

HIGHLANDS AFFILIATE TRAINEE AGREEMENT

THIS AGREEMENT is executed and entered into this _____ day of _____, 2005 by and between The Highlands Company (Highlands), with an office at 1328 Boston Post Road, Larchmont, NY 10538, and _____, with an office at _____ (the Trainee).

RECITALS

A. Highlands is the owner of certain intellectual property rights, consisting of copyrights, trademarks and patents.

B. Among the property rights owned by Highlands is the Ability Battery which is presently embodied i) in an internet version online, ii) in a CD-ROM, and iii) in a Paper & Pencil Test, all sold and distributed by Highlands. The Ability Battery is a unique process for testing and defining the innate abilities of the user.

C. Highlands has trained a number of independent contractors: a) to distribute the Ability Battery to individuals; b) to administer the tests contained within the Ability Battery; c) to interpret the results of such tests; and d) to conduct feedback sessions with the individuals who complete the Ability Battery, both individually and in groups.

D. The Trainee wishes to be trained by Highlands as an Affiliate authorized to distribute the Ability Battery, to administer the tests contained within the Ability Battery, and to conduct feedbacks interpreting the results of these tests to individuals who complete the tests.

E. Highlands is willing to train the Trainee to qualify as an Affiliate as provided in Recital D. above, upon the terms of this Agreement.

TERMS OF AGREEMENT

1. In consideration of the sum of _____ Dollars paid by the Trainee to Highlands prior to or upon the execution of this Agreement, Highlands agrees to train the Trainee to become a provider of the Ability Battery, the tests contained therein, and the resulting feedbacks (together, the Feedback Process).

2. The Trainee's training shall consist of EITHER

(A) eight (8) group telephone conferences conducted by an employee or Affiliate of Highlands. Each conference will be approximately two hours in length. All eight conferences will be scheduled by Highlands at times convenient to Highlands and to

the majority of Trainees participating in the conferences and will be completed over a period of approximately 30 days; OR

- (B) two eight-hour live training sessions conducted at the Highlands offices in Larchmont, NY or in Atlanta, GA by an employee or Affiliate of Highlands.

During the conferences, the Trainee will be trained in the components of the Ability Battery, the interpretation of these components, the administration of individual and group feedbacks, and the other elements of the Feedback Process. The Trainee will be required to participate in all conferences, to complete individual work assignments and to complete satisfactorily a minimum of two practice feedbacks scheduled by Highlands. Additional feedbacks and/or training may be required by Highlands prior to Certification. Before participating in the first of the training conferences, the Trainee will be required to complete the Ability Battery and to participate in his or her individual feedback.

3. Upon satisfactory completion of training by the Trainee, Highlands will issue a certificate to the Trainee attesting to his or her qualification as Affiliate of the Highlands Company.

4. The following provisions shall apply to the Trainee following his or her Certification as Affiliate:

- a. Certification shall entitle the Affiliate to purchase the Ability Battery from Highlands, to distribute the Ability Battery to clients, and to administer the Feedback Process to clients.
- b. The Feedback Process shall be conducted only by the Affiliate personally and not by any employee, agent, designee or assignee of the Affiliate who has not been certified by Highlands.
- c. The Affiliate will not copy, print, reproduce or duplicate the Ability Battery or any of its contents.
- d. The Affiliate will purchase the Ability Battery and all related materials solely from Highlands.
- e. The Affiliate shall not use the terms Highlands, Highlands Program, Ability Battery or Highlands Feedback Process in any advertisement or promotional material without first submitting such advertisement or material to Highlands and/or obtaining the written approval of Highlands.
- f. The Affiliate shall conduct the Feedback Process solely in the manner described in the Highlands training program, unless modifications in such Process shall have been specifically authorized by Highlands in writing.

- g. The Affiliate shall not resell or distribute the Ability Battery to anyone except in conjunction with the Feedback Process.
- h. The Affiliate shall not do or permit anything to be done which shall impair the intellectual property of Highlands, including the Ability Battery and the Feedback Process. If the Affiliate shall discover any improvements or enhancements in the Feedback Process, he or she shall promptly notify Highlands of the same. Such improvements and enhancements shall thereupon become the sole property of Highlands, and Highlands shall be free to confirm and record its ownership of said improvements and enhancements by any and all lawful means.
- i. The Affiliate shall indemnify, defend and hold harmless Highlands, its officers, managers, employees and agents, and its successors and assigns, from and against any claims, demands, losses, liabilities, judgments, penalties and expenses, including court costs and attorneys' fees, arising from or related to a breach by the Affiliate of his or her obligations hereunder or the use by the Affiliate of the Ability Battery and the Feedback Process.

5. The following provisions shall apply to Highlands following Certification of the Trainee by Highlands:

- a. Highlands will provide the Affiliate with ongoing training and consultation in the conduct of the Highlands Process at times reasonably requested by the Affiliate. The training will be delivered at a cost to the Affiliate which shall not exceed the sum charged to any other Affiliate by Highlands.
- b. Highlands will provide technical assistance to the Affiliate, including assistance in the installation and utilization of the Ability Battery, without additional cost to the Affiliate. If the Affiliate shall request any reports not normally provided as part of the Feedback Process, the Affiliate shall pay \$35 for each such report.
- c. If Highlands shall make any changes, modifications, improvements or enhancements in the Ability Battery or in the Feedback Process, it will offer the same to the Affiliate upon the same terms and conditions as to all other Affiliates.
- d. Highlands shall offer the Ability Battery and any related materials to the Affiliate upon the same terms and conditions as to all other Affiliates.
- e. Highlands warrants that the Ability Battery and all other materials provided to the Affiliate under this Agreement shall be free from defects in materials and workmanship. Highlands agrees to replace any defective materials within twenty days following the return of such materials by the Affiliate. Except for returns

permitted under this provision, all deliveries of the Ability Battery and related materials to the Affiliate shall be deemed final and non-refundable.

- f. Highlands shall indemnify the Affiliate against any claim that the Ability Battery infringes upon any copyright or other proprietary right of any third party, including all costs, damages and attorneys' fees arising from such claim, provided however: 1) the Affiliate shall promptly notify Highlands in writing of any such claim, and 2) Highlands shall assume and have sole control of the defense against and the disposition of any such claim, including settlement and compromise thereof.

6. Except as provided in Subparagraphs 5.(e). and 5.(f). above, Highlands disclaims all warranties or merchantability of fitness for a particular purpose and any and all other expressed or implied warranties. In no event shall Highlands be liable for special, incidental or consequential damages, including, without limitation, lost profits, claims of clients, lost time, or other damages, costs or liabilities arising either from tort or from contract law.

7. This Agreement shall commence upon the date first recited above and shall continue for a term ending on December 31 of the year in which the Trainee shall first be certified as an Affiliate by Highlands. On December 1 (but not later than December 31 if Certification shall occur in the month of December) of the year in which Certification shall occur, the Affiliate shall pay to Highlands a fee of Two Hundred Fifty (\$250.00) and 00/100 Dollars. Thereafter, the Agreement shall continue for successive renewal periods of one year, beginning on January 1 and ending on December 31 of each such year; PROVIDED, HOWEVER, that not later than December 1 preceding the start of each renewal period, the Affiliate shall pay to Highlands an annual renewal fee of Two Hundred Fifty (\$250.00) and 00/100 Dollars. Highlands will bill the Affiliate in advance for such annual renewal fee. Failure of the Affiliate to pay such fee within the time required shall be deemed an election by the Affiliate not to renew this Agreement. The terms and conditions of this Agreement shall be applicable to any renewal.

8. Unless credit terms are approved by Highlands in writing, payment for all materials ordered from Highlands, including the Ability Battery, must be made by the Affiliate before shipment. Payment must include the cost of all materials, plus shipping costs and all applicable taxes.

9. Highlands shall have the right to terminate this Agreement, including Certification of the Trainee as Affiliate, upon any of the following events:

- a. the refusal or neglect of the Trainee to complete the Certified Provider training program as required by Highlands.

- b. if a petition in bankruptcy is filed by or against the Trainee (Affiliate), or if the Trainee (Affiliate) becomes insolvent or if a substantial part of the Trainee's (Affiliate's) assets are assigned to or for the benefit of any creditor.
- c. the Trainee (Affiliate) is convicted of a felony or misdemeanor.
- d. any license, certification, permit or special authorization issued to the (Trainee) Affiliate by a state or municipal authority to perform professional, commercial or business services for the public is revoked, cancelled or suspended.
- e. the Trainee (Affiliate) fails to pay any amount due Highlands within thirty (30) days after the date of an invoice therefor.
- f. following Certification, the Affiliate utilizes the Ability Battery and related Highlands materials in a manner not authorized or approved by Highlands.
- g. the Trainee (Affiliate) engages in conduct which threatens or is likely to impair the reputation or good will of Highlands.

Notice of termination by Highlands shall be in writing sent by certified mail to the Trainee (Affiliate) at his or her address below. Upon termination, the Trainee (Affiliate) will immediately return to Highlands all internet registration keys, CD-ROMS and related materials in his or her possession; and the Trainee (Affiliate) shall also immediately cease to use the Ability Battery and any related materials, or to offer the same for sale or distribution, or to promote, market or refer to himself or herself as a past or present Affiliate of Highlands. Upon the return of materials by the Trainee (Affiliate) following termination, Highlands shall reimburse the Trainee (Affiliate) for the cost of such materials, provided such materials shall be in saleable condition when received by Highlands.

10. The Trainee has been informed and understands that Highlands does not grant, recognize or authorize any form of exclusivity, whether territorial, geographic, or by customer or client type, classification or designation, to any Trainee or Affiliate, or to any other affiliate or customer of Highlands. Neither any provision of this Agreement nor any sale to or other transaction with the Trainee (Affiliate) shall be deemed to provide such exclusivity.

11. The Trainee (Affiliate) may not assign or encumber his or her rights hereunder.

12. This Agreement contains the entire agreement of the parties and may not be amended, altered or modified except by a writing signed by both parties. No waiver of any provision hereof shall be effective unless in a writing signed by both parties. No one waiver shall be construed as creating any additional or subsequent waivers.

13. The parties understand and agree that they are contractors independent of each other. This Agreement does not create any other relationship than as independent contractors, including any relationship as employer and employee, or principal and agent, or as partners or co-venturers. Neither party shall have the right or authority to make any promise, representation, guaranty, warranty or other commitment, or to assume, create or incur any liability, express or implied, in the name of or on behalf of the other.

14. This Agreement has been executed and shall be construed under the laws of the State of New York without reference to the principles controlling conflicts of laws.

15. If any disagreement or dispute shall arise between the parties, and the parties shall be unable to resolve the same amicably between themselves, then such disagreement or dispute shall be settled by final and binding arbitration to be conducted in White Plains, NY, under the rules and procedures of the American Arbitration Association. The laws controlling such arbitration shall be the laws of the State of New York, without reference to the principles controlling conflicts of laws.

16. All notices required hereunder shall be in writing addressed to each party at the address for such party at the head of this Agreement. Each party shall promptly notify the other of any change of address. Unless notice by certified mail is specifically required hereunder, such notice may be sent by ordinary mail.

IN WITNESS WHEREOF, the parties have signed this Agreement on the date set forth above.

The Highlands Company

By: _____

Trainee

