*This is a SAMPLE design contract. It is meant as a guide only and is NOT legal advice. This agreement may not meet your specific needs. You should seek legal or other appropriate counsel for your specific situation and need. In accessing this sample contract, you agree that Vandelay Design is not liable to you in any way for your use of the agreement and, further, you agree to hold harmless Vandelay Design from and against any and all claims that you or your clients may have and that result from or are related to your use of this agreement.*

**OUTSOURCING AGREEMENT**

**THIS OUTSOURCING AGREEMENT** (the “Agreement”),effective as of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ , 20\_\_, (“Effective Date”) is entered into by and between\_\_*{Your Company Name}* \_\_\_\_\_\_\_\_\_\_\_, (hereinafter referred to as “Company”), and \_\_\_\_*{Contractors Name}*\_\_\_\_\_\_\_, (hereinafter referred to as “Contractor”). Company and Contractor are sometimes referred to individually as a “Party” or collectively as the “Parties.”

WHEREAS, Company desires to hire Contractor to perform outsourced design services and Contractor desires to be hired by Company to perform such design work for the Company’s customers (“Clients”) pursuant to the terms of this Agreement;

NOW THEREFORE, in consideration of the terms and conditions set forth below and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

**Article 1. SCOPE OF WORK**

1.1 Contractor will perform the following Services (as defined below):

Contractor will *{ Insert what it is Contractor will be doing for you. For example: create a business card, design a web site, create a company logo,}* for Company and to be used by Client. The work to be performed by the Contractor is referred to as the “Services”. *{Next, describe any details you want to make sure get included in the design. For a website, it may be programmable links to other sites in certain locations on the main page of the website. For a business card, you may want to say that the card will be 3 ½ inches long and 2 inches wide and printed on high quality, heavyweight card stock with a mate finish, or you can say something like “will be of high quality and printed on quality paper stock suitable for Clients business use”. Use this section for the specifics so that there is no misunderstanding between you and the Contractor as to what you want them to create for your Client. Things to consider include how many they will deliver, what the size of it is, number of pages, the overall look, colors, incorporate a logo or other symbols, names, address, contact info, etc. List everything you know your Client wants and as many as the agreed upon specifics as you can to avoid arguments later. If you find that the amount of work is too long, you can also list the work on an attachment. In that case, just say “Contractor will perform the work listed on the attached Exhibit A which is hereby incorporated into this Agreement in full by this reference. All such work is hereinafter referred to as the “Services”. If you are providing digital services you may want to state the type of format the finale product will be delivered in. What is stated here does not have to be all inclusive. In other words, there can be other things in the final design. However, the final design has to include all of the things listed here as well as those other things.}*

Company may provide names, pictures, ideas, designs or other information, renderings or writings of any kind to be included in the final design (“Company Provided Material”). Company Provided Material for use under this Agreement includes, \_\_\_\_\_ *{Clients firm name and logo, etc. List the information or ideas that you will be providing he Contractor for inclusion in the final design.}*

1.2 All Services shall be performed in a professional manner, consistent with industry standards, and to Company’s satisfaction. Any Services not performed in accordance with the foregoing shall, at Company’s sole option be re-performed by Contractor.

1.3 Contractor agrees that it will not directly or indirectly, during the term of this Agreement and for a period of one year following the termination of this Agreement, solicit or perform services of any kind for Client or on Client’s behalf unless express written permission is given by Company.

1.4 *{For web design, include the following paragraph:} In order to perform the Services, Contractor requires access and write permission to Clients website located at {www.XXXXXX.com} (hereinafter referred to as the “Site”). Company has obtained the rights necessary from Client to grant such access to Contractor and hereby grants Contractor the right to access and write to Client’s Site directory and all other directories on the Site as necessary to perform the Services.*

**Article 2. PAYMENT**

Payment for Services: For the Services set forth in Article 1, Company shall pay to Contractor the total amount of $\_\_\_\_\_\_ . Such payment is due and payable within 14 days following Contractor’s completion of the Services to Company’ satisfaction.

*{OR}* Payment shall be made as follows:

Within 5 days following the Effective Date, Company shall pay to Contractor the amount of $\_\_\_\_\_ (50% of the total amount due).

Upon Company’s approval of the final product as delivered by Contractor, Company shall pay to Contractor $\_\_\_\_\_. Such fee is due and payable within 14 days following Contractor’s completion of the Services to Company’ satisfaction.

*{****OR*** *- If you use one of the payment options below, you may need to modify Section 1.1 that refers to the initial drafts of the design being due within 14 days of receipt of the deposit-}*

Payment for Services: For the Services set forth in Article 1, Company shall pay to Contractor the total amount of $ \_\_\_\_\_\_\_\_\_\_ . Payments shall be made upon completion of the milestones set forth below:

Milestone Payment Amount

{*Make sure each milestone is clearly set out so that there can be no dispute over whether or not that milestone was actually reached. Milestones can also be dates. In that case, just list the dates and the amount due on each date. In either case, the final date or milestone should be completion of the project. You should then have a line that says final payment will be made to Contractor upon delivery of the completed services.}*

*{****OR****}*

Payment for Services: For the Services set forth in Article 1, Company shall pay Contractor the hourly rate of $ \_\_\_\_ for all work performed. Contractor shall submit monthly invoices for all Services performed in the prior month. Payment from Contractor shall be due within fourteen (14) days of Contractor’s receipt of the invoice. However, in no event shall the total compensation paid to Contractor for the completed Services under this Agreement exceed $\_\_\_\_\_\_\_\_ .

**Article 3. LIMITATION OF LIABILITY**

COMPANY WILL NOT BE LIABLE to CONTRACTOR for any special, indirect, incidental or consequential damages whatsoever whether in contract, tort (including negligence) or strict liability including, but not limited to, loss of use of or under-utilization of labor or facilities, loss of revenue or anticipated profits, or claims from CLIENT OR customers, resulting from CONTRACTOR’s performance or nonperformance of its obligations under this Agreement, or in the event of suspension of the Services or termination of this Agreement. COMPANY’s AGGREGATE LIABILITY TO CONTRACTOR UNDER THIS AGREEMENT for any and all claims SHALL NOT EXCEED THE TOTAL AMOUNT OF THE FEES ACTUALLY DUE UNDER THIS AGREEMENT.

SOME STATES AND JURISDICITONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THIS LIMITATION AND EXCLUSION MAY NOT APPLY TO CONTRACTOR. THE FOREGOING PROVISION SHALL BE ENFORCEABLE TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW.

**Article 4. CONFIDENTIAL INFORMATION**

For purposes of this Agreement, the term "Confidential Information" shall mean all of the information, data, software and designs furnished by one party to the other, whether in oral, written, graphic or machine-readable form, which may include but not be limited to, code, software tool specifications, functions and features, financial statements, file layouts, marketing and business strategies, current business relationships or strategies and customer lists. "Confidential Information" shall not include information which: (a) is or becomes available to the general public through no fault of either party; (b) is independently developed by the non-disclosing party; (c) is rightfully received by the non-disclosing party from a third party without a duty of confidentiality; or (d) is required to be disclosed by court

order or operation of law. Before disclosing any Confidential Information under court order or operation of law, the non-disclosing party shall provide the disclosing party reasonable notice and the opportunity to object to or limit

such disclosure.

Each Party acknowledges that, as part of its performance under this Agreement, a Party may be exposed to or making use of or acquiring Confidential Information. Both parties agree that it shall not, except with the prior written consent of the other Party: (i) copy, modify, disclose, divulge, reveal, report, publish or transfer to any person or entity, for any purpose whatsoever, any Confidential Information or (ii) use Confidential Information for any purpose other than in connection with the performance of the Services and carrying out its obligations under this Agreement. Failure to mark any of the Confidential Information as confidential, protected or proprietary information shall not affect its status as part of Confidential Information under the terms of this Agreement.

Each Party covenants and agrees that all right, title and interest in any Confidential Information (or picture, drawing, data, information or writing of any kind (collectively, the “Data”)) shall be and shall remain the exclusive property of the disclosing party provided, however, that all right, title, ownership and interest in any Confidential Information or Data used by Contractor in the final design as a part of the deliverables hereunder shall pass to Company upon delivery. Company shall also have the full right to pass such title to Client. Contractor warrants and guarantees that it has all rights necessary to perform the foregoing and will hold harmless and indemnify Company and Client against any third party claim to such Confidential Information or Data.

**Article 5. COMPLETION DATE AND TERMINATION**

5.1 Contractor agrees to expeditiously work to complete the Services on or before *30 days following the Effective Date {Make sure this makes sense with the rest of the agreement including the payment section. In other words, don’t say 30 days here if all payments are due within 10 days of the Effective Date.}*

3.2 Company can terminate at any time. Upon such termination, Company shall pay to Contractor a proportionate amount (as determined by Company) for all Services performed up to and including the date of termination and Contractor shall deliver the portion of the services performed.

**Article 6. EMPLOYEES**

Contractor agrees that it will not directly or indirectly, during the term of this Agreement and for a period of one year following the termination of this Agreement, solicit or hire any employees or consultants of Company or Client without the express written permission of Company.

**Article 7. INDEPENDENT CONTRACTOR**

It is expressly agreed and understood that Contractor is performing the Services hereunder as an independent contractor and is neither the employee nor the agent of or on behalf of Company.

**Article 8. GENERAL**

8.1 Severability: If any section, provision or portion of this Agreement is held to be invalid, illegal or void by a court of proper jurisdiction, the remainder of this Agreement shall subsist and continue in full force and effect.

8.2 Assignment: Neither this Agreement nor any interest under it shall be assigned without the prior written consent of Company.

8.3 Governing Law and Jurisdiction: This Agreement shall be interpreted, governed and construed under the laws of the State of California, United States of America, as if executed and to be performed wholly within the State of California, United States of America. Any action brought by either party arising under or related to this Agreement shall be brought before a court of competent jurisdiction in the County of Los Angeles, State of California.

8.4 Waivers: Any waiver by either Party of any violation of, breach of or default under any provision of the Agreement by the other Party shall not be effective unless stated specifically in writing and shall not be construed as, or constitute, a continuing waiver of such provisions, or waiver of any other violation of, breach of or default under any other provision of the Agreement.

8.5 Section Headings: Section headings appearing in this Agreement are for convenience only and shall not be construed as interpretations of text.

8.6 Notices: Any legal notice pertaining to this Agreement shall be in writing and sent by email, personal delivery, facsimile, or registered or certified mail, postage prepaid, to Company or to Contractor, as appropriate, at their respective addresses appearing below:

**In the case of Company:**

**E-mail:**

**Attention:**

**Address:   
 Phone:**

**Fax:**

**In the case of Contractor:**

**E-mail:**

**Attention:   
 Address:   
 Phone:**

**Fax:**

Any notice delivered by mail shall be deemed given when received. The date of receipt of any notice by facsimile shall be the date upon which the transmitter of the facsimile receives confirmation of the facsimile transmission.

8.7 Third Parties: Nothing expressed or implied in this Agreement is intended, or shall be construed, to confer upon or give any person or entity any rights or remedies under, or by reason of, this Agreement, except as specifically provided for in this Agreement.

8.8 Entire Agreement: This Agreement contains the entire agreement and understanding between the parties and merges and supersedes all prior representations and discussions pertaining to this Agreement. Any changes, exceptions, or different terms and conditions proposed by either Party are hereby rejected unless expressly incorporated in this Agreement in writing and signed by both parties.

8.9 Survival: Notwithstanding completion or termination of the Services, the Agreement or any portion thereof, the Parties shall continue to be bound by those provisions of the Agreement which by their nature survive such completion or termination.

8.10 Disputes and Arbitration: Any unresolved disputes shall be referred to Company’s President, or a designee, and the owner or an officer of Contractor for resolution. Pending resolution, Contractor shall continue to perform the Services, and Company shall make payment for the undisputed items. If no resolution can be reached, the dispute shall be submitted, at Company’s sole discretion, to either 1) small claims court or 2) arbitration. Should Company choose to settle a dispute arising out of or in connection with this Agreement with arbitration, then the dispute shall be finally settled under the Rules of Arbitration of the American Arbitration Association by one or more arbitrators appointed in accordance with said Rules. The arbitration authority shall be in the County of Los Angeles, State of California in the United States of America as chosen by Company. *{The county and state should be convenient to you}* The arbitration award shall be final and binding on both Parties. *{This section is only necessary if you want arbitration. If you want to include this section, delete the last sentence of Section 7.3}*

8.11 Language: The language of this Agreement is in English as in common use in the United States of America (US English) and any disputes with translations of this agreement or its counterparts in other languages shall be settled finally in US English. *{Only necessary if you are dealing with someone outside of the U.S.}*

8.12 Time and Dates: All references to dates and other calendar events shall be in the Gregorian calendar such as in common use in North America. All references to dates and/or times shall further be relative to the principle place of business of the Company unless otherwise specified. *{Only necessary if you are dealing with someone outside of the U.S.}*

8.13 Counterparts: This Agreement may be signed in one or more counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

8.14 Successors: This Agreement is binding on all successors, permitted assigns, heirs, executors and administrators of the Parties hereto.

**IN WITNESS WHEREOF,** and acknowledging acceptance and agreement of the foregoing, Company and Contractor affix their signatures hereto:

**COMPANY**

Company Signatory

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

**CONTRACTOR**

Contractor Signatory

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