consult other experts in the Consultant's field of specialisation and the Consultant retains the right to provide similar services to other parties, unless those parties carry on any activities in competition with the activities of the Company.

#### Article 4    *Copyright / Confidentiality*

1. The Consultant transfers to the Company, the future copyright in or on any and all written documents prepared by the Consultant for the Company or upon the Company's request within the framework of this Agreement.
2. The Consultant acknowledges that during the course of the consulting activities within the framework of this Agreement confidential information regarding the Company may be exchanged between the contracting parties. The Consultant shall keep secret and confidential all such information during the course of the Agreement and after the termination of this Agreement. The Consultant shall not use such information other than for this Agreement.

Such information includes but is not limited to:

- All drawings, formulae, specifications, books, software, instruction manuals, daily reports, minutes of meetings, journals and accounts, business and trade secrets, oral or written data, whether concerning the existing or future business, methods, processes, techniques or equipment of the Company, its parent Company, subsidiaries or branch offices;
  - The identity of the clients Company, its parent company, subsidiaries or branch offices and any other information relating to such clients.
3. Any violation of the secrecy obligation during the course of the present Agreement may be considered by the Company as a cause justifying immediate termination of the present Agreement, without notice and without prejudice to the right of the Company to claim damages.
  4. Upon termination of this Agreement or upon the Company's request, the Consultant shall return to the Company all documents of whatever nature,

notes, reports, letters and faxes relating to the Company and which he has received for the execution of the present Agreement.

Article 5 Non-competition and unfair competition

The Consultant will refrain from actively soliciting the clients for which he has actively worked during the last 2 years under this Agreement for a period of one (1) year after termination of this Agreement, in areas associated with this agreement.

Article 6 Compensation

1. [The time period and percentage amounts can be modified as required] In the event that the Consultant brings in an assignment, the Company shall pay (after receiving payment from the client) a fee equal to xx% (xx percent) in the first year, xx% (xx percent) in the second year and xx% (xx percent) in the third year of the monthly net sum billed to the clients brought by the Consultant, during a period of three years following the first invoice sent to the client by the Company. The consultant shall be paid in (state currency)

When the Consultant is working for the Company, on their request, on projects gained by the Company, the Company shall pay to the Consultant a fixed daily fee in (state currency plus VAT). This fee shall be determined in advance by the Company and paid against submission of a monthly invoice.

2. The Consultant has the right to ask documents relating to the amounts billed to the clients and the payments made by clients in order to verify the amount due to him.
3. In addition to the compensation fixed in the first paragraph of this article, subject to the remittance of invoices, notes or any mutually acceptable evidence, the Company shall also reimburse expenses, subject to prior approval by the Company.

In case there already exists contacts with the client and the Company, no fees will be due to the Consultant, unless the development of that relationship with the client is approved in advance in writing by the Company.

4. Upon termination of this Agreement, for whatever reason, the Consultant shall be entitled to receive the contractual compensation for all business brought until the date of actual termination of the agreement.

Except in case of termination for cause, the Consultant shall also be entitled to the contractual compensation for any business brought by him or

attributable to him, which the Company can invoice to such clients within six (6) months following the date of actual termination of the Agreement.

Article 7   Assignment

No party to this Agreement may assign or delegate any of its/his right, duties, powers or responsibilities thereunder without prior consent of the other party, given in writing.

Article 8   Notice

All notices to be given under this Agreement, except in case of termination, shall be made by registered mail or by courier to the address of each party.

Article 9   Severance and public restrictions

If any provision of this Agreement is declared void or unenforceable by any judicial or administrative authority, this shall not nullify the remaining provisions of this Agreement, provided that the cancellation of such provision does not substantially alter the economic interest of either party in the continued performance of this Agreement.

Article 10   Governing law and Jurisdiction

This Agreement is governed and interpreted in accordance with the laws of (state country or state) Any dispute arising in connection with this Agreement and which cannot be settled on an amicable basis shall be submitted to the exclusive jurisdiction of Courts of such State.

Article 11   Prior agreements

This Agreement constitutes the entire agreement between the parties relative to the matters referred to herein and supersedes any other agreement, whether oral or writing, which may have existed between the Company and the Consultant.

Any modification or amendments of this Agreement shall be in writing and shall become effective if and when signed by both parties.

Executed in two (2) original copies, each party acknowledging having receipt of one original copy,

By: \_\_\_\_\_

Date \_\_\_\_\_

By : \_\_\_\_\_

Date \_\_\_\_\_