

IN THE \_\_\_\_\_ COURT OF \_\_\_\_\_ COUNTY,

\_\_\_\_\_

\_\_\_\_\_ DIVISION

\_\_\_\_\_,

Plaintiff,

v. Case No. \_\_\_\_\_

\_\_\_\_\_,

Defendant.

### COUNTER CLAIM

Defendant, \_\_\_\_\_, by and through undersigned counsel, and for its Counter Claim against Plaintiff, \_\_\_\_\_, states as follows:

### I. PARTIES

1. Plaintiff, \_\_\_\_\_, is an individual residing at \_\_\_\_\_, or a business entity with its principal place of business at \_\_\_\_\_. For purposes of this Counter Claim, Plaintiff shall be referred to as "Counter-Defendant."

2. Defendant, \_\_\_\_\_, is an individual residing at \_\_\_\_\_, or a business entity with its principal place of business at \_\_\_\_\_. For purposes of this Counter Claim, Defendant shall be referred to as "Counter-Claimant."

### II. JURISDICTION AND VENUE

3. This Court has subject matter jurisdiction over this Counter Claim pursuant to

\_\_\_\_\_.

4. Venue is proper in this Court pursuant to \_\_\_\_\_, as the events giving rise to this Counter Claim occurred in \_\_\_\_\_ County,

\_\_\_\_\_, and/or Counter-Defendant resides or conducts business in \_\_\_\_\_ County, \_\_\_\_\_.

### **III. FACTUAL ALLEGATIONS**

5. On or about \_\_\_\_\_, Counter-Claimant and Counter-Defendant entered into an agreement for \_\_\_\_\_.

6. Pursuant to the terms of the agreement, Counter-Claimant was obligated to

\_\_\_\_\_.

7. Counter-Defendant was obligated to \_\_\_\_\_.

8. Counter-Claimant performed all obligations required under the agreement, or was excused from performance by Counter-Defendant's prior breach.

9. Despite Counter-Claimant's performance, Counter-Defendant failed to

\_\_\_\_\_.

10. Counter-Defendant's failure to perform constitutes a material breach of the agreement.

11. As a direct and proximate result of Counter-Defendant's breach, Counter-Claimant has suffered damages, including but not limited to \_\_\_\_\_.

12. Counter-Claimant has demanded that Counter-Defendant cure its breach and pay damages, but Counter-Defendant has refused and continues to refuse.

### **IV. COUNT I: BREACH OF CONTRACT**

13. Counter-Claimant incorporates by reference the allegations contained in paragraphs 1 through 12 as if fully set forth herein.

14. Counter-Claimant and Counter-Defendant entered into a valid and enforceable contract.

15. Counter-Claimant performed its obligations under the contract.

16. Counter-Defendant materially breached the contract by \_\_\_\_\_.

17. As a direct and proximate result of Counter-Defendant's breach, Counter-Claimant has suffered damages in an amount to be proven at trial.

**V. COUNT II: NEGLIGENCE**

18. Counter-Claimant incorporates by reference the allegations contained in paragraphs 1 through 12 as if fully set forth herein.

19. Counter-Defendant owed a duty of care to Counter-Claimant to \_\_\_\_\_ .

20. Counter-Defendant breached this duty of care by \_\_\_\_\_ .

21. Counter-Defendant's breach of duty was the direct and proximate cause of damages sustained by Counter-Claimant.

22. As a direct and proximate result of Counter-Defendant's negligence, Counter-Claimant has suffered damages in an amount to be proven at trial.

**VI. RELIEF REQUESTED**

WHEREFORE, Defendant and Counter-Claimant, \_\_\_\_\_ , respectfully requests that this Honorable Court enter judgment in its favor and against Plaintiff and Counter-Defendant, \_\_\_\_\_ , as follows:

- a. For compensatory damages in an amount to be determined at trial;
- b. For all costs and disbursements incurred in this action;
- c. For reasonable attorney's fees; and
- d. For such other and further relief as the Court deems just and proper.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ , 20\_\_\_\_\_ .

Respectfully submitted,

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**Signature:** \_\_\_\_\_

**Printed Name:** \_\_\_\_\_

**Bar No.:** \_\_\_\_\_

**Attorney for Defendant/Counter-Claimant Address:**

\_\_\_\_\_

**Phone:** \_\_\_\_\_

**Email:** \_\_\_\_\_

### **CERTIFICATE OF SERVICE**

I hereby certify that on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, a true and correct copy of the foregoing COUNTER CLAIM was served upon the following counsel of record for Plaintiff/Counter-Defendant via:

- U.S. Mail, postage prepaid
- Hand Delivery
- Facsimile
- Email
- E-filing system

**Counsel for Plaintiff/Counter-Defendant: Name:** \_\_\_\_\_

**Address:** \_\_\_\_\_

**Email:** \_\_\_\_\_

Signature of Attorney