

**AGREEMENT FOR DESIGN BUILD SERVICES
WITH GUARANTEED MAXIMUM PRICE**

This Agreement for Design Build Services (the "Agreement") is made and entered into this ____ day of ____ 2005 (the "Effective Date") by and between The University of Central Florida Board of Trustees ("Owner") and _____, with an address of _____ ("Design/Builder"), Federal I.D. No. _____, which is authorized to do business in Florida.

WITNESSETH:

WHEREAS, Owner solicited statements of qualifications from interested design/builders for its design and construction of _____ and as more particularly described in Owner's facilities program and related documents (the "Project"); and

WHEREAS, based on Design/Builder's interview, professional qualifications statement and related submissions dated _____, Owner has selected Design/Builder for the Project; and

WHEREAS, Owner and Design/Builder desire to enter into this Agreement.

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

ARTICLE 1. DEFINITIONS

- 1.1 **Contract Documents.** The "Contract Documents," which constitute the entire agreement between Owner and Design/Builder, consist of: this Agreement and all exhibits hereto, the Design Documents approved by the Owner in accordance with Article 5, and any other documents listed in this Agreement and Modifications.
- 1.2 **Cost of Work.** "Cost of the Work" means all costs incurred in the Work less any reimbursement for scrap value and cash or trade discounts, including without limitation, the following:
 - 1.2.1 The proportionate assignable cost of Design/Builder's home or branch office employees or consultants not at the Project site, including the cost of all pension contributions, hospitalization, bonuses, vacations, medical insurance assessments or taxes for such items as unemployment compensation and social security, payroll insurance, and taxes attributable to wages and salaries and other company overhead expenses for said home office employees.
 - 1.2.2 The cost of its field employees required hereby, or their approved replacements, including the cost of all pension, contributions, hospitalization, bonuses, vacations, medical insurance, assessments or taxes for such items as unemployment compensation and social security, payroll insurance, and taxes attributable to wages and salaries for said field employees.
 - 1.2.3 Assignable portion of Overhead and profit, or general expenses of any kind, except as may be expressly excluded in this Section 1.2.
 - 1.2.4 All travel costs of Design/Builder's employees and consultants as agreed by the Owner and Design/Builder. All travel costs will be paid in accordance with Section 112.061, F.S.
 - 1.2.5 Minor expenses such as telegrams, long distance telephone calls, telephone service at the site, postage, office supplies, expressage, and similar items in connection with the Work.
 - 1.2.6 Cost of equipment such as typewriters, camera, radios, computers, pagers, copiers, facsimile equipment, dictating units, site and storage trailers, vehicles and furniture purchased or rented by Design/Builder.
 - 1.2.7 Subject to prior approval by the Owner, wages paid for labor in the direct employ of the Design/Builder other than those provided under subsection 1.2.1 herein, as part of the Guaranteed Maximum Price in the performance of the Work under applicable collective bargaining agreements, or under a salary or wage schedule agreed upon by the Owner and Design/Builder,

and including such welfare or other benefits, if any, as may be payable with respect thereto. A copy of all wage schedules shall be included with every pay application.

- 1.2.8 The cost of all materials, supplies, equipment and temporary facilities used or incorporated in the Work or stored on site, including cost of transportation, storage and maintenance thereof. At the Owner's sole discretion, the Owner may make payment for materials, supplies and/or equipment stored off-site in an insured and/or bonded location.
- 1.2.9 Payments made by Design/Builder to Subcontractors for Work performed pursuant to contracts with Design/Builder.
- 1.2.10 Cost of the premiums for all insurance or bonds including Subcontractor bonds which Design/Builder is required to procure by this Agreement, or other insurance or bonds subsequently determined necessary by Design/Builder and agreed upon by Owner.
- 1.2.11 Sales, use, gross receipt, or similar taxes related to the Work imposed by any governmental authority and for which Design/Builder is liable.
- 1.2.12 Costs associated with field tests of materials and systems.
- 1.2.13 If royalties or losses and damages, including cost of defense, are incurred which arise from a particular design, process or the product of a particular manufacturer(s) specified by Owner and Design/Builder had no reason to believe there would be infringement of patent rights, such royalties, losses and damages shall be paid by Owner and the Guaranteed Maximum Price shall be adjusted by Change Order to compensate Design/Builder accordingly.
- 1.2.14 Cost of removal and disposal of all debris including clean-up and trash removal.
- 1.2.15 Cost incurred due to an emergency affecting the safety of persons and/or property.
- 1.2.16 Reasonable legal costs resulting from prosecution of the Work for Owner, provided they are not the result of the Design/Builder's own negligent acts or omissions or willful misconduct. Legal costs incurred in connection with disputes solely between Design/Builder and Owner or incurred in connection with disputes solely between Design/Builder and Subcontractors are the responsibility of Design/Builder and shall not be included herein.
- 1.2.17 Cost of surveys, measurements and layout work reasonably required for the execution of the Work or the requirements of the Agreement.
- 1.2.18 Cost to Design/Builder of temporary electric power, lighting, water and heat required for the performance of the Work, or required to protect the Work from weather damage.
- 1.2.19 Cost to Design/Builder of temporary safety-related protection including barricades and safety equipment, temporary roads and parking, dust control, pest control, installation and operation of temporary hoists, scaffolds, ladders and runways, and temporary project signs.
- 1.2.20 Cost of watchmen or similar security services.
- 1.2.21 Cost of preparation of shop drawings, coordination plans, photographs, or as-built documents not included in Design/Builder's contracts with Subcontractors.
- 1.2.22 Costs for reproduction of documents.
- 1.2.23 Costs associated with setting up and demobilizing tool sheds, Project field offices, temporary fences, temporary roads, and temporary fire protection.
- 1.2.24 All other actual out of pocket costs directly incurred in the performance of the work

The term "wages" includes the straight time and overtime pay and the cost of associated employee benefits. Employee benefits include, but are not limited to, unemployment compensation, social security, compensated absences, and other mandatory and customary contributions and fringe benefits insofar as such costs are based on wages, salaries, or other remuneration paid to employees of the Design/Builder.

- 1.3 Design Documents. “Design Documents” means all the design documents provided by Design/Builder and approved by Owner pursuant to the Contract Documents, including, without limitation, those for use in construction of the Project, performing the Work, and the rendering of the Project fully operational, and shall include, without limitation, the Schematic Design Documents, the Design Development Documents and the Construction Documents.
- 1.4 Design Services. “Design Services” means any and all architectural, engineering and design services required to be performed by Design/Builder pursuant to the Contract Documents and all labor, materials, supervision, equipment, computers, documents and all other things necessary for the performance of such services.
- 1.5 Modifications. “Modification” means a Change Order or a written amendment to this Agreement signed by both parties, or a Construction Change Directive issued by Owner.
- 1.6 Owner’s Representative. “Owner’s Representative” means the individual named by Owner, in writing, to act on Owner’s behalf in the administration of the Contract Documents.
- 1.7 Reimbursable Expenses. “Reimbursable Expenses” means the following actual expenses, at cost: Owner-authorized out-of-town travel and subsistence costs at rates not to exceed those provided in 112.061, Florida Statutes, expenses of reproduction of Design Documents required by Owner, legally required permits fees payable in connection with the Project, including, without limitation, the local stormwater management district permit fees, and expenses of detailed models, mock-ups and animation requested by Owner. Expenses of renderings, all other models and mock-ups and 3-D graphics of the exterior of the Project are included in the fees for Basic Design Services.
- 1.8 Work. “Work” means whatever is done by or required of Design/Builder to perform and complete its duties relating to the construction of the Project under the Contract Documents.
- 1.9 Other Definitions. All capitalized terms used herein but not expressly defined herein shall have the meaning ascribed thereto in the University of Central Florida Construction Services Manual (latest published edition). Non-capitalized words that have well-known technical or construction industry meanings are used in the Contract Documents in accordance with such recognized meanings.

ARTICLE 2. GENERAL PROVISIONS

- 2.1 Order of Precedence. In the event of any conflict, discrepancy, or inconsistency amongst any of the Contract Documents, the following shall control:
- 2.1.1. As between figures given on plans and scaled measurements, the figures shall govern;
 - 2.1.2. As between large scale plans and small scale plans, the large scale plans shall govern;
 - 2.1.3. As between plans and specifications, the requirements of the specifications shall govern; and
 - 2.1.4. As between this Agreement and the plans and specifications, this Agreement shall govern.
- 2.2 Complementary Reading. It is the intent of Owner and Design/Builder that the Contract Documents include all items necessary for proper execution and completion of the Design Services and Work. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all: performance by Design/Builder shall be required to the full extent consistent with and reasonably inferable from, the Contract Documents as being necessary to produce the results called for in Owner’s program for this Project.
- 2.3 Forms. Design/Builder shall use Owner’s standard forms for Change Orders, Applications for Payment and any other forms Design/Builder may be required to complete pursuant to the Contract Documents.

ARTICLE 3. OWNER’S DUTIES, OBLIGATIONS AND RESPONSIBILITIES

- 3.1 Project Requirements. Design/Builder acknowledges that Owner has provided Design/Builder with information regarding Owner’s requirements for the Project as set forth in the Project’s program.
- 3.2 Timely Decisions. Owner shall render decisions in a timely manner, so as to permit the orderly and timely progress of the Design Services and Work.

- 3.3. Cooperation. Owner shall cooperate with Design/Builder in securing any necessary licenses, permits, approvals or other necessary authorizations for the design, construction and certification of the Project.
- 3.4. Permits Fees. Owner shall pay all fees owed to (i) Owner's Environmental Health and Safety Department in connection with its review of plans and inspections, (ii) the State Fire Marshal for its review of plans and inspections and (iii) Owner's Physical Plant Department for the Project's impact to Owner's campus.
- 3.5. Site Survey. Owner shall provide Design/Builder with a survey of the entire property of which the Project is a part and identify thereon, based on input from Design/Builder regarding future development of the site, internal property lines for the Project site and the location of exterior property lines and easements.
- 3.6. Owner's Reviews, Inspections, Approvals, And Payments Not A Waiver. Owner's review, inspection, or approval of any Work, Design Documents, Applications for Payment or other submittals to Owner by Design/Builder shall be solely for the purpose of determining whether the same are generally consistent with Owner's construction program and requirements. No review, inspection, or approval by Owner of such Work or documents shall relieve Design/Builder of its responsibility for the performance of its obligations under the Contract Documents or the accuracy, adequacy, fitness, suitability, or coordination of its Design Services or the Work. Approval by any governmental or other regulatory agency or other governing body of any Work, Design Document, or Contract Documents shall not relieve Design/Builder of responsibility for the performance of its obligations under the Contract. Payment by Owner pursuant to the Contract Documents shall not constitute a waiver of any of Owner's rights under the Contract Documents or at law, and Design/Builder expressly accepts the risk that defects in its performance, if any, may not be discovered until after payment, including final payment, is made by Owner.
- 3.7. Delay Or Forbearance Not Waiver. Owner's agreement not to exercise, or its delay or failure to exercise, any right under the Contract Documents or to require compliance with any obligation of Design/Builder under the Contract Documents shall not be a waiver of the right to exercise such right or to insist on such compliance at any other time or on any other occasion.
- 3.8. Documents Requested By Design/Builder. Owner shall furnish to Design/Builder, prior to the execution of this Agreement, any and all written and tangible material knowingly in its possession concerning conditions below ground at the Project site. Such written and tangible material is furnished to Design/Builder only in order to make complete disclosure of such material and for no other purpose. By furnishing such material, Owner does not represent, warrant, or guarantee its accuracy or completeness either in whole or in part, and shall have no liability therefore.
- 3.9. Legal, Accounting, Insurance Consulting Services. Owner shall cause to be provided all legal, accounting and insurance counseling services as may be necessary at any time for the Project. The foregoing services are provided by Owner for the sole benefit of Owner and are not provided for the benefit of Design/Builder. Design/Builder shall be responsible for any legal, accounting or insurance requirements of Design/Builder in connection with its services.
- 3.10. Notice of Defect. Prompt notice shall be given by Owner to Design/Builder if Owner becomes aware of any material fault or defect in the Project or material non-conformance with the Contract Documents. The foregoing shall not relieve Design/Builder of any of its duties or obligations under the Contract Documents.
- 3.11. Right to Stop Work. If the Design/Builder fails or refuses to perform the Work in accordance with the Contract Documents, or is otherwise in breach of the Contract Documents in any way, Owner may, at its option, instruct Design/Builder to stop the Work or any part thereof. Upon receipt of such instruction from Owner in writing, Design/Builder shall immediately cease and desist as instructed by Owner and shall not proceed further until the cause for Owner's instructions has been corrected, no longer exists, or Owner instructs that the Work may resume.
- 3.12. Right to Perform Work. In the event Owner issues instructions to stop the Work and in the further event that Design/Builder fails and refuses within seven (7) days of receipt of same to provide adequate assurance to Owner that the cause of such instructions will be eliminated or corrected, then Owner shall have the right to carry out the Work with its own forces, or with the forces of other contractors, and Design/Builder shall be fully responsible for the cost incurred in performing such Work. The rights set forth in Section 3.11 and this Section herein shall be in addition to, and without prejudice, of any other rights and remedies Owner may have under the Contract Documents, at law or in equity.

ARTICLE 4. DESIGN SERVICES REQUIREMENTS AND STANDARDS

- 4.1 Representations. Design/Builder represents that it is thoroughly familiar with and understands the requirements of the Project scope and is experienced in the design and administration of construction of building projects of the type and scope contemplated by the Owner's program for the Project. Design/Builder represents to Owner that Design/Builder has all necessary architectural and engineering education, skill, knowledge and experience required for the design and administration of the Project and will maintain at all times during the term of this Agreement, such personnel on its staff sufficient to provide the services contemplated hereby within the time periods required hereby. In addition, Design/Builder represents that it or Owner approved subcontractors performing Design Services, as applicable, have all licenses required by the State of Florida to perform such services. The Design/Builder's design team and the services each is providing are set forth on Exhibit A.
- 4.2 Quality Of Design Services. Design/Builder shall be responsible for the professional quality, completeness, accuracy, and coordination of Design Documents. Design/Builder shall provide Design Services that meet all environmental and regulatory requirements as of the Effective Date. Design/Builder shall provide for all testing and inspections required by sound professional architectural and engineering practices and by governmental authorities having jurisdiction over the Project.
- 4.3 Compliance with Law and Owner's Standard. In providing Design Services, Design/Builder shall observe and comply with the lawful requirements of all federal, state and local authorities having lawful jurisdiction over the Project and Owner's standards as set forth in the University of Central Florida Construction Standards (latest approved edition) To the extent Owner's Standards are higher than applicable legal requirements, such standards shall be met unless Design/Builder obtains a variance from Owner in writing.
- 4.4 Site Information. Based on the survey provided by Owner pursuant to Section 3, Design/Builder shall prepare all other surveys and topographic information, including any aerial photographs, needed to construct the Project. Sewer easements, both construction and permanent, shall be referenced to property lines by field surveys, and plans shall include the location of any improvements as it relates to property lines.
- 4.5 Geotechnical Consultants. In preparing the Design Documents **and as part of Basic Design Services,** Design/Builder shall retain an experienced, qualified geotechnical consultant to evaluate all geotechnical considerations relating to the design and construction of the project. Design/Builder shall design the Project in accordance with the analyses and recommendations of its geotechnical consultant.
- 4.6 Permits. Subject to Owner's obligation to pay certain permit fees as set forth in Section 3.4, Design/Builder shall be responsible for obtaining all necessary permits and other governmental approvals necessary for the development of the Project and shall obtain the same at the times necessary to meet the Scheduled Substantial Completion Date.
- 4.7 LEED Certification. Design/Builder shall work with Owner to pursue Owner's goal of a Basic LEED certification for the Project. Owner shall provide Design/Builder with information regarding the LEED certification. Such services are considered to be Additional Design Services and shall be paid for in accordance with Article 6.
- 4.8 Preparing data, making the input and running a life-cycle cost computer program analysis approved by Owner. If the life-cycle cost computer analysis is required hereby, it shall be submitted with the Schematic Design Documents. Before preparing the data, Design/Builder shall discuss the energy-saving schemes proposed for the Project with Owner's Representative. When an agreement has been reached, Design/Builder will document the approved energy-savings schemes and obtain Owner's Representative's written concurrence. Design/Builder will make the input and run the computer program using a discount rate of seven percent (7%), no operating and maintenance cost escalation, energy replacement costs escalation of one percent (1%) and a project life of twenty-five (25) years. Design/Builder shall submit two (2) copies of Design/Builder's letter discussing the energy saving schemes considered, the computer results, the Design/Builder's recommendations and discussion of other every-saving measures incorporated into the Project design, a copy of Owner's Representative's written concurrence, the complete computer run printout, and one-page summary. Owner will notify Design/Builder of the approved scheme to incorporate into the Project.

- 4.9 Errors. Design/Builder shall, without additional compensation, immediately correct any errors, omissions or deficiencies in its Design Services and Design Documents. In addition, Design/Builder shall not be entitled to any compensation or adjustment in the Guaranteed Maximum Price for additional work required as a result thereof, provided, upon Owner's written approval, Design/Builder may use contingency funds to pay for Work not included in the Design Documents which add value to the Project (but expressly excluding any demolition or other costs related to the substitution of such Work for previously installed Work). The foregoing shall not relieve Design/Builder for liability to Owner for any damages, including costs incurred by Owner after termination in whole or in part of this Agreement, resulting from any error or omissions by Design/Builder in the course of its duties under this Agreement.
- 4.10 AutoCAD. The Design Documents shall be developed using AutoCAD 2004 (latest UCF approved version).
- 4.11 Notice of Non-Compliance with Law. If Design/Builder believes or is advised by another design professional retained to provide services on the Project that implementation of any instruction received from Owner would cause a violation of any applicable law, Design/Builder shall promptly so notify Owner in writing.
- 4.12 University of Central Florida Design Services Guide. Design/Builder shall comply with the procedures and requirements set forth in the University of Central Florida Design Services Guide (the latest edition) in connection with the Design Services.
- 4.13 MBE. Owner is an equal opportunity institution and, as such, encourages the use of Minority Business Enterprises ("MBEs") in the provision of construction-related services. MBEs should have a fair and equal opportunity to compete for dollars spent by Owner to procure construction-related services. Competition ensures that prices are competitive and a broad vender base is available.

ARTICLE 5. BASIC DESIGN AND PRE-CONSTRUCTION SERVICES

- 5.1 Initial Project Schedule. Within ten (10) days after the Effective Date, Design/Builder shall submit to Owner an overall Project schedule covering the planning, design and construction of the Project. If approved by Owner, this schedule shall serve as the framework for the subsequent development of all detailed schedules. The overall Project schedule shall provide for the Work to be substantially complete on or before the Scheduled Substantial Completion Date.
- 5.2 University Review Committees. During all of the design phases provided herein, Design/Builder agrees to provide on-site program and budget verification, development and review workshops necessary or desirable to develop a design, acceptable to the Owner and its user groups, which is within the Owner's budget. Such workshop(s) will be conducted with representatives of the Owner's user groups and the University Review Committees ("URCs") with jurisdiction over the Project, and utilize the charette format. Without limitation of the foregoing, at the concept schematic design and design development phases, the Design/Builder shall make a 10 minute power point presentation to the applicable URCs. Such presentations will also be provided to Owner. The presentation format shall be as follows: (i) introduction, (ii) specific purpose, (iii) general information, (iv) site information, and (iv) 3-D graphics of the proposed buildings, landscaping and parking. At such presentations the Design/Builder shall also address all issues and concerns previously identified by the applicable URCs but not yet addressed by the Design/Builder to the URCs' satisfaction.
- 5.3 Schematic Design. Design/Builder shall prepare Schematic Design Documents for Owner's review no later than _____. Such Schematic Design Documents shall be based upon Owner's facilities program and related documents, Owner's budget and the Project schedule and shall consist of drawings and other documents necessary to describe the character of the Project pertaining to civil, site landscape, architectural and structural systems, and such other elements as may be appropriate. Design/Builder will submit Schematic Design Documents to Owner. Design/Builder shall present the Schematic Design Documents to applicable committees of Owner and obtain approval for the same. If Owner's committees require any

changes in the Schematic Design Documents, such changes shall be incorporated into the Schematic Design Documents and all future documents.

- 5.4 Design Development. By _____, Design/Builder shall submit to Owner Design Development Documents based on list upon the Schematic Design Documents as approved by Owner and consisting of drawings and other documents to fix and describe the size and character of the Project as to civil, site, landscape, architectural, structural, mechanical and electrical systems, materials, outline specifications, equipment, furnishings and such other elements as may be appropriate.
- 5.5 Sixty Percent (60%) Construction Documents. Taking into account any adjustments in the scope or quality of the Project authorized by Owner, by _____, Design/Builder shall submit to Owner the Sixty Percent (60%) Construction Documents, consisting of Drawings and Specifications setting forth in detail requirements for the construction of the Project and based on Appendix A.
- 5.6 One Hundred Percent (100%) Construction Documents. By _____, Design/Builder shall submit to Owner the **One Hundred Percent (100%) Construction Documents**. In addition, Design/Builder shall provide for Owner's review a critical path method schedule providing for all major elements of the Work, including without limitation, bidding schedules, phasing of construction, times of commencement and completion required of each Subcontractor and procurement of long lead time materials and equipment. The schedule shall be sufficiently broken down such that no single activity exceeds thirty (30) days and shall include all relevant holidays and all other non-workdays, milestones and activities to be performed by other or by Owner. Such schedule shall be accompanied by reports or other data as needed to illustrate the logic/precedence, duration and float of all activities. If Owner requests changes to the Design Documents at any phase which are inconsistent with Owner's program for the Project and the net result of all such changes is to increase the amount of time involved in constructing the Project or the cost of constructing the Project, then Design/Builder shall be entitled to an appropriate adjustment therefore.
- 5.7 Estimates of Guaranteed Maximum Price and Final Guaranteed Maximum Price Allocable to the Work. With **the** Design/Builder's submittal of the Schematic Design Documents, Design Development Documents, **and Sixty Percent (60%) Construction Documents**, Design/Builder will submit to Owner its estimate of the Guaranteed Maximum Price for the Work based on such documents **for the** Owner's review and approval. Within three (3) weeks of **the Owner's approval** of the Sixty Percent (60%) Construction Documents **and accompanying budget estimate**, Design/Builder shall submit to Owner the final Guaranteed Maximum Price for the Work for Owner's review and approval. Design/Builder acknowledges that the Construction Documents will be incomplete at the time Design/Builder delivers its various estimates of the Guaranteed Maximum Price for the Work. Nevertheless, the Guaranteed Maximum Price estimates shall include payment for Work anticipated to be required by the completed Construction Documents, and the Design/Builder shall be entitled to no increase in the Final Guaranteed Maximum Price if the Work required by the completed Construction Documents (i) is required by this Contract For Construction, (ii) is reasonably inferable from the incomplete documents, (iii) is consistent with the Owner's stated goals and program objectives, (iv) is consistent with general industry standards for completion of the Work, (v) is not a substantial enlargement of the scope of Work portrayed by the incomplete documents, or (vi) substantially conforms to the nature, type, kind or quality of Work depicted in the incomplete documents. Owner may either reject, approve, or seek modifications to such final Guaranteed Maximum Price. If Owner approves, or seeks modifications to the final Guaranteed Maximum Price for the Work, which are acceptable to Design/Builder, then this Agreement shall continue in full force and effect and Design/Builder shall commence the Work upon issuance of a Notice to Proceed. If Owner rejects the final Guaranteed Maximum Price for the Work, then Owner may terminate this Agreement by giving written notice to Design/Builder without any liability therefore, other than to pay Design/Builder any amounts then due and owing Design/Builder for services or Work already provided.
- 5.8 Advance Material Purchases/Early Construction Packages. The parties understand that time is of the essence for the completion of the Project and accordingly, certain materials will need to be purchased and certain portions of the Work will need to commence prior to completion of the One Hundred Percent (100%) Construction Documents to insure the Scheduled Substantial Completion Date will be met. Accordingly, Design/Builder shall advise Owner as to the necessity and cost of performing initial phases of the Work which do not require that Construction Documents be complete to perform the same in compliance with this Agreement, such as site work, footings, foundations and utilities at the Project site and

the pre-purchase of long-lead items, such as structural steel, brick, pre-cast concrete, boiler, chillers, cooling tower, transformers, glazing systems and switch gear for the Project at such times and in such quantities as are necessary to ensure the Scheduled Substantial Completion Date will be met; provided however in no event shall any portion or phase of the Work commence until Owner issues Design/Builder a Notice to Proceed for such portion or phase of the Work. Any portion of the Work performed pursuant hereto shall be performed in accordance with the other requirements of this Agreement. All sums paid by Owner for any such Work shall be credited against the Guaranteed Maximum Price.

- 5.9 Construction Phase Administration. Notwithstanding anything to the contrary contained herein, during the construction phase of the Project, Design/Builder's architect shall provide, as part of Basic Design Services, the administrative services described in the University of Central Florida Construction Services Manual (current edition).
- 5.10 Submittals. When the Design/Builder makes submittals to the Owner at the various phases of design, the Professional shall comply with the requirements for such submittals set forth on Exhibit B.

ARTICLE 6. ADDITIONAL DESIGN SERVICES

- 6.1 Additional Design Services Defined. If the Design Services described herein are not specifically included in Basic Design Services, they shall considered to be Additional Design Services and shall be paid for by Owner as agreed upon by Owner and Design/Builder. The Additional Design Services shall be performed only if authorized, in writing, by Owner and are as follows:
 - 6.1.1 Making revisions in the Design Documents when such revisions are (i) inconsistent with approvals or instructions previously given by Owner, including revisions made by adjustments in the Owner's program or Project budget, except those revisions necessary to meet Owner's original budget; (ii) required by the enactment of amendments to the Florida Building Code made after the Effective Date; or (iii) due to changes required as a result of Owner's failure to render decisions within the time periods provided herein.
 - 6.1.2 Providing financial feasibility or other special studies.
 - 6.1.3 Providing services relative to future facilities, systems and equipment.
 - 6.1.4 Coordinating services in connection with the work of separate persons or entities retained by Owner, subsequent to execution of this Agreement.
 - 6.1.5 Providing analyses of owning and operating costs.
 - 6.1.6 Providing interior design and other similar services required for or in connection with the selection, procurement or installation of furniture, furnishings and related equipment.
 - 6.1.7 Providing services for planning tenant spaces.
 - 6.1.8 Making investigations, inventories of materials or equipment, or valuations and detailed appraisals of existing facilities.
 - 6.1.9 Performing a threshold inspection pursuant to the requirements of Chapter 553, Florida Statutes.

ARTICLE 7. CONSTRUCTION SERVICES

- 7.1 General Intent. Design/Builder shall perform all Work necessary to construct the Project in accordance with the Contract Documents and to render the Project and all of its components operational and functionally and legally usable.
- 7.2 Basic Construction Services. Without limitation of Section 7.1, Design/Builder shall provide all of the following services, at Design/Builder's cost and expense:
 - 7.2.1 Unless otherwise provided in the Contract Documents, Design/Builder will provide or cause to be provided design services, labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation and other facilities and services necessary for proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work.

- 7.2.2 The Work will be supervised and directed using Design/Builder's best skill and attention. Design/Builder's project manager, superintendent and necessary assistants, acceptable to Owner, shall be in attendance at the Project site during performance of the Work. The project manager shall represent Design/Builder and communications given to the project manager shall be as binding as if given to the Design/Builder. Important communications shall be confirmed in writing. Other communications shall be similarly confirmed on written request in each case.
- 7.2.3 Design/Builder will be responsible for all construction means, methods, techniques, sequences and procedures, and for coordinating all portions of the Work.
- 7.2.4 Construction services will be performed by Subcontractors and suppliers under contract with Design/Builder. Design/Builder shall not perform construction services with its own forces without the written consent of Owner. If Design/Builder desires to perform any portion of the Work, it shall be subject to the same procedures as the various other bidders for such portion of the Work, including the submittal of blind bids.
- 7.2.5 Design/Builder will develop procedures for the selection of Subcontractors in accordance with Owner's standard policies and procedures develop Subcontractor interest in the Project and publicly advertise and conduct pre-bid conferences with interested bidders to review the documents. Design/Builder will announce at all pre-bid conferences that proof of licensure required by applicable law must be available for review at the bid opening, and review such evidence of licensure of apparent qualified low bidders, take competitive bids on the Work of the various Subcontractors or, if authorized by the Owner in writing negotiate for the performance of that Work. Design/Builder may require bidders to submit bid bonds or other bid security acceptable to Design/Builder as a prerequisite to bidding on the Work. Design/Builder will analyze and evaluate the results of the various bids and their relationship to budgeted and estimated amounts, and prepare for review with the Owner a bid tabulation analysis and such other support data as necessary to properly compare the various bids and their responsiveness to the desired scope of Work. Design/Builder will review the scope of Work in detail with apparent low qualified and responsive bidders to determine that their bids are complete but do not include duplicate scope items. Design/Builder will maintain records of all pre-award interviews with all bidders, prepare and submit written recommendations to Owner for award of contracts by the Design/Builder and promptly award and execute contracts with approved Subcontractors.
- 7.2.6 Manage, schedule and coordinate the Work and coordinate the Work with the activities and responsibilities of Owner and Design/Builder in order to complete the Project in accordance with the Owner's budget and schedule.
- 7.2.7 Develop and maintain a program, acceptable to Owner, to assure quality control of the construction.
- 7.2.8 Require of the various Subcontractors such coordination drawings as may be necessary to properly coordinate the Work among the Subcontractors.
- 7.2.9 In consultation with Owner, take necessary corrective actions when requirements of a subcontract or a subcontract schedule are not being met.
- 7.2.10 If Owner-Furnished Contractor-Installed ("OFCI") materials or equipment are shipped to the Project site, notify Owner and be responsible for their acceptance, proper storage, and incorporation into the Work provided the scope of the OFCI work is included within the Guaranteed Maximum Price. The OFCI materials or equipment will be in conformance with the Design Documents and will be coordinated by Owner or Owner's representative with Design/Builder's schedule. This provision does not apply to Direct Purchase Materials, which will be handled pursuant to Section 19.14.
- 7.2.11 Design/Builder will verify that subcontractors have obtained the bonds and insurance required by this Agreement.
- 7.2.12 Design/Builder will review payment applications submitted by each subcontractor and determine whether the amount requested reflects the progress of that subcontractor's work. Subcontractor payment applications shall be included in Design/Builder's Applications for Payment to Owner.
- 7.2.13 Design/Builder will establish and implement a Change Order control system. Design/Builder shall ensure that any Change Order proposal submitted by Design/Builder on behalf of any Subcontractor is adequately

documented so as to demonstrate the fact and amount of cost; that the Change Order applies only to changes and not to Work disclosed or reasonably inferable from the Contract Documents; and that the costs claimed are permitted by this Agreement.

- 7.2.14 Design/Builder will take necessary precautions for the safety of its employees on the Project site, and will comply with all applicable provisions of safety laws and will include in all contracts provisions, which require Subcontractors to be responsible for the safety of their employees on the Work, and to comply with all applicable provisions of safety laws.
- 7.2.15 Design/Builder will ensure that portions of the Work already performed under the Contract Documents are in proper condition to receive subsequent Work.
- 7.2.16 Design/Builder will be responsible for correcting Work which does not conform to the Contract Documents and for the cost of Work made necessary by defects in the Design Documents, provided, upon Owner's written approval, Design/Builder may use contingency funds to pay for Work not included in the Design Documents which add value to the Project (but expressly excluding any demolition or other costs related to the substitution of such Work for Work previously installed).
- 7.2.17 Design/Builder represents and warrants to Owner that materials and equipment furnished under this Agreement will be of good quality and new unless otherwise required or permitted by the Contract Documents, that the construction will be free from defects in materials and workmanship, and that the Work will conform with the requirements of the Contract Documents. Construction not conforming to these requirements, including substitutions not properly approved by Owner, in writing, shall be corrected in accordance with Article 12 at no expense to Owner.
- 7.2.18 Design/Builder will pay all sales, consumer, use and similar taxes, which were legally enacted on the Effective Date.
- 7.2.19 Design/Builder will comply with and give notices required by laws, ordinances, rules, regulations and lawful orders of public authorities relating to the Project.
- 7.2.20 Design/Builder will pay royalties and license fees for patented designs, processes or products. Design/Builder will defend suits or claims for infringement of patent rights and shall hold Owner harmless from loss on account thereof, but shall not be responsible for such defense or loss when a particular design, process or product of a particular manufacturer is required by Owner. However, if Design/Builder has reason to believe the use of a required design, process or product is an infringement of a patent, Design/Builder shall be responsible for such loss unless such information is promptly furnished to Owner.
- 7.2.21 Design/Builder will keep the Project site and surrounding area free from accumulation of waste materials or rubbish caused by operations under this Agreement. At the completion of the Work, Design/Builder shall remove from the Project site waste materials, rubbish, Design/Builder's tools, construction equipment, machinery, and surplus materials.
- 7.2.22 Design/Builder will coordinate the work products of all consultants providing services to the Project, whether engaged by Design/Builder or directly by Owner. Design/Builder will be responsible for administering only those contracts with consultants engaged by Design/Builder. The work product of such consultants shall include, but not be limited to, construction plans, drawings and specifications, review of submitted materials, shop drawing review, construction directives, responses to contractor's requests for information, etc.
- 7.2.23 Design/Builder will schedule and conduct weekly progress meetings with Subcontractors to review such matters as job procedures, construction progress, schedule, job safety and accident prevention, shop drawing status and other information as necessary. Design/Builder will provide prior notice to Owner of all such meetings and prepare and distribute minutes. Design/Builder will review the Project schedule with the various Subcontractors and review or expand the level of detail to incorporate specific Subcontractor input consistent with the overall completion requirements.
- 7.2.24 Design/Builder will regularly monitor and update the Project schedule and various sub-networks as construction progresses and identify potential variances between scheduled and probable completion dates. Design/Builder will review schedules for Work not started, or incomplete, and make adjustments in the schedule to meet the Scheduled Substantial Completion Date. Design/Builder will provide summary

reports of each monitoring and document all changes in schedule, display the current Project schedule in the onsite office, review at progress meetings and record the progress of the Project. Design/Builder will keep a daily log available to the Owner and report and record such additional information related to construction, as may be requested by Owner.

- 7.2.25 Design/Builder will provide coordination of construction performed by Design/Builder's own forces or separate contractors employed by Owner, and coordination of services required in connection with construction performed and equipment supplied by Owner.
- 7.2.26 Design/Builder will confine operations at the Project Site to areas permitted by law, permits and the Contract Documents and shall not unreasonably encumber the Project site with materials or equipment.
- 7.2.27 Design/Builder will provide the power, fuel and equipment necessary to maintain climatic conditions including humidity when specified or necessary for Work in progress.
- 7.2.28 Design/Builder will notify Owner, in writing, when Design/Builder believes that the Work or an agreed upon portion thereof is Substantially Completed. If upon formal inspection Owner concurs in writing, Owner shall issue a Certificate of Substantial Completion which shall establish the Date of Substantial Completion, shall state the responsibility of each party for security, maintenance, heat, utilities, damage to the Work and insurance, shall include a list of items to be completed or corrected and shall fix the time within which Design/Builder shall complete items listed therein. Disputes between Owner and Design/Builder regarding the Certificate of Substantial Completion shall be resolved in accordance with Article 12.
- 7.2.29 Upon Substantial Completion, Design/Builder will deliver three (3) copies of the following to Owner: complete equipment diagrams, operating instructions, maintenance manuals, parts lists, wiring diagrams, pneumatic and/or electrical control diagrams, test and balance reports, inspection reports, guarantees and warranties, as applicable for every piece of fixed equipment furnished under the Contract Documents, to be supplied in a ring binder, hard-cover book, properly indexed for ready reference. Specific information regarding manufacturer's name and address, nearest distributor and service representative's names, addresses, office and home phone numbers, make and model numbers, operating design and characteristics, etc. will be required. All information submitted shall be current as of the time of submission. After Substantial Completion but before Final acceptance, Design/Builder shall provide a competent experienced person (or persons) thoroughly familiar with the Work for a reasonable period of time but not less than forty (40) hours to instruct Owner's personnel in operation and maintenance of equipment and control systems. This instruction will include normal start-up, run, stop, and emergency operations, location and operation of all controls, alarms and alarm systems, etc. This instruction will include tracing the system in the field and on the diagrams in the instruction booklets so that operating personnel will be thoroughly familiar with both the system and the data supplied. In addition, Design/Builder will provide Owner with copies of videotape instructions for operation and maintenance of equipment and systems.
- 7.2.30 Design/Builder will provide "as built" or record documents in computer files at Project completion; using Microsoft Word for text documents and drawings in AutoCAD (in the version approved by Owner), including all Modifications to the Project.
- 7.2.31 Design/Builder will maintain a system of accounting consistent with generally accepted accounting principles. Design/Builder will preserve all accounting records for a period of four (4) years after final acceptance of the Work and Owner shall have access to such records at all times during performance of the Work and for a period of four (4) years after final acceptance of the Work.

ARTICLE 8. TIME FOR CONSTRUCTION

- 8.1 Timeliness. Unless otherwise indicated, Design/Builder and Owner shall perform their respective obligations as expeditiously as is consistent with reasonable skill and care and the orderly progress of the Project.
- 8.2 Completion Date. The Work shall be carried out regularly and without interruption. Subject to Modifications, Design/Builder shall Substantially Complete the Work no later than _____ (the "Scheduled Substantial Completion Date") and Final Completion shall occur within thirty (30) days after Substantial Completion.

- 8.3 Liquidated Damages For Delay In Substantial Completion. Design/Builder shall pay Owner the sum of _____ and 00/100 Dollars (\$____.00) per day for each and every calendar day of unexcused delay in achieving Substantial Completion beyond the Scheduled Substantial Completion Date. Any sums due and payable hereunder by Design/Builder shall be payable, not as a penalty, but as liquidated damages representing an estimate of delay damages likely to be sustained by Owner, estimated at the time of executing this Agreement. Such liquidated damages shall apply regardless of whether Design/Builder has been terminated by Owner prior to Substantial Completion so long as Design/Builder's actions or inactions contributed to the delay. Such liquidated damages shall be in addition to and not in preclusion of the recovery of actual damages resulting from defects in Design/Builder's performance hereunder for matters other than delays in Substantial Completion and shall not be paid out of the Project's contingency fund. When Owner reasonably believes that Substantial Completion will be inexcusably delayed, Owner shall be entitled, but not required, to withhold from any amounts otherwise due to Design/Builder an amount then believed by Owner to be adequate to recover liquidated damages applicable to such delays. If and when Design/Builder overcomes the delay in achieving Substantial Completion, or any part thereof, for which Owner has withheld payment, Owner shall promptly release to Design/Builder those funds withheld, but no longer applicable as liquidated damages.
- 8.4 Time of Essence. Time is of the essence with this Agreement.

ARTICLE 9. GUARANTEED MAXIMUM PRICE/PAYMENTS

- 9.1 Guaranteed Maximum Price. Owner shall pay Design/Builder for the performance of the Design Services, the Cost of the Work and the Reimbursable Expenses permitted hereunder, subject to additions and deductions by Modifications, an amount not to exceed (the "Guaranteed Maximum Price") which shall in no event exceed _____ and No/100 Dollars (\$ _____ .00), Owner's budget for the design and construction of the Project. The Guaranteed Maximum Price is allocated _____ and No/100 Dollars (\$ _____ .00) to pre-construction services, and _____ and No/100 Dollars (\$ _____ .00) to the Work. There shall be no re-allocation of amounts among such categories, without Owner's written consent. The Guaranteed Maximum Price shall be comprehensive in scope in that all costs of the Design/Builder necessary for the proper execution of the Design Services and the Work shall be clearly identified and, except for Modifications, no other cost shall be allowed. In the event that upon full completion of the Design Services and Work for the Project, the actual cost thereof is less than the Guaranteed Maximum Price, Owner shall be entitled to such difference.
- 9.2 Payment for Design Services. The amount of the Guaranteed Maximum Price allocated to Basic Design Services shall be paid based on Design/Builder's achievement of each of the design milestones described on Exhibit C, attached hereto and incorporated herein by reference. Upon achievement of each such milestone, Design/Builder shall submit an Application for Payment with appropriate back-up documentation. If Owner's budget for the Project increases or Owner's program for the Project changes and Owner requests additional design services in connection therewith, then Design/Builder shall be compensated by Owner for such additional design services pursuant to an agreement to be entered into by Owner and Design/Builder at the time Owner requests such additional design services pursuant to Section 9.3 hereof. Except as permitted in the foregoing sentence, the fees for basic Design Services shall not increase as a result of increases in Owner's budget or changes in Owner's program for the Project.
- 9.3 Additional Services. Design/Builder shall be entitled to compensation for Additional Design Services it provides, at the amounts agreed to by Design/Builder and Owner, in writing, prior to performing such additional services, which amounts shall include an allocation, agreed upon by Owner and Design/Builder, to Design/Builder's management fee. Upon performance of Additional Design Services, Design/Builder shall submit to Owner an Application for Payment with appropriate back-up documentation.
- 9.4 Payment for Pre-Construction Services. The amount of the Guaranteed Maximum Price allocated to pre-construction services shall be paid based on the schedule attached hereto and incorporated herein by reference as Exhibit D. Design/Builder shall submit an Application for Payment with appropriate back-up documentation
- 9.5 Reimbursable Expenses. Design/Builder shall be entitled to payment for Reimbursable Expenses in accordance with Exhibit C. Upon expenditure of Reimbursable Expenses, Design/Builder shall submit to Owner an Application for Payment for such amounts.

- 9.6 Payment for the Work – Schedule of Values. Before the first Application for Payment for the Work, the Design/Builder shall submit to Owner a schedule of values allocated to various portions of the Work. Design/Builder's Schedule of Values shall be prepared in such form, with such detail, and supported by such data as Owner may, at its option, require. Design/Builder shall not front-end load its Schedule of Values and shall not imbalance its Schedule of Values. The allocated value of each item in the Schedule of Values shall only include its total cost. The Schedule of Values shall be used only as a basis for Design/Builder's Applications for Payment and shall only be so used after it has been acknowledged in writing by Owner.
- 9.7 Applications for Payment. Applications for Payment shall be notarized and supported by such data substantiating Design/Builder's right to payment as Owner may reasonably require. Each Application for Payment shall constitute Design/Builder's representation that the Design Services and the Work have progressed to the level for which payment is requested in accordance with the milestones or the Schedule of Values, that the Design Services and the Work have been properly installed or performed in strict accordance with this Agreement, that the Reimbursable Expenses have actually been expended and that Design/Builder knows of no reason why payment should not be made as requested.
- 9.8 Partial Payments. Applications for Payment for the Work shall be made monthly beginning within thirty (30) days after the commencement date established in the Notice to Proceed. Subject to Owner's rights hereunder, within forty (40) days from the Owner's receipt of any **valid and accurate** Application for Payment submitted by the Design/Builder, Owner shall pay or cause to be paid to the Design/Builder that portion of the Guaranteed Maximum Price previously unpaid, properly allocable to Design Services or the Work that has been performed in accordance with the Contract Documents, together with that portion of the Guaranteed Maximum Price properly allocable to materials and equipment suitably stored by the last day of the preceding calendar month at the Project site or at some other location mutually agreed upon in writing by the parties.
- 9.9 Retainage. Except for Applications for Payment for Design Services and pre-construction services, retainage shall be withheld from each monthly payment request, in an amount not to exceed ten percent (10%) of the approved payment. Owner may, in Owner's sole discretion, upon written request of Design/Builder, release portions of the retainage allocable to portions of the Work, which have been finally completed prior to Final completion for all of the Work.
- 9.10 Conditions Precedent To Payment. In addition to all other conditions precedent contained herein, it shall be a condition precedent to payment of any Application for Payment that (i) Design/Builder have submitted updated schedules for the performance of its Work and Design Services as required by this Agreement, and (ii) Design/Builder shall have furnished to Owner, if required by Owner, other data establishing payment or satisfaction of obligations, such as receipts, releases and waivers of liens, claims, security interests or encumbrances arising out of the Contract Documents, to the extent and in such form as may be designated by Owner. If a Subcontractor refuses to furnish a release or waiver required by Owner, Owner, at Owner's discretion, may permit Design/Builder to furnish a bond satisfactory to Owner in lieu of such release or waiver indemnifying Owner against such claim. If such claim remains unsatisfied after payments are made, Design/Builder shall refund to Owner all money that Owner may be compelled to pay in discharging such claim, including all costs and reasonable attorneys' fees.
- 9.11 Withholding Payment. Owner may appropriately adjust Design/Builder's Applications for Payment if Owner reasonably believes that any portion of the Work has not progressed to the point indicated in Design/Builder's Application for Payment or, the quality of the Work covered is not in accordance with the Contract Documents. In addition, Owner may decide not to pay Design/Builder an appropriate amount because of subsequently discovered evidence or subsequent observations, to the extent necessary to protect itself from loss, because of but not limited to: (i) defective Work of which the Design/Builder has knowledge; (ii) third party claims filed or evidence indicating the filing of such claims; (iii) failure of the Design/Builder to make payments to Subcontractors or others for labor, materials or equipment pursuant to Design/Builder's contracts with such persons or entities; (iv) evidence that the Work cannot be completed for the unpaid balance of the Guaranteed Maximum Price allocable to the Work; (v) damage to Owner or another contractor, caused by Design/Builder or its subcontractors, and not paid by Design/Builder's insurance; (vi) evidence that the Work will not be completed by the Scheduled Substantial Completion Date, as the same may be adjusted by Modification and that the unpaid balance would not be adequate to

- cover actual or liquidated damages for the anticipated delay; or (vii) persistent failure to carry out the Work in accordance with the Contract Documents.
- 9.12 Substantial Completion Payment. Upon Substantial Completion of the Work as certified by Design/Builder and agreed by Owner, Owner shall make payment, reflecting adjustment in the retainage, if any, for such Work as provided in the Contract Documents. The acceptance of Substantial Completion payment shall constitute a waiver of all claims by Contractor except those previously made in writing and identified by the Contractor as unsettled at the time of Application for Payment for Substantial Completion, and except for the retainage sums due at final acceptance.
- 9.13 Final Payment. Design/Builder's application for final payment shall be accompanied by a completed and notarized Certificate of Contract Completion. Any items required by the Contract Documents not previously submitted shall accompany the Application for Final Payment. Neither final payment nor amounts retained, if any, shall become due until Design/Builder submits to Owner: (i) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which Owner or Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied or shall be paid from funds received from Owner; (ii) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect and will not be canceled or allowed to expire until at least thirty (30) days' prior written notice has been given to Owner; (iii) a written statement that the Design/Builder knows of no substantial reason that the insurance will not be renewable to cover the period required by the Contract Documents; and (iv) consent of surety, if any, to final payment. Acceptance of final payment shall constitute a waiver of all claims by Design/Builder.
- 9.14 Payment of Subcontractors. Within seven (7) days of receipt of payment from the Owner, Design/Builder shall pay each Subcontractor, the amount to which said subcontractor is entitled, reflecting the percentage actually retained, if any, from payment to Design/Builder on account of such Subcontractor's work. The Design/Builder will, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to Sub-subcontractors in a similar manner.
- 9.15 Title. Design/Builder represents and warrants that upon payment of any Application for Payment, title to all Work covered by the same shall immediately pass to Owner. In addition, Design/Builder represents and warrants to Owner that upon submittal of an Application for Payment all construction for which payments have been received from the Owner shall be free and clear of all liens, claims, security interests or encumbrances in favor of the Design/Builder or any other person or entity performing construction at the site or furnishing materials or equipment relating to construction.
- 9.16 Payment Not Acceptance. A progress payment or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not in accordance with the Contract Documents.
- 9.17 Overdue Payments Vendor Ombudsman. A Vendor Ombudsman has been established within the Owner's Office of Finance and Administration. The duties of this individual include acting as an advocate for vendors who may be experiencing problems in obtaining timely payment(s) from the Owner. The Vendor Ombudsman may be contacted at _____, ext. _____.

As provided by Section 215.422, Florida Statutes, if a warrant in payment of an invoice is not mailed by Owner within forty (40) days after receipt of the invoice and receipt, inspection and approval of the services, Owner shall pay to Design/Builder, in addition to the amount of the invoice, interest at a rate of one percent (1%) per month or portion thereof on the unpaid balance from the expiration of such forty (40) day period until such time as the warrant is mailed to Design/Builder. These provisions apply only to undisputed amounts for which payment has been authorized. Invoices or pay requests returned to Design/Builder due to preparation errors will result in a payment delay. Payment requirements do not start until a properly completed Application for Payment is provided to Owner. A Vendor Ombudsman has been established within the Department of Banking and Finance. The duties of this individual include acting as an advocate for vendors who may be experiencing problems in obtaining timely payment(s) from a state agency. The Vendor Ombudsman may be contacted at (904) 488-2924 or by calling the State Comptroller's Hotline, (800) 848-3792.

- 9.18 Underpayment by Design/Builder. If, in the performance of the Agreement, there is underpayment of moneys due from Design/Builder to consultants, Subcontractors, materialmen, laborers or suppliers, Owner may, at its option, withhold from Design/Builder, out of payments due it, an amount sufficient to pay to consultants, Subcontractors, materialmen, laborers or suppliers underpaid the difference between the amounts required to be paid to such consultants, Subcontractors, materialmen, laborers or suppliers and the amounts actually paid. The amounts withheld shall be disbursed by Owner to the respective consultants, Subcontractors, materialmen, laborers or suppliers to whom they are due, provided Owner shall consult with Design/Builder before disbursing such amounts to determine whether there are any outstanding disputes between Design/Builder and such persons or entities justifying the withholding of such amounts.
- 9.19 Use of Joint Checks. If Design/Builder has not paid a Subcontractor, materialman, laborer, or supplier as provided herein and such claim is still outstanding ninety (90) days after Substantial Completion, Owner shall have the right, but not the duty, upon giving Design/Builder and the applicable Subcontractor, materialman, laborer or supplier thirty (30) days notice, to issue checks and payment then or thereafter otherwise due to Design/Builder naming Design/Builder and any such Subcontractor, materialman, laborer, or Supplier as joint payees. Before sending such notices, Owner shall consult with Design/Builder to determine whether there are any outstanding disputes between Design/Builder and such persons or entities justifying Design/Builder's non-payment of such claims. Such joint check procedure, if employed by Owner, shall create no rights in favor of any person or entity beyond the right of the named payees to payment of the check and shall not be deemed to commit Owner to repeat the procedure in the future nor to create any contractual or other relationship of any kind between Owner and such person or entity.
- 9.20 Right to Stop Work. If Design/Builder is not in default of this Agreement and there is no dispute between Owner and Design/Builder regarding this Agreement, and Owner fails to make payment to Design/Builder within the time periods provided herein, then Design/Builder may, upon seven (7) days notice to Owner, stop the Work until payment of the amount owing has been received. The Scheduled Substantial Completion Date and Final Completion Date shall be extended appropriately and the Design/Builder shall be entitled to its reasonable costs of shut-down, delay and start-up, which shall be accomplished as provided in Article 10.

ARTICLE 10. CHANGES IN THE WORK

- 10.1 General. Changes in the Work may be accomplished by Change Order or Construction Change Directive, subject to the limitations stated in the Contract Documents. A Change Order shall be based upon written agreement between Owner and Design/Builder; a Construction Change Directive may be issued by Owner. Changes in the Work shall be performed under applicable provisions of the Contract Documents, and shall proceed promptly, unless otherwise provided in the Change Order or Construction Change Directive.
- 10.2 Unit Prices. If unit prices are stated in Contract Documents or subsequently agreed upon, and if quantities originally contemplated are so changed in a proposed Change Order or Construction Change Directive that application of such unit prices to quantities of Work proposed will cause substantial inequity to Owner or Design/Builder, the applicable unit prices shall be equitably adjusted.
- 10.3 Construction Change Directive. Design/Builder shall proceed to perform Work directed by a Construction Change Directive regardless of whether agreement is reached on any adjustment to the Scheduled Substantial Completion Date or Guaranteed Maximum Price. If a Construction Change Directive provides for an adjustment to the Guaranteed Maximum Price, the adjustment shall be based on one of the following methods: (i) mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation; (ii) a not to exceed amount based on unit prices stated in the Contract Documents or subsequently agreed upon; (iii) cost to be determined in a manner agreed upon by the parties or (iv) as provided in Section 10.4. Pending final determination of cost to Owner, amounts not in dispute may be included in Applications for Payment.
- 10.4 Guaranteed Maximum Price Adjustment/Construction Change Directive. Except as may be otherwise provided above, the adjustment to the Guaranteed Maximum Price shall be determined on the basis of reasonable expenditures and savings of those performing the Work attributable to the change. In case of an increase in the Guaranteed Maximum Price, the cost shall include overhead and profit. In such case, Design/Builder shall keep and present an itemized accounting together with appropriate supporting data for

inclusion in a Change Order. Unless otherwise provided in the Contract Documents, costs for these purposes shall be limited to the following, to the extent applicable:

- 10.4.1. Actual costs of labor, including social security, old age and unemployment insurance, fringe benefits required by agreement or custom, and workers' compensation insurance;
 - 10.4.2. Costs of materials, supplies and equipment, including cost of transportation, whether incorporated or consumed;
 - 10.4.3. Rental costs of machinery and equipment exclusive of hand tools, whether rented from Design/Builder or others;
 - 10.4.4. Costs of premiums for all bonds and insurance permit fees, and sales, use or similar taxes; and
 - 10.4.5. Design and inspection fees.
- 10.5 Cost of Change/Construction Change Directive. Except as provided in Section 4.9, the cost of a change in the Work shall not include costs due to the negligent acts or omissions of Design/Builder, any Subcontractor, any Sub-subcontractor, anyone directly or indirectly employed by any of them, or for whose acts any of them may be liable, including but not limited to, the correction of defective or nonconforming Work, disposal of materials and equipment wrongly supplied, or making good any damage to property or the cost of any item not specifically or reasonably inferable as included in the items described in Section 10.4.
- 10.6 Effective Date of Change/Construction Change Directive. Upon receipt of a Construction Change Directive, Design/Builder shall promptly, in writing, notify Owner of Design/Builder's agreement or disagreement with the method used in calculating the adjustment to the Scheduled Substantial Completion Date or Guaranteed Maximum Price. When Owner and Design/Builder agree upon the adjustments in the Guaranteed Maximum Price and the Scheduled Substantial Completion Date, such agreement shall be effective immediately and shall be recorded by preparation and execution of an appropriate Change Order.

ARTICLE 11. CORRECTIONS OF WORK

- 11.1 Correction Covenant. Design/Builder shall promptly correct Work rejected by Owner for failing to conform to the Contract Documents or known by Design/Builder to be defective or failing to conform to the requirements of the Contract Documents, whether observed before or after Substantial Completion and whether or not fabricated, installed or completed. Design/Builder shall bear costs of correcting such rejected Work, including additional testing and inspections. Design/Builder shall commence correction of the Work within seven (7) days after the date of written notice from Owner. Additionally, Design/Builder shall be responsible for, and Owner may deduct from payments due Design/Builder under this Agreement, or if no such amounts are due, charge Design/Builder for, (i) the reasonable value of the time of all Owner personnel and Owner consultants involved in the correction of the rejected Work, (ii) the reasonable value of the time of all Owner personnel and Owner consultants involved in re-inspection of the corrected Work, and (ii) compensation for Owner's Representative services, if any, and expenses associated with such re-inspection.
- 11.2 One Year Warranty. If, within one (1) year after the date of Substantial Completion of the Work or, after the date for commencement of warranties established in a written agreement between Design/Builder and Owner, or by terms of an applicable special warranty required by the Contract Documents, whichever is longer, any of the Work is found to be not in accordance with the requirements of the Contract Documents, Design/Builder shall correct it promptly after receipt of a written notice from Owner to do so unless Owner has previously given Design/Builder a written acceptance of such condition. This period of one (1) year shall be extended with respect to portions of Work first performed after Substantial Completion by the period of time between Substantial Completion and the actual performance of the Work. This obligation shall survive acceptance of the Work and termination of the Agreement.
- 11.3 Statute of Limitations. Nothing contained in this Article 11 shall be construed to establish a period of limitation with respect to other obligations, which Design/Builder might have under the Contract Documents. Establishment of the time period of one (1) year as described in Section 11.2 relates only to the specific obligation of Design/Builder to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time

within which proceedings may be commenced to establish Design/Builder's liability with respect to Design/Builder's obligations other than specifically to correct the Work.

- 11.4 Covered Work. If a portion of the Work has been covered contrary to Owner's request or to requirements specifically expressed in the Contract Documents, it must, if required in writing by Owner, be uncovered for Owner's observation and be replaced at Design/Builder's expense without change in the Scheduled Substantial Completion Date. If a portion of the Work has been covered which Owner did not specifically require the right to observe prior to its being covered, Owner may request to see such Work, and it shall be uncovered by Design/Builder. If such Work is in accordance with the Contract Documents, costs of uncovering and replacement shall be charged to Owner by appropriate Change Order. If such Work is not in accordance with the Contract Documents, the Design/Builder shall pay such costs unless the condition was caused by Owner or a separate contractor in which event the Owner shall be responsible for payment of such costs.
- 11.5 Removal of Non-Conforming Work. Design/Builder shall remove from the Project site portions of the Work, which are not in accordance with the requirements of the Contract Documents and are neither corrected by Design/Builder nor accepted by Owner.
- 11.6 Acceptance of Non-Conforming Work. If Owner prefers to accept Work which is not in accordance with the requirements of the Contract Documents, Owner may, with agreement of the Design/Builder, do so instead of requiring its removal and correction in which case the Guaranteed Maximum Price will be reduced by an amount agreed upon by Owner and Design/Builder, or if the balance of the Guaranteed Maximum Price if any, is insufficient to compensate Owner for the acceptance of defective or nonconforming Work, Design/Builder shall pay such amounts to Owner on demand.

ARTICLE 12. CLAIMS BY DESIGN/BUILDER

- 12.1 Terms And Conditions Of Claims. Claims by Design/Builder against Owner are subject to the terms and conditions of this Article 12, and compliance herewith shall be a condition precedent to any liability of Owner therefore.
- 12.2 Notice Of Claim. All Design/Builder claims, disputes and other matters in question against Owner arising out of or related to the Contract Documents or the breach thereof, including, without limitation, claims in respect to changes in the Guaranteed Maximum Price or the Scheduled Substantial Completion Date, shall be initiated by a written notice of claim submitted to Owner. Such written notice of claim shall be received by Owner no later than twenty one (21) days after the event, or the first appearance of the circumstances, causing the claim, and same shall set forth in detail all known facts and circumstances supporting the claim including the amount claimed, to the extent possible. Design/Builder agrees and acknowledges that its failure to provide written notice of a claim as set forth herein shall constitute a waiver of any claim for additional compensation or time extension related thereto.
- 12.3 Documentation In Support Of Claims. Upon discovering an event or condition forming the basis of a claim for an increase in the Guaranteed Maximum Price or an extension of the Scheduled Substantial Completion Date, Design/Builder shall, until the claim is resolved, commence to maintain separate records evidencing all costs and delays incurred in connection with the event or condition forming the basis for the claim.
- 12.4 Formal Written Claim. No later than thirty (30) days after the date of the written notice of claim, Design/Builder shall submit a formal written claim which shall include at least the following information: (i) a concise statement of the occurrence(s) supporting the claim, dispute or other matter, and the relief sought; (ii) identification of the facts giving rise to the claim dispute or other matter; (iii) the date Design/Builder discovered the occurrence(s); (iv) a detailed schedule of values identifying all costs resulting from the claim, dispute or other matter; (v) documentation supporting the schedule of values; (vi) identification of any impact the claim, dispute or other matter has on the critical path schedule; and (vii) all correspondence, internal memoranda, progress notes, and other documentation relating to the events which form the basis of the claim, dispute or other matter. Other information or documents shall be submitted to Owner within ten (10) days after written request by Owner. The failure to provide a claim as set forth herein, or the failure to provide such other documents or information requested by Owner within ten (10) days after the written request shall constitute a waiver of any claim for additional compensation or time extension related thereto. No later than thirty (30) days after notification of a written claim and all

- supporting documentation from Design/Builder, Owner shall respond to Design/Builder, in writing, regarding its response to the claim.
- 12.5 Continuous Duty To Provide Documentation. Design/Builder shall provide, and continue to provide, to Owner all such documentation, including cost and time records, as and when Owner may request so that Owner may evaluate Design/Builder's claim.
- 12.6 Duty To Continue Performance. Design/Builder and Owner shall continue their performance hereunder regardless of the existence of any claims submitted by Design/Builder.
- 12.7 Differing Site Conditions. In the event Design/Builder discovers previously concealed and unknown site conditions which are materially at variance from those typically and ordinarily encountered in the general geographical location of the Project, and not reasonably discoverable by Design/Builder's inspections or those of its Subcontractors as required hereby, the Guaranteed Maximum Price shall be modified, either upward or downward, upon the written claim made by either party within seven (7) days after the first appearance to such party of the circumstances. As a condition precedent to Owner having any liability to Design/Builder due to concealed and unknown conditions, Design/Builder must give Owner written notice of, and an opportunity to observe, such condition prior to disturbing it. The failure of Design/Builder to give the written notice and make the claim as provided by this Section 12.7 shall constitute a waiver by Design/Builder of any rights arising out of or relating to such concealed and unknown condition including any claim for an increase in the Guaranteed Maximum Price or any claim for an extension of the Scheduled Substantial Completion Date.
- 12.8 Claims For Increase In Guaranteed Maximum Price. In the event Design/Builder seeks to make a claim for an increase in the Guaranteed Maximum Price, as a condition precedent to any liability of Owner therefore, Design/Builder shall comply with the requirements of Section 12.2 above and such notice shall be given by Design/Builder *before* proceeding to execute any additional or changed Work. Failure of the condition precedent to occur shall constitute a waiver by Design/Builder of any claim for additional compensation.
- 12.9 Limit Of Owner's Liability For Increased Costs. In connection with any claim by Design/Builder against Owner for compensation in excess of the Guaranteed Maximum Price, any liability of Owner (i) shall be strictly limited to costs actually and reasonably incurred by Design/Builder in accordance with the provisions regarding changes in the Guaranteed Maximum Price as set forth in Article 10; and (ii) shall in no event include consequential expenses or damages of Design/Builder or its Subcontractors, such as lost profits. Owner shall not be liable to Design/Builder for claims of third parties, including Subcontractors, for acts, omissions, events, or conditions for which Owner would not be liable to Design/Builder under the terms of the Contract Documents. As a condition precedent to Owner's liability to Design/Builder for any loss or damage resulting from claims of third parties, including Subcontractors, such third parties must have complied with all conditions contained in their agreements with Design/Builder and such Subcontractor's claims must have been submitted to Owner by Design/Builder in strict compliance with all the requirements of this Article. Owner shall not be liable to Design/Builder for claims of third parties including Subcontractors, unless and until the liability of Design/Builder therefore has been established in a court of competent jurisdiction or otherwise established in a manner satisfactory to Owner, in its sole discretion.
- 12.10 Claims For Increase In Scheduled Substantial Completion Date. If Design/Builder is delayed in progressing in any task which at the time of the delay is then critical or which during the delay becomes critical, as the sole result of any act or neglect to act by Owner or someone acting in Owner's behalf, or by changes ordered in the Design Services or the Work, unusually bad weather not reasonably anticipatable, fire or other Acts of God, or any other cause beyond the reasonable control of Design/Builder, then the Scheduled Substantial Completion Date, or, as applicable, Final Completion, shall, subject to the provisions of Section 12.11, be appropriately adjusted upon the written notice and claim of Design/Builder to Owner for such reasonable time as Owner may determine. A task is critical within the meaning of this section if, and only if, said task is on the critical path of the Project schedule so that a delay in performing such task will delay the ultimate completion of the Project. As a condition precedent to any right to an extension of time, Design/Builder shall strictly comply with the requirements of Section 12.2 above and such notice shall be given by Design/Builder before proceeding to execute any additional or changed Design Services or Work. If Design/Builder fails to give such notice, any claim for an extension of time shall be waived. In

the event the delay to Design/Builder is a continuing one, only one notice and claim for additional time shall be necessary, provided the continuing nature of the delay is indicated in the notice and claim.

- 12.11 Owner's Right To Order Acceleration. Design/Builder acknowledges and agrees that Substantial Completion of the Work by or before the Scheduled Substantial Completion Date is, or may be, of substantial importance to Owner. Owner shall accordingly have the right in its sole discretion to order Design/Builder to accelerate its progress in such a manner as to achieve Substantial Completion on or before such date as Owner may reasonably direct (ie it must not be impossible or impracticable for Design/Builder to do so) and, upon receipt, Design/Builder shall comply with such order. In the event that Design/Builder is otherwise entitled to an extension of the Scheduled Substantial Completion Date and has made claim therefore in accordance with Section 12.10 above, Owner shall have the right in its sole discretion to deny all, or any part, of such extension of the Scheduled Substantial Completion Date by written notice to Design/Builder provided within seven (7) days of receipt of Design/Builder's claim. Should Owner deny Design/Builder's claim for an extension of the Scheduled Substantial Completion Date hereunder, either in whole or in part, Design/Builder shall proceed to prosecute the Work in such a manner as to achieve Substantial Completion on or before the then existing Scheduled Substantial Completion Date. In the event Owner exercises its rights under this Section 12.11, such action shall constitute a Change Directive and any change in the Guaranteed Maximum Price shall be determined in accordance with Article 10.
- 12.12 Claims Resolved By Change Order. The resolution of any claim under this Article 12 shall be reflected by a Change Order executed by Owner and Design/Builder.
- 12.13 Legal Recourse. Claims, disputes or other matters in question between the parties to this Agreement shall be determined under the judiciary system of the State of Florida. As a condition precedent to any party filing legal or equitable action for a claim arising out of or related to this Agreement, the parties shall submit the dispute to mediation pursuant to the American Arbitration Association Construction Industry Mediation Rules currently in effect. Either party may file a written request for mediation with the American Arbitration Association and serve a copy on the other party. The mediation shall be concluded within sixty (60) days of the request, unless otherwise agreed or ordered by the court. Any legal or equitable proceedings shall be stayed pending conclusion of the mediation. The parties shall share the mediator's fee and other administrative costs of the mediation equally. The mediation shall be held in Alachua County, Florida, unless the parties agree upon another location. Agreements reached in mediation shall be enforceable in any court of competent jurisdiction as settlement agreements. The mediation proceedings shall be confidential and shall be privileged from disclosure in any subsequent proceedings as settlement discussions.

ARTICLE 13. PROTECTION OF PERSONS & PROPERTY

- 13.1 Safety Precautions. Design/Builder shall be responsible for initiating, maintaining and providing supervision of all safety precautions and programs in connection with the performance of this Agreement. OSHA guidelines shall serve as the basis for the construction safety program. Design/Builder shall take reasonable precautions for the safety of, and shall provide reasonable protection to prevent damage, injury or loss to: (i) employees on the Work and other persons who may be affected thereby; (ii) the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody, or control of Design/Builder or Subcontractors; and (iii) other property at or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction.
- 13.2 Notices. Design/Builder shall give notices and comply with applicable legal requirements bearing on the safety of persons or property or their protection from damage, injury or loss. Design/Builder shall promptly notify Owner, in writing, upon receiving notice of filing of any charge of non-compliance from OSHA, or upon receiving notification that a federal or state inspector shall visit or is visiting the Project site.
- 13.3 Repairing Property Damage. Design/Builder shall promptly remedy damage and loss (to the extent not covered by property insurance provided or required by the Contract Documents) to property at the Project site caused in whole or in part by Design/Builder, a contractor of Design/Builder or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable.

- 13.4 Safeguards. Design/Builder shall erect and maintain, as required by existing conditions and performance of the Agreement, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards, promulgating safety regulations and notifying owners and users of adjacent sites and utilities.
- 13.5 Hazardous Substances. When use or storage of explosives or other hazardous substances or equipment or unusual methods are necessary for execution of the Work, Design/Builder shall exercise utmost care and carry on such activities under supervision of properly qualified personnel.
- 13.6 Load. Design/Builder shall not load or permit any part of the construction or site to be loaded so as to endanger its safety.
- 13.7 Safety Officer. Design Builder shall designate a responsible member of the Design/Builder's organization at the site whose duty shall be the prevention of accidents. This person shall be Design/Builder's superintendent unless otherwise designated by Design/Builder in writing to Owner.

ARTICLE 14. INSURANCE

- 14.1 Insurance Coverages. Design/Builder shall purchase and maintain the following insurance to cover its operations under the Contract Documents whether such operations be by itself or by any Subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable:
- 14.1.1 Workers Compensation Insurance. Design/Builder shall carry worker's compensation insurance required by Chapter 440, Florida Statutes.
- 14.1.2 General Liability Insurance. Design/Builder shall maintain during the term of this Agreement a general liability insurance policy written on a per occurrence basis with minimum limits of \$1,000,000.00. Such insurance shall protect Design/Builder from claims which may arise out of or result from the Design/Builder's operations under the Agreement and for which the Design/Builder may be legally liable, whether such operations be by the Design/Builder or by a Subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable. Such policy shall be written on an ISO standard form or its equivalent. Owner shall be named as an additional insured on such policy and such policy shall contain the Severability of Insured provision and a contractual liability endorsement. In addition, such liability policy shall provide "XCU" (Explosion, Collapse, Underground Damage) coverage for those classifications in which they are excluded.
- 14.1.3 Automobile Liability Insurance. A policy issued to and covering the liability of Design/Builder arising out of the use of all owned, non-owned, hired, rented or leased vehicles which bear, or are required to bear, license plates according to the laws of the jurisdiction in which they are to be operated, and which are not covered under Design/Builder's General Liability Insurance. The policy shall name Owner and its employees and agents as additional insured with respect to the operations to be performed. The policy shall also contain a waiver of subrogation against Owner and its employees or agents. Coverage under this policy shall have limits of liability of not less than \$1,000,000.00 per occurrence, combined single limit, for bodily injury, and property damage liability.
- 14.1.4 Professional Liability Insurance. A policy issued covering the liability of Design/Builder for any and all errors or omissions committed by Design/Builder. The coverage shall be maintained during the term of the Agreement and for at least three years following completion of all operations to be performed. The policy, or policies shall have limits of liability of not less than \$1,000,000.00 per claim and in the aggregate. The policy retroactive date will coincide with or precede Design/Builder's start of Work (including subsequent policies purchased as renewals or replacements). Design/Builder will make every effort to maintain similar insurance for at least three (3) years following project completion. If the insurance is terminated for any reason, Design/Builder agrees to purchase an extended reporting provision of at least three years to report claims arising from work that is being performed. The policy will allow for reporting of circumstances or incidents that might give rise to future claims.

14.1.5 Certificates of Insurance. Prior to commencing Design Services under this Agreement, Design/Builder shall furnish to Owner copies of Certificates of Insurance evidencing coverage as stated above issued by insurance companies authorized to do business under the laws of the Florida and with a Best's Rating of at least A/IX. The Certificates of Insurance shall contain a contract description, policy numbers, expiration dates, limits of liability and shall be signed by an authorized agent of the insuring company. Further, no cancellation or modification of the policy or policies described above shall occur without at least thirty (30) calendar days prior written notice given to Owner. If any of the foregoing insurance coverage are required to remain in force after final payment, an additional certificate evidencing continuation of such coverage shall be submitted with the application for final payment.

14.2. Property Insurance. The Design/Builder shall maintain builder's risk property insurance in the amount of the Work as well as subsequent modifications thereto for the entire Work at the Project site on a replacement cost basis. Such builder's risk property insurance shall be maintained, unless otherwise provided in the Contract Documents or otherwise agreed in writing, by all persons and entitled who are beneficiaries of such insurance, until final payment has been made as provided in Section 9.13 or until no other person or entity other than the Owner has an insurable interest in the property required by this paragraph to be covered, whichever is earlier. This insurance shall include interests of the Owner, Design/Builder, Subcontractors and Sub-subcontractors in the Work.

Such insurance shall be written on a builder's risk form or its equivalent and shall include coverage on a replacement value basis. Property covered by this insurance include property of the Owner, Design/Builder, Subcontractors and Sub-subcontractors, consisting of materials, supplies, machinery, equipment and fixtures which will become a permanent part of the Work at the Project site. Property covered by this insurance shall also include temporary building(s) or structure(s) at the site other than office trailers. The perils insurance under this insurance shall be at least equivalent to the insured perils of the Causes of Loss-Special Form as published by the ISO, including reasonable compensation for Design/Builder's design services and expenses required as a result of such insured loss. If the property insurance provides deductibles, the Design/Builder shall pay costs not covered because of such deductibles to the extent contingency funds are not available in the Guaranteed Maximum Price to cover such costs or as otherwise agreed in writing by the Owner and Design/Builder.

Unless otherwise provided in the Contract Documents, this builder's risk property insurance shall cover portions of the Work stored off-site after written approval of the Owner at the value established in the approval, and also portions of the Work in transit.

If the Work includes the installation and/or testing of live steam boilers, valves, pipes or lines, then this insurance shall include coverage at least equivalent to the Boiler and Machinery Coverage Form as published by the ISO. This insurance shall include interests of the Owner, Design/Builder, subcontractors or sub-subcontractors in the Work and the Owner and Design/Builder shall be named insured.

Prior to commencement of the Work, Design/Builder shall provided Owner with a Certificate of Insurance which evidences the builder's risk property insurance required by section and is issued by an insurance company authorized to do business under the laws of the Florida and with a Best's Rating of at least A/IX. This certificate of insurance shall include an additional named insured provision and a waiver of subrogation provision in favor of Owner to protect the interest of Owner. Upon receipt of the policy, Design/Builder shall file with Owner a copy of each policy. Such policy shall contain a provision that the policy will not be cancelled, modified or allowed to expire until at least thirty (30) days notice has been given to Owner. Each policy shall contain all generally applicable conditions, definitions, exclusions and endorsements related to this Project.

A loss or losses insured under the builder's risk property insurance shall be adjusted by the Design/Builder and the insurer, with Owner's consent. The Design/Builder shall repair or replace the damaged property with the insurance proceeds. The Design/Builder shall be responsible for all damages and necessary repairs whether or not the loss is covered by the property (builder's risk) insurance.

Partial occupancy or use prior to Substantial Completion shall not commence until the insurance company or companies providing property insurance have consented to such partial occupancy or use by endorsement or otherwise. Owner and Design Builder shall take reasonable steps to obtain consent of the insurance company or companies and shall not, without mutual written consent, take any action with respect to partial occupancy or use that would cause cancellation, lapse or reduction of coverage.

ARTICLE 15. SURETY BONDS

- 15.1 The Design/Builder shall furnish bonds covering faithful performance of the Agreement and payment of obligations arising hereunder, each in an amount equal to the Guaranteed Maximum Price, on Owner's standard forms. Owner shall have the right, from time to time, to require Design/Builder to increase the amount of the bonds in conjunction with increases in the Guaranteed Maximum Price hereunder or to obtain the surety's consent to any changes in the Work. If requested by any person or entity appearing to be a potential beneficiary of the bond covering payment of obligations arising under the Agreement, Design/Builder shall promptly furnish a copy of the bonds or shall permit a copy to be made. If requested by Owner, Design/Builder shall require its Subcontractors to provide performance and payment bonds in the form approved by Owner. All bonds required by this section shall be written through reputable and responsible insurance companies licensed to do business in the State of Florida, with a Best Rating of at least A/IX and otherwise meet the requirements set forth in Section B-14 of the University of Central Florida Front End Documents. Attorneys-in-Fact who sign such surety bonds must file with it a certified copy of their power of attorney to sign such bonds.

ARTICLE 16. PERSONNEL, SUBCONTRACTORS, OTHER CONTACTORS

- 16.1 Project Team. Design/Builder will use the Project Team designated in Design/Builder's professional qualifications statement submitted to Owner. Design Builder will not remove or replace any members of the Project Team except with the written approval of Owner based upon good cause shown or as directed by Owner as provided hereunder.
- 16.2 Subcontractors. Design/Builder shall promptly furnish to Owner in writing the names of the persons or entities Design/Builder will engage as Subcontractors to perform its obligations under the Contract Documents. Design/Builder shall provide such information regarding the proposed Subcontractors as Owner deems necessary. Owner shall promptly reply to Design/Builder, in writing, stating any reasonable objections Owner may have to such proposed Subcontractors. Design/Builder shall not enter into a subcontract with an intended Subcontractor to whom Owner reasonably and timely objects, after due investigation. Any consent or failure to reject by Owner shall in no way relieve Design/Builder of any of its duties or warranties under the Contract. Design/Builder understands and agrees that Design/Builder alone is responsible to Owner for all of its obligations under the Contract Documents and that any review of Subcontractors or Sub-subcontractors by Owner will not in any way make Owner responsible to any persons or entities, nor will it make Owner responsible for the actions or omissions of any Subcontractor or Sub-subcontractor.
- 16.3 Binding Subcontractors. By appropriate written agreement, Design/Builder shall require each Subcontractor, to the extent of the Design Services or Work to be performed by the Subcontractor, to be bound to Owner by terms of the Contract Documents, and to assume toward Owner all the obligations and responsibilities which Design/Builder, by the Contract Documents, assumes toward Owner. Each subcontract agreement shall preserve and protect the rights of Owner under the Contract Documents with respect to the Design Services or Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the subcontract agreement, the benefit of all rights, remedies and redress against Design/Builder that Design/Builder, by the Contract Documents, has against Owner. Where appropriate, Design/Builder shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. Design/Builder shall make available to each proposed Subcontractor, prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor will be bound, and, upon written request of the Subcontractor, identify to the Subcontractor terms and conditions of the proposed contract agreement

which may be at variance with the Contract Documents. Subcontractors shall similarly make copies of applicable portions of such documents available to their respective proposed Sub-subcontractors.

- 16.4 Subcontractors' Agreements. At Owner's request, Design/Builder shall provide Owner with a copy of each contract or agreement entered into by Design/Builder with others in furtherance of the performance of this Agreement.
- 16.5 Contingent Assignment of Contracts. Each subcontract agreement for a portion of the Work or the Design Services is assigned by Design/Builder to Owner provided that: (i) the assignment is effective only after termination of the Agreement by Owner pursuant to Article 18 and only for those subcontractor agreements which the Owner accepts by notifying the Subcontractor in writing, and (ii) assignment is subject to the prior rights of the surety's obligated under the bonds required hereby.
- 16.6 Removal. If at anytime during the course of the Project, Owner, with Design/Builder's concurrence, determines that the performance of any Subcontractor, member of the Project Team or other member of Design/Builder's staff working on the Project is unsatisfactory, Owner may require Design/Builder to remove such person or entity from the Project immediately and replace such person or entity. Replacements of members of the Project Team or Design/Builder's staff shall be at no cost or penalty to Owner for delays or inefficiencies the change may cause. Design/Builder shall be entitled to request a Change Order for costs and time associated with the replacement of Subcontractors required by Owner.
- 16.7 Worker Harmony. Design/Builder shall exert every reasonable and diligent effort to assure that all labor employed by Design/Builder and its Subcontractors on the Project shall work in harmony, and be compatible, with all other labor being used on the Project and representatives of Owner. Design/Builder shall include this provision in all contracts with its Subcontractors, and all Subcontractors shall include such provision in their contracts with sub-subcontractors; provided, however, that this provision shall not be interpreted or enforced so as to deny or abridge, on account of membership or non-membership in any labor union or labor organization, the right of any person to work guaranteed by Article I, Section 6 of the Florida Constitution.
- 16.8 No Contractual Relationship. Except for the contingent assignment provided in Section 16.5, nothing contained in this Agreement shall create a contractual relationship between Owner and any other person or entity other than Design/Builder.
- 16.9 Good Order. The Design/Builder shall enforce strict discipline and good order among the Design/Builder's employees and other persons carrying out Design/Builder's obligations under the Contract Documents. The Design/Builder shall not permit employment of unfit persons or persons not skilled in tasks assigned to them.
- 16.10 Liability. Design/Builder shall be responsible to Owner for acts and omissions of Design/Builder's employees, contractors and their subcontractors, agents and employees, and other persons, including, design professionals, performing any portion of Design/Builder's obligations under the Contract Documents.
- 16.11 Additional Contractors. Owner reserves the right to perform construction or operations related to the Project with Owner's own forces, and to award separate contracts in connection with other portions of the Project or other construction or operations on the Project site under conditions of insurance and waiver of subrogation identical to the provisions of this Agreement. If Design/Builder claims that delay or additional cost is involved because of such action by Owner, Design/Builder shall assert such claims as provided in Article 12, provided that no claim for such delay will be asserted if there is a partial termination of this Agreement due to failure to agree on the Guaranteed Maximum Price. Design/Builder shall afford Owner's separate contractors reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities and shall connect and coordinate Design/Builder's construction and operations with theirs as required by the Contract Documents.

ARTICLE 17. INDEMNIFICATION

- 17.1 From Personal Injury Or Damage To Tangible Property. To the extent permitted by law, Design/Builder shall indemnify and hold Owner and its officers, employees and trustees harmless from any and all claims, liability, damages, loss, cost and expense of every type whatsoever arising out of damage to property or

injury or death to persons, including, without limitation, attorneys' fees and expenses, in connection with Design/Builder's performance of this Agreement to the extent caused by the negligent acts or omissions, recklessness, or intentional wrongful misconduct of Design/Builder or anyone for whose acts or omissions Design/Builder may be liable.

The indemnification contained herein shall survive the expiration or earlier termination of this Agreement and the completion of the Work.

- 17.2 Claims Under Indemnity: In claims against Owner indemnified under this Article by an employee of Design/Builder, anyone directly or indirectly employed by Design/Builder or anyone for whose acts Design/Builder may be liable, the indemnification obligation under this Article shall not be limited by a limitation on amount or type of damages, compensation or benefits payable by or for Design/Builder under workers' compensation acts, disability benefit acts or other employee benefit acts, nor shall the indemnification obligation be limited by the existence of any insurance policy.
- 17.3 Hazardous Substances. In the event Design/Builder, in good faith, reasonably believes, it has discovered hazardous or contaminated materials, including, but not limited to, asbestos, PCBs, petroleum, hazardous waste, or radioactive material, Design/Builder shall stop all Work in connection with such hazardous condition and in any area affected thereby, and notify Owner of the discovery of said condition in writing. Design/Builder shall strictly comply with all applicable laws, regulations, rules or other promulgations by governing bodies, agencies, authorities or organizations having jurisdiction over the Project or the discovery of said hazardous or contaminated material. Design/Builder shall secure the Work site to prevent access by unauthorized personnel as directed by Owner. If (i) Design/Builder fails to comply with this section, (ii) contaminated or hazardous material is knowingly transported (either on or off site), or material which Design/Builder or its employees, agents, or subcontractors should have known were contaminated or hazardous material is transported (either on or off site), without notice to Owner, such materials shall become the property of Design/Builder and Design/Builder shall be solely responsible for all costs and fines associated therewith. If Design/Builder stops the Work because of a good faith, reasonable belief that it has discovered hazardous or contaminated materials, Design/Builder shall be entitled to an appropriate adjustment in the Project schedule and to be compensated for all out of pocket costs associated with the stoppage pursuant to procedures set forth in Article 10.

ARTICLE 18. TERMINATION OR SUSPENSION

- 18.1 Suspension Of Performance. Owner may for any reason whatsoever suspend performance under the Agreement. Owner shall give written notice of such suspension to Design/Builder specifying when such suspension is to become effective.
- 18.2 Ceasing Performance Upon Suspension. From and upon the effective date of any suspension ordered by Owner, Design/Builder shall incur no further expense or obligations in connection with the Agreement, and Design/Builder shall cease its performance. Design/Builder shall also, at Owner's direction, either suspend or assign to Owner any of its open or outstanding subcontracts or purchase orders.
- 18.3 Claim For Costs Of Suspension. In the event Owner directs a suspension of performance under this Article, through no fault of Design/Builder, and provided Design/Builder submits a proper claim, Owner shall pay Design/Builder as full compensation for such suspension Design/Builder's reasonable costs, actually incurred and paid, of: (i) demobilization and remobilization, including such costs paid to Subcontractors; (ii) preserving and protecting Work in place; (iii) storage of materials or equipment purchased for the Project, including insurance thereon; and (iv) performing in a later, or during a longer, time frame than that contemplated by this Agreement.
- 18.4 Resumption Of Work After Suspension. If Owner lifts the suspension it shall do so in writing, and Design/Builder shall promptly resume performance of the Agreement unless, prior to receiving the notice to resume, Design/Builder has exercised its right of termination as provided herein.
- 18.5 Termination By Design/Builder For Prolonged Suspension Of Performance. If performance of this Agreement is stopped for a period of ninety (90) consecutive days at the direction of Owner pursuant hereto or by an order of any court or other public authority, or as a result of any act of the government, and provided that such suspension by Owner or public authority is through no fault of Design/Builder or any person or entity working directly or indirectly for Design/Builder, Design/Builder may, upon ten (10) days'

written notice to Owner, terminate performance under the Agreement and recover from Owner on the terms and conditions and in the amounts provided in Section 18.8.

- 18.6 Termination By Design/Builder For Cause. If Owner shall persistently or repeatedly fail to perform any material obligation to Design/Builder in breach of this Agreement for a period of thirty (30) days after receiving written notice from Design/Builder of its intent to terminate hereunder, Design/Builder may terminate performance under the Agreement by written notice to Owner. In such event, Design/Builder shall be entitled to recover from Owner on the terms and conditions and in the amounts as though Owner had terminated Design/Builder's performance under the Agreement for convenience pursuant to Section 18.7.
- 18.7 Termination By Owner For Convenience. Owner may, for any reason whatsoever, or without reason, terminate performance under the Agreement by Design/Builder for convenience. Owner shall give written notice of such termination to Design/Builder specifying when termination becomes effective. Design/Builder shall incur no further obligations in connection with the Agreement and Design/Builder shall stop Design Services and the Work when such termination becomes effective. Design/Builder shall also, at Owner's direction, either terminate or assign to Owner outstanding orders and subcontracts. Design/Builder shall settle the liabilities and claims arising out of any terminated subcontracts and purchase orders. Design/Builder shall transfer title and deliver to Owner such completed or partially completed Design Documents, Work and materials, equipment, parts, fixtures, information and contract rights as Design/Builder has. If Owner takes an assignment of orders and subcontracts, Design/Builder shall be released from liabilities arising thereunder from and after the date of their assignment to Owner.
- 18.8 Submission Of Termination Claim And Compensation For Termination For Convenience. When terminated for convenience, Design/Builder shall be compensated as follows:
1. Design/Builder shall submit a termination claim to Owner specifying the amounts believed to be due because of the termination for convenience together with costs, pricing or other data required by Owner. If Design/Builder fails to file a termination claim within three (3) months from the effective date of termination, Owner shall pay Design/Builder an amount derived in accordance with subparagraph (3) below;
 2. Owner and Design/Builder may agree to the compensation, if any, due to Design/Builder hereunder;
 3. Absent agreement to the amount due to Design/Builder, Owner shall pay Design/Builder, as full compensation for termination for convenience, the following amounts:
 - (a) That portion of the Guaranteed Maximum Price representing the value of the Design Services and the Work, as reflected on the Schedule of Values, performed by Design/Builder prior to its receipt of the notice of termination, which is completed and accepted by Owner for which Design/Builder has not been previously paid;
 - (b) Reasonable costs incurred in preparing to perform and in performing the terminated portion of the Design Services and the Work, including demobilization and move-out costs and in terminating Design/Builder's performance, plus a fair and reasonable allowance for direct jobsite overhead and profit thereon (such profit shall not include anticipated profit or consequential damages); provided however, that if it appears that Design/Builder would have not profited or would have sustained a loss if the entire Agreement would have been completed, no profit shall be allowed or included and the amount of compensation shall be reduced to reflect the anticipated rate of loss, if any;
 - (c) Reasonable costs of settling and paying claims arising out of the termination or assignment of subcontracts or orders, as applicable. These costs shall not include amounts paid in accordance with other provisions hereof.

In no event shall Design/Builder be entitled to recover anticipated profits or other consequential damages from Owner on account of a termination for convenience or an erroneous termination for cause, as described below. The total sum to be paid Design/Builder under this section shall not exceed the Guaranteed Maximum Price, as properly adjusted, reduced by the amount of payments otherwise made, and shall in no event include duplication of payment.

- 18.9 Termination By Owner For Cause. If Design/Builder does not perform the Design Services or Work, or any part thereof, in a timely manner, supply adequate labor, supervisory personnel or proper equipment or materials, or if it fails to timely discharge its obligations for labor, equipment and materials, or proceeds to disobey applicable laws, ordinances, rules, regulations or orders of any public authority having jurisdiction, or otherwise commits a violation of a material provision of the Contract, then Owner may by written notice to Design/Builder, without prejudice to any other right or remedy against Design/Builder or others, terminate the performance of Design/Builder and take possession of the Project site and of all materials and equipment at the site and may finish the Work by whatever methods it may deem expedient. In such cases, Design/Builder shall not be entitled to receive any further payment until the Work is finished.
- 18.10 Erroneous Termination For Cause. In the event the employment of Design/Builder is terminated by Owner for cause pursuant to Section 18.9 and it is subsequently determined by a court or other tribunal of competent jurisdiction that such termination was without cause, such termination shall thereupon be deemed a Termination for Convenience under Section 18.7 and the provisions of Section 18.8 regarding compensation shall apply.
- 18.11 Payments To Design/Builder After Termination For Cause. If the unpaid balance of the Guaranteed Maximum Price exceeds the costs of finishing the Work, including compensation for Owner's additional costs and expenses of every nature whatsoever made necessary thereby, such excess shall be paid to Design/Builder. If such costs exceed the unpaid balance, Design/Builder shall pay the difference to Owner. This obligation for payment shall survive the termination of the Agreement.

ARTICLE 19. MISCELLANEOUS

- 19.1 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida without regard to its choice of laws provisions and venue shall lie in the courts in Orange County, Florida.
- 19.2 Discounts. All quantity discounts shall accrue to Owner. All trade discounts, rebates and refunds, and all returns from the sale of surplus materials and equipment shall be credited to Owner.
- 19.3 Successors and Assigns. Owner and Design/Builder, respectively, bind themselves, their partners, successors, assigns and legal representatives to the other party to this Agreement and to the partners, successors and assigns of such other party with respect to all covenants of this Agreement. Design/Builder shall not assign (whether partially or wholly) this Agreement. If Design/Builder makes an assignment in accordance with this provision, Design/Builder shall nevertheless remain legally responsible for all obligations arising under the Agreement, unless otherwise agreed by Owner.
- 19.4 Ownership of Contract Documents. The Design Documents prepared by the Design/Builder for this Project are instruments of the Design/Builder's service for use solely with respect to this Project and, unless otherwise provided, the Design/Builder shall be deemed the author of these documents and shall retain all common law, statutory and other reserved rights, including the copyright. The Owner shall be permitted to retain copies, including electronic format and reproducible copies, of the Design Documents and may use the same, without compensation to the Design/Builder, as may be necessary or desirable in the operation and maintenance of the Project and the remainder of Owner's campus, including, without limitation, additions or renovations to this Project and submittals or distribution of the same to meet official regulatory requirements or other similar requirements, provided in no event may the Owner use the Design Documents for the construction of a new facility unless agreed to in writing by Design/Builder.
- 19.5 Change of Address. If the Design/Builder's address changes, the Design/Builder shall provide written notice of the same to Owner.
- 19.6 Historic Items. If in the execution of the Work any items of historical significance or any valuable items or materials of any kind are discovered, before taking any further action Design/Builder shall promptly notify Owner and Owner shall provide instructions to Design/Builder on the handling of such item or material.
- 19.7 Assignment of Anti-trust Claims. Design/Builder agrees that after completion of all Work under this Agreement and prior to final payment; it will execute and deliver to the Owner an "Assignment of Anti-trust Claims" on Owner's standard form. In addition, Design/Builder also agrees that prior to final payment, it will cause each of its suppliers and Subcontractors who have furnished services, goods or

materials in connection with the performance of this Agreement, to execute and deliver to the Owner an "Assignment of Anti-trust Claims" on Owner's standard form.

- 19.8 Solicitations. Design/Builder represents and warrants that it has not employed or retained any company or person (other than a bona fide employee working solely for the Design/Builder) to solicit or secure this Agreement, and that it has not paid or agreed to pay any person, company, corporation individual or firm (other than a bona fide employee working solely for the Design/Builder) any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from the award or making of this Agreement.
- 19.9 Access. Design/Builder shall provide Owner and its representatives access to the Work in preparation and progress wherever located.
- 19.10 Factual Unit Costs. Design/Builder hereby represents and warrants that, in compliance with 287.055(5)(a), Florida Statutes, all factual unit costs supporting the portion of the Guaranteed Maximum Price allocable to Design Services are accurate, complete and current upon signing this Agreement and that any other factual unit costs which may be furnished to Owner in the future to support any additional fees for Design Services that may be authorized will also be accurate and complete. The portion of the Guaranteed Maximum Price allocable to Design Services and any additional fees that may be authorized in the future shall be adjusted to exclude any amount which the Owner determines was included due to inaccurate, incomplete, or non-current factual unit costs.
- 19.11 Public Access to Documents. This Agreement may be unilaterally canceled by the Owner for refusal by Design/Builder to allow public access to all documents, papers, letters, or other material subject to the provisions of Chapter 119, Florida Statutes, and made or received by Design/Builder in conjunction with this Agreement.
- 19.12 Annual Appropriations. The Owner's performance and obligation to pay under this Agreement is contingent upon a sufficient annual appropriation by the Legislature.
- 19.13 Public Entity Crime. Design/Builder represents and warrants that it is not on the convicted vendor list for a public entity crime committed within the past 36 months. Design/Builder further represents and warrants that it will neither utilize the services of, nor contract with, any supplier, subcontractor, or consultant for an amount in excess of \$15,000.00 in connection with this Project if such supplier, subcontractor or consultant has been placed on the convicted vendor list within the past 36 months.
- 19.14 Direct Purchase Program. Notwithstanding anything to the contrary contained in this Agreement, Owner may elect to implement a direct purchase program whereby it may purchase materials and equipment included in any Trade Contractor's bid for a portion of the Work directly from the supplier of such materials or equipment in order to achieve sales tax savings. Such materials and equipment are referred to herein as "Direct Purchase Materials". If Owner elects to implement a direct purchase program it shall so notify Design/Builder, in writing, and the terms of this subparagraph shall govern such program. At the time Design/Builder provides Owner with the bid tabulation analysis as required by this Agreement (which bids shall include the cost of all potential Direct Purchase Materials and sales taxes applicable thereto), Design/Builder shall submit to Owner a list, prepared by applicable Trade Contractors, of materials and equipment appropriate for consideration by Owner as Direct Purchase Materials. If Owner elects to purchase any Direct Purchase Materials, it shall so notify Design/Builder and Design/Builder shall thereafter promptly furnish to Owner, at least seven (7) days prior to the date such Direct Purchase Materials must be ordered, a purchase order reflecting the approved Direct Purchase Materials, together with acceptable evidence that Design/Builder competitively bid for the portion of the Work which includes the Direct Purchase Materials. Acceptable evidence means, at a minimum, that Design/Builder performed all advertising required by this Agreement, utilized pre-qualification criteria approved by Owner and obtained at least three (3) sealed written quotes from various bidders for the applicable portions of the Work or, if not, provides a written explanation as to why. In addition, Design/Builder shall reduce the applicable Trade Contractor's contract amount by the cost of the Direct Purchase Materials and sales tax related thereto. Upon Owner's receipt of the purchase order and supporting materials, Owner will review the same and, if approved, issue a purchase order directly to the supplier of the applicable Direct Purchase Material, with delivery F.O.B. Project site. Upon delivery of the Direct Purchase Materials to the Project site, Design/Builder shall ensure that the Direct Purchase Materials are as requested in Owner's purchase order and if so, Owner will take title to the Direct Purchase Materials and Design/Builder shall forward the

approved invoices and associated back-up documentation to Owner. Owner will process these invoices and issue payment directly to the applicable supplier. Design/Builder shall obtain builder's risk insurance on the Direct Purchase Materials naming Owner as the insured or an additional insured, provided Owner shall reimburse Design/Builder for the cost of such insurance as provided by this Agreement. Except to the extent modified by this section, Design/Builder shall be responsible for satisfying all of its other obligations with respect to the Direct Purchase Materials pursuant to this Agreement, as if the Direct Purchase Materials had been purchased by it. There shall be no additional charge to Owner for services provided pursuant to this section. Change Orders reflecting the removal of the Direct Purchase Materials and applicable sales tax shall be issued on a monthly basis.

- 19.15 Entire Agreement. The Contract Documents represent the entire agreement between Owner and Design/Builder and supersede all prior negotiations, representations or agreements. This Agreement shall not be superseded by any provision of the documents for construction and may be amended only by written instrument signed by both Owner and Design/Builder.

THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.

IN WITNESS WHEREOF, a duly authorized and validly existing representatives of each party has affixed their respective signature hereto, effective as of the date first written above.

FOR THE CONSTRUCTION MANAGER:

ATTEST:

(NAME, TITLE AND CORPORATE SEAL)

BY: _____
NAME, TITLE:

AS WITNESSED BY:

DATE: _____

FOR THE OWNER:

THE UNIVERSITY OF CENTRAL FLORIDA BOARD OF TRUSTEES

AS WITNESSED BY:

BY: _____
John C. Hitt
President
University of Central Florida

DATE: _____

APPROVED AS TO FORM AND LEGALITY

APPROVED

BY: _____
Jordan P. Clark
Associate General Counsel,
University of Central Florida

BY: _____
Peter Newman
Director Facilities Planning and Construction
University of Central Florida

DATE: _____

DATE: _____