

DRAFT AIA® Document B102™ – 2017

Standard Form of Agreement Between Owner and Architect without a Predefined Scope of Architect's Services

AGREEMENT made as of the **TBD** day of November in the year 2024 (the "Effective Date")

(In words, indicate day, month and year.)

BETWEEN InGensa's client identified as the Owner:

Lewiston-Altura ISD #857
100 County Road 25
Lewiston, MN 55952

and InGensa, Inc. ("InGensa"):

InGensa, Inc.
18215 45th Ave. N, Suite C
Plymouth, MN 55446

for the following November 5, 2024, approved referendum Projects:

Q2: Elementary and High School building improvements including creation of secure entrances; the construction of traffic flow improvements; renovations and upgrades to create larger kindergarten classrooms, flexible learning spaces, and improved career and technical education (CTE), science and art classroom spaces; remodeling and upgrades to create Americans with Disabilities Act (ADA) accessible restrooms and improved locker rooms; and the completion of various deferred maintenance projects at school sites and facilities.

TABLE OF ARTICLES

- 1 **INGENSA'S RESPONSIBILITIES**
- 2 **OWNER'S RESPONSIBILITIES**
- 3 **COPYRIGHTS AND LICENSES**
- 4 **CLAIMS AND DISPUTES**
- 5 **TERMINATION OR SUSPENSION**
- 6 **COMPENSATION**
- 7 **MISCELLANEOUS PROVISIONS**
- 8 **SPECIAL TERMS AND CONDITIONS**
- 9 **SCOPE OF THE AGREEMENT**

ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

ELECTRONIC COPYING of any portion of this AIA® Document to another electronic file is prohibited and constitutes a violation of copyright laws as set forth in the footer of this document.

ARTICLE 1 INGENSA'S RESPONSIBILITIES

§ 1.1 The Owner and InGensa agree as follows:

§ 1.1.1 InGensa is not a licensed architect. Therefore, InGensa shall be entitled to use architects, engineers and other design professionals as subconsultants to perform or assist in performing any of InGensa's services under this Agreement ("InGensa's Subconsultants"). The Parties intend to use AIA documents as the basis for the Contract Documents, including InGensa's contracts with InGensa Subconsultants. The Parties understand and agree that the architects or engineers of record on the Project will be InGensa's Subconsultants, and InGensa in no manner represents or implies that InGensa intends to perform architectural or engineering services for which it is not appropriately licensed. Contracts between InGensa and InGensa's Subconsultants shall reference the Owner as a third-party beneficiary as well as an additional insured for insurance purposes.

§ 1.1.2 Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the Owner or InGensa. It is the intent of the Parties that InGensa's contract with architects, engineers, other design professionals and others performing InGensa's services on the Project are for the direct benefit and third-party benefit of the Owner and that the Owner is entitled to the benefit of such contracts. InGensa will include language incorporating this intent in any contracts which InGensa may have with its Subconsultants and any contracts between InGensa's Subconsultants and other consultants.

§ 1.1.3 The Parties intend to use AIA documents as the basis for the Owner's contracts with its contractors. The Owner, not InGensa, shall execute and procure construction agreements with all appropriate contractors in accordance with applicable laws.

§ 1.1.4 The Parties understand and agree that a significant number of improvements and additions have been made at the Site over time. The Parties understand and agree that InGensa does not represent or warrant the quality or acceptability of the previous work.

§ 1.1.5 The Parties understand and agree InGensa and InGensa's Subconsultants will provide design, engineering, and construction management services for the improvements outlined in Exhibit A.

§ 1.1.6 The services to be performed by InGensa and InGensa's Subconsultants under this Agreement include the design and construction contract administration services as set forth in Article 2 of AIA Document B201-2007 and the construction management services set forth in Articles 1, 2, and 3 of AIA Document B144/ARCH-CM-1993, and such other services as expressly set forth therein and in any other documents comprising this Agreement as enumerated in Article 9 below. It is understood by the Parties that contracts for such professional services are not subject to competitive bidding requirements. All professionals providing such services whether directly by InGensa or professionals under contract with InGensa shall be qualified, and where required, properly licensed and/or certified to perform these services.

§ 1.1.7 InGensa, by and through InGensa's Subconsultants, shall perform its services consistent with the professional skill and care ordinarily provided by architects and engineers performing the same or similar services, in the same or similar locality, under the same or similar circumstances. InGensa shall perform its services as expeditiously as is consistent with such professional skill and care and the orderly progress of the Project.

§ 1.1.8 InGensa shall identify a representative authorized to act on behalf of InGensa with respect to the Project.

§ 1.1.9 Except with the Owner's knowledge and consent, InGensa shall not engage in any activity, or accept any employment, interest or contribution that would reasonably appear to compromise InGensa's professional judgment with respect to this Project.

§ 1.1.10 Prior to commencing the services, InGensa shall provide a certificate of insurance to the Owner showing its insurance coverages, and InGensa shall maintain such insurance, naming Owner as an additional insured under its Comprehensive General Bodily Injury and Property Damage policy, in full force and effect at all times until the services have been completed, in the following minimum amounts:

COVERAGES	LIMITS OF LIABILITIES
Workmen's Compensation, including Employer's Liability Insurance	Statutory
Comprehensive General Bodily Injury & Property Damage Liability Insurance, including Contractual	\$1,000,000 Per Occurrence \$2,000,000 Products & Completed Operations Aggregate
Comprehensive General Personal Injury Liability Insurance, including Contractual	\$1,000,000 Per Occurrence
Comprehensive Automobile Liability Insurance: Bodily Injury & Property Damage Liability Insurance	\$1,000,000 Per Accident
Professional Liability Insurance	\$3,000,000 Per Claim \$3,000,000 Aggregate
Umbrella Liability Insurance	\$2,000,000 Per Occurrence \$2,000,000 Aggregate

Owner shall maintain Property Insurance (builder's risk completed value, or equivalent property insurance) in sufficient amount for the entire period of the Agreement on a replacement cost basis. Such insurance shall be on an "all risk" basis including theft and shall protect the interest of the Owner, InGensa, InGensa's Subconsultants, Owner's Contractors and Subcontractors and shall name Owner and InGensa as an additional insured, and shall cover reasonable compensation for InGensa's services and expenses required as a result of such insured loss.

§ 1.11 InGensa and its Subconsultants shall furnish proof of insurance confirming that they have procured the foregoing required insurance coverages prior to execution of this Agreement. Such proof shall also confirm that the insurer has agreed that it will not cancel the insurance without giving the Owner thirty (30) days advance written notice of its intent to cancel. InGensa shall likewise require of its Subconsultants' proof of insurance meeting the foregoing requirements as a condition precedent to their engagement to perform services on the Project.

ARTICLE 2 OWNER'S RESPONSIBILITIES

§ 2.1 Unless otherwise provided for under this Agreement, the Owner shall provide information in a timely manner regarding requirements for and limitations on the Project, including a written program which shall set forth the Owner's objectives, schedule, constraints and criteria, including space requirements and relationships, flexibility, expandability, special equipment, systems and site requirements. Within fifteen (15) days after receipt of a written request from InGensa, the Owner shall furnish the requested information as necessary and relevant for InGensa to evaluate, give notice of or enforce lien rights.

§ 2.2 The Owner shall identify a representative authorized to act on the Owner's behalf only with respect to specific matters delegated to the representative in writing by the Owner's Board. In no event shall the Owner's Representative have authority to agree to any adjustments in the Contract Sum or Contract Time. Adjustments to the Contract Sum or Contract Time require approval by the Owner's Board. The Owner shall render decisions and approve InGensa's submittals in a timely manner in order to avoid unreasonable delay in the orderly and sequential progress of InGensa's services.

§ 2.3 InGensa shall coordinate the services of InGensa's Subconsultants with those services provided by InGensa itself. Upon InGensa's request, the Owner shall furnish copies of the scope of consulting services in the contracts between the Owner and the Owner's consultants. The Owner shall furnish the services of consultants other than those designated in this Agreement to be furnished by InGensa, or authorize InGensa to furnish them as an Additional Service, when InGensa requests such services and demonstrates that they are reasonably required by the scope of the Project. The Owner shall require that its consultants maintain professional liability insurance as appropriate to the services provided.

§ 2.4 The Owner shall furnish all legal, insurance and accounting services, including auditing services, that may be reasonably necessary at any time for the Project to meet the Owner's needs and interests. Except with regard to a claim covered under Owner's property insurance or builder's risk insurance, for which claims Owner waives

subrogation against InGensa, nothing herein shall be construed to require the Owner to defend or indemnify InGensa for InGensa's own negligence or intentional acts.

§ 2.5 The Owner shall provide prompt written notice to InGensa if the Owner becomes aware of any fault or defect in the Project, including errors, omissions or inconsistencies in the Instruments of Service.

§ 2.6 The Owner shall provide InGensa all Record Drawings, as-built drawings, or construction drawings of the existing facilities within the Owner's possession, custody or control. InGensa shall be entitled to reasonably rely on any such drawings.

ARTICLE 3 COPYRIGHTS AND LICENSES

§ 3.1 InGensa and the Owner warrant that in transmitting Instruments of Service, or any other information, the transmitting party is the copyright owner of such information or has permission from the copyright owner to transmit such information for its use on the Project. If the Owner and InGensa intend to transmit Instruments of Service or any other information or documentation in digital form, they shall endeavor to establish necessary protocols governing such transmissions.

§ 3.2 InGensa and InGensa's Subconsultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and shall retain all common law, statutory and other reserved rights, including copyrights. Submission or distribution of Instruments of Service to meet official regulatory requirements or for similar purposes in connection with the Project is not to be construed as publication in derogation of the reserved rights of InGensa and InGensa's Subconsultants.

§ 3.3 Upon execution of this Agreement, InGensa grants to the Owner a nonexclusive license to use the Instruments of Service solely and exclusively for the Project, provided that the Owner performs its obligations, including prompt payment of all sums when due, under this Agreement. InGensa shall obtain similar nonexclusive licenses from InGensa's Subconsultants consistent with this Agreement. The license granted under this section permits the Owner to authorize the Contractor, Subcontractors, Sub-subcontractors, and material or equipment suppliers, as well as the Owner's consultants and separate contractors, to reproduce applicable portions of the Instruments of Service solely and exclusively for use in performing services for the Project and for future use in maintaining, repairing, and improving the Project. The Owner's non-exclusive license to use the Instruments of Service shall be governed by Section 5.8.

§ 3.3.1 INTENTIONALLY OMITTED

§ 3.4 Except for the licenses granted in this Article 3, no other license or right shall be deemed granted or implied under this Agreement. The Owner shall not assign, delegate, sublicense, pledge or otherwise transfer any license granted herein to another party without the prior written agreement of InGensa. Any unauthorized use of the Instruments of Service shall be at the Owner's sole risk and without liability to InGensa and InGensa's Subconsultants.

ARTICLE 4 CLAIMS AND DISPUTES

§ 4.1 GENERAL

§ 4.1.1 INTENTIONALLY OMITTED

§ 4.1.2 To the extent damages are covered by property insurance, the Owner and InGensa waive all rights against each other and against the contractors, consultants, agents and employees of the other for damages, except such rights as they may have to the proceeds of such insurance as set forth in AIA Document A201-2007, General Conditions of the Contract for Construction, if applicable. The Owner or InGensa, as appropriate, shall require of the contractors, consultants, agents and employees of any of them similar waivers in favor of the other parties enumerated herein. Owner's builder's risk insurance shall be primary and not contributory.

§ 4.1.3 To the extent allowed by law, InGensa and the Owner each agree to indemnify the other party and its respective officers, agents, directors and employees from third party claims, demands, actions, liabilities, expenses or suits for bodily injury, including death or tangible property damage to the extent resulting from the intentional misconduct or any negligent act or omission by its employees or agents. The parties expressly agree that the other shall be responsible only to the extent such injury or damage was caused by the intentional misconduct or negligent

act or omission of its own employees or agents and neither party shall be responsible for any injury or damage to the extent caused, or contributed to, in any manner by the other.

§ 4.1.3.1 INGENSA SHALL NOT BE LIABLE TO THE OWNER FOR ANY AMOUNT EXCEEDING THE COMPENSATION PAYABLE TO INGENSA UNDER THIS AGREEMENT. THIS LIMITATION OF LIABILITY SHALL APPLY TO ANY DAMAGES THE OWNER INCURS AS A RESULT OF THE SERVICES, INCLUDING BUT NOT LIMITED TO DAMAGES CHARACTERIZED AS SPECIAL, INDIRECT, CONSEQUENTIAL, REMOTE, PUNITIVE, EXEMPLARY; LOSS OF PROFITS OR REVENUE, LOSS OF USE, OR SIMILAR DAMAGES, REGARDLESS OF HOW CHARACTERIZED, ARISING IN ANY MANNER FROM THIS AGREEMENT, THE SERVICES, THE IMPROVEMENT MEASURES, THE PREMISES, OR OTHERWISE.

§ 4.1.4 HAZARDOUS MATERIALS

§ 4.1.4.1 Asbestos Containing Materials –Neither Party desires to or is licensed to undertake direct obligations relating to the identification, abatement, cleanup, control, removal or disposal of asbestos-containing materials (“ACM”). Consistent with applicable laws, Owner shall supply InGensa with any information in its possession relating to the presence of ACM in areas where InGensa undertakes any services that may result in the disturbance of ACM. It is InGensa’s policy to seek certification for facilities constructed prior to 1982 that no ACM is present, and Owner shall provide such certification for buildings it owns, or aid InGensa in receiving such certification from facility owners in the case of buildings that it does not own, if InGensa will undertake any services in the facility that would disturb ACM. If either Owner or InGensa becomes aware of or suspects the presence of ACM that may be disturbed by InGensa’s services, it shall immediately stop the services in the affected area and notify the other’s contacts. If ACM is identified in the information provided by the Owner to InGensa, and the Project services will disturb or require abatement of any ACM, the Owner shall be responsible at its sole expense for addressing abatement of such ACM. Except where InGensa expressly agrees to provide environmental services under this Agreement, InGensa shall have no obligation to monitor, verify or otherwise warrant that such abatement work has been completed.

§ 4.1.4.2 Other Hazardous Materials – InGensa shall have no obligations relating to the identification, abatement, cleanup, control, removal or disposal of mold, regardless of the cause of the mold. InGensa shall be responsible for removing or disposing of any Hazardous Materials that it uses in providing any services (“InGensa Hazardous Materials”) and, other than mold, for the remediation of any areas impacted by the release of InGensa Hazardous Materials. For other Hazardous Materials that may be otherwise present at its facilities (“Non-InGensa Hazardous Materials”), Owner shall supply InGensa with any information in its possession relating to the presence of such materials if their presence may affect InGensa’s performance of any services. If either Owner or InGensa becomes aware of or suspects the presence of Non-InGensa Hazardous Materials that may interfere with InGensa’s services, it shall immediately stop the services in the affected area and notify the other’s contacts. As between Owner and InGensa, Owner shall be responsible for removing and disposing of mold and Non-InGensa Hazardous Materials from its facilities and the remediation of any areas impacted by mold or the release of Non-InGensa Hazardous Materials.

§ 4.1.4.3 Environmental Indemnity – To the fullest extent permitted by Law, Owner shall indemnify and hold harmless InGensa and InGensa’s Subconsultants, and their respective directors, officers, employees, agents, representatives, shareholders, affiliates, and assigns and successors, from and against any and all losses, costs, damages, expenses (including reasonable legal fees and defense costs), claims, causes of action or liability, directly or indirectly, relating to or arising from the Owner’s use, or the storage, release, discharge, handling or presence of ACM, mold or Non-InGensa Hazardous Materials on, under or about the facilities, or Owner’s failure to comply with this Section 4.1.4.

§ 4.1.5 FORCE MAJEURE – Neither party shall be responsible to the other for damages, loss, injury or delay caused by conditions beyond its reasonable control, and without the intentional misconduct or negligence of that party (“Uncontrollable Events”). Uncontrollable Events include, but are not limited to: (a) extreme acts of nature for which reasonable measures were taken by the party to mitigate the effects, where possible; (b) acts of Government agencies; (c) strikes and/or labor disputes; (d) fire; (e) explosions or other casualties; (f) thefts; (g) vandalism; (h) terrorism, riots or war; (i) unavailability of parts, materials or supplies; (j) change in law, including the promulgation, modification or repeal of any law or the imposition of any material condition on the issuance or renewal of any permit which (A) occurs after the Effective Date, (B) establishes new laws or requires any new or

existing permits, or modifies any law or permit requirement for the Project existing as of the Effective Date, or (C) materially and adversely affects the cost or expense of the services to InGensa; (k) lawsuits from parties seeking to enjoin the Owner, InGensa or both from performing in accordance with the Agreement, or (l) any other event beyond InGensa's control.

§ 4.1.6 DELAYS – If either party is delayed in the commencement or completion of these services by failure of the other party to perform its obligations under this Agreement and Schedules or failure by the other party to cooperate in the timely condition of the services, then the delayed party shall provide written notice to the other party of the existence, extent of, and reason for such delays. An equitable adjustment in completion dates and compensation shall be made as a result.

§ 4.2 MEDIATION

§ 4.2.1 INTENTIONALLY OMITTED

§ 4.2.2 The Owner and InGensa shall endeavor to resolve claims, disputes and other matters in question between them by mediation. A request for mediation shall be made in writing, delivered to the other party to the Agreement, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of a complaint or other appropriate demand for binding dispute resolution but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of sixty (60) days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration proceeding is stayed pursuant to this Section, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

§ 4.2.3 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation and ratified by the Owner's Board shall be enforceable as settlement agreements in any court having jurisdiction thereof.

§ 4.2.4 If the parties do not resolve a dispute through mediation pursuant to this Section 4.2, the method of binding dispute resolution shall be the following:

(Check the appropriate box. If the Owner and InGensa do not select a method of binding dispute resolution below, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, the dispute will be resolved in a court of competent jurisdiction.)

Arbitration pursuant to Section 4.3 of this Agreement

Litigation in a court of competent jurisdiction

Other (Specify)

§ 4.3 INTENTIONALLY OMITTED

ARTICLE 5 TERMINATION OR SUSPENSION

§ 5.1 Except for amounts that are the subject of a good-faith dispute, if the Owner fails to make payments to InGensa in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination or, at InGensa's option, cause for suspension of performance of services under this Agreement. If InGensa elects to suspend services, InGensa shall give seven (7) days' written notice to the Owner before suspending services. In the event of a suspension of services, InGensa shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services. Before resuming services, InGensa shall be paid all sums which are not the subject of a good-faith dispute prior to suspension and any expenses incurred in the interruption and resumption of InGensa's services. InGensa's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 5.2 If the Owner suspends the Project, InGensa shall be compensated for services performed prior to notice of such suspension. When the Project is resumed, InGensa shall be compensated for expenses incurred in the interruption and resumption of InGensa's services. InGensa's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 5.3 If the Owner suspends the Project for more than ninety (90) cumulative days for reasons other than the fault of InGensa, InGensa may terminate this Agreement by giving not less than seven (7) days' written notice.

§ 5.4 Either party may terminate this Agreement upon not less than seven (7) days' written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination.

§ 5.5 The Owner may terminate this Agreement upon not less than seven (7) days' written notice to InGensa for the Owner's convenience and without cause.

§ 5.6 In the event of termination not the fault of InGensa, InGensa shall be compensated for services performed prior to termination, together with Reimbursable Expenses as defined in Section 6.2 then due.

§ 5.7 INTENTIONALLY OMITTED

§ 5.8 In the event of Termination, and upon payment to InGensa of all sums that are not the subject of a good faith dispute, the Owner and its designated agents and consultants, shall have a non-exclusive license to use InGensa and its Subconsultants' Instruments of Service, documents, data, and records relating to the Project, in the condition they were in on the date of Termination, for the limited purpose of completing, maintaining, and operating the Project. InGensa's contracts with its Subconsultants shall incorporate provisions whereby its Subconsultants agree to be bound by the terms of this section. Upon request, InGensa and its Subconsultants shall promptly furnish the Owner with legible copies of their Instruments of Service, documents, data, and records relating to the Project, and the Owner shall reimburse InGensa for the reasonable copying and clerical expenses therefor.

ARTICLE 6 COMPENSATION

§ 6.1 The Owner shall compensate InGensa for services described in Section 1.1 as set forth below:

The Owner shall compensate InGensa in the amount of TBD for:

- Program Management,
- Architectural & Engineering (Mechanical, Electrical, Civil, Structural),
- Construction Management,
- Commissioning Services,
- General Conditions,
- All Reimbursables and other services as described herein.

§ 6.1.1 General Conditions include the following:

1. Building Permit
2. Plan Review
3. Job site Office Trailer
4. Job site Office Equipment
5. Construction Signage
6. Safety Barricade
7. Temporary Toilets

§ 6.2 INTENTIONALLY DELETED

§ 6.3 COMPENSATION FOR USE OF INSTRUMENTS OF SERVICE

The Owner's non-exclusive license to use Instruments of Service shall be at no additional cost and governed by Section 5.8.

§ 6.4 PAYMENTS TO INGENSA

§ 6.4.1 INTENTIONALLY OMITTED

§ 6.4.2 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of InGensa's invoice. Amounts unpaid thirty-five (35) days after

the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of InGensa.

Interest at the rate of four percent (4.00%) per annum simple interest.

§ 6.4.3 The Owner shall not withhold amounts from InGensa's compensation to impose a penalty or liquidated damages on InGensa. The Owner's right, if any, to offset sums due InGensa shall be governed by applicable law.

§ 6.4.4 InGensa and its Subconsultants shall keep and maintain accurate documentation of all claimed reimbursable expenses in such a form that they may be independently audited and shall provide said documentation with every invoice seeking payment for those expenses.

ARTICLE 7 MISCELLANEOUS PROVISIONS

§ 7.1 This Agreement shall be governed by the law of the place where the Project is located.

§ 7.2 Terms in this Agreement shall have the same meaning as those in AIA Document A201-2007, General Conditions of the Contract for Construction.

§ 7.3 The Owner and InGensa, respectively, bind themselves, their agents, successors, assigns and legal representatives to this Agreement. Neither the Owner nor InGensa shall assign this Agreement without the written consent of the other, except that the Owner may assign this Agreement to a lender providing financing for the Project if the lender agrees to assume the Owner's rights and obligations under this Agreement.

§ 7.4 If the Owner requests InGensa to execute certificates, the proposed language of such certificates shall be submitted to InGensa for review at least fourteen (14) days prior to the requested dates of execution. If the Owner requests InGensa to execute consents reasonably required to facilitate assignment to a lender, InGensa shall execute all such consents that are consistent with this Agreement, provided the proposed consent is submitted to InGensa for review at least 14 days prior to execution. InGensa shall not be required to execute certificates or consents that would require knowledge, services or responsibilities beyond the scope of this Agreement.

§ 7.5 Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the Owner or InGensa.

§ 7.6 Subject to Owner's written consent, consent not to be unreasonably withheld, InGensa shall have the right to include photographic or artistic representations of the design of the Project among InGensa's promotional and professional materials. InGensa shall be given reasonable access to the completed Project to make such representations. However, InGensa's materials shall not include the Owner's confidential or proprietary information if the Owner has previously advised InGensa in writing of the specific information considered by the Owner to be confidential or proprietary. The Owner shall provide professional credit for InGensa in the Owner's promotional materials for the Project.

§ 7.7 If Owner receives information specifically designated by the other party as "confidential" or "business proprietary," Owner shall, subject to the Minnesota Government Data Practices Act, keep such information strictly confidential and shall not disclose it to any other person except to (1) its employees, (2) those who need to know the content of such information in order to perform services or construction solely and exclusively for the Project, or (3) its consultants and contractors whose contracts include similar restrictions on the use of confidential information. InGensa maintains that this Agreement does not constitute the "privatization" of any of Owner's government functions, or otherwise require or authorize InGensa to perform any such functions as defined in Minn. Stat. Chapter 13 ("Chapter 13") or otherwise. InGensa further maintains that data created, collected, received, stored, used, maintained, or disseminated by InGensa in connection with this Agreement, but not conveyed to Owner, is confidential and not subject to disclosure under Chapter 13. Owner will promptly notify InGensa, and InGensa will promptly notify Owner, of any Chapter 13 requests relating to the Project.

§ 7.8 If the services covered by this Agreement have not been completed by December 31, 2026, through no fault of InGensa, extension of InGensa's services beyond that time shall be compensated accordingly.

§ 7.9 Pursuant to Minnesota Statutes, Section 16C.05, subd. 5, InGensa agrees that the books, records, documents and accounting procedures and practices of InGensa, that are relevant to the Contract or transaction, are subject to examination by the Owner and the state auditor for a minimum of six (6) years. InGensa shall maintain such records for a minimum of six (6) years after final payment.

§ 7.10 All payments made to InGensa under this Agreement shall be governed by the Municipal Prompt Payment Act, Minnesota Statutes, Section 471.425 (“PPA”). InGensa shall comply with subdivision 4a of the PPA requiring payment to its Subconsultants within ten (10) days of receipt or be subject to the penalties set forth in PPA subdivision 4a.

ARTICLE 8 SPECIAL TERMS AND CONDITIONS

Special terms and conditions that modify this Agreement are as follows:

«None.»

ARTICLE 9 SCOPE OF THE AGREEMENT

§ 9.1 This Agreement represents the entire and integrated agreement between the Owner and InGensa and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both Owner and InGensa.

§ 9.2 This Agreement is comprised of the following documents listed below:

- .1 AIA Document B102–2007, Standard Form Agreement Between Owner and Architect
- .2 AIA Document B201–2007, Standard Form of Architect’s Services: Design and Construction Contract Administration
- .3 AIA Document B144 ARCH/CM-1993, Standard Form of Amendment for the Agreement Between Owner and Architect
- .4 B102 Exhibit A: Lewiston-Altura Public Schools #857 Scope of Work
- .5 B201 Exhibits A and B

This Agreement entered into as of the day and year first written above.

OWNER

« »

(Signature)

Gwen Carman, Superintendent
(Printed name and title)

OWNER

« »

(Signature)

Brein Maki, Board Chairperson
(Printed name and title)

INGENSA, INC.

« »

(Signature)

Jacqueline Coleman, CEO & President
(Printed name and title)

62892111.2