

Service Provider Agreement

Version 2019-A

4900 Meadows Road, Suite 300

Lake Oswego, Oregon 97035

Phone: 800.934.3303 | Fax: 503.452.4205

**www.FPTransitions.com**

Copyright 1999-2019 by FP Transitions, LLC. All rights reserved. Printed in the United States of America. Except as permitted under the United States Copyright Act of 1976, no part of this publication may be reproduced or distributed in any form or by any means, or stored in a database or retrieval system, without the prior written permission of the publisher. Please contact FP Transitions, LLC, at 800.934.3303 for distribution requests.

FP Transitions, LLC

**INSTRUCTIONS FOR USE OF THIS CONTRACT**

1. This document represents the negotiated terms of the parties.

2. Do not alter the text without the assistance of your attorney and/or your tax advisor.

3. Do not sign this document until you have reviewed it with your attorney, accountant, and tax advisor. This document impacts your legal rights and the legal issues that may arise in the future. In addition, there may be specific requirements under state law that this document does not cover, address, or comply with. FP Transitions is not a law firm, it does not provide legal services, and your FP Transitions Consultant is not your attorney or legal advisor.

4. FP Transitions, LLC, has no responsibility for claims, demands, or damages arising from or related to this document.

5. Do not sign this document until you have fully investigated the circumstances and you are satisfied with the results of your investigation.

6. This document is designed to be fair and impartial to all parties. However, your attorney or CPA/tax advisor may recommend revisions to the text to protect your particular interests. If you have questions regarding your legal rights, tax liability, or other legal issues, contact your attorney, accountant, or other tax advisor.

**SERVICE PROVIDER AGREEMENT**

**Date:**      , 20

**Service Provider:**

**Advisor:**

**STATEMENT OF PURPOSE**

Service Provider provides standard business facilities and services to licensed Financial Advisors. Advisor is a licensed Financial Advisor. Advisor wishes to obtain Services from Service Provider, and Service Provider agrees to provide Services to the Advisor, on the terms and conditions expressed in this Service Provider Agreement (this “Agreement”).

**AGREEMENT**

1. **Scope of Services.** Service Provider shall provide the following services (“Services”) to Advisor in accordance with the terms and conditions of this Agreement and Service Provider’s standards and practices, as amended from time to time.All services rendered hereunder shall be provided in accordance with all ordinances, resolutions, statutes, and rules of any Federal, State, or local governmental agency having jurisdiction in effect at the time the Services are rendered. Service Provider shall obtain at its sole cost and expense such licenses, permits, and approvals as may be required by law for the performance of the Services required by this Agreement. Service Provider shall have the sole obligation to pay for any fees, assessments, and taxes, plus applicable penalties and interest, which may be imposed by law and arise from or are necessary for Service Provider’s performance of Services, and shall defend and indemnify Advisor against any such fees, assessments, taxes penalties, or interest levied, assessed, or imposed against Advisor. These Services generally include:
   1. Professional office space;
   2. Reception service;
   3. Client support staff;
   4. Staff benefits programs;
   5. Trade ordering and expediting;
   6. Recordkeeping and archiving;
   7. Office furniture, fixtures and equipment;
   8. Office supplies;
   9. Hardware;
   10. Software;
   11. Subscriptions;
   12. Utilities;
   13. Printing, office supplies, and stationery;
   14. Accounting and bookkeeping;
   15. Marketing;
   16. Advertising; and
   17. Telecommunications and internet service.

# Term. Service Provider shall commence the provision of the Services on the date hereof. This Agreement may be terminated by either party upon thirty (30) day notice to the other party. Termination of this Agreement shall neither affect any accrued rights or liabilities of either party nor shall it affect the enforcement of any provision hereof which is expressly or by implication intended to come into or continue in force on or after termination.

# Fees and Costs. As consideration for the provision of the Services by Service Provider, Advisor will pay Service Provider an amount equal to      % of the revenue Advisor receives directly from an Independent Broker-Dealer and/or an independent Registered Investment Advisor, including but not limited to fees, commissions, and trails, to the fullest extent permitted by applicable regulatory rules and restrictions. Any charges payable under this Agreement are exclusive of any applicable sales, business and occupation, and excise taxes, or other like amounts assessed by any governmental entity arising as a result of the provision of the Services by Service Provider to Advisor under this Agreement. Any such taxes, charges, and fees shall be payable by the Advisor to the Service Provider on invoice and in addition to all other charges payable hereunder.

# No Control Over Service Provider. Unless Advisor is an owner of Service Provider, neither Advisor nor any of its employees, if applicable, shall have any control over the manner, mode, or means by which Service Provider, its agents, or its employees, perform the services required herein, except as otherwise set forth herein. Advisor shall have no voice in the selection, discharge, supervision, or control of Service Provider’s employees, representatives, or agents, or in fixing their number, compensation, or hours of service.

# Independent Contractor. If Advisor is an independent contractor affiliated with Service Provider, Advisor shall perform all services required herein as an independent contractor affiliated with Advisor and shall remain at all times, as to Advisor, a wholly independent contractor with only such obligations as are consistent with such role. Service Provider shall not at any time or in any manner represent that it, or any of its agents or employees, are agents or employees of Advisor.

# No Employment, Partnership, or Joint Venture Relationship. This Agreement alone does not create an employment relationship between Service Provider and Advisor. Advisor shall not in any way or for any purpose become or be deemed to be a partner of Service Provider in its business or otherwise, or a joint venturer or a member of any joint enterprise with Service Provider.

# Reports. Upon Advisor’s request, but no more than twice per calendar year, Service Provider shall prepare and submit to Advisor such reports concerning the performance of the services required by this Agreement. Service Provider hereby acknowledges that Advisor is concerned about the cost of work and services to be performed pursuant to this Agreement. For this reason, Service Provider agrees that if Service Provider becomes aware of any facts, circumstances, or events that may or will materially increase or decrease the cost of the work or services contemplated herein, Service Provider shall promptly notify Advisor of said fact, circumstance, or event and the estimated increased or decreased cost related thereto.

# Licenses. Service Provider agrees to grant to Advisor a non-exclusive, irrevocable, royalty free license to use, copy, and modify any elements of any Material not specifically created for Advisor as part of the Services. For the purposes of this clause, “Material” shall mean the materials, in whatever form, used by the Service Provider to provide the Services and the products, systems, programs, or processes, in whatever form, produced by the Service Provider pursuant to this Agreement. In respect of any Material specifically created for Advisor as part of the Services, Service Provider assigns the full title guaranty to Advisor and any and all of the copyright, other intellectual property rights, and any other data or material used or subsisting in the Material whether finished or unfinished. If any third-party intellectual property rights are used in the Material, Service Provider shall ensure that it has secured all necessary consents and approvals to use such third-party intellectual property rights for the Service Provider and the Advisor.

# Standard of Care. Both parties agree to use reasonable care and diligence to perform their respective obligations under this Agreement. Both parties agree to act in good faith to execute all instruments, prepare all documents, and take all actions as may be reasonably necessary to carry out the purposes of this Agreement. Neither party shall be responsible for the service of the other.

# Limitation of Liability. Subject to Advisor’s obligation to pay for Services rendered, either party’s liability in contract, tort, or otherwise (including negligence) arising directly out of or in connection with this Agreement or the performance or observance of its obligations under this Agreement and every applicable part of it shall be limited in aggregate to the price of the Services provided. In no event shall either party be liable for any loss of profits, goodwill, loss of business, loss of data, or any other indirect or consequential loss or damage whatsoever. Nothing in this clause shall serve to limit or exclude either party’s liability for death or personal injury arising from its own negligence.

# Confidentiality. Neither party will use, copy, adapt, alter, or part with possession of any information of the other or the other’s clients and/or accounts which is disclosed or otherwise comes into its possession under or in relation to this Agreement and which is of a confidential nature. Service Provider will take every reasonable precaution to protect and preserve Advisor’s and Advisor’s client’s confidential information, as Advisor may reasonably direct.

# General Terms.

* 1. **Waiver.** No delay or failure on the part of either party to exercise any right or remedy shall operate as a waiver thereof.
  2. **Amendments.** Neither party may amend this Agreement without the written consent of the other party.
  3. **Notices.** Unless otherwise specified, any notice to be given hereunder by any party to any other party must be done so in writing and delivered by certified mail, return receipt requested, or by such manner that delivery is confirmed. Notices will be deemed delivered not later than the third business day following posting.
  4. **Assignment.** Neither party may assign its interest in this Agreement to a third party without the consent of the other party to this Agreement.
  5. **Severability.** If any provision of this Agreement is determined to be invalid or unenforceable in any respect and for any reason, then the validity and enforceability of all other provisions of this Agreement will not be in any way impaired.
  6. **Binding Effect.** This Agreement is legally effective and binding upon the parties and their respective directors, shareholders, managers, members, employees, agents, estates, heirs, authorized representatives, successors, and permitted assigns.
  7. **Governing Law; Jurisdiction and Venue.** This Agreement and the rights and obligations of the parties hereunder will be construed in accordance with and governed by the laws of the state of       and of the United States of America, without regard to the conflict of law principles thereof. Exclusive jurisdiction and venue for any judicial proceeding arising out of this Agreement will be the court of general jurisdiction in       County,      .
  8. **Arbitration.** Except for a party’s right to pursue and obtain temporary restraining orders, preliminary injunctions, and permanent injunctions for a breach of any section of this Agreement, any controversy or claim arising out of this Agreement or the interpretation of any of the provisions in this Agreement must be resolved by binding arbitration by one arbitrator.
  9. **Attorney Fees.** If any arbitration or judicial proceeding occurs between the parties to declare or enforce any provision of this Agreement, then the prevailing party or parties will be entitled to recover from the opposing party or parties reasonable attorney fees and costs incurred in the arbitration or judicial proceeding.
  10. **Counterparts.** This Agreement may be executed in one or more counterparts each of which shall be deemed an original but all of which together shall constitute one and the same instrument.
  11. **Time of Essence.** Time is of the essence in this Agreement.

*In witness whereof*, the undersigned have caused this Agreement to be executed effective as of      , 20     .

**SERVICE PROVIDER: ADVISOR:**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

By:      ,       Date       Date