

# PLEASE REVIEW SAMPLE CONTRACT

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## Agreement and Memorandum of Understanding for the Program "From Heartbreak to Hope...Coping With Life Alone"

### 1. PARTIES

The parties to this Agreement are Beginning Experience International Ministry, Inc. (hereafter referred to as "BEIM"), a Texas nonprofit corporation with an address of 7188 San Carmela Ct., Rancho Cucamonga, CA., and \_\_\_\_\_ (hereafter referred to as "Program Recipient"), a \_\_\_\_\_ with an address of \_\_\_\_\_. BEIM and the Program Recipient may collectively be referred to as the "Parties." This Agreement will become effective when all Parties have signed it. The date this Agreement is signed by the last party (as indicated by the date stated opposite that party's signature) will be deemed the date of this Agreement (the "Effective Date").

### 2. PURPOSE AND BACKGROUND

Program Recipient desires to offer a program to minister and reach out to those who have experienced the loss of a spousal relationship through death, divorce, or separation. The mission of Beginning Experience International Ministry, Inc. is: "...[our] programs and peer ministers serve those grieving the loss of a spousal relationship so they can move forward in life loving God, themselves, and others." The program, "From Heartbreak to Hope...Coping with Life Alone" (the "Program"), has been developed and is owned by BEIM; it is formulated in the Catholic tradition and incorporates recorded testimonies by Beginning Experience® team members and small group sharing participants. Each Program session is designed to last approximately two hours. The Program must be presented sequentially, in ten sessions. The Parties to this Agreement agree that Program Recipient will present BEIM's Program in ministering to the widowed, divorced, and separated, in accordance with the terms of this Agreement. As part of the Program the Program Recipient will be provided with the copyrighted *From Heartbreak to Hope...Coping with Life Alone Leader's Guide* (the "Leader's Guide") and the copyrighted *From Heartbreak to Hope...Coping with Life Alone Participant Workbook* (the "Workbook") solely for use with the Program. The Program Leader's Guide, Workbook, flash drive, video media, and any other material provided to the Program Recipient under this Agreement may collectively be referred to as

"BEIM's Intellectual Property."

### 3. PROGRAM

Program Recipient shall appoint an Individual to act as the leader (the "Leader"), organizer of the Program, and point of contact with BEIM. Program Recipient shall also appoint small group facilitators (the "Facilitators") to lead the Program sessions. The initial Leader and any succeeding Leader(s), as well as all small group Facilitators, shall successfully complete BEIM's training and orientation program (the "Training"). The Leader shall be responsible for ensuring the Training of Program leaders.

### 4. PROGRAM PACKAGE MATERIALS

A. LEADER'S GUIDE. As part of the Program, BEIM shall provide two (2) copies of the Leader's Guide. Presentations by BEIM team members, to be played as a part of the Program, will be provided to Program Recipient in a digital format as determined by BEIM and Program Recipient. BEIM's Intellectual Property may not be used in any other program, reproduced in any way, modified in any way whatsoever, or used for anything other than the intended purpose.

B. PARTICIPANT MATERIALS. BEIM shall include two (2) copies of the Workbook. A Workbook is required for each participant attending the Program sessions. Upon termination of this Agreement, Program Recipient may, at its expense, return any unused Workbooks. BEIM will pay the Program Recipient an amount equal to the purchase price of each unused Workbook.

C. TRAINING AND ORIENTATION MATERIALS. BEIM will provide Training to Program Recipient as part of the Program. Each individual involved in the Program presentation, including specifically the Leader(s) and Facilitators, is required to watch all required Training videos and any other required materials as provided by BEIM. The Leader(s) shall meet with the BEIM Executive Director, or a designated representative, for a short orientation after Training is completed and before the Program is offered. It is the duty of Program Recipient to ensure the proper Training of all Leaders and Facilitators, and the proper implementation of the Program.

D. OTHER MATERIALS. BEIM agrees to make available for purchase, and Program Recipient may purchase, additional copies of the Leader's Guide. Program Recipient shall purchase a Workbook for each participant attending one or more individual Program sessions, at the then current fee and shipping and handling (S&H) charges. This is not a "drop in" program. Participants are expected to attend all, or as many, Program sessions as possible. Program Recipient shall also have access to an advertising poster (in two sizes) from BEIM that it may print as desired.

E. PRICE. The price to license the Program is \$225.00 (the "Program Price"). All Program materials will be provided upon payment of the Program Price.

5. SAFEGUARDING BEGINNING EXPERIENCE® PROGRAM INTEGRITY AND INTELLECTUAL PROPERTY. The Program Recipient understands and agrees that any deviation from presenting the Program as prescribed, or by other than authorized presenters, may result in the loss of effectiveness as to the intended purpose and may devalue the Program. Any such deviation from the Program is considered a breach of this Agreement and may result in the termination of this Agreement. Restructuring or misapplication of the Program could be a disservice to those for whom it is intended and may not properly represent the BEIM ministry. THERE SHALL BE NO SEGREGATING OF PARTICIPANTS BY LOSS WHEN CARRYING OUT THE PROGRAM, unless otherwise specified in the Leader's Guide. Program Recipient agrees to represent and present the Program by trained ministers in accordance with the Leader's Guide, Training materials, this Agreement, and other guidelines furnished to Program Recipient that may be provided from time to time by BEIM. Participants are expected to attend all, or as many, as possible Program sessions. Participants should only receive a Workbook if they attend one or more Program sessions.

A. LEADER'S GUIDE, WORKBOOK, AND INSTRUCTIONAL MATERIAL. None of the BEIM Intellectual Property, or any part thereof, may be duplicated, modified in any way whatsoever, or reproduced for any other purpose, except as authorized in writing by BEIM. Copyrights on Program and Training materials are held by BEIM. The prohibition of copying does not apply to certain pages that the Program Recipient has the option to reproduce pursuant to the Program. Any page of the BEIM Intellectual Property containing a phrase such as "not reproducible", "may not be reproduced", or some other clear prohibition against reproduction shall not be copied. Any such section that is intended to be reproduced will not contain any such prohibitions against copying.

B. NAMES AND MARKS. Program Recipient agrees that the "Beginning Experience" name and logos

are the property of BEIM. The Program shall be operated and publicized only in accordance with the guidelines provided by BEIM. All promotional literature prepared and/or used by Program Recipient relating to the Program must explicitly state the Program is the property of BEIM.

C. COPYING THE BEIM INTELLECTUAL PROPERTY. Except as this Agreement expressly permits, Program Recipient shall not at any time, directly or indirectly: (i) copy, modify, or create derivative works of the BEIM Intellectual Property, in whole or in part; (ii) rent, lease, lend, sell, sublicense, assign, distribute, publish, transfer, or otherwise make available the BEIM Intellectual Property; or (iii) remove any proprietary notices from the BEIM Intellectual Property.

6. RELATIONSHIP OF THE PARTIES. The relationship between the Parties is that of an independent contractor, and nothing in this Agreement is intended to, or should be construed to, create a partnership, agency, joint venture, or employment relationship. Neither Party shall have any authority to make any contracts, warranties, or representations or assume or create any other obligations, express or implied, in the other Party's name or on its behalf. The Parties shall each be responsible for all their respective actions in performing their responsibilities under this Agreement.
7. DURATION AND TERMINATION OF THIS AGREEMENT. The duration of this Agreement shall be three (3) years from the Effective Date, unless terminated at an earlier date as set forth in this paragraph. At the end of the three (3) years, this Agreement may be renewed upon written agreement of both Parties and the payment of a renewal fee. The renewal fee amount will be provided prior to or at the time of renewal. Updates to the Program and BEIM Intellectual Property, if any, will be provided to Program Recipient at the time of renewal. If Program Recipient does not renew, all copies of unused Workbooks may be returned to BEIM, at Program Recipient's expense, for a full refund, pursuant to Section 4(B) herein. BEIM may terminate this Agreement upon any breach by Program Recipient of this Agreement.
8. DISCLAIMER OF WARRANTIES. ALL BEIM INTELLECTUAL PROPERTY AND OTHER PRODUCTS, INFORMATION, MATERIALS, AND SERVICES PROVIDED BY BEIM ARE PROVIDED "AS IS." BEIM SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT, AND ALL WARRANTIES ARISING FROM COURSE OF DEALING, USAGE, OR TRADE PRACTICE. WITHOUT LIMITING THE FOREGOING, BEIM MAKES NO WARRANTY OF ANY KIND THAT THE BEIM INTELLECTUAL PROPERTY OR ANY PRODUCTS OR RESULTS OF THE USE THEREOF, WILL MEET THE PROGRAM RECIPIENT'S

OR OTHER PERSONS' REQUIREMENTS OR ACHIEVE ANY INTENDED RESULT.

9. LIMITATIONS OF LIABILITY. IN NO EVENT WILL BEIM BE LIABLE UNDER OR IN CONNECTION WITH THIS AGREEMENT UNDER ANY LEGAL OR EQUITABLE THEORY, INCLUDING BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, AND OTHERWISE, FOR ANY: (a) CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, SPECIAL, ENHANCED, OR PUNITIVE DAMAGES; (b) INCREASED COSTS, DIMINUTION IN VALUE OR LOST BUSINESS, PRODUCTION, REVENUES, OR PROFITS; (c) LOSS OF GOODWILL OR REPUTATION, IN EACH CASE REGARDLESS OF WHETHER BEIM WAS ADVISED OF THE POSSIBILITY OF SUCH LOSSES OR DAMAGES OR SUCH LOSSES OR DAMAGES WERE OTHERWISE FORESEEABLE. IN NO EVENT WILL BEIM'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT UNDER ANY LEGAL OR EQUITABLE THEORY, INCLUDING BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, AND OTHERWISE EXCEED THE TOTAL AMOUNTS PAID TO BEIM UNDER THIS AGREEMENT IN THE ONE YEAR PERIOD PRECEDING THE EVENT GIVING RISE TO THE CLAIM.
10. PROGRAM RECIPIENT INDEMNIFICATION. Program Recipient shall indemnify, hold harmless, and, at BEIM's option, defend BEIM from and against any losses resulting from any Third-Party Claim based on Program Recipient's: (a) negligence or willful misconduct; (b) use of the BEIM Intellectual Property in a manner not authorized or contemplated by this Agreement; and (c) modifications to the BEIM Intellectual Property not made by BEIM.
11. SEVERABILITY. If any provision of this Agreement is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability will not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction. Upon such determination that any term or other provision is invalid, illegal, or unenforceable, the Parties hereto shall negotiate in good faith to modify this Agreement so as to affect the original intent of the Parties as closely as possible in a mutually acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible.
12. ENTIRE AGREEMENT. This Agreement constitutes the sole and entire agreement of the Parties with respect to the subject matter of this Agreement and supersedes all prior and contemporaneous understandings, agreements, and representations and warranties, both written and oral, with respect to

such subject matter.

13. NOTICES. All Notices must be in writing and addressed to the Parties at the addresses set forth on the first page of this Agreement (or to such other address that may be designated by the Party giving Notice from time to time in accordance with this Section). All Notices must be delivered by personal delivery, nationally recognized overnight courier (with all fees pre-paid), or email (with confirmation of transmission) or certified or registered mail (in each case, return receipt requested, postage pre-paid). Except as otherwise provided in this Agreement, a Notice is effective only: (a) upon receipt by the receiving Party, and (b) if the Party giving the Notice has complied with the requirements of this Section.
14. FORCE MAJEURE. In no event shall BEIM be liable to Program Recipient, or be deemed to have breached this Agreement, for any failure or delay in performing its obligations under this Agreement, if and to the extent such failure or delay is caused by any circumstances beyond BEIM's reasonable control, including but not limited to: (a) acts of God; (b) flood, fire, earthquake, other potential disasters or catastrophes such as epidemics and pandemics, or explosions; (c) war, invasion, hostilities (whether war is declared or not), terrorist threats or acts, riot or other civil unrest; (d) government order, law, or actions; (e) embargoes or blockades in effect on or after the Effective Date of this Agreement; (f) national or regional emergency; (g) strikes, labor stoppages or slowdowns, or other industrial disturbances; and (h) shortage of adequate power or transportation facilities.
15. AMENDMENT AND MODIFICATION; WAIVER. No amendment to or modification of this Agreement is effective unless it is in writing and signed by an authorized representative of each Party. No waiver by any Party of any of the provisions hereof will be effective unless explicitly set forth in writing and signed by the Party so waiving. Except as otherwise set forth in this Agreement, (a) no failure to exercise, or delay in exercising, any rights, remedy, power, or privilege arising from this Agreement will operate or be construed as a waiver thereof and (b) no single or partial exercise of any right, remedy, power, or privilege hereunder will preclude any other or further exercise thereof or the exercise of any other right, remedy, power, or privilege.
16. GOVERNING LAW. This Agreement is entered into, is governed by, and is to be construed in accordance with the substantive laws (but not the conflict of laws provisions) of the State of Texas, United States.
17. ARBITRATION. Any controversy or claim arising out of or relating to this Agreement shall be

determined by arbitration in accordance with the International Arbitration Rules of the International Centre for Dispute Resolution, or such other rules of arbitration as the Parties may mutually agree. The place of arbitration shall be the then-current location of the headquarters for BEIM, and the Parties agree that the Parties and their counsel may appear at and participate in any arbitration by way of video teleconferencing.

18. ASSIGNMENT. Program Recipient may not assign or transfer any of its rights or delegate any of its obligations hereunder, in each case whether voluntarily, involuntarily, by operation of law or otherwise, without the prior written consent of BEIM. Any purported assignment, transfer, or delegation in violation of this Section is null and void. No assignment, transfer, or delegation will relieve the assigning or delegating Party of any of its obligations hereunder. This Agreement is binding upon and inures to the benefit of the Parties hereto and their respective permitted successors and assigns.
19. COUNTERPARTS. This Agreement may be executed in counterparts, each of which is deemed an original, but all of which together are deemed to be one and the same agreement.
20. ATTORNEYS' FEES. In the event that any action, suit, or other legal or administrative proceeding is instituted or commenced by either Party against the other Party arising out of or related to this Agreement, the prevailing Party is entitled to recover its reasonable attorneys' fees and court costs from the non-prevailing Party.
21. LIMITATIONS ON USE. This Program cannot be shared to other parties, including other churches, parishes, dioceses, subsidiaries, or subordinates. Specifically, if a diocese or supraordinate has multiple entities under it, the Program cannot be shared with each of those entities, except that a different location or branch of a church, institution, or organization may use the Program under the primary Program Recipient's license without making copies.
22. HEALING. The Program has been formulated in the Catholic tradition, but the Program is open to those of all faith traditions, and to those of no faith tradition. While the Program was created by educators, social workers, clergy, and therapists, BEIM does not make any claims relating to physical, mental, or other benefits for those attending the Program, nor does BEIM claim to be "faith healers." The Program is intended to be run by Program Recipients in the manner provided by BEIM.

**For the Program Recipient:**

Name (print): \_\_\_\_\_ Title: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**For Beginning Experience International Ministry, Inc.:**

Name (print): \_\_\_\_\_ Title: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

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