



TRAINING AGREEMENT

Between

State of New Hampshire – Department of Resources & Economic Development
Division of Economic Development - Office of Workforce Opportunity
172 Pembroke Road, Concord, NH 03301

and

Fictitious Industries, Inc.
123 Mechanic Street, Manchester NH 03101

This cost reimbursement agreement (agreement) for training services is effective from September 1, 2016, or from the date of the latest signature, whichever is later. This agreement ends November 30, 2017. **Total payments under this agreement shall not exceed \$5000.00, and are subject to Fictitious Industries documenting a 1:1 match that does not include wages paid to employees participating in training, in-kind contributions, administrative or entertainment expenses, or costs resulting from violation or failure to comply with federal, state, or local laws and regulations.**

By signing below, the Department of Resources and Economic Development, Office of Workforce Opportunity (State), a state entity within the State of New Hampshire, and Fictitious Industries agree to all the terms of this agreement, which, in addition to the above, consists of the following sections:

- I. Statement of Work – Training/Services Obligation
- II. Performance Goals & Outcomes / Reporting Requirements
- III. Budget and Cash Management
- IV. Other Terms of Agreement

Section 1 – Statement of Work: Training

A. Introduction

This agreement is the result of a competitive application process and completely incorporates the following documents by reference:

- NH Job Training Fund law (SB 97) effective July 1, 2007, and permanent rules (Res 2700 et al), effective July 1, 2009.
- Fictitious Industries' application dated June 8, 2016.

If a question occurs over expectations, the order of hierarchy for documents, unless otherwise specified in the body of this document, is as follows:

- the laws and regulations
- this agreement
- Fictitious Industries' application dated June 8, 2016.

Fictitious Industries assumes full responsibility for the administration and performance outcomes of this grant.

PLEASE NOTE: The offer of training funds under this initiative expires on September 30, 2016. If this agreement is not signed by both parties by September 30, 2016 the funds may be de-obligated and used to fund training of other successful applicants.

Contractor's Initials jbd

B. Training/Services Obligation

1. This grant will be used to pay for those services outlined in Fictitious Industries' application dated by June 8, 2016. Specifically, training/services shall address Lean training. **Any changes to the training/services as outlined in the referenced document must be requested and approved in writing by the State prior to making the change, failure to do so may result in forfeiture of reimbursement.**
2. Training/services shall commence within 90 days from the latest signature date of this agreement, as required by the Administrative Rules (Res 2704.05). If the first training course has not commenced within this 90-day timeframe, Fictitious Industries risks losing this funding pursuant to the applicable rules. All training/services must be **completed by November 30, 2017**, with **final invoices and evaluation to the State no later than December 31, 2017**.
3. Fictitious Industries shall monitor the performance of the persons receiving the training and understands and agrees that students who repeatedly receive failing grades, or fail to complete courses, or terminate the training for a period of more than 30 days (for other than medical reasons) shall be removed from the training program.
4. Fictitious Industries understands and agrees that only NH-based employees, legally able to work in the USA, may undertake training funded by this grant.

Section II -- Performance Goals & Outcomes / Reporting Requirements

1. The total expected number of participants to receive training is **2**.
2. To meet the reporting requirements of this funding source, Fictitious Industries agrees to work with the State to provide such information as requested by the legislature. Whenever possible, copies of participant certifications and/or licensures should be included in the documentation of performance outcomes. Lack of response to this requirement may result in a penalty requiring repayment of grant funds.
3. All reporting obligations shall be coordinated through, and facilitated by staff of the Office of Workforce Opportunity, whose contact information is carmela.nolin@dred.nh.gov or 603-271-7275, ext. 181.
4. The final evaluation shall be due to the State with the final invoice, within 30 days of the completion of training. <https://www.surveymonkey.com/r/NH-JTF>
5. Failure to submit the final evaluation code with the final reimbursement request shall result in a reduced reimbursement amount, to be determined by the State.
6. The State reserves the right to arrange an onsite visit for program monitoring purposes, or to meet and discuss any program challenges that may arise throughout this training grant.

Section III – Budget and Cash Management

1. Payments by the State under this agreement **shall not exceed \$5000.00**.
2. Payments shall be disbursed on a cost-reimbursement basis. **Training expenses incurred prior to the effective date of this agreement will not be reimbursed.** There shall be a 15% withholding, (up to a maximum of \$5,000.00) on the final payment until such time as the final report has been received. Failure to submit a final evaluation survey may result in the forfeiture of the withheld funds, as determined by the State.
3. Grant funds may not be used to purchase capital equipment, based on the thresholds defined by the appropriate OMB Circular (useful life of greater than 1 year and unit cost of \$5,000 or more).

- Fictitious Industries' training costs shall be compared to the budget line items submitted in their proposal response (if appropriate). Material deviation ($\geq 15\%$) from the projected budget line items shall require approval by the State. For purposes of this agreement, the training/services budget is summarized below IPC and J-STD trainer certification and materials (figures based on the *Training Plan* included in proposal and any subsequent discussions):

Training Vendor	Company Share	Grant Share
Instructor Fees: NH MEP, Lean	\$5,000.00	\$5,000.00
Total:	\$5,000.00	\$5,000.00

Fictitious Industries agrees to match the total training cost on a 1:1 basis, up to the amount awarded in the grant of \$xxx.00. As noted in the law and rules, wages paid to workers participating in training, entertainment costs, administrative costs, and costs relating to failure to comply with federal, state, or local laws do NOT qualify as match for this grant. *Fictitious Industries invoices for reimbursement shall be summarized on the invoice form attached hereto as Reimbursement Request Form, and must include proof of payment to vendor,* as well as sufficient documentation to support the amount of the billing. **Proof of payment means a copy of a cancelled check, credit card receipt, or a vendor statement indicating the invoice has been paid.** Time sheets, vendor invoices, calculations showing prorated expenses, etc. are examples of documentation that may be used to support the invoice amount. Payment will be made for 50% of submitted vendor invoices up to the maximum grant amount awarded.

Section IV – Other Terms of Agreement

- The parties through the execution of a written and signed Modification Agreement may modify this agreement at any time.
- Fictitious Industries warrants that it is authorized to conduct business in the State of New Hampshire and in good standing with the New Hampshire Secretary of State's Office.
- No assignment or subcontracting of any of the Fictitious Industries' rights or responsibilities under this agreement shall be effective unless approved in writing by the State or unless clearly described in the Statement of Work.
- Either party may terminate this agreement at any time by giving thirty (30) calendar days advance written notice to the other party.
- Either party may terminate or suspend this agreement for cause, including non-performance, at any time should a material breach of any of the agreement's terms occur. Termination or suspension shall be effective at the date and time specified on the written notice of Termination for Cause.
- It is understood and agreed that this agreement will be funded by administrative dollars drawn from the state unemployment trust fund. In the event that such funding is reduced, suspended or terminated for any reason, or if legislative laws/administrative rules are significantly changed, the State shall have the right to terminate this agreement, to de-obligate funds, or to negotiate appropriate modifications to this agreement.
- This agreement will terminate at midnight on the end date shown on the first page unless early termination occurs under stipulation 4, 5, or 6 above. In the event of early agreement termination, Fictitious Industries shall only be entitled to payments accrued or earned up until the close of business on the scheduled termination date.
- Fictitious Industries shall be responsible for all claims, suits, damages, judgments, recoveries, settlements, or other liabilities incurred as a result of performance or failure to perform under this agreement arising out of the negligent or intentional actions of Fictitious Industries' officials, employees, subcontractors, and/or agents. During the term of the agreement, Fictitious Industries shall, at its own expense, carry general liability insurance providing a limit of not less than One Million Dollars (\$1,000,000) per occurrence. Certificates thereof shall be delivered to the State within ten (10) days after the date of execution of the agreement, and thereafter within ten (10) business days after expiration of the effective policy, without any lapse in coverage.

Fictitious Industries shall maintain appropriate levels of workers' compensation insurance in accordance with New Hampshire law.

9. Upon the termination of the agreement for any reason, all data and all reports or any other work products prepared by Fictitious Industries in the course of operating the program, shall become the property of the State. (Note: this does not include actual course curriculum)
10. Fictitious Industries shall maintain records of attendance, costs, and other project-related materials for a period of three (3) years after the completion of the training. Fictitious Industries shall allow access to these records by the State, its authorized representatives, or the appropriate governmental entity for audit purposes.
11. A waiver of any breach of any of the provisions of this agreement shall not be construed as a continuing waiver of other breaches of the same or other provisions hereof.
12. If a part of this agreement is held to be illegal, void, or unenforceable for any reason, such holding shall not affect the validity and enforceability of any other part.
13. The headings in this agreement are used as a matter of convenience only and are not to be considered a part of this agreement or to be used in determining the intent of the parties.
14. In the performance of this agreement, Fictitious Industries is in all respects an independent contractor and is neither an agent nor employee of the State. Neither Fictitious Industries nor any of its officers, employees, agents, or members shall have authority to bind the State, or receive any benefits, workers' compensation or emoluments provided by the State to its employees.
15. The parties herein do not intend to benefit any third parties and this agreement shall not be construed to confer any such benefit.
16. This agreement is subject to the jurisdiction of and shall be interpreted under the laws of the State of New Hampshire.
17. This agreement does not abridge or limit, nor shall it be interpreted as abridging or limiting the sovereign or official immunity to which the State and its representatives and agents are lawfully entitled.

END – Signatures to follow on next page

Department of Resources and Economic Development, Office of Workforce Opportunity

Jeffrey J. Rose, Commissioner Date

Fictitious Industries, Inc.

John B. Doe August 29, 2016
John B. Doe, President Date
Duly Authorized

STATE OF New Hampshire
COUNTY OF Hillsborough

The foregoing instrument was acknowledged before me this 29 day of August 2016, by
John B. Doe, known to me or satisfactorily proven, in his/her capacity as
President of Fictitious Industries, Inc.

Mary Smith
NOTARY PUBLIC/JUSTICE OF PEACE
My Commission expires: November 14, 2017

Approved as to form, substance, and execution:

Office of the Attorney General Date