

Independent Contractors Agreement

Parties

The Healthy Mummy Pty Ltd ABN 12 153 827 751 of PO Box 1279, Darlinghurst NSW 1300 (the "Principal");

AND

The Independent Contractor

Definitions and Interpretation

1.1. In this Agreement:

- (a) "**Business Day**" means any day when work is performed, including a public holiday in NSW, Australia;
- (b) "**Confidential Information**" includes all information, know-how and materials disclosed, provided or otherwise made accessible to, or developed by, the Contractor in the course of providing the contract services, including but not limited to any records, computer files, customer lists, product or service information (including prices and commissions), ideas, diagrams, financial, marketing and sales information, strategy and business plans but excludes information that is in the public domain;
- (c) "**Finish Date**" is as defined in clause 2.1;
- (d) "**Good cause**" is as defined in clause 9.3;
- (e) "**GST**" means the same as in the GST Law;
- (f) "**GST Law**" has the same meaning as "GST Law" in A New Tax System (Goods and Services Tax) Act 1999 (Cth) as amended from time to time;
- (g) "**The Principal**" means The Healthy Mummy Pty Ltd, its officers, employees and agents, and any entity that is connected with the Principal by a common interest in an economic enterprise, for example, a related body corporate (as defined in the Corporations Act 2001 (Cth)) or a joint venture partner, and each of their officers, employees and agents;
- (h) "**Intellectual Property Rights**" means all existing and future intellectual and industrial property rights throughout the world, including rights in relation to any copyright, trade marks (including service marks), inventions (including patents), designs, circuit layouts, trade secrets, domain names, confidential information and know how (whether registered or not and whether protected by statute and not);
- (i) "**Materials**" is as defined in clause 13.2

2. Duration of Agreement

2.1. This Agreement will commence on 1st September 2016, and will operate until the earlier of: 1st September 2017 (the "Finish Date"); or the date this Agreement is terminated, in accordance with clause 9 of this Agreement.

3. The Services

3.1. The Contractor agrees to provide the Services to the Principal, as required by the Principal in accordance with this Agreement. See Schedule A.

3.2. The Principal will provide an appropriate level of instruction regarding its requirements and guidelines to enable the Contractor to provide the Services and may direct the Contractor to make reasonable changes to the Contract Services, including, additions, omissions or reductions.

4. The Contractor Agrees

4.1. The Contractor agrees to:

- (a) carry out the Contract Services in accordance with the Principal's requirements and guidelines as determined by the Principal in its absolute discretion;
- (b) work the necessary hours to achieve the efficient and effective performance of the Services on any specific day;
- (c) comply with:
 - i) any protocols, codes of conduct or procedures specified by the Principal from time to time;
 - ii) all applicable obligations of the Contractor under this Agreement (including the Contractor's obligations in respect of the Confidential Information);
 - iii) all applicable laws, including those relating to industrial relations, anti-discrimination, taxation and workplace health and safety; and
 - iv) any relevant policies existing or introduced from time to time by the Principal, including policies regarding workplace health and safety requirements and privacy;
- (d) Act with reasonable care and skill in a diligent efficient and professional manner in providing the Contract Services;
- (e) Act in the best interests of the Principal; and act in accordance with the highest professional standards and maintains all necessary skills, qualifications and authorities to enable the Contractor to provide the contract services.
- (f) To notify the Principal where there may exist the need to extend or reduce the period where services are provided.
- (g) Provide forty-eight (48) hours notice if the provision of services cannot be provided as requested.

4.2. Whilst this Agreement is in operation:

- (a) The Contractor must ensure that the provision of services to or for any other person by the Contractor does not interfere with the provision of the Contract Services to the Principal, in the manner required by this Agreement; and
 - (b) The Contractor is free to accept and perform work on behalf of similar organisations, on the condition that the Contractor advises the Principal in writing and this is deemed free from conflicts of interest that could adversely influence the Contractor's judgment, objectivity or loyalty in conducting the Principal's activities and assignments.
 - (c) The Contractor is free to refuse any proposed work.
 - (d) The Contractor understands that work on behalf of the Principal is not of a systematic and regular basis and that there is no guaranteed future work.
 - (e) The Contractor has the right to delegate or subcontract some or all of their work to another party, as long as the Principal is made aware of this.
- 4.3. The Contractor warrants that the Contractor has the necessary experience, skills and qualifications to provide the Contract Services.
- 4.4. The Contractor agrees to provide to the Principal written evidence of registration and its Australian Business Number ("ABN").

5. Contract Fees

- 5.1. In consideration of the Contractor providing the Contract Services, the Principal will pay the Contractor the Fee to be agreed by the parties. The total Fees are exclusive of GST. See Schedule A.
- 5.2. The Contractor acknowledges and agrees that should they decide not to continue providing the services, or finish with these services earlier than expected, they will receive payment for the services provided.
- 5.3. The Contractor acknowledges and agrees that if this entire Agreement is terminated by the Principal under clause 9.2 of this Agreement, the Contractor is only entitled to payment for the services provided at or before the date the termination takes effect.
- 5.4. Before receiving a payment under clause 5.1 of this Agreement, the Contractor must provide the Principal with a valid GST tax invoice confirming that the Contractor has provided the Contract Services as required by this Agreement, throughout the period to which the invoice relates. The invoice must be accompanied by such records as may be required by the Principal to support the invoice. The Principal has a practice of endeavouring to pay invoices in ten (10) working days of receiving these, provided that the invoices are correctly completed and acceptable to the Principal. Where invoices have to be amended and resubmitted, it is likely take a further ten (10) working days to process the payment.
- 5.5. If any amount claimed is disputed, the Principal must pay any amount not in dispute and will notify the Contractor, in writing, of the reasons for disputing any part of the invoice in question.
- 5.6. The Contractor agrees that payment of the Fees constitutes full payment for the provision of the Contract Services.

6. Expenses

6.1. The Contractor will be responsible for their own expenses incurred in the provision of the Contract Services.

7. Nature of Relationship

7.1. The Contractor is engaged by the Principal as an independent contractor and nothing in this Agreement constitutes the Contractor an agent, employee or partner of the Principal.

7.2. The Contractor has no authority to incur, and must not incur, any obligations or liabilities on behalf of the Principal except with the prior approval of the Principal.

7.3. Subject to this Agreement, the parties acknowledge that the Contractor is solely responsible for controlling the manner in which the Contractor Services are undertaken.

7.4. The Contractor will at all times, and at the Contractor's own expense, comply with the provisions of any relevant legislation and make all payments and contributions in respect of statutory obligations including but not limited to income tax, workers' compensation, and superannuation.

7.5. The Contractor may disclose to third parties that it is a contractor of the Principal.

8. Work Health & Safety

8.1. The Contractor will at all times comply with all workplace policies and procedures of the Company for the safe operation of the Company business, and the health, safety and welfare of its employees and contractors.

9. Expiry and Termination

9.1. If not terminated earlier, this Agreement will end on the Finish Date.

9.2. This Agreement may be terminated at any time:

- (a) by either party giving seven (1) days written notice to the other party, for any reason;
- (b) by mutual agreement in writing between the parties;
- (c) by the Principal giving the Contractor written notice effective immediately, for "good cause";
- (d) by the Principal giving the Contractor written notice effective immediately, if in the reasonable opinion of the Principal the Contractor is guilty of fraud, dishonesty or wilful negligence in relation to the provision of the Contract Services;
- (e) by either party giving written notice to the other party effective immediately, if the other party goes into liquidation or becomes subject to receivership or official management or makes any arrangement or composition with its creditors;
- (f) by the Principal giving the Contractor written notice effective immediately, if the Contractor fails to comply with all reasonable directions and policies issued by the Principal in relation to the provision of the Contract Services and fails to rectify such non-compliance within seven (1) days after receiving written notice from the Principal; or

(g) by the Contractor giving the Principal written notice effective immediately, if the Principal fails to pay any amount when due to the Contractor and fails to rectify such breach within fourteen (14) days of receiving written notice from the Contractor.

9.3. The term “good cause” means any gross or persistent breach of this Agreement including:

(a) a failure on the part of the Contractor to provide the Contract Services for a period of more than three (3) hours in a manner which, in the reasonable opinion of the Principal, is satisfactory;

(b) any gross or persistent neglect of duty; or

(c) engaging in any activity in conflict with or adverse to the business interests of the Principal.

9.4. On termination of this Agreement (however caused), Contractor must immediately deliver to the Principal all property of the Principal which may be in the possession or control of the Contractor.

10. Confidential Information

10.1. The Contractor acknowledges that all Confidential Information which has or may come into the possession of the Contractor or any other person as permitted under this Agreement remains the property of the Principal.

10.2. Under the Principal's Social Media Policy, no photographs are to be taken or references are to be made regarding client work in any social media without the approval of the Principal.

10.3. The Contractor must not either before or after this Agreement ends use or disclose to any person (other than is necessary for the provision of the Contract Services), any Confidential Information without the prior written approval of the Principal.

10.4. When this Agreement ends, the Contractor must immediately deliver to the Principal all originals and copies of any Confidential Information in the Contractor's possession.

11. Insurance

11.1. The Contractor must take out and maintain at its own expense workers' compensation and comply with all workers' compensation requirements.

11.2. The Contractor will ensure that the insurance policies referred to in clause 11.1 of this Agreement is in existence and current as at the commencement of this Agreement, and will provide satisfactory evidence to the Principal of the existence and currency of these policies prior to commencing to provide the Contract Services and as required from time to time by the Principal.

12. Indemnity

12.1. The Contractor agrees that the Contractor provides the Contract Services at the Contractor's sole risk and the Principal will not be liable to the Contractor for any loss, damage, injury (which expression will include disease or illness) or death sustained by any person or to any property however caused whether as a result of or arising from negligence, breach of duty or breach of statute or other law by the Contractor, to undertake work in connection with the Contract Services.

12.2. The Contractor will indemnify the Principal in respect of all and any liabilities, obligations, claims and penalties arising from or relating to a breach of any of the Contractor's obligations and warranties set out in this Agreement.

13. Intellectual Property

13.1. In this clause, "Moral Rights" means rights of integrity, rights of attribution and rights of a similar nature that may now exist or that may come to exist in relation to any Material.

13.2. The Contractor assigns to the Principal, all of the Contractor's copyright and other Intellectual Property Rights in any software, documents or other materials specifically prepared or created by the Contractor or other persons employed by the Contractor for the Principal at the request of the Principal in connection with the provision of the Contract Services (the "Materials").

13.3. The Contractor must do all things necessary or desirable to give full effect to the assignment under this clause to the Principal.

13.4. To the extent permitted by law, the Contractor unconditionally waives all Moral Rights in the Materials, for the benefit of the Principal.

13.5. The Contractor warrants that:

- (a) the Materials, or the use or reproduction of the Materials, will not infringe the Intellectual Property Rights of any person;
- (b) the Contractor will not assign, license or otherwise deal with the Materials in a manner that is inconsistent with the assignment to the Principal in this clause; and

13.6. On termination or expiry of this Agreement, the Contractor must immediately deliver to the Principal all originals and copies of the Materials in the Contractor's possession.

14. Survival

14.1. On termination of this Agreement for any reason:

- (a) this clause and clauses 10, 12, and 13 (and any other clauses necessary for and incidental to the operation of those clauses) will survive and continue in full force in accordance with their terms; and
- (b) such termination will not affect any accrued rights or liabilities of either party nor will it affect the coming into force or the continuance in force of any provision of this Agreement which is expressly or by implication intended to come into force or continue on or after that termination.

15. Governing Law

15.1. This agreement will be governed by the laws of NSW, Australia and the parties submit to the non-exclusive jurisdiction of the courts of that State and any courts that may hear appeals from those courts.

16. General Provisions

- 16.1. All or part of the provisions of this Agreement that is illegal or unenforceable may be severed from this Agreement or modified to the extent it is necessary to make the remainder of the provision and the Agreement enforceable.
- 16.2. This Agreement, including the Schedule, constitutes the entire agreement between the parties, and supersedes any prior understanding or agreement between the parties and any prior condition, warranty, indemnity or representation imposed, given or made by a party.
- 16.3. The Contractor acknowledges and agrees that the terms of this Agreement are, in all the circumstances, fair and reasonable.
- 16.4. This Agreement may be executed in any number of counterparts and each of those counterparts taken together shall be deemed to constitute one and the same instrument.
- 16.5. This Agreement supersedes all provisions, representations, negotiations and understanding with respect to the matters dealt with in this Agreement

SCHEDULE A

Item 1 - Services

To monitor The Healthy Mummy & Lose Baby Weight Facebook Pages and Facebook Groups and will implement what ever changes needed, to be made to meet the Healthy Mummy / Lose Baby Weight page rule guidelines.

Item 2 - Fees (exclusive of GST)

Casual Fees will be charged by an hourly rate. You must send an invoice through to group.admin@thehealthymummy.com by the last day of the month. Payment will be made on the following week.

INDEPENDENT CONTRACTORS AGREEMENT

EXECUTED as an Agreement (CAN BE SENT TO THE HEALTHY MUMMY,
LEVEL 3, 43 EAST ESPLANADE MANLY NSW 2095)

EXECUTED for “**The Healthy Mummy Pty Ltd**” by its duly authorised officer:

Print name of Principal

Signature of Principal

In the presence of:

Print name of witness

Signature of Witness

EXECUTED by Independent Contractor

Print Contractor Name

Signature of Contractor

Date _____