

## INDEPENDENT CONTRACTOR AGREEMENT: AFFILIATE PROGRAM

This Agreement is entered into as of today between **Open House Getaways, LLC** ("the Company") and **AFFILIATE** ("the Contractor").

- 1. Independent Contractor.** Subject to the terms and conditions of this Agreement, the Company hereby engages the Contractor the services set forth herein, and the Contractor hereby accepts such engagement.
- 2. Duties and Compensation.** The Contractor's duties, compensation and provisions for payment thereof shall be as set forth and attached as Schedule 1, which may be amended in writing from time to time by the Company, and which collectively are hereby incorporated by reference.
- 3. Benefits.** As an independent contractor, Contractor acknowledges and agrees that it shall not be entitled to participate in any company-sponsored benefit plans.
- 4. Disclosure Statement Regarding Workers' Compensation Coverage.** Contractor is not entitled to workers' compensation benefits from Company.
- 5. Equipment / Tools / Transportation.** The Company will not provide facilities, equipment, tools, clerical support, materials and/or transportation, including airfare and vehicle rental to Contractor unless pre-approved in writing by Company.
- 6. Registration / Licensing.** To the extent required by law, Contractor, at Contractor's own cost, agrees to: (i) conform to and abide by all federal, state and local laws pertaining to Contractor.
- 7. Other Activities.** Contractor is not required to work exclusively for Company. Contractor may engage in any other activities for compensation, including without limitation services on behalf of entities other than Company.
- 8. Conduct.** It is understood that the Services require a degree of professional conduct, expertise, knowledge and experience, and Company is engaging Contractor for its skill, expertise, knowledge and experience and that of any persons it may hire to perform work hereunder. Contractor agrees that any persons it employs will have the requisite skill, expertise, knowledge and experience to accomplish the Services. It is further understood that Company will provide no training to Contractor or any persons it may employ.
- 9. Fundraising.** It is understood that fundraising may not be done for anything illegal in nature, and must be family friendly and align with the morals and values of Open House Getaways, LLC. We reserve the right to deny any application for fundraising that we feel does not fit these standards.
- 10. Independent Contractor Relationship.** Contractor's engagement to perform the Services is an independent contractor relationship and does not constitute a contract of employment. This Agreement shall not render the Contractor an employee, partner, agent of, or joint venturer with the Company for any purpose. The Contractor is and will remain an independent contractor in his or her relationship to the Company. The Company shall not be responsible for withholding taxes with respect to the Contractor's compensation hereunder. The Contractor shall have no claim against the Company hereunder or otherwise for vacation pay, sick leave, retirement benefits, social security, worker's compensation, health or disability benefits, unemployment insurance benefits, or employee benefits of any kind.

**11. Media Company.** Contractor acknowledges that Company is a media company and is not a travel club or vacation services company and that it is not responsible for Sears Vacations' (owned by I.C.E. International Cruise & Excursions) performance of any obligations involving Contractor and/or the individuals who Contractor causes to become Sears Vacations Qualified Open House attendees. Contractor further acknowledges that Company is not responsible for the quality of the goods services provided by Sears Vacations and that Company's sole and only responsibility and liability to Contractor is to perform services as media company as outlined in this Agreement.

**12. No Withholding.** Unless otherwise required by applicable law, Company shall not withhold from Contractor's compensation any amounts for social security or federal or state income taxes. In this regard, Contractor acknowledges that it is Contractor's sole legal responsibility to pay all applicable federal and state income taxes, social security and all applicable federal and state self-employment taxes.

**13. Expenses.** During the term of this Agreement, any expenses incurred in generating individual fundraisers are the sole responsibility of the Contractor.

**14. Written Reports.** The Company may request that project plans, progress reports and a final results report be provided by Contractor on a monthly basis. A final results report shall be due at the conclusion of the project and shall be submitted to the Company in a confidential written report at such time. The results report shall be in such form and setting forth such information and data as is reasonably requested by the Company.

**15. Inventions.** Any and all inventions, discoveries, developments and innovations conceived by the Company prior to and during the term of this Agreement and utilized by the Contractor in rendering duties to the Company shall be the exclusive property of the Company and licensed to the Contractor for use in its operations while under contract with the Company. This license is exclusive, and may not be assigned without the Company's prior written approval.

**16. Confidentiality.** The Contractor acknowledges that during the engagement it will have access to and become acquainted with various trade secrets, inventions, innovations, processes, information, records and specifications owned or licensed by the Company and/or used by the Company connection with the operation of its business including, without limitation, the Company's business and product processes, methods, customer lists, accounts and procedures. The Contractor agree that it will not disclose any of the aforesaid, directly or indirectly, or use any of them in any manner, either during the term of this Agreement or at any time thereafter, except as required in the course of this engagement. In addition, files, records, documents, graphics, specifications, information, letters, notes, media lists, original artwork/ creative, notebooks, and similar items relating to the business of the Company and provided by the Company, shall remain the exclusive property of the Company.

**17. Conflicts of Interest; Non-hire Provision.** The Contractor represents that he or she is free to enter into this Agreement, and that this engagement does not violate the terms of any agreement between the Contractor and any third party. Further, the Contractor, in rendering his or her duties shall not utilize any invention, discovery, development, improvement, innovation, or trade secret in which he or she does not have a proprietary interest. During the term of this agreement, the Contractor shall devote as much of his or her productive time, energy and abilities to the performance of his or her duties hereunder as is necessary to perform the required duties in a timely and productive manner. The Contractor is expressly free to perform services for other parties while performing services for the Company. For a period of six months following any termination, the Contractor shall not, directly or indirectly hire, solicit, or encourage to leave the Company's employment, any employee, consultant, or contractor of the Company or hire any such employee, consultant, or contractor who has left the Company's employment or

contractual engagement within one year of such employment or engagement.

**18. Right to Injunction.** The parties hereto acknowledge that the services to be rendered by the Company under this Agreement and the rights and privileges granted to the Contractor under the Agreement are of a special, unique, unusual, and extraordinary character which gives them a peculiar value, the loss of which cannot be reasonably or adequately compensated by damages in any action at law, and the breach by the Contractor of any of the provisions of this Agreement will cause the Company irreparable injury and damage. The Contractor expressly agrees that the Company shall be entitled to injunctive and other equitable relief in the event of, or to prevent, a breach of any provision of this Agreement by the Contractor. Resort to such equitable relief, however, shall not be construed to be a waiver of any other rights or remedies that the Company may have for damages or otherwise. The various rights and remedies of the Company under this Agreement or otherwise shall be construed to be cumulative, and no one of them shall be exclusive of any other or of any right or remedy allowed by law.

**19. Merger.** This Agreement shall not be terminated by the merger or consolidation of the Company into or with any other entity.

**20. Termination.** If the Contractor is convicted of any crime or offense, fails or refuses to comply with the written policies or reasonable directive of the Company, is guilty of serious misconduct in connection with performance hereunder, or materially breaches provisions of this Agreement, the Company at any time may terminate the engagement of the Contractor at which time no additional compensation or services would be rendered to either party.

**21. Successors and Assigns.** All of the provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, if any, successors, and assigns.

**22. Choice of Law.** The laws of the state of Arizona shall govern the validity of this Agreement, the construction of its terms and the interpretation of the rights and duties of the parties hereto.

**22. Arbitration.** Any question, dispute, disagreement, or difference of any kind whatsoever which may arise between Company and Contractor under, out of, or in connection with this Agreement, or the carrying out of the work hereunder (whether during the progress of the work or after its completion, and whether before or after the termination abandonment or breach of this Agreement) shall be tried to be settled amicably upon mutual consultation with good faith, and in failing so shall be submitted to arbitration in Phoenix, Arizona to a panel of one arbitrator under the then applicable Commercial Arbitration Rules of the American Arbitration Association. The parties agree that judgment upon any arbitration award may be entered in any court having jurisdiction thereof. Notwithstanding the foregoing, Company may pursue a motion for temporary restraining order and/or motion for preliminary injunction under paragraph 17 in Maricopa County (Arizona) Superior Court.

**23. Headings.** Section headings are not to be considered a part of this Agreement and are not intended to be a full and accurate description of the contents hereof.

**24. Waiver.** Waiver by one party hereto of breach of any provision of this Agreement by the other shall not operate or be construed as a continuing waiver.

**25. Assignment.** The Contractor shall not assign any of [his or her] rights under this Agreement, or delegate the performance of any of his or her duties hereunder, without the prior written consent of the Company.

**26. Notices.** Any and all notices, demands, or other communications required or desired to be

given hereunder by any party shall be in writing and shall be validly given or made to another party if personally served, or if deposited in the United States mail, certified or registered, postage prepaid, return receipt requested. If such notice or demand is served personally, notice shall be deemed constructively made at the time of such personal service. If such notice, demand or other communication is given by mail, such notice shall be conclusively deemed given five days after deposit thereof in the United States mail addressed to the party to whom such notice, demand or other communication is to be given as follows:

***If to the Contractor:***

Notice will be sent to contractor's payment address on file.

***If to the Company:***

Open House Getaways, LLC 6009 East Marconi Avenue, Scottsdale AZ 85254

Any party hereto may change its address for purposes of this paragraph by written notice given in the manner provided above.

**27. Modification or Amendment.** No amendment, change or modification of this Agreement shall be valid unless in writing and signed by both parties hereto.

**28. Entire Understanding.** This document and any exhibit attached constitute the entire understanding and agreement of the parties, and any and all prior agreements, understandings, and representations are hereby terminated and canceled in their entirety and are of no further force and effect.

**29. Unenforceability of Provisions.** If any provision of this Agreement, or any portion thereof, is held to be invalid and unenforceable, then the remainder of this Agreement shall nevertheless remain in full force and effect.

**PAY FOR PERFORMANCE SCHEDULE 1:  
DUTIES AND COMPENSATION – AFFILIATE PROGRAM**

**Duties:**

Contractor will Book Open House Appointments via the approved links provided by [www.OpenHouseGetaways.com](http://www.OpenHouseGetaways.com) after your account is created.

**Base Compensation:**

\$100 Per Qualified\* Open House Tour (See Exhibit A)

**Bonus Compensation:**

An additional \$100 for Every Referred Open House Attendee that becomes a Direct Access Subscriber. NOTE: Bonus compensation is in effect as of October 1, 2013 and is subject to the discretion of Sears Vacations. Bonus compensation offer may be withdrawn at anytime.

**Pay Schedule:**

Once Affiliate is Qualified, Company will pay Contractor by Mailed Business Check on the 15th of each month, to include all completed Qualified\* Open House Tours from month(s) prior.

**Contractor agrees:**

Not to offer any commission splits with third parties which are contingent on third party performance of any of the qualifiers or terms and conditions.

All marketing materials and or promotional copy referencing Open House Getaways or Sears Vacations must be submitted to Open House Getaways for pre-approval