



Professional Services Agreement

1. Definitions.

1.1 "Agreement" means the Statement(s) of Work together with this Professional Service Agreement and any addenda or amendments thereto.

1.2 "Customer" means the entity listed in the Statement of Work as the party to this Agreement for whom Provider will provide Services.

1.3 "Provider" means WTS Paradigm, LLC.

2. Services. Provider shall provide to Customer the services (the "Services") as set forth in one or more "Statement[s] of Work" (each, an "SOW"). Nothing in this Agreement shall prevent Customer from performing for itself or acquiring from other providers the same or similar services, nor prevent Provider from providing the same or similar services to other customers (subject to confidentiality and intellectual property obligations set forth below). Any changes to the scope of Services must be agreed by the parties in a written amendment in accordance with Section 13.6.

3. Customer's Obligations. Customer shall respond promptly to any Provider request for information or approvals that Provider requires to perform the Services.

4. Term and Termination.

4.1 Term; Renewal. This Agreement shall commence as of the Effective Date and shall continue thereafter for a period of one-year (the "Initial Term") (together with any Renewal Terms, as defined below, (the "Term"), unless sooner terminated pursuant to this Section 4. UPON EXPIRATION OF THE INITIAL TERM OR ANY SUBSEQUENT TERM THIS AGREEMENT SHALL AUTOMATICALLY RENEW FOR AN ADDITIONAL ONE-YEAR TERM (EACH A "RENEWAL TERM"). THE TERMS AND CONDITIONS OF THIS AGREEMENT DURING ANY RENEWAL TERM SHALL BE THE SAME AS THOSE IN EFFECT AT THE TIME OF RENEWAL.

4.2 Termination for Convenience. Either party may terminate this Agreement, in whole or in part, at any time without cause, by providing at least thirty (30) days' prior written notice to the other party.

4.3 Termination for Cause. Either party may terminate this Agreement, effective upon written notice to the other party (the "Defaulting Party"), if the Defaulting Party (a) materially breaches this Agreement, and the Defaulting Party does not cure such breach within thirty (30) days after receipt of written notice of such breach; (b) becomes insolvent; (c) admits its inability to pay its debts generally as they become due; (d) becomes subject

to any bankruptcy proceeding which is not dismissed or vacated within thirty (30) days after filing; (e) is dissolved or liquidated; (f) makes a general assignment for the benefit of creditors; or (g) has a receiver, trustee, custodian, or similar agent appointed by court order to take charge of or sell any material portion of its property or business.

4.4 Effects of Termination or Expiration. If Customer terminates this Agreement for convenience pursuant to Section 4.2, or Provider terminates this Agreement for cause pursuant to Section 4.3, Customer shall compensate Provider for Services performed prior to termination and costs attributable to termination.

4.5 Survival. The rights and obligations of the parties set forth in this Section 4.5 and Section 4.4, Section 6, Section 7, Section 8, Section 9 and any right or obligation of the parties in this Agreement which, by its nature, should survive termination or expiration of this Agreement, will survive any such termination or expiration of this Agreement.

5. Fees and Expenses; Payment Terms.

5.1 In General. In consideration of the provision of the Services by the Provider and the rights granted to Customer under this Agreement, Customer shall pay the fees set out in the SOW.

5.2 Invoicing and Payment. Provider shall issue invoices to Customer when any installment is due/as indicated in the SOW and on the terms described therein. If Customer fails to timely pay an invoice, Provider may (a) charge interest on unpaid amounts at a rate of 1.5% per month (18% per year) or the maximum amount permitted by law, whichever is lower, from the date such payment was due until the date paid; and (b) suspend performance for all Services until payment has been made in full, except for any amount disputed in good faith.

5.3 Taxes. Customer shall be responsible for all sales, use, and excise taxes, and any other similar taxes, duties, and charges of any kind imposed by any federal, state, or local governmental entity on any amounts payable by Customer hereunder except for any taxes imposed on, or with respect to, Provider's income, revenues, gross receipts, personnel, or real or personal property or other assets.

6. Intellectual Property.

6.1 Ownership of Deliverables. Provider shall be deemed the author and owner of its deliverables, including drawings, specifications, calculations, sketches, renderings, designs, CAD files, surveys, plans, drafts and other materials including Architectural Works as defined in 17 U.S.C. § 101) (the "Deliverables") and shall retain all common law, statutory and other reserved rights, including copyrights. Submission or distributions of Deliverables to meet official regulatory requirements or for similar purposes in connection with this Agreement is not to be construed as publication in derogation of the reserved rights of Provider.

6.2 **Grant of Limited License.** Provider grants to Customer a nonexclusive license to use Provider's Deliverables solely and exclusively for purposes of constructing, using, maintaining, altering, and adding to any project described in an SOW, provided that Customer substantially performs its obligations under this Agreement, including prompt payment of sums due Provider. Provider shall obtain similar nonexclusive licenses from Provider's subcontractors, if any. The license granted under this section permits Customer to authorize its contractors and consultants to reproduce applicable portions of the Deliverables solely and exclusively for use in performing services or for construction. If Provider rightfully terminates this Agreement for cause, the license granted under this Agreement shall terminate.

6.3 **No Other Licenses.** Except for the licenses granted in this Section 6, no other license or right shall be deemed granted or implied under this Agreement. Customer shall not assign, delegate, sublicense, pledge or otherwise transfer any license granted herein to another party without the prior written agreement of Provider. Any unauthorized use of the Deliverables shall be at Customer's sole risk and without liability to Provider. Customer acknowledges and agrees that Provider's technology and the Services are proprietary and confidential information that is protected under applicable intellectual property and other laws. All right, title and interest in the Provider's technology and Services and underlying source code, whether tangible or intangible, including but not limited to patent, copyright, trademark and trade secret rights and further including all right, title and interest to any images, photographs, animations, video, audio, music, text, user interface, APIs and "applets" incorporated into the Service are owned by Provider.

7. **Confidential Information.**

7.1 All non-public, confidential or proprietary information of either party ("Confidential Information"), including, but not limited to, information about such party's business affairs, products, services, methodologies, confidential intellectual property, trade secrets, third-party confidential information, and other sensitive or proprietary information, disclosed by one party (the "Disclosing Party") to the other party (the "Receiving Party"), whether disclosed orally or disclosed or accessed in written, electronic, or other form or media, or otherwise learned by the Receiving Party in connection with this Agreement, and whether or not marked, designated, or otherwise identified as "confidential," is confidential, solely for use in performing this Agreement and may not be disclosed or copied unless authorized by the Disclosing Party in writing. The Receiving Party shall protect and safeguard the confidentiality of the Disclosing Party's Confidential Information with at least the same degree of care as the Receiving Party would protect its own Confidential Information, but in no event with less than a commercially reasonable degree of care. Confidential Information does not include any information that: (a) is or becomes generally available to the public other than as a result of the Receiving Party's breach of this Agreement; (b) is obtained by the Receiving Party on a non-confidential basis from a third-party that was not legally or contractually restricted from disclosing such information; (c) the Receiving Party establishes by documentary evidence, was in its

possession prior to the Disclosing Party's disclosure hereunder; (d) was or is independently developed by the Receiving Party without using any of the Disclosing Party's Confidential Information; or (e) is required to be disclosed under applicable federal, state or local law, regulation or a valid order issued by a court or governmental agency of competent jurisdiction.

7.2 The Receiving Party shall be responsible for any breach of this Section 7 caused by any of its employees, contractors, agents, or representatives. On the expiration or termination of the Agreement, at the Disclosing Party's written request, the Receiving Party shall promptly return, and shall require its Representatives to return to the Disclosing Party all copies, whether in written, electronic or other form or media, of the Disclosing Party's Confidential Information, or destroy all such copies and certify in writing to the Disclosing Party that such Confidential Information has been destroyed. Each party's obligations under this Section 7 will survive termination or expiration of this Agreement for a period of two (2) years, except for Confidential Information that constitutes a trade secret under any applicable law, in which case, such obligations shall survive for as long as such Confidential Information remains a trade secret under such law.

8. Representations and Warranties.

8.1 Mutual. Each party represents and warrants to the other party that: (a) it has the full right, power, and authority to enter into this Agreement, to grant the rights and licenses granted hereunder and to perform its obligations hereunder; and (b) when executed and delivered by such party, this Agreement will constitute the legal, valid and binding obligation of such party, enforceable against such party in accordance with its terms.

8.2 Provider. Provider represents and warrants to Customer that: (a) it shall perform the Services in a professional and workmanlike manner in accordance with commercially reasonable industry standards for similar professional services for a project of a similar size, scope and complexity in a similar geographic location at the time the Services are being provided, and shall devote adequate resources to meet its obligations under this Agreement; (b) the Services and Deliverables shall conform in all material respects with the specifications in the applicable SOW; and (c) to Provider's knowledge the Services and Deliverables, and Customer's use thereof, do not and will not infringe any Intellectual Property Right/registered or issued patent, copyright or trademark of any third party arising under the Law of the United States. No other warranty or representation about the performance of the Services, express or implied, is intended or included in this Agreement or in any other document furnished by Provider. Provider's sole liability and Customer's sole and exclusive remedy for Provider's breach of the foregoing Section 8.2 are Provider's indemnification obligations under Section 9, subject to the limits of liability in Section 10.

8.3 Customer. Customer represents and warrants to Provider that any instruction, information, designs, specifications, data, drawings, plans, files or calculations (together, "**Customer-Supplied Information**") Customer provides to Provider shall be accurate and complete and Provider may rely upon Customer-Supplied Information in performing the Services and producing the Deliverables. Customer further represents and warrants that Customer-Supplied Information does not and will not infringe or misappropriate any intellectual property right, including, but not limited to, any registered or issued patent, copyright, trademark, or trade secret of any third party arising under the Law of the United States.

9. Indemnification.

9.1 General. Each party ("**Indemnifying Party**") shall indemnify, defend, and hold harmless the other party and its officers, directors, employees, agents, affiliates, successors, and permitted assigns ("**Indemnified Party**") against any and all losses, damages, liabilities, deficiencies, claims, actions, judgments, settlements, interest, awards, penalties, fines, costs, or expenses of whatever kind, including reasonable attorneys' fees and costs, awarded against Indemnified Party in a final non-appealable judgment (collectively, "**Losses**"), relating to/arising out of or resulting from any claim of a third party arising out of or occurring in connection with: (a) bodily injury, death of any person or damage to real or tangible, personal property resulting from Indemnifying Party's willful, fraudulent or grossly negligent acts or omissions; or (b) Indemnifying Party's negligence, willful misconduct, or material breach of this Agreement, including but not limited to material breach of any representation or warranty made by Indemnifying Party in this Agreement.

9.2 Intellectual Property Infringement. Provider shall defend, indemnify, and hold harmless Customer from and against all Losses awarded against a Customer in a final judgment based on a claim that any of the Services or Deliverables or Customer's receipt or use thereof infringes any intellectual property right of a third party arising under the Laws of the United States; provided, however, that Provider shall have no obligations under this Section 9.2 with respect to claims to the extent arising out of (a) Customer-Supplied Information; (b) Customer's use of the Deliverables in combination with any materials or equipment not supplied to Customer or specified by Provider in writing; or (c) any modifications or changes made to the Deliverables other than by Provider.

9.3 Unlawful Use of Deliverables. In the event Customer uses the Deliverables without retaining the authors of the Deliverables, Customer releases Provider from any and all claims and causes of action arising from such uses. Customer, to the extent permitted by law, further agrees to indemnify and hold harmless Provider from all costs and expenses, including the cost of defense, related to claims and causes of action asserted by any third person or entity to the extent such costs and expenses arise from Customer's use of the Deliverables under this Section 9.3.

10. LIMITATION OF LIABILITY. EXCEPT FOR OBLIGATIONS TO MAKE PAYMENT, IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR: (A) ANY LOSS OF USE, REVENUE, OR PROFIT OR LOSS OF DATA OR FOR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, SPECIAL, OR PUNITIVE DAMAGES WHETHER ARISING OUT OF BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, REGARDLESS OF WHETHER SUCH DAMAGE WAS FORESEEABLE AND WHETHER OR NOT SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES; OR (B) DIRECT DAMAGES OF MORE THAN ONE TIMES THE AGGREGATE AMOUNTS PAID OR PAYABLE TO PROVIDER IN THE ONE YEAR PERIOD PRECEDING THE EVENT GIVING RISE TO THE CLAIM.

11. Insurance. During the Term and for a period of three (3) years after expiration or termination of this Agreement for any reason, Provider shall, at its own expense, maintain and carry insurance in full force and effect with financially sound and reputable insurers, that includes, but is not limited to: (a) Commercial General Liability with limits no less than \$1,000,000 per occurrence and \$1,000,000 in the aggregate, which policy will include contractual liability coverage insuring the activities of Provider under this Agreement; (b) Worker's Compensation with limits no less than the minimum amount required by applicable law; (c) Commercial Automobile Liability with limits no less than \$1,000,000, combined single limit; and (d) Errors and Omissions/Professional Liability with limits no less than \$1,000,000 per occurrence and \$1,000,000 in the aggregate. Upon Customer's request, Provider shall provide Customer with a certificate of insurance from Provider's insurer evidencing the insurance coverage specified in this Agreement. The certificate of insurance shall name Customer as an additional insured.

12. Force Majeure. No party shall be liable or responsible to the other party, nor be deemed to have defaulted under or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement (except for any obligations to make payments to the other party hereunder), when and to the extent such failure or delay is caused by or results from events outside of the party's reasonable control ("Force Majeure Events"), including but not limited to: (a) acts of God; (b) flood, fire, earthquake, epidemics or explosion; (c) war, invasion, hostilities (whether war is declared or not), terrorist threats or acts, riot, or other civil unrest; (d) government order or law; (e) actions, embargoes, or blockades in effect on or after the date of this Agreement; (f) action by any governmental authority; (g) national or regional emergency; (h) strikes, labor stoppages or slowdowns or other industrial disturbances; and (i) shortage of adequate power or transportation facilities. The affected party shall resume performance under this Agreement as soon as reasonably practicable after the Force Majeure Event has been resolved or terminated.

13. Miscellaneous.

13.1 Independent Contractors. The parties are independent contractors, and nothing contained in this Agreement shall be construed as creating any agency, partnership, joint venture or other form of joint enterprise, employment, or fiduciary

relationship between them. Neither party shall be authorized to contract for or bind the other party in any manner whatsoever.

13.2 Notice. All notices, requests, consents, claims, demands, waivers, and other communications hereunder (each, a "Notice") shall 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 receiving party from time to time in accordance with this Section). All Notices shall be delivered by personal delivery, nationally recognized overnight courier (with all fees pre-paid), facsimile 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.

13.3 Entire Agreement; Order of Precedence. This Agreement, together with all SOWs and other documents incorporated herein by reference, constitutes the sole and entire agreement of the parties to this Agreement with respect to the subject matter contained herein, and supersedes all prior and contemporaneous understandings and agreements, both written and oral, with respect to such subject matter. In the event of any conflict between the terms and provisions of this Agreement and those of any additional documents, then the terms of this Agreement shall control unless expressly set forth otherwise in the applicable document.

13.4 Assignment. Neither party may assign, transfer, or delegate any or all its rights or obligations under this Agreement, including by operation of law, change of control, or merger, without the prior written consent of the other party, which consent shall not be unreasonably withheld or delayed. No assignment shall relieve the assigning party of any of its obligations hereunder. Any attempted assignment, transfer or other conveyance in violation of the foregoing shall be null and void. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and permitted assigns.

13.5 No Third-Party Beneficiaries. This Agreement is for the sole benefit of the parties hereto and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other Person any legal or equitable right, benefit, or remedy of any nature whatsoever, under or by reason of this Agreement.

13.6 Amendment and Modification; Waiver. This Agreement may be amended, modified, or supplemented only by an agreement in writing signed by each party hereto. No failure to exercise any rights, remedy, power or privilege ("Right(s)") arising from this Agreement shall operate or be construed as a waiver thereof. No single or partial exercise of any Right hereunder precludes any other or further exercise thereof or the exercise of any other Right.

13.7 Severability. No invalidity, illegality, or unenforceability of any provision herein in any jurisdiction, shall affect any other term or provision of this Agreement or invalidate or render such provision unenforceable in any other jurisdiction. If any provision is determined to be invalid, illegal, or unenforceable, the parties hereto shall negotiate in good faith to modify this Agreement to effect the original intent of the parties as closely as possible.

13.8 Governing Law: Submission to Jurisdiction. This Agreement shall be governed by and construed in accordance with the internal laws of the State of Wisconsin without giving effect to any choice or conflict of law provision or rule that would cause the application of laws of any other jurisdiction. Any legal suit, action, or proceeding arising out of or related to this Agreement or the Services provided hereunder shall be instituted in the state or federal courts in Madison or Dane County, Wisconsin and each party irrevocably: (a) submits to the exclusive jurisdiction of such courts; and (b) waives any objection to such courts based on venue or inconvenience; and (c) waives any right to trial by jury. Service of process, summons, notice or other document by mail to such party's address set forth herein shall be effective service of process for any suit, action, or other proceeding brought in any such court.

EQUITABLE RELIEF; CUMULATIVE REMEDIES. EACH PARTY ACKNOWLEDGES THAT A BREACH OF SECTION 6 (INTELLECTUAL PROPERTY RIGHTS) OR SECTION 7 (CONFIDENTIALITY) MAY CAUSE THE NON-BREACHING PARTY IRREPARABLE DAMAGES, FOR WHICH AN AWARD OF DAMAGES WOULD NOT BE ADEQUATE COMPENSATION. IN THE EVENT OF SUCH BREACH OR THREATENED BREACH, THE NON-BREACHING PARTY WILL BE ENTITLED TO SEEK EQUITABLE RELIEF. EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, THE RIGHT AND REMEDIES UNDER THIS AGREEMENT ARE CUMULATIVE AND IN ADDITION TO ANY OTHER RIGHTS OR REMEDIES AVAILABLE AT LAW OR IN EQUITY OR OTHERWISE.