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**INDIANA UNIVERSITY
AGREEMENT BETWEEN OWNER
AND ARCHITECT
FOR PROJECTS OVER \$500,000**

AGREEMENT made as of the ___ day of _____, in the year
of _____ between the:

OWNER: The Trustees of Indiana University
1800 N. Range Road
Bloomington, IN 47408

and the:

ARCHITECT:

(PROJECT DESCRIPTION)
(project name & project number)
(insert or attach project description)

Review Copy

32 ARTICLE 1

33 **ARCHITECT'S RESPONSIBILITIES**

34 **1.1 ARCHITECT'S SERVICES**

35
36
37 **1.1.1** The Architect's services consist of those services performed
38 by the Architect, Architect's employees and Architect's Consultants as
39 enumerated in this Agreement. The Architect covenants with the Owner to
40 use its effort, skill, judgment and abilities in providing its services
41 under this Agreement, consistent with the standard of care exercised by
42 qualified design professionals having experience with first class
43 projects of similar scope and nature. The plans, specifications and
44 other design documents provided by the Architect shall conform to
45 federal, state and local laws, rules, regulations and codes applicable
46 to the Project.

47 **1.1.2** The Architect's services shall be performed as expeditiously
48 as is consistent with professional skill and care and the orderly
49 progress of the Work. The Architect shall submit for the Owner's
50 approval a schedule (Project Schedule) for the performance of the
51 Architect's services which may be adjusted as the Project proceeds, and
52 shall include allowances for periods of time required for the Owner's
53 review and for approval of submissions by authorities having
54 jurisdiction over the Project. Time limits established by the Project
55 and as approved by the Owner are of the essence of this Agreement and
56 shall not, except for reasonable cause, be exceeded by the Architect.
57 Before requesting any payment under this Agreement, and as a condition
58 precedent to the enforceability of this Agreement by the Architect, the
59 Architect shall have received the Owner's written acceptance of
60 Architect's Project Schedule setting out the dates on which the
61 Architect is to complete the Schematic Design Phase, Design Development
62 Phase, Construction Documentation Phase, Bidding Phase, and estimated

63 Construction Phase of the project. This schedule shall also set out the
64 dates by which any actions, decisions, or information are required from
65 the Owner in order to permit the Architect to perform according to this
66 schedule.

67 **1.1.3** The Architect hereby represents to the Owner that the
68 Architect is financially solvent and possesses sufficient experience,
69 licenses, authority, personnel and working capital to complete the
70 services required hereunder; and that the Architect has visited the site
71 for the Project and thoroughly familiarized itself with the local
72 conditions under which the Project is to proceed and the Architect shall
73 correlate its observations of same with the requirements of this
74 Agreement and the Construction Contract Documents.

75 **1.1.4** All Consultants required by the Architect to provide a
76 complete project design shall be provided by the Architect as Basic
77 Services, unless specifically stated otherwise in this Agreement. The
78 Architect's employees, its Consultants and their respective areas of
79 responsibility as listed on Exhibit __ attached hereto, and shall
80 constitute the Architect's Design Team with respect to the Project. The
81 Owner and Architect shall have the right to make mutually agreeable
82 changes to the Design Team which are believed to be in the best interest
83 of the Project, although no change in the Design Team will be made by
84 the Architect without the prior written consent of the Owner. In the
85 event that any member of the Design Team fails to provide or perform
86 services in a satisfactory manner and as required by the terms of this
87 Agreement, the Architect shall, upon written request of the Owner,
88 promptly replace such member of the Design Team with another acceptable
89 to the Owner. The Owner shall not, however, be deemed to have any
90 obligation to the Architect's employees or Consultants under a direct
91 contract, third party beneficiary or any other theory and the Owner

92 shall not be obligated to pay or be liable for the non-payment of fees,
93 costs and expenses of such employees or Consultants, as such fees, costs
94 and expenses are the sole obligations of the Architect.

95 **1.1.5** CSI Format. In order to provide uniformity in documents, the
96 project Architect will provide specifications in the Construction
97 Specification Institute format.

98 **1.1.6** Engineering Design Deliverables. Must comply with Engineering
99 Consultant Design Deliverables as outlined on the following website
100 <http://www.indiana.edu/~uao> under the Contracts section.

101 **1.1.7** Incidental Design. In some cases when approved by Indiana
102 University, the Project Architect may specify in the contract documents
103 that the contractor is responsible for incidental design of specific
104 items such as curtain walls, roofing systems, etc. The Project
105 Architect will present the University with a list of all proposal
106 incidental design items for approval.

107 108 ARTICLE 2

109 **SCOPE OF ARCHITECT'S BASIC SERVICES**

110 **2.1 DEFINITION**

111 **2.1.1** The Architect's Basic Services consist of those described in
112 Article 2 and any other services specifically designated as Basic
113 Services in other sections of this Agreement. The Architect's Basic
114 Services encompass all design disciplines necessary to provide a first
115 class state of the art facility which shall, unless otherwise
116 specifically stated in this Agreement,
117 include but not necessarily be limited to, the following:

118 X Architectural Design
119 X Structural Engineering
120 X Mechanical Engineering
121 X Electrical Engineering

- 122 X Civil Engineering
- 123 X Landscape Architecture/Site Lighting
- 124 X Parking/Other Site Improvements
- 125 X Compliance with Urban Planning/Master Planning
- 126 X Graphics/Signage
- 127 X Code Compliance
- 128 X Compliance with the American With Disabilities Act
- 129 X Fire Protection/Fire and Life Safety
- 130 X Communications/Data Wiring/Sound and Video
- 131 X Food Service/Waste Handling/Recycling
- 132 X Vertical Transportation

133
134 **2.1.2** The Architect will visit the Project site and will be
135 responsible to document existing conditions of the areas of the site
136 and/or buildings to be affected by the Project. Existing original
137 and/or as-built drawings and any other information pertinent to the
138 Project will be assembled for use during the Project, with the
139 assistance of the Owner who shall be responsible for making the
140 Architect aware of the availability of such pertinent information, but
141 the Owner does not guarantee the accuracy or reliability of such
142 information.

143 **2.1.3** Indiana University has developed a complete set of
144 Architecture and Engineering standards located and described at
145 <http://www.indiana.edu/~uao/>. These standards will be utilized in the
146 design of this project. However, the use of these standards does not
147 eliminate or lessen the Project Architects professional liability for
148 the project. The standards are meant as a guideline. In no case should
149 the project Architect violate applicable codes, regulations, or good
150 building practices. Additional deliverable requirements for Building
151 Information Modeling (BIM)/ Integrated Project Delivery (IPD) may be
152 found in The Indiana University Building Information Modeling (BIM)
153 Guidelines for Architects, Engineers, and Contractors. This document and
154 other IU BIM templates and forms can be downloaded at:
155 <http://www.indiana.edu/~uao/iubim.html>

156 **2.1.4** If the Owner decides, in its sole discretion, to utilize an
157 Indiana University Web-based Project Collaboration System (like
158 ProjectDox) for the project, the Architect shall use this for all
159 compatible services required under this Agreement. All costs for the
160 Architect's use of this Web-based Project Collaboration System shall be
161 included in its Basic Services, and additional compensation shall not be
162 permitted.

163 **2.2 SCHEMATIC DESIGN PHASE**

164 **2.2.1** The Architect shall review and evaluate the program furnished
165 by the Owner ("Program") to ascertain the requirements of the Project
166 and shall arrive at a mutual understanding of such requirements with the
167 Owner. The Architect shall develop a Project Cost Model for review and
168 approval by the Owner, which shall include a preliminary estimate of
169 construction cost appropriate to this phase of Project development,
170 along with a preliminary estimate of other Project costs then
171 identifiable. The Architect shall also report to the Owner whether the
172 Project Cost Model is consistent with any preliminary budget established
173 by the Owner for the Project, compatible with the Program and Project
174 Schedule and feasible as to special requirements, relationships,
175 equipment, systems and site characteristics. The Architect shall
176 indicate the impact of any revision to the Program in an updated Project
177 Cost Model and Project Schedule for review by the Owner. The Architect
178 and Owner shall jointly review the current approved Program, Project
179 Cost Model and Project Schedule and shall arrive at a mutual
180 understanding of the appropriate scope of the work before proceeding
181 with schematic design. The Program, and any amendments thereto as
182 approved by the Owner, shall establish the criteria and parameters for
183 the Project and shall be the guide against which Schematic Design,
184 Design Development, Construction Documents and subsequent modifications

185 as developed, will be measured.

186 **2.2.2** The Architect shall review with the Owner alternative
187 approaches to design and construction of the Project.

188 **2.2.3** Based on the mutually agreed-upon Program, Project Cost Model
189 and Project Schedule, the Architect shall prepare, for approval by the
190 Owner, Schematic Design Documents consisting of drawings and other
191 documents illustrating the scale and relationship of the Project
192 components.

193 **2.2.4** The Architect shall submit to the Owner a 50% and final set of
194 Schematic Design Documents and an estimate of construction costs
195 appropriate to this phase of Project development, along with a
196 preliminary estimate of other Project costs indicated in the Project
197 Cost Model for the Owner's review and approval prior to proceeding into
198 the next phase of service. The Architect shall recommend and the Owner
199 shall review and approve adjustments, as necessary, to the scope of the
200 Project in order to fit the Project Cost Model.

201 **2.2.5** During Schematic Design and Design Development, the Architect
202 shall furnish to the University Architect's office electronic CAD files
203 of floor plans with area polylines and square footage calculations for
204 use in programming analysis. Methods for drawing and calculating areas
205 may be obtained from the I.U. Bureau of Facilities Programming and
206 Utilization.

207 **2.2.6 Preliminary Life-Cycle Cost Analysis**

208 During Schematic Design, the Architect shall prepare and submit three
209 design concepts for a Preliminary Life-Cycle Cost Analysis ("LCAA") to
210 the Owner. Tools for performing Life-Cycle Cost Analysis can be found
211 at: http://www.wbdg.org/tools/tools_cat.php?c=3

212 **2.2.7** The final set of Schematic Drawings submitted to the
213 University will contain room numbers established by the Owner and will

214 be used on Construction Documents.

215 **2.3 DESIGN DEVELOPMENT PHASE**

216 **2.3.1** Based on the approved Schematic Design Documents and any
217 adjustments authorized by the Owner in the Program, Project Schedule or
218 Project Cost Model, the Architect shall prepare for approval by the
219 Owner, Design Development Documents consisting of drawings and other
220 documents to fix and describe the size and character of the Project as
221 to architectural, structural, mechanical and electrical systems,
222 materials, and such other elements as may be appropriate.

223 **2.3.2** The Architect shall advise the Owner of any adjustments to the
224 preliminary estimate of Construction Cost.

225 **2.3.3 Life-Cycle Cost Analysis**

226 During Design Development, the Architect shall prepare and submit three
227 copies of a Life-Cycle Cost Analysis to the Owner.

228 **2.3.4** The Architect shall submit to the Owner a Progress Set at 50%
229 completion and a set of Design Development Documents at 100% completion
230 along with an updated estimate of construction costs appropriate to this
231 phase of project development and updated estimates of other project
232 costs indicated in the Project Cost Model. The Architect shall also
233 provide an updated Project Schedule for the Owner's review and approval
234 prior to proceeding into the next phase of service. The Architect shall
235 recommend and the Owner shall review and approve adjustments, as
236 necessary, to the scope of the project in order to fit the Project Cost
237 Model.

238 **2.3.5** Each space shall be labeled by USE with net usable square
239 footage indicated (face of wall to face of wall).

240 **2.4 CONSTRUCTION DOCUMENTS PHASE**

241 **2.4.1** Quality of Work. Technical Adequacy -- the Architect is
242 responsible for the quality, technical accuracy, and the coordination of

243 all designs, drawings, specifications, and other services furnished
244 under the contract. The Owner will not undertake a detailed technical
245 review of the work. It will be the responsibility of the Architect,
246 acting in a professional capacity, to ensure the accuracy, completeness
247 and correctness of all design documentation, including the cost
248 estimate, consistent with that degree of care and skill exercised by the
249 architectural profession. The Architect acknowledges that the Owner is
250 relying upon the Architect's skill and knowledge to prepare Drawings,
251 Specifications and other work product which conform to the applicable
252 standard of care and the laws, rules, regulations and codes applicable
253 to the Project. The Architect's duties in such regard shall not in any
254 way be diminished by reason of any approval by the Owner of the
255 Drawings, Specifications or any other work product of the Architect, nor
256 shall the Architect be released from any such liability by reason of
257 such approval by the Owner.

258 **2.4.2** Based on the approved Design Development Documents and any
259 further adjustments in the scope or quality of the Project or in the
260 Project Cost Model authorized by the Owner, the Architect shall prepare
261 for approval by the Owner Construction Documents consisting of Drawings
262 and Specifications setting forth in detail the requirements for the
263 construction of the Project.

264 **2.4.3** Prior to the final submission of the Construction Documents,
265 the Architect shall perform a structured quality control review of all
266 drawings and specifications. The review shall check for technical
267 accuracy, coordination of work within each discipline, coordination of
268 work among disciplines, coordination of the Drawings and Specifications
269 and verification with existing conditions.

270 **2.4.4** The Architect shall advise the Owner of any adjustments to
271 previous preliminary estimates of Construction Costs indicated due to

272 changes in requirements or general market conditions.

273 **2.4.5** The Architect shall assist the Owner in connection with the
274 Owner's responsibility for filing documents required for the approval of
275 governmental authorities having jurisdiction over the Project. The Owner
276 will be responsible for reimbursing the Architect for all filing fees.

277 **2.4.6** The Architect shall submit to the Owner a Progress Set of
278 construction documents at 70% completion and a Progress Set of
279 Construction Documents at 95% completion, along with estimates of
280 construction costs appropriate to this phase of project development and
281 updated estimates of other project costs indicated in the Project Cost
282 Model. The Architect shall recommend and the Owner shall review and
283 approve adjustments, as necessary, to the scope of the Project in order
284 to fit the Project Cost Model. The Architect's Final Construction
285 Documents submitted to the Owner for review and approval shall be 100%
286 complete and in a form appropriate for the bidding and award of
287 contracts for construction in accordance with the bidding laws
288 applicable to the Owner. The Architect shall also provide an updated
289 Project Schedule for the Owner's review and approval before proceeding
290 to the next phase of service.

291
292 **2.4.7** Finishes Board. The Architect shall submit to the Owner a
293 finishes board within fifteen (15) working days following the Owners'
294 approval of the Construction Documents. The board will contain samples
295 of proposed finishes such as: floor covering, wall covering, paint, door
296 and window trim, ceiling material, laminates, etc.

297 **2.4.8** The Architect shall, within one month of the Date of
298 Substantial completion, provide the University Architect's Office with
299 two sets of interior finish binders that include actual samples and
300 product identification data of the interior finishes installed in the

301 project.

302 **2.5 BIDDING OR NEGOTIATION PHASE**

303 **2.5.1** The Architect, following the Owner's approval of the
304 Construction Documents and of the latest estimate of Construction Cost,
305 shall assist the Owner in obtaining bids or negotiated proposals and
306 assist in awarding and preparing contracts for construction. During the
307 bidding process, the Architect shall specifically:

- 308 1. Assist the Owner in preparing and/or compiling the
309 necessary invitations and notices, other bidding forms, the
310 Conditions of the Contracts and the form of Agreement between
311 the Owner and the Contractor;
- 312 2. Respond to questions from bidders and issue necessary
313 and appropriate addenda;
- 314 3. Make recommendations as the qualification and experience
315 criteria for bidders to be included in the bidding
316 requirements for selected portions of the Work;
- 317 4. Attend pre-bid conferences to familiarize bidders with
318 the bidding documents, the phasing, sequencing and interfacing
319 of the Work and any special systems, materials or methods to
320 be employed on the Project;
- 321 5. Receive and analyze all bids submitted; and
- 322 6. Make recommendations to the Owner as to the
323 rejection of bids or award of Contracts.

324 **2.5.2** The Architect shall, within one month after the construction
325 contract is awarded, provide the University Architect's Office with one
326 set of electronic CAD files representing every sheet in the bid
327 documents with all Addenda incorporated in a Construction Documents
328 Deliverable. Each sheet is to have its own unique file and comply with
329 the current University Architect's CAD Standards**. Word processing

330 files (Word/WordPerfect) for all specifications shall also be included.

331 Final payment to the Architect for services rendered during the bidding
332 phase is contingent upon approved acceptance of these documents.

333 **Indiana University has adopted the National CAD Standards. You may
334 purchase a copy of the National CAD Standards from this web site
335 <http://www.nationalcadstandard.org/>. More information on Indiana
336 University's adoption of this new standard may be found at the following
337 web site: <http://www.indiana.edu/~uao>.

338 **2.6 CONSTRUCTION ADMINISTRATION & PROJECT CLOSEOUT PHASES --**
339 **ADMINISTRATION OF THE CONSTRUCTION CONTRACT**

340 **2.6.1** The Architect's responsibility to provide Basic Services for
341 the Construction Phase under this agreement commences with the award of
342 the Contract for Construction and terminates sixty days after final
343 completion of construction of the Project.

344 **2.6.2** The Architect shall provide administration of the Contract for
345 Construction as set forth in AIA Document A201, General Conditions of
346 the Contract for Construction (1997 edition as modified by Indiana
347 University), together with, and as amended by, the Owner's Supplementary
348 General Conditions and other documents included or incorporated into the
349 Construction Contract. The Architect's administration of the Contract
350 for Construction as set forth in this Agreement shall be provided to
351 further the interests of the Owner and shall in no manner excuse,
352 relieve or discharge the obligations which the Contractor or other
353 parties performing the Work owe to the Owner, nor shall any acts or
354 omissions of the Architect be deemed an acceptance by the Owner of
355 Contractor's Work which is incomplete, defective or otherwise not in
356 conformance with the Contract Documents.

357 **2.6.3** Duties, responsibilities and limitations of authority of the
358 Architect shall not be restricted, modified or extended without written

359 agreement of the Owner and Architect with consent of the Contractor,
360 which consent shall not be unreasonably withheld.

361 **2.6.4** The Architect shall be a representative of and shall advise
362 and consult with the Owner during construction until final payment to
363 the Contractor is due. The Architect shall have authority to act on
364 behalf of the Owner only to the extent provided in this Agreement unless
365 otherwise modified by written instrument.

366 **2.6.5** The Architect shall visit the site at intervals appropriate to
367 the stage of construction or as otherwise agreed by the Owner and
368 Architect in writing to become generally familiar with the progress and
369 quality of the Work completed and to determine in general if the Work is
370 being performed in a manner indicating that the Work when completed will
371 be in accordance with the Contract Documents. On the basis of on-site
372 observations as an architect, the Architect shall keep the Owner
373 informed of the progress and quality of the Work, and shall endeavor to
374 guard the Owner against defects and deficiencies in the Work. The
375 Architect will visit the site twice monthly for the duration of the
376 project to attend construction progress meetings. The Architect shall
377 chair the meetings and shall record, prepare and distribute meeting
378 minutes to the participants. Additionally, the Architect will visit the
379 site on an as needed basis to keep the Project progress on schedule and
380 answer questions related to Requests for Information (RFI's),
381 Architect's Supplemental Information (ASI's) and/or Construction Change
382 Directives (CCD's). Site visits shall be coordinated with construction
383 coordination meetings which shall also occur twice monthly. The
384 Architect shall organize site visits for its various Consultants as
385 necessary to the progress of the Project or as requested by the Owner.
386 The Architect shall generate a monthly construction field report. The
387 Architect shall submit to the Owner copies of minutes to meetings,

388 telephone conversations, inspections and discussions with the Owner.

389 **2.6.6** The Architect shall not have control over or charge of, and
390 shall not be responsible for construction means, methods, techniques,
391 sequences or procedures, or for safety precautions and programs in
392 connection with the Work, since these are solely the Contractor's
393 responsibility under the Contract for Construction. The Architect shall
394 not be responsible for the Contractor's schedules or failure to carry
395 out the Work in accordance with the Contract Documents. The Architect
396 shall not have control over or charge of acts or omissions of the
397 Contractor, Subcontractors, or their agents or employees, or of any
398 other persons performing portions of the Work. However, if the
399 Architect knows, or in the exercise of reasonable care should have
400 known, that a Contractor is not performing its Work in a proper and
401 timely manner, then the Architect shall immediately advise the Owner and
402 Contractor, in writing, and shall demand on behalf of the Owner that
403 appropriate remedial steps be immediately taken.

404 **2.6.7** The Architect shall at all times have access to the Work
405 wherever it is in preparation or progress.

406 **2.6.8** Except as may otherwise be provided in the Contract Documents
407 or when direct communications have been specifically authorized, the
408 Owner and Contractor shall communicate through the Architect.
409 Communications by and with the Architect's Consultants shall be through
410 the Architect.

411 **2.6.9** Based on the Architect's observations and evaluations of the
412 Contractor's Applications for Payment, the Architect shall review and
413 certify the amounts due the Contractor.

414 **2.6.10** The Architect's certification for payment shall constitute a
415 representation to the Owner, based on the Architect's observations at
416 the site as provided in Subparagraph 2.6.5 and on the data comprising

417 the Contractor's Application for Payment, that, to the best of the
418 Architect's knowledge, information and belief, the Work has progressed
419 to the point indicated and the quality of Work is in accordance with the
420 Contract Documents. The issuance of a Certificate for Payment shall
421 further constitute a representation that the Contractor is entitled to
422 payment in the amount certified. However, the issuance of a Certificate
423 for Payment shall not be a representation that the Architect has (1)
424 made exhaustive or continuous on-site inspections to check the quality
425 or quantity of the Work, (2) reviewed construction means, methods,
426 techniques, sequences or procedures, (3) verified requisitions received
427 from Subcontractors and material suppliers and other data requested by
428 the Owner to substantiate the Contractor's right to payment or (4)
429 ascertained how or for what purpose the Contractor has used money
430 previously paid on account of the Contract Sum.

431 **2.6.11** The Architect shall have authority to reject Work, which does
432 not conform to the Contract Documents. Whenever the Architect considers
433 it necessary or advisable for implementation of the intent of the
434 Contract Documents, the Architect will have authority to require
435 additional inspection or testing of the Work in accordance with the
436 provisions of the Contract Documents, whether or not such Work is
437 fabricated, installed or completed. However, neither this authority of
438 the Architect nor a decision made in good faith either to exercise or
439 not to exercise such authority shall give rise to a duty or
440 responsibility of the Architect to the Contractor, Subcontractors,
441 material and equipment suppliers, their agents or employees or other
442 persons performing portions of the Work. The Architect will provide the
443 Owner with prior written notice before either rejecting Work or
444 requiring additional inspection.

445 **2.6.12** The Architect shall review and approve or take other

446 appropriate action upon Contractor's submittals such as Shop Drawings,
447 Product Data and Samples, but only for the limited purpose of checking
448 for conformance with information given and the design concept expressed
449 in the Contract Documents. The Architect's action shall be taken with
450 such reasonable promptness as to cause no delay in the Work or in the
451 construction of the Owner or of separate Contractors, while allowing
452 sufficient time in the Architect's professional judgment to permit
453 adequate review. Review of such submittals is not conducted for the
454 purpose of determining the accuracy and completeness of other details
455 such as dimensions and quantities, or for substantiating instructions
456 for installation or performance of equipment or systems designed by the
457 Contractor, all of which remain the responsibility of the Contractor to
458 the extent required by the Contract Documents. The Architect's review
459 shall not constitute approval of safety precautions or, unless otherwise
460 specifically stated by the Architect, of construction means, methods,
461 techniques, sequences or procedures. The Architect's approval of a
462 specific item shall not indicate approval of an assembly of which the
463 item is a component. When professional certification of performance
464 characteristics of materials, systems or equipment is required by the
465 Contract Documents, the Architect shall be entitled to rely upon
466 qualified professional certifications to establish that the materials,
467 systems or equipment will meet the performance criteria required by the
468 Contract Documents.

469 **2.6.13** The Architect shall prepare Change Orders or Construction
470 Change Directives, with necessary plans, specifications and other
471 supporting documentation and data as provided in Subparagraphs 3.1.1 and
472 3.3.3, for the Owner's approval and execution in accordance with the
473 Contract Documents. The Architect may authorize minor changes in the
474 Work not involving an adjustment in the Contract Sum or an extension of

475 the Contract Time which are not inconsistent with the intent of the
476 Contract Documents. The Architect shall also review, evaluate and
477 report to the Owner as to changes recommended by the Contractor and
478 price proposals/quotations submitted by the Contractor as to proposed
479 changes under consideration.

480 **2.6.14** The Architect shall conduct inspections to determine the date
481 or dates of Substantial Completion and the date of final completion.
482 The Architect shall issue a Certificate of Substantial Completion when
483 appropriate and shall receive and forward to the Owner, for the Owner's
484 review and records, written warranties and related documents required by
485 the Contract Documents and assembled by the Contractor. The Architect
486 shall issue a final Certificate for Payment upon compliance with the
487 requirements of the Contract Documents.

488 **2.6.15** Interpretations and decisions of the Architect shall be
489 consistent with the intent of and reasonably inferable from the Contract
490 Documents and shall be in writing or in the form of drawings. When
491 making such interpretations and initial decisions, the Architect shall
492 endeavor to secure faithful performance by both Owner and Contractor,
493 shall not show partiality to either and shall not be liable for results
494 of interpretations or decisions so rendered in good faith.

495 **2.6.16** The Architect's decisions on matters relating to aesthetic
496 effect shall be final if consistent with the intent expressed in the
497 Contract Documents and acceptable to the Owner.

498 **2.6.17** The Architect shall render written decisions within a
499 reasonable time on all claims, disputes or other matters in question
500 between the Owner and Contractor relating to the execution or progress
501 of the Work as provided in the Contract Documents.

502 **2.6.18** The Architect's decisions on claims, disputes or other
503 matters, including those in question between the Owner and Contractor,

504 except for those relating to aesthetic effect as provided in
505 Subparagraph 2.6.16, shall be subject to dispute resolution/litigation
506 as provided in this Agreement and in the Contract Documents.

507 **2.6.19** The Architect shall prepare/provide services in connection
508 with evaluating substitutions proposed by the Contractor to the extent
509 such substitutions are permitted by the Construction Documents.

510 **2.6.20** The Architect shall prepare/provide assistance in the initial
511 utilization of equipment or systems such as testing, adjusting and
512 balancing; preparation and/or delivery of operation
513 and maintenance manuals; training of personnel for operation and
514 maintenance; and consultation during operation. Included as a part of
515 the foregoing, shall be services related to initial start-up of
516 equipment and orientation of Owner's personnel (i.e. a start-
517 up/orientation session). This applies to each major component of the
518 project individually.

519 **2.6.21** Errors, omissions or deficiencies in the Architect's
520 performance shall be corrected or revised by the Architect at no
521 additional cost to the Owner. Additionally, design error, omissions or
522 deficiencies resulting in damages or extra cost to the Owner will be
523 evaluated for potential Architect responsibility. If the University
524 Architect's Office determines that the Architect is financially
525 responsible for a design deficiency, the Architect will be so advised by
526 official correspondence. For expediency, and at the Owner's request, the
527 Architect shall negotiate directly with the Contractor in the interests
528 of minimizing the cost impact to the Project of such deficiencies. The
529 Architect will review the results of these efforts with the Owner. If
530 not satisfied with the result of the negotiation, the Owner reserves the
531 right to pursue a claim against the Architect for work that it believes
532 is a result of negligent performance, per the terms of Article 7,

533 Dispute Resolution.

534 **2.6.22** When poor performance by the Architect results in the need for
535 a re-submission of design documents, the Architect may be required to
536 send representatives to IU to discuss the problems and to correct
537 deficiencies at no additional cost to the Owner.

538 **2.6.23** The Architect shall prepare and submit clear and detailed
539 Meeting minutes within five (5) working days following meeting
540 held with respect to the Project.

541 **2.6.24** The Architect shall provide, at the point of substantial
542 occupancy of the project, professional photography for both the
543 interior and exterior of the project facility. These photographs should
544 be of a professional quality, suitable for publication. Indiana
545 University wishes to reserve the right to further duplicate/distribute
546 these photographic images as required for university publications and
547 web sites, as well as project specific brochures and marketing
548 materials.

549 The minimum requirements for photographic deliverables are as follows:

- 550 • color exterior photographs showing 2 key views of the building with
551 appropriate context (landscaping to be completed and proposed views
552 reviewed with IU Project Architect)
- 553 • color interior photographs showing various (at least 4) key spaces
554 of the building (list of spaces/proposed views to be reviewed with
555 IU Project Architect)

556 The photographs are to be submitted in the following formats:

557 8x10 color glossy photographs - 1 print for each image color digital
558 images - color high resolution tif format (minimum 1600 x 1200 pixels)
559 - 1 file for each image

560 *** appropriate credits for photography will be included - consultant
561 should indicate what the proper credit should include.

562 **2.6.25** The Architect shall revise the Construction Documents and
563 related electronic files with information contained on the As-Built
564 Field Data Documents submitted by each Contractor. The Architect shall
565 label the revised Construction Documents and related files as "Record
566 Documents" shall reflect the date of the Architect's incorporation of
567 the As-Built Documents. The Record Documents, to the best of the
568 Architect's knowledge based upon the As-Built Documents delivered to the
569 Architect by the Contractors and the Architect's observations of the
570 Project, shall detail the actual construction of the Project and shall
571 contain such annotations by the Architect as may be necessary for
572 someone unfamiliar with the Project to understand the changes that were
573 made to the Bid Documents. Within thirty days of issuing Substantial
574 Completion, the Architect shall furnish to the University Architect's
575 Office one set of electronic CAD/BIM files representing the Record
576 Documents, three sets of hardcopy drawings from these files, plus one
577 set of pdf files from each sheet of the CAD/BIM Record Documents. Each
578 sheet shall have its own unique file and comply with the then-current
579 University Architect's CAD standards **.

580 ** For a more detailed description of the IU As-Built CAD requirements,
581 see the following link:

582 http://www.indiana.edu/~uao/IU_as-built_cad_requirements.pdf

583 For those projects requiring a BIM As-Built Model deliverable, please
584 refer to The Indiana University Building Information Modeling (BIM)
585 Guidelines for Architects, Engineers, and Contractors. This document can
586 be downloaded at: <http://www.indiana.edu/~uao/iubim.html>

587 **2.6.26** Before final payment of the contract price, the Architect
588 will submit to the Owner, the Owner's Asbestos Certification (form
589 attached) that has been signed and dated by the Architect. By execution
590 of the Certification, the Architect certifies that:

591 Adequate research and review of product information has been
592 undertaken and that, to the best of his knowledge, no asbestos
593 containing materials were specified for the project. Asbestos
594 containing materials include any building material with markings
595 on the packaging or material itself with the following or similar
596 wording: "May contain mineral fibers", originating from Canada.
597

598
599 **2.6.27** Approximately two months prior to the end of the two year
600 warranty period the Architect shall, after notifying the Owner, visit
601 the site and perform an "End of Warranty" punch list inspection. The
602 Architect will furnish the Owner and Contractors with a list of all
603 items requiring correction

604 **2.6.28** On the date of Substantial Completion the Architectural Firm
605 will submit to Indiana University a summary of all warranties.
606 The summary shall include in part: Each individual component of
607 the building, site landscape, hardscape, and moveable and fixed
608 equipment. The summary will include the name, address and
609 telephone number of each firm warranting specific items. The time
610 period covered by the warranty will be listed.

611 ARTICLE 3

612 **ADDITIONAL SERVICES**

613 **3.1 GENERAL**

614 **3.1.1** The services described in this Article 3 are not included in
615 Basic Services, unless specified in writing elsewhere in this Agreement,
616 and if authorized and approved by the Owner such Additional Services
617 shall be provided by the Architect and paid for by the Owner as provided
618 in this Agreement. It is expressly acknowledged and agreed, however,
619 that Additional Services shall be provided by the Architect and paid for
620 by the Owner only if:

- 621 (a) The Architect gives prior written notice to the Owner of
622 the need for the Additional Services and the estimated
623 cost thereof; and

624 (b) The Owner, in writing, authorizes and directs that the
625 Additional Services be provided.

626 Failure of the Architect to provide the prior written notice and to
627 obtain the Owner's prior written approval shall constitute a waiver of
628 any claim by the Architect to be paid for such Additional Services. If
629 the prior written notice is given and the approval obtained, the
630 Additional Services shall be paid for by the Owner in accordance with
631 the parties agreement concerning such services and as provided in this
632 Agreement.

633 **3.2 PROJECT REPRESENTATION BEYOND BASIC SERVICES**

634 **3.2.1** If more extensive representation at the site than is
635 described in Subparagraph 2.6.5 is required, the Architect shall provide
636 one or more Project Representatives to assist in carrying out such
637 additional on-site responsibilities.

638 **3.2.2** Project Representatives shall be selected, employed and
639 directed by the Architect, and the Architect shall be compensated
640 therefor as agreed by the Owner and Architect. The duties,
641 responsibilities and limitations of authority of Project Representatives
642 shall be as described in the edition of AIA Document B352 current as of
643 the date of this Agreement, unless otherwise agreed.

644 **3.2.3** Through the observations by such Project Representatives, the
645 Architect shall endeavor to provide further protection for the Owner
646 against defects and deficiencies in the Work, but the furnishing of such
647 project representation shall not modify the rights, responsibilities or
648 obligations of the Architect as described elsewhere in this Agreement.

649 **3.3 OTHER ADDITIONAL SERVICES**

650 **3.3.1** Making revisions in Drawings, Specifications or other
651 documents when such revisions are:

- 652 1. inconsistent with approvals or instructions previously

653 given by the Owner, including revisions made necessary
654 by adjustments in the Owner's program or Project budget;
655 2. required by the enactment or revision of codes, laws or
656 regulations subsequent to the preparation
657 of such documents; or
658 3. due to changes required as a result of the Owner's
659 failure to render decisions in a timely manner.

660 **3.3.2** Providing services required because of significant changes in
661 the Project including, but not limited to changes in size, quality,
662 complexity, the Project Schedule, or the method of bidding, negotiating
663 and contracting for construction, unless such changes are required due
664 to acts or omissions of the Architect.

665 **3.3.3** Providing consultation concerning replacement of Work damaged
666 by fire or other cause during construction, and furnishing services
667 required in connection with the replacement of such Work.

668 **3.3.4** Providing services made necessary by the default of the
669 Contractor, by major defects or deficiencies in the Work of the
670 Contractor, or by failure of performance of either the Owner or
671 Contractor under the Contract for Construction.

672 **3.3.5** Providing services in evaluating an extensive number of claims
673 submitted by the Contractor or others in connection with the Work,
674 unless such claims arise out of the fault of the Architect.

675 **3.3.6** Providing analyses of the Owner's needs and programming the
676 requirements of the Project.

677 **3.3.7** Providing financial feasibility or other special studies.

678 **3.3.8** Providing planning surveys, site evaluations or comparative
679 studies of prospective sites.

680 **3.3.9** Providing special surveys, environmental studies and
681 submissions required for approvals of governmental authorities or others

682 having jurisdiction over the Project.

683 **3.3.10** Providing services relative to future facilities, systems and
684 equipment.

685 **3.3.11** Providing detailed quantity surveys or inventories of
686 material, equipment and labor.

687 **3.3.12** Providing analyses of owning and operating costs.

688 **3.3.13** Interior Design Services including:

689 X furniture and equipment layout including programming

690 X furniture selection

691 X furniture finishes selection

692 X write all specification for furnishings

693 X submit to Owner two binders of all building furniture
694 specifications and samples within fifteen working days
695 after the project bids.

696 X do follow-up including answering vendors' questions,
697 supervising installation of furniture.

698 X train University staff in furniture operation and
699 maintenance.

700 **3.3.14** Providing services for planning tenant or rental spaces.

701 **3.3.15** Making investigations, inventories of materials or equipment,
702 or valuations and detailed appraisals of existing facilities, except
703 when the project involves remodeling of or
704 renovation to existing facilities.

705 **3.3.16** Providing services after the completion of the Construction
706 Phase as defined by Paragraph 2.6.1.

707 **3.3.17** Providing any other services not otherwise included in this
708 Agreement as Basic Services or not customarily furnished in accordance

709 with generally accepted architectural practice.

710 **ARTICLE 4**

711 **OWNER'S RESPONSIBILITIES**

712 **4.1** The Owner shall provide full information regarding
713 requirements for the Project, including a Program which shall set forth
714 the Owner's preliminary objectives, schedule, constraints and criteria,
715 including space requirements and relationships, flexibility,
716 expandability, special equipment, systems and site requirements.

717 **4.2** The Owner shall assist the Architect in establishing, updating
718 and reviewing the Project Cost Model and the Project Schedule.

719 **4.3** If requested by the Architect, the Owner shall furnish
720 evidence that financial arrangements have been made to fulfill the
721 Owner's obligations under this Agreement.

722 **4.4** The Owner shall designate a representative authorized to act
723 on the Owner's behalf with respect to the Project. The Owner or such
724 authorized representative shall render decisions in a timely manner
725 pertaining to documents submitted by the Architect in order to avoid
726 unreasonable delay in the orderly and sequential progress of the
727 Architect's services.

728 **4.5** The Owner shall contract the Architect to furnish surveys
729 describing physical characteristics, legal limitations and utility
730 locations for the site of the Project, and a written legal description
731 of the site when such services are requested by the Owner. The surveys
732 and legal information shall include, as applicable, grades and lines of
733 streets, alleys, pavements and adjoining property and structures;
734 adjacent drainage; rights-of-way, restrictions, easements,
735 encroachments, zoning, deed restrictions, boundaries and contours of the
736 site; locations, dimensions and necessary data pertaining to existing
737 buildings, other improvements and trees; and information concerning

738 available utility services and lines, both public and private, above and
739 below grade, including inverts and depths, manhole and vault interior
740 dimensions, pipe size, pipe material, electrical ductbank
741 configuration, telecommunications ductbank configuration (and a
742 designation of fiber optic and/or copper conductors), meter pits,
743 valves, hydrants, light poles, transformers, power poles, and ownership
744 of each utility. All the information on the survey shall be referenced
745 to a Project benchmark and adhere to the University Landscape - Site
746 Survey standards found at <http://www.indiana.edu/~uao/>. The original
747 surveys in CAD format (in the required Indiana State Plane Coordinate
748 system) shall be submitted to the University at the time of completion
749 and before inclusion in Architectural or Engineering CAD project files.

750 **4.6** The Owner shall contract the Architect to furnish services of
751 geotechnical engineers when such services are requested by the
752 Architect. Such services may include, but are not limited to, test
753 borings, test pits, determinations of soil bearing values, percolation
754 tests, evaluations of hazardous materials, ground corrosion and
755 resistivity tests, including necessary operations for anticipating sub-
756 soil conditions, with reports and appropriate professional
757 recommendations.

758 **4.7** The Owner shall furnish structural, mechanical, chemical, air
759 and water pollution tests, tests for hazardous materials, and other
760 laboratory and environmental tests, inspections and reports required by
761 law or the Contract Documents.

762 **4.8** The Owner shall furnish all legal, accounting and insurance
763 counseling services as may be necessary at any time for the Project,
764 including auditing services the Owner may require to verify the
765 Contractor's Applications for Payment or to ascertain how or for what
766 purposes the Contractor has used the money paid by or on behalf of the

767 Owner.

768 **4.9** The services, information, surveys and reports required by
769 Paragraphs 4.5 through 4.8 shall be furnished at the Owner's expense,
770 and the Architect shall be entitled to rely upon the accuracy and
771 completeness thereof. However, if the Architect observes or becomes
772 aware of any fault or defect in the services, information, surveys and
773 reports furnished by the Owner or its consultants, the Architect shall
774 give prompt written notice thereof to the Owner.

775 **4.10** Prompt written notice shall be given by the Owner to the
776 Architect if the Owner becomes aware of any fault or defect in the
777 Project or nonconformance with the Contract Documents. This obligation,
778 however, arises only if the Owner obtains actual knowledge of a fault or
779 defect in the Project or non-conformance with the Contract Documents.
780 The Owner is not obligated to the Architect, the Contractors or other
781 third parties to specifically
782 review the design and/or the Work for the purpose of identifying or
783 discovering any fault, defect or non-compliance of the work.

784 **4.11** The proposed language of certificates or certifications
785 requested of the Architect or Architect's consultants shall be submitted
786 to the Architect for review and approval at least 14 days prior to
787 execution. The Owner shall not request certifications that would require
788 knowledge or services beyond the scope of this Agreement.

789 **ARTICLE 5**

790 **CONSTRUCTION COST**

791 **5.1 DEFINITION**

792 **5.1.1** The Construction Cost shall be the total cost or estimated
793 cost to the Owner of all elements of the Project designed or specified
794 by the Architect.

795 **5.1.2** The Construction Cost shall include the cost at current market

796 rates of labor and materials furnished by the Owner and equipment
797 designed, specified, selected or specially provided for by the
798 Architect, plus a reasonable allowance for the Contractor's overhead and
799 profit. In addition, a reasonable allowance for contingencies shall be
800 included for market conditions at the time of bidding and for changes in
801 the Work during construction.

802 **5.2 RESPONSIBILITY FOR CONSTRUCTION COST**

803 **5.2.1** A fixed limit of Construction Cost may be established by the
804 Owner in writing, as a condition of this Agreement. In establishing such
805 a fixed limit the Owner shall include
806 appropriate contingencies for design, bidding and price escalation and
807 alternates approved by the Owner may be included in the Contract
808 Documents to adjust the scope of work to the fixed limit of Construction
809 Cost. Services in connection with revisions and inclusions of alternate
810 bids as recommended for cost control purposes shall be part of Basic
811 Services.

812 **5.2.2** If the Bidding or Negotiation Phase has not commenced within
813 90 days after the Architect submits the Construction Documents to the
814 Owner, any Project budget or fixed limit of Construction Cost shall be
815 adjusted to reflect changes in the general level of prices in the
816 construction industry between the date of submission of the Construction
817 Documents to the Owner and the date on which proposals are sought. If
818 there is a material change in construction costs after the 90 day
819 period, and exceeding the 90 day period is through no fault of the
820 Architect, then the Architect reserves the right to request Additional
821 Services for redesign if the lowest subsequent bid exceeds the new
822 estimated Construction Cost.

823 **5.2.3** If the lowest bona fide bid or negotiated proposal received
824 exceeds, by 5% or more, the fixed limit of Construction Cost established

825 by the Owner, in writing, or the estimate of Construction Cost presented
826 by the Architect and approved by the Owner at the end of the Contract
827 Documents Phase, then the Owner retains the right to initiate one of the
828 following remedies:

829 1. give written approval of an increase in
830 Construction Cost and proceed with construction;

831 2. authorize rebidding or authorize the Architect to
832 renegotiate the Project within a reasonable time and amend
833 documents as necessary at no cost to Owner;

834 3. abandon the Project and terminate in accordance with
835 Paragraph 8.3;

836 4. require the Architect to redesign or modify the Project
837 to achieve budget goals at no cost to Owner and rebid the project.

838 **5.2.4** Both parties recognize that neither the Owner nor the
839 Architect can predict with certainty the disposition of the construction
840 industry at the time of bidding or negotiation. Therefore, if the Owner
841 elects to proceed under Clause 5.2.3.4, the Architect shall identify
842 potential cost savings and shall modify the Construction Documents
843 accordingly, without additional charge to the Owner, in such a way as to
844 bring the lowest bona fide bid or negotiated proposal to within 5% of
845 the construction budget. If these negotiations do not succeed in
846 achieving the cost savings necessary, the Architect shall redesign and
847 modify the Construction Documents for re-bidding, also without
848 additional charge to the Owner. If the applicable construction budget
849 is attained, yet the Owner wishes to have the Project redesigned or
850 modified to achieve further savings, such services shall constitute an
851 Additional Service, compensation for which shall be determined by
852 agreement between the Owner and the Architect. In

853 either instance, the Owner shall cooperate with the Architect in

854 determining revisions to the Project scope of work and/or quality as
855 required to reduce Construction Costs.

856

857 **ARTICLE 6**

858 **DRAWINGS, SPECIFICATIONS AND OTHER DOCUMENTS**

859 **6.1** The Architect hereby assigns to the owner all right, title and
860 interest, including all copyrights, copyright registrations, copyright
861 applications, renewals, extensions and all other proprietary or
862 ownership rights, in all drawings/BIM models, specifications and other
863 documents created by the Architect, in whole or in part, or hereafter to
864 be created by the architect in connection with the project, including,
865 but not limited to, all works based upon, derived from, or incorporating
866 the drawings, specifications and other documents created by the
867 Architect in connection with the project.

868 **6.2** In the event of termination, suspension, abandonment or
869 completion of the project, the Architect shall deliver to the Owner
870 within seven (7) days all drawings/BIM models, specifications and other
871 documents created by the Architect in connection with the project and
872 not previously delivered to the Owner during the course of the project.

873 The Owner, as the holder of all right, title and interest, including
874 all copyrights, in all drawings/BIM models, specifications and other
875 documents created by the Architect, as provided in Article 3.1, shall
876 have the right to use and reuse any and all such drawings,
877 specifications and other documents for any purpose in connection with
878 the project, including, but not limited to, its completion, at the
879 Owner's sole discretion and at no additional cost to the Owner.

880 **6.3** The owner agrees, to the fullest extent permitted by law, to
881 indemnify and hold harmless the Architect, its officers, directors,
882 employees and subconsultants (collectively, Architect) against damages,
883 liabilities or costs, including reasonable attorneys' fees and defense
884 costs, arising from or allegedly arising from or in any way connected
885 with the unauthorized reuse or modification of the construction
886 documents by the Owner or any person or entity that acquires or obtains
887 the construction documents from or through the Owner without the written
888 authorization of the Architect.

889 **ARTICLE 7**

890 **DISPUTE RESOLUTION**

891 **7.1** In an effort to resolve any conflicts that arise during the
892 design or Construction of the Project or following the completion of the
893 Project, the Owner and Architect agree that all disputes between them
894 arising out of or relating to the Agreement shall be submitted to non-
895 binding mediation unless the parties mutually agree otherwise. The
896 parties further agree to include similar mediation provisions in all
897 agreements with independent contractors and consultants retained for the
898 Project and to require all independent contractors and consultants also
899 to include a similar mediation provision in all agreements with
900 subcontractors, subconsultants, suppliers, fabricators so retained,
901 thereby providing for mediation as the primary (i.e. first) method of
902 dispute resolution between all parties to those agreements. The parties
903 involved with any conflict shall attempt to reach agreement as to the
904 mediator to be selected and, failing to reach such agreement, any party
905 may seek the appointment of a mediator in accordance with the
906 Construction Industry Mediation Rules of the American Arbitration
907 Association.

908 **7.2** In the event that mediation is unsuccessful, such claims,

909 disputes or other matters in conflict shall be resolved through
910 litigation, with the parties hereto agreeing and acknowledging that the
911 Circuit and/or Superior Courts of Monroe County, Indiana shall be the
912 sole and exclusive venue for the filing and consideration of all claims,
913 disputes or other matters in conflict arising out of or relating to the
914 Work, the Project, this Agreement or the breach thereof.

915 **ARTICLE 8**

916 **TERMINATION, SUSPENSION OR ABANDONMENT**

917 **8.1** This Agreement may be terminated by either party upon not less
918 than seven day, written notice, should the other party fail
919 substantially to perform in accordance with the terms of this Agreement
920 through no fault of the party initiating the termination.

921 **8.2** In the event of the Owner termination, suspension or
922 abandonment of the project, the Architect shall be equitably compensated
923 by the owner for services performed to the date of termination,
924 suspension or abandonment.

925 **8.3** This Agreement may be terminated with or without cause by the
926 Owner upon not less than seven days' written notice to the Architect in
927 the event that the Project is permanently abandoned. If the Project is
928 abandoned by the Owner for more than 90 consecutive days, the Architect
929 may terminate this Agreement by giving seven days prior written notice.

930 **8.4** Failure of the Owner to make payments to the Architect in
931 accordance with this Agreement shall be considered substantial
932 nonperformance and cause for termination.

933 **8.5** If the Owner fails to make payment when due the Architect for
934 services and expenses, the Architect may, upon seven days' written
935 notice to the Owner, suspend performance of services under this
936 Agreement. Unless payment in full is received by the Architect within
937 seven days of the date of the notice, the suspension shall take effect

938 without further notice. In the event of a suspension of services, the
939 Architect shall have no liability to the Owner for delay or damage
940 caused the Owner because of such suspension of services.

941 **8.6** If this Agreement is terminated by the Owner and not because
942 of the fault of the Architect, the Architect shall be compensated for
943 all services performed to the termination date, together with
944 reimbursable expenses then due and all Termination Expenses directly
945 attributable to termination for which the Architect is not otherwise
946 compensated.

947 **8.7** In the event that the project is restarted by the owner
948 following termination, suspension or abandonment, the Owner shall not be
949 obligated to re-hire the Architect for completion of the project.

950 ARTICLE 9

951 MISCELLANEOUS PROVISIONS

952 **9.1** This agreement shall be governed by the laws of the State of
953 Indiana.

954 **9.2** Terms in this Agreement shall have the same meaning as those
955 in AIA Document A201, General Conditions of the Contract for
956 Construction (1997 edition) as amended by the Owner's Supplementary
957 General Conditions.

958 **9.3** The Indiana statutes of limitation as interpreted by the
959 Courts of the State of Indiana shall apply to all acts or omissions,
960 claims, disputes or other matters in question arising out of or relating
961 to the Work, the Project, this Agreement or any breach thereof.

962 **9.4** The Owner and Architect waive all rights against each other
963 and against the Contractors, Consultants, agents and employees of the
964 other for damages, but only to the extent covered by property insurance
965 during construction, except such rights as they may have to the proceeds
966 of such insurance as set forth in the edition of AIA Document A201,

967 General Conditions of the Contract for Construction, current as of the
968 date of this Agreement. The Owner and Architect each shall require
969 similar waivers from their Contractors, Consultants and agents.

970 **9.5** The Owner and Architect, respectively, bind themselves, their
971 partners, successors, assigns and legal representatives to the other
972 party to this Agreement and to the partners, successors, assigns and
973 legal representatives of such other party with respect to all covenants
974 of this Agreement. Neither Owner nor Architect shall assign this
975 Agreement without the written consent of the other.

976 **9.6** This Agreement and any attached addenda represent the entire
977 and integrated agreement between the Owner and Architect and supersedes
978 all prior negotiations, representations or agreements, either written or
979 oral. This Agreement may be amended only by written instrument signed by
980 both Owner and Architect.

981 **9.7** Nothing contained in this Agreement shall create a
982 contractual relationship with or a cause of action in favor of a third
983 party against either the Owner or Architect.

984 **9.8** Unless otherwise provided in this Agreement, the Architect and
985 Architect's Consultants shall have no responsibility for the discovery,
986 presence, handling, removal or disposal of or exposure of persons to
987 hazardous materials in any form at the Project site, including but not
988 limited to asbestos, asbestos products, polychlorinated biphenyl (PCB)
989 or other toxic substances. The Architect shall, however, given
990 immediate written notice to the Owner should it observe or suspect the
991 existence of asbestos, PCB or other toxic substances within or around
992 the Project and shall identify the areas where such substances have been
993 encountered or are suspected and the areas of the Project where the
994 Architect recommends that Work be stopped or suspended while the
995 substances are being analyzed.

996 **9.9** The Architect shall have the right to include representations
997 of the design of the Project, including photographs of the exterior and
998 interior, among the Architect's promotional and professional materials.
999 The Architect's materials shall not include the Owner's confidential or
1000 proprietary information if the Owner has previously advised the
1001 Architect, in writing, of the specific information considered by the
1002 Owner to be confidential or proprietary. The Owner shall provide
1003 professional credit for the Architect on the construction sign and in
1004 the promotional materials for the Project.

1005 **9.10** The Architect shall maintain throughout the period of this Project
1006 and for a period of three years thereafter, a standard form of
1007 professional liability insurance issued by an insurance company approved
1008 by the Owner and in forms and amounts satisfactory to the Owner. The
1009 Architect shall also maintain insurance coverage for comprehensive
1010 general liability, automobile liability and worker's compensation in
1011 forms and amounts satisfactory to the Owner as listed below. The
1012 specific project name and project number must be identified on each
1013 certificate and an up to date certificate must be attached to each
1014 project contract.

1015 General Liability - \$1,000,000
1016 Auto Liability - \$1,000,000/\$1,000,000 Personal Injury/\$1,000,000/
1017 \$1,000,000 Property Damage (or \$1,000,000
1018 combined single limit)
1019 Employer's Liability - \$1,000,000 (part of which may be covered by
1020 umbrella coverage)
1021 Workers Comp - Statutory
1022 Professional Liability/E & O - \$1,000,000
1023

1024 The Architect shall require that any and all Consultants engaged or
1025 employed by the Architect carry and maintain similar insurance with
1026 reasonably prudent limits and coverage consistent with the services
1027 rendered by such Consultants. The Architect shall submit to the Owner a
1028 Schedule of Insurance for the Architect and the Consultants for the

1029 Owner's review and approval. The approval of the Schedule of Insurance
1030 by the Owner shall be a condition precedent to the Architect's exercise
1031 or enforcement of any rights under this Agreement. The certificate of
1032 insurance to be supplied MUST also name "The Trustees of Indiana
1033 University, its officers, agents and employees" as an additional insured
1034 for the general liability and auto liability coverages. The maintenance
1035 of approved amounts of insurance is subject to their availability at
1036 affordable premiums. If coverage is not reasonably available at
1037 affordable premiums and/or if other changes to the policies are
1038 contemplated, the Architect shall provide the Owner with thirty (30)
1039 days written notice of such changes. All approved insurance policies
1040 shall incorporate a provision requiring that the insurance carrier
1041 notify the Owner, in writing, thirty (30) days prior to cancellation,
1042 non-renewal or material modification to the policies.

1043 **9.11** The Architect will not engage in, or tolerate by its
1044 employees, Consultants or agents, sexual harassment as defined in this
1045 section. Harassment on the basis of sex is a violation of Section 703 of
1046 the Title VII of the Civil Rights Act of 1964.

1047 a. Sexual harassment is defined as unwelcome sexual
1048 advances/requests for sexual favors and other verbal or physical
1049 conduct of a sexual nature when:

- 1050 1. Submission of such conduct is made either
1051 explicitly for implicitly a term or condition of an
1052 individual's employment, or
- 1053 2. Submission or rejection of such conduct by an
1054 individual is used as the basis for employment
1055 decisions affecting such individual, or
- 1056 3. Such conduct has the effect of unreasonably
1057 interfering with an individuals' work or academic

1058 performance or creating an intimidating hostile or
1059 offensive working or learning environment.

1060 b. The Architect will ensure dissemination of this sexual
1061 harassment policy to its employees, Consultants and agents.

1062 c. Additionally, the Architect will ensure that its
1063 employees, Consultants and agents understand that sexual harassment
1064 includes, but is not limited to, actions taken
1065 towards Indiana University students, employees or guests
1066 which would constitute sexual harassment under
1067 definition(3)above.

1068 **9.12** During the course of the Project, the Architect, its agents,
1069 employees, Consultants and anyone else with whom the Architect contracts
1070 with respect to the Project shall not discriminate against any employee
1071 or applicant for employment with respect to hire, tenure, terms,
1072 conditions or privileges of employment, or any matter directly or
1073 indirectly related to employment, because of race, sex, religion, color,
1074 national origin, ancestry, age, handicap, disabled veteran status and/or
1075 Vietnam era status. The Architect shall comply with the existing laws of
1076 the State of Indiana and the United States regarding prohibition of
1077 discrimination in employment practices, recognizes that the provisions
1078 of I.C. 5-16-6-1 are incorporated herein by reference and acknowledges
1079 that the breach of the non-discrimination provisions may be regarded as
1080 material breach of this Agreement.

1081 ARTICLE 10

1082 PAYMENTS TO THE ARCHITECT

1083 **10.1 DIRECT PERSONNEL EXPENSE**

1084 **10.1.1** Direct Personnel Expense is defined as the direct salaries of
1085 the Architect's personnel engaged on the Project and the portion of the
1086 cost of their mandatory and customary contributions and benefits related

1087 thereto, such as employment
1088 taxes and other statutory employee benefits, insurance, sick leave,
1089 holidays, vacations, pensions and similar contributions and benefits.

1090 **10.2 REIMBURSABLE EXPENSES**

1091 **10.2.1** Reimbursable Expenses are in addition to compensation for
1092 Basic and Additional Services and include expenses incurred by the
1093 Architect and Architect's employees and Consultants in the interest of
1094 the Project, as identified in the following Clauses:

1095 **10.2.1.1** Consultants, Architects and Engineers will be reimbursed in
1096 the following manner:

- 1097 a. Receipts and other relevant records must be furnished
1098 for all reimbursable costs. Credit card statements are
1099 not acceptable records.
- 1100 b. Food. When Consultant is away from their home office
1101 for twenty-four hours they will be given a maximum food
1102 allowance of up to \$38.00 per day or current University
1103 per diem rate.
- 1104 c. Motel costs will be reimbursed at the single room rate.
1105 Telephone calls other than those related to University
1106 business, from motels will not be reimbursed.
- 1107 d. Rental car costs will be reimbursed when prior approval
1108 for car rental is granted by the University. The use of
1109 Economy Class vehicles is recommended.
- 1110 e. Airline Travel. When airline travel is approved by the
1111 University, Consultants shall contact University
1112 designated travel agents. Consultants should travel
1113 "Coach Class" and should purchase tickets at least 14
1114 days in advance of travel when possible.
- 1115 f. There will be no reimbursement for travel including

1116 mileage, lodging, meals or parking within the state of
1117 Indiana.

- 1118 g. Out of state vehicle travel will be reimbursed at the
1119 rate of 40.5 cents per mile, or current University
1120 mileage rate.
- 1121 h. Expense of filing fees for securing approval from
1122 governing authorities will be reimbursed.
- 1123 i. Expense of renderings or models or mock-ups requested by
1124 the Owner will be reimbursed.

1125 **Printing Costs**

- 1126 a. All printing for pre-bid or Owner-required reviews
1127 ("review sets"), and renderings/presentations shall be
1128 produced and distributed by the approved Indiana
1129 University Centralized Printing Vendor ("Printing
1130 Vendor"). Any expenses associated with such drawing and
1131 specification printing shall be borne by Indiana
1132 University and shall not be a reimbursable item to the
1133 Owner. Consultants shall coordinate submission of
1134 either paper copies or electronic files of the review
1135 sets to the Printing Vendor along with instructions to
1136 the Printing Vendor for distribution of the review sets.
- 1137 b. All printing for project construction bid drawings,
1138 specifications, and addenda will be produced and
1139 distributed by the Printing Vendor. The Printing Vendor
1140 will also host an online web-based planroom that will
1141 list current and upcoming IU construction bid projects
1142 for information as well as bid set ordering.
1143 Consultants shall work with the Printing Vendor to
1144 coordinate the direct upload or mailing of construction
1145 document files/originals.
- 1146 c. Any expenses associated with reports or documentation
1147 above the standard incidental printing, approved by I.U.
1148 in advance, shall be borne by Indiana University and not
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1153 as a reimbursable item to the Owner.
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1157 **Testing Costs**

1158 a. All project testing required by the project
1159 specifications, and not designated the responsibility of
1160 the contractor, will be contracted by the A/E and billed
1161 to the University as a reimbursable expense.

1162 **10.2.2** Miscellaneous Expenses: There will be no reimbursement
1163 for miscellaneous expenses. These include: telefax, incidental printing
1164 and copying, office supplies, computer discs, couriers, federal express,
1165 postage, mail services, and local and long distance telephone service
1166 charges, supplies and other miscellaneous expenses are to be considered
1167 as part of the cost of doing business, and as such, are not
1168 reimburseable. They are a part of basic services.

1169 **10.3 PAYMENTS ON ACCOUNT OF BASIC SERVICES**

1170 **10.3.1** An initial payment as set forth in Paragraph 11.1 is the
1171 minimum payment under this Agreement.

1172 **10.3.2** Payments for Basic Services shall be made monthly or at end of
1173 each phase, in accordance with a schedule of invoices for each phase of
1174 the Project prepared by the Architect and approved by the Owner.

1175 **10.4 PAYMENT ON ACCOUNT OF ADDITIONAL SERVICES**

1176 **10.4.1** Payments on account of the Architect's Additional Services and
1177 for Reimbursable Expenses shall be made monthly upon presentation of the
1178 Architect's statement of Additional Services rendered or Reimbursable
1179 Expenses incurred.

1180 **10.5 PAYMENTS WITHHELD**

1181 **10.5.1** No deductions shall be made from the Architect's compensation
1182 on account of penalty, liquidated damages or other sums withheld from

1183 payments to Contractors, or on account of the
1184 cost of changes in the Work, other than those for which the Architect
1185 has been found to be liable.

1186 **10.5.2** Until such time as all close out documents are submitted to
1187 the Owner, in form and substance reasonably satisfactory to the Owner,
1188 including Punch-List items and all required As-Builts, Record Documents
1189 and, if applicable, As-Built BIM Models, the Owner will withhold from
1190 the Architect's payment invoice an amount equal to the entire amount of
1191 the Closeout Phase fee. This is meant as a fair value of the Architect's
1192 work remaining to review and produce the close out documents.

1193 **10.6 ARCHITECT'S ACCOUNTING RECORDS**

1194 **10.6.1** Records of Reimbursable Expenses, expenses pertaining to
1195 Additional Services and services performed on the basis of a multiple of
1196 Direct Personnel Expense shall be available to the
1197 Owner or the Owner's authorized representative at mutually convenient
1198 times.

1199 **ARTICLE 11**

1200 **BASIS OF COMPENSATION**

1201 The Owner shall compensate the Architect as follows:

1202 **11.1 BASIC COMPENSATION**

1203 **11.1.1** FOR BASIC SERVICES, as described in Article 2, and
1204 any other services defined in this Agreement as Basic
1205 Services, Basic Compensation shall be computed as follows: A
1206 fixed fee calculated as a stipulated percentage of the
1207 probable construction costs. Any additional fees for
1208 substantial changes of scope must be negotiated and an
1209 addendum added to this contract or with prior agreement of the
1210 parties the fee may be established as "NOT TO EXCEED" amount.
1211 If the average of the project bids come in 15% or more under
1212 the estimate provided by the Architect at the initiation of
1213 this contract, a deduct addendum may be requested to adjust
1214 the fees. Reduction to project scope does not allow the
1215 Architect additional fees.

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11.1.2 Where compensation is based on a stipulated sum or percentage of Construction Cost, progress payments for Basic Services in each phase shall total the percentages of the total Basic Compensation payable as listed on the Project Cost Model that is attached.

11.2 COMPENSATION FOR ADDITIONAL SERVICES

11.2.1 FOR PROJECT REPRESENTATION BEYOND BASIC SERVICES, as described in Paragraph 3.2, compensation shall be computed as agreed by Owner and Architect in writing.

11.2.2 FOR ADDITIONAL SERVICES OF THE ARCHITECT, as described in Articles 3 and 12, other than (1) Additional Project Representation, as described in Paragraph 3.2 and (2) services included in Article 12 as part of Basic Services, but excluding services of Consultants, compensation shall be computed as agreed by Owner and Architect, in writing.

11.2.3 FOR ADDITIONAL SERVICES OF CONSULTANTS, compensation shall be computed at a multiple of 1.1 times the actual amounts billed to the Architect for such services.

11.3 REIMBURSABLE EXPENSES

11.3.1 FOR REIMBURSABLE EXPENSES, as described in Paragraph 10.2, and any other items included in Article 12 as Reimbursable Expenses, a multiple of 1.1 times the expenses incurred by the Architect, the Architect's employees and Consultants in the interest of the Project.

1244 **11.4 ADDITIONAL PROVISIONS**

1245 **11.4.1** IF THE BASIC SERVICES covered by this Agreement have not been
1246 completed within sixty days of the final completion of construction of
1247 the Project, through no fault of the Architect, extension of the
1248 Architect's services beyond that time shall be compensated as provided
1249 in Subparagraph 11.2.2. If in the event that the period of construction
1250 substantially exceeds the Architect's estimated construction period the
1251 University will consider the Architect's request for additional fees.

1252 **11.4.2** Payments are due and payable forty-five (45) days from the
1253 date of the Architect's invoice. Amounts unpaid forty-five (45) days
1254 after the invoice date shall bear interest at the then current prime
1255 rate.

1256 **ARTICLE 12**

1257 **OTHER CONDITIONS OR SERVICES**

1258 The following provisions supplement, modify, change, delete from,
1259 and add to, the Standard Form of Agreement between Owner and Architect
1260 dated _____, and shall supersede any inconsistent
1261 printed provisions. When any portion of any paragraph (herein the term
1262 "paragraph", with an identifying number, includes sub-paragraph and sub-
1263 subparagraph as appropriate) or clause thereof is modified or deleted by
1264 these terms, the unaltered provisions of the standard form shall remain
1265 in effect.

1266 THIS AGREEMENT entered into as of the day and year first written
1267 above.

1268 OWNER

ARCHITECT

1269 _____
1270

1271 (Signature)

(Signature)

1272 _____
1273

1274 (Printed name and title)

(Printed name and title)

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Review Copy

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ARCHITECT ASBESTOS CERTIFICATION

TO: INDIANA UNIVERSITY

The Architect certifies that:

Adequate research and review of product information will be undertaken and, to the best of my knowledge, no asbestos containing materials will be specified for the project indicated below.

Asbestos containing materials include any building material with markings on the packaging or material itself with the following or similar wording: "May contain mineral fibers", originating from Canada.

IU Project Name and Number: _____

Architectural Firm: _____

Architect of Record- Name: _____

Architect of Record- Signature: _____

Date _____