

Contract for Professional Services

TERMS AND CONDITIONS

SERVICES TO BE PROVIDED: Obsidian, Inc. (**Obsidian**) is an independent consultant and agrees to provide **Client**, for its sole benefit and exclusive use with the Services. There are no third party beneficiaries to this Agreement.

STANDARD OF CARE: **Obsidian** will perform the Services using that degree of skill and care ordinarily exercised under similar conditions by reputable members of **Obsidian's** profession practicing in the same or similar locality at the time of performance. No other warranty, express or implied, is made or intended and the same are specifically disclaimed.

PAYMENT TERMS: **Client** agrees to pay each of **Obsidian's** invoices upon receipt, time being of the essence. **Obsidian** will bill **Client** on a monthly basis for work completed. If payment is not received by **Obsidian** within 30 days from the date of **Obsidian's** invoice, **Client** agrees to pay 1% per month or the maximum legal rate on the past due amount until the amount is paid in full, plus the hourly rate for the time of **Obsidian's** employees, reasonable attorneys' fees and all other costs incurred by **Obsidian** in collecting the amounts due **Obsidian** under this Agreement.

DOCUMENTS: The **Client** acknowledges **Obsidian's** final work documents, including construction drawings, reports and electronic files thereof, as instruments of professional service. The final work documents prepared under this Agreement shall become the property of the **Client** upon completion of the services and payment in full of all monies due to **Obsidian**. The **Client** agrees, to the fullest extent permitted by law, to indemnify and hold harmless **Obsidian**, its officers, directors, employees and subconsultants against any damages, liabilities or costs, including reasonable attorneys' fees and defense, arising from or allegedly arising from or in any way connected with the modification or misuse of the final work documents by the **Client** or any person or entity that acquires or obtains the final work documents from or through the **Client** without the written authorization of **Obsidian**.

Client agrees that all Work Product furnished to **Client** or **Client's** agents or designees, if not paid for or if improperly distributed, published, used or reused, will be returned upon demand and will not be used for any purpose whatsoever. **Obsidian** may retain copies of any or all Work Product and related documents, including **Client**-provided documents.

Client further acknowledges that: (i) the Work Product may be based in part or in whole on facts and/or assumptions provided to, but not independently verified by, **Obsidian**; (ii) the Work Product will reflect **Obsidian's** findings as to conditions that existed at the time the Services were performed and may not reflect conditions at a later time; and (iii) **Obsidian** makes no representations as to such conditions subsequent to the time the Services were performed or with respect to any facts or assumptions provided to, but not independently verified by, **Obsidian**.

SITE ACCESS: **Client** will arrange for right-of-entry to the Site and will execute any necessary site access agreement. **Client** shall provide **Obsidian** with an accurate description of the Site, all available Site information, and all documents deemed necessary by **Obsidian**. The Services do not include supervision or direction of the means, methods or actual work of contractors, other professionals or consultants not retained by **Obsidian**. The presence of **Obsidian's** representative will not relieve any such contractor, other professional or consultant of its responsibility to perform its work and services in accordance with its contractual and legal obligations and in conformity with the plans and specifications for the Project. **Client** agrees that each contractor or subcontractor not retained by **Obsidian** shall be solely responsible for: (i) working conditions on the Site; (ii) security and safety of persons and property during the performance of its work; (iii) compliance with OSHA regulations; and (iv) providing any and all safety equipment necessary for the protection of its personnel. **Obsidian's** monitoring of any contractor's or any subcontractor's procedures is not intended to include a review of the adequacy of such contractor's or subcontractor's safety measures on or near the Site. It is agreed that **Obsidian** is not responsible for safety or security at the Site, other than for **Obsidian's** employees, and that **Obsidian** does not have the right or duty to stop the work of others.

UNANTICIPATED CONDITIONS: Should **Obsidian** encounter conditions at any Site which were not reasonably anticipated or which increase the risk involved in **Obsidian's** performance of the Services, upon notice to **Client**, **Obsidian** in its sole discretion may; (i) continue to perform the Services to completion; (ii) suspend activities and prepare a Change Order Request prior to proceeding; or (iii) terminate all Services. Such termination shall not be a breach of this Agreement by **Obsidian**.

ENVIRONMENTAL INDEMNITY: To the maximum extent permitted by applicable law **Client** (i) hereby releases Obsidian from all Environmental Claims and (ii) shall defend, indemnify and hold Obsidian harmless from and against all Environmental Liabilities, except to the extent such Environmental Claims and/or Environmental Liabilities are determined to have been caused solely by the negligence of, or the willful violation of any applicable environmental law by, **Obsidian**.

TERMINATION: Either party may terminate this Agreement without cause upon 14 days' prior written notice. In such event, **Client** shall take possession of the Site and the materials and equipment paid for and belonging to **Client**, and **Obsidian** shall be paid for all Services performed to the date of termination. In the event **Client** requests termination without cause, **Obsidian** shall also be paid all reasonable expenses and costs incurred in Project close out. This Agreement will terminate automatically and without notice upon the insolvency of, or upon the filing of a bankruptcy petition by or against, **Client**.

GOVERNING LAW: This Agreement shall be governed by the laws of the State of Virginia. Each of the parties acknowledges that it has had an opportunity to review and negotiate this Agreement, and this Agreement shall not be construed more strictly against one party as drafter.

SURVIVAL: All of **Client's** obligations and liabilities, including, but not limited to, its indemnification obligations and limitations, and **Obsidian's** rights and remedies with respect thereto, shall survive completion of the Services and the expiration or termination of this Agreement.

SEVERABILITY: In the event any provision of this Agreement is deemed invalid or unenforceable, the remaining provisions shall continue in full force and effect, and the invalid or unenforceable provision shall be interpreted and enforced as closely as possible to the intent of the parties.

ASSIGNMENT: This Agreement may not be assigned by either party without the prior written permission of the other. **Client** acknowledges that **Obsidian** may subcontract portions of the Services to its affiliated companies and/or utilize employees of its affiliated companies in performing the Services, without the approval of **Client**.

INTEGRATION: This Agreement, its attachments and all Orders, if any, constitute the entire Agreement between the parties and supersede any previous written or oral contracts or negotiations. This Agreement can be changed only by a written instrument signed by both parties.