**INDEPENDENT CONTRACTOR AGREEMENT**

This independent contractor agreement (the “**Agreement**”) is made and entered into as of , 2015 (the “**Effective Date**”) between LIBERTY RESTORATION, LLC (the “**Company**”), a Utah Limited Liability Corporation, and , representing , LLC, a Utah Limited Liability Corporation (the “**Contractor**”) (collectively, the “**Parties**”, individually, the **“Party”).**

The Company requests the Contractor to perform services for it and may request the Contractor to perform other services in the future; and The Parties therefore agree as follows:

1. **Term and Termination**.
	1. This Agreement takes effect immediately as of the Effective Date, and remains in full force and effect through December 31, 2015 or until the Contractor has completed the Work Product / Jobs or Services as mutually agreed upon by the Company and accepted by the Contractor (the "**Term**"), unless earlier terminated under this Section 1. Throughout the Term of this agreement, the Contractor may at his / her discretion accept or decline the Work Product / Jobs or Services offered to Contractor by the Company.
		1. This Agreement supersedes any previous Agreements between Parties and applies to any Work Product / Job(s) the Contractor has previously been assigned to on behalf of the Company.
	2. This Agreement may be terminated by the Parties upon mutual agreement.
	3. Either Party may terminate this Agreement for cause by providing the other Party written notice if the other Party: (i) is in material breach of this Agreement and has failed to cure such breach within ten (10) days after its receipt of written notice of such breach provided by the non-breaching Party; (ii) engages in any unlawful business practice related to that Party's performance under the Agreement; or (iii) files a petition for bankruptcy, becomes insolvent, acknowledges its insolvency in any manner, ceases to do business, makes an assignment for the benefit of its creditors, or has a receiver, trustee or similar party appointed for its property.
2. **Contractor Services.**
	1. During the Term, the Company may engage the Contractor to provide the following type of Work Product / Jobs or services as needed (the "**Services**"), or other such services as mutually agreed upon by Parties:

On all Work Product / Jobs or services assigned to and accepted, Contractor will act as a LIBERTY RESTORATION, LLC Restoration Estimator working on behalf of LIBERTY RESTORATION, LLC, performing those functions related to the business activities of LIBERTY RESTORATION, LLC. Including but not limited to:

* + - Responds to property damage claims
		- Customer Interaction
		- Pull building permits
		- Job Estimating
		- Resource Requirements / Subcontractors
		- Pulling building permits
		- Scheduling
		- Keep and maintain detailed notes & images
		- Maintain key indicators for “Program Work”
		- Establish budgets for work
		- Prepare client file for WIP and final invoicing

* 1. The Contractor shall provide the necessary equipment to perform the Services. If the Contractor has obtained employees or agents (the "**Contractor Personnel**"), the Contractor shall be solely responsible for all costs associated with the Contractor Personnel.
	2. As a result of providing the Services, the Contractor or Contractor Personnel may create certain work product (the "**Work Product**").
	3. The work performed by the Contractor will be paid in accordance with the Work Product Compensation Plan shown in **SCHEDULE A. THE CONTRACTOR WILL MAKE A DETERMINATION AS TO HOW MUCH TIME AND EFFORT TO DEDICATE TO ANY AND ALL WORK PRODUCTS MADE AVAILABLE TO CONTRACTOR BY THE COMPANY.**
	4. The Contractor understands that it has a fiduciary responsibility with respect to the Company with respect to any and all Work Product(s)/Job(s) granted to and accepted by the Contractor.
		1. The Contractor is responsible for costs associated with the performance of the Work Product / Job or Service.

* + 1. The Contractor is responsible for timely payments for work performed.
		2. The Contractor is responsible for accurate documentation and paperwork associated with the Work Product / Job or Service being performed.
	1. The Company shall not be responsible for federal, state and local taxes derived from the Contractor's net income or for the withholding and/or payment of any federal, state and local income and other payroll taxes, workers' compensation, disability benefits or other legal requirements applicable to the Contractor.
1. **Independent Contractor Status.**
	1. The Parties intend that the Contractor and any Contractor Personnel be engaged as independent contractors of Company. Nothing contained in this Agreement will be construed to create the relationship of employer and employee, principal and agent, partnership or joint venture, or any other fiduciary relationship.
	2. With the exception of the requisite job requirements and processes associated with this agreement in general and specifically contained in Section 2.1, the Contractor may not bind the Company in any manner.
	3. The Contractor will not be entitled to worker's compensation, retirement, insurance or other benefits afforded to employees of the Company.
2. **Industry Norms and Work Processes**
	1. The restoration and mitigation industry is highly fragmented and competitive. Additionally, customers are dealing with emergency issues emanating from numerous sources that may create significant disruption and impact to the customer / homeowner. It is therefore vital that all work performed by Liberty Restoration, its affiliates, representatives and Independent Contractors perform all work within industry acceptable standards. These standards include but are not limited to time and work product. **SCHEDULE B** represents generally acceptable standards relative to work process, communications and work product that must be adhered to by the Contractor. **IF THE CONTRACTOR IS NOT WILLING TO PERFORM WORK IN ACCORDANCE WITH THESE STANDARDS, THEY WILL BE IN BREACH OF THIS AGREEMENT AND IF NOT CURED WITHIN THE TIME-FRAME IDENTIFIED IN SECTION 1.3, THIS AGREEMENT WILL BECOME NULL AND VOID.**
3. **Representations.** Both Parties represent that they are fully authorized and empowered to enter into this Agreement, and that the performance of the obligations under this Agreement will not violate or infringe upon the rights of any third-party, or violate any agreement between the Parties and any other person, firm or organization or any law or governmental regulation.
4. **Indemnification.** The Contractor shall indemnify and hold harmless the Company, its affiliates, and its respective officers, directors, agents and employees from any and all claims, demands, losses, causes of action, damage, lawsuits, judgments, including attorneys’ fees and costs, arising out of, or relating to, the Contractor’s services under this Agreement
5. **Confidentiality, Non-Disclosure and Non-Circumvention.**
	1. Each Party (on its behalf and on behalf of its subcontractors, employees or representatives, or agents of any kind) agrees to hold and treat all confidential information of the other Party, including, but not limited to, trade secrets, sales figures, employee and customer information and any other information that the receiving Party reasonably should know is confidential (“**Confidential Information**”) as confidential and protect the Confidential Information with the same degree of care as each Party uses to protect its own Confidential Information of like nature.
	2. Confidential Information does not include any information that (i) at the time of the disclosure or thereafter is lawfully obtained from publically available sources generally known by the public (other than as a result of a disclosure by the receiving Party or its representatives); (ii) is available to the receiving Party on a non-confidential basis from a source that is not and was not bound by a confidentiality agreement with respect to the Confidential Information; or (iii) has been independently acquired or developed by the receiving Party without violating its obligations under this Agreement or under any federal or state law.
	3. The Parties hereto desire to transact business together in an on-going basis. In consideration of the mutual promises herein the undersigned parties, intending to be legally bound, hereby irrevocably agree not to attempt to circumvent, avoid or by pass each other, directly or indirectly for the purpose of avoiding the terms and conditions as set forth in this agreement. Furthermore, without the consent of the Company, Contractor may not deal directly with any sources introduced to Contractor by Liberty outside of the course of a transacting work performed under this agreement.
	4. This Agreement is also intended to bind all parties to not discuss any information disclosed as part of any related project furnished and provided by the Company with non-associate parties without the expressed written consent of the Company. In addition, this Agreement expressly prohibits the circumvention of existing relationships and agreements with clients, investors, lenders, other financial institutions and any other entities by the Contractor.
	5. It is acknowledged by the Parties representing their individual and mutual interest hereby agree that in order to promote the free, mutual and beneficial exchange of information between the Parties, certain information, materials and data of a confidential and proprietary nature may be disclosed to the other party. It is agreed, therefore, that all information, materials and data provided either verbally or in writing by the disclosing party are proprietary and confidential to the disclosing party and shall be treated as such by the undersigned, its employees, agents and contractors, who agree to hold the same in confidence, by security measures, devices and procedures equal to those used by the undersigned in securing its own confidential documents, data and information. Confidential and proprietary information includes, but not limited to, information related to business contacts, lenders, financial institutions, architects, engineers, suppliers, software, research, developments and trade secrets, or information relating to the business affairs of the disclosing party, its employees, customers, independent contractors, subsidiaries, affiliates and agents.
	6. The Parties represent that they will not reveal, duplicate or otherwise make available to persons, outside those who require such knowledge and use in the ordinary course and scope of the Work Product / Jobs or services, any information or materials provided by the Company nor allow any other person, firm, corporation or any other entity to copy, reproduce or disclose, in whole or part in any manner, the information or materials as delivered by the Company at any time, without written approval of the Company.
	7. The Contractor agrees that it will take appropriate action by instruction, agreement and otherwise with its employees, agents, contractors or other persons permitted access to such information to inform them of the Agreement and to obtain their acceptance to execute and be bound by the terms of this Agreement.
	8. The obligations set out in this Agreement shall terminate with respect to any particular portion of proprietary information when the Contractor can document with proof that:
		1. It was developed by employees and agents of the Contractor independently of and without reference of or to any of the proprietary information or other information that the Company has disclosed to the Contractor;
		2. It was communicated by the Company to a third party free of any obligation of confidence subsequent to the time of the Company’s communication of it to the Contractor;
		3. It was lawfully and properly in the public domain at the time of the Company’s communication of “It” to the Contractor;
		4. It was lawfully communicated to the Contractor free of any obligation subsequent to the time of the Company’s communication of “It” to the Contractor;
		5. It lawfully and properly entered the public domain through the fault of the Contractor, subsequent to the time of the Company’s communication of “It” to the Contractor;
		6. It was lawfully and properly in the Contractor’s possession free of any obligation of confidence at the time of the Company’s communication of “It” to the Contractor;
6. **Liability.** EXCEPT WITH RESPECT TO THE PARTIES’ INDEMNIFICATION OBLIGATIONS, NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR ANY SPECIAL, INDIRECT, INCIDENTAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES ARISING FROM OR RELATED TO THIS AGREEMENT, INCLUDING BODILY INJURY, DEATH, LOSS OF REVENUE, OR PROFITS OR OTHER BENEFITS, AND CLAIMS BY ANY THIRD PARTY, EVEN IF THE PARTIES HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE FOREGOING LIMITATION APPLIES TO ALL CAUSES OF ACTION IN THE AGGREGATE, INCLUDING WITHOOUT LIMITATION TO BREACH OF CONTRACT, BREACH OF WARRANTY, NEGLIGENCE, STRICT LIABILITY, AND OTHER TORTS.
7. **Disclaimer of Warranty.** THE WARRANTIES CONTAINED HEREIN ARE THE ONLY WARRANTIES MADE BY THE PARTIES HEREUNDER. EACH PARTY MAKES NO OTHER WARRANTY, WHETHER EXPRESS OR IMPLIED, AND EXPRESSLY EXCLUDES AND DISCLAIMS ALL OTHER WARRANTIES AND REPRESENTATIONS OF ANY KIND, INCLUDING ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT. THE COMPANY DOES NOT PROVIDE ANY WARRANTY THAT OPERATION OF ANY SERVICES HEREUNDER WILL BE UNINTERRUPTED OR ERROR-FREE.
8. **Miscellaneous Provisions.**
	1. This Agreement, and any accompanying appendices, duplicates, or copies, constitutes the entire agreement between the Parties with respect to the subject matter of this Agreement, and supersedes all prior negotiations, agreements, representations, and understandings of any kind with respect to providing services as contained within this agreement, whether written or oral, between the Parties, preceding the date of this Agreement.
	2. This Agreement may be amended only by written agreement duly executed by an authorized representative of each party (email is acceptable).
	3. If any provision or provisions of this Agreement shall be held unenforceable for any reason, then such provision shall be modified to reflect the parties’ intention. All remaining provisions of this Agreement shall remain in full force and effect for the duration of this Agreement.
	4. This Agreement shall not be assigned by either party without the express consent of the other party.
	5. A failure or delay in exercising any right, power or privilege in respect of this Agreement will not be presumed to operate as a waiver, and a single or partial exercise of any right, power or privilege will not be presumed to preclude any subsequent or further exercise, of that right, power or privilege or the exercise of any other right, power or privilege.
	6. This Agreement is be governed by and construed in accordance with the laws of the State of Utah without reference to any principles of conflicts of laws, which might cause the application of the laws of another state. Any action instituted by either party arising out of this Agreement will only be brought, tried and resolved in the applicable federal or state courts having jurisdiction in the State of Utah. EACH PARTY HEREBY CONSENTS TO THE EXCLUSIVE PERSONAL JURISDICTION AND VENUE OF THE COURTS, STATE AND FEDERAL, HAVING JURISDICTION IN THE STATE OF Utah.

The Parties are signing this Agreement on the date stated in the introductory clause.

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LIBERTY RESTORATION, LLC

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

Name: John Williamson

Title: Managing Member

Contractor, LLC

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

Name:

Title:

SCHEDULE A

Work Product Compensation Plan

1. Contractors performing work for Liberty Restoration will be tied to a Work Product’s or Job’s Total Gross Profit Margin (TGPM).
2. Contractor will be paid based on the following TGPM scale for Standard Work:

|  |  |  |
| --- | --- | --- |
|   |   | **Time to Money / Payment** |
|   |   | **< 75** | **75 - 85** | **85 - 95** | **95 - 105** | **105 - 115** | **115 - 125** | **125 - 135** | **> 135** | **Uncollectable** |
| **Gross Profit Margin** | **40%** | 37% | 36% | 35% | 34% | 33% | 32% | 31% | 30% | 0% |
| **39%** | 36% | 35% | 34% | 33% | 32% | 31% | 30% | 29% | 0% |
| **38%** | 35% | 34% | 33% | 32% | 31% | 31% | 29% | 28% | 0% |
| **37%** | 34% | 33% | 32% | 31% | 31% | 30% | 28% | 27% | 0% |
| **36%** | 33% | 32% | 31% | 31% | 30% | 29% | 27% | 26% | 0% |
| **35%** | 32% | 31% | 31% | 30% | 29% | 28% | 26% | 25% | 0% |
| **34%** | 31% | 31% | 30% | 29% | 28% | 27% | 25% | 24% | 0% |
| **33%** | 31% | 30% | 29% | 28% | 27% | 26% | 24% | 20% | 0% |
| **32%** | 30% | 29% | 28% | 27% | 26% | 25% | 20% | 18% | 0% |
| **31%** | 29% | 28% | 27% | 26% | 25% | 24% | 18% | 17% | 0% |
| **30%** | 28% | 27% | 26% | 25% | 24% | 20% | 17% | 16% | 0% |
| **29%** | 27% | 26% | 25% | 24% | 20% | 18% | 16% | 15% | 0% |
| **28%** | 26% | 25% | 24% | 20% | 18% | 17% | 15% | 14% | 0% |
| **27%** | 25% | 24% | 20% | 18% | 17% | 16% | 14% | 13% | 0% |
| **26%** | 24% | 20% | 18% | 17% | 16% | 15% | 13% | 12% | 0% |
| **< 25%** | 20% | 18% | 17% | 16% | 15% | 14% | 12% | 11% | 0% |

1. **EXAMPLE**:
	1. Scenario 1: If a Work Product / Job is $10,000 with a Total Gross Profit of $4,000 the TGPM would be 40%. If the full-payment is received in less than seventy five (75) days or less, Liberty will pay to Contractor 37% of the TGPM or $1,480.
	2. Scenario 2: Using the same Work Product / Job as in Scenario 1, if payments are staggered as follows, then TGPM payments would follow the above TGPM scale. Below is a TGPM payout with staggered payments:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Total Gross Profit Balance** | **Amount Received** | **Time to Money / Pmt** | **TGPM %** | **TGPM $** |
| $4,000 | $2,000 | 70 days | 37% | $740 |
| $2,000 | $1,000 | 96 days | 34% | $340 |
| $1,000 | $500 | 127 days | 31% | $155 |
| $500 | $0 | Uncollectable | 0% | $0 |
| $500 | $3,500 | **Total TGPM Payout** | **$1,235** |

SCHEDULE B

Industry Norms and Critical Work Processes

Due to the critical and emergency nature of the type of work being performed by Liberty and it’s Contractors, performance according to and bound by essential processes and time are necessary elements that must be carried out in order to provide the level of service expected by all stakeholders involved in the work product, including but not limited to:

* Customer
* Insurance Companies
* Specialty Contractors
* Mortgage Companies

***Following are general work guidelines Liberty encourages its Contractors to follow relative to job completion, billing, invoicing and notifications of non-payment:***

1. Deductible
	1. Collect 100% up-front (or 50% up-front, or make arrangements using a change order signed by the customer)
2. Estimator (Contractor)
	1. Signed work authorization with Owner / Representative
	2. Signed change orders
		1. Emails are acceptable if work and cost are clearly identified, stated and understood.
		2. Work completion
		3. Estimate / Estimates
		4. Supplements
		5. Additional work
		6. Provide clear and detailed instructions on who to bill for any specific element of the work product / job invoice in the comments box.
			1. Who is paying What
			2. Ensure correct billing information
				1. Address
				2. Contact
		7. No later than three days following work completion, place completed file in “Bill Out Box”.
			1. **NOTE:** If work product / job exceeds $25,000, or if there are expected delays, which are unavoidable in completing the job, provide a “draw” or “completed work” invoice at thirty (30) days.
				1. **Work will stop if partial invoices are not paid with thirty five (35) days.**
3. Company (Liberty)
	1. Create and mail invoice within two days.
	2. Seven day follow-up to recipient
	3. Fourteen (14) day reminder letter if no contact is made to arrange for payment arrangements.
	4. Twenty-one (21) day follow-up to recipient
	5. Twenty-eight (28) day reminder letter – **FINAL**
		1. Return file to Estimator for collaboration
			1. Estimator final call to homeowner
				1. Document call time and date
			2. If necessary contact insurance company
			3. Make determination if Estimator / Contractor intends to pursue small claims or legal recourse
	6. Thirty-five (35) day send Attorney “Demand Letter”
	7. Fifty-six (56) days final estimator collaboration
		1. Estimator / Contractor has seven days to file with small claims –or-
		2. Sixty-three (63) days, Attorney files suit with court if not going to small claims.
4. Hold / Paused Jobs
	1. Follow normal collection as described above in Section 3 – invoice for completed work to date of “Hold”.
5. No Activity Jobs (no work, not invoiced, and no documented activity)
	1. After two months with out follow-up / documentation:
		1. 10% monthly cost reconciliation
		2. 100% estimator’s / Contractor’s responsibility for job costs if not paid.

***Following are general work guidelines and best practices Liberty encourages its Contractors to follow:***

1. Contact Homeowner (immediately / within 2 hours of receipt)
	1. Qualify job
	2. Determine Mitigation or Restoration (contents, access to work)
	3. Assess any immediate needs
	4. Schedule site inspection
	5. Document call in Client Runner (CR) (folder/start-up)
2. Dispatch Appropriate Crew
3. Contact Adjuster (if possible) to discuss:
	1. Availability to meet
	2. Scope of loss
	3. Coverage issues
	4. Money and payments – determine mortgage company
	5. Determine who will write estimate
4. Inspect home with homeowner
	1. Complete Scope (even if working off insurance claims)
	2. Discuss
		1. Process and set expectations with homeowner
		2. Discuss mortgage company
	3. Get Work Authorization signed (if not done already)
	4. Collect Deductible (full or half), if arrangements to work off, then get signed Change Order
	5. Collect ACV if paid by adjuster
5. Schedule workers / Subs
6. Follow-up call with adjuster
	1. Get verbal approval/agreed to repairs
	2. Discuss payments – to homeowner, Liberty, mortgage
	3. Inform adjuster we have Work Authorization and direction to pay
7. Write estimate and forward to adjuster
	1. Email Work Authorization to adjuster
8. Mortgage paperwork – as needed
9. Weekly follow-up with homeowner
	1. Minimum weekly schedule confirmation call with homeowner to review the workers schedule (ensure we have the same understanding as sub and homeowner
	2. Inquire about quality control and workers
	3. Determine if there are any other concerns or things we can do
	4. Insurance payment follow-up as needed/progress payments (track the money)
	5. Signed Change Orders as needed
10. Progress invoicing
	1. Create and send progress billing as needed if work extends beyond forty-five (45) days.
11. Supplements
	1. Get approval and email to adjuster before work is completed
12. Final Walk-through with Homeowner
	1. Signed Work Completion or create a final Punch-list
	2. Collect any remaining available monies (deductible, ACV/RCV)
	3. Endorse checks
	4. **IF Homeowner cannot meet, make a FWT Call**
		1. Is all work satisfactory
		2. Discuss insurance payments/mortgage as needed
		3. Ask, “Am I okay to send an invoice?”
		4. Take credit card if needed
		5. Document call in CR or in file
13. Invoice any remaining balances within three days of work completion
14. Follow-up with A/R as needed