

2021

Consulting/ Retainer Agreement

This document delineates the legal clauses between CyberAdeptness LLC and other parties seeking to leverage consulting services or wishing to retain access to expertise.



Karen Y. Baez

2/7/2021



Instructions for this Consulting/ Retainer Agreement

Use this Consulting/ Retainer agreement in conjunction with the Non-Disclosure Agreement in order to prevent others from disclosing confidential information or trade secrets to the Disclosing Party's (called the "Discloser" in the document) competition or using it for their own benefit. This Consulting/ Retainer Agreement shall delineate the legal bindings necessary to provide consulting services and/or serve as a retainer for services.

Agreement Length

Agreement length shall be documented as part of this Agreement in the appropriate section and may be modified as deemed necessary by the parties at a later time if required.

Disclaimer of Warranties

The question pertaining to disclaimer of warranties is essentially asking whether the Disclosing Party is providing any guarantees as to the accuracy of its confidential information or as to how such information will be used. Most of the time it is a good idea to disclaim all warranties as to the confidential information and trade secrets. The main instance that you would not disclaim warranties is if the Disclosing Party has made express promises to the Recipient that the information is correct and how the information will be used.

Dispute Resolution

It is usually recommended that you include a mediation and/or arbitration provision. This will require disputes to be settled through mediation or binding arbitration and avoid the time and expense of going through the formal court system.

Next, you will indicate which state's laws will govern the agreement. Usually, the Disclosing Party lists its principal place of business or residence as the governing state. Other options would be to use the Disclosing Party's state of incorporation or the state where the two parties are conducting any business together.

Additional Terms

You can add additional terms and conditions as desired. This allows you complete flexibility to tailor the document to reflect the specific situation and true intent of the parties.

Executing the Agreement

- Have all parties sign and date the signature lines where indicated. Electronic signatures are allowed by the terms of this agreement. The parties can also sign copies sent to each other by email, fax, or other electronic means. If you included an arbitration provision, make sure that each party signs the arbitration exhibit.
- Make sure that all parties get a copy of the fully executed agreement.
- That's it! You can now rest assured that the Disclosing Party's confidential information will remain safe and secure.

DOCUMENT APPROVAL AND ACCEPTANCE

Risk Executive (RA) Approval

As the Risk Executive (RA) for CyberAdeptness LLC business, covered by this Agreement, I approve and declare satisfaction with this document.

Karen Y. Baez

Full Name (Print)

Title: CyberAdeptness LLC Founder/ CEO

Signature

Date: February 7, 2021

Document History

This is an on-line document. Paper copies are valid only on the day they are printed. Refer to the author if you are in any doubt about the accuracy of this document.

Revision History

| Revision Number | Revision Date | Summary of Changes/Comments |
|-----------------|---------------|-----------------------------|
| 1.0 | 02/07/2021 | FINAL - First DRAFT |
| | | |

Approvals

This document requires the following approvals:

| Name | Title |
|---------------|----------------------------|
| Karen Y. Baez | CyberAdeptness LLC Founder |
| | |

Distribution List

This document has been distributed to:

| Name | Title |
|------|-------|
| | |
| | |

Contents

- Revision History4
- Approvals.....4
- Distribution List4
- 1 The Parties7
- 2 The Services7
 - 2.1 Scope of Services7
 - 2.2 Term.....7
 - 2.3 Relationship of Parties.....7
- 3 Compensation, Benefits and Expenses8
 - 3.1 Payment.....8
 - 3.2 Deposit.....8
 - 3.3 Retainer8
 - 3.4 Expenses and Reimbursement9
 - 3.5 Invoicing.....9
 - 3.6 Taxes.....9
 - 3.7 Benefits.....9
- 4 Services Schedule and Tasks.....9
 - 4.1 Performance of Services.....9
 - 4.2 Support Services 10
 - 4.3 Place of Work 10
 - 4.4 Liability..... 10
 - 4.5 Enforceable..... 10
- 5 Termination of Consulting Relationship 10
 - 5.1 Term/ Termination 10
 - 5.2 Disclosure 11
 - 5.3 Employees 11
 - 5.4 Use of Work Product 11
 - 5.5 Additional Work..... 11
- 6 Confidentiality 11
 - 6.1 Confidentiality after Termination..... 12
 - 6.2 Return of Records..... 12
- 7 Entire Agreement 12

| | | |
|------|--|----|
| 7.1 | Amendment..... | 12 |
| 7.2 | Severability | 12 |
| 7.3 | Successors and Assigns..... | 12 |
| 7.4 | Waiver of Contractual Right | 13 |
| 7.5 | Governing Law | 13 |
| 7.6 | Equitable Relief and Remedies | 13 |
| 7.7 | Dispute Resolution | 13 |
| 7.8 | Attorney’s Fees | 13 |
| 7.9 | Non-waiver | 14 |
| 7.10 | Descriptive Headings | 14 |
| 7.11 | Time of Essence | 14 |
| 7.12 | Notice | 14 |
| 7.13 | Counterparts; Electronic Signature | 14 |
| 7.14 | Signatories | 15 |
| 8 | Consultant/ Retainer Acknowledgement | 16 |
| 9 | Exhibit A- Arbitration Agreement..... | 17 |
| 9.1 | Promise to Arbitrate..... | 17 |
| 9.2 | State or Federal Court | 17 |
| 9.3 | Arbitration; Recovery | 17 |
| 9.4 | Location | 17 |
| 9.5 | Rules | 17 |
| 9.6 | Governing Law | 18 |
| 9.7 | Arbitrator | 18 |
| 10 | Exhibit A Acknowledgement..... | 19 |

1 The Parties

This consulting / retainer agreement, dated _____ (Date) is hereby enforceable upon signature from all of the contingent parties.

| | |
|-----------------|---|
| Between: | CyberAdeptness LLC c/o Karen Y. Baez Under the laws of Delaware/Virginia |
| And: | [Client] |

Collectively, they will hereby be referred to as “The Parties.”

2 The Services

Consultant agrees to perform the services listed in the Scope of Services as agreed upon. Such services are hereinafter referred to as “Services”. Client agrees that consultant shall have ready access to Client’s staff and resources as necessary to perform the Consulting services provided for by this contract.

2.1 Scope of Services

In the capacity of the role of consultant, the Consultant will provide the following services (collectively, the "Services"):

- **[List of Services to be provided]**

Consultant hereby agrees to provide and perform for the client the services set forth. Consultant shall devote its best efforts to the performance of the services and to such other services as may be reasonably requested by the Client and hereby agrees to devote, unless otherwise required in writing by the Client, the agreed upon time of hours per week as stated in this agreement in section 2.7.

2.2 Term

The Consulting Agreement is hereby scheduled to commence on _____ (*START DATE*) and subsequently terminate on _____ (*END DATE*). The agreement is enforceable and active upon signature from both parties.

2.3 Relationship of Parties

It is understood by the parties that Consultant is an independent contractor with respect to Client, and not an employee of Client. Client will not provide fringe benefits, including health insurance benefits, paid vacation, or any other employee benefit, for the benefit of Consultant.

The services to be acquired are to be provided to the client hereunder (‘Agents’), on its own behalf and on behalf of all existing and future Affiliated Companies (defined as any corporation or other business

entity or entities that directly or indirectly controls, is controlled by, or is under common control with the Company), and Consultant desires to provide consulting services to the Company upon the terms and conditions set forth in this agreement.

3 Compensation, Benefits and Expenses

3.1 Payment

For the services provided by the consultant, the client agrees to pay

- ☐ (a) An hourly rate of \$ 150/hr
- ☐ (b) A total sum of _____ for the entirety of the term of the consulting agreement.
- ☐ (c) Other: Flat Monthly Fee- ***\$10,000 per month for 70 hours*** of service whether used or unused.

3.2 Deposit

- ☐ (a) For the purposes of enlisting the consultant, the client agrees to pay a deposit of \$ _____.
- ☐ (b) The client and the consultant agree that there will be no deposit made before the commencement of the consulting agreement.

3.3 Retainer

The client understand that this retainer is for:

- ☐ Pay for Work - provide ongoing work for your clients and you get paid for it.
- ☒ Pay for Access to Expertise - paying to be able to access you – your knowledge, experience and expertise.

The client agrees to enlist the services of the consultant on a retainer basis for _____ *amount of time. For this retainer, the client will pay;*

- ☐ (a) A deposit of \$ _____. Y__ N _
- ☐ (b) An hourly rate of \$ 150.00/hr.

☐ (c) A total sum of \$__ for the entirety of the project.

☐ (d) Other: \$10,000 Flat Monthly Fee for 70 hours whether used or unused.

3.4 Expenses and Reimbursement

In the capacity of the role of consultant, the consultant is hereby entitled to the following (Check the options that apply)

☒ (a) Reimbursement for all reasonable expenses, including, but not limited to, travel, work-related expenses, supplies, equipment, operational expenses, payments to third parties that relate to the job on hand, insurance, and unemployment insurance.

☐ (b) The consultant is not entitled to reimbursements.

3.5 Invoicing

Company shall pay the amounts agreed to herein upon receipt of invoices which shall be sent by Consultant, and Company shall pay the amount of such invoices to Consultant.

3.6 Taxes

Any and all taxes, except income taxes, imposed or assessed by reason of this contract or its performance, including but not limited to sales or use taxes, shall be paid by the Client. Consultant shall be responsible for any taxes or penalties assessed by reason of any claims that Consultant is an employee of Client and Client and Consultant specifically agree that Consultant is not an employee of client.

3.7 Benefits

Other than the compensation specified in this section, the Consultant is not entitled to any direct or indirect compensation for services performed hereunder.

4 Services Schedule and Tasks

4.1 Performance of Services

The client understand that the consultant will have a flexible schedule and that the services are based on the agreed retainer option selected on section 1.5. Specific scheduled and hours to be worked must be agreed by both parties based on consultants availability and client's needs. Client also understands that some of the work will be performed during night time hours and daytime hours will be limited to those identify in this section:

The agreed upon hours are:

☐ Monday _____ ☐ Tuesday _____ ☐ Wednesday _____
☐ Thursday _____ ☐ Friday _____ ☐ Saturday _____

4.2 Support Services

Client will provide the following support services for the benefit of Consultant: Provide all documents and information necessary to complete the tasks required along with details on the areas client seeks support.

4.3 Place of Work

Consultant services will be rendered remotely, but Consultant will, on request, come to the Client's and/or is sub-client's location as designed by the Client to meet with representatives in order to address work related tasks when notified 24 hours ahead of time.

4.4 Liability

Consultant warrants to Client that the material, analysis, data, programs and services to be delivered or rendered hereunder, will be of the kind and quality designated and will be performed by qualified personnel. Special requirements for format and standards to be followed shall be attached as an additional Exhibit and executed by both Client and Consultant. Consultant makes no other warranties, whether written, oral or implied, including without limitation, warranty of fitness for purpose or merchantability. In no event shall Consultant be liable for special or consequential damages, either in contract or tort, whether or not the possibility of such damages has been disclosed to Consultant in advance or could have been reasonably foreseen by Consultant, and in the event this limitation of damages is held unenforceable then the parties agree that by reason of the difficulty in foreseeing possible damages all liability to Client shall be limited to [Amount agreed] as liquidated damages and not as a penalty.

4.5 Enforceable

The provisions of this Agreement shall be enforceable notwithstanding the existence of any claim or cause of action of the Consultant against the Client whether predicated on this Agreement or otherwise.

5 Termination of Consulting Relationship

5.1 Term/Termination

At any time, either the Client or the Consultant may terminate, without liability, the Consulting period for any reason, with or without cause, by giving a minimum of two (2) weeks' notice written notice to the other party.

If the Consultant terminates its consulting relationship with the Client, the Consultant shall have the option, in its complete discretion, to terminate services immediately without the running of any notice period IF the environment becomes toxic and client fails to address the issues identified in a timely manner.

Unless otherwise stated in writing, this Agreement shall terminate automatically upon completion by Consultant of the Services required by this Agreement or 1 year from the effective date of this agreement.

5.2 Disclosure

Consultant is required to disclose any outside activities or interests that conflict or may conflict with the best interests of Client. Prompt disclosure is required under this paragraph if the activity or interest is related, directly or indirectly, to other consulting relationships that may conflict with this Agreement.

Client maintains control of all decisions and should reject advice that they do not agree with. Consultant cannot control future events, therefore cannot be responsible for long term outcomes of business or financing strategies.

5.3 Employees

Consultant's employees, if any, who perform services for Client under this Agreement shall also be bound by the provisions of this Agreement.

5.4 Use of Work Product

Except as specifically set forth in writing and signed by both Client and Consultant, Consultant shall have all copyright and patent rights with respect to all materials developed under this contract, and Client is hereby granted a non-exclusive license to use and employ such material within the Client's Business.

5.5 Additional Work

After receipt of an order which adds to the Services, Consultant may, at its discretion, take reasonable action and expend reasonable amounts of time and money based on such order. Company agrees to pay Consultant for such action and expenditure as set forth in this Agreement for payments related to services.

6 Confidentiality

Client recognizes that Consultant has and will have the following information: - business affairs; financial information; personal information; future plans; and other proprietary information

(collectively, "Information") which are valuable, special and unique assets of Client and need to be protected from improper disclosure.

In consideration for the disclosure of the Information, Consultant agrees that Consultant will not at any time or in any manner, either directly or indirectly, use any Information for Consultant's own benefit, or divulge, disclose, or communicate in any manner any Information to any third party without the prior consent of Client. Consultant will protect the Information and treat it as strictly confidential. A violation of this paragraph shall be a material violation of this Agreement.

6.1 Confidentiality after Termination

The confidentiality provisions of this Agreement shall remain in full force and effect after the termination of this Agreement.

6.2 Return of Records

Upon termination of this Agreement, Consultant shall deliver all records, notes, and data of any nature that are in Consultant's possession or under Consultant's control and that are Client's property or relate to Client's business.

7 Entire Agreement

This Agreement represents the entire Agreement between Consultant and Client and may not be modified, changed, or altered by any promise or statement by neither parties.

The agreement explicitly detailed above hereby represents the entirety of the arrangement between the parties and hereby overrides any previous or existing agreement, contractual or not, that may have been in place prior to the signing of this contract. No additional clauses will be binding unless agreed upon by both parties.

7.1 Amendment

This Agreement may be modified or amended if the amendment is made in writing and is signed by both parties.

7.2 Severability

If any provision of this Agreement shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court finds that any provision of this Agreement is invalid or unenforceable, but that by limiting such provision it would become valid and enforceable, then such provision shall be deemed to be written, construed, and enforced as so limited.

7.3 Successors and Assigns

This Agreement is not assignable by Client without the express prior-written permission of Consultant. This Agreement binds and insures to the benefits the heirs, successors, and assignees of the Parties.

Both parties agree and acknowledge that all property, including, without limitation, all books, manuals, records, reports, notes, contracts, lists, blueprints, and other documents, or materials, or copies thereof, Proprietary Information, and equipment furnished to or prepared by Consultant or its Agents in the courses of or incident to its rendering of services to the Client, including without limitations, records, and any other materials pertaining to Invention, Ideas belonging to either party shall be returned to the party upon termination of the Consulting Period.

7.4 Waiver of Contractual Right

The failure of either party to enforce any provision of this Agreement shall not be construed as a waiver or limitation of that party's right to subsequently enforce and compel strict compliance with every provision of this Agreement.

7.5 Governing Law

Consultant shall comply with all applicable laws in performing Services but shall be held harmless for violation of any governmental procurement regulation to which it may be subject but to which reference is not made in this agreement.

Client agrees and acknowledges that all provisions of this Agreement will be governed by and construed in accordance with the laws of the State of [Delaware/ Virginia].

7.6 Equitable Relief and Remedies

Client acknowledges that any breach of this Agreement will cause substantial and irreparable harm to Consultant for which money damages would be an inadequate remedy. Accordingly, Consultant will in any such event be entitled to seek injunctive and other forms of equitable relief to prevent such breach and the prevailing Party will be entitled to recover from the other, the prevailing Party's losses, damages, and costs, including, without limitation, reasonable attorney's fees and costs, incurred in connection with enforcing this Agreement, in addition to any other rights or remedies available at law, in equity, or by statute.

7.7 Dispute Resolution

The Parties acknowledge that they will first attempt to resolve any dispute resulting from or arising out of this Agreement through friendly consultation between one another. If friendly consultation fails to resolve the dispute, the Parties agree to submit the dispute to mediation conducted in accordance with the mediation procedures of the American Arbitration Association (AAA). The parties agree to share equally in the costs of the mediation. If mediation again fails to resolve the dispute, the Parties agree to share equally in the cost of the mediation. If mediation again fails to resolve the dispute, the Parties agree to submit the dispute to binding arbitration in accordance with the terms set forth in Exhibit A, attached hereto and incorporated herein by reference, which the Parties agree to execute contemporaneously with this Agreement.

7.8 Attorney's Fees

Should either party hereto, or any heir, personal representative, successor or assign of either party hereto, resort to litigation to enforce this Agreement, the party or parties prevailing in such litigation shall be entitled, in addition to such other relief as may be granted, to recover its or their reasonable

attorneys’ fees and costs in such litigation from the party or parties against whom enforcement was sought.

7.9 Non-waiver

No failure or neglect of either party hereto in any instance to exercise any right, power or privilege hereunder or under law shall constitute a waiver of any other right, power or privilege or of the same right, power or privilege in any other instance. All waivers by either party hereto must be contained in a written instrument signed by the party to be charged and, in the case of the Company, by an executive officer of the Company or other person duly authorized by the Company.

7.10 Descriptive Headings

The descriptive headings used herein are for convenience of reference only and they are not intended to have any effect whatsoever in determining the rights or obligations of the Parties.

7.11 Time of Essence

Time is of the essence in this Agreement.

7.12 Notice

Any notice required or permitted under this Agreement must be in writing and delivered in accordance with the provisions of this paragraph. Such notice, if delivered by electronic mail, will be delivered to Consultant at Karen.Baez@cyberadeptness.com or to Client at **[Client e-mail]**. Such notice, if delivered by personal delivery or U.S. mail, will be delivered to the Parties at the addresses specified below:

| | |
|------------------------------|--------------------------------------|
| DISCLOSER ADDRESS | CyberAdeptness LLC c/o Karen Y. Baez |
| RECIPIENT ADDRESS | [Client] |

7.13 Counterparts; Electronic Signature

This Agreement may be executed in counterparts, including by fax, email, or other facsimile, each an original but all considered part of one Agreement. Electronic signatures placed upon counterparts of this Agreement by a Party or their approved agent will be considered valid representation of that Party’s signature.

7.14 Signatories

This Agreement shall be executed by _____, on behalf of
_____ and _____ and delivered in the manner
prescribed in section 7.12 Notices.

8 Consultant/ Retainer Acknowledgement

Client acknowledges that it has carefully read and understood the provisions of this Agreement and understand that it has the right to seek independent advice at Client's expense or to propose modifications prior to signing the Agreement and has negotiated proposed modifications to the extent client deems necessary. Nothing contained in this Agreement creates a contractual right to a continued contact for a definite term. Client represents and warrants that Client has entered into this Agreement voluntarily and after consulting an attorney or legal advisor.

Consultant

Client

Signature

Signature

Print Name

Print Name

Title

Title

Date

Date

9 Exhibit A- Arbitration Agreement

9.1 Promise to Arbitrate

In consideration of the benefits described in the Consulting/ Retainer AGREEMENT (the **“Agreement”**) effective as of [Click here to enter a date](#).by and between CyberAdeptness LLC (hereinafter referred to as **“Consultant”** and _____ (hereinafter referred to as **“Client”** or **“you”**) (Discloser and Recipient together are the **“Parties”**, each a **“Party”**), along with Consultant’s subsidiaries, parents, joint ventures, affiliated entities, and includes its successors and assigns or any such related entities on the same date hereto and into which this Exhibit A is incorporated, Consultant and Client hereby agree that any controversy or claim arising under federal, state, and local statutory or common or contract law between Consultant and Client involving the construction or application of any of the terms, provisions, or conditions of the Agreement, including, but not limited to, breach of contract, tort, and/or fraud, must be submitted to arbitration in accordance with the terms of the Agreement.

9.2 State or Federal Court

If any claim or cause of action at law or in equity is filed by either Party in any state or federal court which results in arbitration being compelled and/or the claim or cause of action being dismissed, stayed and/or removed to arbitration pursuant to this Agreement, the Party who instituted the claim or cause of action in state or federal court, either wholly or in substantial part, will, at the discretion of the arbitrator(s), reimburse the respondent for its reasonable attorney’s fees, costs, and necessary disbursements to the extent permitted by law, in addition to any other relief to which it may be entitled, related to the state or federal court claim or action.

9.3 Arbitration; Recovery

Including the initial filing fee, the cost of arbitration will be borne by the claimant. If an arbitration or any action at law in equity is necessary to enforce or interpret the terms of this Agreement, the prevailing Party, either wholly or in substantial part, will, at the discretion of the Arbitrator, be entitled to its reasonable attorney’s fees, costs, and necessary disbursements to the extent permitted by law, in addition to any other relief to which it may be entitled.

9.4 Location

All claims will be submitted to and administered by the American Arbitration Association’s Case Management Center located closest to Consultant’s principal place of business.

9.5 Rules

The arbitration will comply with and be governed by the American Arbitration Association’s Commercial Arbitration Rules (the **“Rules”**) effective as of the execution date below, to the extent such Rules are not contrary to the express provisions of this Agreement. The Parties also agree that the American Arbitration Association’s Optional Rules for Emergency Measures of Protection (the **“Emergency Rules”**) will apply to proceedings brought by either party. The Rules and Emergency Rules can be found at the American Arbitration Association’s website by following the link at <https://www.adr.org>. You acknowledge that you have read these Rules and Emergency Rules and that it is your responsibility to be familiar with them prior to signing this

Agreement. If you are unable to access the Rules and/or Emergency Rules at the above website, you can request a copy of them from a Discloser official prior to signing the Agreement.

9.6 Governing Law

The Parties agree and acknowledge that all provisions of this Agreement will be governed by and construed in accordance with the laws of the State of [Virginia/ Delaware] exclusively and without reference to principles of conflict of laws. The Federal Arbitration Act (the “**FAA**”) will supersede state laws to the extent inconsistent. Any claim involving the construction or application of this Agreement must be submitted to arbitration within the statute of limitations period for such claim under [Virginia/ Delaware] state law and will be dismissed if the statute of limitations period is not met. The arbitrator(s) will have no authority to apply the law of any other jurisdiction.

9.7 Arbitrator

Any dispute will be heard and determined by one arbitrator, unless both Parties mutually consent in writing signed by Recipient and an authorized representative of Discloser to a panel of three (3) arbitrators. Unless both Parties mutually consent otherwise, the Parties agree and request that the arbitrator(s) issue a reasoned award in accordance with Commercial Arbitration Rule R-42 (b).

10 Exhibit A Acknowledgement

I UNDERSTAND THAT BY SIGNING THIS AGREEMENT I AM GIVING UP MY RIGHT TO A JURY TRIAL.

Consultant

Client

Signature

Signature

Print Name

Print Name

Title

Title

Date

Date