



# Archipelago Services LLC

## Service Provider Agreement

**THIS AGREEMENT** entered into by and between Archipelago Services LLC, hereinafter "ARCH", located at 1 Altoona Place, Pittsburgh, PA 15228 and \_\_\_\_\_ (Contractor Name) located at \_\_\_\_\_ (Contractor's Address), hereinafter referred to as "Contractor", is made as follows:

hereas, ARCH desires to have property services performed with respect to certain properties located in the state(s) of \_\_\_\_\_ (State's Contractor provides services),

and Whereas, Contractor agrees to perform such services under the terms and conditions stated herein and, Whereas ARCH is in the business of providing inspection and property preservation services for its clients. Now therefore, in consideration of the payment of certain fees and the receipt of work the parties mutually agree as follows:

**DUTIES:** Contractor shall perform property services and/or other duties as may be requested from time to time as ordered by ARCH for ARCH clients. ARCH shall provide Contractor with specific tasks that Contractor is to perform hereunder, and the timeframe(s) by which such tasks are to be completed. All services shall be completed and required photos uploaded/emailed in accordance with the timeframes as provided by ARCH. Contractor shall perform all services promptly and diligently in a workman like manner within the time requested. All services will be performed in accordance with ARCH present and future service standards, ARCH Vendor Memoranda and as otherwise required by ARCH, and other relevant governmental and private entities. ARCH Vendor Memoranda is defined as any document, paper or electronic, which delineates procedures and requirements relative to the performance of property services and the standards as required by either ARCH clients, HUD, FHA, VA, and other relevant governmental and/or private entities. Contractor compliance regarding documentation, evidentiary, and time of performance requirements is a material requirement of this Agreement. Contractor understands that time is of the essence in providing ARCH with the information, reports, services, invoices, photographs, and other services ordered by ARCH pursuant to this Agreement. Contractor further understands and acknowledges that ARCH may suffer significant damages in the event Contractor does not perform its duties hereunder in a timely manner as requested and ordered by ARCH. In the event Contractor fails to complete any task assigned pursuant to this Agreement, ARCH may at its sole discretion 1) recover its damages from Contractor by offsetting such sums from future payments for work performed by Contractor prior to or subsequent to Contractor's breached work assignment, and 2) engage another qualified party to complete Contractor's property services assignment. Damages are such sums as may be withheld from ARCH by its clients or which an ARCH client requests and receives reimbursement from ARCH, ("Chargebacks") and/or any profit that ARCH was entitled to receive if the Contractor performed the work in accordance with this Agreement. Damages may be offset by ARCH in the event that the Contractor breaches this Agreement, fails to complete work within the required timeframes, fails to submit complete documentation supporting work completed in a timely manner, and/or fails to provide photographs evidencing work in a timely manner. Contractor must save all documents including but not limited to bids, invoices, photos, and receipts for 2 years. If ARCH engages a third party to complete Contractor's uncompleted property preservation service(s) or property inspection(s), ARCH may withhold and offset from Contractor's future payments, the funds paid to said third party and any profit due to ARCH from client which is withheld by client due to delay of completion of service.

**WORK ASSIGNMENTS:** The parties agree that each job contracted and assigned to Contractor shall be on a job-by-job basis and that this Agreement shall govern all transactions between the parties. ARCH reserves the right to reassign work at its sole discretion.

**EXCLUSIVITY:** This Agreement is not exclusive. ARCH reserves the right to engage the services of other Contractors to perform similar services in Contractor's geographic area as defined in this Agreement. Contractor reserves the right to perform similar services for others, with the exception of ARCH customers, directly or indirectly, for a period of 6 (six) months from the last completed work item by Contractor.

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**INDEPENDENT CONTRACTOR:** Contractor acknowledges that it is an independent Contractor not an employee of ARCH. Contractor shall be solely responsible for all federal, state and local income taxes, unemployment taxes, social security taxes, and contributions of any kind, worker's compensation insurance, worker's compensation premiums, and any and all other forms of insurance and/or taxes required to provide the services outlined in this Agreement. Nothing in this Agreement shall be construed to create an employer/employee relationship, joint venture or partnership agreement between the parties hereto. Contractor is solely responsible for the work to be performed and, other than receiving the request and description of work from ARCH; ARCH does not have control of or direct the work to be done.

**INDEMNITY:** Contractor agrees to save, defend and indemnify, and hold harmless, ARCH from and against any and all claims of any kind, whatsoever arising from (i) any act, omission or negligence by Contractor, Contractor's agents, employees, representatives, subcontractors and any and all others acting upon Contractor's behalf, or (ii) any accident injury or damage caused to any person or entity, or to the property of any person or entity, where such accident, damage or injury resulted or is claimed to have resulted from any act, omission or negligence on Contractor's part, or (iii) failure to adhere to any applicable law, rule or regulation of any governing body having jurisdiction over work performed pursuant hereto, or (iv) any act, omission or default under any of Contractor's undertakings in this Agreement. This indemnity and hold harmless Agreement shall include Indemnity against all costs, expenses, fines, liabilities, and attorney fees from or in connection with any such claims or proceedings brought here on and the defenses thereof.

**LIENS:** Contractor agrees to, and hereby does waive any and all rights under any and all applicable state statutes to file liens of any kind whatsoever against properties on which it or its subcontractors have performed work, for nonpayment of invoices or any other reason whatsoever. Contractor further agrees to take no action of any kind which would affect in any way the chain of title to such properties including but not limited to the filing of any liens, lis pendens notices, civil actions, and/or the taking of any action which clouds title to such properties or in any way interferes or affects ARCH's clients' ability to transfer title to the subject property to third parties. The party agrees that in the event Contractor breaches this provision and files a lien against any property covered by this Agreement as a result of an ARCH work assignment, irreparable damage to ARCH's reputation and business relationships will be caused. The parties agree that ARCH's liquidated damages for breach of this provision will be in the amount of five thousand dollars, plus the dollar amount of the lien or other encumbrance placed on any applicable property by contractor, plus the attorney's fees and costs of ARCH in the removal or clearance of the title clouding issue. If a lien of any nature is filed by any person or entity who has supplied materials or work/and or services of any kind at the request of Contractor, or its Subcontractors, against a property or properties upon which Services were performed for ARCH pursuant to this Agreement, Contractor shall promptly, at its expense, take any and all action necessary to cause any such lien to be released or discharged, and shall indemnify ARCH against any and all losses, claims and damages, including reasonable attorney's fees and costs resulting from Contractor's failure to obtain a release or discharge of any such lien. Nothing contained in this provision shall limit or prevent ARCH from taking whatever action it deems necessary to protect the value of any applicable property and its interest in the subject real property, including but not limited to the right to obtain immediate reimbursement from Contractor upon ARCH's payment of the disputed amount. This provision shall survive the termination of this Agreement.

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**INSURANCE:** Contractor shall purchase and maintain insurance to protect Contractor from claims under the worker’s compensation laws, disability benefit laws or other similar employee benefit laws; from claims for damage because of bodily injury, occupational sickness or death of its employees, and claims insured by usual personal injury liability coverage; from claims for damage because of bodily injury, sickness, death of any person other than Contractor’s employees including claims insured by usual bodily injury, personal injury and/or liability coverage; claims for injury to, loss or destruction of tangible property, including loss of use. Workers’ Compensation policy shall include a waiver of subrogation against “Archipelago Services, LLC and its subsidiaries, directors, officers, employees, and agents.” Contractor agrees to purchase and keep in full force and effect during the term of this Agreement worker’s compensation, general liability, and automobile insurance. Contractor agrees to name ARCH as a certificate holder on all such policies and to provide an original duly executed certificate evidencing such insurance, in a form acceptable by ARCH, upon receipt of the execution of this Agreement and annually as long as Contractor receives work from ARCH. Should a lapse in payment or insurance occur the contractor will be notified that all work will be suspended and reassigned until the proper insurance has been submitted with ARCH as the certificate holder.

**ENVIRONMENTAL COMPLIANCE:** Contractor bears the sole responsibility for determination of the manner and nature of the removal of all debris, trash, hazardous materials, personal property and any and all other materials from properties pursuant to work orders under this Agreement. Contractor shall perform all material removal and disposal in compliance with all applicable laws. Contractor shall remove and dispose of no items of hazardous waste unless said disposal is in compliance with all applicable local, state, and federal environmental laws, rules and regulations. Contractor shall abide by all applicable local, municipal, state, and federal rules and regulations regarding the disposal of any and all materials of any kind whatsoever from any property which Contractor performs property services.

**CONFIDENTIAL INFORMATION:** The Contractor shall not, while performing services pursuant to this agreement or otherwise, disclose or use for the benefit of himself or herself or any other person, corporation, partnership, joint venture, association, or other business organization, any of the trade secrets or confidential business information of ARCH. For the purpose of this Agreement, "trade secrets" of ARCH shall include, but shall not be limited to, any proprietary and technical information of ARCH in the nature of sales, pricing methods, operating systems, and associated procedures and systems, parts, information, programs, services, systems, inventions, business techniques and the like developed or employed by ARCH. For the purpose of this Agreement, "confidential business information" of ARCH shall include any information that is (i) of any value or significance to ARCH, including Contractor’s bid and awarded pricing, and (ii) not generally known to the competitors of ARCH nor intended by ARCH for general dissemination, including but not limited to any and all proprietary and technical information of ARCH in the nature of business operations, operating systems, and associated procedures and systems, accounting and financial data, customers lists, current or potential suppliers/vendors, design systems, pricing and discounting practices, ARCH market data, sources of supply, special programs relating to sales, project files, prospect reports, training, products and equipment, and information about ARCH itself and its executives, officers, directors, and employees.

Contractor acknowledges that in the course of its dealings with ARCH, Contractor may receive or learn confidential information concerning third parties to whom ARCH has an obligation of confidentiality, including but not limited to all “nonpublic personal information” about “customers” and “consumers” (as those terms are defined in Title V of the Gramm-Leach-Bliley Act and the privacy regulations adopted thereunder (the “Act”)) (“Confidential Information”). The Confidential Information may include but not be limited to personal or financial information about individuals who have applied for or purchased financial products or financial services from Clients of ARCH. Contractor acknowledges that Contractor agrees that it will keep all Confidential Information strictly confidential; that it will not disclose to any third party other than an affiliate of ARCH, either orally or in writing, any Confidential Information without the prior written consent of ARCH; and that Contractor will not appropriate any Confidential Information to its own use or to the use of any third party. Contractor shall use confidential

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information that is provided by ARCH only for the purpose for which it was provided and access to it shall be restricted to individuals who require the information to further that purpose.

Contractor agrees to comply and cooperate with any and all additional privacy or confidential information policies as promulgated in the future by clients of ARCH. Contractor agrees to take reasonable measures, including without limitation such measures as it takes to safeguard its own confidential information, to ensure the security and confidentiality of all such Confidential Information, to protect against anticipated threats or hazards to the security or integrity of such Confidential Information and to protect against unauthorized access to or use of such Confidential Information, including but not limited to the proper disposal of such information. Contractor agrees that at all times it shall be in compliance with the Act.

**CONTRACTOR PAYMENTS TO THIRD PARTIES:** Contractor shall pay any monies owed to its employees, agents, servants, and subcontractors, representatives, material men, and suppliers with respect to work on any property assigned to Contractor pursuant to this Agreement. Contractor shall not permit or cause any lien to be filed on any property by either Contractor or any third party that provides services to Contractor pursuant to this Agreement. Contractor shall be responsible for all costs incurred in connection with the performance of services hereunder and shall bear any loss or damage to materials, vehicles or other articles held or used in connection with said services.

**PAYMENT FOR SERVICES AND CHARGEBACK(S):** ARCH shall pay Contractor for services rendered in connection with work performed for ARCH on a net 30-day basis. Payment to Contractor for services rendered to ARCH shall be in accordance with the approved amount in appropriate Award Notice. ARCH reserves the right to reduce the amount of any invoice submitted by Contractor where and when said invoice fails to comply with ARCH billing deadlines or other documentary, evidentiary, customer or other requirements as may be communicated to Contractor through ARCH vendor memoranda, by violation of Confidentiality or other means. In the event Contractor discloses bid or award pricing and such disclosure results in Arch client billing dispute, ARCH reserves the right to reduce the amount of any invoice submitted by Contractor to ARCH for an amount equal to any profit that ARCH was entitled to receive if the Contractor performed the work in accordance with this Agreement. Contractor specifically grants to ARCH a right of offset against balances due to Contractor, regarding work or documentation of work, which is charged back to ARCH by ARCH’s clients. Chargebacks to Contractor shall be non negotiable and at the sole discretion of ARCH.

**BREACH:** In the event of Contractor’s breach of the terms of this Agreement, either in whole or in part, relative to any property services assignment, ARCH may, in addition to any remedies provided within this Agreement, arrange for completion of the property service and charge Contractor the cost of said service.

**COMPLIANCE WITH LAWS, PAYMENT OF TAXES:** Contractor warrants that at all times it shall comply with all applicable federal, state, local, and other laws and regulations (and as such laws and regulations may have been amended or may be amended from time to time in the future) in performing the Services and its other obligations pursuant to this Agreement.

**DISPUTE RESOLUTION:** This Agreement shall be governed by and construed in accordance with the laws of the State of Pennsylvania, without application of its principles of conflict of law. The parties choose the state and federal courts of Allegheny County Pennsylvania as the chosen venue for any litigation between the parties related in any way to this Agreement. The prevailing party in any dispute arising out of or related to this Agreement, shall be entitled to recover the costs incurred, which costs shall include reasonable attorney’s fees, in any legal proceedings including all mediation, arbitration, administrative, appellate or Bankruptcy proceedings. Contractor hereby knowingly, voluntarily, and intentionally waives any and all rights it may have to a trial by jury regarding any and all litigation arising out of this Agreement or any and all transactions contemplated herein or any course of conduct or dealings, statements (either verbal or written) or actions of any party related thereto. Contractor hereby waives any right it may have to seek to consolidate any such litigation with any other litigation in which jury trial cannot or has not been waived.

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**TERMINATION:** This Agreement may be terminated with or without cause by either party with thirty days notice for any reason. Termination of this Agreement by either party shall not release Contractor from any responsibility or liability on the part of Contractor that arises prior to termination. Contractor is responsible for completing all outstanding work within the required timeframes. Upon termination of this agreement, ARCH may withhold all funds due to Contractor for services rendered thru the date of termination for a period of 60 days in order to ascertain the applicable offset, if any. All appeals must be submitted no later than 45 days of contractors last day of termination of contract. Archipelago Services reserves the right to pursue and collect any chargeback's after termination of contract.

**TERM:** Unless terminated by the mutual consent of the parties or as otherwise provided for herein, this Agreement shall be binding on the parties from the effective date of this Agreement and shall thereafter be automatically renewed on a year to year basis unless otherwise determined by the parties.

**NOTICE:** Any notice provided for in this Agreement shall be given by mailing such notice by certified mail to the address stated in the introductory paragraph or a party designates such other address in writing.

**ENTIRE AGREEMENT:** This Agreement sets forth the entire understanding of the parties and supersedes all prior written and oral communications relating thereto. This Agreement may be modified or amended only in writing, signed by a duly authorized representative of each party.

**CHANGES AND MODIFICATIONS:** This Agreement may be modified or amended only in writing, signed by a duly authorized representative of each party. Section headings are for the convenience of reference only and shall not be construed otherwise.

**WAIVER:** No failure to exercise, or delay in exercising, on the part of either party, any right, power or privilege hereunder shall operate as a waiver therefore nor will any single or partial exercise of any right, power or privilege hereunder preclude the further exercise of the same right or the exercise of any other right hereunder.

**SEVERABILITY:** If any part of this Agreement is adjudged by a court of competent jurisdiction to be invalid, such judgment shall not affect or nullify the remainder of this Agreement, which shall remain in full force and effect.

**ASSIGNMENT:** Contractor may not assign, transfer or otherwise delegate any of its rights or responsibilities under and pursuant to this Agreement without the prior written consent of ARCH. Any attempted assignment shall be null and void.

Signed this \_\_\_\_ day of \_\_\_\_\_, 20\_\_

Signed this \_\_\_\_ day of \_\_\_\_\_, 20\_\_

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By Contractor: \_\_\_\_\_

By Archipelago Services, LLC