

NGC INTELLECTUAL PROPERTY
AND
PROPRIETARY INFORMATION POLICY

I. **OVERVIEW AND OBJECTIVES.** This Intellectual Property Policy (“Policy”) of National Garden Clubs, Inc. (“NGC”) sets forth NGC’s guidelines, policies and procedures relating to intellectual property and ownership rights. The provisions of this Policy shall apply absent a specific written agreement to the contrary.

II. **NGC’S INTELLECTUAL PROPERTY.** To fulfill its organization objectives, NGC routinely provides publications and other materials to its members, affiliates, international affiliates and the general public for educational and non-commercial purposes. NGC has found it necessary to confirm and clarify its ownership of its intellectual property, as set out below.

A. **Creative Works of Authorship.** Generally, NGC wishes to own creative works of authorship¹ that NGC creates, authorizes or requests, either directly or indirectly, and which have a primary purpose to be used in connection with or promote NGC, a NGC event or an existing NGC production. Such creative works shall include without limitation the following, to the extent they are created for, by or at the direction of NGC:

- Printed information such as flyers or materials relating to NGC, including printed material distributed by NGC’s member services;
- NGC’s website and underlying source code, and content associated with social media pages, and other online or electronic content
- Photos, video, audio/visual material, artwork, graphics or other creative works of authorship
- Written business reports, written records, reports or texts, associated with NGC or its business operations

B. NGC’s trademarks, names, trade symbols, used in connection with NGC’s offering of its services and products. Trademarks are property rights that distinguish goods and services from those sold by others.

C. NGC’s business and financial information and records, including confidential information and trade secrets.

¹ Under U.S. Copyright laws, original works of authorship that are fixed in some tangible medium are protectable, so long as the work possesses at least a small amount of creativity, and is original (i.e., not directly copied from another work)

III. OWNERSHIP.

A. Creative works of authorship.

1. Works created by NGC Employees. Under U.S. copyright law, the owner of a creative work is the individual person(s) that created or authored the work, with an exception for creative works created by employees in the scope of employment (such employee-created works are owned by the employer, not the individual employee, under the work for hire doctrine). Questions about whether a work is a work for hire should be directed to NGC before the work is created. In some cases, including if it is unclear whether a work was created in the scope of employment, NGC may require that a NGC employee assign copyright to NGC.

2. Works created by members, volunteers, contractors and others. Works created by such non-employees will be owned by the author, unless/until the ownership rights are assigned by NGC. Although each case should be examined on a case by case basis, NGC will generally require an assignment of ownership (see form at Exhibit A) if it wishes to have control of the resulting creative work, including in the following cases:

a. Works created at the direction of NGC for a specific NGC purpose (including, for example, updating NGC logos or artwork for its web pages or creative materials, and member-created articles to be published on NGC's website);

b. Works for which NGC provided direct funding and wishes to control and/or commercially exploit the resulting material (including, for example, discrete commissioned projects for which NGC has provided payment and will control the materials);

i. Note: in certain cases, even if NGC is providing funding for an initiative that results in a creative work, NGC may determine it does not need to have ownership of all aspects of the creative work. For example, if NGC hosts a meeting and invites a guest speaker, NGC will likely wish to own any video of the speaker, but may not wish to own the presentation itself, or supporting handouts provided by the speaker. In that case, NGC should also obtain a release (see Exhibit B)

c. Works that arise from initiatives subject to contractual obligations by NGC; or

d. Works created by members or volunteers that make more than incidental use of NGC resources. Making "more than incidental use of NGC resources" shall mean: 1) use of any specialized facilities, equipment, supplies, research, books or other materials provided by NGC; 2) significant use of "on-the-job" time (for the case of a non-employee contractor or other paid person); 3) use of NGC's office or related equipment, including desktop computers and commercially-available software; or 4) use of reference materials or other resources located on NGC property, even if occasional or infrequent.

Questions regarding whether a work should be assigned to NGC should be addressed before such work is created, or as soon as questions arise. Assignments should generally be obtained by using the form set out at Exhibit A.

3. Right of Publicity² Waivers. NGC should obtain a written and signed release before using or publishing the image or likeness of any members, customers or other persons in any NGC promotional or other materials, including on NGC's website. If using freelance photographers or advertising or promotion agencies, NGC should request copies of the release received from the individual whose name, image, likeness or voice will be used. See Exhibit B for a form release.



B. Trademarks. NGC's trademarks may change from time to time but include the following: NATIONAL GARDEN CLUBS. To the extent volunteers or independent contractors create new logos for NGC that NGC will use as a trademark, NGC should obtain an assignment agreement for such works. See Exhibit A.

To the extent NGC allows other parties to use its trademarks to offer goods or services, NGC should consider a formal license agreement to spell out terms of use, to best protect its rights. Licensors are generally required to monitor the quality of a licensee's use of the trademarks.

C. Confidential Information and Trade Secrets. A trade secret is any confidential business information which provides a competitive edge, and includes commercial secrets, proprietary software, customer lists, etc. Unauthorized use of trade secrets may give rise to state law claims. NGC should establish practices to protect its trade secrets, such as through use of non-disclosure agreements. To protect its rights, NGC should generally require its personnel to hold NGC's confidential information in the strictest confidence, and only use it to the extent required to perform job duties.

III. USE OF NGC'S INTELLECTUAL PROPERTY

A. Notices. Once NGC's ownership is confirmed, the following copyright notice should be placed on NGC-owned materials to protect the copyright:

Copyright © [year of publication] National Garden Clubs, Inc. All Rights Reserved.

The date in the notice should be the year during which the work was first published, i.e. distributed to the public or any sizable audience.

B. Usage. Any and all use of NGC's copyrighted works, or trademarks, names or symbols, and all associated goodwill with or to promote the NGC or its services, activities or events, are owned by NGC, and use of such shall be subject to NGC's review and approval. NGC shall have sole discretion to pursue or not pursue copyright or trademark registration for any of its creative works or trademarks.

IV. RIGHTS OF OTHERS. NGC should not use intellectual property or other property of others without permission, including without limitation, trademarks and works subject to copyright protection. More specifically, NGC shall not create derivative works, or creative works based on the work of another party, if such works violate the rights of any copyright owners. Questions on this issue should be addressed to NGC.

² The right of publicity protects a person's right to control the use of his or her name, image, likeness or voice for commercial purposes. Generally, using a person's name, image, likeness, photograph or voice for commercial purposes without permission may trigger liability under state and/or federal right of publicity laws.

EXHIBIT A

Contractor's Name: _____ ("Contractor")

Contractor's Address: _____

In consideration of promises herein by National Garden Clubs, Inc., a non-profit company with an address at 4401 MAGNOLIA AVENUE, ST. LOUIS, MO 63110 ("Company"), and for other good and valuable consideration, the sufficiency and receipt of which the parties acknowledge the parties agree as follows:

1. Services. Company hired Contractor to create works of authorship (the "Services"). Any and all creative works arising out of the Services, and any components thereof, together with any revisions, alterations, variations or derivative works of any of the foregoing, in all media whether or not currently in existence, and all associated goodwill and other associated intellectual property, are hereinafter collectively referred to as the "Works" or "Work".

2. Ownership. Contractor hereby assigns, transfers and conveys to Company, effective as of [DATE], the entire worldwide right, title and interest, including worldwide copyright, in and to the Works, including the right to sue for past infringement, and the goodwill associated therewith, free of any claim based on or similar to moral rights therein. Any intellectual property which Contractor may have in the past created or acquired, or may hereinafter create or acquire as part of any contract or commission from Company, or which was or is in the future created or acquired by me at the request of Company, or for which payment was in the past or is now or in the future made, or which is associated with or results from any such commission, contract, request or payment by Company, shall be deemed a Work subject to the terms of this Agreement. Contractor will execute any documents reasonably necessary to confirm Company's ownership of the Work.

3. Representations. Contractor represents, warrants and undertakes to Company that the Works are original; prior to assignment to Company, Contractor owned all right, title and interest in the Works, including without limitation copyright; the Works have not been licensed, assigned, mortgaged to others; and Contractor has obtained all worldwide rights in and to the Works that may have been owned by any third party, and has obtained all necessary releases relating to the Works, including without limitation privacy and publicity releases, such that Company may make unlimited and unrestricted use of the Works upon this Agreement.

4. Miscellaneous. Neither party shall be liable to the other party for any indirect, incidental, special or consequential damages, including but not limited to lost profits. If any provision of this Agreement is, becomes or is deemed invalid or unenforceable in any jurisdiction, such provision shall be deemed amended to conform to applicable law so as to be valid, legal and enforceable in such jurisdiction. If such provision cannot be amended without materially altering the intention of the parties, it shall be stricken and the remainder of the Agreement shall continue in full force and effect. This Agreement is the entire agreement between the parties relating to the services and the Works, and Company's ownership thereof, and supersedes any or all prior written or unwritten agreement. The Agreement shall not be modified, amended or altered except by written agreement of the parties. This Agreement shall inure to the benefit of, and be binding upon, the parties, their heirs, successors and assigns. This Agreement shall be governed by the laws of the State of Missouri, and federal intellectual property laws, without regard for choice of law. The parties acknowledge, confirm and agree that they are independent contractors and this Agreement is not intended to create a joint venture, association, partnership, franchise, principal/agent relationship or other form of business or relationship.

IN WITNESS WHEREOF, this Agreement has been executed as of the date below.

Contractor:

National Garden Clubs, Inc.

Signed: _____

Signed: _____

Date: _____

Date: _____

EXHIBIT B

Release

In consideration for valuable consideration, the receipt of which I hereby acknowledge, I, _____, agree to be photographed and/or otherwise have my name, image, voice likeness or biographical information recorded or captured (the "Images") by or for National Garden Clubs, Inc., a non-profit company ("Company").

I agree that the Images may be published, copied, modified, exhibited or otherwise used, in any and all media, whether now known or hereafter created, individually or with other materials, for purposes of publicity, advertising, business reporting, communications, and sales promotion activities for Company, and its successors and assigns, and all of their respective parents, affiliates, and advertising agencies ("Affiliates"), including without limitation on websites or social media pages operated by or associated with Company, employee newsletters or publications, or product or service catalogs and/or product or service advertisements, in Company's sole discretion. I waive any right to review or approve any such use of the Images and agree that all materials created by Company and/or that may feature the Images, or any components thereof, are the sole property of Company.

I, for myself and my heirs, executors, administrators, legal representatives, successors and assigns, hereby waive and release, and agree to hold harmless the Company and its Affiliates, and all of their respective officers, directors, employees, representatives and agents, from and against any and all rights claims and causes of action whatsoever which may arise, against any of them for any liability for any matter, cause or thing whatsoever, including but not limited to any liability, injury, loss, damage or costs (including attorney fees) ("Damages") arising out of or related to the Images or Company's use thereof, even if the Images are altered or used with other images, material or text. I agree only to provide truthful and accurate statements to Company about Company's products or services, if asked to do so.

I am of the age of majority and old enough to legally enter this agreement. I have not relied on any promises or representations made by Company, or any party, in signing this release. Execution of this release and acceptance by Company does not guarantee the Images will be published or used by Company.

I agree to execute any and all documents required to confirm the statements in this release. I have read the above and fully understand the contents of this release.

Signed

Date

Printed Name