



JENKINS & KLING, P.C.
ATTORNEYS AT LAW

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February 23, 2018

MOBIUS
111 E Broadway Ste. 220
Columbia, MO 65203

Attention: Donna Bacon, Executive Director

Re: Arrangements Concerning Legal Representation by this Firm

Dear Donna:

In follow up to our discussions last week and our earlier executed engagement letter with you, we are pleased to acknowledge MOBIUS' intent to engage this firm to act as its counsel in connection with the relationship that it is establishing with the currently unincorporated Evergreen Project. Specifically, our firm will be assisting you in incorporating Evergreen Project as a Missouri nonprofit corporation, developing the other necessary corporate documents, and pursuing 501(c)(3) tax-exempt status from the Internal Revenue Service. These services will be performed for MOBIUS in connection with the letter agreement that will be executed between MOBIUS and the unincorporated entity to facilitate the corporate formation. Thereafter, our firm will perform additional services for MOBIUS in connection with a subsequent agreement to be entered into between MOBIUS and the new corporation relating to certain financial and administrative services which will include without limitation, the withdrawal from the Software Conservancy. For conflict purposes, we have identified the current board of directors of the unincorporated Evergreen Project and The Software Conservancy as potential adverse parties in connection with this matter. As other matters arise, we will evaluate conflicts as to those adverse parties at the time of our additional engagement. If you are or become aware of any potential conflict of interest or the possibility of a conflict arising in the future, please let us know so that we can discuss it in a fully informed manner.

As you know, it is the practice of this firm to confirm all fee arrangements in writing. Our charges to you for the services to be rendered will be based primarily upon the time and effort expended. At present, our rates range from \$230.00 to \$330.00 per hour for Principals of this law firm; \$160.00 to \$200.00 per hour for Associate Attorneys in the firm; \$95.00 per hour for Law Clerks and \$95.00 per hour for Legal Assistants. These rates are subject to increases from time to time. Please understand that they may not remain fixed at the aforesaid amounts during the entire period of our representation; however, the fee and expense arrangements set forth herein shall be effective for all services rendered by our firm unless otherwise agreed to in writing.

Jennifer Beasley and I will serve as the primary attorneys on this matter. My billing rate is \$300.00 per hour. Jennifer Beasley's billing rate is \$230.00 per hour. We may assign others at our discretion based on the nature of the work. When appropriate, certain work on your matters will be performed by qualified Associate Attorneys or Legal Assistants of our firm. This may reduce the total

charges to you since the charge for their time is less than the charge for the time expended by Principals of this firm.

In the event that we are retained by you to perform additional legal services, the fee arrangements will be as outlined herein unless we have agreed in writing to other arrangements.

In addition to the professional fees, we anticipate that various costs and expenses will be incurred, where necessary, in providing services to you. Such expenses include, but are not limited to, computerized legal research, reproduction costs, postage, travel expenses, and all other expenses directly related to your matter. If any particular item is significant, we will notify you in advance of the cost involved.

It is the practice of this firm to render statements on a monthly basis. We ask that all statements for services rendered and for the costs and expenses incurred be paid in full upon receipt of the billing statement. Should any statement remain unpaid after fourteen (14) days of the billing date, we reserve the right at any time to terminate our representation by written notice to you unless alternative arrangements are agreed to in writing by us

Some clients request that we communicate with them via e-mail. While we find this convenient, you should be aware that there is a risk of e-mail messages being intercepted as they travel through the Internet or via the network to which your computer is connected. E-mail messages can be intercepted randomly by otherwise disinterested persons, as well as by persons specifically interested in the matter which is the subject of the communication. If you prefer not to use e-mail communication, please let us know.

Our firm has a document retention, storage and destruction policy. During the course of our engagement, we will retain "hard" copies of most documents that we generate or collect via discovery or otherwise, as well as pleadings, e-mails and letters. These items will also be stored electronically on our firm's computer systems. At the conclusion of our engagement, you will receive a closing letter from us. If you would like to retain the hard copies, you must provide us with a written request within thirty (30) days from the date of the closing letter. If not, we will destroy the hard copies and retain the electronic copies for a period of three years. After three years, we may destroy the electronic copies. If there are specific issues with originally executed or otherwise significant documents, we can deal with those on a case-by-case basis. By signing this letter, you agree that we have your permission to destroy the files per our policy described above.

In the unfortunate event that a dispute arises regarding our fees which we, by agreement, are unable to resolve, any fee dispute arising out of this representation shall be submitted to a fee dispute resolution program as approved by either the Missouri Bar or the Bar Association of Metropolitan St. Louis. If, however, such alternative dispute resolution does not occur or is unsuccessful, and we must pursue an action for collection of legal fees or to otherwise enforce this agreement, we shall be entitled to recover costs and attorneys' fees associated with such action. In the event of any such litigation arising under this Agreement, **you hereby agree that this Agreement shall be deemed to have been fully executed and performed in the State of Missouri and shall be governed by, construed and enforced in accordance with the laws of the State of Missouri. BY ENTERING INTO THIS AGREEMENT, YOU CONSENT TO THE JURISDICTION AND VENUE OF THE COURTS OF ST. LOUIS COUNTY, MISSOURI. IN ADDITION, BY ENTERING INTO THIS AGREEMENT, YOU HEREBY WAIVE YOUR RIGHT TO TRIAL BY JURY.**

If the above accurately reflects our agreement regarding this representation, please acknowledge your agreement to the above by executing one copy of this Letter Agreement in the space provided below and returning it to my attention.

As you should be aware, this is a contract with legally binding provisions. You may wish to retain independent counsel to review this agreement.

We do appreciate your retaining us to represent you. Should you have any questions concerning the foregoing, please contact me immediately.

Sincerely,

AGREED AND ACCEPTED:

JENKINS & KLING, P.C.

MOBIUS

Donna Bacon
Signature

Donna Bacon
Print Name

Executive Director
Title

March 1, 2018
Date

By: Dale E. Hermeling
Dale E. Hermeling

DEH/mcb

Enclosures