



SEPTEMBER 19-23, 2022

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Business Foundations: Session 2/3 – Third-Party Contracts

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Third-Party Contracts (Business Foundations: Session 2/3)

Milgrom & Daskam

Jason Fisher

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Cutting Through Legalese to Understand Contracts

Contracts can be difficult to understand. They are often written in complex and obscure way. Understanding the contracts that you or your business enter is of the utmost importance. To assist with this, we are going to review three contracts and discuss not only what they are saying, but why it is important. We are going to look at:

1. Co-Manufacturing Agreement – this is a contract for the production of physical goods.
2. Development Agreement – this is a contract for ongoing software development
3. Contractor Proprietary Information Assignment Agreement – this is a contract to prevent the unauthorized disclosure of confidential information and the assignment of work product.

Most Frequently Litigated Contract Provisions

We will also discuss the costs of litigating contract provisions and how to avoid them. These costs include: monetary costs (legal fees and potential judgment) and business disruption.

To avoid litigation, you can take the following steps:

1. Anticipate and address worst case scenarios in the contract;
2. Leave nothing to chance – define as many terms and procedures as possible;
3. Limit the advantages of litigation (capping damages).

WHEREAS, Co-Manufacturer is engaged in the business of manufacturing and packaging a variety of food products for its customers, and has the knowledge, expertise and resources to manufacture, produce, package, and store the Finished Products (as defined below) for Buyer; and¶

WHEREAS, Buyer is in the business of distributing and selling the Finished Products to its customers and desires to engage Co-Manufacturer to manufacture, produce, package, store, pick and stage for shipment the Products.¶

NOW, THEREFORE, for and in consideration of these recitals, the mutual covenants herein contained, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:¶



1. Finished Products.

(a) Production. Co-Manufacturer agrees it will have the capacity during the Term to manufacture, produce, package, store, pack for shipment and stage for shipment for, and sell to, Buyer, the products specified in Schedule 1, incorporated herein by reference, (the “**Finished Products**”) in at least the quantities forecasted by Buyer as set forth in Schedule 4, incorporated herein by reference, and Buyer agrees to purchase from Co-Manufacturer, the Finished Products specified in the applicable purchase order pursuant to the terms and conditions set out in this Agreement.

(d) Specifications. Except as otherwise agreed, Co-Manufacturer shall supply, at its own expense, all facilities, equipment, supplies, personnel, and technical information (along with technical information of Buyer if supplied by Buyer to Co-Manufacturer) to manufacture, package and deliver the Finished Products in accordance with the specifications for each Finished Products, which are set forth in Schedule 2, incorporated herein by reference, and all other written manufacturing or production guidelines provided by Buyer, if any (the "**Specifications**"). Buyer may at any time, in its sole discretion, amend the Specifications by giving fourteen (14) days prior written notice to Co-Manufacturer of such amendment unless otherwise mutually agreed. If Co-Manufacturer determines it will not be able to meet Buyer's revised Specifications, then within seven (7) days, Co-Manufacturer shall so notify Buyer, and Buyer shall have the right to terminate the Agreement with respect to the applicable Finished Products, or Buyer shall have the right to revert to the prior Specifications and this Agreement will remain in force with respect to such Finished Products. In the event that Buyer's amendments of the Specifications result in a change in Co-Manufacturer's actual costs of production, the parties shall negotiate in good faith an appropriate adjustment in the fees paid to Co-Manufacturer for the applicable Finished Products. The Specifications and any and all amendments or improvements thereto constitute trade secrets as defined by the Uniform Trade Secrets Act, as amended from time to time, of Buyer, and are governed by Section 14(a), and remain the property of Buyer.

4. Product Inspection and Rejection. All of the Finished Products are subject to Buyer's right of inspection and rejection at any time within ten (10) days of delivery ("**Acceptance Period**"). Buyer shall have the right to reject the Finished Products that are not produced, packaged, stored, or handled in compliance with the Specifications or which are otherwise not in compliance with the terms and conditions of this Agreement including any representations and warranties contained herein. Buyer shall have the right to reject any of the Finished Products for non-compliance regardless of curability of any non-compliance. If Buyer rejects any Finished Product, it shall provide written notice of rejection during the Acceptance Period. If Buyer does not provide written notice of rejection during the Acceptance Period, the Finished Products will be deemed to have been accepted by Buyer. Any Finished Product timely rejected by Buyer shall be disposed of by Co-Manufacturer, or, if Buyer elects, by Buyer, at Co-Manufacturer's cost and expense in a manner that shall absolutely preclude re-use for human or, unless Buyer otherwise consents, animal consumption. Co-Manufacturer shall accept all timely returns of defective, damaged or rejected or unordered Finished Products (the "**Returned Products**"). At Buyer's option, Co-Manufacturer shall (a) exchange the Returned Products for Finished Products that meet the Specifications without any cost to Buyer; (b) credit Buyer for the amounts paid for such Returned Products; or (c) reimburse Buyer for the amounts paid for such Returned Products. In addition, Co-Manufacturer shall be responsible for the costs and expenses of insuring and shipping any timely-rejected Returned Products to Co-Manufacturer.

8. Representations and Warranties; Quality Defects.

(a) Co-Manufacturer represents and warrants that all Finished Products, and all Non-Buyer Materials incorporated by Co-Manufacturer into the Finished Products will be:

- (i) fully compliant with the Specifications and all applicable laws and regulations;
- (ii) free from any defects in workmanship, ingredients and baking processes;
- (iii) merchantable; and
- (iv) fit for their intended purpose.

(b) Co-Manufacturer represents and warrants that to its knowledge, the Finished Products do not and will not infringe or misappropriate any third party's patent, trade secret, or other intellectual property rights.

(c) If the Finished Products or any part thereof does not, for any reason, comply with the warranties set forth in this Agreement ("**Unacceptable Product**"), then in addition to any other remedies available to Buyer at law or in this Agreement in Section 4, Buyer can elect at its sole discretion and at Co-Manufacturer's sole expense to refuse delivery, and in such instance, Co-Manufacturer shall not sell or otherwise dispose of such Unacceptable Product without Buyer's prior written consent.

10. Indemnification and Insurance.

▲ (a) Co-Manufacturer Indemnification. Co-Manufacturer shall defend and indemnify Buyer and its members, managers, employees, agents, affiliates, successors, and permitted assigns (collectively, "**Buyer Indemnitees**") against any and all losses, damages, liabilities, deficiencies, claims, actions, judgments, settlements, interest, awards, penalties, fines, costs, or expenses of whatever kind, including attorneys' fees, and the costs of enforcing any right to indemnification under this Agreement and the cost of pursuing any insurance providers, incurred by Buyer Indemnitees (collectively, "**Losses**"), arising out of or resulting from or relating to any claim of a third party arising out of or occurring in connection with the Finished Products, Co-Manufacturer's services under this Agreement, or Co-Manufacturer's negligence, willful misconduct, or breach of this Agreement. Co-Manufacturer shall not enter into any settlement pertaining to anything arising out of, resulting from, or related to this Agreement, without Buyer's prior written consent.

(b) Intellectual Property Indemnification. Co-Manufacturer shall, at its expense, defend and indemnify Buyer Indemnitees against any and all Losses arising out of or in connection with any claim that the Finished Products infringe or misappropriate the patent, copyright, trade secret or other intellectual property right of any third party; provided that Co-Manufacturer shall have no obligation under this Section 12(b) to the extent the applicable claims are attributable to Buyer Materials or other materials provided by Buyer. Co-Manufacturer shall not enter into any settlement pertaining to any thing arising out of, resulting from, or related to this Agreement without Buyer's prior written consent.

(c) Buyer Indemnification. Buyer shall defend and indemnify Co-Manufacturer and its members, managers, employees, agents, affiliates, successors, and permitted assigns (collectively, "**Co-Manufacturer Indemnitees**") against any and all Losses incurred by Co-Manufacturer Indemnitees arising out of, resulting from, or related to a third party claim arising directly from the Buyer Materials or other materials provided by Buyer.

Indemnification

- Need to define, expressly, what liabilities are covered and by design, what liabilities do not fall within the scope of the clause;
- Triggers for indemnification liability
- What benefits flow to indemnitee? Damages, attorneys' fees, litigation expenses



(d) Insurance. Co-Manufacturer shall maintain, throughout the Term at its expense insurance with policy limits of at least:

(i) General Liability Policy Minimums

Each Occurrence	\$1,000,000
General Aggregate	\$2,000,000
Products	\$2,000,000
Excess / Umbrella	\$4,000,000

Certificates of Insurance

Additional Insured

Waiver of Subrogation

▲ 14. Force Majeure. If either party hereto is prevented from complying, either totally or in part, with any of the terms or provisions of this Agreement by reason of fire, flood, storm, strike, lockout or other labor trouble, riot, war, acts of terrorism, rebellion, or other acts of God, then upon written notice to the other party, the affected provisions and/or other requirements of this Agreement shall be suspended during the period of such disability. The disabled party shall make all reasonable efforts to remove such disability within thirty (30) days of giving notice of such disability. If the disability continues for more than sixty (60) days after the cessation of the reason for such disability, the non-disabled party shall have the right to terminate this Agreement immediately upon written notice, and neither party shall thereafter have any further rights or obligations hereunder, except as set forth in Section 11.

10. Limitation of Liability.

(a) EXCEPT FOR LIABILITY FOR INDEMNIFICATION, LIABILITY FOR BREACH OF CONFIDENTIALITY, OR LIABILITY FOR INFRINGEMENT OR MISAPPROPRIATION OF INTELLECTUAL PROPERTY RIGHTS, IN NO EVENT SHALL EITHER PARTY OR ITS REPRESENTATIVES BE LIABLE FOR CONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, PUNITIVE, OR ENHANCED DAMAGES ARISING OUT OF OR RELATING TO ANY BREACH OF THIS AGREEMENT, REGARDLESS OF (A) WHETHER SUCH DAMAGES WERE FORESEEABLE, (B) WHETHER OR NOT IT WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND (C) THE LEGAL OR EQUITABLE THEORY (CONTRACT, TORT, OR OTHERWISE) UPON WHICH THE CLAIM IS BASED, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE.

(b) EXCEPT FOR LIABILITY FOR INDEMNIFICATION, LIABILITY FOR BREACH OF CONFIDENTIALITY, OR LIABILITY FOR INFRINGEMENT OR MISAPPROPRIATION OF INTELLECTUAL PROPERTY RIGHTS, IN NO EVENT WILL EITHER PARTY'S LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT EXCEED THE AGGREGATE AMOUNTS PAID TO CO-PACKER PURSUANT TO THIS AGREEMENT IN THE TWELVE (12) MONTHS IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO SUCH CLAIM WHETHER ARISING OUT OF OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHER EQUITABLE THEORY.

DEVELOPMENT AGREEMENT



WHEREAS, Company desires to use the web design services (the “**Services**”) of Contractor as Company and Contractor may mutually agree from time to time and as set forth on one or more statements of work, the form of which is attached as Exhibit A;

WHEREAS, Contractor is willing and able to provide the Services to Company in accordance with the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the covenants set forth herein, and for other good and valuable consideration, the receipt, adequacy, and sufficiency of which is hereby acknowledged, the Parties agree as follows:



STATEMENTS OF WORK

Statements of Work. Contractor shall provide the Services to Company as described in a statement of work (“SOW”). A separate SOW must be prepared for each project, and any Services performed in connection with a SOW are deemed to be Services performed in connection with this Agreement.

Contents. Each SOW shall be substantially in the form used in Exhibit A, and shall include the following, unless amended upon mutual agreement by the Parties:

- a. a detailed description of the Services to be performed and the deliverables to be produced;
- b. a schedule setting forth the timetable for performance of the services, delivery of any deliverables, and any milestones;
- c. the amount and method of payment
- d. any expected reimbursable expenses;
- e. the name and contact information for a project manager from Company and Contractor;
- f. a list of approved subcontractors, if any; and
- g. such other terms as are mutually agreeable between the Parties.

Initial SOW. The initial SOW is attached as Exhibit A to this Agreement and incorporated herein by reference.

Subcontractors. Contractor shall not use any subcontractors to provide the Services without Company’s prior written consent. If Company approves the use of subcontractors, Contractor is solely responsible for the conduct and performance of each approved subcontractor as if Contractor had performed all of the Services itself. All references to Contractor hereunder, where applicable, also include Contractor’s employees and any Company-approved subcontractors.

TERM AND TERMINATION

Term. This Agreement commences on the Effective Date and continues for an initial period of 3 years unless earlier terminated in accordance with the provisions of this Section (the “**Initial Term**”). Following the Initial Term, if not earlier terminated in accordance with the provisions of this Section, this Agreement automatically renews for additional, successive 3 year terms (each a “**Renewal Term**”). The Initial Term and any Renewal Terms are collectively referred to herein as the “**Term.**”

Termination for Convenience.

- a. Termination of Agreement. Either party may terminate this Agreement without cause and for convenience by giving the other party thirty (30) days prior written notice, provided, however, that this Agreement remains in effect with respect to any SOW(s) outstanding as of the date of termination, until the SOW(s) is either completed, expires, or is terminated.

Termination for Cause.

- a. Material Default. If either party defaults in the performance of any of its obligations under this Agreement or any SOW, the non-defaulting party shall give the defaulting party written notice specifying the default and if such default is not substantially cured within ten (10) days after notice has been given, the non-defaulting party may terminate this Agreement and all outstanding SOW(s) as of a date specified in the notice of termination. For purposes this Section 5.3, a party is deemed to be in default if it:
- i. materially breaches any of its duties, obligations, or responsibilities under this Agreement or a SOW;
 - ii. becomes insolvent, is or becomes a party to any voluntary or involuntary bankruptcy or receivership proceeding or any similar action affecting the financial condition or property of the party and the proceeding has not been dismissed within thirty (30) days of commencement;
 - iii. ceases conducting any business necessary to carry out the provisions of this Agreement or any SOW in the ordinary course;
 - iv. makes a general assignment for the benefit of creditors;
 - v. fails to make progress so as to endanger the performance and/or completion of a SOW; or
 - vi. violates any of the provisions of the Confidentiality and Proprietary Rights Agreement attached hereto as Exhibit B and incorporated herein by reference (the “**Confidentiality Agreement**”).

Effect of Expiration or Termination. Upon expiration or termination of this Agreement for any reason:

- a. Contractor shall cease to perform the Services, and Company shall pay to Contractor all amounts due through the effective date of the expiration or termination (prorated as appropriate);
- b. Contractor shall promptly deliver one complete copy of the deliverables developed by Contractor; and
- c. the Parties shall perform all undertakings as described in the Confidentiality Agreement with respect to each party's Confidential Information.

The expiration or termination of this Agreement, for any reason, will not release either party from any liabilities or obligations hereunder which: (i) the Parties have expressly agreed will survive expiration or termination; (ii) remain to be performed or by their nature would be intended to be applicable following expiration or termination, such as warranties and indemnification rights; or (iii) pertain to ownership or licenses of Work Product.

- Termination provisions should clearly define circumstances under which a party can terminate without financial or legal consequences.
- Contract term should include notice, grounds, term, recourse.
- Include alternatives to termination if a dispute arises so that parties can resolve the dispute without litigation.

RESTRICTIVE COVENANTS

Non-solicitation of Employees. Contractor agrees and covenants not to directly or indirectly solicit, hire, recruit, or induce the termination of employment of an employee or other personnel of Company during the Term of the Agreement and for one (1) year following the termination date of this Agreement as determined in accordance with the provisions contained herein.

Non-solicitation of Customers. Contractor understands and acknowledges that because of the Contractor's experience with and relationship to the Company, Contractor will have access to and learn about much or all of Company's proprietary and confidential business information that constitutes its "**Trade Secrets**" as defined under the Uniform Trade Secrets Act, as amended from time to time.

As a result of Contractor's exposure to such Trade Secrets, Contractor agrees and covenants not to directly or indirectly solicit Company's current or prospective clients for purposes of offering or accepting goods or services similar to or competitive with those offered by Company during the Term of this Agreement and for one (1) year following the termination date of this Agreement as determined in accordance with the provisions contained herein.

Non-competition. As a result of Contractor's exposure to such Trade Secrets, Contractor acknowledges and agrees that the following restriction on competitive activities is reasonable and justified. Contractor agrees and covenants not to directly or indirectly compete with Company in any geographic location in which Company is doing business during the Term of this Agreement and for one (1) year following the termination date of this Agreement as determined in accordance with the provisions contained herein. Contractor acknowledges and agrees that this Section is reasonable and necessary for the protection of Company's Trade Secrets and will not unduly restrict Contractor's ability to earn a livelihood.

Enforcement. If any of the provisions of this Section 7 are held to be unenforceable, the remaining provisions shall nevertheless remain enforceable, and the court making such determination shall modify, among other things, the scope, duration, or geographic area of such provision to preserve the enforceability hereof to the maximum extent then permitted by law.

NON COMPETES

- Non competes are often the source of litigation because the company is trying to restrict the employee from performing any work in any location for long periods.
- Scope must be limited in geography and duration. Not enforceable if they are overly broad regarding space, time, or scope.
- In CO, law just changed (Aug. 10, 2022). Previously, allowed non competes for executive or management level personnel or for the protection of trade secrets. These exceptions were replaced with one condition – non-competes are only enforceable against highly compensated employees (\$101, 250/year) for the protection of trade secrets provided the restriction is not broader than needed.
- Customer solicitations are similarly limited to employees making 60% of the highly compensated threshold (\$60,750/year).
- These must be clearly defined and cannot place an undue burden on the employee or harm the public interest.

CONFIDENTIALITY AND PROPRIETARY RIGHTS

Contractor hereby agrees to the terms and conditions contained in the Confidentiality Agreement attached as Exhibit B and incorporated herein by reference.

PROPRIETARY INFORMATION ASSIGNMENT AGREEMENT



- a. Confidential Information. Contractor understands and acknowledges that during its performance of services to Company, Contractor will have access to and learn about confidential, secret, and proprietary documents, materials, data, and other information, much of which consists of Trade Secrets as defined in the Uniform Trade Secrets Act, as amended from time to time, in tangible and intangible form, of and relating to Company and its businesses and existing and prospective customers, suppliers, investors, and other associated third parties (collectively, and whether a Trade Secret or not, "**Confidential Information**"). Contractor further understands and acknowledges that this Confidential Information and Company's ability to reserve it for the exclusive knowledge and use of Company is of great competitive importance and commercial value, and that improper use or disclosure of the Confidential Information by Contractor will cause irreparable harm to Company, for which remedies at law will not be adequate and may also cause Company to incur financial costs, loss of business advantage, liability under confidentiality agreements with third parties, civil damages, and criminal penalties.

- b. Disclosure and Use Restrictions. Contractor agrees and covenants:
- i. to treat all Confidential Information as strictly confidential;
 - ii. to take commercially reasonable administrative, technical, and physical safeguards to keep the Confidential Information confidential, and to permit the Company to examine the Contractor's safeguards upon request;
 - iii. not to directly or indirectly disclose, publish, communicate, or make available Confidential Information, or allow it to be disclosed, published, communicated, or made available, in whole or part, to any entity or person whatsoever (including person employed by Company) not having a need to know and authority to know and to use the Confidential Information in connection with the business of Company and, in any event, not to anyone outside of the direct employ of Company except as required in the performance of any of Contractor's authorized duties to Company and only after execution of a confidentiality agreement by the third party with whom Confidential Information will be shared or with the prior consent of an authorized officer acting on behalf of Company in each instance (and then, such disclosure shall be made only within the limits and to the extent of such duties or consent); and
 - iv. not to access or use any Confidential Information, and not to copy any documents, records, files, media, or other resources containing any Confidential Information, or remove any such documents, records, files, media, or other resources from the premises or control of Company, except as required in the performance of any of the Contractor's authorized duties to Company or with the prior consent of an authorized officer acting on behalf of Company in each instance (and then, such disclosure shall be made only within the limits and to the extent of such duties or consent). Contractor understands and acknowledges that Contractor's obligations under this Agreement regarding any particular Confidential Information begin immediately and shall continue during and after Contractor's engagement by Company until the Confidential Information has become public knowledge other than as a result of Contractor's breach of this Agreement or a breach by those acting in concert with Contractor or on Contractor's behalf.

- e. Duration of Confidentiality Obligations. Contractor understands and acknowledges that the obligations under this Agreement with regard to any particular Confidential Information shall commence immediately upon Contractor first having access to such Confidential Information (whether before or after Contractor begins performing services for the Company) and shall continue during and after Contractor's services to the Company until such time as such Confidential Information that constitutes a Trade Secret has become public knowledge other than as a result of Contractor's breach of this Agreement or breach by those acting in concert with Contractor or on Contractor's behalf and, with regards for Confidential Information that does not constitute a Trade Secret, shall continue for five (5) years from the termination of Contractor's engagement with Company.

- a. Work Product. Contractor acknowledges and agrees that (i) all writings, works of authorship, technology, inventions, discoveries, ideas and other work product of any nature whatsoever, that are created, prepared, produced, authored, edited, amended, conceived, or reduced to practice by Contractor individually or jointly with others during the period of Contractor's engagement by Company, and the period of the services to Company prior to this Agreement, that relate in any way to the business or contemplated business, research, or development of Company (regardless of when or where the work product is or was prepared or whose equipment or other resources is or was used in preparing the same) and all printed, physical, and electronic copies, all improvements, rights, and claims related to the foregoing, and other tangible embodiments thereof (collectively, "**Work Product**"), and (ii) any and all rights in and to copyrights, trade secrets, trademarks (and related goodwill), mask works, patents, and other intellectual property rights therein arising in any jurisdiction throughout the world and all related rights of priority under international conventions with respect thereto, including all pending and future applications and registrations therefor, and continuations, divisions, continuations-in-part, reissues, extensions, and renewals thereof, as well as any and all feedback, comments, suggestions, ideas, concepts, and changes developed during the Contractor's engagement by Company (collectively, "**Intellectual Property Rights**"), shall be the sole and exclusive property of Company.
- b. Work Made for Hire; Assignment. Contractor acknowledges that, to the extent permitted by law, all of the Work Product consisting of copyrightable subject matter is "work made for hire" as defined in the Copyright Act of 1976 (17 U.S.C. § 101), and such copyrights are therefore owned by Company. To the extent that the foregoing does not apply, Contractor hereby irrevocably assigns to Company, for no additional consideration, Contractor's entire right, title, and interest in and to all Work Product and Intellectual Property Rights therein, including the right to sue, counterclaim, and recover for all past, present, and future infringement, misappropriation, or dilution thereof, and all rights corresponding thereto throughout the world. Nothing contained in this Agreement shall be construed to reduce or limit Company's rights, title, or interest in any Work Product or Intellectual Property Rights so as to be less in any respect than Company would have had in the absence of this Agreement.

- c. Further Assurances. During and after Contractor's engagement by Company, Contractor agrees to reasonably cooperate with Company to (i) apply for, obtain, perfect, and transfer to Company the Work Product and Intellectual Property Rights in the Work Product in any jurisdiction in the world; and (ii) maintain, protect, and enforce the same, including, without limitation, executing and delivering to Company any and all applications, oaths, declarations, affidavits, waivers, assignments, and other documents and instruments as shall be requested by Company.
- d. Power of Attorney. Contractor hereby irrevocably grants Company power of attorney to execute and deliver any such documents on Contractor's behalf in Contractor's name and to do all other lawfully permitted acts to transfer the Work Product to Company and further the transfer, issuance, prosecution, and maintenance of all Intellectual Property Rights therein, to the full extent permitted by law, if Contractor does not promptly cooperate with Company's request (without limiting the rights Company shall have in such circumstances by operation of law). The power of attorney is coupled with an interest and shall not be impacted by Contractor's subsequent incapacity.
- e. Moral Rights. To the extent any copyrights are assigned under this Agreement, Contractor hereby irrevocably waives, to the extent permitted by applicable law, any and all claims Contractor may now or hereafter have in any jurisdiction to all rights of paternity, integrity, disclosure, and withdrawal and any other rights that may be known as "moral rights" with respect to all Work Product and all Intellectual Property Rights therein.
- f. No License. Contractor understands and agrees that this Agreement does not, and shall not be construed to, grant Contractor any license or right of any nature with respect to any Work Product or Intellectual Property Rights or any Confidential Information, materials, software, or other tools made available to Contractor by Company.

- Jury waivers – agree to a bench trial by a judge
- Arbitration
- Forum selection provisions

What gives rise to conflicts and disputes?

- Friendly parties
- Rushing to close the deal
- Undefined performance terms (i.e., “best efforts”)
- Post-closing items (future obligations that must be met)





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THANK YOU FOR ATTENDING

For more resources, please reach out to:

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Slides will be posted on MilgromLaw.com