

**AGREEMENT BETWEEN OWNER AND PROFESSIONAL**

**THIS AGREEMENT** between Owner and Professional is made and entered into as of this \_\_\_\_ day of \_\_\_\_\_, 200\_\_\_\_, by and between The University of Florida Board of Trustees, hereinafter called the Owner, and \_\_\_\_\_, with an address of \_\_\_\_\_, Federal I.D. No. \_\_\_\_\_, hereinafter called the Professional, which is authorized to do business in Florida.

**WITNESSETH:**

**WHEREAS**, Owner has selected Professional to provide professional services on the project described on **Exhibit A** (the "Project") based on Professional's qualifications; and

**WHEREAS**, Professional desires to provide the professional services to Owner; and

**WHEREAS**, Owner and Professional desire to enter into this Agreement.

**NOW THEREFORE**, for and in consideration of the terms and conditions contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

**ARTICLE 1 PROFESSIONAL'S RESPONSIBILITIES**

**1.1 Professional's Services**

**1.1.1** The Professional's services consist of those services performed by the Professional, Professional's employees and Professional's consultants as enumerated in Articles 2 and 3 of this Agreement.

**1.1.2** The Professional understands and acknowledges that time is of the essence in completion of the Project. The Professional shall at all times carry out its duties and responsibilities as expeditiously as possible and in accordance with the schedule set forth on **Exhibit B**, subject to delays in the schedule not the fault of Professional or its consultants. The Professional represents that it is thoroughly familiar with and understands the requirements of the Project scope and is experienced in services of the type and scope to be provided hereunder.

**1.1.3** The Professional shall use the Project Team (including any consultants) as designated in **Exhibit B**. The Professional shall not remove or replace any members of the Project Team, except upon approval by the Owner in writing based upon good cause shown. Further, if any member of the Project Team discontinues service on the Project for any reason whatsoever, Professional shall promptly replace such team member with an individual approved by Owner, in writing, which approval will not be unreasonably withheld.

**1.1.4** The Professional shall, as applicable, depending on the services being provided hereunder, (i) visit

and thoroughly inspect the Project Site and any structure(s) or other man-made features to be modified; (ii) familiarize itself with the survey, including the location of all existing buildings, utilities, conditions, streets, equipment, components and other attributes having or likely to have an impact on the Project; (iii) familiarize itself with the Owner's layout and design requirements, conceptual design objectives, and budget for the Project; (iv) familiarize itself with pertinent Project dates and programming needs, including the Project design schedule, (v) review and analyze all Project geotechnical, Hazardous Substances (hereinafter defined), structural, chemical, electrical, mechanical and construction materials tests, investigations and recommendations; and (vi) gather any other information necessary for a thorough understanding of the Project. If the Project involves modifications to any existing structure(s) or other man-made feature(s) on the Project site, the Professional shall also review all as-built and record drawings, plans and specifications of which Professional has been informed by Owner about and thoroughly inspect the existing structure(s) and man-made feature(s) to identify existing deficiencies and ascertain the specific locations of pertinent structural components.

**1.1.5** The Professional shall immediately make additions, changes and corrections to any documents prepared by Professional necessitated by errors and omissions in the Professional's performance of its services.

**1.1.6** The Professional shall furnish professional services in accordance with professional standards currently practiced by Professional firms on projects similar in size, complexity and cost to the Project.

## **ARTICLE 2 SCOPE OF PROFESSIONAL'S BASIC SERVICES**

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### **2.1 General**

**2.1.1** The Professional's Basic Services consist of those described in this Article 2 and on **Exhibit B**. The Professional shall be responsible for all services performed by the Professional's consultants and shall assure that the work of its consultants complies with all of the requirements of this Agreement. Owner is an intended third party beneficiary of Professional's contracts with such consultants and the contracts between the Professional and such consultants shall so provide. Furthermore, the Professional's contracts with its consultants shall require that in the event of default under, or termination of, this Agreement, and upon request of Owner, the Professional's consultants will perform services for the Owner.

**2.1.2** The Professional shall perform all services in accordance with requirements of governmental agencies having jurisdiction over the Project, the University of Florida Design Services Guide, and any other guidelines described on **Exhibit C**. In addition, the Professional's design shall comply with all applicable building codes, accessibility laws and regulations, University of Florida Design and Construction Standards, University of Florida Telecommunications Standards, and other standards in effect at the time of the design work. To the extent Owner's standards are higher than applicable legal requirements, such standards shall be met unless Professional obtains a variance from Owner in writing.

**2.1.3** The Project documents shall be developed using AutoCAD (latest UF-approved version). All Project documents shall be developed and delivered to the Owner in electronic and printed format in the quantities set forth on **Exhibit B**.

## **ARTICLE 3 ADDITIONAL SERVICES**

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### **3.1 General**

**3.1.1** If the services described in this Article 3 are not specifically included in Basic Services or reasonably inferable therefrom, they shall be paid for by the Owner as provided in this Agreement, in

addition to the compensation for Basic Services. The Additional Services shall be performed only if authorized in writing by the Owner prior to their performance.

**3.1.2** For Additional Services being provided by consultants not included on the original Project Team, which require no work on the part of the Professional other than administering the work thereof (i.e., securing the services, approving the work, and invoicing on behalf of the consultant), the Professional may request a mark-up not to exceed six percent (6%) on the consultant's fee to cover the Professional's administrative costs. This mark-up will be based on the complexity and time spent.

**3.1.3** For Additional Services described in this Article 3, a lump sum or not-to-exceed amount which is satisfactory to both parties shall be negotiated on each occasion of activating a specific additional services authorization. The Professional's staff costs associated therewith shall be based on the hourly rates set forth on **Exhibit D**.

**3.1.4** This Agreement is intended to be a form which will work for a variety of services being performed. Accordingly, Section 3.2 may describe certain items as Additional Services which are in fact Basic Services on the specific project. Accordingly, notwithstanding anything to the contrary contained in Section 3.2, if Owner has determined that Owner requires certain services which are traditionally considered Additional Services for the purpose of calculating the Professional's fees, such services are described on **Exhibit B** and compensation for such services is included in the schedule set forth on **Exhibit D**. For purposes of this Agreement, such services constitute Basic Services.

### **3.2 Services Considered Additional Services**

**3.2.1** Construction phase representation at the Project site more extensive than that being provided as part of Basic Services.

**3.2.2** Making revisions in Drawings, Specifications or other documents but if, and only if, such revisions are:

**3.2.2.1** inconsistent with approvals or instructions previously given by the Owner; or

**3.2.2.2** required by the enactment or revision of codes, laws or regulations subsequent to the preparation of such documents and not reasonably foreseeable at the time of the preparation of such documents.

**3.2.3** Providing services required because of significant changes in the Project including, but not limited to, size, quality, complexity and the Owner's schedule.

**3.2.4** Preparing Drawings, Specifications and other documentation and supporting data in connection with Change Orders which require design or redesign, and which are not required to correct the Construction Documents or which are not due to oversights of the Professional.

**3.2.5** Providing consultation concerning replacement of Work damaged by fire or other cause during construction, and furnishing services required in connection with the replacement of such Work.

**3.2.6** Providing services in connection with a public hearing or legal proceeding except where the Professional is party thereto.

**3.2.7** When required by the Owner, preparing documents for alternate, separate or sequential bids, except issuing early bid packages in support of fast track construction delivery process.

**3.2.8** Programming the requirements of the Project.

**3.2.9** Providing planning surveys, site evaluations or comparative studies of prospective sites.

**3.2.10** Providing special surveys, environmental studies and submissions required for permit approvals of governmental authorities or others having jurisdiction over the Project.

**3.2.11** Providing services relative to future facilities, systems and equipment, when not specifically including in the original program for the Project.

**3.2.12** Making measured drawings of existing construction when required for planning additions or alterations thereto.

**3.2.13** Providing coordination of construction performed by separate contractors or by the Owner's own forces and coordination of services required in connection with construction performed and equipment supplied by the Owner.

**3.2.14** Providing interior design and other similar services required for, or in connection with, the selection, procurement or installation of furniture, furnishings and related equipment.

**3.2.15** Making investigations, inventories of materials or equipment, or valuations and detailed appraisals of existing facilities.

**3.2.16** Preparing Mylar reproducible record drawings.

**3.2.17** Providing services after issuance by the Owner of the final payment to the Builder, except those services described in Exhibit B, which may be provided after final payment to the Builder.

**3.2.18** Providing services of consultants for other than architectural, structural, mechanical plumbing, civil engineering, educational planning, fire protection and electrical engineering portions of the Project and those services described on **Exhibit B**.

**3.2.19** Preparing data, making the input and running a life-cycle cost computer program analysis approved by the Owner.

**3.2.20** Providing site surveys, geotechnical testing services or other special tests.

**3.2.21** Providing special inspection on threshold buildings as defined in Chapter 553, Florida Statutes.

**3.2.22** Providing prolonged contract administration and construction observation should the construction time specified for final completed be exceeded by more than 60 days due to no fault of the Professional.

#### **ARTICLE 4 OWNER'S RESPONSIBILITIES**

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**4.1** The Owner shall provide full information regarding requirements for the Project.

If applicable, the Owner shall establish and update on overall budget for the Project, including the Construction Cost, the Owner's costs and reasonable contingencies related to all of these costs.

**4.2** The Owner shall designate a representative authorized to act on the Owner's behalf with respect to the Project. The Owner or such authorized representative shall render decisions in a timely manner pertaining to documents submitted by the Professional in order to avoid unreasonable delay in the orderly and sequential progress of the Professional's services.

**4.3** The Owner shall review and approve or take other appropriate action on all work submittals of the Professional within the timeframes set forth in **Exhibit B**.

**4.4** Unless otherwise being provided by Professional under Article 2, if required, the Owner shall furnish, or direct the Professional to obtain at the Owner's expense, surveys describing physical characteristics, legal limitations and utility locations for the Project site, and a written legal description of the Project site. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions and necessary data pertaining to existing buildings, other improvements and trees; and information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths.

**4.5** Unless otherwise being provided by Professional under Article 2, if required, the Owner shall furnish, or direct the Professional to obtain at the Owner's expense, the services of geotechnical engineers as necessary for the Project. Such services may include but are not limited to test borings, test pits, sub-surface imaging, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, ground corrosion and resistivity tests, including necessary operations for anticipating subsoil conditions, with reports and appropriate Professional recommendations.

**4.6** Unless otherwise being provided by Professional under Article 2, the Owner shall pay for structural, mechanical, chemical, air and water pollution tests; tests for Hazardous Substances; and, other laboratory and environmental tests, inspections and reports required by law or the Contract Documents.

**4.7** The Owner shall furnish all legal, accounting and insurance counseling services as may be required by the Owner for the Project, including auditing services the Owner may require.

**4.8** Review of Professional's documents by the Owner shall be solely for the purpose of determining whether such documents are generally consistent with the Owner's intent and such review shall not relieve the Professional of any of its responsibilities. Notwithstanding the foregoing, prompt written notice shall be given by the Owner to the Professional if the Owner becomes aware of any fault or defect in the Project or non-conformance with the Contract Documents.

## **ARTICLE 5 CONSTRUCTION COST**

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### **5.1 Definition**

**5.1.1** The Construction Cost shall be the total cost or estimated cost to the Owner of all elements of the Project designed or specified by the Professional.

**5.1.2** The Construction Cost shall include the cost at current market rates of labor and materials furnished by the Owner and Builder and equipment designed, specified, selected or specially provided for, by the Professional, including connections to utilities, plus a reasonable allowance for the Builder's overhead and profit.

**5.1.3** The Construction Cost does not include the compensation of the Professional and Project Team, Owner's consultants, the costs of the land, rights-of-way, fixtures, moveable furnishings and equipment and contingencies or other costs which are the responsibility of the Owner as provided in Article 4. If applicable, Construction Costs for the Project shall not exceed the amount set forth on **Exhibit A**.

## **5.2 Responsibility for Construction Cost**

**5.2.1** Evaluations of the Owner's Project budget, preliminary estimates of Construction Cost and detailed estimates of Construction Cost, if any, prepared by the Professional, represent the Professional's best judgment as a design professional familiar with the construction industry. It is also recognized, however, that neither the Professional nor the Owner has control over the cost of labor, materials or equipment, over the Builder's methods of determining bid prices, or over competitive bidding, market or negotiating conditions. Accordingly, the Professional cannot and does not warrant or represent that bids or negotiated prices will not vary from the Owner's Project budget or from any estimate of Construction Cost or evaluation prepared or agreed to by the Professional.

**5.2.2** Subject to section 5.2.1, construction cost estimating shall be the responsibility of the Professional, but detailed cost estimates may be developed by an independent, third party cost estimator. In such cases, the Professional and the independent cost estimator shall work together to reconcile any material differences in their respective estimates. Drawings and specifications produced by the Professional shall, except as otherwise authorized or directed by the Owner, be consistent with or reasonably inferable from design documents upon which previously reconciled cost estimates are based. The Professional shall study and consider cost saving proposals made by any independent cost estimator providing services to the Project, shall itself initiate such proposals when necessary and appropriate, and, at the Owner's written request, shall incorporate such proposals into the Drawings and specifications provided they are consistent with the design intent of the Project and within generally accepted standards of professional practice. Such study, consideration and incorporation shall be a Basic Service.

## **ARTICLE 6 USE OF PROFESSIONAL'S DRAWINGS, SPECIFICATIONS AND OTHER DOCUMENTS**

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Ownership of Professional's drawings, specifications and other documents shall be as provided on **Exhibit E**.

## **ARTICLE 7 CLAIMS AND DISPUTES**

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**7.1** Claims, disputes or other matters in question between the parties to this Agreement shall be resolved as follows:

**7.1.1** Claims of \$200,000 or less in value shall be conducted pursuant to and under the procedures of the Administrative Procedures Act, Chapter 120, Florida Statutes.

**7.1.2** All other claims, disputes and other matters shall be determined under the judiciary system of the State of Florida. 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 shall submit the dispute to mediation pursuant to the American Arbitration Association Construction Industry Mediation Rules currently in effect. Either party may file a written request for mediation with the American Arbitration Association and serve a copy on the other party. The mediation shall be concluded within sixty (60) days of the request, unless otherwise agreed or ordered by the court. Any legal or equitable proceedings shall be stayed pending conclusion of the mediation. The parties shall share the mediator's fee and other administrative costs of the mediation equally. The mediation shall be held in Alachua County, Florida,

unless the parties agree upon another location. Agreements reached in mediation shall be enforceable in any court of competent jurisdiction as settlement agreements. The mediation proceedings shall be confidential and shall be privileged from disclosure in any subsequent proceedings as settlement discussions.

## **ARTICLE 8 TERMINATION OR SUSPENSION**

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**8.1** If the Professional defaults by failing to substantially perform, in accordance with the terms of this Agreement, as reasonably determined by Owner, the Owner may give written notice to the Professional (i) terminating this Agreement effective seven (7) calendar days from the date of notice; or (ii) setting forth the nature of the default and requesting the Professional initiate cure within seven (7) calendar days from the date of notice. At any time thereafter, if the Professional fails to initiate cure upon the request of the Owner and continue such cure until complete, the Owner may give notice to the Professional of immediate termination. If the Owner terminates this Agreement pursuant to this paragraph, and it is subsequently determined by a court of competent jurisdiction that the Professional was not in default, then in such event said termination shall be deemed a termination for convenience as set forth in Paragraph 8.3.

**8.2** If the Owner defaults by failing to substantially perform in accordance with the terms of this Agreement, the Professional shall give written notice the Owner setting forth the nature of the default and requesting cure within seven (7) calendar days from the date of notice. If the Owner fails to cure within seven (7) calendar days from the date of notice may give notice to the Owner of immediate termination.

**8.3** The Owner may at any time give written notice to the Professional terminating this Agreement or suspending the Project, in whole or in part, for the Owner's convenience and without cause. If the Owner terminates this Agreement or suspends the Project, the Professional shall immediately reduce its staff, services and outstanding commitment in order to minimize the cost of termination or suspension.

**8.4** If the Agreement is terminated by the Owner pursuant to Paragraph 8.1, no further payment shall be made to the Professional until completion of the Project. At such time, the Professional's compensation shall, at Owner's option, be calculated (i) on the basis of services actually performed and expenses actually incurred prior to the effective termination date, or (ii) on the basis of the payment terms set forth elsewhere herein. If the Agreement is (i) terminated by the Professional pursuant to Paragraph 8.2; or (ii) suspended more than ninety (90) days by the Owner pursuant to Paragraph 8.3, the Professional's compensation shall be calculated on the basis of services actually performed and expenses actually incurred prior to the effective termination or suspension date and reasonable costs associated with the termination or suspension. If the Agreement is terminated by the Owner pursuant to Paragraph 8.3, the Professional's compensation shall be calculated on the basis of services actually performed and expenses actually incurred prior to the effective termination or suspension date but the Professional shall not be entitled to any compensation on account of such early termination, such as lost profits.

## **ARTICLE 9 PERIOD OF SERVICE**

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**9.1** The Professional's Basic Services shall be performed in compliance with the Project schedule set forth on **Exhibit B**, as the same may be amended by agreement of the Owner and the Professional, in writing, subject to delays not the fault of the Professional or its consultants.

**9.2** Unless sooner terminated, this Agreement shall remain in force for the period which may reasonably be required for the completion of the Project, including extra work and any required extension thereto, consistent with Article 2 and Article 3 of this Agreement.

## **ARTICLE 10 PAYMENTS TO THE PROFESSIONAL**

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**10.1** Reimbursable Expenses are in addition to compensation for Basic and Additional Services and include expenses incurred by the Architect/ Engineer and the Professional's employees and consultants in the interest of the Project, as identified in the following subparagraphs:

**10.1.1** Expenses of transportation and living of principals and employees when traveling in connection with services other than those defined in Article 2 when authorized in writing by the Owner, at the rates set forth in the University of Florida travel policy. See **Exhibit A**.

**10.1.2** Expenses associated with reproduction of Drawings, Specifications, and Reports in the quantities set forth on **Exhibit B**.

**10.1.3** Fees paid for securing approval of authorities having jurisdiction over the Project, if any.

**10.1.4** If authorized in advance by the Owner in writing, the actual expense of overtime work requiring higher than regular rates.

**10.1.5** Expense of renderings, models and mock-ups requested by the Owner, in writing, which are more extensive than those required to be provided as part of Basic Services.

**10.1.6** If required by the Owner to place an announcement for construction services, the Professional shall be reimbursed for that expense.

**10.1.7** Except as expressly provided otherwise to the contrary in this Agreement, Reimbursable Expenses will be reimbursed only when authorized in advance and in writing by way of an Additional Services Authorization from the Owner.

**10.2** The Owner agrees to pay the Professional as compensation for the Professional's services:

**10.2.1** For the Basic Services described in Article 2, the lump sum amount set forth on **Exhibit D**.

**10.2.2** For Additional Services defined in Article 3 to be paid as a lump sum, the lump sum prescribed in the Additional Services Authorization.

**10.2.3** For Additional Services defined in Article 3 to be a not-to-exceed amount, the actual costs for such services, which shall be equal or less than the not-to-exceed amount prescribed in the Additional Services Authorization.

## **ARTICLE 11 BASIS OF COMPENSATION**

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**11.1** Payments on account of the Professional's services shall be as follows:

**11.1.1** For the Professional's Basic Services, payments shall be made upon approval of each phase of services performed as described on **Exhibit B**. Upon completion of each phase, Professional shall submit an Application for Payment with appropriate back-up documentation. Undisputed payments owed shall be paid by Owner within thirty (30) days of receipt of a complete Application for Payment.

**11.1.2** For Additional Services and for Reimbursable Expenses, payments shall be made according to the terms of the authorization upon presentation of a detailed invoice prepared in accordance with



requirements set forth in the University of Florida Design Services Guide.

**11.2** A Vendor Ombudsman has been established within the owner's Office of Business Affairs. The duties of this office include acting as an advocate for vendors who may be experiencing problems in obtaining timely payment(s) from the owner. The Vendor Ombudsman may be contacted by telephone at (352) 392-1241.

**11.3** Accounting records of the Professional's and any consultants it may engage pursuant hereto pertaining to this Project shall be kept in accordance with a generally recognized accounting basis and shall be available to the Owner or the Owner's authorized representative at mutually convenient times at no additional cost to the Owner. Owner may, upon reasonable notice, audit the records of the Professional and other members of the Project Team during regular business hours, during the term of this Agreement and for a period of three (3) years after final payment is made by Owner to Professional under this Agreement or longer, if required by law. Such audits may be performed by an Owner's representative or an outside representative engaged by Owner. For purposes hereof, "records" means any and all information, materials and data of every kind and character, whether hard copy or in electronic form, which may, in Owner's judgment have any bearing on or pertain to this Agreement, including, without limitation, books, subscriptions, recordings, agreements, leases, contracts, commitments, arrangements, notes, daily diaries, written policies and procedures, time sheets, payroll registers, and payroll records. Owner's authorized representative shall have reasonable access to the Professional's facilities, shall be allowed to interview all current or former employees to discuss matters pertinent to this Agreement, shall be provided adequate and appropriate work space at Professional's facilities, and shall have such other rights of access as may be reasonably necessary to carry out an audit.

## **ARTICLE 12 SPECIAL PROVISIONS**

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**12.1** This Agreement shall be governed 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 Alachua County, Florida.

**12.2** Capitalized terms used herein but not expressly defined herein shall have the meaning ascribed thereto in the General Terms and Conditions of the Contract for Construction.

**12.3** The procedures and requirements as set forth in the University of Florida Design Services Guide (latest edition) shall be strictly adhered to and all submittals completed as specified.

**12.4** The Owner and Professional, respectively, bind themselves, their partners, successors, assigns and legal representatives to the other party to this Agreement and to the partners, successors, assigns and legal representatives of such other party with respect to all covenants of this Agreement. Neither Owner nor Professional shall assign this Agreement without the written consent of the other.

**12.5** This Agreement represents the entire and integrated agreement between the Owner and Professional and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both Owner and Professional.

**12.6** Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the Owner or Professional. Notwithstanding the foregoing, the Owner shall be an intended third party beneficiary of the Professional's contracts with its consultants, if any.

**12.7** The Professional represents and warrants that the Professional has not employed or retained any entity or person (other than a bona fide employee working solely for the Professional) to solicit or secure this Agreement, and that the Professional has not paid or agreed to pay any entity or person (other than a bona fide employee working solely for the Professional) any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from the award or making of this Agreement.

**12.8** This Agreement may be unilaterally canceled by the Owner if the Professional or its consultants refuse to allow public access to all documents, papers, letters, or other material subject to the provisions of Chapter 119, Florida Statutes, which are made or received by the Professional or its consultants in conjunction with this Agreement.

**12.9** Unless otherwise provided in this Agreement, the Professional and its consultants shall have no responsibility for the discovery, prior presence, handling, removal or disposal of or exposure of persons to hazardous substances in any form at the Project site regulated by federal law or the laws of the State of Florida or county in which the property is located, including but not limited to asbestos, asbestos products, polychlorinated biphenyl (PCB) or other toxic substances (collectively, "Hazardous Substances"). Notwithstanding the foregoing, the Professional shall immediately notify the Owner both orally and in writing of the presence or suspected presence and location of any Hazardous Substances on the Site of which it becomes aware.

**12.10** The State of Florida's performance and obligation to pay under this Agreement is contingent upon an annual appropriation by the Legislature.

**12.11** The 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 Professional further represents and warrants that it will neither utilize the services of, nor contract with, any supplier, subcontractor, or consultant for an amount in excess of \$15,000.00 in connection with this Project if such supplier, subcontractor or consultant is on the convicted vendor list for a public entity crime committed within the past thirty six (36) months.

**12.12** Professional and the other members of the Project Team shall each carry a policy or policies covering their liability under this Agreement for any and all errors or omissions committed by them. The coverage shall be maintained during the term of the Agreement and for at least three years following completion of all operations to be performed. The policy or policies shall have a limit of liability not less than the amount set forth in **Exhibit A**. The policy retroactive date will coincide with or precede the start of services being provided hereunder (including subsequent policies purchased as renewals or replacements). The Professional shall make every effort, and cause the other members of the Project Team to make every effort, to maintain similar insurance for at least three (3) years following Project completion. If the insurance is terminated for any reason, the Professional agrees, and will cause the other members of the Project Team to agree, to purchase an extended reporting provision of at least three years to report claims arising from work that is being performed. The policy will allow for reporting of circumstances or incidents that might give rise to future claims. All insurance policies will be with a company or companies lawfully authorized to do business in Florida, and with an A.M. Best Rating of no less than A, X. All insurance policies shall be issued and countersigned by duly authorized representatives of such companies and shall be written on ISO standard forms or their equivalents. The insurance policies shall require that the insurer shall provide at least thirty (30) days written notice to Owner if a policy is to be canceled, modified or the coverage thereunder reduced before the expiration date thereof and Professional shall provide Owner with a copy of an endorsement to the policy evidencing the same.

**12.13** The Professional shall not be entitled to, and hereby waives any monetary claims for or damages

arising from or related to, lost profits, lost business opportunities, unabsorbed overhead or any indirect consequential damages.

**12.14** Owner's selection of one or more remedies for breach of this Agreement shall not limit the Owner's right to invoke any other remedy available to the Owner under this Agreement or by law.

**12.15** To the maximum extent permitted by law, the Professional hereby agrees to indemnify, defend and hold Owner and its trustees, officers and employees harmless for, from and against all liabilities, damages, losses and costs, including, but not limited to, reasonable attorneys' fees, to the extent caused by the negligence, recklessness, or intentionally wrongful conduct of the Professional and other persons employed or utilized by the Professional, including its consultants, in the performance of the Agreement. This indemnification shall survive the expiration or earlier termination of this Agreement.

**12.16** Any modifications to this Project are set forth on **Exhibit F**.

**12.17** The parties acknowledge and agree that all exhibits referenced in this Agreement are attached hereto and incorporated herein by reference.

IN WITNESS WHEREOF, the parties have affixed their signatures, effective on the date first written above.

**FOR THE PROFESSIONAL:**

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ATTEST:

Name of Firm

\_\_\_\_\_  
(NAME, TITLE, AND CORPORATE SEAL)

BY: \_\_\_\_\_  
(NAME, TITLE)

AS WITNESSED BY:

DATE: \_\_\_\_\_

\_\_\_\_\_

**FOR THE OWNER:**

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**THE UNIVERSITY OF FLORIDA BOARD OF TRUSTEES**

AS WITNESSED BY: \_\_\_\_\_

BY: \_\_\_\_\_

Ed Poppell, Vice President, Office of Business Affairs, University of Florida

DATE: \_\_\_\_\_

APPROVED AS TO FORM AND  
LEGALITY

APPROVED

\_\_\_\_\_  
BY: M. Kristina Raattama Associate General  
Counsel, University of Florida

\_\_\_\_\_  
BY: Carol J. Walker, Assistant Vice President  
Facilities Planning & Construction University of  
Florida

DATE: \_\_\_\_\_

DATE: \_\_\_\_\_

**EXHIBIT A**

**REIMBURSABLE EXPENSES, PROFESSIONAL LIABILITY INSURANCE REQUIREMENTS**

**1.1 Description of Project.**

UF Project No: \_\_\_\_\_  
UF Project Name: \_\_\_\_\_  
Location/Address: Main campus of the University of Florida  
Program: Approved Facilities Program, dated:

**5.1.3. Construction Cost:** The Construction Cost for this Project shall not exceed **\$ enter amount or NA.**

**10.1.1. Mileage Expenses:** The mileage rate for authorized travel – based on IRS rates at the time of execution of this Agreement ([www.irs.gov](http://www.irs.gov)) – is **\$ 0.405 per mile.**

**10.1.1. Per Diem Rate:** The reimbursable “per diem” rate for travel to **Gainesville, Florida** shall not exceed the maximum established by the General Services Administration (GSA) at the time of execution of this agreement (<http://policyworks.gov/org/main/mt/homepage/mtt/perdiem/perd05d.html>) – **\$ 123.00** per day for lodging (\$79.00/day) and meals and incidental expenses (\$44.00/day), except for the first and last days of travel, which shall not exceed **\$ 33.00** for meals and incidental expenses (last day of travel) and \$ 112.00 for lodging, meals and incidental expenses (first day of travel).

**12.12. Professional Liability Insurance Requirements:** Throughout the Project, the Professional shall carry, at the Professional’s own expense, blanket Professional liability insurance with a coverage amount of **\$\_\_\_\_\_.**

**This is for reference use only, please delete in final draft.**

Minimum Professional liability insurance:

\$15,000,000.00 and less /\$1,000,000.00

>\$15,000,000.00 and special risk projects /Limits set individually-discuss with Director, FPC.

**EXHIBIT B**  
**SCOPE OF SERVICES**

**PROJECT SCHEDULE**

**PROJECT TEAM (INCLUDE SPECIFIC TEAM MEMBERS IF REQUIRED)**

**SCOPE OF WORK (INCLUDE NUMBER OF COPIES OF DOCUMENTS REQUIRED)**

## EXHIBIT C

### ADDITIONAL APPLICABLE GUIDELINES AND PROVISIONS

2.1.2 Additional Applicable Guidelines:  
[Type "None" if applicable]

**EXHIBIT D**  
**COMPENSATION**

**COMPENSATION FOR BASIC SERVICES ON THIS PROJECT**

PHASE	FEE % <sup>1</sup>	FEE
	%	\$
	%	\$
	%	\$
Not-To-Exceed Allowance for Reimbursable Expense	%	\$
<b>TOTAL FEES (LUMP SUM)</b>	<b>100 %</b>	<b>\$</b>

1. Fee % indicates proportion of lump sum portion of Total Fees.

**HOURLY RATES FOR ADDITIONAL SERVICES AUTHORIZATIONS**

<b>Architect</b>	
Principal Architects	\$
Registered Architects	\$
Intern Architects	\$
CAD Technician	\$
Clerical Support	\$

<b>MEP Engineer</b>	
Principal Engineers	\$
Registered Engineers	\$
Intern Engineers	\$
CAD Technician	\$
Clerical Support	\$

<b>Other Consultant</b>	
Principal Engineers	\$
Registered Engineers	\$
Intern Engineers	\$
CAD Technician	\$
Clerical Support	\$



## EXHIBIT E

### OWNERSHIP OF PROFESSIONAL'S DRAWINGS SPECIFICATIONS AND OTHER DOCUMENTS

#### SELECT OPTION 1 OR 2 AND DELETE NOTE

OPTION 1: Professional agrees that works prepared by Professional in connection with this Agreement which are eligible for copyright protection in the United States or elsewhere shall be a work made for hire. If for any assigns, transfers and conveys all of his/her right, title and interest in the copying in such work, and all extensions and renewals thereof throughout the universe in perpetuity, to the University. Professional hereby waives on itself, its employees and agents, and on behalf of his/her successors-in-interest and assigns, all "moral rights" or rights of "droit moral" with respect to the works provided under this Agreement.

#### OPTION 2:

**6.1** The Drawings, specifications and other documents prepared by the Professional for this Project are instruments of the Professional's service for use solely with respect to this Project, except as may be expressly permitted herein. The Professional shall be deemed the author of these documents and shall retain all common law, statutory and other reserved rights, including the copyright. The Owner shall be permitted to retain copies, including electronic format and reproducible copies, of the Professional's Drawings, specifications and other documents and may use the same, without compensation to the Professional, as may be necessary or desirable in the operation, maintenance, construction and renovation of the Project and the remainder of Owner's campus, including, without limitation, additions or renovations to this Project and submittals or distribution of the same to meet official regulatory requirements or other similar requirements, provided in no event may the Owner use the Professional's Drawings, specifications, or other documents for the construction of a new facility unless agreed to in writing by the Professional and as otherwise permitted by Florida law.

**6.2** The Professional shall have the right to include representations of the design of the Project, including photographs of the exterior and interior, among the Professional's promotional and Professional materials. The Professional's materials shall not include the Owner's confidential or proprietary information.

**EXHIBIT F**  
**OPTIONAL PROVISIONS**

[Type "None" if applicable]; Delete references to Article 5 or other template sections that Do Not Apply