

CONSULTING AGREEMENT

THIS AGREEMENT (this "Agreement"), dated as of December 20, 2012, by and between the **MISSOURI HISTORICAL SOCIETY**, a Missouri charitable pro forma decree corporation a/ka/ the **MISSOURI HISTORY MUSEUM** (the "Museum"), and **ROBERT R. ARCHIBALD** (the "Consultant"). Collectively, the Museum and the Consultant are sometimes referred to herein as the "Parties."

RECITAL

The Museum desires to engage the Consultant and the Consultant desires to accept such engagement;

NOW, THEREFORE, the Museum and the Consultant, each intending to be legally bound, hereby mutually covenant and agree as follows:

1. Engagement. The Museum shall engage the Consultant as a consultant and advisor to the Museum, and the Consultant shall so serve, for the term set forth in Section 3 hereof.

2. Rights and Duties of the Consultant. Effective on January 1, 2013 (the "Effective Date"), the Consultant shall be engaged as a consultant and advisor to the Museum, and shall perform such duties and services as may reasonably be requested of the Consultant from time to time by the Board of Trustees (the "Board") or the Chief Executive Officer of the Museum. It is presently contemplated that Consultant's role and responsibilities will be principally focused on transition of Consultant's prior role as chief executive officer to the interim chief executive officer and the senior staff; work with respect to the capital campaign and other fund raising and development activities, work in connection with any request by the Joint Executive Compensation Committee of the Museum and the Missouri History Museum Subdistrict with respect to selection of a new chief executive for the Museum and other mutually agreed upon special projects. The Consultant shall devote such time, attention and energies to the performance of his duties with the Museum as are reasonably required to perform such services.

3. Term of Engagement. The engagement of the Consultant hereunder will commence on the Effective Date and end on June 30, 2013.

4. Compensation of the Consultant. For the period from the Effective Date through June 30, 2013, the Consultant shall be paid total compensation of \$270,000 payable in six (6) equal monthly installments. No other compensation shall be paid to Consultant.

5. Administrative Assistance. The Museum will provide the Consultant with computer support and secretarial assistance as needed.

6. Terms.

6.1 Schedule of Work. The Consultant shall generally set his own days and time of performance at Consultant's sole discretion, so long as Consultant performs his duties hereunder.

6.2 Expenses of Consultant. The Consultant shall be reimbursed for the reasonable cost of any travel, lodging and meals related to consulting services which are incurred at the request of the Museum. Travel shall be coach class if by air and actual automobile expenses based on the applicable Internal Revenue Service mileage reimbursement rate if by car.

6.3 Benefits. As an independent contractor Consultant shall not be entitled to any employment benefits. However, as a former employee of the Museum Consultant shall be eligible for COBRA coverage at Consultant's expense for the applicable period provided by law.

7. Termination. This Agreement shall expire on June 30, 2013.

8. Confidentiality.

8.1 Holding Information Confidential. In view of the fact that the Consultant's work for the Museum may cause the Consultant to be in close contact with the confidential affairs of the Museum, the Consultant hereby agrees to keep confidential all Confidential Information (as hereinafter defined) of the Museum learned prior to the date of this Agreement and in the course of the Consultant's engagement hereunder, and not to disclose any such Confidential Information to anyone other than trustees, and officers of the Museum, or to use any such Confidential Information other than in connection with fulfilling the Consultant's obligations under this Agreement, in each case, either during or after the Consultant's engagement with the Museum. The Consultant further agrees to deliver promptly to the Museum at the time the Consultant ceases to be engaged by the Museum or, upon the request of the Museum, at any other time, all confidential memoranda, notes, records, reports and other documents (and all copies thereof) relating to the Museum's businesses which the Consultant may then possess or have under the Consultant's control and which are reasonably likely to have continuing need for confidential treatment. Nothing in this Section 8 shall require the Consultant to return to the Museum any property of Consultant, including prizes (both monetary and otherwise), awards, gifts and other property given to the Consultant either prior to the Agreement or during the term hereof.

8.2. Definition of Confidential Information. For purposes of this Agreement, "Confidential Information" means, subject to the proviso at the end of this sentence, all information of a proprietary or confidential nature relating directly or indirectly to the Museum, or the business or assets of the Museum, including, without limitation, information about donors, costs, revenues, strategic plans for future development, and any other information not readily available to the public; provided, however, that the following shall not be deemed to be Confidential Information: (i) any information that is available to the public on the date hereof, or which becomes generally available to the public after the date hereof but before its impermissible use or disclosure by the Consultant, and (ii) any information the disclosure of which is required by an order of a court of competent jurisdiction (a "Court Order"). Without limiting the foregoing, the Consultant agrees to provide the Museum with prompt written notice of any such Court Order and to use reasonable efforts to assist the Museum in asserting any legal challenges

to or appeals of such Court Order that the Museum may in its reasonable judgment determine to be appropriate. Confidential information shall not include such materials as are excluded from the definition of Work Product contained in Section 11 hereof.

9. Legal Status of the Consultant. The Museum and the Consultant acknowledge and agree that it is the intention of each of them that the relationship herein created is that of an independent contractor. Nothing contained in this Agreement shall be construed to constitute the Consultant as an employee, partner or joint venturer of the Museum, it being intended that the Consultant shall remain an independent contractor and shall be responsible for his own actions. The Museum shall have the right to control and direct the results to be accomplished pursuant to this Agreement.

10. Taxes. The Consultant hereby agrees and acknowledges that, as an independent contractor, he is responsible for payment of any and all taxes imposed upon him by any governmental entity or agency thereof, including, without limitation, income and self-employment taxes. The Consultant hereby agrees to indemnify and hold the Museum harmless from and against any claim, loss, damage, liability, cost or expense including, without limitation, reasonable attorneys' fees, incurred by the Museum by reason of the Consultant's willful failure to comply with this section and for all taxes and other payments required to be paid by the Museum as a result of the relationship created between the Museum and the Consultant hereunder.

11. Work Product. Subject to the limitations contained in this Section 11, all documents, records, notebooks, data, memoranda, reports, software programs, drawings, models, designs, specifications, business plans, tapes, invoices, financial information, correspondence and other material or information developed by or for the benefit of the Museum, including copies thereof, relating to the business of the Museum or its affiliates or any business managed by the Museum which are created by the Consultant or otherwise come into the possession of the Consultant, and whether prepared by the Consultant or others (the "Museum Information"), are and shall be the property of the Museum. The Consultant hereby assigns to the Museum all proprietary rights, if any, to such Museum Information. The Consultant agrees to take all reasonable steps the Museum believes desirable to enable it to confirm, enforce and defend all property rights relating to such Museum Information. Any costs incurred by the Consultant in so doing shall be reimbursed by the Museum. Upon the termination hereof, for whatever reason, all Museum Information which is in the possession or control of the Consultant will be left with or returned to the Museum; provided however, that the Museum acknowledges that throughout its relationship with the Consultant the Consultant has published numerous writings and other forms of media and has been entitled to all royalties and other fees in connection with same.

12. Binding Effect; No Assignment Permitted. This Agreement shall be binding upon and inure to the benefit of the heirs and representatives of the Consultant and the successors and assigns of the Museum. This Agreement may not be assigned by either Party; and any purported assignment of this Agreement by either Party shall be null and void.

13. Notices. All notices, requests, demands and other communications hereunder shall be in writing and shall be deemed to have been duly given if delivered by hand or

mailed within the continental United States by first class certified mail, return receipt requested, postage prepaid (or delivered by facsimile), addressed as follows:

13.1 If to the Museum to:

Missouri History Museum
P.O. Box 11940
St. Louis, Missouri 63112
Attn: Chief Executive Officer

13.2 If to the Consultant, to the address set forth on the signature page hereto.

14. Execution in Counterparts. This Agreement may be executed by the parties hereto in counterparts, each of which shall be deemed to be an original, but all such counterparts shall constitute one and the same instrument, and all signatures need not appear on any one counterpart.

15. Governing Law; Jurisdiction; Agreement to Binding Arbitration.

15.1 All questions concerning the construction, interpretation and validity of this Agreement shall be governed by and construed and enforced in accordance with the domestic laws of the State of Missouri without giving effect to any choice or conflict of law provision or rule (whether in the State of Missouri or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than the State of Missouri. In furtherance of the foregoing, the internal law of the State of Missouri will control the interpretation and construction of this Agreement, even if under such jurisdiction's choice of law or conflict of law analysis, the substantive law of some other jurisdiction would ordinarily apply.

15.2 Any dispute between the parties hereto or claim by a party against another party arising out of or in relation to this Agreement or in relation to any alleged breach thereof which cannot be finally settled by the parties themselves within 30 days from the first written notice of such dispute (the "Self Resolution Period"), shall be finally determined by arbitration in accordance with the Commercial Arbitration Rules then in force of the American Arbitration Association. The arbitration proceedings shall take place in the City of St. Louis, Missouri or such other location as the parties in dispute hereafter may agree upon; and such proceedings shall be governed by the laws of the State of Missouri. There shall be one arbitrator, as shall be agreed upon by the parties in dispute, who shall be an individual skilled in the legal and business aspects of the subject matter of this Agreement and of the dispute. In the absence of such agreement, each party in dispute shall select one arbitrator and the arbitrators so selected shall select a third arbitrator. In the event the arbitrators cannot agree upon the selection of a third arbitrator, such third arbitrator shall be appointed by the American Arbitration Association at the request of any of the parties in dispute. The arbitrators shall be individuals skilled in the legal and business aspects of the subject matter of this

agreement and of the dispute. The decision rendered by the arbitrator or arbitrators shall be accompanied by a written opinion in support thereof. Such decision shall be final and binding upon the parties in dispute. Judgment upon any such decision may be entered into in any court having jurisdiction thereof, or application may be made to such court for a judicial acceptance of the decision and an order of enforcement. The arbitrator(s) will be authorized to impose either temporary or permanent injunctions (either before or after a full hearing). Costs of the arbitration shall be assessed by the arbitrator or arbitrators against any or all of the parties in dispute, and shall be paid promptly by the party or parties so assessed.

16. Severability. If any provision of this Agreement shall be adjudged by any court of competent jurisdiction to be invalid or unenforceable for any reason, such judgment shall not affect, impair or invalidate the remainder of this Agreement. Furthermore, if the scope of any restriction or requirement contained in this Agreement is too broad to permit enforcement of such restriction or requirement to its full extent, then such restriction or requirement shall be enforced to the maximum extent permitted by law, and the Consultant consents and agrees that any court of competent jurisdiction may so modify such scope in any proceeding brought to enforce such restriction or requirement.

17. Amendments. No change, alteration or modification hereof may be made except in a writing, signed by each of the Parties hereto.

18. Interpretation. The headings in this Agreement are for convenience and reference only and shall not be construed as part of this Agreement or to limit or otherwise affect the meaning hereof. This Agreement contains all of the terms and conditions agreed upon by the Parties and no other agreements, oral or otherwise, exist or shall be binding upon the Parties as to the subject matter hereof.

[THIS SPACE INTENTIONALLY LEFT BLANK]

**THIS CONTRACT CONTAINS A BINDING ARBITRATION PROVISION WHICH
MAY BE ENFORCED BY THE PARTIES**

IN WITNESS WHEREOF, the Parties hereto have duly executed this Consulting Agreement as of the date first above written.

MISSOURI HISTORICAL SOCIETY

By: _____
John R. Roberts
Title: Chairman

CONSULTANT

Robert R. Archibald

Address:

4700 Prather Ave.
St. Louis, MO 63109-2521