



CONSULTING AGREEMENT

This Consulting Agreement (“Agreement”) is entered into this the _____ day of _____, _____ (“Effective Date”) by and between Xpeerant Inc. (Hereinafter referred to as Consultant) having a business address at 4518 Seaboard Ln., Fort Collins, Colorado 80525 and _____ (Hereinafter referred to as Client) having a business address at _____, _____, _____.

ARTICLE I – PURPOSE:

1. Client desires to engage Consultant to render certain professional or technical services (“Services”), and Consultant desires to render such Services under the terms and conditions of this Agreement. The specific Services assigned to Consultant shall be:

(Specific duties and technical services to be performed)

2. These Services shall be provided by _____, (Hereinafter referred to as Contractor) who shall be an employee of Consultant.

3. The relationship between Client and Consultant established by this Agreement is that of independent contractors, and nothing contained in this Agreement shall be construed to give Client the power to direct or control the day-to-day activities of Consultant. Client may however, terminate this Agreement at any time it is deemed that the Contractor has failed to perform the specified duties satisfactory. Consultant has no authority to act on behalf of or to enter into any contract, incur any liability or make any representation on behalf of Client. Consultant is solely responsible for all taxes, withholdings, and other similar statutory obligations arising out of the performance of services under this Agreement.

ARTICLE II – PAYMENT/OTHER EXPENSES:

1. Client agrees to pay Consultant _____(_____) per hour for Services rendered. Consultant shall be paid for Services rendered within fifteen (15) days following receipt of an invoice by Client.

(NOTE: These terms and billing requirements are flexible in order to meet the needs of the Client)

2. If Consultant is authorized by Client to travel and/or incur expenses in the performance of the Services described, Client shall reimburse Consultant only for reasonable travel, lodging, meals and other expenses incurred by Consultant, and only for actual expenses incurred where such expenses are itemized separately on Consultant's invoices and for which receipts are included with such invoices. It is understood that Client shall not be liable for any expenses which are not expressly authorized by Client.

(NOTE: Depending on Client's accounting procedures, the Client may prefer that the Contractor report all reimbursable expenses directly to Client and be reimbursed directly by Client.)

ARTICLE III – TERM:

1. The nature and duration of this Agreement is expected to be temporary and not to exceed one year. In the event that Client becomes aware that the need for these Services will exceed one year Consultant shall be notified at that time and the Agreement amended to indicate such.

2. Client shall exercise good faith in attempting to give two weeks notice to Consultant of termination of this Agreement.

3. Consultant shall exercise good faith in attempting to give two weeks notice to Client of termination of this Agreement.

(NOTE: The conditions for terminating this Agreement are meant to be general due to the nature of contract employment but these are negotiable points depending on the Clients desires. Uneven termination requirements are often a source of contention with contractors and in some cases legally unenforceable.)

ARTICLE IV – CONFIDENTIAL AND/OR PROPRIETARY INFORMATION:

(NOTE: This section may be replaced with a statement that the Contractor will complete the applicable Client's documentation pertaining to Intellectual Property, Proprietary Information or Confidential Information as well as reasonable Non-Compete agreements.)

1. While rendering Services under this Agreement, the Consultant may be exposed either in writing, orally or through observation to Client or third party confidential and/or proprietary information (“Information”). Information includes, but is not limited to, product specifications or design plans, software, data, prototypes, documents, marketing strategy, product plans, personnel information, and other business and/or technical information, or any information marked with Client’s confidential markings.
2. Consultant shall use the Information only for the purposes of carrying out the Services described in ARTICLE I, and for no other purpose.
3. Consultant shall not disclose, disseminate or distribute the Information to any third party.
4. Consultant shall maintain confidentiality of the Information until such Information is in the public domain, or is authorized in writing by Client for release.
5. Consultant shall disclose or distribute Information only to those of Consultant’s or Client’s employees, agents or subcontractors who have a definable need to know such Information to render the Services, and who are under similar obligation of confidentiality to Client.
6. Consultant agrees to comply with all security procedures and requirements of Client

ARTICLE VI – OWNERSHIP OF INTELLECTUAL PROPERTY:

1. Intellectual Property is defined as any ideas, Know-how, techniques, methods, processes, research, developments, documents, work products or idea expressions, having either patent, copyright, trade secret, maskwork or any other statutory right associated therewith, which are created or generated during the performance of the Services, which arise under this Agreement, or which arise or result from the Information.
2. In the event that Intellectual Property is created, generated, arises under or results from Consultant’s performance under this Agreement or from Information, all rights, title and interest in such Intellectual Property shall vest exclusively with Client.
3. Consultant hereby transfers to Client all copyright ownership and right, title and interest in Intellectual Property created by Consultant pursuant to this Agreement such that Client shall enjoy and shall be entitled to exercise all the rights of a sole, exclusive copyright holder in such Intellectual Property.
4. Consultant warrants that Consultant has and will have the right to assign to Client ownership of all such works of authorship as a result either of their status as “works made for hire” by Consultant’s employees for the purposes of the U.S. Copyright Act, or as the result of valid, enforceable assignments by any subcontractors to Consultant. Consultant

shall execute all documents, and take any and all actions needed, all without further consideration, in order to confirm Client's rights.

5. Intellectual Property generated or created by Consultant to complete the scope of work under this Agreement may be used in any product developed by Client and distributed as a part of any such product to Client's affiliates, associates, subsidiaries, distributors and end-use customers worldwide. Consultant acknowledges and agrees that Client may use, modify or distribute the Intellectual Property in any manner for product development purposes. Client acknowledges and agrees that Consultant, from time to time, have sold or may sell in the future on a fee basis other versions of Consultant's work product similar to that to be delivered to Client.

ARTICLE VI – NON-SOLICITATION:

1. Consultant agrees to not solicit as an employee, consultant or contractor, any employee of Client without Client's written consent.

ARTICLE VII – WARRANTIES:

1. Consultant represents to Client that it is an independent contractor that makes its services available to the general public, that has its own regular place of business and that maintains its own set of books and records which reflect all items of income and expense of Consultant's business and trade. Consultant shall operate as an independent contractor and shall not represent itself to be the agent, employee, partner or joint venture of Client. Consultant shall not obligate Client in any manner, nor cause Client to be liable under any contract or other commitment to a third party.

2. Consultant warrants the Services performed hereunder to be of professional quality, performed in a careful manner and in full compliance with the standards in the industry.

3. Consultant warrants that the personnel assigned to perform Services shall be professionally or technically qualified to render Services.

4. Consultant warrants that work product delivered to Client hereunder shall be Year 2000 compliant, if applicable, to the extent that such compliance is feasible within the scope of work provided by Client. "Year 2000 compliant" shall mean that the work product delivered hereunder will accurately manage and manipulate data involving dates and will not abnormally terminate or provide invalid or incorrect information as a result of date data which represents a single century, different centuries or more than one century, including leap years.

ARTICLE VIII – INSURANCE:

1. During the term of this Agreement, Consultant shall maintain whatever insurance coverage is required by the Client.
2. Client agrees to provide insurance coverage requirements prior to the signing of Agreement.
3. Consultant will provide to Client a Certificate of Insurance showing all coverage and naming Client as an additional insured for the term of this Agreement.
4. Client will have no liability for losses incurred by Consultant or its employees in connection with travel incurred on Client's behalf.
5. Consultant agrees to accept the responsibility under any applicable Worker's Compensation Statute as the statutory employer of any employee provided by Consultant hereunder.
6. Consultant agrees to take all reasonable precautions to prevent any injury to persons or any damage to property in the performance of the Service as rendered by Consultant or Consultant's employees, agents or subcontractors. Consultant shall defend, indemnify and hold harmless Client from any liability, claims, loss and damages which may result in any way from any negligence or contributory negligence on the part of Consultant or Consultant's employees, agents or subcontractors, only to the extent such liability, claims, loss or damage is caused in whole, or in part, by Consultant or Consultant's employees, agents, or subcontractors.

ARTICLE IX – OTHER:

1. This Agreement shall not be modified or amended except by a writing signed by both parties.
2. In the performance of services under this Agreement, Consultant shall fully comply with all applicable federal, state and local laws, rules, regulations, or ordinances and shall hold Client harmless from any liability resulting from failure of such compliance.
3. This Agreement is made under and shall be construed according to the laws of the State of Colorado.
4. If any of the provisions of this Agreement are declared to be invalid, such provisions shall be severed from this Agreement and the other provisions hereof shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have executed this Agreement and agreed to be bound by its terms.

XPEERANT INC. (Client)

By _____
Gary D. Petty (Client Representative)
President (Title)

Date _____

By _____

Date _____