



Professional Services Agreement

This Professional Services Agreement (the "**Agreement**") is made effective this \${day_of_month} day of \${month}, 2017 (the "**Effective Date**") between **AMPLE ORGANICS INC.**, a body corporate having an office in the City of Toronto, in the Province of Ontario ("**Ample**"), and \${organization}, a body corporate having an office in the \${City or Township} of \${city/town of business}, in \${province} ("**Customer**").

WHEREAS Customer wishes to retain Ample to provide certain services to Customer, and Ample wishes to provide such services to Customer;

NOW THEREFORE IN CONSIDERATION of the mutual covenants and agreements set forth herein and for other good and valuable consideration, the parties hereby agree as follows:

1. DEFINITIONS

1.1 In this Agreement:

"**Confidential Information**" means all information disclosed to a party or its Personnel or other representatives by, or on behalf of, the other party about the disclosing party's business or activities that is confidential to the disclosing party or any of the activities to be performed hereunder and all information which, by the nature of the circumstances surrounding the disclosure, ought to be treated as confidential; provided that specific information shall not be considered Confidential Information of a party if it can be shown from documented records that such specific information: (i) was known to the recipient (prior to its disclosure by the disclosing party) directly or indirectly from a source other than one having an obligation of confidentiality to the disclosing party; (ii) becomes known (independent of disclosure by the disclosing party) to the recipient directly or indirectly from a source other than one having an obligation of confidentiality to the disclosing party; (iii) is, or becomes, publicly known or otherwise ceases to be confidential, except through a breach of this Agreement by the recipient, or (iv) was independently developed by the recipient without use of any of the Confidential Information of the disclosing party.

"**Intellectual Property Rights**" means any right or protection existing from time to time in a specific jurisdiction, whether registered or not, under any patent law or other invention or discovery law, copyright law, performance or moral rights law, trade-secret law, confidential information law (including breach of confidence), trade-mark law, passing off, unfair competition law or other similar laws, and includes legislation by competent governmental authorities and judicial decisions under common law or equity, and for greater certainty includes the right to file any applications, and the right to claim the priority rights derived from any such applications filed under any treaty, convention, or any domestic laws of a country in which a prior application is filed;

"**Personnel**" means, if applicable, Ample's officers, employees, agents and authorized subcontractors;

"**Services**" means the services to be provided or performed hereunder by or on behalf of Ample as set out in further detail in a Statement of Work or as mutually agreed upon by the parties from time to time;

"**Statement of Work**" means the statement of work attached hereto as Schedule "A" and any other mutually agreed upon statement of work or other document specifying the Services to be performed; and

"**Work Product**" means, without limitation, any works of authorship, drawings, designs, inventions, and other intellectual property made by or on behalf of the Ample during the performance of the Services.

2. SERVICES

2.1 The parties have identified certain Services to be undertaken in the Statement of Work attached hereto as Schedule A. Ample hereby agrees to provide said Services to Customer in accordance with the terms of this Agreement.

2.2 Customer may, from time to time, request that Ample provide additional Services to Customer. After receiving such a request from Customer, Ample shall prepare and submit a written proposal to Customer. Within a reasonable period after

receiving such written proposal from Ample, Customer shall either accept or reject same. In the event Customer rejects the written proposal, upon Customer's request, the parties will discuss and negotiate in good faith the terms pursuant to which Ample will perform the additional services. If Customer accepts Ample's written proposal, said proposal shall be executed by each of the parties; at such point, said proposal shall become a Statement of Work.

- 2.3 Customer shall be entitled to review and evaluate, and accept or reject any Services performed or any Work Product delivered within the applicable acceptance time period specified in the applicable Statement of Work, or, if no acceptance time period is specified, within thirty (30) days after Ample's performance of such Services or Customer's receipt of such Work Product (the "**Acceptance Period**"). If no written rejection is given to Ample by Customer within the Acceptance Period, such Services or Work Product shall be deemed accepted. Unless otherwise set forth in the applicable Statement of Work, if Customer does not accept such Services or Work Product, Customer will notify Ample in writing and provide reasons for its rejection, and Ample shall have thirty (30) days (and an additional fifteen (15) days, if Ample reasonably requires an extension), following Customer's notice of rejection, at Ample's sole cost and expense, in which to correct any reasonable non-conformances in the Services or Work Product and to re-perform the Services or deliver a corrected Work Product to Customer for its review and acceptance as set forth above.

3. **FEES**

- 3.1 Except as otherwise expressly set forth herein, as full compensation for any Services performed by Ample pursuant to this Agreement and any Statement of Work, Customer shall pay Ample the fees agreed to by the parties in each agreed to Statement of Work (the "**Fees**"), together with any reasonable, out-of-pocket travel fees and expenses that Ample incurs during the performance of the Services.
- 3.2 Ample shall invoice Customer according to the schedule in the applicable Statement of Work.
- 3.3 Customer shall pay the invoice properly issued by Ample hereunder within thirty (30) calendar days after receipt thereof.
- 3.4 Unless mutually agreed to otherwise, the Fees shall: (i) be in Canadian dollars; and (ii) include all applicable taxes, duties, and other such assessments or charges which may be assessed, levied or imposed with respect to the Services.

4. **REPRESENTATIONS, WARRANTIES, AND COVENANTS**

- 4.1 Each party represents and warrants that:
- (a) it has the full power and authority to enter into this Agreement;
 - (b) its execution and performance of this Agreement will not breach any oral or written agreement between itself and any third party;
- 4.2 Ample further represents, warrants and covenants that:
- (a) Ample shall perform the Services: (i) diligently and faithfully; and (ii) in accordance with the generally accepted standards in the industry;
 - (b) the Services and Work Product will materially comply with all specifications, standards and requirements provided in an applicable Statement of Work; and
 - (c) Ample shall furnish at its own cost and expense any and all equipment and supplies to perform the Services.
- 4.3 Customer further represents, warrants and covenants that any materials provided by or on behalf of Customer to Ample hereunder will not infringe or misappropriate any Intellectual Property Rights or confidential information of any third party.

5. **TERM**

- 5.1 Unless otherwise terminated pursuant to the provisions of this Agreement, this Agreement shall be in force for one (1) year beginning on the Effective Date (the "**Initial Term**"). Thereafter, the Agreement will automatically renew for additional one (1) year periods (together with the Initial Period, the "**Term**"), unless either Customer gives notice in writing to Ample more than thirty (30) days prior to the commencement of any renewal period.
- 5.2 Either party may terminate this Agreement by written notice to the other party, upon the occurrence of any of the following events and the continuance thereof fifteen (15) days after such written notice:
- (a) the other party becomes insolvent or subject to any proceeding under the federal bankruptcy laws or other similar laws for the protection of creditors;
 - (b) the other party materially breaches any term, provision, representation or warranty of this Agreement and such breach or default is not cured to the terminating party's reasonable satisfaction within such fifteen (15) day period; or
 - (c) the other party's performance hereunder is delayed by a force majeure, including an act of God, act of civil or military authority, war, terrorism, governmental action, or network failures beyond the party's reasonable control, for more than fifteen (15) days.
- 5.3 Either party may terminate this Agreement at its convenience upon ten (10) days' notice to Ample.

6. LIMITATION OF LIABILITY

- 6.1 AMPLE SHALL NOT BE LIABLE HEREUNDER FOR: (I) INDIRECT, INCIDENTAL, OR CONSEQUENTIAL DAMAGES (INCLUDING LOST PROFITS OR SAVINGS) EVEN IF IT HAS BEEN ADVISED OF THEIR POSSIBLE EXISTENCE; (II) ANY ACT OR OMISSION BY ANY OTHER THIRD PARTY.
- 6.2 EXCEPT AS PROVIDED IN SECTION 6.3 BELOW, IN NO EVENT SHALL THE TOTAL AND CUMULATIVE LIABILITY OF AMPLE UNDER THIS AGREEMENT EXCEED THE FEES ACTUALLY PAID BY CUSTOMER TO AMPLE UNDER THIS AGREEMENT IN THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE FINAL EVENT GIVING RISE TO SUCH LIABILITY. THE CONSIDERATION RECEIVED BY AMPLE HEREUNDER DOES NOT INCLUDE ANY CONSIDERATION FOR AMPLE TO ACCEPT ANY LIABILITY OR RISKS BEYOND WHAT IS EXPRESSLY PROVIDED HEREIN.
- 6.3 NOTWITHSTANDING THE FOREGOING, THERE SHALL BE NO LIMITATION ON THE AMOUNT OF LIABILITY, AND NO EXCLUSION OF ANY TYPES OF DAMAGES, ARISING FROM AMPLE'S WILLFUL MISCONDUCT, FRAUD OR BREACH OF ITS OBLIGATIONS OF CONFIDENTIALITY HEREUNDER.

7. INDEMNIFICATION

- 7.1 Subject to Section 6, Ample will defend Customer against, and pay any resulting final judgments (or settlements that Ample consents to) for, any claims made by an unaffiliated third party that a Work Product: (i) misappropriates its confidential information; or (ii) infringes its intellectual property right in Canada or the United States.
- 7.2 Ample's obligations under subsection 7.1 are subject to all of the following conditions: (i) Customer must notify Ample, in a timely manner and in writing of the claim; (ii) Customer must give Ample sole control over defense and settlement of the claim; and (iii) Customer must provide Ample with reasonable assistance in defending the claim (Ample will reimburse Customer for reasonable prior approved out-of-pocket expenses that Customer incurs in providing that assistance). Ample will not be liable for any such copyright or confidential information misappropriation claim to the extent that such claim is based on Customer: (i) copying, distribution or use of the applicable Work Product after Ample notifies Customer to discontinue copying, distributing or using it; (ii) combining a Work Product with non-Ample services, products, software or data; (iii) altering the Work Product; or (iv) acquiring confidential information through improper means, or under circumstances giving rise to a duty to maintain its secrecy or limit its use, or from a person (other than Ample) who owed to the claimant a duty to maintain the secrecy or limit the use of the confidential information.
- 7.3 Customer agrees to indemnify, defend and hold harmless Ample and its licensors and its suppliers, and each of their respective officers, directors, employees, representatives, agents, successors and assigns (collectively, the "**Ample Indemnified Parties**") from and against any loss, liability, damage, award, settlement, judgment, fee, cost and expense (including attorneys' fees) arising out of or resulting from any breach of this Agreement by Customer.
- 7.4 Customer's obligations under the subsection 7.3 are subject to all of the following conditions: (i) the Ample Indemnified Party must notify Customer, in a timely manner and in writing of the claim; (ii) the Ample Indemnified Party must give Customer sole control over defense and settlement of the claim; and (iii) the Ample Indemnified Party must provide Customer with reasonable assistance in defending the claim (Customer will reimburse Ample for reasonable prior approved out-of-pocket expenses that the Ample Indemnified Party incurs in providing that assistance).

8. INTELLECTUAL PROPERTY

- 8.1 Other than as may be expressly provided herein or as may be required for the performance of a particular Statement of Work hereunder, nothing in this Agreement shall be construed as granting either party any license or other right to use any intellectual or other property that such party may now or hereafter own, possess, or in which it may hold licensing rights.
- 8.2 All right, title and interest in any work product, documentation, or reports resulting from or developed in connection with the Services, including without limitation, any technical documentation, tangible materials, documents, protocols, policies, procedures, data methods, operations, formulas, computer programs, source code, software, patents, copyrights, trade secrets, methodology, ideas, concepts, know-how, techniques or other intellectual property developed by Ample during the course of the Agreement, or jointly by Ample and Customer, regardless of the stage of completion (the "**Work Product**") that is directly connected and only applicable to Customer's business (and could not be used or otherwise applied by a third party or its business) (the "**Customer Work Product**") shall be owned by Customer. Ample agrees to assign, and hereby automatically assigns, its right, title and interest in and to Customer Work Product to Customer upon the creation or inception of same.
- 8.3 The parties agree that, unless otherwise agreed to by the parties in respect of a particular Statement of Work, all Work Product other than Customer Work Product shall be owned by Ample (the "**Ample Work Product**"). Customer agrees to assign, and hereby automatically assigns, its right, title and interest in and to the Ample Work Product to the Ample upon the creation or inception of same.
- 8.4 Ample and Customer shall, upon either's request, obtain from each and every one of its Personnel any agreement or assignment required to confirm ownership rights in the other's Work Product in favor of the other, the licenses granted herein and the waiver of all moral rights therein within the meaning of the law.

8.5 Ample and Customer agree that to the extent that moral rights may exist in any of the others' Work Product, they hereby unconditionally and irrevocably waive and shall cause their respective Personnel to unconditionally and irrevocably waive all moral rights of the company and its Personnel that exist or may exist in the others' Work Product.

8.6 If Customer or its Personnel incorporate into any of Ample's Work Product any pre-existing intellectual property owned by Customer or its Personnel or in which Customer, or its Personnel has an interest, Ample is hereby granted and shall have a nonexclusive, royalty-free, irrevocable, perpetual, worldwide license to make, have made, modify, use, sell, license (at any level) and in any other way exploit such pre-existing intellectual property as part of or in connection with such Work Product, without obligation to account to, or obtain consent from, Customer or its Personnel or other representatives.

9. CONFIDENTIAL INFORMATION

9.1 All Confidential Information, whether it is developed by or on behalf of Ample during the Term, is the valuable, exclusive and confidential property of Customer or its customers or suppliers, as the case may be. Accordingly, Ample shall protect Customer's interest in the Confidential Information and shall keep the Confidential Information confidential.

9.2 Ample shall use the Confidential Information solely for the purpose of providing the Services hereunder (the "Purpose") and shall not use the Confidential Information in any manner except as reasonably required for the Purpose. Ample shall not disclose, allow access to, transmit or transfer the Confidential Information to any party without Customer's prior written consent. If applicable, Ample may disclose the Confidential Information to those of its Personnel who have a need to know the Confidential Information provided that Ample shall ensure that such Personnel treat the Confidential Information as confidential and at all times in a manner consistent with this Agreement and Ample shall be liable for any loss or damage resulting from any Personnel failing to do so.

10. NOTICE

10.1 Any notice required or permitted to be given hereunder shall be in writing and may be delivered personally, or sent by confirmed facsimile transmission or other means of recorded electronic communications or, sent by registered mail to the parties at their respective addresses herein:

To Customer:

#{organization}
#{Street Address}
#{City, Province, Postal Code}
Attention: #{name}
E-mail: #{email}

To Ample at:

Ample Organics Inc.
30 Commercial Road
Toronto, Ontario,
M4G 1Z4
E-mail: info@ampleorganics.com

10.2 Any notices and other communications required or permitted by this Agreement to be provided or given to either party shall be so provided or given if delivered to the address of the applicable party as set out above.

10.3 Notices shall be deemed received as follows: if given by registered mail, notice shall be deemed to have been received by the party to whom it was addressed on the date falling seven (7) business days following the date upon which it was sent; if personally delivered during normal business hours, when so delivered; and if given by facsimile or email, on the day of transmission and confirmation of transmittal unless such day is not a business day, in which case on the next following business day. The parties may change the address designated from time to time by notice in writing to the other party.

11. GENERAL

11.1 All headings in this Agreement are for purposes of convenience only and shall not affect the construction or interpretation of any of its provisions. Each party acknowledges that this Agreement has been the subject of active and complete negotiations, and that this Agreement should not be construed in favor of or against any party by reason of the extent to which any party or its professional advisors participated in the preparation of this Agreement. Where the context so requires in this Agreement, unless there is something in the subject matter or context inconsistent therewith, words importing the singular number include the plural and vice versa.

11.2 Customer may not assign this Agreement to any third party without the express written consent of Ample. Notwithstanding the foregoing, Customer may, without the consent of Ample, assign this Agreement, at any time and from time to time during the term of this Agreement, to: (i) a parent, subsidiary or affiliate corporation of Customer or to a partnership composed of parent, subsidiary or affiliate corporations of Customer; or (ii) a corporation formed as a result of a merger or amalgamation of Customer with another corporation or corporations. This Agreement shall enure to the benefit of and be binding upon the parties hereto and their respective heirs, administrators, successors and permitted assigns.

- 11.3 The validity, interpretation, construction and performance of this Agreement shall be governed by the laws in force in the Province of Ontario (without reference to conflicts of laws principles). The competent courts in the Province of Ontario shall each have non-exclusive jurisdiction over all disputes relating to this Agreement. Each of the parties hereto irrevocably attorns and consents to the jurisdiction of such courts. The parties agree that the United Nations Convention on Relationships for the International Sale of Goods is specifically excluded from application to this Agreement and that in no event shall this Agreement be governed by the conflict of laws rules of any jurisdiction.
- 11.4 Ample shall not be responsible for any failure to perform or delay in performing any of its obligations under this Agreement where and to the extent that such failure or delay results directly or indirectly from an unforeseeable event beyond a Ample's reasonable control, including but not limited to: acts of war; acts of nature; earthquake; flood; embargo; riot; sabotage; labour shortage or dispute; changes in government codes, ordinances, laws, rules, regulations or restrictions; failure of the Internet; terrorist acts; failure of data, products or services controlled by any third party, including the providers of communications or network services; utility power failure; material shortages or unavailability or other delay in delivery not resulting from the responsible party's failure to place timely orders therefor, or lack of or delay in transportation (throughout, "**Force Majeure**"). Ample shall not be liable for any loss or damages either general, indirect, exemplary, special, punitive or consequential which Customer may suffer due to or resulting from such delay or failure. In the event that Force Majeure occurs as contemplated herein, the duration of this Agreement shall be extended by the period for which such force majeure continues.
- 11.5 This Agreement supersedes all previous agreements, if any, between the parties hereto and constitutes the sole and entire agreement between them with respect to the subject matter hereof. Each party hereto agrees that there are no oral representations, warranties or conditions and that all terms are embodied in this Agreement. No change, modification or amendment of this Agreement shall be effective unless in writing and signed by both parties hereto.
- 11.6 No partnership or joint venture is intended to be created by this Agreement, nor any principal-agent or employer-employee relationship. Unless expressly provided in this Agreement, neither party has, nor shall attempt to assert, the authority to make commitments for or to bind the other party to any obligation.
- 11.7 The waiver by either party of any default by the other party under this Agreement shall not operate as a waiver of any future default, whether of a like or different nature.
- 11.8 Sections 1, 3.3, shall survive the expiration or termination of this Agreement by either party for any reasons.
- 11.9 In the event that a party hereto (an "**Indebted Party**") owes any amount to the other party in accordance with the provisions of this Agreement, such amount may be set off by the Indebted Party against any undisputed amount owed to it by the other party pursuant to any other agreement or arrangement between them.
- 11.10 If any provision of this Agreement or its applications to particular circumstances is determined by a court of competent jurisdiction to be invalid or unenforceable, that provision (or its application to those circumstances) shall be deemed stricken and the remainder of this Agreement (and the application of that provision to other circumstances) shall continue in full force and effect insofar as it remains a workable instrument to accomplish the intent and purposes of the parties; the parties shall replace the severed provision with the provision that will come closest to reflecting the intention of the parties underlying the severed provision but that will be valid, legal, and enforceable.
- 11.11 This Agreement is an agreement between the parties, and confers no rights upon any of the respective employees, agents, or contractors or any other person (except as otherwise explicitly provided herein).