

# PROJECT OPTIMIZATION

## OBR Optimization Engineering

1. *Parties; Effective Date.* This Project Optimization (“Agreement”) is between [NAME OF COMPANY], “Company”, and the following Project Optimization **Specialist(s)** below, “**Specialist(s)**”:

1.) \_\_\_\_\_

2.) \_\_\_\_\_

This *Agreement* is effective on the date **Specialist(s)** was(were) first engaged by [NAME OF COMPANY], or the date last signed, whichever is earlier (“Effective Date”).

2. *Scope of Work Product.* [NAME OF COMPANY] is in the business of [DESCRIBE WHAT GENERAL AREAS THE COMPANY CONDUCTS BUSINESS]. **Specialist(s)** has(have) experience and expertise described in attached Schedule A. If Schedule A is not attached to this *Agreement* this *Agreement* in its entirety will remain enforceable. For each work product task [NAME OF COMPANY] assigns to the services of **Specialist(s)**, the parties will create and sign a *Statement of Work* (“Statement”). **Specialist(s)** will be tasked to apply his expertise and experience to the subject matter of each *Statement*. In this way each project or task is separated for the purposes of acceptance, delivery, and compensation by treating these issues separately on their respective *Statements*. The *Statements* shall describe clearly what is expected to be accomplished and define the milestones, goals and envisioned end-products. The *Statements* shall identify the specific services and goods to be delivered (“Deliverables”), specifications or a narrative description of the *Deliverables*, the milestones to be achieved in connection with the *Deliverables*, the acceptance and performance criteria for the *Deliverables*, the amount and timing of payment of fees and any other terms important to the parties. *Statements* may be created informally, such as by email exchange, which will be deemed a signed writing by the parties.

3. *Intellectual Property Ownership and License Rights.* [NAME OF COMPANY] owns all right, title and interest, including intellectual property rights, in and to all work product created by **Specialist(s)** in connection with this *Agreement*. Work product may include: CAD drawings, product and process design, data analysis, software algorithms and code, specifications, designs, literary, musical, and pictorial works, sound recordings, motion pictures, and brand identities. All work product and *Deliverables* are “works made for hire” and **Specialist** hereby assigns to [NAME OF COMPANY] all rights, title and interest in such work product and *Deliverables*.

4. *Confidentiality.* **Specialist(s)** may have access to information that is considered confidential by [NAME OF COMPANY] or its strategic partners (collectively, “Information”). *Information* may include “knowhow”, ideas, trade secrets, strategic plans, financial information, and proposed agreements (collectively, “Information”). *Information* may be communicated to **Specialist(s)** in any medium, including written, oral, electronic, tangible devices, and through visual inspection and observation. **Specialist(s)** agrees not to disclose the *Information* to a third party and not to use the *Information* for the benefit of anyone other than [NAME OF COMPANY]. Nothing in this *Agreement* prohibits **Specialist(s)** from using *Information* that is (1) entirely in the public domain; (2) previously known to **Specialist(s)**; (3) received lawfully from a third party; or (4) proven by **Specialist(s)** to have been developed without access to the *Information*. The fact that individual elements of [NAME OF

**COMPANY**] *Information* may be in the public domain does not remove from the protections of this *Agreement* the nonpublic or unique combination of such elements. *Information* shall be presumed confidential. This duty of confidentiality continues for so long as the *Information* remains nonpublic.

5. *Acceptance.* A *Deliverable* is accepted [INSERT TIME PERIOD DESIRED] after delivery to [NAME OF COMPANY] unless, within that time period, [NAME OF COMPANY] notifies *Specialist(s)* that a *Deliverable* fails to conform to the specifications in the applicable *Statement*. *Specialist* shall immediately use its best efforts to remedy any nonconformity within [INSERT TIME PERIOD DESIRED]. In the event *Specialist(s)* is unable to remedy such nonconformance, *Specialist(s)* and [NAME OF COMPANY] will either agree to a reduced fee for the *Deliverable* or [NAME OF COMPANY] may reject the *Deliverable* and obtain a refund of all or part of any fees and expenses paid for the *Deliverable*.

6. *Representations and Warranties.* *Specialist(s)* represents and warrants, within *Specialist's* reasonable abilities: (a) all *Deliverables* are original and do not violate the rights of any third parties, including intellectual property rights; (b) performance under this *Agreement* will not violate any obligation to any third party (including past employers or customers); (c) all *Deliverables* shall materially conform to the description and specifications in the applicable *Statement*; (d) *Specialist* has the necessary knowledge, skills, expertise, and training to assist [NAME OF COMPANY]; (e) *Specialist's* activities under this *Agreement* will be carried out in a diligent, prompt, and professional manner; (f) *Specialist(s)* is(are) legally entitled to work in the county where its representatives perform the services under this *Agreement*; (g) *Specialist(s)* shall make all required payments to tax authorities, and (h) *Specialist(s)* shall comply with all reasonable requests of [NAME OF COMPANY] partners if working on the premises of such partner. *Specialist(s)* indemnifies, holds harmless, and agrees to defend [NAME OF COMPANY] against all damages, losses, judgments, penalties, expenses, costs, and fees (including reasonable attorneys' fees) incurred by, or awarded or assessed against [NAME OF COMPANY] in connection with any third party (including agencies of the U.S. or state governments) assertion inconsistent with the foregoing representations and warranties.

7. *Limitations of Liability.* Neither party shall be liable for indirect, incidental, consequential, special, punitive or exemplary damages, or lost profits or business interruption losses, in connection with this *Agreement*. Any claims relating to this *Agreement* shall be brought within one (1) year after the event giving rise to the cause of action.

8. *Fees; Payment.* [NAME OF COMPANY] shall pay *Specialist(s)* as set forth in the applicable *Statement* (by the Project, per *Deliverable*, per diem, per week/month, on a time and materials basis, stock option, or other arrangement). [NAME OF COMPANY] shall pay (or reimburse *Specialist(s)* for paying) reasonable travel expenses, including air fare, lodging, and meals, incurred at the request of [NAME OF COMPANY] and approved in advance in writing. Unless a *Statement* specifies otherwise, payment shall be made thirty (30) days after receipt of *Specialist's* invoice specifying the milestones accomplished and the fees due.

9. *Termination.* Either party may terminate this *Agreement* for any reason at any time, with or without notice. Each party will attempt to give the other notice of intent to terminate as soon as reasonably practicable. Upon termination, [NAME OF COMPANY] shall pay for *Deliverables* received and conforming to their specifications (quantum meruit, if applicable), and for works in process commenced by *Specialist(s)* at [NAME OF COMPANY]'s request.

10. *Nature of Relationship.* *Specialist(s)* is an independent contractor and **not** an employee, agent, joint-venture or partner of [NAME OF COMPANY]. Neither party has authority to create obligations for the other. *Specialist(s)* is not entitled to any benefits of [NAME OF COMPANY] employees, and is

responsible for *Specialist's* own costs and legal responsibilities of doing business, including insurance, taxes, workers compensation, equal opportunity compliance, immigration requirements, and employment benefits.

**11. Non-solicitation.** During the term of this *Agreement* and for a period of one (1) year thereafter, *Specialist(s)* agrees(agree) not to hire or solicit for hire any [NAME OF COMPANY] employees.

**12. General.** All required communications shall be in writing and addressed to the receiving party at its address set forth above, addressed to the person who signed the *Agreement* on behalf of such party, or to such address and person as may be designated by such party in writing. All communications will be deemed given when hand-delivered; or if mailed, by registered mail with verification of receipt, upon date of mailing; or if by electronic mail or facsimile, when received (with verification of transmission sent promptly to the receiving party along with a hard copy of the communication). This *Agreement* shall be governed exclusively by the laws of the State of [INSERT STATE] and applicable federal law. This *Agreement* constitutes the entire understanding of the parties with respect to the stated subject matter and replaces any previous or contemporaneous written or oral communications, promises, or understandings. The *Agreement* may be amended only by a writing signed by the parties. The *Specialist(s)* will submit to medical testing as per client regulations.

**13. Dispute Resolution.** The parties shall attempt to resolve any disputes through good faith business negotiations, bad-faith unilateral failure of which will be deemed a breach of this *Agreement*. Jurisdiction and choice of law for all disputes shall be the state in which the headquarters of [NAME OF COMPANY] is located.

**14. AGREED AND ACCEPTED:**

[NAME OF COMPANY]:

By: \_\_\_\_\_ *Signature, Title*

Name: \_\_\_\_\_ *Printed, Title*

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

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**Project Optimization Specialist(s):**

1) By: \_\_\_\_\_ *Signature*    2) By: \_\_\_\_\_ *Signature*

Name: \_\_\_\_\_ *Printed*                      Name: \_\_\_\_\_ *Printed*

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

**Additional Notes:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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