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**Chapter 8**  
**The New American Association  
of Professional Landmen  
Master Land Services Contract**

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**§ 8.01. Introduction.**

During calendar year 2001, the American Association of Professional Landmen (AAPL) Forms Committee promulgated the new AAPL Model Form Master Land Services Contract (MLSC) as an alternative to the then-existing AAPL Contract for Land-Related Services. The AAPL Forms Committee was of the opinion that the Contract for Land-Related Services was difficult to actually implement on a regular basis, and, as a result, was not often utilized. The Contract for Land-Related Services was designed in

a format similar to Model Form Operating Agreements and requires the execution of a separate agreement in connection with each new land-related task, which the Committee felt was too cumbersome for the realities of the pace and manner in which land services are typically obtained.<sup>1</sup>

The Committee, through the newly drafted MLSC, sought to adequately document the complex relationship between consulting or field landmen and their clients. The MLSC is largely based on the typical master services agreement (MSA) that often exists between operating companies and oil field services companies. Once an MSA is negotiated and signed by the parties, individual jobs are then implemented by a simple work order, which serves as an addendum to the MSA. The Committee felt that a similar scheme should also work for land-related services. The result sought was a fair, comprehensive contract that is negotiated and executed only one time with each subsequent assignment being memorialized by a separate work order. The work order acts as an addendum to and incorporates the previously negotiated MLSC.<sup>2</sup>

In drafting the new MLSC, the Committee was motivated by a desire to provide certainty to the parties to a land services contract regarding several legal issues and concepts. Among those concepts the Committee sought to provide certainty in relationships between landmen and their clients by classifying the relationship as that of independent contractor as opposed to an employer-employee relationship. This classification would then correspondingly provide certainty with regard to the following:

- tax issues
- federal and state employment discrimination claims
- Federal Fair Labor Standards Act<sup>3</sup>
- tort liability

The MLSC also addresses conflicts of interest/right to compete, a mutual indemnity between the parties and provisions concerning fees and time of payment. However, an analytical review of those sections is beyond the scope of this chapter.

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<sup>1</sup> Michael E. Curry and Arnold L. Schulberg, "New AAPL Model Form Master Land Services Contract Now Available," *Landmen*, July/August 2001 at 11.

<sup>2</sup> *Id.*

<sup>3</sup> *Id.* at 11-14.

This chapter will specifically review the attempt by the Committee to contractually classify the relationship as that of an independent contractor. Various sections of the Contract are relevant to this review and will be closely analyzed. This chapter will also review the law applicable to the determination of independent contractor status in several relevant areas.

### **§ 8.02. General Review of MLSC.**

This portion of the chapter will provide a general review of some relevant provisions of the MLSC as well as brief commentary concerning those sections. It is not intended to be a comprehensive critique or commentary on the overall well-written agreement.<sup>4</sup>

Article I.C. of the Contract provides as follows:

All work and services provided by Contractor pursuant to this Contract shall be performed according to the specifications of Company, in a good and workman-like manner, with diligence and in accordance with good industry practices and procedures. Company shall exercise no control over Contractor's (i) employees, servants, agents, representatives, or subcontractors, (ii) the employees, servants, agents or representatives of its subcontractors, or (iii) the methods or means employed by Contractor or its subcontractors in the performance of such work or services, Company being solely interested in the attainment of the desired results.

The language in Article I is mildly troublesome only to the extent that it provides that the work and services be provided by the Contractor “. . . shall be performed according to the specifications of Company, . . .” which seems to conflict in a minor way with the language at the end of the provision which, of course, provides that the Company shall exercise no control over the methods or means of performing the services and that the Company is solely interested in the attainment of the desired results. A party arguing that the Contract creates an employee-employer relationship as opposed to

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<sup>4</sup> The Contract is reproduced at the end of this chapter on page 245. References to the Contract will correspond to the specific sections of the Contract and will not be separately footnoted.