

## Huerfano County and DCS Limited dba Mission2Market Limited Contract

This agreement (the “Agreement”) is entered into as of April 1, 2024 (the “Effective Date”) and is effective between Huerfano County, acting by and through the Huerfano County Tourism Board, (the “Client”), Walsenburg, CO and DCS Limited, dba Mission2Market (the “Agency”), Denver, CO.

The terms and conditions of the Agreement are as follows:

1. **Appointment:** Client hereby appoints Agency and Agency hereby agrees to serve as a marketing services agency for Client in all projects as assigned by Client as hereinafter provided, including the Initial Services listed in Section 2 herein. The fees referenced in Section 4 below are based upon the projected scope of work as outlined in Section 2. Any additional marketing work to be performed by Agency shall be agreed to in writing by both parties, shall be included in the definition of Services, and shall be governed by the terms of this Agreement.
2. **Initial Services:** The Agency will provide marketing agency services (the “Services”) including:  
Tourism Board Services (Average 32 Hours per month):
  - (a) **Update Strategic Marketing Plan** – Agency will conduct discussions with Client stakeholder(s) to understand goals and set priorities for tourism marketing for the coming years.
  - (b) **Content Creation** – Agency will work with Client to develop an editorial calendar of monthly blogs and weekly social posts that can be integrated into email content. Agency will create twelve blogs and a weekly social post to supplement the content created by Client.
  - (c) **Digital Marketing & Media Buying** – Agency will execute a digital marketing strategy aligned with Client’s goals and priorities. This includes utilizing visitor analytics, tourism trend data, and digital insights to define target audiences and optimize marketing effectiveness. Agency will create a media plan and oversee the placement of all digital media buys. Agency may purchase media approved by Client on behalf of Client and will be compensated for media purchases in advance of media purchase.
  - (d) **Public Relations** – Agency will monitor for opportunities to pitch Huerfano County to media including press releases, media pitches and collaboration with the Colorado Tourism Office on media pitches, FAMs and other media opportunities.
  - (e) **Website Maintenance** – Agency will keep <https://spanishpeakscountry.com> up to date with content updates, SEO updates, event listings and posting of content from bullet (b) in Initial Tourism Board Services.
  - (f) **Grant Execution** – Agency will assist in monitoring for tourism grant opportunities, application for grants and grant compliance.
  - (g) **Research-Based Insights** – Agency will monitor tourism trends, available research and include updates in reports in bullet (h) in Initial Tourism Board Services.
  - (h) **Destination Discovery, Monthly Meetings and Reports** – Agency will spend two days

in Huerfano County in the first 60 days of the contract for a destination discovery tour. Agency will attend virtual meetings with Client monthly, and quarterly in-person meetings and provide a monthly digital report of activities and media tracking.

County Services (Average 8 hours per month):

- (a) **Website Maintenance** – Agency will keep <https://huerfano.us/> up to date with content updates and event listings.
- (b) **Public Relations** – Agency will support Huerfano County with public relations services including press releases, pitching, media monitoring and reporting.
- (c) **E-Newsletter** – Agency will produce and distribute a monthly e-newsletter on behalf of the county.
- (d) **Monthly Meeting and Reports** – Agency will attend virtual meetings with Client monthly, and quarterly in-person meetings and provide a monthly digital report of activities and tracking.
- (e) **Task Orders and Other Projects** – Agency will support the county with task orders and other projects related to communications. Services will be limited to available hours within the calendar year or can be performed when both Client and Agency mutually agree to additional hours billed at the rates defined in section 4 – Fees.

3. Client Obligations and Responsibilities. Client shall:

- (a) Appoint and, in its reasonable discretion, replace, a Client employee to serve as the primary contact with respect to this Agreement and who will have the authority to act on behalf of Client with respect to matters pertaining to this Agreement.
- (b) Provide copies of or access to Client’s information, documents, samples, products/services, or other materials (collectively, “Client Materials”) as Agency may request in order to carry out the Services in a timely manner and which Client considers reasonably necessary, and ensure that they are complete and accurate in all material respects. Client and its licensors are, and shall remain, the sole and exclusive owner of all right, title, and interest in and to all Client Materials, including all copyrights, trademarks, service marks, trade dress, trade names, trade secrets, patents, mask works, and other intellectual and industrial property rights (collectively “Intellectual Property Rights”) therein. Agency shall have no right or license to use any Client Materials other than during the Term to the extent necessary to provide the Services to Client, and all other rights in and to the Client Materials are expressly reserved by Client.
- (c) Use best efforts to respond promptly to any Agency request to provide direction, information, approvals, authorizations, or decisions that are reasonably necessary for Agency to perform the Services in accordance with the requirements of this Agreement.

4. Fees: During the term of this Agreement, Client agrees to pay the Agency a retainer fee of \$5,000 per month (\$4,000 per month for tourism services and \$1,000 per month for County services) invoiced in advance on the first day of the month of service. Agency agrees to average 40 hours per month (32 hours for tourism services and 8 hours for county services) at a rate of \$125 per hour for related

services. Client agrees to pay such invoice within 30 days of receipt by Client.

5. Taxes. All fees payable by Client under this Agreement are inclusive of all sales, use, and excise taxes, and any other similar taxes, duties, and charges of any kind imposed by any governmental authority on such amounts. Agency shall be responsible for any taxes imposed on, or with respect to, Agency's income, revenues, gross receipts, personnel, or real or personal property, or other assets. Client shall be solely responsible for the payment of any sales and use taxes assessed against the sale of Client's products/services/products and services. Client will be deemed to have accepted all invoices for which Agency does not receive timely notification of dispute and shall pay all undisputed amounts due under such invoices within the period set forth in Section 5.

6. Intellectual Property.

(a) Except as set forth herein, and in exchange for the Fees, Client owns all worldwide right, title, and interest in and to all written, graphic, coded, audio, and visual materials and other work product (whether finished or unfinished and whether used by Client or not) that are delivered to or developed for Client under this Agreement or are prepared by or on behalf of Agency in the course of performing the Services, including all Intellectual Property Rights therein, together with all of the goodwill associated therewith (collectively, the "Deliverables"). The Deliverables shall include, without limitation (whether finished or unfinished and whether used by Client or not), all copy, blogs, storyboards, concepts, ideas, inventions, discoveries, domain names, logos, taglines, slogans, website design, style, content, structure and look and feel, internet portals, videos, research, studies, reports, presentations and proposals, artwork, videos, music, lyrics, photographs, graphic materials, audiovisual works, and telephone numbers for use by Client's consumers.

(b) All Deliverables protectable under United States copyright law shall be owned by Client as "works made for hire" as defined in Section 101 of the United States Copyright Act. To the extent that any or all of such Deliverables are not deemed a work made for hire, Agency assigns to Client all right, title, and interest in and to the worldwide copyrights in such Deliverables. With respect to all other Intellectual Property Rights in the Deliverables, Agency irrevocably assigns to Client all worldwide right, title, and interest in and to all Intellectual Property Rights in such Deliverables.

(c) Notwithstanding anything herein to the contrary, Client's ownership of the Deliverables shall be subject to (i) the rights of third parties whose materials or services are contained in the Deliverables with Client's prior knowledge and written approval (for example, stock footage, photos, music, and software) and used under a license or other permission granted to Agency or Client ("Third-Party Materials"), or (ii) all materials owned by Agency prior to, or independent from, the performance of Services under this Agreement, and all methodologies, software, applications, processes or procedures used, created, or developed by Agency in the general conduct of its business, excluding those developed specifically for Client or at Client's request or funded by Client (collectively, "Pre-Existing Materials"). Agency hereby grants Client a royalty-free, perpetual, worldwide license to any Agency Materials to the extent incorporated in, combined with, or otherwise necessary for the use of the Deliverables for all purposes. Agency shall disclose in writing to Client all usage limitations on Third-Party Materials prior to their use in or launch of any Deliverables.

7. License to Certain Client Intellectual Property. Subject to and in accordance with the terms and

conditions of this Agreement, Client grants Agency a limited, non-transferable, non-sublicensable (except to Agency's subcontractors, non-exclusive license during the Term to use, solely in connection with its performance of the Services: (i) Client's Intellectual Property Rights required to create the Deliverables; (ii) Client's website addresses, websites, and URLs. Client grants no other right or license to any of its Intellectual Property Rights to Agency by implication, estoppel, or otherwise. Agency acknowledges that Client owns all right, title, and interest in, to, and under all its Intellectual Property Rights and that Agency shall not acquire any proprietary rights therein. Any use by Agency or any affiliate, employee, officer, director, partner, shareholder, agent, attorney, third-party advisor, successor, or permitted assign (collectively, "Representatives") of Agency or its subcontractors of any of Client's Intellectual Property Rights and all goodwill associated therewith shall inure to the benefit of Client.

8. No Exclusivity. Agency retains the right to perform the same or similar type of services for third parties during the term of this Agreement.
9. Representations, Warranties, and Certain Covenants.
  - (a) Agency Representations, Warranties, and Covenants. Agency represents, warrants, and covenants to Client that:
    - (i) it shall comply in all material respects with, and ensure that all Agency personnel and subcontractors comply with, all specifications, rules, regulations, and policies of Client that are communicated to Agency in writing.
    - (ii) Client will receive good and valid title to all Deliverables, free and clear of all encumbrances and liens of any kind;
    - (iii) to the knowledge of Agency, none of the Services, final versions of the Deliverables, or client's use thereof infringe or violate or will infringe or violate the publicity and privacy rights or any other Intellectual Property Rights of any third party in the United States; and
  - (b) Client Representations, Warranties, and Covenants. Client represents, warrants, and covenants to Agency that the Client's Intellectual Property and Client Materials provided to Agency for use as permitted in this Agreement do not infringe or violate and will not infringe or violate the publicity and privacy rights or any other Intellectual Property Rights of any third party in the United States. Client shall not provide Agency with any materials in electronic form that contain or will contain any (i) trojan horse, worm, backdoor, or other software or hardware devices the effect of which is to permit unauthorized access or to disable, erase, or otherwise harm any computer, systems or software or (ii) any time bomb, drop dead device or other software or hardware device designed to disable a computer program with the passage of time or under the positive control of a person other than an authorized licensee or owner.
10. NO OTHER REPRESENTATIONS OR WARRANTIES; NON-RELIANCE. EXCEPT FOR THE EXPRESS REPRESENTATIONS AND WARRANTIES CONTAINED IN THIS AGREEMENT, (A) NEITHER PARTY TO THIS AGREEMENT, NOR ANY OTHER PERSON ON SUCH PARTY'S BEHALF, HAS MADE OR MAKES ANY EXPRESS OR IMPLIED REPRESENTATION OR WARRANTY, EITHER ORAL OR WRITTEN, WHETHER ARISING

BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE, TRADE, OR OTHERWISE, ALL OF WHICH ARE EXPRESSLY DISCLAIMED, AND (B) EACH PARTY ACKNOWLEDGES THAT IT HAS NOT RELIED UPON ANY REPRESENTATION OR WARRANTY MADE BY THE OTHER PARTY, OR ANY OTHER PERSON ON SUCH PARTY'S BEHALF, EXCEPT AS SPECIFICALLY PROVIDED IN SECTION 9 OF THIS AGREEMENT.

11. **Term/Termination:** The term of this Agreement shall begin on the Effective Date, and shall continue until either party terminates this Agreement upon sixty (60) days written notice of termination with or without cause to the other party. This contract will renew automatically unless sixty (60) days notice is provided in writing.

(a) Upon the expiration or termination of this Agreement for any reason, each party shall promptly:

- (i) return to the other party or destroy all documents and tangible materials (and any copies) containing, reflecting, incorporating, or based on the other party's Confidential Information;
- (ii) permanently erase all of the other party's Confidential Information from its computer systems, except for copies that are maintained as archive copies on its disaster recovery or information technology backup systems, which it shall destroy upon the normal expiration of its backup files; and
- (iii) certify in writing to the other party that it has complied with the requirements of this clause.

(b) Upon expiration or termination of this Agreement for any reason, Agency shall:

- (i) promptly deliver to Client all Deliverables (whether complete or incomplete) for which Client has paid and all Client Materials;
- (ii) provide reasonable cooperation and assistance to Client upon Client's written request and at Client's expense in transitioning the Services to an alternate Agency

12. **Indemnification.** Client shall defend, indemnify, and hold harmless Agency, and its officers, directors, employees, agents, affiliates, successors, and permitted assigns, from and against any and all Losses arising out of or resulting from any third-party claim or direct claim alleging (a) breach by Client of any material representation, warranty, covenant, or other obligations set forth in this Agreement; (b) negligence or more culpable act or omission of Client (including any recklessness or willful misconduct) in connection with the performance of its obligations under this Agreement; and (c) that any Client Materials or Client's Intellectual Property Rights that Agency uses to perform the Services or incorporate into the Deliverables in accordance with the terms of this Agreement infringes or violates the publicity or privacy rights or any other Intellectual Property Rights of a third party arising under the laws of the United States. THIS SECTION 12 SETS FORTH THE ENTIRE LIABILITY AND OBLIGATION OF EACH PARTY AND THE SOLE AND EXCLUSIVE REMEDY OF EACH PARTY FOR ANY DAMAGES COVERED BY THIS SECTION 12.

13. **NO LIABILITY FOR CONSEQUENTIAL OR INDIRECT DAMAGES.** EXCEPT WITH RESPECT TO THE PARTIES' LIABILITY FOR BREACH OF CONFIDENTIALITY, IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER FOR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, SPECIAL OR PUNITIVE DAMAGES WHATSOEVER (INCLUDING DAMAGES FOR LOSS OF USE, REVENUE OR PROFIT, BUSINESS INTERRUPTION, AND

LOSS OF INFORMATION), WHETHER ARISING OUT OF BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, REGARDLESS OF WHETHER SUCH DAMAGE WAS FORESEEABLE AND WHETHER OR NOT SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

14. MAXIMUM LIABILITY. EXCEPT WITH RESPECT TO THE PARTIES' LIABILITY FOR BREACH OF CONFIDENTIALITY OR LIABILITY FOR INFRINGEMENT OR MISAPPROPRIATION OF INTELLECTUAL PROPERTY, EACH PARTY'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER ARISING OUT OF OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, SHALL NOT EXCEED THE TOTAL OF THE AMOUNTS PAID AND AMOUNTS ACCRUED BUT NOT YET PAID TO AGENCY PURSUANT TO THIS AGREEMENT IN THE 12 MONTH PERIOD PRECEDING THE EVENT GIVING RISE TO THE CLAIM.
15. Confidentiality. From time to time during the Term, either party (as the "Disclosing Party") may disclose or make available to the other party (as the "Receiving Party") information about its business affairs and services, confidential information, and materials comprising or relating to Intellectual Property, trade secrets, third-party confidential information, and other sensitive or proprietary information, as well as the terms of this Agreement, whether orally or in written, electronic or other form or media, and, whether or not marked, designated or otherwise identified as "confidential" (collectively, "Confidential Information"). Confidential Information does not include information that, at the time of disclosure: (a) is or becomes generally available to and known by the public other than as a result of, directly or indirectly, any breach of this Section 15 by the Receiving Party or any of its Representatives; (b) is or becomes available to the Receiving Party on a non-confidential basis from a third-party source, provided that such third party is not and was not prohibited from disclosing such Confidential Information; (c) was known by or in the possession of the Receiving Party or its Representatives prior to being disclosed by or on behalf of the Disclosing Party; (d) was or is independently developed by the Receiving Party without reference to or use of, in whole or in part, any of the Disclosing Party's Confidential Information; or (e) is required to be disclosed pursuant to applicable law. The Receiving Party shall for 2 years from receipt of such Confidential Information: (x) protect and safeguard the confidentiality of the Disclosing Party's Confidential Information with at least the same degree of care as the Receiving Party would protect its own Confidential Information, but in no event with less than a commercially reasonable degree of care; (y) not use the Disclosing Party's Confidential Information, or permit it to be accessed or used, for any purpose other than to exercise its rights or perform its obligations under this Agreement; and (z) not disclose any such Confidential Information to any person, except to the Receiving Party's Representatives who need to know the Confidential Information to assist the Receiving Party, or act on its behalf, to exercise its rights or perform its obligations under this Agreement. The Receiving Party shall be responsible for any breach of this Section 15 caused by any of its Representatives.
16. Governing Law. The construction and meaning of the terms and provisions of this Agreement shall be interpreted in accordance with the laws of the State of Colorado.
17. Waiver. No waiver by either party of any of the provisions hereof shall be effective unless explicitly set out in writing and signed by the party so waiving. No waiver by any party shall operate or be construed as a waiver in respect of any failure, breach, or default not expressly identified by such written waiver, whether of a similar or different character, and whether occurring before or after that waiver. No failure to exercise, or delay in exercising, any right, remedy, power, or privilege arising from this Agreement shall operate or be construed as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power, or privilege hereunder preclude any other or further exercise

thereof or the exercise of any other right, remedy, power, or privilege.

18. Cumulative Remedies. All rights and remedies provided in this Agreement are cumulative and not exclusive, and the exercise by either party of any right or remedy does not preclude the exercise of any other rights or remedies that may now or subsequently be available at law, in equity, by statute, in any other agreement between the parties or otherwise.
19. Equitable Remedies. Each party acknowledges and agrees that (a) a breach or threatened breach by it of any of its obligations under Section 15 would give rise to irreparable harm to the other party for which monetary damages would not be an adequate remedy and (b) in the event of a breach or a threatened breach by such party of any such obligations, the other party shall, in addition to any and all other rights and remedies that may be available to such party at law, at equity or otherwise in respect of such breach, be entitled to equitable relief, including a temporary restraining order, an injunction, specific performance and any other relief that may be available from a court of competent jurisdiction, without any requirement to post a bond or other security, and without any requirement to prove actual damages or that monetary damages will not afford an adequate remedy. Each party agrees that it will not oppose or otherwise challenge the appropriateness of equitable relief or the entry by a court of competent jurisdiction of an order granting equitable relief, in either case, consistent with the terms of this Section 19.
20. Assignment. Neither party may assign, transfer, or delegate any or all of its rights or obligations under this Agreement, without the prior written consent of the other party. No assignment shall relieve the assigning party of any of its obligations hereunder. Any attempted assignment, transfer, or other conveyance in violation of the foregoing shall be null and void. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and permitted assigns.
21. No Third-Party Beneficiaries. This Agreement benefits solely the parties to this Agreement and their respective permitted successors and assigns, and nothing in this Agreement, express or implied, confers on any other person any legal or equitable right, benefit, or remedy of any nature whatsoever under or by reason of this Agreement.

**Huerfano County, acting by and through the County Tourism Board, and DCS Limited dba Mission2Market Limited Contract Signature Page**

DCS LIMITED dba MISSION2MARKET

Name: Dave Santucci

Title: CEO & Principal Consultant

Signature: *Dave Santucci*

Date: 3/13/2

HUERFANO COUNTY TOURISM BOARD

Name: Sarah Jardis

Title: Chair, Huerfano County Tourism Board

Signature: \_\_\_\_\_

Date:

HURFANO COUNTY BOARD OF COUNTY COMMISSIONERS

Name: Karl S. Sporleder

Title: Chairman, Board of County Commissioners

Signature: \_\_\_\_\_

Date: