

**ROCK OF AGES EMPIRES, INC.**

**WAIVER OF LIABILITY AND REFERRAL AGREEMENT**

Whereas, **ROCK OF AGES EMPIRES, INC.** (Hereinafter referred to as “Company”) provides a listing and referral service to Life Guards as Independent Contractors and related services (hereinafter referred to as “Life Guards” and or “Independent Contractors”); and

Whereas, \_\_\_\_\_, whose address is \_\_\_\_\_ (Hereinafter referred to as “Life Guards” and or “Independent Contractors”), desires Company to provide access to such referral or information about how to contact “Clients”, seeking pool parties, swim lessons, etc service.

Now therefore, the Company and Life Guards and or Independent Contractors (sometimes referred to jointly as “The 3<sup>rd</sup> Party,”) agree to be bound by the following terms and conditions for valid consideration the sufficiency of which is agreed to by the Parties:

**I. Company’s Services**

Company agrees to provide Life Guards and or Independent Contractors with access to Client referrals. Company also agrees to locate clients, market services, distribute advertisement, and negotiate all contracts on the behalf of the Life Guards and or Independent Contractors.

**II. Status of Life Guards and or Independent Contractors**

It is understood that Company agrees to provide Life Guards and or Independent Contractors with access to Client seeking Lifeguard services.  
The Company is not an employer of or agent of Life Guards and or Independent Contractors. Life Guards and or Independent Contractors understand that in no way may they use the Companies Release of Liability Waiver, negotiation tactics, company flyers and or any other advertisements used for their any personal or business use, without the written consent of **Rock of Ages Empires, Inc.**

3<sup>rd</sup> Parties Initials to acknowledge acceptance of Provision II \_\_\_\_\_

### **III. Advertisement Policy**

LifeGuards and or Independent Contractors understand that the Company advertises, with the use of flyers but not limited to electronic mail, written format, verbal referral, and or the use of websites. The Company strongly advises that all Life Guard and or Independent Contractors advertise by distributing company flyers to target homes. If Life Guards and or Independent Contractors agrees to advertise for the Company, they are prohibited to use the Company's information, written material, verbal and or written agreements and clients personal information for their personal or business use without the written consent of **Rock of Ages Empires, Inc.**

3<sup>rd</sup> Parties Initials to acknowledge acceptance of Provision III \_\_\_\_

### **IV. Payment for Service & Company Fee**

Client hereby agrees to pay Life Guards and or Independent Contractors up to 45% of the negotiated charge. Payment for service, are payable upon completion of service or upon a finalized upfront negotiation of the contract, between this referral Company & Client.

Life Guard(s) and or Independent Contractors also understands and agrees that **Rock of Ages Empires, Inc** will charge Client up to 55% of the overall negotiation charge, in the form of a referral fee to the Company. Note, this referral fee is distinct from any agreed upon charges, Client is to pay indirectly to Lifeguard(s) and or Independent Contractor(s) for services rendered.

### **V. Indemnification and Hold Harmless**

Life Guards and or Independent Contractors understand that Company is not responsible nor does it guarantee the level of service, and or competency. Life Guards and or Independent Contractors hereby agree indemnify, defend and hold Company harmless from and against any and all liability, including but not limited to, personal injury, death, property damage, federal, state or local taxation, and expenses (including court costs and attorneys' fees) and claims for damage of any nature whatsoever, whether known or unknown and whether direct or indirect, as though expressly set forth and described herein, which Company may incur, suffer, become liable for or which may be asserted or claimed against Company as a result of the acts, errors or omissions, including negligent or intentional acts and statutory violations, of Life Guards and or Independent Contractors.

**VI. Assignment**

Neither party shall assign this Agreement or its rights and duties hereunder, or any interest herein, without the prior written consent of the other party.

**VII. Attorneys' Fees**

The prevailing party in any enforcement action arising in respect to this Agreement shall be entitled to recover from the other party all costs of such enforcement action including, without limitation, reasonable attorneys' fees, court costs and related expenses.

**VIII. Governing Law and Jurisdiction**

This Agreement shall be governed by the laws of the state of California and Jurisdiction shall be proper within any court of competent jurisdiction the County of Los Angeles, State of California.

**IX. Entire Agreement**

This instrument, including any Exhibits attached hereto, contains the entire Agreement of the parties and supersedes all prior and contemporaneous agreements or understandings, whether written or oral, with respect to the subject matter hereof. No amendment or modification hereto shall be valid unless in writing and signed by both parties hereto.

**X. Severability**

If any provision of this Agreement, or any amendment thereof, should be invalid, the remaining provision shall remain in effect and be so construed as to effectuate the intent and purposes of this Agreement and any amendments thereto.

**XI. Notices**

All notices, requests and communications provided hereunder shall be in writing, and hand delivered or mailed by United States registered, certified, or express mail, return receipt requested, and addressed to the party's principal place of business as set forth in this Agreement adjacent the signature of each party (or to such other address provided in writing by such party).

**XII. Waiver**

The waiver by either party hereto or a breach of any term or provision of this Agreement shall not operate or be construed as a waiver of a subsequent breach of the same provision by any party or of a breach of any other term or provision of this Agreement.

Executed this day of \_\_\_\_\_, 2009 by the undersigned.

The Company  
**Rock of Ages Empire, Inc.**

By: \_\_\_\_\_ Date \_\_\_\_\_  
David R. Escalante President/CEO

By: \_\_\_\_\_ Date \_\_\_\_\_  
Richard O. Escalante Vice President

And

**LifeGuard and or Independent Contractors:**

\_\_\_\_\_ Date \_\_\_\_\_

\_\_\_\_\_  
(Print Name)

Prepared by:

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