



SERVICE AND INDEMNITY AGREEMENT

This Service and Indemnity Agreement ("Agreement") is made and entered into as of _____ (the "Effective Date"), by and between Blakeman & Associates ("Blakeman") and _____ ("Service Beneficiary" - Employer). Blakeman and Service Beneficiary are referred to herein individually as a "Party", and collectively as the "Parties".

Article I. Blakeman's Services Provided to Service Beneficiary

1. **Contract for Services.** As a client of Texas Funeral Directors Association "TFDA" the Service Beneficiary may request Blakeman to provide telephone consultation for the benefit of the Service Beneficiary in the area of safety and employee management.
2. **Services.** So long as Service Beneficiary agrees to the Agreement and remains a Texas Funeral Directors Association "TFDA" member, Blakeman may provide the Service Beneficiary with telephone consultation in human resources and/or safety management issues and in relation to telephone inquiries made by Service Beneficiary ("Services"). All goods and services being provided shall be done so on an as-is basis. Further, Service Beneficiary agrees that no representations other than those contained in this agreement have been made. Additionally, Service Beneficiary agrees that it is not relying on any representations it believes may or may not have been made by Blakeman or its any of its agents.
3. **Term of the Agreement.** The term of this Agreement is subject to the term of the Blakeman and TFDA's Agreement. Upon the conclusion, termination, or cancellation of Blakeman and TFDA's Agreement, Blakeman's goods and services shall automatically terminate in accordance with Article III of this Agreement.

Article II. Miscellaneous Provisions

4. **Non-Solicitation of Employees.** The Service Beneficiary agrees to not recruit, solicit or entice away any individual who, as of the date of this Agreement is employed in any capacity by Blakeman or has contracted to render services to Blakeman.
5. **Third Parties.** The provisions of this Agreement are solely for the benefit of Blakeman and Service Beneficiary. Neither this Agreement nor its performance shall inure to the benefit of anyone other than Blakeman and Service Beneficiary. No third party shall have any rights or remedies hereunder.
6. **Texas Law to Apply.** This agreement shall be construed under and in accordance with the law of the State of Texas, and all obligations of the Parties created in this Agreement are performable in Montgomery County, Texas.
7. **Agreement not Assignable.** This agreement shall in no event be assigned by either the Service Beneficiary or Blakeman without the prior written consent of the other.
8. **Legal Construction.** In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or enforceability shall not affect any other provision of this Agreement and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained in it.

9. **Prior Agreements Superseded.** This Agreement constitutes the sole and only agreement of the parties and supersedes any prior understandings or written or oral agreements between the parties respecting the subject matter of this Agreement.

10. **Conflicts.** At any time when a conflict arises between this Agreement and any Other Document, it is expressly agreed that the terms and conditions set forth in this Agreement will prevail.

11. **Legal Notice.** Communications between Service Beneficiary and Blakeman are not intended or offered as legal advice or expert opinions. It is for informational purposes only. Blakeman provides general information concerning safety, environmental, industrial, commercial and employment-related matters to the Service Beneficiary. The Service Beneficiary **SHOULD NOT** act or fail to act on any legal matter based on the communications between Blakeman and the Service Beneficiary. Unless expressly stated otherwise, no information or document provided by Blakeman should be assumed to be produced by an attorney licensed in the Service Beneficiary's state. The Service Beneficiary should seek the advice of counsel prior to making employee management determinations or prior to making any decision or taking any action associated with the services provided by Blakeman.

Article III. Termination

12. **Term.** The term of this Agreement shall commence on the Effective Date as stated above and shall continue until the termination of Blakeman and TFDA's Agreement or until Blakeman terminates this Agreement ("Term").

13. **Termination During the Initial Term of this Agreement.** Blakeman shall have the right to terminate this Agreement at any time and for whatever reason so long as Blakeman provides Service Beneficiary with a twenty-four (24) hour notice.

14. **Survival Beyond Termination.** All provisions necessarily requiring survival beyond any termination of the Agreement, including, but not limited to, those relating to payment(s) owed to Blakeman, audit, choice of law, confidentiality, indemnity, insurance, title and warranty shall survive any such termination.

Article IV. Indemnities and Liabilities

15. **LIMITATION OF LIABILITY. SERVICE BENEFICIARY UNDERSTANDS AND AGREES THAT BLAKEMAN'S LIABILITY ARISING FROM ANY ACTS RELATED TO THIS AGREEMENT OR ARISING FROM THIS AGREEMENT SHALL BE LIMITED TO THE FEE SERVICE BENEFICIARY PAID BLAKEMAN WITHIN THE LAST 12 MONTHS FOLLOWING ANY ALLEGED BREACH OR WRONGFUL ACT. SERVICE BENEFICIARY UNDERSTANDS AND AGREES THAT BLAKEMAN'S LIABILITY SHALL BE LIMITED AS SET FORTH IN THE LIMITATION OF LIABILITY AND INDEMNITY PARAGRAPHS, IRRESPECTIVE OF WHETHER THE CLAIM IS FOR A BREACH OF CONTRACT, NEGLIGENCE, OR GROSS NEGLIGENCE OR ANY OTHER TYPE OF CAUSE OF ACTION. THEREFORE, SERVICE BENEFICIARY HEREBY WAIVES ANY POTENTIAL CLAIM FOR CONSEQUENTIAL OR INDIRECT DAMAGES, INCLUDING, BUT NOT LIMITED TO, LOSS OF ANTICIPATED OR REAL REVENUE, PROFIT, LOSS OF PRODUCTION AND FAILURE TO MEET OTHER CONTRACTUAL COMMITMENTS AND/OR FOR PUNITIVE DAMAGES.**

16. **INDEMNITY. IN CONSIDERATION OF THE CONTROL EXERCISED BY SERVICE BENEFICIARY, IT IS AGREED THAT SERVICE BENEFICIARY SHALL HOLD HARMLESS, INDEMNIFY, AND KEEP INDEMNIFIED BLAKEMAN, ITS OWNERS, AGENTS, SERVANTS, AND EMPLOYEES AGAINST ALL LOSS, COST, AND EXPENSE, INCLUDING ATTORNEYS FEES, ARISING FROM ANY CLAIM MADE BY SERVICE BENEFICIARY OR A THIRD PARTY FOR DAMAGES OR ANY CLAIM RELATED TO OR INCIDENTAL TO PERFORMANCE OF THIS AGREEMENT, INCLUDING CLAIMS RELATED TO THIS INDEMNITY OBLIGATION, CLAIMS CAUSED BY THE NEGLIGENCE OF SERVICE BENEFICIARY, ITS AGENTS AND SUBCONTRACTORS AND OR CLAIMS CAUSED BY THE NEGLIGENCE OF BLAKEMAN, ITS OWNERS, AGENTS, SERVANTS, EMPLOYEES IN THE PERFORMANCE OF THIS AGREEMENT.**

17. **GROSS NEGLIGENCE EXCEPTION. SERVICE BENEFICIARY SHALL NOT BE REQUIRED TO INDEMNIFY BLAKEMAN FOR DAMAGES WHICH ARE FOUND BY A COURT OF COMPETENT JURISDICTION TO HAVE BEEN CAUSED BY BLAKEMAN'S GROSS NEGLIGENCE. NOTWITHSTANDING, SERVICE BENEFICIARY'S RECOVERY, IF ANY, IS LIMITED BY THE LIMITATION OF LIABILITY PARAGRAPH.**

Service Beneficiary (Employer) Signature

Employer Name:	
Association Name:	Texas Funeral Directors Association
Mailing Address:	
Physical Address:	
Phone Number:	
Email Address:	

EXECUTED in _____ County, Texas on _____, 2019

Blakeman & Associates

Service Beneficiary (Employer)

By: _____
(signature)

(By: _____
(signature)

Linda Williams
(printed name)

(printed name)

Title: _____
President

Title: _____

(Organization/Company)

Persons authorized to contact

Blakeman & Associates for consultation services:

Name Title/Dept.

Name Title/Dept.