

INDEPENDENT CONTRACTOR AGREEMENT

THIS INDEPENDENT CONTRACTOR AGREEMENT is made and entered into on DATE by and between HAUSCH & COMPANY, INC., an Iowa Corporation, hereinafter referred to as “HCO” and Applicant referred to as “INDEPENDENT CONTRACTOR.”

RECITALS

WHEREAS, HCO is in the business of providing, estimating, scoping and insurance adjusting services to various insurance companies throughout the United States of America; and

WHEREAS, INDEPENDENT CONTRACTOR is engaged in their separate business offering scoping, estimating and/or insurance adjusting services to insurance companies desiring those services; and

WHEREAS, HCO desires to retain INDEPENDENT CONTRACTOR’S services to scope, estimate and/or insurance adjust, and INDEPENDENT CONTRACTOR desires to render such services to and for the benefit of HCO, all as set forth hereinafter.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises, agreements, and covenants contained herein, the parties hereto agree as follows:

1. **Appointment.** HCO hereby appoints INDEPENDENT CONTRACTOR as one of its independent contractors to render insurance adjusting services, estimating and/or scoping services to customers of HCO as may be requested from time to time hereunder.
2. **Acceptance of Appointment.** INDEPENDENT CONTRACTOR hereby accepts his appointment as an independent contractor and agrees to use his best efforts and act in the utmost good faith while performing insurance adjusting, estimating and/or scoping services for HCO’s insurance company customers, including the proper preparation of reports, estimates, and similar documents that are generally required by the insurance company and/or HCO. During the period of the agreement, the INDEPENDENT CONTRACTOR will be available to work all catastrophes in the United States of America if requested by HCO.
3. **Compensation.** HCO will directly invoice their customers for services rendered at the rates specified by HCO for each customer. Upon creation of the HCO invoice for the insurance company customer, HCO shall pay INDEPENDENT CONTRACTOR sixty percent (60%) of the INDEPENDENT CONTRACTOR’S billing from that invoice. Payment will be deposited directly into the Independent Contractors bank account. Pay periods as follows. 1st – 15th – a payment on the 21st and 16th – end of the month with payment on the 7th.
4. **Devotion of Time.** INDEPENDENT CONTRACTOR shall devote a substantial portion of his working time to all open assignments for the benefit of HCO in carrying out the performance of his duties as set forth herein. However, HCO acknowledges that INDEPENDENT CONTRACTOR has his own business for which he will be required to devote time, energy, and effort.

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5. Independent Contractor Status.

- a) The parties expressly acknowledge, understand, and agree that the relationship between HAUSCH AND COMPANY and INDEPENDENT CONTRACTOR is one of hirer/principal and independent contractor and that INDEPENDENT CONTRACTOR is also engaged in his own business. INDEPENDENT CONTRACTOR expressly acknowledges that he is not an employee of HCO or any of the insurance company customers of HCO and that his status as an independent contractor of HCO cannot be changed to that of an employee by course of conduct or dealing between the parties, by custom or practice in the industry, by operation of law, or by any verbal statements or representations by INDEPENDENT CONTRACTOR or any representative of HCO. For the avoidance of doubt, the status of the INDEPENDENT CONTRACTOR as an independent contractor may only be changed by a further express written agreement between INDEPENDENT CONTRACTOR and HCO expressly stating that the status of INDEPENDENT CONTRACTOR is changed.
- b) HCO is interested only in the final result to be obtained by INDEPENDENT CONTRACTOR, and shall not be managing, supervising, controlling or directing INDEPENDENT CONTRACTOR in the means and details of his performance of his scoping, estimating and insurance adjusting duties.
- c) INDEPENDENT CONTRACTOR is not eligible for, and shall not participate in, any pension, stock option, or other fringe benefit plan of HCO.
- d) HCO shall pay INDEPENDENT CONTRACTOR as set forth in paragraph 3 above. HCO shall not deduct income taxes, Federal Insurance Contributions Act ("FICA") taxes, Medicare taxes, or any similar or equivalent state or local taxes or any other deductions of any kind from the payments made to INDEPENDENT CONTRACTOR. Following the end of each calendar year, HAUSCH AND COMPANY shall file with the IRS and the applicable state tax authority, (if any), and provide copies to INDEPENDENT CONTRACTOR, a Form 1099 setting forth the total amounts paid to INDEPENDENT CONTRACTOR during the calendar year. INDEPENDENT CONTRACTOR shall be responsible for the payment of all federal, state and local taxes on the amounts paid to INDEPENDENT CONTRACTOR hereunder, including, but not limited to income taxes, self-employment taxes, Medicare taxes, and employment taxes (if applicable), etc., and represents and warrants that he shall comply with all federal, state and local income tax laws regarding same. INDEPENDENT CONTRACTOR shall indemnify, defend and hold harmless HCO and the insurance company customers of HCO from and against any and all liabilities for the payment of any and all taxes on or payable by reason of the amounts paid by HCO to INDEPENDENT CONTRACTOR hereunder if demand is made upon HCO or its insurance company customers for the payment of any such taxes.
- e) INDEPENDENT CONTRACTOR shall determine the time, place, and number of hours he will work in order to perform the required scoping, estimating and/or adjusting services.
- f) It is the INDEPENDENT CONTRACTOR's obligation to obtain, furnish and use at his own expense, all tools, instruments, electronics, equipment, computer hardware, and software, estimating programs, fax machines, telephones, communication devices, secretarial staff, lodging and/or office space, transportation, meals, and/or any other things necessary for the INDEPENDENT CONTRACTOR to perform the scoping,

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estimating, and/or adjusting services and furnish acceptable estimates and/or reports to the insurance company customers of HCO.

- g) It is necessary that the INDEPENDENT CONTRACTOR has a valid adjuster license in his home state unless the INDEPENDENT CONTRACTOR'S state of residence does not require such. In the event the particular state in which the catastrophe occurs requires that the INDEPENDENT CONTRACTOR obtain a license from the state to perform the job services, it is the obligation of the INDEPENDENT CONTRACTOR to obtain such license at his own expense. INDEPENDENT CONTRACTOR shall furnish HCO with a copy of all required licenses if requested.
6. **Indemnification**. INDEPENDENT CONTRACTOR hereby agrees to forever defend, indemnify and hold harmless HCO and its insurance company customers, and their respective officers, directors, members, stockholders, partners, brokers, salespersons, employees, attorneys, successors, representatives, and assignees, from and against all claims, debts, losses, liabilities, demands, obligations, costs, expenses, actions and causes of action, judgments for damages, alleged claims and litigation, resulting directly or indirectly from the INDEPENDENT CONTRACTORS' or INDEPENDENT CONTRACTOR's agents or employees acts or omissions in the performance of services pursuant to this agreement. This indemnification agreement shall include, without limitation, actual attorney fees incurred and court costs, as well as all other damages hereinafter described.
7. **Waiver**. The failure of either party to enforce at any time any of the provisions of this agreement or any rights in respect thereto or to exercise any election herein provided shall in no way be considered a waiver of such provisions, rights or elections.
8. **Remedies Not Exclusive**. The right and remedies of each party under this agreement are not exclusive but shall be in addition to all the rights and remedies to which the party is entitled against the other party, except as specifically limited herein.
9. **Gender**. In this agreement, the masculine, feminine, or neuter of any word shall include any of the others, and the singular or plural of any word shall include the other whenever necessary to give this agreement meaning and clarity.
10. **Amendments**. No amendment changing or altering existing terms, or adding terms to or deleting terms from, this written agreement shall be valid or binding on HCO or INDEPENDENT CONTRACTOR unless such amendment is in writing and executed by both HCO and INDEPENDENT CONTRACTOR.

11. Confidentiality

- a) HCO Confidential Information. "HCO Confidential Information" shall include all information, data, materials, products, technology, computer programs, files, specifications, manuals, software, marketing plans, business plans, financial information, and any and all other information disclosed or submitted by HCO to INDEPENDENT CONTRACTOR, whether orally, in writing, or by any other media or other means of communication. HCO Confidential Information shall also include HCO's personal information. HCO shall be deemed the owner of all HCO Confidential Information.
- b) The term "HCO Confidential Information" shall not include, and this Agreement shall not apply to: (i) any information known prior to such disclosure to either party free of

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obligation to keep it confidential; (ii) any information that is independently developed by INDEPENDENT CONTRACTOR, or an affiliate of INDEPENDENT CONTRACTOR, without reference to or knowledge of HCO's Confidential Information; (iii) any information that is within the public domain at the time of disclosure or that subsequently enters the public domain through no action on the part of INDEPENDENT CONTRACTOR or any person having an obligation of confidence to the receiving party respecting such information; and (iv) any information released pursuant to the prior written approval of HCO. Any combination of HCO Confidential Information shall not be deemed to be within one of the foregoing exclusions merely because individual portions of such combined HCO Confidential Information qualify for exceptions under (i) – (iv) above.

12. **Non-Disclosure.** INDEPENDENT CONTRACTOR acknowledges and agrees that the HCO Confidential Information shall be considered confidential and proprietary information of HCO, and therefore, INDEPENDENT CONTRACTOR shall not use such information for any means other than for the purposes for which HCO provides such information to INDEPENDENT CONTRACTOR nor for the benefit of any person or entity other than HCO. INDEPENDENT CONTRACTOR shall not disclose HCO Confidential Information to any of its officers, directors, or employees other than those with a specific need to know. INDEPENDENT CONTRACTOR agrees not to disclose, publish or otherwise reveal any of the HCO Confidential Information to any person or entity not a party to this Agreement other than as required to perform its claims adjusting services in compliance with applicable federal, state and local laws, regulations and rules. INDEPENDENT CONTRACTOR shall not duplicate any HCO Confidential Information, except for purposes permitted within this Agreement. INDEPENDENT CONTRACTOR shall return all HCO Confidential Information, and all copies and other reproductions thereof, regardless of form, within ten (10) days of a request from HCO or completion of the purpose for which such information was provided to Business Development & Strategic Planning, whichever is sooner. At Business Development & Strategic Planning's option, however, any documents or other media developed by INDEPENDENT CONTRACTOR containing HCO Confidential Information may be destroyed, and INDEPENDENT CONTRACTOR shall provide a notarized written certification to HCO regarding its destruction within ten (10) days thereafter.
13. **Protection of HCO Confidential Information.** INDEPENDENT CONTRACTOR shall implement commercially reasonable physical, electronic, and procedural precautions and safeguards to prevent the unauthorized use and/or disclosure of HCO Confidential Information, both during and after the execution of the INDEPENDENT CONTRACTOR services to HCO. INDEPENDENT CONTRACTOR may disclose HCO Confidential Information if required by any judicial order, so long as INDEPENDENT CONTRACTOR immediately notifies HCO of a demand for Confidential Information such that HCO has sufficient prior notice to allow HCO to contest such disclosure. INDEPENDENT CONTRACTOR obligations hereunder shall not be affected by bankruptcy, receivership, assignment, attachment, or seizure procedures, regardless of how, or by whom, such action was initiated.
14. **No Publicity.** INDEPENDENT CONTRACTOR agrees not to disclose its participation in this undertaking, the existence or terms, and conditions of this Agreement, or the existence of any discussions contemplated under this Agreement.

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15. **No License.** Nothing contained herein shall be construed as granting or conferring upon INDEPENDENT CONTRACTOR any rights by license or otherwise in any HCO Confidential Information
16. **Final Agreement.** This Agreement terminates and supersedes all prior understandings or agreements on the subject matter hereof. This Agreement may be modified only by further writing that is duly executed by all parties.
17. **No Assignment.** INDEPENDENT CONTRACTOR shall not assign this Agreement or any interest therein without the express written approval of HCO.
18. **Severability.** If any term or provision of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, such term or provision shall be stricken and the remaining Agreement shall remain in full force and effect as if such invalid or unenforceable term or provision had never been included.
19. **Notices.** Any notice required by this Agreement or given in connection with it shall be in writing and shall be given to the appropriate party by personal delivery or by certified mail, postage prepaid, or recognized overnight delivery services.
20. **No Implied Waiver.** The failure of any party to insist, in any one or more instances, upon strict performance by the other party of any of the terms of this Agreement shall not be construed as a waiver of any continuing or subsequent failure to perform or delay in performance of any term hereof.
21. **Term.** The term of this agreement shall be for two (2) years, commencing on the date first above written. The agreement shall be automatically renewed for successive one (1) year terms unless notice of intent not to renew is received a minimum of 30 days prior to the term expiration.

TERMINATION

- a) Either party may terminate this agreement by giving to the other party thirty (30) days written notice of termination. Notwithstanding the foregoing, in the event that INDEPENDENT CONTRACTOR's license is revoked, terminated, suspended, or otherwise made ineffective, this agreement shall automatically terminate.
- b) Immediately following the termination of this agreement, INDEPENDENT CONTRACTOR shall render a final report on all matters then outstanding, together with final statements for services provided in connection with this agreement.

BINDING ARBITRATION. IF ANY DISPUTE BETWEEN THE PARTIES ARISES OUT OF, OR IS RELATED TO THIS AGREEMENT, OR IF EITHER PARTY DESIRES TO ENJOIN ANY THREATENED BREACH, OR APPLY FOR A DECLARATION OF SUCH PARTY'S RIGHTS AND DUTIES HEREUNDER, OR IN THE EVENT OF ANY OTHER DISAGREEMENT OF ANY NATURE, TYPE OR DESCRIPTION BETWEEN THE PARTIES, REGARDLESS OF THE FACTS OR THE LEGAL THEORIES WHICH MAY BE INVOLVED, SUCH DISPUTE SHALL BE RESOLVED BY BINDING ARBITRATION BEFORE THE AMERICAN ARBITRATION ASSOCIATION BY A SINGLE ARBITRATOR IN ACCORDANCE WITH THE COMMERCIAL RULES OF THE AMERICAN

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ARBITRATION ASSOCIATION IN EFFECT AT THE TIME THE ARBITRATION IS INITIATED.

THE PREVAILING PARTY IN SUCH ARBITRATION SHALL BE ENTITLED TO RECEIVE AS PART OF THE JUDGMENT RENDERED THEREIN ALL COSTS OF SUIT AND REASONABLE ATTORNEY'S FEES INCURRED THEREIN.

EACH PARTY EXPRESSLY WAIVES THE RIGHT TO A COURT TRIAL BY JUDGE OR JURY IN ANY JURISDICTION.

ENTIRE AGREEMENT. HCO desires to do business with INDEPENDENT CONTRACTOR only on the terms and conditions set forth in this written agreement and on no other terms. This written agreement revokes, cancels, and supersedes any and all other agreements between HCO and INDEPENDENT CONTRACTOR and constitutes the sole and entire agreement between them. No prior, contemporaneous, or simultaneous agreements, promises, representations, inducements, or statements, oral or written, which are not set forth herein shall be of any force or effect, nor shall they affect the legal or contractual relationships between the parties.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed and effective as of the date first above written.

HAUSCH & COMPANY, INC.
David Hausch, President

By: 

(HAUSCH & COMPANY, INC. Signature)

“INDEPENDENT CONTRACTOR”

(Independent Contractor Signature)

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