

INDEPENDENT CONTRACTOR AGREEMENT WITH FROGTUTORING

THIS AGREEMENT is made and entered into by and between FROG TUTORING, LLC, a Texas limited liability company (the “Company”) and _____, an individual (“Contractor”), and contains the following mutual representations, covenants, and agreements:

ARTICLE I. RECITALS

1.01. The Company is in the business of providing tutoring services to students. The Company, in the operation of its business, desires to subcontract such tutoring services incident to the operation of the Company’s business. Contractor agrees to provide the services specified in this Agreement under the terms and for the prices as stated herein.

ARTICLE II. SERVICES AND PAYMENTS

Nature of Services

2.01. The Contractor will be responsible for providing _____
_____. The Contractor agrees to provide his or her own transportation to and from the tutoring location and timely arrive at all scheduled appointments. The Contractor agrees that he or she shall be solely responsible for acquiring, and shall acquire, all necessary equipment and supplies necessary or desirable to prepare and perform the services to be performed under this agreement. Further, the Contractor shall respond to all inquiries of customers of Contractor to the best of his or her ability.

Location of Services

2.02. Contractor will provide tutoring services for Company customers in the following area:
_____.

Invoices and Reports

2.03. Contractor agrees to provide a weekly report regarding tutoring services provided on behalf of Company. Contractor shall provide such additional tutoring plan progress reports and final results reports with respect to customers of the Company as the Company shall reasonably require.

Payment for Services

2.04. For Contractor's services, Company agrees to pay Contractor \$_____ per hour spent tutoring customers of Company for tutoring sessions lasting less than two hours, or \$_____ per hour spent tutoring customers of Company for tutoring sessions lasting two or more hours. Company agrees to pay for Contractor's services on a semi-weekly basis; provided, however, that Company may change the frequency of compensation by giving Contractor thirty (30) days written notice.

Time Devoted to Services

2.05. In the performance by Contractor of services for the benefit of Company, the services themselves and the hours Contractor is to work on any given day will be entirely within the control of Contractor, and Company will rely upon Contractor to devote sufficient time as may be reasonably necessary to fulfill the spirit and purpose of this agreement.

ARTICLE III.

DURATION, CANCELLATION, AND CONTINUATION

Duration and Termination

3.01. This agreement shall run for one (1) year from the date hereof. If no written notice of termination is provided by either party to the other at such party's notice address thirty (30) days prior to the scheduled termination of this agreement, it is agreed that this agreement will be renewed automatically for further successive terms of one year, until such written notice of termination is provided, upon the same terms and conditions or such terms and conditions as may be agreed to in writing by the parties hereto.

Prior Termination

3.02. If, in Company's sole judgment, Contractor breaches any covenant of this agreement Company shall have the right to terminate this agreement immediately, or pursue any other remedy or course of action it may deem appropriate. Contractor or Company may terminate this agreement without cause upon providing 60 days notice to the other party.

Notice Address

3.03. Each party's notice address for purposes of this agreement appears on this document below such party's signature. The notice address of one party may be changed by providing written notice of such change to the other party at such party's notice address.

ARTICLE IV. STATUS OF
CONTRACTOR

Independent Contractor

4.01. This agreement calls for the performance of the services of Contractor as an independent contractor and Contractor will not be considered an employee of Company for any purpose. Neither Contractor nor Company have the authority to act as agent for, incur liability on behalf of, or make any agreement on behalf of the other party. Contractor hereby expressly retains the right to control the method and manner of performing its duties, including delegating its duty to others, and retains the sole risk of loss for its services.

Services for Others

4.02. The parties agree that Contractor shall be free to perform services on behalf of other individuals; provided, however, that such services shall in no way interfere with the full and complete performance of any services required by this agreement.

ARTICLE V.
CONFIDENTIAL INFORMATION; COVENANT NOT TO COMPETE

5.01. The Company possesses secret and confidential information and equipment, techniques, processes, procedures, technical data and information, and customer and client lists used or intended for utilization in its operations of which Contractor has obtained or may obtain knowledge and Company would suffer serious harm if this confidential information were disclosed or if Contractor used this information to compete against Company. Accordingly, Contractor hereby agrees that simultaneously with the execution of this Contract, he or she shall execute and deliver to Company and during the term of this Agreement and thereafter as provided therein, abide by the terms of a “**Confidentiality Agreement and Covenant Not to Compete**,” a copy of which is attached to this Contract as Exhibit A.

ARTICLE VI. MISCELLANEOUS
PROVISIONS

Consultant’s Warranties

6.01. The taxpayer identification number of Contractor is as set forth beneath Contractor’s signature. The Consultant is licensed to perform the agreed-upon services enumerated herein and covenants that it maintains all valid licenses, permits, and registrations to perform same and on behalf of its employees and subagents.

Competent work

6.02. All work will be done in a competent fashion in accordance with applicable standards of the profession and all services are subject to final approval by Company prior to Company's payment.

Likeness and Identity of Contractor

6.03. Contractor specifically grants Company the right and license to use the Contractor's name and background information for advertising, marketing, and public relations purposes.

Representations and Warranties

6.04. Contractor shall make no representations, warranties, or commitments binding Company without Company's prior written consent.

Waiver

6.05. The waiver by either party of a breach or violation of any provision of this agreement shall not operate as or be construed to be a waiver of any subsequent breach thereof.

Indemnification and Release

6.06. Contractor agrees to indemnify and hold harmless Company and Company's agents and employees from any liability from and against any damages, claims, and expenses arising out of or resulting from work conducted by Contractor and/or its agents or employees. Contractor agrees to cooperate in all actions and procedures for the avoidance of and defense of any such claims.

The Contractor agrees to bear all risks and liability associated with performing his or her duties under this agreement, including but not limited to those resulting from the interaction between the Contractor and Company's student customers and clients. Contractor agrees and acknowledges that the customers and clients referred to the Contractor by the Company are unfamiliar individuals whose backgrounds have not been checked by the Company, and retains the right and obligation to accept or reject any tutoring opportunity presented in his or her sole judgment and discretion. Contractor further agrees to release and forever hold Company harmless from any liability, whether direct, consequential, contingent, or otherwise, for any injury or harm occurring which Contractor is performing any duties for Company under this agreement.

Notices

6.07. Any and all notices required or permitted to be given under this agreement will be

sufficient if furnished in writing and sent by certified mail to the Contractor's last known residence, in the case of notice to the Contractor, or to Company's principal office in Fort Worth Texas, in the case of notice to Company.

Choice of Law

6.08. This agreement shall be interpreted, construed, and governed according to the laws of the State of Texas, and is enforceable in Tarrant County, Texas.

Counterparts

6.09. This agreement is executed in two (2) counterparts, each of which shall be deemed to be an original and together shall constitute one and the same agreement, with one counterpart being delivered to each party hereto.

Unenforceable Provisions

6.10. In the event that any one or more of the provisions of this agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision thereof, and this agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained therein.

Headings

6.11. The headings placed above portions of this agreement have been so placed solely in order to aid in the location of its provisions, and are not to be used in construing any portion or provision of this agreement.

Integrated Agreement

6.12. This agreement constitutes the sole and only agreement of the parties hereto and supersedes any prior understandings or written or oral agreements between the parties regarding the subject matter of the relationship between Contractor and Company.

Binding Effect

6.13. This Agreement shall be binding upon and shall inure to the benefit of Contractor and Company and to Company's successors and assigns. Nothing in this Agreement shall be construed to permit the assignment by Contractor of any of its rights or obligations hereunder to any third party without Company's prior written consent.

ARTICLE VII.
TAXATION

Licenses, Taxes, and Fees

7.01. Contractor agrees to pay all income, sales, use, and property taxes, and all fees, licenses, and assessments imposed by any governmental authority required to be paid by either Contractor or Company as a result of the services to be provided under this agreement.

Federal Withholding Tax

7.02. Contractor, by its signature to this agreement, hereby requests Company NOT to withhold taxes for Federal income and self-employment taxes from any sums due and payable to Contractor under this agreement.

IN WITNESS WHEREOF, the parties hereto have executed this agreement in Tarrant County, Texas, on the _____ day of _____, ____.

COMPANY
FROG TUTORING, LLC

By: _____
Notice Address: Roland Omene, President
1751 River Run, Suite 200
Fort Worth, Texas 76107

CONTRACTOR

print name: _____
Notice Address: _____
Social Security Number: _____

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**CONFIDENTIALITY AGREEMENT
AND
COVENANT NOT TO COMPETE**

The undersigned (hereafter called “Contractor”) has entered into an Independent Contractor Agreement for Academic Consulting Services (the “Contractor Agreement”) with **Frog Tutoring, LLC**, a Texas Limited Liability Company having a principal place of business in Tarrant County, Texas (hereafter called the “Company”), which is engaged in the business of tutoring services.

By signing this agreement, Contractor acknowledges his or her understanding of the following:

- ¸ The Company has information generally not known outside the Company called “confidential information”. All companies must conduct their business through their employees and independent contractors, and consequently many employees and independent contractors must have access to confidential information. At times, the Contractor himself or herself may generate confidential information as a part of his or her services rendered to Company.
- ¸ The phrase “confidential information” as used in this agreement comprises any technical, economic, financial, marketing, computer program, regardless of the medium on which they are stored or written, computer software, computer data, computer source and object programs or codes, job operating control language procedures, data entry utility programs, sorts and miscellaneous utilities, disk record layouts, flow charts, data entry input forms, operation and installation instructions, report samples, data files, printouts, or other information which is not common knowledge among competitors or other companies who might like to possess such confidential information or might find it useful. Some examples include prospect lists, customer lists, items in research or development, products, inventions, innovations, designs, ideas, trade secrets, proprietary information, scientific studies or analyses, details of training methods, new products or new uses for old products, merchandising and accounting, long-range planning, financial plans and results, marketing plans, sales and profit figures, computer programs and operating manuals, computer source codes, etc. This list is merely illustrative and the confidential information covered by this agreement is not limited to such illustrations.
- ¸ The Company’s confidential information represents the most important, valuable, and unique aspect of Company’s business, and it would be seriously damaged if Contractor breached the position of confidential trust Company has placed in him or her by disclosing such confidential information to others or by departing and taking with him or her the aforesaid unique information compiled over a period of time for the purpose of the Contractor competing against the Company or disclosing such information to the Company’s competitors, now existing or hereafter formed.

Accordingly, in consideration of ONE DOLLAR (\$1.00) paid to Contractor by Company, the receipt and sufficiency of which are hereby acknowledged, Contractor agrees as follows (which will constitute an agreement ancillary to the Contractor Agreement with Company):

1. Confidential Information Is Proprietary to Company. Contractor agrees to hold such information in strictest confidence, and not to make use thereof except in performance of duties under the Contractor Agreement. Whether during or after the term of the Contractor Agreement, Contractor may not disclose to any others (excepting with Company officers or employees having a need to know who have also signed a written agreement expressly binding themselves not to use or disclose it) any confidential information originated or acquired by Contractor while performing services for Company. Contractor further agrees during such period not to remove from the premises any of Company's records or other written or tangible materials, including without limitation, computer programs and floppy disks (whether prepared by Contractor or others) containing any confidential information. Exceptions to these restrictions may be made only by means of Company's permission given in writing.

2. Covenants Not to Compete. Contractor agrees as follows:

- (a) Contractor has and will require special training, enhancement of skills and knowledge at Company's expense, which could be subsequently used to the detriment of Company, Contractor expressly covenants that for a period of five (5) years following the termination of this agreement, or his employment, for any reason, she will not directly or indirectly own, manage, operate or be connected with the ownership, management, operation or control of, consult with, or be an employee for any business offering tutoring services to customers or clients of the Company within the metropolitan area specified in the Contractor Agreement and within five (5) miles of such metropolitan area.
- (b) Contractor acknowledges and agrees that he or she has carefully read and considered the provisions of this Section 2 and having done so, agrees that the restrictions set forth in these paragraphs including, but not limited to, the time period of restriction and geographical area of restriction are fair and reasonable and/or reasonably necessary and required for the protection of the interests of Company and its officers, members, and other employees.
- (c) In the event that, notwithstanding the foregoing, any of the provisions of this Section 2 shall be held to be invalid or unenforceable or against the public interest, the remaining provisions hereof shall nevertheless continue to be valid and enforceable as though the invalid or unenforceable parts or provisions had not been included herein. In the event that any part or provision of this Section 2 relating to the time period and/or the areas of restriction shall be declared by a court of competent

jurisdiction to exceed the maximum time period or areas such court deems reasonable and enforceable, the time period and/or areas of restriction deemed reasonable and enforceable by the court shall become and thereafter be the maximum time period and/or areas for purposes of this agreement.

- (d) In the event of an actual or threatened breach by the Contractor of the provisions of this Section 2, the Company shall be entitled to a permanent injunction for the remainder of the five (5) year period restraining the Contractor from violating the terms of the restrictive covenant in the above Section 2.(a). Nothing herein stated shall be construed as prohibiting the Company from pursuing any other remedies available to the Company for such breach or threatened breach, including the recovery of damages from the Contractor.
- (e) Contractor makes this covenant in consideration of the mutual promises, covenants and benefits herein stated, and yet independent of any other provision of this agreement and the existence of any other claim or cause of action of the Contractor against the Company, whether or not arising out of this agreement, shall not constitute a defense to Company's enforcement of this covenant to the fullest extent of its terms.

3. Non-Disclosure of Terms. Ancillary to the agreement for confidentiality, Contractor agrees to keep all terms of the Contractor Agreement and this agreement, including but not limited to information about Contractor's compensation, and will not disclose any such information to any third party, specifically including any other independent contractors in a similar relationship with the Company, and any customers or clients of Company.

4. Purpose of Covenant Not To Compete. Company and Contractor agree and acknowledge that the above Covenant Not to Compete is entered into for the purpose of protecting Company's trade secrets from dissemination and thereby causing harm to Company's business through unfair competition.

5. Further Consideration for Covenant Not To Compete. As further consideration for the above covenant not to compete, Company is providing Contractor with certain trade secrets of Company, consisting of price sheets, customer lists, and vendor lists, contemporaneously with the signing of this agreement. Contractor acknowledges receipt of such trade secrets, and agrees that such information is sufficient consideration for her covenant not to compete.

INITIALED: _____

6. Liquidated Damages. Company retains the rights to all customers (students) to whom the Contractor renders services under the Contractor Agreement for the period of the above Covenant

Not to Compete. In the event Contractor renders tutoring services for any such customer during this period other than pursuant to the Contractor Agreement, Contractor shall pay Company, as liquidated damages, the sum of \$2,500.00 for each such customer.

7. Attorney's Fees. Contractor further agrees that in the event Company finds it reasonably necessary to employ attorneys to enforce the covenants and agreements herein contained, Contractor shall pay its reasonable attorney's fees and related legal costs.

8. Successors and Assigns. Contractor agrees that this agreement shall continue to be binding and controlling in the event of assignment thereof by Company or upon acquisition of it in any other manner by Company's successor, if any.

DATED this the _____ day of _____, __, in Tarrant County, Texas, where the obligations contained in this agreement are performable.

CONTRACTOR

COMPANY

By: _____
Roland Omene, President