

[PLEASE MAKE SURE THAT ALL DOCUMENTS ON WHICH YOU ARE RELYING FOR YOUR UNDERSTANDING OF THIS AGREEMENT ARE ATTACHED]

CONSULTANT AGREEMENT

AGREEMENT made this ____ day of _____, 20__ , by and between James Brusseau, 50 Pine Street, New York, New York 10005 (hereinafter referred to as “Consultant”), and [**FULL LEGAL NAME OF CLIENT**], with offices at _____ (hereinafter referred to as “Client”).

1. **Term.** This Agreement shall commence on [**DATE**] and terminate on [**DATE**] (the “Term”).

2. **Duties.** Client hereby retains the Consultant to perform the following services (the “Work”), which Work shall not include lobbying activities or services within the meaning of state or federal law:

[DESCRIBE IN APPROPRIATE DETAIL THE SERVICES TO BE PROVIDED BY CONSULTANT]:

3. **Expertise.** The Consultant represents and warrants to Client that it has sufficient staff available to perform the Work and that all individuals providing the Work have the licensure, background, training and experience to perform properly the Work to be delivered under this Agreement. The Consultant further represents and warrants that it owns or is licensed to use all of the intellectual property that it may transfer to Client or otherwise include in its deliverables to Client under this Agreement.

4. **Fees and Expenses.** *Provided* that Consultant shall first have received from Client an original of this Agreement that shall have been countersigned by an authorized Client signatory, Consultant shall be paid, as its sole and exclusive consideration hereunder, a consultancy fee of [**preferably flat fee; however, if flat fee not possible, specify amount per day, week or month**]. Said consultancy fee shall be payable [**describe method of payment, e.g., in installments, when project completed, etc.**] upon Client’s receipt from Consultant of an invoice that, in form and substance satisfactory to Client, shall describe the Work that Consultant shall have provided to Client in the period during the Term for which Consultant seeks payment. Except as specifically provided in the Agreement, all expenses shall be borne by the Consultant. Consultant shall only be entitled to reimbursement of reasonable expenses that are actually incurred and allocable solely to the Work provided to Client pursuant to the Agreement. The Consultant shall provide such reasonable evidence as Client may request in support of Consultant’s claims for expense reimbursement. Final payment shall be subject to Consultant’s delivery to Client of all deliverables in form and substance satisfactory to Client. No amounts, other than those set forth in this paragraph 4, shall be payable to the Consultant under this Agreement.

5. **Termination.** Either party may terminate this Agreement with fifteen (15) days prior written notice to the other party. The Consultant hereby acknowledges and agrees that, anything to the contrary notwithstanding, in the event of such termination, Client shall only be liable for, and the Consultant agrees only to retain, payment of the portion of the fee earned as a result of Work actually and satisfactorily performed through the effective date of termination.

6. **No Employment Relationship Created.** It is understood and agreed between the parties that the Agreement is not intended to nor does it create an employment contract between Client, on the one hand, and Consultant and any of its employees, on the other, nor does it create a joint relationship or partnership between the parties hereto. Neither Consultant nor its employees are entitled to benefits that Client provides for Client employees. Consultant's relationship to Client is solely and exclusively that of an independent contractor. Client is interested only in the results to be achieved and the conduct and control of the Work shall be solely with the Consultant. Consultant shall be permitted to engage in any business and perform services for its own accounts, *provided* that the Work is not compromised. Except as specifically permitted in this Agreement, neither party shall use the name or trademarks of the other party or incur any obligation or expense for or on behalf of the other party without the other party's prior written consent in each instance.

7. **No Withholding.** Consultant is solely and exclusively responsible for the satisfaction of Consultant's own local, state, and federal income tax and Social Security withholding that may be applicable to the amounts payable by Client under this Agreement.

8. **Confidentiality.** During the course of performance of the Agreement, Consultant may be given access to information that relates to Client's past, present and future research, development, business activities, products, services, technical knowledge and personally identifiable employee information. All such information shall be deemed to be "Confidential Information" unless otherwise indicated by Client in writing at or after the time of disclosure. Consultant may use the Confidential Information only in connection with the specific duties authorized pursuant to this Agreement. Access to the Confidential Information shall be restricted to those of Consultant's personnel, representatives and Consultants on a need-to-know basis solely in connection with Consultant's internal business. Consultant further agrees that it shall (i) take all necessary steps to inform any of its personnel, representatives or consultants to whom Confidential Information may be disclosed of Consultant's obligations hereunder and (ii) cause said personnel, representatives and consultants to agree to be bound by the terms of this Agreement by executing a confidentiality agreement containing the same restrictions contained herein or some other method acceptable to Client. Consultant agrees to protect the confidentiality of the Confidential Information in the same manner that it protects the confidentiality of its own proprietary and confidential information of like kind. Consultant agrees to notify Client of any unauthorized use or disclosure of Confidential Information and to take all actions reasonably necessary to prevent further unauthorized use or disclosure thereof. The terms of this Section 8 shall survive the expiration or termination of this Agreement.

These requirements apply to any subcontractors or agents Consultant uses in the performance of the Work and it is Consultant's responsibility to assure that all such subcontractors and agents comply with all such requirements.

9. **Assignment.** Consultant shall not assign its duties hereunder without the prior written consent of Client.

10. **Binding Effect.** This Agreement shall be binding upon the parties hereto and upon their respective successors and assigns.

11. **Compliance With Laws.** Consultant warrants on its behalf and that of its subcontractors, employees, and agents that it shall comply with all applicable federal, state, and local laws, ordinances, rules, regulations and codes, including, but not limited to , the Health Insurance Portability and Accountability Act with respect to medical records; and applicable provisions of paragraphs (1) through (7) of section 202 of Executive Order 11246 relating to Equal Employment Opportunity, section 402 of the Vietnam Era Veterans Readjustment Act of 1974, as amended, and section 503 of the Rehabilitation Act of 1973.

12. **Compliance With Client Policies.** Consultant and its subcontractors, employees, and agents shall comply with all Client policies and procedures with respect to Consultant's activities under or in connection with this Agreement, including, but not limited to, Client's Information Technology Appropriate Use Policy and security policies.

13. **Proprietary Rights.** The Consultant hereby acknowledges and agrees that Client has specially commissioned the Work as a "work made for hire" under Section 101 of the United States Copyright Act of 1976, as amended (the "Copyright Act"). Accordingly, all intellectual property developed by the Consultant for Client in connection with this Agreement, including but not limited to all monitoring, testing and other data, reports, materials, schematic drawings, illustrations, trademarks, trade names, slogans, logos or other designs in any form, whether electronic, print or any other format, shall be owned solely and exclusively by Client. All copyrights and patents with respect to such intellectual property created for Client in accordance with this Agreement shall be registered in the name of Client University. If the Work is determined not to be a work made for hire under the Copyright Act, then, as of the date of this Agreement or the creation of any of the intellectual property, whichever is earlier, the Consultant irrevocably transfers and assigns to Client the entire right, title, and interest, including, but not limited to, copyright, in and to the intellectual property, in whole or in part, together with all extensions of such copyrights, that may be secured under the Copyright Act or under any other copyright law or similar law in effect in the United States or in any other countries or under any treaties, conventions, or proclamations. The Consultant agrees to execute and deliver to Client any documents that may be necessary to effectuate the transfer and assignment of the intellectual property rights in the Work contemplated by this Agreement and to do such other acts and things as may be reasonably requested by Client to perfect or evidence such transfer. The Consultant shall have no ownership or copyright in Client materials, nor in the intellectual property contained therein, nor in the delivery formats, whether electronic, print or any other form. The Consultant hereby waives any moral rights of any kind in the Work and the intellectual property. **Client shall have no rights in any of Consultant's intellectual property that is not developed specially for Client pursuant to this Agreement.**

14. **Indemnification.** Consultant agrees to defend, indemnify, and hold harmless Client, its successors and assigns, and their respective employees and agents to the fullest extent permitted by law from and against any and all claims or demands whatsoever, including associated costs, expenses, and reasonable attorneys' fees incurred on account thereof, that may be asserted by Consultant's employees, employees of Consultant's subcontractors or agents, or any other persons for loss, damage, death, or injury to persons or property arising in any manner out of or

incident to Consultant's use of Client facilities and/or its performance or nonperformance of this Agreement.

15. **Cooperation.** The parties agree to cooperate with each other in connection with any internal investigations by Client or Consultant of possible violation of their respective policies and procedures and any third party litigation, except that Client shall not be required to have any contact with any Union or Union representatives of Consultant's employees or subcontractors or participate in any Union grievance or other proceedings relative to Consultant's employees or subcontractors except as a fact witness.

16. **Insurance.** Where Consultant requires the use of a vehicle in the performance of work under this Agreement, Consultant shall, at all times during the term hereof and at its own expense, keep in full force and effect automobile insurance, in amounts acceptable to Client, for property damage, bodily injury or death. Consultant shall provide Client with evidence of such insurance upon request. Consultant shall be responsible for her, his, or its own health, accident, vehicle and other insurance.

17. **Governing Law and Jurisdiction.** Except as may be preempted by federal law, this Agreement shall be governed by the laws of the State of New York, without regard to its choice of law principles. Litigation of all disputes between the parties arising from or in connection with this Agreement shall be conducted in a court of appropriate jurisdiction in the State of New York, County of New York.

18. **Notices.** All notices to Client in connection with this Agreement shall be sent to:

[NAME, TITLE, AND ADDRESS OF CLIENT CONTACT]

All notices to the Consultant in connection with this Agreement shall be sent to:

James Brusseau
50 Pine Street, Ste 8N
New York, NY 10005

19. **Entire Agreement.** This Agreement, together with any exhibits or addenda annexed or electronically linked hereto, is the sole, complete, and exclusive expression of the parties' intent with respect to the subject matter hereof. This Agreement may be amended or modified only by a writing countersigned by authorized representatives of each party.

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

CONSULTANT

[FULL LEGAL NAME OF CLIENT]

By: _____ By: _____