



Release Agreement

This Release Agreement (the "Release Agreement") is entered into this [day] of [month, year] (the "Effective Date"), between [name of party] ("Party A"), with offices located at [address] and [name of party] ("Party B") with offices located at [address]. Party A and Party B are sometimes individually referred to herein as a "Party" and collectively as the "Parties".

WHEREAS, Party A and Party B entered into a [name of contract being, e.g., Services Agreement] dated [date] (the "Contract"), pursuant to which [brief description of terminated contract, e.g., Party A agreed to provide services to Party B] pursuant to the terms and conditions and as more fully set forth in the Contract; and

WHEREAS, the Parties desire to terminate the Contract and release each other from any and all claims that they had, have or may have arising out of or in connection with the Contract.

NOW THEREFORE, in consideration of the undertakings of the Parties as set forth in this Release Agreement, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and intending to be legally bound, the Parties agree as follows:

1. Termination of the Contract. The Parties mutually agree that the Contract shall be terminated effective [date] (the "Termination Date"). [*Optional: Except as expressly provided herein, the Contract will terminate according to the terms as set forth therein.*] Upon the Termination Date, the Contract shall have no further force or effect.

2. Consideration. In full satisfaction of its payment obligations under the Contract, and as adequate consideration for the early termination of the Contract as set forth herein, Party B agrees to pay Party A [amount of payment], which payment shall be made on or before [due date for payment]. Other than the payment referenced in this Section 2, the Parties acknowledge and agree that no additional consideration of any kind is due from either Party with respect to the Contract.

3. Mutual Release. Party A and Party B do hereby irrevocably and unconditionally release, cancel, and forever discharge the other Party and its directors, officers, employees, subsidiaries, affiliates, agents, and representatives from any and all claims, complaints, causes of action, demands, damages, obligations, liabilities, losses, promises, agreements, controversies, penalties, expenses, and executions of any kind or nature whatsoever, whether known or unknown, actual or potential, whether arising in law or in equity, which each Party may have, may have had, or may in the future obtain, arising out of or relating to any acts, omissions, agreements, or events relating in any manner to the Contract. Each Party represents and warrants that it has not filed any action or initiated any other proceeding with any court or government authority against or involving the other Party that may constitute a claim or provide the basis for any liability that is excluded from the release provide for in this Section 3.

4. Effect of Termination on Contract. Except as expressly provided in this Release Agreement, the Parties acknowledge and agree that their respective rights and obligations under sections [cite applicable Contract provisions] shall survive the termination of the Contract pursuant to the terms and conditions as set forth therein. Any and all transactions completed by the Parties under the Contract prior to the Termination Date

Release Agreement

shall remain in full force and effect and shall be governed by the terms of the Contract, and shall not be revoked or adversely effected as a result of the termination of the Contract or this Release Agreement.

5. Fees and Expenses. Each Party hereto shall bear its own fees and expenses (including attorneys' fees) incurred in connection with the Contract, this Release Agreement and the consummation of the transactions contemplated hereby.

6. Representations. Each Party hereby represents and warrants that it has not assigned or otherwise conveyed or delegated, in whole or in part, any claim or right that it has or may have under or related in any manner to the Contract to any third party or person. Each Party represents that the execution and delivery of this Release Agreement is the duly authorized and binding act of the Party, and that the party's signatory hereto is duly authorized to execute this Release Agreement on behalf of that Party.

7. No Admission of Liability. Party A and Party B expressly agree and acknowledge that their entering into this Release Agreement shall be construed in any manner as an admission of any liability, obligation, or wrongdoing on the part of either Party. Each Party expressly denies any and all liability or wrongdoing with respect to the Contract.

8. Cooperation between the Parties. Each Party shall fully cooperate with the other Party with respect to the performance of this Release Agreement. Each Party will provide or make available to the other Party any information and will execute, acknowledge and deliver such further documents that may reasonably be required in order to effectively perform this Release Agreement and to evidence the termination of the Contract and to release all obligations and liabilities of the Parties thereunder.

9. Governing Law and Venue. This Release Agreement will be governed by and interpreted in accordance with the laws of the State of [state], without giving effect to the principles of conflicts of law of such state. The Parties hereby agree that any action arising out of this Agreement will be brought solely in any state or federal court located in [state, (specify county)]. Both Parties hereby submit to the exclusive jurisdiction and venue of any such court. THE PARTIES FURTHER AGREE, TO THE EXTENT PERMITTED BY APPLICABLE LAW, TO WAIVE ANY RIGHT TO TRIAL BY JURY WITH RESPECT TO ANY CLAIM, COUNTERCLAIM OR ACTION ARISING FROM THE TERMS OF THIS RELEASE AGREEMENT.

10. Attorneys' Fees and Costs in Enforcement of the Release Agreement. If either Party incurs any legal fees and/or costs and expenses in any proceeding to enforce the terms of this Release Agreement or any of its rights provided hereunder, the prevailing Party shall be entitled to recover its reasonable attorneys' fees and any court, arbitration, mediation, or other litigation expenses from the other Party.

11. Binding Agreement. This Release Agreement shall be binding upon and inure to the benefit of the successors, assigns and legal representatives of the Parties. There are no third party beneficiaries to this Release Agreement. Each Party acknowledges and agrees that it fully understands the provisions set forth in this Release Agreement and their effect, and that each Party is voluntarily entering into this Release Agreement.

12. Severability. If any provision or portion of this Release Agreement shall be held by a court of competent jurisdiction to be illegal, invalid, or unenforceable, the remaining provisions or portions shall remain in full force and effect.

13. Construction. The headings and captions appearing in this Release Agreement have been inserted for the purposes of convenience and ready reference, and do not purport to and shall not be deemed to define, limit or extend the scope or intent of the provisions to which they appertain. This Release Agreement shall not be construed more strongly against either Party regardless of which Party is more responsible for its preparation.

14. Counterparts. This Release Agreement may be executed in one or more counterparts, each of which will be deemed to be an original, but all of which together will constitute one and the same instrument, without

Release Agreement

necessity of production of the others. An executed signature page delivered via facsimile transmission or electronic signature shall be deemed as effective as an original executed signature page.

15. Notices. All notices or other communications required under this Release Agreement shall be in writing and shall be deemed effective when received and made by either (i) hand delivery, (ii) registered mail, (iii) certified mail, return receipt requested, or (iv) overnight mail, addressed to the Party to be notified at the following address or to such other address as such Party shall specify by like notice hereunder: Party [address]; Party B [address].

16. Waiver. No waiver of any term or right in this Release Agreement shall be effective unless in writing, signed by an authorized representative of the waiving Party. The failure of either Party to enforce any provision of this Release Agreement shall not be construed as a waiver or modification of such provision, or impairment of its right to enforce such provision or any other provision of this Release Agreement thereafter.

17. Entire Agreement; Modification. This Release Agreement is the entire agreement between the Parties with respect to the subject matter hereof and supersedes any prior agreement or communications between the Parties, whether written, oral, electronic or otherwise. No change, modification, amendment, or addition of or to this Release Agreement shall be valid unless in writing and signed by authorized representatives of the Parties. Each Party hereto has received independent legal advice regarding this Release Agreement and their respective rights and obligations set forth herein. The Parties acknowledge and agree that they are not relying upon any representations or statements made by the other Party or the other Party's employees, agents, representatives, or attorneys regarding this Release Agreement, except to the extent such representations are expressly set forth herein.

IN WITNESS WHEREOF, the Parties have signed this Release Agreement on the date first set forth below.

PARTY A

By:

Name: [printed name]

Title: [title]

Date: [date]

PARTY B

By:

Name: [printed name]

Title: [title]

Date: [date]

End of Document

Release Agreement

Release Agreement

Drafting Notes

Drafting Note to Third Paragraph

This whereas clause is silent regarding any fault or breach of performance by the parties. Use the Alternate Clause to Third Paragraph to clearly express that neither party is at fault nor has either party breached its performance obligations under the contract. For more information regarding whereas clauses, see [Term, Recitals, and Definitions — Drafting Recitals](#).

Drafting Note to Section 1

The Release Agreement should include a provision that sets forth the effective date for termination of the subject contract, which might be immediately upon execution of the release agreement, or at a future agreed upon date. Counsel should review the contract being terminated and confer with the client and ascertain whether there are any outstanding obligations that need to be completed or other matters that should be resolved prior to the termination of the Contract and include a suitable termination date. The terminated agreement may contain specific terms regarding the parties' respective rights and obligations upon termination, in which case the optional language in this clause can be used to confirm that such terms will be used with respect to the termination. If any termination provisions in the contract will be waived or modified, the Release Agreement should clearly identify such terms and specify whether the Parties agree to waive performance of such obligations or how such provisions are being modified. For more information regarding termination, see [Termination and Cancellation Rights](#) and [Termination Agreement](#).

Drafting Note to Section 2

Any consideration to be provided by any of the Parties should be fully set forth in the agreement. In this example, Party B will make a final payment to Party A for the services rendered under the Contract; counsel will want to ensure that the Release Agreement will fully compensate the client for all amounts, including reimbursable expenses, that are due and owing from the other Party or the amount the Parties have agreed upon to resolve any claims and terminate the Contract. Termination should not affect the Parties' obligations for any transactions that occur between them prior to the effective date of termination, such as in the case of a sales contract where there will be additional sales prior to termination; the terms of sale and the buyer's payment obligations should continue as provided for in the underlying contract. For certain agreements there may be no additional consideration paid, in which case the clause can be modified to reflect that no further amounts are owed (see Alternate Clause to Section 2).

Drafting Note to Section 3

A critical term in any termination and release agreement will be the release language. Counsel needs to carefully draft (or review) the terms relating to the claims and matters being released by the parties and ensure that the language properly memorializes the client's understanding as to its agreement. The parties will usually want the release language to be broad and cover any existing or future claims, whether or not such claims are known or unknown, relating to the Contract. Additionally, the release should cover all applicable entities and personnel of the parties. Counsel will need to have a clear understanding on the underlying rights and obligations provided for in the Contract and ensure that the client fully comprehends the legal effect that entering into the Release Agreement will have on its rights. Alternate Clause to Section 3 provides more abbreviated release terms.

Drafting Note to Section 4

If there are any provisions in the Contract being terminated that will survive the termination, the Release Agreement should clearly identify such provisions. In such cases, it may be prudent to specifically identify all of the clauses in the Contract that will survive termination. For example, the terminated agreement may have confidentiality provisions that are intended to survive termination. Similarly, if any provision in the Contract will be modified or waived pursuant to the termination, such terms should also be spelled out in the Release Agreement. Counsel should thoroughly review the Contract and ensure that no terms or rights that are supposed to survive are inadvertently terminated. If there will be any additional transactions taking place before the Termination Date (such

Release Agreement

as the performance of additional services), the Agreement should make clear that the termination will not have a negative affect or impact upon such transactions. For more information regarding termination, see [Termination and Cancellation Rights](#) and [Termination Agreement](#).

Drafting Note to Section 5

Unless otherwise agreed to by the Parties, each Party should be responsible for its costs and expenses incurred in entering into the Release Agreement. If the termination agreement will provide for the payment of any costs or expenses, including attorneys' fees or other costs incurred by a Party with respect to the Contract or the Release Agreement, such obligations should be clearly spelled out. However, the Parties may want to also include a provision that awards attorneys' fees and costs to the prevailing Party should there be a dispute regarding performance or enforcement of the Release Agreement (see Section 10).

Drafting Note to Section 6

Each party will want assurances that the other has not assigned or delegated any of its rights under the terminated contract, as the termination and release may not be effective as to a party's assignee. The agreement should therefore include a representation that the Contract has not been assigned. The clause contains additional representations that the Agreement is the authorized act of each party and that the persons signing the release are authorized to do so. For more information regarding representations, see [Representations and Warranties Drafting](#) and [Commercial Agreement Representations, Warranties, Covenants, Rights, and Conditions](#).

Drafting Note to Section 7

The Parties will not want their entering into the Release Agreement to be deemed an admission of liability or wrongdoing of any kind. This clause makes clear that the agreement shall not be construed as an admission of liability or wrongdoing by either of the Parties.

Drafting Note to Section 9

This provision provides the governing law that will be used to interpret the terms of the Agreement. The clause also contains an exclusive venue provision where any dispute between the Parties arising out of the Agreement must be litigated. Counsel for the drafting Party should select a convenient state and county for the venue. The provision further contains a jury waiver clause; counsel should confirm that such a waiver is desired by the client. For more information regarding governing law, see [Commercial Contract Drafting and Review — Governing Law](#). For more information regarding venue, see [Choice of Law and Choice of Forum Clauses](#)

Drafting Note to Section 10

The inclusion of a provision awarding fees to the prevailing party in any proceeding to enforce the Release Agreement can provide a significant incentive for timely performance of the Parties' obligations. In the event a party will be receiving a payment under the agreement and is required to bring an action to enforce the other party's payment obligations, it will want to recoup the fees and costs it incurs in enforcing the agreement. For more information regarding attorneys' fees, see [Commercial Contract Drafting and Review — Attorneys' Fees](#).

Drafting Note to Section 12

This is standard language in most commercial agreements and provides that should a court find a particular clause in the agreement invalid, all other terms of the Agreement will remain in full force and effect. For more information regarding severability, see [Commercial Contract Drafting and Review — Attorneys' Fees](#).

Release Agreement

Release Agreement

Alternate & Optional Clauses

Alternate Clause to Third Paragraph: WHEREAS, the Parties, each have found no fault or breach with respect to the other's performance under the Contract, but have mutually decided to terminate the Contract and to resolve any and all claims and potential claims that could have been asserted arising out of or relating to the Contract and the Parties' performance thereunder.

Drafting Note to Alternate Clause to Third Paragraph

This clause clearly expresses (as opposed to remaining silent) that neither party is at fault or has breached such party's performance obligations under contract. For more information regarding whereas clauses, see [Term, Recitals, and Definitions — Drafting Recitals](#).

Alternate Clause to Section 2: Each party acknowledges and agrees that it has already received all payments and amounts owed from the other Party under the Contract and that no additional consideration of any kind is due from the other Party with respect to the Contract.

Drafting Note to Alternate Clause to Section 2

Use this clause when no additional consideration will be paid or received by the parties under the contract.

Alternate Clause to Section 3: Party A and Party B hereby mutually release each other and each of their respective successors and assigns from and against any and all claims, demands, proceedings, actions, costs, and damages whatsoever that either of them now has or may hereafter have against the other party hereto, by reason of or in connection with the Contract.