



Professional Services Agreement

This Professional Services Agreement (the "Agreement") is entered into as of this 1st day of January, 2015 (the "Effective Date") by and between Rosebrook Water Company, ("Consultant"), a New Hampshire based company and Omni Hotels Management Corporation, ("Client"), with respect to the property commonly known as "Omni Mount Washington Resort" in Bretton Woods, NH. In consideration of the mutual covenants contained herein, and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, Client and Consultant hereby agree as follows:

1. **Description of Services.** Consultant shall perform the professional services ("Services") that are described on Exhibit "A" attached hereto.
2. **Compensation for Services.**
 - a. **Payments to Consultant:** Client shall pay Consultant for the services on a time and materials basis in accordance with Consultant's Schedule of Fees attached hereto as Exhibit "B" (the "Schedule of Fees").
 - b. **Invoices:** Consultant will invoice Client at the beginning of each month for the agreed upon amount of \$3,738/month which is 33% of the employee's wages. Additional services will be invoiced as an additional amount due. Payment is due to Consultant within fifteen days.
3. **Confidentiality.** All intellectual, technical, and commercial information of or concerning Client, whether oral or written, obtained by Consultant in the course of performing the Services (the "Confidential Information") shall be deemed to be confidential, restricted, and proprietary to Client. Consultant shall not reproduce or disclose any Confidential Information except as necessary to efficiently carry out the Services. Information that is (a) in the public domain, (b) known to or in the possession of Consultant prior to obtaining it in the course of performing the Services, or (c) developed by Consultant or others independently from Client and outside of the course of performing the Services, shall not be deemed Confidential Information. Consultant may disclose Confidential Information if and as required to do so by subpoena or court order.
4. **Promotion.** Consultant shall acquire no right under this Agreement to use, and shall not use, the name or any mark of Client, of any other affiliated company in any of Consultant's advertising, publicity, or promotion to express or imply any endorsement by the above-named parties of Consultant's services or in any other manner whatsoever.
5. **Termination.** Client may, at any time, for any reason and without cause, terminate this Agreement or suspend Consultant's rendering of services hereunder upon written notice to Consultant. Upon such termination, Consultant shall immediately stop work and Client shall pay Consultant the agreed upon amount for all Services performed by Consultant through the date of termination.
6. **Insurance.** Consultant shall purchase and maintain policies of insurance which names Client and Owner as additional insureds and will protect against claims which may arise out of Consultant's provision of the Services under this Agreement, including coverage for the following:



- a. Commercial General Liability Insurance with minimum limits of \$2,000,000 combined single limit bodily injury and property damage liability per occurrence.
- b. Workers' Compensation Insurance as required by applicable law.
- c. General Environmental Insurance as required by applicable law.

7. Miscellaneous.

- a. **Notices:** Any notice, request, demand or other communication given or required to be given hereunder ("notice") shall be in writing and personally delivered, or sent by United States registered or certified mail, return receipt requested, postage prepaid, or sent by a nationally recognized courier service such as Federal Express, addressed to the person who executed this Agreement on behalf of the party to whom notice is being given at such person's primary business address.
- b. **Governing Law:** This Agreement shall be governed by the laws of the State of New Hampshire, and any questions arising hereunder shall be construed or determined according to such laws.
- c. **Relationship of Parties:** This Agreement shall not be construed in any way to create a partnership of joint venture between the parties. The sole relationship of Consultant to Client is that of an independent contractor.
- d. **Attorneys' Fees:** If any party commences an action of Suit against another party arising out of the Agreement, whether it be an action for damages, equitable or declaratory relief, or otherwise, the prevailing party in such action or suit, whether or not suit proceeds to final judgment or whether it is settled out of court, shall be entitled to its reasonable attorneys' fee and court and other costs and expenses incurred. Except in the case of an out of court settlement, the prevailing party shall be the party who is entitled to recover its costs of suit, and a party not entitled to recover its costs shall not recover attorneys' fees.
- e. **Counterparts:** This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original but all of which shall constitute one and the same instrument.

IN WITNESS WHEREOF, the undersigned have executed this Agreement as the Effective Date.

"Consultant"

Rosebrook Water Company, Inc.

BY: *Leah Wall* Date: *1/20/15*

Its: *Finance Manager*

"Client":

Omni Hotels Management Corporation

BY: *Stephen Hillbard* Date: *1/19/15*

Its: *Stephen Hillbard*
Managing Director



EXHIBIT "A"

Scope of Services

The basic services for the above Agreement are described as follows:

Drinking Water:

1. Water quality sampling at Top of Quad Restaurant minimum four times per year for bacteria and once per year for nitrate as required by NHDES.
2. Water quality sampling at The Lodge minimum four times per year for bacteria and once per year for nitrate as required by NHDES.

Wastewater:

1. Daily maintenance and upkeep of Hotel and Spa/Nordic Center pump stations, lagoons and lagoon area, pumps, blowers, blower building and weekly inspection of infiltration basins.
2. Inspection of pump stations at Base Lodge and First Aid Buildings. Fabyans and Bretton Arms pump stations and leach fields also included.
3. Sampling and testing for the Groundwater and Surface Water Quality Monitoring Program near Hotel rapid infiltration basins. Frequency as required by NHDES.
4. Recording of data from the piezometers near rapid infiltration basins once per week/52 weeks per year.
5. Weekly sampling and testing of influent and effluent samples.

Monthly reporting to NHDES.

Emergency on-call response availability 24 hours per day, 7 days per week. 52 weeks per year.



EXHIBIT "B"

Schedule of Fees

Currently the fees have been established to be approximately \$3,804 per month for the services described in Exhibit "A". This number will be adjusted from time to time in order to allow for salary/benefits increases for its employees. Notification will be provided in advance of any increase or change in monthly fee.

Any work that is additional to the scope that is outlined in Exhibit "A" will be billed out on a time and material basis.

Consultant will invoice Client at the beginning of each month for services to be performed during that month. **Payment is due from Client within fifteen days of invoice date.**