



SPA #:

Budget Acc. Code:

YMCA of the USA

Service Provider Agreement

Please fill this form out electronically. Use the TAB key to navigate through the various fields.

This agreement (the "Agreement") is hereby made between the Service Provider and CLIENT as set forth below according to the following terms, conditions, and provisions:

1. Identity of Service Provider – "SP"

The Service Provider (hereinafter "SP") is identified as follows:

Name: _____ Individual Partnership Limited Liability Company Corporation

Address: _____ City: _____ State: _____ Zip: _____

Telephone: _____ Social Security or Employer Identification Number: _____

E-mail address: _____

2. Identity of Client

National Council of Young Men's Christian Associations of the United States of America d/b/a YMCA of the USA (an Illinois not-for-profit corporation) 101 N. Wacker Drive, Chicago, Illinois 60606, 312-977-0031 (hereinafter "CLIENT")

3. Work to be Performed

SP shall perform the following services. SP agrees that time is of the essence under this Agreement.

Describe in this section the services to be performed, the deliverables or work product to be provided to YMCA, and the timeline for completion of the services or deliverables.

Sample Language.

NOTE: Illustrative sample language is provided as guidance. This language should be modified as appropriate.

General Consulting Services. SP shall provide consulting services to CLIENT, which shall include without limitation the following services: [describe services to be performed; schedule of performance; oversight that YMCA will have over performance of services; work product to be delivered to YMCA; etc.]

Photography. SP shall provide photography services per project specification as reasonably directed by CLIENT during the term of this Agreement. SP shall use CLIENT'S photo release form attached herein as EXHIBIT C and shall provide copies of all signed releases to CLIENT with the completed work. Further, SP agrees to destroy or delete all footage and copies after delivery and acceptance of video footage by CLIENT, unless CLIENT makes a specific request in writing for SP to retain video footage.

Speaker. SP shall travel to and speak at the following event(s), location and date: [insert name of event, location, and date]. SP shall speak on the topic of [insert topic] for approximately [insert amount of time]. [Optional: SP shall provide CLIENT with a draft of the proposed speech prior to the event, at a time mutually agreed upon by the parties.]

Marketing Communications Agency. SP shall provide marketing services regarding the event. SP shall actively market the event through securing in-kind services, product donations, program advertising and deck signage. Any marketing agreements that include signage at the event and/or exceed \$1,000 in cash, goods or services shall be mutually agreed upon by SP and CLIENT, which authorization and mutual agreement shall not unreasonably be denied by either party. [Further describe specific services to be provided; schedule of performance of those services; whether YMCA's pre-approval is necessary; etc.]

Public Relations Firm. SP shall provide full public relations and media services regarding [insert event], including without limitation pre-event and post-event press releases to local newspapers and TV stations. [Describe specific services to be provided; schedule of performance of those services; whether YMCA will be able to pre-approve press releases before they are distributed; etc.]

Training. SP shall provide training services to CLIENT regarding [insert topic]. The training services shall include [insert] number of [insert]-hour training sessions, or some other number as may be mutually agreed upon by the parties in writing. The training sessions shall be provided [on (insert) dates or on such dates as are mutually agreed upon by the parties in writing], at [insert location]. It is anticipated that each training session shall contain [insert] number of participants. Each training session shall cover the following topics: [insert].

HR Consulting. SP shall provide the following human resources consulting services: [describe services to be performed; schedule of performance; oversight that YMCA will have over performance of services; work product to be delivered to YMCA; etc.]

Editorial Services. SP shall provide freelance editorial services, including without limitation proofreading and copyediting, on a project-by-project basis as reasonably directed by CLIENT. SP shall (1) comply with the project definition and any changes made thereto during the course of the project, as reasonably determined by CLIENT; (2) meet all deadlines mutually agreed upon by SP and CLIENT; (3) provide SP with preliminary (first) and second (final) drafts or samples for approval by CLIENT, and any such additional drafts / samples as requested and deemed necessary for the successful completion of the project; and (4) make modifications requested by CLIENT.

Graphic Design. SP shall provide graphic design services, including without limitation, design, layout, project coordination, production, and shipping, on a project-by-project basis as reasonably directed by CLIENT. SP shall (1) comply with the project definition and any changes made thereto during the course of the project, as reasonably determined by CLIENT; (2) meet all deadlines mutually agreed upon by SP and CLIENT; (3) provide SP with preliminary (first) and second (final) drafts or samples for approval by CLIENT, and any such additional drafts / samples as requested and deemed necessary for the successful completion of the project; and (4) make modifications requested by CLIENT.

Project Management. CONTRACT shall perform management services for the [insert project]. Such services shall include, but not be limited to, the following: [describe services to be performed; schedule of performance; oversight that YMCA will have over performance of services; work product to be delivered to YMCA; etc.]

Research. SP shall perform the following research services: [describe services to be performed; schedule of performance; oversight that YMCA will have over performance of services; work product to be delivered to YMCA; etc.]

Other. SP shall perform the following services: [describe services to be performed; schedule of performance; oversight that YMCA will have over performance of services; work product to be delivered to YMCA; etc.]

NOTHING IN THIS WORK TO BE PERFORMED CLAUSE OR ATTACHED HERETO AS AN EXHIBIT IS INTENDED TO MODIFY THE TERMS OF SECTION 23 OF THIS AGREEMENT. TO THE EXTENT THAT ANY TERMS CONFLICT WITH THE TERMS OF SECTION 23 OF THIS AGREEMENT, THOSE TERMS SHALL HAVE NO EFFECT AND SHALL BE NULL AND VOID. THE TERMS OF SECTION 23 OF THIS AGREEMENT GOVERN.

4. Terms of Payment

The maximum compensation provided to SP for the services performed under this Agreement shall not exceed \$ _____ unless an increase to such amount is specified in an amendment to this Agreement that has been executed by CLIENT prior to SP beginning to provide services subject to that amendment. Such amount is is not inclusive of expenses. SP and CLIENT acknowledge and agree that only the schedule below that is checked is applicable to this Agreement. The other schedules have no effect.

CLIENT agrees to pay SP for services rendered, according to one of the following Schedules.

Check the schedule that applies.

Fixed Project Fee with Deposit: CLIENT agrees to pay SP a deposit in the amount of \$ _____ due upon signing this Agreement. The remainder in the amount of \$ _____ due upon satisfactory completion of the work performed under this Agreement. CLIENT acknowledges that if CLIENT requests SP to perform any additional projects or services, such additional project or service shall be subject to a separate compensation arrangement.

Minimum Monthly Fees: CLIENT agrees to pay SP a \$ _____ monthly fee, to be paid on the _____ day of each month.

Hourly Arrangement [with deposit]: CLIENT agrees to pay SP on an hourly basis. A \$ _____ deposit will be payable on _____, and will be applied to the actual time charges incurred on behalf of CLIENT at SP's standard hourly rate of \$ _____. Every _____, SP shall provide CLIENT with an invoice detailing the actual time charges incurred during the previous month, and CLIENT shall pay SP by _____. If at any time during the term of the Agreement, the deposit falls below \$ _____, SP shall provide notice to CLIENT. Any portion of the deposit that remains unused at the end of the Term of the Agreement will be returned to CLIENT.

Hourly Arrangement [without deposit]: CLIENT agrees to pay SP on an hourly basis for actual time charges incurred on behalf of CLIENT at SP's standard hourly rate of \$. Every , SP shall provide CLIENT with an invoice detailing the actual time charges incurred during the previous month, and CLIENT shall pay SP by .

Other: CLIENT agrees to pay SP as follows: **[Describe terms]** .

CLIENT shall pay SP within the next forty-five (45) days upon receipt of the corresponding invoice at CLIENT's satisfaction.

5. Reimbursement of Expenses

Check those that apply. SP and CLIENT acknowledge and agree that only the phrases below that are checked are applicable to this Agreement. The other phrases have no effect.

No travel or other expenses will be reimbursed.

Reimbursement for expenses. SP will be reimbursed for the following expenses checked below after SP submits to CLIENT appropriate proof of the expense and payment by SP of such expense.

Reimbursement only for pre-approved expenses. SP will be reimbursed for the following expenses in connection with the performance of the services only if such expenses have been approved in advance in writing by CLIENT, and all necessary documentation to establish and detail the amounts of and purpose for such expenditures must be included with SP's invoice(s).

Reimbursable Expenses. Check those that apply.

Airfare expense via the most direct route from base city to meeting at lowest available coach rates and ground transportation between the terminal and the meeting at standard taxi rates.

Mileage reimbursement for use of personal vehicle if used in lieu of air transportation, SP will be reimbursed mileage as set by the IRS during the term of this Agreement, or coach fare, whichever is lower. However, use of person vehicle is discouraged.

Hotel room expense at the prevailing single room rate, including tips.

Reasonable meal expenses for SP only, including tips.

Telephone expenses only if they are prudent, reasonable and specifically related to the project.

Miscellaneous expenses only if they are prudent, reasonable and specifically related to the project. Explain:

Expenses under this Agreement shall not exceed \$ unless an increase to such amount is specified in an amendment to this Agreement that has been executed by CLIENT prior to SP beginning to provide services subject to that amendment.

6. Additional Obligations of SP

SP agrees to fulfill the following obligations, as appropriate for the work to be performed as detailed above: (1) SP will comply with the project definition and with mutually agreed upon written changes in the project definition that may occur during the course of the project; (2) SP will meet the deadline(s) agreed upon by CLIENT; (3) SP will make modifications requested by CLIENT; (4) SP shall maintain for a minimum of three (3) years, or such longer period as may be required by law, all documents and information necessary to reflect properly all costs claimed to have been incurred in the performance of this Agreement, and CLIENT shall have the right to audit such documents or information; and (5) SP shall make timely and prompt payments to all persons supplying to SP labor or materials for the performance of services under this Agreement, and shall not permit any lien or claim to be filed or prosecuted against CLIENT on account of any labor or material furnished.

7. Equipment tools, materials, or supplies

SP shall supply, at SP's sole expense, all equipment, tools, materials, and/or supplies to accomplish the work agreed to be performed.

8. Independent Contractor

In General. The services to be rendered under this Agreement are those of an independent contractor. SP shall not be considered an agent or employee of CLIENT for any purpose, and neither SP nor any of SP's agents or employees is entitled to any of the benefits that CLIENT provides for its employees. SP shall be solely and entirely responsible for its acts and for the acts of its agents or employees during the performance of this Agreement.

Taxes. Neither federal, nor state, nor local income tax nor payroll tax of any kind shall be withheld or paid by CLIENT on behalf of SP or the employees of SP. SP shall not be treated as an employee of CLIENT with respect to the services performed hereunder for federal or state tax purposes. SP understands that SP is responsible to pay, according to law, SP's income taxes.

Fringe benefits. SP acknowledges that SP is not eligible for, and shall not participate in, any employer pension, health, or other fringe benefit plan, of the CLIENT.

Workers' Compensation. SP acknowledges that no workers' compensation insurance shall be obtained by CLIENT concerning SP or the employees of SP. SP shall comply with the workers' compensation laws concerning SP and the employees of SP. SP hereby releases and holds harmless the CLIENT for any and all claims, controversies, disputes, or lawsuits, including those brought under the Worker's Compensation Act

arising out of SP's performance of services under this Agreement, including any travel related to his/her services. SP understands that this release and hold harmless will apply to the CLIENT, its agents, assigns, heirs and successors. SP agrees to this release and waiver freely and voluntarily.

9. Cooperation with CLIENT'S Document Management Policy

To the extent that, as part of this Agreement, SP has CLIENT documents or records on its extranet or collaboration space, SP agrees that it will cooperate with CLIENT allowing CLIENT to fulfill its records management responsibilities, such as securing access to materials stored on the extranet site or collaboration space and agreeing that records or documents not required for ongoing retention be deleted from the extranet site or collaboration space in a timely and secure manner.

10. Insurance

SP shall secure at its own expense and keep in effect during the term of this Agreement such insurance as is indicated below. SP shall be financially responsible for all pertinent deductibles, self-insured retentions and/or self-insurance.

General Liability Insurance Required by CLIENT

General Liability insurance with a combined single limit, or the equivalent, of not less than:

\$1,000,000 for each occurrence, for Bodily Injury and Property Damage;

\$2,000,000 general aggregate for Bodily Injury and Property Damage; and

\$1,000,000 for products completed operations aggregate.

It shall include contractual liability coverage for the indemnity provided under this Agreement. It shall provide that CLIENT and CLIENT's divisions, officers and employees are additional insured, but only with respect to the SP's services to be provided hereunder.

Automobile Liability Insurance Required by CLIENT

Statutory

Workers Compensation Required by CLIENT

Statutory

Excess Liability or Umbrella Coverage Required by CLIENT

Excess of liability or Umbrella coverage of not less than:

\$2,000,000 aggregate.

If contract is less than \$10,000 and the General Liability Insurance requirements noted above are met, the Excess Liability Coverage is waived.

Certificates of Insurance and Endorsements.

As evidence of the insurance coverages required herein, SP shall furnish acceptable insurance certificates and endorsements to CLIENT prior to commencement of any work hereunder. For any work performed hereunder, the insuring company's certificates and endorsement shall name CLIENT as "additional insured".

Notice of cancellation or change. There shall be no cancellation, material change, reduction of limits or intent not to renew the insurance coverage(s) without thirty (30) days' written notice from SP or its insurer(s) to CLIENT.

11. Term of Agreement and any Exhibit(s)

This Agreement and any Exhibit(s) shall begin on

and terminate on

12. Termination of Agreement and any Exhibit(s)

This Agreement may be terminated as follows:

- (a) Termination Upon Notice. Either party may terminate this Agreement at any time upon thirty (30) days written notice to the other party.
- (b) Termination Upon Material Breach or Bankruptcy. Either party may terminate this Agreement upon the material breach of this Agreement by the other party, unless such breach is cured within sixty (60) days (thirty (30) days if the material breach is non-payment of amounts due hereunder) after written notice of breach has been delivered; or upon the bankruptcy, insolvency, assignment for the benefit of creditors or other act of insolvency by, of, or against the other party or its parent organization.
- (c) Automatic Termination of any Exhibit(s). Termination of this Agreement shall automatically terminate any Exhibit(s) attached hereto.

- (d) Termination Upon Change in Law. CLIENT may terminate this Agreement immediately upon delivery of written notice to SP if (i) Federal, state, or local laws are modified, changed, or interpreted in such a way that the services provided under this Agreement are prohibited, or (ii) any license or certificate required by law or regulation to be held by SP to provide the services hereunder is for any reason denied, revoked, or not renewed.
- (e) Termination Upon Negative Implications. CLIENT has the right to terminate this Agreement without liability to or further obligation to SP if it, in its sole discretion, determines that acts, omissions, or business practices of SP will diminish or have diminished the good will, reputation and high moral standards associated with its organization. In addition, CLIENT has the right to terminate this Agreement without liability to or further obligation to SP if, in its sole discretion, CLIENT determines that any portion of this Agreement poses negative tax implications to CLIENT or adversely affects CLIENT's not-for-profit status.

In the event of termination by CLIENT, SP shall immediately cease using CLIENTS LICENSED MARKS (as hereinafter defined). Further, SP's sole remedy shall be a claim for the sum designated for accomplishing the work multiplied by the percentage of work completed and accepted by CLIENT, less previous amounts paid and any claim(s) which CLIENT has against SP. If previous amounts paid to SP exceed the amount due to SP under this subsection, SP shall pay any excess to CLIENT upon demand.

The parties have considered the possibility of expenditures necessary in preparing for performance under the terms of this Agreement and any Exhibit(s) attached hereto, and the possible losses and damages incident to them in the event of termination, and it is understood and agreed that neither party shall, by reason of a termination or expiration of the Agreement or any Exhibit(s), or for any other reason whatsoever, be liable to the other party for any compensation, reimbursement or damages in connection with the other party's business or goodwill arising from termination or failure to give reasonable notice of termination.

13. Government Contracts

Subject to Government Funding Requirements? (please check "yes" or "no" below)

SP acknowledges that all agreements related to federal grants are subject to the availability of funds to CLIENT.

Yes (If "yes" selected, please also check one of the options below):

SP acknowledges that CLIENT is the recipient of government funds, and is accountable for the performance of the project, program, or activities, including Cost Principles that govern federal funds based on CLIENT's organizational tax status. In general, the requirements that apply to CLIENT, also apply to SP as the sub-contractor under this Agreement, unless an exception is specified. SP agrees to comply with the following:

- Institutions of Higher Education: http://www.whitehouse.gov/omb/fedreg_a-21rev/
- State and Local Governments: http://www.whitehouse.gov/omb/circulars_a087_2004/
- Nonprofit Organizations: http://www.whitehouse.gov/omb/circulars_a122_2004/
- Appendix E Hospitals: http://www.whitehouse.gov/sites/default/files/omb/fedreg/2005/083105_a21.pdf
- For-profit Organizations: http://www.whitehouse.gov/sites/default/files/omb/fedreg/2005/083105_a21.pdf

Catalog of Federal Domestic Assistance Number (CFDA):

Award name:

Award number:

Budget period:

Awarding agency:

No

14. Warranties and Representations

SP represents and warrants that he or she is qualified, and as applicable, properly licensed or certified, to provide the services described in Clause 3 of this Agreement (the "Work to be Performed") and has a sufficient level of familiarity with and expertise in the provision of the services to provide the services at a level of quality acceptable to CLIENT.

SP represents and warrants that its collection, access, use, storage, disposal and disclosure of Personal Information does and will comply with all applicable federal and state privacy and data protection laws, as well as all other applicable regulations and directives.

SP represents and warrants that all materials prepared by him or her in connection with the services are original, or that appropriate permission to use such materials has been obtained in writing, and that CLIENT's use of such materials will not infringe any copyright or other proprietary right of any person. The responsibility for assuring that no infringement shall occur rests solely with SP. SP shall deliver to CLIENT the written consent of every publisher and/or owner of any copyright(s) of any material(s) used or incorporated in the services by SP in a manner requiring such consent.

15. Limitations of Liabilities

NEITHER PARTY SHALL BE LIABLE FOR (i) ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, OR SPECIAL DAMAGES UNDER THIS CONTRACT, OR (ii) ANY DAMAGES OF ANY SORT ARISING SOLELY FROM THE TERMINATION OF THIS CONTRACT IN ACCORDANCE WITH ITS TERMS. THIS LIMITATION WILL APPLY REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT OR NOT, INCLUDING NEGLIGENCE.

16. Indemnification

With respect to claims, lawsuits, or proceedings by a person or entity other than a party hereto or any affiliate of such party ("Third Party Claims"), each party assumes the entire responsibility and liability for all claims, losses, damages, fees (including reasonable attorney fees) and other costs arising out of tortious injury or damage to person(s) or property caused by the negligence of that party in connection with this Agreement and any Exhibit(s) attached hereto, and agrees to protect, defend, indemnify and hold harmless the other party and, in the case of CLIENT, its officers, directors, members, employees and agents ("Indemnitees"), against all such claims, losses, damages, fees and other costs. Notwithstanding anything contained herein to the contrary, nothing herein shall be deemed to give any third party any rights under this Agreement or any Exhibit(s) attached hereto or make any third party a beneficiary thereof.

Notwithstanding, in the case of CLIENT granting a license to use CLIENT'S LICENSED MARKS (as hereinafter defined) in section 24 of this Agreement, SP agrees to indemnify and hold harmless Indemnitees from and against all claims, actions, suits, damages, liabilities and costs (including, without limitation, reasonable legal fees) resulting from or based upon (i) SP's use of the LICENSED MARK(S), including any use of the LICENSED MARK(S) by any party under a sub-license from SP, or (ii) SP's breach of any provision of this Agreement.

17. Non-waiver

No waiver of any rights under this Agreement or any Exhibit(s) attached hereto shall be deemed effective unless contained in a writing signed by an authorized official of the party charged with such waiver, and no waiver of any breach or failure to perform shall be deemed to be a waiver of any future breach or failure to perform or any other right arising under this Agreement or any Exhibit(s) attached hereto. The failure of any party to insist on the performance of any obligation hereunder shall not act as a waiver of such obligation.

18. No authority to bind CLIENT

SP has no authority to enter into contracts or agreements on behalf of CLIENT.

19. Compliance with Law

SP declares that has complied and will comply with all federal, state, county, and local laws, ordinances, and regulations applicable to the work to be performed. SP specifically agrees to comply with all applicable requirements of federal and state civil rights and rehabilitation statutes, rules, and regulations.

20. How notices shall be given

Any notice given in connection with this Agreement shall be given in writing and shall be delivered either by hand to that party or by certified mail, return receipt requested, to the party at the party's address stated herein. Any party may change its address stated herein by giving notice of the change in accordance with this paragraph.

21. Assignability

This Agreement may not be assigned, in whole or in part, whether by assignment, merger, sale of assets or otherwise, without the prior written consent of the other party, which consent shall not be unreasonably withheld.

22. Choice of Law

This Agreement shall be governed by and construed under the laws of the State of Illinois regardless of its choice of law provisions. Any action arising out of this Agreement shall be brought in the Circuit Court of Cook County in the State of Illinois, or the Federal District Court for the Northern District of Illinois, and the parties hereby consent to the jurisdiction of such courts. The parties hereby agree that the venue of such court is proper. The prevailing party in any such action shall be entitled to all costs, including reasonable attorneys' fees.

23. Ownership of work product; work for hire; advertising and promotional materials

Exhibit A, attached hereto, is hereby incorporated into this Agreement.

[23.1]. Ownership

(a) With the exception of any proprietary tools or materials owned or licensed by SP prior to entering into this Agreement, as expressly and specifically indicated in Exhibit A hereto, SP acknowledges that CLIENT is the sole and exclusive owner of all rights, title and interests in and to any and all materials produced by or required to be produced by SP under this Agreement and the attached Exhibit A (the "Deliverables"), including but not limited to copyrights, trademarks, trade names, domain names, and that with the sole exception of such prior rights, all rights relating to the Deliverables are expressly reserved by CLIENT. SP agrees to take all necessary actions (including requiring third parties to execute documents necessary to vest rights in CLIENT) to secure, maintain and retain all rights in the Deliverables.

(b) All research data, manuscripts, marketing lists, data bases, diagrams, charts, tables, graphics, and other similar documents, information and works-in-progress obtained or developed by SP as part of the services are and shall remain the sole property of CLIENT and will be surrendered to CLIENT by SP immediately upon termination of any this Agreement or Exhibit A attached hereto, or upon CLIENT's request, whichever occurs sooner. Such materials shall not be used by SP for any purpose other than those required by the terms of this Agreement or Exhibit A attached hereto.

(c) CLIENT shall remain the sole owner of the name "National Council of Young Men's Christian Associations of the United States of America"; the acronyms "YMCA OF THE USA", "Y-USA", "YMCA" and any other symbols or other intellectual property owned or used by CLIENT.

[23.2]. Work for Hire

SP understands and expressly agrees that, except as may be expressly and specifically excluded in Exhibit A, any and all original material required to be produced by SP and its employees and agents for use by CLIENT pursuant this Agreement shall be deemed to be a work made for hire, and to the extent that such contribution is not deemed to be a work made for hire under the United States copyright laws, or is not similarly treated under the copyright laws of any other country, SP hereby assigns to CLIENT all right, title, and interest in such contribution, including the right to sue for infringement. SP shall execute such further documents and instruments as CLIENT may reasonably request in order to fully vest such rights in CLIENT. SP forever waives any and all rights relating to the work product, including without limitation, any and all rights of identification of authorship or rights of approval, restriction or limitation on use or subsequent modifications.

[23.3]. Trademarks and Advertising and Promotional Materials

(a) SP acknowledges the ownership of CLIENT's trademarks, including without limitation, "YMCA" (Reg. No. 668,795); "YMCA OF THE USA" (Reg. No. 1,448,979); "the Y YMCA" (Reg. Nos. 3,887,355 and 3,917,712); and "FOR YOUTH DEVELOPMENT FOR HEALTHY LIVING FOR SOCIAL RESPONSIBILITY" (Reg. No. 3,987,423); and that nothing in this Agreement gives SP any right, title, or interest in any CLIENT's trademarks. Thus SP may not try to use and /or register CLIENT's trademarks as its own trademark, service mark, domain name, trade name, business or company name or otherwise anywhere in the world. If, notwithstanding this prohibition, SP uses and/or obtains such registration, then in addition to any other remedies CLIENT may have, CLIENT shall have the right to compel SP to assign SP's rights in such trademark and/or registration to CLIENT and SP shall take such steps as may be necessary to transfer record ownership of any registration to CLIENT, at SP's cost.

(b) Any and all SP advertising or promotional materials which mention CLIENT or state that CLIENT is a client of SP shall be subject to CLIENT's prior review and written approval.

24. Use of Logo and other YMCA Trademarks

Check one of the following:

- SP is a YMCA member association or branch licensed to use the YMCA Trademarks
- CLIENT **Does not** grant SP a License to use the YMCA Trademarks
- CLIENT **does** grant SP a License to use the YMCA Trademarks. (If this box is checked SP agrees to the terms below)

CLIENT grants to SP a non-exclusive, revocable, non-transferable sub-license to use the YMCA Trademark (hereinafter the "LICENSED MARK(S)") checked below, only in connection with the services set forth in Section 3 above,(hereinafter the "LICENSED USE").

Check the applicable option(s):

- "YMCA"



FOR YOUTH DEVELOPMENT®
FOR HEALTHY LIVING
FOR SOCIAL RESPONSIBILITY

Other: _____

SP may only use the LICENSED MARK(S) in the media indicated below

Check the option that applies:

Printed Materials Electronic Materials Video Materials Website Other: _____

While CLIENT may, from time to time, provide to SP reasonable directions for use of the LICENSED MARK(S), such as Graphics Standards and policies, to assist SP with utilizing the LICENSED MARK in a manner that is acceptable to CLIENT, such direction does not, in any way, affect the requirement that any use of the LICENSED MARK(S) must receive prior review and approval from CLIENT.

SP agrees to immediately discontinue use of the LICENSED MARK(S) upon any request from CLIENT and/or upon termination of this Agreement or any other authorization or Agreement between CLIENT and SP, and dispose of any products, if any, bearing the CLIENT logo pursuant to the instructions provided by CLIENT.

SP may not translate, adapt, vary, or modify the LICENSED MARK(S).

SP may not use LICENSED MARK(S) in such proximity to SP's or third parties' trademarks as to create a combination mark, or use the LICENSED MARK(S) in a manner that may cause the general public to think that SP's goods and/or services are being offered by or with the approval, sponsorship or affiliation of CLIENT.

If CLIENT authorizes SP to sub-license its rights to use the LICENSED MARK(S) under this Agreement, SP agrees to do so only under the following conditions:

- 1) Any sub-license shall be subject to all of the terms and conditions set forth in this Agreement.
- 2) Any sub-licensee shall not have the authority to further sub-license any rights provided through this Agreement.
- 3) SP shall provide any and all sub-licensees with a copy of this Agreement and obtain a written acknowledgement of receipt and acceptance of all of the terms and conditions from any and all sub-licensees. SP shall maintain copies of such written acknowledgements for the duration of this Agreement and provide a copy of each such acknowledgement to CLIENT.
- 4) CLIENT shall have the right to terminate any sub-license under this Agreement, at any time, in its sole discretion.

SP acknowledges CLIENT's ownership of the LICENSED MARK(S) and that nothing in this Agreement gives SP any right, title, or interest in any of the LICENSED MARK(S) other than the right to use the LICENSED MARK(S) in accordance with this Agreement. SP acknowledges the value of the LICENSED MARK(S), and any and all good will generated by SP in the LICENSED MARK(S) inures to the sole benefit of CLIENT. SP agrees not to challenge CLIENT's title over the LICENSED MARK(S) or challenge the validity of this Agreement. SP further agrees that it will do nothing inconsistent with CLIENT's ownership of the LICENSED MARK(S). SP agrees not to try to register the LICENSED MARK(S) or confusingly similar trademarks as trademarks, service marks, domain names, trade names, business or company names, or otherwise anywhere in the world. SP agrees to provide any and all assistance necessary to prevent and terminate any infringement of the LICENSED MARK(S) by any third party not entitled to use of the LICENSED MARK(S), provided, however, that the cost of any legal action to prevent or terminate infringement is the sole responsibility of CLIENT.

CLIENT does not endorse or promote any of SP'S products, services, political candidates, or political causes. Further, SP agrees that it will not use the LICENSED MARK(S) in any way that would imply endorsement of SP or demean, defame, embarrass, diminish or cause any harm to CLIENT'S name and the LICENSED MARK(S) may not be listed on any of SP's Promotional Materials or client lists without CLIENT's prior written approval pursuant to the terms of the Agreement.

Should there be any conflict between this Trademark License language and any other contract entered into between the Parties (either previous or subsequent to the date of this Agreement), the language and provisions set forth in this Agreement shall control and prevail unless in a subsequent written agreement the Parties specifically refer to this Agreement by its title and date and, also, specifically state that the provisions of the later written agreement shall control over this Agreement.

SP agrees to supply a specimen at no cost to CLIENT, upon request, for purposes of verifying compliance with CLIENT's policies and graphic standards.

25. Confidentiality

The parties understand and agree that, in connection with the activities contemplated in this Agreement and in any Exhibit(s) hereto, each party will be exposed to confidential information of the other party including, but not limited to, any physical document marked "Confidential" or similarly designated by the disclosing party before being turned over to the other party (collectively, the "Confidential Information"). In order to protect information identified, either verbally or in writing as Confidential Information, or which, by its nature would reasonably be considered Confidential Information, including but not limited to mailing lists, each party hereby promises that, except as otherwise provided herein, it will not make copies of, discuss, disclose, or otherwise disseminate, or assist or permit others to copy, discuss, disclose, or otherwise disseminate, any Confidential Information and it will not use the Confidential Information for any purpose whatsoever except directly in connection with its activities pursuant to this Agreement and any Exhibit(s) attached hereto. Further, the parties understand and agree that the above promise of confidentiality will be in effect during the tenure of this Agreement and at all times thereafter.

Each party acknowledges that a breach of this promise of confidentiality could result in irreparable damages to the other party and its mission for which a remedy at law will be inadequate, and each party agrees that this promise may be enforced by an injunction. Each party agrees to pay the other party's reasonable costs and expenses, including attorneys' fees, if the other party brings an action against for breach of this promise of confidentiality and prevails in such action.

For purposes of this Clause [25], the parties acknowledge and agree that the term "Confidential Information" does not include information which: (1) is or becomes generally available to the public; (2) is already in the unrestricted possession of the party as of the date of execution of this Agreement; (3) is lawfully disclosed to the party by a third party without restrictions on its use or disclosure; (4) is approved in writing by the other party for disclosure; (5) is independently developed by one party without reference to or use of the Confidential Information of the other party; or (6) is required to be disclosed pursuant to a requirement of a governmental agency or law so long as the party provides the other party with notice, to the extent allowed by law, of such requirement prior to any such disclosure..

Upon termination of this Agreement or any Exhibit(s) attached hereto by either party, each party shall forward to the other party any and all Confidential Information or, at the request of the of the other party, shall destroy such Confidential Information, keeping no copies thereof.

26. Code of Conduct

CLIENT values caring, honesty, respect, and responsibility as outlined in the YMCA of the USA Code of Conduct ("Code of Conduct"). The Code of Conduct is available on-line and upon written request. When conducting business with YMCA of the USA, SP agrees to refrain from activities that violate the provisions set forth in the Vendor (Communications), Conflict of Interest (Ethics) or Gift Acceptance (Personal Benefits) sections of the Code of Conduct. Further, SP agrees to immediately report any violations or suspected violations directly to the Chief Compliance Officer for YMCA of the USA, or report violations anonymously by contacting the EthicsPoint hotline at 888-564-8061 or www.ethicspoint.com.

27. Privacy

SP acknowledges and agrees that, in the course of its engagement by CLIENT, SP may receive or have access to information that can be used to identify an individual (including, without limitation, names, signatures, addresses, telephone numbers, e-mail addresses and other unique identifiers); or (ii) can be used to authenticate an individual ("Personal Information"). SP agrees to comply with the terms and conditions set forth in this Agreement in its collection, receipt, transmission, storage, disposal, use and disclosure of such Personal Information and be responsible for the unauthorized collection, receipt, transmission, access, storage, disposal, use and disclosure of Personal Information under its control or in its possession by authorized employees and sub-contractors of SP. Personal Information is deemed to be Confidential Information of CLIENT and is not Confidential Information of SP. In the event of a conflict or inconsistency between this Section and Section 25, of this Agreement, the terms and conditions set forth in this Section shall govern and control.

In recognition of the foregoing, SP agrees and covenants that it shall keep and maintain all Personal Information in strict confidence, using such degree of care as is appropriate to avoid unauthorized access, use or disclosure; use and disclose Personal Information solely and exclusively for the purposes for which the Personal Information, or access to it, is provided pursuant to the terms and conditions of this Agreement, and not use, sell, rent, transfer, distribute, or otherwise disclose or make available Personal Information for Service Provider's own purposes or for the benefit of anyone other than CLIENT, in each case, without CLIENT's prior written consent; and not, directly or indirectly, disclose Personal Information to any person other than employees, including any subcontractors, agents, outsourcers or auditors (an "Unauthorized Third Party"), without CLIENT's prior written consent.

Without limiting SP's obligations under Section 3, SP shall implement administrative, physical and technical safeguards to protect Personal Information that are no less rigorous than accepted industry practices for information security, and shall ensure that all such safeguards, including the manner in which Personal Information is collected, accessed, used, stored, processed, disposed of and disclosed, comply with applicable data protection and privacy laws, as well as the terms and conditions of this Agreement.

If, in the course of its engagement by CLIENT, SP has access to or will collect, access, use, store, process, dispose of or disclose credit, debit or other payment cardholder information, SP shall at all times remain in compliance with the Payment Card Industry Data Security Standard ("PCI DSS") requirements, including remaining aware at all times of changes to the PCI DSS and promptly implementing all procedures and practices as may be necessary to remain in compliance with the PCI DSS, in each case, at SP's sole cost and expense.

At a minimum, SP's safeguards for the protection of Personal Information shall include: (i) limiting access of Personal Information to authorized employees; (ii) securing business facilities, data centers, paper files, servers, back-up systems and computing equipment, including, but not limited to, all mobile devices and other equipment with information storage capability; (iii) implementing network, device application, database and platform security; (iv) securing information transmission, storage and disposal; (v) implementing authentication and access controls within media, applications, operating systems and equipment; (vi) encrypting highly-sensitive Personal Information stored on any mobile media; (vii) encrypting Highly-Sensitive Personal Information transmitted over public or wireless networks; (viii) strictly segregating Personal Information from information of SP or its other customers so that Personal Information is not commingled with any other types of information; (ix) implementing appropriate personnel security and integrity procedures and practices, including, but not limited to, conducting background checks consistent with applicable law; and (x) providing appropriate privacy and information security training to SP's employees.

SP shall notify CLIENT of a Security Breach as soon as practicable, but no later than twenty-four (24) hours after SP becomes aware of it; and shall coordinate with CLIENT to investigate the Security Breach. SP agrees to reasonably cooperate with CLIENT in CLIENT's handling of the matter, including, without limitation: (i) assisting with any investigation; (ii) providing CLIENT with physical access to the facilities and operations affected; (iii) facilitating interviews with SP's employees and others involved in the matter; and (iv) making available all relevant records, logs, files, data reporting and other materials required to comply with applicable law, regulation, industry standards or as otherwise reasonably required by Client.

Upon CLIENT's written request to confirm SP's compliance with this Agreement, as well as any applicable laws, regulations and industry standards, SP grants CLIENT or, upon CLIENT's election, a third party on CLIENT's behalf, permission to perform an assessment, audit, examination or review of all controls in SP's physical and/or technical environment in relation to all Personal Information being handled and/or services being provided to CLIENT pursuant to this Agreement. SP shall fully cooperate with such assessment by providing access to knowledgeable personnel, physical premises, documentation, infrastructure and application software that processes, stores or transports Personal Information for CLIENT pursuant to this Agreement. In addition, upon CLIENT's written request, SP shall provide CLIENT with the results of any audit by or on behalf of SP performed that assesses the effectiveness of SP's information security program as relevant to the security and confidentiality of Personal Information shared during the course of this Agreement.

28. Survival

All provisions of this Agreement and any Exhibit(s) attached hereto which, by their terms, require performance after termination thereof shall survive the termination thereof.

29. Force Majeure

Neither party to this Agreement or any Exhibit(s) attached hereto shall be liable for delay or failure in the performance of any of its obligations hereunder if such delay or failure is due to causes beyond its reasonable control including, without limitation, acts of God, fires, earthquakes, strikes and labor disputes, acts of war, civil unrest or intervention of any governmental authority except as expressly provided herein, but any such delay or failure shall be remedied by such part as soon as is reasonably possible.

30. No Partisan Activity

SP agrees that (s)he will not involve the CLIENT in any impermissible or inappropriate activity with respect to political matters and will obtain prior approval from the CLIENT regarding any activity which involves the CLIENT. This Agreement will be cancelled unilaterally by the CLIENT without any penalties if the charitable status of the CLIENT is adversely affected thereby.

31. Exhibits

In the event that an exhibit, other than Exhibit A and B, is incorporated into this Agreement, to the extent that the information contained in the exhibit conflicts with the terms of this Agreement, the terms of this Agreement govern. The conflicting information in the exhibit has no effect.

32. Entire Agreement; Amendments

This Agreement, together with any attachments and any Exhibit(s), is the entire agreement of the parties with respect to the subject matter thereof and supersedes all prior or contemporaneous agreements and communications, whether written or oral, between the parties. This Agreement may only be amended or modified by a writing signed by the parties.

33. Severability

If any part of this Agreement shall be held unenforceable, the rest of this Agreement will nevertheless remain in full force and effect.

34. Counterparts

This Agreement or any Exhibit(s) attached hereto may be executed in any number of counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute this Agreement or any Exhibit(s) attached hereto.

35. Signatures

By signing below, SP hereby certifies that the undersigned is, in fact, the SP, or has been given the authority to bind the SP by signing below.

National Council of Young Men's Christian Associations of the United States of America:

By: _____ Date: _____
Client or [Name of Person Authorized to Sign on Behalf of Client]

Printed: _____

Title: _____

Acknowledged and Accepted on Behalf of SP: _____
Name of SP

Signed By: _____ Date: _____

Printed: _____

Title: _____

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Exhibit A

Exceptions to Section 23

YMCA of the USA's Ownership of Materials/Work for Hire

None.

Exhibit B

Insurance Certificates and Endorsements



EXHIBIT C

**FOR YOUTH DEVELOPMENT®
FOR HEALTHY LIVING
FOR SOCIAL RESPONSIBILITY**

Y-USA PHOTO/ AUDIO VISUAL/NARRATIVE RELEASE

I am 18 years of age or older and, if not, my Mother/Father/Legal Guardian has also signed below.

My Consent. For my participation in activities to be conducted by the National Council of Young Men’s Christian Associations of the United States of America (YMCA of the USA), I give my consent, now and for all time, to YMCA of the USA and collaborating third parties to make, reproduce, edit, broadcast or rebroadcast:

- video film or footage of me,
- sound track recordings of me
- photo reproductions of me
- any narrative account of my experience

My consent gives permission to use the above materials for publication, display, sale or exhibition in promotions, advertising, education and legitimate business uses. Use includes reproductions in any form and media, adaptations and/or revisions, throughout the world and forever.

I understand and agree there may be no compensation for this, and I will not make any claim for payment of any kind. I may, or may not be, identified in such reproductions; however, my name will not be used to endorse any particular commercial products or commercial services.

Ownership, Confidentiality, and Shared Use. With respect to any of the above uses, I further agree:

- All uses shall belong to YMCA of the USA and it may share them with others;
- YMCA of the USA has no obligation of confidentiality
- YMCA of the USA and collaborating third parties will not be liable for any use or disclosure to a third party
- YMCA of the USA shall exclusively own all known or later existing rights to the uses worldwide.
- YMCA of the USA can use any video film, footage, sound track recordings and photo reproductions of me and/or my narrative account for any purpose and without compensation to me.

Release from Liability. I agree that my consent is irrevocable and I have no right of approval over YMCA of the USA’s use of the above materials. I represent that I have the right to grant the rights contained in this release. I hereby release and discharge YMCA of the USA, its related parties and those it has given permission to use the above, from any and all claims, actions, lawsuits or demands of any kind arising out of my consent, the use, or the shared use of the above materials.

Signature: _____

Date: _____

Printed Name: _____

Age: _____

Address: _____

I am the Mother/Father/Legal Guardian of (child’s name). For the consideration contained herein, I hereby consent to the foregoing on behalf of my minor child.

Signature of Mother/Father/Legal Guardian: _____

Printed name: _____