

# DRAFT AIA<sup>®</sup> Document B101<sup>™</sup> - 2017

## Standard Form of Agreement Between Owner and Architect

**AGREEMENT** made as of the « » day of « » in the year « »  
(In words, indicate day, month and year.)

**BETWEEN** the Owner:  
(Name, legal status, address and other information)

Tower Grove Park  
4257 Northeast Dr,  
St. Louis, MO 63110

and the Architect:  
(Name, legal status, address and other information)

«TBD »

for the following Project:  
(Name, location and detailed description)

«Tower Grove Park Community Basketball Courts »

The Owner and Architect agree as follows.

**ADDITIONS AND DELETIONS:**  
The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

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ARTICLE 1 INITIAL INFORMATION

§ 1.1 This Agreement is based on the Initial Information set forth in this Section 1.1.

*(For each item in this section, insert the information or a statement such as "not applicable" or "unknown at time of execution.")*

§ 1.1.1 The Owner's program for the Project:

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

«

§ 1.1.2 The Project's physical characteristics:

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

»

§ 1.1.3 The Owner's budget for the Cost of the Work, :

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

The approved Total Program Budget is \$TBD. (hereinafter TPB)

The anticipated Construction Budget is \$450,000

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

.1 Design phase milestone dates, if any:

1. Schematic Design and Design Development Phase – (10/18/22)
2. Review of DD Package and Estimating – (11/1/22)
3. Construction Documents Phase – (12/13/22)
4. Bid Packaging/Permitting – (1/10/23)
5. Bidding, Selection, Negotiation – (2/14/23)
6. Contractor NTP – 2/15/23

»

.2 Construction commencement date:

«TBD»

.3 Substantial Completion date or dates:

«TBD »

.4 Other milestone dates:

«N/A »

**§ 1.1.5** The Owner intends the following procurement and delivery method for the Project:  
*(Identify method such as competitive bid or negotiated contract, as well as any requirements for accelerated or fast-track design and construction, multiple bid packages, or phased construction.)*

« »

**§ 1.1.6** The Owner’s anticipated Sustainable Objective for the Project:  
*(Identify and describe the Owner’s Sustainable Objective for the Project, if any.)*

« »

**§ 1.1.6.1** If the Owner identifies a Sustainable Objective, the Owner and Architect shall complete and incorporate AIA Document E204™–2017, Sustainable Projects Exhibit, into this Agreement to define the terms, conditions and services related to the Owner’s Sustainable Objective. If E204–2017 is incorporated into this agreement, the Owner and Architect shall incorporate the completed E204–2017 into the agreements with the consultants and contractors performing services or Work in any way associated with the Sustainable Objective.

**§ 1.1.7** The Owner identifies the following representative in accordance with Section 5.3:  
*(List name, address, and other contact information.)*

Navigate Building Solutions  
 8419 Manchester Road  
 St. Louis, MO 63144  
 Craig Schluter, Principal  
 Katie Aholt, Project Director

**§ 1.1.8** The persons or entities, in addition to the Owner’s representative, who are required to review the Architect’s submittals to the Owner are as follows:  
*(List name, address, and other contact information.)*

« »

**§ 1.1.9** The Owner shall retain the following consultants and contractors:  
*(List name, legal status, address, and other contact information.)*

.1 Geotechnical Engineer:

»

.2 Surveyor:

»

.3 Other, if any:

*(List any other consultants and contractors retained by the Owner.)*

« »

§ 1.1.10 The Architect identifies the following representative in accordance with Section 2.3:  
*(List name, address, and other contact information.)*

« TBD »

§ 1.1.11 The Architect shall retain the consultants identified in Sections 1.1.11.1 and 1.1.11.2:  
*(List name, legal status, address, and other contact information.)*

§ 1.1.11.1 Consultants retained under Basic Services:

.1 Civil Engineer:

« TBD »

.2 Landscape Architect:

«TBD »

.3 MEP/Structural Engineer:

«TBD »

§ 1.1.11.2 Consultants retained under Supplemental Services:

« »

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

« »

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

§ 1.3 The parties shall agree upon protocols governing the transmission and use of Instruments of Service or any other information or documentation in digital form. The parties will use AIA Document E203™-2013, Building Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data.

## ARTICLE 2 ARCHITECT'S RESPONSIBILITIES

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

§ 2.2 The Architect shall perform its services consistent with the professional skill and care ordinarily provided by architects practicing in the same or similar locality under the same or similar circumstances (the "Standard of Care"). The Architect shall perform its services as expeditiously as is consistent with such professional skill and care and the orderly progress of the Project.

§ 2.3 The Architect's representative authorized to act on behalf of the Architect with respect to the Project is identified Section 1.1.10 of this Agreement.

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

§ 2.5 The Architect, in consideration of the Fee specified hereinafter, conveys and agrees to perform, in connection with this Project, with the assistance of competent registered professional staff and/or sub consultants including, but not limited to, landscape architect, structural engineer, civil engineer, mechanical engineer, electrical engineer and any others as necessary, to complete the professional services as detailed herein or in any additional contract Attachments/Exhibits.

§ 2.6 The Architect is responsible for the coordination of all drawings and other design documents relating to the Architect's project design, regardless of whether such drawings and documents are prepared by the Architect or by the Architect's consultants. If preliminary or design development work has been performed by others, the Architect is nevertheless fully responsible for and accepts full responsibility for such earlier work when the Architect performs subsequent phases of the Basic Services, as fully as if the preliminary, schematic, and design development work had been performed by the Architect itself. The Architect is responsible for coordination and internal checking of all design documents and for the accuracy of all dimensional, layout and specified information contained therein, as fully as if each document were prepared by the Architect. The Architect is responsible for the completeness and accuracy of all documents, including drawings and specifications, submitted by or through the Architect and for their compliance with all applicable codes, ordinances, regulations, laws and statutes.

§ 2.7 The Architect must prepare drawings, specification and other documents necessary so that the construction contract bid from a responsive, responsible bidding contractor will be within the COW defined by the last estimate agreed upon by all parties prior to Project Bidding. The Architect shall be responsible to redesign at its own expense to reduce scope to get within budget.

§ 2.8 The Architect shall provide a Draft Preliminary Construction Cost Estimate to Tower Grove Park at the completion of Schematic Design and Final Preliminary Construction Cost Estimate at the completion of Design Development. Furthermore, the Architect shall collaborate with and review Navigate Building Solutions estimates of the scope of services. The Architect may, at its own expense, prepare independent estimates of the COW if deemed necessary.

§ 2.9 The Architect shall maintain the insurance identified in **Exhibit "A"** for five (5) years following the earlier of : (i) termination of this Agreement or (ii) Substantial Completion of the Work. If Owner requires other or additional insurance types or limits exceeding the types and limits Architect normally maintains as described in **Exhibit "A"** and Architect is able to procure such insurance, the Owner shall pay the Architect as set forth in Section 11.9.

§ 2.9.1 **Additional Insured Obligations.** To the fullest extent permitted by law, the Architect shall cause the primary and excess or umbrella policies for Commercial General Liability and Automobile Liability to include the Owner as an additional insured for claims caused by the Architect's negligent acts or omissions. The additional insured

coverage shall be primary and non-contributory to any of the Owner's insurance policies and shall apply to both ongoing and completed operations.

§ 2.9.2 The Architect has provided certificates of insurance to the Owner that evidence compliance with the requirements in this Section 2.5.

§ 2.10 Owner agrees that Architect is not required to provide engineering services of any kind under this Agreement, but to the extent such services are required, Architect's obligations shall be limited to identifying a duly licensed engineer to provide such services pursuant to a separate subcontract between Architect and such engineer and to otherwise coordinate the work of such engineers with the design services provided by Architect under this Agreement. Any such subcontract shall comply in all respects with the requirements of this Agreement for all subcontracts for the Project.

§ 2.11 To the fullest extent permitted by law, Architect, its successors, assigns and guarantors, shall defend, indemnify and hold harmless Tower Grove Park, its agents, representatives, officers, directors, officials, employees and Navigate Building Solutions from and against demands, proceedings, suits, actions, claims, damages, losses, expenses, including but not limited to, attorney fees, court costs, and the cost of appellate proceedings where recoverable by law, but only to the extent arising from or out of, or resulting from any negligent acts, errors, mistakes or omissions caused by Architect relating to work or services in the performance of this Contract, including but not limited to, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable and any injury or damages claimed by any of Architect's and Subcontractor's employees.

### ARTICLE 3 SCOPE OF ARCHITECT'S BASIC SERVICES

§ 3.1 The Architect's Basic Services consist of those described in this Article 3 and include structural, mechanical, and electrical engineering services identified herein. Services not set forth in this Article 3 are Supplemental or Additional Services.

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

§ 3.1.2 The Architect shall coordinate its services with those services provided by the Owner and the Owner's consultants. The Architect shall be entitled to rely on, and shall not be responsible for, the accuracy, completeness, and timeliness of, services and information furnished by the Owner and the Owner's consultants. The Architect shall provide prompt written notice to the Owner if the Architect becomes aware of any error, omission, or inconsistency in such services or information, but shall not have any duty to independently research, validate or verify such services or information.

§ 3.1.3 As soon as practicable after the date of this Agreement, the Architect shall submit for the Owner's approval a schedule for the performance of the Architect's services. The schedule initially shall include anticipated dates for the commencement of construction and for Substantial Completion of the Work as set forth in the Initial Information. The schedule shall include allowances for periods of time required for the Owner's review, for the performance of the Owner's consultants, and for approval of submissions by authorities having jurisdiction over the Project. Once approved by the Owner, time limits established by the schedule shall not, except for reasonable cause, be exceeded by the Architect or Owner. With the Owner's approval, the Architect shall adjust the schedule, if necessary, as the Project proceeds until the commencement of construction. In the event the Architect is hindered, delayed or prevented from performing its obligations under this Agreement as a result of any fire, flood, landslide, tornado or other act of God, malicious mischief, theft, strike, lockout, other labor problems, legal requirements, orders or judgments, shortages of material or labor, failure of any governmental agency or Owner to furnish timely information or to approve or to disapprove Architect's work, delays caused by faulty performance by the Owner or by contractors of any level or any other cause beyond the reasonable control of Architect, the time for completion of Architect's work shall be extended by the period of resulting delay and such extension shall be considered Additional Services as defined in Section 4.2 and compensated in accordance with Section 11.3; provided, however, that Architect is obligated to take all reasonable measures to mitigate and otherwise limit any costs or expenses incurred due to such a delay. When the delays are beyond the Architect's reasonable control, the Owner agrees that the Architect is not responsible for damages, nor shall the Architect be deemed to be in default of this Agreement.

§ 3.1.4 The Architect shall not be responsible for an Owner's directive or substitution, or for the Owner's acceptance of non-conforming Work, made or given without the Architect's written approval. The Owner may choose to disregard the advice of the Architect or may otherwise choose to deviate during construction from the printed documents prepared by the Architect. Accordingly, Owner hereby agrees to indemnify and hold harmless the Architect, its agents, employees and consultants from and against all claims, damages, losses and expenses, including but not limited to attorneys' fees and economic damages, arising out of, in connection with, or resulting from the performance of (or failure to perform) any aspect of construction of the Project, where the Owner has knowingly authorized or permitted a deviation from any document prepared by Architect which, over Architect's objection, has not been corrected or where the Owner has elected not to follow any written recommendation of the Architect.

§ 3.1.5 The Architect shall contact governmental authorities required to approve the Construction Documents and entities providing utility services to the Project. In the exercise of the Standard of Care, the Architect shall respond to applicable design requirements imposed by those authorities and entities.

§ 3.1.6 The Architect shall assist the Owner in connection with the Owner's responsibility for filing documents required for the approval of governmental authorities having jurisdiction over the Project.

§ 3.1.7 Latent Conditions. In the event that the Project includes any remodeling, alteration, or rehabilitation work, Client acknowledges that certain design and technical decisions shall be made on assumptions based on available documents and visual observations of existing conditions provided by the Owner. If the Project involves renovation of an existing structure or a site where structures have previously been located, the Owner acknowledges that it is impossible to anticipate all conditions that may arise in the absence of full exploratory testing by appropriate consultants to the Owner. If conditions are uncovered during construction that could not have reasonably been anticipated by Architect in the absence of exploratory testing, then Architect shall be compensated on an Additional Services basis for revisions to the Drawings and related professional services necessitated by said unanticipated conditions.

§ 3.1.8 Areas and Measurements. Areas and measurements provided by Architect are derived from drawing dimensions or field measurements and are not intended to be used as the basis for calculating rent or for other similar purposes.

§ 3.1.9 Design/Build by Contractor. Architect and its consultants shall have no responsibility for the design, technical adequacy or accuracy, installation, or performance of any Design/Build portions of the Project delegated to a Contractor.

§ 3.1.10 The Architect shall review and approve contractor submittals.

§ 3.1.11 The Architect shall review and respond to RFI's.

§ 3.1.11 Design and Construction Phase Services Shall include the following as the responsibility of the Architect if required:

- .1 Architectural and Landscape Architecture
- .2 MEP Engineering
- .3 Lighting Design
- .4 Structural Engineering
- .5 Civil Engineering
- .6 Low Voltage Design
- .7 Landscape and Irrigation Design
- .8 Site Furniture inventory, planning, selection, estimating and procurement.
- .9 Signage Design
- .10 Public Agency Interface: All pre planning required for AHJ Approvals and permitting
- .11 Construction Cost Estimating
- .12 Code Analysis (if required)
- .13 Stakeholder Engagement & Presentations

## .14 Typical Construction Phase administration

### § 3.2 Schematic Design Phase Services

§ 3.2.1 The Architect shall review the program and other information furnished by the Owner, and shall review laws, codes, and regulations applicable to the Architect's services.

§ 3.2.2 If requested by the Owner, the Architect shall prepare a preliminary evaluation of the Owner's program, schedule, budget for the Cost of the Work, Project site, the proposed procurement and delivery method, and other Initial Information, each in terms of the other, to ascertain the requirements of the Project. The Architect shall notify the Owner of (1) any inconsistencies discovered in the Initial Information, and (2) other information or consulting services that may be reasonably needed for the Project.

§ 3.2.3 The Architect shall present its preliminary evaluation to the Owner and shall discuss with the Owner alternative approaches to design and construction of the Project. The Architect shall reach an understanding with the Owner regarding the requirements of the Project.

§ 3.2.4 Based on the Project requirements agreed upon with the Owner, the Architect shall prepare and present, for the Owner's approval, a preliminary or schematic design generally illustrating the scale and relationship of the Project components.

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

§ 3.2.5.1 The Architect shall consider sustainable design alternatives, such as material choices and building orientation, together with other considerations based on program and aesthetics, in developing a design that is consistent with the Owner's program, schedule and budget for the Cost of the Work. The Owner may obtain sustainable design services as a Supplemental Service under Section 4.1.1.

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

§ 3.2.6 At Owner's request, the Architect shall submit to the Owner its review of the Cost of the Work in accordance with Section 6.3.

§ 3.2.7 The Architect shall submit the Schematic Design Documents to the Owner, and request the Owner's approval.

### § 3.3 Design Development Phase Services

§ 3.3.1 Based on the Owner's approval of the Schematic Design Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Design Development Documents for the Owner's approval. The Design Development Documents shall illustrate and describe the development of the approved Schematic Design Documents and shall consist of drawings and other documents including plans, sections, elevations, typical construction details, and diagrammatic layouts of building systems to fix and describe the size and character of the Project as to architectural, structural, mechanical and electrical systems, and other appropriate elements. The Design Development Documents shall also include outline specifications that identify major materials and systems and establish, in general, their quality levels.

§ 3.3.2 The Architect shall update its review of the Cost of the Work prepared in accordance with Section 6.3.

§ 3.3.3 The Architect shall submit the Design Development Documents to the Owner, advise the Owner of any adjustments to the Cost of the Work resulting from its review under Section 6.3, and request the Owner's approval.



### § 3.4 Construction Documents Phase Services

§ 3.4.1 Based on the Owner's approval of the Design Development Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Construction Documents for the Owner's approval. The Construction Documents shall illustrate and describe the further development of the approved Design Development Documents and shall consist of Drawings and Specifications setting forth in detail the quality levels and performance criteria of materials and systems and other requirements for the construction of the Work. The Owner and Architect acknowledge that, in order to perform the Work, the Contractor will provide additional information, including Shop Drawings, Product Data, Samples and other similar submittals, which the Architect shall review in accordance with Section 3.6.4.

§ 3.4.2 The Architect shall conform the Construction Drawings and Specifications to all applicable federal, state and local laws, statutes, ordinances, rules, regulations, orders or other legal requirements applicable to the Project (collectively "Governmental Requirements") existing on the date of this Agreement. However, Owner recognizes that interpretations by governmental officials ("Code Authority") are often subject to change even after issuance of a building permit. If after award of the building permit, modifications to the Construction Drawings or Specifications are required because of an interpretation by the Code Authority which had not been previously given, or which if given, was different than a prior interpretation of the Code Authority, Architect shall make the required modifications, but the cost of such modifications shall be compensated as a Contingent Additional Service. The parties acknowledge that submittal of Construction Drawings and Specifications for permit routinely results in comments, questions and change requests by the Code Authority, and the Architect shall make such changes and/or provide the requested information as a Basic Service. Nothing contained herein shall relieve the Architect of its obligation to modify at its own expense Plans and Specifications where the Architect has failed to prepare them in compliance with the applicable Government Requirements.

§ 3.4.3 During the development of the Construction Documents, the Architect shall assist the Owner in the preparation of (1) procurement information that describes the time, place, and conditions of bidding, including bidding or proposal forms; (2) the standard form of agreement between the Owner and Contractor for review and revision by Owner or Owner's attorneys; and (3) the standard form of Conditions of the Contract for Construction (General, Supplementary and other Conditions) for review and revision by Owner or Owner's attorneys. The Architect shall also compile a project manual that includes the Conditions of the Contract for Construction and Specifications, and may include bidding requirements and sample forms.

§ 3.4.4 The Architect shall update its review of the Cost of the Work prepared in accordance with Section 6.3.

§ 3.4.5 The Architect shall submit the Construction Documents to the Owner, advise the Owner of any adjustments to its review of the Cost of the Work, take any action required under Section 6.5, and request the Owner's approval.

### § 3.5 Procurement Phase Services

#### § 3.5.1 General

If requested, the Architect shall assist the Owner in establishing a list of prospective contractors. Following the Owner's approval of the Construction Documents, the Architect shall assist the Owner in (1) obtaining either competitive bids or negotiated proposals; (2) confirming responsiveness of bids or proposals; (3) determining the successful bid or proposal, if any; and, (4) awarding and preparing contracts for construction.

#### § 3.5.2 Competitive Bidding

- .1 The Architect shall attend and assist with a pre-bid conference for prospective bidders, and attend and assist with the opening of bids, and subsequently documenting and distributing bidding results, as directed by the Owner.

§ 3.5.2.1 Bidding Documents shall consist of bidding requirements and proposed Contract Documents.

§ 3.5.2.2 The Architect shall assist the Owner in bidding the Project by:

- .1 facilitating the distribution of Bidding Documents to prospective bidders requesting their return upon completion of the bidding process, and maintaining a log of distribution and retrieval and of the amounts of deposits, if any, received from and returned to prospective bidders;
- .2 organizing and conducting a pre-bid conference for prospective bidders;

- .3 preparing responses to questions from prospective bidders and providing clarifications and interpretations of the Bidding Documents to the prospective bidders in the form of addenda; and,
- .4 organizing and conducting the opening of the bids, and subsequently documenting and distributing the bidding results, as directed by the Owner.

§ 3.5.2.3 If the Bidding Documents permit substitutions, upon the Owner's written authorization, the Architect shall, as an Additional Service, consider requests for substitutions and prepare and distribute addenda identifying approved substitutions to all prospective bidders.

### § 3.5.3 Negotiated Proposals

§ 3.5.3.1 Proposal Documents shall consist of proposal requirements and proposed Contract Documents.

§ 3.5.3.2 The Architect shall assist the Owner in obtaining proposals by:

- .1 facilitating the distribution of Proposal Documents for distribution to prospective contractors and requesting their return upon completion of the negotiation process;
- .2 organizing and participating in selection interviews with prospective contractors;
- .3 preparing responses to questions from prospective contractors and providing clarifications and interpretations of the Proposal Documents to the prospective contractors in the form of addenda; and,
- .4 participating in negotiations with prospective contractors, and subsequently preparing a summary report of the negotiation results, as directed by the Owner.

§ 3.5.3.3 If the Proposal Documents permit substitutions, upon the Owner's written authorization, the Architect shall, as an Additional Service, consider requests for substitutions and prepare and distribute addenda identifying approved substitutions to all prospective contractors.

### § 3.6 Construction Phase Services

#### § 3.6.1 General

§ 3.6.1.1 The Architect shall provide administration of the Contract between the Owner and the Contractor as set forth below and in the General Conditions of the Contract for Construction. If the Owner and Contractor modify the General Conditions, those modifications shall not affect, modify or broaden the Architect's services under this Agreement unless the Owner and the Architect amend this Agreement. The Owner agrees that the agreement between the Owner and the Contractor shall not impose responsibilities on the Architect which are materially greater than requirements set forth in this Agreement unless (a) the Architect approves such greater responsibilities, which approval shall not be unreasonably withheld, conditioned or delayed and (b) Owner provides reasonable compensation to the Architect for such greater service based on the Schedule of Hourly Rates

§ 3.6.1.2 The Architect shall advise and consult with the Owner during the Construction Phase Services. The Architect shall have authority to act on behalf of the Owner only to the extent provided in this Agreement. The Architect shall not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, nor shall the Architect be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents, all of which remain the responsibility of only the Contractor. The Architect shall be responsible for the Architect's own acts or omissions, but shall not have control over or charge of, and shall not be responsible for, acts or omissions of the Contractor, Owner's Consultants or of any other persons or entities performing services or portions of the Work.

§ 3.6.1.3 Subject to Section 4.2 and except as provided in Section 3.6.6.5, the Architect's responsibility to provide Construction Phase Services commences with the award of the Contract for Construction and terminates on the date the Architect issues the final Certificate for Payment.

#### § 3.6.2 Evaluations of the Work

§ 3.6.2.1 The Architect shall visit the site at intervals appropriate to the stage of construction, or as otherwise required in Section 4.2.3, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine, in general, if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On

the basis of the site visits, the Architect shall keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner (1) observed deviations from the Contract Documents, (2) observed deviations from the most recent construction schedule submitted by the Contractor, and (3) defects and deficiencies observed in the Work. Neither the professional activities of Architect, nor the presence of Architect or its employees and subconsultants at a construction site, shall relieve the Contractor or any other entity of their obligations, duties, and responsibilities including, but not limited to, construction means, methods, sequence, techniques or procedures necessary for performing, superintending or coordinating all portions of the Work of construction in accordance with the contract documents and any health or safety precautions required by any regulatory agencies. Architect and its personnel have no authority to exercise any control over any construction Contractor or other entity or their employees in connection with their work or any health or safety precautions. The Owner agrees that the Contractor is responsible for jobsite safety for its agents, employees and Subcontractors working on the Project. Architect shall be solely responsible for jobsite safety regarding its own employees and shall follow instructions of the Contractor when such employees are in an area of the jobsite controlled by the Contractor. The Owner also agrees that the Owner, Architect, and Architect's consultants shall be indemnified and shall be made additional insureds under the Contractor's general liability insurance policy

**§ 3.6.2.2** The Architect has the authority to recommend that Owner reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect shall have the authority to recommend that Owner require inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not the Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons or entities performing portions of the Work.

**§ 3.6.2.3** The Architect shall interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect's response to such requests shall be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

**§ 3.6.2.4** Interpretations and decisions of the Architect shall be consistent with the intent of, and reasonably inferable from, the Contract Documents and shall be in writing or in the form of drawings. When making such interpretations and decisions, the Architect shall endeavor to secure faithful performance by both Owner and Contractor, shall not show partiality to either, and shall not be liable for results of interpretations or decisions rendered in good faith. The Architect's decisions on matters relating to aesthetic effect shall be final if consistent with the intent expressed in the Contract Documents.

**§ 3.6.2.5** Unless the Owner and Contractor designate another person to serve as an Initial Decision Maker, as that term is defined in the General Conditions of the Contract for Construction the Architect shall render initial decisions on Claims between the Owner and Contractor as provided in the Contract Documents.

### **§ 3.6.3 Certificates for Payment to Contractor**

**§ 3.6.3.1** The Architect shall review and certify the amounts due the Contractor and shall issue certificates in such amounts. The Architect's certification for payment shall constitute a representation to the Owner, based on the Architect's evaluation of the Work as provided in Section 3.6.2 and on the data comprising the Contractor's Application for Payment, that, to the best of the Architect's knowledge, information and belief in the exercise of the Standard of Care, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is entitled to payment in the amount certified. The foregoing representations are subject to (1) an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, (2) results of subsequent tests and inspections, (3) correction of minor deviations from the Contract Documents prior to completion, and (4) specific qualifications expressed by the Architect.

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

Contract Sum or (5) made any investigation into the propriety of forms of mechanics lien waiver or the status of liens or claims on the Project's property.

§ 3.6.3.3 The Architect keep a record of the Applications and Certificates for Payment.

#### § 3.6.4 Submittals

§ 3.6.4.1 The Architect shall review the Contractor's submittal schedule and shall not unreasonably delay or withhold approval of the schedule provided that the submittal schedule allows adequate time for Architect's review. The Architect's action in reviewing submittals shall be taken in accordance with the approved submittal schedule or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time, in the Architect's professional judgment, to permit adequate review.

§ 3.6.4.2 The Architect shall review and take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. Contractor's submittals such as Shop Drawings, Product Data and Samples are not Contract Documents. Review of or action on such submittals does not modify the Contract Documents and is not for the purpose of determining the accuracy and completeness of other information such as dimensions, quantities, and installation or performance of equipment or systems, which are the Contractor's responsibility. The Architect's review shall not constitute review or approval of any deviations from the requirements of the Contract Documents, of safety precautions or construction means, methods, techniques, sequences or procedures. The Architect's review of or action with respect to a specific item shall not indicate approval of an assembly of which the item is a component.

§ 3.6.4.3 If the Contract Documents specifically require the Contractor to provide or procure professional design services or certifications by a design professional related to systems, materials, or equipment, the Architect shall specify the appropriate performance and design criteria that such services must satisfy. The Architect shall review and take appropriate action on Shop Drawings and other submittals related to the Work designed or certified by the Contractor's design professional, provided the submittals bear such professional's seal and signature when submitted to the Architect. The Architect's review shall be for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents and shall be subject to the same limitations identified in Art. 3.6.4.2. The Architect shall be entitled to rely upon, and shall not be responsible for, the adequacy and accuracy of the services, certifications, and approvals performed or provided by such design professionals.

§ 3.6.4.4 Subject to Section 4.2, the Architect shall review and respond to requests for information about the Contract Documents. The Architect shall set forth, in the Contract Documents, the requirements for requests for information. Requests for information shall include, at a minimum, a detailed written statement that indicates the specific Drawings or Specifications in need of clarification and the nature of the clarification requested and shall be submitted sufficiently in advance of the needed response to allow the Architect adequate time to review, investigate and respond in writing. The Architect's response to such requests shall be made in writing within 7 days or for such a longer period of time agreed to by the parties if Architect submits a request for additional time to Owner within the 7-day period and such request is warranted. If appropriate, the Architect shall prepare and issue supplemental Drawings and Specifications in response to the requests for information.

§ 3.6.4.5 The Architect shall maintain a record of submittals and copies of submittals supplied by the Contractor in accordance with the requirements of the Contract Documents.

#### § 3.6.5 Changes in the Work

§ 3.6.5.1 The Architect may authorize minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. Subject to Section 4.2, the Architect shall prepare Change Orders and Construction Change Directives for the Owner's approval and execution in accordance with the Contract Documents.

§ 3.6.5.2 The Architect shall maintain records relative to changes in the Work. In connection with Architect's duties and responsibilities under this Section 3.6.5, Architect may only issue Construction Change Directives if the content contained therein is consistent with the intent of the Contract Documents and does not increase the cost or change

the size functionality, overall appearance or features of the Project or any part thereof. In all other circumstances, Architect shall make only recommendations to Owner, but shall not issue Change Orders or Construction Change Directives without Owner's written consent, subsequent to the execution of this Amendment

§ 3.6.5.3 Preparation of Change Orders which are not initiated by the Owner shall be included as a basic service, at no additional cost to the Owner, unless the Owner, in its reasonable discretion, agrees to additional compensation for good cause shown by the Architect with the Contract Documents.

§ 3.6.6 Project Completion

§ 3.6.6.1 The Architect shall:

- .1 Conduct reviews to determine the date or dates of Substantial Completion and the date of final completion;
- .2 issue Certificates of Substantial Completion;
- .3 forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract Documents and received from the Contractor; and,
- .4 issue a final Certificate for Payment based upon a final review indicating that, to the best of the Architect's knowledge, information, and belief, the Work complies with the requirements of the Contract Documents.

§ 3.6.6.2 The Architect's site visits to determine the date or dates of Substantial Completion and final completion shall be conducted with the Owner to review conformance of the Work with the requirements of the Contract Documents and to verify the accuracy and completeness of the list submitted by the Contractor of Work to be completed or corrected ("punch list").

§ 3.6.6.3 When Substantial Completion has been achieved, the Architect shall inform the Owner about the balance of the Contract Sum remaining to be paid the Contractor, including the amount recommended that Owner retain from the Contract Sum, if any, pending final completion or correction of the Work.

§ 3.6.6.4 The Architect shall forward to the Owner the following information received from the Contractor for Owner's review, analysis, approval and use: (1) consent of surety or sureties, if any, to reduction in or partial release of retainage or the making of final payment; (2) affidavits, receipts, releases and waivers of liens, or bonds indemnifying the Owner against liens; and (3) any other documentation required of the Contractor under the Contract Documents. Architect's duty to forward such information does not include legal or substantive review of the accuracy or sufficiency of such information, which shall be made by Owner and Owner's counsel.

§ 3.6.6.5 Upon written request of the Owner, and sufficiently in advance of and prior to the expiration of one year from the date of Substantial Completion, the Architect shall, without additional compensation, attend a meeting with the Owner of not more than  4  hours to review the facility operations and performance.

**ARTICLE 4 SUPPLEMENTAL AND ADDITIONAL SERVICES**

§ 4.1 Supplemental Services

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

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

Supplemental Services	Responsibility <i>(Architect, Owner, or not provided)</i>
§ 4.1.1.1 Programming	Not Provided
§ 4.1.1.2 Multiple preliminary designs	Not Provided

<b>Supplemental Services</b>	<b>Responsibility</b> <i>(Architect, Owner, or not provided)</i>
§ 4.1.1.3 Measured drawings	Survey by Owner
§ 4.1.1.4 Existing facilities surveys	Nor Provided
§ 4.1.1.5 Site evaluation and planning	Architect
§ 4.1.1.6 Building Information Model management responsibilities	Architect as Required
§ 4.1.1.7 Development of Building Information Models for post construction use	Not Provided
§ 4.1.1.8 Civil engineering	Architect
§ 4.1.1.9 Landscape design	Architect
§ 4.1.1.10 Architectural interior design	Not Provided
§ 4.1.1.11 Value analysis	Architect
§ 4.1.1.12 Detailed cost estimating beyond that required in Section 6.3	Owner
§ 4.1.1.13 On-site project representation	Architect / Owner
§ 4.1.1.14 Conformed documents for construction	Architect
§ 4.1.1.15 As-designed record drawings	Architect
§ 4.1.1.16 As-constructed record drawings	Contractor
§ 4.1.1.17 Post-occupancy evaluation	Not Provided
§ 4.1.1.18 Facility support services	Not Provided
§ 4.1.1.19 Tenant-related services	Owner
§ 4.1.1.20 Architect's coordination of the Owner's consultants	Not Provided
§ 4.1.1.21 Telecommunications/data design	Architect
§ 4.1.1.22 Security evaluation and planning	Architect
§ 4.1.1.23 Commissioning	Not Provided
§ 4.1.1.24 Sustainable Project Services pursuant to Section 4.1.3	Architect
§ 4.1.1.25 Fast-track design services	No Provided
§ 4.1.1.26 Multiple bid packages	Not Provided
§ 4.1.1.27 Historic preservation	Architect
§ 4.1.1.28 Furniture, furnishings, and equipment design	Architect
§ 4.1.1.29 Other services provided by specialty Consultants	Not Provided
§ 4.1.1.30 Other Supplemental Services	Not Provided

## § 4.1.2 Description of Supplemental Services

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

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

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

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

« »

§ 4.1.3 If the Owner identified a Sustainable Objective in Article 1, the Architect shall provide, as a Supplemental Service, the Sustainability Services required in AIA Document E204™-2017, Sustainable Projects Exhibit, attached to this Agreement. The Owner shall compensate the Architect as provided in Section 11.2.

## § 4.2 Architect's Additional Services

The Architect may provide Additional Services after execution of this Agreement without invalidating the Agreement. Except for services required due to the fault of the Architect, any Additional Services provided in accordance with this Section 4.2 shall entitle the Architect to compensation pursuant to Section 11.3 and an appropriate adjustment in the Architect's schedule.

§ 4.2.1 Upon recognizing the need to perform the following Additional Services, the Architect shall notify the Owner with reasonable promptness and explain the facts and circumstances giving rise to the need. The Architect shall not proceed to provide the following Additional Services until the Architect receives the Owner's written authorization:

- .1 Services necessitated by a change in the Initial Information, previous instructions or approvals given by the Owner, or a material change in the Project including size, quality, complexity, the Owner's schedule or budget for Cost of the Work, or procurement or delivery method;
- .2 Services necessitated by the Owner's request for extensive environmentally responsible design alternatives, such as unique system designs, in-depth material research, energy modeling, or LEED® certification, enactment or revision of codes, laws, or regulations, including changing or editing previously prepared Instruments of Service;
- .3 Changing or editing previously prepared Instruments of Service necessitated by a change in the instructions or approvals given by the Owner or the enactment or revision of codes, laws or regulations or official interpretations of applicable codes, laws or regulations that are either (a) contrary to specific interpretations by the applicable authorities having jurisdiction made prior to the issuance of the building permit, or (b) contrary to requirements of the Instruments of Service when those Instruments of Service were prepared in accordance with the applicable standard of care;
- .4 Services necessitated by decisions of the Owner not rendered in a timely manner or any other failure of performance on the part of the Owner or the Owner's consultants or contractors;
- .5 Preparing digital models or other design documentation for transmission to the Owner's consultants and contractors, or to other Owner-authorized recipients;
- .6 Preparation of design and documentation for alternate bid or proposal requests proposed by the Owner;
- .7 Preparation for, and attendance at, a public presentation, meeting or hearing;
- .8 Preparation for, and attendance at, a dispute resolution proceeding or legal proceeding, except where the Architect is party thereto;
- .9 Evaluation of the qualifications of entities providing bids or proposals;
- .10 Consultation concerning replacement of Work resulting from fire or other cause during construction; or,
- .11 Assistance to the Initial Decision Maker, if other than the Architect.

§ 4.2.1.1 In the event the Owner consents to, allows, authorizes or approves of changes to any plans, specifications or other construction documents prepared by Architect, and said changes are not approved in writing by Architect, the Owner recognizes that said changes and the results thereof are not the responsibility of Architect. The Owner therefore agrees to release and indemnify and hold harmless Architect from any and all liability, damage and expense, (including without limitation reasonable attorney's fees and expert witness fees) arising from the construction, use or result of said changes.

§ 4.2.2 To avoid delay in the Construction Phase, the Architect shall provide the following Additional Services, notify the Owner with reasonable promptness, and explain the facts and circumstances giving rise to the need. If, upon receipt of the Architect's notice, the Owner determines that all or parts of the services are not required, the Owner shall give prompt written notice to the Architect of the Owner's determination. The Owner shall compensate the Architect for the services provided prior to the Architect's receipt of the Owner's notice.

- .1 Reviewing a Contractor's submittal out of sequence from the submittal schedule approved by the Architect;
- .2 Responding to the Contractor's requests for information that are not prepared in accordance with the Contract Documents or where such information is available to the Contractor from a careful study and comparison of the Contract Documents, field conditions, other Owner-provided information, Contractor-prepared coordination drawings, or prior Project correspondence or documentation;
- .3 Preparing Change Orders and Construction Change Directives that require evaluation of Contractor's proposals and supporting data, or the preparation or revision of Instruments of Service;
- .4 Evaluating an extensive number of Claims as the Initial Decision Maker; or,
- .5 Evaluating substitutions proposed by the Owner or Contractor and making subsequent revisions to Instruments of Service resulting therefrom.

§ 4.2.3 The Architect shall provide Construction Phase Services exceeding the limits set forth below as Additional Services. When the following limits below shall be reached before Additional Services can be requested, the Architect shall notify the Owner:

- .1 Maximum of three (3) reviews of each Shop Drawing, Product Data item, sample and similar submittals of the Contractor
- .2 Bi-weekly visits to the site by the Architect during construction
- .3 Maximum of two (2) inspections for any portion of the Work to determine whether such portion of the Work is substantially complete in accordance with the requirements of the Contract Documents
- .4 Two (2) inspections for any portion of the Work to determine Final Completion

§ 4.2.4 Except for services required under Section 3.6.6.5 and those services that do not exceed the limits set forth in Section 4.2.3, Construction Phase Services provided more than 60 days after (1) the date of Substantial Completion of the Work or (2) the initial date of Substantial Completion identified in the agreement between the Owner and Contractor, whichever is earlier, shall be compensated as Additional Services to the extent the Architect incurs additional cost in providing those Construction Phase Services.

§ 4.2.5 If the services covered by this Agreement have not been completed within « 14 » months of the date of this Agreement, through no fault of the Architect, extension of the Architect's services beyond that time shall be compensated as Additional Services.

## ARTICLE 5 OWNER'S RESPONSIBILITIES

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

§ 5.2 The Owner shall establish the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Section 6.1; (2) the Owner's other costs; and, (3) reasonable contingencies related to all of these costs. The Owner shall update the Owner's budget for the Project as necessary throughout the duration of the Project until final completion. If the Owner increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Architect. The Owner and the Architect shall thereafter agree to a corresponding change in the Project's scope and quality, and, if appropriate, in the Architect's fee and time for performance.

§ 5.2.1 **Value Engineering.** To the extent the Owner directs Architect in writing to reduce the scope of the design for the Project for any reason, including for purposes of value engineering and/or reducing the Project budget, Owner shall be deemed to waive, on behalf of itself and any successor and assigns, any and all future claims against Architect relating to such reduction in scope and/or omission of elements from the scope of the design for such purposes, and shall be barred from asserting any such reductions or modifications to the design scope constitute a



design defect, negligence or a failure of the standard of care under this Agreement.

**§ 5.3** The Owner shall identify a representative authorized to act on the Owner's behalf with respect to the Project. The Owner shall render decisions and approve the Architect's submittals in a timely manner in order to avoid unreasonable delay in the orderly and sequential progress of the Architect's services.

**§ 5.4** The Owner shall furnish surveys to describe physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; designated wetlands; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions, and other necessary data with respect to existing buildings, other improvements and trees; and information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths. All the information on the survey shall be referenced to a Project benchmark.

**§ 5.5** The Owner shall furnish services of geotechnical engineers, which may include test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, seismic evaluation, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with written reports and appropriate recommendations.

**§ 5.6** The Owner shall provide the Supplemental Services designated as the Owner's responsibility in Section 4.1.1.

**§ 5.7** If the Owner identified a Sustainable Objective in Article 1, the Owner shall fulfill its responsibilities as required in AIA Document E204™-2017, Sustainable Projects Exhibit, attached to this Agreement.

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

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

**§ 5.10** The Owner shall furnish all legal, insurance, title insurance, payment escrow and accounting services, including auditing services, that may be reasonably necessary at any time for the Project to meet the Owner's needs and interests.

**§ 5.11** The Owner shall provide prompt written notice to the Architect if the Owner becomes aware of any fault or defect in the Project, including errors, omissions or inconsistencies in the Architect's Instruments of Service; provided, however, that under no circumstances shall Owner be liable for any errors, omissions or inconsistencies in the Architect's Instruments of Service nor shall Owner be liable or responsible for any failure to provide written notice to Architect as contemplated in this Section 5.11. Any review, comment, notice, or failure to provide the same, of Owner concerning Architect's Instruments of Service and any errors, omissions, or inconsistencies therein shall not in any way alter Architect's duties and responsibilities with respect to the Instruments of Service.

**§ 5.12** The Owner shall endeavor to include the Architect in all communications with the Contractor that relate to or affect the Architect's services or professional responsibilities. The Owner shall promptly notify the Architect of the substance of any direct communications between the Owner and the Contractor otherwise relating to the Project. Communications by and with the Architect's consultants shall be through the Architect.

**§ 5.13** Before executing the Contract for Construction, the Owner shall coordinate the Architect's duties and responsibilities set forth in the Contract for Construction with the Architect's services set forth in this Agreement.

The Owner shall provide the Architect a copy of the executed agreement between the Owner and Contractor, including the General Conditions of the Contract for Construction.

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

§ 5.15 The Owner shall make available appropriate personnel during Architect's engagement on the Project to participate in meetings, interviews and work sessions as may be required. The Owner shall provide appropriate meeting space for all meetings, interviews and work sessions to be held at the Owner's location.

§ 5.16 Before execution of this Agreement, and if after the execution of this Agreement Architect has reasonable concerns that the Owner may not be able to meet its financial obligations for this Project, the Owner shall furnish evidence that financial arrangements have been made to fulfill the Owner's obligations for the Project.

§ 5.17 The Owner will require all contractors and subcontractors performing Work on the Project to include Architect and Architect's subconsultants as additional insureds on their respective Commercial General Liability, Automobile Liability, Employer's Liability and Excess/Umbrella policies to at least the same extent as Owner is included as additional insured, which additional insured coverage shall be primary and non-contributory to any of the Architect's insurance policies, with provision for separation of insureds and shall apply to both ongoing and completed operations.

§ 5.18 Intentionally deleted.

§ 5.19 The Owner represents that as of the Effective Date of this Agreement, it is the fee owner of the Project Site. If Owner is not the fee simple owner of such real property, on or before execution of this Agreement, Owner shall deliver the consent of the fee simple owner of the Project Site, consenting to the performance of the Work pursuant to this Agreement, granting rights of ingress and egress for the performance of the Work by Architect and its consultants, and acknowledging the mechanics' lien rights of Architect and its consultants, in form and substance reasonably acceptable to Architect.

## ARTICLE 6 COST OF THE WORK

§ 6.1 For purposes of this Agreement, the Cost of the Work shall be the total cost to the Owner to construct all elements of the Project designed or specified by the Architect and shall include contractors' general conditions costs, overhead and profit. The Cost of the Work also includes the reasonable value of labor, materials, and equipment, donated to, or otherwise furnished by, the Owner. The Cost of the Work does not include the compensation of the Architect or NAVIGATE Building Solutions; the costs of the land, rights-of-way, financing, or other costs that are the responsibility of the Owner.

§ 6.2 The Owner's budget for the Cost of the Work is provided in Initial Information, and shall be adjusted throughout the Project as required under Sections 5.2, 6.4 and 6.5. No fixed limit of Construction Cost shall be established as a condition of this Agreement. Evaluations of the Owner's budget for the Cost of the Work, and the preliminary estimate of the Cost of the Work and updated estimates of the Cost of the Work, prepared by the Architect, represent the Architect's judgment as a design professional in the exercise of the Standard of Care. It is recognized, however, that neither the Architect nor the Owner has control over or can accurately predict the future cost of labor, materials, or equipment; the Contractor's methods of determining bid prices; or competitive bidding, market, or negotiating conditions at the time of bidding. Accordingly, the Architect cannot and does not warrant or represent that bids or negotiated prices will not vary from the Owner's budget for the Cost of the Work, or from any estimate of the Cost of the Work, or evaluation, prepared or agreed to by the Architect.

§ 6.3 In preparing any analysis or reviews of the Cost of Work, the Architect shall be permitted to include contingencies for design, bidding, and price escalation; to determine what materials, equipment, component systems, and types of construction are to be included in the Contract Documents; to recommend reasonable adjustments in the program and scope of the Project; and to include design alternates as may be necessary to adjust the estimated Cost of the Work to meet the Owner's budget. The Architect's review or analysis of the Cost of the Work shall be based on current area, volume or similar conceptual estimating techniques. If the Owner requires a detailed analysis or review of the Cost of the Work, the Architect may provide such an estimate, if identified as the Architect's

responsibility in Section 4.1.1, as a Supplemental Service or otherwise agreed, or the Owner may seek an independent, detailed construction cost estimate from other third party professionals.

§ 6.4 If, through no fault of the Architect, the Procurement Phase has not commenced within 90 days after the Architect submits the Construction Documents to the Owner, the Owner's budget for the Cost of the Work shall be adjusted to reflect changes in the general level of prices in the applicable construction market.

§ 6.5 If at any time the Architect's estimate of the Cost of the Work exceeds the Owner's budget for the Cost of the Work, the Architect shall make appropriate recommendations to the Owner to adjust the Project's size, quality, or budget for the Cost of the Work, and the Owner shall cooperate with the Architect in making such adjustments.

§ 6.6 If the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services is exceeded by the lowest bona fide bid or negotiated proposal, the Owner shall

- .1 give written approval of an increase in the budget for the Cost of the Work;
- .2 authorize rebidding or renegotiating of the Project within a reasonable time;
- .3 terminate in accordance with Section 9.5;
- .4 in consultation with the Architect, revise the Project program, scope, or quality as required to reduce the Cost of the Work; or,
- .5 implement any other mutually acceptable alternative.

§ 6.7 If the Project Budget or any fixed limit of Cost of the Work agreed to in writing by the parties is exceeded by the lowest bona fide bid or negotiated price, then the Owner shall: (1) give written approval of an increase in such fixed limit; (2) authorize rebidding or renegotiations of the Project within a reasonable time; (3) if the Project is to be abandoned, terminate in accordance with applicable provisions of this Agreement; or (4) cooperate with Architect who, as an additional service, shall revise the Project scope and quality as required to reduce the Cost of the Work.

§ 6.8 Owner hereby indemnifies and holds Architect harmless from and against any and all claims, suits, demands, damages, liabilities, losses, and costs hereunder "Losses" including, but not limited to, reasonable attorneys' fees and other costs of defense, whether attributable to bodily injury, including death, property damage, or economic or other loss, accruing or resulting to any and all persons, firms or any other legal entity, arising out of or in any way connected with the use of plans and specifications by the Owner or any third party (1) for completion of the design of this Project by others, (2) for the construction of this Project without participation of Architect, or (3) on any project other than the Project which is subject of the Agreement.

§ 6.9 If the Owner chooses to proceed under Section 6.6.4, the Architect shall, as an Additional Service, modify the Construction Documents as necessary to comply with the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services, or the budget as adjusted under Section 6.6.1.

## ARTICLE 7 COPYRIGHTS AND LICENSES

§ 7.1 All right, title and interest, including all rights under federal and state copyright and intellectual property laws in the Drawings, Specifications and other documents prepared by the Architect for this Project (collectively "Instruments of Service") and the electronic methods of reproducing such documents are hereby conveyed, assigned and transferred by Architect and its consultants to Owner. Owner shall retain legal title to such Instruments of Service, whether or not the project for which they may be made is completed, provide that the Architect has been paid for all compensation due under this agreement for the services completed by the Architect. Except as described below, Owner may use the Instruments of Service for any purpose. Owner agrees not to sell the Instruments of Service to others under any circumstances, and to hold harmless the Architect for any re-use of the Instruments of Service by Owner, provided that the Architect is not the Architect of Record for the re-use and the reuse is not for maintenance, repair or operation of the Owner's Facility. All Instruments of Service, including series in electronic form, shall be furnished to the Owner in a format requested by Owner, including electronic format. § 7.2 Intentionally deleted.

§ 7.3 Intentionally deleted.

§ 7.3.1 In the event the Owner uses the Instruments of Service without retaining the authors of the Instruments of Service or errors are introduced as a result of file transfer, incompatible software or hardware or similar electronic

media issues; or reuse of the Instruments of Service and data for any other Project or anyone other than Architect, Owner releases the Architect and Architect's consultant(s) from all claims and causes of action arising from such uses. The Owner, to the extent permitted by law, further agrees to indemnify and hold harmless the Architect and its consultants from all costs and expenses, including the cost of defense, related to claims and causes of action asserted by any third person or entity to the extent such costs and expenses arise from the Owner's use of the Instruments of Service under this Section 7.3.1. The terms of this Section 7.3.1 shall not apply if the Owner rightfully terminates this Agreement for cause under Section 9.4.

**§ 7.4** Except for the licenses granted in this Article 7, no other license or right shall be deemed granted or implied under this Agreement. The Owner shall not assign, delegate, sublicense, pledge or otherwise transfer any license granted herein to another party without the prior written agreement of the Architect. Any unauthorized use of the Instruments of Service shall be at the Owner's sole risk and without liability to the Architect and the Architect's consultants.

**§ 7.5** Except as otherwise stated in Section 7.3, the provisions of this Article 7 shall survive the termination of this Agreement.

## **ARTICLE 8 CLAIMS AND DISPUTES**

### **§ 8.1 General**

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

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

**§ 8.1.3** The Architect and Owner waive consequential damages for claims, disputes, or other matters in question, arising out of or relating to this Agreement. This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination of this Agreement, except as specifically provided in Section 9.7.

**§ 8.1.4** Notwithstanding any claim between the Owner and Architect, Owner shall continue to pay Architect for services properly performed and Reimbursable Expenses properly incurred in accordance with this Agreement that are not the subject of a good faith dispute.

### **§ 8.2 Mediation**

**§ 8.2.1.** If, after good faith negotiations for a period of thirty (30) days, the dispute has not been resolved on terms satisfactory to both parties, the parties shall submit the dispute to mediation.

**§ 8.2.1.1** Any claim, dispute or other matter in question arising out of or related to this Agreement shall be subject to mediation as a condition precedent to binding dispute resolution. If such matter relates to or is the subject of a lien arising out of the Architect's services, the Architect may proceed in accordance with applicable law to comply with the lien notice or filing deadlines prior to resolution of the matter by mediation or by binding dispute resolution.

**§ 8.2.2** The Owner and Architect shall endeavor to resolve claims, disputes and other matters in question between them by mediation, which, unless the parties mutually agree otherwise, shall be administered by the Chicago office of the American Arbitration Association ("AAA"). A request for mediation shall be made in writing, delivered to the other party to this Agreement, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of a complaint but, in such event, mediation shall proceed in advance of

litigation, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order.

§ 8.2.3 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

§ 8.2.4 If the parties do not resolve a dispute through mediation pursuant to this Section 8.2, the method of binding dispute resolution shall be litigation in a court of competent jurisdiction where the Project is located.

In any proceeding following unsuccessful mediation, the predominantly prevailing party shall be entitled, in addition to such other relief as may be granted, to a reasonable sum for attorneys' fees, expert witness fees, court reporter fees and other costs and expenses incurred in litigation.

§ 8.2.5 The provisions of this Article 8 shall survive the termination of this Agreement.

§ 8.3 Arbitration – Not used.

## ARTICLE 9 TERMINATION OR SUSPENSION

§ 9.1 If the Owner fails to make timely payments to the Architect in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination or, at the Architect's option, cause for suspension of performance of services under this Agreement. If the Architect elects to suspend services, the Architect shall give seven (7) days' written notice to the Owner before suspending services. In the event of a suspension of services, the Architect shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services. Before resuming services, the Owner shall pay the Architect all sums due prior to suspension and any expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 9.2 If the Owner suspends the Project, the Architect shall be compensated for services performed prior to notice of such suspension. When the Project is resumed, the Architect shall be compensated for expenses incurred in the interruption and resumption of the Architect's services, including but not limited to recovery of the costs to maintain Architect's team and consultants during the suspension period. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 9.3 If the Owner suspends the Project for more than 90 cumulative days for reasons other than the fault of the Architect, the Architect may terminate this Agreement by giving not less than seven days' written notice.

§ 9.4 Either party may terminate this Agreement upon not less than seven days' written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination.

§ 9.5 The Owner may terminate this Agreement upon not less than seven (7) days' written notice to the Architect for the Owner's convenience and without cause. The Owner shall within twenty (20) days of such termination, pay Architect for all services rendered and all costs incurred and expenses of termination up to the date of termination and costs relating to contractual commitments which cannot be canceled, in accordance with the compensation provisions of this Agreement

§ 9.6 In the event of termination not the fault of Architect, Architect shall be compensated for services performed prior to termination, together with Reimbursable Expenses then due and all termination expenses incurred and incurred, and costs attributable to termination, including the costs attributable to the Architect's termination of consultant agreements, as well as the fees identified in Art. 9.7 below.

§ 9.7 In addition to any amounts paid under Section 9.6, if the Owner terminates this Agreement for its convenience pursuant to Section 9.5, or the Architect terminates this Agreement pursuant to Section 9.3, the Owner shall pay to the Architect the following fees:

*(Set forth below the amount of any termination or licensing fee, or the method for determining any termination or licensing fee.)*

**.1 Termination Fee:**

« The Owner shall not pay any unearned fee if the Owner terminates this Agreement. »

**.2 Licensing Fee if the Owner intends to continue using and licensing the Architect's Instruments of Service:**

« »

**§ 9.8** Except as otherwise expressly provided herein, this Agreement shall terminate one (1) year from the date of Final Completion.

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

**ARTICLE 10 MISCELLANEOUS PROVISIONS**

**§ 10.1** This Agreement shall be governed by the law of the place where the Project is located, excluding that jurisdiction's choice of law rules.

**§ 10.2** Terms in this Agreement shall have the same meaning as those in the General Conditions of the Contract for Construction. Owner shall not diminish Architect's rights under such General Conditions of the Contract without prior authorization in writing by Architect.

**§ 10.3** The Owner and Architect, respectively, bind themselves, their agents, successors, assigns, and legal representatives to this Agreement. Neither the Owner nor the Architect shall assign this Agreement without the written consent of the other, except that the Owner may assign this Agreement to a lender providing financing for the Project if the lender agrees to assume the Owner's rights and obligations under this Agreement. Neither the Owner nor Architect shall transfer, sublet or assign any right under or interest in this Agreement (including but not limited to moneys that may be due) without the written consent of the other, which consent shall not be unreasonably withheld or delayed. This provision shall not restrict Architect from establishing such a relationship with a collection agency in order to collect past due accounts. The Owner may, however, assign this Agreement to an institutional lender providing financing for the Project. In such event, the lender shall assume the Owner's rights and obligations under this Agreement. Architect agrees to cooperate with Owner in good faith in order to satisfy the requirements of Owner's financing arrangements. Owner agrees to pay all documented, reasonable and out of pocket costs incurred by Architect in connection with satisfying the requirements of Owner's financing arrangements. Nothing in this Section 10.3 shall be deemed to require Architect to agree to any amendments to this Agreement that would adversely affect Architect's risks, rights or obligations under this Agreement.

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

**§ 10.5** Nothing contained in this Agreement shall create a contractual relationship with, or a cause of action in favor of, a third party against either the Owner or Architect. Architect's services under this Agreement are being performed solely for the Owner's benefit, and no other entity shall have any claim against Architect because of this Agreement or the performance or nonperformance of services hereunder.

**§ 10.6** Unless otherwise required in this Agreement, the Architect shall have no responsibility for the discovery, presence, handling, removal or disposal of, or exposure of persons to, hazardous materials or toxic substances in any form at the Project site. Owner agrees to indemnify and hold harmless Architect from all claims, damages, fines and causes of action arising out of the discovery, presence, handling, removal or disposal of or exposure of persons to hazardous materials or toxic materials in any form at the Project site, including but not limited to asbestos, asbestos products, polychlorinated biphenyl (PCB) or other toxic substances (“Hazardous Materials”). In the event Architect or any other party encounters Hazardous Materials at the jobsite or should it become known in any way that such materials may be present at the jobsite, or any adjacent areas that may affect the performance of Architect’s services, the Architect may, at its option and without liability for consequential or any other damages, suspend performance of services on the Project until the Owner retains appropriate specialist consultant(s) or contractor(s) to identify, abate and/or remove the Hazardous Materials and warrant that the jobsite is in full compliance with applicable laws and regulations. The Owner shall retain an expert or experts to arrange for the prompt identification of and/or removal or treatment of the Hazardous Materials identified during the course of the Project. The contract time shall be extended appropriately and the contract sum shall be increased in the amount of Architect’s reasonable additional costs of shut down, delay and start-up and mobilization.

**§ 10.7** The Architect shall have the right to include photographic or artistic representations of the design of the Project among the Architect’s promotional and professional materials. The Architect shall be given reasonable access to the completed Project to make such representations. However, the Architect’s materials shall not include the Owner’s confidential or proprietary information if the Owner has previously advised the Architect in writing of the specific information considered by the Owner to be confidential or proprietary. The Owner shall provide professional credit for the Architect in the Owner’s promotional materials for the Project. This Section 10.7 shall survive the termination of this Agreement unless the Owner terminates this Agreement for cause pursuant to Section 9.4.

**§ 10.8** If the Architect or Owner receives information specifically designated as “confidential” or “business proprietary,” and which is not publicly available or already in possession of Architect or Owner, the receiving party shall keep such information strictly confidential and shall not disclose it to any other person except as set forth in Section 10.8.2. This Section 10.8 shall survive the termination of this Agreement.

**§ 10.8.1** For purposes of their Agreement, “Confidential Information” mean and refer to any and all financial, business information, including but not limited to, forecasts, projections, analyses, employee, client, customer and vendor information, software (including documentation and code), hardware and system designs, manufacturing, logistics and sales processes, trade secrets, strategies, operations, file design, schematics, methods, licenses, costs, pricing, know-how, designs, inventions (whether patentable or not) and other information relating to the business of the disclosing party. However, Confidential Information shall not include information that: (a) is or becomes known to the general public through no fault of the receiving party; (b) was in the prior lawful possession of the receiving party; (c) was independently developed by the receiving party without reference or access to disclosing party’s Confidential Information; (d) is required to be disclosed by legal requirement (court order, statute, regulation, government agency) provided the receiving party gives prompt prior written notice to the disclosing party for the disclosing party to seek a protective order from such disclosure.

**§ 10.8.2** The receiving party may disclose “confidential” or “business proprietary” information after 7 days’ notice to the other party, when required by law, arbitrator’s order, or court order, including a subpoena or other form of compulsory legal process issued by a court or governmental entity, or to the extent such information is reasonably necessary for the receiving party to defend itself in any dispute. The receiving party may also disclose such information to its employees, consultants, or contractors in order to perform services or work solely and exclusively for the Project, provided those employees, consultants and contractors are subject to the restrictions on the disclosure and use of such information as set forth in this Section 10.8.

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

§ 10.10 Architect shall not be responsible for the consequences of acts of God; acts, omissions to act, or the failure to act in a timely manner of the Owner, the Contractor, Subcontractors and/or their respective agents and employees; strikes, lockouts, or other labor disturbances; riots, insurrections and civil commotions; embargoes; shortage or unavailability of materials, supplies, labor equipment and systems, sabotage, vandalism, the requirements of laws, statutes, regulations, and other legal requirements; orders or judgments; failure of the Owner to furnish timely information or approve or disapprove of Architect's services or work product promptly, or delays caused by faulty performance by the Owner or by Contractors of any level or delays caused by any governmental agency; or any other matter beyond the control of Architect. When such delays beyond Architect's reasonable control occur, the Owner agrees Architect is not responsible for damages, nor shall Architect be deemed to be in default of this Agreement. If Architect is delayed in performing any services as a result of any of the foregoing causes, Architect's Fee and the time for performance shall be equitably adjusted by a change order signed by the parties.

## ARTICLE 11 COMPENSATION

§ 11.1 For the Architect's Basic Services described under Article 3, the Owner shall compensate the Architect as follows:

- .1 Stipulated Sum  
(Insert amount)

« »

- .2 Percentage Basis  
(Insert percentage value)

(« ») % of the Owner's budget for the Cost of the Work, as calculated in accordance with Section 11.6.

- .3 Other  
(Describe the method of compensation)

« »

§ 11.2 For the Architect's Supplemental Services designated in Section 4.1.1 and for any Sustainability Services required pursuant to Section 4.1.3, the Owner shall compensate the Architect as follows:  
(Insert amount of, or basis for, compensation. If necessary, list specific services to which particular methods of compensation apply.)

« »

§ 11.3 For Additional Services that may arise during the course of the Project, including those under Section 4.2, the Owner shall compensate the Architect as follows:  
(Insert amount of, or basis for, compensation.)

« »

§ 11.4 Compensation for Supplemental and Additional Services of the Architect's consultants when not included in Section 11.2 or 11.3, shall be the amount invoiced to the Architect plus XX percent (%) or as follows:  
(Insert amount of, or basis for computing, Architect's consultants' compensation for Supplemental or Additional Services.)

« »

§ 11.5 When compensation for Basic Services is based on a stipulated sum or a percentage basis, the proportion of compensation for each phase of services shall be as follows:



Schematic Design Phase		percent (		%)
Design Development Phase		percent (		%)
Construction Documents Phase		percent (		%)
Procurement Phase		percent (		%)
Construction Phase		percent (		%)
<b>Total Basic Compensation</b>	<b>One Hundred</b>	<b>percent (</b>	<b>100</b>	<b>%)</b>

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

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

§ 11.7 The hourly billing rates for services of the Architect and the Architect’s consultants are set forth below. The rates shall be adjusted in accordance with the Architect’s and Architect’s consultants’ normal review practices. *(If applicable, attach an exhibit of hourly billing rates or insert them below.)*

«  
»

### § 11.8 Compensation for Reimbursable Expenses

§ 11.8.1 Payments on account of services rendered and incurred shall be made monthly upon presentation of Architect’s statement of services.

Reimbursable Expenses are in addition to compensation for Basic, Supplemental, and Additional Services and include expenses incurred by the Architect and the Architect’s consultants directly related to the Project, as follows:

- .1 Transportation and authorized out-of-town travel and subsistence;
- .2 Long distance services, dedicated data and communication services, teleconferences, Project web sites, and extranets;
- .3 Permitting and other fees required by authorities having jurisdiction over the Project;
- .4 Printing, reproductions, plots, and standard form documents;
- .5 Postage, handling, and delivery;
- .6 Expense of overtime work requiring higher than regular rates, if authorized in advance by the Owner;
- .7 Renderings, physical models, mock-ups, professional photography, and presentation materials requested by the Owner or required for the Project;
- .8 If required by the Owner, and with the Owner’s prior written approval, the Architect’s consultants’ expenses of professional liability insurance dedicated exclusively to this Project, or the expense of additional insurance coverage or limits in excess of that normally maintained by the Architect’s consultants;
- .9 All taxes levied on professional services and on reimbursable expenses;
- .10 Site office expenses;
- .11 Registration fees and any other fees charged by the Certifying Authority or by other entities as necessary to achieve the Sustainable Objective; and,
- .12 Other similar Project-related expenditures.
- .13 Architect shall provide Owner with one full size and one-half size sets of documents at each design

- milestone.
- .14 Architect shall provide to Navigate Building Solutions one half size set of documents at each design milestone.
  - .15 Anticipated Design Milestones are: Schematic Design, Design Development, 50% Construction Documents, 100% Construction Documents.

§ 11.8.2 For Reimbursable Expenses the compensation shall be the expenses incurred by the Architect and the Architect's consultants plus « zero » percent ( « 0 » %) of the expenses incurred. Total Reimbursable Expenses shall not exceed \$5,000.

§ 11.9 Architect's Insurance. If the types and limits of coverage required in Section 2.5 are in addition to the types and limits the Architect normally maintains, the Owner shall pay the Architect for the additional costs incurred by the Architect for the additional coverages. as set forth below:

« »

### § 11.10 Payments to the Architect

#### § 11.10.1 Initial Payments

§ 11.10.1.1 An initial payment of zero dollars (\$ 0.00 ) shall be made upon execution of this Agreement and is the minimum payment under this Agreement. It shall be credited to the Owner's account in the final invoice.

§ 11.10.1.2 If a Sustainability Certification is part of the Sustainable Objective, an initial payment to the Architect of « » (\$ « » ) shall be made upon execution of this Agreement for registration fees and other fees payable to the Certifying Authority and necessary to achieve the Sustainability Certification. The Architect's payments to the Certifying Authority shall be credited to the Owner's account at the time the expense is incurred.

#### § 11.10.2 Progress Payments

§ 11.10.2.1 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of the Architect's invoice. Amounts unpaid sixty ( 60 ) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Architect.  
(Insert rate of monthly or annual interest agreed upon.)

1.5 % per month

§ 11.10.2.2 The Owner shall not withhold amounts from the Architect's compensation to impose a penalty or liquidated damages on the Architect, or to offset sums requested by or paid to contractors for the cost of changes in the Work, unless the Architect agrees or has been found liable for the amounts in a binding dispute resolution proceeding.

§ 11.10.2.3 Records of Reimbursable Expenses, expenses pertaining to Supplemental and Additional Services, and services performed on the basis of hourly rates shall be available to the Owner at mutually convenient times.

## ARTICLE 12 SPECIAL TERMS AND CONDITIONS

Special terms and conditions that modify this Agreement are as follows:  
(Include other terms and conditions applicable to this Agreement.)

« »

## ARTICLE 13 SCOPE OF THE AGREEMENT

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

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

- .1 AIA Document B101™–2017, Standard Form Agreement Between Owner and Architect, as modified herein;
- .2 Exhibits:
- .3 AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:  
*(Insert the date of the E203-2013 incorporated into this agreement.)*
- « »
- .4 AIA Document E204™–2017, Sustainable Projects Exhibit, dated as indicated below:  
*(Insert the date of the E204-2017 incorporated into this agreement.)*
- « »
- .5 Other documents:  
*(List other documents, if any, forming part of the Agreement.)*

Owner may accept this Agreement either by signature, or other written notice authorizing Architect to commence providing services or by making any payments to Architect in consideration of its services, and any of the foregoing modes of acceptance shall be deemed to incorporate all of the terms and conditions of this Agreement into the contract between the parties thereby formed.

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

\_\_\_\_\_  
OWNER (Signature)

«William Reininger, Jr, Executive Director »« »

(Printed name and title)

\_\_\_\_\_  
ARCHITECT (Signature)

(Printed name, title, and license number, if required)