CONTRACT NUMBER FC100####

WITH

FIRM NAME

ARCHITECT/ENGINEER DESIGN SERVICES

FOR

PROJECT TITLE
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**PART II  PROJECT DESCRIPTION**
PART I
AGREEMENT

PROJECT

Architect/Engineer Design Services for Project Title

“EFFECTIVE DATE” OF CONTRACT

Month DD, YYYY

THE TRUSTEES OF PRINCETON UNIVERSITY

FIRM NAME

Firm Name
Address, City, State, Zip

THIS Architect/Engineer Design Services Contract (the “Contract”) for Project Title (the “Project”) is made and entered into as of the Effective Date by and between The Trustees of Princeton University (hereinafter “Princeton University”), a New Jersey not-for-profit corporation existing under the laws of the State of New Jersey, with its principal offices in Princeton, New Jersey, and Firm Name (hereinafter “Architect/Engineer”), organized and existing under the laws of the State or Commonwealth of [State] and fully licensed and authorized to provide the required services under New Jersey law, with its principal offices located at the address shown above.

WITNESSETH

WHEREAS, Princeton University desires that the Architect/Engineer furnish the services specified below for the design and development of comprehensive plans and specifications for the Project so that the Project can be constructed at a cost of construction not to exceed the Construction Budget, and the completed Project will comply with all applicable design criteria, laws, codes, regulations, and ordinances; and

WHEREAS, the Architect/Engineer represents that it is willing and able to provide these services and that it has the necessary skills and abilities to design the Project in accordance with the terms and conditions set forth herein; and

NOW THEREFORE, in consideration of the mutual promises set forth below and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Princeton University and the Architect/Engineer do mutually agree as follows (each of Princeton University and Architect/Engineer may hereinafter be referred to as a party or collectively as the parties):

ARTICLE I – THE “CONTRACT” AND THE “CONTRACT DOCUMENTS”

(a) The “Contract Documents” consist of the documents listed below in this paragraph, including all Amendments thereto, all of which form the “Contract” and are as fully a part of the Contract as if attached to this Agreement or repeated herein.

(1) This Agreement (Part I).

• Supplier Diversity Subcontracting Plan dated MM/DD/YYYY (if applicable – see Article VI(d)(2)).
• Attachment # – Princeton University’s Request for Proposal titled “[INPUT]”, in its entirety, dated [INPUT], and if not attached hereto deemed incorporated herein by reference as Attachment # (the “RFP”). (#INPUT pages)

• Attachment # – Architect/Engineer’s proposal dated [INPUT], or portions thereof, only to the extent as attached as Attachment # (the “Proposal”). (#INPUT pages)

• [INPUT - other Attachments, if any].

(2) Project Description, including the following documents (Part II):

• Princeton University Project Description entitled Project Description dated MM/DD/YYYY

(b) Any documents attached to any of the above identified Contract Documents or identified therein as being part of said document or this Contract at the time of execution and delivery of this Contract shall be deemed incorporated therein and herein as part of the Contract Documents subject to any other applicable terms and conditions of the Contract Documents.

(1) Without limitation to the above Contract Documents, the inclusion of any attachments to this Agreement (Part I) to the extent provided above are intended to amplify Architect/Engineer’s Basic Services and obligations under this Contract and shall not be interpreted to limit Architect/Engineer’s Basic Services and obligations in any manner whatsoever. Accordingly, to the extent that some Basic Services and/or obligations in any attachments are repeated in the Contract Documents and others are not, such omission is not intended to and shall not limit Architect/Engineer’s Basic Services and/or obligations in any manner. Additionally, without limitation to the general applicability of Article I(d) below to all terms and conditions and obligations of the Contract Documents, to the extent of any conflict, inconsistency, ambiguity, or omission between or among the terms of any of the Contract Documents and attachments to this Agreement (Part I), the greater or more stringent terms/conditions/obligations and services as applied to the Architect/Engineer shall control.

(c) The Contract represents the entire and integrated agreement between the parties and supersedes any and all prior negotiations, representations or agreements, either written or oral. The Contract Documents may be changed, modified, or amended only by a written Amendment signed by both parties.

(d) 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. The intent of the Contract Documents is also to include all items necessary for the proper execution and completion of the Basic Services by the Architect/Engineer. Since the Contract Documents are complementary, what is required by one shall be binding as if required by all. Items not expressly included in the Contract Documents, but which are reasonably inferable therefrom as being necessary to produce the intended results, shall be deemed included in the Architect/Engineer’s Basic Services. In the event of any inconsistency, conflict, or ambiguity between or among the Contract Documents, the Architect/Engineer shall provide the better quality or greater quantity of services or comply with the more stringent requirement or stricter obligations.

ARTICLE II – DEFINITIONS

The following definitions are applicable to this Contract:

(a) The term “Architect/Engineer,” in addition to meaning Firm Name, shall aggregately refer to all of the architects and engineers in the employ of the Architect/Engineer, as well as Basic Subconsultants
and Specialized Subconsultants separately engaged by the Architect/Engineer in the performance of the obligations required by this Contract to be performed by such on behalf of Architect/Engineer, without creating any employment or contractual relationship between Princeton University and such individuals and/or entities with the express understanding that this Contract is only between Princeton University and Architect/Engineer.

(b) The term “Additional Services” means those services as further described in Article VIII, which may be performed by the Architect/Engineer as part of the Contract and for which Contractor may be compensated in addition to the NTE Price or its components only as provided by Article VIII, Article IX, Article XVIII(k), and other applicable terms of the Contract.

c) The term “Amendment” means a change to the provisions of this Contract and/or authorization of Additional Services compensation by means of a written instrument approved and produced and signed by Princeton University, as more fully defined in Article XVIII(k).

d) The term “Archive Drawings and Specifications” means the record Drawings and Specifications prepared by the Architect/Engineer upon completion of the Project, as more fully set forth in Article XIV.

e) The term “Basic Services” means those services as more fully described in the Agreement and the Contract Documents, which are to be performed by or on behalf of the Architect/Engineer including services performed by the Architect/Engineer, and Basic Subconsultants and Specialized Subconsultants engaged by the Architect/Engineer, all of which shall be performed within the NTE Price.

(f) The term “Basic Subconsultants” means the Subconsultant(s) retained by the Architect/Engineer for the performance of structural, mechanical, and electrical engineering services and specification writing services for the Project. In addition, if the Architect/Engineer is required to provide cost estimating services, the cost estimating Subconsultant shall be a Basic Subconsultant. Compensation for Basic Subconsultants is included as a part of the Fixed Fee established for this Contract.

(g) The term “Construction Budget” means the budget established by Princeton University for the construction of all elements of the Project, including, without limitation, trade Subcontractors, Contractor’s General Conditions Costs (staff, site requirements, etc.), design and construction contingencies, insurance, bonds (if any), Subcontractor Default Insurance (if applicable), and the Contractor’s fee. The Architect/Engineer shall design the Project so that the Construction Cost does not exceed the Construction Budget as more fully set forth in Article VI(c).

(h) The term “Construction Cost” means the total actual or estimated cost to Princeton University of all elements of the Project designed or specified by the Architect/Engineer, including, without limitation, trade Subcontractors, Contractor’s General Conditions Costs (staff, site requirements, etc.), design and construction contingencies, insurance, bonds (if any), Subcontractor Default Insurance (if any), and the Contractor’s fee.

(i) The term “Construction Documents” means the working Drawings, Specifications, general conditions, supplementary general conditions, special conditions, addenda, and electronic submittals developed to set forth in detail all aspects of design, function and construction and will be used for estimating the cost of the Project, securing bids for constructing the Project, and directing a Contractor in construction of the Project. The Construction Documents shall be full, complete, coordinated, and accurate, enabling any competent contractor to carry them out.

(j) The term “Construction Schedule” means the schedule for the construction of the Project, prepared by the Contractor during the phase of the Project in which the earlier of the preconstruction contract or construction contract is executed.
(k) The term “Contract” means the contract between Princeton University and the Architect/Engineer, as provided in Article I.

(l) The term “Contractor” means the prime general contractor performing the construction Work on the Project pursuant to a construction contract, and/or the contractor retained by Princeton University to provide preconstruction services pursuant to a preconstruction contract. The term “Subcontractor” means a person or entity who has a direct contract with the Contractor to perform and/or supply a portion of the Work (including supply of materials). The term Subcontractor shall also mean any subcontractor to a Subcontractor. (e.g., the term refers to a subcontractor of any tier).

(m) The term “Design Development Documents” means plans, outline specifications and cost estimates, and submittals developed from the Schematic Design Documents in greater detail to confirm or adjust, as required, all aspects of the schematic plans such as exterior design, mechanical and electrical systems, structural systems, area arrangement, foundation plans, etc., and revised cost information reflecting the more detailed development.

(n) The term “Design Documents” means collectively the Schematic Design Documents, the Design Development Documents and the Construction Documents, prepared by the Architect/Engineer and its Subconsultants.

(o) The term “Design Schedule” means the detailed schedule for the design phases of the Project, prepared by the Architect/Engineer during the Schematic Design phase, based on the Milestone Design Schedule.

(p) The term “Drawings” means the graphic and pictorial portions of the Contract Documents showing the design, location, and dimensions of the Work, generally including plans, elevations, sections, details, schedules and diagrams.

(q) The term “Fixed Fee” means the Architect/Engineer’s fixed price compensation for the performance of its Basic Services and those of its Basic Subconsultants. The Fixed Fee does not include compensation for Reimbursable Expenses or Specialized Subconsultants.

(r) The term “Investigations” means those investigations identified by the Architect/Engineer as being necessary for the design and construction of the Project, as more fully described in Article V(g) of the Agreement.

(s) The term “Key Personnel” means the essential personnel of the Architect/Engineer and its Subconsultants as more fully described in Article IV of the Agreement.

(t) The term “Milestone Design Schedule” means the schedule of critical milestones for the performance of the Architect/Engineer’s Basic Services under the Contract.

(u) The term “NTE Price” means the maximum compensation to the Architect/Engineer for Basic Services, which is comprised of the Fixed Fee, the Specialized Subconsultants NTE Amount, and the Reimbursable Expense NTE Amount. The acronym NTE stands for “not-to-exceed”.

(v) The term “Princeton University” means The Trustees of Princeton University, the owner of the Project, acting through its Princeton University Representatives.

(w) The term “Princeton University Representative(s)” means the Project Manager and the Administrative Representative of Princeton University authorized to bind Princeton University under the Contract.

(x) The term “Professional Standard” is defined in Article VII(a).
The term “Project Description” means the scope of the Project on which the Architect/Engineer’s scope of Basic Services is based and on which the Construction Budget was established.

The term “Project Schedule” means the work product of a planning process that identifies the duration and interdependent relationships of all activities that influence the progress of a project. This schedule is to be developed and maintained in a format and level of detail necessary to support Critical Path Method (CPM) analysis. Princeton University typically develops a conceptual level planning version of a project schedule which is used to determine the Milestone Design Schedule dates. This same work product becomes the Project Schedule and will incorporate the Design Schedule and the Construction Schedule. The Contractor will assume responsibility for maintaining Project Schedule during the phase of the Project in which the earlier of the preconstruction contract or construction contract is executed.

The term “Reimbursable Expenses” means those permitted expenses incurred by the Architect/Engineer and its Subconsultants in the performance of Basic Services, as more fully described in Article IX(b) of the Agreement.

The term “Reimbursable Expense NTE Amount” means the not-to-exceed limit on the Architect/Engineer’s compensation for Reimbursable Expenses incurred in the performance of Basic Services under the Contract.

The term “Schematic Design Documents” means drawings, outline specifications, and cost estimates developed to sufficient detail to indicate: the exterior design of the Project; the functional relationships of all interior areas; the relationship of the Project to the site, other buildings and the campus; the materials used in construction; the types of mechanical, electrical and structural systems to be utilized; and the magnitude of the cost of each portion of the Work.

The term “Specialized Subconsultants” means the Subconsultants, other than Basic Subconsultants, retained by the Architect/Engineer, as approved by Princeton University, including without limitation, civil engineering, acoustics, audio-visual, food service, lighting, security, landscape design, interior design, and graphics design.

The term “Specialized Subconsultant NTE Amount” means the not-to-exceed limit on the Architect/Engineer’s compensation for Basic Services performed by Specialized Subconsultants.

The term “Specifications” means that portion of the Contract Documents consisting of the written requirements for materials, equipment, systems, standards, and workmanship for the Work and the performance of related services.

The term “Statement of Construction Cost” means the periodic estimates of the Construction Cost of the Project prepared at the end of each design phase by the Contractor and, if included in the Architect/Engineer’s scope of Basic Services, by the Architect/Engineer’s cost Subconsultant.

The term “Subconsultants” refers collectively to all Basic Subconsultants and Specialized Subconsultants.

The term “Substantial Completion” means substantial completion of the construction contract for this Project, as defined in such construction contract between Princeton University and the Contractor.

The term “Work” means, without limitation, the performance and supply of all work, labor, services, materials, supplies, equipment, supervision, and all things necessary to do what is required for the full construction of the Project by the Contractor pursuant to and as further detailed in its construction contract with Princeton University, whether completed or partially completed. The Work also includes any mockups, probes, and selective demolition performed on this Project pursuant to a preconstruction
contract between Princeton University and Contractor, and any “Early Work”, which is any Work
performed by the Contractor on this Project pursuant to a Letter Contract between Princeton University
and Contractor regarding such.

ARTICLE III – DESIGNATED REPRESENTATIVES
(a) The Architect/Engineer’s designated representatives for this Contract and the Project are:
   AE Principal Name - Principal in Charge
   AE Project Mgr Name - Project Manager
(b) Princeton University’s designated representatives for this Contract and Project (individually and
collectively herein “Princeton University Representatives”) are:
   PM Name - Project Manager
   CA Name - Administrative Representative
(c) Agreements made by and/or actions taken by the Architect/Engineer, which by their nature effect
a change to any Basic Services required under this Contract or would be an Amendment to the Contract,
shall only be binding upon Princeton University when such agreement or action is specifically authorized
in writing, in advance, by a Princeton University Representative and otherwise in conformance with all
terms of the Contract Documents. Therefore, any change of Basic Services or otherwise any other change
undertaken by the Architect/Engineer at the direction of anyone other than a Princeton University
Representative, or without the prior written authorization of a Princeton University Representative
pursuant to the terms of the Contract Documents, is at the Architect/Engineer’s own risk.

ARTICLE IV – KEY PERSONNEL AND SUBCONSULTANTS
(a) Architect/Engineer’s Key Personnel. The Key Personnel of the Architect/Engineer specified
below, if any, are considered to be essential to the Basic Services being performed hereunder:

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<thead>
<tr>
<th>Name</th>
<th>Title</th>
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(b) Basic Subconsultants. The Basic Subconsultants (including any Key Personnel), to be used by the
Architect/Engineer in the performance of this Contract, are:

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<th>Subconsultant</th>
<th>Discipline</th>
<th>Key Personnel</th>
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(c) Specialized Subconsultants. The Specialized Subconsultants (including any Key Personnel), to be
used by the Architect/Engineer in the performance of this Contract are:

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<th>Subconsultant</th>
<th>Discipline</th>
<th>Key Personnel</th>
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(d) Change in Key Personnel. Prior to reassigning any of the specified Key Personnel to other
projects, the Architect/Engineer shall notify Princeton University reasonably in advance and shall submit
justification (including proposed substitutions) in sufficient detail to permit evaluation of the impact on
the Project. This Contract may be amended from time to time during the course of the Contract to either
add or delete Key Personnel, as appropriate. Any change to the Key Personnel listed above is subject to Princeton University’s prior written approval in its sole discretion other than an instance where said Key Personnel has resigned or been terminated for cause, and any such change made without the prior written approval of Princeton University may be considered a material breach of the Contract. To assist Princeton University in making an evaluation as to particular substitute Key Personnel, Architect/Engineer shall provide Princeton University with biographical information (including references) as to said employee and will afford Princeton University an opportunity to interview the proposed replacement so as to enable Princeton University to make an informed decision.

(e) **Change in Subconsultants.** Refer to Article VI(d)(5) regarding substitutions of Subconsultants.

### ARTICLE V – PRINCETON UNIVERSITY’S RESPONSIBILITIES

(a) **Project Requirements.** Prior to execution of this Contract, Princeton University has provided to the Architect/Engineer the Project Description, which comprises Part II of the Contract, and which sets forth a description of Princeton University’s design objectives, constraints, and criteria and specifies the space requirements and relationships, flexibility and expandability, special equipment and systems and site requirements for the Project. Throughout the term of the Contract, Princeton University shall consult with the Architect/Engineer and provide in a timely manner such additional information as may be reasonably necessary for the Architect/Engineer to perform Architect/Engineer’s Basic Services under this Contract.

(b) **Project Schedule.** Prior to execution of this Contract, Princeton University will establish the major milestone dates for the Project’s rate of progress and required Substantial Completion date. Subject to Article VI(b) and its subsections, Princeton University and/or the Contractor will update the overall Project Schedule as necessary.

(c) **Construction Budget.** Prior to execution of this Contract, Princeton University has established the Construction Budget for the Project, which is based on the Project Requirements described in paragraph (a) above. The Construction Budget for the Project is $XXX,XXX,XXX as more fully set forth in the Part II Project Description. Note that the Construction Budget has been established using current year dollars (Month, Year) and that Princeton University will account for all escalation in its overall Project budget (and not in the Construction Budget). An increase in the Construction Budget by Princeton University due to escalation shall not be a reason for an increase in the Architect/Engineer’s Fixed Fee, nor in the Specialized Subconsultant NTE Amount nor the Reimbursable Expenses NTE Amount.

(d) **Review and Approval of Documents; Responsiveness.** The Princeton University Representative shall examine the documents submitted by the Architect/Engineer and shall render decisions that pertain thereto in writing to avoid unreasonable delay in the progress to the Architect/Engineer’s Basic Services. No inspection or review or other action or inaction by Princeton University shall relieve Architect/Engineer of its obligations to perform the Basic Services so that the Basic Services, when complete, satisfies all the requirements of the Contract Documents, or relieve Architect/Engineer from any liability or responsibility for injuries to persons or damage to property, nor shall it be deemed an approval or waiver by Princeton University of any deviation from, or of the Architect/Engineer’s failure to comply with, any provision or requirement of the Contract Documents unless such deviation or failure has been specifically identified by the Architect/Engineer in writing and approved by Princeton University in an Amendment or some other Modification to the Contract.

(e) **Existing Conditions Documents.** Upon request, Princeton University will provide access to and copies of all available drawings and other documents describing the physical characteristics of the site of the Project.
(f) **Site Surveys.** Princeton University will provide surveys of the site as mutually agreed upon with Architect/Engineer, and the Architect/Engineer is entitled to rely on the accuracy of such surveys subject to its Professional Standard.

(g) **Testing.** Princeton University will provide geo-technical, structural, mechanical, chemical, air and water pollution tests for hazardous materials and other laboratory and environmental tests, inspections, and reports required by law. The Architect/Engineer shall inform Princeton University of all surveys, investigations, inspections, or tests (collectively “Investigations”) which should be performed for the proper design and construction of the Project, but which are not within the scope of Architect/Engineer’s Basic Services under this Contract, and render advice as to when such Investigations should be performed to avoid any delay to the completion of the Project. The Architect/Engineer shall assist Princeton University in preparing all information and instructions needed to enable Princeton University to solicit proposals for any such Investigations and to engage appropriate subconsultants to perform such Investigations. The Architect/Engineer shall review the results of all Investigations as they apply to Architect/Engineer’s design of the Project and take them into account appropriately in designing the Project.

(h) **Hazardous Materials.** Princeton University will provide services relating to hazardous or toxic waste removal, including but not limited to, detection and abatement of all such hazards.

**ARTICLE VI – ARCHITECT/ENGINEER’S GENERAL RESPONSIBILITIES**

(a) **Project Administration Services.** The Architect/Engineer shall provide all project administration services necessary to facilitate the orderly progress of the Project, including attending Project meetings, communicating with others as appropriate, monitoring progress and issuing progress reports to Princeton University, supervising Architect/Engineer’s in-house personnel, directing Architect/Engineer’s Subconsultants and coordinating and managing information flow and decision-making.

(b) **Schedule for Architect/Engineer’s Services.**

1. **Milestone Design Schedule.** By executing this Contract, the Architect/Engineer represents to Princeton University that the Milestone Design Schedule as set forth in Article XI herein is reasonable for the scope of Basic Services to be performed hereunder.

2. **Design Schedule.** During the Concept Design Phase, the Architect/Engineer shall prepare a comprehensive Design Schedule, based on the Milestone Design Schedule. The Design Schedule shall be presented in Princeton University’s required format and shall be prepared using computer software designated by Princeton University. The Design Schedule shall be provided to Princeton University electronically upon request. The Design Schedule shall include durations and logic for all design activities required to define a critical path via Critical Path Method (CPM) analysis. The Design Schedule shall be of adequate detail, shall include all milestones identified in the Milestone Design Schedule, and shall identify deadlines for information exchange and decision-making, major meetings, progress and end-of-phase document submissions, Princeton University review/approval periods, submission for approval of authorities having jurisdiction, and value engineering sessions or other major activities as are appropriate to the Project. The Architect/Engineer shall, by inclusion in the Architect/Engineer’s monthly Project status report (as required by Article VII(I)), inform Princeton University of the current condition of the Design Schedule, including status of design deadlines, remaining durations and key decision dates required to maintain the Project Schedule.

3. **Project Schedule.** The Contractor shall, during the phase of the Project in which the earlier of the preconstruction contract or construction contract is executed, assume responsibility
for developing and maintaining the Project Schedule. The Project Schedule shall coordinate, integrate and combine activities for all aspects of the Project, including the design, bidding, negotiation and construction phases, incorporating a detailed schedule of pre-construction activities, construction activities sequences and durations, allocations and scheduling of labor activities, purchase order placement and deliveries of materials and equipment, preparation and processing of shop drawings and submittals, and Architect/Engineer’s and Princeton University’s review time, and including a schedule for the Architect/Engineer’s Basic Services under this Contract. Such schedule shall be in format and detail satisfactory to Princeton University, and shall include a construction scheduling plan based upon the critical path method detailing the working days necessary for the critical path, noncritical path, and float time in the sequence of the Work and analysis and explanation thereof. If such Project Schedule will require Architect/Engineer to complete some or all of its Basic Services under this Contract within time intervals shorter than those illustrated in the Architect/Engineer’s Design Schedule, Contractor shall consult with Architect in analyzing alternatives for complying with such shorter time schedule. The Contractor’s modifications to the Project Schedule shall be subject to the review and acceptance of Princeton University, and upon approval by Princeton University, the Project Schedule shall be the binding schedule for Architect/Engineer's performance of its duties under this Contract. Until Contractor assumes responsibility for the Project Schedule, Architect/Engineer shall be fully responsible for the Design Schedule.

(c) Project Cost Control.

(1) **Duty to Design the Project within the Construction Budget.** Architect/Engineer shall design the Project so that the Construction Cost to construct the Project in accordance with the Construction Documents prepared by the Architect/Engineer and its Subconsultants does not exceed the Construction Budget. The Architect/Engineer acknowledges that the Construction Budget includes adequate provision for the construction of all elements of the Project to be designed by or specified by the Architect/Engineer and its Subconsultants as contemplated by the Project Description attached as Part II of the Contract.

(2) **Modification of Construction Budget.** The Architect/Engineer acknowledges that it is expected that the Construction Budget will not change throughout the duration of the Project, except to the extent that Princeton University makes changes to the Project Description for the Project on which the Construction Budget was based. If Princeton University proposes changes to the mutually agreed upon Project Description, the Architect/Engineer shall inform Princeton University of the cost implications to the Project. The Construction Budget may be modified only in a writing executed by Princeton University and may result in an adjustment to the Fixed Fee only by an appropriate Amendment to this Contract where there has been a change to the Project Description. However, if Princeton University, without change to the Project Description, increases the Construction Budget, whether because the Construction Budget is exceeded by the lowest bona fide bid(s) or negotiated proposal(s), or for any other reasons in Princeton University’s sole discretion, the Architect/Engineer’s Fixed Fee shall remain unchanged even if such increase in the Construction Budget is attributable to the Contractor’s estimating errors, lack of reasonable efforts by the Contractor to maximize Subcontractor competition, or any other reasons not within the control of the Architect/Engineer.

(3) **Creation and Submission of Statements of Construction Cost, Review of Statements of Construction Cost and Redesign to Stay Within Construction Budget.**

(i) **Creation and Submission of Periodic Statements of Construction Cost.** Princeton University will require the Contractor to prepare and update detailed Statements
of Construction Cost based on the Design Documents prepared by Architect/Engineer. In addition, if included in the Architect/Engineer’s scope of Basic Services [see Article VII(b)(1)], the Architect/Engineer shall retain a cost estimating Subconsultant to independently prepare and periodically update Architect/Engineer’s own separate Statements of Construction Cost in a format compatible with that of the Contractor as provided herein below, which shall be prepared and submitted within ten (10) days after the Architect/Engineer’s completion of the Design Documents for each phase (or within such other reasonable period of time as agreed to by the Contractor, the Architect/Engineer and Princeton University) and otherwise in accordance with the schedule set forth in Article XI, Time of Performance. The Contractor, and the Architect/Engineer (through its cost estimating Subconsultant), if Architect/Engineer is required to provide Statements of Construction Cost, shall monitor the development of the Design Documents by the Architect/Engineer and shall monitor the costs of materials, building systems, equipment and labor and shall develop detailed cost data from which their respective Statements of Construction Cost can be prepared. The Contractor shall also inform Princeton University and the Architect/Engineer of any component of the cost of which would reasonably be expected to have a material impact on the Construction Cost of the Project. If Architect/Engineer is required to provide Statements of Construction Cost, each statement shall specifically identify any included escalation factors (and the corresponding rationale) and shall be in a CSI trade format, UniFormat, or other suitable format agreed upon by Princeton University, to allow comparison with the Contractor’s Statements of Construction Cost.

(ii) Review of Statements of Construction Cost and Redesign to Stay Within Construction Budget. At the end of each design Phase of the Project, and after submission of each Statement of Construction Cost, Princeton University, the Architect/Engineer and the Contractor shall meet to review and discuss the scope of Work and the corresponding Statement(s) of Construction Cost, and where the Architect/Engineer’s Basic Services require it to provide Statement(s) of Construction Cost, to reconcile any differences between the Contractor’s and Architect/Engineer’s respective Statements of Construction Cost. In the event that the Contractor’s Statement of Construction Cost (or the reconciled Statement of Construction Cost where the Architect/Engineer has produced (through its cost Subconsultant) its own Statement of Construction Cost), is greater than the Construction Budget, the Architect/Engineer shall, if requested by Princeton University in its sole discretion, redesign the Project and, after consultation with Princeton University and the Contractor, revise the Design Documents on the basis of which such Statement of Construction Cost was prepared, until Contractor (and the Architect/Engineer (through its cost Subconsultant), where Architect/Engineer has produced its own Statement of Construction Cost) is able to issue a revised Statement of Construction Cost that does not exceed the Construction Budget. Regardless of whether Architect/Engineer (through its cost Subconsultant) has provided its own Statement of Construction Cost, all services with respect to the revision of Design Documents because any Statement of Construction Cost was greater than the Construction Budget shall be provided by Architect/Engineer as part of Basic
Services at no additional cost to Princeton University and with no change to the NTE Price and/or any of its components, and Princeton University may also hold the Architect/Engineer responsible for reimbursing Princeton University for all of the Contractor’s re-estimating and other associated costs unless the Contractor’s Statement of Construction Cost (or the reconciled Statement of Construction Cost where the Architect/Engineer (through its cost Subconsultant) has produced its own Statement of Construction Cost) is greater than the Construction Budget due solely to Contractor’s estimating errors, lack of reasonable efforts to maximize Subcontractor competition, or other reasons solely within the control of the Contractor, in which event the Architect/Engineer shall not be responsible for reimbursing Princeton University for the Contractor’s re-estimating and other associated costs, and, further in such event, any redesign services performed by the Architect/Engineer shall be considered an Additional Service pursuant and subject to Article VIII. To the extent that Architect/Engineer is responsible for reimbursing Princeton University for the Contractor’s re-estimating and other associated costs as provided herein, Princeton University may, but is not obligated to, withhold such funds to reimburse itself from amounts otherwise payable to Architect/Engineer under this Contract.

(4) **Taxes.** Princeton University is a non-profit educational institution exempt from paying certain federal, state and local taxes, including New Jersey sales taxes under Exemption No. EO-210-634-501 and New Jersey excise taxes under Exemption No. A-110839. Princeton University interprets the applicable state statute, N.J.S.A. 54:32B-8.22 as applying this exemption to all purchases by contractors, subcontractors and repairmen of materials, supplies or services for the exclusive use in erecting structures or building on, or otherwise improving, altering or repairing its real property. In preparing Statements of Construction Cost, Architect/Engineer shall not include sales taxes or excise taxes on those elements of Construction Cost that are not subject to New Jersey sales or excise tax.

(d) **Engagement of Basic Subconsultants and Specialized Subconsultants.** The Architect/Engineer agrees to engage all Basic Subconsultants and Specialized Subconsultants as are required for the proper design of the full Project and observation and other administrative and design services during both the design and construction phases of the Project as needed for the timely, coordinated and full completion of the Project. All such agreements shall be in writing and in compliance with all applicable requirements of the Building Design Services Act, N.J.S.A. 45:4B-1 et seq.

(1) **Architect/Engineer's Responsibility Regarding Subconsultants.** Architect/Engineer represents that, subject to its Professional Standard: (i) Architect/Engineer has made thorough investigations of all Subconsultants to assure that each Subconsultant possesses the skill, knowledge and experience qualifying it to perform those aspects of the Contract to be performed by it at a standard for design of projects of comparable complexity and pursuant to the Professional Standard; and (ii) each Subconsultant can perform without delay the required services in its areas of expertise at a cost which is reasonable and is within the allowances for such cost which have been taken into account by Architect/Engineer in agreeing to the compensation provided for in this Contract.

(2) **Supplier Diversity Subcontracting Requirements.** This subparagraph [ ] is [ ] is not applicable to this Contract.

(i) Princeton University has established an overall goal of 15% diverse spend across all categories of design and construction services. In support of this goal, the
Architect/Engineer shall maximize opportunities for participation by diverse suppliers to ensure that minority-owned business enterprises (MBE’s), woman-owned business enterprises (WBE’s), veteran-owned business enterprises (VBE’s) and LGBT-owned business enterprises (LGBTBE’s) have an equitable opportunity to compete for subcontracts.

(ii) A supplier diversity subcontracting plan (SDSP) is included in and made a part of this Contract.

(iii) Unless otherwise indicated, the SDSP includes:

- A statement of the total dollars planned to be subcontracted and a statement of the total dollars planned to be subcontracted to MBE’s, WBE’s, VBE’s and LGBTBE’s;
- A description of the principal types of supplies or services to be subcontracted and an identification of types planned for subcontracting to MBE’s, WBE’s, VBE’s and LGBTBE’s;
- A description of the method used to develop the subcontracting planned dollar amounts;
- A description of the method used to identify potential sources for solicitation purposes;
- The name of the individual who will administer the subcontracting program, and a description of the duties of the individual;
- A description of efforts to be taken to ensure that MBE’s, WBE’s, VBE’s and LGBTBE’s have an equitable opportunity to compete for subcontracts;
- Assurances that the offeror will include language substantially the same as this language in all subcontracts in excess of $500,000 that offer further subcontracting opportunities;
- Assurances that the information set forth in subparagraph (iv) below will be submitted in the required intervals so that Princeton University can determine the extent of compliance with the SDSP; and,
- A description of the types of records that will be maintained concerning procedures adopted to comply with the requirements and planned dollar and percentage amounts in the SDSP, including establishing source lists; and a description of the efforts to locate MBE’s, WBE’s, VBE’s and LGBTBE’s and to award subcontracts to them.

(iv) Reporting Requirements. Prior to final payment, a report including the information listed below shall be submitted to Princeton University’s Administrative Representative. An interim report shall be submitted either semi-annually to cover the Contract period through June 15 and/or December 15 each year, or, at Princeton University’s discretion, quarterly to cover the Contract period through March 15, June 15, September 15 and/or December 15 each year in addition to the final report required prior to final payment. Interim reports are due within ten (10) days after the close of each reporting period.
A summary of the bidding process to include total number of bidders solicited, total number of bidders in each supplier diversity category, total number of categories of supplies/services covered, and total number of diverse suppliers selected;

Total subcontract dollars planned, total subcontract dollars actually spent, and percentage of total subcontract dollars actually spent (vs. planned) for the reporting period, or the final figures if a final report;

For each supplier diversity category included in the SDSP, total subcontract dollars planned, total subcontract dollars actually spent, and percentage of total subcontract dollars actually spent (vs. planned) for the reporting period, or the final figures if a final report;

A summary of the primary reasons or rationale for any significant deviations from the planned dollar amounts set forth in the SDSP.

Failure to fulfill the obligations under subparagraphs (iii) and (iv) above shall be just cause for Princeton University to withhold payment, including final payment, until compliance is demonstrated to the satisfaction of Princeton University.

(3) Princeton University Approval of Subconsultants. All Subconsultants proposed by the Architect/Engineer shall be subject to the review and approval of Princeton University in advance, which approval shall not be unreasonably withheld and is subject to the qualification in the last sentence of this subparagraph (3). Subject to the last sentence of this this subparagraph (3), Princeton University hereby approves Architect/Engineer’s use of the Subconsultants selected by Architect, in the indicated areas of work, as specifically listed in Article IV(b) and IV(c) of the Agreement. The Architect/Engineer acknowledges and agrees and represents to Princeton University as a material inducement for Princeton University to enter into this Contract, and upon such representation Princeton University has so relied, that except with respect to the areas so indicated in the Agreement in Article IV(b), no other Basic Subconsultants are required for the Project. If a Subconsultant is indicated in Article IV(b) and/or IV(c) of the Agreement as being required for the Project, but the name of the Subconsultant is not specifically identified, the Architect/Engineer shall submit the recommended Subconsultant to Princeton University for review and approval before any services are performed by such Subconsultant. Nothing in this section shall relieve Architect/Engineer of Architect/Engineer’s sole and prime responsibility for the performance of the Contract, including all performance by Subconsultants. Any approval by Princeton University of any Subconsultant: (i) is subject to all of Architect/Engineer’s obligations and representations in this Contract in all regards, including, without limitation, those in subparagraph (1) above; (ii) shall not act as any kind of approval of the Subconsultant’s agreement/contract with Architect/Engineer; (iii) shall not prejudice Princeton University in any regard; and (iv) shall not act as any waiver by Princeton University of any of Architect/Engineer’s obligations or any of Princeton University’s rights, remedies, claims or defenses under this Contract.

(4) Subconsultant Agreements/Contracts. Architect/Engineer shall, upon request, provide to Princeton University complete and correct copies of Architect/Engineer’s contract with each Subconsultant, including amendments thereto, for Princeton University’s information and records but not for approval. Princeton University’s receipt of or failure to request copies of any Subconsultant contract shall not prejudice Princeton University in any regard. In any instance where Princeton University may request and/or receive any Subconsultant contracts, Princeton
University makes no representation that it is reviewing the substance of any contract or approving the contract in any way whatsoever. To the extent that Princeton University may comment on the substance of any Subconsultant contract in writing or otherwise, such comment shall be without limitation to and/or without waiver of any of Architect/Engineer’s obligations under this Contract unless and only to the extent that such waiver or limitation is expressly set forth in writing signed by an authorized Princeton University Representative. Architect/Engineer shall enter into written contracts with each Subconsultant pursuant to which the Subconsultant assumes toward the Architect/Engineer all of the obligations that the Architect/Engineer assumes toward Princeton University under the Contract. Without limitation to all other requirements in the Contract relating to Subconsultants and Subconsultant contracts, each of Architect/Engineer’s Subconsultant contracts shall include the following provisions:

(i) An agreement by the Architect/Engineer and Subconsultant that Princeton University is an express intended third-party beneficiary of the agreement, entitled to enforce any rights thereunder for its benefit, and that Princeton University shall have the same rights and remedies vis-à-vis such Subconsultants that the Architect/Engineer may have, including, but not limited to, the right to be compensated for any loss, expense or damage of any nature whatsoever incurred by Princeton University, resulting from any breach of such agreements by the Subconsultant, any breach of representations arising out of such agreements and any negligent error or omission of such Subconsultant in the performance of any of its professional services obligations under such agreements; and

(ii) A provision requiring the Subconsultant to maintain Professional Liability Insurance in amounts required by Article XII hereof or in such other amounts reasonably available and approved in writing by Princeton University throughout the term of this Contract, and additionally obligating the Subconsultant to provide a certified, full and correct copy of its professional liability insurance policy or policies within three (3) days following demand by Princeton University therefore; and

(iii) A provision that Princeton University may at any time and without notice to the Architect/Engineer, contact (either verbally or in writing) the Subconsultant to discuss any aspect of the Subconsultant’s services; provided that if such contact is in writing, Princeton University shall furnish to the Architect/Engineer a copy of such correspondence, and further provided that Princeton University shall not direct the services of the Subconsultant; and

(iv) A provision that upon the filing of a petition under the Federal Bankruptcy Code by the Architect/Engineer, Princeton University shall have the right to enter into an agreement with the Subconsultant at the same price as is in the Subconsultant’s agreement with the Architect/Engineer, with the Subconsultant being obligated to perform the same duties it otherwise would have performed under this Contract with the Architect/Engineer; and

(v) A provision which includes the requirements of Article XVII of this Agreement (Dispute Resolution); and

(vi) A provision which includes the requirements of Article XII(k)(1)-(3) of this Agreement (Indemnification); and
(vii) A provision which includes the requirements of Article XIII of this Agreement (Ownership & Use of Documents); and

(viii) A provision that upon any suspension or termination of any Subconsultant for any reason, Subconsultant shall promptly deliver to Princeton University upon written notice all records, Design Documents, documents, working papers, calculations, computer programs, data, Drawings, plans, Specifications and all other work product, and all equipment, materials, items or objects acquired or created or produced by the Subconsultant under its Subconsultant contract or with regard to this Contract or the Project to the time of suspension or termination.

(5) **Substitution of Subconsultants.** No substitution of Subconsultants from those listed in the Agreement, no alteration of the category of services for particular Subconsultants identified in the Agreement, and no use of additional Subconsultants shall be made without prior written approval of Princeton University, which shall not be unreasonably withheld. Requests for approval must include a clear description of the services to be performed and the capability of the proposed Subconsultant. Notwithstanding anything in this subparagraph (5) to the contrary, any alteration of the area of services for a particular Basic Subconsultant identified in the Agreement and/or any use of additional Basic Subconsultants from those identified in the Agreement shall not result in an increase in the Fixed Fee unless as part of an appropriately authorized Amendment to the Contract for Additional Services pursuant and subject to all other applicable provisions of this Contract.

(6) **No Limitation of Liability for Subconsultants.** The Architect/Engineer shall not extend any limitation of liability to any Subconsultants without the prior, express, written permission of Princeton University in its sole discretion, and with the express understanding that Architect/Engineer has entered into this Contract without any expectation whatsoever that Princeton University may consider any such limitation of liability.

(7) **Termination or Suspension of Subconsultant Agreements.** Princeton University reserves the right to require Architect/Engineer to suspend and/or terminate contracts or agreements with any Subconsultants retained by Architect/Engineer for performance of Basic Services under this Contract. Any compensation for which Princeton University may be liable as a result of such termination shall be limited to amounts as described in Articles XV and XVI hereof. In the event of any suspension or termination of any Subconsultant contracts or agreements by Architect/Engineer, whether or not required by Princeton University, Architect/Engineer will ensure prompt delivery of all records, documents, working papers, calculations, computer programs, data, Drawings, plans, Specifications and all other work product, and all equipment, materials, items or objects acquired or created or produced by the Subconsultant pertaining to any Basic Services or Additional Services performed by the Subconsultant relating to this Contract and/or the Project through the time of suspension or termination.

(e) **Coordinated Services.** The Architect/Engineer acknowledges that it is essential that all Basic Services in connection with the Project be coordinated, including services provided by Princeton University. The Architect/Engineer shall coordinate the Basic Services of all its architects, engineers, Basic Subconsultants and Specialized Subconsultants for the Project, shall review and check all Drawings and Specifications prepared by architects, engineers, Basic Subconsultants and Specialized Subconsultants for the Project, and shall make modifications as necessary, to assure that they are integrated into a
coordinated and complete set of documents prior to each submission. In addition, the Architect/Engineer shall coordinate its Basic Services with services provided by Princeton University and Princeton University’s consultants and/or in-house personnel.

(f) Princeton University-Furnished Information. The Architect/Engineer shall identify and notify Princeton University in writing of all information or documents required to be provided by Princeton University for the Project, and, if necessary, shall gather available documents from Princeton University’s identified record storage location. The Architect/Engineer shall assemble, review, and coordinate data furnished by Princeton University, to include Princeton University’s construction contract agreements.

(g) Design Criteria, Laws, Codes, Regulations, Governmental Applications, and Approvals.

(1) The Architect/Engineer shall identify and research all federal, state, county, local and Princeton University design criteria, statutes, laws, codes, regulations, ordinances, building and safety codes, lawful orders of public and quasi-public authorities and agencies and governments or governmental agencies or other authorities with jurisdiction over the design or Work of the Project, and standards applicable to the Project, and shall, consistent with its Professional Standard, design the Project to be in compliance therewith. The Architect/Engineer and its Subconsultants shall be sufficiently knowledgeable in such design requirements to provide compliant design and obtain approvals without unnecessary delay or undue burden to Princeton University. If Princeton University determines that the Architect/Engineer lacks such sufficient knowledge, Princeton University reserves the right to require the Architect/Engineer and/or its Subconsultants to retain a code Subconsultant at no increase to the NTE Price or any of its components.

(2) If appropriate, and with Princeton University’s approval, at times appropriate to the Project phase, the Architect/Engineer and/or its Subconsultants shall review the Project with authorities having jurisdiction and shall prepare necessary written and graphic explanatory materials, and appear on Princeton University’s behalf at agency meetings. The Architect/Engineer shall assist Princeton University in any coordination and review of the Project with any authorities having jurisdiction. All such visits shall be made with a representative from Princeton University. If required for the Project and authorized in writing by Princeton University, the Architect/Engineer shall prepare applications, waivers, and/or other documents required to complete the design and document review processes. Architect/Engineer shall, throughout all phases of the Project as necessary, assist Princeton University in connection with Princeton University’s responsibility for filing any documents required for the approval of governmental authorities having jurisdiction over the Project. Without limitation to the generality of the preceding, when required by the Project Schedule, Architect/Engineer shall submit to these authorities “early design” packages, which normally include completed designs for structure and underground utilities. Architect/Engineer shall also revise Design Documents and other documents as necessary to obtain approvals from any authorities having jurisdiction over the Work or the Project.

(i) Without limitation to the generality of this paragraph (g) and its sub-parts, the Architect/Engineer shall assist Princeton University in fulfilling the requirements of a major or minor site plan application, including preparation of documents in support of an application prepared by others, attendance and testimony at public hearings, and response to issues raised by any governmental authority in such process.
(h) **Accessibility.** One of the goals of every Princeton University project is to enhance and improve the accessibility of the campus and its buildings, and to create accessible routes to and through Princeton University facilities, accomplished without assistance or special knowledge. Without altering or in any way limiting the obligations described in paragraph (g) above, Princeton University provides the following information. Princeton University is regulated by both the Rehabilitation Act (also known as Section 504) and the Americans with Disabilities Act (“ADA”) as a “place of public accommodation.” Although therefore both the Uniform Federal Accessibility Standards (“UFAS”) and the ADA Accessibility Guidelines (“ADAAG”) are potentially applicable, Princeton University chooses to comply with applicable ADAAG standards, as well as the New Jersey Barrier-Free Subcode. Refer to Section 2.1, Accessibility, of the Design Standards for further information.

(i) **Value Engineering.** Value engineering, as used in this Article, means an organized effort to analyze the functions of systems, equipment, facilities, services, and supplies for the purpose of achieving the essential functions at the lowest life cycle cost consistent with required performance, reliability, quality, and safety. The Architect/Engineer shall generate value engineering suggestions or proposals throughout the design of the Project, when the Statement of Construction Cost is greater than the Construction Budget, or when requested by Princeton University. The Architect/Engineer shall review and analyze value engineering suggestions or proposals submitted by any other party, including Princeton University and the Contractor. If the Architect/Engineer determines that the value engineering suggestion or proposal is suitable for incorporation into the design of the Project, the Architect/Engineer shall recommend the suggestion or proposal to Princeton University for approval. If approved by Princeton University in writing, the approved suggestion or proposal shall be incorporated into the Architect/Engineer’s Design Documents. The Architect/Engineer shall be responsible for the Design Documents regardless of the source of the value engineering suggestion or proposal. If the Architect/Engineer determines that the value engineering suggestion or proposal is not suitable for incorporation into the design of the Project, the Architect/Engineer shall provide a concise, but complete, explanation to Princeton University of the reasons for such determination.

(j) **Princeton University Design Standards.** The Architect/Engineer shall design the Project to comply with the Princeton University Facilities Design Standards Manual, Release 13.0 (August 2020) (the “Design Standards”). Notwithstanding the preceding, the Architect/Engineer is obligated to review the Design Standards subject to Architect/Engineer’s Professional Standard and if the Architect/Engineer judges any aspect of the Design Standards to be in conflict with a Project requirement or any of the statutes, laws, codes, rules, regulation and orders for which Architect/Engineer shall design the Project as provided in paragraph (g) above, or to be otherwise detrimental to the Project in any manner whatsoever, the Architect/Engineer shall so notify the Princeton University Representative in writing, and abide by written direction from the Princeton University Representative; provided, however, that if in its professional judgment, the Architect/Engineer believes that any such direction from the Princeton University Representative would violate any of the statutes, laws, codes, rules, regulation and orders for which Architect/Engineer shall design the Project as provided paragraph (g) above or its Professional Standard or sound design practice, or is likely to result in additional cost or delay, the Architect/Engineer shall so notify the Princeton University Representative in writing before proceeding. If the Architect/Engineer deviates from the Design Standards without specific written authorization from Princeton University to do so, Princeton University may instruct the Architect/Engineer to modify the Design Documents as necessary, without additional compensation and no adjustment of the NTE Price or any of its components, to comply with the Design Standards. In order for a design phase to be considered complete, the Architect/Engineer shall submit the required content as outlined in the “Guidelines and Requirements for Documentation” paragraph in each section of the Design Standards Manual by the scheduled completion date of the phase. In the event that any aspect of the Project is designed and constructed in a manner
which deviates from the Design Standards without specific written authorization from Princeton University, in addition to any other rights or remedies which may be available pursuant to the terms of this Contract or by operation of law, Princeton University specifically reserves the right to claim an error or omission on the part of the Architect/Engineer in that regard and seek indemnification and other relevant remedies therefore.

(k) **Design Documents.** The Architect/Engineer shall submit Design Documents to Princeton University for purposes of evaluation and approval by Princeton University. Subject to the provisions contained in the next sentence hereof, the Architect/Engineer shall be entitled to rely on approvals received from Princeton University in the further development of the design. Princeton University’s approval of the Architect/Engineer’s Design Documents contemplated herein and in other portions of this Contract shall not be for the purpose of determining the accuracy, adequacy, or completeness of such documents, and shall not alter or in any way limit the Architect/Engineer’s responsibilities with respect to such documents.

(l) **Meetings and Reports.**

(1) **Meetings.** The Architect/Engineer shall schedule all meetings with Princeton University through the Princeton University’s Project Manager. The Architect/Engineer shall prepare an agenda for and minutes of all meetings attended by the Architect/Engineer, except for construction meetings for which the Contractor is assigned to keep the minutes, noting in sufficient detail: topics discussed; information presented and reviewed; decisions made; comments and observations; and “ACTION” items, which shall specifically identify individual responsible, tasks to be undertaken and the date anticipated for completion. The Architect/Engineer shall distribute the minutes within one week of the documented meeting.

(2) **Reports.** On a monthly basis, the Architect/Engineer shall submit a Project status report in a format acceptable to Princeton University and which includes the following topics as a minimum: executive summary, schedule/progress, major risks/challenges, staffing, contract, other.

(m) **Capital Project Management System (CPMS).**

(1) **System Overview.** Princeton University requires all Contractors and Architect/Engineers to participate in a web-based project management application. The application is hosted on Princeton University servers which are maintained by Princeton University staff. The web application is customized by Princeton University and provides for a unique web page for each project. It is the intent for all documentation, correspondence, construction information and workflows that would normally be exchanged between members of the Project team to be maintained in an electronic format and posted on the Project web site.

(2) **Minimum System Requirements.** The following summarizes the minimum system requirements for all Contractors and Architect/Engineers to possess in order to participate. It is the responsibility of all Contractors and Architect/Engineers to possess these minimum requirements at no additional cost to Princeton University.

(i) **Hardware/Software Requirements:**

- Any computer capable of running an operating system and web browser
- Microsoft Windows 7 SP1, 8.x 8.x/RT or later; Apple OSX-9 or later; and most versions of Linux, Android and IOS
- Broadband Internet and/or wireless connection
(ii)  The downloadable tools are available at no cost from Princeton University’s server. Self-service IT support may be required. Architect/Engineer should not assume there to be software integrations between CPMS and outside services.

(iii)  Training sessions will be provided on campus by Princeton University at no cost. Users should allow approximately 3 hours of training per person.

(3)  **Responsible Users/Project Team Members.** All users who are responsible for, or wish to retain individual ownership rights to, Project specific documentation, correspondence, Drawings or other information will be considered an individual entity on the Project team, and will be required to attend training.

(4)  **Roles and Responsibilities.** The following demonstrates the required level of involvement and contribution to the CPMS process:

(i)  **All Team Members.** All documentation required by the Contract, except for specific types defined by Princeton University representative(s), must be posted electronically to the CPMS. The CPMS requires compliance with document management protocols which govern, for example, file naming, versioning control, format type and maintaining links to associated files. Daily activities in the CPMS will include working with the following:

- **Document Libraries.** Posting an electronic copy of all documentation to the appropriate library, selecting suitable document attributes from the predefined list, managing personal alerts and initiating internal CPMS e-mail notifications to audience members. Other than .DWG drawing files, the preferred document format is Adobe.PDF, with pages individually named, bundled into sections and bookmarked. Other document management protocols set limits for individual file sizes, requiring that large document “volumes” be broken into logical parts.

- **Activities/Workflows.** Initiating and responding to workflows as your team role requires (i.e., Initiating submittals, electronically marking-up reviewed submittals, responding to technical reviews, creating RFIs, maintaining subcontractor information logs and compiling linked records for O&M submission).

(ii)  **Contractor.** The Contractor will represent all subcontractors when engaging in the CPMS. The Contractor may, at their discretion, employ their own Project management platform as a complement to, but not in lieu of, the CPMS. The CPMS includes two unique features dedicated to the collection of operations and maintenance documentation (also known as turnover documents). These features are:

- **Document Archive Library.** A location for as-built drawings, as-built schedules of many types as well as other documents that provide as-built information for maintainable assets and systems. The Contractor is required to collect the as-built drawings from the subcontractors and create new as-built schedules from submittal data.

- **Building Elements List (BEL).** A database of all maintainable elements/systems. The Contractor, with Princeton University guidance,
will develop this Project specific list utilizing built in CPMS features to link BEL elements to related submittals and other documents.

(iii) Architect/Engineers. During the course of the Project, the Architect/Engineer shall post all Contract Documents to the CPMS site. Princeton University requires adherence to CAD standards and specific formats for certain drawing elements (i.e., equipment, finish and door schedules). Design reviews will be tracked in the CPMS and the Architect/Engineer shall respond to and acknowledge comments as they occur. With the exception of physical samples, the Architect/Engineer shall post an electronic version of all submittals. At Project completion, the Architect/Engineer shall post a final set of drawings in DWG format that are compliant with Article XIV, Archive Drawings and Specifications as a duplicate set of .PDF files organized in the aforementioned format, page named, bundled and bookmarked. BIM files, when applicable, will be posted on Princeton University’s BIM360Glue platform.

(n) **No Conflict of Interest.** Except with Princeton University’s knowledge and consent, the Architect/Engineer shall not engage in any activity, or accept any employment, interest, or contribution that would reasonably appear to compromise the Architect/Engineer’s professional judgment with respect to this Project.

(o) **Confidential Information.** The Architect/Engineer shall maintain the confidentiality of information designated as confidential by Princeton University, as well as any data and information that the Architect/Engineer may derive from such confidential information, in strict confidence, and no less rigorously than it protects its own confidential data and information of a similar nature, and shall not disclose any such information to others, including its employees, except: (i) to the extent necessary to enable Architect/Engineer to carry out its Work or to effectuate any term or provision of the Contract, including without limitation any mediation or litigation to enforce this Contract; (ii) disclosures to Architect/Engineer’s accountants, attorneys, financial advisors; and (iii) disclosures required by law, including without limitation in response to lawful process or subpoena or other valid or enforceable order of a court of competent jurisdiction or any filings with governmental authorities, except that the Architect/Engineer shall provide notice to Princeton University sufficiently in advance (but in no event less than five (5) business days) of the requested disclosure in order to permit Princeton University to seek a protective order, to the fullest extent such notice is lawful. This confidentiality obligation shall apply to confidential information provided by Princeton University prior to the execution of this Contract. Confidential information, including the copyright and all other intellectual property rights of the confidential information, provided by Princeton University is owned by Princeton University, and nothing in this Contract conveys any ownership rights to the Architect/Engineer. Architect/Engineer shall similarly obligate any and all persons and/or entities to whom such information is necessarily disclosed hereunder, including without limitation its Subconsultants, to maintain said information in strict confidence in conformance with the terms of this paragraph. Architect/Engineer agrees to be liable for any breach of this confidentiality obligation by any of its Subconsultants or their respective employees or representatives. Architect/Engineer also agrees that, in the event of any breach of this confidentiality obligation, Princeton University shall be entitled to equitable relief, including injunctive relief and specific performance, in addition to all other rights and remedies otherwise available. The rights and obligations of the parties under this paragraph shall survive any termination of the Contract. At Princeton University’s request, Architect/Engineer and any of its Subconsultants and their employees or agents shall execute Princeton University’s standard form of nondisclosure agreement.
(p) **Building Access.** The Architect/Engineer shall be responsible for the sign out, distribution, safe use and return of all building keys and/or access cards, and shall be responsible for all costs associated with failure to return these items (e.g., the cost to re-key/re-implement the system).

(q) **Notice of Defects.** Notice shall be given by the Architect/Engineer to Princeton University if Architect/Engineer becomes aware of any fault or defect in the Project or nonconformance with the Construction Documents.

**ARTICLE VII – ARCHITECT/ENGINEER’S BASIC SERVICES**

(a) Basic Services of the Architect/Engineer shall include the services of all professional and technical disciplines needed to perform the services described in Article VI, this Article VII and elsewhere in the Agreement and other Contract Documents. These Basic Services shall be performed: (i) according to the professional skill and care ordinarily employed by competent architects and engineers on higher education institutional projects of the same or similar size, complexity and duration located in and about the Mid-Atlantic and Northeast United States (the “Professional Standard”); (ii) in compliance with all applicable federal, state, county and municipal laws, regulations, codes, ordinances and orders, including without limitation, building codes, fire codes, handicapped access laws, and other similar laws, regulations, codes ordinances and orders, whether issued by the United States of America, the State of New Jersey, the County of Mercer, Princeton, or any other authority having jurisdiction over the Project; (iii) in accordance with the Design Standards as provided in this Agreement; and (iv) diligently and in the best interests of Princeton University.

(b) **General Project Services.** The Architect/Engineer shall provide the following Basic Services throughout all phases of the Project.

   (1) Cost estimating services to provide periodic Statements of Construction Cost [ ] are [ ] are not included in the scope of Basic Services under this Contract.

   (2) Building Commissioning Services shall be provided in accordance with Section 2.3 of the Design Standards. The Choose an item. will be utilized and is included in the scope of Basic Services under this Contract. When Princeton University elects to use the third-party commissioning model, the Architect/Engineer shall coordinate its Basic Services with this consultant pursuant to Article VI(e).

   (3) Building Information Modeling (BIM) services (refer to Section 1.5 of the Design Standards) [ ] are [ ] are not included in the scope of Basic Services under this Contract. If BIM Services are required as part of this Contract, Architect/Engineer shall be required to utilize BIM technology in coordination with the Project team in compliance with Section 1.5 of the Design Standards and its appendices, each of which shall be deemed incorporated herein by reference and made a part hereof and form part of the Contract Documents as if enumerated in Article I(a). It is understood that certain of the aforementioned appendices may be forms or templates and shall serve in that capacity. If BIM Services are required as part of this Contract, the Project’s BIM Execution Plan, when complete and approved by Princeton University in its discretion, shall likewise be deemed incorporated herein and made a part hereof and form part of the Contract Documents as if enumerated in Article I(a). The aforementioned Design Standards may be updated bi-annually, although more current individual sections or supplements may be provided on an as-needed basis.

   (4) Third-party Sustainability Certification Services. As described in Section 2.1 of the Design Standards, **Princeton University** Choose an item. Whether benchmarking or seeking formal certification, and as part of Basic Services under this Contract, the Architect/Engineer shall
coordinate the effort to produce and provide backup documentation to Princeton University for any/all credits relating to the benchmarking or certification process. Princeton University will provide oversight of the process including review of all documentation produced and submission of the certification application.

(5) Comprehensive Archive Drawings and Specifications services as provided in Article XIV (b) [ ] are [ ] are not included within the scope of Basic Services under this Contract.


(7) Fire Alarm System Design Services. The Architect/Engineer shall comply with the procedural guidelines set forth in Section 3.6, paragraph 3, of the Design Standards.

(8) Structural System Design Services. The Architect/Engineer shall provide a fully-engineered structural system (steel, wood, etc.).

(9) Interior Design Services [ ] are [ ] are not included within the scope of Basic Services under this Contract. If Interior Design Services are included, the Architect/Engineer shall comply with the attached Interior Design Scope of Work.

(10) Integrative Design Process (IDP) services [ ] are [ ] are not included within the scope of Basic Services under this Contract. If IDP services are required, the Architect/Engineer shall comply with Section 1.1 of the Design Standards.

(c) Schematic Design Services. The Architect/Engineer shall provide the following schematic design phase Basic Services:

(1) Commencement and Completion. The Schematic Design Phase shall commence upon written directive from Princeton University and shall be considered complete for purposes of final payment for the schematic design phase upon approval by Princeton University.

(2) Contractor Selection – GMP and Cost Plus Fixed Fee Projects. At Princeton University’s option, Architect/Engineer shall assist Princeton University in the procurement and selection of a construction management or construction firm to enter into a preconstruction contract with Princeton University for the Project, with the intent of said construction management or construction firm also ultimately entering into a construction contract for the Project. In such effort, Architect/Engineer, if requested, shall among other things, assist with creating an RFP, review proposals, attend meetings and site visits with prospective construction management or construction firms, and attend meetings with Princeton University.

(3) Verification of Existing Conditions. The Architect/Engineer shall verify existing configurations of space, field measurements of critical dimensions, types and conditions of architectural, mechanical, electrical and other systems, and existing sizes and capacities of systems and equipment, as required by and described in the Part II Project Description.

(4) Analysis of Alternatives. Consider alternative approaches to the design of the Project, with the aim of best meeting Princeton University’s stated objectives for the Project, including scope, cost, schedule, and design intent.

(5) Architectural Design. Based on the Project Description, the Construction Budget and other design criteria, prepare preliminary plans, preliminary sections and building elevations, preliminary selection of building systems and materials, summary of areas and volumes, and perspective sketches or study models where appropriate to convey three-dimensional aspects of
the design, including code review and analysis as necessary. This shall include any special design considerations requiring Specialized Subconsultants.

(6) **Structural Design.** Review with Princeton University alternate structural materials and systems. Develop conceptual design solutions for selected systems. Identify system characteristics and limitations, including practical span lengths and bay spacing, and typical sizes of structural members.

(7) **Mechanical Design.** Develop conceptual design solution for connection to existing services, heating and ventilating, air conditioning, energy conservation, plumbing, fire protection, special mechanical systems, and control systems. Prepare preliminary load assessments, and identify general space requirements. Review with Princeton University alternate materials, systems and equipment.

(8) **Electrical Design.** Develop conceptual design solutions for power service and distribution, lighting, telephones, fire detection and alarms, security systems, electronic communications, and special electrical systems. Identify general space requirements. Review with Princeton University alternate materials, systems and equipment.

(9) **Civil Design.** If required, develop conceptual design solutions for on-site utility systems, fire protection systems, drainage systems, grading paving, curb cuts, and off-site utility systems improvements required for the Project. Review with Princeton University alternate materials and systems.

(10) **Landscape Design.** Review with Princeton University alternate materials, systems and equipment. If required, develop conceptual design solutions for land forms, lawns and plantings based on program requirements, physical site characteristics, design objectives and environmental determinants.


(12) **Presentations.** Present Schematic Design Documents to Princeton University, and respond to questions. Documents shall be presented in a format acceptable to Princeton University.

(13) **Princeton University’s Comments.** Record, evaluate, and respond to Princeton University’s comments (including those generated by Princeton University’s consultants) based on the review of the Schematic Design Documents. Modify the Schematic Design Documents to correct deficiencies, and identify changes which will be incorporated into the design of the Project during the Design Development Phase. Identify any Princeton University-requested design changes, which require Additional Services.

(14) **Tests and Inspections.** The Architect/Engineer shall advise Princeton University on the need for any tests, analyses, studies, reports, or consultants in connection with the development of the Design Documents for the Project.

(15) **Statement of Construction Cost, Review of Statement of Construction Cost, and Redesign to Stay Within Construction Budget.** If required as part of Architect/Engineer’s Basic Services [see Article VII(b)(1)], Architect/Engineer shall submit to Princeton University a
Statement of Construction Cost in accordance with Article VI(c)(3)(i). In all instances, after submission by Contractor (and Architect/Engineer where required) of any Statement of Construction Cost for this phase, Architect/Engineer shall perform the services set forth in and otherwise comply with the requirements, terms and conditions of Article VI(c)(3)(ii).

(d) Design Development Phase Services. The Architect/Engineer shall provide the following design development phase Basic Services:

1. **Commencement and Completion.** The Design Development Phase shall commence upon written directive from Princeton University and shall be considered complete for purposes of final payment for the Design Development Phase upon approval by Princeton University.

2. **General.** Based on the approved Schematic Design Documents, incorporating Princeton University’s review comments and any adjustments authorized by Princeton University to the program, Project Schedule, or construction budget, further develop the design of the Project; resolve remaining design issues with Princeton University; research materials, systems, and equipment; prepare Design Development Documents (including outline Specifications), all subject to Princeton University’s approval; perform code review and analysis as necessary.

3. **Architectural Design.** Establish the final scope, relationships, forms, size and appearance of the Project through plans, sections and elevations; typical construction details; final materials selection; equipment layouts; and perspective sketches and study models where appropriate to convey three-dimensional design intent.

4. **Structural Design.** Based on the approved structural system, establish final structural design criteria, foundation design criteria, bay spacing and other dimensions, preliminary sizing of major structural components, critical coordination clearances, and outline specifications.

5. **Mechanical Design.** Perform HVAC load calculations, and plumbing fixture counts. Establish equipment sizes and capacities; equipment, distribution, and piping layouts; required space for equipment; required chases and clearances; acoustical and seismic controls; visual impacts; energy conservation measures, and develop control schematics.

6. **Electrical Design.** Establish the final scope of the lighting, electrical, and communication systems. Establish sizes and capacities of major components; equipment layouts; required space for equipment; required chases and clearances, and energy conservation measures.

7. **Civil Design.** Establish the final scope and preliminary details for on-site and off-site civil engineering work.

8. **Millwork Design.** Establish final scope and preliminary details relative to interior construction of the Project; special interior design features; built-in furniture; furnishings, and equipment selections; and materials, finishes and colors.

9. **Landscape Design.** Establish final scope and preliminary details for landscape construction, materials, plantings, fixtures, and furnishings.

10. **Specifications.** Prepare a design development Specification consisting of summary Specification sections organized according to the 2004 CSI Master Format (33 Divisions). Ensure that Division 1 is consistent with Princeton University’s standard General Terms and Conditions for Construction Contracts, and obtain Princeton University’s approval prior to including any requirement that is in conflict with said terms and conditions.
(11) **Presentations.** Present Design Development Documents to Princeton University, and respond to questions. Documents shall be presented in a format acceptable to Princeton University.

(12) **Princeton University’s Comments.** Record, evaluate, and respond to Princeton University’s comments (including those generated by Princeton University’s consultants) based on the reviews of the 100% Design Development Documents. Modify the Design Development Documents to correct deficiencies and incorporate Princeton University comments, and identify changes, which will be incorporated, into the design of the Project during the Construction Documents Phase. Identify any Princeton University-requested design revisions, which require Additional Services.

(13) **Statement of Construction Cost, Review of Statement of Construction Cost, and Redesign to Stay Within Construction Budget.** If required as part of Architect/Engineer’s Basic Services [see Article VII(b)(1)], Architect/Engineer shall submit to Princeton University a Statement of Construction Cost in accordance with Article VI(c)(3)(i). In all instances, after submission by Contractor (and Architect/Engineer where required) of any Statement of Construction Cost for this phase, Architect/Engineer shall perform the services set forth in and otherwise comply with the requirements, terms and conditions of Article VI(c)(3)(ii).

(e) **Construction Documents Phase Services.** The Architect/Engineer shall provide the following construction documents phase Basic Services:

(1) **Commencement and Completion.** The Construction Documents Phase shall commence upon written directive from Princeton University and shall be considered complete for purposes of final payment for the Phase upon approval by Princeton University.

(2) **General.** Based upon the approved Design Development Documents, incorporating Princeton University’s review comments and any further adjustments in the scope or quality of the Project, or in the construction budget authorized by Princeton University, prepare Construction Documents setting forth in detail all construction requirements for complete and fully coordinated construction of the Project, including code review and analysis as necessary. The Construction Documents shall, at a minimum, consist of Drawings and a Project Manual, and shall be subject to Princeton University’s approval.

(3) **Drawings.** Drawings shall document the scope of Work and details for the Project, and shall be coordinated both internally, with the Subconsultants, and with the Specifications. Construction Documents shall be in compliance with all applicable codes, ordinances, statutes, regulations and laws as provided in Article VII(a)(ii), except to the extent expressly and specifically stated in detail in writing by Architect/Engineer at the time of such submission. The Drawings shall be signed and sealed by a professional duly licensed under the laws of the State of New Jersey.

(4) **Project Manual.** The Project Manual shall include:

(i) General requirements as embodied in Princeton University’s standard General Terms and Conditions for Construction Contracts, as may be modified by the Architect/Engineer, subject to Princeton University’s approval, to reflect the specific conditions and requirements of the Project.

(ii) Technical Specifications prepared by the Architect/Engineer and the Architect/Engineer’s Subconsultants.
(5) **Presentations.** Present the Construction Documents to Princeton University, and respond to questions. Documents shall be presented in a format acceptable to Princeton University.

(6) **Princeton University’s Comments.** Record, evaluate, and respond to Princeton University’s comments (including those generated by Princeton University’s consultants) based on the review of 50% and 85% Construction Documents. Modify the Construction Documents to correct deficiencies and incorporate Princeton University comments. Identify any Princeton University-requested design revisions, which require Additional Services.

(7) **Statement of Construction Cost, Review of Statement of Construction Cost, and Redesign to Stay Within Construction Budget.** When Construction Documents are 50% complete, and if required as part of Architect/Engineer’s Basic Services [see Article VII(b)(1)], Architect/Engineer shall submit to Princeton University a Statement of Construction Cost in accordance with Article VI(c)(3)(i). In all instances, after submission by Contractor (and Architect/Engineer where required) of any Statement of Construction Cost for this phase, Architect/Engineer shall perform the services set forth in and otherwise comply with the requirements, terms and conditions of Article VI(c)(3)(ii).

(f) **Bidding or Negotiation Phase Services.** The Architect/Engineer shall provide the following bidding or negotiation phase Basic Services:

(1) **Commencement and Completion.** The Bidding or Negotiation Phase shall commence upon written directive from Princeton University and shall be considered complete for purposes of final payment for the bidding or negotiation phase upon approval by Princeton University.

(2) **Pre-Qualification of Contractors and Subcontractors.** As necessary or requested, advise and assist Princeton University in evaluating submissions by Contractors and Subcontractors seeking to be pre-qualified for the Work of the Project.

(3) **Solicitation Documents.** Princeton University is responsible for organizing and coordinating the solicitation documents.

(4) **Invitation to Bid.** As necessary or requested, assist Princeton University in establishing the list of bidders. Princeton University is responsible for issuing all solicitations.

(5) **Pre-Bid Conference and Walk Through.** As necessary or requested, participate in the pre-bid conference and walk-through. Provide assistance to Princeton University in responding to questions from bidders. All questions and responses shall be recorded and forwarded to Princeton University for distribution.

(6) **Addenda.** As necessary or requested, assist Princeton University in reviewing questions proposed by Bidders prior to receipt of Bids, and make recommendations. Prepare and submit to Princeton University for distribution to Bidders, addenda information as may be required during bidding. All addenda will be issued by Princeton University.

(7) **Evaluation of Bids.** If requested by Princeton University, participate in reviews of bids, and make recommendations on award of the Contractor’s contract for construction and Subcontract(s).

(8) **Substitutions.** The Architect/Engineer shall, during both the bidding or negotiation phase, if applicable, and the construction phase, review and respond to requests for substitution submitted by bidders or contractors. Architect/Engineer shall provide its response within three (3) business days unless otherwise agreed to by Princeton University.
(9) **Redesign.** If the lowest bona fide bid or negotiated proposal exceeds the Construction Budget, Princeton University shall, at its option --

(i) give written approval of an increase in the Construction Budget;

(ii) authorize rebidding or renegotiating of the Project within a reasonable amount of time;

(iii) terminate this Contract in accordance with Article XV; or

(iv) cooperate in revising the Project design to reduce the lowest bona fide bid or negotiated proposal.

If Princeton University requests that the Architect/Engineer redesign the Project to reduce the lowest bona fide bid(s) or negotiated proposal(s), the Architect/Engineer, as part of Basic Services, shall perform the services set forth in and otherwise comply with the requirements, terms and conditions of Article VI(c)(3)(ii), but with such provision read to require the redesign and revision of the Construction Documents to reduce the lowest bona fide bid(s) or negotiated proposal(s) to comply with the Construction Budget rather than any Statement of Construction Cost.

(g) **Construction Phase Services – Administration of the Construction Contract.** The Architect/Engineer shall provide the following Basic Services during the construction phase of the Project:

(1) **Commencement and Completion.** The Construction Phase shall commence upon written directive from Princeton University and shall be considered complete for purposes of final payment for the Phase upon final completion of the Project.

(2) **Administration.** The Architect/Engineer shall administer the construction contract between Princeton University and the Contractor, in accordance with the Construction Documents, and including the administration of any Early Work undertaken by Contractor.

(3) **Interpretation of Documents.** The Architect/Engineer shall respond to the Contractor’s requests for information (RFI) and issue sketches and supplemental instructions as required. Response time shall be agreed to between the Contractor and the Architect/Engineer, but shall not result in construction delays.

(4) **Changes in the Contractor’s Work (Change Orders) and Changes to Construction Documents.** As part of Basic Services, the Architect/Engineer shall review proposed changes to the construction contract (i.e., changes in the Work) with Princeton University and the Contractor, and provide Princeton University with an analysis detailing any impact upon the design, any effect on compliance with laws or industry standards, and any reasons, in Architect/Engineer’s professional opinion, that may exist for rejecting or modifying the proposed change in the Work. Architect/Engineer shall also review any of the Contractor’s resulting written change proposals to determine that each change proposal clearly documents the scope and nature of the proposed change in the Work and that the costs or cost savings the Contractor has identified appear complete and appropriate. Architect/Engineer shall make a written recommendation to Princeton University with respect to any such proposed change in the Work and, if Princeton University elects to proceed with it, Architect/Engineer shall modify the appropriate Construction Documents as necessary to effect the change in the Work and assist Princeton University in reviewing and finalizing all documentation for the Contractor’s change order. Architect/Engineer must ensure that all such changes in the Work (and related cost impacts) are clearly defined and documented in the Contractor’s final change order document, pursuant to procedures reasonably requested by Princeton University.
(5) **Site Visits.** The Architect/Engineer shall visit the site at intervals appropriate to the stage of construction, but not less than an average of 1 (one) day(s) per week, to review the progress and quality of the Work. The Architect/Engineer shall determine if the Work is being performed in a manner indicating that the Work will be in accordance with the Construction Documents when completed. The Architect/Engineer shall confirm that the Contractor is maintaining updated field record documents. The Architect/Engineer shall prepare a written summary of on-site observations and issues raised on each visit, keep Princeton University informed of the progress and quality of the Work, and shall endeavor to guard Princeton University against defects and deficiencies in the Work. However, the Architect/Engineer shall not be required to make exhaustive on-site inspections to check the quality or quantity of the Work. The Architect/Engineer shall immediately inform Princeton University in writing of any deviations from the Construction Documents, or any otherwise defective Work or improper procedures being carried out by the Contractor or its Subcontractors. The Architect/Engineer shall neither have control or charge of, nor be responsible for, the construction manner, means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, since these are solely the Contractor’s rights and responsibilities under the construction contract.

(6) **Access to the Work.** The Architect/Engineer shall at all times have access to the Work wherever it is in preparation or progress.

(7) **Project Progress Meetings.** The Architect/Engineer and the Architect/Engineer’s Subconsultants shall attend Project progress meetings at two-week intervals, unless an alternate schedule is established by agreement of Princeton University, Architect/Engineer and Contractor.

(8) **Contractor’s Application for Payment.** If requested by Princeton University, the Architect/Engineer shall, based on the Architect/Engineer’s observations and evaluations of the Contractor’s applications for payment, certify amounts due the Contractor and issue certificates of payment in such amount within seven (7) days of receipt of Contractor’s applications ("Certificate of Payment"), or, if otherwise requested, advise Princeton University within such time as to the amount it determines is due to Contractor for any such Contractor application for payment, without providing such Certificate of Payment. The Architect/Engineer’s Certificate of Payment or other representation to Princeton University regarding its determination of amounts due to Contractor shall constitute a representation to Princeton University, based on the Architect/Engineer’s observations at the site and on the Contractor’s application for payment, that to the best of the Architect/Engineer’s knowledge, information and belief the Work has progressed to the point indicated and that the quality of the Work is in accordance with the Contract Documents. The foregoing representations are subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to results of subsequent tests and inspections, to minor deviations from the Contract Documents correctable prior to completion and to specific qualifications expressed by the Architect/Engineer. The issuance of a Certificate of Payment or other action agreeing to a payment to Contractor shall further constitute a representation to Princeton University that Contractor is entitled to payment in the amount certified or so agreed upon. However, the issuance of a Certificate for Payment or other action of approval of payment shall not be a representation that the Architect/Engineer has (1) made exhaustive on-site inspections to check the quality or quantity of the Work, (2) reviewed construction means, methods, techniques, sequences or procedures, (3) reviewed copies of requisitions received from Subcontractors and material suppliers and other data requested by Princeton University to substantiate the Contractor’s right to payment, or (4) ascertained how or
for what purpose the Contractor has used money previously paid on account of the construction contract’s contract sum.

(9) Rejection of Work. The Architect/Engineer shall recommend that Princeton University reject Work that does not conform to the Construction Documents. Whenever the Architect/Engineer considers it necessary or advisable, to determine compliance with the intent of the Construction Documents, the Architect/Engineer shall recommend that Princeton University require additional inspection or testing of the Work, whether or not such Work is fabricated, installed or completed. However, such actions of the Architect/Engineer shall not give rise to a duty or responsibility of the Architect/Engineer to the Contractor, Subcontractors, material and equipment suppliers, their agents or employees or other persons performing portions of the Work.

(10) Submittals. The Architect/Engineer shall review and approve the Contractor’s submittals such as shop drawings, product data and samples. The Architect/Engineer’s action shall be taken with reasonable promptness so as not to cause any undue delay to the Project Schedule and in all instances within 10 working days of receipt, unless a shorter period is agreed to with respect to particular submittals. Review of such submittals is not conducted for the purpose of determining accuracy and completeness of other details such as dimensions and quantities or for substantiating instructions for installation or performance of equipment or systems by the Contractors, all of which remain the responsibility of the Contractor. The Architect/Engineer’s review shall not constitute approval of safety precautions, or of construction means, methods, techniques, sequences or procedures. The Architect/Engineer’s approval of a specific item shall not indicate approval of an assembly of which the item is a component. When professional certification of performance characteristics of materials, systems or equipment is required by the Construction Documents, the Architect/Engineer shall, subject to its Professional Standard, be entitled to rely upon such certification to establish that the material, systems or equipment will meet the performance criteria required by the Construction Documents. The shop drawing review process shall not be used by the Architect/Engineer to enhance or modify the design of the Project.

(11) Construction Changes. After notification to, and obtaining written approval from Princeton University, the Architect/Engineer may authorize minor changes in the Work that are consistent with the intent of the Construction Documents and that do not involve an adjustment in the construction contract’s contract sum or an extension of the construction contract’s contract time (Project Schedule).

(12) Substantial Completion. The Architect/Engineer shall review and amend the Contractor’s list of items to be completed or corrected, and conduct inspections to advise Princeton University when, based on its Professional Standard, Architect/Engineer believes the Work of the Project has achieved Substantial Completion, with the express understanding that Princeton University, and not the Architect/Engineer, shall have full discretion in determining the date or dates of the Contractor’s Substantial Completion of the Work for all portions of the Project. When Princeton University determines, in its sole judgment based on advice from the Architect/Engineer, the date or dates of Substantial Completion, Princeton University shall issue to Contractor a letter of Substantial Completion establishing the date(s) of Substantial Completion, and listing information that Princeton University deems appropriate based upon the construction contract, which may include, for example, Work remaining to be completed and time period for completion, and setting forth transitional and ongoing responsibilities of Princeton University and Contractor relative to utilities, security, repair of damage to the Work, etc.
(h) **Closeout Basic Services.**

1. **Closeout Submittals.** The Architect/Engineer shall receive, review for completeness, and forward to Princeton University written warranties, operation and maintenance manuals, and other documents required by the Construction Documents and assembled by the Contractor. In addition, the Architect/Engineer shall provide, through its Subconsultants if appropriate, a short written description of the mechanical and electrical systems and their operations, together with single-line diagrams as required, for use of maintenance and repair personnel. System descriptions and diagrams shall be coordinated with and cross-referenced to Contractor-furnished maintenance manuals.

2. **Final Completion and Final Certificate of Payment.** Upon receiving the Contractor’s final application for payment, and notice that the Work is complete, the Architect/Engineer shall if requested by Princeton University, conduct a final inspection to determine if the Work is complete and acceptable. The Architect/Engineer shall, if requested by Princeton University, issue a final Certificate of Payment upon Contractor’s compliance with all requirements of the Construction Documents.

3. **Archive Drawings and Archive Specifications.** The Architect/Engineer and its Subconsultants shall prepare and submit Archive Drawings and Specifications as more fully set forth in Article XIV.

4. **Warranty Inspection.** The Architect/Engineer shall provide services in conjunction with an inspection, approximately ten (10) months from date of Substantial Completion. Visual inspection shall be made with Princeton University and Contractor to determine whether correction of Work is required in accordance with provisions of the Construction Documents.

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**ARTICLE VIII – ADDITIONAL SERVICES BY ARCHITECT/ENGINEER AND REDUCTION OF SERVICES**

(a) **Additional Services.** In addition to the Architect’s Basic Services, after execution of this Contract without invalidating the Contract, if required, Architect shall perform additional services beyond the scope of the Basic Services (“Additional Services”). Architect/Engineer may be compensated for the performance of Additional Services in addition to the NTE Price or its components only if such Additional Services are required and/or performed through no fault of Architect/Engineer and only upon strict compliance with and subject to the terms of this Article VIII, Article IX, Article XVIII(k), and other applicable terms of the Contract. So that Princeton University may investigate and mitigate any related impacts, as a condition precedent for Architect/Engineer to make a Claim (as defined in Article XVII(a)) for or otherwise potentially be entitled to any compensation for the performance of Additional Services in addition to the NTE Price or its components, before performing any Additional Services, the Architect/Engineer shall provide written notice to Princeton University of such, along with the fixed or not-to-exceed costs for performing such services and may only be compensated as set forth in this Article VIII, Article IX, and Article XVIII(k) of the Agreement as agreed to by Princeton University in writing. If the parties disagree in good-faith whether a service is a Basic Service or an Additional Service, and Princeton University directs the Architect/Engineer to proceed with the service as part of its Basic Services, Architect/Engineer shall proceed with the services as such, subject to resolution pursuant and subject to the provisions of Article XVII and any other relevant terms of this Agreement (“A/E Disputed Additional Service”). If Architect/Engineer performs Additional Services without providing advance written notice to Princeton University along with the other information as required herein, Architect/Engineer acknowledges that it does so at its own risk and shall not be entitled to make any Claim (as defined in Article XVII(a)) or otherwise potentially be entitled to any payment or compensation or damages or other relief for such Additional Services (whether or not said services are identified in this Agreement as Additional Services).
and such services shall instead be deemed provided as Basic Services (and included within such defined term) and compensated as such with no change to the NTE Price or its components. Princeton University is under no obligation to pay Architect/Engineer for any Additional Services unless or until the parties execute an appropriate Amendment to this Agreement for such. If or once accepted and agreed in a writing signed by Princeton University as an Amendment to the Contract for Additional Services, Additional Services provided by Architect/Engineer shall be subject to all relevant terms and conditions in this Agreement and the Contract Documents pertaining to Basic Services as only modified by such Contract Amendment.

(b) Without limitation to paragraph (a) and notwithstanding anything to the contrary expressed elsewhere in this Contract, no architectural or other design services by or through Architect/Engineer made necessary by or resulting from or relating to, in whole or in part, any fault of or negligent act or error or omission of, or breach of any obligation or term of the this Contract by, the Architect/Engineer under this Contract, shall be compensated as an Additional Service under the Contract.

(c) Reduction in Services. In addition, if, at any time during the term of this Contract, Princeton University should request the Architect/Engineer to reduce the scope of Basic Services originally agreed upon under this Contract, the Architect/Engineer shall then reduce said scope of Basic Services, as requested, and the NTE Price and the components thereof shall be reduced by a fair and equitable amount.

ARTICLE IX – COMPENSATION

(a) Basic Services Compensation. The Architect/Engineer agrees to perform all of its Basic Services, including the services described in Articles VI and VII, for the NTE Price of $TBD (TBD Dollars), which is comprised of the Fixed Fee, the Specialized Subconsultants NTE Amount, and the Reimbursable Expenses NTE Amount. The NTE Price is the maximum compensation Architect/Engineer will receive for Basic Services unless otherwise agreed in writing by Princeton University pursuant and subject to the terms of this Contract.

(1) Fixed Fee. In full compensation for the Architect/Engineer’s Basic Services, including without limitation, full compensation for all Basic Subconsultants (but excluding compensation for Specialized Subconsultants and excluding compensation for Reimbursable Expenses), Princeton University shall pay to Architect/Engineer the Fixed Fee of $Fixed Fee which is allocated as follows:

- Schematic Design Phase [15%] ...................... $x,xxx,xxx.xx
- Design Development Phase [20%] ..................... $x,xxx,xxx.xx
- Construction Documents Phase [30%] .................. $x,xxx,xxx.xx
- Bidding or Negotiation Phase [5%] ..................... $x,xxx,xxx.xx
- Construction Phase [25%] ............................... $x,xxx,xxx.xx (Note 1)
- Closeout Phase [5%] .......................... $x,xxx,xxx.xx (Note 2)

Note 1 -- The Construction Phase Fee is based on the number of site visits specified in Article VII(g)(5).

Note 2 – When the optional services for Comprehensive Archive Drawings and Specifications are invoked by Article VII(b)(5) at the time of Contract execution, the fixed fee for these services is included as a part of the Closeout Phase allocation amount.
(2) **Specialized Subconsultant NTE Amount.** In full compensation for Basic Services performed by Specialized Subconsultants, Princeton University shall pay to Architect/Engineer the actual fees invoiced by Specialized Subconsultants to the Architect/Engineer, which for each Specialized Subconsultant shall not exceed the amounts set forth below and which include a mark-up of Mark-Up% for Architect/Engineer’s administrative costs associated therewith, and which in the aggregate shall not exceed the total NTE Amount of $NTE Amount.

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<th>Subconsultant Name</th>
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(3) **Reimbursable Expenses NTE Amount.** As full compensation for Architect/Engineer’s Reimbursable Expenses, Princeton University shall pay to Architect/Engineer the actual expenses incurred by Architect/Engineer and its Subconsultants that are allowable in accordance with the guidelines set forth in paragraph (b) below. Expenses shall be reimbursed at cost and with no markup and, in the aggregate, shall not exceed the total not-to-exceed amount of $Reimbursables for Reimbursable Expenses. If at any time the Architect/Engineer has reason to believe that the expenses to be incurred for Reimbursable Expenses in performing this Contract in the next succeeding thirty (30) days, if added to all other payments and costs previously accrued, will exceed eighty-five percent (85%) of the not-to-exceed price for Reimbursable Expenses, the Architect/Engineer shall notify Princeton University giving a revised estimate of total Reimbursable Expenses along with supporting reasons and documentation.

(b) **Reimbursable Expenses.** The Architect/Engineer will be reimbursed for actual expenses in accordance with the guidelines listed below. These guidelines shall apply to all expenses incurred specifically for the Project for which reimbursement is sought under this Contract whether incurred directly by the Architect/Engineer or by its Subconsultants. Only direct costs that are wholly attributable to the Project shall be allowed. Indirect, prorated, proportional or other shared or estimated expenses shall not be allowed as reimbursable expenses. Deviations from these guidelines shall be allowable only with prior written approval from Princeton University.

(1) Expenses for transportation and living when traveling in connection with the Project as approved by Princeton University are allowable subject to the following constraints:

(i) Transportation and living expenses for travel within a forty (40) mile radius of Princeton University shall not be allowable.

(ii) “First Class” expenses shall not be allowable. Examples of “First Class” expenses include limousines, chauffeured cars, luxury car rentals, private jets, first class airfare, business class airfare on domestic flights, and any other form of luxury travel. Expenses for the following forms of transportation are considered allowable: public transportation, economy/standard car rental, coach/economy airfare, business class airfare on international flights, and other reasonable forms of transportation.

(iii) Mileage reimbursement for use of personal vehicles shall be allowable at the standard mileage rate for business set by the IRS at the time of travel.

(iv) Allowable points of travel shall be between Princeton University and the Architect/Engineer’s office location(s). If Princeton University is the first or last stop of the day, travel between the University and an employee’s home shall be allowable. Travel to Subconsultants’ office locations on behalf of Princeton
University shall be allowable when this Project is clearly identified as the sole purpose of the meeting. An agenda for the meeting shall be submitted with the invoice for reimbursement. Travel between an employee’s home and normal office location shall not be allowable.

(v) Meals. Those meals purchased while traveling to or working at Princeton University during normal business hours (typically lunch) shall be allowable. Meals, beverages, or snacks purchased in the Architect/Engineer’s home city while not travelling to or from Princeton University shall not be allowable. Reimbursement for alcoholic beverages is not permitted.

(vi) Hotels. When required, accommodations at the standard single room rate shall be allowable. In-room charges such as movies, mini-bar, water, and snacks shall not be allowable.

(2) Expenses for production or reproduction of Drawings, Specifications, calculations, cost estimates, program analyses, photographs, renderings, plottings, shop drawings, or similar instruments required as described in Articles VI and VII are allowable.

(3) Expenses for printing or copying Construction Documents in quantities suitable for bidding provided the cost is obtained by competitive pricing of outside services are allowable.

(4) Expenses for postage, parcel delivery services (UPS or similar carriers), long distance telephone calls, facsimile (fax) transmissions, special deliveries, and couriers or other hired delivery services are allowable.

(5) Expenses for fees paid for securing approval of governmental review agencies and authorities if approved in advance by Princeton University are allowable. Reproduction expenses for the initial sets of drawings, specifications, calculations and reports for submittal to such agencies (i.e., the Division of Community Affairs, designated plan checking firm, etc.) for plan checking shall be reimbursable.

(c) Additional Services and Adjustments to the NTE Price. For Additional Services that are properly compensable pursuant and subject to the terms of Article VIII, Article XVIII(k), and other applicable terms of the Contract, Princeton University will, upon its written agreement thereto, compensate Architect/Engineer on an hourly basis, as set forth below in the schedule of hourly rates, up to a negotiated maximum fee, or via a negotiated fixed fee if the scope of services can reasonably be determined in advance.

(1) If Princeton University requests that Architect/Engineer perform any services in connection with the Project that Architect/Engineer believes are not included within its Basic Services, Architect/Engineer shall, in connection with Article VIII, promptly so inform Princeton University in writing and shall provide a fixed or not-to-exceed cost to Princeton University for providing such services. Architect/Engineer shall not proceed with the Additional Services until it receives an express written authorization executed by Princeton University (i.e., an Amendment to the Contract). However, if Princeton University, in good faith, concludes that the services in question are Basic Services and directs the Architect/Engineer to proceed (i.e., an A/E Disputed Additional Service), Architect/Engineer shall proceed without delay. Failure to so proceed shall constitute a material breach of this Contract; provided, however, that by so proceeding the Architect/Engineer does not waive any Claim that it may appropriately have related to such services pursuant and subject to all applicable terms of the Contract.
(2) Notwithstanding anything elsewhere in the Contract to the contrary, in no event will the Architect/Engineer be entitled to any increase in the NTE Price or any of its components, or any compensation for Additional Services, under this paragraph (c) unless the circumstances giving rise to any Claim for additional compensation necessitate the preparation of additional sketches, Drawings, or other documents, or the making of substantial changes in any document that has already been approved by Princeton University or upon which substantial work/services has already been performed, or other substantial work/services by the Architect/Engineer.

(d) Hourly Billing Rates. The following rates apply to this Contract, and shall remain fixed for the entire duration of this Contract:

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ARTICLE X – PAYMENTS

(a) All amounts invoiced and paid under this Contract shall be in U.S. Dollars ($) and are not subject to currency fluctuation.

(b) Architect/Engineer shall prepare and submit monthly invoices to request payments under this Contract. Invoices shall be typed or computer-generated and include the following minimum information: FPO Contract Number FC100####; Architect/Engineer’s company/business name; a sequential or other unique invoice identifier; the invoice amount; and the invoice date. Invoice documents together with any required supporting documentation shall be scanned or converted into a single PDF file. The Architect/Engineer shall electronically submit the invoice to Princeton University by uploading the PDF file through the FPO Contract Payment Request Portal website located at: https://facnet.princeton.edu/invoice/.

(c) Monthly invoices shall include amounts for Basic Services and Additional Services compensation per Article IX in accordance with the following:

(1) Fixed Fee. Monthly invoices shall include a proportion of the Fixed Fee amount set forth in Article IX(a)(1) based on the percentage of completion of the Schematic Design, Design Development, Construction Documents, Bidding or Negotiation, and Close Out Phases during the billing month. For Construction Phase Basic Services, the Architect/Engineer shall submit monthly invoices for equal monthly payments based on the anticipated construction period (from award of the construction contract to final completion). If an alternate payment schedule is incorporated into this Contract, monthly invoices shall include amounts per the payment schedule. In no event will amounts be paid that are in excess of the corresponding Fixed Fee amount established for each Phase as set forth in Article IX(a)(1).

(2) Specialized Subconsultant Fees. With each monthly invoice, Architect/Engineer shall submit copies of all Specialized Subconsultant invoices for which payment is being requested. The Architect/Engineer shall examine the invoices of its Specialized Subconsultants to confirm that all claimed fees and expenses are allowed under this Contract and shall not include ineligible amounts in its invoices to Princeton University. In no event will amounts be paid that are in excess of the corresponding NTE Amount established for that Specialized Subconsultant as set forth in Article IX(a)(2).
(3) **Reimbursable Expenses.** Architect/Engineer shall include actual amounts incurred during the billing month for Reimbursable Expenses and shall submit receipts, expense reports, and other detailed documentation to substantiate each item of allowable reimbursable expense included on the invoice. Princeton University reserves the right to deduct amounts that are determined to be unallowable in accordance with Article IX(b). In no event will amounts be paid that are in excess of the total Reimbursable Expenses NTE Amount as set forth in Article IX(a)(3).

(4) **Additional Services.** Architect/Engineer shall separately account and invoice for Additional Services authorized under this Contract pursuant to Article IX(c) and other applicable provisions of the Contract. For Additional Services authorized to be performed on an hourly basis, Architect/Engineer shall include actual amounts incurred during the billing month and shall submit detailed backup to support and substantiate the amount being billed, including copies of employee-signed and supervisor-approved time sheets. For Additional Services for which a fixed fee has been established, Architect/Engineer shall bill as for Fixed Fee as described in subparagraph (1). In no event will amounts be paid that are in excess of any maximum or fixed fee established for the Additional Services or that are based on hourly rates that are not in accordance with the hourly rate schedule established in Article IX(d).

(5) In addition to the monthly amounts billed in accordance with the above, invoices shall show the corresponding total amounts as authorized by the Contract and the corresponding cumulative amounts billed to date.

(d) Payments will be made to the Architect/Engineer within 30 days after receipt by the Princeton University Administrative Representative and Project Manager of each invoice that is submitted in proper form and substance. Release of payments will be conditioned upon review and approval of the invoice by Princeton University’s Administrative Representative and Project Manager designated in Article III(b).

(e) Prior to final payment to the Architect/Engineer, the Architect/Engineer shall furnish evidence satisfactory to Princeton University that there are no Claims (as defined in Article XVII(a)) and/or other claims, obligations or liens outstanding in connection with its Basic Services. Acceptance of final payment shall constitute a waiver of any and all Claims (as defined in Article XVII(a)) or potential Claims by the Architect/Engineer, including, without limitation, those for compensation for its Basic Services and/or Additional Services.

(f) Notwithstanding the foregoing provisions, Princeton University shall not be obligated to make any payment to Architect/Engineer hereunder if any one or more of the following conditions exists:

(1) Architect/Engineer is in default of any of its obligations hereunder;
(2) Architect/Engineer has failed to make payments promptly to Architect/Engineer’s Subconsultants; and/or
(3) Princeton University has offsets or backcharges that reduce or eliminate any amounts otherwise due to Architect/Engineer.

**ARTICLE XI – TIME OF PERFORMANCE**

**Time is of the essence of the Contract.** The Architect/Engineer shall perform its Basic Services under the Contract in accordance with the Milestone Design Schedule set forth below, the Design Schedule, and the Construction Schedule, and the comprehensive Project Schedule as more fully set forth in Article VI(b).
### Article XII – Insurance and Indemnification

**(a) Insurance.** Prior to beginning any of the Basic Services on the Project or at the time of execution of this Contract, whichever occurs first, the Architect/Engineer shall establish, maintain and keep in force policies for minimum insurance coverage as set forth below:

1. **Workers Compensation (WC):** Statutory Minimum
2. **Employer’s Liability (EL):** $500,000 Minimum
   *WC and EL are not required if Architect/Engineer is a solo independent contractor.*

   - Each Occurrence: $2,000,000 Minimum
   - Aggregate: $2,000,000 Minimum

4. **Automobile Liability (AL):** Automobile Liability insurance is required only when use of a vehicle is integral to the performance of the Contract or Project.
   - Bodily Injury and Property Damage: $1,000,000 Minimum

5. **Professional Liability (PL):** Architect/Engineers who are required to maintain professional licenses in order to practice in their profession shall maintain Professional Liability Insurance coverage as follows:
   - Per Claim: Choose an item.
   - General Aggregate: Choose an item.

**(b) By requiring such minimum insurance, Princeton University shall not be deemed or construed to have assessed the risk that may be applicable to the Architect/Engineer for this Project or under this Contract. The Architect/Engineer shall assess its own risks and if deemed to be appropriate and/or prudent, should maintain higher limits and/or broader coverage than that stipulated above.**
Architect/Engineer is not relieved of any liability or other obligations assumed or pursuant to the Contract by reason of its failure to obtain or maintain insurance in sufficient amounts, duration, or types. The specification of any minimum limits of insurance in this Agreement shall not act as any limitation on Princeton University’s ability to recover the full amount of available insurance proceeds maintained by Architect/Engineer, and Architect/Engineer shall have an obligation to ensure that its insurance policies contain no such restriction.

(1) Acceptance and/or approval by Princeton University of the insurances herein shall not be construed to relieve Architect/Engineer from any obligations, responsibilities or liabilities under the Contract. Princeton University, by requiring the Architect/Engineer to purchase insurance, shall not be deemed to have waived Princeton University’s right to bring any action, to the fullest extent permitted by law, for any loss which may be covered, completely or in part, by that insurance. Nor shall the fact that insurance is obtained for certain risk be deemed to release, relieve or diminish the liability of the Architect/Engineer. The damages recoverable by Princeton University in any Claim (as defined in Article XVII(a)) and/or other claim or action shall not be limited by the amount of coverage specified in any insurance policy or policies but shall be the total amount of damages recoverable as set forth in the Contract or at law, whichever is greater.

(c) If requested in writing Architect/Engineer shall provide certified, full and correct copies of any of its insurance policies required by this Contract, including, without limitation, its professional liability insurance policy or policies, within three (3) days following demand therefore.

(d) Insurance shall be provided at the Architect/Engineer’s expense as part of the Fixed Fee or Hourly Expenses NTE Amount for Basic Services and shall not be charged directly to Princeton University as a Reimbursable Expense.

(e) Insurance policies required by this clause shall be written by a carrier licensed to do business in the State of New Jersey with a Financial Strength Rating (FSR) of at least “A” and a Financial Size Category (FSC) of at least “VIII” in A.M. Best’s Key Rating Guide.

(f) Except for professional liability insurance and Worker’s Compensation insurance, the Architect/Engineer shall name “The Trustees of Princeton University, its Officers, Employees and Agents,” as additional insureds in the insurance policies required in paragraph (a) with respect to any liability resulting from or in any way connected with any activity provided for under this Contract. Except for professional liability insurance, all insurance coverage shall be primary and non-contributing as to any other valid and collectible insurance, including any deductible, of Princeton University, the policies shall be occurrence-based, and shall contain a Waiver of Subrogation in favor of Princeton University, so that in no event shall the insurance carriers have any right of recovery against Princeton University or any additional insureds, their agents or employees; and shall contain a separation of insured provision (severability of interest clause). If Princeton University has other insurance which is applicable to the loss, such other insurance shall be on an excess or contingent basis. To the extent that Princeton University requires Architect/Engineer to designate any person or entity not listed herein as additional insured, such person or entity also shall be named as additional insured on the policies procured by the Architect/Engineer.

(g) In the event that any of the insurance coverage to be provided by the Architect/Engineer contains a deductible or self-insured retention, the Architect/Engineer shall indemnify and hold Princeton University, and any additional insured harmless from the payment of such deductible, which deductible shall in all circumstances remain the sole obligation and expense of the Architect/Engineer.

(h) The minimum insurance coverage shall be maintained for the entire duration of the Project. In the case of Professional Liability, coverage shall continue for a period of three (3) years after Substantial
Completion of the Project. The Princeton University Administrative Representative shall be notified by the Architect/Engineer or its insurance carrier at least 30 days prior to any material change to or cancellation of any of insurance coverage.

(i) Prior to commencing any services on the Project or execution of this Contract, whichever occurs first, the Architect/Engineer or its insurance carrier shall provide a Certificate(s) of Insurance (COI) evidencing compliance with all requirements for insurance coverage as indicated in this Article and any and all endorsements (including but not limited to the additional insured endorsement) or riders thereto (all in form and substance reasonably satisfactory to Princeton University). Each COI shall set forth the type and amount of insurance, the number of the policy, the date coverage under the policy begins and the date that coverage expires. The COI shall be submitted to Princeton University for review and acceptance. For the duration of the Contract, the Architect/Engineer or its insurance broker/carrier shall provide updated COI’s to evidence renewals or other changes to insurance policies or coverage. Additionally, a COI shall be provided, and updated annually, that evidences that the required Professional Liability coverage is in place for at least three (3) years following Substantial Completion of the Project.

(j) The Architect/Engineer shall require all of its Subconsultants to maintain the insurance required by this Agreement, including, without limitation, professional liability insurance, with the same coverage as set forth above for the Architect/Engineer and in accordance with the same terms and conditions as required of the Architect/Engineer. The Architect/Engineer shall certify to Princeton University that its Subconsultants are in compliance with the insurance requirements under this Contract. Princeton University must approve, in writing, any insurance coverage for a Subconsultant in an amount less than required. Such approval is at Princeton University’s sole discretion. Subconsultant insurance certificates and certified complete copies of insurance policies shall be provided upon request by Princeton University. Failure to adhere to these requirements will be considered a material breach of this Contract.

(k) Indemnification -

(1) To the fullest extent permitted by the laws of the State of New Jersey, and subject to paragraph (k)(2) below, the Architect/Engineer (the “Indemnitor”) agrees to indemnify and hold harmless, and pay for the defense of Princeton University, its trustees, officers and employees, and any affiliated or related entities (the “Indemnitees”), against all Claims (as defined in Article XVII (a)), claims, suits, actions, losses, liabilities, damages, costs and expenses, including reasonable attorneys’ fees (including, without limitation, those attorneys’ fees incurred in any appeals, or any enforcement of the obligations under this provision, or enforcement of any judgment and collection hereunder) (“Claims & Losses”), of every nature any kind that are alleged to have occurred, result in any way from, arise out of, or relate to, in whole or in part, the negligent acts or omissions of the Indemnitor, its agents, Subconsultants, employees, representatives, or anyone for whose acts the Indemnitor is legally liable, with regard to the services and activities, including professional services and/or Basic Services, and other obligations under this Contract, regardless of whether such Claims & Losses are caused in part by the negligence or other fault of any of the Indemnitees; provided, however, that the defense, indemnification and hold harmless obligations hereunder shall not apply if such Claims & Losses are caused by the sole negligence of any of the Indemnitees. Notwithstanding anything in this paragraph k(1) to the contrary, for Claims & Losses related to Architect/Engineer’s alleged failure to meet its Professional Standard, Architect/Engineer shall have no duty or right to defend Princeton University against such, but shall be obligated to indemnify Princeton University for reasonable attorneys’ fees incurred by Princeton University in such defense to the extent provided herein above.

(2) Only with regard to Claims & Losses related to Architect/Engineer’s alleged failure to meet its Professional Standard, and only in the limited circumstances where the negligent acts or
omissions of an Indemnitee materially contribute to the performance or nonperformance by the Indemnitor, or its agents, Subconsultants, employees, or representatives that gives rise to Indemnitor’s liability for any Claims & Losses under paragraph (k)(1) above or otherwise materially concurrently causes any such Claims & Losses, the Indemnitor’s indemnity and hold harmless obligations shall be adjusted to reflect Indemnitese’s material contribution or concurrent causation, with the Indemnitor retaining proportional liability for indemnification as otherwise required by this paragraph (k) and its subparts consistent with that adjustment. For the purpose of this paragraph (k)(2), the term ‘materially’ shall mean that the ultimate finder of fact in any court authorized to make such determination under this Contract has determined that the Indemnitese’s negligent contribution to Indemnitor’s (or others’ for whom it is responsible) performance or nonperformance or negligent concurrent cause of the relevant Claims & Losses exceeds 50% as a causal factor. Additionally, it is an express condition precedent for Indemnitor to avail itself of any potential rights of adjustment of its paragraph (k)(1) indemnity and hold harmless liability pursuant to this paragraph (k)(2), that Indemnitor must deliver to the Indemnitese reasonably timely written notice of Indemnitor’s good faith, reasonably detailed factual basis for its Claim for adjustment of its indemnity and hold harmless liability pursuant to this paragraph (k)(2), and proposed adjustment based upon percentages or any other method of allocation that is appropriate under the circumstances. So that Princeton University can properly investigate any Indemnitor Claim for adjustment of its indemnity and hold harmless obligations pursuant to this paragraph (k)(2), time is of the essence with respect to giving Princeton University written notice as provided herein, and if the Indemnitor’s written notice required hereunder is not delivered within the required time or with the information required by this provision, the Indemnitor shall have expressly waived any Claim or right to any adjustment to its paragraph (k)(1) indemnity and hold harmless liability.

(3) Survival. The defense, indemnification and hold harmless obligations in this paragraph (k) and its subparts shall survive the term or completion or termination of this Agreement.

ARTICLE XIII – OWNERSHIP AND USE OF DOCUMENTS

(a) Authorship and Copyright; Perpetual, World-Wide, Royalty-Fee, Non-Revocable, Exclusive License to Use. The original Design Documents, including all Drawings, Specifications and all other documents prepared by the Architect/Engineer for this Project are instruments of the Architect/Engineer’s service. Unless otherwise provided, the Architect/Engineer shall be deemed the author of these documents and shall retain all common law, statutory and other reserved rights, including copyright; provided, however, that the Architect/Engineer agrees to and does hereby grant Princeton University a perpetual, world-wide, royalty-free, non-revocable, exclusive license (“License”), and, pursuant and subject to paragraph (g) below, shall transfer full ownership and all other rights to all such design, documents, and other property in which Architect/Engineer and/or its Subconsultants, or any of the agents, representatives, and/or assigns of any of them, may claim a copyright, and to all architectural work as to which Architect/Engineer and/or its Subconsultants, or any of the agents, representatives, and/or assigns of any of them, may assert any rights or establish any claim under the design patent or copyright laws or other laws. Princeton University’s License (and ultimately, Architect/Engineer’s transfer of full ownership and all other rights pursuant to paragraph (g) below) shall entitle Princeton University to unlimited rights in all architectural works arising out of the Architect/Engineer’s performance of Basic Services and/or other services pursuant to this Contract, so long as its use thereof is consistent with Princeton University’s purpose, as set forth in its Charter. This License (and ultimately, Architect/Engineer’s transfer of full ownership and all other rights pursuant to paragraph (g) below) shall include, but not be limited to, the Design Documents, Drawings, Specifications, architectural
designs of buildings and structures, notes and other architectural and engineering documents produced by or on behalf of Architect/Engineer in the performance of this Contract, or in contemplation thereof, Archive Drawings and Specifications and/or Comprehensive Archive Drawings and Specifications produced both before and/or after completion (including the right to use same for comprehensive campus-wide mapping endeavors), electronic data and any and all other “architectural works” as that term is defined in the Architectural Works Copyright Protection Act at 17 U.S.C. 102 (a)(8).

(b) At any time upon demand by Princeton University, Architect/Engineer shall furnish to Princeton University as a Reimbursable Expense a complete set of all Design Documents and other documents, and all work product prepared by or obtained by the Architect/Engineer to date of such demand. In the event of Architect/Engineer’s failure to comply with Princeton University’s demand hereunder, the parties agree that any remedy at law would be inadequate and entitle Princeton University to equitable relief including without limitation the remedy of specific performance.

(c) In the event that the Contract is terminated for any reason pursuant to Article XV or suspended or terminated pursuant to Article XVI hereof, Architect/Engineer shall remain responsible for all signed and sealed Construction Documents prepared by Architect/Engineer or its Subconsultants, except to the extent that such documents are modified or misused by Princeton University, or its contractors, or any replacement architect following Contract termination. To the fullest extent permitted by law, Princeton University shall defend, indemnify and hold the Architect/Engineer harmless from and against all liability, loss, damages, costs and expenses, that it may sustain or incur by reason of: (a) any use of the Design Documents if Architect/Engineer is terminated before completion of Construction Documents; or (b) after completion of Construction Documents, any revision or addition to, alteration or deviation from or misuse of the Architect/Engineer’s Construction Documents by anyone other than Architect/Engineer (i) occurring after the completion of Architect/Engineer’s Basic Services and/or all other services under this Contract if the Contract is not terminated, or (ii) occurring after termination of this Contract if terminated.

(d) Notwithstanding the License and/or Architect/Engineer’s transfer to Princeton University of full ownership and all other rights to Architect/Engineer’s Design Documents and other documents, architectural work, and information and property on this Project pursuant and subject to paragraph (g) below, the Architect/Engineer shall be permitted to reuse individual elements of the design for the Project on other projects; provided, however, that the Architect/Engineer shall not substantially reproduce the design of this Project on any other project without Princeton University’s prior written approval.

(e) Notwithstanding paragraph (a), renderings, presentation models, and mock-ups shall immediately upon their creation become property of Princeton University at no additional cost to Princeton University.

(f) Nothing in this Article shall be construed to limit or constrain Princeton University’s use of documents in which the Architect/Engineer may claim a copyright as permitted under the “Fair Use” doctrine of the United States Copyright Act, 17-U.S.C. § 1 et seq.

(g) Princeton University Ownership and all Rights to Design, Copyright, Architectural Work, and Documents. Following completion of the Contract or termination of the Contract, whether terminated for Architect/Engineer’s default or for Princeton University’s convenience pursuant to Article XV hereof, and/or terminated as provided in Article XVI hereof, and Princeton University’s payment to Architect/Engineer of amounts owed for Basic Services and Additional Services pursuant to the terms of this Contract, Architect/Engineer, on behalf of itself and its Subconsultants and any agents, representatives, and assigns of any of them, hereby permanently and irrevocably transfers to Princeton University all ownership and any other rights whatsoever to all property that is subject to the License pursuant to paragraph (a) above, including, without limitation, all common law, statutory and other
reserved rights, including copyrights. Architect/Engineer further agrees to execute any documents necessary or reasonably required by Princeton University to effect or otherwise acknowledge such transfer.

(h) If Architect/Engineer terminates this Contract for Princeton University’s default pursuant to Article XV hereof, it is expressly agreed that the License shall continue on a perpetual, world-wide, royalty-free, non-revocable, and exclusive basis, subject to paragraph (c) above, and with the further express agreement that such termination by Architect/Engineer shall have no effect or limitation on Architect/Engineer’s obligations under paragraph (b) above.

(i) Architect/Engineer shall ensure that each of its agreements with its Subconsultants shall contain the same provisions contained in this Article XIII for the benefit of Princeton University, including, without limitation, that each Subconsultant shall provide the same License and ultimate transfer of full ownership of all instruments of service, Design Documents and other documents and information on this Project to Princeton University as provided herein.

(j) The terms and conditions and rights and obligations of this Article XIII shall survive the term or completion or termination of this Contract.

ARTICLE XIV – ARCHIVE DRAWINGS AND SPECIFICATIONS

(a) As part of its Basic Services, the Architect/Engineer shall comply with the archiving requirements set forth in Section 1.5 - Documentation and Archiving of the Design Standards and shall furnish to Princeton University Archive Drawings and Specifications in the formats prescribed therein.

(b) When comprehensive archive drawings and specifications services are included in the scope of work for this Contract, the Architect/Engineer shall reconcile the Archive Drawings and Specifications deliverable pursuant to paragraph (a) above in this this Article XIV with the Contractor’s As-Built Drawings and deliver a set of comprehensive archive Drawings and Specifications for Princeton University’s archive in the formats prescribed in Section 1.5 of the Design Standards (“Comprehensive Archive Drawings and Specifications”). This is an optional service that Princeton University may choose to invoke at the time of Contract execution or any time thereafter prior to the date of Substantial Completion for the Project at a fixed fee of $Alternate Price. If this option is invoked at the time of Contract execution, this amount will be included in the Fixed Fee set forth in Article IX(a)(1). If this option is invoked any time after execution of the Contract, these services will be added as Additional Services in accordance with Article IX(c) at the fixed fee amount provided herein above.

ARTICLE XV – TERMINATION

(a) Termination of Contract for Architect/Engineer’s Default.

(1) Grounds. If Architect/Engineer fails to perform any of its material duties under the Contract in a timely fashion, for reasons not due to the fault of Princeton University, Contractor or any Subcontractor, or otherwise materially breaches the Contract in any way, Princeton University may terminate the Contract for default. Without limitation, termination for default will be permitted if Architect/Engineer fails to promptly and properly correct any errors, omissions or other deficiencies in documents prepared by Architect/Engineer upon receiving notice from Princeton University or otherwise becoming aware of them; fails to adhere to agreed schedules or to perform in a timely fashion; fails to continue its performance during the pendency of a dispute, as required by the Contract; becomes insolvent, makes an assignment for the benefit of creditors, files a voluntary petition in bankruptcy or insolvency or has an involuntary petition in bankruptcy or insolvency filed against it, or has a receiver appointed; files for dissolution or otherwise is dissolved; or if Princeton University shall have reasonable grounds to believe that
Architect/Engineer does not have the technical or financial ability to complete its obligations under the Contract and Architect/Engineer fails to give Princeton University prompt and reasonable assurances of its ability to perform. Upon such termination for default, Architect/Engineer shall be liable to Princeton University for all loss, cost or expense reasonably incurred by Princeton University as a result of such termination, including Claims (as defined in Article XVII(a)) and/or other claims attributable to any costs incurred by Princeton University to complete the remaining obligations of Architect/Engineer under this Contract.

2) **Notice and Effective Date.** Princeton University shall notify Architect/Engineer, in writing, of a termination for default, and the reasons prompting it. Unless expressly provided otherwise in the notice of termination for default, the termination for default shall be effective upon the date specified in such written notice, without any opportunity provided for Architect/Engineer to cure any such default.

3) **Termination Remedy Cumulative.** The remedy of termination is not exclusive, but is in addition to all other rights or remedies Princeton University may have in law or equity for any breach of contract by Architect/Engineer. Neither termination of the Contract nor any payment to Architect/Engineer shall limit or impair the right of Princeton University to recover damages occasioned by the fault or default of Architect/Engineer.

4) **Effect of Wrongful Termination Under This Section.** Upon the determination by a court that termination of Architect/Engineer or its successor in interest pursuant to paragraph (a) above was wrongful, such termination will be deemed converted to a termination for convenience such that Architect/Engineer’s remedy for wrongful termination shall be limited to the recovery of the payment permitted for termination for convenience as set forth in paragraph (b) below.

b) **Termination for Convenience.** Princeton University may terminate the Contract, without declaring Architect/Engineer in default, with or without cause, by providing Architect/Engineer with thirty (30) calendar days’ written notice of termination for convenience at any time.

c) If the Architect/Engineer is a sole proprietor and the Architect/Engineer should die during the term of this Contract, this Contract shall be considered terminated. In the event of such termination, the Architect/Engineer’s estate shall be entitled to reasonable payment for any uncompensated Basic Services and appropriately compensable Additional Services performed to the date of death, and Princeton University shall have title to and/or the right to immediate use and possession of all finished and unfinished documents prepared under this Contract, as if this Contract had been terminated for the convenience of Princeton University pursuant to this paragraph (b).

d) **Deliverables and Compensation.** In the event of termination, whether by Princeton University under paragraph (a) or (b) above or by Architect/Engineer under paragraph (e) below, or a suspension by Princeton University or later termination by Architect/Engineer under Article XVI, Architect/Engineer shall promptly deliver to Princeton University upon written notice all records, Design Documents, documents, working papers, calculations, computer programs, data, Drawings, plans, Specifications and other work product and all equipment, materials, items or objects acquired or created or produced by Architect/Engineer pertaining to the Basic Services and Additional Services performed under this Contract to the time of suspension or termination; provided that Princeton University has paid to Architect/Engineer all amounts due and owing as of the date of suspension or termination, exclusive of amounts disputed in good faith by Princeton University. In addition, with regard to compensation on termination:

1) If termination is under paragraph (a) for default, Architect/Engineer shall be paid only for a percentage of its Basic Services compensation corresponding to the Basic Services actually
completed by Architect/Engineer as of the date of the termination, together with compensation for any appropriately approved Additional Services properly performed and actually completed as of the date of the termination, and actual Reimbursable Expenses incurred through the date of termination, not yet paid, less the amount of any asserted Claims of Princeton University or any Claims arising out of such termination under paragraph (a)(1), and if all such Claims exceed the amount of compensation due, Architect/Engineer shall pay upon demand such excess to Princeton University. In calculating the amount due to Architect/Engineer as provided herein above, the amount of compensation for Basic Services completed shall be based upon the breakdown set forth in the Article IX, and in no event shall Architect/Engineer be entitled to recover any amounts for any unperformed or terminated services which have not or will not be performed, including, without limitation, no compensation for profits or overhead on portions of the services (Basic Services and Additional Services) not performed as of the effective date of termination. Additionally, compensation shall in no case exceed the limits established in this Contract for each respective phase of the services as to which Princeton University has expressly authorized Architect/Engineer to proceed.

(2) If termination is under paragraph (b) for Princeton University’s convenience (or is converted from a default termination to a termination for convenience pursuant to paragraph (a)(4) above) or is under paragraph (e) for Princeton University’s default or is under Article XVI(c)(1), Architect/Engineer shall be paid only a percentage of its Basic Services compensation corresponding to the amount of compensation for the Basic Services actually completed by Architect/Engineer as of the date of the termination, together with compensation for any appropriately approved Additional Services properly performed and actually completed as of the date of the termination, and actual Reimbursable Expenses incurred through the date of termination, not yet paid. The amount of compensation for Basic Services completed shall be based upon the breakdown set forth in the Article IX. The payment of these amounts is Architect/Engineer’s sole remedy for termination. In no event shall Architect/Engineer be entitled to recover any additional amounts for any unperformed or terminated services which have not or will not be performed, including, without limitation, no compensation for profits or overhead on portions of the services (Basic Services and Additional Services) not performed as of the effective date of termination. Compensation shall in no case exceed the limits established in this Contract for each respective phase of the services as to which Princeton University has expressly authorized Architect/Engineer to proceed, plus reasonable expenses arising from and limited to Architect/Engineer’s demobilization of staff as a direct result of termination of this Contract.

(e) Termination of Contract for Princeton University’s Default. If Princeton University fails to make payments to Architect/Engineer in accordance with this Contract, exclusive of payments disputed by Princeton University in good faith, such failure shall be considered substantial nonperformance and cause for termination, or, at Architect/Engineer’s option, cause for suspension of performance of services (Basic Services and Additional Services) under this Contract. If Architect/Engineer elects to suspend such services, prior to suspension of such services, Architect/Engineer shall give seven (7) days’ written notice to Princeton University. In the event of the suspension of services, Architect/Engineer shall have no liability to Princeton University for delay or damage caused Princeton University because of such suspension of services. Before resuming services, Architect/Engineer shall be paid all sums due, except amounts disputed by Princeton University in good faith, prior to suspension and any reasonable expenses incurred in the interruption and resumption of Architect/Engineer’s services. Architect/Engineer’s NTE Price and its components for the remaining Basic Services (and previously approved Additional Services) and the time schedules shall be equitably adjusted. If Architect/Engineer elects to terminate this Contract for material nonpayment or other material breach of contract, the Architect/Engineer shall notify
Princeton University, in writing, of the termination for default, and the reasons prompting it. Thereafter, Princeton University shall have ten (10) days to cure such default ("Cure Period"), or a reasonable period of time if it is practically impossible to cure such default within ten days provided that Princeton University gives Architect/Engineer reasonable assurances that a satisfactory cure will be effectuated within such reasonable time. Should the default not be cured, nor reasonable assurances given that the default will be cured within a reasonable time, the termination shall take effect, without further notice, on the date specified in the notice. However, the termination will not take effect if, before the termination's effective date, Architect/Engineer delivers to Princeton University a written revocation of the termination.

ARTICLE XVI – SUSPENSION

(a) Princeton University, at any time, upon three (3) days written notice to the Architect/Engineer, may suspend all or any part of the services (Basic Services and Additional Services) of the Architect/Engineer under this Contract.

(b) In the event of suspension by Princeton University, the Architect/Engineer shall be entitled to receive compensation for Basic Services already satisfactorily performed and accepted, based on a percentage of its Basic Services compensation corresponding to the value of the work actually completed by Architect/Engineer as of the date of the suspension, together with compensation for any appropriately approved Additional Services actually completed, both otherwise subject to all other applicable provisions of this Contract. The value of Basic Services completed shall be based upon the breakdown set forth in the Article IX, but no amount shall be allowed for anticipated profit or overhead or other basis on unperformed Basic Services or Additional Services.

(c) Princeton University shall have the right to reactivate Architect/Engineer’s performance under this Contract at any time by written notice within one hundred twenty (120) consecutive days from the time all or any part of the Contract was suspended under this Article XVI, without any change to the NTE Price and/or any of its components. In the event of such reactivation, should Architect/Engineer fail or refuse to promptly recommence its performance under this Contract without increase to the NTE Price and/or any of its components, Architect/Engineer shall be deemed to have failed to perform a material duty under this Contract for the purpose of Article XV(a), allowing Princeton University to terminate for Architect/Engineer’s default.

(1) If Princeton University fails to reactivate Architect/Engineer’s performance under this Contract by written notice prior to the completion of one hundred twenty (120) consecutive days from the time all or any part of the Contract was suspended under this Article XVI, the Architect/Engineer shall have the right to terminate this Contract for its convenience and be compensated only as provided in Article XV(d)(2), or may renegotiate the NTE Price and the components thereof with Princeton University based on current conditions as it pertains to the remaining Basic Services and/or Additional Services.

(d) In the event Princeton University decides to suspend any work under this Contract, Princeton University shall remain entitled to unlimited access to all finished and unfinished documents prepared by the Architect/Engineer pursuant to this Contract and shall be vested with all rights to such documents as set forth in Articles XIII and XV.

ARTICLE XVII – DISPUTE RESOLUTION

(a) A “Claim” is any claim, controversy or dispute between Architect/Engineer and Princeton University concerning the interpretation of the Contract, the performance of any portion of Architect/Engineer’s services (Basic Services and/or Additional Services), or any other matter arising under
or relating to this Contract, or the breach thereof. The responsibility to substantiate Claims shall rest with the party making the Claim.

(b) If the Architect/Engineer wishes to assert any Claim against Princeton University, Architect/Engineer shall first, as a condition precedent to commencing litigation against Princeton University arising out of or relating to such Claim, provide written notice to Princeton University and otherwise comply with the terms of this Article XVII. After Architect/Engineer provides written notice of a Claim to Princeton University as provided in this paragraph (b), the parties shall promptly thereafter confer and exert efforts in good faith to reach a reasonable resolution of the issue.

(1) Thereafter, if the parties are unable to resolve the Claim, within fifteen (15) business days after the initial notice under paragraph (b) (or such longer time agreed to in writing by both parties), they shall, upon demand by either party, within ten (10) business days thereafter (or such longer time agreed to in writing by both parties), agree upon and retain (with expenses to be borne equally by the parties) a neutral individual to act as a non-binding mediator. (If the parties cannot agree upon a mediator within the time period, the selection shall be made by the American Arbitration Association upon the request of either party, with the administrative costs for such selection to be borne equally by the parties.) The non-binding mediation shall be conducted within sixty (60) days of the appointment of the mediator (unless the parties agree in writing to a later date), and shall be conducted confidentially in an effort to settle the Claim, with the express understanding that the mediation is non-binding on both parties unless a mutually agreed settlement is reached and agreed to in writing by both parties as a result of such mediation.

(2) Thereafter, if the Claim is not settled by mutual agreement as provided above within ten (10) business days after the first day of mediation (or such longer time agreed to in writing by both parties), either party may initiate litigation in the United States District Court for the District of New Jersey that covers Mercer County, or in the Superior Court of the State of New Jersey for Mercer County. Architect/Engineer agrees to the sole and exclusive jurisdiction of the preceding two courts and may not initiate litigation in any other forum. It is expressly agreed and understood that in all circumstances the Architect/Engineer shall not have any right to initiate litigation against Princeton University with regard to any Claims against Princeton University without first utilizing the process set forth in this Article XVII. To the extent permitted by law, the parties agree that they will agree to and take action necessary to toll any statute of limitations applicable to any Claim from the date that such notice is sent under paragraph (b) above until the first day upon which the parties are permitted to initiate litigation as set forth in this subparagraph (2), but only if such initial notice sent under paragraph (b) above was timely under the applicable statute of limitation or any shorter time required by this Contract for Architect/Engineer to commence such Claim in the first instance.

(c) Architect/Engineer agrees that the requirements of this Article XVII shall be included in all of its agreements with Subconsultants so that all Subconsultants shall be bound to engage in the procedures and otherwise be subject to the terms of this Article XVII as they may respectively apply to any Claim or other claim, controversy or dispute involving any Subconsultant with regard to the Project, including, without limitation: any Subconsultant claims, controversies or disputes with Architect/Engineer; any Architect/Engineer claims, controversies or disputes with any Subconsultant(s); any Princeton University claims, controversies or disputes with any Subconsultants; and/or any claims, controversies or disputes where joinder of any Subconsultant may be necessary or beneficial (as determined by Princeton University) for mediation or litigation of said claim, controversy or dispute. In the event of any such a claim, controversy or dispute involving any of Architect/Engineer’s Subconsultants, without limitation, the procedure set forth above (and Princeton University’s exemption from such as provided in paragraph
(e) The Architect/Engineer expressly agrees: (i) to being joined in any mediation or litigation between Princeton University and one or more third parties giving rise to a Claim by Princeton University against Architect/Engineer relating to the Project; and (ii) to the joinder of one or more third parties in any mediation or litigation between Princeton University and Architect/Engineer where such mediation or litigation gives rise to any claim, controversy, or dispute between Princeton University and any such third parties.

(e) Notwithstanding anything in this Article XVII or elsewhere in this Contract to the contrary, it is expressly agreed that Princeton University is not bound to the written notice and other procedures set forth in the above paragraph (b), and subparagraphs (b)(1), and (b)(2). Further, Princeton University is not subject to any limitation whatsoever on its ability to commence litigation pursuant to the above paragraph (b), and subparagraphs (b)(1), and (b)(2) (which only apply to and bind Architect/Engineer), with regard to any Claim relating to this Contract or any other claim, controversy or dispute relating to the Project, any and all of which Princeton University may initiate or commence at any time subject only to applicable law. To the extent, however, that Princeton University wishes to assert any Claim against Architect/Engineer or any claim, controversy or dispute against any of Architect/Engineer's Subconsultants pursuant to the procedures provided in the above paragraph (b), and subparagraphs (b)(1) and (b)(2), Princeton University may voluntarily do so at its sole discretion upon written notice to the Architect/Engineer and the respective Subconsultant(s) that Princeton University is invoking said procedures, which shall then be binding upon Architect/Engineer and any respective Subconsultants, but, even in such instance, Princeton University shall have the right at all times to immediately, and without condition, commence litigation with regard to any Claim it may have against Architect/Engineer and/or any claim, controversy or dispute against any of Architect/Engineer’s Subconsultants notwithstanding the procedures set forth in the above paragraph (b), and subparagraphs (b)(1), and (b)(2), and notwithstanding whether such procedures have been invoked by Princeton University at some earlier time and notwithstanding whether such procedures have been previously invoked by Architect/Engineer.

(1) It is further expressly understood that, without limitation, this paragraph (e) and its subparts shall likewise apply to any and all claims, controversies or disputes that Princeton University may have against any of Architect/Engineer’s Subconsultants as a third-party beneficiary of such Subconsultant agreement/contract.

(f) Pending final resolution of any Claim, (i) Architect/Engineer shall proceed diligently with the performance of its obligations under the Contract without interruptions or delay, and shall not directly or indirectly stop or delay its performance; and (ii) Princeton University shall make timely payment in accordance with the Contract of all undisputed amounts.

ARTICLE XVIII – MISCELLANEOUS

(a) Independent Contractor. In performing hereunder, Architect/Engineer and its employees, agents, Subconsultants and representatives shall be as independent contractors and not as employees or agents of Princeton University. All persons furnished or retained by Architect/Engineer in connection with this Contract are so furnished or retained as Architect/Engineer’s employees or agents.
Architect/Engineer shall not transact business, enter into agreements, or otherwise make commitments on behalf of Princeton University unless expressly authorized in writing by Princeton University. Neither Architect/Engineer nor its employees, agents, Subconsultants or representatives shall be entitled to benefits provided by Princeton University to its employees, including but not limited to fringe benefits, worker’s compensation, health and unemployment insurance, and pension plans. Princeton University shall not pay or withhold federal, state, or local income or other payroll taxes on behalf of Architect/Engineer or its employees, agents, Subconsultants or representatives. Architect/Engineer agrees to report and pay all applicable taxes. Architect/Engineer shall defend, indemnify and hold harmless University from and against any and all liability for the payment of taxes, interest and/or penalties, as well as damages and costs, including attorney’s fees, in connection with any claim or finding that Architect/Engineer and/or its employees, agents, subconsultants or representatives are employees of Princeton University.

(b) **Notices.** All notices to be given hereunder shall be in writing, and shall be deemed to have been given or delivered: (1) if delivered by hand during business hours addressed to the party to be notified and against a signed receipt of the party to be notified, upon delivery; (2) if depositing the same in any international and reputable overnight delivery service system for overnight delivery addressed to the party to be notified, one (1) business day following deposit (with receipt of such deposit); (3) if delivered by email to the email address of the party to be notified, upon the sending of such email if during business hours, and if after business hours, on the next business day; (4) if delivered by US certified mail, return receipt requested to the party to be notified upon four (4) business days after it is posted with the United States Postal Service. All notices to be given to either party shall be given to the representative identified in such provision to receive such notice (or as specified elsewhere in the Contract for such) with a copy to the Princeton University or Contractor Administrative Representative identified in the Agreement in one of the manners provided herein for such notice at the physical and/or email addresses for such representatives as identified in the Agreement. Additionally, Architect/Engineer notices to Princeton University shall also be copied to the Princeton University Office of General Counsel (at the following address - Office of the General Counsel, Princeton University, New South Building, Fourth Floor, Princeton, NJ 08544) with regard to the following: any notice in connection with Article XVII (b), (b)(1) and (b)(2). Written notice from Architect/Engineer shall further be deemed only given or made on the latest date upon which all appropriate Princeton University representatives (including the OGC when required) have been provided such notice as required herein. Notwithstanding anything in Article VI(m) or elsewhere in the Contract to the contrary, the uploading or posting or alteration or other action of or to a document on or at the Capital Project Management System (CPMS) by Architect/Engineer shall not under any circumstances be deemed written notice to Princeton University pursuant to this Article XVIII(b). The parties shall have the right to change their respective individual representatives and addresses for receipt of notices hereunder by written notice to the other specifying the new individual representative or address.

(c) **Rights and Remedies.** Princeton University’s review, approval, acceptance or payment for services (Basic Services and/or Additional Services) under this Contract shall not operate as a waiver of any rights under this Contract and Architect/Engineer shall be and remain liable to Princeton University for all damages incurred by Princeton University as the result of Architect/Engineer’s failure to perform in conformance with the terms and conditions of this Contract. The rights and remedies of Princeton University provided for under this Contract are in addition to any other rights or remedies provided by law. Additionally, the duties and obligations imposed upon the Architect/Engineer, as set forth in this Contract shall be in addition to and not a limitation upon any other duties and obligations imposed upon the Architect/Engineer by law or in equity. The rights and remedies of Princeton University set forth in
this Contract shall not give rise to any duty on the part of Princeton University to exercise any such rights or remedies for its own benefit or for the benefit of Architect/Engineer or any other person or entity.

(d) **No Third Party Beneficiaries.** The parties acknowledge that this Contract is not intended to create, and shall not be construed to create, third party beneficiary rights for or against any third party, except as expressly set forth herein. Notwithstanding the preceding the parties acknowledge and agree that Princeton University is an intended express third-party beneficiary of Architect/Engineer’s contracts with Subconsultants as more fully set forth in the Agreement.

(e) **Successors and Assigns.** Architect/Engineer shall not assign or transfer this Contract or delegate its duties without the prior written approval of Princeton University. Architect/Engineer for itself and Architect/Engineer’s successors, Subconsultants, assigns, partners and legal representatives, binds them to Princeton University with respect to all covenants of this Contract. Princeton University for itself and its successors, assigns and legal representatives, binds them to Architect/Engineer with respect to all covenants of this Contract.

(f) **Execution.** This Contract shall not be effective unless and until the Agreement (Part I) is signed by all parties. This Contract may be executed by the parties individually in counterparts, all of the counterparts when taken together shall constitute one single instrument of agreement. For the purpose of this Contract an electronic PDF copy of a signature shall be deemed an original, and delivery may be by email of the same.

(g) **Limitation of Actions.** The parties agree that any action by Architect/Engineer against Princeton University arising out of or relating to this Contract shall be commenced within one (1) year after Substantial Completion of construction of the Project, any otherwise applicable statutory limitations period notwithstanding, except for actions for indemnity or contribution arising out of actions brought against Architect/Engineer by third parties. The parties further agree that any period of limitations on any Claim of Princeton University against the Architect/Engineer shall in no event begin to run at the earliest until the date of Substantial Completion of construction of the Project or until the date on which Princeton University knew the basis for the Claim against the Architect/Engineer, whichever is later.

(h) **Equal Opportunity Employer.** Princeton University is an Equal Opportunity Employer. Pursuant to Executive Orders 11246 and 11375, Section 503 of the Rehabilitation Act of 1973 and Section 402 of the Vietnam-Era Veterans Readjustment Act of 1974, Princeton University has developed Affirmative Action Plans that have been filed with and approved by the U.S. Department of Labor’s Office of Federal Contract Compliance Programs, and are available for review upon request. The Architect/Engineer (and Subconsultants, if applicable) shall abide by the requirements of 41 CFR §§ 60-1.4(a), 60-300.5(a), and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, national origin, protected veteran status or disability. Architect/Engineer also warrants that it will comply with all applicable executive orders, and federal, state, and local laws, regulations, and rules, and, Princeton University policies, as appropriate, relating to nondiscrimination, equal employment opportunity, and affirmative action.

(i) **Advertisement.** Architect/Engineer shall not display, issue or permit to be issued any professional award application, advertisement, press release, professional or scholarly journal or literature of any kind that refers, directly or indirectly, to Princeton University or the services performed in connection with the Contract unless it first obtains the written approval of Princeton University. Architect/Engineer’s written request for approval and submission of material shall be made to Princeton University’s Project Manager.
not less than ten (10) days prior to the date needed for any such requested review and approval. Architect/Engineer’s failure to strictly comply with the terms of this Article XVIII(j) shall be a material breach of this Contract.

(j) **Severability.** Should any term or provision of this Contract, or any part thereof, be held illegal, invalid, or unenforceable under applicable law by a court of competent jurisdiction, such term or provision, or part thereof, shall be deemed ineffective to the extent of such invalidity or unenforceability only and severed from the Contract Documents and the remaining term(s) and provision(s) shall remain unaffected thereby.

(k) **Modification of the Contract by “Amendment”**. The parties agree that this Contract may be modified and/or Additional Services authorized from time to time only by means of a written instrument approved and produced by Princeton University and which is identified therein as being final and binding and signed by Princeton University’s authorized representative and the Architect/Engineer stating their full agreement with respect to any change in the provisions of this Contract and/or Additional Services (an “Amendment”). It is expressly agreed that the term Amendment as used in the Contract Documents shall be deemed to include only those written instruments that have been produced, approved and signed by Princeton University as provided in the preceding sentence. An Amendment signed by Architect/Engineer indicates its agreement therewith, including the adjustment of the Project Schedule, and/or the NTE Price and its components, if any, as the final and full resolution for Architect/Engineer and all of its Subconsultants of the underlying change in the Contract and/or Additional Services and all events, occurrences and circumstances relating thereto. Except as provided in this Article XVIII(k), no order, statement, or conduct of Princeton University shall be treated as a change in the Contract or approval or authorization of Additional Services under this Contract or entitle the Architect/Engineer to an equitable adjustment of the Project Schedule, or the NTE Price or its components, except with respect to an A/E Disputed Additional Service if otherwise compensable subject to all other terms of this Agreement.

(l) **Waiver.** Any failure on the part of Princeton University to complain of any act or failure to act on the part of the Architect/Engineer or to declare the Architect/Engineer in breach hereunder, irrespective of how long such failure continues, shall not constitute a waiver of any rights of Princeton University or duties or obligations of Architect/Engineer under the Contract or constitute any approval of or acquiescence in any breach by Architect/Engineer, except as may be specifically agreed in writing by Princeton University. No consent or waiver, express or implied, by Princeton University with respect to any breach by the Architect/Engineer of any obligations under the Contract shall be deemed or construed to be a consent or waiver with respect to any other breach by Architect/Engineer under the Contract.

(m) **Applicable Law.** This Contract is deemed entered into in the State of New Jersey. All Claims or other disputes between the parties, including those regarding the validity, construction of, interpretation of, and the parties’ obligations under, this Contract shall be governed by the laws of the State of New Jersey, notwithstanding any of that state’s laws to the contrary, including, without limitation, giving no effect to its choice of law rules. For all Claims or other disputes not resolved by mediation pursuant to Article XVII, Princeton University and Architect/Engineer hereby consent to the exclusive venue and jurisdiction for the resolution of any such Claims or disputes in the United States District Court for the District of New Jersey that covers Mercer County, or in the Superior Court of the State of New Jersey Mercer County, and waive any challenge to the venue or personal jurisdiction of such courts.

(n) **Applicable Currency.** The applicable currency for all price and other monetary terms in the Contract is U.S. Dollars. Payments under the Contract will be made in US Dollars unless otherwise specified in the Contract.
(o) **Licensed Architect/Engineer.** Architect/Engineer hereby warrants that for the duration of the Contract it, as an entity, and to the extent required by applicable law, all persons providing professional services under the Contract, shall be fully licensed and authorized to practice in New Jersey and to provide any other services required under the Contract. Likewise, Architect/Engineer shall ensure that, to the extent required by applicable law, all Subconsultants, as entities, and all persons providing professional services by or on behalf of such Subconsultant entities, are appropriately licensed and authorized to practice and provide their respective services for this Project in New Jersey.

(p) **Records/Right to Audit.** The Architect/Engineer is required to retain records which shall include, but not be limited to, copies of all plans, specifications, submittals, correspondence, email, minutes, memoranda, audio visual recordings, videos, policies, procedures, accounting records and other data, regardless of type and regardless of whether such items are in written form, in the form of electronic data, or in any other form, which document the Project, its design, and its construction, and all costs relating thereto, and that have any bearing on or pertain to any matters, rights, duties or obligations under or covered by the Contract. The Architect/Engineer shall retain all records relating to this Contract until the expiration of ten (10) years after Substantial Completion of the Project, or six (6) months after final resolution (by non-appealable judgment or settlement) of any disputes, whichever may be later. Upon the request of Princeton University, and by no later than three (3) days after written notice, the Architect/Engineer shall make all such records available during normal business hours to Princeton University, its authorized representative(s) or to any state, federal or other regulatory authority. In the event that Architect/Engineer receives any request in any manner or medium for any records relating to the Contract, the Work or the Project, Architect/Engineer shall provide written notice to Princeton University of same within twenty-four (24) hours of such request. Any such state, federal or other regulatory authority, Princeton University or its authorized representative(s) shall be entitled to inspect, examine, review, copy and audit the Architect/Engineer’s records at its own expense, within adequate workspace at the Architect/Engineer’s facilities. Failure by the Architect/Engineer to supply substantiating records shall be reason to exclude the related costs from amounts which might otherwise be payable by Princeton University to the Architect/Engineer pursuant to the Contract.

(q) **Entire Contract.** This Contract represents the entire and integrated agreement between Princeton University and the Architect/Engineer and supersedes all prior negotiations, representations or agreements, either written or oral. The Contract Documents may be changed, modified, or amended only by a written Amendment signed by both parties.

(r) **Recitals.** The recitals are incorporated into and form a part of this Agreement as if repeated herein.
IN WITNESS WHEREOF, the parties hereto have executed this Contract:

ON BEHALF OF
FIRM NAME

BY: ________________________________
PRINTED: ___________________________
TITLE: ______________________________
DATE: ______________________________

ON BEHALF OF
THE TRUSTEES OF PRINCETON UNIVERSITY

BY: ________________________________
PRINTED: KyuJung Whang
TITLE: Vice President for Facilities
DATE: ______________________________

Princeton University–Contract Funding Summary

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PART II
PROJECT DESCRIPTION

The following document(s) attached hereto or incorporated by reference comprise the Project Description for this contract:

- Princeton University Project Description entitled Project Description dated MM/DD/YYYY