



FURST-MCNESS COMPANY

## Independent Contractor Terms and Conditions

**Contractor Name** \_\_\_\_\_

These Terms and Conditions apply to any independent contractor (“Independent Contractor”) who performs work for Furst-McNess Company (“Company”). Prior to beginning any work for Company, Independent Contractor is required to read and acknowledge the Terms and Conditions, and Independent Contractor explicitly agrees that it will abide by the same. The Terms and Conditions will not be modified unless agreed-upon, in writing, by both parties.

<b>Scope of Services</b>	Independent Contractor shall provide services as described in the attached statement of work, quote, or invoice (“Services”). Independent Contractor will perform the Services in a professional and workmanlike manner in accordance with generally recognized industry standards for similar services and will devote sufficient resources to ensure that the Services are performed in a timely and reliable manner.
<b>Compensation</b>	In consideration for Independent Contractor’s Services, the Company shall pay Independent Contractor the amount stated in the attached statement of work, quote, or invoice.
<b>Expenses</b>	Unless otherwise agreed to by Company and Independent Contractor, Independent Contractor shall be responsible for all out-of-pocket and other reasonable expenses incurred in the performance of Independent Contractor’s Services. Independent Contractor shall, at its own expense, provide or ensure use of all personal protection gear and/or equipment to its employees or agents, as required by federal, state, or local law, regulation, ordinance, directive, or rule.
<b>Term and Termination</b>	The Terms and Conditions shall be effective as of the date Independent Contractor first performs Services for Company and shall continue in effect until the Services are satisfied. Either party may terminate Independent Contractor’s Services prior to the completion or achievement of the Services by either party giving thirty (30) days’ written notice. Such termination shall not prejudice any other remedy to which the terminating party may be entitled, either by law, in equity, or herein. Any extension of the term will be subject to mutual written agreement between the parties.
<b>Status of Independent Contractor</b>	These Terms and Conditions do not constitute a hiring by either party. It is the parties’ intention that Independent Contractor shall have an independent contractor status and not be an employee for any purposes, including, but not limited to, the application of the Federal Insurance Contribution Act, the Social Security Act, the Federal Unemployment Tax Act, the provisions of the Internal Revenue Code, the State Revenue and Taxation Code, relating to income tax withholding at the source of income, the Workers’ Compensation Insurance Code, 401(k), and other benefit payments, and third party liability claims. Independent Contractor shall retain sole and absolute discretion in the manner and means of carrying out its activities and responsibilities herein. These Terms and Conditions shall not be considered or construed to be a partnership or joint venture, and Company shall not be liable for any obligations incurred by Independent Contractor unless specifically authorized

	<p>in writing. Independent Contractor shall not act as an agent of Company, ostensibly or otherwise, nor bind Company in any manner, unless specifically authorized to do so in writing.</p> <p>Independent Contractor agrees to be solely responsible for all taxes and other costs and expenses attributable to the compensation payable to and services provided by Independent Contractor. Independent Contractor agrees it has taken any and all action to comply with all applicable federal, state and local laws pertaining to the same. Independent Contractor hereby agrees to indemnify Company and agrees to hold Company harmless from any claim(s) from any taxing or other authority arising from Independent Contractor's own acts or omissions related to the compensation provided under this Agreement and/or the services provided by Independent Contractor hereunder.</p> <p>Independent Contractor shall be responsible to the management and directors of Company, but Independent Contractor will not be required to follow or establish a regular or daily work schedule. Independent Contractor shall supply all necessary equipment, materials and supplies. Independent Contractor will not rely on the equipment or offices of Company for completion of Services. Any advice given to Independent Contractor regarding the Services shall be considered a suggestion only, not an instruction. Company retains the right to inspect, stop, or alter the work of Independent Contractor to assure its conformity with the scope of Services.</p> <p>Independent Contractor is not required to devote all of its energies exclusively for the benefit of Company. Independent Contractor may engage in any business that Independent Contractor determines is prudent, as long as said business is not in conflict with these Terms and Conditions. Nothing herein shall be deemed to prohibit Independent Contractor from engaging in such other business activities.</p> <p>All persons hired by Independent Contractor to assist in performing the tasks and duties necessary to complete the Services shall be the employees of Independent Contractor unless specifically indicated otherwise in an agreement signed by all parties. Independent Contractor may employ as many workers as it requires, such matter resting entirely within its discretion. Company need not be advised of the employment of such individuals. If such workers are employees, the Independent Contractor shall be deemed the employer of such persons. Consequently, Independent Contractor shall be responsible for all necessary insurance and payroll deductions for such persons, including, but not limited to, federal, state, and local incoming taxes, social security taxes, unemployment compensation, and workers' compensation coverage. Independent Contractor shall immediately provide Company proof of Workers' Compensation insurance, Commercial General Liability insurance and, if applicable, Auto Liability insurance covering said employees, upon request of Company.</p>
<p><b>Waiver of Benefits</b></p>	<p>Independent Contractor hereby waives and foregoes the right to receive any benefits given by Company to its regular employees, including, but not limited to: health benefits; vacation and sick leave benefits; profit sharing plans; and 401(k) plans. This waiver is effective independently of Independent Contractor's employment status as adjudged for taxation purposes or for any other purpose.</p>
<p><b>Legal Compliance</b></p>	<p>Independent Contractor is encouraged to treat all Company employees, customers, clients, business partners and other affiliates with respect. While performing Services on behalf of Company, or at any Company worksite, Independent</p>

	Contractor is required to comply with all laws, ethical codes and Company policies, procedures, rules or regulations, including those forbidding sexual harassment, discrimination, and unfair business practices.
<b>Safe Work Environment</b>	Independent Contractor agrees that it will comply with all health and safety laws, right-to-know laws, regulations, ordinances, directives and rules imposed by controlling federal, state, and local governments, and that it will immediately report all accidents and injuries to Company's corporate office. Independent Contractor represents that its working environment, equipment, and machinery meet all OSHA or other applicable standards and that they will be maintained in compliance with such standards for the duration of the Services. Independent Contractor agrees that it shall be responsible for any OSHA violations based on its actions or failure to take action.
<b>Indemnification and Cooperation</b>	<p>To the fullest extent permitted by law, Independent Contractor shall defend, indemnify, hold harmless, and insure Company and its parents, subsidiaries, affiliates, directors, officers, employees and agents from and against any and all liabilities, obligations, damages, penalties, claims, costs, charges, and expenses, including reasonable attorneys' fees, which may be imposed upon or incurred by or asserted against Company as a result of any negligence or misconduct on Independent Contractor's part, or from any breach or default of these Terms and Conditions which is caused or occasioned by the acts of Independent Contractor or agents for Independent Contractor. Independent Contractor shall insure that its employees and affiliates take all actions necessary to comply with the Terms and Conditions set forth herein. Additionally, Independent Contractor further agrees to defend, indemnify, and hold harmless Company for any and all claims arising out of any injury, disability, or death of any of Independent Contractor's employees or agents.</p> <p>To the extent any federal, state, or local government agency challenges Independent Contractor's status as an independent contractor under federal, state, or local law, Independent Contractor agrees to cooperate with Company to establish its status as an independent contractor, including providing all necessary paperwork and performing all necessary tasks. In the event any of Independent Contractor's employees or agents are found to be employees of Company and entitled to any benefits or other remuneration, Independent Contractor agrees to defend, indemnify, hold harmless, and insure Company for any such unpaid benefits or remuneration.</p>
<b>Insurance Requirements</b>	The Required Insurance, as outlined below shall cover Independent Contractor, its authorized representatives, employees, agents, and any other person (including its authorized representatives, employees and agents) performing any Services for Company. Independent Contractor shall cause each subcontractor retained by Independent Contractor to purchase, obtain, and maintain the Required Insurance prior to commencing any portion of the Services. Upon request of Company, Independent Contractor shall provide Company with copies of certificates of insurance evidencing the Required Insurance for Independent Contractor and each subcontractor. Insurance carriers must have at least an A.M. Best's Rating of "A" and a "Financial Size Category" of "VIII" or better as set forth in the most current edition of A.M Best's Key Rating Guide, and shall otherwise be acceptable to Company. Insurance carriers must be admitted in the State of Illinois.

	<p><b><u>Workers' Compensation Insurance</u></b> – Independent Contractor agrees to provide workers' compensation insurance for Independent Contractor's employees and agents during the performance of Services by Independent Contractor or its agents for Company. Where permitted by law, such insurance shall be endorsed to provide for a Waiver of Subrogation in favor of Company.</p> <p><b><u>Liability Insurance</u></b> – Independent Contractor agrees to maintain a policy of General Liability (which includes, but is not limited to, contractual liability coverage) and Auto Liability insurance in the minimum amount of \$1,000,000 dollars for each occurrence to cover any negligent acts committed by Independent Contractor or Independent Contractor's employees or agents during the performance of any Services for Company. General Liability policy shall name <b>Furst-McNess Company</b> as an Additional Insured on a primary and non-contributory basis. Please note that the required liability limits can be satisfied through a combination of Primary and Umbrella limits.</p> <p><b><u>Independent Contractor's Property</u></b> – Independent Contractor shall bear the entire risk of loss or damage to Independent Contractor's property or equipment regardless of cause. Independent Contractor shall purchase and maintain in force, appropriate property insurance for its own equipment and materials or equipment and materials of others while said property is located at Company's premises.</p> <p><b><u>Waiver of Subrogation</u></b> – Independent Contractor waives all rights against Company, its parents, subsidiaries, affiliates, officers, directors, agents, and employees for recovery for damages caused by fire and other perils to the extent covered by property insurance purchased pursuant to the requirements of this section or any other property insurance applicable.</p> <p><b><u>Vehicle Physical Damage</u></b> – Independent Contractor and/or its assigns assumes and shall bear the entire risk of loss or damage to Independent Contractor's vehicle(s) and related vehicle equipment while operating said vehicle(s) or vehicle-related equipment on or around <b>Furst-McNess Company</b> premises.</p> <p><b><u>Proof of Insurance</u></b> – For the above outlined insurance, Independent Contractor shall provide Company certificates of insurance and applicable policy endorsements evidencing this coverage upon Company's request.</p>
<p><b>Training of Independent Contractor</b></p>	<p>Independent Contractor agrees that it, and all of its employees and subcontractors, must receive from Company the minimum training and orientation as required by OSHA prior to beginning any work for the Company. Independent Contractor agrees that it will not perform any Services for Company until it has received such training, and each employee has completed the Contractor Training Confirmation contained in Schedule A attached hereto.</p>
<p><b>Confidentiality and Non-Disclosure</b></p>	<p>Independent Contractor agrees during the term of these Terms and Conditions and thereafter that it will take all steps reasonably necessary to hold Company's Confidential Information in trust and confidence, will not use Confidential Information in any manner or for any purpose not expressly set forth herein, and will not disclose any such Confidential Information to any third party without first obtaining Company's express written consent on a case-by-case basis. By way of illustration, but not limitation, "<b>Confidential Information</b>" includes (a) trade secrets,</p>

	<p>inventions, mask works, ideas, processes, formulas, source and object codes, data, programs, other works of authorship, know-how, improvements, discoveries, developments, designs and techniques (hereinafter collectively referred to as “<b>Inventions</b>”); (b) information regarding plans for research, development, new products, marketing and selling, business plans, budgets and unpublished financial statements, licenses, prices and costs, suppliers and customers; and (c) information regarding the skills and compensation of employees of Company. Notwithstanding the other provisions of these Terms and Conditions, nothing received by Independent Contractor will be considered to be Company Confidential Information if: (a) it has been published or is otherwise readily available to the public other than by a breach of these Terms and Conditions; (b) it has been rightfully received by Independent Contractor from a third party without confidential limitations; (c) it has been independently developed for Independent Contractor by personnel or agents having no access to the Company Confidential Information; or (d) it was known to Independent Contractor on a non-confidential basis prior to its receipt from Company.</p> <p>Nothing in this Agreement prohibits Independent Contractor from reporting possible violations of federal law or regulation to any governmental agency or entity or making other disclosures that are protected under the whistleblower provisions of federal law or regulation. Independent Contractor does not need the prior authorization of the Company to make such reports or disclosures and Independent Contractor is not required to notify the Company that Independent Contractor has made such reports or disclosures. In addition, pursuant to 18 USC Section 1833(b), Independent Contractor shall not be held criminally or civilly liable under any federal or state trade secret law for the disclosure of a trade secret that is made: (1) in confidence to a federal, state or local governmental official, either directly or indirectly, or to an attorney, and solely for the purpose of reporting or investigating a suspected violation of law; or (2) in a complaint or other document filed in a lawsuit or other proceeding, if such filing is made under seal. An Independent Contractor who files a lawsuit for retaliation by the Company for reporting a suspected violation of law may disclose the trade secret to an attorney and use the trade secret information in the court proceeding, if Independent Contractor files any document containing the trade secret under seal and does not disclose the trade secret except pursuant to court order.</p>
<b>Governing Law and Jurisdiction</b>	<p>These Terms and Conditions shall be governed by, and construed under, the laws of the State of Illinois. Independent Contractor and Company expressly consent to the personal jurisdiction of the state court located in Stephenson County, Illinois for any lawsuit arising from or related to these Terms and Conditions.</p>
<b>Assignment</b>	<p>Neither party may assign its rights or obligations herein without first obtaining the prior written consent of the other party, except that Company may assign these Terms and Conditions to a successor or affiliated company, provided that Company provides Independent Contractor with thirty (30) days’ written notice of any such assignment.</p>
<b>Partial Invalidity</b>	<p>If any provision of these Terms and Conditions is held by a Court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions shall nevertheless continue in full force and effect without being impaired or invalidated in any way.</p>

<b>FURST-MCNESS COMPANY:</b>	<b>INDEPENDENT CONTRACTOR:</b>
_____	_____
(Printed Name)	(Printed Name)
By: _____	By: _____
Title: _____	Title: _____

Initials \_\_\_\_\_

**SCHEDULE A**

**Contractor Training Confirmation for Project Number \_\_\_\_\_ etc.**

1. Confirmation of Basic Training. I (contractor) have been trained in the following areas:

	Initials	Date
a. Personal Protective Equipment	_____	_____
i. Hard hat	_____	_____
ii. Eye Protection	_____	_____
iii. Toe Protection	_____	_____
iv. Gloves	_____	_____
v. Dust	_____	_____
vi. Hearing	_____	_____
b. Hazardous Materials	_____	_____
c. Blood Borne Pathogens	_____	_____
d. Good Housekeeping	_____	_____
e. Fall Protection	_____	_____
f. Confined Space	_____	_____
g. Lock Out/Tag Out	_____	_____
h. Hot Work	_____	_____

2. Confirmation of Facility Tour by Furst-McNess. I (contractor) have been shown and trained on the following facility locations and risk points.

	Initials	Date
a. Confined Spaces	_____	_____
b. Fall Hazards	_____	_____
c. Trip Hazards	_____	_____
d. Chemical Storage	_____	_____
e. Explosive Storage	_____	_____
f. Medication Storage	_____	_____
g. Dust Risk Points	_____	_____
h. Material Safety Sheets	_____	_____
i. Emergency Evacuation Plan	_____	_____
j. Traffic Patterns Truck and Rail	_____	_____
k. Furst-McNess Primary Contact	_____	_____
l. Railroad Safety	_____	_____
m. Hygiene Practices	_____	_____
n. Location of Restrooms	_____	_____
o. Contractor Tool Cleaning Expectations	_____	_____