## Master Architect Agreement for Design-Build Delivery

## Cover Sheet and Instructions

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| --- | --- | --- | --- | --- | --- | --- | --- |
|  | | | APPROVED DOCUMENT – This document is approved by the Office of the President and Office of the General Counsel for use by the Facility and is available on electronic media. | | | | |
|  | | |  | | | | |
| **PURPOSE OF DOCUMENT:** | Used to contract with Master Architect for design build delivery. | | | | | | |
| **CROSS-REFERENCE TO FACILITIES MANUAL:** | None | | | | | | |
| **CONTENTS:** | Master Architect Agmt for Design Build Delivery | | | | | | |
| **FOR USE WITH:** | Design Build Contract Documents | | | | | | |
| **COMPLETED BY:** | ✓ | Filling in | | ✓ | Adding Text |  | No Data Required |
| **ITS USE IS:** | ✓ | Required | |  | Optional | | |

**NOTE:** To use the electronic file of this document, you must go to the “Tools” pull down menu in Microsoft Word, select “Options,” select the “View” tab, and then put a check in the box “Hidden text.” Most instructions and alternate language is displayed in hidden text. Do not print the hidden text for the final document.

**Completion Instructions:**

1. Notes, suggested text, instructions and other information is formatted using the following methods:

* Hidden text within brackets. {This is an example of the format.} Read the material within the brackets and take the appropriate action (usually inserting text or selecting from a choice of texts.) When printing this document, the default print property will not print the hidden text.
* Coded instruction within brackets. The instructions and shading will disappear when the required information is typed.

2. Exhibit J is unique to the Master Architect Agreement for Design Build. Exhibits B and C are *different than* those in the Executive Design Professional Agreement.

**Modifications and Additions:**

1. **Removed** insurance requirement from 10.2.6.4for Professional Liability insurance policy to include Contractual Liability Coverage or endorsements to the insurance policies for Contractual Liability Coverage for liability that would exist in the absence of the contract.

**Comments:**

None

MASTER ARCHITECT AGREEMENT

# {OR “MASTER ENGINEER AGREEMENT”, as applicable}

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**MASTER ARCHITECT AGREEMENT**

# {OR “MASTER ENGINEER AGREEMENT”, as applicable}

**between**

**THE REGENTS OF THE UNIVERSITY OF CALIFORNIA**

**and**

# THE MASTER ARCHITECT

This AGREEMENT is made on the \_\_\_\_\_\_\_\_\_day of \_\_\_\_\_\_\_\_\_\_\_\_\_ in the year \_\_\_\_\_\_ between The Regents of the University of California, a California Corporation, hereinafter called “University” and {INSERT THE NAME OF THE MASTER ARCHITECT} hereinafter called “Master Architect”.

{CONTINUE THE PARAGRAPH AFTER CHOOSING THE APPROPRIATE OPTION:

1. IF THE FIRM IS A CORPORATION, USE THE CORPORATE TITLE.

2. IF THE FIRM IS A PARTNERSHIP, LIST THE NAMES OF ALL OF THE PARTNERS. IF THE PARTNERSHIP IS OPERATING AS A “DOING BUSINESS AS (DBA)” FIRM, INCLUDE THE DBA NAME. FOR A GENERAL PARTNERSHIP, STIPULATE AFTER ALL LISTED NAMES THE TERM “Co-partners.”

3. IF THE FIRM IS A SOLE PROPRIETORSHIP, LIST THE NAME OF THE INDIVIDUAL, FOLLOWED BY THE WORDS “An Individual.” IF THE SOLE PROPRIETORSHIP IS OPERATING AS A DBA FIRM, INCLUDE THE DBA NAME.}

The above named individual or firm shall be the Master Architect and shall comply with the licensing laws of the State of California regarding the practice of Architecture in performing the services set forth in this Agreement for the following project:

{NOTE: THE FACILITY NAME, PROJECT NUMBER, AND PROJECT NAME MUST BE THE SAME AS THOSE RECORDED FOR FUNDING PURPOSES.}

UNIVERSITY OF CALIFORNIA, {FACILITY NAME}

{PROJECT NUMBER}

{PROJECT NAME}

{PROJECT DESCRIPTION, include approximate square footage}

CONSTRUCTION BUDGET:

{DOLLAR AMOUNT} ENR: {ENTER THE APPROPRIATE ENGINEERING NEWS RECORD CONSTRUCTION COST INDEX.}

ARTICLE 1

**GENERAL PROVISIONS**

**1.1 GENERAL REQUIREMENTS**

**1.1.1 T**his Agreement shall be governed by the laws of the State of California.

**1.1.2** In the event of a conflict between the provisions of any exhibit to this Agreement and the Agreement, the provisions of this Agreement shall govern.

**1.1.3** University's exercise of any of its rights or remedies prescribed in this Agreement shall not relieve Master Architect from responsibility for damages or other losses incurred or to be incurred by University as a result of Master Architect's breach of its obligation under this Agreement.

**1.1.4** Each design phase shall be subject to a separate written authorization to proceed to be issued by University. Work on a design phase shall not commence until issuance of the appropriate written authorization to proceed. Work on a design phase shall be based on documents, if any, from the prior phase approved by University in writing, any written directives by University with respect thereto, and any adjustments authorized by University in the Project Program or Construction Budget.

**1.1.5** Time is of the essence for this Agreement.

**1.1.6** Master Architect shall cooperate with University, its designees, and Design Builder in furthering the interests of University.

**1.1.7** Consultant/Design Professional shall pay all persons providing services and/or any labor on site, including any University location, no less than UC Fair Wage (defined as $13 per hour as of 10/1/15, $14 per hour as of 10/1/16, and $15 per hour as of 10/1/17) and shall comply with all applicable federal, state and local working condition requirements.

{OPTIONAL: FACILITIES MAY CHOOSE TO ADD OR DELETE 1.1.8}

**1.1.8** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same Agreement. The counterparts of this Agreement may be executed via a University approved digital signature process and shall have the same force and effect as the use of a manual signature. The University reserves the right to reject any digital signature that cannot be positively verified by the University system as an authentic digital signature.

**1.2 MASTER ARCHITECT STANDARD OF CARE**

**1.2.1** Master Architect, its officers, agents, employees, subcontractors, consultants and any persons or entities for whom Master Architect is responsible, shall provide all services pursuant to this Agreement in a manner consistent with the standard of care under California law applicable to those who specialize in providing such services for projects of the type, scope, and complexity of the Project (including its contracting mode).

**1.3 DEFINITIONS**

Unless defined differently herein, terms used in this Agreement shall have the same meaning as those used in Contract Documents .

NOTE: EXHIBIT A MUST ALSO INCLUDE THE FACILITY’S STANDARD SPECIFICATIONS, DIVISION 1, GENERAL REQUIREMENTS.

**1.3.1** *As-builts (As-built Drawings and Specifications).* The term “As-builts” shall mean the record copy of the Contract Documents prepared by the Design Builder to record as-built conditions, current changes, and selections made during construction.

**1.3.2** *Construction Budget.* The term “Construction Budget” shall mean University's written statement of funds available to pay for the cost of all construction, including construction and design related to the Design Build Contract.

**1.3.3** *Construction Cost Index.* (ENR) The term “Construction Cost Index” shall mean the *Engineering News Record's* Construction Cost Index for the time period designated by University. The 20 cities average is used as a benchmark.

**1.3.4** *Design Build Design Submittals.* The term "Design Build Design Submittals" shall mean the documents prepared by the Design Builder and submitted to the University for review as described in the Contract Documents.

**1.3.5** *Contract Documents.* The term "Contract Documents" shall mean the Advertisement for Design Builder Prequalification, Request for Proposals, Price Proposal Form, Agreement, General Conditions, Supplementary Conditions,, Design Builder’s Proposal, Specifications, List of Drawings, Drawings, Addenda, Notice to Proceed, Change Orders, Notice of Completion and all other items identified as contract documents in the Design Build Contract.

**1.3.6** *Coordination.* The term "Coordination" shall mean that the documents shall be consistent and in conformance each part with all other parts.

**1.3.7** *Estimated Project Construction Cost.* The term “Estimated Project Construction Cost” shall mean Master Architect's written estimate in the form specified by University (Exhibit C), of the total Construction Cost of the project at the various stages of the design process.

**1.3.8** *Project.* The term “Project” means the project described on page 1 of this Agreement.

**1.3.9** *Project Architect (or Engineer).* The term “Project Architect” or “Project Engineer” shall mean the specific University-approved individual named in this Agreement who is the Master Architect's designated principal or staff member in charge of providing all services required by this Agreement.

**1.3.10** *Project Program*. The term "Project Program" is a written statement prepared by the Master Architect of University's design objectives, constraints, and criteria, including space requirements and relationships, flexibility and expendability, special equipment and systems, and Project site requirements.

**1.3.11** *Project Schedule.* The term “Project Schedule” shall mean the schedule prepared by University showing project milestones, funding, design, design review, construction, and other deadlines applicable to the Project.

**1.3.12** *Record Documents.* The term "Record Documents" shall mean those documents as described in the Contract Documents.

**1.3.13** *Request for Proposal.* The term "Request for Proposal" shall mean those documents prepared and furnished by University for the purpose of obtaining proposals from Design Builders to design and build the Project, including without limitation, the General Conditions and General Requirements attached as Exhibit A.

**1.3.14** *University.* The term "University" shall mean the Regents of the University of California.

**1.3.15** *University Representative*. The term "University Representative" shall mean the person or entity providing University Representative services as indicated in the contract documents including, but not limited to, issuance of written communications with the Design Builder.

**1.3.16** *University's Designated Administrator.* The term "University's Designated Administrator” shall mean the individual acting as University’s Designated Administrator pursuant to paragraph 4.1.1.

**ARTICLE 2**

MASTER ARCHITECT'S SERVICES AND RESPONSIBILITIES - BASIC SERVICES

Basic Services to be provided by Master Architect consist of the services described in this Article 2.

* 1. **GENERAL**

**2.1.1** Master Architect shall be responsible for construction phase services only as described hereafter.

**2.1.2** To the extent deemed necessary by Master Architect, Master Architect shall employ architects, mechanical, electrical, structural, and civil engineers licensed as such by the State of California, and such other consultants necessary for the provision of services under this Agreement. All consultants provided under basic services shall be paid by Master Architect. Master Architect shall submit, for approval by University, names of consultants for each professional element of service of the Project. University-approved consultants provided under basic service shall be as named below.

Consultant Name Discipline

{LIST THE NAMES OF {LIST DISCIPLINE

UNIVERSITY-APPROVED FOR EACH

CONSULTANTS} CONSULTANT}

Nothing in the foregoing shall create any contractual relationship between University and any consultants employed by Master Architect under the terms of this Agreement. Master Architect is as responsible for the performance of its consultants as it would be if it had rendered these services itself.

**2.1.3** Master Architect shall designate a principal or a staff member as the Project {Architect OR Engineer}. So long as the Project {Architect OR Engineer} performs in a manner acceptable to University, and remains in Master Architect's employ, the Project {Architect OR Engineer} shall remain in charge of all design and other services required under this Agreement, including attending design-related meetings for the Project, unless a substitution mutually acceptable to Master Architect and University is made. University-approved Project {Architect OR Engineer} shall be the person named below:

{LIST NAME OF UNIVERSITY-APPROVED PROJECT ARCHITECT OR ENGINEER}

{IF APPLICABLE, ADD:

* + 1. In addition, the individual(s) named below shall attend design-related meetings as requested by University.

{LIST NAME OF INDIVIDUAL(S)}

{IF 2.1.4 ABOVE IS NOT APPLICABLE, ADD THE WORDS “NOT USED” AFTER THE NUMBER.}

**2.1.5** Master Architect shall assist University in fulfilling the requirements of the authorities and funding agencies whose interests bear on the design, cost, and construction of the Project.

OPTIONAL: Authorities and fund agencies applicable to this project include the following: {LIST}

**2.1.6** Master Architect shall abide by all regulations imposed by authorities having jurisdiction over the Project.

**2.1.7** Master Architect shall cooperate with other professionals University may employ for related work.

**2.1.8** To the extent required by University, Master Architect shall consult with authorized employees, agents, and representatives of University relative to the design and construction of the Project.

**2.1.9** Master Architect shall review site surveys; existing record documents; seismic data; mechanical, geotechnical, and other test reports; environmental documents, and any other documentation furnished by University. From an examination of the site and a review of available information, Master Architect shall determine whether such data are sufficient for purposes of design or whether additional data are needed and, if so, recommend the manner in which it be provided and needed services obtained. Master Architect may rely on the information provided by University but only to the extent such reliance is consistent with Master Architect’s obligations under this Agreement.

**2.1.10** Review, approval or acceptance of Master Architect's work whether by University or others, shall not relieve Master Architect from responsibility for errors and omissions in Master Architect's work.

* + 1. Master Architect shall prepare Criteria Documents in compliance with applicable laws, codes, rules, regulations, ordinances, and standards including, without limitation, those listed in Exhibit C.

NOTE: EXHIBIT C MAY BE AMENDED TO INCLUDE PROJECT, FACILITY, AND SITE SPECIFIC INFORMATION AS ELECTED.

**2.1.12** The services of Master Architect shall be performed in accordance with the Supplemental Requirements (Exhibit C).

**2.2 SCHEMATIC DESIGN AND PERFORMANCE SPECIFICATIONS PHASE**

**2.2.1** Upon written authorization to proceed, Master Architect shall develop the Project Program to ascertain the requirements of the Project and shall review and clarify Master Architect’s understanding of these requirements with University.

**2.2.2** Master Architect shall provide a written preliminary evaluation of the Construction Budget requirements reconciled with the Project Program.

**2.2.3** Master Architect shall prepare and submit to University an outline of applicable provisions of building codes which apply to this project. The outline shall include a written report and diagrammatic drawings which delineate the design criteria (e.g., exit paths, travel distances, required exits, rated walls, rated corridors, building occupancy, construction type, and fire zones). This graphic documentation of the design criteria shall be updated with each subsequent submittal.

**2.2.4** Master Architect shall prepare Schematic Design studies consistent with and incorporating the Project Program requirements, including site plans, floor plans, elevations, sections, and other drawings, sketches, or graphic materials needed to describe the Project in three dimensions. {IF APPLICABLE, LIST OTHER DOCUMENTS.} . Schematic studies shall be consistent with the Construction Budget and Project Schedule and shall be revised until approved by University as acceptable.

**2.2.5** Master Architect shall submit a tabulation comparing both gross and assignable floor areas to the initial Project Program area requirements, as required by Exhibit C.

**2.2.6** Master Architect shall submit a written Estimated Project Construction Cost based on the documents submitted in this phase. The estimate shall be in the form included in Exhibit C.

**2.2.7** Master Architect shall prepare Performance Specifications consistent with and incorporating the Project Program requirements and the Schematic Design. The Performance Specifications shall conform to the requirements as as described in Supplemental Requirements (Exhibit C).

{WHEN INDEPENDENT REVIEW AND VALUE ENGINEERING IS REQUIRED, ADD THE FOLLOWING PARAGRAPH.

* + 1. The Work of this phase is subject to independent reviews, both internal and external, and value engineering (see Paragraphs 2.12 and 2.13).

IF 2.2.8 IS NOT APPLICABLE, BUT 2.2.9 AND 2.2.10 ARE USED, RETAIN THE NUMBER 2.2.8 AND ADD THE WORDS “NOT USED”.}

{WHEN THE PROJECT IS SUBJECT TO REGENT’S REVIEW, ADD THE FOLLOWING PARAGRAPHS:

**2.2.9** The Work of this Phase is subject to approval by University’s Board of Regents. Upon written direction, Master Architect shall prepare a design presentation for The Regents in accordance with the project schedule provided by University. Master Architect shall assist in the preparation of materials for the Regents’ review including drawings and illustrations. {NOTE: ADD OTHER ITEMS IF REQUIRED}. Master Architect shall attend { } meetings with representatives of University regarding the presentation material to the Board of Regents.

**2.2.10** Should The Regents fail to approve the design or aspects of the design, Master Architect shall, at its own expense, revise the design unless Master Architect has been given prior written approval from University to proceed with the Design Development phase, in which case the revision of the design shall be an Additional Service in accordance with Article 3.}

**{INSERT IF APPLICABLE –IF NOT USED, INSERT “NOT USED”**

**2.3 DESIGN DEVELOPMENT PHASE**

**2.3.1** Upon University's written authorization to proceed and based on Schematic Design documents approved in writing by University and any written adjustments in the scope or quality of the Project or in the Construction Budget, Master Architect shall prepare for approval by University Design Development documents. These documents shall consist of such drawings and narratives as are needed to establish and describe the size and character of the entire Project. Master Architect shall incorporate into the Design Development documents architectural, structural, mechanical, and electrical systems, materials, and such other elements and other systems as described in Supplemental Requirements (Exhibit C). The Design Development documents shall be consistent with the Project Program (including the gross and assignable floor areas), the Construction Budget and the Project Schedule. The Performance Specifications shall be revised to incorporate any changes resulting from the work performed during this phase.

**2.3.2** Master Architect shall furnish a tabulation comparing both gross and assignable floor areas to the schematic design phase Project Program area requirements as required by Exhibit C.

**2.3.3** Master Architect shall furnish an update of the schematic design phase building code analysis as required by Exhibit C that delineates the design criteria (e.g., exit paths, travel distances, required exits, rated walls, and rated corridors, building occupancy, construction type, and fire zones).

**2.3.4** Master Architect shall submit documentation supporting the design criteria for the structural (including structural loading), HVAC, plumbing, electrical, lighting and communication systems; and other specialized building systems.

{WHEN INDEPENDENT REVIEW AND VALUE ENGINEERING ARE REQUIRED, ADD THE FOLLOWING:

**2.3.5**The Work of this phase is subject to independent reviews, both internal and external, and value engineering (see Paragraphs 2.12 and 2.13).

IF 2.3.5 IS NOT APPLICABLE, ADD THE WORDS “NOT USED” AFTER THE NUMBER.}

**2.3.6** Master Architect shall submit a written Estimated Project Construction Cost based on the documents submitted to University in this phase. The estimate shall be submitted in the form indicated in Exhibit C.

**2.4 PROPOSAL PHASE**

**2.4.1** Master Architect shall be a member of the Review Panel and assist the University in the Design Builder evaluation process

**2.4.2** During the Proposal Phase, Master Architect shall assist University in document clarification and in the preparation of Addenda as required for issuance only by University in accordance with Request for Proposal.

**2.5** **DESIGN BUILD DESIGN SUBMITTALS REVIEW PHASE**

**2.5.1** Upon University's written authorization to proceed and based on the Contract Documents, Master Architect shall review the Design Build Design Submittals, including Construction Documents submitted by the Design Builder..

**2.5.2** Master Architect shall submit a written analysis of and recommendations concerning the Design Build Design Submittals. The analysis shall specifically address any deviations from the Criteria Documents.

**2.5.3** Master Architect shall review upon 50% and 100% completion, or as otherwise called for in the Contract Documents, the Design Build Design Submittals submitted by the Design Builder,. Master Architect shall review the documents for backcheck after corrections are made to the 100% submittal by the Design Builder.

**2.6 DESIGN BUILD PHASE**

**2.6.1** Master Architect shall attend and participate in a pre-construction meeting called by the University’s Representative. Attendees shall be Master Architect’s consultants, Design Builder and major subcontractors, University's Designated Administrator and others as deemed necessary by the University.

**2.6.2** The Construction Phase of the Design Build contract will commence on the date the University issues the Notice to Proceed for Phase 3 to Design Builder and will terminate one year after Notice of Completion or, in the absence of a Notice of Completion, one year after Final Completion.

**2.6.3** The Master Architect’s responsibilities shall include, but not be limited to, interpretation of the Contract Documents; periodic site observations; review of submittals; preparation of documents for proposed changes; and general consultation to the University on design matters. The Master Architect shall be fully responsible for all matters related to the Master Architect’s design and all of the Master Architect’s recommendations to the University which are carried out by the University without substantive change. The Master Architect’s duties shall not include administration of communications with Design Builder, chairing meetings with Design Builder, monitoring the schedule; negotiation of price changes; and coordination of closeout. Master Architect shall cooperate with the University’s Representative in the University Representative’s provision of contract administration services as those services are described in the Contract Documents.

Except as otherwise provided in the Contract Documents or as directed by University, all written communications with Design Builder shall be sent and received by University’s Representative. The Master Architect shall advise and consult with University Representative and shall keep University Representative informed of the observed progress of the Work. The Master Architect shall render written or graphic interpretations and decisions that are consistent with the intent of, and reasonably inferable from, the Contract Documents; review and recommend any action to be taken regarding Design Builder's required submittals; and evaluate, with the University’s Representative, the equivalence of proposed substitutions for materials, products, or services specified by brand or trade names in the Contract Documents and recommend either approval or rejection of substitutions as being equal in quality, utility, and appearance.

The Master Architect shall perform all construction phase services in a timely manner, as required by this Agreement and the Contract Documents. Master Architect shall not delay its interpretations, decisions, reviews, or other functions pursuant to this Agreement so as to cause or contribute to a disruption of construction or a delay in completion of the Project.

**2.7 CONTRACT DOCUMENTS COMPLIANCE**

**2.7.1** Master Architect shall make (1) periodic on-site observations of construction as it progresses except for periods of construction downtime as approved by University in writing, and upon completion of construction and (2) off-site observations of fabricated materials and equipment when such off-site checks are specified in the Contract Documents. Observations shall be conducted deliberately and thoroughly. The frequency, duration, and extent of such observations shall be appropriate to and for: the progress, character, and complexity of the Work; design issues or questions of concern to Master Architect, its consultants, University’s Representative or as noted in any inspection reports furnished to Master Architect; the observed quality of Design Builder's performance during previous visits; the review of construction of crucial components of the Work; and the observation of the performance of specified or University’s Representative’s directed tests significant to the acceptability of crucial components of the Work. Such observations shall also be performed when reasonably requested by University.

Observations shall be for the purpose of ascertaining: the progress of the Work; that the character, scope, quality and detail of construction (including workmanship and materials) comply with the Criteria Documents expressed in the Contract Documents, University’s Representative’s directives, approved product data and samples and clarification drawings. Observations shall be separate from any inspections which may be provided by University. University's provision of inspection services, if any, shall not relieve Master Architect of its responsibilities under this Agreement.

**2.7.2** Master Architect shall have the authority to recommend to the University the rejection of Work that does not conform to any of the following: the Contract Documents; Master Architect’s directives; applicable code requirements; approved Shop Drawings, Product Data, and Samples; Clarification Drawings; or defective Work. Such rejection will be transmitted to the University’s Representative in writing for communication to Design Builder.

The Master Architect shall recommend special inspection or testing of the Work in accordance with the provisions of the Contract Documents if, in Master Architect’s reasonable opinion, such inspection or testing is necessary or advisable for the implementation of the Contract Documents, regardless of the state of completion of the Work subject to such inspection or testing.

**2.7.3** The Master Architect shall review inspection reports, laboratory reports, and test data to determine conformity of such data with the design requirements expressed, implied, or depicted in the Contract Documents; approved Shop Drawings, Product Data, and Samples; and Clarification Drawings.

The Master Architect shall also recommend to the University’s Representative, in writing, about actions that need to be taken by University’s Representative, as determined from Master Architect Project site visits, inspection reports, laboratory reports, and test data or from Design Builder proposals, or other relevant documents.

**2.7.4** Master Architect shall attend regular construction meetings scheduled to occur {INSERT MEETING FREQUENCY}, plus special meetings as they are deemed necessary. If, through no fault of Master Architect, the total number of regular construction meetings attended exceeds {          } meetings, Master Architect shall be compen­sated for additional meetings in accordance with paragraph 5.2. Construction meeting notes shall be prepared and distributed by University’s Representative.

**2.7.5** Master Architect shall accompany and assist University Representative and University with punch list inspections to determine Beneficial Occupancy, Substantial Completion, and Final Completion. Master Architect shall advise on the issuance of the Certificate of Beneficial Occupancy and the Certificate of Substantial Completion in accordance with the Construction Contract Documents.

{FOLLOWING SECTION IS OPTIONAL, IF NOT USED, ELIMINATE SECTION AND INSERT “NOT USED”}

**2.8 INTERPRETATION OF THE CONTRACT DOCUMENTS**

**2.8.1** The Master Architect shall be, in the first instance, the interpreter of the Criteria Document requirements of the Contract Documents and the judge of the performance thereunder.

Master Architect shall render design interpretations of, and design decisions regarding, the Contract Documents that are necessary for the proper execution or progress of the Work including provision of clarifications and interpretations of the Criteria Documents that are consistent with the intent of the documents but which do not involve a change in the scope of the Work. Such clarifications and interpretations shall not involve an adjustment of the Contract Sum or an extension of the Contract Time.

**2.8.2** Master Architect shall not be responsible for construction means, methods, techniques, sequences, procedures, or safety precautions and programs in connection with the Work, unless Master Architect specifies, directs, recommends or approves such means, methods, techniques, sequences, procedures, or safety precautions/ programs. Master Architect shall not specify, direct, recommend means, methods, techniques, sequences, procedures, or safety precautions/programs without the written consent of the University.

**2.9 CHANGES TO THE CONTRACT DOCUMENTS**

**2.9.1** Master Architect shall prepare drawings and specifications needed by University Representative to issue Field Orders and Change Orders for University’s approval and execution.

**2.10 NOT USED**

**2.11 GUARANTEE TO REPAIR PERIOD**

**2.11.1** Master Architect shall review the Work at 11 months after Substantial Completion or Final Completion, as applicable, and shall make written recommendations to University for the correction of any deficiencies within { } days after the inspection date. Master Architect shall be accompanied by University during these inspections. Dates for inspections shall be as mutually agreed by the parties within the 11th month time frame. The number of work hours associated with the on-site review and preparation of written recommendations shall not exceed { } hours excluding review and preparation necessitated in whole or in part by Master Architect’s errors and omissions.

{ADD THE FOLLOWING PARAGRAPHS, AS NEEDED, IF PARAGRAPHS 2.2.8, 2.2.9, 2.3.5, OR 2.4.16 ARE USED. IF 2.12.1 OR 2.12.2 ARE NOT APPLICABLE, RETAIN THE NUMBERS AND ADD THE WORDS “NOT USED”.}

* 1. **INDEPENDENT REVIEWS**

**2.12.1** This Project is subject to an independent seismic/structure review conducted by University and at University expense. Master Architect shall attend meetings as necessary to resolve all seismic issues. Master Architect shall present Criteria Documents and other items as necessary to describe the Project design.

{NOTE: ADD THE FOLLOWING PARAGRAPHS AS NEEDED. IF 2.13.1, 2.13.2, AND 2.13.3 ARE NOT APPLICABLE, RETAIN THE NUMBERS AND ADD THE WORDS “NOT USED”.}

* 1. **VALUE ENGINEERING**

{**2.13.1** Master Architect shall fully participate in University’s Value Engineering program (Exhibit F) which will be conducted at those times appropriate to the phase of the work (Exhibit F). Master Architect shall provide { } reproducible sets and { } copies of current Criteria Documents and documentation necessary to establish and clearly describe all current design concepts at { } {week OR weeks} prior to each value engineering session listed in Exhibit F.

* + 1. Master Architect and Master Architect’s consultants shall attend each value engineering session and shall present and discuss the design as required by the agenda of each meeting.

**2.13.3** After each value engineering session, Master Architect shall evaluate the results of the session with University and shall implement changes in the design as mutually agreed upon or as directed by University.}

**2.14 SCHEDULE**

**2.14.1** Master Architect acknowledges that all time limits stated in this Agreement are of the utmost importance to University. Master Architect shall meet the Project Schedule, which may be revised from time to time by mutual agreement, for completion of Master Architect's services.

**2.14.2** Master Architect shall submit its proposed work plan for the performance of Master Architect's services within {     } calendar days following the later of (1) the execution date of this Agreement, or (2) the date on which University authorizes Master Architect to begin performing Schematic Design Phase services. Master Architect’s work plan shall include without limitation, a schedule for how Master Architect will comply with the Project Schedule.

Master Architect's work plan shall include allowances for the periods of time required for University's review and approval of submissions and for approvals by authorities having jurisdiction over the Project. Master Architect's work plan, when approved by University, shall not be exceeded by Master Architect except when University and Master Architect mutually agree, in writing, to a revised Project Schedule.

**2.14.3** The total time scheduled for full completion of Master Architect's services for each phase of the Project listed below shall not exceed the durations listed below, unless mutually agreed upon in writing by Master Architect and University. The durations for University review period listed in the Project Schedule shall be computed from the date on which a clear, complete submittal is received by University. University's failure to meet its commitment to provide written requested information or to review within the stipulated time frames shall be cause for an adjustment in the Project Schedule. However, submittals received for review which are rejected, in writing, as not meeting the deliverables required by submittal requirements of this Agreement and the attachments thereto, shall not be cause for adjustment of the Project Schedule, and any such delay caused by such rejected submittals shall be at the sole responsibility of Master Architect.

**.1** Schematic Design and Performance Specifications Phase: Complete within {     } weeks plus {     } weeks approval time.

**.2** Design Development Phase, if applicable: Complete within {     } weeks, plus {     } weeks for approval time.

**.3** Design Build Document Review Phase: Complete within {     } weeks, plus {     } weeks for approval time.

**ARTICLE 3**

**MASTER ARCHITECT'S SERVICES AND RESPONSIBILITIES - ADDITIONAL SERVICES**

Unless required to be performed as part of basic services, the services described in this Article 3 are additional services. These Additional Services shall be paid for by University, as provided in this Agreement, in addition to the compensation for Basic Services. Master Architect shall provide Additional Services only when and as authorized in a written Agreement Change Authorization signed by University. No Additional Services shall be compensable unless so authorized.

**3.1 PRE-DESIGN BUILD CONTRACT AWARD PHASE**

**3.1.1** Provide analyses of University's need and formal programming documentation of the requirements of the Project.

**3.1.2** Provide planning surveys, site evaluations, environmental studies, or comparative studies of prospective Project sites.

**3.1.3** Provide services to investigate existing conditions or facilities, to make measured drawings thereof, or to verify the accuracy of drawings or other information furnished by University beyond those reasonably and customarily provided in Basic Services except that additional information recommended by the Master Architect in accordance with subparagraph 2.1.9 shall not entitle Master Architect to additional compensation.

**3.1.4** Provide planning services for tenant or rental spaces.

**3.1.5** Provide financial feasibility studies or other special studies.

**3.1.6** Prepare special surveys, environmental studies, and submissions required for review or approval by governmental authorities or others having jurisdiction over the Project except submittals required for approval of the Construction Documents.

**3.1.7** Prepare revisions to the documents during the Schematic Design and Design Development – if applicable, Phases when these revisions are inconsistent with data or written approvals previously given by University, excluding (1) corrections of design errors or omissions, and (2) modifications of the Criteria Documents in accordance with paragraphs 2.4, 2.5, 2.12 and 2.13 herein.

**3.1.8** Provide analyses of owning and operating costs, except as needed to prepare the energy analysis required by subparagraph 2.4.4 herein or to participate in Value Engineering sessions as required by paragraph 2.13.

**3.1.9** Provide perspective drawings, models, and mock-ups, including slides thereof except as indicated in subparagraph 2.2.9 for Regents presentation.

* 1. **DESIGN BUILD PHASE**

Provide written communications with Design Builder, or provide other University Representative services as described in the Contract Documents, including but not limited to review and approval of Design Builder cost, schedule or application for payment data and provision of cost or schedule analysis associated with field or change orders.

**3.3 POST-DESIGN BUILD PHASE**

**3.3.1** Provide services as necessary to correct major defects or deficiencies in the Work of Design Builder when such defects or deficiencies require services in excess of those reasonably expected on a project of this type, size and complexity, excluding warranty items, provided that such defects or deficiencies are not caused in whole or in part by errors or omissions on the part of the Master Architect.

**3.3.2** Provide extensive assistance in the utilization of any equipment or system; prepare operation and maintenance manuals; train personnel for operation and maintenance; and consult during operation.

**3.3.3** Provide services after the issuance of the final Certificate For Payment provided that these services do not relate to the guarantee or warranty services described in paragraph 2.11 or to corrections of design errors or omissions.

**3.3.4** Provide services regarding replacement of any Work damaged by fire or other cause (excluding any cause resulting from the negligent acts, errors, or omissions by Master Architect).

**3.4 GENERAL**

**3.4.1** Provide services in connection with a public hearing, mediation, arbitration proceeding, or legal proceeding, except where Master Architect is party thereto.

**3.4.2** Provide services made necessary by the termination of Design Builder but only to the extent such services exceed the level of service that would have been provided in the absence of a termination of Design Builder.

**ARTICLE 4**

**UNIVERSITY RIGHTS AND RESPONSIBILITIES**

**4.1 ADMINISTRATION**

**4.1.1** University shall designate, in writing, an Administrator who will act on behalf of University with respect to this Agreement. Master Architect shall accept directives only from University's Designated Administrator and not from other University employees or consultants. University may replace University's Designated Administrator at its sole option; if this replacement is made, University shall notify Master Architect in writing.

**4.1.2** University shall designate, in writing, prior to issuing the Request for Proposal, a University Representative.

**4.2 PROVISION OF INFORMATION, SURVEYS, AND REPORTS**

**4.2.1** University has furnished the exhibits set forth in paragraph 12.2.1, which are hereby incorporated and made a part of this Agreement.

**4.2.2** University shall have the right to make changes to the Project Program. When such changes are made after the Schematic Design and Performance Specifications Phase and increase the duties of Master Architect beyond those reasonably and customarily provided in Basic Services, Master Architect shall be compensated in accordance with this Agreement.

**4.2.3** University shall have the right to make reasonable changes to its Request for Proposal and Master Architect shall be bound by such changes. When such changes increase the duties of Master Architect, beyond those reasonably and customarily provided in Basic Services, Master Architect shall be compensated in accordance with this Agreement.

**4.2.4** University shall furnish structural, mechanical, electrical, chemical, soils, and other tests, inspections, and reports as required by law.

**4.2.5** Not Used

**4.2.6** If required for the performance of Master Architect's services, University shall furnish an accurate land survey of the Project site, giving, as applicable, grades and lines of streets, alleys, pavements, and adjoining property; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries, and contours of the site; locations, dimensions, and floor elevations pertaining to existing buildings, other improvements, and trees; and information in University's possession concerning available service and utility lines, both public and private.

**4.2.7** University shall furnish geotechnical data when these data are reasonably deemed necessary by Master Architect, including test logs, soil classifications, soil bearing values, and other data necessary to define subsoil conditions.

**4.2.8** The format to be used by Master Architect in its preparation of the Specifications shall be as stipulated in Supplemental Requirements (Exhibit C).

**4.2.9** The services, information, surveys, and reports required by this Article 4 shall be furnished at University's expense.

**ARTICLE 5**

**COMPENSATION**

NOTE: USED WHEN A SINGLE LUMP SUM IS NEGOTIATED FOR THE ENTIRE WORK ON THE PROJECT. IF THE LUMP SUM IS ONLY FOR THE SCHEMATIC DESIGN AND DESIGN DEVELOPMENT PHASES, ADJUST PHASING SCHEDULE AS APPROPRIATE**.**

University will compensate Master Architect for the scope of services provided, in accordance with this Article 5 and with the other terms and conditions of this Agreement, as follows:

**5.1 COMPENSATION FOR BASIC SERVICES**

**5.1.1** The fee for Basic Services shall be computed as follows:

For services rendered in accordance with this Agreement, the basis for compensation shall be a lump-sum fee in the amount of ${          }, payable upon completion of each Project phase, after the review and approval by University, in accordance with the following schedule:

NOTE: AS AN ALTERNATIVE TO PAYMENT AT THE COMPLETION OF EACH PHASE, MONTHLY PAYMENTS BASED ON THE PERCENTAGE OF COMPLETION MAY BE MADE, NOT TO EXCEED THE TOTAL FEE DUE FOR EACH PHASE.

**Phase or Stage Rates of Portions of Total Fees**

**Completed to be Paid at Completion**

**Schematic { %}**

**Design and Performance Specifications Phase**

**Design Development Increase to { %}**

**Phase, if applicable**

**Proposal Phase Increase to {%}**

**Design Build Design Submittal Review Increase to { %}**

**Phase**

**Construction (Proportional monthly payments of {%} of**

**Phase the fee, prorated to the proportion of the Project**

**construction that is certified as complete)**

**Construction Increase to { %}**

**Completed**

**5.2 COMPENSATION FOR ADDITIONAL SERVICES**

**5.2.1** For the Additional Services of Master Architect, as described in Article 3, including the Additional Services of consultants, compensation shall be in accordance with the attached Rate Schedule, Exhibit B.

**5.2.2** If the Contract Time initially established in the Contract Documents is exceeded or extended by {     } calendar days through the fault of University or Design Builder and through no fault of Master Architect, compensation for any Basic Services provided during this extended period of the construction phase of the construction contract shall be adjusted to compensate Master Architect for any additional costs reasonably incurred by Master Architect as the result of such delay, provided University has approved such adjustments in advance. These extended Basic Services shall be approved, in writing, by University and shall not include Basic Services that would have been performed under this Agreement had the initial Contract Time not been substantially exceeded or extended.

**5.3 REIMBURSABLE EXPENSES**

## 5.3.1 For Reimbursable Expenses, as described in this paragraph 5.3, only actual costs will be reimbursed in accordance with the Reimbursement Schedule in the Exhibits. Paid invoices or other proof of payment shall be submitted when requesting reimbursement.

5.3.2 Reimbursable Expenses are paid in addition to the compensation for Basic and Additional Services and are actual expenditures made by Master Architect and Master Architect’s consultants in the interest of the Project.

**ARTICLE 6**

**PAYMENTS**

**6.1 PAYMENTS FOR BASIC SERVICES**

**6.1.1** Payments for Basic Services, as defined in Article 2, shall be made as stipulated in subparagraph 5.1.1.

NOTE: THE FACILITY HAS THE OPTION TO PRORATE CONSTRUCTION ADMINISTRATION FEE OR RATE SCHEDULE.

**6.2 PAYMENTS FOR ADDITIONAL SERVICES AND REIMBURSABLE EXPENSES**

**6.2.1** Payments for Master Architect's Additional Services, as defined in Article 3, and for Reimbursable Expenses, as defined in paragraph 5.3, shall be made monthly after presentation of Master Architect's statement of services rendered, or expenses incurred, with invoices, receipts and other justification thereof.

**6.2.2** Payments related to paragraph 5.2.2 shall be made monthly after presentation of Master Architect’s statement of services rendered, or expenses incurred, with invoices, receipts and other justification thereof unless otherwise agreed by the parties thereto.

**6.3 PROJECT SUSPENSION**

**6.3.1** If the Project is suspended or abandoned for more than {     } consecutive months, and such suspension was not scheduled at the beginning of the Project, as provided under subparagraph 4.2.5, Master Architect shall be compensated for all authorized services performed prior to the receipt of written notice from University of such suspension or abandonment, together with Reimbursable Expenses then due. If the Project is resumed after being suspended for more than {     } consecutive months, Master Architect's compensation shall be adjusted as mutually agreed to compensate Master Architect for any additional costs reasonably incurred as the result of the suspension.

**ARTICLE 7**

**MASTER ARCHITECT'S RECORDS AND FILES**

Books and records relating to this Agreement shall be maintained in accordance with Generally Accepted Accounting Principles (GAAP) or International Financial Reporting Standards (IFRS). University or University's authorized representative shall have access to, the right to audit and the right to copy pertinent parts of Consultants’ books and records. Consultants records shall include but not be limited to accounting records (hard copy, as well as computer readable data); contracts; payroll records; subconsultant agreements; vendor agreements; purchase orders; leases; original estimates; estimating work sheets; correspondence; receipts; memoranda; and any other supporting evidence deemed necessary to substantiate charges under this agreement. All such books and records shall be preserved for a period of at least 3 years from the date of Final Payment under this Agreement.

Master Architect and Master Architect’s consultants shall make their files available for inspection and copying by University upon reasonable notice. Such files shall be maintained for a period of at least 3 years from the date of Final Payment under this Agreement. Master Architect shall include appropriate language in consultant’s agreements to enforce the provision of this paragraph 7.2.

**ARTICLE 8**

**OWNERSHIP AND USE OF DOCUMENTS**

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**8.1 CRITERIA DOCUMENTS AND PRESENTATION MATERIALS**

**8.1.1** Criteria Documents and all other deliverables called for by this agreement shall become the property of University, whether or not the Project for which they are made is executed. Master Architect shall be permitted to retain copies, including reproducible copies, of the Drawings and Performance Specifications for information and reference. Neither University nor Master Architect shall use the Criteria Documents as a whole or in substantial part on other projects, but either may reuse details or portions of the Criteria Documents for other projects.

* + 1. All presentation drawings, slides, and models shall become and remain the property of University.

**8.3 INDEMNIFICATION**

**8.3.1** University will defend, indemnify and save harmless Master Architect, its officers, agents and employees from any costs or claims for damages arising from University's use, on other projects, of the Criteria Documents, or the designs depicted in them. As used in this Article 8, the use on other projects does not include any of the uses specified in subparagraph 8.2.2.1.

**8.3.2** Notwithstanding paragraph 8.3.1, University will not defend, indemnify or save harmless Master Architect, its officers, agents, or employees from any costs or claims asserted or imposed by any person or entity claiming that University's use of the Criteria Documents, or the designs depicted in them is contrary to or in violation of any copyright, patent, trade secret, trade name, trademark, or any proprietary, contractual or legal right pertaining to their use.

**ARTICLE 9**

**DISPUTES**

**9.1 NEGOTIATION**

**9.1.1** The parties will attempt in good faith to resolve any controversy or Claim arising out of or relating to this Agreement by negotiation.

**9.2** **MEDIATION**

**9.2.1** Within 60 days, but no earlier than 30 days, following the earlier of (1) receipt of notice by the other party from the American Arbitration Association (AAA) of the disputing party’s demand for arbitration or (2) receipt by the other party of the disputing party’s notice of election to litigate, the parties shall submit the matter to non-binding mediation administered by the AAA under its construction industry mediation rules, unless waived by mutual stipulation of both parties.

**9.3 ARBITRATION OR LITIGATION**

Disputes arising from this Agreement between Master Architect and University which cannot be settled through negotiation or mediation shall be subject to arbitration or litigation as follows

**9.3.1** *Arbitration with Design Builder.* If any claim arises under the Construction Contract Documents for the Project and is submitted to arbitration, and either Design Builder or University claims that the acts or omissions of Master Architect are involved, in whole or in part, any claim by University against Master Architect arising out of or in connection therewith may be asserted, at the option of University, against Master Architect in the same arbitration proceeding which shall be conducted under the procedures specified in the General Conditions of the construction contract.

**9.3.2** *Litigation with Design Builder.* If any claim arises under the Construction Contract Documents for the Project and is submitted to litigation, and either Design Builder or University claims that the acts or omissions of Master Architect are involved, in whole or in part, any claim by University against Master Architect arising out of or in connection therewith may be asserted, at the option of University, against Master Architect in the same litigation.

**9.3.3** *Arbitration without Design Builder.* Disputes arising from this Agreement between Master Architect and University which cannot be settled through negotiation or mediation, and which are not resolved by arbitration or litigation pursuant to subparagraphs 9.3.1. and 9.3.2 shall be subject to arbitration without Design Builder conducted in accordance with the Construction Industry Arbitration Rules of the AAA then in effect. The following additional modifications shall be made to the aforesaid Rules of the AAA:

**.1** Civil discovery shall be permitted for the production of documents and taking of depositions. Other discovery may be permitted in the discretion of the arbitrator. All disputes regarding discovery shall be decided by the arbitrator.

**.2** University’s Representative and/or University’s consultants, shall if required by agreement with University, upon demand by University, join in and be bound by the arbitration.

**.3** Concurrent disputes subject to this subparagraph 9.3.3 shall be consolidated into a single arbitration unless the parties otherwise agree in writing.

**.4** No hearing shall be held prior to final completion of the Project unless University and Master Architect otherwise agree in writing.

**.5** The exclusive forum for determining arbitrability shall be the Superior Court of the State of California.

**.6** If total claims are less than $50,000, AAA expedited procedures as modified by this Article 9 shall apply. If total claims are between $50,000 and $100,000 they shall be heard by a single arbitrator who shall be an attorney. If total claims are in excess of $100,000 and are submitted to arbitration, the controversy shall be heard by a panel of 3 arbitrators, one of which shall be an attorney.

**.7** The AAA shall submit simultaneously to each party to the dispute an identical list of at least 10 names of persons chosen from the National Panel of Commercial Arbitrators, and each party to the dispute shall have 10 days from the date of receipt in which to cross off any names objected to, number the remaining names in order of preference and return the list to AAA. If the expedited procedures of the AAA are applicable, the AAA shall submit simultaneously to each party an identical list of 5 proposed arbitrators drawn from the National Panel of Commercial Arbitrators, and each party may strike 3 names from the list on a peremptory basis and return the list to AAA within 10 days from the date of receipt.

Unless University and Master Architect otherwise agree in writing, the arbitration decision shall be made under and in accordance with the laws of the State of California, supported by substantial evidence. If the total of all claims or cross claims submitted to arbitration is in excess of $50,000, the award shall contain the basis for the decision, findings of fact, and conclusions of law.

Any arbitration award shall be subject to confirmation, vacation or correction under the procedures and on the grounds specified in the California Code of Civil Procedure including without limitation Section 1296.

The expenses and fees of the arbitrators and the administrative fees of the AAA shall be divided among the parties equally. Each party shall pay its own counsel fees, witness fees, and other expenses incurred for its own benefit.

9.4 PERSONAL INJURY, WRONGFUL DEATH OR PROPERTY DAMAGE

**9.4.1** Claims for personal injury, wrongful death, or property damage (other than property damage to University) shall not be subject to arbitration under Paragraph 9.3.3.

**ARTICLE 10**

**INDEMNIFICATION AND INSURANCE**

**10.1 INDEMNIFICATION**

**10.1.1** Master Architect shall indemnify, defend, and hold harmless University and its Regents, officers, employees, agents, and representatives (collectively, “Indemnitee”), against all liability, demands, claims, costs, damages, injury including death, settlements, and expenses (including without limitation, interest and penalties) incurred by Indemnitee (“Losses”) arising out of the performance of services or Master Architect’s other obligations under this Agreement, but only in proportion to and to the extent such Losses are caused by or result from (1) the negligent acts or omissions of Master Architect, its officers, agents, employees, subcontractors, consultants, or any person or entity for whom Master Architect is responsible (collectively, “Indemnitor”); (2) the breach by Indemnitor of any of the provisions of this Agreement; or (3) willful misconduct by Indemnitor.

**10.1.2** The indemnification obligations under this Article 10 shall not be limited by any assertion or finding that (1) the person or entity indemnified is liable by reason of non-delegable duty, or (2) the Losses were caused in part by the negligence of, breach of contract by, or violation of law by Indemnitee. The obligation to defend shall arise regardless of any claim or assertion that Indemnitee caused or contributed to the Losses. Indemnitor’s reasonable defense costs (including attorney and expert fees) incurred in providing a defense for Indemnitees shall be reimbursed by University except to the extent such defense costs arise, under principles of comparative fault, from Indemnitor’s (a) negligent acts or omissions; (b) breach of any of the provisions of this Agreement; or (c) willful misconduct.

**10.1.3** Master Architect shall indemnify, defend, and save harmless Indemnitee from and against all loss, cost, expense, royalties, claims for damages or liability, in law or in equity, including, without limitation, attorney’s fees, court costs, and other litigation expenses that may at any time arise or be set up for any infringement (or alleged infringement) of any patent, copyright, trade secret, trade name, trademark or any other proprietary right of any person or entity in consequence of the use on the Project by Indemnitee of the design or construction documents (including any method, process, product, concept specified or depicted) supplied by Indemnitor in the performance of this Agreement.

**10.1.4** Nothing in this Agreement, including the provisions of this Article 10, shall constitute a waiver or limitation of any rights which Indemnitee may have under applicable law, including without limitation, the right to implied indemnity.

**10.2 INSURANCE REQUIREMENTS**

NOTE: THE COVERAGE AMOUNTS TO BE LISTED BELOW MUST BE EVALUATED FOR EACH AGREEMENT AND DISCUSSED WITH THE FACILITY RISK MANAGEMENT OFFICE. LIMITS SHOULD BE ESTABLISHED TO REALISTICALLY PROTECT THE UNIVERSITY AND REFER TO THE LATEST REVISION OF THE BUSINESS AND FINANCE BULLETIN NO. BUS63.

Master Architect, at Master Architect’s sole cost and expense, shall insure its activities in connection with this Agreement and shall obtain, keep in force, and maintain insurance as listed below. The coverages required under Paragraph 10.2 shall not in any way limit the liability of Master Architect.

**10.2.1** Commercial-Form General Liability Insurance with coverage and minimum limits as follows:

**.1** Each Occurrence {$     }

**.2** Products Completed, Operations Aggregate {$     }

**.3** Personal and Advertising Injury {$     }

**.4** General Aggregate {$     }

**10.2.2** Business Automobile Liability Insurance for owned, scheduled, non-owned, or hired auto­mobiles, with a combined single limit of no less than {$     } per accident.

**10.2.3** Professional Liability Insurance, with limits of {$     } per claim and {$     } in the aggregate.

{OPTIONAL:

10.2.3 Project specific professional liability insurance will be purchased by Master Architect for the Project with limits of {$ } per claim and {$ } in the aggregate.

IF THIS OPTION IS CHOSEN, DELETE 10.2.3 ABOVE.}

**10.2.4** If the above insurance (subparagraphs 10.2.1-10.2.3) is written on a claims-made basis, it shall be maintained continuously for a period of no less than 3 years after the date of Final Completion. The insurance shall have a retroactive date of placement prior to or coinciding with the date services are first provided that are governed by the terms of this Agreement and shall include, without limitation coverage for professional services as called for in this Agreement. Insurance required by subparagraphs 10.2.1 through 10.2.3 shall be (i) issued by companies that have a Best rating of A- or better, and a financial classification of VIII or better (or an equivalent rating by Standard & Poor or Moody’s) or (ii) guaranteed, under terms consented to by the University (such consent to not be unreasonably withheld), by companies with a Best rating of A- or better, and a financial classification of VIII or better (or an equivalent rating by Standard & Poor or Moody’s)

**10.2.5** Workers' Compensation and Employer’s Liability Insurance as required by Federal and State of California law.Insurance required by this subparagraph V.B.1.e shall be issued by companies (i) that have a Best rating of B+ or better, and a financial classification of VIII or better (or an equivalent rating by Standard & Poor or Moody’s) or (ii) that are acceptable to the University.

**10.2.6** Master Architect, upon the execution of this Agreement, shall furnish University with Certificate Of Insurance , evidencing compliance with this Article 10, including the following requirements:

**.1** Consultant shall have the insurance company complete University's Certificate of Insurance on the form contained in the Exhibits. If Consultant’s insurance company refuses to use the University's Certificate of Insurance form, it must provide a Certificate of Insurance (and endorsements, if needed) evidencing compliance with this Article 10 and Special Provisions 1 through 3 on the Certificate of Insurance Exhibit. It alone constitutes evidence of insurance.

**.2** Provide that coverage cannot be canceled without 10 days advance written notice to University.

**.3** If insurance policies are canceled for non-payment, University reserves the right to maintain policies in effect by continuing to make the policy payments and assessing the cost of so maintaining the policies against Master Architect.

**.4** University, University’s officers, agents, employees, consultants, University's Representative, and University's Representative's consultants,  regardless of whether or not  identified in the Contract Documents or to Design Professional in writing, will be included as additional insureds on Design Professional’s general liability policy for and relating to the Work to be performed by Design Professional and its consultants.   Design Professional’s general liability insurance policy shall name University as an additional insured pursuant to additional insured endorsement  CG2010 (11/85) or a combination of both CG 2010 (10/01 or 07/04) and CG 2037 (10/01 or 07/04). The General Liability coverage shall contain a Severability of Interest provision and shall be primary insurance as respects The Regents of the University of California, its officers, agents and employees.  Any insurance or self-insurance maintained by The Regents of the University of California shall be excess of and non-contributory with this insurance.This requirement shall not apply to Worker’s Compensation and Employer’s Liability Insurance.

**.5** The General Liability and the Professional Liability insurance policies shall apply to the negligent acts, or omissions of Master Architect, its officers, agents, employees, and for Master Architect's legal responsibility for the negligent acts or omissions of its consultants and anyone directly or indirectly under the control, supervision, or employ of Master Architect or Master Architect's consultants.

**ARTICLE 11**

**STATUTORY REQUIREMENTS**

**11.1 NONDISCRIMINATION**

**11.1.1** In connection with the performance of the Master Architect pursuant to this Agreement, Master Architect shall provide equal treatment to, and shall not willfully discriminate against or allow harassment of any employee or applicant for employment on the basis of: race; color; religion; sex; age; ancestry; national origin; sexual orientation; physical or mental disability; veteran's status; medical condition (as defined in Section 12926 of the State of California Government Code and including cancer-related medical conditions and or genetic characteristics); genetic information (as defined in the Genetic Information Nondiscrimination Act of 2008 and including family medical history); marital status; gender identity, pregnancy, or citizenship (within the limits imposed by law or University's policy) or service in the uniformed services (as defined by the Uniformed Services Employment and Reemployment Rights Act of 1994).  Master Architect will also take affirmative action to ensure that any such employee or applicant for employment is not discriminated against on any of the bases identified above.  Such equal treatment shall apply, but not be limited to the following: employment; upgrade; demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.  The Master Architect also agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.  The Master Architect will, in all solicitations or advertisements for employees placed by or on behalf of the Master Architect, state that qualified applicants will receive consideration for employment without regard to: race; color; religion; sex; age; ancestry; national origin; sexual orientation; physical or mental disability; veteran's status; medical condition (as defined in Section 12926 of the State of California Government Code and including cancer-related medical conditions and or genetic characteristics); genetic information (as defined in the Genetic Information Nondiscrimination Act of 2008 and including family medical history); marital status; gender identity, pregnancy, or citizenship (within the limits imposed by law or University's policy) or service in the uniformed services (as defined by the Uniformed Services Employment and Reemployment Rights Act of 1994).  For purposes of this provision:  (1) "Pregnancy" includes pregnancy, childbirth, and medical conditions related to pregnancy and childbirth; and (2) "Service in the uniformed services" includes membership, application for membership, performance of service, application for service, or obligation for service in the uniformed services

**11.2 PREVAILING WAGE RATES**

**11.2.1** For purposes of the Article, the term subcontractor or consultant shall not include suppliers, manufacturers, or distributors.

**11.2.2** Master Architect shall comply and shall ensure that all subcontractors or consultants comply with prevailing wage law pursuant to the State of California Labor Code, including but not limited to Sections 1770, 1771, 1771.1, 1772, 1773, 1773.1, 1774, and 1775, 1776, 1777.5, and 1777.6 of the State of California Labor Code. Compliance with these sections is required by this Contract. The Work under this Contract is subject to compliance monitoring and enforcement by the State of California Department of Industrial Relations. References to “Covered Services” hereinafter shall mean services performed pursuant to this Agreement that are covered by the aforementioned provisions as implemented by the State of California Department of Industrial Relations.

**11.2.3** The State of California Department of Industrial Relations has ascertained the general prevailing per diem wage rates in the locality in which the Project is to be performed for each craft, classification, or type of worker required to perform the Covered Services hereunder. A schedule of the general prevailing per diem wage rates will be on file at University’s principal facility office and will be made available to any interested party upon request. By this reference, such schedule is made part of the Agreement. Master Architect shall pay not less than the prevailing wage rates, as specified in the schedule and any amendments thereto, to all workers employed by Master Architect in the execution of the Covered Services hereunder. Master Architect shall cause all subcontracts or consultant agreements to include the provision that all subcontractors or consultants shall pay not less than the prevailing rates to all workers employed by such subcontractor or consultants in the execution of the Covered Services hereunder. Master Architect shall forfeit to University, as a penalty, not more than $200 for each calendar day or portion thereof for each worker that is paid less than the prevailing rates as determined by the Director of Industrial Relations for the work or craft in which the worker is employed for any portion of the Covered Services hereunder performed by Master Architect or any subcontractor or consultant. The amount of this penalty shall be determined by the Labor Commissioner pursuant to applicable law. Such forfeiture amounts may be deducted from the Master Architect’s fee. Master Architect shall also pay to any worker who was paid less than the prevailing wage rate for the work or craft for which the worker was employed for any portion of the Covered Services hereunder, for each day, or portion thereof, for which the worker was paid less than the specified prevailing per diem wage rate, an amount equal to the difference between the specified prevailing per diem wage rate and the amount which was paid to the worker.

**11.3 PAYROLL RECORDS**

**11.3.1** Master Architect and all subcontractors or consultants shall keep an accurate payroll record, showing the name, address, social security number, job classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyworker, apprentice, or other employee employed in connection with the Covered Services hereunder. All payroll records shall be certified as being true and correct by Master Architect or subcontractors or consultants keeping such records; and the payroll records shall be available for inspection at all reasonable hours at the principal office of Master Architect on the following basis:

**.1** A certified copy of an employee’s payroll record shall be made available for inspection or furnished to such employee or the employee’s authorized representative on request.

**.2** A certified copy of all payroll record shall be made available for inspection upon request to University, the State of California Division of Labor Standards Enforcement, and the Division of Apprenticeship Standards of the State of California Division of Industrial Relations.

**.3** A certified copy of all payroll records shall be made available upon request by the public for inspection or copies thereof made; provided, however, that the request by the public shall be made to either University, the Division of Apprenticeship Standards, or the Division of Labor Standards Enforcement. The public shall not be given access to such records at the principal offices of Master Architect or subcontractors or consultants. Any copy of the records made available for inspection as copies and furnished upon request to the public or any public agency by University shall be marked or obliterated in such a manner as to prevent disclosure of an individual’s name, address, and social security number. The name and address of Master Architect awarded the Agreement or performing the Agreement shall not be marked or obliterated.

**11.3.2** Master Architect shall file a certified copy of the payroll records with the entity that requested the records within 10 days after receipt of a written request. Master Architect shall inform University of the location of such payroll records for the Project, including the street address, city, and county; and Master Architect shall, within 5 working days, provide notice of change of location of such records. In the event of noncompliance with the requirements of the Paragraph or with the State of California Labor Code Section 1776, Master Architect shall have 10 days in which to comply following receipt of notice specifying in what respects Master Architect must comply. Should noncompliance still be evident after the 10-day period, Master Architect shall forfeit to University, as a penalty, $100 for each day, or portion thereof, for each worker, until strict compliance is accomplished. Such forfeiture amounts may be deducted from the Master Architect’s fee.

**11.4 APPRENTICES**

**11.4.1** Only apprentices, as defined in the State of California Labor Code Section 3077, who are in training under apprenticeship standards and written apprentice agreements under Chapter 4, Division 3, of the State of California Labor Code, are eligible to be employed by Master Architect and subcontractors or consultants as apprentices for the Covered Services hereunder. The employment and training of each apprentice shall be in accordance with the provisions of the apprenticeship standards and written apprentice agreements under which the apprentice is training and in accordance with prevailing wage law pursuant to the Labor Code, including but not limited to Section 1777.5. The Master Architect bears responsibility for compliance with this section for all apprenticeable occupations.

**11.4.2** Every apprentice shall be paid the standard wage to apprentices, under the regulations of the craft or trade at which the apprentice is employed, and shall be employed only for the Covered Services hereunder in the craft or trade to which the apprentice is indentured.

**11.4.3** When Master Architect or subcontractors or consultants employ workers in any apprenticeship craft or trade for the Covered Services hereunder, Master Architect or subcontractors or consultants shall apply to the joint apprenticeship committee, which administers the apprenticeship standards of the craft or trade in the area of the Project site, for a certificate approving Master Architect or subcontractors or consultants under the apprenticeship standards for the employment and training of apprentices in the area of the Project site. The committee will issue a certificate fixing the number of apprentices or the ratio of apprentices to journeyworkers who shall be employed in the craft or trade on the Covered Services hereunder. The ratio will not exceed that stipulated in the apprenticeship standards under which the joint apprenticeship committee operates; but in no case shall the ratio be less than 1 apprentice for each 5 journeyworkers, except as permitted by law. Master Architect or subcontractors or consultants shall, upon the issuance of the approval certificate in each such craft or trade, employ the number of apprentices or the ratio of apprentices to journeyworkers fixed in the certificate issued by the joint apprenticeship committee or present an exemption certificate issued by the Division of Apprenticeship Standards.

**11.4.4** “Apprenticeship craft or trade”, as used in this Paragraph, shall mean a craft or trade determined as an apprenticeship occupation in accordance with rules and regulations prescribed by the Apprenticeship Council.

**11.4.5** If Master Architect or subcontractors or consultants employ journeyworkers or apprentices in any apprenticeship craft or trade in the area of the Project site, and there exists a fund for assisting to allay the cost of the apprenticeship program in the trade or craft, to which fund or funds other contractors in the area of the Project site are contributing, Master Architect and subcontractors or consultants shall contribute to the fund or funds in each craft or trade in which they employ journeyworkers or apprentices on the Covered Services hereunder in the same amount or upon the same basis and in the same manner done by the other contractors. Master Architect may include the amount of such contributions in computing its compensation under the Agreement; but if Master Architect fails to do so, it shall not be entitled to any additional compensation therefore from University.

**11.4.6** In the event Master Architect willfully fails to comply with this Paragraph 11.4, it will be considered in violation of the requirements of the Agreement.

**11.4.7** Nothing contained herein shall be considered or interpreted as prohibiting or preventing the hiring by Master Architect or subcontractors or consultants of journeyworker trainees who may receive on-the-job training to enable them to achieve journeyworker status in any craft or trade under standards other than those set forth for apprentices.

**11.5 WORK DAY**

**11.5.1** Master Architect shall not permit any worker providing Covered Services to labor more than 8 hours during any 1 day or more than 40 hours during any 1 calendar week, except as permitted by law and in such cases only upon such conditions as are provided by law. Master Architect shall forfeit to University, as a penalty, $25 for each worker employed in the execution of the Agreement by Master Architect, or any subcontractors or consultant, for each day during which such worker is required or permitted to work providing Covered Services more than 8 hours in day 1 day and 40 hours in any 1 calendar week in violation of the terms of this Paragraph or in violation of the provisions of any law of the State of California. Such forfeiture amounts may be deducted from the compensation otherwise due under this Agreement. Master Architect and each subcontractor or consultant shall keep, or cause to be kept, an accurate record showing the actual hours worked each day and each calendar week by each worker employed under this Agreement, which record shall be kept open at all reasonable hours to the inspection of University, its officers and agents, and to the inspection of the appropriate enforcement agency of the State of California.

**11.6 PATIENT HEALTH INFORMATION**

Master Architect acknowledges that its employees, agents, subcontractors, consultants and others acting on its behalf may come into contact with Patient Health Information ("PHI") while performing work at the Project Site. This contact is most likely rare and brief (e.g. walking through a clinic where patient files may be visible, overhearing conversations between physicians while working or touring a hospital, noticing a relative or acquaintance receiving treatment in a University facility, etc.). Master Architect shall immediately notify University Representative of any such contact. Any and all forms of PHI should not be examined closer, copied, photographed, recorded in any manner, distributed or shared. Master Architect will adopt procedures to ensure that its employees, agents and subcontractors refrain from such activity. If Master Architect, its employees, agents or subcontractors do further examine, copy, photograph, record in any manner, distribute or share this information, Master Architect will report such actions immediately to the University Representative. Master Architect will immediately take all steps necessary to stop any such actions and will ensure that no further violations of this contractual responsibility will occur. Contractor will report to University Representative within five (5) days after Master Architect gives University Representative notice of the event/action of the steps taken to prevent future occurrences.

**ARTICLE 12**

**EXTENT OF AGREEMENT**

**12.1 AUTHORITY OF AGREEMENT**

**12.1.1** This Agreement represents the entire and integrated agreement between University and Master Architect and supersedes all prior negotiations, representations, or agreements, either written or oral. This Agreement may be amended only by a written instrument signed by both University and Master Architect.

**12.2 EXHIBITS**

**12.2.1** This Agreement includes the following exhibits attached hereto:

Exhibit A: University Design Build Contract Documents (as listed in the “Index of Contract Documents” and instructions thereto)

Exhibit B: Master Architect Rate Schedule

Exhibit C: Supplemental Requirements

Exhibit D: NOT USED

Exhibit E: Format for Listing Rooms and Spaces

Exhibit F: Value Engineering

Exhibit G: Transportation, Per Diem, and Mileage Reimbursement Schedule

Exhibit H: NOT USED

Exhibit I: University of California Certificate of Insurance

Exhibit J: Master Architect Design Development Phase Checklist

**12.3 THIRD-PARTY BENEFICIARIES**

**12.3.1** Nothing contained in this Agreement is intended to make the Design Builder or any construction Subcontractor (regardless of tier), any employee or agent of the Design Builder or any Subcontractor or any person, including any consultant of Master Architect (regardless of tier), a third-party beneficiary of any obligations between University and Master Architect.

**12.4 SURVIVAL**

**12.4.1** The provisions of this Agreement which by their nature survive expiration or termination of the Agreement or Final Completion of the Project or the performance of services under this Agreement, including any and all warranties, indemnities, payment obligations, and University’s right to audit Master Architects books and records, shall remain in full force and effect after any expiration or termination of the Agreement or Final Completion of the Project or the performance of services under this Agreement

**ARTICLE 13**

**FEDERAL AND STATE GRANTS**

In the event that a federal or state grant or other federal or state financing is used in the funding of this Project, Master Architect shall permit the funding agency or its designee access to, and grant the funding agency the right to examine, documents covering the services performed under this Agreement. Master Architect shall comply with applicable federal or state agency requirements including, but not limited to, the requirements regarding hours, overtime compensation, nondiscrimination, and contingent fees.

**ARTICLE 14**

**NOTICES**

**14.1 UNIVERSITY**

Any notice may be served upon University by delivering it, in writing, to University at the address set forth on the last page of this Agreement, or by depositing it in a United States Postal Service deposit box with the postage fully prepaid and with the notice addressed to University at the aforementioned or by sending a facsimile of the notice to University’s facsimile number set forth on the last page of this Agreement. Notice is effective only if and when it is actually received.

**14.2 MASTER ARCHITECT**

Any notice may be served upon Master Architect by delivering it, in writing, to Master Architect at the address set forth on the last page of this Agreement, by depositing it in a United States Postal Service deposit box with the postage fully prepaid and with the notice addressed to Master Architect at the aforementioned address, or by sending a facsimile of the notice to Master Architect’s facsimile number set forth on the last page of this Agreement. Notice is effective only if and when it is actually received.

**ARTICLE 15**

**SUCCESSORS AND ASSIGNS**

This Agreement shall be binding upon University and Master Architect and their respective successors and assigns. Neither the performance of this Agreement, nor any part thereof, nor any monies due or to become due hereunder, may be assigned by Master Architect without the prior written consent and approval of University.

**15.1 MASTER ARCHITECT'S DEATH OR INCAPACITATION**

**15.1.1** If Master Architect transacts business as an individual, upon Master Architect's death or incapacitation, University may, at its option, terminate this Agreement as of the date of such event. If so terminated, neither Master Architect, nor Master Architect's estate shall have any further right to perform hereunder, and University shall pay Master Architect or the estate the compensation payable under Article 5 for any services rendered prior to this termination not theretofore paid. This compensation shall be reduced by the amount of additional costs that will be incurred by University by reason of this termination.

**15.1.2** If there is more than one Master Architect, and any one of them dies or becomes incapacitated, and the others continue to render the services covered herein, University will make payments to those continuing as though there had been no such death or incapacitation; University will not be obliged to take any account of the person who died or became incapacitated, or to make any payment to this person or this person's estate. These provisions shall apply in the event of progressive or simultaneous occasions of death or incapacitation among any group of persons named as Master Architect herein if death or incapacitation befalls the last member of this group before the services under this Agreement are fully performed, then the rights set forth under subparagraph 15.1.1 shall apply.

**ARTICLE 16**

**TERMINATION OF AGREEMENT**

**16.1 UNIVERSITY - INITIATED TERMINATION**

**16.1.1** If University determines that Master Architect has failed to perform in accordance with the terms and conditions of this Agreement, University may terminate all or part of the Agreement for cause. This termination shall be effective if Master Architect does not cure its failure to perform within 10 days (or more, if authorized in writing by University) after receipt of a notice of intention to terminate from University specifying the failure in performance. If a termination for cause does occur, University will have the right to withhold monies otherwise payable to Master Architect until the Project is completed. If University incurs additional costs, expenses, or other damages due to the failure of Master Architect to properly perform pursuant to the Agreement, these costs, expenses, or other damages shall be deducted from the amounts withheld. Should the amounts withheld exceed the amounts deducted, the balance will be paid to Master Architect upon completion of the Project. If the costs, expenses, or other damages incurred by University exceed the amounts withheld, Master Architect shall be liable to University for the difference.

**16.1.2** University may terminate this Agreement for convenience at any time upon written notice to Master Architect, in which case University will pay Master Architect in full for all services performed and all expenses incurred under this Agreement up to and including the effective date of termination. In ascertaining the services actually rendered to the date of termination, consideration will be given to both completed Work and Work in progress, whether delivered to University or in the possession of Master Architect, and to authorized Reimbursable Expenses. No other com­pen­sation will be payable for anticipated profit on unperformed services.

**16.2 MASTER ARCHITECT - INITIATED TERMINATION**

**16.2.1** Master Architect may terminate this Agreement for cause if University fails to cure a material default in performance within a period of 30 days, or such longer period as Master Architect may allow, after receipt from Master Architect of a written termination notice specifying the default in performance. In the event of termination for cause by Master Architect, University will pay Master Architect in accordance with subparagraph 16.1.2.

**16.3 DOCUMENTS AND MATERIALS**

**16.3.1** In the event of Agreement termination by either party for any reason, University reserves the right to receive, and Master Architect shall promptly provide to University, all Criteria Documents, models, and other documents and materials prepared by Master Architect for the Project. In the event of termination, any dispute regarding the amount to be paid under Article 16 shall not derogate from the right of University to receive and use any such documents or materials.

IN WITNESS WHEREOF, UNIVERSITY and MASTER ARCHITECT have executed this Agreement as of the date first written above (see Cover Page).

MASTER ARCHITECT FIRM NAME:

By: {NAME} {TITLE}

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(Signature) (Date)

MASTER ARCHITECT ADDRESS:

MASTER ARCHITECT FACSIMILE NUMBER:

EMPLOYER IDENTIFICATION NUMBER:

THE UNIVERSITY SIGNATURE IS NOT TO BE AFFIXED TO THIS DOCUMENT UNTIL IT HAS BEEN SIGNED BY THE MASTER ARCHITECT.

THE PERSON SIGNING FOR THE UNIVERSITY MUST HAVE DELEGATED AUTHORITY TO DO SO. THIS DELEGATION MUST BE MADE IN WRITING BY THE FACILITY CHANCELLOR OR BY THE LABORATORY DIRECTOR, AND IT MUST BE MADE IN ACCORDANCE WITH THE REGENTS’ STANDING ORDER 100.4.

UNIVERSITY: THE REGENTS OF THE UNIVERSITY OF CALIFORNIA

By: {NAME} {TITLE}

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(Signature) (Date)

UNIVERSITY ADDRESS: University of California, {FACILITY NAME}, {MAILING ADDRESS}

UNIVERSITY FACSIMILE NUMBER: