

SERVICE AGREEMENT

This Services Agreement (“Agreement”) is entered into as of _____ (the “Effective Date”) between Principal K.K., a company organized and existing under the laws of Japan with its principal place of business at _____ (“Principal”) and Subcontractor Inc. a company organized and existing under the laws of _____ with its principal place of business at _____ (“Subcontractor”).

WHEREAS, Principal desires to retain Subcontractor to perform certain services; and

WHEREAS, Subcontractor desires to perform certain services for Principal as an independent contractor to Principal.

NOW, THEREFORE, in consideration of the mutual covenants and promises set forth below, the parties agree as follows:

1. DEFINITIONS.

“Deliverables” means, with respect to each Work Order, the items specified in such Work Order as deliverables of the Subcontractor to be delivered to Principal.

“Services” means the services under a Work Order which Subcontractor shall provide to Principal as subcontractor to Principal and which are described in any Work Order issued pursuant to this Agreement.

“Work Order” means each document agreed upon by Principal and Subcontractor that further specifies Services to be performed and the Deliverables to be provided to Principal. Each Work Order shall be issued substantially in the form described in Exhibit A, shall be executed by both parties, and shall be deemed incorporated herein in its entirety by reference.

2. TERM.

This Agreement will commence on the Effective Date and will continue in effect for a period of five (5) years or for the period of any incomplete Work Order in existence on the expiration date.

3. DUTIES OF SUBCONTRACTOR.

Subcontractor shall provide the Services and deliver the Deliverables to Principal in accordance with the terms and conditions of this Agreement and any Work Order. Subcontractor shall: (i) keep Principal advised of the progress of the delivery of the Services and the Deliverables; (ii) perform the Services in a timely manner and provide the Deliverables in accordance with each Work Order; and (iii) abide by all applicable laws and regulations. Subcontractor shall not further subcontract any duties and responsibilities under this Agreement to any other person or entity, in whole or in part, without prior written notice to and approval by Principal.

4. CHANGES TO A WORK ORDER.

Principal may at any time by written notice make changes the scope of any Work Order. Subcontractor shall cooperate with Principal to change Work Order.

5. ACCEPTANCE AND PAYMENT.

Upon acceptance of the Services and the Deliverables, Principal shall pay the service fee defined in accordance with the Work Order for the Services and the Deliverables. Such payments shall be Subcontractor's sole compensation, including all expenses subject that acceptance of the Services and the Deliverables described in each Work Order have met the completion criteria specified in the Work Order.

6. CONFIDENTIALITY.

Subcontractor shall keep confidential all information related to this Agreement. The obligations of confidentiality shall not apply to information which (a) is the public domain except as the result of Subcontractor's breach; (b) was already rightfully in Subcontractor's possession; or (c) obtained by Subcontractor on a non-confidential basis from a third party who has the right to disclose such information.

7. SUBCONTRACTOR'S REPRESENTATIONS AND WARRANTIES.

Subcontractor represents and warrants: (i) it shall maintain all licenses and approvals required by any government for performance of the work required by this Agreement or Work Order; (ii) it shall comply with all applicable laws and regulations, (iii) it shall use qualified individuals with suitable experience, skill and licenses to perform its obligations under this Agreement

and Work Order; (iv) Services and the Deliverables meet the applicable specifications and requirements specified in each Work Order and this Agreement and are free from all defects in design, materials, workmanship, and title; and (v) it shall not infringe the intellectual property rights of the third parties.

8. OWNERSHIP AND LICENSE.

8.1 Subcontractor acknowledges and agrees that Subcontractor hereby assigns to Principal all intellectual property rights in and to the Services and the Deliverables as part of this Agreement and any Work Orders issued hereunder.

8.2 Subcontractor hereby waives any and all moral rights in the Services and the Deliverables that is or becomes the property of Principal under this Section.

9. INDEMNIFICATION; LIMITATION OF LIABILITY.

9.1 Subcontractor will indemnify, defend and hold Principal harmless, at Subcontractor's expense, against any third party claim, suit or proceeding resulting from or arising out of a claim that the use of the Deliverables hereunder constitutes an infringement of any patent, copyright, trademark or other intellectual property rights of any third party. Subcontractor's obligation to indemnify Principal shall include an obligation to pay any costs, including attorney's fees.

9.2 Should any Deliverables become the subject of any infringement claim, Principal may select by making a written notice to Subcontractor either: (i) procure for Principal the right to continue using the Deliverables; or (ii) replace or modify the relevant Deliverables so that it becomes non-infringing while providing substantially equivalent functional performance.

9.3 This Article 9 states Subcontractor's entire liability, and Principal's sole and exclusive remedy for intellectual property rights claims relating to or arising out of the Deliverables.

9.4 EXCEPT FOR SUBCONTRACTOR'S INDEMNIFICATION OBLIGATIONS SET FORTH IN SECTION 9, IN NO EVENT WILL EITHER PARTY BE LIABLE FOR ANY LOSS OF PROFITS, BUSINESS INTERRUPTION, LOSS OF DATA, COST OF COVER OR INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY KIND IN CONNECTION WITH OR ARISING OUT OF THIS AGREEMENT.

10. TERMINATION.

10.1 Either Party to this Agreement may terminate this Agreement or any individual Work

Order at any time, with or without cause, by giving thirty (30) days written notice to the other party. Subcontractor shall be obligated to deliver, and Principal will be obligated to pay Subcontractor for Services and the Deliverables actually performed or prepared by Subcontractor prior to the date of termination, and delivered to and accepted by Principal within a reasonable time after the effective date of termination.

10.2 Notwithstanding the foregoing, this Agreement and/or any Work Order hereunder may be terminated immediately by Principal in the event of (i) bankruptcy or (ii) a sale of all or substantially all of Subcontractor's assets, or transfer of a controlling interest in Subcontractor to an unaffiliated third party.

10.3 Sections 1, 7, 8, 9, 10, and 11 shall survive termination or expiration of this Agreement.

11. GENERAL.

11.1 Notices. All notices permitted or required under this Agreement shall be in writing and shall be delivered by express courier or by certified or registered express mail, and shall be deemed given to a party upon delivery or, in the case of mail, five (5) days after mailing to the party at the address set forth above.

11.2 Assignment. Neither this Agreement nor any rights under this Agreement (nor any Work Order hereunder), other than monies due or to become due, shall be assigned or otherwise transferred by Subcontractor (by operation of law or otherwise) without the prior written consent of Principal.

11.3 Independent Contractor. Principal and Subcontractor are independent contractors and have no power or authority to bind the other or to create any obligation on behalf of the other.

11.4 No Waiver. No waiver of rights under this Agreement or any Work Order hereunder by either party shall constitute a subsequent waiver of this or any other right under this Agreement or any Work Order.

11.5 Severability. In the event that any of the terms of this Agreement or any Work Order hereunder or the performance of any obligation by either party thereunder becomes or is declared to be illegal by any court of competent jurisdiction or other governmental body, such term(s) shall be null and void and shall be deemed deleted from this Agreement or the Work Order. All remaining terms of this Agreement or the Work Order shall remain in full force and effect.

11.6 Force Majeure. Neither party shall be liable for any delay or failure in performance due to acts of God, earthquake, flood, riots, fire, epidemics, war or terrorism. Each party shall

immediately notify the other party of the occurrence of such an event affecting such party and shall use all reasonable efforts to recommence performance as soon as possible.

11.7 Entire Agreement. This Agreement, and all Work Orders expressly incorporated herein, are the complete agreement between the parties hereto concerning the subject matter of this Agreement and replace any prior oral or written communications (including invoices) between the parties.

11.8 Venue and Governing Law. The parties hereby consent to the exclusive jurisdiction of Tokyo District Court for resolution of any disputes arising out of this Agreement. This Agreement will be governed by the laws of Japan, without regard to conflict of law principles.

IN WITNESS WHEREOF, the duly authorized representatives of the parties hereto have caused this Agreement to be duly executed.

PRINCIPAL K.K.

By: _____

Name: _____

Title: _____

Date: _____

SUBCONTRACTOR Inc.

By: _____

Name: _____

Title: _____

Date: _____

Exhibit A

Work Order

This Work Order is made and entered into this ____ day of ____, 20__ (“Effective Date”), by and between Principal K.K. (“Principal”) and _____ (“Subcontractor”). This Work Order is governed by and made part of the terms of the Professional Services Subcontractor Agreement (“Agreement”) signed between Principal and Subcontractor dated as of _____.

1. Description of the Services:

[Details of the Services to be provided to Principal]

2. Deliverables.

The following items shall be delivered as the “Deliverables:

<u>Deliverable</u>	<u>Description of Deliverables</u>	<u>Due Date</u>
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3. LOCATION OF WORK.

Substantially all of the services shall be conducted by Subcontractor or such other location or locations as Principal shall reasonably request.

4. DURATION OF WORK/SCHEDULE.

Subcontractor Services under this Work Order shall commence on _____.

5. ACCEPTANCE AND TESTING PROCEDURES.

Subcontractor agrees that acceptance procedures and testing criteria shall be:

6. FEES AND PAYMENTS.

Fees under this Work Order shall be US \$_____. Payment shall be as follows: _____.

IN WITNESS WHEREOF, the duly authorized representatives of the parties hereto have caused this Work Order to be duly executed.

PRINCIPAL K.K.

By: _____

Name: _____

Title: _____

Date:_____

SUBCONTRACTOR Inc.

By: _____

Name: _____

Title:_____

Date:_____