



INDEPENDENT CONTRACTOR AGREEMENT between

RMI EXPRESS CORPORATION ("RMI") and
CONTRACTOR ("CONTRACTOR" and "YOU")

I. WHAT YOU NEED TO DO

1.1 **Term.** The term of this agreement shall be one (1) year. All enforcement provisions shall survive termination.

1.2 **Follow Directions.** RMI generates the initial work order that limits the scope of work and the total amount you can charge ("Not-To-Exceed" amount). Contractor is required to complete and submit the work order to RMI listing all services performed, the time spent on site and the travel time for each trip to a store. All work orders must have a store stamp and signature, and all IVR (Interactive Voice Response) instructions must be followed at times of service. All service calls must originate from RMI. No additional work is authorized or compensable; if requested by a store employee it should immediately be directed to RMI. Any charge exceeding the "Not-To-Exceed amount" must be approved in writing.

1.3 **Be Prompt.** All service calls must be responded to within two (2) business days of receipt of work order or materials, whichever is earlier, unless otherwise specified on the work order. RMI reserves the right to withdraw work orders if service calls are not responded to within this time frame. RMI will ship all materials directly to Contractor. Unless otherwise noted on the work order, Contractor is not authorized to purchase any materials (ballasts, lamps, capacitors, etc.) to complete a job unless it agrees to accept replacement materials in lieu of payment.

1.4 **Be Prepared.** Contractor is responsible for furnishing all equipment, tools and instrumentalities it deems necessary in order to provide the services required by this agreement. RMI is not responsible or liable to Contractor, or any vendor of contractor, for common overhead expenses or costs that may be incurred by Contractor during the performance of services specified in this agreement, including labor charges, equipment costs and any other costs commonly incurred in doing business. Contractor shall perform services in a workmanlike manner, and shall leave all worksites in clean condition.

1.5 **Take Care of Your Business.** Contractor shall obey all laws and ordinances, especially licensing and permit requirements. RMI is a tax-collecting agent in certain states, see web-site. Contractor must obtain RMI's sales tax exemption certificate where applicable. Where RMI is not a tax-collecting agent, Contractor shall collect and withhold applicable sale/use tax. RMI is a disclosed agent of property owner, not the ultimate consumer of Contractor's service; it is not responsible for the collection, reporting or payment of sales tax collected by Contractors.

1.6 **Maintain Insurance.** Contractor, in addition to a current Independent Contractor's Agreement, is required to submit a current Certificate of Insurance to RMI prior to release of first payment. If, after completion of work, it is found that Contractor does not carry adequate insurance, Contractor will be added to RMI's insurance policy as a rider, at a cost to Contractor of 1/3 of all outstanding invoices.

1.7 **Watch for Warranty Orders.** Warranty work orders are governed by different rules. When a manufacturer is listed as a "customer" (as opposed to the store you're sent to) the work order is a warranty work order. Under warranty work orders, the travel rate is limited to ½ hour of regular labor rate, plus parking and toll charges (receipts required). Under ordinary circumstances, Contractors are expected to install no more and no less than 3 ballasts per man hour and no more and no less than 3 capacitors per man hour. Ordinary circumstances are those where you have reasonable access to the fixture and under 12 foot ceilings. Charges exceeding these limits must be justified on work order.

II. HOWTO OBTAIN PAYMENT

2.1 **Understand Payment Terms.** RMI pays according to RMI Payment Terms, generally net 60 days. Participation in RMI's EPayable program requires execution of the Enrollment Form which was provided with the Independent Contractor Survey, incorporated herein. Contractor's right to payment accrues when RMI receives funds from the "customer" for Contractor's Work, RMI's receipt of which is a condition precedent to RMI's obligation to make payments (including final payment and retention) to Contractor.

2.2 **Document Work.** All invoices must be mailed to RMI within one (1) week of completion of work. Invoices must include work orders and proof of shipping if required, and must reference the store serviced and RMI service number. RMI will accept only one invoice per service call. Invoices must not include any shipping charges, as Contractor is responsible for payment of any shipping costs for the return of merchandise, unless instructions provide otherwise. RMI will not pay invoices unless directions are followed.

2.3 **Invoice Correct Amount.** Contractor agrees to bill at the rates offered in its Independent Contractor Survey. Any invoices received that are found to have been billed at a rate other than those agreed upon will be returned to the Contractor. Overbilling or other actions triggering an overpayment will result in RMI obtaining reimbursement from Contractor in the same form as payment was made, or in any other fashion permitted by law. In the event that a dispute arises, Contractor authorizes RMI to off-set the disputed amount pending resolution. Where a conflict exists between the provisions of this Agreement and the Independent Contractor Survey, or any other agreement between us, the terms of this Agreement shall govern.

III. GENERAL PROVISIONS

3.1 **No Subcontracting.** This Agreement is non-assignable. ANY VIOLATION OF THIS PROVISION WILL VOID THIS AGREEMENT.

3.2 **We're Separate Entities.** Contractor is an independent contractor – not an RMI employee, nor a partner, agent of, or joint venturer with RMI for any purpose. Contrary representations or other holdings-out are unauthorized. RMI is not responsible for withholding taxes with respect to Contractor's compensation hereunder, nor 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 regarding Contractor or its employees.

Contractor acknowledges that this Agreement deals with services provided by RMI in interstate commerce. Contractor acknowledges that RMI holds a sales tax exemption certificate, that it shall not charge RMI sales tax where the certificate is effective. Any sales tax Contractor withholds shall be paid to the appropriate tax authority related to the services provided under this Agreement.

3.3 **Arbitration.** Any controversy between the parties hereto involving the construction or application of any of the terms, covenants, or conditions of this Agreement will, on the written request of one party served on the other, be submitted to arbitration. The arbitration will comply with and be governed by the American Arbitration Association. The cost of the arbitration will be borne in such proportions as the arbitrators decide. Judgment upon the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof.

3.4 **Non-Competition.** During the term of this agreement and for twelve (12) months after termination, Contractor shall not solicit or accept work from any person, or other entity for whom Contractor has performed electrical maintenance services directly or indirectly through RMI by virtue of this agreement.

3.5 **Indemnity.** The Contractor indemnifies and holds harmless RMI, its affiliates, clients, owners, agents and authorized representatives from and against any claims, legal fees, costs, and expenses of whatsoever kind of nature whether arising before or after completion of any work by Contractor for third parties hereunder in any manner caused by Contractor, or anyone acting on its behalf in connection with this contract. Contractor's aforesaid obligations shall apply to the fullest extent permitted by law. Contractor shall remain liable for unused parts not returned to RMI after termination.

3.6 **Confidentiality.** The Contractor acknowledges that during the term of this agreement it may have access to and become acquainted with trade secrets, processes, information, records and specifications owned or licensed by RMI and/or used by RMI in the operations of its business, including Contractor's status as an Independent Contractor. Contractor will not disclose any of the aforesaid, or use any of them in any manner, during the term of this agreement or at any time thereafter, except as required in the course of this engagement with RMI. All files, records, documents and similar items relating to the business of RMI, prepared by the Contractor or otherwise coming into its possession, shall remain the exclusive property of RMI. The Contractor shall not retain any copies of the foregoing without RMI's prior written permission. Upon the termination of this agreement, the Contractor shall immediately deliver to RMI all such files, records, documents, etc. in its possession or under its control.

3.7 **Ohio Law Applies.** The laws of the State of Ohio govern the validity of this Agreement, the construction of its terms and the interpretation of the rights and duties of the parties hereto.

3.8 **No Amendment Unless . . .** No amendment to this Agreement shall be valid unless in writing approved by both RMI and Contractor, except RMI-proposed Amendments, to which no written objection is made, shall be deemed ratified by acceptance of later work orders.

3.9 **Entire Agreement.** This document represents the final expression of the agreement between RMI and Contractor; all prior agreements are merged herein and where inconsistent, this agreement governs.

3.10 **Waiver.** Any waiver of any provision by RMI in this agreement shall constitute a one-time waiver and does not waive the entire agreement, nor a single provision on an on-going basis.

3.11 **Ohio Venue.** The Cuyahoga County Court of Common Pleas shall be the appropriate and sole forum for resolving any dispute regarding the existence, interpretation, enforcement, and/or breach of this Agreement.

IN WITNESS WHEREOF the undersigned have executed this Independent Contractor Agreement on the _____ day of _____, 20_____.

RMI EXPRESS CORPORATION

Contractor

By: _____

By: _____