AGREEMENT made as of the « » day of « » in the year «2025»

(In words, indicate day, month and year.)

BETWEEN the Architect’s client identified as the Owner:

(Name, legal status, address, and other information)

«Virginia Commonwealth University Health System Authority »« »

«Box 980648 »

«Richmond, VA 23298

1000 East Broad Street »

«Richmond, VA 23219 »

and the Architect:

(Name, legal status, address, and other information)

« »« »

« »

« »

« »

for the following Project:

(Name, location, and detailed description)

«VCUHS Inpatient Tower – Design and Construction of a new hospital facility in Richmond, Virginia, under a phased scope of work, as follows:

**Phase 0 –Design Phase (“Design Phase” or “Phase 0”):** This phase includes Schematic Design, Design Development, and Construction Documents by the Architect and A/E Consultants. Key milestones will be the completion of each design stage, obtaining required regulatory approvals (e.g. planning/zoning approvals, building permit, certificates of public need), and development of the Cost of the Work for the Project. Using the CMAR delivery method, the owner anticipates early work products and negotiation of the CMAR contract before the end of the Design Phase.

**Phase 1 – Construction Phase (“Construction Phase” or “Phase 1”):** Following groundbreaking, the hospital will undergo demolition followed by major construction. Milestones may include demolition, site preparation, foundation completion, structure “topping out,” building enclosure, major system installations, and interior build-out. This phase will include Architect’s construction administration responsibilities and post-occupancy functional assessments.

**Phase 2 – Commissioning Phase (“Commissioning Phase” or “Phase 2”):** In the final phase, all building systems will be commissioned and tested, user training will occur, and regulatory agencies will conduct final inspections for certification of occupancy. »

The Owner and Architect agree as follows.

# TABLE OF ARTICLES

1 INITIAL INFORMATION

2 ARCHITECT’S RESPONSIBILITIES

3 SCOPE OF ARCHITECT’S BASIC SERVICES

4 SUPPLEMENTAL AND ADDITIONAL SERVICES

5 OWNER’S RESPONSIBILITIES

6 COST OF THE WORK

7 COPYRIGHTS AND LICENSES

8 CLAIMS AND DISPUTES

9 TERMINATION OR SUSPENSION

10 MISCELLANEOUS PROVISIONS

11 COMPENSATION

12 SPECIAL TERMS AND CONDITIONS

13 SCOPE OF THE AGREEMENT

# ARTICLE 1   INITIAL INFORMATION

§ 1.1 This agreement (the “Agreement” or “Contract”) is based on the Initial Information set forth in this Section 1.1 and the exhibits listed in Section 13.2.2.

§ 1.1.1 The Owner’s program for the Project:

(Insert the Owner’s program, identify documentation that establishes the Owner’s program, or state the manner in which the program will be developed.)

«See Exhibits A and B.

The Owner is undertaking the construction of a new hospital facility in Richmond, Virginia, with a total project budget of $1.5 billion, subject to Owner’s necessary approvals and the Applicable Laws and Rules. This is a large-scale, complex project expected to span multiple years, with Final Completion and occupancy targeted by 2033. Architect’s services will commence in late calendar year 2025, and will continue through the Construction Phase, Commissioning Phase, and Project closeout. Programming and feasibility studies have been completed by the Owner prior to this engagement. The planned delivery method is Construction Manager at Risk (“CMAR”).

The Project Program will be further developed as part of the Basic Services. »

§ 1.1.2 The Project’s physical characteristics:

(Identify or describe pertinent information about the Project’s physical characteristics, such as size; location; dimensions; geotechnical reports; site boundaries; topographic surveys; traffic and utility studies; availability of public and private utilities and services; legal description of the site, etc.)

«See Exhibits A, B, and D. »

§ 1.1.3 The Owner’s budget for the Cost of the Work, as defined in Section 6.1:

(Provide total and, if known, a line item breakdown.)

**.1** The budget for the Cost of the Work is to be further established and developed during the Preconstruction Phase.

**.2** The Owner’s budget for the Cost of the Work will not be modified absent express written authorization by the Owner as required by the Applicable Laws and Rules.

**.3** The Services covered by this Agreement are subject to the Owner-approved budget for the Cost of the Work, when specified. In the absence of an express provisions to the contrary in this Agreement, the Architect shall perform the required Services in a manner that will render a Cost of the Work that does not exceed the most current Owner-approved budget for the Cost of the Work or estimate of the Cost of the Work. In accordance with this Agreement, including Article 6, the Architect shall coordinate with others, including, but not limited to, the Owner, Owner’s Project Team and Consultants, and the CM Team, in (1) preparing and updating estimates of the Cost of the Work prepared by the Architect in accordance with Article 6, (2) evaluating estimates of the Cost of the Work prepared by others, and (3) reconciling estimates of the Cost of the Work prepared by the Architect and by others, as required by the Owner. The Architect shall report to the Owner any material inaccuracies and inconsistencies noted during such review and reconciliation. »

§ 1.1.4 The Owner’s anticipated design and construction milestone dates:

.1 Design Phase:

«Estimated 2026-2028 »

.2 Construction Phase:

«Estimated 2027-2032 »

.3 Commissioning and Occupancy Phase:

«Estimated 2032-2033 »

.4 Other milestone dates:

« »

§ 1.1.5 The Owner intends to retain a Construction Manager pursuant to the following agreement:

(Indicate agreement type.)

[ « X » ] AIA Document A133–2019, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price, as modified.

[ « » ] AIA Document A134–2019, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee without a Guaranteed Maximum Price.

§ 1.1.6 The Owner’s requirements for accelerated or fast-track design and construction, or phased construction are set forth below:

(List number and type of bid/procurement packages.)

«None. »

§ 1.1.7 The Owner’s anticipated Sustainable Objective for the Project:

(Identify and describe the Owner’s Sustainable Objective for the Project, if any.)

«The Owner, with the advice, analysis, and recommendations of the Owner’s PM, Architect and A/E Consultants, and the CM Team, may consider Sustainable Objectives for the Project as part of the Project Design Phase.»

§ 1.1.8 The Owner identifies the following representative (“Owner’s Designated Representative”) in accordance with Section 5.4:

(List name, address, and other contact information.)

« Shirley Gibson, Vice President Real Estate

1250 E. Marshall Street

Richmond, VA 23298.

(804) 828-8650

shirley.gibson@vcuhealth.org »

§ 1.1.9 The persons or entities, in addition to the Owner’s Designated Representative, who are required to review the Architect’s submittals to the Owner are as follows:

(List name, address, and other contact information.)

«

Owner’s PM

[INSERT CONTACT INFO] »

§ 1.1.10 The Owner shall retain the following consultants and contractors

(List name, legal status, address, and other contact information.)

.1 **Construction Manager and CM Team.** The Owner has retained or will retain a Construction Manager (“Construction Manager”, “CM”, or “Contractor”), who may provide C/M Estimates, investigation and due diligence, advice on construction methods and costs, cost modeling, scheduling, evaluation of Drawings and Specifications, coordination, design-assist, suggestions for alternates and value-engineering, long-lead-item advice and procurement, constructability analyses, logistics, and subcontractor bidding and prequalification information. The Construction Manager will also submit a Guaranteed Maximum Price Proposal (“GMP Proposal”) for Owner’s, Owner’s PM’s, and Architect’s review and consideration. The Owner may consider GMP Proposals from the Construction Manager and, potentially, other prospective bidders for the Construction Phase Work. The Construction Manager in the Design Phase and Construction Phase will engage consultants, subcontractors, and suppliers (“Subcontractors and Suppliers”) and provide the Design Phase Services and Construction Phase Work, either by itself or through Subcontractors and Suppliers, for the Project (collectively, the “Work”), including as set forth in the CM Contract. The Construction Manager, and Subcontractors and Suppliers (of all tiers) are referred to as the “CM Team”.

.2 **Owner’s Project Team and Consultants.** TheOwner has retained or anticipates retaining other individuals, entities, or consultants to provide professional and non-professional services in connection with the Project (collectively, “Owner’s Separate Consultants”). The Owner’s Designated Representative (identified in Section 1.1.8), the Owner’s PM, and the Owner’s Separate Consultants, who may be changed from time to time, are the “Owner’s Project Team and Consultants”.

.3 **Owner’s Project Manager.** The Owner has engaged or will engage a Project Manager (“Owner’s PM”) pursuant to the terms of a Modified C171-2024 Standard Form of Agreement Between Owner and Project Manager. The Owner’s PM is the entity/person having the authority to provide and receive communications on behalf of Owner in respect to the day-to-day management of the Project in the manner set forth in the Contract. Owner’s PM shall be copied on all communications with Owner. The authority of the Owner’s PM is limited to that authority provided for by the Contract Documents. Owner’s PM is authorized to receive information and process Payment Applications, Change Orders, and submittals of Construction Manager; provided, however, that Owner’s PM is not the agent of Owner, nor does Owner’s PM have decision making authority. Notwithstanding any statement in the Contract Documents to the contrary, the Owner’s PM does not have the authority to contractually bind the Owner, which authority is reserved exclusively for the Owner’s Designated Representative as provided herein. The Owner’s PM may, upon written notice from the Owner to the Architect, be replaced by the Owner with another individual or firm, which may be either an employee of the Owner or an independent contractor. If there is at any time no Owner’s PM for the Project, then the references to the Owner’s PM in the Contract Documents shall mean the Owner’s Designated Representative or such other person(s) as the Owner’s Designated Representative may designate in writing.

§ 1.1.11 The Architect identifies the following representative (“Architect’s Designated Representative”) in accordance with Section 2.4:

(List name, address, and other contact information.)

«INSERT »

§ 1.1.12 The Architect shall retain the consultants identified in Sections 1.1.12.1 and 1.1.12.2:

(List name, legal status, address, and other contact information.)

§ 1.1.12.1 Consultants retained under Basic Services: [To be Determined]

.1 Structural Engineer:

.2 Mechanical Engineer:

.3 Electrical Engineer:

**.4** Civil Engineer:

**.5** Landscape Architect:

§ 1.1.12.2 Other specialty consultants retained under Basic Services: [To be Determined]

.1 Medical Equipment Planning Consultant:

«[INSERT]»

.2 Medical Communications/Low Voltage Consultant:

«[INSERT]»

.3 Food Service Consultant:

«[INSERT]»

.4 Interior Designer:

«[INSERT]»

.5 Furniture Consultant:

«[INSERT]»

.6 Code/Life Safety Consultant:

«[INSERT]»

.7 Vibration & Acoustics Consultant:

«[INSERT]»

.8 Wind Analysis Consultant:

«[INSERT]»

.9 Building Envelope Commissioning Consultant:

«[INSERT]»

.10 Sustainability Consultant:

«[INSERT]»

.11 Materials Management & Sterile Processing Consultant:

«[INSERT]»

.12 Elevator Consultant:

«[INSERT]»

.13 Pneumatic Tube Consultant:

«[INSERT]»

.14 Wayfinding & Signage Consultant:

«[INSERT]»

.15 Community Engagement Consultant:

«[INSERT]»

.16 Parking Consultant:

«[INSERT]»

.17 Helipad Consultant:

«[INSERT]»

.18 Post Occupancy & Evidence Based Design Consultant:

 «[INSERT]»

.19 Pharmacy Consultant

 «[INSERT]»

§ 1.1.13 Other Initial Information on which the Agreement is based:

« »

§ 1.2 The Owner and Architect may rely on the Initial Information. Both parties, however, recognize that the Initial Information may materially change and, in that event, the Owner and the Architect shall, if appropriate, adjust the Architect’s services, schedule for the Architect’s services, and the Architect’s compensation. The Owner shall adjust the Owner’s budget for the Cost of the Work and the Owner’s anticipated design and construction milestones, as necessary, to accommodate material changes caused or directed by the Owner in the Initial Information.

§ 1.3 The parties shall agree upon protocols governing the transmission and use of Instruments of Service or any other information or documentation in digital form. The parties will use a Modified AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data (“Data Protocols”). The Data Protocols, including protocols for BIM and the development, use, and reliance on a BIM Model, are to be developed as part of the Basic Services. Once agreed, the Data Protocols will be attached to the Agreement as **Exhibit G**.

§ 1.3.1Any use of, or reliance on, all or a portion of a building information Model without agreement to protocols governing the use of, and reliance on, the information contained in the Model and without having those protocols set forth in a Modified AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, and the requisite Modified AIA Document G202™–2013, Project Building Information Modeling Protocol Form (collectively, the “BIM Protocols”), shall be at the using or relying party’s sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information Model, and each of their agents and employees.

**§ 1.4** The Architect represents that it is financially solvent, is able to pay its debts as they become due, and possesses

sufficient working capital to complete the Services and perform its obligations under this Agreement and under the

Contract Documents.

# ARTICLE 2   ARCHITECT’S RESPONSIBILITIES

§ 2.1 The Architect shall provide all professional services as set forth in this Agreement and necessary for the design and construction phase and administration of the Project. The Architect represents that it is properly licensed in the jurisdiction where the Project is located to provide the services required by this Agreement, or shall cause such services to be performed by appropriately licensed design professionals.

Notwithstanding any other provision in this Agreement, the Architect agrees that the Basic Services Fee, as stated in Article 11, is adequate and sufficient compensation for the Architect’s proper, complete, and timely provision of all professional Basic Services (including those of its consulting structural, mechanical, electrical, plumbing, and other consulting engineers or designers) necessary for the complete design of the Project and preparation of Construction Documents that indicate the requirements for construction of the Work, whether or not those Services are individually listed or referred to in this Agreement, the only exceptions to this being: (1) the cost of those services that are provided by third parties and that are expressly designated herein as being “the Owner’s responsibility” or “Owner-provided”; and (2) the cost of those engineering or consulting services that become necessary as a result of an Owner-directed change in Project scope affecting the Architect (and that are the subject of a written agreement for Additional Services between the Owner and the Architect).

§ 2.2 The Architect shall perform its services and professional duties hereunder consistent with the professional skill and care ordinarily provided by architects practicing in the same or similar locality under the same or similar circumstances, on projects of the same or similar size, including, without limitation, in accordance with Section 3.1.6 (the “Standard of Care”). The Architect shall perform its services with professional skill and care so as to be in accordance with the Architect’s Schedule and the overall Project Schedule, each as reasonably updated from time to time by the Owner or with the Owner’s approval. The Architect hereby represents that it is licensed to practice Architecture (or Engineering, as the case may be) as required by law in the jurisdiction in which the Project is located. Nothing in this Agreement shall be construed to authorize performance by the Architect (or any of its consultants) at a standard of care that is reduced from that which is required by this Agreement and/or governing law. The Construction Documents, designs, and services shall be prepared through the applicable Standard of Care, and shall comply with and conform to all Applicable Laws and Rules governing the Project and the Work.

§ 2.3 The Architect shall provide its services in conjunction with the services of a Construction Manager as described in the agreement identified in Section 1.1.5. The Architect shall not be responsible for actions taken by the Construction Manager.

§ 2.3.1 The Key Personnel List (**Exhibit E**) identifies (a) the significant staff members of the Architect; (b) the consultants hired or intended to be hired by the Architect; and (c) the significant staff members of such consultants (collectively, “Key Personnel”). The Architect acknowledges and agrees that the designation and dedication of such Key Personnel and the availability of all Key Personnel to work on this Project is a material inducement to the Owner entering into this Agreement. Consequently, except in the event of death, disability, or termination of employment, the Architect shall not remove or reassign personnel from the Project without the prior written consent of the Owner, such consent shall not be unreasonably withheld.

§ 2.3.2 The Architect shall assign only fully qualified, experienced, and competent employees to work on the Project who shall devote their attention to this Project from the inception to completion of all services hereunder.

§ 2.3.3 It is expressly understood and agreed that the Architect (a) shall remove, at the request of the Owner, any staff person or Subconsultant assigned to the Project that the Owner shall deem unfit to perform the task assigned to him/her or otherwise finds objectionable, and (b) shall propose substitutes for any staff persons or Subconsultants assigned to the Project who either cease to be in the Architect’s employ or are removed from the Project by reason of the Owner’s request as aforesaid.

§ 2.4 The Architect’s Designated Representative, identified in Section 1.1.11, shall be authorized to act on the Architect’s behalf with respect to the Project and shall attend Project meetings and promptly respond to Owner inquiries.

§ 2.5 Except with the Owner’s knowledge and consent, the Architect shall not engage in any activity, or accept any employment, interest, or contribution that would reasonably appear to compromise the Architect’s professional judgment with respect to this Project.

§ 2.6 Insurance. At a minimum, the Architect shall maintain the following insurance retroactive to the earlier date of the Agreement or the commencement of Architect services on this Project, continuing for the duration of this Agreement, but in no case less than five (5) years after the Date of Substantial Completion of the Project. The policy retroactive date will be no later than the date upon which the Architect's services were first rendered. The Architect shall, at its sole expense, maintain in effect at all times during the full term of its Services under the Agreement and as otherwise required hereunder, insurance coverages with limits not less than those set forth in this Section 2.6. All such insurance shall be written by insurers duly authorized and licensed to provide such coverage in the jurisdiction in which the Project is located and having an AM Best rating of "A," or a rating which is acceptable to the Owner and under forms of policies satisfactory to the Owner. None of the requirements contained herein as to types, limits, and necessary approvals are intended to and shall not in any manner limit, qualify, or quantify the liabilities and obligations assumed by the Architect under the Agreement or as otherwise provided by law.

§ 2.6.1 Commercial General Liability with policy limits of not less than «one million dollars» ($ «1,000,000» ) for each occurrence and «three million dollars» ($ «3,000,000» ) in the aggregate for bodily injury and property damage, including Contractual Liability, Personal Injury and Products/Completed Operations Liability, all on an occurrence basis. Policies provided hereunder shall not contain XCU exclusions relating to Explosion, Collapse and Underground Property Damage.

§ 2.6.2 Comprehensive Automobile Liability covering all owned, non-owned, and hired motor vehicles licensed for highway use vehicles with policy limits of not less than «two million dollars» ($ «2,000,000» ) per accident for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles, along with any other statutorily required automobile coverage.

§ 2.6.3 The Architect may achieve the required limits and coverage for Commercial General Liability and Comprehensive Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided such primary and excess or umbrella liability insurance policies result in the same or greater coverage as the coverages required under Sections 2.6.1 and 2.6.2, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy.

§ 2.6.4 Workers’ Compensation at statutory limits.

§ 2.6.5 Employers’ Liability with policy limits not less than «one million dollars» ($ «1,000,000» ) each accident, «one million dollars» ($ «1,000,000» ) each employee, and «one million dollars» ($ «1,000,000» ) policy limit.

§ 2.6.6 Professional Liability covering negligent acts, errors and omissions in the performance of professional services, with policy limits of not less than «twenty million dollars » ($ «20,000,000» ) per claim and «twenty million dollars» ($ «20,000,000» ) in the aggregate. The Professional Liability insurance required hereunder shall be kept in force by the Architect for a period of not less than the Statute of Repose or the Statute of Limitations or ten (10) years, whichever is greater, after the date of Substantial Completion for the entire Work.

**§**  **2.6.7** Umbrella/Excess Liability with policy limits of not less than twenty million dollars ($20,000,000) each occurrence and twenty million dollars ($20,000,000) in the aggregate.

§ 2.6.8 Additional Insured Obligations. To the fullest extent permitted by law, the Architect shall cause all insurance policies required, except Professional Liability and Workers Compensation, to include the Owner, Virginia Commonwealth University, the Commonwealth of Virginia, Owner’s PM, and their subsidiaries, parents, affiliates, officers, officials, directors, employees, and agents as an additional insureds (the “Additional Insureds”). The additional insured coverage shall be primary and non-contributory to any of the Additional Insured’s insurance policies and shall apply to both ongoing and completed operations. In the event a claim is brought against Owner that arises out of this contract and where Owner is listed as an additional insured, should Architect’s insurance company challenge the additional insured status of Owner, Owner is entitled to select its own coverage counsel at Architect’s expense.

§ 2.6.9 The Architect’s liability and workers compensation policies shall be endorsed to include waivers of subrogation in favor of the Additional Insureds. Architect shall require appropriate similar waivers from its contractors, Consultants, and agents.

§ 2.6.10 Consultants/subconsultants to the Architect shall maintain insurance to cover their operations performed under this Agreement in accordance with this Section 2.6; provided, however, that the limits and terms of such insurance may be adjusted in accordance with the nature of each consultant’s/subconsultant’s operations. The Architect shall be responsible for any modifications in these insurance requirements as they apply to consultants/subconsultants. The Architect shall maintain Certificates of Insurance for all consultants/subconsultants identified and make them available to the Owner upon request.

§ 2.6.11 The Architect, on behalf of itself and its consultants, waives any and all rights to recover damages against the Additional Insureds, their agents, officers, directors, and employees to the extent these damages are covered by the insurance required above.

§ 2.6.12 The Architect shall provide certificates of insurance to the Owner that evidence compliance with the requirements in this Section 2.6. The Architect shall further provide Owner with copies of any policies, if and as requested by Owner. The Architect shall furnish updated certificates prior to the expiration date of each applicable policy evidencing continuation of coverage for the amount of time required by this Agreement. Receipt and review by the Owner of any copies of insurance policies or insurance certificates shall not relieve the Architect or a subconsultant of its obligation to comply with the insurance provisions of this Agreement (and applicable subconsultant agreement).

§ 2.6.13 Neither the Architect nor its consultants shall make changes in or allow the required insurance coverages to lapse without Owner’s prior written approval thereto. No insurance required by this Section 2.6 shall be cancelled, allowed to expire, or be reduced in limits or coverages below the amounts stated above without (a) at least thirty (30) days’ prior written notice by certified mail to Owner of any cancellation of that policy or material change in coverage, and (b) the Owner has agreed in writing to such cancellation or material change. Should a notice of cancellation be issued for non-payment of premiums or any part thereof, the Owner shall have the right, but shall not have the obligation, to pay such premium to the insurance company or to obtain such coverage and to deduct such payment from any sums that may be due or become due to the Architect, or to seek reimbursement for said payments from the Architect. Any sums paid by the Owner shall be due and payable immediately by the Architect upon notice from Owner.

§ 2.6.14 The insurance provisions of this Agreement shall not be construed as a limitation on the Architect’s or a consultant’s responsibilities and liabilities pursuant to the terms and conditions of this Agreement or the consultant’s agreement. All limits described herein are minimum limits of insurance. The full limits purchased by Architect shall be available in the event of a claim.

**§ 2.6.15** In the event any of Architect’s insurance policies are written on a claims made basis or change from or to a claims made basis from an occurrence basis during the term of the Agreement, or after Final Completion of the Work but within the applicable statute of limitation, Architect shall maintain all coverage specified in Article 2 for the Project until the applicable statute of limitation has run.

**§ 2.6.16** The foregoing provisions requiring Architect to carry insurance for the Project shall not be construed in any manner as waiving, restricting or limiting the liability of Architect as to any obligations imposed under this Agreement, whether or not same are, or may be covered by insurance. Architect shall not violate or knowingly permit any violation of any conditions or terms of the policies of insurance described herein. In the event Architect neglects, refuses or fails to provide or maintain any of the insurance required under this Agreement or if such insurance is canceled for any reason, Owner shall have the right, but not the obligation, to procure or maintain the same. In the event Owner does procure or maintain such insurance, Owner shall have, in addition to any and all other available remedies, the right to recover from Architect (including the right of set off against sums otherwise due Architect) all of the costs associated with procuring or maintaining such insurance.

**§ 2.6.17** Owner may require Architect at any time, and from time to time, during the life of the Agreement, to obtain and maintain in force additional coverage or limits in addition to that required herein. The additional premium cost of any such additional insurance required hereby, however, shall be borne by Owner and Architect shall arrange to have such costs billed separately and directly to Owner. Owner shall be authorized by Architect to directly confer with the agent or agents of the insurance carrier or carriers concerning the extent and limits of Architect’s insurance coverage in order to ensure the sufficiency thereof for purposes of the Services performable under the Agreement and to assure that such coverage as a whole is coordinated from the standpoint of adequate coverage at the least total premium costs. Owner may purchase and maintain such other insurance, as it may deem appropriate. No purchase of any insurance by Owner shall in any way be deemed to alter or amend the rights or responsibilities of Owner or Architect under this Agreement.

**§ 2.6.18** Any deductibles or self-insured retention payments shall be the responsibility of Architect. Any policies with self-insured retentions shall require the insurance carrier to recognize payment made by the Additional Insureds as eroding any applicable retention/deductible. All policies shall provide cross liability coverage. No policy shall contain an insured vs. insured exclusion that limits the Additional Insured’s ability to pursue a claim against the Architect.

# ARTICLE 3   SCOPE OF ARCHITECT’S BASIC SERVICES

§ 3.1 The Architect’s Basic Services consist of those described in or reasonably inferable from this Agreement, to include Articles 2 and 3, all exhibits, and the usual and customary structural, mechanical, civil, plumbing, and electrical engineering services described therein. Services not set forth in this Article 3 may be Supplemental or Additional Services.

§ 3.1.1 The Architect shall manage the Architect’s services, consult with the Owner’s Project Team and Consultants and the CM Team, research applicable design criteria, attend Project meetings, communicate with members of the Project team, and report progress to the Owner.

§ 3.1.2 The Architect shall coordinate its services with those services provided by the Owner’s Project Team and Consultants and the CM Team, including coordinating the Architect’s documents with the Owner’s Separate Consultants documents. Subject to the Standard of Care, the Architect shall be entitled to rely on, and shall not be responsible for, the accuracy, completeness, and timeliness of, services and information furnished by the Owner’s Project Team and Consultants and the CM Team, unless the Architect knows the information to be incorrect or incomplete. The Architect shall provide prompt written notice to the Owner if the Architect becomes aware of any error, omission, or inconsistency in such services or information.

§ 3.1.3 As soon as practicable after the date of this Agreement, the Architect shall submit, for the Construction Manager’s review and the Owner’s approval, a schedule for the performance of the Architect’s services (the “Architect’s Schedule”). The schedule shall include design phase milestone dates, as well as the anticipated dates for the commencement of construction and for Substantial Completion of the Work as set forth in the Initial Information. The Architect’s Schedule shall also show, for each element of the Project, the planned progress of design and the sequence in which the design of the various elements of the Project shall proceed, including, for each element, milestones (i) at which the progress of the design will be reviewed by Owner and Owner’s PM, and (ii) at which questions requiring resolution will be submitted to Owner for decision. The schedule includes allowances for periods of time required for the Owner’s and Owner’s PM’s review, for the performance of the Owner’s consultants, and for approval of submissions by governmental authorities.

**§ 3.1.3.1** The Architect represents to Owner and agrees that (1) it has reviewed and approved the Project Schedule (**Exhibit F**) and will coordinate the Architect’s Schedule for the performance of the Architect’s services, (2) the periods for performing the services are reasonable and sufficient to perform the services in accordance with the Agreement for the Basic Services compensation stated in Section 11.1, and (3) it will not exceed the proposed time limits except as otherwise provided for in this Section. Architect acknowledges that timely design, construction, and completion of this Project is of critical importance to Owner. Accordingly, as consistent with the Standard of Care, time is of the essence with respect to all aspects of Architect’s performance hereunder.

**§ 3.1.3.2** Once approved by the Owner, the time limits established therein shall not be exceeded, except as provided by this Section. The Architect shall perform its duties under this Agreement in accordance with the Architect’s Schedule and the overall Project Schedule so as not to delay the Project.

**§ 3.1.3.3** When events or causes not within the control or responsibility of the Owner or the Architect (or those persons or entities for whom either the Owner or Architect is responsible) delay the Project’s completion, then the Architect’s Schedule and/or Project Schedule (as appropriate) shall be adjusted as determined by the Owner in its reasonable, sole discretion. Any such resultant adjustment may be cause for additional compensation to Architect as an Additional Service. In the event Architect’s Schedule completion is delayed by events or causes within the control or responsibility of Architect (or persons or entities for whom the Architect is responsible, including consultants), then the Architect’s Schedule shall not be adjusted, and Architect shall not be entitled to additional compensation due to such delay(s). Pending any adjustment in the Architect’s Schedule, Architect shall continue performance in accordance with the Architect’s Schedule then in effect, and thereafter in accordance with any adjusted Architect’s Schedule.

§ 3.1.3.4 The Project may be built on a fast-track basis, that is: contracts for construction of some elements of the Project may be entered into on the basis of Design Development Documents or on the basis of performance specifications or scope criteria before the Construction Documents for the entire Project have been completed, before contracts have been awarded for the construction of all elements of the Project, and before the total Cost of the Work of the Project has been fixed. To facilitate the award of contracts on a fast-track basis, the Architect shall, at the Owner’s request, compile performance specifications, scope criteria, and other appropriate descriptions of Work relating to the Project for the Owner’s use and the use of contractors as a Basic Service

§ 3.1.4 The Architect shall submit information to the Construction Manager and participate in developing and revising the Project Schedule as it relates to the Architect’s Schedule. The Architect shall review and approve, or take other appropriate action upon, the portion of the Project Schedule relating to the performance of the Architect’s services, based on the Approved Architect’s Schedule.

§ 3.1.5 The Architect shall not be responsible for an Owner’s directive or substitution made without the Architect’s written approval. As between the Architect and the Owner, the Owner shall be responsible for claims or liability arising out of a material directive or substitution with respect to design made by the Owner despite the Architect’s written objection to the Owner, provided the Architect (1) gives the Owner prompt written notice of its view that this Section 3.1.5 duty has arisen, and (2) provides the Owner an opportunity to withdraw or amend such material directive or substitution.

§ 3.1.6 The Architect shall, at appropriate times, in coordination with the Construction Manager, contact governmental authorities required to approve the Construction Documents, including entities providing utility services to the Project. The Architect shall respond to applicable design requirements imposed by such authorities and entities.

§ 3.1.7 The Architect shall, at appropriate times, assist the Owner and Construction Manager in connection with the Owner’s and Construction Manager’s responsibilities for filing documents required for the approval of governmental authorities having jurisdiction over the Project. The Architect represents in accordance with the Standard of Care that it is familiar with, and experienced in the interpretation/application of, the Applicable Laws and Rules applicable to the Services and the Project in general. The Architect acknowledges that the Owner is relying on the Architect’s expertise in the Applicable Laws and Rules concerning projects of this type. Accordingly, the Architect agrees to apply the applicable Standard of Care in interpreting and applying the Applicable Laws and Rules in preparing the Construction Documents and performing its Services. The Architect shall respond in the design of the Project to requirements imposed by governmental authorities and comply with all directives of such authorities. Where necessary for the successful completion of the Project, the Architect shall meet with all appropriate governmental officials in the various design stages hereunder to apprise such officials of the specifics of the Project to avoid deviations from such Applicable Laws and Rules and to expedite permitting procedures. Accordingly, the Architect shall (1) prepare all Plans, Specifications, and other documents in detail as necessary for all Project building Permits, approvals, and documents necessary for Owner’s approval, (2) meet with governmental authorities as necessary to facilitate Permit approval, and (3) prepare responses to governmental authorities’ review or other comments.

§ 3.1.8 Prior to the Owner’s acceptance of the Construction Manager’s Guaranteed Maximum Price proposal, or the Owner’s approval of the Construction Manager’s Control Estimate, as applicable, the Architect shall consider the Construction Manager’s requests for substitutions and, upon written request of the Construction Manager, provide clarification or interpretations pertaining to the Drawings, Specifications, and other documents submitted by the Architect. The Architect and Construction Manager shall include the Owner in communications related to substitution requests, clarifications, and interpretations.

§ 3.1.9 The Architect shall (1) prepare and update estimates of the Cost of the Work, (2) evaluate estimates of the Cost of the Work prepared by others (including the Owner’s Project Team and Consultants and/or the Construction Manager), and (3) reconcile estimates of the Cost of the Work prepared by the Architect and by others, each as required by the Owner.

**§ 3.1.10 Evaluation of the Construction Manager’s Guaranteed Maximum Price Proposal**

**§ 3.1.10.1** Prior to the Owner’s acceptance of the Guaranteed Maximum Price proposal, the Architect shall consider the Construction Manager’s information, analyses, and recommendations, including, but not limited to, those regarding substitutions, alternates, cost estimates, value engineering, constructability, existing conditions and market investigations, scope definitions, design-assist information, trade partner input, phasing, coordination, logistics, long-lead-time items, and scheduling. Upon written request of the Construction Manager, the Architect will provide clarifications or interpretations pertaining to the Drawings, Specifications, and other documents submitted by the Architect. The Architect and Construction Manager shall include the Owner and Owner’s PM on all communications related to the foregoing requests, clarifications, and interpretations.

**§ 3.1.10.2** During the Design Phase the Owner will receive a Guaranteed Maximum Price proposal from the Construction Manager. The Architect shall assist the Owner, Owner’s PM, and Owner’s consultants in reviewing the Construction Manager’s proposal. In the event that the Architect discovers any inconsistencies or inaccuracies in the information presented, the Architect shall promptly notify the Owner and Construction Manager.

**§ 3.1.10.3** Upon authorization by the Owner, the Architect shall update the Drawings, Specifications, and other documents to incorporate the agreed upon assumptions and clarifications contained in the Guaranteed Maximum Price Amendment.

**§ 3.1.11 Project Management Information System**

The Owner anticipates the Data Protocols will require the Architect and its consultants to use a Project Management Information System (e.g., the E-Builder Platform, or such other software platform as the Owner may choose), subject to additional terms, conditions, and instructions that the Owner shall provide to the Architect; and that all Project communications, information, analyses, and reports shall be documented, filed, organized, and maintained in and through the Project Management Information System. The Architect shall cause its personnel, Architect’s consultants (of any tier), and their personnel, to take any training courses required by the Owner for use of the Project Management Information System platform at no additional cost to the Owner.

§ 3.2 Review of the Construction Manager’s Guaranteed Maximum Price Proposal or Control Estimate

§ 3.2.1 At a time to be mutually agreed upon by the Owner and the Construction Manager, the Construction Manager shall prepare, for review by the Owner and Architect, and for the Owner’s acceptance or approval, a Guaranteed Maximum Price proposal. The Architect shall assist the Owner in reviewing the Construction Manager’s proposal. The Architect’s review is not for the purpose of discovering errors, omissions, or inconsistencies; for the assumption of any responsibility for the Construction Manager’s proposed means, methods, sequences, techniques, or procedures; or for the verification of any estimates of cost or estimated cost proposals. In the event that the Architect discovers any inconsistencies or inaccuracies in the information presented, the Architect shall within three days notify the Owner and Construction Manager.

§ 3.2.2 Upon authorization by the Owner, the Architect shall update the Drawings, Specifications, and other documents to incorporate the agreed upon assumptions and clarifications contained in the Guaranteed Maximum Price Amendment.

§ 3.3 Schematic Design Phase Services

§ 3.3.1 The Architect shall review the program, and other information furnished by the Owner, and shall review the Applicable Laws and Rules applicable to the Architect’s services.

§ 3.3.2 The Architect shall evaluate the Owner’s program, schedule, budget for the Cost of the Work, Project site, and other Initial Information, each in terms of the other, to ascertain the requirements of the Project. The Architect shall notify the Owner and Owner’s PM of (1) any inconsistencies discovered in the information and (2) other information or consulting services that may be reasonably needed for the Project.

**§ 3.3.2.1** As part of its evaluation of the Owner’s program, the Architect shall review and validate Owner’s preliminary documentation, including the Feasibility Study, space plan, and project requirements.

§ 3.3.3 The Architect shall present its evaluation to the Owner’s Project Team and Consultants and the CM Team and shall discuss with the Owner’s Project Team and Consultants and the CM Team alternative approaches to design and construction of the Project. The Architect shall reach an understanding with the Owner’s Project Team regarding the requirements of the Project.

§ 3.3.4 Based on the Project requirements agreed upon with the Owner, the Architect shall prepare and present to the Owner and Construction Manager, for the Owner’s approval, a preliminary design illustrating the scale and relationship of the Project components.

§ 3.3.5 Based on the Owner’s approval of the preliminary design, the Architect shall prepare Schematic Design Documents for Construction Manager’s review and the Owner’s approval. The Schematic Design Documents shall consist of drawings and other documents including a site plan, if appropriate, and preliminary building plans, sections and elevations; and may include some combination of study models, perspective sketches, or digital representations. Preliminary selections of major building systems and construction materials shall be noted on the drawings or described in writing.

§ 3.3.5.1 The Architect shall consider, with the Owner’s Project Team and Consultants and the CM Team, sustainable design alternatives, such as material choices and building orientation, together with other considerations based on program and aesthetics, in developing a design that is consistent with the Owner’s program, schedule and budget for the Cost of the Work.

§ 3.3.5.2 The Architect shall consider, with the Owner’s Project Team and Consultants and the CM Team, the value of alternative materials, building systems and equipment, together with other considerations based on program and aesthetics, in developing a design for the Project that is consistent with the Owner’s program, schedule, and budget for the Cost of the Work.

§ 3.3.5.3 The Architect shall consult with the Owner’s Project Team and Consultants and the CM Team regarding any estimates of the Cost of the Work received or prepared by the Architect or by others. The Architect shall coordinate with the Owner’s Project Team and Consultants in (1) preparing and updating an estimate of the Cost of the Work prepared in accordance with Article 6 by the Architect, (2) evaluating estimates of the Cost of the Work prepared by others, and (3) reconciling estimates of the Cost of the Work prepared by the Architect or by others, as required by the Owner. The Architect shall report to the Owner and Owner’s PM any inaccuracies and inconsistencies noted during such review and reconciliation. If the updated Cost of the Work estimate does not conform to the Owner’s budget for the Cost of the Work and any Owner approved modification, the Architect shall provide a written statement to the Owner to suggest alternative designs or change to the designs to bring the updated estimate within the Owner’s budget for the Cost of the Work. The Architect, Owner, and Owner’s Project Team and Consultants shall agree upon any changes, which changes the Architect will incorporate as part of the Section 3.4 Design Development Phase.

§ 3.3.6 The Architect shall submit the Schematic Design Documents to the Owner and the Construction Manager. The Architect shall meet with the Construction Manager to review the Schematic Design Documents.

§ 3.3.7 Upon receipt of the Construction Manager’s review comments and cost estimate at the conclusion of the Schematic Design Phase, the Architect shall take action as required under Section 6.4, and request the Owner’s approval of the Schematic Design Documents. If revisions to the Schematic Design Documents are required to comply with the Owner’s budget for the Cost of the Work at the conclusion of the Schematic Design Phase, the Architect shall incorporate the required revisions in the Design Development Phase.

§ 3.3.8 In the further development of the Drawings and Specifications during this and subsequent phases of design, the Architect shall be entitled to rely on the accuracy of the estimates of the Cost of the Work, which are to be provided by the Construction Manager under the Construction Manager’s agreement with the Owner.

§ 3.4 Design Development Phase Services

§ 3.4.1 Based on the Owner’s approval of the Schematic Design Documents, and on the Owner’s authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Design Development Documents for the Owner’s Project Team and Consultants’ and the CM Team’s review and the Owner’s approval. The Design Development Documents shall be based upon information provided, and estimates prepared by, the Construction Manager and shall illustrate and describe the development of the approved Schematic Design Documents and shall consist of drawings and other documents including plans, sections, elevations, typical construction details, and diagrammatic layouts of building systems to fix and describe the size and character of the Project as to architectural, structural, mechanical, civil, plumbing, and electrical systems, and other appropriate elements. The Design Development Documents shall also include outline specifications that identify major materials and systems and establish in general their quality levels.

§ 3.4.2 Prior to the conclusion of the Design Development Phase, the Architect shall submit the Design Development Documents to the Owner and the Construction Manager at the times and levels of completion required by the

Architect’s Schedule (or, if not specified therein, at 30%, 60%, and 90-100%). The Architect shall meet with the Construction Manager to review the Design Development Documents.

§ 3.4.2.1 The Architect shall consult with the Owner’s Project Team and Consultants and the CM Team regarding any estimates of the Cost of the Work received or prepared by the Architect or by others. The Architect shall coordinate with the Owner’s Project Team and Consultants in (1) preparing and updating an estimate of the Cost of the Work prepared in accordance with Article 6 by the Architect, (2) evaluating estimates of the Cost of the Work prepared by others, and (3) reconciling estimates of the Cost of the Work prepared by the Architect or by others, as required by the Owner. The Architect shall report to the Owner and Owner’s PM any inaccuracies and inconsistencies noted during such review and reconciliation. If the updated Cost of the Work estimate does not conform to the Owner’s budget for the Cost of the Work and any Owner approved modification, the Architect shall provide a written statement to the Owner to suggest alternative designs or change to the designs to bring the updated estimate within the Owner’s budget for the Cost of the Work. The Architect, Owner, and Owner’s Project Team and Consultants shall agree upon any changes, which changes the Architect will incorporate as part of the Section 3.5 Construction Documents Phase.

§ 3.4.3 Upon receipt of the Construction Manager’s information and estimate at the conclusion of the Design Development Phase, the Architect shall take action as required under Sections 6.4, 6.5 and 6.6 and request the Owner’s approval of the Design Development Documents.

§ 3.5 Construction Documents Phase Services

§ 3.5.1 Based on the Owner’s approval of the Design Development Documents, and on the Owner’s authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Construction Documents for the Owner’s Project Team and Consultants’ and the CM Team’s review and the Owner’s approval.

**§ 3.5.1.1** The Construction Documents shall illustrate and describe the further development of the approved Design Development Documents and shall consist of Drawings and Specifications setting forth in detail the quality levels and performance criteria of materials and systems and other requirements for the construction of the Work. The Owner and Architect acknowledge that, in order to perform the Work, the Construction Manager will provide additional information, including Shop Drawings, Product Data, Samples and other similar submittals, which the Architect shall review in accordance with Section 3.6.4.

**§ 3.5.1.2** The Construction Documents shall include (by way of example and not limitation) the following: (i) architectural drawings, details and specifications; (ii) structural and mechanical plans, details, calculations and specifications; (iii) plans showing the installation of major systems and equipment; (iv) all electrical, site lighting, and interior lighting; (v) all landscaping and signage; (vi) door hardware and equipment specifications and schedules showing the sizes, location, and manufacturers of doors, hardware, and equipment; (vii) architectural specifications and finish schedules to set standards for the Project and provide complete understanding by Construction Manager, installers, fabricators, and suppliers; (viii) detail drawings showing the design to be used in items such as special lighting, special partitions, cabinetwork, equipment, and for interior finishes such as wall coverings and floor coverings; (ix) supplementary conditions and special conditions, as necessary; (x) an updated code analysis identifying any changes and ensuring compliance of the design with applicable code and zoning requirements; and (xi) a narrative sequence of operation for all building systems. The Drawings allocating space for mechanical, telecommunications, electrical, and plumbing work shall show that such work does not conflict with structural or architectural work, life safety and security systems, mechanical work, telecommunications outlets, all field construction, millwork fabrication, special features, equipment installation, and other work reasonably necessary to be performed in order to construct the Project.

§ 3.5.1.3 The Construction Documents shall be sufficient for the performance of the Work without need for additional drawings, details, or change orders to correct or clarify such documents, and shall contain all documents necessary and suitable for Guaranteed Maximum Price competitive bidding and contracting for construction, and to enable Construction Manager to provide all labor, materials, and equipment required to construct the Project.

§ 3.5.1.4 The Construction Documents shall be prepared in such a manner that the Owner will be able to obtain any Permit(s) necessary to construct the Project. The Architect shall assist the Construction Manager and Owner in obtaining all required building Permits and approvals, shall respond promptly and appropriately to all questions and comments, and shall make all required changes.

§ 3.5.1.5 The Architect shall make such revisions to the Construction Documents as may be requested by the Owner; such revisions shall be at no additional cost to the Owner to the extent they are necessary for the Architect to comply with its obligations under this Agreement, to include enabling the Project to be built within the Project Schedule and the Owner’s budget for the Cost of the Work as established by the Owner and reviewed with the Architect. Such revisions shall be considered Additional Services only if (a) such revisions are the result of the Owner’s decision to materially modify the scope of the Project or are materially inconsistent with prior decisions or direction of the Owner, and (b) due to reasons beyond the control of the Architect. The Owner and Architect acknowledge that, to perform the Work, the Construction Manager will provide additional information, including Shop Drawings, Product Data, Samples, and other similar submittals, which the Architect shall review in accordance with Section 3.6.4.

§ 3.5.2 The Architect shall incorporate the design requirements of governmental authorities having jurisdiction over the Project into the Construction Documents.

§ 3.5.3 During the development of the Construction Documents, if requested by the Owner, the Architect shall assist the Owner and Construction Manager in the development and preparation of (1) the Conditions of the Contract for Construction (General, Supplementary and other Conditions) and (2) a project manual that includes the Conditions of the Contract for Construction and Specifications, and may include sample forms.

§ 3.5.4 Prior to the conclusion of the Construction Documents Phase, the Architect shall submit the Construction Documents to the Owner and the Construction Manager. The Architect shall meet with the Construction Manager to review the Construction Documents.

**§ 3.5.4.1** The Architect shall consult with the Owner’s Project Team and Consultants and the CM Team regarding any estimates of the Cost of the Work received or prepared by the Architect or by others. The Architect shall coordinate with the Owner’s Project Team and Consultants in (1) preparing and updating an estimate of the Cost of the Work prepared in accordance with Article 6 by the Architect, (2) evaluating estimates of the Cost of the Work prepared by others, and (3) reconciling estimates of the Cost of the Work prepared by the Architect or by others, as required by the Owner. The Architect shall report to the Owner and Owner’s PM any inaccuracies and inconsistencies noted during such review and reconciliation. If the updated Cost of the Work estimate does not conform to the Owner’s budget for the Cost of the Work and any Owner approved modification, the Architect shall provide a written statement to the Owner to suggest alternative designs or change to the designs to bring the updated estimate within the Owner’s budget for the Cost of the Work. The Architect, Owner, and Owner’s Project Team and Consultants shall agree upon any changes, which changes the Architect will incorporate as part of the Section 3.5 Construction Documents Phase.

§ 3.5.5 Upon receipt of the Construction Manager’s information and estimate at the conclusion of the Construction Documents Phase, the Architect shall take action as required under Section 6.7, and request the Owner’s approval of the Construction Documents.

**§ 3.5.6** The Architect shall furnish to the Owner sufficient copies of the Drawings and Specifications as may be required for bidding purposes and for Permits. In addition, the Architect shall furnish the Owner with one set of Construction Documents in electronic form.

§ 3.5.7 The Construction Documents shall comply with all Applicable Laws and Rules. Before construction commences, the Architect shall certify to the Owner that all plans, specifications, and drawings conform to Applicable Laws and Rules; and that the improvements, when built in accordance therewith, shall likewise comply with all Applicable Laws and Rules. The foregoing certification shall be understood to reflect only the professional opinion of the Architect, derived from the exercise of the applicable Standard of Care in the performance of the Architect’s services under this Agreement.

§ 3.5.8 To the extent that services, which would otherwise be provided during the Schematic Design or Design Development Phase, are necessary in order to provide complete and accurate Construction Documents for use on the Project, the Architect shall provide such services as part of the Construction Documents Phase.

§ 3.6 Construction Phase Services

§ 3.6.1 General

§ 3.6.1.1 The Architect shall provide administration of the Contract between the Owner and the Construction Manager as set forth below and in AIA Document A201™–2017, General Conditions of the Contract for Construction, as modified (“Construction Phase Services” or “Construction Administration Services”). The term “Contractor” as used in A201-2017 shall mean the Construction Manager.

§ 3.6.1.2 Subject to Section 4.2, the Architect’s responsibility to provide Construction Phase Services commences upon the Owner’s acceptance of the Construction Manager’s Guaranteed Maximum Price proposal, or by a written agreement between the Owner and Construction Manager which sets forth a description of the Work to be performed by the Construction Manager prior to such acceptance or approval. Subject to Section 4.2, and except as provided in Section 3.6.6.5, the Architect’s responsibility to provide Construction Phase Services terminates on the date the Architect issues the final Certificate for Payment.

§ 3.6.1.3 The Architect shall advise and consult with the Owner’s Project Team and Consultants and the CM Team during the Construction Phase Services. The Architect agrees that, at all times during the performance of its services hereunder, it will be acting as an independent contractor and not as the Owner’s agent; no provision or obligation expressed or implied in this Agreement shall create an employment, agency, or fiduciary relationship. The Architect shall not have authority to act on behalf of the Owner except as expressly provided in this Agreement. The Architect shall not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences, or procedures, or for safety precautions and programs in connection with the Work, nor shall the Architect be responsible for the Construction Manager’s failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect shall be responsible for the Architect’s (and its consultants’) negligent acts or omissions or breach of this Agreement, but shall not have control over or charge of, and shall not be responsible for, acts or omissions of the Construction Manager or of any other persons or entities performing portions of the Work. Notwithstanding the foregoing, in the event the Architect observes the Construction Manager performing Work not in accordance with the Contract Documents; observes conduct by the Construction Manager in violation of Applicable Laws and Rules; or otherwise observes conduct by Construction Manager that the Architect otherwise considers to be unsafe, the Architect shall, within three days, notify the Construction Manager of its non-compliance and shall provide written notice to the Owner and Owner’s PM of such non-compliance.

§ 3.6.2 Evaluations of the Work

§ 3.6.2.1 The Architect shall visit the site at intervals appropriate to the stage of construction, or as otherwise required in Section 4.2.2, to become familiar with the progress and quality of the portion of the Work completed, and to determine if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. Personnel from the Architect and any of its consultants with expertise in specific design disciplines that comprise the Architect’s Basic Services hereunder shall also visit the Project as appropriate to maintain familiarity with the Project and the Work and to fulfill the Architect’s obligations during the Construction Phase. However, the Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, the Architect shall keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and shall provide Architect field reports (at least monthly). The Architect shall also within three days report to the Owner and Owner’s PM (1) known deviations from the Contract Documents, (2) known deviations from the most recent construction schedule submitted by the Construction Manager, and (3) defects and deficiencies observed in the Work. For nonconforming Work that the Architect observes, the Architect shall recommend to the Owner and Owner’s PM whether, in the Architect’s professional opinion, the Work should be removed and corrected or accepted, and, if the Architect recommends acceptance, the Architect shall specify an appropriate credit to the Owner in accordance with the terms and conditions of the Contract for Construction.

§ 3.6.2.2 The Architect shall recommend that the Owner reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect shall advise the Owner that inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not the Work is fabricated, installed or completed. The Architect shall provide prompt written notice to the Owner and Owner’s PM of any Work the Architect has rejected and of any inspections and/or testing the Architect is requiring, no later than three (3) days after the exercise of such authority under this Section 3.6.2.2. The Architect shall include in its notice to the Owner and the Owner’s PM the reasons for rejecting such Work and/or requiring any inspections/testing with relevant references to the Construction and/or Contract Documents. However, the Architect’s Construction Administration Services shall not give rise to a duty or responsibility of the Architect to the Construction Manager, Subcontractors, suppliers, their agents or employees, or other persons or entities performing portions of the Work.

§ 3.6.2.3 The Architect shall interpret matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Construction Manager. The Architect’s response to such requests shall be made in writing within any time limits agreed upon or otherwise with reasonable promptness and no later than within ten (10) calendar days of receiving such written request, unless the Architect notifies the Owner and Construction Manager within that time that more time is required to provide a response, including the reasons therefore and a date certain by when said response will be provided, and the Owner approves the longer time in writing.

§ 3.6.2.4 Interpretations of the Architect shall be consistent with the intent of, and reasonably inferable from, the Contract and/or Construction Documents and shall be in writing or in the form of drawings. When making such interpretations, the Architect shall render such interpretations with the same professional skill and care with which the Architect must perform its other obligations under this Agreement. Final decisions on matters relating to aesthetic effect shall be made by the Owner.

§ 3.6.2.5 Unless the Owner and Construction Manager designate another person to serve as an Initial Decision Maker, as that term is defined in AIA Document A201–2017, as modified, the Architect shall render initial decisions on Claims between the Owner and Construction Manager as provided in the Contract Documents.

§ 3.6.3 Certificates for Payment to Construction Manager

§ 3.6.3.1 The Architect shall review and verify the amounts due the Construction Manager and shall issue certificates in such amounts for Owner’s approval. The Architect’s certification for payment shall constitute a representation to the Owner, based on the Architect’s evaluation of the Work as provided in Section 3.6.2 and on the data comprising the Construction Manager’s Application for Payment, that, to the best of the Architect’s knowledge, information, and belief, the Work has progressed to the point indicated; the quality of the Work is in accordance with the Contract Documents; the Work has been completed in a good and workmanlike manner, in conformity with good construction and engineering practice, and in accordance with the provisions of the Contract and/or Construction Documents in all material respects; the Work has been completed in accordance with all Applicable Laws and Rules, including, but not limited to, any of the same relating to building, safety, zoning, or environmental protection; and that the Construction Manager is entitled to payment in the amount verified. The foregoing representations are subject to (1) an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, (2) results of subsequent tests and inspections, (3) correction of minor deviations from the Contract Documents prior to completion, and (4) specific qualifications expressed by the Architect.

§ 3.6.3.2 The issuance of a Certificate for Payment shall not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work, (2) reviewed construction means, methods, techniques, sequences or procedures, (3) reviewed copies of requisitions received from Subcontractors and suppliers and other data requested by the Owner to substantiate the Construction Manager’s right to payment, or (4) ascertained how or for what purpose the Construction Manager has used money previously paid on account of the Contract Sum.

§ 3.6.3.3 The Architect shall maintain a record of the Applications and Certificates for Payment, copies of which

shall be sent to the Owner and Owner’s PM and loaded to the Project Management Information System with the Architect’s certification of each such Application.

§ 3.6.3.4 The Architect shall review and certify the amounts due Construction Manager and issue the Certificates for Payment, or otherwise act upon pursuant to § 9.4 of the modified AIA Document A201™–2017, General Conditions of the Contract for Construction, within seven (7) days after submission by Construction Manager of each of its Applications for Payment.

§ 3.6.4 Submittals

§ 3.6.4.1 The Architect shall review the Construction Manager’s submittal schedule and shall not unreasonably delay or withhold approval of the schedule. The Architect’s action in reviewing submittals shall be taken in accordance with the approved submittal schedule or, in the absence of an approved submittal schedule, within ten (10) days.

§ 3.6.4.2 The Architect shall review and approve, or take other appropriate action upon, the Construction Manager’s submittals such as Shop Drawings, Product Data and Samples for conformance with the design concept of the Project, for compliance with the information given in the Contract and/or Construction Documents, for compatibility with adjacent and contiguous Work, systems, and services, and with limitations of space, weight, and services. The Architect shall bring submissions that are not approved by the Architect to the attention of the Owner and Owner’s PM. The Architect shall inspect all mockups of any aspect of the Project when requested to do so by the Owner, and the Architect shall report promptly in writing to the Owner and Owner’s PM whether the mockups are consistent with the design intent of the Project and advise the Owner and Owner’s PM of any of the Architect’s other comments. Review of such submittals is not for the purpose of determining the accuracy and completeness of other information such as dimensions, quantities, and installation of equipment or systems, which are the Construction Manager’s responsibility. The Architect’s review shall not constitute approval of safety precautions or, unless otherwise specifically stated by the Architect, of any construction means, methods, techniques, sequences, or procedures. The Architect’s approval of a specific item shall not indicate approval of an assembly of which the item is a component. Notwithstanding the foregoing, if Architect or a consultant notices or becomes aware of inaccuracies, incompleteness, and/or deficiencies in the Construction Manager’s submittals or other information provided by the Construction Manager, then the Architect shall immediately notify the Owner, Owner’s PM, and Construction Manager in writing of the same and shall not approve the Construction Manager’s proposed use of such incomplete, inaccurate, or deficient submittals in the Construction Manager’s performance of the Work.

§ 3.6.4.3 If the Contract Documents specifically require the Construction Manager to provide professional design services or certifications by a design professional related to systems, materials, or equipment, the Architect shall specify the appropriate performance and design criteria that such services must satisfy. The Architect shall be responsible for the adequacy, accuracy, and completeness of such performance and design criteria, and for coordination of the overall design of the Project with any design undertaken by the design professional retained by the Construction Manager in response to such performance and design criteria. The Architect shall not be responsible for the actual design undertaken by the design professional retained by the Construction Manager or for its adequacy, accuracy, or completeness. The Architect shall review and take appropriate action on Shop Drawings and other submittals related to the Work designed or certified by the Construction Manager’s design professional, provided the submittals bear such professional’s seal and signature when submitted to the Architect. As set forth in Section 3.6.4.2 above, the Architect’s review is for the purpose of establishing conformance with the design concept of the Project, for compliance with the information given in the Contract Documents, for compatibility with adjacent and contiguous Work, systems, and services, and for compatibility with limitations of space, weight, and services. Consistent with the Standard of Care, the Architect shall be entitled to rely upon, and shall not be responsible for, the adequacy and accuracy of the services, certifications, and approvals performed or provided by such design professionals (except as provided above). Notwithstanding the foregoing, the Architect shall review any such work product provided by such design professionals that are then incorporated into the Architect’s Instruments of Service in accordance with the Standard of Care. If the Architect or a consultant notices or becomes aware that such services, certifications, or approvals are inadequate, inaccurate, or incomplete, the Architect shall notify in writing the Owner and the Owner’s PM and shall be authorized to reject such submittals.

§ 3.6.4.4 The Architect shall review and respond to requests for information about the Contract Documents. The Contract Documents set forth the requirements for requests for information. Requests for information shall include, at a minimum, a detailed written statement that indicates the specific Drawings or Specifications in need of clarification, the nature of the clarification requested, and the Construction Manager’s suggested resolution. The Architect’s response to such requests shall be made in writing as soon as possible, but not later than within five (5) calendar days from receipt, unless in cases of complexity involving multiple disciplines additional time is needed and requested by the Architect and approved in writing by the Owner. If appropriate, the Architect shall prepare and issue supplemental Drawings and Specifications in response to the requests for information. To the extent the Owner is required to furnish information or make a decision for the Architect to respond to a Request for Information, then the Architect shall provide the Owner with (1) timely notice in writing of any such Requests for Information, and (2) a reasonable period of time for Owner to respond prior to the Architect furnishing any written response to any such Requests for Information.

§ 3.6.4.5 The Architect shall maintain and load to the Project Management Information System a record of submittals and copies of submittals supplied by the Construction Manager in accordance with the requirements of the Contract Documents.

§ 3.6.5 Changes in the Work

§ 3.6.5.1 With the Owner’s approval, the Architect may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. The Architect shall use its best efforts to obtain Owner approval before ordering minor changes in the Work to the extent such efforts will not delay Project completion.

§ 3.6.5.2 The Architect shall review properly prepared, timely requests for changes in the Work and/or Change Orders prepared by the Construction Manager, including adjustments to the Contract Sum, any Guaranteed Maximum Price, or Contract Time, shall analyze proposed adjustments to the Contract Sum and Contract Time, and shall report results of its analysis to the Owner and Construction Manager. A properly prepared request for a change in the Work shall be accompanied by sufficient supporting data and information to permit the Architect to make a reasonable determination without extensive investigation or preparation of additional drawings or specifications.

§ 3.6.5.3 If the Architect determines that implementation of the requested changes would result in a material change to the Contract that may cause an adjustment in the Contract Time or Contract Sum or any Guaranteed Maximum Price, the Architect shall make a recommendation to the Owner, who may authorize further investigation of such change. As an additional service, the Architect shall prepare, reproduce and distribute Drawings and Specifications to describe Work to be added, deleted or modified.

§ 3.6.5.4 The Architect shall maintain and load to the Project Management Information System records relative to changes in the Work.

§ 3.6.6 Project Completion

§ 3.6.6.1 The Architect shall:

.1 conduct Site visits and inspections to determine the date or dates of Substantial Completion and the date of Final Completion;

.2 issue Certificates of Substantial Completion for approval by the Owner, and any documentation required by the Owner or Owner’s PM in the form and substance reasonably satisfactory the Owner;

.3 forward to the Owner and Owner’s PM, for the Owner’s review and records, and load into the Project Management Information System, written warranties and related documents required by the Contract Documents and received from the Construction Manager; and

**.4** issue a final Certificate for Payment for approval by the owner, based upon a final inspection indicating that, to the best of the Architect’s knowledge, information, and belief, the Work complies with the requirements of the Contract Documents.

§ 3.6.6.2 **Substantial Completion/Punchlist**

§ 3.6.6.2.1 The definition of, and requirements for, Substantial Completion of the Work are as set forth in the Modified AIA Document A133TM–2019, Standard Form Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price, and AIA Document A201™–2017, Modified General Conditions of the Contract for Construction.

§ 3.6.6.2.2 When the Construction Manager considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Construction Manager shall notify in writing the Owner, the Owner’s PM, and the Architect, and simultaneously submit to the Architect, with a copy to Owner and Owner’s PM, a comprehensive list of items to be completed or corrected prior to final payment (“Construction Manager’s Punchlist”). Failure to include an item on such Construction Manager’s Punchlist does not alter the responsibility of the Construction Manager to complete all Work in accordance with the Contract Documents.

§ 3.6.6.2.2 Upon notification from the Construction Manager and receipt of the Construction Manager’s Punchlist, the Owner, the Owner’s PM, the Architect, and others reasonably requested by Owner will jointly inspect defined areas or elements of the Project; provided, however, based on the extent of the Construction Manager’s Punchlist, the Architect may recommend that, if the Construction Manager Punchlist is deemed too extensive, the Owner/Owner’s PM/Architect inspection be delayed until such time as the Construction Manager presents a reasonable Construction Manager Punchlist. Following receipt of an appropriate Construction Manager’s Punchlist, the Owner, Owner’s PM, the Architect, and others reasonably requested by owner will conduct the joint inspection. The Architect’s Site visits shall be conducted with the Owner and Owner’s PM to check conformance of the Work with the requirements of the Contract and/or Construction Documents and to verify the accuracy and completeness of the Construction Manager’s Punchlist of Work to be completed or corrected. If the Architect, Owner’s, and/or Owner’s PM’s inspection discloses any item, whether or not included on the Construction Manager’s Punchlist, which is not sufficiently complete in accordance with the Contract Documents, the Construction Manager shall, before issuance of the Certificate of Substantial Completion, complete or correct such item upon notification by the Architect. In such case, the Construction Manager shall then submit a request for another inspection by the Architect, Owner, and Owner’s PM to determine Substantial Completion.

**§ 3.6.6.2.3** Following a determination that the Work is Substantially Complete, the Owner (with input from the Architect and the Owner’s PM) shall review and either supplement or approve the Construction Manager’s Punchlist within twenty (20) consecutive calendar days of receipt of the Construction Manager’s Punchlist (“Owner’s Punchlist Approval”). Once approved, said list shall be the “Final Punchlist”, and the Construction Manager shall certify that all remaining Work on the Final Punchlist will be completed within sixty (60) consecutive calendar days following the Owner’s Approval or such longer period as reasonably necessary for specifically identified Final Punchlist items following the date of Substantial Completion unless mutually agreed otherwise by the Owner and Construction Manager, which agreement shall not be unreasonably withheld or delayed.

§ 3.6.6.3 When Substantial Completion has been achieved, the Architect shall inform the Owner and Owner’s PM about the balance of the Contract Sum remaining to be paid the Construction Manager, including the amount to be retained from the Contract Sum, if any, for Final Completion or correction of the Work.

§ 3.6.6.4 The Architect shall forward to the Owner and Owner’s PM, and load to the Project Management Information System, the following information received from the Construction Manager, including: (1) consent of surety or sureties, if any, to reduction in or partial release of retainage or the making of final payment; (2) affidavits, receipts, releases and waivers of liens, or bonds indemnifying the Owner against liens; and (3) any other documentation required of the Construction Manager under the Contract Documents.

§ 3.6.6.5 The Architect’s Certificate of Substantial Completion shall include information reasonably required by the Owner, shall state that the applicable portions of the Project have been completed substantially in accordance with the plans and specifications applicable to the Project, shall state that the applicable portions of the Project are ready for use or occupancy, and shall specify the date of completion.

§ 3.6.6.6 The Architect shall work and/or coordinate with the Construction Manager to provide As-Built Drawings. The Architect shall also prepare and furnish to the Owner one (1) set in electronic and hard copy form As-Designed Record Drawings – a record set of the Contract Documents (and Drawings) incorporating revisions, changes, or annotations to show the changes to the original design. The Architect will provide Record Drawings as part of Basic Services. Record Drawings shall include the Architect’s and its consultants’ instructions by update to the drawing files to include information from the field-marked-up prints, drawings, and other data furnished by the Construction Manager to the Architect.

§ 3.6.6.7 Ten (10) months after the date the Certificate of Occupancy is awarded to the Project, the Architect shall contact the Owner, Owner’s PM, and the Construction Manager; and shall meet and walk through the Project with the Owner, Owner’s PM, and the Construction Manager, including to assess performance issues related to equipment, finishes, and the facility operations and performance. The Architect shall, without additional compensation, conduct such meeting and walk-through with the Owner, Owner’s PM, and the Construction Manager no later than eleven (11) months after the date the Certificate of Occupancy is awarded to the Project.

# ARTICLE 4   SUPPLEMENTAL AND ADDITIONAL SERVICES

§ 4.1 Supplemental Services

§ 4.1.1 Supplemental Services are not included in Basic Services but may be required for the Project. Services indicated as a Basic Service below are a Basic Service as described in Article 3 and included in the Basic Services Fee described in Section 11.1. The Architect shall provide the listed Supplemental Services only if specifically designated in the table below as the Architect’s responsibility, and the Owner shall compensate the Architect as provided in Section 11.2. Unless otherwise specifically addressed in this Agreement, if neither the Owner nor the Architect is designated, the parties agree that the listed Supplemental Service is not being provided for the Project, but may be included as an Additional Service.

(Designate the Architect’s Supplemental Services and the Owner’s Supplemental Services required for the Project by indicating whether the Architect or Owner shall be responsible for providing the identified Supplemental Service. Insert a description of the Supplemental Services in Section 4.1.2 below or attach the description of services as an exhibit to this Agreement.)

| **Supplemental** **Services** | **Responsibility***(Architect, Owner, Basic Service or Not Provided)* |
| --- | --- |
| § 4.1.1.1 Assistance with Selection of Construction Manager |  Basic Service |
| **§ 4.1.1.2** Programming | Basic Service |
| **§ 4.1.1.3** Multiple Preliminary Designs | Basic Service |
| **§ 4.1.1.4** Measured drawings | Basic Service |
| **§ 4.1.1.5** Existing facilities surveys (related to adjoining buildings) | Basic Service |
| **§ 4.1.1.6** Site evaluation and planning | Basic Service |
| **§ 4.1.1.7** Building Information Model management responsibilities | Basic Service |
| **§ 4.1.1.8** Development of Building Information Models for post construction use | Basic Service |
| **§ 4.1.1.9** Civil engineering | Basic Service |
| **§ 4.1.1.10** Landscape design | Basic Service |
| **§ 4.1.1.11** Architectural interior design | Basic Service |
| **§ 4.1.1.12** Value analysis | Basic Service |
| **§ 4.1.1.13** Cost estimating  | Basic Service |
| **§ 4.1.1.14** On-site project representation | Basic Service |
| **§ 4.1.1.15** Conformed documents for construction | Basic Service |
| **§ 4.1.1.16** As-designed record drawings | Basic Service |
| **§ 4.1.1.17** As-constructed record drawings | Basic Service |
| **§ 4.1.1.18** Post-occupancy evaluation | Basic Service |
| **§ 4.1.1.19** Facility support services | Not included |
| **§ 4.1.1.20** Tenant-related services | Not included |
| **§ 4.1.1.21** Architect’s coordination of the Owner’s consultants | Basic Service |
| **§ 4.1.1.22** Telecommunications/data design | Basic Service |
| **§ 4.1.1.23** Security evaluation and planning | Basic Service |
| **§ 4.1.1.24** Commissioning | Basic Service |
| **§ 4.1.1.25** Sustainable Project Services pursuant to Section 4.1.3 | Basic Service |
| **§ 4.1.1.26** Historic preservation | Not included |
| **§ 4.1.1.27** Furniture, furnishings, and equipment design | Basic Service |
| **§ 4.1.1.28** Other services provided by specialty Consultants as noted in Section 1.1.12 (if not noted as an Additional Service herein) | Basic Service |
| **§ 4.1.1.29** Art Planning | Basic Service |
| **§ 4.1.1.30** Audio-Visual (AV) & Access Controls | Basic Service |
| **§ 4.1.1.31** Demolition Services | Basic Service |
|  |  |
|  |  |

§ 4.1.2 Description of Supplemental Services

§ 4.1.2.1 A description of each Supplemental Service identified in Section 4.1.1 as the Architect’s responsibility is provided below.

(Describe in detail the Architect’s Supplemental Services identified in Section 4.1.1 or, if set forth in an exhibit, identify the exhibit. The AIA publishes a number of Standard Form of Architect’s Services documents that can be included as an exhibit to describe the Architect’s Supplemental Services.)

« »

§ 4.1.2.2 A description of each Supplemental Service identified in Section 4.1.1 as the Owner’s responsibility is provided below.

(Describe in detail the Owner’s Supplemental Services identified in Section 4.1.1 or, if set forth in an exhibit, identify the exhibit.)

« »

§ 4.1.3

[Intentionally deleted]

§ 4.2 Architect’s Additional Services

Additional Services are those services that the Owner authorizes in advance in writing as set forth in this Section 4.2 that are (1) expressly excluded by the Agreement from Basic or Supplemental Services, (2) materially exceed a particular quantity of Basic or Supplemental Services specified in the Agreement, or (3) required by a material change in the Project that materially increases or alters the scope or quality of the Architect’s Basic Services. The Architect may provide Additional Services after execution of this Agreement without invalidating the Agreement. Except for services required due to the fault or breach of contract of the Architect (or a consultant) and provided the Architect provides the Additional Services Notice described in Section 4.2.1 below, any Additional Services provided in accordance with this Section 4.2 shall entitle the Architect to compensation pursuant to Section 11.3 and an appropriate adjustment in the Architect’s schedule. Prior written authorization by the Owner is required before the Architect may perform Additional Services.

§ 4.2.1 Upon recognizing the need to perform Additional Services, to include the Additional Services enumerated below, the Architect shall (1) notify the Owner and the Owner’s PM in writing with reasonable promptness, but no later than ten (10) days after recognizing such need, (2) explain the facts and circumstances giving rise to the need, and (3) provide the Owner with a proposed lump-sum or not-to-exceed fee for the Additional Services and any proposed Schedule adjustment (“Additional Services Notice”). The Architect shall not proceed to provide Additional Services, including the following, until the Architect receives the Owner’s written authorization and the parties execute an amendment to this Agreement (“Additional Services Amendment”). If, upon receipt of the Architect’s Additional Service Notice the Owner determines that all or parts of the services are not required, the Owner shall give prompt written notice to the Architect of the Owner’s determination, and the Owner shall have no further obligation to compensate the Architect for those services. The following are generally acknowledged to be possible Additional Services:

.1 Services necessitated by a change in the Initial Information, previous instructions or recommendations given by the Owner, approvals given by the Owner, or a material change in the Project including size, quality, complexity, the Owner’s schedule or budget for Cost of the Work, or bid packages in addition to those listed in Section 1.1.6;

.2 [Intentionally Deleted];

.3 Services necessitated by the enactment or revision of codes, laws, or regulations, including changing or editing previously prepared Instruments of Service, where such enactment or revision takes place after the affected Drawings or Specifications are more than fifty percent (50%) complete;

.4 Changing or editing previously prepared Instruments of Service necessitated by official interpretations of applicable codes, laws or regulations that are either (a) contrary to specific interpretations by the applicable authorities having jurisdiction made prior to the issuance of the building permit, or (b) contrary to requirements of the Instruments of Service when those Instruments of Service were prepared in accordance with the applicable standard of care, where such “official interpretations” are rendered after the affected Drawings or Specifications are more than fifty percent (50%) complete;

.5 Services necessitated by decisions of the Owner or Construction Manager not rendered in conformance with the time required by the Contract Documents, or any other failure of performance on the part of the Owner or the Owner’s consultants or contractors that materially impacts the quality of or effect required for the Services;

.6 [Intentionally Deleted];

.7 Preparation of design and documentation for alternate bid or proposal requests proposed by the Owner or Construction Manager after the Owner’s approval of final Construction Documents;

.8 [Intentionally Deleted];

.9 Preparation for, and attendance at, a dispute resolution proceeding or legal proceeding, except where the Architect (or its consultant) is party thereto;

.10 Consultation concerning replacement of Work or other services performed resulting from fire or other cause such as war, terrorist, vandalism or destruction, natural disasters, or Acts of God during construction;

.11 [Intentionally Deleted];

.12 Services necessitated by replacement of the Construction Manager or conversion of the Construction Manager as constructor project delivery method to an alternative project delivery method; or

.13 Services necessitated by the Owner’s delay in engaging the Construction Manager.

.14 Reviewing a Construction Manager’s submittal out of sequence from the submittal schedule approved by the Architect;

.15 Responding to the Construction Manager’s requests for information that are not prepared in accordance with the Contract Documents or where such information is available to the Construction Manager from a careful study and comparison of the Contract Documents, field conditions, other Owner-provided information, Construction Manager-prepared coordination drawings, or prior Project correspondence or documentation;

.16 Preparing Construction Change Directives that require extensive evaluation of the Construction Manager’s/Contractor’s proposals and supporting data, or the preparation or revision of Instruments of Service unless occasioned by the Architect’s errors or omissions;

.17 Evaluating an extensive number of Claims as the Initial Decision Maker (to the extent not caused by the Architect or Architects consultant); or

.18 Evaluating substitutions proposed by the Owner or Construction Manager and making subsequent revisions to Instruments of Service resulting therefrom, unless the Instruments of Service permit “or equal” or like substitutions, in which case such services shall be included in the Basic Services.

§ 4.2.2 The Architect shall provide Construction Phase Services exceeding the limits set forth below as Additional Services. When the limits below are reached, the Architect shall notify the Owner:

.1 «Two» ( «2» ) reviews (one review plus one re-review) of each Shop Drawing, Product Data item, sample and similar submittals of the Construction Manager

.2 Weekly visits to the site by the Architect during construction

.3 «Three» ( «3» ) inspections for any portion of the Work to determine whether such portion of the Work is substantially complete in accordance with the requirements of the Contract Documents

.4 «Three» ( «3» ) inspections for any portion of the Work to determine Final Completion

§ 4.2.3 Except for services required under Section 3.6.6.7 and those services that do not exceed the limits set forth in Section 4.2.2, Construction Phase Services provided more than ninety (90) days after (1) the date of Substantial Completion of the Work or (2) the initial date of Substantial Completion identified in the agreement between the Owner and Construction Manager, whichever is earlier, shall be compensated as Additional Services to the extent the Architect incurs additional cost in providing those Construction Phase Services, to the extent the Architect is not responsible, and to the extent Architect provides a timely Additional Services Notice. Prior written authorization by the Owner in the form of an approved Additional Services Proposal is required before the Architect may perform Additional Services. The prior written authorization is a condition to both invoicing and payment for any Additional Services.

§ 4.2.4 The Owner may request other Additional Services of the Architect. Additional Services will be requested by the Owner and confirmed in writing. Should the Owner request services that the Architect believes to be outside the scope of Basic Services, the Architect shall, before performing those services, inform the Owner in writing of the Architect’s belief that the services requested are Additional Services, and shall provide an Additional Services Notice.

§ 4.2.5 If the Owner believes certain services are part of the Architect’s Basic Services, but the Architect believes such services constitute Additional Services, the Architect shall notify the Owner in writing prior to providing such services. In such case, the Owner may direct the Architect to proceed with such services, and the Architect shall be required to provide such services. Both parties will be deemed to have reserved their rights with respect thereto, and the dispute will be resolved in accordance with Article 8.

**§ 4.2.6** A timely Additional Services Notice is a condition precedent to compensation or an adjustment to the Architect’s Schedule for Additional Services. Untimely claims are waived. The Architect shall not be entitled to additional compensation for Additional Services required, in whole or in part, due to the error, omission, negligence, fault, or breach of contract by Architect or its consultants. Except as provided in Section 4.2.5, the Owner’s prior written authorization is a condition precedent to any compensation for Additional Services. Accordingly, no course of conduct or dealings between the parties, nor express or implied acceptance of changes or additions to the Services, and no claim that the Owner has been unjustly enriched by any changes or additions to the Services, whether or not there is in fact any such unjust enrichment, shall be the basis for any claim to an increase in the Architect’s compensation beyond Sections 11.1 and 11.2 or extension of the Schedule. Execution of an amendment authorizing Additional Services Agreement constitutes a full and final settlement of all matters relating to the Additional Services that are the subject of the amendment, including, but not limited to, all direct and indirect costs and expenses associated with such change, and any adjustment in the Architect’s compensation and the Schedule.

# ARTICLE 5   OWNER’S RESPONSIBILITIES

§ 5.1 Unless otherwise provided for under this Agreement, upon written request by the Architect, the Owner shall provide requested information in a timely manner regarding requirements for and limitations on the Project, including a written program, which shall set forth the Owner’s objectives; schedule; constraints and criteria, including space requirements and relationships; flexibility; expandability; special equipment; systems; and site requirements.

§ 5.2 The Owner shall retain a Construction Manager to provide services, duties, and responsibilities as described in the agreement selected in Section 1.1.5.

§ 5.3 The Owner shall establish and may periodically update the Owner’s budget for the Project, including (1) the budget for the Cost of the Work as defined in Section 6.1; (2) the Owner’s other costs; and, (3) reasonable contingencies related to all of these costs. The Owner shall update the Owner’s budget for the Project as necessary throughout the duration of the Project until Final Completion. If the Owner significantly increases or decreases the Owner’s budget for the Cost of the Work, the Owner shall notify the Architect. The Owner and the Architect shall thereafter agree to a corresponding change in the Project’s scope and quality.

§ 5.3.1 The Owner acknowledges that accelerated, phased or fast-track scheduling provides a benefit, but also carries with it associated risks. Such risks may include, subject to the Architect’s and Construction Manager’s Standard of Care, the Owner incurring costs for the Architect to coordinate and redesign portions of the Project affected by procuring or installing elements of the Project prior to the completion of all relevant Construction Documents, and costs for the Construction Manager to remove and replace previously installed Work. If the Owner selects accelerated, phased or fast-track scheduling, the Owner agrees to include in the budget for the Project sufficient contingencies to cover such costs. Owner shall not be responsible for additional costs related to accelerated, phased or fast-track scheduling to the extent caused by Architect’s breach of this Agreement of failure to comply with the appropriate Standard of Care.

§ 5.4 The Owner may change the Owner’s Designated Representative upon written notice to the Architect, and the Owner may modify the scope of authority of the Owner’s Designated Representative in like manner.

§ 5.5 To the extent specifically requested in writing by the Architect and where necessary for the Architect’s performance of Services, and to the extent reasonably available to it, the Owner shall coordinate with its consultants or other third parties to furnish surveys to describe physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; designated wetlands; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions, and other necessary data with respect 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. All the information on the survey shall be referenced to a Project benchmark.

§ 5.6 To the extent specifically requested in writing by the Architect and where necessary for the Architect’s performance of Services, and to the extent reasonably available to it, the Owner shall coordinate with its consultants or other third parties to furnish services of geotechnical engineers, which may include test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, seismic evaluation, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with written reports and appropriate recommendations.

§ 5.7 The Owner shall provide the Supplemental Services designated as the Owner’s responsibility in Section 4.1.1, if any.

§ 5.8 If the Owner identified a Sustainable Objective in Article 1, the Owner shall fulfill its responsibilities as required in AIA Document E234™–2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, attached to this Agreement, or as otherwise agreed to by the parties.

§ 5.9 The Architect shall coordinate the services of the Owner’s Project Team and Consultants with those services provided by the Architect. Upon the Architect’s request, the Owner shall furnish copies of the scope of services in the contracts between the Owner and the Owner’s Project Team and Consultants. The Owner shall furnish the services of consultants other than those designated as the responsibility of the Architect in this Agreement, or authorize the Architect to furnish them as an Additional Service, when the Architect requests such services and demonstrates that they are reasonably required by the scope of the Project. The Owner shall require that its consultants and contractors maintain insurance, including professional liability insurance, as appropriate to the services or work provided.

§ 5.10 The Owner shall furnish tests, inspections and reports required by law or the Contract Documents, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials.

§ 5.11 The Owner shall furnish all legal, insurance and accounting services, including auditing services, that may be reasonably necessary at any time for the Project to meet the Owner’s needs and interests. The Architect shall review all such documents related to its services or scope of responsibilities under this Agreement for their adequacy and, if they are inadequate or if the Architect reasonably needs additional information, Architect shall notify Owner immediately in writing.

§ 5.12 The Owner shall provide prompt written notice to the Architect if the Owner becomes aware of any fault or defect in the Project, including errors, omissions or inconsistencies in the Architect’s Instruments of Service. Approval by the Owner of any drawings, specifications, bid packages, documents or other work prepared or service performed by the Architect under this Agreement shall not relieve the Architect of the responsibility for the design of the Project, in accordance with the Owner’s specified scope and requirements.

§ 5.13 Except as otherwise provided in this Agreement, or when direct communications have been specially authorized, the Owner shall endeavor to include the Architect in all communications with the Construction Manager that relate to or affect the Architect’s services or professional responsibilities. The Owner shall promptly notify the Architect of any direct communications that may affect the Architect’s services. The Owner shall endeavor to communicate with the Architect’s consultants through the Architect about matters arising out of or related to the Contract Documents.

§ 5.14 The Owner shall, upon request, provide the Architect a copy of the executed agreement between the Owner and Construction Manager, including the General Conditions of the Contract for Construction. The Architect shall review and coordinate the Architect’s duties and responsibilities set forth in the Contract for Construction with the Architect’s services set forth in this Agreement, to ensure full compliance.

§ 5.15 The Owner shall provide the Architect access to the Project site prior to commencement of the Work and shall obligate the Construction Manager to provide the Architect access to the Work wherever it is in preparation or progress.

§ 5.16 Within fifteen (15) days after receipt of a written request from the Architect, the Owner shall furnish the requested information as necessary and relevant for the Architect to evaluate, give notice of, or enforce lien rights.

# ARTICLE 6   COST OF THE WORK

§ 6.1 For purposes of this Agreement, the Cost of the Work shall be the total cost to the Owner to construct all elements of the Project designed or specified by the Architect and shall include the Construction Manager’s general conditions costs, overhead, and profit. The Cost of the Work also includes the reasonable value of labor, materials, and equipment, donated to, or otherwise furnished by, the Owner. The Cost of the Work does not include the compensation of the Architect the compensation of the Construction Manager for Preconstruction Phase services; the costs of the land, rights-of-way, financing, or contingencies for changes in the Work; or other costs that are the responsibility of the Owner.

§ 6.2 The Owner’s budget for the Cost of the Work may be adjusted throughout the Project as required. Evaluations of the Owner’s budget for the Cost of the Work, and the preliminary estimate of the Cost of the Work and updated estimates of the Cost of the Work, prepared by the Architect, the Owner’s Separate Consultant(s), the Construction Manager, or others and agreed to by the Architect, represent the Architect’s judgment as a design professional. The Architect shall prepare estimates of the Cost of the Work and review/evaluate estimates of the Cost of the Work prepared by others, and shall consult with the Owner regarding the same, including to report to the Owner any material inaccuracies and inconsistences noted during such review/evaluation. It is recognized, however, that neither the Architect nor the Owner has control over the cost of labor, materials, or equipment; the Construction Manager’s methods of determining bid prices; or competitive bidding, market, or negotiating conditions. Accordingly, the Architect cannot and does not warrant or represent that bids or negotiated prices will not vary from the Owner’s budget for the Cost of the Work, or from any estimate of the Cost of the Work, or evaluation, prepared or agreed to by the Architect.

§ 6.3 In preparing and/or evaluating the estimates of the Cost of Work, the Architect shall be permitted to include contingencies for design, bidding, and price escalation (and any such contingencies shall be expressly stated in such estimates); to determine what materials, equipment, component systems, and types of construction are to be included in the Contract and/or Construction Documents; to recommend reasonable adjustments in the program and scope of the Project; and to include in the Contract and/or Construction Documents design alternates as may be necessary to adjust the estimated Cost of the Work or reviews of the Cost of the Work to meet the Owner’s budget. The Architect’s estimate of the Cost of the Work shall be based on current area, volume or similar conceptual estimating techniques, and shall also provide detailed estimates of the Cost of the Work as a Basic Service under this Agreement.

§ 6.3.1 If the Architect is providing cost estimating services, and a discrepancy exists between the Construction Manager’s cost estimates and the Architect’s cost estimates, the Architect and the Construction Manager shall work together to reconcile the cost estimates.

§ 6.4 If, prior to the conclusion of the Design Development Phase, the Construction Manager’s estimate of the Cost of the Work exceeds the Owner’s budget for the Cost of the Work, the Architect, in consultation with the Construction Manager, shall make appropriate recommendations to the Owner to adjust the Project’s size, quality or budget for the Cost of the Work. Should the Architect fail to conform the design to this budget, the Architect shall be responsible to revise the Drawings and Specifications as required to modify scope. Design elements added by the Architect shall be removed from the Drawings at the Architect’s expense as a Basic Service. Only items added to the scope by the Owner will be considered as an Additional Service that may warrant an additional fee to have the Architect remove said item from the Drawings and Specifications.

§ 6.5 If the Owner’s budget for the Cost of the Work at the conclusion of the Construction Documents/Contract Documents Phase is exceeded by the lowest bona fide bid or negotiated proposal or the estimate of the Cost of the Work, the Owner shall, at the Owner’s sole discretion:

.1 give written approval of an increase in the budget for the Cost of the Work;

.2 authorize rebidding or renegotiating of the Project within a reasonable time;

**.3** terminate for convenience in accordance with Section 9.4 and 9.6;

.4 in consultation with the Architect and Construction Manager, revise the Project program, scope, or quality as required to reduce the Cost of the Work; or

.5 implement any other mutually acceptable alternative.

§ 6.6 If the Owner chooses to proceed under Section 6.5.4, the Architect, without additional compensation, shall incorporate the revisions in the Construction Documents Phase as necessary to comply with the Owner’s budget for the Cost of the Work at the conclusion of the Design Development Phase Services, or the budget as adjusted under Section 6.5.1. The Architect’s revisions in the Construction Documents Phase shall be the limit of the Architect’s responsibility under this Article 6.

§ 6.7 After incorporation of modifications under Section 6.6, the Architect shall, as an Additional Service, make any

required revisions to the Drawings, Specifications or other documents necessitated by the Construction Manager’s subsequent cost estimates, the Guaranteed Maximum Price proposal, or Control Estimate that exceed the Owner’s budget for the Cost of the Work, except when the excess is due to changes initiated by the Architect in scope, basic systems, or the kinds and quality of materials, finishes or equipment.

# ARTICLE 7   COPYRIGHTS AND LICENSES

§ 7.1 All work product of the Architect, its Consultants, and their consultants, contractors, engineers, designers, agents, employees, representatives, subcontractors, and subconsultants performed pursuant to this Agreement or Contract (collectively, “Work Product” or “Instruments of Service”) shall be deemed, to the greatest extent possible, “works made for hire” (as defined in the Copyright Acts, as amended 17 U.S.C.A. § 101 et seq.) and owned jointly by Owner (and its successors and assigns). The Architect shall ensure that all Work Product prepared pursuant to this Agreement is unconditionally and irrevocably transferred and assigned to Owner (and its successors and assigns) as well as all right, title, and interest in and to any and all Work Product, including, without limitation, all patents, copyrights, trademarks, service marks, and other intellectual property rights, including any and all “moral rights”. Architect agrees to execute and deliver, and cause its Consultants, and their consultants, contractors, engineers, designers, agents, employees, representatives, subcontractors, and subconsultants to execute and deliver, to Owner (or its successors and assigns, if applicable) any transfers, assignments, documents or other instrument which Owner (or its successors and assigns, if applicable) may deem necessary or appropriate to vest complete title and ownership of any or all Work Product, and all rights therein, in Owner (or its successors and assigns, if applicable). This paragraph is not intended to prevent the Architect or its Consultants, or their consultants, contractors, engineers, designers, agents, employees, representatives, subcontractors, and subconsultants from using or reusing their standard specifications, details, or designs (“Standard Specifications, Details, and Designs”) used on this Project or other projects. Architect grants, and shall cause its Consultants, and their consultants, contractors, engineers, designers, agents, employees, representatives, subcontractors, and subconsultants to grant, to Owner a nonexclusive license to use the Standard Specifications, Details, and Designs solely and exclusively for purposes of constructing, using, marketing, maintain, altering, and adding to the Project. Any suspension or termination of this Agreement by either party, or the failure of the Owner to pay the Architect promptly any sums due as a result of a bona fide dispute, or any other breach of this Agreement, will have no effect on the agreement of the Architect that this is a “works made for hire” agreement and that Owner has and retains all copyright rights under this Agreement. The Owner’s obligation to pay the Architect is expressly conditioned upon the Architect obtaining a valid written comprehensive assignment of ownership rights and copyrights from its Consultants, and their consultants, contractors, engineers, designers, agents, employees, representatives, subcontractors, and subconsultants in forms identical to those that obligate the Architect to the Owner as expressed in this Section, which ownership rights and copyrights the Architect, in turn assigns to the Owner.

§ 7.2 To the extent they may be applicable, the Architect assigns its “moral rights” to its services and the results thereof to the Owner, and if such rights are not assignable and are waivable they are waived by the Architect. The Architect hereby waives any right of inspection or approval with respect to the uses to which the results of the Architect’s services hereunder, or rights granted herein, may be put.

§ 7.3 The Architect and Owner warrant that in transmitting the Work Product, or any other information, the transmitting party is the copyright owner of such information or has permission from the copyright owner to transmit such information for its use on the Project. The Architect represents that the Work Product will not infringe any copyright or intellectual property rights of any third party.

§ 7.4 The Owner shall also have the unrestricted right, without the consent of the Architect or Architect’s consultants, to use the Instruments of Service in connection with the Project. In the event the Owner: (i) alters the Instruments of Service for use on this Project without the author’s written authorization (“Unauthorized Alteration”); or (ii) uses the Instruments of Service on a different project without retaining the authors of the Instruments of Service on that separate project (“New Use”), the Owner releases the Architect, its Consultants, and any other person or entity providing services or work for any of them, from all claims and causes of action arising from or related to such uses to the extent such claims arise from Owner’s Unauthorized Alteration or New Use. Any suspension or termination of this Agreement by either party, or the failure of the Owner to pay the Architect promptly any sums due as a result of Owner’s bona fide dispute, or any other breach of this Agreement will have no effect on the agreement of the Architect that this is a “works made for hire” agreement and that Owner has and retains all copyright rights under this Agreement.

§ 7.6 It is acknowledged by both parties that the architectural design of the Project may be unique to this Project, and the Architect agrees that it will not create an architectural design that is substantially similar to the Project, as a whole, or any other project other than for the Owner or its affiliates or assigns.

# ARTICLE 8   CLAIMS AND DISPUTES

§ 8.1 General

§ 8.1.1 The Owner and Architect shall commence all claims and causes of action against the other and arising out of or related to this Agreement, whether in contract, tort, or otherwise, in accordance with the requirements of the dispute resolution method selected in this Agreement and within the period specified by applicable law, but in any case not more than ten (10) years after the date of Substantial Completion of the Work. The Owner and Architect waive all claims and causes of action not commenced in accordance with this Section 8.1.1.

§ 8.1.2 To the extent damages are covered by property insurance, the Owner and Architect waive all rights against each other and against the contractors, consultants, agents and employees of the other for damages, except such rights as they may have to the proceeds of such insurance as set forth in AIA Document A201–2017, General Conditions of the Contract for Construction, as modified. The Owner or the Architect, as appropriate, shall require of the Construction Manager, contractors, consultants, agents and employees of any of them, similar waivers in favor of the other parties enumerated herein.

§ 8.1.3 To the fullest extent permitted by law, the Architect shall indemnify and hold harmless the Owner, Virginia Commonwealth University, the Commonwealth of Virginia, Owner’s PM, and any of their directors, employees, agents, and representatives (an “Indemnitee” or collectively, the “Indemnitees”), from and against damages, losses, expenses, and judgments arising from claims by third parties, including reasonable attorneys’ fees, expert witness fees, costs, and expenses recoverable under applicable law, but only to the extent they are caused by the negligent acts or omissions of the Architect, its employees and its consultants in the performance of professional services under this Agreement. Nothing contained herein shall require Architect to indemnify or hold harmless any Indemnitee against liability for damage arising out of bodily injury to persons or damage to property suffered in the course of the performance of the contract, caused by or resulting from the negligence of such Indemnitee, his agents or employees. No indemnification provision in the Contract Documents shall impose a duty on one party to defend any other party to the Contract.

§ 8.1.4 The Architect and Owner waive consequential damages for claims, disputes, or other matters in question arising out of or relating to this Agreement. This mutual waiver is applicable, without limitation, to all consequential damages due to either party’s termination of this Agreement. Notwithstanding the foregoing, nothing in the Agreement shall limit the Architect’s liability for: (a) damages (whether consequential or otherwise) which would be covered by available insurance in the absence of this Section 8.1.4, (b) damages to other non-defective property caused as a consequence of Architect’s defective or non-conforming Services or their correction, or (c) damages caused by Architect’s gross negligence, reckless misconduct, fraud, or willful and wanton misconduct.

**§ 8.1.5** In the event of a good faith dispute between the Owner and Architect arising out of or otherwise relating to this Agreement, including claims of breach of contract, the Architect agrees to continue performance of its services under this Agreement or as otherwise directed by the Owner and the Owner agrees to continue to pay all undisputed amounts invoiced pending final and binding resolution of any such dispute. Subject to Section 9.1, the Architect shall have no right to cease performance hereunder or to cause the prosecution of the Project to be delayed. Correspondingly, the Owner shall continue to pay the Architect for the undisputed portion of the Architect’s Fee and Reimbursable Expenses incurred in accordance with this Agreement.

§ 8.1.6 Step Negotiations

**§ 8.1.6.1** Upon the occurrence of a claim, dispute, or other matter in question concerning the Contract Documents or the Project, the parties shall first attempt to resolve the claim, dispute, or other matter in question, at the field level through discussions between Owner’s and Architect’s representatives.

**§ 8.1.6.2** If a claim, dispute, or other matter in question cannot be resolved pursuant to Subparagraph 8.1.6.1, Owner and Architect shall meet as soon as conveniently possible, but in no case later than fifteen (15) days after such requests is made, to attempt to resolve the claim, dispute, or other matter in question. Prior to any meetings between Owner and Architect, the parties shall exchange relevant information that will assist the parties in resolving the claim, dispute, or other matter in question.

**§ 8.1.6.3** Compliance with this Section 8.1.6 shall be a condition precedent to the presentation of any claim, dispute, or other matter in question, to mediation or final dispute resolution.

§ 8.2 Mediation

§ 8.2.1 Any controversy, claim, dispute, cause of action, or other matter in question arising out of or related to this Agreement or breach thereof shall be subject to mediation as a condition precedent to the binding dispute resolution in accordance with Section 8.2.4 herein. If such matter relates to or is the subject of a lien arising out of the Architect’s services, the Owner or Architect may proceed in accordance with applicable law to comply with the lien notice or filing deadlines or to discharge the same, in each case prior to mediation.

§ 8.2.2 The Owner and Architect shall endeavor to resolve controversies, claims, disputes, causes of action, and other matters in question between them by mediation, which, unless the parties mutually agree otherwise, shall be administered by a private mediator agreed upon by the parties. A request for mediation shall be made in writing, delivered to the other party to this Agreement, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of a complaint or other appropriate demand for binding dispute resolution, but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order.

§ 8.2.3 The parties shall share the mediator’s fee and any filing fees equally. The mediation shall be held in the City of Richmond. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

§ 8.2.4 If the parties do not resolve a dispute through mediation pursuant to this Section 8.2, the method of binding dispute resolution shall be the following:

(Check the appropriate box.)

[ « » ] Arbitration pursuant to Section 8.3 of this Agreement

[ «X» ] Litigation in a court of competent jurisdiction, and venue shall rest solely in the City of Richmond, Virginia.

[ « » ] Other: *(Specify)*

« »

**§ 8.2.5** In the event of any controversy, claim, or dispute between the Owner and Architect arising out of or otherwise relating to this Agreement, including claims of breach of contract, the Architect agrees to continue performance of its services under this Agreement or as otherwise directed by the Owner, and the Owner agrees to continue to pay all undisputed invoices pending final and binding resolution of any such dispute. Subject to Section 9.1, the Architect shall have no right to cease performance hereunder or to cause the prosecution of the Project Work to be delayed. Correspondingly, the Owner shall continue to pay the Architect for the undisputed portion of the Architect’s compensation and Reimbursable Expenses incurred in accordance with this Agreement. Architect shall be responsible for any and all costs incurred by Owner as a result of Architect’s cessation of performance prohibited by Sections 8.2.5, 9.1,1, 9.1.2, and 9.1.3.

§ 8.3 Arbitration [Intentionally Deleted]

# ARTICLE 9   TERMINATION OR SUSPENSION

§ 9.1.1 If the Owner fails to make undisputed payments to the Architect in accordance with this Agreement, such failure shall be considered substantial nonperformance and at the Architect’s option, such payment failure may be cause for suspension and/or termination of performance of services under this Agreement.

§ 9.1.2 If the Architect elects to suspend services due to an alleged payment failure, the Architect shall provide the Owner written notice of this election with a twenty-one (21) day opportunity cure the alleged payment failure. The Architect shall be entitled to suspend services if the Owner has not made such payments due within twenty-one (21) days of Architect’s written notice or provided reasonable, supported justification for the non-payment. In the event of a proper and justified suspension of services, the Architect shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services. Before resuming services, the Owner shall pay the Architect all sums due prior to suspension and any expenses incurred in the interruption and resumption of the Architect’s services. The Architect’s fees for the remaining services and the time schedules shall be equitably adjusted.

**§ 9.1.3** If the Architect elects to terminate services due to an alleged payment failure, the Architect shall provide the Owner written notice of this election with a twenty-one (21) day opportunity to cure the alleged payment failure. The Architect shall be entitled to terminate services if the Owner has not made such undisputed payments due within twenty-one (21) days of the Architect’s written notice or provided reasonable, supported justification for the non-payment.

§ 9.2 If the Owner suspends the Project for more than ninety (90) consecutive days, the Architect shall be compensated for services performed prior to notice of such suspension. When the Project is resumed, the Architect shall be compensated for expenses incurred in the interruption and resumption of the Architect’s services. The Architect’s fees for the remaining services and the time schedules shall be equitably adjusted.

§ 9.3 [Intentionally deleted.]

§ 9.4 The Owner shall have the right, at any time, acting in its sole discretion, with or without cause, to terminate the Architect’s rights under this Agreement by giving to the Architect fifteen (15) days prior written notice. A termination effected under this Article 9 shall take effect at the conclusion of such fifteen (15)-day period; provided, however, that the Architect shall, upon receipt of such notice, immediately stop its work under this Agreement and deliver the Drawings and Specifications and all other Instruments of Service and/or Architectural Documents to the Owner. Owner’s sole liability to Architect shall be to pay all sums due for Services and Additional Services, if any, rendered up to such termination date. In no event shall Owner be liable for anticipated or lost fees or profit.

§ 9.5 The Owner may terminate the Architect’s rights under this Agreement for cause should the Architect fail substantially to perform in accordance with the terms of this Agreement. The Owner then may cause the Architect’s services to be completed by whatever reasonable method the Owner deems expedient, and the Architect shall be liable for all costs of completing the Architect’s services and any damages and expenses that may result from the Architect’s default or breach.

§ 9.5.1 If the Owner purports to terminate this Agreement for cause and it is subsequently determined by final, unappealable decision by a competent authority with jurisdiction that Owner did not have cause to terminate Architect, then the termination shall automatically be converted to a termination for convenience under this Architect 9.

§ 9.6 If the event of an Owner termination for convenience (not the fault of the Architect), the Owner shall compensate the Architect for Services and Additional Services, if any, rendered up to such termination date. In no event shall Owner be liable for anticipated or lost fees or profit..

§ 9.7 The Owner’s rights to use the Architect’s Instruments of Service in the event of a termination of this Agreement are set forth in Article 7.

# ARTICLE 10   MISCELLANEOUS PROVISIONS

§ 10.1 This Agreement shall be governed by the laws of the Commonwealth of Virginia, excluding its choice of law rules.

§ 10.2 Terms in this Agreement shall have the same meaning as those in the Modified AIA Document A201–2017, General Conditions of the Contract for Construction, except as modified in this Agreement. The term “Contractor” as used in A201–2017 shall mean the Construction Manager.

§ 10.3 **Assignment**

**§ 10.3.1** The Owner and Architect, respectively, bind themselves, their agents, successors, assigns, and legal representatives to this Agreement.

**§ 10.3.2** The Owner may assign or transfer this Agreement, in whole or in part, with or without the consent of the Architect by giving the Architect written notice, which written notice shall name and specify the assignee and effective date of the assignment. This Agreement and any of the rights, interests or obligations hereunder, in part or in whole are freely assignable by the Owner.

**§ 10.3.3** The Architect shall not assign or transfer this Agreement, in whole or in part, without the written consent of the Owner. Neither this Agreement nor any right, interest, or obligation hereunder may be assigned by the Architect without written consent of the Owner. Any unauthorized assignment or transfer shall be deemed void and invalid, the assignee shall acquire no rights as a result of such assignment and the non-assigning party shall not recognize any such assignment.

§ 10.4 If the Owner requests the Architect to execute certificates, the proposed language of such certificates shall be submitted to the Architect for review at least fourteen (14) days prior to the requested dates of execution. If the Owner requests the Architect to execute consents reasonably required to facilitate assignment to a lender, the Architect shall execute all such consents that are consistent with this Agreement, provided the proposed consent is submitted to the Architect for review at least fourteen (14) days prior to execution. The Architect shall not be required to execute certificates or consents that would require knowledge, services, or responsibilities beyond the scope of this Agreement.

§ 10.5 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 Architect.

§ 10.6

**§ 10.6.1** Owner shall furnish the Architect with any current reports in its possession regarding test borings, test pits, soil bearing values, percolation tests, evaluations of hazardous materials, air and water pollution tests, ground corrosion and resistivity tests. Such reports, if any, have been prepared by third parties, and Owner makes no representation or warranty regarding the accuracy or completeness thereof. Architect shall request any tests, inspections, or reports it believes necessary pursuant to Section 5.6.

**§ 10.6.2** Architect shall obtain such structural, mechanical and chemical tests for hazardous material and other laboratory and environmental tests, inspections and reports as required by the Applicable Laws and Rules..

§ 10.7 **Confidentiality.**  All operational, scientific, business, and financial and other knowledge and information proprietary to the Owner that the Architect may acquire from the Owner, those within its employ, or other contractors and consultants, including but not limited to the Owner’s methods of conducting business affairs, research methods, inventions, designs, trade secrets, scheduling and staffing techniques, broadcast procedures, production formats, processes, systems, improvements, development plans, and other private matters, and all such information that the Architect may acquire on the Owner’s premises, or on premises used by it, or which may be disclosed to the Architect or produced by the Architect hereunder (hereinafter referred to as “Confidential Data”), shall for all time and for all purposes be regarded by the Architect as strictly confidential. The Architect shall hold such Confidential Data in trust and solely for the Architect’s benefit and use.

§ 10.7.1 The Architect shall protect Confidential Data in the same manner that it protects its own confidential information, so long as those protections are reasonable. The Architect shall keep strictly confidential, shall maintain the confidentiality of, and shall not disclose (intentionally or negligently), the Project information except as set forth in Section 10.7.7 below. Confidential Data shall not be directly or indirectly disclosed by the Architect to any person without prior written permission from the Owner, except to Owner personnel who have a need to know such information in order to perform their job responsibilities to the Owner.

§ 10.7.2 The Architect agrees to surrender all Confidential Data to the Owner either on request or termination of this Agreement and will not retain copies, notes, or memoranda of such data either in hard copy or electronic format, or in any other medium for the storage of data.

§ 10.7.3 The Architect shall have no rights or authority to use the name, trademark, trade secrets, patent, or other intellectual property of the Owner in any manner whatsoever, except as expressly authorized by the Owner in writing.

§ 10.7.4 The Architect shall not engage in any marketing activities that refer to the Project, Project drawings, Project photographs, or other Instruments of Service, including the placement of signage, without the express prior written consent of the Owner. The Architect shall not make any announcements or release any information or photographs concerning this Contract or the Project or any part thereof to any member of the public or press or any official body, without the express prior written consent of the Owner. The Architect shall not include photographic or artistic representations of the Project or its design among the Architect’s promotional or professional materials, including to apply for contests, competitions, or awards, without the Owner’s prior written approval in each instance. Provided that the Owner has approved such use, the Architect shall be given reasonable access to the completed Project to make such representations. The Architect shall require of the Architect’s consultants similar agreements to (1) maintain the confidentiality of Project information provided by the Owner; and (2) require Owner consent as to any marketing that references the Project.

§ 10.7.5 If the Owner receives information expressly designated as “confidential” or “business proprietary” from the Architect, the Owner shall keep such information strictly confidential and shall not disclose it to any other person except to its counsel, advisors, consultants, financial advisors, and other representatives with a duty of confidentiality to Owner, or as set forth in Section 10.7.6. Notwithstanding the provisions on this Section 10.7, the parties acknowledge that Owner, as a subdivision of the Commonwealth of Virginia, is subject to the Virginia Freedom of Information Act (Virginia Code Section § 2.2-3700, *et seq.*) and similar “FOIA” and “sunlight” laws and regulations, and that as such, information sent or received by Owner may be disclosed as required by applicable law.

§ 10.7.6 After ten (10) days’ written notice to the disclosing party, the receiving party may disclose Confidential Data or “confidential” or “business proprietary” information, when required by law, arbitrator’s order, or court order, including a subpoena or other form of compulsory legal process issued by a court or governmental entity, or to the extent such information is reasonably necessary for the receiving party to defend itself in any dispute. The receiving party may also disclose such information to its employees, consultants, or contractors in order to perform services or work solely and exclusively for the Project, provided those employees, consultants and contractors are subject to the restrictions on the disclosure and use of such information as set forth in this Section 10.7.

§ 10.8 Each party’s performance under this Agreement shall be excused to the extent and for the time such performance is delayed, interrupted or prevented by an event of force majeure. As used within this Agreement, the term “force majeure” shall mean, by way of example, and not in limitation, fire, act of God, Governmental act, national emergency, strike, labor dispute, adverse weather conditions not reasonably anticipatable, unavoidable casualties or any other causes beyond the Architect’s or Owner’s reasonable control. Architect and Owner shall each exercise their respective commercially reasonable efforts to mitigate the cause of any such force majeure delay, interruption or prevention.

§ 10.9 The invalidity of any provision of the Agreement shall not invalidate the Agreement or its remaining provisions. If it is determined that any provision of the Agreement violates any law, or is otherwise invalid or unenforceable, then that provision shall be revised to the extent necessary to make that provision legal and enforceable. In such case the Agreement shall be construed, to the fullest extent permitted by law, to give effect to the parties’ intentions and purposes in executing the Agreement.

§ 10.10 No action, failure to act or failure to require strict compliance with any term of this Agreement to Owner or Architect shall constitute a waiver of a right or duty afforded them under this Agreement, nor shall such action, failure to act or failure to require strict compliance with any term of this Agreement constitute approval of or acquiescence in a breach hereunder, except as may be specifically agreed in writing.

§ 10.11 All matters that relate to the termination or expiration of the Agreement, that relate to ownership of documents or that relate to the confidentiality and indemnity obligations of Architect, as well as all rights and obligations of the parties that would by their nature be expected to survive any termination or expiration of this Agreement, shall survive any termination or expiration of the Agreement and shall be given full force and effect notwithstanding any termination or expiration of the Agreement, but such survival shall not operate to extend any applicable statute of limitations.

§ 10.12 Notices

§ 10.12.1 All notices required or permitted hereunder shall be in writing and may be given by messenger or may be sent by United States registered or certified mail (return receipt requested), Federal Express, Express Mail, or other national overnight courier service, or by email with written confirmation of receipt addressed as follows:

«For Notice to the Owner:

 VCU Health System Authority

 Attn: Shirley Gibson, DNP, MSHA, RN, FACHE

 1250 East Marshall Street

 2nd Floor, Room 300, Main Hospital

 Box 980510

 Richmond VA, 23298-0510

 Email: Shirley.gibson@vcuhealth.org

 With copies to: VCU Health System Authority

 Office of the General Counsel

 830 East Main Street, Suite 200

 Richmond, VA 23298

 Attention: AVP Deputy General Counsel

 Email: Andrew.Schutte@vcuhealth.org

 And

 VCU Health System Authority

 Supply Chain

 3008 Mechanicsville Turnpike

 Richmond, Virginia 23223

If to Architect:

 [INSERT]

§ 10.12.2 All notices shall be effective upon delivery or refusal to accept delivery. Each party may change the party or parties to whom notices must be sent or the address of an individual receiving notice by providing notice in accordance with the provisions of this Section.

**§ 10.13** The Architect’s Services, including any work product or Instruments of Service, shall be performed and prepared so as to consider and comply with “Applicable Laws and Rules,” which include, but are not limited to, the following, as applicable:

(1) all laws, statutes, codes, ordinances, rules, regulations, guidelines, directives, manuals, guidance, standards, and lawful orders of local, state, or federal governmental, public, and quasi-public authorities having jurisdiction (including utilities) (collectively “governmental authorities”) over, and applicable to, the Work, the services, the Project, the Owner, the Owner’s PM, or the Site, including, but not limited to, the Virginia Commonwealth University Health System Authority Act (Va. Code §§ 23.1-2400, et seq.); the applicable building code and laws pertaining to or applicable to the Project, including by reason of its participation with or funding from local (city, county, or authorities or boards thereof) bonds; and all those related to safety, the environment and environmental impact, historic preservation, seismic activity (including Executive Order 12699, Seismic Safety of Federal and Federally Assisted or Regulated New Building Construction), metrification, employment, wages, insurance, accessibility (including the Americans with Disability Act, the Fair Housing Act, Section 504 of the Rehabilitation Act, and guidelines and guidance related thereto, including the Uniform Federal Accessibility Standards and the 2010 ADA Standards for Accessible Design), federal construction requirements (including Sections 75.600 through 75.617 of the U.S. Education Department General Administrative Regulations), taxes, noise, labor, equal opportunity, non-discrimination, and health;

(2) all permits, permissions, certificates, authorizations, waivers, consents, orders, variances, decrees, and decisions from any governmental authorities regarding or applicable to the services, the Work, the Project, or the Site, including, but not limited to, the building permit(s) and any trade permits (“Permits”);

(3) all applicable industry standards, including the latest edition of the FGI Guidelines, the Joint Commission Standards, the CMS requirements for new hospitals, the Virginia Department of Health guidelines and review processes for hospital construction, NFPA 99 Healthcare Facilities Code, NFPA 101 Life Safety Code for Hospitals, the Standard of Care (defined in Section 2.2), the Health Insurance Portability and Accountability Act (“HIPAA”), the privacy standards set forth in 45 C.F.R. Parts 160 and 164 (the “Privacy Rule”), the security standards set forth in 45 C.F.R. Parts 160, 162, and 164 (the “Security Rule”), and the Health Information Technology for Economic Clinical Health Act, Title XIII of Division A and Title IV of Division D of Pub. L. 111-5 (“HITECH”) and all of the rules and regulations implemented thereunder;

(4) all instructions, requirements, recommendations, specifications, or guidelines issued or provided by the manufacturer or supplier for or applicable to any machinery, assembly, equipment, product, or system for the Project (“Product Requirements”); and

(5) all covenants, conditions, restrictions, and requirements applicable to the Work, the Project, or the Site, including (i) all declarations, covenants, easements, and servitudes applicable to the Site and enrolled of record or of which the Owner’s PM was informed by Owner (“CCRs”); and (ii) all conditions, restrictions, requirements, and policies imposed by any lender providing a loan or other form of financing, grant, bonds, or credit enhancement (“Loan”) applicable to the Project or the Work (each a “Lender”) or entity providing title insurance; and (iii) reasonable requirements of the Owner on reasonable prior notice.

**§ 10.14** In the event there is any conflict between the terms of this Agreement, between the Agreement and any of its Exhibits, between the Agreement and any other contract related to the Project, or between this Agreement and the requirements of Applicable Laws and Rules, as part of its Services for the Basic Services Fee, the Architect will provide the higher quality or level of service, or comply with the more stringent standard or requirement, either or both.

**§ 10.15** Notwithstanding any provision of this Contract to the contrary, in the event of the Architect’s breach of provisions or obligations of this Agreement, the Owner shall have the right to retain an amount sufficient to protect the Owner from any loss, damage, or expense therefrom until the Architect has remedied the situation or resolved the matter in the manner designated in Section 8.2.4, after which the Owner shall pay to the Architect all amounts previously withheld.

# ARTICLE 11   COMPENSATION

§ 11.1 For the Architect’s Basic Services described in this Agreement, the Owner shall compensate the Architect (the “Basic Services Fee”)

.1 Stipulated Sum

 *(Insert amount)*

« »

§ 11.2 For the Architect’s Supplemental Services authorized as designated in Section 4.1.1 and for any Sustainability Services required pursuant to Section 4.1.3, the Owner shall compensate the Architect as follows:

(Insert amount of, or basis for, compensation. If necessary, list specific services to which particular methods of compensation apply.)

§ 11.3 For Additional Services that are authorized in writing by the Owner and may arise during the course of the Project, including those under Section 4.2, the Owner shall compensate the Architect as follows:

(Insert amount of, or basis for, compensation.)

« »

§ 11.4 Compensation for Supplemental and Additional Services of the Architect’s consultants when not included in Sections 11.2 or 11.3, shall be the amount invoiced to the Architect plus «zero» percent ( «0» %), or as follows:

(Insert amount of, or basis for computing, Architect’s consultants’ compensation for Supplemental or Additional Services.)

§ 11.5 [Intentionally Deleted.]

§ 11.6 When compensation identified in Section 11.1 is on a percentage basis, progress payments for each phase of Basic Services shall be calculated by multiplying the percentages identified in this Article by the Owner’s most recent budget for the Cost of the Work. Compensation paid in previous progress payments shall not be adjusted based on subsequent updates to the Owner’s budget for the Cost of the Work.

§ 11.6.1 When compensation is on a percentage basis and any portions of the Project are deleted or otherwise not constructed, compensation for those portions of the Project shall be payable to the extent services are performed on those portions. The Architect shall be entitled to compensation in accordance with this Agreement for all services performed whether or not the Construction Phase is commenced. If the Construction Phase is not commenced, Architect’s compensation shall be determined pursuant to Article 9.

§ 11.7 The hourly billing rates for services of the Architect and the Architect’s consultants are set forth below. The

rates shall be reasonably adjusted in accordance with the Architect’s and Architect’s consultants’ normal review

practices, but shall not be increased more than four percent (4%) in any given year, no more frequently than annually.

§ 11.8 Compensation for Reimbursable Expenses

§ 11.8.1 Reimbursable expenses shall be paid at cost, with no markup. Reimbursable expenses shall be limited to the following, subject to Owner’s prior written approval:

.1 Travel: Mileage, airfare, hotels, rental cars if they need to visit the site;

.2 Printing and Reproduction: Copies of plans and specifications for bidding, large-format plotting;

.3 Courier/Shipping: FedEx or delivery costs for sending drawings or samples related to the project;

.4 Permits/Fees: If the A/E must pay for building department plan reviews or applications directly;

§ 11.8.2 For Reimbursable Expenses the compensation shall be the expenses incurred by the Architect and the Architect’s consultants plus «zero» percent ( «0» %) of the expenses incurred.

**§ 11.8.3** The Architect hereby waives all rights to payment by the Owner for otherwise Reimbursable Expenses when

(a) the expense was incurred more than ninety (90) days before the date on which the Owner receives the invoice

from the Architect initially requesting reimbursement for the expense, or (b) the invoice for the expense is not

accompanied by detailed documentation indicating the Project-related nature of the expense, provided that the

Architect shall be afforded a reasonable opportunity to correct a defective invoice when first objected to be the

Owner.

§ 11.9 [Intentionally Deleted.]

§ 11.10 Payments to the Architect

§ 11.10.1 Initial Payments

The Architect shall submit with each invoice a current, itemized cumulative statement of amounts invoiced, amounts received, reimbursable expenses invoiced and received, all other funds sought and received by the Architect, and remaining Contract billing limits. All invoices shall be sequentially numbered. When the Owner specifies that a payment is to be applied in satisfaction of a certain invoice or portion of an invoice, the Architect shall apply the payment to the account as specified and shall indicate that specific application on subsequent monthly statements.

§ 11.10.2 Progress Payments

§ 11.10.2.1 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable thirty (30) days after presentation of the Architect’s invoice, waivers of liens and claims for previous payments in a form acceptable to Owner, and supporting consultant invoices and waivers of liens and claims.

§ 11.10.2.2 The Owner shall not withhold undisputed amounts from the Architect’s compensation to impose a penalty or liquidated damages on the Architect, or to offset sums requested by or paid to contractors for the cost of changes in the Work, unless the Architect agrees or has been found liable for the amounts in a binding dispute resolution proceeding; except the Owner shall be entitled to withhold payment from the Architect upon notification that Architect’s subcontractors or consultants for the Project have not been paid amounts due. Owner may release such withholdings provided Architect provides adequate assurance that said subcontractor(s) or subconsultant(s) have been paid all amounts due at the time. The Owner may also withhold payment from the Architect on account of errors, omissions, or inconsistencies in the Architect’s Services or breach of Agreement.

§ 11.10.2.3 For at least five (5) years following Substantial Completion of the Project, the Architect will maintain records of all correspondence, memoranda and other documents relating to this Project, including, without limitation, records of all time charged to the Project for Services and any Change in Services; records of Reimbursable Expenses; records of expenses pertaining to any Change in Services and service performed on the basis of hourly rates; and vendor correspondence.  The Owner or the Owner’s authorized representative shall have the right to examine, review, audit and copy upon the Owner’s written request and at the Owner’s expense, such records.  All financial records shall be kept in accordance with generally accepted accounting principles, consistently applied.

# ARTICLE 12   SPECIAL TERMS AND CONDITIONS

Special terms and conditions that modify this Agreement are as follows:

(Include other terms and conditions applicable to this Agreement.)

«§ 12.1 The Owner’s review, approval, or both of any documents provided or services performed by the Architect, its Subconsultants, or anyone for they may be responsible will not relieve the Architect of its responsibilities under the Agreement or under applicable law, and the Architect specifically waives any right to assert a claim against the Owner to the extent based on the Owner’s review, approval, or both of any document provided or services performed by the Architect or for anyone for whom they may be responsible.

§ 12.2 Subconsultants

§ 12.2.1 Architect shall retain such subconsultants (“Subconsultants”) to perform the consulting, engineering, or any other services described in Section 3 as may be necessary to accomplish its Basic Service and any Additional Services requested by the Owner. The Architect’s services under this Agreement include those performed by the Subconsultants and are the Architect’s obligations hereunder. The Architect is responsible for coordination and payment of the Subconsultant’s services. Prior to the award of any subcontract, the Architect shall consult with the Owner and receive approval from the Owner to retain such Subconsultant. The Architect shall bind each and every Subconsultant to the terms stated herein. All Subconsultants shall perform their services in accordance with the Standard of Care. The Architect hereby agrees to include a provision in all subcontracts issued for services hereunder allowing the Architect to assign the subcontract to the Owner or Owner’s designee without the Subconsultant’s consent.

§ 12.2.2 The Architect agrees to pay its Subconsultants within thirty (30) days after the Architect receives payment from the Owner, or as required by the Applicable Laws and Rules. In the event the Architect fails to pay any Subconsultants as required above, the Architect agrees that the Owner may make payments directly to such Subconsultants or by joint check. Payments to Subconsultants will not constitute an acceptance of the adequacy of any services performed by the Architect or its Subconsultants.

§ 12.3 **Counterparts**. This Agreement may be executed simultaneously in counterparts, each of which shall be deemed to be an original and all of which taken together shall constitute one agreement binding on all parties hereto.

§ 12.4 **Liens**. With respect to any portion of the Work for which the Owner has paid the Architect, in the event a Subconsultant or anyone acting through the Architect places a lien upon the Project or the property on which it is located, the Architect shall bond of or otherwise discharge the lien within ten (10) days and shall defend and hold the Owner harmless in any suit to enforce such lien. »

# ARTICLE 13   SCOPE OF THE AGREEMENT

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

§ 13.2 This Agreement is comprised of the following documents identified below:

.1 AIA Document B133™–2019, Standard Form Agreement Between Owner and Architect, Construction Manager as Constructor Edition

.2 Exhibits:

 *(List other documents, if any, forming part of the Agreement.)*

« Exhibit A Request for Proposals for Design Services, dated \_\_\_\_\_\_\_\_\_;

 Exhibit B Architect’s Proposal, dated \_\_\_\_\_\_\_\_;

 Exhibit C VCU Health System Authority – Modified General Terms & Conditions

 Exhibit D Summary of Feasibility Study

 Exhibit E Key Personnel List

 Exhibit F Project Schedule

 Exhibit G Modified AIA Document E203™–2013, Building Information Modeling and Digital Data

 Exhibit (to be developed as part of the Basic Services)

 [Other Exhibits TBD]»

This Agreement entered into as of the day and year first written above.

|  |  |  |
| --- | --- | --- |
|   |  |   |
| OWNER *(Signature)* |  | ARCHITECT *(Signature)* |
| « »« » |  | « »« » |
| (Printed name and title) |  | (Printed name, title, and license number, if required) |