



## **SHOP DRAWINGS and STRUCTURAL CALCULATIONS AGREEMENT**

### **JOB NAME:**

This Shop Drawings and Structural Calculations Agreement (the "Agreement") is made Thursday, January 06, 2011 by **LTS** ("Customer") and **LTS Drafting & Engineering, LLC**, a Colorado limited liability company with its offices located at 6855 South Havana Street, Suite 580, Centennial, Colorado 80112 ("LTS"). Customer and LTS are sometimes collectively referred to herein as the "parties."

In consideration of the promises and covenants contained herein and for good and valuable consideration, the parties do hereby agree as follows:

### **SECTION 1 DESCRIPTION OF WORK**

1.1. LTS shall furnish the following services, per all required contract documents (e.g., architectural drawings, structural drawings, specifications, addendums, take-offs, etc.).

- (a) Prepare the following Shop Drawings, as applicable:
  - i. Cover Sheet;
  - ii. Floor Plans;
  - iii. Engineering Review;
  - iv. Elevation Sheets; and
  - v. Detail Sheets (with surround details)
  - vi. Electronic PDF file.
- (b) Provide the following Structural Calculations (PE stamp) for the state of **Colorado**, as applicable (after receipt of approved shop drawings only):
  - i. Calculation booklet with structural analysis; (5) five sealed books;
  - ii. Sealed shop drawings; (1) one set.
- (c) Quoted from the following information:
  - i. Architectural drawings sheets A9.0a and A9.0b dated 3/31/10;

Some of the Services shall be set forth and performed pursuant to the pricing specifications attached hereto as Exhibit A (together with this Agreement, the "Contract Documents").

1.2. Any change or alteration by Customer to the Contract Documents may result in the contract price being adjusted to reflect the actual cost of such change or alteration.

1.3. Subject to the offer and withdrawal provisions of Section 10 of this Agreement, the pricing specifications for the Services contained herein are effective as of the date of this Agreement and shall remain valid for a period of thirty (30) days thereafter.

**SECTION 2  
PAYMENT AND LIEN WAIVERS**

2.1. Customer shall pay LTS for the Services, as set forth in the Contract Documents, as follows:

Total contract price:	\$ _____
Deposit due upon signing of Agreement:	\$ _____
Due upon ____:	\$ _____
Due upon ____:	\$ _____
Due upon ____:	\$ _____
<b>Total</b>	<b>\$ _____</b>

*\*Break out pricing for accounting purpose only. Quotation may be adjusted if entire drawing and engineering package is not taken.*

The contract price set forth above does not include any sales, use, excise or other tax which, if applicable, shall be added to the contract price and paid by Customer. Charges for any and all additions, alterations, changes or modification of the Services will be billed as follows:

a. Engineering services of LTS not specifically listed within Section 1.1 or as an inclusion under Exhibit A of this Agreement or revisions after first submittal, shall be billed at the rate of \$170.00 per hour.

b. Drafting services of LTS not specifically listed within Section 1.1 or as an inclusion under Exhibit A of this Agreement or revisions after first submittal shall be billed at the rate of \$85.00 per hour.

2.2. LTS shall bill Customer on a monthly basis at the above referenced rates for all time directly attributable to the Engineering and/or Drafting services performed by LTS pursuant to Sections 2.1(a) and/or (b) above. All payments are to be made to LTS at the address set forth above within ten (10) days after receipt of each such monthly billing statement.

2.3. Prior to payment of any application submitted by LTS, Customer may request copies of the applicable lien waivers pertaining to the Services. If requested by the Customer, as a prerequisite for payment, LTS shall provide partial lien and claim waivers in the amount of the application for payment from it and/or its subcontractors and material suppliers, if any, for the completed Services. Such waivers shall be conditional upon receipt of payment from Customer. In no event shall LTS be required to sign an unconditional waiver of lien or claim, either partial or final, prior to receiving payment in full for such Services.

2.4. If the Services contemplated by this Agreement are to be financed with a lending institution, Customer agrees to complete and sign any and all documents required by such lending institution including, but not limited to, any credit application, promissory note, or deed of trust prior to the performance of any Services by LTS.

2.5. Failure by Customer to pay any amount when due shall cause interest to be added to such amount at the rate of 18% per annum from the due date until paid. In addition, upon Customer's failure to pay any amount due hereunder, LTS shall have the right to declare this Agreement terminated and to retain any payments theretofore made by Customer. In the event of such termination, LTS shall be released from any further liability or obligation hereunder. Such termination by LTS shall not prevent LTS from enforcing any other rights or remedies that LTS may have, resulting from or arising out of this Agreement.

2.6. Customer shall be responsible for all rental charges of necessary machinery and equipment to be used in connection with the Services, including installation, repair and replacement, dismantling, removal, maintenance, transportation and delivery costs.

**SECTION 3  
PROPOSED COMMENCEMENT / COMPLETION DATE**

3.1. The Services to be performed by LTS under this Agreement shall be substantially complete by date agreed upon by "Customer" and "LTS", which date shall be deemed approximate, and completion within thirty (30) days thereafter shall be deemed to constitute substantial completion by LTS. The Completion Date shall be extended by an amount of time equal to the actual time lost due to weather, strikes, material shortages, delays in delivery, acts of God, or any other delay beyond the direct control of LTS.

**SECTION 4  
CHANGES OR ADDITIONS**

4.1. Customer specifically acknowledges and agrees that all measurements and dimensions shown in the Shop Drawings and Structural Calculations are approximations and that the actual measurements and dimensions may vary slightly. LTS represents that all reasonable efforts to verify and confirm the measurements and dimensions have been made prior to the commencement of any work and that a continuing effort shall be made to inform Customer of all substantial variations in the actual measurements and dimensions.

**SECTION 5  
LIMITATIONS OF LTS**

5.1. LTS agrees to perform its Services hereunder in a workmanlike manner. Customer is responsible for final review and approval of the Shop Drawings for dimensions, configurations, constructability and detail choices. The implementation, integration or use by Customer of the Shop Drawings shall constitute Customer's express agreement and acknowledgment that they have received, reviewed and approved the same. Customer agrees to indemnify and hold LTS harmless of, from and against any and all claims, damages, losses or expense arising out of, or resulting from, deficiencies in the Shop Drawings or Structural Calculations, or the suitability of any product provided or to be provided hereunder, which is cause, in whole or in part, by any third party.

5.2. It is expressly understood and agreed by the parties that the total contract price set forth in Section 2 does not include expenses resulting from hidden or unknown conditions which affect the Services. If LTS finds any such hidden or unknown conditions, LTS shall notify Customer of the remedial or modification work required to enable LTS to complete the Services, and the Customer shall separately provide for such work to be done by third persons or, if the parties can agree, then by LTS and the Completion Date shall be extended as necessary to complete such other work.

5.3. The Services to be performed hereunder shall not include the incorporation of information shown within manufacturer's installation instructions, including isometric details, take-off, fabrication drawings, engineering review for glass compatibility, SE (structural engineer) calculations or stamp, embed drawings, hollow metal doors and frames, interior elevations, metal panels, louvers, travel, revision and copies. Additionally, items and services not within any glazing subcontractors' specific scope of work will not be labeled or included on the Shop Drawings.

**SECTION 6  
INSURANCE AND CUSTOMER LIABILITY**

6.1. LTS shall carry such liability insurance as may be necessary to protect LTS and Customer from claims of workmen or third persons for personal injury or death caused by the fault or neglect of LTS or its employees in the performance of the Services. LTS assumes no responsibility for claims arising out of hazards on the premises not created by any act or neglect of LTS or its employees.

6.2. Customer shall assume all responsibility for loss whether from casualty, vandalism or theft of any personal property on the premises of Customer, including property of, or materials furnished by LTS.

## **SECTION 7 BREACH**

7.1 In the event that Customer is in breach of this Agreement, in addition to its other remedies at law or in equity, LTS shall be entitled to liquidated damages. The liquidated damages available to LTS shall be the greater of twenty-five percent (25%) of the total contract price set forth in Section 2 or the amount actually received by LTS at the time of the breach. Any election of remedies shall be at the sole discretion of LTS. The liquidated damages provision is designed to compensate LTS for the overhead, processing, preparation and other related damages that cannot be determined with exactness and shall not be construed as a penalty. In the event that legal action becomes necessary for the enforcement of all or any part of this Agreement or to collect the liquidated damages provided for herein, the prevailing party shall receive in addition to any other damages or relief awarded, its reasonable attorneys' fees, together with appropriate costs and interest.

## **SECTION 8 GENERAL MATTERS**

8.1. This Agreement and the Contract Documents attached hereto represent the entire agreement between the parties and supersede all prior negotiations, representations or agreements. This Agreement may be amended only by written instrument signed by both parties. No agents of LTS, unless authorized in writing by an officer of LTS, shall have the authority to waive, alter, or enlarge the scope of this Agreement, or to make any additional representations.

8.2. This Agreement shall be governed by the laws of the State of Colorado and shall be construed in accordance therewith. For purposes of any action or proceeding arising out of this Agreement, the parties hereto expressly submit to the jurisdiction of all federal and state courts located in the City and County of Denver, State of Colorado.

8.3. No provision of this Agreement may be waived except by a separate agreement in writing signed by the waiving party. A waiver of any term or provision shall not be construed as a waiver of any other term or provision.

8.4. This Agreement shall be binding upon the parties, their heirs, legal representatives, successors or assigns.

8.5. The parties hereto shall and they hereby do intentionally waive any and all rights to a trial by jury in any action, proceeding or counterclaim brought by either of the parties hereto against the other on any matters whatsoever arising out of or in any way connected with this Agreement and/or any claim or injury or damage related thereto. The parties further waive the right to seek punitive, consequential, special and indirect damages in any action, proceeding or counterclaim brought with respect to any matter arising out of or in connection with this Agreement and/or the Services or Contract Documents contemplated herein or related hereto.

## **SECTION 9 LIMITED WARRANTY**

9.1. LTS will notify Customers when the Services have been substantially completed in accordance with this Agreement.

9.2. LTS does not provide, and specifically excludes, warranty coverage for the following:

- a. Work performed by the Customer or its subcontractors, employees, or agents.
- b. Correction of work damaged by the actions or negligence of the Customer, its subcontractors, employees or agents.

- c. Correction or repair of damage caused by acts of God or covered by builders risk insurance.
- d. Damage from ordinary wear and tear due to usage by the Customer or any third party.
- e. The effects of weatherization, shrinkage, dryness or excessive moisture.
- f. Damage due to Customer's failure to provide proper maintenance.
- g. Damage due to any alteration, use and/or misuse of the materials, installation or equipment which is contrary to the intended use and purpose.
- h. Any modifications, alterations or revisions to the Shop Drawings or in connection with the Services made by Customer, its subcontractors, employees or agents.
- i. Damage due to any errors, omissions or inconsistencies contained in the Customer Documents.

9.3. IT IS EXPRESSLY AGREED AND UNDERSTOOD BY THE PARTIES HERETO THAT EXCEPT AS EXPRESSLY SET FORTH HEREIN, THAT AS BETWEEN THEM THERE ARE NO WARRANTIES, EXPRESS, IMPLIED OR STATUTORY, INCLUDING, HOWEVER, NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, WORKMANLIKE CONSTRUCTION OR HABITABILITY. IT IS FURTHER EXPRESSLY AGREED AND UNDERSTOOD THAT CUSTOMER'S SOLE AND EXCLUSIVE REMEDY IN THE EVENT OF ANY DEFECT IN ANY PRODUCT OR THE SERVICES PROVIDED HEREUNDER SHALL BE TO RESORT TO THE MANUFACTURER ON ITS WARRANTY. IN NO EVENT SHALL LTS BE LIABLE FOR ANY INCIDENTAL, CONSEQUENTIAL, PUNITIVE OR SPECIAL DAMAGES.

**SECTION 10  
OFFER**

10.1. This Agreement shall be construed only as an offer by LTS for the Services, which offer may be withdrawn at any time prior to being accepted by the Customer and delivered to LTS. It shall become a binding agreement only upon delivery to LTS of a copy signed by Customer on or before \_\_\_\_\_, 200\_\_, accompanied by payment of the sum provided to be paid upon execution. Delivery shall only be accomplished by actual receipt of the signed agreement by LTS on or before the date specified herein.

**CUSTOMER**

**LTS DRAFTING & ENGINEERING, LLC**

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

By: Scott Smith  
Title: President  
Date: Thursday, January 06, 2011

Job Name:  
Date: Thursday, January 06, 2011

**EXHIBIT A**

**PRICING SPECIFICATIONS FOR SERVICES**

**INCLUSIONS** – The following additional items are specifically INCLUDED in the Services to be provided hereunder:

1. \_\_\_\_\_;
2. \_\_\_\_\_;
3. \_\_\_\_\_;
4. \_\_\_\_\_; and
5. \_\_\_\_\_.

**EXCLUSIONS** – The following items are specifically EXCLUDED from the Services to be provided hereunder:

1. Incorporation of information shown within manufacturer’s installation instructions, including but not limited to:
  - a. dynamic analysis;
  - b. isometric details;
  - c. take-off;
  - d. fabrication drawings;
  - e. engineering review for glass compatibility;
  - f. embed drawings;
  - g. SE structural engineer calculations or stamp;
  - h. hollow metal doors and frames;
  - i. interior elevations;
  - j. metal panels;
  - k. louvers;
  - l. travel; and
  - m. revisions and/or additional copies.
  
2. Additionally, items and services not within any glazing subcontractors’ specific scope of work will not be labeled or included on the Shop Drawings prepared as part of the Services hereunder.