

# INDEPENDENT CONTRACTOR AGREEMENT

This independent contractor agreement for executive director services ("Agreement") is entered into and effective as of September 1, 2022, by and between the Association of Corporate Counsel America - Tennessee Chapter ("ACC-TN"), a nonprofit organization incorporated under the laws of the State of Tennessee, and [REDACTED] an individual ("Contractor").

## Background

ACC-TN is a regional chapter of the Association of Corporate Counsel's global organization, and serves the professional and business interests of attorneys who practice law in the legal departments of corporations, associations, and other private-sector organizations in Tennessee. ACC-TN serves its members through the sharing of information, education, networking opportunities, and community service and advocacy initiatives. ACC-TN wishes to engage an independent contractor to serve as, and perform the services of, an Executive Director. Contractor wishes to be engaged by ACC-TN to serve as, and perform the services of, ACC-TN's Executive Director.

## Agreement

In consideration of the above and the mutual covenants set forth below, the parties agree as follows:

### INDEPENDENT CONTRACTOR

1. ACC-TN hereby retains Contractor to provide, and Contractor hereby agrees to provide, Executive Director services as generally defined in the *Executive Director (part-time) Job Description*, attached hereto as Exhibit A, ("Services") for ACC-TN during the term of this Agreement.
2. Contractor acknowledges and agrees that this Agreement does not constitute a contract for employment. ACC-TN and Contractor agree and stipulate that Contractor is and will remain an independent contractor under this Agreement and not an employee of ACC-TN. Contractor will determine the necessary hours and methods of providing the Services. Nothing in this Agreement prevents the Contractor from entering into agreements with other parties for the provision of other service so long as neither the other parties nor other services conflict with the Services Contractor shall provide to ACC-TN under this Agreement.
3. Contractor shall be directly responsible for all costs of self-employment for the Contractor and any of Contractor's employees. Contractor shall be directly responsible for the payment of all federal, state, local, or foreign taxes, fees, penalties, or interest (including without limitation FICA, workers compensation insurance, and unemployment insurance) and for completing and submitting all tax returns and reports required by any governmental agency. Upon request, Contractor shall provide ACC-TN with proof of filing and payment of such taxes, fees, penalties, or interest. Contractor shall apply for and obtain all federal, state, or local tax identification numbers, licenses, certificates, or approvals as required for Contractor to provide the Services and to collect and remit taxes as required.

SERVICES. Contractor shall perform the Services, including any and all other duties or services reasonably requested by the ACC-TN Board of Directors which are consistent with the nature and scope of the duties and services described in the *Executive Director (part-time) Job Description*, attached as Exhibit A, in a timely, professional, proficient, and ethical manner.

WARRANTIES. Contractor warrants that: (i) all Services will be performed in a timely, professional, and proficient manner, and will conduct business in a professional and ethical manner that protects and advances ACC-TN's goodwill with the its members, sponsors, the public, and all others; (ii) all Services will be provided with the highest degree of care and skill; (iii) entering into this Agreement does not create a conflict of interest or otherwise violate any other contract with or obligation to any other party; and (iv) the Services performed by Contractor shall not

infringe upon any copyright, patent, trade secret, or other proprietary right of any third-party. In the event Contractor breaches any of the foregoing warranties, Contractor shall, in addition to any other remedies available to ACC-TN in law or equity, supply Services to correct such breaches at no cost to ACC-TN.

TERM. The initial term of this Agreement begins September 1, 2022 and ends on September 30, 2024, unless terminated earlier as set forth in the below Sections titled "Termination" or "Default." Thereafter, the term of this Agreement will automatically renew annually on October 1, unless either party provides written notice of termination at least 60 days prior to the end of the current term.

#### TERMINATION.

1. This Agreement may be terminated by either party at any time for any reason, or no reason, upon 90 days prior written notice to the other party.
2. Upon expiration or any termination of this Agreement, Contractor and ACC-TN will fully cooperate in good faith in the prompt and orderly return and transfer of all of ACC-TN's property to ACC-TN, including all information, data, documents, books, records, software, reports, spreadsheets, presentations, materials, and supplies in Contractor's possession which were provided or paid for by ACC-TN.

#### PAYMENT FOR CONTRACTOR'S SERVICES.

1. Base Fee: Commencing on the effective date of this Agreement, ACC-TN will pay Contractor a base fee of \$2,833.33 per month for providing the Services. ACC-TN shall pay the base fee to Contractor within 15 calendar days following the end of the calendar month in which the Services were rendered.
2. Base Fee Escalator: Beginning October 1, 2023, on the anniversary of each fiscal year, the base fee will increase by 3% annually if the annual gross sponsorship revenue received by ACC-TN in the immediately preceding fiscal year exceeded the annual gross sponsorship revenue received in the prior fiscal year by at least 24%.
3. Commission: In addition to the base fee, and in accordance with the conditions and limitations set forth below, ACC-TN will pay Contractor a commission on annual gross sponsorship revenue received by ACC-TN during each fiscal year.
  - a. Contractor shall earn a 25% commission ("Retention Commission") on annual gross sponsorship revenue in excess of the first \$86,500.00 received by ACC-TN during the fiscal year.
  - b. If annual gross sponsorship revenue received by ACC-TN in a fiscal year exceeds the total gross sponsorship revenue received by ACC-TN in the immediately preceding fiscal year, Contractor shall earn an additional 10% commission ("Growth Commission") on the exceeding amount.
  - c. Notwithstanding anything to the contrary contained in this Agreement, no commission shall be earned, become due, or be paid to Contractor on the first \$86,500.00 of gross sponsorship revenue received by ACC-TN in any fiscal year.
  - d. ACC-TN shall pay commissions to Contractor within 15 calendar days following the end of the calendar month in which the commission is earned. The commission is considered earned in the month that ACC-TN receives the payment from the sponsor. In the event of overpayment, ACC-TN may deduct any overpayment amount from any future commission payments that become due.

## EXPENSES.

1. Contractor shall provide all office equipment, materials, services, and supplies necessary to provide the Services, including an office space, computer, standard office software (for word processing, spreadsheets, etc.), internet service, telephone, and telephone service.
2. ACC-TN will reimburse Contractor's reasonable out-of-pocket expenses incurred in the Contract's provision of Services, including:
  - a. Travel (such as airfare, auto rental, taxi/rideshare, parking, and mileage at the then-current IRS standard mileage rate)
  - b. Lodging
  - c. Meals, entertainment, and gratuities
  - d. Postage and shipping
3. Prior to incurring any expense in excess of \$500.00, Contractor shall obtain prior written approval from ACC-TN's President (or in her/his absence, ACC-TN's President-elect). Moreover, Contractor shall not bind ACC-TN to any contractual liability or monetary obligation, including but not limited to the booking of event spaces, catering, group travel or lodging, or other obligations, in excess of \$500.00 without the prior written approval of ACC-TN's President (or in her/his absence, ACC-TN's President-elect).
4. Contractor shall maintain documentation of all expenses, including copies of all receipts, purchase orders, and written approvals, and submit the documentation with any request for reimbursement.
5. Within 30 days after receiving a completed expense report, all associated receipts, and other requested documentation, ACC-TN will reimburse Contractor for any expenses incurred in accordance with the provisions of this Agreement.

## INFORMATION & CONFIDENTIALITY

1. All information, data, documents, books, records, software, reports, spreadsheets, presentations, and materials provided by ACC-TN to Contractor, whether electronically or via hardcopy, will remain the property of ACC-TN and shall be used by Contractor solely for providing the Services for the benefit of ACC-TN. All information, data, documents, books, records, reports, spreadsheets, presentations, and materials created, compiled, or generated by Contractor in the provision of Services will be the property of ACC-TN and may be used by Contractor only for the benefit of ACC-TN.
2. Contractor acknowledges and agrees that, in order to perform the Services, ACC-TN will provide Contractor with access to confidential and proprietary information of ACC-TN, including member and sponsor lists, (collectively, the "Confidential Information") and that such information is the property of ACC-TN. Contractor further acknowledges and agrees that any Confidential Information received, whether before or after execution of this Agreement, is proprietary and confidential and that the unrestricted disclosure of any Confidential Information would result in substantial damage to ACC-TN or others, which damage would be irreparable and difficult to quantify.
3. Contractor agrees to not use or disclose to anyone outside of ACC-TN, during the term of this Agreement or anytime thereafter, any Confidential Information for Contractor's personal benefit, competitive purpose, or any purpose other than for the benefit of ACC-TN. Notwithstanding the preceding, Contractor has no obligation to maintain as confidential any information that she can establish was in the public domain prior to Contractor's disclosure, was known to Contractor prior to her engagement with ACC-TN, or was received by Contractor independently of her engagement with ACC-TN.

4. Contractor agrees and acknowledges that the violation of these confidentiality provisions would cause irreparable injury to ACC-TN, that the remedy at law for any violation or threatened violation thereof would be inadequate, and therefore, ACC-TN shall be entitled to temporary and permanent injunctive or other equitable relief without the necessity of proving actual damages.
5. The preceding confidentiality provisions shall survive the expiration or termination of this Agreement.

NON-SOLICITATION OF MEMBERS. Contractor acknowledges that ACC-TN members constitute an important and vital aspect of ACC-TN. During the term of this Agreement, and for 12 months following the expiration or termination of this Agreement, Contractor will not directly or indirectly, for the benefit of the Contractor or a third-party, solicit any of ACC-TN's members or potential members for a competing association, organization, or business, or otherwise induce or attempt to induce any members to terminate their membership with ACC-TN or to otherwise disrupt or interfere with, or attempt to disrupt or interfere with, ACC-TN's operations or relationships with its members or potential members.

INTELLECTUAL PROPERTY. Contractor agrees that any and all intellectual property created by the Contractor in performance of the Services will be a work made for hire and by operation of law will be owned by ACC-TN. Contractor hereby assigns and agrees to assign to ACC-TN all future rights, title, and interest Contractor may have to any and all intellectual property which Contractor creates in performance of the Services, whether created individually or jointly with others, and Contractor agrees to execute and deliver such further documents and instruments as may be necessary to effect such assignment.

#### DEFAULT

1. Either party will be in default of this Agreement if it fails to materially perform any of its obligations under this Agreement and does not correct such failure within 30 days after receiving written notice of the failure from the other party.
2. Contractor will be in default under this Agreement, without opportunity to cure, if Contractor acts in willful contravention of the law or is charged with a felony or commits a crime of moral turpitude, including fraud or other crime involving dishonesty.
3. Notwithstanding any other provision of this Agreement, in the event of default, the non-defaulting party may terminate this Agreement immediately. Termination of this Agreement by reason of a default will not exhaust any other rights or remedies the aggrieved party may have at law or in equity.

INDEMNIFICATION. To the extent permitted by law, each party ("Indemnifying Party") will defend, indemnify, and hold the other party ("Indemnified Party") and its parent, subsidiaries, directors, officers, agents, representatives, subcontractors, and employees harmless from all claims, losses, and liabilities (including reasonable attorneys' fees) caused by Indemnifying Party's breach of this Agreement or the negligence, gross negligence, or willful misconduct of Indemnifying Party or Indemnifying Party's officers, employees, or authorized agents in the discharge of those duties and responsibilities, except to the extent that such liability is due to the negligence or willful misconduct of Indemnified Party or its officers, directors, agents or employees. NOTWITHSTANDING THE FOREGOING, IN NO EVENT SHALL ACC-TN OR CONTRACTOR BE LIABLE FOR INDIRECT, SPECIAL, OR CONSEQUENTIAL DAMAGES ARISING OUT OF THIS AGREEMENT. ANY DAMAGES PAYABLE BY ACC-TN SHALL NOT EXCEED THE COMPENSATION PAYABLE BY ACC-TN UNDER THIS AGREEMENT.

ENTIRE AGREEMENT. This Agreement, including Exhibit A, constitutes the entire agreement between ACC-TN and Contractor in connection with the provision of Services and supersedes all prior and contemporaneous agreements, understandings, negotiations, discussions, warranties, or representations, whether oral or written, between ACC-TN and Contractor. This Agreement may not be altered or amended except in a writing executed by both parties. If

any provision of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, the remaining provisions of this Agreement will remain in full force and effect.

CHOICE OF LAW. This Agreement is to be governed, construed, interpreted, and enforced in accordance with the law of Tennessee without regard to any conflict of law provisions or principles to the contrary. The parties irrevocably consents to the exclusive jurisdiction of the courts of Tennessee in connection with any action arising out of or under this Agreement.

MISCELLANEOUS. This Agreement is binding upon and inures to the benefit of ACC-TN and any parent, subsidiaries, and affiliates, along with their respective successors and assigns. This Agreement is not assignable by the Contractor, in whole or in part, without the prior written consent of ACC-TN.

To evidence the parties' agreement to this Agreement, they have signed and executed this Agreement on the date(s) below.



# EXHIBIT A



## **Executive Director (part-time) Job description**

The Association of Corporate Counsel - Tennessee Chapter (ACC-TN or Chapter) is the leading source for continuing legal education (CLE), professional networking, and community service opportunities for in-house attorneys in Tennessee. ACC-TN is led by a Board of Directors (Board) consisting of in-house attorneys across Tennessee who give their time on a voluntary basis. ACC-TN is searching for an independent contractor (individual) to serve as our Executive Director.

The Executive Director is integral to the success of ACC-TN as she/he oversees, provides, and coordinates the management and administrative services necessary to maintain the Chapter's daily operations, activities, and initiatives in alignment with the strategic direction and oversight provided by the Chapter President and the Board. These management and administrative services include the essential functions and responsibilities noted below, as well as other services supporting the Chapter's mission as directed by the Chapter President.

### Essential Functions and Responsibilities:

- Confidently and professionally engage with attorneys and other legal professionals through in-person, virtual, and written communications
- Provide strategic guidance and leadership to the Board and its committees in identifying, developing, implementing, and accomplishing strategic and operational initiatives
- Build business/project plans for achieving goals and objectives
- Assist with the onboarding and development of Board members
- Lead and coordinate sponsor outreach and engagement on behalf of the Chapter
- Lead and coordinate corporate member outreach and engagement on behalf of the Chapter
- Lead or participate-in Chapter Board meetings, other Board events, member CLE programs, and member social events
- Lead and support special projects as requested by the Chapter President or the Board
- Develop and communicate reports and surveys (e.g., membership, sponsorship, member demographics, Board engagement, etc.) for planning and strategic development
- Coordinate the development, scheduling, communication, and other activities associated with the Chapter's annual sponsorship prospectus in conjunction with the Sponsorship Committee
- Provide or oversee day-to-day bookkeeping and financial management of the Chapter's accounts, revenue collection, and payment of expenses
- Serve as the primary point-of-contact for the Chapter in relation to Board and committee communications, assistance, support, and coordination and sponsor and corporate member communications, support, and development

It is anticipated that these services can be performed on a part-time basis (averaging 20 hours per week). Although no minimum number of weekly hours are required, all services must be performed in a timely, professional, consistent, and quality manner, and the Executive Director must be reasonably available for Chapter and Board events, meetings, phone calls, and emails. Candidates must reside in Tennessee, preferably in the greater Nashville area, and must be comfortable working remotely (this is primarily a work-from-home position although some in-person attendance at programs, meetings, and other events is required). Candidates must be confident, professional, and comfortable speaking in public and engaging effectively with attorneys and other legal professionals. As the handling of funds and some state-wide travel is required, the successful candidate must possess a valid driver's license and pass an employment background, credit, and criminal history screening.

Applicants selected for further consideration will be contacted by an ACC-TN representative.