

Date:

Re: Independent Contractor Agreement – Artist

Dear _____:

This letter, when fully-executed, sets forth the agreement ("Agreement") between **BAD BOY DEVELOPMENT, INC.** (hereinafter referred to as "Company") and [COMPANY (if applicable) for the services of you, an] or [NAME] ("You" or "Artist") with respect to the development, design, creation and delivery to Company of an artistic creation (the "Work") suitable for use and incorporation into a software application that will be marketed to juveniles, such application presently identified as, "_____", (the "Project"). Company and Artist are collectively referred to herein as the "Parties."

1. The Work. Artist shall develop, design, create, prepare, revise and deliver the Work as described below, in accordance with the specifications and on or before the final "delivery date" of _____. Artist's services shall be rendered in a diligent, conscientious, artistic and efficient manner under the direction of Company. Artist acknowledges that the services rendered hereunder in connection with the Work involve matters of artistic tastes and judgment and, in the event of any disagreement between the Parties with respect thereto, the final decision of Company shall control.

2. FEES; ROYALTIES.

A. Fixed Fee. In consideration of Artist's services, the delivery of the Work all elements thereof and all rights granted therein to Company, Company shall pay Artist the sum of ONE HUNDRED DOLLARS (\$100.00) ("Fixed Fee") upon Delivery of the Work.

B. If Company utilizes the Work in the Project, Company shall pay to Artist:

i. Priority Fee. The sum of _____ (\$ _____) ("Priority Fee"), from the first "Net Receipts" received by Company from the distribution of the Project, such Priority Fee to be payable within 30 days after receipt by Company of Net Receipts; and

ii. Royalty: _____ (___%) of Company's "Net Receipts" derived from the distribution of the Project.

C. Definitions. "Gross Receipts" means all monies actually received by Company (and not subject to currency restrictions until available to Company) derived from the sales of the Project to end-users by Company or third party resellers, agents or distributors. "Net Receipts" means Gross Receipts less the following: (i) any and all refunds, returns, credits, discounts, allowances, adjustments; (ii) credit card transaction, bank charges, and/or processing and transaction fees; (iii) taxes and/or shipping and/or

handling charges; (iv) sums paid to Artist with respect to the Work (i.e., the Fixed Fee and Priority Fee); (v) any monies retained by or paid to unrelated, third party agents or distributors (i.e., iTunes) for services rendered in connection with the distribution of the Project.

D. Payments. All payments to Artist shall be sent to Artist to the address indicated in Section 6 or as otherwise arranged by the Parties (i.e., direct wire transfer).

E. Accounting and Payments. Company shall render periodic, reasonably detailed statements prepared by Company or its authorized agent or distributor showing the calculation of Artist's share of Net Receipts accompanied by the payment due, if any. The initial statement shall be rendered within thirty days (30) after the close of the first semi-annual period in which Gross Receipts are received by Company with respect to the Project and shall continue on a semi-annual basis for three (3) years; thereafter accounting statements and payments may be rendered on an annual basis for any periods in which Gross Receipts are received by Company. If Company makes any overpayment to Artist hereunder for any reason, Company may deduct the amount of such overpayment from any further monies owing to Artist hereunder.

F. Audit Rights. Artist may, at his own expense, audit Company's books and records relating to the Project to verify statements rendered hereunder. Any such audit shall only be conducted by a reputable firm of certified public accountants (reasonably approved by Company) during reasonable business hours and Company's primary offices as not to unreasonably interfere with Company's normal business activities. A true copy of any report(s) furnished to Artist shall concurrently be furnished to Company. Artist shall not have the right to examine records relating to Company's business generally or with respect to any other products or services for purposes of comparison or otherwise. In no event shall an audit occur more than once per calendar year or continue longer than ten (10) business days. Each statement hereunder shall be deemed conclusive and binding unless Artist shall object thereto to Company in writing (providing details) within twelve (12) months after the statement is issued. No fiduciary relationship exists between Company and Artist; Gross Receipts are not held in trust by Company for Artist's benefit. Nothing shall be deemed to obligate Company to utilize the Work and/or distribute the Project; Company makes no representation or warranty as to the amount, if any, of Net Receipts that will be realized.

3. RIGHTS: The Project and Work, including without limitation any and all material of whatever kind or nature invented, conceived, written, produced, portrayed, developed, created or suggested by Artist and all of the results and proceeds of Artist's services hereunder, is and shall be deemed "work made-for-hire" within the meaning of Title 17 of the United States Code prepared within the scope of Artist's employment for Company specially ordered and/or commissioned by Company for use in an audio-visual work. Company is and shall be deemed the author and/or exclusive owner throughout the universe of all rights in and to the Work (including but not limited to all worldwide copyrights and any extensions and renewals thereof) and any and all character, sequel, remake, publishing, merchandising and any allied, ancillary, incidental and/or subsidiary rights therein and thereto. Artist represents, warrants, and agrees that any efforts commenced prior to the full execution of this Agreement that pertain to the services or the Work were done with the explicit understanding that the Work and other results of such efforts are "works-made-for-hire" for Company and that this Agreement constitutes the writing required under the U.S. Copyright Act to ensure that Company is the author and owner thereof.

Company shall have the sole and exclusive right, but not the obligation, to exploit any or all of the Work and the Project, in any and all media and in any manner and by any means, now known or hereafter devised including without limitation digital communication over the Internet, digital reproduction, digital distribution, digital downloading and use in all computer-assisted media.

Company may secure all copyright, patent, and trademark/service mark registrations, renewals, and extensions thereof, and all other filings and registrations, involving the Work or any portion thereof, throughout the world. Artist agrees to assist Company and to execute any documents and do any other acts as may be legally required or requested by Company (at Company's expense) to further evidence, effectuate, or protect Company's rights in the Work. Upon any failure by Artist to do so within ten (10) business days after notice to Artist requesting such action, Artist hereby appoints Company as Artist's attorney-in-fact for such purposes (it being fully acknowledged that such appointment is irrevocable and coupled with an interest, with full power of substitution and delegation).

Artist specifically waives any and all "artist's rights," "moral rights," rights of "Droit Moral," rights of attribution, rights of integrity, resale royalty rights, and any similar rights that Artist may have under the Visual Artists Rights Act of 1990, under the Berne Convention or other international conventions, or otherwise, with respect to the Work.

Without limiting the generality of any of the foregoing, you and Company are aware and hereby acknowledge that new rights in and to the results and proceeds of Artist's services and new means for the exploitation thereof may come into being and/or be recognized in the future and Artist hereby assigns, grants and conveys to Company any and all such new rights therein to Company.

4. CONFIDENTIALITY. "Confidential Information" means all proprietary information, technical data, trade secrets, know-how and any idea in whatever form, tangible or intangible, including without limitation, research, product plans, customer lists, markets, developments, inventions, discoveries, processes, designs, drawings, marketing and other plans, business strategies and financial data and information whether or not marked as "Confidential" which a person in the exercise of reasonable good faith business judgment knows or should know is intended to be kept confidential. The Parties agree to hold all Confidential Information in strict confidence and trust for the sole benefit of Company and not to, directly or indirectly, disclose, use, copy, publish, summarize or remove any Confidential Information from Company's premises, except: (i) during the term of this Agreement Artist may use the Confidential Information to the extent necessary to carry out Artist's responsibilities under this Agreement; (ii) as specifically authorized in writing by Company; or (iii) as required by law or legal process after affording Company an opportunity to restrict such disclosure to the fullest extent possible. Any materials which are sent to Artist or created by it shall be used only for the purposes allowed hereunder.

5. REPRESENTATIONS AND WARRANTIES.

A. By Artist. Artist represents and warrants that: (a) it has the full right and power to enter into this Agreement and fully perform all obligations hereunder; (b) except for material provided to Artist by Company or material in the public domain, the Work is original to Artist and the use by Company hereunder of the Work does not and will not violate the rights of any third party including without limitation, any intellectual property rights; (c) there are no claims or litigation pending that adversely affects the Work; (d) the Work has not been previously exploited and no rights have been granted or licensed to any third party to do so; (e) Artist shall produce the Work hereunder in accordance with the requirements and guidelines of the local laws of its jurisdiction and shall be solely responsible for

payment of all withholding, statutory contributions, and other employment taxes associated with performance of the services. Artist hereby agrees to indemnify and hold harmless Company, its affiliates, officers, directors, employees, agents, successors, licensees and assigns, from and against any and all causes of action, claims, damages, obligations, losses, liabilities, costs or debt, and expenses (including but not limited to reasonable outside attorneys' fees) arising out of any breach by Artist of any of the obligations, agreements, representations and/or warranties made hereunder except for any such claim or liability which arises from a breach or alleged breach of Company's representations and warranties, negligence or willful misconduct.

B. By Company. Company represents and warrants that it has the full right, power and authority to enter into this Agreement and perform all terms and conditions in accordance herewith. Company hereby agrees to indemnify and hold harmless Artist, its affiliates, officers, directors, employees, agents, successors and assigns, from and against any and all causes of action, claims, damages, obligations, losses, liabilities, costs or debt, and expenses (including but not limited to reasonable outside attorneys' fees) arising from the exploitation of the Work and the Project, except with respect to any claim or liability which arises from a breach or alleged breach of Artist's representations and warranties, or gross negligence or willful misconduct.

6. NOTICES. All notices between the Parties hereunder shall be made in writing and given by courier service (Federal Express, UPS, DHL or other courier), e-mail or facsimile at the addresses indicated below and deemed given when received with confirmation of receipt (courier or facsimile) unless such day is a Saturday, Sunday or national holiday in the recipient's territory in which case a fax or e-mail shall be deemed received on the following business day. The addresses of the Parties are as indicated below or such other address as either party may designate by notice as herein specified.

TO CONTRACTOR:

TO COMPANY:

WITH COPIES TO: The Law Offices of Carol T. Contes
8581 Santa Monica Blvd., Suite 553
Los Angeles, CA 90069
Tel. +310 475 1212 Fax + 877 824 1556
Email: caroltcontes@gmail.com

7. GOVERNING LAW. The construction and interpretation of this Agreement shall at all time and in all respects be governed by and construed according to the laws of the United States and the State of Delaware (without regard to Delaware conflict of laws provisions).

8. MISCELLANEOUS.

- A.** All rights and remedies granted herein shall be cumulative, and may be exercised separately or in conjunction with any one or more of the others.
- B.** The rights herein granted to Company are irrevocable and without right of rescission or reversion by Artist under any circumstances whatsoever.

- C. A waiver by either party of any breach, term or condition of this Agreement shall not be deemed or construed to be a waiver of such breach, term or condition in the future.
- D. If any of the provisions of this Agreement shall be held by a court or other tribunal of competent jurisdiction to be unenforceable, the remainder of this Agreement shall remain in full force and effect.
- E. The headings and captions herein are for convenience only and shall not be deemed to limit or in any way affect the scope, meaning or intent of this Agreement or any portion hereof.
- F. This Agreement shall be construed and interpreted without prejudice to the drafting party.
- G. The parties each acknowledge that they have been given the opportunity to consult with counsel in connection with this Agreement and have either chosen not to do so or have so been advised.
- H. The representations, warranties and indemnities made hereunder by Licensor shall survive termination of this Agreement.
- I. The Parties hereto are and shall be deemed independent contractors to one another and nothing herein shall be deemed to create an agency, partnership, joint venture or employer-employee relationship between the Parties.
- J. This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof, supersedes any previous agreements between the parties and may be amended or modified only by a written document signed by both parties.
- K. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which taken together, shall constitute one agreement. A facsimile copy and signature shall be deemed and original for all purposes herein.

Your signature below will confirm this legally-binding Agreement between the Parties.

Sincerely,

Authorized Signatory for BAD BOYS DEVELOPMENT, INC.

ACCEPTED AND AGREED as of the date first written above:

ARTIST

Name (print)

If applicable:

COMPANY:

TITLE:

ACKNOWLEDGMENT

Reference is made to the foregoing *Independent Contractor Agreement – Artist* ("Agreement") dated concurrently herewith between BAD BOY DEVELOPMENT, INC. ("Company") and _____ (herein "Lender") for the rendition of services of _____ ("Artist"). The undersigned hereby warrants that: (i) there is a valid written agreement between the undersigned and Lender pursuant to which Artist is authorized to render services; (ii) Artist is familiar with all of the terms of the Agreement between Lender and Company for Artist's services; and Artist agrees to be bound by the Agreement as if he had executed it directly with Company. Notwithstanding the foregoing, the Artist agrees that: he will look solely to Lender for compensation for the services rendered and rights granted to Company pursuant to the Agreement; and (ii) agrees to indemnify and hold Company harmless from and against any and all liabilities, judgments, losses, claims, demands, and expenses imposed upon or suffered by Company or its directors, officers, employees, assigns or successors in interest by reason of Company's payment to Lender without deduction or withholding of any sums required by any governmental, administrative or other authority (including, without limitation, withholding taxes required by federal, state or local statutes). The undersigned agrees that Company shall not be required to exhaust any rights or remedies that Company may have against Lender before exercising its rights and remedies against the undersigned to secure performance of all terms and conditions of the Agreement.

"Artist"

NAME:

DATE: