CHAPTER 00500

AGREEMENT AND CONDITIONS OF THE CONTRACT

AGREEMENTS
A. The form of agreement between the University and the Design-Builder will be the following, copy attached, modified by the University for the Project, and further modified as required to execute them properly:

B. The Contract Definitions contained in Chapter 00570 are hereby incorporated into the contract by reference.

CONDITIONS OF THE CONTRACT
A. The General Conditions are hereby incorporated by reference, with copy attached, and are University of Washington - Standard Form of General Conditions of Contract Between Owner and Design Builder, 2003 Edition, as amended for the Project, and are applicable to the above agreement.

SUBCONTRACTS
A. The form of agreement between the Design-Builder and the Designer and Subcontractors shall utilize the following forms of contracts, copies available through the Design-Build Institute of America (www.dbia.org/fr_industryin.html), modified as required to execute them properly:
   1. DBIA 540-Standard Form of Agreement Between Design-Builder and Designer.
   2. If the Design-Builder is not the builder (general contractor):
      DBIA 555-Standard Form of Agreement Between Design-Builder and General Contractor-Lump Sum.
   3. DBIA 565-Standard Form of Agreement Between Design-Builder and Design-Build Subcontractor-Lump Sum
   4. DBIA 570-Standard Form of Agreement Between Design-Builder and Subcontractor (Where Subcontractor Does Not Provide Design-Build Services.

END OF CHAPTER 00500
This AGREEMENT is made as of the ______________________ day of ______________________ in the year of 2005, by and between the following parties, for services in connection with the Project identified below.

OWNER: The Regents of the University of Washington
Box 351264
Seattle, Washington 98195

DESIGN-BUILDER: 

PROJECT: Educational Outreach Building
Project No. 10632
University of Washington
Seattle, Washington

In consideration of the mutual covenants and obligations contained herein, Owner and Design-Builder agree as set forth herein.
Article 1
Scope of Work

1.1 Design-Builder shall perform all design and construction services, and provide all material, equipment, tools and labor, necessary to complete the Work described in and reasonably inferable from the Contract Documents. It is the intent of the Contract Documents to describe a functionally complete Project to be designed and constructed consistent, and in accordance, with the Contract Documents or, if not shown thereon, from prevailing and customary trade usage as being required to produce the intended result.

Article 2
Contract Documents

The Contract Documents set forth below shall have the following order of precedence:

.1 All written modifications, amendments and change orders to this Agreement issued in accordance with University of Washington - Standard Form of General Conditions of Contract Between Owner and Design-Builder (2003 Edition) ("General Conditions of Contract"), including but not limited to:
   A. Negotiation Results: ____________________________________________________________;

.2 This Agreement executed by Owner and Design-Builder;

.3 The General Conditions of Contract;
   A. RFP Chapter 00500, University of Washington Standard Form of General Conditions of Contract Between Owner and Design-Builder, 2003 Edition, as revised for Project.

.4 Owner’s Project Criteria; including but not limited to, its Request for Design-Build Proposals (RFP), and Addenda thereto, if any;

.5 Design-Builder’s Proposal, submitted in response to Owner’s Project Criteria. Within this section the later shall have precedence over the earlier;
   A. Proposal Clarifications: ________________________________________________________;
   B. Request for Clarifications: ________________________________.
   C. Best and Final Proposal: Best and Final Proposal of ________________________________
                               ________________________________ dated ________ and attachments thereto.
   D. Initial Proposal: Initial Proposal of ________________________________
                      ________________________________ dated ____________.

.6 Construction Documents prepared and approved in accordance with Section 2.4 of the General Conditions of Contract.
**Article 3**  
**Interpretation and Intent**

3.1 The Contract Documents are intended to permit the parties to complete the Work and all obligations required by the Contract Documents within the Contract Time(s) for the Contract Price. The Contract Documents are intended to be complementary and interpreted in harmony so as to avoid conflict, with words and phrases interpreted in a manner consistent with construction and design industry standards. In the event of any inconsistency, conflict, or ambiguity between or among the Contract Documents, the Contract Documents shall take precedence in the order in which they are listed in Section 2.1 hereof.

3.2 Terms, words and phrases used in the Contract Documents, including this Agreement, shall have the meanings given them in the General Conditions of Contract. Undefined words or phrases that have well-known technical or construction industry meanings are used in the Contract Documents in accordance with such recognized meanings.

3.3 The Contract Documents form the entire agreement between Owner and Design-Builder and by incorporation herein are as fully binding on the parties as if repeated herein. No oral representations or other agreements have been made by the parties except as specifically stated in the Contract Documents.

3.4 Design-Builder shall be and operate as an independent contractor in the performance of the Work and shall have complete control over and responsibility for all personnel performing the Work. In no event shall Design-Builder be authorized to enter into any agreements or undertakings for or on behalf of Owner or to act as or be an agent or employee of Owner.

**Article 4**  
**Ownership of Work Product**

4.1 Work Product. All drawings, specifications and other documents and electronic data furnished by Design-Builder to Owner under this Agreement ("Work Product") are deemed to be instruments of service and Design-Builder shall retain the ownership and property interests therein, including the copyrights thereto.

4.2 Owner's Limited License Upon Payment in Full. Upon Owner's payment in full for amounts due and owing for all Work properly performed under the Contract Documents, Design-Builder shall grant Owner a limited license to use the Work Product in connection with Owner's occupancy and use of the Project.

4.3 Owner's Limited License Upon Owner's Termination for Convenience or Design-Builder's Election to Terminate. If Owner terminates the Project for its convenience as set forth in Article 8 hereof, or if Design-Builder elects to terminate this Agreement in accordance with Section 11.4 of the General Conditions of Contract, Design-Builder shall, upon Owner's payment in full of the amounts due Design-Builder under the Contract Documents, grant Owner a limited license to use the Work Product to complete the Project and subsequently occupy and use the Project, conditioned on the following:

.1 Use of the Work Product is at Owner's sole risk without liability or legal exposure to any Indemnified Party;

.2 Owner agrees to pay Design-Builder the additional sum of Five Thousand Dollars ($5,000.00) as compensation for the right to use the Work Product in accordance with this Article 4 if Owner resumes the Project through its employees, agents, or third parties.

4.4 Owner's Limited License Upon Design-Builder's Default. If this Agreement is terminated due to Design-Builder's default pursuant to Section 11.2 of the General Conditions of Contract and (i) it is determined that Design-Builder was in default and (ii) Owner has fully satisfied all of its obligations under the Contract Documents, Design-Builder shall grant Owner a limited license to use the Work Product in connection with Owner's completion and occupancy of the Project.
Article 5
Contract Time

5.1 Date of Commencement. The Work shall commence within five (5) days of Design-Builder’s receipt of Owner’s Notice to Proceed (“Date of Commencement”) unless the parties mutually agree otherwise in writing.

5.2 Substantial Completion and Final Completion

5.2.1 Substantial Completion of the entire Work shall be achieved no later than seven hundred fourteen (714) calendar days after the Date of Commencement (“Scheduled Substantial Completion Date”).

5.2.2 Interim milestones and/or Substantial Completion of identified portions of the Work shall be achieved as follows:

.1 Design-Builder shall Submit Schematic Design Documents to the Owner within _____ (__) week of Date of Commencement.

.2 Design-Builder shall submit Construction Documents for first construction “package” to the Owner within _____ (__) weeks of Date of Commencement.

.3 Design-Builder shall submit Design Development Documents to the Owner within _____ (__) weeks of Date of Commencement.

.4 Substantial Completion is based on receipt of a City of Seattle Master Use Permit within Two Hundred Forty-Five (245) calendar days of the Date of Commencement.

.5 Design-Builder shall submit Construction Documents for final construction “package” to the Owner within ______________ (__) weeks of Date of Commencement.

5.2.3 Final Completion of the Work or identified portions of the Work shall be achieved as expeditiously as reasonably practicable.

5.2.4 All of the dates set forth in this Article 5 (“Contract Time(s)”) shall be subject to adjustment in accordance with the General Conditions of Contract.

5.3 Time is of the Essence. Owner and Design-Builder mutually agree that time is of the essence with respect to the dates and times set forth in the Contract Documents.

5.4 Liquidated Damages. Design-Builder understands that if Substantial Completion is not attained by the Scheduled Substantial Completion Date, Owner will suffer damages, however, it could be difficult to determine the amount of such damages, which could include, for example, personnel and overtime costs, transportation costs, consultant fees, governmental fees, storage costs, portable rental costs, loss of use, loss of rent, and lost opportunities. Consequently, Design-Builder agrees that the amount described in this section is a reasonable estimate of loss and that Design-Builder shall pay Owner the amount described in this section as liquidated damages. Design-Builder agrees that if Substantial Completion is not attained by Scheduled Substantial Completion Date (the “LD Date”), Design-Builder shall pay Owner One Thousand Dollars ($1,000.00) as liquidated damages for each day that Substantial Completion extends beyond the LD Date. (If liquidated damages are applicable to any dates set forth in Section 5.2.2 hereof, this Section 5.4 will need to be modified accordingly)

5.5 Omitted
Article 6
Contract Price

6.1 Contract Price. Owner shall pay Design-Builder in accordance with Article 6 of the General Conditions of Contract the sum of ________________________ Dollars ($_________00 ) ("Contract Price"), subject to adjustments made in accordance with the General Conditions of Contract. Unless otherwise provided in the Contract Documents, the Contract Price is exclusive of Washington State Sales Tax, but is otherwise deemed to include all use, consumer, B&O, income, and other taxes mandated by applicable legal requirements. By executing this Agreement, Design-Builder represents and acknowledges that the Contract Price is reasonable compensation for all the Work, that the Contract Time is adequate for the performance of the Work, and that it has carefully examined the Contract Documents and the Project Site and that it has satisfied itself as to the nature, location, character, quality and quantity of the Work, the labor, materials, equipment, goods, supplies, work, services and other items to be furnished and all other requirements of the Contract Documents, as well as the surface conditions and other foreseeable matters that may be encountered at the Project Site or affect performance of the Work or the cost or difficulty thereof, including but not limited to those conditions and matters affecting: transportation, access, disposal, handling and storage of materials, equipment and other items; availability of labor, water, electric power and utilities; drainage; availability and condition of roads; normal climatic conditions and seasons; physical conditions at the Project Site and the surrounding locality; topography; and equipment and facilities needed preliminary to and at all times during the performance of the Work.

6.2 Markups for Changes. If the Contract Price requires an adjustment due to compensable changes in the Work, or for any other purpose, including Claims, and a lump sum is not agreed upon, the following markups shall be allowed on such adjustments as an allowance for all combined overhead, profit and other costs, including all office, home office and site overhead (including project manager, project engineer, and superintendent, except for pre-agreed extra work they perform caused by acceleration or an extension in the Contract Time), taxes (except for sales tax), safety costs, and delay and impact costs of any kind, added to the total cost to Owner of any Change Order, Work Change Directive, Claim or any other claim of any kind on this Project:

.1 Design-Builder shall receive 15% of fixed-price costs or 10% of the time-and-material costs of any materials supplied and/or work properly performed by Design-Builder's own forces.

.2 Design-Builder shall receive 8% of fixed-price costs or 6% of the time-and-material costs owed directly to a Subcontractor for materials supplied and/or Work properly performed by that Subcontractor or owed directly to a Design Consultant for services it properly performs.

.3 The Design Consultant shall receive compensation in accordance with the Additional Service provision of its contract with Design-Builder, a copy of which is attached to the Contract.

.4 Each "lump-sum" Subcontractor of any tier shall receive 15% of fixed-price costs or 10% of the time-and-material costs of any materials properly supplied and/or Work properly performed by its own forces.

.5 Each "lump-sum" Subcontractor of any tier shall receive 8% of fixed-price costs or 6% of the time-and-material costs owed directly to a lower-tier "lump-sum" Subcontractor for materials supplied and/or Work properly performed by that Subcontractor.

.6 The total summed mark-up of Design-Builder and all Subcontractors of any tier shall not exceed 31%.

6.3 Pricing Components. The value of any changed Work that is compensable, of any disputed Work Change Directive and of any other increase or decrease in the Contract Price, including a Claim, shall be an agreed lump sum amount. If no such agreement is achieved, the value shall be limited to the following components:
6.3.1 Direct labor costs. These are the labor costs determined by either the estimated or actual number of additional craft hours and the hourly cost necessary to perform the change in the Work, or the unit labor costs applied to the material quantities and extended, provided the unit labor costs are developed from the above craft hour cost, whichever is applicable, according to industry practice. The hourly cost shall be based upon the following:

.1 Basic wages: The hourly wage actually paid the laborers, apprentices, journeymen, and foremen performing and/or directly supervising the changed Work on the Site. The premium portion of overtime wages is not included unless pre-approved by Owner.

.2 Fringe benefits: Fringe benefits paid by Design-Builder as established by the Washington Department of Labor and Industries or contributed to labor trust funds as itemized fringe benefits, whichever is applicable.

.3 Workers' insurances: Direct contributions to the State of Washington as industrial insurance; medical aid; and supplemental pension by class and rates established by the Washington Department of Labor and Industries.

.4 Federal insurances: Direct contributions required by the Federal Insurance Compensation Act (FICA), Federal Unemployment Tax Act (FUTA), and State Unemployment Compensation Act (SUCA).

.5 Small tool costs: 4% of Basic Wages in Clause .1 above.

.6 Travel expenses: Reasonable expenses of travel, to same extent as can be demonstrated were included in calculating the original Contract Price. Design-Builder's pre-approved off-site travel expenses. Travel expenses shall not exceed the State of Washington Office of Financial Management guidelines for travel costs.

6.3.2 Direct material costs. This is an itemization, including material invoice, of the quantity and cost of additional materials necessary to perform the change in the Work. These costs shall be by the unit cost applied to the quantity and extended. The unit cost shall not include discounts or rebates so long as Owner was given a reasonable opportunity and declined to provide payment qualifying for such discount or rebate. The material costs may include normal freight costs; Owner must pre-approve express charges or special delivery costs.

6.3.3 Construction equipment usage costs. This is an itemization of the actual length of time construction equipment other than small tools described in Clause 6.3.1.5 above, appropriate for the Work will be used solely on the change in the Work at the Site times the applicable rental cost as established by the lower of the prevailing rate published in The Rental Rate Blue Book by Data Quest, San Jose, California, or the actual rate paid as evidenced by rental receipts. Actual, reasonable mobilization costs are permitted if the equipment is brought to the Site solely for the change in the Work.

If more than one rate is applicable, the lowest rate will be utilized. The rates in effect at the time of the performance of the Change work are the maximum rates allowable for equipment of modern design and in good working condition and include full compensation for furnishing all fuel, oil, lubrication, repairs, maintenance, and insurance. Equipment not of modern design and/or not in good working condition will have lower rates. Hourly, weekly, and/or monthly rates, as appropriate, will be applied to yield the lowest total cost. The rate for equipment necessarily standing by for future use on the Work shall be 50% of the rate established above.

If equipment is required for which a rental rate is not established by The Rental Rate Blue Book, an agreed rental rate shall be established for that equipment, which rate and use must be approved by Owner prior to performing the changed Work.
6.3.4 Cost of change in insurance or bond premium. This is defined as:

.1 Design-Builders' liability insurance: The cost (expressed as a percentage) of any changes in Design-Builder's liability (including professional errors and omissions) insurance arising directly from the changed Work; and

.2 Public works bond: The cost (expressed as 0.5%) of the change in Design-Builder's premium for Design-Builder's bond arising directly from the changed Work.

3 Builder's Risk insurance: The cost (expressed as a percentage) of the change in Design-Builder's premium for Builder's risk insurance arising directly from the changed Work.

Upon request, Design-Builder shall provide Owner with supporting documentation from its insurer or surety of any associated cost incurred.

6.3.5 Subcontractor costs. These are payments Design-Builder makes to Subcontractors for changed or extra Work performed by Subcontractors. The Subcontractors’ cost of changed Work shall be determined in the same manner as prescribed in this Subparagraph 6.3.

6.3.6 Design Consultant costs. These are payments Design-Builder makes to Design Consultants for additional services performed by Design Consultants arising out of a change in the Work.

---

**Article 7**

**Procedure for Payment**

7.1 Progress Payments

7.1.1 Progress payments will be made monthly for work duly certified, approved, and performed during the calendar month preceding the Application.

.1 Draft Application. On or about the 25th of each month, Design-Builder shall submit to Owner a report on the current progress of the Work as compared to Design-Builder's Construction Schedule, and a draft, itemized application for payment for work performed during the current calendar month on a form supplied or approved by Owner. This shall not constitute a payment request. Design-Builder and Owner shall confer regarding the current progress of the Work and the amount of payment to which Design-Builder is entitled. Owner may on occasion request Design-Builder to provide data substantiating Design-Builder’s right to payment, such as copies of requisitions from Subcontractors of any tier, and reflecting retainage as provided elsewhere in the Contract Documents.

.2 Payment Request. After Design-Builder and Owner have met and conferred regarding the updated draft application, and Design-Builder has furnished all progress information required and all data requested by Owner under Clause .1 above, Design-Builder shall submit to Owner on or before the tenth (10th) day of each month, beginning with the first month after the Date of Commencement, Design-Builder’s Application for Payment for Work completed during the previous month in accordance with Article 6 of the General Conditions of Contract on a form supplied or approved by Owner. Among other things, the Application shall state that prevailing wages have been paid in accordance with the pre-filed statements of intent to pay prevailing wages on file with Owner and that all payments due Subcontractors of any tier from Owner’s payment the prior month have been made.

.3 Disputed Amounts. If Design-Builder believes it is entitled to payment for Work performed during the prior calendar month in addition to the agreed-upon amount, Design-Builder may, also by the tenth day of the month, submit to Owner along with the approved payment request a separate written payment request specifying the exact additional amount due, the category in the Schedule of Values in which the payment is due, the specific Work for which the additional amount is due, and why the additional payment is due.
Furthermore, Design-Builder and all Subcontractors shall file with Owner by the tenth day of the month certified copies of all payroll records relating to the additional amount due.

.4 Validity of Payment Requests. A payment request shall not be valid unless it complies with the requirements of the Contract Documents.

7.1.2 Owner shall make payment within thirty (30) days after Owner’s receipt of each properly submitted and accurate Application for Payment in accordance with Article 6 of the General Conditions of Contract, but in each case less the total of payments previously made, less retainage, and less amounts properly withheld under Section 6.3 of the General Conditions of Contract.

7.2 Retainage on Progress Payments

7.2.1 Pursuant to RCW 60.28, the Owner will retain five percent (5%) of each approved Application for Payment to be retained as a trust fund for the protection and payment of the claims of any person arising under the contract and the state with respect to taxes imposed pursuant to Title 82 RCW which may be due from Design-Builder. Owner will also reasonably consider reducing retainage for Subcontractors completing their work early in the Project. The moneys reserved may, at the option of Design-Builder, be retained in accordance with the provisions of RCW 60.28.01.

7.2.2 Sixty days after Final Completion and Acceptance of the entire Work or, if applicable, any portion of the Work, pursuant to Section 6.6 of the General Conditions of Contract, Owner shall release to Design-Builder all retained amounts relating, as applicable, to the entire Work or completed portion of the Work, in accordance with RCW 39.12 and RCW 60.28, less an amount equal to the reasonable value of all remaining or incomplete items of Work and 150% of any and all outstanding lien amounts, provided that Design-Builder has submitted: (1) pursuant to RCW 39.12.040, an "Affidavit of Wages Paid" from Design-Builder and from each Subcontractor of any tier certified by the Industrial Statistician of the Department of Labor and Industries, with the fees paid by Design-Builder or Subcontractor of any tier, (2) pursuant to RCW 60.28.020, a certificate from the Department of Revenue, (3) pursuant to RCW 50.24, a certificate from the Department of Employment Security, and (4) a certificate from the Department of Labor and Industries.

7.3 Final Payment. Design-Builder shall submit its Final Application for Payment to Owner in accordance with Section 6.7 of the General Conditions of Contract. Owner shall make payment on Design-Builder’s properly submitted and accurate Final Application for Payment within thirty (30) days after Owner’s receipt of the Final Application for Payment, provided that Design-Builder has satisfied the requirements for final payment set forth in Section 6.7.2 of the General Conditions of Contract.

7.4 Interest. Payments due and unpaid by Owner to Design-Builder, whether progress payments or final payment, shall bear interest as specified by RCW 39.76.

7.5 Record Keeping and Finance Controls. With respect to any unresolved disputes that arise out of or related to the Contract Documents, Design-Builder shall keep and maintain full and detailed books, records, and accounts and exercise such controls as may be necessary for proper financial management, using accounting and control systems in accordance with generally accepted accounting principles and as may be provided in the Contract Documents. During the performance of the Work and for a period of three (3) years after Final Payment, Owner and Owner’s accountants shall be afforded access at Design-Builder’s office from time to time, upon reasonable notice, to Design-Builder’s records, books, correspondence, receipts, subcontracts, purchase orders, vouchers, memoranda general ledger, documents, estimates, correspondence, logs, electronic data and other data relating to the Work, all of which Design-Builder shall preserve for a period of three (3) years after Final Payment. These requirements shall be applicable to and included in each Subcontract, Design Consultant and purchase order issued with respect to the Work. Design-Builder agrees, on behalf of itself and Subcontractors of any tier, that any rights under RCW 42.17.260, "Disclosure," will commence at Final Acceptance, and that Design-Builder’s invocation of such rights at any time shall initiate an equivalent right to disclosures for the benefit of Owner.
Article 8  
Termination for Convenience

Upon ten (10) days’ written notice to Design-Builder, Owner may, for its convenience and without cause, elect to terminate this Agreement. In such event, Owner shall consistent with the remainder of this Article 8, Article 6 and other terms and conditions of this Agreement, pay Design-Builder for the following:

.1 All Work properly executed and all cost or expense reasonably incurred in connection with the Work;

.2 The reasonable costs and expenses attributable to such termination, including demobilization costs and amounts due in settlement of terminated contracts with Subcontractors and Design Consultants;

.3 Overhead and profit in the amount of seven percent (7%) on the sum of items .1 and .2 above; and

.4 Less any claim Owner has against Design-Builder under this Contract.

8.2 In addition to the amounts set forth in Section 8.1 above, if the Owner's termination for convenience under Paragraph 8.1 is not caused by a third-party challenge to the Project (such as, without limitation, an injunction, initiative or force majeure event), Design-Builder shall be entitled to receive one of the following as applicable:

.1 If Owner terminates this Agreement prior to commencement of construction, Design-Builder shall be paid two and one-half percent (2.5%) of the remaining balance of the Contract Price.

.2 If Owner terminates this Agreement after commencement of construction, Design-Builder shall be paid five percent (5%) of the remaining balance of the Contract Price.

8.3 The total sum to be paid to Design-Builder under this Article 8 shall not exceed the Contract Price as reduced by the amount of payments otherwise made, the price of Work not terminated, and as otherwise permitted by this Contract. The amounts payable to Design-Builder shall exclude the fair value of property not under Owner’s control which is destroyed, lost, stolen or damaged so as to become undeliverable to Owner or to a buyer.

8.4 If Owner terminates this Agreement pursuant to Section 8.1 above and proceeds to design and construct the Project through its employees, agents or third parties, Owner’s rights to use the Work Product shall be as set forth in Section 4.3 hereof.
Article 9
Representatives of the Parties

9.1 Owner’s Representatives

9.1.1 Owner designates the individual listed below as its Senior Representative (“Owner’s Senior Representative”), which individual has the authority and responsibility for avoiding and resolving disputes under Section 10.2.3 of the General Conditions of Contract: (Identify individual’s name, title, address and telephone numbers)

Eric C. Smith, PE
Group Manager for Construction
Special Projects Group
Box 352210
Seattle, WA 98195-2210
Phone: (206) 616-5497  Fax: (206) 543-3959

9.1.2 Owner designates the individual listed below as its Owner’s Representative, which individual has the authority and responsibility set forth in Section 3.4 of the General Conditions of Contract: (Identify individual’s name, title, address and telephone numbers)

Randy Everett
Project Manager
UW Capital Projects Office
Box 352205
Seattle, WA 98195-2205
Phone: (206) 543-8776  Fax: (206) 543-1277

9.2 Design-Builder’s Representatives

9.2.1 Design-Builder designates the individual listed below as its Senior Representative (“Design-Builder’s Senior Representative”), which individual has the authority and responsibility for avoiding and resolving disputes under Section 10.2.3 of the General Conditions of Contract: (Identify individual’s name, title, address and telephone numbers)

9.2.2 Design-Builder designates the individual listed below as its Design-Builder’s Representative, which individual has the authority and responsibility set forth in Section 2.1.1 of the General Conditions of Contract: (Identify individual’s name, title, address and telephone numbers)
Article 10

Bonds and Insurance

10.1 Insurance. Design-Builder shall procure in accordance with Article 5 of the General Conditions of Contract the following insurance coverages from insurance carriers with Best ratings of no less than A-VII. All policies will name the Board of Regents of the University of Washington as additional insured, with the exception of the Design-Builder’s Professional Liability policy.

10.1.1 Coverages and Limits. The insurance shall provide the minimum coverages and limits set forth below. Owner does not warrant or represent that such coverages and limits are appropriate or adequate to protect Design-Builder. Neither Owner's specification or approval of the insurance in this Contract, nor of its amount, nor providing coverage in these stated minimum limits shall be construed to relieve Design-Builder from liability in excess of such limits. Coverages are the minimum to be provided and are not limitations of liability under the Contract, indemnification, or applicable law provisions. Design-Builder may, at its expense, purchase larger coverage amounts. All deductibles must be disclosed and are subject to approval by Owner. The cost of any claim payments falling within the deductible shall be the sole responsibility of Design-Builder. Design-Builder shall submit upon execution of this Agreement Certificates of Insurance as evidence of all insurance required herein. All certificates must be signed copies and shall contain a representation that coverages afforded under the policies cannot be materially altered (i.e., the coverages reduced, the limits decreased, or the additional insureds removed), allowed to expire, or canceled without first giving 45 days' prior written notice by certified mail to Owner.

.1 CGL. A policy of Commercial General Liability Insurance, written on an insurance industry standard occurrence form: (CG 00 01) or equivalent, including all the usual coverage known as:

- **a.** Per project aggregate endorsement (CG2503)
- **b.** Premises/Operations Liability
- **c.** Products/Completed Operations.
- **d.** Personal/Advertising Injury
- **e.** Contractual Liability
- **f.** Independent Contractor's Liability
- **g.** Stop Gap or Employers Contingent Liability
- **h.** Explosion, Collapse, or Underground (XCU), (as applicable)*
- **i.** Fire Damage Legal
- **j.** Blasting (as applicable)*

Such policy(ies) must provide the following minimum limits:

- **a.** Bodily Injury and Property Damage:
  - (1) $2,000,000 General Aggregate
  - (2) $2,000,000 Products & Completed Operations Aggregate
  - (3) $1,000,000 Personal & Advertising Injury
  - (4) $1,000,000 Each Occurrence
  - (5) $ 100,000 Fire Damage

- **b.** Stop Gap Employers Liability:
  - (1) $1,000,000 Each Accident
  - (2) $1,000,000 Disease - Policy Limit
  - (3) $1,000,000 Disease - Each Employee

* These coverage are only required when Design-Builder’s work under this agreement includes exposures to which these specified coverage respond.
.2 **Builders' Risk.** Design-Builder shall provide property insurance under an "All Risk Builder's Risk" form in an amount equal to the full insurable value of the Work. The structure shall have All Risk Builders Risk Insurance inclusive of earthquake and flood subject to customary industry deductibles.

.3 **Automobile.** Commercial Automobile Liability: as specified by Insurance Services Office, form number CA 0001, Symbol 1 (any auto), with an MCS 90 endorsement and a CA 9948 endorsement attached if "pollutants" as defined in exclusion 11 of the commercial auto policy are to be transported. Such policy(ies) must provide coverage with a combined single limit of not less than $1,000,000 for each accident.

.4 **Excess or Umbrella Liability.** $10 million per occurrence and aggregate

.5 **Pollution Liability.** A policy providing coverage for claims involving remediation, disposal, or other handling of pollutants arising out of Design-Builder's operations for others; from the transportation of hazardous materials; or involving remediation, abatement, repair, maintenance or other work with lead-based paint or materials containing asbestos. Such Pollution Liability policy shall provide at least $1,000,000 per occurrence coverage for Bodily Injury and Property Damage.

.6 **Design-Builder's Professional Liability.** Design-Builder shall maintain for three years after Substantial Completion subject to RCW 4.16.310 (or, if earlier, until demolition of the buildings) professional errors and omissions insurance in an amount no less than $2 million (deductible of up to $5,000 permitted), subject to availability of such insurance. Design-Builder shall promptly notify Owner of any material changes to, interruption of, or termination of this insurance. Design-Builder shall contractually require its Design Consultants of any tier to maintain professional errors and omissions insurance in an amount of at least $1 million. If professional errors and omissions insurance is not reasonably available for or applicable to a class of consultants, Design-Builder must promptly notify Owner.

.7 **Worker's Compensation.** A policy of Worker's Compensation, as required by the Industrial Insurance Laws of the State of Washington. As respects Workers' Compensation insurance in the state of Washington, Design-Builder shall secure its liability for industrial injury to its employees in accordance with the provisions of RCW Title 51. If Design-Builder is qualified as a self-insurer in accordance with RCW 51.14, Design-Builder shall so certify by letter signed by a corporate officer indicating that it is a qualified self insured, and setting forth the limits of any policy of excess insurance covering its employees.

.8 **Other Coverages.** Other additional coverages that may be required will be listed in the General Conditions.

10.1.2 **Self-Insurance.** At its sole option and in its sole discretion, Owner may accept Design-Builder's self-insurance for liability coverage in lieu of insurance from a commercial insurer. Design-Builder must provide a letter from its Corporate Risk Manager or appropriate Finance Officer representing and warranting the following minimum information: whether the self-insurance program is actuarially funded; the fund limits; any excess declaration pages to meet the contract requirements; a description of how Design-Builder would protect and defend Owner as an Additional Insured in their Self-Insured layer; and claims-handling directions in the event of a claim. Any amounts due to, sought by, or paid to third party claimants shall be the sole responsibility of Design-Builder, irrespective of whether such amount falls wholly within the level or amount of Design-Builder's self-insured retention.

10.2 **Bonds and Other Performance Security.** Design-Builder shall provide the following performance bond and labor and material payment bond or other performance security:

10.2.1 **Performance and Payment Bond.** Design-Builder shall secure from a surety company acceptable to Owner, admitted and licensed in the State of Washington, and shall pay for bonds covering the faithful performance of the Contract and payment of obligations arising under the Contract Documents, each in the full amount of the Contract Price, pursuant to RCW 39.08, "Contractor's Bond." The bond shall remain in force throughout the period required to complete the work, and thereafter for a period of 730 calendar days after Final Payment. The bond must be executed by a duly licensed surety company that is listed in the latest
Circular 570 of the United States Treasury Department as being acceptable as surety on federal bonds. No surety's liability on the bond shall exceed the underwriting limitations for the respective surety specified in Circular 570. The scope of the bond or the form thereof prescribed in these Contract Documents shall in no way affect or alter the liabilities of Design-Builder to Owner as set forth herein.

**Article 11**  
**Other Provisions**

Other provisions, if any, are as follows: *(Insert any additional provisions)*

11.1 *Owner’s Permit Requirements.* Owner shall obtain and pay for all zoning, zoning variances, and land-use permits required for the design and construction of the Work, as may be required by regulatory agencies having jurisdictions over the Project. All other permits and licenses required to perform and complete the Work, including but not limited to the plan check fees, building permits, occupancy permit, as well as any renewals and penalties, shall be the sole responsibility of Design-Builder.

11.2 *Owner’s Right of Assignment.* Owner shall have the right to assign this Agreement to a third party meeting the minimum requirements of the Non-Profit Lessor described in the RFP. The assignment may, at Owner’s option, occur at any time after the Date of Commencement and prior to the commencement of the Construction Phase, as those dates and phases are defined in the RFP, Chapter 00570 Contract Definitions.

**Exhibits to Agreement**

A. **RFP:** University of Washington, Request for Design-Build Proposals for Educational Outreach Building, Project Number 10632, dated _______, and Addenda No.1 through No. __ inclusive.

B. **Initial Proposal:** Initial Proposal of ____________________________, dated ________.

C. **Best and Final Proposal:** Best and Final Proposal of, __________________________ dated ________, and attachments thereto.

D. **Request for Clarifications:** University of Washington, Request for Clarifications dated _____.

E. **Proposal Clarifications:** Proposal Clarifications of __________________________ dated ________.

F. **Negotiation Results:** __________________________ dated ________.
In executing this Agreement, Owner and Design-Builder each individually represents that it has the necessary financial resources to fulfill its obligations under this Agreement, and each has the necessary corporate approvals to execute this Agreement, and perform the services described herein.

OWNER:

Regents of the University of Washington
(Name of Owner)

(Signature)
(Printed Name)
(Title)
Date: __________________________

DESIGN-BUILDER:

(Name of Design-Builder)

(Signature)
(Printed Name)
(Title)
Date: __________________________
Article 1

General

1.1 Mutual Obligations

1.1.1 Owner and Design-Builder commit at all times to cooperate fully with each other, and proceed on the basis of trust and good faith, to permit each party to realize the benefits afforded under the Contract Documents.

1.2 Basic Definitions


1.2.2 Day or Days shall mean calendar days unless otherwise specifically noted in the Contract Documents.

1.2.3 Design Consultant is a qualified, Washington-licensed design professional who is not an employee of Design-Builder, but is retained by Design-Builder, or employed or retained by anyone under contract with Design-Builder or Subcontractor, to furnish design services required under the Contract Documents.

1.2.4 Final Acceptance is the date upon which Owner formally accepts the Project. To achieve Final Acceptance, Design-Builder must comply with the provisions of Article 6 and must issue a Final Application for Payment under Paragraph 6.7, an occupancy permit must have been issued, Final Completion must have occurred, and Design-Builder must have submitted to Owner the items required by law and the Contract Documents. Pursuant to RCW 60.28, “completion” of the Contract Work shall occur upon Final Acceptance.

1.2.5 Final Completion is the date on which Design-Builder has completed all of the Work in conformance with the Contract Documents, including punch list and except for items minor in nature that do not substantially affect operation of the facility, after which date Design-Builder may submit a Final Application for Payment.

1.2.6 Hazardous Conditions are any materials, wastes, substances and chemicals deemed to be hazardous under applicable Legal Requirements, or the handling, storage, remediation, or disposal of which are regulated by applicable Legal Requirements.

1.2.7 General Conditions of Contract refer to this University of Washington - Standard Form of General Conditions of Contract Between Owner and Design-Builder (2003 Edition).

1.2.8 Legal Requirements are all applicable federal, state and local laws, codes, ordinances, rules, regulations, orders and decrees of any government or quasi-government entity having jurisdiction over the Project or Site, the practices involved in the Project or Site, or any Work.

1.2.9 Owner's Project Criteria are developed by or for Owner to describe Owner's program requirements and objectives for the Project, including use, space, price, time, site and expandability requirements, as well as submittal requirements and other requirements governing Design-Builder's performance of the Work. Owner's Project Criteria may include conceptual documents, design criteria, the Program Requirements and Performance Requirements included in Owner's Request for Design-Build Proposals (“RFP”) and other Project-specific technical materials and requirements.

1.2.10 Site is the land or premises on which the Project is located.

1.2.11 Subcontractor is any person or entity retained by Design-Builder as an independent contractor to perform a portion of the Work and shall include materialmen and suppliers.

1.2.12 Sub-Subcontractor or Lower-Tier Subcontractor is any person or entity retained by a Subcontractor as an independent contractor to perform any portion of a Subcontractor's Work and shall include materialmen and suppliers.

1.2.13 Substantial Completion is the date on which the Work, or an agreed upon portion of the Work, is sufficiently complete in accordance with the Contract Documents so that Owner can fully occupy and use the Project or a portion thereof for its intended
purposes. **Substantial Completion of all the Work** is the date on which the Work is sufficiently complete in accordance with the Contract Documents so that Owner can fully occupy and use all the Project. For Substantial Completion to occur, the Work other than incidental corrective or punch list work shall have been completed. Work is not Substantially Complete if all systems and parts necessary for occupancy are not usable, if utilities are not connected and operating normally, or if all required temporary occupancy permits for which the Design-Builder is responsible have not been issued, or, for the entire Work, if the Work is not accessible on Site by normal vehicular and pedestrian traffic routes.

1.2.14 **Work** is comprised of all Design-Builder's design, construction and other services required by the Contract Documents, including procuring and furnishing all materials, equipment, services and labor reasonably inferable from the Contract Documents.

1.2.15 **Bond Sale Date** is the date all of the revenue bonds issued by the Owner specifically to finance the Project are sold to the public. If the bonds are not issued or are not sold, there is no Bond Sale Date.

**Article 2**  
**Design-Builder's Services and Responsibilities**

2.1 **General Services**

2.1.1 Design-Builder's Representative shall be reasonably available to Owner and shall have the necessary expertise and experience required to supervise the Work. Design-Builder's Representative shall communicate regularly with Owner and shall be vested with the authority to act on behalf of Design-Builder. Design-Builder's Representative may be replaced only with the mutual agreement of Owner and Design-Builder.

2.1.2 Design-Builder shall provide Owner with a detailed monthly status report detailing the progress of the Work, including whether (i) the Work is proceeding according to schedule, (ii) discrepancies, conflicts, or ambiguities exist in the Contract Documents that require resolution, (iii) health and safety issues exist in connection with the Work, and (iv) other items require resolution so as not to jeopardize Design-Builder's ability to complete the Work for the Contract Price and within the Contract Time(s).

2.1.3 Design-Builder shall prepare and submit, at least three (3) days prior to the meeting contemplated by Section 2.1.4 hereof, a schedule for the execution of the Work for Owner's review and response. The schedule shall be based upon a critical path method ("CPM") analysis of design and construction activities and sequence of operations needed for the orderly performance and completion of the Work in accordance with the Contract and within the Contract Time, shall include critical purchase and submittal schedules and indicate the dates for the start and completion of the various stages of Work, including design document submittals, Substantial Completion of the Work, Final Completion, and the dates when Owner information and approvals are required to enable Design-Builder to achieve the Contract Time(s), and the Critical Path shall be clearly indicated. The schedule shall be revised as required by conditions and progress of the Work or as reasonably requested by the Owner, but such revisions shall not relieve Design-Builder of its obligations to complete the Work within the Contract Time(s), as such dates may be adjusted in accordance with the Contract Documents. Owner's review of and response to the schedule shall not be construed as relieving Design-Builder of its complete and exclusive control over the means, methods, sequences and techniques for executing the Work.

2.1.4 The parties will meet within seven (7) days after execution of the Agreement to discuss issues affecting the administration of the Work and to implement the necessary procedures, including those relating to submittals and payment, to facilitate the ability of the parties to perform their obligations under the Contract Documents.

2.2 **Design Professional Services**

2.2.1 Design-Builder shall, consistent with applicable state licensing laws, provide through qualified, licensed design professionals employed by Design-Builder, or procured from qualified, independent licensed Design Consultants, the necessary design services, including architectural, engineering and other design professional services, as required in Owner's RFP and specifically identified in Design-Builder's Proposal, for the preparation of the required drawings, specifications and other design submittals to permit Design-Builder to complete the Work consistent with the Contract
Documents. Nothing in the Contract Documents is intended or deemed to create any legal or contractual relationship between Owner and any Design Consultant. The Design Consultant shall not be changed during the course of the Work without the approval of Owner, which shall not be unreasonably withheld.

2.3 Standard of Care for Design Professional Services

2.3.1 The standard of care for all design professional services performed to execute the Work shall be the care and skill ordinarily used by members of the design profession meeting the minimum requirements for design professionals specified in the Owner’s RFP, and practicing under similar conditions at the same time and locality of the Project. Notwithstanding the preceding sentence, if the parties agree upon specific performance standards for any aspect of the Work, which standards are to be set forth in an exhibit to the Agreement entitled “Performance Standard Requirements,” the design professional services shall be performed to achieve such standards.

2.4 Design Development Services

2.4.1 Design-Builder and Owner shall, consistent with any applicable provision of the Contract Documents, agree upon the interim design submissions that Owner may wish to review, which interim design submissions may include design criteria, drawings, diagrams and specifications setting forth the Project requirements. On or about the time of the scheduled submissions, Design-Builder and Owner shall meet and confer about the submissions, with Design-Builder identifying during such meetings, among other things, the evolution of the design and any significant changes or deviations from the Contract Documents, or, if applicable, previously submitted design submissions. Minutes of the meetings will be maintained by Design-Builder and provided to all attendees for review. Following the design review meeting, Owner shall review and approve the interim design submissions in a time that is consistent with the turnaround times set forth in Design-Builder’s schedule.

2.4.2 At the time Design-Builder submits the Construction Documents for a building permit, it shall also submit to Owner Construction Documents setting forth in detail drawings and specifications describing the requirements for construction of the Work. The Construction Documents shall be consistent with the Contract Documents and the latest set of interim design submissions, as such submissions may have been modified in a design review meeting. The parties shall have a design review meeting to discuss, and Owner shall review and approve, the Construction Documents in accordance with the procedures set forth Section 2.4.1 above. Design-Builder shall proceed with construction in accordance with the approved Construction Documents and shall submit one set of approved Construction Documents to Owner prior to commencement of construction of the applicable portion of the Work.

2.4.3 Owner’s review and approval of interim design submissions and the Construction Documents is for the purpose of mutually establishing a conformed set of Contract Documents compatible with the requirements of the Work. Neither Owner’s review nor approval of any interim design submissions and Construction Documents shall be deemed to transfer any design liability from Design-Builder to Owner.

2.4.4 To the extent not prohibited by the Contract Documents or Legal Requirements, Design-Builder may prepare interim design submissions and Construction Documents for a portion of the Work to permit construction to proceed on that portion of the Work prior to completion of the Construction Documents for the entire Work.

2.5 Legal Requirements

2.5.1 Design-Builder shall perform the Work in accordance with all Legal Requirements and shall provide all notices applicable to the Work as required by the Legal Requirements.

2.5.2 The Contract Price and/or Contract Time(s) shall be adjusted to compensate Design-Builder for the effects of any changes in the Legal Requirements enacted after the date of the Agreement affecting the performance of the Work, or if a Guaranteed Maximum Price is established after the date of the Agreement, the date the parties agree upon the Guaranteed Maximum Price. Such effects may include, without limitation, revisions Design-Builder is required to make to the Construction Documents because of changes in Legal Requirements.

2.6 Government Approvals and Permits

2.6.1 Except as identified in Owner’s Permit
Requirements in Article 11 of the Agreement, Design-Builder shall obtain and pay for all necessary permits, approvals, licenses, government charges, (including penalties and renewals for which Design-Builder is responsible) and inspection fees required for the prosecution of the Work by any government or quasi-government entity having jurisdiction over the Project.

2.6.2 Design-Builder shall provide reasonable assistance to Owner in obtaining those permits, approvals and licenses that are Owner's responsibility.

2.7 Design-Builder's Construction Phase Services

2.7.1 Unless otherwise provided in the Contract Documents to be the responsibility of Owner or a separate contractor, Design-Builder shall provide through itself or Subcontractors the necessary supervision, labor, inspection, testing, start-up, material, equipment, machinery, temporary utilities and other temporary facilities to permit Design-Builder to complete construction of the Project consistent with the Contract Documents.

2.7.2 Design-Builder shall perform all construction activities efficiently and with the requisite expertise, skill and competence to satisfy the requirements of the Contract Documents. Design-Builder shall at all times exercise complete and exclusive control over the means, methods, safety, sequences and techniques of construction. Owner will not have control over or charge of or will not be responsible for construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work.

2.7.3 Design-Builder shall employ only Subcontractors who are duly licensed and qualified to perform the Work consistent with the Contract Documents. Design-Builder shall disclose the identities of Subcontractors when engaged. Owner may reasonably object to Design-Builder's selection of any Subcontractor, provided that the Contract Price and/or Contract Time(s) shall be adjusted to the extent that Owner's decision impacts Design-Builder's cost and/or time of performance.

2.7.4 Design-Builder assumes responsibility to Owner for the proper performance of the Work of Subcontractors and any acts and omissions in connection with such performance. Nothing in the Contract Documents is intended or deemed to create any legal or contractual relationship between Owner and any Subcontractor or Sub-Subcontractor, including but not limited to any third-party beneficiary rights.

2.7.5 Design-Builder shall coordinate the activities of all Subcontractors. If Owner performs other work on the Project or at the Site with separate contractors under Owner's control, Design-Builder agrees to reasonably cooperate and coordinate its activities with those of such separate contractors so that the Project can be completed in an orderly and coordinated manner without unreasonable disruption.

2.7.6 Design-Builder shall keep the Site reasonably free from debris, trash and construction wastes to permit Design-Builder to perform its construction services efficiently, safely and without interfering with the use of adjacent land areas. Upon Substantial Completion of the Work, or a portion of the Work, Design-Builder shall remove all debris, trash, construction wastes, materials, equipment, machinery and tools arising from the Work or applicable portions thereof to permit Owner to occupy the Project or a portion of the Project for its intended use.

2.7.7 Design-Builder shall enforce discipline and good order among Design-Builder's employees and other persons carrying out the Work, including rules governing the conduct of personnel at the Site. Design-Builder shall not permit employment of unfit persons or persons not skilled in tasks assigned to them. At no change to the Contract Price or Contract Time, Owner may provide written notice requiring Design-Builder to remove from the Work any employee or other person carrying out the Work that Owner reasonably considers objectionable.

2.7.8 Pursuant to RCW 39.12, "Prevailing Wages on Public Works," no worker, laborer, or mechanic employed in the performance of any part of the Work shall be paid less than the "prevailing rate of wage" (in effect as of the date that proposals are due) as determined by the Industrial Statistician of the Department of Labor and Industries. The schedule of the prevailing wage rates for the locality or localities where this Agreement will be performed is available on the Labor and Industries web site (www.lni.wa.gov/prevailingwage) and made a part of the Contract Documents by reference as though fully set forth herein. Design-Builder shall provide the
respective Subcontractors with a schedule of the applicable prevailing wage rates. Questions relating to prevailing wage data should be addressed to the Industrial Statistician at:

Mailing Address: Dept. of Labor and Industries
               ESAC Division
               PO Box 44540
               Olympia, WA 98504
Telephone: (360) 902-5335

2.7.9 Pursuant to RCW 39.12.060, in case any dispute arises as to what are the prevailing rates of wages for work of a similar nature, and such dispute cannot be adjusted by the parties in interest, including labor and management representatives, the matter shall be referred for arbitration to the director of the Department of Labor and Industries of the state, and his or her decision therein shall be final and conclusive and binding on all parties involved in the dispute.

2.7.10 Design-Builder shall indemnify and hold Owner harmless, including attorneys' fees, from any violation or alleged violation of RCW 39.12, "Prevailing Wages on Public Works," and RCW 51, "Industrial Insurance," including without limitation RCW 51.12.050, by Design-Builder or any Subcontractor of any tier.

2.7.11 Design-Builder shall comply with all applicable provisions of RCW 49.28, "Hours of Labor".

2.7.12 Pursuant to RCW 49.70, "Worker and Community Right to Know Act," and WAC 296-62-054 et seq., Design-Builder shall provide Owner copies of and have available at the Project Site a workplace survey or material safety data sheets for all "hazardous" chemicals under the control or use of Design-Builder or any Subcontractor of any tier at the Project Site. Design-Builder shall not be entitled to any additional Contract Time or compensation arising from its failure or alleged failure to comply with this statute or regulation.

2.7.13 Design-Builder shall employ a competent superintendent experienced in projects of a similar nature and necessary assistants who shall be in attendance at the Site during performance of the Work. The superintendent shall be an employee of Design-Builder and employed full time on the Project. The Superintendent shall not be changed or shall be employed on any other project during the course of the Work without the approval of Owner, which shall not be unreasonably withheld.

2.7.14 Design-Builder shall provide Owner access to the Site and the Work in preparation and progress wherever located on or off the Site. The Owner and any visitors shall comply with Site safety rules. The Site shall be fenced so that public access is precluded.

2.8 Design-Builder's Responsibility for Project Safety

2.8.1 Design-Builder recognizes the importance of performing the Work in a safe manner so as to prevent damage, injury or loss to (i) all individuals at the Site, whether working or visiting, (ii) the Work, including materials and equipment incorporated into the Work or stored on-Site or off-Site, and (iii) all other property at the Site or adjacent thereto. Design-Builder assumes responsibility for implementing and monitoring all safety precautions and programs related to the performance of the Work. Design-Builder shall, prior to commencing construction, designate a Safety Representative with the necessary qualifications and experience to supervise the implementation and monitoring of all safety precautions and programs related to the Work. Unless otherwise required by the Contract Documents, Design-Builder's Safety Representative shall be an individual stationed at the Site who may have responsibilities on the Project in addition to safety. The Safety Representative shall make routine daily inspections of the Site and shall hold weekly safety meetings with Design-Builder's personnel, Subcontractors and others as applicable.

2.8.2 Design-Builder and Subcontractors shall comply with all Legal Requirements relating to safety, as well as any Owner-specific safety requirements set forth in the Contract Documents, provided that such Owner-specific requirements do not violate any applicable Legal Requirement. Design-Builder will immediately report in writing any safety-related injury, loss, damage or accident arising from the Work to Owner's Representative and, to the extent mandated by Legal Requirements, to all government or quasi-government authorities having jurisdiction over safety-related matters involving the Project or the Work.

2.8.3 Design-Builder's responsibility for safety under this Section 2.8 is not intended in any way to relieve Subcontractors and Sub-Subcontractors of their own contractual and legal obligations and responsibility for (i) complying with all Legal Requirements, including those related to health and
safety matters, and (ii) taking all necessary measures to implement and monitor all safety precautions and programs to guard against injury, losses, damages or accidents resulting from their performance of the Work.

2.8.4 Any notice given to Design-Builder by Owner of a safety or property protection violation will not: (1) relieve Design-Builder of sole and complete responsibility for the violation and the correction thereof, or of sole liability for the consequences of said violation; (2) impose any obligation upon Owner to inspect or review Design-Builder's safety program or precautions or to enforce Design-Builder's compliance with the requirements of this Article 2; or (3) impose any continuing obligation upon Owner to provide such notice to Design-Builder or any other person or entity.

2.9 Design-Builder's Warranty

2.9.1 Design-Builder warrants to Owner that the construction, including all materials and equipment furnished as part of the construction, shall be new unless otherwise specified in the Contract Documents, of good quality and workmanship, in conformance with the Contract Documents and free of defects in materials and workmanship. Design-Builder's warranty obligation excludes defects caused by abuse, alterations, or failure to maintain the Work by persons other than Design-Builder or anyone for whose acts Design-Builder may be liable. Nothing in this warranty is intended to limit any manufacturer's warranty which provides Owner with greater warranty rights than set forth in this Section 2.9 or the Contract Documents. Design-Builder will provide Owner with all manufacturers' warranties upon Substantial Completion of all the Work. If required by Owner, Design-Builder shall furnish satisfactory evidence as to the kind and quality of materials and equipment. Design-Builder is not relieved of its general warranty obligations by the specification of a particular product or procedure in the Contract Documents. Warranties in the Contract Documents shall survive completion, acceptance and final payment.

2.10 Correction of Defective Work

2.10.1 Design-Builder agrees to correct any Work that is found to not be in conformance with the Contract Documents, including that part of the Work subject to Section 2.9 hereof, within a period of two years (2) from the date of Substantial Completion of the Core and Shell portion of the Work or any portion of the Work, or within such longer period to the extent required by the Contract Documents.

2.10.2 Design-Builder shall, within 24 hours of verbal notice (confirmed in writing) from Owner that non-conforming or defective Work either prevents the use of the facility and/or immediate response is required to prevent further damage or to restore security to prevent external entrance, and/or is a safety hazard (e.g., break in the waterline, sprinkler system failure, failure of the heating system, etc.), or within seven (7) days of receipt of written notice from Owner that the Work is not in conformance with the Contract Documents in other ways, take meaningful steps to commence correction of such nonconforming or defective Work, including the correction, removal or replacement of the nonconforming Work and any damage caused to other parts of the Work affected by the nonconforming Work. If Design-Builder fails to commence the necessary steps within such specified period, Owner, in addition to any other remedies provided under the Contract Documents, may provide Design-Builder with written notice that Owner will commence correction of such nonconforming Work with its own forces. If Owner does perform such corrective Work, Design-Builder shall be responsible for all reasonable costs incurred by Owner in performing such correction. If the nonconforming Work creates an emergency or a situation that Owner reasonably believes requiring an immediate response, the periods identified herein shall be deemed inapplicable.

2.10.3 The two-year period referenced in Section 2.10.1 above applies only to Design-Builder's obligation to correct nonconforming or defective Work and is not intended to constitute a period of limitations for any other rights or remedies Owner may have regarding Design-Builder's other obligations under the Contract Documents.

2.11 Substitutions

2.11.1 Design-Builder shall not substitute an item specifically identified in the Contract Documents without approval of Owner. After construction begins, Owner will consider a written request for the substitution of material or products in place of those specified in the Contract Documents only under circumstances described in and following the procedures of the Contract Documents. The written request must include the specifications for the
material or product and any proposed change in the Contract Price or Contract Time.

2.11.2 By requesting a substitution, Design-Builder represents that it has investigated the proposed material or product and determined that it is equal or better in all respects to that specified; that the same or better warranty will be provided for the substitution, that it is consistent with the Contract Documents; that complete cost data, including all direct and indirect costs of any kind, has been presented; that it waives any other known or unknown Claim arising from the substitution for an increase in the Contract Price or Contract Time; that it has coordinated with affected Subcontractors and will not impact other parts of the Work; and that it will coordinate the installation of the substitute if accepted and make all associated changes in the Work.

**Article 3**

**Owner’s Services and Responsibilities**

3.1 **Duty to Cooperate**

3.1.1 Owner shall, throughout the performance of the Work, cooperate with Design-Builder and perform its responsibilities, obligations and services in a timely manner to facilitate Design-Builder’s timely and efficient performance of the Work and so as not to delay or interfere with Design-Builder’s performance of its obligations under the Contract Documents.

3.1.2 Owner shall provide timely reviews and approvals of interim design submissions and Construction Documents consistent with the turnaround times and durations set forth in Design-Builder’s schedule.

3.1.3 Owner represents that it has the right to build on the Site.

3.2 **Furnishing of Services and Information**

3.2.1 Unless expressly stated to the contrary in the Contract Documents, Owner shall provide, at its own cost and expense, for Design-Builder’s information and use the following, all of which Design-Builder is entitled to rely upon in performing the Work.

.1 Surveys describing the property, boundaries, topography and reference points for use during construction, including existing service and utility lines;

.2 Geotechnical studies describing subsurface conditions, and other surveys describing other latent or concealed physical conditions at the Site. (Any investigations of subsurface conditions have been made for design purposes. There is no guarantee, express or implied, that the conditions indicated are representative of those existing throughout the Site or that unforeseen developments may not occur. Design-Builder is solely responsible for reasonable interpretations of the information and for extrapolations beyond the location of each individual boring, test pit or other testing location. Design-Builder should assume that the exact locations of underground or hidden utilities, plumbing and electrical runs may be somewhat different from the location indicated in the surveys);

.3 Temporary and permanent easements, zoning and other requirements and encumbrances affecting land use, or necessary to permit the proper design and construction of the Project and enable Design-Builder to perform the Work;

.4 A legal description of the Site;

.5 To the extent available, as-built and record drawings of any existing structures at the Site; and

.6 To the extent available, environmental studies, reports and impact statements describing the environmental conditions, including Hazardous Conditions, in existence at the Site.

3.2.2 Owner is responsible for securing and executing all necessary agreements with adjacent
land or property owners that are necessary to enable Design-Builder to perform the Work. Owner is further responsible for all costs, including attorneys' fees, incurred in securing these necessary agreements.

3.3 Financial Information

3.3.1 At Design-Builder's request, Owner shall promptly furnish reasonable evidence satisfactory to Design-Builder that Owner has adequate funds available and committed to fulfill all of Owner's contractual obligations under the Contract Documents. If Owner fails to furnish such financial information in a timely manner, Design-Builder may stop Work under Section 11.3 hereof or exercise any other right permitted under the Contract Documents.

3.3.2 Design-Builder shall cooperate with the reasonable requirements of Owner's lenders or other financial sources. Notwithstanding the preceding sentence, after execution of the Agreement Design-Builder shall have no obligation to execute for Owner or Owner's lenders or other financial sources any documents or agreements that require Design-Builder to assume obligations or responsibilities greater than those existing obligations Design-Builder has under the Contract Documents.

3.4 Owner's Representative

3.4.1 Owner's Representative shall be responsible for providing Owner-supplied information and approvals in a timely manner to permit Design-Builder to fulfill its obligations under the Contract Documents. Owner's Representative shall also provide Design-Builder with prompt notice if it observes any failure on the part of Design-Builder to fulfill its contractual obligations, including any errors, omissions or defects in the performance of the Work, although Owner's Representative is not obliged to so observe.

3.5 Government Approvals and Permits

3.5.1 Owner shall obtain and pay for all necessary permits, approvals, licenses, government charges and inspection fees set forth in the Owner's Permit Requirements in Article 11 of the Agreement.

3.5.2 Owner shall provide reasonable assistance to Design-Builder in obtaining those permits, approvals and licenses that are Design-Builder's responsibility.

3.6 Owner's Separate Contractors

3.6.1 Owner is responsible for all work performed on the Project or at the Site by separate contractors under Owner's control. Owner shall contractually require its separate contractors to cooperate with, and coordinate their activities so as not to interfere with, Design-Builder in order to enable Design-Builder to timely complete the Work consistent with the Contract Documents.

Article 4

Hazardous Conditions and Differing Site Conditions

4.1 Hazardous Conditions

4.1.1 Unless otherwise expressly provided in the Contract Documents not to be part of the Work, Design-Builder is responsible for any Hazardous Conditions encountered at the Site. Upon encountering any Hazardous Conditions, Design-Builder will stop Work immediately in the affected area and duly notify Owner and, if required by Legal Requirements, all government or quasi-government entities with jurisdiction over the Project or Site.

4.1.2 Upon issuing notice of the presence of suspected Hazardous Conditions, Design-Builder shall take the necessary measures required to ensure that the Hazardous Conditions are remediated or rendered harmless. Such necessary measures shall include Design-Builder retaining qualified independent experts to (i) ascertain whether Hazardous Conditions have actually been encountered, and, if they have been encountered, (ii) prescribe the remedial measures that Owner or Design-Builder must take either to remove the Hazardous Conditions or render the Hazardous Conditions harmless.

4.1.3 Design-Builder shall be obligated to resume Work at the affected area of the Project only after Design-Builder's expert provides it with written certification that (i) the Hazardous Conditions have been removed or rendered harmless and (ii) all necessary approvals have been obtained from all government and quasi-government entities having jurisdiction over the Project or Site.
4.1.4 Design-Builder will be entitled, in accordance with these General Conditions of Contract, to an adjustment in its Contract Price and/or Contract Time(s) to the extent Design-Builder's cost and/or the critical path of Design-Builder's time of performance have been adversely impacted by the presence of Hazardous Conditions.

4.1.5 To the fullest extent permitted by law, Owner shall indemnify, defend and hold harmless Design-Builder, Design Consultants, Subcontractors, anyone employed directly or indirectly for any of them, and their officers, directors, employees and agents, from and against any and all claims, losses, damages, liabilities and expenses, including attorneys' fees and expenses, arising out of or resulting from the presence, removal or remediation of Hazardous Conditions at the Site to the extent not caused by the malfeasance or negligent act or omission of Design-Builder, Design Consultants, Subcontractors, anyone employed directly or indirectly for any of them, and their officers, directors, employees and agents.

4.1.6 Owner is not responsible for Hazardous Conditions introduced to the Site by Design-Builder, Subcontractors or anyone for whose acts they may be liable. Design-Builder shall indemnify, defend and hold harmless Owner and Owner's officers, directors, employees and agents from and against all claims, losses, damages, liabilities and expenses, including attorneys' fees and expenses, arising out of or resulting from those Hazardous Conditions introduced to the Site by Design-Builder, Subcontractors or anyone for whose acts they may be liable.

4.2 Differing Site Conditions

4.2.1 Concealed or latent physical conditions or subsurface conditions at the Site that (i) materially differ from the conditions indicated in the Contract Documents or (ii) are of an unusual nature, differing materially from the conditions ordinarily encountered and generally recognized as inherent in the Work are collectively referred to herein as "Differing Site Conditions." If Design-Builder encounters a Differing Site Condition and complies with the requirements of Subparagraph 4.2.2, Article 10 and other provisions of the Contract Documents, Design-Builder will be entitled to an adjustment in accordance with the Contract Documents to the extent Design-Builder's cost and/or Contract Time(s) to the extent Design-Builder's cost and/or time of performance are adversely impacted by the Differing Site Condition and to the extent it neither knew or reasonably should have known of the Differing Site Condition prior to the date of Design-Builder's Proposal.

4.2.2 Upon encountering a Differing Site Condition, Design-Builder shall provide prompt written notice to Owner of such condition, which notice shall not be later than fourteen (14) seven (7) days after such condition has been encountered. Design-Builder shall, to the extent reasonably possible, provide such notice before the Differing Site Condition has been substantially disturbed or altered.

---

**Article 5**

**Insurance and Bonds**

5.1 Design-Builder's Insurance Requirements

5.1.1 Design-Builder is responsible for procuring and maintaining from insurance companies authorized to do business in the state in which the Project is located, and with a minimum rating set forth in the Agreement, the insurance coverages specified in the Agreement and the following insurance coverages for certain claims which may arise from or out of the performance of the Work and obligations under the Contract Documents:

.1 Coverage for claims arising under workers' compensation, disability and other similar employee benefit laws applicable to the Work;

.2 Coverage for claims by Design-Builder's employees for bodily injury, sickness, disease, or death;

.3 Coverage for claims by any person other than Design-Builder's employees for bodily injury, sickness, disease, or death;

.4 Coverage for usual personal injury liability claims for damages sustained by a person as a direct or indirect result of Design-Builder's employment of the person, or sustained by any other person;
5. Coverage for claims for damages (other than to the Work) because of injury to or destruction of tangible property, including loss of use;

6. Coverage for claims of damages because of personal injury or death, or property damage resulting from ownership, use and maintenance of any motor vehicle; and

7. Coverage for contractual liability claims arising out of Design-Builder’s obligations under Section 7.4.1 hereof.

5.1.2 Design-Builder’s liability insurance required by Section 5.1.1 above shall be written for the coverage amounts set forth in the Agreement and shall include completed operations insurance for the period of time set forth in the Agreement.

5.1.3 Design-Builder’s liability insurance set forth in Sections 5.1.1.1 through 5.1.1.7 above shall specifically delete any design-build or similar exclusions that could compromise coverages because of the design-build delivery of the Project.

5.1.4 To the extent Owner requires Design-Builder or any Design Consultant to provide professional liability insurance for claims arising from the negligent performance of design services by Design-Builder or the Design Consultant, the coverage limits, duration and other specifics of such insurance shall be as set forth in the Agreement. Any professional liability shall specifically delete any design-build or similar exclusions that could compromise coverages because of the design-build delivery of the Project. Such policies shall be provided prior to the commencement of any design services hereunder.

5.1.5 Prior to commencing any construction services hereunder, Design-Builder shall provide Owner with certificates evidencing that (i) all insurance obligations required by the Contract Documents are in full force and in effect and will remain in effect for the duration required by the Contract Documents and (ii) no insurance coverage will be canceled, renewal refused, or materially changed unless at least forty-five (45) days prior written notice is given to Owner.

5.2.1 Owner shall self-insure, to the reasonable satisfaction of Design-Builder, and/or procure and maintain from insurance companies authorized to do business in the state in which the Project is located such liability insurance to protect Owner from claims which may arise from the performance of Owner’s obligations under the Contract Documents or Owner’s conduct during the course of the Project.

5.3 Owner’s Property Insurance

5.3.1 At Substantial Completion of the Work and unless otherwise provided in the Contract Documents, Owner shall self-insure, to the reasonable satisfaction of Design-Builder, and/or procure and maintain from insurance companies authorized to do business in the state in which the Project is located property insurance upon the entire Project to the full insurable value of the Project, including professional fees, overtime premiums and all other expenses incurred to replace or repair the insured property. The property insurance obtained by Owner shall include as additional insureds the interests of Owner, Design-Builder, Design Consultants, Subcontractors and Sub-Subcontractors, and shall insure against the perils of fire and extended coverage, theft, vandalism, malicious mischief, collapse, flood, earthquake, debris removal and other perils or causes of loss as called for in the Contract Documents, provided such insurance is available at commercially reasonable rates. The property insurance shall include physical loss or damage to the Work, including materials and equipment in transit, at the Site or at another location as may be indicated in Design-Builder’s Application for Payment and approved by Owner.

5.3.2 Unless the Contract Documents provide otherwise, Owner shall procure and maintain boiler and machinery insurance that will include the interests of Owner, Design-Builder, Design Consultants, Subcontractors and Sub-Subcontractors.

5.3.3 Prior to Design-Builder commencing any Work, Owner shall provide Design-Builder with certificates evidencing that (i) all Owner’s insurance obligations required by the Contract Documents are in full force and in effect and will remain in effect until Design-Builder has completed all of the Work and has received final payment from Owner and (ii) no insurance coverage will be canceled, renewal refused, or materially changed unless at least forty-five (45) days prior written notice is given to Design-
Builder. Owner’s property insurance shall not lapse or be canceled if Owner occupies a portion of the Work pursuant to Section 6.6.3 hereof. Owner shall provide Design-Builder with the necessary endorsements from the insurance company prior to occupying a portion of the Work.

5.3.4 Any loss covered under Owner's property insurance shall be adjusted with Owner and Design-Builder and made payable to both of them as trustees for the insureds as their interests may appear. All insurance proceeds received as a result of any loss will be placed in a separate account and distributed in accordance with such agreement as the interested parties may reach. Any disagreement concerning the distribution of any proceeds will be resolved in accordance with Article 10 hereof.

5.3.5 Owner and Design-Builder waive against each other and Owner's separate contractors, Design Consultants, Subcontractors, agents and employees of each and all of them, all damages covered by property insurance provided herein, except such rights as they may have to the proceeds of such insurance. Design-Builder and Owner shall, where appropriate, require similar waivers of subrogation from Owner's separate contractors, Design Consultants and Subcontractors and shall require each of them to include similar waivers in their contracts.

5.4 Bonds and Other Performance Security

5.4.1 If Owner requires Design-Builder to obtain performance and labor and material payment bonds, or other forms of performance security, the amount, form and other conditions of such security shall be as set forth in the Agreement.
incorporation of the Work into the Project, or upon Design-Builder's receipt of payment, whichever occurs earlier.

6.3 Withholding of Payments

6.3.1 On or before the date established in the Agreement, Owner shall pay Design-Builder all amounts properly due and owing. If Owner determines that Design-Builder is not entitled to all or part of an Application for Payment, it will notify Design-Builder in writing within eight working days after Owner's receipt of the Application for Payment. The notice shall indicate the specific amounts Owner intends to withhold, the reasons and contractual basis for the withholding, and the specific measures Design-Builder must take to rectify Owner's concerns. Design-Builder and Owner will attempt to resolve Owner's concerns prior to the date payment is due. If the parties cannot resolve such concerns, Design-Builder may pursue its rights under the Contract Documents, including those under article 10 hereof. Owner may also revise the whole or part of a previously approved Application for Payment to such extent as may be necessary to protect Owner from loss.

6.3.2 Notwithstanding anything to the contrary in the Contract Documents, Owner shall pay advance Design-Builder all undisputed amounts in an Application for Payment within the times required by the Agreement.

6.3.3 Pursuant to RCW 39.12, "Prevailing Wages on Public Works," Design-Builder will not receive any payment until Design-Builder and all Subcontractors of any tier have submitted a "Statement of Intent to Pay Prevailing Wage" to Owner. The statement must have the approval of the Industrial Statistician of the Department of Labor and Industries before it is submitted to Owner. The statement must include Design-Builder's registration number, the number of workers in each trade classification, and the applicable wage rate for each trade listed. Design-Builder agrees to provide each Subcontractor of any tier with a schedule of applicable prevailing wage rates. Design-Builder and the respective Subcontractors of any tier shall pay all fees required by the Department of Labor and Industries, including fees for the approval of the "Statement of Intent to Pay Prevailing Wages." Approved copies of the "Statement of Intent to Pay Prevailing Wages" must be posted where workers can easily read them.

6.4 Not Used

6.5 Design-Builder's Payment Obligations

6.5.1 Owner's progress payments are made in trust to Design-Builder for distribution in accordance with the approved Application for Payment. An Application for Payment shall not include amounts attributable to the Work of a Subcontractor that Design-Builder does not intend to pay the Subcontractor. Design-Builder will pay Design Consultants and Subcontractors, in accordance with its contractual obligations to such parties, all the amounts Design-Builder has received from Owner on account of their work. Design-Builder will impose similar requirements on Design Consultants and Subcontractors to pay those parties with whom they have contracted. Design-Builder will indemnify and defend Owner against any claims for payment and mechanic's liens as set forth in Section 7.3 hereof.

6.6 Substantial Completion

6.6.1 Design-Builder shall notify Owner when it believes the Work, or to the extent permitted in the Contract Documents, a portion of the Work, is substantially complete and shall include a comprehensive list of items ("punchlist") to be completed or corrected prior to final payment. Failure to include an item on this list does not alter the responsibility of Design-Builder to complete all Work in accordance with the Contract Documents. Within five (5) days of Owner's receipt of Design-Builder's notice, Owner and Design-Builder will jointly inspect such Work to verify that it is substantially complete in accordance with the requirements of the Contract Documents. If Owner's inspection discloses any item, whether or not included on Design-Builder's list, which is not sufficiently complete in accordance with the Contract Documents so that Owner can occupy or utilize the Work or designated portion thereof for its intended use, Design-Builder shall, before issuance of the Certificate of Substantial Completion of all or a portion of the Work, complete or correct such items upon notification by Owner. In such case, Design-Builder shall then submit a request for another inspection by Owner to determine Substantial Completion. If Owner reasonably determines that the Work or designated portion is not substantially complete, Design-Builder shall expeditiously complete the Work or designated portion, again request an inspection, and pay any costs associated with the reinspection. If such Work is substantially
complete, Owner shall prepare and issue a Certificate of Substantial Completion that will set forth (i) the date of Substantial Completion of the Work or portion thereof, (ii) the remaining items of Work that have to be completed before final payment, (iii) provisions (to the extent not already provided in the Contract Documents) establishing Owner's and Design-Builder's responsibility for the Project's security, maintenance, utilities and insurance pending final payment and (iv) an acknowledgment that warranties commence to run on the date of Substantial Completion, except as may otherwise be noted in the Certificate of Substantial Completion.

6.6.2 Pursuant to RCW 60.28, within sixty (60) days of Final Acceptance of the entire Work or, if applicable, any portion of the Work, Owner shall release to Design-Builder all retained amounts relating, as applicable, to the entire Work or completed portion of the Work, in accordance with the requirements of both RCW 39.08 and RCW 60.28.

6.6.3 Owner, at its option, may use a portion of the Work which has been determined to be substantially complete, provided, however, that (i) a Certificate of Substantial Completion has been issued for the portion of Work addressing the items set forth in Section 6.6.1 above, (ii) Design-Builder and Owner have obtained the consent of their sureties and insurers, and to the extent applicable, the appropriate government authorities having jurisdiction over the Project, and (iii) Owner and Design-Builder agree that Owner's use or occupancy will not unreasonably interfere with Design-Builder's completion of the remaining Work except as specified in the Contract Documents.

6.6.4 Owner may, upon written notice thereof to Design-Builder, including provision for security, maintenance, heat, utilities and insurance, take possession of, operate, occupy or use any completed or partially completed portion of the Work at any time prior to Final Completion. Such partial occupancy or use may commence whether or not the portion is Substantially Complete, provided Owner has notified Design-Builder in writing concerning the period for correction of the Work and commencement of warranties required by the Contract Documents. Prior to partial occupancy, Owner will inspect the area to be occupied and compile a list of incomplete or deficient aspects of the Work in that area. Unless the Owner otherwise specifies in writing, such possession, use or operation shall be deemed an acceptance of any portion of the Work, relieves Design-Builder of the risk of loss of the Work occupied, and establishes a Date of Substantial Completion for that portion of the Work occupied. If Design-Builder fails to Substantially Complete a portion of the Work separately identified in the Contract Documents within the Contract Time for that portion of the Work, Owner may take possession of, use or operate all or any part of that Work without any increase in the Contract Price or the Contract Time on account of such possession or use.

6.6.5 If, at 60 days after the Date of Substantial Completion of all or a portion of the Work, Owner considers that the punch list items are unlikely to be completed within 90 days of the Date of Substantial Completion, Owner may, upon seven days' written notice to Design-Builder, take over and perform some or all of the punch list items. If Design-Builder fails to correct the deficiencies within the time period required, Owner may deduct the actual cost of performing this punch list work plus 15% to account for Owner's transaction costs from the amounts due Design-Builder, including without limitation the retainage.

6.7 Final Payment

6.7.1 After receipt of a Final Application for Payment from Design-Builder, Owner shall make final payment by the time required in the Agreement, provided that Design-Builder has completed all of the Work in conformance with the Contract Documents, an occupancy permit has been issued, and any commissioning process and validation process have been successfully concluded ("Final Completion"), and all of the requirements of Final Acceptance have been completed and documented as required by the Contract Documents and Law.

6.7.2 At the time of submission of its Final Application for Payment, and as a condition to Owner's Final Acceptance, Design-Builder shall provide the following information:

.1 an affidavit that all payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which Owner or Owner's property might in any way be responsible or encumbered have been paid or otherwise satisfied and that there are no claims, obligations or liens outstanding or unsatisfied for labor,
services, material, equipment, taxes or other items performed, furnished or incurred for or in connection with the Work which will in any way affect Owner's interests;

.2 a general release executed by Design-Builder waiving, upon receipt of final payment by Design-Builder, all claims, except those claims previously made in writing to Owner, listed on the release, and remaining unsettled at the time of final payment;

.3 consent of Design-Builder's surety, if any, to final payment;

.4 all operating instructions and manuals, guarantees, warranties, certificates, spare parts, maintenance stock, specified excess material, final, clean and accurate as-built drawings, and other deliverables required by the Contract Documents;

.5 certificates of insurance confirming that required coverages will remain in effect and will not be canceled or allowed to expire until at least 30 days' prior written notice has been given to Owner, consistent with the requirements of the Contract Documents;

.6 a written statement that Design-Builder knows of no substantial reason that the insurance will not be renewable to cover the period required by the Contract Documents; and

.7 certification that the materials in the Work are "lead-free" and "asbestos-free."

If a Subcontractor of any tier refuses to furnish a release or waiver required by Owner, Owner may (a) retain funds in such amount as to defray the cost of foreclosing the liens of such claims and to pay attorneys' fees, the total of which shall be no less than 150% of the claimed amount, or (b) accept a bond from Design-Builder satisfactory to Owner to indemnify Owner against such lien. If any such lien remains unsatisfied after all payments from the retainage are made, Design-Builder shall refund to Owner all money that Owner may be compelled to pay in discharging such lien, including all costs and reasonable attorneys' fees.

6.7.3 Upon making final payment, Owner waives all claims against Design-Builder except claims relating to (i) Design-Builder's failure to satisfy its payment obligations, if such failure affects Owner's interests, (ii) Design-Builder's failure to complete the Work consistent with the Contract Documents, including defects appearing after Substantial Completion and (iii) the terms of any special warranties required by the Contract Documents. Acceptance of final payment by Design-Builder, a Subcontractor or Design Consultant shall constitute a waiver of claims by that payee except those previously made in writing and identified by that payee as unsettled on the Final Application for Payment.

6.8 Commissioning of Critical Systems

6.8.1 Certain systems of the Work designated in the Contract Documents are designated "Critical Systems." When Design-Builder considers that the Critical Systems are up and running and ready for normal operation, Design-Builder shall schedule a pre-commissioning inspection of these systems to determine whether the Critical Systems are complete and ready for normal operation. If the inspection discloses that the Critical Systems are not Substantially Complete or that any item which is not in accordance with the requirements of the Contract Documents, Design-Builder shall expeditiously, and before the Date of Commissioning, complete or correct outstanding items. When the Critical Systems are considered complete, Design-Builder shall notify Owner in writing, and Owner will conduct a commissioning inspection, Owner's approval of which shall establish the Date of Commissioning. Warranties on the Critical Systems required by the Contract Documents shall commence on the Date of Commissioning, unless otherwise provided. The Date of Commissioning shall be separate from the duties of the parties at Substantial Completion.

Article 7
Indemnification

7.1 Patent and Copyright Infringement

7.1.1 Design-Builder shall defend any action or proceeding brought against Owner based on any claim that the Work, or any part thereof, or the
operation or use of the Work or any part thereof, constitutes infringement of any United States patent or copyright, now or hereafter issued. Owner shall give prompt written notice to Design-Builder of any such action or proceeding and will reasonably provide authority, information and assistance in the defense of same. Design-Builder shall indemnify and hold harmless Owner from and against all damages and costs, including but not limited to attorneys’ fees and expenses awarded against Owner or Design-Builder in any such action or proceeding. Design-Builder agrees to keep Owner informed of all developments in the defense of such actions.

7.1.2 If Owner is enjoined from the operation or use of the Work, or any part thereof, as the result of any patent or copyright suit, claim, or proceeding, Design-Builder shall at its sole expense take reasonable steps to procure the right to operate or use the Work. If Design-Builder cannot so procure such right within a reasonable time, Design-Builder shall promptly, at Design-Builder’s option and at Design-Builder’s expense, (i) modify the Work so as to avoid infringement of any such patent or copyright or (ii) replace said Work with Work that does not infringe or violate any such patent or copyright.

7.1.3 Sections 7.1.1 and 7.1.2 above shall not be applicable to any suit, claim or proceeding based on infringement or violation of a patent or copyright (i) relating solely to a particular process or product of a particular manufacturer specified by Owner and not offered or recommended by Design-Builder to Owner or (ii) arising from modifications to the Work by Owner or its agents after acceptance of the Work.

7.1.4 The obligations set forth in this Section 7.1 shall constitute the sole agreement between the parties relating to liability for infringement of violation of any patent or copyright.

7.2 Not Used

7.3 Payment Claim Indemnification

7.3.1 Providing that Owner is not in breach of its contractual obligation to make payments to Design-Builder for the corresponding Work, Design-Builder shall indemnify, defend and hold harmless Owner from any claims or payment bond liens brought against Owner or against the Project as a result of the failure of Design-Builder, or those for whose acts it is responsible, to pay for any services, materials, labor, equipment, taxes or other items or obligations furnished or incurred for or in connection with the Work. Within three (3) days of receiving written notice from Owner that such a claim or lien has been filed, Design-Builder shall commence to take the steps necessary to discharge said claim or lien, including, if necessary, the furnishing of a bond. If Design-Builder fails to do so, Owner will have the right to discharge the claim or lien and hold Design-Builder liable for costs and expenses incurred, including attorneys’ fees.

7.4 Design-Builder’s General Indemnification

7.4.1 Design-Builder, to the fullest extent permitted by law and subject to the following conditions, shall indemnify, hold harmless and defend Owner, its officers, directors, employees and agents (“Indemnified Parties”) from and against all claims, losses, damages, liabilities, direct and indirect or consequential, including but not limited to attorneys’ fees and expenses incurred on such claims and in successfully proving the right to indemnification (“Damages”), arising out of or resulting from the acts or omissions of Design-Builder, Design Consultants, Subcontractors, anyone employed directly or indirectly by any of them or anyone for whose acts any of them may be liable ("Indemnitor"). Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this Paragraph.

1 Design-Builder will fully indemnify the indemnified Parties for such Damages arising from the sole negligence of the Indemnitor.

2 To the extent of the Indemnitor's negligence, Design-Builder will indemnify the Indemnified Parties for such Damages arising from the concurrent negligence of the Indemnitor.

Design-Builder agrees to being added by Owner as a party to any arbitration or litigation with third parties in which Owner alleges indemnification or contribution from Design-Builder, any of its subcontractors of any tier, anyone directly or indirectly employed by any of them, or anyone for
whose acts any of them may be liable. Design-Builder agrees that all of its Design Consultants and Subcontractors of any tier will, in the subcontracts, similarly stipulate; in the event any does not, Design-Builder shall be liable in place of such Subcontractor(s).

7.4.2 If an employee of Design-Builder, Design Consultants, Subcontractors, anyone employed directly or indirectly by any of them or anyone for whose acts any of them may be liable has a claim against Owner, its officers, directors, employees, or agents, Design-Builder's indemnity obligation set forth in Section 7.4.1 above shall not be limited by any limitation on the amount of damages, compensation or benefits payable by or for Design-Builder, Design Consultants, Subcontractors, or other entity under any employee benefit acts, including workers' compensation or disability acts. After mutual negotiation of the parties, Design-Builder waives immunity as to Owner and its consultants only under industrial insurance, Title 51 RCW.

Article 8
Time

8.1 Obligation to Achieve the Contract Times

8.1.1 Design-Builder agrees that it will commence performance of the Work and achieve the Contract Time(s) in accordance with Article 5 of the Agreement.

8.1.2 Should Design-Builder fail to meet any scheduled milestone date as shown on Design-Builder's current Construction Schedule, Design-Builder shall submit at its own expense within ten days of Owner's request an updated Design-Builder's Construction Schedule. If Design-Builder's progress indicates to Owner that all the Work will not be Substantially Completed within the Contract Time or will not be Substantially Complete by the time specified, Design-Builder shall, without change to the Contract Price (unless Design-Builder is delayed pursuant to Subparagraph 8.2.1), increase its work force and/or working hours to bring the actual completion dates of the activities into conformance with Design-Builder's Construction Schedule, Substantial Completion of all the Work within the Contract Time, and Substantial Completion by the specified time. Design-Builder shall also submit a revised Design-Builder's Construction Schedule at its own expense within ten days of notice from Owner that the sequence of work varies significantly from that shown on Design-Builder's Construction Schedule. Owner will, however, review the substance or sequence of Design-Builder's Construction Schedule.

8.2 Delays to the Work

8.2.1 If Design-Builder is delayed in the performance of the Work due to acts, omissions, conditions, events, or circumstances beyond its control and due to no fault of its own or those for whom Design-Builder is responsible, the Contract Time(s) for performance, limited to the change in the actual critical path of Design-Builder's Construction Schedule directly caused thereby, shall be reasonably extended by Change Order. By way of example, events that will entitle Design-Builder to an extension of the Contract Time(s) include acts or omissions of Owner or anyone under Owner's control (including separate contractors), changes in the Work, Differing Site Conditions, Hazardous Conditions, wars, floods, industry-wide labor disputes, unusual and unexpected delay in transportation, epidemics abroad, earthquakes, adverse weather conditions not reasonably anticipated, and other acts of God. Design-Builder shall not be entitled to any adjustment in the Contract Time, Design-Builder's Construction Schedule, or the Contract Price, or to any additional payment of any sort by reason of the loss or use of any float time, including time between Design-Builder's anticipated completion date and end of the Contract Time, whether or not the float time is described as such on Design-Builder's Construction Schedule, unless Design-Builder in good faith informs Owner that a contemplated action by Owner will absorb float time that could lead to a delay to the actual critical path.

8.2.1.2 The Contract Time will not be adjusted for normal inclement weather. If adverse weather conditions are the basis for a claim for an extension of time, Design-Builder must substantiate that (i) there was substantially greater than normal inclement weather considering the timing of the event and the full term of the Contract Time and using the longest-term average available of accumulated record mean values from climatological data compiled by the U. S. Department of Commerce National Oceanic and Atmospheric Administration for the locale of the Project, (ii) the abnormal weather could not have been reasonably
anticipated and reasonably mitigated, (iii) the claimed greater-than-normal inclement weather had an adverse effect on the scheduled construction and actually delayed the actual critical path of the Work which had an adverse effect upon the Contract Time, and (iv) the claimed delay impacted a portion of the Work that would not otherwise have been delayed due to the fault of the Design-Builder at the time the adverse weather conditions occurred.

8.2.2 In addition to Design-Builder's right to a time extension for those events set forth in Section 8.2.1 above, Design-Builder shall also be entitled to an appropriate adjustment of the Contract Price in accordance with applicable provisions of the Contract Documents provided, however, that the Contract Price shall not be adjusted for those events set forth in Section 8.2.1 above that are beyond the control of both Design-Builder and Owner, including the events of war, floods, labor disputes, earthquakes, epidemics, adverse weather conditions not reasonably anticipated, and other acts of God.

8.2.3 Design-Builder shall not recover damages, an equitable adjustment or an increase in the Contract Price or Contract Time(s) from Owner where Design-Builder could have reasonably avoided the delay by the exercise of due diligence. No damages will be allowed for any time prior to 14 days before receipt of written Claim of the delay pursuant to Paragraph 10.1. When otherwise permitted under the Contract Documents, Design-Builder shall be entitled to actual damages calculated solely in accordance with Paragraph 6.3 of the Agreement but shall not be entitled to damages estimated through graphical or formulaic methods such as, without limitation, Leonard Curve, Hanna/CII Method, BRT, CII or NECA studies. Design-Builder shall not in any event be entitled to separate damages arising out of morale, fatigue, attitude, or labor rhythm; constructive acceleration without prior notice; expectant underrun; reassignment of workers; concurrent operations; dilution of supervision; learning curve; logistics; ripple; profit upon damages for delay; or similar damages. Design-Builder shall not be entitled to damages beyond actual costs otherwise compensable under the Contract, for delays of any sort that do not extend the Contract Time.

Article 9

Changes to the Contract Price and Time

9.1 Change Orders and Change Proposals

9.1.1 A Change Order is a written instrument, including a CHANGE PROPOSAL, issued by Design-Builder after execution of the Agreement and signed by Owner and Design-Builder, stating their agreement upon all of the following:

1. The scope of the change in the Work;
2. The amount of the adjustment to the Contract Price; and
3. The extent of the adjustment to the Contract Time(s).

Agreed Change Proposal's will be assembled into a single Change Order on a monthly basis.

9.1.2 All changes in the Work authorized by applicable Change Order shall be performed under the applicable conditions of the Contract Documents. Owner and Design-Builder shall negotiate in good faith and as expeditiously as possible the appropriate adjustments for such changes. The execution of a Change Order (including Change Proposal) constitutes a waiver of Claims arising out of the Work to be performed or deleted by the Change Order or Change Proposal, except as specifically described in the Change Order or Change Proposal.

9.1.3 If Owner requests a proposal for a change in the Work from Design-Builder, then Design-Builder shall submit its responsive Change Proposal within 14 days and shall in good faith specify the components and amounts by which the Contract Price and/or Contract Time would change. If Design-Builder fails to respond within this time, Owner may withhold a reasonable portion of a progress payment otherwise due until the tardy proposal is received. Owner may accept the Change Proposal in writing, in which case it will be included in a future Change Order, and the change in the Work may commence immediately. Owner may reject the Change Proposal, in which case Owner may either not effectuate the change or may order the change through a Work Change Directive or an order for a minor change in the Work. A Change Order shall be issued to reimburse Design-
Builder for reasonable costs incurred for estimating services, design services and services involved in the preparation of proposed revisions to the Contract Documents not the fault of Design-Builder.

9.2 Work Change Directives

9.2.1 A Work Change Directive is a written order prepared and signed by Owner, directing a change in the Work prior to agreement on an adjustment in the Contract Price and/or the Contract Time(s).

9.2.2 Upon receipt of a Work Change Directive, Design-Builder shall promptly proceed with the change in the Work involved. As soon as possible, and within no later than seven days of receipt, Design-Builder shall advise Owner in writing of Design-Builder's agreement or disagreement with the cost or the method, if any, provided in the Work Change Directive for determining the proposed adjustment in the Contract Price or Contract Time. Design-Builder's advice shall reasonably specify the reasons for its disagreement and the amount or other terms that it proposes. Without such timely written advice, Design-Builder shall conclusively be deemed to have accepted Owner's adjustment. Design-Builder's disagreement shall not relieve Design-Builder of its obligation to comply promptly with any written notice issued by Owner. The adjustment shall then be determined on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, in strict accordance with the Contract Documents. A Work Change Directive signed by Design-Builder indicates the agreement of Design-Builder therewith, including adjustment in Contract Price and Contract Time or the method for determining them, and the agreement shall be effective immediately and be recorded as a Change Order.

9.2.3 If Design-Builder disagrees, Owner and Design-Builder shall negotiate in good faith and as expeditiously as possible the appropriate adjustments for the Work Change Directive. Upon reaching an agreement, the parties shall prepare and execute an appropriate Change Order reflecting the terms of the agreement.

9.3 Minor Changes in the Work

9.3.1 Minor changes in the Work do not involve an adjustment in the Contract Price and/or Contract Time(s) and do not materially and adversely affect the Work, including the design, quality, performance and workmanship required by the Contract Documents. Design-Builder may make minor changes in the Work consistent with the intent of the Contract Documents, provided, however that Design-Builder shall promptly inform Owner, in writing, of any such changes and record such changes on the documents maintained by Design-Builder.

9.4 Contract Price Adjustments

9.4.1 The increase or decrease in Contract Price resulting from a change in the Work shall be determined by one or more of the following methods:

.1 Unit prices set forth in the Agreement or as subsequently agreed to between the parties;

.2 A mutually accepted, lump sum, properly itemized and supported by sufficient substantiating data to permit evaluation by Owner;

.3 Costs, fees and any other markups set forth in Paragraph 6.2 and 6.3 of the Agreement; and

.4 If an increase or decrease cannot be agreed to as set forth in items .1 through .3 above and Owner issues a Work Change Directive, the cost of the change of the Work shall be determined by the reasonable expense and savings in the performance of the Work resulting from the change, including a reasonable overhead and profit, as may be set forth in the Agreement. If the net result of both additions and deletions to the Work is an increase in the Contract Price, overhead and profit shall be calculated on the basis of the net increase to the Contract Price. If the net result of both additions and deletions to the Work is a decrease in the Contract Price, there shall be no overhead or profit adjustment to the Contract Price. Design-Builder shall maintain a documented, itemized accounting evidencing the expenses and savings associated with such changes.
9.4.2 If unit prices are set forth in the Contract Documents or are subsequently agreed to by the parties, but application of such unit prices will cause substantial inequity to Owner or Design-Builder because of differences in the character or quantity of such unit items as originally contemplated, such unit prices shall be equitably adjusted.

9.4.3 If Owner and Design-Builder disagree upon whether Design-Builder is entitled to be paid for any services required by Owner, or if there are any other disagreements over the scope of Work or proposed changes to the Work, Owner and Design-Builder shall resolve the disagreement pursuant to Article 10 hereof. As part of the negotiation process, Design-Builder shall furnish Owner with a good faith estimate of the costs to perform the disputed services in accordance with Owner's interpretations and shall keep and present, in such form as Owner may prescribe, an itemized accounting together with supporting data in the manner described in Paragraph 6.3 of the Agreement. If the parties are unable to agree and Owner expects Design-Builder to perform the services in accordance with Owner's interpretations, Design-Builder shall proceed to perform the disputed services, conditioned upon Owner issuing a written order to Design-Builder (i) directing Design-Builder to proceed and (ii) specifying Owner's interpretation of the services that are to be performed. If this occurs, Design-Builder shall be entitled to submit in its Applications for Payment, and Owner shall be obligated to pay an amount equal its reasonable estimated direct cost to perform the services, and Owner agrees to pay such amounts, with the express understanding that (i) such payment by Owner does not prejudice Owner's right to argue that it has no responsibility to pay for such services and (ii) receipt of such payment by Design-Builder does not prejudice Design-Builder's right to seek full payment of the disputed services if Owner's order is deemed to be a change to the Work. The total cost of any change shall be limited to the reasonable value of the items in Paragraph 6.3 of the Agreement.

9.5 Emergencies

9.5.1 In any emergency affecting the safety of persons and/or property, Design-Builder shall act, at its discretion, to prevent threatened damage, injury or loss. Any change in the Contract Price and/or Contract Time(s) on account of emergency work shall be determined as provided in this Article 9.

**Article 10**

**Contract Adjustments and Disputes**

10.1 Requests Contract Adjustments and Relief

10.1.1 A Claim is a demand or assertion by one of the parties seeking, as a matter of right, adjustment or interpretation of Contract terms, payment of money, extension of time or other relief with respect to the terms of the Contract Documents. The term "Claim" includes any and all disputes and matters in question between Owner and Design-Builder arising out of or relating to the Agreement or the breach thereof. Claims must be made in writing and include the information and substantiation required by the Contract Documents. The responsibility to substantiate Claims shall rest with the party making the Claim. A Request for Information or a notice of a potential or future claim does not constitute a Claim. That Owner may be aware of the occurrence of a Claim or delay through means other than Design-Builder's written notification shall not constitute a waiver of the requirements for a timely or written notice or Claim.

10.1.2 Design-Builder shall submit notice in writing to Owner of any Claim within fourteen days of the event giving rise to it and shall include a clear description of the event leading to the Claim and the nature of the Claim. If, with due diligence, Design-Builder could not have learned and did not learn of the event within the fourteen-day period, this notice will be extended to fourteen days after Design-Builder's discovery of the event. The written notice may be included as a separate portion of the meeting minutes. Design-Builder shall submit a written Claim within fourteen days of the notice and shall include a clear description of the Claim, the proposed change in the Contract Price (broken down into its detailed components) and/or Contract Time of the Claim (showing change in the critical path) and provide data supporting the Claim. The Design-Builder may extend its Claim submittal for an additional 30 days by so notifying Owner in writing within the fourteen-day period. Failure to properly submit the notice or Claim shall constitute waiver of the Claim, and no act, omission or knowledge, actual or constructive, of Owner shall waive the requirement for timely notice and Claim unless Owner provides an explicit, written waiver. The
Claim shall be deemed to include all changes, direct and indirect, in cost and in time to which Design-Builder (and Design Consultants and Subcontractors of any tier) is entitled. The claim of a Design Consultant or Subcontractor of any tier may be brought only through Design-Builder and only after Design-Builder notifies Owner in writing that Design-Builder has reviewed the claim.

10.2 Dispute Avoidance and Resolution

10.2.1 The parties are fully committed to working with each other throughout the Project and agree to communicate regularly with each other at all times so as to avoid or minimize disputes or disagreements. If disputes or disagreements do arise, Design-Builder and Owner each commit to resolving such disputes or disagreements in an amicable, professional and expeditious manner so as to avoid unnecessary losses, delays and disruptions to the Work.

10.2.2 Design-Builder and Owner will first attempt to resolve disputes or disagreements at the field level through discussions between Design-Builder's Representative and Owner's Representative.

10.2.3 If a dispute or disagreement cannot be resolved through Design-Builder's Representative and Owner's Representative, Design-Builder's Senior Representative and Owner's Senior Representative, upon the request of either party, shall meet as soon as conveniently possible, but in no case later than thirty (30) days after such a request is made, to attempt to resolve such dispute or disagreement. Prior to any meetings between the Senior Representatives, the parties will exchange relevant information that will assist the parties in resolving their dispute or disagreement.

10.2.4 If after meeting the Senior Representatives determine that the dispute or disagreement cannot be resolved, the dispute or disagreement will be submitted to non-binding mediation. The mediation shall be conducted by a mutually agreeable impartial mediator, or if the parties cannot so agree, a mediator designated by the American Arbitration Association ("AAA") pursuant to its Construction Industry Mediation Rules. The mediation will be governed by and conducted pursuant to a mediation agreement negotiated by the parties or, if the parties cannot so agree, by procedures established by the mediator. This requirement to mediate is a condition precedent to litigation and cannot be waived except by an explicit written waiver signed by Owner and Design-Builder. An officer of Design-Builder and Owner, both having full authority to settle the Claim, must attend the mediation session. To the extent there are other parties in interest, such as Design Consultants or Subcontractors of any tier, their representatives, with full authority to settle the Claim, shall also attend the mediation session. Unless Owner and Design-Builder mutually agree in writing otherwise, all unresolved Claims shall be considered at a single mediation session which shall occur prior to Final Acceptance by Owner. Design-Builder is responsible for initiating the mediation procedure. The mediator's fee will be divided equally among the parties participating in the mediation.

10.3 Litigation

10.3.1 Any claims, disputes or controversies between the parties arising out of or relating to the Agreement, or the breach thereof, which have not been resolved in accordance with the procedures set forth in Section 10.2 above shall be decided by litigation, unless the parties mutually agree in writing otherwise. All unresolved Claims of Design-Builder shall be waived and released unless Design-Builder has complied with the time limits of the Contract Documents, and litigation is served and filed within the earlier of (a) 120 days after the Date of Substantial Completion of all the Work designated in writing by Owner or (b) 60 days after Final Acceptance. This requirement cannot be waived except by an explicit written waiver signed by Owner and Design-Builder. The pendency of mediation shall toll these deadlines until the earlier of the mediator providing written notice to the parties of impasse or thirty days after the last mediation session ended with no further sessions scheduled by the mediator.

10.3.2 Neither Design-Builder, a Design Consultant, nor a Subcontractor of any tier, whether claiming under a lien statute or otherwise, shall be entitled to attorneys' fees directly or indirectly from Owner (as distinct from the statutory retainage).

10.4 Duty to Continue Performance

10.4.1 Unless provided to the contrary in the Contract Documents, Design-Builder shall continue to perform the Work and Owner shall continue to satisfy its payment obligations to Design-Builder,
pending the final resolution of any dispute or disagreement between Design-Builder and Owner.

10.5 CONSEQUENTIAL DAMAGES

10.5.1 NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY (EXCEPT AS SET FORTH IN SECTION 10.5.2 BELOW), NEITHER DESIGN-BUILDER NOR OWNER SHALL BE LIABLE TO THE OTHER FOR ANY CONSEQUENTIAL LOSSES OR DAMAGES, WHETHER ARISING IN CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE, INCLUDING BUT NOT LIMITED TO LOSSES OF USE, PROFITS, BUSINESS, REPUTATION OR FINANCING.

10.5.2 The consequential damages limitation set forth in Section 10.5.1 above is not intended to affect the payment of liquidated damages, if any, set forth in Article 5 of the Agreement, which both parties recognize has been established, in part, to reimburse Owner for some damages that might otherwise be deemed to be consequential.

Article 11
Stop Work and Termination for Cause

11.1 Owner's Right to Stop Work

11.1.1 Owner may, without cause and for its convenience, order Design-Builder in writing to stop and suspend the Work. Such suspension shall not exceed sixty (60) consecutive days or aggregate more than ninety (90) days during the duration of the Project, except that Owner may order a suspension during the pendency of any SEPA appeal.

11.1.2 Design-Builder is entitled to seek an adjustment of the Contract Price and/or Contract Time(s) if its cost or time to perform the Work has been adversely impacted by any suspension of stoppage of work by Owner.

11.2 Owner's Right to Perform and Terminate for Cause

11.2.1 If Design-Builder persistently fails to (i) provide a sufficient number of skilled workers, (ii) supply the materials required by the Contract Documents, (iii) comply with applicable Legal Requirements, (iv) timely pay, without cause, Design Consultants or Subcontractors, (v) prosecute the Work with promptness and diligence to ensure that the Work is completed by the Contract Time(s), as such times may be adjusted, or (vi) perform material obligations under the Contract Documents, then Owner, in addition to any other rights and remedies provided in the Contract Documents or by law, shall have the rights set forth in Sections 11.2.2 and 11.2.3 below.

11.2.2 Upon the occurrence of an event set forth in Section 11.2.1 above, Owner may provide written notice to Design-Builder that it intends to terminate the Agreement unless the problem cited is cured, or reasonably commenced to be cured, within seven (7) days of Design-Builder's receipt of such notice. If Design-Builder fails to cure, or reasonably commence to cure, such problem, then Owner may give a second written notice to Design-Builder of its termination, at which time termination would take effect.

11.2.3 Upon declaring the Agreement terminated pursuant to Section 11.2.2 above, Owner may enter upon the premises and take possession, for the purpose of completing the Work, of all materials, equipment, scaffolds, tools, appliances and other items thereon, which have been purchased or provided for the performance of the Work, take over the contracts of any Design Consultant and Subcontractor, all of which Design-Builder hereby transfers, assigns and sets over to Owner for such purpose, and to employ any person or persons to complete the Work and provide all of the required labor, services, materials, equipment and other items. In the event of such termination, Design-Builder shall not be entitled to receive any further payments under the Contract Documents until the Work shall be finally completed in accordance with the Contract Documents. At such time, if the unpaid balance of the Contract Price exceeds the cost and expense incurred by Owner in completing the Work, such excess shall be paid by Owner to Design-Builder. If Owner's cost and expense of completing the Work exceeds the unpaid balance of the Contract Price, then Design-Builder shall be obligated to pay the difference to Owner. Such costs and expense shall include not only the cost of completing the Work, but also losses, damages, costs and expense, including attorneys' fees and expenses, incurred by Owner in connection with the reprocurement and defense of claims arising from Design-Builder's default, subject to the waiver of consequential damages set forth in Section 10.5 hereof.
11.2.4 If Owner improperly terminates the Agreement for cause, the termination for cause will convert to a Termination for Convenience in accordance with the provisions of Article 8 of the Agreement.

11.3 Not Used

11.4 Design-Builder's Right to Terminate for Cause

11.4.1 Design-Builder, in addition to any other rights and remedies provided in the Contract Documents or by law, may terminate the Agreement for cause for the following reasons:

.1 The Work has been stopped for sixty (60) consecutive days, or more than ninety (90) days during the duration of the Project, because of court order, any government authority having jurisdiction over the Work, or orders by Owner under Section 11.1.1 hereof, provided that such stoppages are not due to either a SEPA appeal or the acts or omissions of Design-Builder or anyone for whose acts Design-Builder may be responsible.

.2 Owner's failure to provide Design-Builder with any information, permits or approvals that are Owner's responsibility under the Contract Documents which result in the Work being stopped for sixty (60) consecutive days, or more than ninety (90) days during the duration of the Project, even though Owner has not ordered Design-Builder in writing to stop and suspend the Work pursuant to Section 11.1.1 hereof.

.3 Owner's failure to cure the problems set forth in Section 11.3.1 above within the specified time after Design-Builder has stopped the Work.

11.4.2 Upon the occurrence of an event set forth in Section 11.4.1 above, Design-Builder may provide written notice to Owner that it intends to terminate the Agreement unless the problem cited is cured, or commenced to be cured, within seven (7) days of Owner's receipt of such notice. If Owner fails to cure, or reasonably commence to cure, such problem, then Design-Builder may give a second written notice to Owner of its intent to terminate within an additional seven (7) day period. If Owner, within such second seven (7) day period, fails to cure, or reasonably commence to cure, such problem, then Design-Builder may declare the Agreement terminated for default by providing written notice to Owner of such declaration. In such case, Design-Builder shall be entitled to recover in the same manner as if Owner had terminated the Agreement for its convenience under Article 8 of the Agreement, except that Design-Builder's recovery shall not exceed the balance remaining of the Contract Price.

11.5 Bankruptcy of Owner or Design-Builder

11.5.1 If either Owner or Design-Builder institutes or has instituted against it a case under the United States Bankruptcy Code (such party being referred to as the Bankrupt Party), such event may impair or frustrate the Bankrupt Party's ability to perform its obligations under the Contract Documents. Accordingly, should such event occur:

.1 The Bankrupt Party, its trustee or other successor, shall furnish, upon request of the non-Bankrupt Party, adequate assurance of the ability of the Bankrupt Party to perform all future material obligations under the Contract Documents, which assurances shall be provided within ten (10) days after receiving notice of the request; and

.2 The Bankrupt Party shall file an appropriate action within the bankruptcy court to seek assumption or rejection of the Agreement within sixty (60) days of the institution of the bankruptcy filing and shall diligently prosecute such action.

If the Bankrupt Party fails to comply with its foregoing obligations, the non-Bankrupt Party shall be entitled to request the bankruptcy court to reject the Agreement, declare the Agreement terminated and pursue any other recourse available to the non-Bankrupt Party under this Article 11.

11.5.2 The rights and remedies under Section 11.5.1 above shall not be deemed to limit the ability
of the non-Bankrupt Party to seek any other rights and remedies provided by the Contract Documents or by law, including its ability to seek relief from any automatic stays under the United States Bankruptcy Code or the right of Design-Builder to stop Work under any applicable provision of these General Conditions of Contract.

**Article 12**

**Miscellaneous**

12.1 **Assignment**

12.1.1 Except and unless indicated otherwise in the Agreement Between Owner and Design-Builder, neither Design-Builder nor Owner shall, without the written consent of the other assign, transfer or sublet any portion or part of the Work or the obligations required by the Contract Documents.

12.2 **Successorship**

12.2.1 Design-Builder and Owner intend that the provisions of the Contract Documents are binding upon the parties, their employees, agents, heirs, successors and assigns, except that, if a majority of the ownership or the control of Design-Builder is acquired by a third party, and such acquisition unreasonably imperils performance or creates a conflict of interest that Owner, in its sole discretion, cannot reasonably reconcile, then Owner may terminate this contract at any time pursuant to Paragraph 11.2 of these General Conditions, except that Owner shall give Design-Builder thirty days written notice of termination and the opportunity for Design-Builder to cure prior to termination.

12.3 **Governing Law**

12.3.1 The Agreement and all Contract Documents shall be governed by the Laws of the State of Washington. Venue shall be in King County Superior Court.

12.4 **Severability**

12.4.1 If any provision or any part of a provision of the Contract Documents shall be finally determined to be superseded, invalid, illegal, or otherwise unenforceable pursuant to any applicable Legal Requirements, such determination shall not impair or otherwise affect the validity, legality, or enforceability of the remaining provision or parts of the provision of the Contract Documents, which shall remain in full force and effect as if the unenforceable provision or part were deleted.

12.5 **No Waiver**

12.5.1 The failure of either Design-Builder or Owner to insist, in any one or more instances, on the performance of any of the obligations required by the other under the Contract Documents shall not be construed as a waiver or relinquishment of such obligation or right with respect to future performance.

12.6 **Headings**

12.6.1 The headings used in these General Conditions of Contract, or any other Contract Document, are for ease of reference only and shall not in any way be construed to limit or alter the meaning of any provision.

12.7 **Notice**

12.7.1 Whenever the Contract Documents require that notice be provided to the other party, notice will be deemed to have been validly given (i) if delivered in person to the individual intended to receive such notice, (ii) four (4) days after being sent by registered or certified mail, postage prepaid to the address indicated in the Agreement or (iii) if transmitted by facsimile, by the time stated in a machine generated confirmation that notice was received at the facsimile number of the intended recipient.

12.8 **Amendments**

12.8.1 The Contract Documents may not be changed, altered, or amended in any way except in writing signed by a duly authorized representative of each party.

12.9 **Not Used**

12.10 **Statutes**

12.10.1 Design-Builder shall abide by the provisions of all applicable Washington statutes. Although a number of statutes are referenced in the Contract Documents, it is not meant to be a complete list and should not be relied upon as such.

12.10.2 **Registration.** Pursuant to RCW 39.06, "Registration, Licensing of Contractors," Design-Builder shall be registered or licensed as required by
the laws of the State of Washington, including but not limited to RCW 18.27, "Registration of Contractors."

12.10.3 Law Against Discrimination. Design-Builder shall comply with pertinent statutory provisions relating to public works of RCW 49.60, "Discrimination."


12.10.6 Unemployment Compensation. Pursuant to RCW 50.24, "Contributions by Employers," in general and RCW 50.24.130 in particular, Design-Builder shall pay contributions for wages for personal services performed under this Contract or arrange for a bond acceptable to the commissioner.

12.10.7 Drug-Free Workplace. Design-Builder and all Design Consultants and Subcontractors of any tier shall fully comply with all applicable federal, state, and local laws and regulations regarding drug-free workplace, including the Drug-Free Workplace Act of 1988. Any person not fit for duty for any reason, including the use of alcohol, controlled substances, or drugs, shall immediately be removed from the Work.


13.1.1 In accordance with Chapter 39.19 RCW, it is the policy of the State of Washington to provide the maximum practicable opportunity for increased participation by minority and women-owned and controlled businesses (MWBE) in public works.

13.1.2 The Office of Minority and Women’s Business Enterprises (OMWBE) has compiled a directory of certified firms. Copies of this directory may be obtained through OMWBE. For information regarding the certification process or the certification status of a particular firm, contact:

The Office of Minority and Women’s Business Enterprise
406 South Water, P.O. Box 41160
Olympia, WA  98504-4611
Telephone (360) 753-9693

13.2 Affirmative Action Efforts

13.2.1 Design-Builders shall at all times endeavor to:

.1 Advertise opportunities for Subcontractors or suppliers in a manner reasonable designed to provide MWBEs capable of performing the work with timely notice of such opportunities, and all advertisements shall include a provision encouraging participation by MWBE firms. Advertising may be done through general advertisements (e.g., newspapers, journals, etc.) or by soliciting bids/proposals directly from MWBEs.

.2 Provide MWBEs that express interest with adequate and timely information about plans, specifications, and requirements of the Contract.

13.2.2 Design-Builders are further encouraged to:

.1 Break down total requirements into smaller tasks or quantities, where economically feasible, in order to permit maximum participation by MWBEs and other small businesses.

.2 Establish delivery schedules, where the requirements of this Contract permit, that encourage participation by MWBEs and other small businesses.
.3 Reduce bonding requirements where practicable.

.4 Utilize the services of available minority community organizations, minority contractor groups, local minority assistance offices and organizations that provide assistance in the recruitment and placement of MWBEs and other small business.

13.3 Reporting Requirements

13.3.1 Prior to submittal of its first Application for Payment, Design-Builder shall submit a list of MWBE Design Consultants it intends to use for the design of the Work.

13.3.2 Prior to commencement of construction, or a portion thereof, Design-Builder shall submit a list of MWBE Subcontractors and suppliers it intends to use for the construction of the Work or the applicable portion thereof.

13.3.3 Prior to Final Acceptance, Design-Builder shall submit a report of total dollar amounts paid to all MWBEs.

13.4 Non-Discrimination

13.4.1 Design-Builder shall not create barriers to open and fair opportunities to all businesses, including MWBEs, to participate in University of Washington contracts and to obtain or compete for contracts and subcontracts as sources of suppliers, equipment, construction and services. In considering offers from and doing business with subcontractors and suppliers, the Design-Builder shall not discriminate on the basis of race, color, creed, religion, sex, age, nationality, marital status, or the presence of any mental or physical disability in an otherwise qualified disabled person.

13.5 Sanctions

13.5.1 Failure to comply with any of the mandatory requirements of this part of the contract may subject the Design-Builder to sanctions or damages as provided for by RCW 39.19.090, or by other applicable laws.
CHAPTER 00570

CONTRACT DEFINITIONS

APPLICABILITY: THESE DEFINITIONS ARE INTEGRAL TO THE AGREEMENT.

DOCUMENTS

A. Contract Documents: Those documents identified in the Agreement.

B. Request for Proposal (RFP) Documents:
   1. Proposal Form.
   2. Information Furnished by Owner.
   4. Program Requirements (Project Program, Room Data Sheets, Relationship Diagrams, etc.)
   5. Performance Requirements.
   7. Addenda to the RFP.

C. Project Program: The Owner's requirements for size, arrangement, organization, and location of functional spaces, description of space functions, identification of fittings, equipment, and furnishings, description of the physical and environmental requirements for each space, together with a description of the image, goals, or "mission" of the project and substantiated LEED checklist.

D. Proposal: The Proposal Form and Exhibits, which comprise the information prepared by the prospective Design-Builder to show their method of complying with the RFP Documents.
   1. The Proposal period is the time frame during which prospective Proposers prepare their Proposals.
   2. Substantiation submittals specified to occur during the Proposal period are intended to accompany the Proposal.
   3. The Proposal period ends on the date specified for submission of Proposals.

DESIGN AND CONSTRUCTION PHASES OR STAGES

A. Schematic Design: The process of finalizing the Proposal design (preliminary drawings and written descriptions) to incorporate the Owner's comments and instructions at the time of the Owner's Notice to Proceed (NTP) to the Design-Builder, as described in the Conditions of the Contract.
   1. The end of the Schematic Design period is a Milestone.

B. Design Development: The process of determining the form, arrangement, size, and materials of the work or a portion of the work, as described in the Conditions of the Contract.
   1. The end of Design Development occurs before the beginning of preparation of construction documents.
   2. The end of Design Development for the project as a whole is a Milestone.

C. Construction Documents: The process of preparing working drawings, specifications, and other documents describing the work or a portion of the work in sufficient detail to allow accurate and complete construction.
   1. The end of Construction Documents for the project as a whole is a Milestone.
2. The end of Construction Documents is the time at which all portions of the Construction Documents are complete.

D. Construction:
   1. The Construction period is the time from the beginning of work on the project site until final payment as defined by the Conditions of the Contract.
   2. The end of the Construction period is a Milestone.

E. Substantial Completion: As defined in the Conditions of the Contract; prerequisites are:
   1. Design-Builder's complete punchlist of items to be completed.
   2. Owner's complete punchlist of items to be completed.
   3. Compliance with requirements of governing authorities, for submittals, inspections, and permits.
   4. Compliance with Owner's requirements for access to areas occupied by the Owner.
   5. Final cleaning.
   7. Warranties.
   8. Spare parts and extra materials.
   9. Maintenance supplies and tools.
   10. Training of Owner's personnel.
   11. Maintenance plan.

F. Closeout: The process of completing all details of both construction and commissioning.
   1. The Closeout period is the time from the Date of Substantial Completion until final payment, both as they are defined by the Conditions of the Contract.
   2. Before and during the Closeout period, the Owner will ascertain whether the completed project complies with the Contract Documents.

G. Occupancy: The period during which the project is occupied for its intended purpose.
   1. The Occupancy period begins at the Date of Substantial Completion, as defined by the Conditions of the Contract.
   2. Move-in will occur before the end of Closeout.
   3. Owner is responsible for operation and maintenance of the project during Occupancy, unless specifically indicated otherwise for certain items.

H. Correction Period: Function and time frame as defined by the Conditions of the Contract.

END OF CHAPTER 00570
CHAPTER 00600
BONDS AND CERTIFICATES

CONTRACT FORMS

A. Proposal Security will be required on this project, a sample of which is attached

B. Performance Bond and Payment Bond will be required on this project utilizing:

   AIA Document A312 – PERFORMANCE BOND AND PAYMENT BOND – December 1984 ED.

   1. Modifications to the Bonds shall include the phrase: “Construction Contract” when used in this
      Bond shall mean a contract for the design and construction of the Project in accordance with the
      terms and conditions of the Owner’s Request for Design-Build Proposals.

END OF CHAPTER 00600
PROPOSAL GUARANTY

Proposer herewith guarantees its proposal by depositing one of the following with its Proposal in an amount of five percent (5%) or more of the amount of the Proposer’s Lump Sum Contract Price for the Project:

- Certified Check
- Cashier’s Check
- Bid Bond

Signature

PROPOSAL BOND

Bond No. __________________________

KNOW ALL MEN BY THESE PRESENTS, that __________________________ [Proposer], a corporation organized under the laws of the State of ______________, and registered to do business in the State of Washington as a contractor, as Principal, and [Surety], a corporation organized under the laws of the State of ______________ and registered to transact business in the State of Washington, as Surety, their heirs, executors, administrators, successors and assigns, are jointly and severally held and bound to the Regents of the University of Washington, Seattle, Washington, hereinafter called “University”, and are similarly held and bound unto the University in the sum of:

_______________________________ & ________/100’s Dollars ($ _______), the payment of which, well and truly to be paid, we bind ourselves, our heirs, executors and successors, jointly and severally, formally by these presents.

NOW, THEREFORE, the condition of this obligation is such that the Surety is held and bound to the University to pay and forfeit to the University the amount of this bond as provided herein, unless the conditions for release contained herein are satisfied or expressly waived in a writing signed by the University’s Attorney.
It is expressly understood and agreed that:

1. Proposer and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to pay to the University upon default of Proposer the penal sum set forth on the face of this Bond.

2. Default of Proposer shall occur upon the failure of Proposer to deliver within the time required by the Bidding Documents the executed Agreement required by the Bidding Documents, any performance and payment bonds required by the Bidding Documents and Contract Documents, and evidence of insurance required by the Request for Design-Build Proposals (RFP) and Contract Documents.

3. This obligation shall be null and void if:

   3.1. University accepts Proposer's proposal and Proposer delivers within the time required by the RFP (or any extension thereof agreed to in writing by University) the executed Agreement required by the RFP Documents, any performance and payment bonds required by the RFP Documents and Contract Documents, and evidence of insurance required by the RFP Documents and Contract Documents; or

   3.2. All proposals are rejected by University.

4. Payment under this Bond will be due and payable upon default of Proposer and within thirty (30) calendar days after receipt by Proposer and Surety of written notice of default from the University, which notice will be given with reasonable promptness, identifying this Bond and the Project and including a statement of the amount due.

5. Surety waives notice of and any and all defenses based on or arising out of any time extension to issue notice of award agreed to in writing by University and Proposer, provided that the time for issuing notice of award including extensions shall not in the aggregate exceed one hundred (120) days from Proposal Due Date without Surety's written consent.

6. No suit or action shall be commenced under this Bond prior to thirty (30) calendar days after Proposer and Surety receive the notice of default required in paragraph 4 above. Any suit or action under this bond must be instituted within the time period provided by applicable law.

7. The laws of the State of Washington shall apply to the determination of the rights and obligations of the parties hereunder. Venue for any dispute or claim hereunder shall be the state courts of Washington in King County, Washington.

8. Notice required hereunder shall be in writing sent to Proposer and Surety at their respective addresses shown on the face of this Bond. Such notices may be sent by personal delivery, commercial courier a United States Registered or Certified Mail, return receipt requested, postage prepaid, and shall be deemed to be effective upon receipt by the party concerned.
9. Surety shall cause to be attached to this Bond current and effective Power of Attorney evidencing authority of the officer, agent or representative who executed this Bond on behalf of Surety to execute and deliver such Bond and bind the Surety thereby.

10. This Bond is intended to conform to all applicable statutory requirements. Any applicable requirement of any applicable statute that has been omitted from this Bond shall be deemed to be included herein as if set forth at length. If any provision of the Bond conflicts with any applicable provision of any applicable statute, then the provision of said statute shall govern and the remainder of this Bond that is not in conflict therewith shall continue in full force and effect.

11. The term "proposal" as used herein includes a bid, offer or proposal as applicable.

PROPOSER: ___________________________ (seal) SURETY: ___________________________ (seal)

Proposer’s Name and Corporate Seal

By: ___________________________ Signature, Title, and Date

Attest: ___________________________

Signature, Title and Date

SURETY: ___________________________ (seal) PROPOSER: ___________________________ (seal)

Proposer’s Name and Corporate Seal

By: ___________________________ Signature, Title, and Date

Attest: ___________________________

Signature, Title and Date
CHAPTER 00830

DESIGN AND CONSTRUCTION PROCEDURES

MANAGEMENT AND COORDINATION

A. Access to and Use of Site: Site shall be turned over to the Design-Builder on the date designated for site occupancy in the Design-Builder’s Proposal, at which time the Owner shall issue a Notice to Proceed (NTP) with Construction. Thereafter, the Design-Builder shall be responsible for safety and security of the site until Substantial Completion.

B. Progress Schedule: As specified in the Conditions of the Contract.
   1. Submit updated schedule whenever adjustments that change the Contract Times or Milestones are approved.

C. Progress Documentation for Owner Information:
   1. During Schematic Design, Design Development, and Construction Documents Periods:
      Graphic displays sufficiently detailed to allow individual departments to identify the status of the design of their new spaces.
   2. During Construction and Closeout: Photographs and graphic displays sufficiently detailed to allow individual departments to identify the status of the construction of their new spaces.

D. Progress Documentation for Owner's Project Record:
   1. During Construction: Weekly digital photographic record of each major portion of the work, taken from consistent locations, distances, and angles.
   2. During Closeout: Detailed digital photographic record of each interior room and space, each exterior elevation, the roof, and all site areas.

QUALITY REQUIREMENTS

A. Design Criteria: The Design Development Documents shall prove to the Owner’s reasonable satisfaction that all program and performance requirements will be met by the proposed design.
   1. Owner will appoint representatives of the following departments to review proposed solutions:
      a. Owner (if other than University of Washington)
      b. University of Washington Capital Projects Office
      c. Educational Outreach User groups.
      d. Owner’s operations & maintenance staff.
      e. Owner’s consultants.
      f. Owner's commissioning agent (if any).
   2. Design Documentation: Record all design and performance criteria that will be of use during occupancy and operation of the project, including all items specified for maintenance manuals, below.
      a. Program and Performance Requirements Documentation Included in Construction Documents: Organized logically and placed in a prominent location in drawing sets.
      b. If required, shop drawings may be used to accomplish design documentation.
      c. Owner will maintain the project program document, modified to reflect changes made during refinement of the design.
      d. Drawings: Prepared using AutoCAD Release 2000, or a later release if approved by Owner, using Owner's specified drawing and layering conventions.
         1) On all submitted drawings, number spaces in accordance with the UW (CASPO) room numbering standards.
      e. Shop Drawings: Prepared using same CAD software.
f. Mock-Ups: Where necessary to clarify design intent and obtain approvals, construct full-scale mock-ups, including:

B. Substantiation Requirements: See Chapter 111 for definitions and basic requirements; see other chapters for specific items of substantiation required; see Chapter 00570 - Contract Definitions for time periods relating to submission times.

C. Substantiation Submittal Procedures:
   1. Time Frames: As specified. If there is a conflict between the degree of detail or completion specified and the progress of the design or construction, obtain a clarification before submitting.
   2. Recipient: Owner's project manager, at the address indicated in the Contract.
   3. Number of Copies: Seven for Owner's use and records; Owner will return not more than one additional copy.
   4. For time periods that constitute Milestones, all substantiation submittals required during that period must be complete and accepted before the Milestone can be considered achieved.
   5. Submit complete sets of documents containing all substantiation at end of the following periods:
      a. Schematic Design period.
      b. Design Development period.
      c. Construction Documents period. Construction Documents may be submitted in "construction packages" in accordance with the Design-Builder's approved Design and Construction Schedule.
   6. Resubmissions: Clearly identified as such, with all changes made since the original submittal clearly marked.

D. Owner's Review of Substantiation: Unless otherwise indicated, Owner will make formal acceptance of substantiation submittals.
   1. If a submittal is not acceptable Owner will notify Design-Builder promptly.
   2. Allow minimum of 15 working days for review of major "end of period" submittals, and for separate and individual construction document package components of Construction Documents.

E. Substantiation Schedule: Prepare and maintain a complete schedule of substantiation items, showing:
   1. Contents, for each item:
      a. Anticipated and actual item, with Chapter and paragraph number and drawing identification, if any.
      b. Anticipated submittal date, or time period(s) during which submittal is required.
      c. Actual submittal date.
      d. Action taken or other status.
      e. Identification of future re-submission requirement, if any.
   2. If desired, schedule may be incorporated into overall progress schedule, provided substantiation data can be reported separately from other progress information.
   3. Submission: To Owner, within 30 days after Notice to Proceed (NTP).
   4. Form: Computer database format for Owner's use in tracking submittals; database structured so Owner's added information will not be overwritten or deleted by incorporation of updated data from Design-Builder.
   5. Updates: To Owner, monthly in hard copy.
F. Field Testing and Inspection: Perform all testing, observation, and inspection required by code and as specified.

1. Exception: Tests and inspections indicated to be performed by Owner's commissioning agent or other independent agency.

2. Qualifications of Testing/Inspection Agencies:
   a. Qualified and equipped to perform applicable tests/inspection.
   b. Regularly engaged in testing and inspection activities on a commercial basis.
   c. Independent of Design-Builder and his contractors’ organizations.
   d. Employed by Design-Builder directly.
   e. Authorized to operate in the State in which the project is located.
   f. Acceptable to Owner.
   g. Substantiation: Submittal of qualifications, based on ASTM E 329 and ASTM E 548.

3. Reports: Written report of each test/inspection; including complete details of conditions, methods, and results, signed by responsible individual.

G. Construction Observation: The Design Consultant (architect-of-record, and when appropriate, the responsible engineer-of-record, or their authorized representatives), shall observe the construction to assure the Work is being constructed in accordance with the Construction Documents prepared by the Design Consultant and approved by the University. Such observations shall be conducted not less than weekly during construction. Written reports, photographs, or other records of construction observation shall be utilized to document the design consultants' observations. Not less than monthly, a comprehensive report of the Design Consultants' observations shall be provided. Reports shall be addressed and delivered to the Design-Builder, with simultaneous copies sent to the University's representative. The Design Consultant shall also certify construction progress and compliance with the University approved Construction Documents on the Design-Builder's periodic and final payment applications.

H. Reference Standards: Where products or workmanship is specified by reference to a document not included in the Contract Documents, comply with the requirements of the document, except where more stringent requirements are specified.

1. Date of Issue: As indicated in each instance except where a specific date is established by code.

TEMPORARY FACILITIES AND CONTROLS

A. New permanent facilities may be used during construction.

B. Existing facilities may be used; specifically:
   1. Parking lots (if parking lots are provided by Owner)

C. Provide the following for the use of the Owner:
   1. Desk space in field office on site, furnished, heated, and cooled.
   2. Voice (telephone/fax) and data (computer/printer) services in field office on site.

D. Vehicular Access and Parking: Comply with regulations relating to use of streets and sidewalks, access to emergency facilities, and access for emergency vehicles.

   2. Do not allow vehicle parking on public sidewalks, unless authorized by City of Seattle.
E. Security: Protect the work and Owner's operations from unauthorized entry, vandalism, and theft; by Design-Builder, consisting of:
   1. Perimeter 6-foot wire fence and gates.

F. Erosion and Sediment Control: See Volume G.

G. Dust Control:
   1. Exterior: Minimize raising dust, preventing dispersal of air-borne dust into atmosphere and over adjacent property.

H. Noise Control:
   1. At All Times: Excessively noisy tools and operations will not be tolerated outside the building at any time of day; excessively noisy includes jackhammers. Conform with City of Seattle sound level limits to construction-related noise.
   2. Outdoors: Limit conduct of especially noisy exterior work to the hours of 8 am to 5 pm.
   3. Indoors: Limit conduct of especially noisy interior work to the hours of 6 pm to 7 am.

I. Waste Control: Provide waste storage and removal as required to maintain site in clean and orderly condition.
   2. Waste Removal Service: Weekly; including dumpsters.
   3. Prohibited: Open free-fall chutes; containers without lids.

J. Pest and Rodent Control:
   1. Pest Control Service: Weekly treatments.

K. Pollution Control: Comply with federal, state, and local regulations.

L. Project Identification Sign: By Design-Builder. Design and text shall be subject to Owner review and approval.
   1. No other signs allowed on site without Owner's permission except those required by law.

M. Removal of Temporary Facilities, Utilities, and Controls: Prior to Substantial Completion; including clean up, restoration of permanent facilities used to specified condition, and repair of damage.

N. On-Site Voice & Data Services: All on-site voice and data services (land lines) for both Owner and Design-Builder needs must be acquired and arranged through UW Computing and Communications.

PRODUCT REQUIREMENTS

A. New Products:
   1. See Chapter 111 for general requirements for product options and substitutions.
   2. Provide new products unless specifically required or permitted by the Contract Documents.
   3. Do not use products having any of the following characteristics:
      a. Made using or containing CFC's or HCFC's.

B. Spare Parts and Maintenance Products:
   1. Provide spare parts, maintenance, and extra products of types and in quantities specified in individual specification sections.
2. Deliver to Project site; obtain receipt prior to final payment.

C. Transportation and Handling:
   1. Coordinate schedule of product delivery to designated prepared areas in order to minimize site storage time and potential damage to stored materials.
   2. Transport and handle products in accordance with manufacturer's instructions.
   3. Transport materials in covered trucks to prevent contamination of product and littering of surrounding areas.
   4. Promptly inspect shipments to ensure that products comply with requirements, quantities are correct, and products are undamaged.
   5. Provide equipment and personnel to handle products by methods to prevent soiling, disfigurement, or damage.
   6. Arrange for the return of packing materials, such as wood pallets, where economically feasible.

D. Storage and Protection:
   1. Designate receiving/storage areas for incoming products so that they are delivered according to installation schedule and placed convenient to work area in order to minimize waste due to excessive materials handling and misapplication.
   2. Store and protect products in accordance with manufacturers' instructions.
   3. Store with seals and labels intact and legible.
   4. Store sensitive products in weather tight, climate controlled, enclosures in an environment favorable to product.
   5. For exterior storage of fabricated products, place on sloped supports above ground.
   6. Provide bonded off-site storage and protection when site does not permit on-site storage or protection.
   7. Cover products subject to deterioration with impervious sheet covering. Provide ventilation to prevent condensation and degradation of products.
   9. Prevent contact with material that may cause corrosion, discoloration, or staining.
   10. Provide equipment and personnel to store products by methods to prevent soiling, disfigurement, or damage.
   11. Arrange storage of products to permit access for inspection. Periodically inspect to verify products are undamaged and are maintained in acceptable condition.
   12. Deliver pipes and tubes with factory-applied end caps. Maintain end caps through shipping, storage and handling to prevent pipe end damage and prevent entrance of dirt, debris and moisture.
   13. Protect stored mechanical equipment, ducts, pipes and tubes and other materials from moisture and dirt. Elevate above grade. Do not exceed structural capacity of floor if stored inside.
EXECUTION
A. Pre-Construction Survey: To be prepared by Owner; control and reference points will be indicated.
B. Health and Safety:
   1. Use of explosives is not permitted.
   2. Construction operations will comply with NFPA 241-2000, including applicable recommendations in Appendix A.
   3. Removal, abatement, handling, and disposal of hazardous materials will comply with 29 CFR 1926 and state and local regulations.
   4. Use physical barriers to prevent access to areas that could be hazardous to workers or the public.
   5. Substantiation:
      b. Design Development: Identification of hazards in existing structures and on site, with preliminary plan for abatement.
      c. Construction Documents: Detailed specifications for hazardous material removal, abatement, and disposal.
C. Final Cleaning: By Owner.

COMMISSIONING
A. Commissioning: Placing the project into full and proper operation, including starting and adjusting equipment and systems, functional performance testing, otherwise demonstrating compliance with Contract Documents, correcting defects, and obtaining permits.
   1. Prerequisites: Design criteria documentation and recording of all changes to Contract Documents.
   2. Unless otherwise indicated, Design-Builder is responsible for all commissioning activities.
   3. Commissioning activities may take place at any time after completion of the element to be commissioned. Commissioning activities required for LEED™ will start prior to functional performance testing.
   4. All commissioning activities must be complete before the end of Closeout, unless specifically excepted.
   5. Maintenance Manuals: Ready for use during applicable commissioning activities.
B. Functional Performance Testing: Test all functions of system, all components of system, and interfaces between systems, including all modes of operation, conditional controls, and reactions to emergency conditions.
   1. Description in Commissioning Plan: Each function to be tested described separately.
   2. Systems Composed of More Than One Item of Equipment: Individual components tested for proper operation and interconnection before beginning system testing (e.g. "point-to-point" testing).
   3. See substantiation requirements in other Chapters for specific items to be tested and tests required.
   4. Testing Agency Qualifications: As specified in this chapter under Quality Requirements.
5. Owner will witness tests and prepare defect reports.
6. Detailed test reports are to be by Design-Builder, showing test criteria, methods, and results.

C. Demonstration: For each equipment item or system for which functional performance testing by Design-Builder is not specified, demonstrate all operational modes to Owner at time acceptable to Owner; if defects occur during demonstration, demonstration must be rescheduled for a time acceptable to Owner.

D. Commissioning Plan: Prepare complete plan and schedule of all commissioning activities, including those by Owner and code authorities; include all field tests and inspections, functional performance tests, demonstrations, and permit inspections and tests. Commissioning Plan shall comply with Intent, Requirements and Submittals of the LEED Rating System Version 2.1, EA Prerequisite 1: Fundamental Building Systems Commissioning, and EA Credit 3: Additional Commissioning.

1. Contents: For each commissioning activity indicate:
   a. Entity performing activity.
   b. Prerequisites, such as type of design information required, prior testing, etc.; identify in schedule as separate tasks.
   c. Functions to be tested or inspected.
   d. Methods of test or inspection, conditions required, and other procedures; if methods are not specified, identify methods that will demonstrate compliance with Contract Documents with satisfactory repeatability by others.
   e. Equipment required.
   f. Results required.

2. Schedule commissioning activities at the optimum time, to avoid unnecessary uncovering of work, retesting due to inadequate preparation, and duplication of effort.

3. If desired, schedule may be incorporated into overall progress schedule or substantiation schedule, provided commissioning tasks can be reported separately from other progress information.

4. Submission: To Owner; within 30 days after notice to proceed.

5. Form: Computer database format for Owner's use in tracking submittals; database structured so Owner's added information will not be overwritten or deleted by incorporation of updated data from Design-Builder.

6. Updates: To Owner monthly in hard copy.

E. Commissioning Reports: Submit a report for each commissioning activity that involves inspection, observation, or testing of construction, on a standard form that identifies the project.

1. Timing: Submitted within 7 calendar days after completion of the activity; for activities that are prerequisites for other activities to be witnessed by Owner, satisfactory report submitted prior to start of witnessed activity.

2. Contents:
   a. Identification of activity, including element/system involved, date/time.
   b. Entity performing activity; other persons present.
   c. Prerequisites required and accomplished.
   d. Procedures or methods of testing.
   e. Results required and results achieved.
F. Owner-Conducted Commissioning Activities:
   1. Owner will assign a staff member to manage the commissioning process beginning during Preliminary Design and to perform the following commissioning activities:
      a. Review of design criteria documentation for completeness.
      b. Review of Design-Builder's commissioning plan and specifications.
      c. Review design documents prior to the design development and construction design phase.
   2. Owner, Owner's staff, or consultants will perform the following commissioning activities:
      a. Inspection just prior to Substantial Completion, including preparation of Owner's punchlist.
      b. Inspection prior to final payment.
      c. Post-occupancy survey (see this chapter, under Operation and Maintenance).
      d. Review final commissioning report.
      f. Review equipment submittals including controls package and operation and maintenance manuals with respect to commissioning.

G. Commissioning Computing and Communications Facilities:
   1. One week prior to completion and testing of elevators, fire alarm system and card key access system, provide a clean and dust-free Main Distribution Frame (MDF) Room with backboard, cable racks, lighting and power, together with a cable pathway to the UW service tunnel.
   2. Two weeks prior to Substantial Completion, provide all Intermediate Distribution Frame (IDF) Rooms cleaned and dust-free with backboards, cable racks, lighting and power. Complete installation of all internal cable pathways. Install and test all Design-Builder furnished internal cables and devices.

CLOSEOUT SUBMITTALS
A. Maintenance Manuals: Assemble system design information, operation and maintenance data, and copies of warranties into manuals, organized by functional system (e.g. plumbing, HVAC, etc.) or material type (e.g. flooring, wall finishes, etc.) as appropriate using specification numbers where applicable.
   1. Binders: 3-ring, D-ring, with hard cover, project title on spine, Table of Contents in each volume, and stiff dividers with labeled tabs; contents divided into logical binders not more than 3 inches thick.
   2. Directory: Names, addresses, telephone numbers, of all design and construction entities, including subcontractors and suppliers, with names of products supplied.
   3. Software-Operated Systems and Equipment: Detailed program documentation, a general review of the programming approach, description of use on this project, and description of possible user-modifications.
   4. Drawings: Bound into manuals, folded to size of binder.
   5. Product Listing: Manufacturer's brand name for each major product actually installed, in alphabetical order by generic product name, cross-referenced to specification numbers and Table of Contents of manuals.
   7. Videotapes of training sessions.
   8. See Chapter X01 for additional requirements for contents of operation and maintenance data.

B. Project Record Documents: During construction maintain on site one set of all documents forming the contract, including drawings, recording all changes made by addenda, by formal modifications,
and in performing the work, for Owner's future reference.

1. Storage: Separately from documents used for construction, in location where they can be kept clean and safe from fire and damage.

2. Changes to be Recorded Include:
   a. Actual measured locations (horizontal and vertical) of foundations and concealed utilities and appurtenances, referenced to visible permanent appurtenances.
   b. Field changes of dimension and detail and details not on original documents.
   c. Actual products used, in specification, with brand name or model number.

3. Submittal Copy of Project Record Specifications and Drawings: All marks copied to a clean set of specifications and drawings. Provide a hard copy of project record specifications. Provide a hard copy of project record drawings as black line on 4 mil double matte mylar (also known as digital mylar).

C. Final Site Survey: Pre-construction survey updated after completion of foundations, verifying location and level of permanent benchmarks and control points, utility access points, and principal improvements.

D. Spare Parts and Extra Materials: As specified for specific products; delivered to location on project site designated by Owner; with receipt from Owner.

E. Maintenance Supplies and Tools: As specified for specific products; delivered to location on project site designated by Owner; with receipt from Owner.

F. Final Commissioning Report: Assemble at a minimum, all functional performance test results, commissioning daily reports and commissioning meetings. Identify outstanding deficiency items including items that require seasonal commissioning and identify any unique items to the mechanical and electrical systems that may not be obvious to the building maintenance staff.

   1. Binders: 3-ring, D-ring, with hard cover, project title on spine, Table of Contents in each volume, and stiff dividers with labeled tabs; contents divided into logical binders not more than 3 inches thick.

DEMONSTRATION AND TRAINING

A. Training: Perform training of Owner's personnel in operation and maintenance of equipment, consisting of:

   1. Training is required for all software-operated systems, HVAC systems and equipment, plumbing equipment, electrical systems and equipment, conveying systems, and other electrically-operated equipment.
      a. Provide supplemental training within 6 months for operations that are seasonal in nature.

   2. Instruction in operation, control, adjustment, shut-down, servicing, troubleshooting, and maintenance, for each equipment item for which training is specified.

   3. Instruction in care, cleaning, maintenance, and repair of materials, for:
      a. Each item for which training is specified.
      b. Roofing, waterproofing, other weather-exposed or moisture protection products.
      c. Finishes, including flooring.
      d. Fixtures and fittings.
      e. Items as specified in other Chapters.

   4. Major Software-Operated Systems: Training by software manufacturer at their facility for minimum of one Owner staff members, with take-home training materials.
5. Training Location: If not otherwise specified, conduct training in a classroom on site, with videotapes made for future use.

6. Minimum Qualifications of Trainers: Knowledgeable about the project and the equipment and trained by the manufacturers.


OPERATION AND MAINTENANCE

A. Operation and Maintenance: Design-Builder is responsible for the following:

1. Preparation of maintenance plan for Owner's use, including description of maintenance activities, tools, and supplies required.

2. Periodic maintenance service as specified, for one year from the date of Substantial Completion, for the following:
   a. Roofing.
   b. Elevators.
   c. Landscape.

3. Services will be included under Design-Builder's contract with Owner.

4. Design-Builder shall provide options for individual operation and maintenance contracts between subcontractors and Owner. See Chapter D – Services for description of Subcontractors' Five-Year Extended Warranty and Maintenance Agreements.

5. Maintenance Services: Examination at frequency consistent with reliable operation; cleaning, adjusting, and lubricating; replacement of parts whenever required, using parts produced by the original manufacturer.

6. Maintenance Organizations: Approved by manufacturer and Owner; transfer or assignment of contracts without prior written consent of Owner not allowed.