

TRANSFER AGREEMENT FOR ELECTRONIC DRAWING FILES

AGREEMENT made as of the the date: _____ (date)

BETWEEN the Party transmitting the Electronic Drawing Files, or the "Transmitting Party":

And the Party receiving the Electronic Drawing Files, or the "Receiving Party":

Fusch Architects, Inc.

4308 Avondale Ave., Suite 200
 Dallas, Texas 75219
 Phone: 214.696.0152
 Fax: 214.696.6938

For the following project:

Architect's Project Number (if known): _____

Address: _____

City/State: _____

In consideration of the following promises exchanged, the Parties agree as follows:

The Receiving Party agrees to pay the Transmitting Party the following fee or other compensation for the Receiving Party's use of the ELECTRONIC DRAWING FILES:

Per individual file as listed below in "Description of ELECTRONIC DRAWNG FILES"

Description of ELECTRONIC DRAWING FILES: AutoCAD file format with a .DWG extension, transmitted, without an architectural seal or titleblock. Items to be transmitted, via email, shall include:

<input checked="" type="checkbox"/> Drawing Type	File Format	File Price
<input type="checkbox"/> Architectural Site Plan	<input type="checkbox"/> AutoCAD 2000 DWG <input type="checkbox"/> Adobe PDF	\$75.00
<input type="checkbox"/> Floor Plans (all floors)	<input type="checkbox"/> AutoCAD 2000 DWG <input type="checkbox"/> Adobe PDF	\$125.00
<input type="checkbox"/> Exterior Elevations	<input type="checkbox"/> AutoCAD 2000 DWG <input type="checkbox"/> Adobe PDF	\$125.00
<input type="checkbox"/> Roof Plan	<input type="checkbox"/> AutoCAD 2000 DWG <input type="checkbox"/> Adobe PDF	\$75.00

Total Price: _____

The transfer and use of the manipulable/writable electronic files listed above is subject to the following terms of use, hereinafter called the 'Transfer Agreement.' All rights not expressly granted herein are reserved.

Whereas the 'Owner' of the above referenced Project has requested that the Transmitting Party make copies of ELECTRONIC DRAWING FILES available to the Receiving Party, in electronic form, hereinafter called 'ELECTRONIC DRAWING FILES,' for purposes of interim review, reference, building finish-out, and/or facility management; and whereas, the ELECTRONIC DRAWING FILES were developed by the Transmitting Party and/or its consultants for its use in preparation of paper construction documents for the above-referenced project, hereinafter referred to as the 'Project'; and whereas, Receiving Party understands that the 'Project' was designed under applicable municipal and building codes under effect during the time of its design and/or construction, and Receiving Party also understands that any changes to municipal or building codes since that time will not be reflected in the ELECTRONIC DRAWING FILES; and

whereas, Receiving Party understands that if the 'Project' was constructed, there may be deviations between the as-built dimensions in the field and the ELECTRONIC DRAWING FILES, and the Receiving Party also understands that it will be the responsibility of the Receiving Party to verify field conditions; and

whereas, Transmitting Party retains all copyrights for the above-referenced project; and

whereas, Receiving Party understands and acknowledges that the "transferred" ELECTRONIC DRAWING FILES were not created or intended for direct "re-use" as construction documents, and after the ELECTRONIC DRAWING FILES are provided they can deteriorate undetected, can be modified without the Transmitting Party's knowledge, may not be readable by Receiving Party or by third parties, and the original ELECTRONIC DRAWING FILES may be modified by the Transmitting Party after the ELECTRONIC DRAWING FILES are transferred pursuant to the protocol described in this Transfer Agreement, any of which circumstance could cause damage or loss to Receiving Party; and whereas, Receiving Party understands and acknowledges that these risks are inherent with any use of the ELECTRONIC DRAWING FILES and that use of the ELECTRONIC DRAWING FILES will save the Receiving Party considerable time and expense in the coordination and management of the Project, which represents good and valuable consideration for the following indemnification and release;

therefore, in consideration of the Transmitting Party's agreement to transfer the ELECTRONIC DRAWING FILES to the Receiving Party for interim review, reference, building finish-out, and/or facility management, hereinafter called 'Reference Uses,' RECEIVING PARTY AGREES, JOINTLY AND SEVERALLY, TO THE FULLEST EXTENT PERMITTED BY LAW, TO RELEASE, INDEMNIFY, AND DEFEND THE TRANSMITTING PARTY, ITS OFFICERS, SHAREHOLDERS, EMPLOYEES AND CONSULTANTS, COLLECTIVELY CALLED 'INDEMNITEES,' FROM ANY AND ALL CLAIMS, DEMANDS, SUITS, LIABILITIES, LOSSES, DAMAGES, AND COSTS, INCLUDING BUT NOT LIMITED TO ATTORNEYS' FEES, EXPERT WITNESS FEES, AND COURT COSTS, CALLED 'LIABILITIES,' ARISING OUT OF OR IN ANY WAY CONNECTED WITH ANY USE OF THE ELECTRONIC FILES PROVIDED BY THE TRANSMITTING PARTY PURSUANT TO THIS AGREEMENT RELATED TO REFERENCE USES ON A COMPARATIVE RESPONSIBILITY BASIS. WITH REGARD TO THE DRAWING USES, THE FOREGOING RELEASE AND INDEMNIFICATION SHALL APPLY TO ANY LIABILITIES ARISING FROM OR IN ANY WAY CONNECTED WITH ANY USE OF THE ELECTRONIC FILES PROVIDED BY THE TRANSMITTING PARTY, WHETHER OR NOT CAUSED IN WHOLE OR IN PART BY THE SOLE OR COMPARATIVE NEGLIGENCE, STRICT LIABILITY OR OTHER FAULT OF ANY OF THE INDEMNITEES.

RECEIVING PARTY ACKNOWLEDGES THAT THE TRANSFER OF ELECTRONIC FILES IS A SERVICE AND SHALL NOT CONSTITUTE A SALE OF GOODS; AND, THE TRANSMITTING PARTY MAKES NO WARRANTY, EXPRESS OR IMPLIED, OF MERCHANTABILITY OR FITNESS FOR ANY PURPOSE IN CONNECTION WITH THE SERVICE OF PROVIDING ACCESS TO, AND THE TRANSFER OF, THE ELECTRONIC FILES, OR THAT THE ELECTRONIC FILES WILL BE USABLE OR ACCURATE, WHICH WARRANTIES AND REPRESENTATIONS ARE EXPRESSLY DISCLAIMED.

RECEIVING PARTY AGREES TO THE TERMS AND CONDITIONS OF ACCESS TO, AND USE OF, THE ELECTRONIC DRAWING FILES.



Transmitting Party (Signature)

Craig P. Vaughn, Partner

(Printed name and title)

Receiving Party (Signature)

(Printed name and title)