

# INDEPENDENT CONTRACTOR AGREEMENT

## Mississippi Derelict Crab Trap Incentive Program

**I. The Parties.** This Agreement is made between a business entity known as Mississippi Commercial Fisheries United, Inc. (“MSCFU”) with a mailing address of 6421 Beatline Road, Long Beach, Mississippi, 39560

AND

1 individual known as: \_\_\_\_\_  
(hereinafter referred to as "Contractor").

Physical Address: \_\_\_\_\_  
\_\_\_\_\_

Mailing Address: \_\_\_\_\_  
\_\_\_\_\_

Phone number: \_\_\_\_\_

Email: \_\_\_\_\_

Preferred method of contact (circle one):      Mail              Email              Phone

MS Shrimp License #: \_\_\_\_\_

Participant ID: \_\_\_\_\_

\*WHEREAS MSCFU intends to pay the Contractor for services provided, effective 01/01/2020, under the following terms and conditions:

**II. Services.** The Contractor agrees to perform the following: Deposit incidentally caught derelict crab traps during normal shrimping operations in Mississippi's territorial waters to approved locations as further described in this contract. All derelict crab traps submitted shall be properly tagged with the participant's program issued ID numbered tag and a form indicated the date, participant's ID #, number of traps turned in on the given date, and approximate location shall be turned into the drop box at the approved location at the time of trap disposal.

Hereinafter known as the "Services".

**III. Payment.** MSCFU agrees to pay for the Services performed by the Contractor.

The Contractor agrees to be paid as follows:

The Contractor shall be paid in installment periods by MSCFU until completion of the Services or termination of this contract. The Contractor shall be paid for properly documented derelict traps at a variable rate subject to change and based on the availability of funding. Beginning January 1, 2020 all derelict traps submitted for payment under this contract will be paid at the rate of \$5.00 per legally obtained derelict trap. MSCFU reserves the right to modify payment amounts per trap and withhold payment for failure to comply with any of the provisions of this contract, rules pertaining to the program or the laws of the State of Mississippi and surrounding states. Payments shall be made to the Contractor in installments to be paid under the following terms:

The first (1st) payment to the Contractor shall be made within 60 days of the end of the month for which properly tagged and documented derelict trips are submitted. The Contractor shall be paid an amount based of the total number of legally obtained and properly submitted derelict crab traps for each one-month period until the expiration of this contract. The Contract is contingent upon funding and may be amended or terminated at any time for the lack of funding, Contractor's breach of contract, or any other unforeseen reason. Payments will be mailed to the provided mailing address unless otherwise notified by the Contractor. MSCFU may make payments available for pick-up or delivery upon request of the Contractor.

**IV. Due Date.** The Services provided by the Contractor shall begin on January 1, 2020 and end on December 31, 2020. All Services provided by the Contractor must be completed by December 31, 2020. There is a possibility that funding for this program could be extended beyond 2020. If so, the contract between MSCFU and Contractor may be extended with an addendum to this contract.

**V. Expenses.** The Contractor shall be responsible for all expenses related to providing the Services under this Agreement. This includes, but is not limited to, supplies, equipment, operating costs, business costs, employment costs, taxes, Social Security contributions / payments, disability insurance, unemployment taxes, and any other cost that may or may not be in connection with the Services provided Contractor.

**VI. Independent Contractor Status.** The Contractor, under the code of the Internal Revenue Service (IRS), is an independent contractor and neither the Contractor's employees or contract personnel are, or shall be deemed, MSCFU's employees.

In its capacity as an independent contractor, Contractor agrees and represents:

Contractor has the right to perform Services for others during the term of this Agreement;

Contractor has the sole right to control and direct the means, manner, and method by which the Services required by this Agreement will be performed. Contractor shall select the routes taken, starting and ending times, days of work, and order in which the work is performed;

Contractor has the right to hire assistants as subcontractors or to use employees to provide the services required under this Agreement.

Neither Contractor, nor the Contractor's employees or personnel, shall be required to wear any uniforms provided by MSCFU;

The Services required by this Agreement shall be performed by the Contractor, Contractor's employees or personnel, and MSCFU will not hire, supervise, or pay assistants to help the Contractor;

Neither Contractor nor Contractor's employees or personnel shall receive any training from MSCFU in the professional skills necessary to perform the services required by this Agreement; and

Neither the Contractor nor Contractor's employees or personnel shall be required by MSCFU to devote full-time to the performance of the Services required by this Agreement.

**VII. Business Licenses, Permits, and Certificates.** The Contractor represents and warrants that all employees and personnel associated shall comply with federal, state, and local laws requiring any required licenses, permits, and certificates necessary to perform the Services under this Agreement.

**VIII. Federal and State Taxes.** Under this Agreement, MSCFU shall **not** be responsible for:

Withholding FICA, Medicare, Social Security, or any other federal or state withholding taxes from the Contractor's payments to employees or personnel or make payments on behalf of the Contractor;

Making federal or state unemployment compensation contributions on the Contractor's behalf; and

The payment of all taxes incurred related to or while performing the Services under this Agreement, including all applicable income taxes and, if the Contractor is not a corporation, all applicable self-employment taxes. Upon demand, the Contractor shall provide MSCFU with proof that such payments have been made.

**IX. Benefits of Contractor's Employees.** The Contractor understands and agrees that they are solely responsible and liable for all benefits that are provided to their employees including, but not limited to, retirement plans, health insurance, vacation time-off, sick pay, personal leave, or any other benefit provided.

**X. Unemployment Compensation.** The Contractor shall be solely responsible for the unemployment compensation payments on behalf of their employees and personnel. The Contractor shall not be entitled to unemployment compensation in connection with the Services performed under this Agreement.

**XI. Workers' Compensation.** The Contractor shall be responsible for providing all workers' compensation insurance on behalf of their employees. If the Contractor hires employees to perform any work under this Agreement, the Contractor agrees to grant workers' compensation coverage to the extent required by law. Upon request by MSCFU, the Contractor must provide certificates proving workers' compensation insurance at any time during the performance of the Service.

**XII. Liability Insurance.** The Contractor agrees to bear all responsibility for the actions related to themselves and their employees or personnel under this Agreement. In addition, the Contractor agrees to obtain comprehensive liability insurance coverage in case of bodily injury, personal injury, property damage, contractual liability, and cross-liability.

There shall be no minimum required amount for the liability insurance.

**XIII. Indemnification.** The Contractor shall indemnify and hold MSCFU harmless from any loss or liability from performing the Services under this Agreement.

**XIV. Termination of Agreement.** This Agreement shall terminate on December 31, 2020 unless funding is extended and an addendum to this contract is created to extend beyond this period.

In addition, MSCFU or Contractor may terminate this Agreement, including any obligations stated hereunder, with reasonable cause by providing written notice of:

A material breach of the other party; or

Any act exposing the other party to liability to others for personal injury or property damage.

**XV. Option to Terminate.** MSCFU and Contractor shall have the option to terminate this Agreement at any time at the sole discretion of MSCFU.

**XVI. Exclusive Agreement.** This entire Agreement is between MSCFU and Contractor.

**XVII. Resolving Disputes.** If a dispute arises under this Agreement, any party may take the matter to a Mississippi state court.

**XVIII. Confidentiality.** The Contractor acknowledges that it will be necessary for MSCFU to disclose certain confidential and proprietary information to the Contractor for the Contractor to perform their duties under this Agreement. The Contractor acknowledges that disclosure to a third party or misuse of this proprietary or confidential information would irreparably harm MSCFU. Accordingly, the Contractor will not disclose or use, either during or after the term of this Agreement, any proprietary or confidential information of MSCFU without MSCFU's prior written permission except to the extent necessary to perform services on MSCFU's behalf.

Proprietary or confidential information includes, but is not limited to:

The written, printed, graphic, or electronically recorded materials furnished by MSCFU for Contractor to use;

Any written or tangible information stamped "confidential," "proprietary," or with a similar legend, or any information that MSCFU makes reasonable efforts to maintain the secrecy of business or marketing plans or strategies, customer lists, operating procedures, trade secrets, design formulas,

know-how and processes, computer programs and inventories, discoveries, and improvements of any kind, sales projections, and pricing information; and

Information belonging to customers and suppliers of MSCFU about whom the Contractor gained knowledge as a result of the Contractor's services to MSCFU.

Upon termination of the Contractor's services to MSCFU, or at MSCFU's request, the Contractor shall deliver to MSCFU all materials in the Contractor's possession relating to MSCFU's business.

The Contractor acknowledges that any breach or threatened breach of confidentiality of this Agreement will result in irreparable harm to MSCFU for which damages would be an inadequate remedy. Therefore, MSCFU shall be entitled to equitable relief, including an injunction, in the event of such breach or threatened breach of confidentiality. Such equitable relief shall be in addition to MSCFU's rights and remedies otherwise available at law.

**XIX. Proprietary Information.** Proprietary information, under this Agreement, shall include:

The product of all work performed under this Agreement ("Work Product"), including without limitation all notes, reports, documentation, drawings, computer programs, inventions, creations, works, devices, models, works-in-progress, and deliverables, will be the sole property of MSCFU, and Contractor hereby assigns to MSCFU all right, title, and interest therein, including, but not limited to, all audiovisual, literary, moral rights and other copyrights, patent rights, trade secret rights, and other proprietary rights therein. Contractor retains no right to use the Work Product and agrees not to challenge the validity of MSCFU's ownership in the Work Product;

Contractor hereby assigns to MSCFU all right, title, and interest in any and all photographic images and videos or audio recordings made by MSCFU during Contractor's work for them, including, but not limited to, any royalties, proceeds, or other benefits derived from such photographs or recordings; and

MSCFU will be entitled to use Contractor's name and/or likeness use in advertising and other materials.

**XX. No Partnership.** This Agreement does not create a partnership relationship between MSCFU and the Contractor. Unless otherwise directed, the Contractor shall have no authority to enter into contracts on MSCFU's behalf or represent MSCFU in any manner.

**XXI. Assignment and Delegation.** The Contractor may not assign rights and may not delegate duties under this Agreement to other individuals or entities acting as a subcontractor

("Subcontractor"). The Contractor recognizes that they shall be liable for all work performed by any Subcontractor and shall hold MSCFU harmless of any liability in connection with their performed work.

The Contractor shall be responsible for any confidential or proprietary information that is shared with the Subcontractor in accordance with Sections XVIII & XIX of this Agreement. If any such information is shared by the Subcontractor to third (3<sup>rd</sup>) parties, the Contractor shall be made liable.

## **XXII. Additional Terms and Conditions.**

1. The "Contractor" must have a valid Mississippi shrimping license to participate in this program.
2. The "Contractor" will dispose of derelict crab traps in the designated disposal areas set up by the program sponsors at the following locations (subject to change):
  - A. Bayou Caddy Marina, Pleasure St., Bay St. Louis, MS 39520  
(30.2383160, -89.4320231)
  - B. Pass Christian Harbor, 104 Market St, Pass Christian, MS 39571  
(30.3118462, -89.2456542)
  - C. St. Michael Fuel & Ice, 5<sup>th</sup> Street, Biloxi, MS 39530  
(30.4009789, -88.8589595)
  - D. Ocean Springs Harbor, Pershing Ave, Ocean Springs, MS 39564  
(30.4053916, -88.8212680)
3. The "Contractor" will only submit derelict crab traps (defined as un-buoyed, un-marked crab traps that are not actively fished by someone with a current commercial or recreational crabbing license) encountered in the Mississippi territorial waters. If the "Contractor" attempts to steal and/or dispose of active crab traps (defined as buoyed, marked crab traps actively fished by someone with a current commercial or recreational crabbing license) or any traps caught in another state's territorial waters, this will result in automatic ejection from the program and the withholding of any unprocessed Contractor payments.
4. The "Contractor" can only submit derelict crab traps incidentally caught in Mississippi territorial waters. Traps collected in Alabama or Louisiana territorial waters are NOT allowed to be turned into the designated disposal sites serviced by this program. Contractor agrees to abide the state regulations governing the possession of crab traps for each respective state while engaged in shrimping activities in that state's territorial waters. See attached exhibits for Louisiana and Alabama regulations.

5. The “Contractor” will not manipulate or falsify derelict crab trap data. This will result in automatic ejection from the program and the withholding of any unprocessed Contractor payments.

6. The “Contractor” must remove any marine life from the trap before disposing of it.

7. The “Contractor” will completely fill out data cards for all derelict crab traps at the time they are turned in to designated disposal areas.

8. The “Contractor” will not crush traps when handling or disposing of them or remove any identifying tag, so that they may be returned to the original owner.

9. The "Contractor" is responsible for the actions of all employees and crew handling derelict crab traps while participating in the program.

**XXIII. Governing Law.** This Agreement shall be governed under the laws in the State of Mississippi.

**XXIV. Severability.** This Agreement shall remain in effect in the event a section or provision is unenforceable or invalid. All remaining sections and provisions shall be deemed legally binding unless a court rules that any such provision or section is invalid or unenforceable, thus, limiting the effect of another provision or section. In such case, the affected provision or section shall be enforced as so limited.

**XXV. Breach Waiver.** Any waiver by MSCFU of a breach of any section of this Agreement by the Contractor shall not operate or be construed as a waiver of any subsequent breach by the Contractor.

**XXVI. Entire Agreement.** This Agreement, along with any attachments or addendums, represents the entire agreement between the parties. Therefore, this Agreement supersedes any prior agreements, promises, conditions, or understandings between MSCFU and Contractor.

**MSCFU's Signature** \_\_\_\_\_ **Date** \_\_\_\_\_

**Print Name** \_\_\_\_\_

**Contractor's Signature** \_\_\_\_\_ **Date** \_\_\_\_\_

**Print Name** \_\_\_\_\_