

PROFESSIONAL SERVICES AGREEMENT

FOR A CORPORATION

PART I: GENERAL INFORMATION

COMPANY Information:

Name: Urban Offsets, Inc.
1250 Revolution Mill Dr.
Studio 128
Greensboro, NC 27405
Email: chris@urbanoffsets.co

American University Information:

Department: Office of Sustainability
Contact: Megan Litke
Telephone: 202.885.6262 Email: meganl@american.edu

PART II: TERMS AND CONDITIONS

1. **Introduction.** This Agreement is dated, October 30, 2017, between American University (AU) and Urban Offsets, Inc., a Delaware corporation ("COMPANY").
2. **Representations.** The COMPANY represents the following:
 - a. The COMPANY has no family relationship or business affiliation with AU, other AU employee or third party that would lead to a conflict of interest.
 - b. Neither federal funds, nor grant funds are being used to pay the fees of the COMPANY.
 - c. Services to be performed are essential and cannot be provided by persons receiving salary support from AU in the area of responsibility.
 - d. During the performance of Services, the COMPANY shall comply with all applicable state and federal laws, and the Policies and Procedures of AU.
3. **Services to be Performed.** COMPANY shall provide AU certain services ("SERVICES") specified in the attached Scope of Work ("SOW") to be incorporated herein and made a part of this Agreement. The attached SOW shall incorporate the terms and provisions of this Agreement. To the extent an SOW provides additional and/or conflicting terms to this Agreement, the terms of the Agreement shall prevail.

AU reserves the right to make changes to the Services to be provided which are within the

attached Scope of Work. Such changes and any added cost or cost reduction to AU must be agreed to in writing and signed by an authorized representative of both parties prior to proceeding with any changes.

4. Term and Termination. The performance period of this Agreement shall begin on the effective date November 1, 2017 ("Effective Date"), and shall continue until the COMPANY has completed the Services in accordance with the SOW or on April 30, 2020, whichever occurs first, unless a) AU exercises the option(s) to purchase additional offsets or b) this Agreement is terminated earlier, as provided below.

In addition, as set forth in the SOW, AU has the option to purchase 6,500 MTCO₂e offsets in May 2020 (Option #1) and an additional option to purchase 6,500 MTCO₂e offsets in May 2021 (Option #2). Option #1 must be exercised before September 1, 2018 and Option #2 before September 1, 2019.

AU may terminate this Agreement, in whole or in part, for its convenience at any time upon thirty (30) days prior written notice to the COMPANY. In case of such termination for convenience, AU shall be responsible for any portion of the fees validly owed to COMPANY under Section 5 or the attached SOW, for any Services properly provided up to the day that notice of termination is delivered and that no work be performed thereafter without the express written permission from AU. If either Party commits a material breach of any provision of this Agreement, the other Party may terminate this Agreement, in whole or in part, after providing fifteen (15) days' prior written notice and an opportunity to cure; provided, however, that, in addition to the other legal and equitable remedies that AU may pursue to redress such breach, COMPANY shall promptly reimburse AU the fees paid by AU to COMPANY for the deficient Services giving rise to such breach in addition to any additional expenses incurred by AU for satisfactory completion of the Services.

5. Payment. All payments related to the properly delivered and accepted services provided herein or referenced in the attached SOW shall be paid by AU. Payments by AU to COMPANY should be net 30 after receipt of a valid invoice. The COMPANY shall submit an invoice for services and or products rendered by the COMPANY **by email with the appropriate reference of a purchase order or contact name to accountspayable@american.edu**. In consideration of the Services to be performed by COMPANY under this Agreement, AU shall pay to COMPANY fees according to the SOW. COMPANY agrees to obtain AU's advance written approval for all expenses not related to the SOW. COMPANY agrees to be responsible for any and all expenses not defined herein or in the attached SOW.

6. Independent Contractor. The COMPANY is retained by AU and shall perform the services under this Agreement as an independent contractor as defined in IRS code, section 3509. The COMPANY shall not be considered under the provisions of this Agreement or otherwise as having an employee status or be extended coverage under unemployment and Workers' Compensation insurance or other group insurance plans and temporary disability, or be entitled to participate in any plans, arrangements or distributions by AU pertaining to or in connection with any pension, bonus or similar benefit plans. The COMPANY has no power or authority to act for, represent, or bind AU in any manner. The COMPANY is solely responsible for the payment of his/her self-

employment, income and social security taxes. Affirmative Action Programs of AU and applicable Federal regulations are binding on the COMPANY.

COMPANY shall not have the authority to enter into any contract to bind AU and shall not represent to anyone that COMPANY has such authority.

7. Indemnification/Hold Harmless. The COMPANY shall indemnify and hold AU harmless from any and all loss or damage to persons or property which AU or its employees may suffer on account of any accident or occurrence caused by the COMPANY. In consideration of the mutual agreements set forth in this Agreement, the COMPANY relieves, acquits, and forever discharges AU of and from any and all liabilities, causes of action, claims, costs, damages, expenses, lawsuits, demands or other amounts (including reasonable attorneys' fees) arising from or relating to any claims (i) for loss, injury or damage to a person, property, or business resulting from the COMPANY's negligent or willful acts or omissions in connection with the Services or (ii) resulting from the COMPANY's breach of any of its obligations, representations or warranties under this Agreement, except to the extent where the same is caused by the negligence or willful misconduct of AU.

8. Intellectual Property Rights. Unless otherwise expressly set forth in an SOW, all intellectual property rights in the Services, including but not limited to, any deliverable furnished to AU as part of the Services or any modifications, customizations and interfaces developed with respect to a deliverable (the "Deliverables"), in whole or in part, provided to AU by COMPANY under an SOW and this Agreement are retained solely by, and with respect to any such modifications, customizations and interfaces do hereby vest exclusively in, the COMPANY. Unless otherwise expressly set forth in a Statement of Work, AU shall be entitled to keep copies of any Deliverables provided to AU by the COMPANY in connection with this Agreement in the possession of AU at the time of the termination of this Agreement, provided that AU has paid all sums due and owing for the Deliverables; AU, however, shall not be entitled to modify or use such Deliverables to provide services, whether internally or externally, similar to the Services provided by the COMPANY. The COMPANY warrants and represents that the COMPANY is the sole owner of the Deliverables and all the rights herein granted, and has full right and power to make this Agreement. The COMPANY shall indemnify and hold harmless AU, its successors, assigns and licensees, and the respective officers, directors, agents and employees, from and against any and all third party claims, damages, liabilities, costs and expenses (including reasonable attorneys' fee) (collectively, "Claims"), arising out of or in any way connected with any breach of any representation, warranty, or covenant made by the COMPANY herein. AU (i) shall promptly give notice of the Claim to the COMPANY once the Claim is known, (ii) shall give the COMPANY sole control of the defense and settlement of such Claim (provided that the COMPANY may not settle such Claim unless such settlement unconditionally releases AU of all liability and does not adversely affect AU's business, (iii) shall provide the COMPANY with all available information and reasonable assistance, and (iv) shall not compromise or settle such third-party Claim without the COMPANY's approval (such approval not to be unreasonably withheld). Without limiting the rights of the parties for equitable relief and except for indemnification obligations under this Section 8 and breach of confidentiality provisions under Section 11, other than in respect of fraud, willful breach or the failure to make any payment properly due hereunder, in no event (A) will either party's liability arising out of or related to this Agreement exceed the fees actually paid to the COMPANY by AU and/or properly due from AU pursuant to this Agreement during the twelve month period immediately preceding the claim and (B) will either party be liable for any consequential, indirect, special, incidental, exemplary or punitive damages of any type or kind (including loss of revenue, profits, use or other economic advantage), including but not limited to the use or inability to use the deliverables, any inaccuracy, error or omission, regardless of cause. the liabilities limited by this Section 8 apply: (i) to liability for

negligence; (ii) regardless of the form of action, whether in contract, tort, strict product liability, or otherwise; (iii) even if a party is advised in advance of the possibility of the damages in question and even if such damages were foreseeable; and (iv) even if a party's remedies fail of their essential purpose. If applicable law limits the application of the provisions of this Section 8, each party's liability will be limited to the maximum extent permissible.

9. Warranties. During the performance of Services, the COMPANY shall comply with all applicable state and federal laws, and the Policies and Procedures of AU. The COMPANY warrants that all services performed under this Agreement shall be performed in a good and workmanlike manner and shall conform to the specifications, drawings, samples, other description, and terms and conditions contained or referenced herein. All services shall be subject to the University's inspection before acceptance, and payment for services rendered shall not constitute a waiver of any of the rights granted to the University under this section.

10. Insurance. If COMPANY is to perform any of the Service on AU premises, then COMPANY shall, at its sole expense, purchase and maintain the following minimum insurance for the duration of this Agreement:

- a. Commercial General Liability against all claims of bodily injury, death, personal injury, coverage for contractual employees, or property damage with a combined single limit of \$1,000,000 each occurrence, \$2,000,000 general aggregate, and \$1,000,000 products and or completed operations aggregate.
- b. Workers' Compensation and Employer's Liability as required by law with statutory limits. Employer's Liability shall be provided in the amounts of not less than \$500,000 per each accident for bodily injury, \$500,000 per disease per each employee, and \$500,000 policy limit per disease.
- c. Commercial automobile liability, for bodily injury and property damage of \$1,000,000 each accident combined single limit with respect to COMPANY's owned, non-owned, hired, or borrowed vehicles, assigned to or used in performance of this Agreement.

Policies shall be endorsed to include AU, its agents, officials and employees and additional insureds for ongoing and completed operations. COMPANY and its insurers shall waive all rights of subrogation or recovery against AU. Insurance policies shall be issued by reputable insurance companies duly authorized to engage in the insurance business in the District of Columbia with an A.M. Best's rating of A-, VII or better. Certificates of Insurance shall be mailed to the Purchasing Department at the following address PRIOR to any Services being performed-American University, 4400 Massachusetts Ave., N.W., Spring Valley Building 3rd floor, Washington D.C., 20016-8020. AU reserves the right to waive or reduce the insurance requirements at AU's sole discretion.

If allowed under section 16 below, subcontractors of COMPANY must provide and maintain the same levels of insurance as COMPANY must under this section 10.

11. Confidential Information. In the course of performing its obligations under this Agreement, a party (the "Disclosing Party") may communicate information to the other party (the "Receiving Party") or the Receiving Party may have access to Disclosing Party information, which may or may not be related to this Agreement. The Receiving Party shall treat all such information as confidential, whether or not it is identified as confidential. The Receiving Party shall not disclose to any third party or use, for purposes not set forth in this Agreement, any reports,

recommendations, opinions, and/or conclusions which Receiving Party may provide to Disclosing Party as part of its services or may have received from Disclosing Party. Except as expressly permitted by this Agreement, for a period of three (3) years from the termination of this Agreement, the Receiving Party shall protect the Confidential Information of Disclosing Party from unauthorized dissemination, using the same degree of care which Receiving Party ordinarily uses with respect to its own proprietary information, but in no event with less than reasonable care. "Confidential Information" will not include information that: (i) is or becomes generally known or available by publication, commercial use or otherwise through no fault of the Receiving Party; (ii) is known and has been reduced to tangible form by the Receiving Party at the time of disclosure and is not subject to restriction; (iii) is independently developed by the Receiving Party without use of Disclosing Party's Confidential Information; (iv) is lawfully obtained from a third party who has the right to make such disclosure; or (v) is released for publication by Disclosing Party in writing. Receiving Party may disclose the terms and conditions of this Agreement or its existence to third parties having a need to know, such as auditors, banks, financial advisors or other third parties entering into or considering entering into a material transaction with Disclosing Party, provided such third parties are bound to a written obligation of confidentiality. Receiving Party acknowledges that the unauthorized disclosure or use of any Confidential Information could cause irreparable harm and significant injury to Disclose Party, the extent and consequences of which may be impossible to assess. Therefore, the Receiving Party agrees that if Disclosing Party believes its Confidential Information is about to be, or has been, disclosed contrary to this Agreement, that Disclosing Party has the right to seek an immediate injunction enjoining any, or any further, breach of this Agreement in addition to any other legal or equitable remedies Disclosing Party may be entitled to pursue. Notwithstanding the foregoing, Receiving Party may disclose Confidential Information as required by applicable law or by proper legal or governmental authority. Receiving Party will give Disclosing Party prompt notice of any such legal or governmental demand and reasonably cooperate with Disclosing Party in any effort to seek a protective order or otherwise to contest such required disclosure, at Disclosing Party's expense, and shall disclose only that part of the Confidential Information that Receiving Party is required to disclose.

12. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the District of Columbia.

13. Marks and Publicity. Neither party may use the name, logo, trademarks, service marks, publications or other proprietary identifying symbols of the other party in any press release, press related or advertising media without the prior written consent of the other party.

14. Non-assignment. This Agreement is personal to the COMPANY and may not be assigned, without the prior written consent of AU; provided, however, that the COMPANY may assign its rights and obligations under this Agreement to any successor by way of merger, consolidation, reorganization or acquisition of all or substantially all of its business and assets to which this Agreement relates, without the prior written consent of AU if such successor assumes the COMPANY's obligations under this Agreement in writing.

15. Force Majeure. The parties hereto shall not be responsible for any failure or delay in the performance of any obligations hereunder caused by acts of God, fire, flood, war, riot or public enemy.

16. Subcontracting. None of the services to be provided hereunder, or any portion thereof, shall be subcontracted by COMPANY without the prior written consent of AU.

17. Severability. If any term or provision of this Agreement or the application thereof to any

person or circumstance shall to any extent be invalid or unenforceable, the remainder of this Agreement or the application of such term or provision to persons or circumstances other than those to which it is held invalid or unenforceable shall not be affected thereby, and each term and provision of the Agreement shall be valid and enforceable to the fullest extent permitted by law.

18. Conflict of terms. All of the terms and conditions of this Agreement are deemed incorporated into any COMPANY's agreement or proposal. In the event of a conflict between the terms of this Agreement and the COMPANY's proposal, the terms of the AU Professional Services Agreement shall prevail to the extent necessary.

19. Patient or Student Information. In the event that the Services involve access to patient care areas and/or access to or use of protected health information OR access or involvement with student records, then COMPANY agrees to comply with all applicable federal, state and local laws, rules and regulations including the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") and Family Educational Rights and Privacy Act ("FERPA") in the respective performance of COMPANY's obligations hereunder.


20. Non-Discrimination. The COMPANY agrees not to discriminate in any manner on the basis of sex, race, creed, age, color, national origin, religious belief, disability, status as a disabled veteran, or veteran of the Vietnam era, and to comply with all non-discriminatory laws and policies which University promulgates and to which University is subject.

21. Signatures. With the consent of AU and the COMPANY, facsimile signatures will be considered originals in the execution of this Agreement.

22. Entire Agreement/Amendments. This Agreement contains the entire agreement of AU and the COMPANY and no terms may be modified or waived except by the mutual written consent of both AU and the COMPANY.

AMERICAN UNIVERSITY

Urban Offsets, Inc.

Signed: 

Signed: Shawn Gagne

By: Laura McAndrew

By: Shawn Gagne

Assistant Vice President of Treasury

Title: Founder & CEO

Date: 11/3/17

Date: November 1, 2017

Exhibit A/SOW-

Section 1.2 of the RFP - Pricing as submitted September 25, 2017 at 9:50am and enumerated below:

SERVICES: On or before each date identified under "Section 1.2 Requirements" below, the COMPANY will have retired the applicable number of MTCO₂e's below on AU's behalf by planting or causing to be planted the applicable number of trees set forth below. AU shall pay the associated Total Price set forth below with respect to each such bundle.

1.2 REQUIREMENTS

Community Carbon BundlesTM

6,500 MTCO₂e in October 2017 [REDACTED]

ID: CAR476 - Delivery within 30 days of issuance, no later than November 30, 2017. Trees planted: 650

6,500 MTCO₂e in May 2018 [REDACTED]

ID: To be determined - Delivery within 30 days of issuance, no later than June 30, 2018. Trees supported: 650

6,500 MTCO₂e in May of 2019 [REDACTED]

ID: To be determined - Delivery within 30 days of issuance, no later than June 30, 2019. Trees supported: 650

Options:

6,500 MTCO₂e in May 2020 [REDACTED]

ID: To be determined - Delivery within 30 days of issuance, no later than June 30, 2020. Trees supported: 650

6,500 MTCO₂e in May 2021 [REDACTED]

ID: To be determined - Delivery within 30 days of issuance, no later than June 30, 2021. Trees supported: 650