

AGREEMENT BETWEEN OWNER AND DESIGN PROFESSIONAL
August 2026 Edition

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ARTICLE 1 AGREEMENT

- 1.1 This Agreement is made by and between [The Florida State University Board of Trustees, a public body corporate of the State of Florida, acting for and on behalf of Florida State University] or [DSO – *note when DSO funding project modifications to agreement are required*] (“Owner”) and [INSERT NAME OF ENTITY], hereinafter referred to as (“the Design Professional”), individually or collectively referred to as (“Party” or “Parties”), for services in connection with the Project entitled and briefly described in Article 11 at the end of this Agreement.
- 1.2 The Design Professional shall comply with all provisions of Florida State University’s Design Guidelines - October 2024 edition.

ARTICLE 2 GENERAL PROVISIONS

The Owner and the Design Professional agree as set forth below:

- 2.1 **STANDARD OF CARE** The Design Professional shall furnish or provide the architectural and engineering services necessary to design the Project in accordance with the Owner's program requirements and as described in Article 11 and as described in the Solicitation Documents for Services, if applicable. The architectural and engineering services shall include Basic Services plus Additional Services as may be authorized by the Owner. The Design Professional shall exercise the degree of care, skill, and diligence as exercised by members of the Design Professional's profession having requisite experience on projects similar in size, type, scope, magnitude, locale, and complexity to the Project that is the subject of this Agreement and all Services provided by the Design Professional under this Agreement shall be performed consistent with this standard (the “Standard of Care”).
- 2.2 **RELATIONSHIP OF THE PARTIES** The Design Professional accepts a relationship of trust and confidence with the Owner for this Agreement and will cooperate and exercise the skill and judgment required above in furthering the interests of the Owner. The Design Professional represents that it possesses the skill, expertise, and licensing to perform the Services. Notwithstanding the foregoing, the Parties agree this paragraph does not create a full fiduciary relationship between Owner and Design Professional, provided, however, there is an expectation and obligation for the Design Professional, consistent with the Standard of Care, to notify the Owner in writing upon discovery of any act, condition, or omission within Design Professional's knowledge, even if outside Design Professional's control or responsibility, that will materially affect successful completion of the Project, with such notice to be provided as soon as reasonably practicable.
- 2.3 The Design Professional represents and warrants that it is a legally organized entity in good standing under the laws of the state of its organization and, where required, qualified to do business and in good standing under the laws of the State of Florida.
- 2.4 Neither the Design Professional nor any of its agents or employees shall act on behalf of or in the name of the Owner except as provided in this Agreement or unless authorized in writing by the Owner.
- 2.5 **DEFINITIONS**
 - 2.5.1 “Addendum” is a written or graphic instrument issued by the Design Professional before execution of the contract(s) that modifies or interprets the Construction Documents by additions, deletions, clarifications, or corrections.
 - 2.5.2 “Agreement” means the Agreement Between Owner and Design Professional as modified, and the exhibits and attachments made part of this Agreement upon its execution.
 - 2.5.3 “Business Day” are all Days, except weekends and official federal or state holidays where the Project is located.

- 2.5.4 "Construction Documents" are written, and graphic documents prepared or assembled by the Design Professional for communicating the design of the Project and administering the contract for its construction.
- 2.5.5 "Constructor" means the person or entity retained by the Owner to perform Work for the Project and includes the Constructor's Representative. Contractor and Constructor may be used interchangeably.
- 2.5.6 "Cost of Construction" means the total cost to Owner of those portions of the entire Project designed or specified by the Design Professional. Cost of Construction does not include the Design Professional's compensation and expenses and Owner's expenses associated with the Project or the cost of other services to be provided by others to the Owner.
- 2.5.7 "Day" means a calendar day.
- 2.5.8 "Design Professional" is the person or entity identified in Article 1 and includes the Design Professional's representative.
- 2.5.9 "The "Drawings" are the graphic and pictorial portions of the Construction Documents, showing the design, location, and dimensions of the Work, generally including plans, elevations, sections, details, schedules, and diagrams. Drawings are intended to show general arrangements, design, and dimensions of Work and are partly diagrammatic.
- 2.5.10 The "Effective Date" of this Agreement is the date last signed below by both Parties.
- 2.5.11 "Final Completion" occurs on the date when the Constructor's obligations under the Agreement are complete and accepted by the Owner. This date shall be confirmed by a Certificate of Final Completion signed by the Owner.
- 2.5.12 "Laws" mean federal, state, and local laws, ordinances, codes, rules, and regulations applicable to the Services and to which the Design Professional must comply that are enacted as of the Agreement date.
- 2.5.13 "Others" mean other contractors, material suppliers, and persons at the Worksite who are not employed by the Constructor or Subcontractors.
- 2.5.14 "Owner" is the person or entity identified in the Agreement and includes the Owner's Representative.
- 2.5.15 "Parties" mean the Owner and Design Professional collectively.
- 2.5.16 The "Project," as identified in the Agreement, is the building, facility, or other improvements to be designed by the Design Professional for which the Constructor is to perform Work under the Agreement Between the Owner and Constructor. It may also include construction by the Owner or Others.
- 2.5.17 The "Schedule of the Work" is the document prepared by the Constructor that specifies the dates on which the Constructor plans to begin and complete various parts of the Work, including dates on which information and approvals are required from the Owner.
- 2.5.18 "Services" mean the services provided by the Design Professional or by Subconsultants retained by the Design Professional for the Project.
- 2.5.19 "Solicitation Documents" are the documents consisting of the written requirements for the Services, performance of related services issued by the Owner at the time of solicitation of the Design Professional for the Project. See Article 11.3 for further information.
- 2.5.20 The "Specifications" are that portion of the Construction Documents consisting of the written requirements for materials, equipment, construction systems, standards and workmanship for the Work, and performance of related services.
- 2.5.21 A "Subcontractor" is a person or entity retained by the Constructor as an independent contractor to provide the labor, materials, equipment, or services necessary to complete a specific portion of the Work. The term Subcontractor does not include the Design Professional or Others.
- 2.5.22 A "Sub-subcontractor" is a person or entity who has an agreement with a Subcontractor to perform any portion of the Subcontractor's Work.
- 2.5.23 "Substantial Completion" of the Work, or of a designated portion, occurs on the date when the Work is sufficiently complete in accordance with the Contract Documents so that the Owner may occupy or utilize the Project, or a designated portion, for the use for which it is intended. This date shall be confirmed by a Certificate of Substantial Completion signed by the Owner and the Design Professional.
- 2.5.24 "Work" means the construction and services necessary or incidental to fulfill the Constructor's obligations for the

Project in conformance with the Agreement Between the Owner and Constructor. The Work may refer to the whole Project or only a part of the Project if work is also being performed by the Owner or Others.

2.5.25 "Worksite" means the geographical area of the Project location where the Work is to be performed.

ARTICLE 3 DESIGN PROFESSIONAL'S RESPONSIBILITIES

3.1 GENERAL RESPONSIBILITIES

- 3.1.1 **PROJECT REQUIREMENTS** The Design Professional, in order to determine the requirements of the Services, shall conduct a preliminary evaluation of the information provided by the Owner. The Design Professional shall confirm its understanding of such requirements with the Owner and shall assist the Owner to refine or make clarifications in writing, if applicable, to the Owner's program for the Project.
- 3.1.2 The Design Professional shall not proceed with the development of successive Construction Documents until receiving written approval from the Owner. The Design Professional shall promptly revise without additional compensation:
 - 3.1.2.1 those documents which have not been previously approved by the Owner and to which the Owner has reasonable objections;
 - 3.1.2.2 those documents identified by the Constructor and reasonably accepted by the Owner as presenting constructability problems; and
 - 3.1.2.3 those documents needing revisions to reflect clarifications and assumptions and allowances on which the Cost of Construction is based.
- 3.1.3 The Design Professional shall have reasonable access to the Worksite at all times.
- 3.1.4 The Design Professional shall assist the Owner with filing required documents with governmental authorities having jurisdiction over the Project, including filing documents required to obtain permits necessary for construction of the Project.
- 3.1.5 The Design Professional shall not be responsible for the acts or omissions of the Owner, the Constructor, and Subcontractors, material suppliers and their respective agents or employees, or any other persons or entities performing work on the Project who are not under the direct control or authority of the Design Professional except as provided in this Agreement.
- 3.1.6 Services to be provided by the Design Professional shall be rendered in a timely manner. The Design Professional shall notify the Owner promptly of anticipated delay in performance of Services and shall utilize its best efforts to mitigate any such delay.

3.2 BASIC SERVICES

The Design Professional's Basic Services consist of any Services provided pursuant to Sections 3.1 and 3.2. The Design Professional shall identify the following under Article 11 Service Details: (a) other Services included in Basic Services; (b) the specific design disciplines included in Basic Services; and (c) those portions of the Project design to be furnished by the Owner, Constructor, or Others. If professional design services are to be furnished by the Owner, Constructor, or Others, the Design Professional shall indicate all performance and design criteria to be satisfied in accordance with the Owner's program, and the Owner, Constructor or Others shall not be responsible for the adequacy of such performance and design criteria. Design services furnished by a Party other than the Design Professional shall be obtained from licensed design professionals, who shall affix their signature and seal on all Drawings, Specifications, calculations, and submittals prepared by them, and the Design Professional shall be entitled to rely upon the adequacy, accuracy, and completeness of such design services.

The Design Professional shall make all modifications to the Construction Documents necessitated by errors, omissions or inadequacies identified in reviews by Owner Representatives during any and all phases of Services.

The Design Professional shall utilize Florida State University's documents that comprise Division 00, which contain the Bidding Requirements, Contract Forms and Conditions of the construction contract as furnished by the Owner unless otherwise agreed to in writing.

3.2.1 COST ESTIMATES

- 3.2.1.1 The Design Professional shall prepare for the Owner's review and approval (a) a preliminary estimate of the Cost of Construction utilizing area, volume, or similar conceptual estimating techniques and based upon the Owner's Program and (b) updated estimates of the Cost of Construction at the completion of the specific Service. See Document Submittal / Final Deliverables table under Article 11 for further details.

It is recognized that neither the Design Professional nor the Owner has control over the cost of the labor, materials or equipment, over the Contractor's methods of determining bid prices, or over competitive bidding, market or negotiating conditions.

3.2.1.2 The Design Professional shall make every reasonable effort to design the Project so that actual Cost of Construction does not exceed the budgeted cost for construction contained in this Agreement. The Design Professional shall promptly notify the Owner's Representative in writing when the Design Professional believes that the budgeted Cost of Construction might be exceeded.

3.2.1.3 If the statement of probable Construction Cost required in Section 3.2 exceeds the budgeted Cost of Construction, the Owner may choose to revise the Project scope and/or quality as required to reduce the probable Construction Cost. If the Owner chooses to proceed in this manner, the Design Professional shall be responsible for all costs associated with modifying the design.

3.2.2 PROJECT SCHEDULE

3.2.2.1 The Design Professional shall prepare for the Owner's review and approval a preliminary Project Schedule as set forth under Article 11. If the Constructor has been retained to provide preconstruction services as part of the Work, the Design Professional shall coordinate and update the Project Schedule with the Schedule of the Work prepared by the Constructor. The Design Professional shall make appropriate recommendations if any Project Schedule shows a deviation from previously approved Project Schedules.

3.2.3 SCHEMATIC DESIGN DOCUMENTS Based on the Owner's program, including any approved refinements or clarifications, the Design Professional shall:

3.2.3.1 Prepare, for the Owner's review and approval, Schematic Design Documents consisting of Drawings, outline Specifications and other documents illustrating the Project's basic elements, scale, and their relationship to the Worksite.

Schematic Design Documents shall include as applicable, conceptual plans of the site and structures; preliminary sections and elevations; tabulation of areas showing the net assignable and gross square foot areas, volumes, and dimensions; and preliminary selections of materials and systems.

3.2.3.2 Submit the designated quantity of the Schematic Design Documents as identified in Article 11.

When the Design Professional submits the Schematic Design Documents, the Design Professional shall identify in writing for the Owner's approval all material changes and deviations that have taken place from the Design Professional's approved preliminary estimate of the Cost of Construction and Project Schedule.

3.2.4 DESIGN DEVELOPMENT DOCUMENTS

3.2.4.1 The Design Development Documents shall define the Project, including Drawings and outline Specifications fixing and describing the Project size, character, and site relationships, and other appropriate elements describing the structural, architectural, mechanical, and electrical systems.

3.2.4.2 When Schematic Design is included in the Agreement under Article 11, the Design Professional shall prepare, for the Owner's review and approval, Design Development Documents based on the approved Schematic Design Documents, the Schematic Design Cost of Construction and Schematic Design Project Schedule.

3.2.4.3 Design Development Documents shall include, as applicable, plans, sections, and elevations; revised tabulation of areas; criteria and sizing of major components; equipment sizes and capacities and approximate layouts, including required spaces and clearances; typical details; and, materials selections and general quality levels.

3.2.4.4 When the Design Professional submits the Design Development Documents, the Design Professional shall identify in writing for the Owner's approval all material changes and deviations that have taken place from the Schematic Design Documents and the previously approved estimate of the Cost of Construction and Project Schedule.

3.2.4.5 The Design Professional shall submit the designated quantity of the Design Development Documents as identified in Article 11.

3.2.5 CONSTRUCTION DOCUMENTS The Construction Documents shall describe all Work necessary to bid and construct the Project.

3.2.5.1 The Design Professional shall prepare, for the Owner's review and approval and the approval of

governmental authorities, including any revisions necessary to secure such approvals, Construction Documents setting forth in detail the quality levels of and the requirements for construction of the Project, and consisting of Drawings and Specifications that comply with Laws and all other deliverables outlined in Article 11.

- 3.2.5.2 When Design Development is included in the Agreement under Article 11, the Design Professional shall prepare, for the Owner's review and approval, Construction Documents based on the approved Design Development Documents, the Design Development Cost of Construction and Design Development Project Schedule.
- 3.2.5.3 When the Design Professional submits the Construction Documents, the Design Professional shall identify in writing for the Owner's approval all material changes and deviations that have taken place from the Design Development Documents and the previously approved estimate of the Cost of Construction and Project Schedule.
- 3.2.5.4 The Design Professional shall submit the designated quantity of the Construction Documents and copies of the tabulation of areas as identified in Article 11.
- 3.2.5.5 The Design Professional shall consult with the Owner's Representative to identify bidding strategies including alternates required to protect the integrity of the budgeted Cost of Construction.
- 3.2.5.6 The Construction Documents shall comply with all applicable Laws and regulations pertinent to the Project. The Design Professional shall obtain and forward to the Owner letters of approval from all applicable agencies prior to receipt of bids.
- 3.2.5.7 The Design Professional of record and appropriate Subconsultants shall place their individual information blocks with certifications, seals, signatures, and dates on the original title page of the Construction Documents. The information block shall include the numbers of the pages or sheets, which are covered by certification. The Design Professional shall deliver one set of Construction Documents (Drawings and Specifications) to the Owner with certifications required prior to the bid date of the Project.
- 3.2.6 **DESIGN COORDINATION** The Design Professional shall coordinate the Services of all design consultants for the Project. The Design Professional shall promptly report any known errors or omissions to the Owner. However, the Design Professional does not assume an affirmative responsibility to detect errors, omissions, or inconsistencies in design consultant's services that are not retained by the Design Professional.
- 3.2.7 **BIDDING OR NEGOTIATION ASSISTANCE** The Design Professional shall assist the Owner in obtaining bids or negotiated proposals from constructors by providing electronic files of Drawings, Specifications, and any Addendum, attending pre-bid or pre-award meetings, clarifying the scope and intent of the Construction Documents, and, if appropriate, evaluating proposed constructor's subcontractors and material suppliers for portions of the Work. The Design Professional shall issue any addenda or clarifications promptly in writing.
 - 3.2.7.1 The Design Professional of Record shall affix professional's certification to the Addendum as required in Article 3, Subparagraph 3.2.5.3. The Design Professional shall deliver one copy of all Addenda to the Owner.
 - 3.2.7.2 If the lowest bonafide bid exceeds the budgeted Construction Cost for construction, the Owner may choose to revise the Project scope and/or quality as required to reduce projected construction costs. If the Owner chooses to proceed in this manner, the Design Professional shall be responsible for all costs associated with modifying and issuing the Construction Documents as necessary to obtain new bids.
- 3.2.8 **CONSTRUCTION PHASE SERVICES** The Construction Phase will commence upon the issuance of a written Notice of Award from the Owner to the Constructor with simultaneous notification to the Design Professional. The Design Professional shall:
 - 3.2.8.1 Review and advise the Owner as to the sufficiency of the schedule of values submitted by the Constructor for the Work, review and advise the Owner as to the sufficiency of the Project Schedule with the Schedule of the Work submitted by the Constructor and approved by the Owner, prepare design documents, including Instructions to Constructors, Architect Supplemental Instructions and/or Engineer Supplemental Instructions, in connection with change orders, and respond to Constructor requests for information (RFI).
 - 3.2.8.2 Furnish to the Owner and, if directed, to the Constructor interpretations and clarifications of the Drawings and Specifications, by means of additional Drawings, Addenda, Instruction to Constructor or otherwise, as are necessary for the proper execution and progress of the Work. All such interpretations and clarifications shall be consistent with the intent of the Construction Documents and reasonably inferable from them.
 - 3.2.8.3 Review the Constructor's submittals, including shop drawings, product data, and samples, and make

recommendations about such submittals to the Owner within ten (10) Business Days of receiving the submittals from the Constructor, unless mutually agreed otherwise by the Design Professional, Constructor, and Owner. The Design Professional shall check the Constructor's submittals for conformance with the design and the scope of the Project and for compliance with the Construction Documents. The Design Professional's review shall not extend to the Constructor's means, methods, techniques, sequences, or procedures, unless such means, methods, techniques, sequences, or procedures have been specified by the Construction Documents.

- 3.2.8.4 Assist the Owner in the evaluation of requests for changes in the Work. Based on its evaluation, the Design Professional shall make a recommendation to the Owner's Representative in writing within five (5) Business Days of a receipt of requests for changes in the Work.
- 3.2.8.5 Visit the Worksite at appropriate intervals to become generally familiar with the quality of the Work and to determine in general if the Work is proceeding in accordance with the Construction Documents. After each Worksite visit, the Design Professional shall promptly provide the Owner with a written report. If the Design Professional becomes aware of any defects or deficiencies in the Work, the Design Professional shall provide prompt notice, followed by written confirmation, to the Owner. If, in the Design Professional's opinion, special testing or inspection of the Work is needed, the Design Professional shall recommend to the Owner such testing or inspection procedures and appropriate consultants. The Design Professional shall not be responsible for construction means, methods, techniques, sequences, and procedures, unless they are specified by the Design Professional, or for ensuring that the Work is in accordance with the Construction Documents.
- 3.2.8.6 Not be responsible for the Constructor's safety precautions and programs. However, if the Design Professional has actual knowledge of safety violations, the Design Professional shall give prompt written notice to the Owner.
- 3.2.8.7 Assist the Owner as requested in processing the Constructor's applications for payment. Based on the Design Professional's on-site observations and other relevant information, the Design Professional shall recommend and certify upon request to the Owner that to the best of Design Professional's knowledge, information and belief, the amounts due the Constructor and that the Work has progressed to the point indicated in the payment application based on the schedule of values submitted by the Constructor. The Design Professional will interpret the Construction Documents and judge the performance thereunder by both the Owner and the Constructor as follows:

The Design Professional shall render interpretations necessary for the proper execution or progress of the Work to the Owner within five (5) Business Days of receipt of Constructor's application for payment when requested by the Owner.

- 3.2.8.8 The Design Professional's certification for payment shall not be a representation that the Design Professional has: (a) made exhaustive or continuous on-site observations to check the quality or quantity of the Work; (b) reviewed construction means, methods, techniques, sequences, or procedures for the Constructor's Work; (c) reviewed copies of requisitions received from Subcontractors and material suppliers and other data requested by the Owner to substantiate the Constructor's right to payment; or (d) ascertained how or for what purpose the Constructor has used money previously paid. The Design Professional shall be entitled to rely on the Constructor's certification as to the application of moneys previously paid.
- 3.2.8.9 Attend meetings with the Owner and the Constructor upon reasonable request of the Owner.

The Design Professional shall keep meeting minutes, prepare a report of each meeting, and distribute copies to the Owner's Representative, Design Professional Representative, and Constructor for distribution.

- 3.2.8.10 Assist the Owner in conducting observations to determine the date or dates of the Constructor's Substantial Completion of the Work. Such assistance shall include compiling a list of items to be completed or corrected so that the Owner may occupy or utilize the Work or a designated portion for its intended use, without unscheduled disruption.

The Design Professional shall assist the Owner in conducting observations to determine the Constructor's Final Completion of the Work.

In the course of conducting on-site observations to determine the dates of Substantial Completion and Final Completion, the Design Professional, along with appropriate Subconsultants, shall develop and submit to the Owner, a list of contract items to be completed or corrected (punch list). The Design Professional shall assist the Owner in establishing appropriate warranty and guarantee commencement dates for various items of mechanical, electrical, and conveying equipment.

3.2.8.11 COMMISSIONING If requested by the Owner, the Design Professional shall assist with the implementation of formal commissioning including the start-up and/or operation of all building systems that are part of the Work.

3.2.8.12 If requested by the Owner, the Design Professional shall visit the Worksite during the Constructor's one-year correction period to assist the Owner in evaluating the need for any corrective measures.

3.2.8.13 The Design Professional shall interpret the Construction Documents and judge the performance thereunder by both the Owner and the Constructor as follows:

3.2.8.13.1 Claims, disputes, and other matters in question between the Constructor and the Owner relating to the execution or progress of the Work or the interpretations of the Construction Documents may be referred initially to the Design Professional for recommendation, which the Design Professional shall render in writing to the Owner within a reasonable time.

3.2.8.13.2 All interpretations and recommendations of the Design Professional shall be consistent with the intent of and reasonably inferable from the Construction Documents and will be in writing or in the form of Drawings. In the Design Professional's interpretations and judgments, the Design Professional will endeavor to secure faithful performance by both the Owner and the Constructor, will not show partiality to either, and will not be liable for the result of any interpretation or judgment rendered in good faith.

3.2.9 RECORD DOCUMENTS The Design Professional shall update the Construction Documents as necessary to track all changes from Bidding through acceptance of the Constructor's construction contract. Within thirty (30) Days after the Owner accepts the Constructor's construction contract or the Design Professional receives the Constructor's as-builts whichever is later, the Design Professional shall furnish the Owner with record documents.

3.2.10 The Design Professional's archive of Project materials shall be turned over to the Owner within thirty (30) Days after Final Completion of the Project.

3.2.11 HAZARDOUS MATERIAL A Hazardous Material is any substance or material identified as hazardous under any federal, state, or local law or regulation, or any other substance or material which may be considered hazardous or otherwise subject to statutory or regulatory requirement governing handling, disposal, or clean-up. To the extent not identified in this Agreement, if a Hazardous Material is discovered at the Worksite, the Design Professional shall not be required to perform Services at the Worksite relating to or in the area of the Hazardous Material without written mutual agreement. Notwithstanding contrary terms in this Agreement, it is acknowledged and agreed that Design Professional has no responsibility for and no liability resulting from the detection, containment, removal, disposal and/or otherwise rendering harmless asbestos, polychlorinated biphenyl (PCB) and other hazardous materials and substances that may exist in, around and under the Project Site.

To the extent permitted by Section 7.1.4 and to the extent not caused by the wrongful or negligent acts or omissions of the Design Professional, its agents, successors and assigns, the Owner shall be responsible for all claims, damages, losses, costs and expenses incurred in connection with any dispute resolution process arising out of or relating to the performance of Services at the Worksite in an area affected by Hazardous Material.

3.3 ADDITIONAL SERVICES The following Services shall be provided by the Design Professional as Additional Services subject to additional compensation but only when authorized in advance in writing by the Owner and are authorized in advance by the Owner in writing and not included in Basic Services as set forth in Sections 3.1, 3.2, and 11.3:

3.3.1 assistance with the preparation of the Owner's program and planning surveys including the review and incorporation of existing building plans and field verification of existing conditions of the project site;

3.3.2 surveys, site evaluations, legal descriptions, and aerial photographs;

3.3.3 soils, subsurface, and environmental studies, reports, and investigations required for submission to governmental authorities or others having jurisdiction over the Project;

3.3.4 artistic renderings are included; models, and mockups of the Project or any part of the Project;

3.3.5 inventories of existing furniture, fixtures, furnishings, and equipment which might be under consideration for incorporation into the Project;

3.3.6 interior design and related services, procurement and placement of furniture, furnishings, artwork, and decorations;

3.3.7 revising the Schematic Design, Design Development, or Construction Documents after they have been approved by the Owner, and which are due to causes beyond the control of the Design Professional;

3.3.8 design, coordination, management, expediting, and other services supporting the procurement of materials to be

obtained or work to be performed by the Owner, including but not limited to telephone systems, computer wiring networks, and other specialty systems which are not otherwise required by this Agreement;

- 3.3.9 estimates, proposals, appraisals, consultations, negotiations, and services in connection with the repair or replacement of an insured loss;
- 3.3.10 the premium portion of overtime work ordered by the Owner, including productivity impact costs, other than that required by the Design Professional to maintain the Project Schedule for causes that are the responsibility of the Design Professional;
- 3.3.11 serving or preparing to serve as an expert witness in connection with any proceeding, legal or otherwise, regarding the Project in which the Design Professional is not a Party;
- 3.3.12 providing services relating to Hazardous Material discovered at the worksite;
- 3.3.13 out-of-town travel by the Design Professional in connection with Services, except between the Design Professional's office, the Owner's office, and the worksite;
- 3.3.14 providing services requested by the Owner or required by the Work that are not normally part of generally accepted design and construction practice and not otherwise required by this Agreement;
- 3.3.15 providing services related to the suspension of construction work;
- 3.3.16 providing formal commissioning services;
- 3.3.17 providing services related to audio/visual equipment;
- 3.3.18 other additional services as agreed to by the Parties and identified in Article 11.

- 3.4 **QUALIFICATIONS** The Design Professional warrants and represents that the Design Professional and its Subconsultants are duly qualified, licensed, registered, and authorized by law to perform the Services under this Agreement.
- 3.5 **SUBCONSULTANTS** The Design Professional shall not engage the services of any consultant (without first obtaining the Owner's written approval, which approval shall not be unreasonably withheld. Such approval by the Owner shall not be deemed to create any contractual relationship between the Owner and any such consultant, except that the Owner shall be considered the intended beneficiary of the performance of their Services. The Design Professional shall not include any limits of liability in its agreements with any Subconsultants without the prior written approval of the Owner. The Design Professional shall bind its Subconsultants in the same manner as the Design Professional is bound to the Owner under this Agreement. Consultants retained by the Design Professional for the Services covered by this Agreement are identified under Article 11 and are also referred to as Subconsultants.
- 3.6 **DESIGN PROFESSIONAL'S REPRESENTATIVE** The Design Professional shall designate a single representative authorized to act on the Design Professional's behalf in all interactions with all Parties involved in the Project. The Design Professional's representative shall possess full authority to receive and act on instructions from the Owner. If the Design Professional changes its representative or his/her authority, the Design Professional shall immediately notify the Owner in writing. The Design Professional's representation is identified under Article 11.
- 3.7 **KEY PROJECT PERSONNEL** The key Project personnel whom the Design Professional shall assign are as set forth in Article 11. Such personnel shall not be changed without the written approval of the Owner, which approval shall not be unreasonably withheld.
- 3.8 **ROYALTIES, PENALTIES, AND COPYRIGHTS** Design Professional shall notify Owner if any design or specifications specified by Design Professional require royalties and/or licensing fees and seek written direction from Owner before incorporating into the design. The Design Professional warrants that it possesses the copyright or has obtained permission to use the copyrighted materials, methods, or systems selected by the Design Professional and incorporated in the design documents of the Design Professional. The Design Professional shall defend, indemnify, and hold the Owner, the Constructor, and Subcontractors harmless from all suits or claims for infringement of any third-party patent rights or copyrights arising out of such selection.
- 3.9 **CONFIDENTIALITY** The Owner agrees that information provided to the Design Professional for purposes of designing the Project may be discussed with subconsultants, vendors, suppliers, contractors and other associated professionals to assist in making informed design decisions, but neither confidential or proprietary information or intellectual property of any kind owned by the Owner nor the name of the Owner will be used by the Design Professional in its promotional materials, seminar presentations or otherwise without the Owner's prior written permission, which may be withheld by the Owner in its sole and absolute discretion. The Design Professional will instruct its employees and Subconsultants concerning the provisions of this confidentiality and will be responsible for the violation of this provision by any one or more of them. Notwithstanding any information provided by the Design Professional labeled as "Confidential" or "Proprietary," the Parties acknowledge that Owner is a public body corporate of the State of Florida and certain

information, including this Agreement, may be subject to Chapter 119, Florida Statutes (the "Florida Public Records Act") and would require disclosure as a "public record" upon request. Owner retains the right to make interpretations of its duties and obligations under the law, and any disclosure of information by Owner pursuant to the Florida Public Records Act shall not be considered a breach of this Agreement.

- 3.10 The Design Professional and Subconsultants retained by the Design Professional shall comply with any health safety measures required by the Owner. Such requirements may change from time to time, at the discretion of the Owner. The Owner's Representative shall provide the Design Professional with reasonable notice.

ARTICLE 4 OWNER'S RESPONSIBILITIES

4.1 INFORMATION AND SERVICES PROVIDED BY OWNER

- 4.1.1 To the extent the Owner has obtained the information and services identified below, the Owner shall provide them to the Design Professional in a timely manner. The Design Professional shall be entitled to rely on the completeness and accuracy of such information and services:

4.1.1.1 information describing the physical characteristics of the Worksite, including surveys, Worksite evaluations, legal descriptions, existing conditions, subsurface and environmental studies, reports, and investigations;

4.1.1.2 inspection and testing services during construction as required by law or as mutually agreed; and

4.1.1.3 unless otherwise provided in this Agreement, necessary approvals, rezoning, easements and assessments, fees, and charges required for the use, occupancy, or renovation of permanent structures, including legal and other required services. The information required by Subsection 4.1.1.1 shall be provided in reasonable detail. Legal descriptions shall include easements, title restrictions, boundaries, and zoning restrictions. Worksite descriptions shall include existing buildings and other construction and all other pertinent site conditions. Adjacent property descriptions shall include structures, streets, sidewalks, alleys, and other features relevant to the Work. Utility details shall include available services, lines at the Worksite and adjacent thereto, and connection points. The information shall include public and private information, subsurface information, grades, contours, and elevations, drainage data, exact locations and dimensions, and benchmarks that can be used in laying out the Work.

- 4.1.2 The Owner shall promptly report to the Design Professional errors, inconsistencies, and omissions it discovers in the Construction Documents; however, nothing in this subsection shall relieve the Design Professional of responsibility for its own errors, inconsistencies, and omissions.

Services required to correct the Design Professional's design errors, omissions, or deficiencies that become apparent during construction or after completion of the Project shall be provided by the Design Professional at no additional compensation.

- 4.1.3 Approvals by the Owner shall not be deemed to be an assumption of responsibility by the Owner for any error, inconsistency, or omission in the Drawings and Specifications or other documents prepared by the Design Professional, its employees, agents, or Subconsultants. The Owner shall provide all approvals required under this Agreement in a timely manner.

- 4.2 **OWNER'S REPRESENTATIVE** The Owner's representative shall be fully acquainted with the Project; agrees to furnish the information and services required of the Owner pursuant to Section 4.1 in a timely manner; and shall have authority to bind the Owner in all matters requiring the Owner's approval, authorization, or written notice. If the Owner changes its representative or his/her authority, the Owner shall immediately notify the Design Professional in writing.

- 4.2.1 The Chief Construction Officer or designee shall be the principal representative of the Owner. All communications between the Owner and Design Professional shall be made through the Owner's Representative. The Owner's Representative shall be at all meetings with the Design Professional and other institutional personnel during the Project.

- 4.2.2 The Owner's Representative shall meet and confer with the Design Professional and the Design Professional's Subconsultants as necessary for the understanding and communication relative to the needs and requirements of the Project. The Owner's Representative shall notify the Design Professional in writing of any change in the written program/requirements.

ARTICLE 5 TIME

- 5.1 **TIME FOR SERVICES** Time is of the essence; provided, however, neither Party shall be deemed in default of this Agreement to the extent that such delay qualifies as an excusable delay pursuant to paragraph 5.1.1. The Design

Professional shall provide the Services required by this Agreement in conformance with the most recent Project Schedule approved by the Owner.

5.1.1 **FORCE MAJEURE.** Neither Party shall be liable to the other Party for any delay or non-performance to the extent caused by a "Force Majeure" event, which for purposes of this Agreement, shall mean acts of God or the public enemy, acts of the government of the United States or the individual states, acts of any foreign country, strikes, work stoppages, stop work orders issued by governmental authorities, change in law or mandates, lock-outs, disturbances, disorders, riots, civil commotion, malicious damage, war conditions, hostilities, terrorism, blockades, embargoes, tariffs, supply chain shortages or disruptions, boycotts, sabotage, plagues, epidemics, pandemics, public health crisis, earthquakes, landslides, floods, fires, storms, tempests, torrents, named weather event, named storm, unusually severe weather, or other causes beyond the impacted Party's reasonable control not anticipated and provided for in this Agreement, but which make the carrying out of its obligations hereunder objectively impossible or illegal, not merely more difficult or expensive. The impacted Party shall immediately notify the other Party of the Force Majeure event (and include reasonable details of the event and its impacts) and use diligent efforts to end the failure or delay and ensure the effects of such Force Majeure event are minimized. The impacted Party shall resume the performance of its obligations as soon as reasonably practicable after the removal of the cause. The Parties expressly agree that Section 8.1 of this Agreement remains in full force and effect, can be exercised by Owner at any time in accordance with the terms of this Agreement and is not vitiated by the terms of this paragraph.

5.2 **DELAYS BY DESIGN PROFESSIONAL** If the progress or completion of the Project is delayed by reason of any error, inconsistency, or omission of the Design Professional which violates its Standard of Care, the Design Professional shall compensate the Owner for and indemnify it against actual and direct damages that may accrue as a result of such delay, including but not limited to third-party claims. In addition, the Design Professional shall provide Services at its own cost, including any overtime costs and expenses, required to make up time lost to the Owner because of such delay. The Owner shall provide prompt written notice to the Design Professional of such delay after the Owner first recognizes the delay.

5.3 **DELAYS BY OWNER** If the Design Professional is delayed in the performance of its Services by any act or omission of the Owner, or by changes ordered by the Owner which are due to causes beyond the Design Professional's control, or by a delay authorized by the Owner pending dispute resolution, then the time allotted in the Project Schedule for the Design Professional's Services shall be extended for the period of such delay or the Owner shall authorize the Design Professional to work overtime to make up such lost time, and the Design Professional's compensation shall be equitably adjusted. The Design Professional shall provide prompt written notice to the Owner of such delay after the Design Professional first recognizes such delay.

ARTICLE 6 COMPENSATION AND PAYMENTS

6.1 COMPENSATION FOR BASIC SERVICES

6.1.1 Compensation for Basic Services as described in Section 3.1 and 3.2 shall be as set forth in Article 11.

6.2 ADDITIONAL SERVICES AND REIMBURSABLE EXPENSES

6.2.1 For Additional Services as described in Section 3.3, compensation shall be stipulated at the time of occurrence.

6.2.2 The Design Professional shall be compensated for the Reimbursable Expenses at their actual cost. Reimbursable Expenses are in addition to the compensation for Basic Services and include actual expenditures made by the Design Professional or its Subconsultants, in the interest of the Project for the expenses listed on the University's website and the following subparagraphs:

6.2.2.1 Reimbursable travel expenses shall be limited to those incurred in travel on behalf of the Project when authorized by the Owner's Representative. The Design Professional must comply with the Owner's "Reimbursement Expense Guidelines."

6.2.2.2 If authorized by the Owner, expenses for reproduction and distribution of documents shall be considered reimbursable expenses.

6.2.2.3 The Design Professional shall have the right under this Article to claim reimbursable expenses for any items not specifically covered herein, provided that such reimbursable expenses are identified as such and are authorized in writing by the Owner's Representative prior to being incurred.

6.3 PAYMENTS

6.3.1 The Design Professional shall submit to the Owner for its approval monthly applications for payment for Basic and Additional Services and Reimbursable Expenses, if any, with reasonable supporting detail summarizing the activities of the previous month (and outstanding issues or planned activities for the following month.) The Owner shall pay approved amounts no later than thirty (30) Days after the Design Professional has submitted its applications for payment. No matter how computed in Section 6.1, payments for Basic Services shall not exceed

the amounts identified in Article 11 for Basic Services at the completion of each Phase of the Design Professional's Services.

- 6.3.2 Preparation of Invoices. Invoices for Basic and Additional Services and Reimbursable Expenses shall be prepared in accordance with the Owner's standard invoice and shall be accompanied with documentation for services and reimbursable expenses. Upon receipt of payment from the Owner, the Design Professional shall promptly make payment to its Subconsultants as appropriate, and the Owner may request proof of payment.

6.3.2.1 Acceptance of final payment shall constitute a waiver of all claims by the Design Professional and Its Subconsultants for compensation for its Services.

- 6.3.3 Should there be any claim or obligation asserted before or after final payment is made that arises from the Design Professional's Services, the Design Professional shall reimburse the Owner for any costs and expenses, including attorneys' fees, costs, and expenses, incurred by the Owner in satisfying, discharging, or defending against any such claim or obligation, including any action brought or judgment recovered to the extent described in Section 7.1.
- 6.3.4 Should the Design Professional or its Subconsultants cause damage to the Project, or fail to perform per the Standard of Care, or otherwise be in default under the terms of this Agreement, the Owner shall have the right to withhold from any payment due or to become due, or otherwise be reimbursed for, an amount sufficient to protect the Owner from any loss that may result. Payment of the amount withheld shall be made when the grounds for the withholding have been removed.
- 6.3.5 The Design Professional's expense records shall be maintained in accordance with generally accepted accounting principles. Records shall be kept for the duration of the Statute of Limitations that governs when this Agreement was executed and made available to the Owner on request or shall be made available for examination by the Owner's authorized representative at mutually convenient times at no expense to the Owner.
- 6.3.6 Termination of the Project. In the event the Owner decides for any reason to terminate the Project, the Design Professional shall be paid for Services satisfactorily performed and unpaid Reimbursable Expenses incurred prior to receipt of written notice from the Owner.
- 6.3.7 Deferral of the Project. If action on the Project is deferred for more than one year, the Design Professional's compensation shall be subject to renegotiation for the uncompleted portion of the Project.

ARTICLE 7 INDEMNITY AND INSURANCE

- 7.1 INDEMNITY To the fullest extent permitted by law, the Design Professional shall indemnify and hold harmless the Owner, the Owner's officers, directors, members, employees, successors and assigns ("the Indemnitees") from and against all claims, damages, losses, expenses, and liabilities, including but not limited to reasonable attorney's fees, in connection with Design Professional's performance of this Agreement to the extent caused by the negligent acts or omissions, recklessness, or intentionally wrongful conduct of Design Professional and other persons employed or utilized by the Design Professional in the performance of the Agreement. The provisions of this paragraph shall be in addition to, and shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity, which would otherwise exist as to any party or person. Design Professional's indemnification obligations under this Agreement shall be deemed part of the Project specifications and to fully comply with Section 725.06 or 725.08, Florida Statutes, as applicable, including any amendments thereto, in all respects. If any word, clause, or provision of any of the indemnification provisions of this Agreement is determined not to be in compliance with Section 725.06 or 725.08, Florida Statutes, as applicable, including any amendments thereto, it shall be stricken and the remaining words, clauses and provisions shall remain in full force and effect. It is the intent of the parties that Design Professional's indemnification obligations comply fully with Section 725.06 and 725.08, Florida Statutes, as applicable, including any amendments, in all respects. Design Professional's obligations under this paragraph shall survive the expiration or earlier termination of this Agreement and the completion of the Services.

- 7.1.1 NO LIMITATION ON LIABILITY In any and all claims against the Indemnitees by any employee of the Design Professional, anyone directly or indirectly employed by the Design Professional or anyone for whose acts the Design Professional may be liable, the indemnification obligation shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the Design Professional under workers' compensation acts, disability benefit acts, or other employment benefit acts. The requirements for insurance are not intended to limit, qualify, or restrict the liabilities and obligations otherwise assumed by the Design Professional in this Agreement, including provisions concerning indemnification.
- 7.1.2 The Owner will require any Constructor performing the Work in connection with the Construction Documents produced under this Agreement to hold harmless and indemnify the Owner and the Design Professional, its Subconsultants and each of their officers, agents and employees from any and all claims, losses, damages or expenses arising out of the Constructor's or its Subcontractor's wrongful or negligent acts or omissions in the performance of the Work described in the Construction Documents, but not including liability that may be due to the wrongful or negligent acts or omissions of the Owner, the Design Professional, their Subconsultants or their officers, agents and employees.

7.2 INSURANCE

7.2.1 The Design Professional and Its Subconsultants shall procure and maintain insurance against claims for injury to persons or damage to property which may arise from or in connection with the performance of the Services under this Agreement until all of their obligations are satisfied, including any warranty periods.

7.2.2 Types of Insurance Coverages Required

The Design Professional shall procure and maintain the following policies on the terms outlined below:

7.2.2.1 **COMMERCIAL GENERAL LIABILITY.** The policy shall provide coverage on an "occurrence" form and no more restrictive than that provided by the latest edition of the standard Commercial General Liability Form (Form CG 0001) or approved equivalent as filed for use in the State of Florida by the Insurance Services Office (ISO) and include coverage for:

- Premises and Operations
- Personal Injury/Advertising Injury
- Products/Completed Operations
- Liability assumed under an Insured Contract (including tort liability of another assumed in a business contract)
- Independent Contractors
- No exclusion for "XCU" (explosion, collapse, underground damage)

The coverage shall contain no special limitation on the scope of protection afforded to the Owner, its officials, employees, and volunteers.

7.2.2.2 **COMMERCIAL AUTOMOBILE LIABILITY.** The policy shall provide occurrence form coverage for:

- Owned Vehicles
- Leased Vehicles
- Hired Vehicles
- Non-Owned and Employee Non-Owned Vehicles
- Personal Injury Protection (as required by law)

7.2.2.3 **WORKER'S COMPENSATION AND EMPLOYERS' LIABILITY.** The policy shall provide the following coverages:

- Coverage A: Workers' Compensation (per Chapter 440, Florida Statutes)
- Coverage B: Employers' Liability Hired Vehicles

Workers' Compensation policy must comply with Chapter 440, Florida Statutes, and include NCCI endorsement WC000313 Waiver of Our Right to Recover from Others endorsement in favor of Owner.

7.2.2.4 **PROFESSIONAL LIABILITY (ERRORS AND OMISSIONS).** Design Professional, and each of its Subconsultants, shall procure and maintain professional liability insurance, on an occurrence form, covering any and all claims arising out of errors or omissions, or negligent acts committed by them, including design errors and damages sustained by reason of or in the course of providing Services under this Agreement. The policy/coverages shall include:

- Description of operations on the declaration describing the scope of Services under the Agreement, including the Design Professional's operations, and that of its qualified Subconsultants
- Amendment of any contractual liability exclusion to state: "This exclusion does not apply to any liability of others which the Design Professional assume under a written contract provided such liability is caused by its wrongful acts."
- Claims alleging improper supervision of Subconsultants
- Representative insured wording amended to include past principals/employees
- Definition of "damages" amended to include punitive damages, if permitted by law
- Coverage shall include economic loss

The policy shall: (a) be maintained for a period up to and including the date of the expiration of the applicable "statute of repose", (b) have a retroactive date prior to the performance of any Services to be provided under this Agreement, and (c) state that in the event of cancellation or non-renewal, the discovery period for insurance claims (tail coverage) shall be at least five (5) years after Substantial Completion of the Project. Professional liability insurance shall be required on any registered Subconsultant participating in the Project to the extent noted in Section 7.2.3.

Provided, however, the foregoing notwithstanding, if approved by Owner's Chief Construction Officer,

Design Professional, and/or its Subconsultants, may meet the requirements of this Section through insurance written on a **claims-made** form provided: (i) the policy includes a retroactive date of placement prior to or coinciding with the effective date of this Agreement; (ii) the policy must provide for the reporting of circumstances that may give rise to a claim; (iii) the policy must continue for five (5) years following completion of or the attempted completion of the Services required by this Agreement with an extended discovery period and (iv) if the coverage is cancelled or non-renewed and not replaced with another claims-made policy form with retroactive date prior to the effective date of this Agreement, then the insured must purchase Extended Reporting ("Tail") coverage that will respond to claims arising out of this Agreement for a minimum of five (5) years following the completion of the performance or attempted performance of this Agreement. Such policies shall allow for reporting of circumstances or incidents that might give rise to future claims.

7.2.2.5 **UMBRELLA/EXCESS LIABILITY.** Design Professional shall procure and maintain an Umbrella or Excess Liability Policy written on a "following form" basis to supplement the required primary policies.

7.2.3 Limits Required

7.2.3.1 Commercial General Liability

• General Aggregate	\$2,000,000
• Products/Completed Operations Aggregate	\$2,000,000
• Each Occurrence Limit	\$2,000,000
• Personal/Advertising Injury	\$2,000,000
• Damage to Rented Premises	\$50,000

7.2.3.2 Automobile Liability

• Bodily Injury/Property Damage (Each Accident)	\$1,000,000
• Personal Injury Protection	Statutory

7.2.3.3 Workers' Compensation and Employers' Liability

• Coverage A (Workers' Compensation)	Statutory
• Coverage B (Employers' Liability)	\$1,000,000

7.2.3.4 Umbrella Liability

• Each Occurrence Limit	\$2,000,000
• General Aggregate Limit	\$2,000,000
• Products/Completed Operations Aggregate	\$2,000,000

7.2.3.5 Professional Liability (Errors and Omissions Liability) for Design Professional

• Each Claim	\$2,000,000
• Annual Aggregate	\$2,000,000

7.2.3.6 Professional Liability (Errors and Omissions Liability) for all Subconsultants (minimum requirements)

• Each Claim	\$1,000,000
• Annual Aggregate	\$1,000,000

7.2.4 Requirements Pertaining to all Insurance Required

7.2.4.1 All policies shall be issued and countersigned by duly authorized representatives and, except for Professional Liability, shall be written on ISO standard forms or their equivalent. All policies must be issued by insurers authorized to do business in the State of Florida and having an AM Best rating of A-, financial size VII or higher.

7.2.4.2 All required policies shall be endorsed to provide that any such insurance policy(ies) shall not be suspended, canceled, terminated, or non-renewed, or materially changed without thirty (30) days' prior written notice to Owner, except when cancellation is for non-payment of premium; then ten (10) days' prior notice may be given. In addition, the insurance company and/or Design Professional must provide thirty (30) days prior written notice to Owner of any reduction in any of the policy limits or aggregate coverage. If any insurance company refuses to provide the required notice, Design Professional or its insurance broker shall notify Owner of any cancellation, suspension, or non-renewal of any insurance within seven (7) days of receipt of insurers' notification to that effect. All such notices shall be sent to Owner's Department of Environmental Health and Safety.

7.2.4.3 All insurance policies (except for the Workers' Compensation and Professional Liability) will be endorsed to name the following entities as "Additional Insureds" for ongoing and completed operations: The Florida State University Board of Trustees (Owner) and the Trustees of the Internal Improvement Trust Fund of the State of Florida, Florida Board of Governors, and each of their officers, agents, employees, and volunteers (the "Owner Related Parties"), utilizing ISO endorsement CG 20 10 07 04 or CG 20 38 and CG 20 37 or CG 20 40 (Completed Operations) or similar endorsements providing equal or broader coverage. Any cost for adding these Additional Insureds shall be at Design Professional's expense.

- 7.2.4.4 All required insurance policies shall be endorsed to provide for a waiver of subrogation and a severability of interests in favor of Owner and the Owner Related Parties. Design Professional shall release and discharge Owner and Owner's Related Parties of and from all liability to Design Professional, and to anyone claiming by, through or under Design Professional, by subrogation or otherwise, on account of any loss or damage to tools, machinery, and equipment or other property, however caused. The Owner requires the workers' compensation policy to be endorsed with WC 00 03 13 Waiver of our Right to Recover from Others or equivalent.
- 7.2.4.5 Unless otherwise specified herein (e.g. Professional Liability), the insurance required under this Agreement shall be carried by Design Professional until (a) the Project reaches Final Completion and all Services are completed under Article 3 and are accepted by Owner, (b) until this Agreement is terminated, or (c) until the passage of any applicable statute of limitations, whichever is later. Any lapse in coverage may be considered a material breach of the Agreement.
- 7.2.4.6 The absence of a demand for any type of insurance certificates or policy or insurance condition, or for higher coverage limits shall not be construed as a waiver of Design Professional's obligations to carry and maintain the appropriate types of insurances at limits that are appropriate to the liability exposure associated with the Agreement. Owner does not represent that coverage and the limits specified herein will necessarily be adequate to cover Design Professional's liability.
- 7.2.4.7 The insurance provided by Design Professional shall apply on a primary basis to, and shall not require contribution from, any other insurance or self-insurance maintained by Owner. Any insurance or self-insurance maintained by the Owner shall be non-contributory.
- 7.2.4.8 All premiums, deductibles, co-insurance penalties, and self-insured retentions as well as all related costs associated with insurance required for compliance with the Agreement shall remain the sole and exclusive responsibility of Design Professional, including any loss not covered because of the operation of such deductible, co-insurance penalty, self-insured retention, or coverage exclusion or limitation. Under no circumstances will Owner be responsible for paying any premium, deductible, penalty, or self-insured retentions related to the Agreement.
- 7.2.4.9 The Design Professional shall provide notice of any and all claims, accidents, and any other occurrences associated with this Agreement to the Design Professional's insurance company or companies and the Owner's Department of Environmental Health and Safety, as soon as practical.
- 7.2.4.10 It is the Design Professional's responsibility to ensure that any and all of the Design Professional's Subconsultants comply with these insurance requirements. When specified, Design Professional shall require all Subconsultants providing Services on the Project to carry the insurance coverages described herein. Otherwise, Design Professional shall ensure each Subconsultant carries insurance that adequately covers each Subconsultant's exposure based on the type of Services they are providing in connection with the Project.
- 7.2.5 Evidence of Insurance
- 7.2.5.1 Design Professional must provide Owner with a Certificate(s) of Insurance(s) and Additional Insured Endorsements reflecting all of the insurance coverages satisfying the above requirements not later than ten (10) Business Days after the Effective Date of the Agreement and/or prior to the commencing its Services – with a copy to Owner's Department of Environmental Health and Safety.
- 7.2.5.2 In the event the Agreement term goes beyond the expiration date of the insurance policy, the Design Professional shall provide the Owner with an updated Certificate of Insurance prior to the expiration of the insurance currently in effect. The Owner reserves the right to suspend the Agreement until this requirement is met.
- 7.2.5.3 All Certificates of Insurance shall indicate whether coverage is provided under a claims-made or occurrence form and include the Project Name or other identifying reference.
- 7.2.6 Effect of Insurance. Compliance with insurance requirements shall not relieve Design Professional of any responsibility to indemnify Owner for any liability to Owner as specified in any other provision of the Agreement, and Owner shall be entitled to pursue any remedy in law or equity if Design Professional fails to comply with the contractual provisions of the Agreement. Indemnity obligations specified elsewhere in the Agreement shall not be negated or reduced by virtue of any insurance required, by a failure to obtain or maintain sufficient coverage, or by a carrier's (i) denial of insurance coverage for the occurrence or event which is the subject matter of the claim; or (ii) refusal to defend any named insured.
- 7.2.7 Insurance Survival. This entire Article shall survive expiration of the Agreement.

ARTICLE 8 TERMINATION

- 8.1 **TERMINATION BY OWNER FOR CONVENIENCE** Upon seven (7) Days' written notice, the Owner may, without cause, terminate this Agreement with the Design Professional. If this Agreement is terminated pursuant to this section, the Design Professional may recover from the Owner payment for Services performed to the date of termination, in accordance with this Agreement.
- 8.2 This Agreement shall terminate upon Final Completion of the Work of the Project and acceptance of the scope outlined in Article 3 of this Agreement by the Owner.

ARTICLE 9 DISPUTE MITIGATION AND RESOLUTION

- 9.1 **CONTINUANCE OF SERVICES AND PAYMENT** Unless otherwise agreed in writing, the Design Professional shall continue to perform its Services during any dispute mitigation or resolution proceeding. If the Design Professional continues to perform, the Owner shall continue to make payments in accordance with this Agreement for amounts not in dispute.
- 9.2 **DIRECT DISCUSSIONS** Any dispute between the Design Professional and the Owner regarding, but not limited to Project budget, Project scope, Project layout, or types and quality of materials, shall be submitted in writing within twenty (20) Business Days after occurrence of the event giving rise to the claim. The Parties shall endeavor to reach resolution through good faith direct discussions between the Parties' representatives who shall possess the necessary authority to resolve such matter and who shall record the date of first discussions. If not resolved by the Owner's Representative within ten (10) Business Days, then the Design Professional may submit in writing the issues(s) in dispute to the University Senior Vice President for Finance & Operations as the University President's designee. The determination of the University Senior Vice President for Finance & Operations is the final institutional decision.
- 9.3 **MEDIATION** In the event a dispute under this Agreement is not resolved in accordance with subsection 9.2 above, except for claims in which injunctive relief is sought, as a condition precedent to any party filing any action for a claim, dispute or other matter arising out of or related to this Agreement, the parties agree to first mediate any claims between them and shall submit the dispute to mediation pursuant to the American Arbitration Association Construction Industry Mediation Rules currently in effect. Any legal proceedings, except to the extent injunctive relief is sought, shall be stayed pending conclusion of the mediation. The parties shall share the mediator's fee of the mediation equally. The mediation shall be held in Leon County, Florida. Agreements reached in mediation shall be enforceable in any court of competent jurisdiction as settlement agreements. To the extent permitted by law, the mediation proceedings shall be confidential and shall be privileged from disclosure in any subsequent proceedings as settlement discussions. If the parties cannot reach an agreement resolving the dispute pursuant to the process set forth in subsections 9.2 and 9.3, then either party shall have the right to pursue litigation under the judiciary system of the State of Florida as further described in subsection 9.4 below.
- 9.4 **GOVERNING LAW AND VENUE** This Agreement and all claims arising out of or relating to this Agreement shall be governed exclusively by and construed in accordance with the laws of the State of Florida without regard to its choice of laws provisions and venue shall lie in the courts in Leon County, Florida.

ARTICLE 10 MISCELLANEOUS

10.1 OWNERSHIP OF DOCUMENTS; PATENTS AND COPYRIGHT

- 10.1.1 Upon full and timely payment for the Services rendered by Design Professional, and with the exception of Design Professional's Subconsultants' preexisting intellectual property, including standard specifications and standard construction details that are not specific to this Project, the Drawings, Specifications, all Construction Documents, and other documents including those in hardcopy and electronic form, prepared by the Design Professional and furnished for the Project are the property of the Owner. The Owner shall retain all common law, statutory, and other reserved rights, including copyrights related to the documents for the Project. The Design Professional shall require language in each of its subcontracts providing for the Owner's ownership of all Project documents. Upon full and timely payment for the Services the Design Professional hereby transfers, grants, conveys, assigns, and relinquishes exclusively to the Owner, all of the Design Professional's right, title, and interest of every kind throughout the world in and to all intellectual property developed for the Owner by the Design professional in conjunction with this Agreement, including all United States and International copyrights or patents thereto, and any renewals or extensions thereof, together with all other interests accruing by reason of international conventions with respect to intellectual property. The Design Professional agrees to sign any additional documents and otherwise cooperate with the Owner, as may reasonably be requested, to further evidence, perfect, protect, or enforce the transfer under this Section. For this purpose, the provisions of this Section shall survive the termination, for any reason, of this Agreement.

- 10.1.2 Whenever any invention or discovery is made or conceived by the Design Professional in the course of or in connection with this Agreement, the Design Professional will furnish the Owner with complete information

regarding the invention or discovery and the Owner will have the sole power to determine whether and where a patent application will be filed and to determine the disposition of title to and all rights under any application or patent that may result. The Design Professional will, at the Owner's expense, execute all documents and do all things necessary or proper with respect to such patent application.

- 10.1.3 Whenever any copyright is secured in connection with any Services performed under this Agreement, (including the transcription or publication of the results of research financed by this Agreement,) title and all rights to such copyright will vest in the Owner.
- 10.1.4 **USE OF DOCUMENTS IN EVENT OF TERMINATION** In the event of a termination of this Agreement pursuant to Article 8, the Owner shall own any resulting copyright and have the right to use, to reproduce, and to make derivative works of the Construction Documents to complete the Project provided payment has been made pursuant to Article 6.
- 10.1.5 **OWNER'S USE OF DOCUMENTS AFTER COMPLETION OF PROJECT** After completion of the Project, the Owner may reuse, reproduce, or make derivative works from the Documents at the Owner's sole risk and without liability or legal exposure to Design Professional.
- 10.1.6 **DESIGN PROFESSIONAL'S USE OF DOCUMENTS** The Owner hereby grants a limited license to the Design Professional to reuse Construction Documents prepared by it pursuant to this Agreement in its practice, but only in their separate constituent parts and not as a whole.
- 10.1.7 The Design Professional shall obtain from its Subconsultants, assignment of copyrights and rights of use that correspond to the rights assigned by the Design Professional to the Owner in this Agreement and the Design Professional shall provide evidence that such rights have been secured.
- 10.2 **EXTENT OF AGREEMENT** Except to the extent expressly provided in this Agreement, this Agreement represents the entire and integrated Agreement between the Owner and the Design Professional and supersedes all prior negotiations, representations, and agreements, either written or oral. This Agreement and each and every provision is for the exclusive benefit of the Owner and Design Professional and not for the benefit of any third party.
- 10.3 **DOCUMENTS IN ELECTRONIC FORM** If the Owner requires that the Owner, Design Professional, and Constructor exchange documents and data in electronic or digital form, prior to any such exchange, the Owner, Design Professional, and Constructor shall agree on a written protocol governing all exchanges, which, at a minimum, shall specify: (a) the definition of documents and data to be accepted in electronic or digital form or to be transmitted electronically or digitally; (b) management and coordination responsibilities; (c) necessary equipment, software, and services; (d) acceptable formats, transmission methods, and verification procedures; (e) methods for maintaining version control; (f) privacy and security requirements; and (g) storage and retrieval requirements. Except as otherwise agreed to by the Parties in writing, each Party shall bear its own costs for requirements identified in the protocol. In the absence of a written protocol, use of documents and data in electronic or digital form shall be at the sole risk of the recipient. Notwithstanding other provisions in this Agreement, printed documents and sets shall not be required if such documents are required to be prepared and transmitted in electronic form.
- 10.4 **ASSIGNMENT** Except as to the assignment of proceeds, neither the Owner nor the Design Professional shall assign their interest in this Agreement without the prior written consent of the other.
- 10.5 **SEVERABILITY** The partial or complete invalidity of any one or more provisions of this Agreement shall not affect the validity or continuing force and effect of any other provision.
- 10.6 **NO WAIVER OF PERFORMANCE** The failure of either Party to insist, in any one or more instances, on the performance of any of the terms, covenants, or conditions of this Agreement, or to exercise any of its rights, shall not be construed as a waiver or relinquishment of such term, covenant, condition, or right with respect to further performance.
- 10.7 **TITLES** The title given to the articles and sections are for ease of reference only and shall not be relied upon or cited for any other purpose.
- 10.8 **JOINT DRAFTING** The Parties expressly agree that this Agreement was jointly reviewed, and that both had opportunity to negotiate its terms and to obtain the assistance of counsel in reviewing its terms prior to execution. Therefore, this Agreement shall be construed neither against nor in favor of either Party but shall be construed in a neutral manner.
- 10.9 **AUDITS** The Design Professional shall keep accurate books and records with regard to its charges to the Owner, and if Additional Services are rendered, the Owner and its designated agents or representatives will have the right to audit the same at all reasonable times during the performance of services under this Agreement and for a period of five (5) years for a non-capital project / ten (10) years for a capital project, as defined by Owner, thereafter.
- 10.10 **COUNTERPARTS** This Agreement, and any Ancillary Agreements, may be executed in one or more counterparts, each of which shall be deemed an original and all of which, when taken together, shall be deemed to be one and the same agreement. A signed copy of this Agreement, or any Ancillary Agreement, transmitted by any means of electronic transmission shall be deemed to have the same legal effect as delivery of an original executed copy of this Agreement or such Ancillary Agreement.

- 10.11 E-VERIFY Owner is obligated to comply with the provisions of §448.095, Florida Statutes, "Employment Eligibility." Compliance with §448.095, Florida Statutes, includes, but is not limited to, utilization of the E-Verify System to verify the work authorization status of all newly hired employees. The Design Professional affirms and represents that it is registered with the E-Verify system and are using same, and will continue to use same, as required by §448.095, Florida Statutes, including requiring any Subconsultants to comply with §448.095, Florida Statutes.
- 10.12 RIGHTS AND REMEDIES The Parties' rights, liabilities, responsibilities, and remedies with respect to this Agreement, whether in contract, tort, negligence, or otherwise, shall be exclusively those expressly set forth in this Agreement.
- 10.13 NO CONTINGENCY FEE Pursuant to §287.055, Florida Statutes, the Design Professional represents and warrants that the Design Professional has not employed or retained any entity or person (other than a bona fide employee working solely for the Design Professional) to solicit or secure this Agreement, and that the Design Professional has not paid or agreed to pay any entity or person (other than a bona fide employee working solely for the Design Professional) any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from the award or making of this Agreement.
- 10.14 PUBLIC RECORDS **IF THE DESIGN PROFESSIONAL HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE DESIGN PROFESSIONAL'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT: (850) 644-4440, Office of General Counsel, Florida State University, 222 South Copeland Street, Suite 424, Westcott Building, Tallahassee, FL 32306-1400.**

The parties acknowledge that Owner is subject to Florida's Public Records law, Chapter 119, Florida Statutes, which requires it to provide access to its records, subject to certain limitations. The Design Professional agrees to allow public access to all records, documents, papers, letters, or other material subject to the provision of the Florida Public Records law and made or received in conjunction with this Agreement. Refusal by the Design Professional to allow such public access will be grounds for immediate cancellation of this Agreement by Owner.

To the extent that the Design Professional meets the definition of "Contractor" under §119.0701, Florida Statutes, in addition to other contract or agreement requirements provided by law, Professional must comply with public records laws, including the following provisions of §119.0701, Florida Statutes:

- (a) Keep and maintain public records that ordinarily and necessarily would be required by the public agency in order to perform the service.
- (b) Provide the public with access to public records on the same terms and conditions that the public agency would provide the records and at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law.
- (c) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law, regulation, or accounting oversight body.
- (d) Meet all requirements for retaining public records and transfer, at no cost to the public agency all public records in possession of the Design Professional upon termination of the contract and destroy any duplicate public records disclosure requirements. All records stored electronically must be provided to the public agency in a format that is compatible with the information technology systems of the public agency.

- 10.15 **PURSUANT TO FLA.STAT.ANN. § 558.0035, AN INDIVIDUAL EMPLOYEE OR AGENT OF PROFESSIONAL MAY NOT BE HELD INDIVIDUALLY LIABLE IN NEGLIGENCE FOR ANY CLAIMS, DAMAGES, OR DISPUTES ARISING OUT OF AND SUBJECT TO THE CONTRACT.**
- 10.16 SOVEREIGN IMMUNITY The Design Professional acknowledges and agrees that nothing contained herein shall be construed or interpreted as (i) denying to Owner any remedy or defense available to it under the laws of the State of Florida; (ii) the consent of the Owner or the State of Florida or their agents and agencies to be sued; or (iii) a waiver of sovereign immunity of the Owner or of the State of Florida beyond the limited waiver provided in §768.28, Florida Statutes.
- 10.17 FOREIGN COUNTRIES OF CONCERN In accordance with §288.860, Florida Statutes, Owner may not participate in an agreement with any foreign principal organized under the laws of, or having its principal place of business in, a foreign country of concern as defined by §288.860(1), Florida Statutes, as may be amended from time to time, or a subsidiary thereof. Design Professional affirms and represents that it is not a foreign principal of a country of foreign concern, and in the event of any assignment to such foreign principal, this Agreement shall be subject to immediate termination by Owner.

- 10.18 ANNUAL APPROPRIATION The performance by the Owner of any of its obligations under this Agreement shall be subject to and contingent upon the availability of funds appropriated by the Florida Legislature or otherwise lawfully expendable for the purpose of the Agreement for the current and future periods. The Owner shall provide written notice to the Design Professional of the intent to terminate the Agreement when the Owner has such knowledge. Upon receipt of such notice, the Design Professional shall be entitled to payment only for those services performed prior to the date notice is received.
- 10.19 PUBLIC ENTITY CRIME The Design Professional represents and warrants that it is not on the convicted vendor list for a public entity crime committed within the past thirty-six (36) months. The Design Professional further represents and warrants that it will neither utilize the services of, nor contract with, any supplier, subcontractor, or consultant (subconsultant) for an amount in excess of \$15,000.00 in connection with this Agreement if such supplier, subcontractor or consultant (subconsultant) is on the convicted vendor list for a public entity crime committed within the past thirty-six (36) months.
- 10.20 TRUTH IN NEGOTIATION For any Agreement between the Owner and Design Professional that is a lump-sum or cost-plus-a-fixed-fee Agreement over \$195,000, the Design Professional shall execute and submit to the Owner a truth-in-negotiation certificate found on the Owner's website, [Design Professionals | Planning, Design & Construction](#) under Professional Service Agreement Forms, stating that wage rates and other factual unit costs supporting the compensation are accurate, complete, and current at the time of contracting. Any Agreement under which such a certificate is required must adjust the original contract price and any additions thereto to exclude any significant sums by which the agency determines the contract price was increased due to inaccurate, incomplete, or noncurrent wage rates and other factual unit costs. All such contract adjustments must be made within 1 year following the end of the Agreement.
- 10.21 CODE OF CONDUCT The Design Professional shall comply with Florida State University Supplier Code of Conduct found here: [Supplier Code of Conduct.pdf](#). Item C and Item H found in the Florida State University Supplier Code of Conduct shall be modified for this Agreement as follows:

C. EQUAL OPPORTUNITY EMPLOYER The Design Professional and all Subconsultants shall abide by the requirements of 41 CFR 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity, national origin, and for inquiring about, discussing or disclosing compensation. Moreover, these regulations require that covered Design Professional and Subconsultants take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, disability or veteran status. The parties also agree that, as applicable, they will abide by the requirements of Executive Order 13496 (29 CFR Part 471, Appendix A to Subpart A), relating to the notice of employee rights under federal labor laws.

H. SUBCONTRACTS This Code applies with equal force to the Supplier's *subconsultants*. The Supplier shall be responsible for contractually requiring that any *subconsultants* with whom the Supplier does business on a University project adhere to the Code. Upon request, each Supplier shall disclose to FSU or its designee the location (including facility name, contact name, address, phone number, e-mail address, products produced, and nature of business association) of each facility used in the production of all goods and services provided to fulfill contracts with the University. Such information shall be updated upon request by the University. FSU reserves the right to disclose this information to third parties, without restriction as to its further distribution, and such information will be subject to Florida's Open Records Law.

ARTICLE 11 MODIFICATIONS TO THE AGREEMENT:

11.1 The following Paragraphs have been **deleted** from this Agreement: **None**

11.2 The following Paragraphs have been **modified** in this Agreement: **None**

11.2.1 Enter articles modified or delete and leave none...

(Include this article for projects working in water at Marine Lab, Alligator Point or near gulf, ocean, etc.)

7.2.2.3.1 If there is an exposure of injury to Design Professional's employees under the US Longshore and Harbor Workers' Compensation Act, the Jones Act, or under laws, regulations, or statutes applicable to maritime employees, coverage shall be included for such injuries or claims. The US Longshore and Harbor Workers' Compensation Act coverage shall be provided by NCCI endorsement WC000106A, and the Maritime Coverages shall be provided by NCCO endorsement WC000201A.

(Include this article for projects where the Design Professional does not have Professional Liability Insurance on Occurrence Forms.) 7.2.2.4.1 The Chief Construction Officer approves the use of "claims-made" form for Professional Liability (Errors and Omissions) Insurance for this Project.

7.2.3.5 Professional Liability (Errors and Omissions Liability) for Design Professional (Include when Project Budget is \$10M or greater – adjust accordingly. Discuss any edits with Chief Construction Officer.)

Estimated Project Construction Cost from \$10,000,000 to \$19,999,999

- Each Claim \$3,000,000
- Annual Aggregate \$3,000,000

Estimated Project Construction Cost from \$20,000,000 to \$40,000,000

- Each Claim \$4,000,000
- Annual Aggregate \$4,000,000

Estimated Project Construction Cost over \$40,000,000

- Each Claim \$10,000,000
- Annual Aggregate \$10,000,000

7.2.3.6 Professional Liability (Errors and Omissions Liability) for registered Subconsultants required to stamp the Construction Documents: (Include when Project Budget is \$20M or greater – adjust accordingly. Discuss any edits with Chief Construction Officer.)

Estimated Project Construction Cost from \$20,000,000 to \$40,000,000

- Each Claim \$2,000,000
- Annual Aggregate \$2,000,000
- All Subconsultants minimum requirement (each claim/annual aggregate) \$1,000,000

Estimated Project Construction Cost over \$40,000,000

- Each Claim \$3,000,000
- Annual Aggregate \$3,000,000
- All Subconsultants minimum requirement (each claim/annual aggregate) \$1,000,000

10.3.1 (Include when FSU agrees to use A/E software program for project – review with AD for Project Management or CCO.) If the Owner and Design Professional intend to transmit Instruments of Service or any other information or documentation in digital form during the design and/or construction phases of the Project, the Design Professional and Owner agree to use the Design Professional's digital document management software system (Newforma-Infoexchange) to which the Design Professional shall provide the Owner and Contractor access. Should the Owner direct the Design Professional to use a different software for transmission and management of construction phase documentation, the Design Professional's fees and time schedules shall be equitably adjusted. Provided that Instruments of Service or other documentation is transmitted in digital form during the project design and construction phases, then the Design Professional will provide access to Newforma document management software. The Design Professional's fee is based on the use of the Newforma software.

11.3 The following Paragraphs have been **added** to this Agreement:

11.3.1 PROJECT NUMBER: **2500###**

11.3.2 PROJECT TITLE: **ENTER PROJECT TITLE**

11.3.3 PROJECT SCOPE:

11.3.3.1 Solicitation Documents: **(Insert descriptive details here including ITN# or RFQ# etc. as applicable)**

11.3.3.2 The project scope includes:

11.3.4 BUDGETED COST OF CONSTRUCTION: **\$000,000 or TBD**

11.3.5 DESIGN PROFESSIONAL: **Enter name here**

11.3.6 PROJECT REPRESENTATIVES:

11.3.6.1 Owner's Representative Designee: **Enter name**

11.3.6.2 Design Professional's Project Representative: **Enter name**

11.3.6.3 Design Professional's Invoicing Contact: **Enter name**

11.3.6.4 Design Professional's Record Documents Contact: **Enter name**

11.3.6.5 Design Professional's Submittal Contact: **Enter name**

11.3.6.6 Subconsultants retained by the Design Professional for Services covered by this Agreement are:

- **Enter Firm Name, Contact and trade**
- **Enter Firm Name, Contact and trade**

11.3.7 **SERVICES DETAILS:** **(Insert descriptive service details below.)**

The Design Professional shall provide Services **[for Schematic Design only or from Schematic Design through Record Documents or otherwise]** and the design disciplines for these Services shall include **[architecture and engineering.]**

This Project **renovates/upgrades/etc.... approximately 10,000 square feet of lab, office, classrooms, and public spaces on the first through third floor of Building Name.** The Scope of Work for the Project includes **[x, y, z.]**

Anticipated Permitting **[Include items that are not already identified by the PSA or FSU Design Guidelines or state "Not Applicable"]**

Not Applicable (PSA for Schematic Design only)

or

Building Code Authority - Office Building Permit

SWPPP permit to FDNR

Work in ROW permit with City of Tallahassee and/or FDOT FAA

EPA

Work by Owner/Others **[Include items that are not already identified by the PSA or FSU Design Guidelines or state "Not applicable"]**

Not applicable or

MEPT Commissioning ***Only add when Commissioning will be incorporated as part of the project.**

BE Commissioning ***Only add when Commissioning will be incorporated as part of the project.**

New Testing and Balancing of Existing HVAC ***Only add when required for project design.**

Furniture selection and procurement

Medical Equipment selection and procurement

New Soil Borings

Topographic Surveying

Services Excluded **[Only exclude items that shall not be provided but are noted in the FSU Design Guidelines or PSA as a required service or deliverable. Basis of Design and Code requirements shall NOT be excluded.]**

Not applicable or

Life Cycle Cost Analysis not required as scope of work...

Energy Rebate not required as scope of work...

Arc Flash Analysis not required as scope of work does not require modifications to electrical panels.

Notes [Include additional items that are not already identified by the PSA or FSU Design Guidelines or Service Details above] Work hours for existing conditions surveys will require work outside of normal business hours and weekends. Design review meetings shall be virtual.

This project is anticipated to be bid in multiple bid packages.

Submittal Exchange or Another Submittal Module will be utilized for Submittals on this Project.

Construction Phase Services are based on attendance of bi-weekly construction progress meetings. MEP Commissioning shall be a part of this Project.

Building Envelope Commissioning shall be a part of this Project. Furniture coordination shall be included in this Agreement.

Special Equipment coordination shall be included in this Agreement. This project shall be phased to accommodate x

Project Schedule Predesign

– 3 weeks

Schematic Design – 3 weeks

Design Development – 6 weeks

Construction Documents – 5 weeks

Bidding – 4 weeks

Construction – 14 months

*Owner typically shuts down over winter break for 2 weeks and Owner review periods shall be 2 – 4 weeks long for planning and scheduling purposes.

11.3.8 DOCUMENT SUBMITTAL/ FINAL DELIVERABLES TABLE

11.3.8.1 The Design Professional shall provide to the Owner the hardcopies (HC) and the electronic files (E) of the documents identified below:

	PREDESIGN	SCHEMATIC DESIGN	DESIGN DEVELOPMENT	CONSTRUCTION DOCUMENTS	BIDDING	CONSTRUCTION PHASE
DESIGN OPTIONS	HC / E					
PROGRAM / DESIGN SUMMARY (BASIS OF DESIGN)		HC / E	HC / E	HC / E		
TABULATION OF AREA		E		E		
CODE ANALYSIS			E	E		
DESIGN CALCULATIONS				E		
PATH OF TRAVEL REPORT				E		
MAJOR EQUIPMENT LIST			E	E		
AiM ASSET TAG LIST			E	E		
PROJECT COST ESTIMATE		E	E	E		
LIFE CYCLE COST ANALYSIS			E	E		
PROJECT SCHEDULE	E	E	E	E		
PROJECT MANUALS - SPECIFICATIONS			E	E		
DRAWINGS	E	E	E	E		
ICRA FORM (Immokalee and other patient areas...)			E	E		
ENERGY ANALYSIS			E	E		
ARC FLASH ANALYSIS			E	E		
PHOTOMETRICS AND LPD COMPLIANCE FORM			E	E		
FURNITURE BINDER			E	E		
MEETING MINUTES	E	E	E	E	E	E
RESPONSE TO REVIEW COMMENTS	E	E	E	E	E	E
DESIGN GUIDELINES DEVIATION REQUESTS (AS APPLICABLE)		E	E	E		

PROJECT WARRANTIES LIST			E	E		
BCA SUBMITTAL				E		
SEALED CONSTRUCTION DOCUMENTS					E	
BIDDER INTEREST SUMMARY (AS APPLICABLE)					E	
SEALED ADDENDA (AS APPLICABLE)					E	
SUBSTITUTION REQUEST RECOMMENDATION (AS APPLICABLE)				E		
ARCHITECTURAL BID DOCUMENTS (.DWG)					E	
EVALUATION OF BIDS					E	
JOBSITE OBSERVATION REPORTS						E
FINISHES BINDER/BOARD			E			E
SEALED ASI / ESI (AS APPLICABLE)						E
SHOP DRAWINGS / SUBMITTALS						E
SUBSTANTIAL COMPLETION PUNCH LIST(S)						E
FINAL COMPLETION LETTER OF RECOMMENDATION						E
RECORD DOCUMENTS						E
DP PROJECT FILES						E

11.3.9 FEDERAL PROCUREMENT REGULATIONS. (Insert **Not Applicable** or keep following language when required including Exhibit A though if DM project you may need the Exhibit A without Davis Bacon) When applicable, Design Professional agrees to abide by and include applicable federal law and regulations pertaining to the procurement of goods and services including but not limited to Owner's Procurement Regulation Applicability Addendum, set forth in **Exhibit A** into the project.

11.3.10 COMPENSATION AND PAYMENTS: The Owner shall compensate the Design Professional in accordance with the Articles of this Agreement.

11.3.10.1 For Basic Services compensation shall be a stipulated sum of **Amount in Agreement in Words and No/100 Dollars (\$X,XXX,XXX.XX)**.

OR

For Basic Services, compensation shall be on the basis of the hourly rates schedule attached hereto with a Fixed Maximum not to exceed **Amount in Agreement in Words and No/100 Dollars (\$X,XXX,XXX.XX)**. Said schedule shall govern for the duration of this Agreement. The Design Professional shall be compensated for services that are included in the Basic Services at a multiple of 1.0 times the amount invoiced.

11.3.10.2 During the course of the Project, payments to the Design Professional shall not exceed the following percentages of the total compensation due under the Agreement. When total compensation is Stipulated Sum, payment shall be commensurate with the actual work completed, but not exceeding the phase limit.

SERVICES	FEE AMOUNT (\$)	FEE AMOUNT (%)
Predesign	\$	%
Schematic Design	\$	%
Design Development	\$	%
Construction Documents	\$	%

Bidding	\$	%
Construction Phase Services	\$	%
Record Documents	\$	%
Other (Describe)	\$	%
TOTAL	\$	100%

- 11.3.10.3 For Reimbursable Expenses, as defined in Article 6.2, compensation shall not exceed **Amount in Agreement in Words and No/100 Dollars (\$XXX,XXX.XX). or Zero and No/100 Dollars (\$0.00).** The breakdown of Reimbursable Expenses are as follows:

REIMBURSABLE EXPENSES	FEE AMOUNT (\$)
Automobile Mileage	\$
Air Travel	\$
Rental Automobile, Fuel	\$
Taxi / Airport Shuttle	\$
Parking	\$
Lodging	\$
Restaurant Meals	\$
Presentation Materials	\$
Schematic Design Booklets	\$
Submittal Exchange	\$
Other (Describe)	\$
TOTAL	\$

HUMAN TRAFFICKING DECLARATION

I declare, under penalty of perjury, that (1) I am a duly authorized officer or representative of the Design Professional, and (2) the Design Professional does not use coercion for labor or services as defined in Section 787.06, Florida Statutes. Under penalty of perjury, I declare that I have read the foregoing Declaration and that the facts stated in it are true.

ON BEHALF OF DESIGN PROFESSIONAL:

SIGNATURE: _____

NAME: _____

TITLE: _____

DATE: _____

EXHIBIT A
FLORIDA STATE UNIVERSITY'S ("FSU")
FEDERAL PROCUREMENT REGULATION APPLICABILITY ADDENDUM

PROJECT: **ENTER PROJECT TITLE**

PROJECT No: **ENTER NUMBER**

This Agreement becomes effective the day and year signed by the Owner below:

Design Professional:

[Enter Firm Name]

By: _____
(Title)

Date: _____

Owner:

Florida State University Board of Trustees

By: _____
Kyle Clark
Sr. Vice President
Florida State University

Dated: _____

END OF DOCUMENT.