

# FIDUCIARY DUTY INDEMNITY AGREEMENT

This Fiduciary Duty Indemnity Agreement (the "Agreement") is entered into as of this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between:

**Client:** \_\_\_\_\_, residing at/having its principal place of business at \_\_\_\_\_ (hereinafter referred to as the "Indemnitor"),

and

**Accountant:** \_\_\_\_\_, residing at/having its principal place of business at \_\_\_\_\_ (hereinafter referred to as the "Indemnitee").

## **RECITALS**

WHEREAS, the Indemnitor has engaged the Indemnitee to perform professional accounting, financial advisory, tax, or other related fiduciary services (the "Services"); and

WHEREAS, in the performance of these Services, the Indemnitee may be deemed to owe a fiduciary duty to the Indemnitor, its affiliates, shareholders, or third parties; and

WHEREAS, as a material inducement for the Indemnitee to accept such engagement and perform the Services, the Indemnitor has agreed to indemnify and hold harmless the Indemnitee under the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

## **1. INDEMNIFICATION**

The Indemnitor hereby agrees to defend, indemnify, and hold harmless the Indemnitee, its officers, directors, employees, agents, and successors from and against any and all claims, liabilities, losses, damages, demands, actions, causes of action, suits, proceedings, judgments, assessments, costs, and expenses (including, without limitation, reasonable attorneys' fees and legal disbursements) arising out of, resulting from, or in connection with the Indemnitee's performance of the Services, including any alleged breach of fiduciary duty.

## **2. EXCEPTIONS AND LIMITATIONS**

Notwithstanding the provisions of Section 1 above, the Indemnitee shall not be entitled to indemnification under this Agreement if a court of competent jurisdiction renders a final, non-appealable judgment determining that the claim, loss, liability, or expense resulted directly from the Indemnitee's:

- a. Gross negligence;
- b. Willful misconduct;
- c. Intentional fraud; or
- d. Material breach of the explicit terms of the engagement agreement between the parties.

## **3. NOTIFICATION AND DEFENSE OF CLAIMS**

The Indemnitee shall promptly notify the Indemnitor in writing of any claim or potential claim for which indemnification may be sought under this Agreement. The Indemnitor shall have the right, at its own expense, to assume the defense of any such claim with counsel reasonably acceptable to the Indemnitee. The Indemnitee shall cooperate fully with the Indemnitor in the defense of any such claim and shall have the right to participate in the defense at its own expense.

## **4. SETTLEMENT OF CLAIMS**

The Indemnitor shall not settle or compromise any claim without the prior written consent of the Indemnitee, which consent shall not

be unreasonably withheld, conditioned, or delayed, unless the settlement includes an unconditional release of the Indemnitee from all liability arising out of such claim and does not impose any admission of liability or financial obligation on the Indemnitee.

#### **5. TERM AND SURVIVAL**

This Agreement shall remain in full force and effect during the term of the Indemnitee's engagement and shall survive the termination, expiration, or completion of the Services indefinitely with respect to any acts or omissions occurring during the period of the engagement.

#### **6. GOVERNING LAW AND JURISDICTION**

This Agreement shall be governed by, and construed in accordance with, the laws of the State of \_\_\_\_\_, without regard to its conflict of law principles. Any legal action or proceeding arising under this Agreement shall be brought exclusively in the courts located in \_\_\_\_\_.

#### **7. ENTIRE AGREEMENT AND MODIFICATION**

This Agreement constitutes the entire understanding between the parties regarding the subject matter hereof and supersedes all prior agreements, representations, or understandings. No amendment, modification, or waiver of any provision of this Agreement shall be effective unless in writing and signed by both parties.

IN WITNESS WHEREOF, the parties hereto have executed this Fiduciary Duty Indemnity Agreement as of the date first written above.

#### **INDEMNITOR (Client)**

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

Name: \_\_\_\_\_

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

#### **INDEMNITEE (Accountant)**

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

Name: \_\_\_\_\_

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