DETERMINING WORKER CLASSIFICATION

Every worker should be classified as either an employee or an independent contractor. Correct classification is significant to both the worker and the ministry, and affects employment matters such as minimum wage and overtime protections. To help determine the employment relationship, the U.S. Department of Labor outlines several points to consider, including the following:

1. Is the relationship permanent or frequently recurring? ☐ ☐
2. Does the ministry control, or have the right to control, when, where, and how the worker performs his or her job? ☐ ☐
3. Does the ministry offer employee-type benefits (e.g., pension plan, insurance, vacation, or sick pay) to the worker? ☐ ☐
4. Are the business aspects of the worker's job controlled by the ministry (e.g., how the worker is paid, whether expenses are reimbursed)? ☐ ☐
5. Is the work performed an integral part of the ministry's business? ☐ ☐
6. Does the ministry supply the tools and materials necessary to do the job? ☐ ☐
7. Is the work performed without a written contract? ☐ ☐
8. Does the work performed require only the worker's technical skill, but no independent judgment, business skills or initiative? ☐ ☐
9. Is the worker's investment in completing a particular job insignificant when compared to the ministry's investment? ☐ ☐
10. Does the worker lack the opportunity for profit or loss depending on his or her managerial skill (e.g., make business decisions that affect future work, hire workers, purchase materials, advertise, or rent space)? ☐ ☐

There is no set total of “yes” or “no” answers to the questions above that establishes whether a worker is an employee or independent contractor—but consider that the more “yes” answers you have, the more likely it is that the worker should be classified as an employee. Be sure to document the factors you use when making the determination. Keep in mind that most workers are employees—only in limited circumstances can a worker be properly classified as an independent contractor.

Notes: ____________________________________________________________

_______________________________________________________________ Date:________________________

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