

INDEPENDENT CONTRACTOR AGREEMENT

THIS INDEPENDENT CONTRACTOR AGREEMENT (the “Agreement”), made and effective as of the 10th day of May, 2018 (the “Effective Date”), by and between the Village of Westmont (“Village”), and Kaleidoscope Communications (the “Contractor”).

1. Engagement of Contractor. The Village hereby appoints and engages Contractor as its independent contractor, and Contractor hereby accepts the appointment and engagement by the Village with respect to the matters specified in paragraph 3 and Exhibit A for the compensation specified in paragraph 4 and Exhibit B hereof (“Engagement”).

2. Term and Termination.

2.1 Initial Term and Renewal Terms: This Agreement shall have an initial term commencing on the Effective Date and ending on the date immediately preceding the first (1st) anniversary of the Effective Date (the “Initial Term”), subject to Sections 2.2 and 2.3 below. This Agreement shall automatically renew upon expiration of the Initial Term for successive terms of one (1) year each (referred to individually as a “Renewal Term”) upon the mutual written agreement of the Parties prior to the expiration of the then-current Initial Term or Renewal Term (as the case may be), unless this Agreement is terminated sooner: (a) by operation of law; or (b) under Sections 2.2 or 2.3 of this Agreement. For purposes of this Agreement: (i) the Initial Term and each Renewal Term are hereinafter sometimes referred to collectively as the “Term”.

2.2 Termination by Village: In addition to its ability to terminate this Agreement pursuant to Section 2.1 above, the Village shall have the right to terminate this Agreement at any time (a) in the event of death or serious disability of Contractor; (b) if Contractor fails to perform any material term of this Agreement and such non-performance is not cured within ten (10) business days of written notice by the Village of such failure of performance; or (c) upon thirty (30) days’ notice for any reason or no reason.

2.3 Termination by Contractor: In addition to his/her ability to terminate this Agreement pursuant to Section 2.1 above, Contractor shall have the right to terminate this Agreement (a) at any time if the Village fails to perform any material term of this Agreement and such non-performance is not cured within ten (10) business days of written notice by Contractor of such failure of performance by the Village; or (b) upon sixty (60) days’ notice for any reason or no reason.

3. Activities of Contractor. During the Term of this Agreement, Contractor shall provide consulting services described in Exhibit A (the “Services”).

3.1 Manner of Performance. The parties acknowledge and represent that Contractor is free from the control and direction of the Village and that Contractor retains all control over his activities and the operations of his business, except as required to meet his/her obligations under this Agreement. The Contractor has the right to determine his/her hours and days of operations, the location of his/her operations, as well as his/her strategies for effectively and competently performing the Services, so long as the same are consistent with his/her obligations hereunder and except as may be limited in Exhibit A.

3.2 Physical Assets. Except as provided below in this Subsection and except as may be set forth in Exhibit A, the Contractor shall provide all physical assets needed for performing the Services under this Agreement at his/her own expense, including but not limited to, providing his/her own computers, modems, printers, telefax machines, telephones and related equipment, paper, internet and telephone access, and other office supplies. To the extent necessary to perform the Services under this Agreement, the Village may require the Contractor to use Village-owned physical assets.

3.3 Contractor's Conduct. The Contractor shall perform the Services in an ethical and professional manner and refrain from any conduct that is or could be detrimental to the Village's reputation or integrity. Contractor and its employees shall perform the Services in accordance with applicable legal and regulatory requirements and meet the standard of quality ordinarily expected with competent and technical professionals in Contractor's field of expertise.

4. Compensation and Expenses. As full and complete compensation for any and all services that Contractor will provide to the Village and for the covenants provided in paragraph 5 hereof, the Village shall pay Contractor such fee or amounts as set forth in Exhibit B attached hereto. Such compensation shall be payable within thirty (30) days after receipt by the Village of a written invoice for Contractor's services. Invoices shall be submitted by Contractor to the Village on a monthly basis, and shall provide a description of services rendered and the time spent providing the same.

5. Covenants.

5.1 Confidential Information.

5.1.1 The Contractor acknowledges that the Village's business depends, in part, upon the possession of confidential, proprietary and trade secret information related to Village operations which is not generally known to others, and that the Village's success and security requires that this information remain proprietary to the Village. The Contractor recognizes that, by virtue of the Contractor's relationship with the Village, and to assist the Contractor in adequately performing the Services, the Contractor will be granted otherwise prohibited access to such information. This information (hereinafter referred to as "Confidential Information") includes, without limitation: information and electronic and hard-copy records consisting of, identifying, containing, describing, or reflecting (in whole or in part) the Village's security information, personal employee information, draft documents or non-public documents, account information, software, data, passwords, performance evaluations, and similar matters of a non-public nature.

5.1.2 The Contractor will not, except as required to provide Services hereunder or by applicable law (provided that the Contractor shall first give the Village at least ten (10) business days' written advance written notice of the deadline for Contractor to comply with any subpoena or other legal disclosure requirement), disclose or use during or subsequent to the

Term of this Agreement, any Confidential Information. All Confidential Information and all records and equipment and other materials relating in any way to Confidential Information, and all other Village property, will be and remain the sole property of the Village during and after the Term of this Agreement.

5.1.3 Upon termination of this Agreement or upon the Village's request (whichever is earlier), the Contractor will promptly return to the Village (or, at the Village's sole option, destroy) all Confidential Information and all materials and all copies or tangible embodiments of materials involving Confidential Information, and all other Village property, in the Contractor's possession or control. The Contractor agrees to represent in writing to the Village upon the termination of this Agreement that he has complied with the provisions of this Section 5.2.

5.2 Non-Solicitation. During the Restricted Period, Contractor shall not, directly or indirectly recruit, solicit or induce, or attempt to recruit, solicit or induce, any employee, agent, representative or other business relationship of, the Village to terminate his, her or its employment relationship or otherwise cease his, her or its business relationship(s), as applicable, with the Village, or otherwise interfere with the business relationship(s) between the Village and/or any such individual or entity.

5.3 Remedies. Contractor agrees and acknowledges that any violation of Section 5 of this Agreement will cause irreparable damage to the Village, the exact amount of which it will be impossible to ascertain and, for that reason, Contractor agrees that the Village shall be entitled to injunctive relief restraining any violation or threatened violation of Sections 5 of this Agreement (without bond or security upon any actual or threatened breach of such provisions), such right to be cumulative and in addition to all other remedies available by reason of such violation. Contractor agrees and acknowledges that the covenants set forth in this Section 5 are reasonable with respect to duration and scope, and are necessary to protect the Company's legitimate business interests.

6. Independent Contractor. Contractor and the Village understand and acknowledge that Contractor's relationship with the Village is that of an independent contractor and nothing in this Agreement is intended to or should be construed to create a partnership, joint venture or employment relationship. Contractor further acknowledges that Contractor will not be treated or regarded as a Village employee under the laws or regulations of any government or governmental agency. The Village shall not withhold from Contractor's compensation any amounts for income taxes or other similar assessments. To the extent necessary, each party shall report payments hereunder to all governmental agencies as those paid to an independent contractor, and in no event shall the Village treat or report amounts paid to Contractor as amounts paid to an employee. Neither the Village nor the Contractor shall in any way become obligated for the debts or expenses of the other, unless otherwise agreed in writing. Contractor shall have no right to bind, speak for or contract on behalf of the Village. Neither party shall have any liability or obligation of any kind for claims brought upon the other as a result of either party carrying out the terms of this

Agreement. Furthermore, the Contractor agrees and acknowledges that he shall have no right to unemployment compensation by virtue of the independent contractor relationship created hereunder.

Because Contractor is an independent contractor, the Village shall not be obligated to provide Contractor with any benefits provided to employees of the Village, including, but not limited to, health and life insurance and participation in employee benefit plans and Contractor shall not be eligible to participate in such employee benefit plans. Each party shall retain full control, authority and discretion at all times with regard to the hiring, firing and working conditions of the parties' respective employees or other personnel, subject only to the provisions of this Agreement. Each party shall remain solely responsible and liable for compliance with all local, state and federal laws and regulations, and any contractual obligations related to the employment of such parties' respective employees or other personnel. Each party shall remain solely responsible and liable for the payment of all wages, fringe benefits, payroll related taxes and premiums, and expense reimbursement related to the employment of such parties' respective employees or other personnel.

7. Ownership of Work.

All work generated or prepared by Contractor on behalf of the Village pursuant to this Agreement shall be owned by and the property of the Village. All work performed under this Agreement shall be considered work for hire, all rights under the Copyright Act are the exclusive rights of the Village, and each production and duplicate, if within the scope of Services, shall bear a legally sufficient notice that the Village is the sole owner of the copyright (i.e., Copyright [year], Village of Westmont. All rights reserved.)

8. Insurance.

Contractor will secure and maintain commercial general liability, workers' compensation, employer liability, excess liability and auto liability insurance during the Term of this Agreement, and upon request, will provide the Village with a certificate of insurance which names the Village, its officers, agents and employees as additional insureds. The commercial general liability insurance policy shall be in the minimum amount of \$1,000,000.00. The workers' compensation insurance shall be in the statutorily-required amount. The remaining policies of insurance shall be in commercially reasonable amounts.

9. Indemnification.

Contractor agrees to defend, indemnify and hold harmless the Village, its officers, agents, employees and volunteers from and against any and all claims, demands, actions, losses, damages,

injuries, and liability, direct or indirect (including any and all related costs and expenses in connection therewith), arising out of the performance of Contractor's Services under this Agreement to the Village.

10. Miscellaneous.

10.1 Ability to Contract. Contractor has due authority to execute this Agreement and perform his/her obligations hereunder, and does not have any obligation to any other party that is inconsistent with his/her obligations under this Agreement, and Contractor shall not, in the performance of this Agreement, breach any obligations that he/she may have to others including, without limitation, any obligations under restrictive covenant or confidentiality agreement.

10.2 Successors; Assignment. Contractor's rights under this Agreement shall not be transferable by assignment or otherwise. The Village may assign its rights under this Agreement.

10.3 Modification and Severability. To the extent that the terms set forth in this Agreement or any word, phrase, clause or sentence is found to be illegal or unenforceable by a court of competent jurisdiction for any reason, such term, word, phrase, clause or sentence will be modified in such manner so as to achieve the intention of the parties in entering this Agreement and rendering the Agreement, as modified, legal and enforceable under applicable laws. If, however, a court of competent jurisdiction finds that any such term, word, phrase, clause or sentence cannot be so modified and thus made enforceable, or otherwise declines for any reason to do so, such term, word, phrase, clause or sentence shall be deemed severed from this Agreement and of no force and effect, and the balance of this Agreement will not be affected thereby, the balance being construed as severable and independent.

10.4 Amendment. This Agreement may not be amended or modified except by written instrument executed by the Village and Contractor.

10.5 Governing Venue and Law. This Agreement shall be governed by the laws of the State of Illinois, without regard to the conflict of law principles, rules or statutes of any jurisdiction. In the event of a legal action filed or brought by either party relating to the validity, interpretation, construction, performance, enforcement and remedies of, or relating to, this Agreement, and the rights and obligations of the parties hereunder, each of the Village and the Contractor hereby agree that it and he now and forever waives any and all rights to a trial by jury irrespective of the law principles, rules or statutes of any jurisdiction or of the nature of the cause of action. The Circuit Court of the Eighteenth Judicial Circuit and the Federal District Court in the Northern District of Illinois shall have exclusive jurisdiction over all proceedings related to this Agreement. The Village and Contractor irrevocably and unconditionally consent and submit itself and himself/herself to the jurisdiction of such court(s) for the purposes of any such suit, claim or other legal proceeding and waive and will not plead or claim in any such court that venue is improper or that such suit, claim or other legal proceeding has been brought in an inconvenient

forum.

10.6 Notice. Notices given pursuant to this Agreement shall be in writing and shall be deemed given when actually received (whether via U.S. mail, e-mail, courier service or hand delivery).

10.7 No Waiver. No waiver by either party at any time of any breach by the other party, or compliance with, any condition or provision of this Agreement to be performed by the other party shall be deemed a waiver of similar or dissimilar provisions or conditions at the same time or any prior or subsequent time.

10.8 Headings. The headings herein contained are for reference only and shall not affect the meaning or interpretation of any provision of this Agreement.

10.9 Entire Agreement. This Agreement and the documents to be delivered pursuant hereto constitute the entire agreement between the parties pertaining to the subject matter hereof, and supersede all prior and contemporaneous agreements, understandings, negotiations, and discussions of the parties, whether oral or written.

10.10 Survival. Contractor's obligations under paragraph 5 and the Village's obligation to pay Contractor amounts previously earned and direct expenses incurred up to the time notice is made, shall survive the termination of this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

Contractor:

Date: _____

Village:

Village of Westmont, an Illinois municipality

By: _____
Its Authorized Signatory

Date: _____

Address:

Attn: _____

Address:

Village of Westmont
31 W. Quincy Street
Westmont, IL 60137
Attn: Director of IT Services

EXHIBIT A
CONTRACTOR SERVICES

Contractor shall provide the following services to the Village:

1. Audio-visual production services of Village Board of Trustee meetings and other public meetings and events as assigned.
2. The Village shall provide Contractor with a list of dates, times and locations of such meetings and events, and the Village shall insure timely access and provide operable audio-visual equipment for Contractor's use for public meetings held at Village Hall. The Village shall provide an annual list of such meetings and events, which may be amended from time to time by the Village, upon not less than forty-eight (48) hours advance notice to Contractor.
3. Contractor shall be responsible for all production logistics.
4. Base Services: Contractor shall provide on-site audio-visual production services for up to five (5) public meetings per month, or up to sixty (60) public meetings per year. For purposes of this Agreement, a meeting is one which does not exceed four (4) hours on a single date. A single meeting of less than four (4) hours but extends past midnight shall be considered a single meeting. Base Services include the meeting time up to two and one-half (2.5) hours, plus sixty (60) minutes pre-production time and thirty (30) minutes for post on-site operations. Additional services listed below are excluded from base services. The Village shall compensate Contractor for Base Services as set forth in Exhibit B to this Agreement.
5. Additional Services: Additional Services shall include performing audio-visual production services which exceed the four (4) hour limitation for Base Services, shall include performing audio-visual production services for more than five (5) public meetings per month, or more than sixty (60) public meetings per year, and shall include performing audio-visual services for off-site (not at Village Hall) meetings and events. The Village shall compensate Contractor for Additional Services as set forth in Exhibit B to this Agreement.
6. Off-Site Services: Contractor shall provide off-site audio-visual production services as requested by the Village pursuant to Section 2 of this Exhibit A, and the Village shall compensate Contractor for such off-site services as Additional Services as set forth in Exhibit B to this Agreement. "Off-site" shall mean at a location other than the Village Hall Meeting Room. All off-site meetings or events shall be produced with audio-visual equipment and other necessary equipment provided by Contractor. Off-site video will consist of a single, fixed video camera, minimal audio utilizing a mounted microphone and a single remote microphone. Contractor shall provide one (1) operator for a total production of two (2) hours, plus one (1) set-up hour and one (1) hour of breakdown.

Contractor shall provide editing to include a single title, a single end graphic and up to

four (4) lower third graphics. The off-site meeting or event will not be edited beyond simple edits to clean up the start and finish of the event. Additional pre- or post-production will be billed under the general hourly rate specified in Exhibit B to this Agreement, including production time and on-site work as well as pre- and post-production off-site work beyond that which is noted in this paragraph.

7. Use of Village Equipment. For Base Services and Additional Services which occur at the Village Hall Meeting Room, Contractor will use the Village's production equipment. Use of Village equipment shall be for the direct or indirect support of meetings or as otherwise directed by the Village. Contractor will use Village equipment solely for the Services provided under this Agreement, unless otherwise agreed in writing by the Parties.

EXHIBIT B

Compensation:

1. Base Services: The Village will compensate Contractor \$175.00 per meeting.
2. Additional Services:
 - i. Extended Meeting Hourly Rate: \$50.00 per hour, billed in 30-minute increments.
 - ii. Additional On-Site Meetings: \$175.00 per meeting, plus Extended Meeting Hourly Rate if applicable.
 - iii. Off-Site Meetings/Events: \$400.00 per off-site meeting or event, plus Extended Meeting Hourly Rate if applicable.
 - iv. General Hourly Rate: \$85.00 per hour, billed in 30-minute increments. This rate shall only apply to pre- and post-production services.