

# DRAFT AIA® Document B101™ – 2017

## Master Form of Agreement Between Owner and Architect for Full Scope of Project-Related Services

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

**BETWEEN** the Architect's client identified as the Owner:  
(Name, legal status, address and other information)

«Adventist Health System/Sunbelt Inc. d/b/a AdventHealth,» a Florida not for profit corporation »  
«550 East Rollins Street  
Orlando, Florida 32803»  
Attention: « »  
Telephone: « »  
Email: « »

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

« »  
Florida License No.:  
« »  
« »  
Attention: « »  
Telephone: « »  
Email: « »

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

« To be identified in each PSA (hereinafter defined). »

The Owner and Architect agree as follows.

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

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

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### ARTICLE 1 MASTER AGREEMENT

§ 1.1 This Master Agreement between Owner and Architect shall sometimes hereinafter be referred to as "**this Agreement**". The Architect may seek authorization to perform services under this Agreement for a given Project by completing and submitting to the Owner a proposed "Professional Services Authorization" in the form of the template attached hereto as **Exhibit A**. Each Professional Services Authorization that is agreed to and executed by the Architect and the Owner (a "**PSA**") shall identify the applicable Project, the Initial Information, the Architect's compensation, schedule information, the Project team, and such other terms and conditions to which the parties hereto may agree. The accepted and fully executed PSA, this Agreement and any other documents incorporated into the parties' agreement regarding the Architect's services pursuant to the PSA shall be collectively referred to as the "**Services Agreement**" for such Project. **THE TERMS AND CONDITIONS OF THIS AGREEMENT SHALL APPLY TO ALL SERVICES TO BE PROVIDED BY THE ARCHITECT TO THE OWNER PURSUANT TO A PSA AND SHALL CONTROL IN THE EVENT OF INCONSISTENCY WITH THE TERMS AND CONDITIONS OF A PSA, EXCEPT TERMS AND CONDITIONS OF A PSA THAT APPEAR IN BOLD AND UNDERLINED FONT AND ARE SEPARATELY INITIALED BY THE OWNER'S DULY-AUTHORIZED REPRESENTATIVE.** The Owner has retained the Architect to provide professional services on a non-exclusive basis. Further, the execution of this Master Agreement does not obligate the Owner to issue any PSAs to the Architect.

§ 1.2 The Owner and Architect may rely on the Initial Information. Both parties, however, recognize that the Initial Information may materially change and, in that event, the Owner and the Architect shall discuss whether and to what extent adjustment of the Architect's services, schedule for the Architect's services, and/or the Architect's compensation may be warranted. The Owner may adjust the Owner's budget for the Cost of the Work and the Owner's anticipated design and construction milestones, if the Owner deems such adjustment necessary or prudent to accommodate material changes in the Initial Information.

§ 1.3 The parties shall discuss and endeavor to agree upon protocols governing the transmission and use of Instruments of Service or any other information or documentation in digital form.

§ 1.3.1 Intentionally deleted.

## ARTICLE 2 ARCHITECT'S RESPONSIBILITIES

§ 2.1 The Architect shall provide the professional services set forth in each Services Agreement.

§ 2.1.1 The Architect represents that it (and each of the individual architects, engineers and other professional consultants it employs on the Project) is and shall remain properly licensed in the jurisdiction where the Project is located to provide the services required by each Services Agreement, or shall cause such services to be performed by appropriately licensed design professionals. The Architect represents that it is financially solvent, able to pay its debts as they mature, and possesses sufficient working capital to complete the services and perform its obligations under each Services Agreement.

§ 2.2 The Architect acknowledges that the Owner is relying on the Architect's skill, knowledge, experience and ability to fully perform the services and its obligations under each Services Agreement. The Architect shall perform its services consistent with the professional skill and care ordinarily provided by architects practicing in the same or similar locality under the same or similar circumstances (the "**Standard of Care**"). The Architect shall perform its services as expeditiously as is consistent with such Standard of Care and the orderly progress of each Project and each Project schedule (prepared in accordance with Section 3.1.3) approved by the Owner. The Architect shall review all applicable laws, statutes, codes, ordinances, rules and regulations of governmental authorities having jurisdiction over the Project and the Architect's services (collectively, "**Applicable Laws**"). The Architect shall exercise the Standard of Care to conform its services, the design of the Project and documents prepared or furnished by the Architect to Applicable Laws. However, the Architect shall be compensated as an Additional Service for any changes in its services, design or documents necessitated by changes in the Applicable Laws or in their interpretation by any authority having jurisdiction over the Project. Nothing in this Agreement or any Services Agreement shall be construed to eliminate the Architect's responsibility for compliance of its design, its documents and its services with the Standard of Care, nor shall anything in this Agreement be construed to increase or enhance the Standard of Care required herein.

§ 2.3 The Architect shall identify in each PSA a representative authorized to act on behalf of the Architect with respect to the applicable Project. During the term of each Project, the Architect shall continuously maintain a designated representative. The Architect will consult with the Owner and obtain the Owner's consent before designating an alternate designated representative.

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

§ 2.5 The Architect shall, at its sole expense, maintain the following insurance in full compliance with this Section 2.5 until termination of this Agreement or such longer period of time as may be specified herein or in a PSA or as may be required by Applicable Laws:

§ 2.5.1 Commercial General Liability (including bodily injury, property damage, broad form property damage, accidental death, personal and advertising injury, products and completed operations, and contractual liability coverage) with the following policy limits:

Each occurrence	not less than \$1,000,000
Damage to rented premises, each occurrence	not less than \$300,000
Medical expenses to any one person	not less than \$10,000
Personal and Advertising Injury	not less than \$1,000,000
Products completed operations aggregate (to be maintained in effect until the expiration of the applicable Statute of Repose)	not less than \$2,000,000

General Aggregate	not less than \$2,000,000
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§ 2.5.2 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Architect with policy limits of not less than «One Million Dollars» (\$ «1,000,000 » ) per accident for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles, along with any other statutorily required automobile coverage.

§ 2.5.3 Excess/Umbrella Liability in excess over and no less broad than the liability coverages required in Section 2.5.1 and 2.5.2 above with policy limits not less than \$5,000,000 for each occurrence and in the aggregate. Coverage to "drop down" for exhausted aggregate limits under all such liability coverages. In no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers.

§ 2.5.4 Workers' Compensation at statutory limits in compliance with Applicable Laws.

§ 2.5.5 Employers' Liability with the following policy limits:

Each occurrence	not less than \$1,000,000
Each accident	not less than \$1,000,000
Disease, each employee	not less than \$1,000,000
Disease, policy limit	not less than \$1,000,000

§ 2.5.6 Professional Liability covering negligent acts, errors and omissions in the performance of professional services with policy limits of not less than «Three Million Dollars» (\$ «3,000,000» ) per claim and « Five Million Dollars » (\$ « 5,000,000 » ) annual aggregate or, alternatively, Four Million Dollars (\$4,000,000) per claim and Four Million Dollars (\$4,000,000) annual aggregate, which Professional Liability insurance policy shall: (a) be maintained until the expiration of the applicable Statute of Repose, and (b) have a retroactive date prior to the performance of any services to be provided under any Services Agreement.

§ 2.5.7 **Additional Insured Obligations.** The Architect shall cause the primary and excess or umbrella policies for Commercial General Liability and Automobile Liability to include the Indemnitees (hereinafter defined) as additional insureds with coverage as broad as the insurance for the named insured. The additional insured coverage shall be primary and non-contributory and non-excess to any of the Indemnitees' insurance policies and shall apply to both ongoing and completed operations. Further, the Architect shall cause such policies to be endorsed to waive subrogation against the Indemnitees.

§ 2.5.8 **Other Insurance Matters.** Prior to performing any services of any Services Agreement, upon renewal or replacement of any existing required insurance policy and at any time when a change in carriers or underwriters occurs, the Architect shall provide to the Owner certificates of insurance (that designate the name of the Project) and additional insured endorsements evidencing compliance with the requirements in this Section 2.5, the applicable PSA and the applicable Services Agreement. Further, at the Owner's written request, the Architect shall promptly deliver to the Owner true and complete copies of the required insurance policies, including declarations pages; provided, however, the Architect may redact confidential or proprietary information from the copies of such policies, provided, further, that such redaction shall not include redaction of information that is material to the scope and amount of insurance coverage provided by the subject policy. The insurance companies providing the required coverages shall be authorized to do business in the State in which the applicable Project is located and rated A-/VIII or better by the current edition of Best's Key Rating Guide. The deductible or self-insured retentions for the foregoing insurance policies shall not exceed Two Hundred Thousand Dollars (\$200,000) without the Owner's prior written consent. The Architect shall be fully responsible for payment of self-insured retention or deductible. It shall be the insurance company's responsibility to seek reimbursement from the Architect. The Architect shall not make changes that would

reduce or otherwise adversely affect the required insurance coverages, or allow the required insurance coverages to lapse, without the Owner's prior written approval thereto. All policies for insurance must contain provisions reasonably acceptable to the Owner for notice to the Owner and other additional insureds of any cancellation, non-renewal or reduction in limits or scope of coverage under the subject policy. Insurance coverage required in this Agreement and in any PSA shall be additional security for the obligations assumed by the Architect and in no event shall the types or limits of coverage required be deemed to limit any obligations or liabilities assumed under this Agreement or any Services Agreement. The carrying of insurance shall not be deemed to release the Architect or in any way diminish its liability or obligations under any Services Agreement by way of indemnity or otherwise.

### § 2.5.9 Consultants' Insurance

§ 2.5.9.1 Unless otherwise agreed by the Owner in writing, the Architect shall require its structural, mechanical, electrical and plumbing engineering consultants to procure and maintain the same types and at least the same amounts of insurance as those required of the Architect under this Agreement (provided that, unless otherwise required by the Owner, if the Architect engages BBM Structural Engineers, Inc. as its structural engineering consultant, such consultant may have Employer's Liability with limits not less than \$500,000 each occurrence, each accident, disease, each employee, and disease, policy limit and Excess/Umbrella Liability with limits not less than \$1,000,000 each occurrence and in the aggregate), with the Indemnitees named additional insureds on the same insurance policies on which the Architect is obligated to name the Indemnitees as additional insureds and with waivers of subrogation in favor of the Indemnitees as provided above.

§ 2.5.9.2 Unless otherwise agreed by the Owner in writing, the Architect shall require its consultants not subject to Section 2.5.9.1 to procure and maintain the same types and at least the same amounts of insurance as those required of the Architect under the applicable Services Agreement, with the Indemnitees named additional insureds on the same insurance policies on which the Architect is obligated to name the Indemnitees as additional insureds and with waivers of subrogation in favor of the Indemnitees as provided above; provided, however, the limits for such consultants' Professional Liability insurance shall be not less than One Million Dollars (\$1,000,000) per claim and One Million Dollars (\$1,000,000) annual aggregate.

§ 2.5.10 Insurance exceeding the requirements set forth in this Section 2.5, and required in connection with any individual Services Agreement, shall be set forth in the applicable PSA.

### § 2.6 Indemnification.

.1 The Architect, to the fullest extent permitted by law, shall defend, indemnify, and hold harmless the Owner and its affiliate companies and the officers, directors, employees of each (collectively, the "**Indemnitees**") from and against any and all claims, suits, judgments, liabilities, damages, losses, costs and expenses, including reasonable attorneys' fees (collectively, "**Indemnity Claims**"), to the extent caused by the negligence, recklessness, or intentionally wrongful conduct of the Architect, the Architect's consultants, subconsultants, or agents of any tier or their respective employees; provided, however, nothing in this Section shall apply to indemnification for Indemnity Claims arising from professional services, which are addressed in Section 2.6.2 below. The Architect's duty to defend under this Section 2.6.1 arises immediately upon the Architect's receipt of the request of the Owner for the defense. The Architect's obligations to indemnify, defend and hold harmless the Indemnitees under this Section 2.6.1 exclude such portion of any Indemnity Claims to the extent caused (on a comparative negligence basis) by any act, omission, or default of the Indemnitee arising from the applicable Services Agreement or its performance.

.2 The Architect, to the fullest extent permitted by law, shall indemnify and hold harmless the Indemnitees from and against any and all Indemnity Claims to the extent caused by the negligence of the Architect, the Architect's consultants, subconsultants or agents of any tier or their respective employees in the performance of professional services under any Services Agreement. The absence of the duty to defend under this Section 2.6.2 shall not preclude the Indemnitees from recovering their reasonable attorneys' fees as part of their damages to the extent such fees are incurred as a result of Indemnity Claims for which the Architect has the obligation to provide indemnification under this Section 2.6.2. Nothing in this Section shall apply to indemnification or defense for Indemnity Claims arising from matters other than the rendition of professional services, which other matters are addressed in Section 2.6.1 of this Agreement. The Architect's obligations to indemnify and hold harmless the Indemnitees under this Section 2.6.2 exclude such portion of any Indemnity Claims to the extent caused (on a comparative negligence basis) by any act, omission, or default of the Indemnitee arising from the applicable Services Agreement or its performance.

.3 The Architect's indemnification, defense and hold harmless obligations contained in this Section 2.6 shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to an Indemnitee.

.4 The Owner and the Architect acknowledge and agree that Section 725.06, Florida Statutes, does not require a monetary limitation on the extent of the indemnification required by Sections 2.6.1 – 2.6.2. If, notwithstanding this agreement, a monetary limitation on the extent of indemnification is deemed necessary to enforce any indemnification provision contained in this Agreement, the specifications for each Project shall be deemed to include a monetary limitation on the extent of the indemnification required by said provision equal to the greater of, on a per occurrence or per claim, as applicable, basis: (a) two times the Contract Sum (as defined in the Contract for Construction for the applicable Project), or (b) the amount of all deductibles and self-insured retentions applicable to the Architect's insurance policy or policies applicable to such Indemnity Claim(s) plus the amount of insurance proceeds paid or payable under the Architect's insurance policy or policies applicable to such Indemnity Claims, and the Architect and the Owner expressly agree that this monetary limit bears a reasonable commercial relationship to this Agreement and the applicable Services Agreement. The Architect's indemnification obligations under this Agreement, including those specified in Sections 2.6.1 and 2.6.2, shall be deemed to fully comply with Sections 725.06, Florida Statutes, to the extent applicable, including any amendments thereto, in all respects. To the greatest extent permitted by law, the Architect waives for itself and its insurers any and all claims that the indemnification obligations under this Agreement violate applicable law.

.5 The Architect shall include in its agreements with its consultants the same indemnity provisions contained in this Section 2.6 from the consultants in favor of the Indemnitees.

.6 The provisions of Section 2.6 shall survive the termination of this Agreement or any Services Agreement for any reason, provided that claims under this Section 2.6 shall be subject to the applicable statute of limitations and statute of repose in accordance with applicable law.

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

§ 3.1 The Architect's Basic Services include those described in this Article 3 and the applicable PSA, and include all professional services necessary to completely design the Project and to prepare Construction Documents that fully indicate the requirements for construction of the Work, including (i) architectural services, (ii) civil, structural, mechanical, electrical, plumbing and engineering services and (iii) fire protection, life safety, interior design, and landscape design services, whether or not those services are individually listed or referred to in this Agreement or the applicable PSA, the only exceptions to this being: (1) the cost of those services that are provided by third parties and that are expressly designated in the applicable PSA as being "the Owner's responsibility" or "Owner-provided"; and (2) the cost of those engineering or consulting services that become necessary as a result of an Owner-directed change in Project scope affecting the Architect and that are the subject of a written agreement for Additional Services between the Owner and the Architect.

§ 3.1.1 The Architect shall manage the Architect's services, research applicable design criteria, attend Project meetings, communicate with members of the Project team (as defined in the applicable Services Agreement), and otherwise consult with the Owner, Owner's separate consultants, and Owner's contractor, and report progress to the Owner. The Architect's and its consultant's basic services include participating in the Project delivery team partnering concept. This effort will involve, as a minimum, meeting as a team at least once per month during design and construction for coordination efforts. Meetings may occur bi-monthly during the intensive design and pricing period. These meetings are not intended to replace the Architect's coordination meetings with its consultants or with the Owner's staff during design. The Architect will record and provide meeting minutes of the meetings and prepare information for value engineering analysis when required. The Architect will provide detailed design schedule information as part of the overall preconstruction schedule.

§ 3.1.2 The Architect shall assist the Owner in identifying consultants and special inspectors, if any, that the Owner is required to retain. The Architect shall exercise the Standard of Care to verify those services provided by the Owner and the Owner's consultants, contractors and vendors and confirm the input of the Owner's separate consultants and contractors is integrated properly into the overall design of the applicable Project. The Architect shall review information provided by the Owner and the Owner's consultants and contractors for the completeness necessary to the

performance of the Architect's services, but shall be entitled to rely on the accuracy of services and information furnished by the Owner and the Owner's consultants to the extent such reliance is consistent with the Standard of Care. The Architect shall not be required to verify the accuracy of such information or certify such information for compliance with Applicable Laws. However, the Architect shall provide prompt written notice to the Owner if the Architect becomes aware of any error, omission, or inconsistency in such services or information. Further, no error, omission or inconsistency in any such services or information shall relieve the Architect of its obligation to provide Construction Documents that conform to the Standard of Care; provided, however, the Architect shall not be responsible for the errors, omissions, or inconsistencies that may be contained in information provided in the Owner's separate consultants' services.

**3.1.2.1** The Architect shall assist the Owner in the formulation of the special inspection and testing requirements, if any, applicable to each Project and shall reasonably coordinate with any such special inspectors, who, unless otherwise agreed by the parties in writing, shall be retained by the Owner.

**§ 3.1.3** Unless otherwise required in the applicable PSA, as soon as practicable after the date of each Services Agreement, the Architect shall submit for the Owner's approval a detailed schedule of the Architect's services under the Services Agreement for inclusion in the applicable Project schedule. The schedule initially shall include anticipated dates for the commencement of construction and for Substantial Completion of the Work as set forth in the Initial Information. The schedule shall include allowances for periods of time required for the Owner's (and, to the extent applicable, each of its consultants') review, for the performance of the Owner's consultants, and for approval of submissions by authorities having jurisdiction over the Project. Once approved by the Owner, time limits established by the schedule shall not, except for reasonable cause, be exceeded by the Architect. If any schedule update shows that the progress is delayed in comparison to the schedule approved by the Owner, the Architect shall, if required by the Owner, provide a proposed "recovery schedule" showing how the Architect proposes how the delay can be recovered or mitigated, including overtime and additional labor, provided that no additional compensation shall be payable unless the Owner authorizes Additional Services in accordance with Section 4.2 below. With the Owner's prior written approval, the Architect shall adjust the schedule, if necessary, as the Project proceeds until the commencement of construction. Time is of the essence in the performance of the Architect's services.

**§ 3.1.4** The Architect shall not be responsible for an Owner's directive or substitution, or for the Owner's acceptance of non-conforming Work, made or given without the Architect's approval. However, if the Architect has an objection to, or concern about, such directive, substitution or acceptance, the Architect shall promptly notify the Owner in writing of the reasons for such objection or concern.

**§ 3.1.5** The Architect shall, at appropriate times, contact governmental authorities required to approve the Construction Documents and entities providing utility services to the Project. As is consistent with the Standard of Care, the Architect shall prepare designs and documents in accordance with the applicable design requirements imposed by such governmental authorities and by such entities providing utility services. The Architect shall make, or cause to be made, revisions to the design and Construction Documents prepared by the Architect and its consultants requested or required by governmental authorities or the Owner as needed to obtain governmental approvals as part of its Basic Services. However, any revisions resulting from a change in the codes, rules, laws or regulations, or in their interpretation by the authority or utility shall be an Additional Service in accordance with Sections 2.2 above and 4.2.1.3 below.

**§ 3.1.6** The Architect shall, at the Owner's request, assist the Owner in connection with filing documents required for the approval of governmental authorities having jurisdiction over the Project. In this regard, the Architect acknowledges that certain governmental permits shall be required prior to construction of the Project and that the tasks associated with securing such permits may, at the Owner's election, be included in the scope of the Architect's services specified in a PSA.

**§ 3.1.7** The Architect shall be responsible to the Owner for all actions, omissions, breaches, negligence and misconduct of the Architect's consultants in the performance of services under each Services Agreement delegated by the Architect to such consultants. Before engaging any consultant to assist the Architect in the rendition of its services, the Architect shall notify the Owner in writing of the identity of such consultant and the portion of the services for which the Architect proposes to retain such consultant. The Architect shall not retain a consultant to whom the Owner has made reasonable objection within fourteen (14) days after receipt of the information regarding such consultant.

The Owner shall enjoy the same benefits and rights as to the Architect's consultants as the Architect enjoys with respect to its consultants and all of the Architect's contracts with its consultants shall be in writing, signed by both parties and shall include expressly identify the Owner as a third-party beneficiary of such contract. Should the Owner terminate a Services Agreement with the Architect, the Owner shall, upon the Owner's request, obtain assignment of those of the consultant's agreement(s) with the Architect elected by the Owner. Each of the Architect's agreements with its consultants shall specifically provide that the Owner shall only be responsible to the consultant for those obligations of the Architect that accrue subsequent to the Owner's exercise of its right to take an assignment of such agreement. The Architect shall provide to the Owner copies of all of the Architect's agreements with its consultants promptly after execution of the same and provision of such agreements shall be a condition precedent to any obligation of the Owner to pay the Architect for services performed by such consultants.

**§ 3.1.8** The Architect shall promptly correct, or cause to promptly be corrected, any designs, drawings or specifications prepared or furnished by the Architect or its consultants that do not comply with Applicable Laws or that contain errors, conflicts or omissions at no additional cost to the Owner.

**3.1.9** The Architect shall, and shall be allowed to, make such visual inspections or review such reports, measurements and surveys of the Project site and the structures thereon as the Architect deems necessary to become familiar with the Project site and the existing conditions thereon.

**3.1.10** The Architect shall produce, maintain and deliver to the Owner all Instruments of Service in the formats approved in writing by the Owner and shall comply with formatting required per the Owner's guidelines. All Construction Drawings and as-built drawings shall be maintained and produced in the AutoCAD Release version approved in writing by the Owner and comply with formatting required per AdventHealth Guidelines.

**3.1.11** Value engineering is the detailed, systematic review of the design concepts, construction techniques, materials and building types associated with a project in terms of life cycle costs in an attempt to obtain increased value for every dollar spent. Unless otherwise specified in the PSA, the Architect shall perform value engineering review services, including analyzing the comparative costs and benefits of (a) alternative materials, (b) structural, mechanical, enclosure and other significant building systems, and (c) site engineering, as well as, overarching issues of program, budget and aesthetics, during each phase of the design of each Project, and shall report the alternatives and options to the Owner in writing to determine which, if any, are to be incorporated into the Project.

**§ 3.1.12** The Architect shall in its Drawings and Specifications provide for the coordination and incorporation into the design and construction documents all details related to all Owner-furnished medical and communication equipment and systems, including:

- fixed and moveable medical equipment;
- data communications cabling;
- telecommunications cabling;
- information systems cabling;
- closed circuit television systems;
- access control systems; and
- other local and remote communication devices.

Design services to identify locations, paths, and rough-ins for each of the above items shall be part of the Architect's responsibilities. Fixed and moveable medical equipment will require, at a minimum, power installation for equipment connection.

## **§ 3.2 Programming and Schematic Design Phase Services**

**§ 3.2.1** The Architect shall, if requested, assist the Owner in developing a detailed program brief for the applicable Project and attend all necessary meetings with the Owner and the Owner's other consultants necessary to develop the program for such Project. Further, the Architect shall, at the Owner's request, attend meetings with governmental agencies having jurisdiction over the applicable Project to confirm all data gathered and conclusions drawn therefrom. The Architect shall review information furnished by the Owner and the Owner's consultants.

**§ 3.2.2** For each Project, the Architect shall prepare a preliminary evaluation of the Owner's program, schedule, budget for the Cost of the Work, Project site, the proposed procurement and delivery method, and other Initial

Information, each in terms of the other, to ascertain the requirements of the Project to be approved by the Owner. The Architect shall promptly notify the Owner in writing of (1) any inconsistencies discovered in the information, and (2) other information or consulting services that may be reasonably needed for the Project.

§ 3.2.3 The Architect shall present its preliminary evaluation to the Owner and Owner's contractor and shall discuss with the Owner alternative approaches to design and construction of the Project, including the feasibility of incorporating environmentally responsible design approaches, and consideration of the implementation of the Owner's sustainable objective, if any. The Architect shall reach an understanding with the Owner regarding the requirements of the Project.

§ 3.2.4 Based on the Project requirements, the Architect shall prepare and present to the Owner and Owner's contractor, for the Owner's approval, a preliminary design illustrating the scale and relationship of the Project components.

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

§ 3.2.5.1 The Architect shall consider sustainable design alternatives, such as material choices and building orientation, together with other considerations based on program information, aesthetics, and implications of sustainable code requirements enacted in the relevant jurisdiction, if any, in developing a design that is consistent with the Owner's program, schedule and budget for the Cost of the Work.

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

§ 3.2.6 The Architect shall submit the Schematic Design Documents to the Owner at intervals requested by the Owner and at otherwise appropriate intervals, and request the Owner's approval. The Architect shall meet with the Contractor or other cost consultant engaged by the Owner, if engaged, throughout the Schematic Design Phase to review the Schematic Design Documents and the Contractor's (or other cost consultant's) review comments and cost estimates.

§ 3.2.7 Upon receipt of the Contractor's, or other cost consultant's, review comments and cost estimate at the conclusion of the Schematic Design Phase, the Architect shall take action as required under Section 6.4, and request the Owner's approval of the Schematic Design Documents. If revisions to the Schematic Design Documents are required to comply with the Owner's budget for the Cost of the Work at the conclusion of the Schematic Design Phase, the Architect shall incorporate the required revisions in the Design Development Phase.

### § 3.3 Design Development Phase Services

§ 3.3.1 Upon receipt of the Owner's written notice to proceed with the Design Development Phase Services and based on the Owner's written approval of the Schematic Design Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Design Development Documents for the Owner's approval and the Owner's contractor's review. The Design Development Documents shall illustrate and describe the development of the approved Schematic Design Documents and shall consist of drawings and other documents including plans, sections, elevations, typical construction details, and diagrammatic layouts of building systems to fix and describe the size and character of the Project as to civil, landscape, architectural, structural, mechanical, electrical, plumbing, fire protection/life safety systems and interior design elements, and other appropriate elements. The Design Development Documents shall also include outline specifications that identify major materials and systems and establish, in general, their quality levels. In preparing the Design Development Documents, the Architect shall take into consideration, among other things, cost estimates and information provided by the Owner's consultants and contractor. Detailed design information relating to medical

equipment, furnishings, mechanical systems, electrical systems, nurse call, medical gas, telecommunications, data systems and casework shall be resolved.

**§ 3.3.2** Prior to the conclusion of the Design Development Phase, the Architect shall submit the Design Development Documents to the Owner and the Contractor, or other cost consultant engaged by the Owner, if any, at intervals requested by the Owner and at otherwise appropriate intervals. The Architect shall meet with the Contractor (or other cost consultant) and the Owner throughout the Design Development Phase to review the Design Development Documents and the Contractor's (or other cost consultant's) review comments and cost estimates.

**§ 3.3.3** Upon receipt of the Contractor's (or other cost consultant's) estimate at the conclusion of the Design Development Phase, the Architect shall take action as required under Sections 6.4 and request the Owner's approval of the Design Development Documents.

### **§ 3.4 Construction Documents Phase Services**

**§ 3.4.1** Upon receipt of the Owner's written notice to proceed with the Construction Documents Phase Services and based on the Owner's written approval of the Design Development Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Construction Documents for the Owner's approval and the Owner's contractor's review. The Construction Documents shall illustrate and describe the further development of the approved Design Development Documents and shall consist of Drawings and Specifications setting forth in detail the quality levels and performance criteria of materials and systems and other requirements for the construction of the Work. In preparing the Construction Documents, the Architect shall take into consideration, among other things, information provided by the Owner's consultants and contractor. The Owner and Architect acknowledge that, in order to perform the Work, the Contractor will provide additional information, including Shop Drawings, Product Data, Samples and other similar submittals, which the Architect shall review in accordance with Section 3.6.4.

**§ 3.4.2** The Architect shall incorporate the design requirements of governmental authorities having jurisdiction over the Project into the Construction Documents.

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

**§ 3.4.3.1** The Architect shall prepare the Construction Documents in such a manner to permit competitive bidding whenever possible. Proprietary items shall not be specified without the Owner's prior written approval.

**§ 3.4.3.2** The Architect acknowledges that some Project components may be started as part of an early release package prior to the completion of Construction Documents.

**§ 3.4.4** Prior to the conclusion of the Construction Documents Phase, the Architect shall submit the Construction Documents to the Owner and the Contractor, or other cost consultant engaged by the Owner, if any, at intervals requested by the Owner and at otherwise appropriate intervals. The Architect shall meet with the Owner and the Contractor (or other cost consultant) throughout the Construction Documents Phase to review the Construction Documents and the Contractor's (or other cost consultant's) review comments and cost estimates.

**§ 3.4.5** Upon receipt of the Contractor's (or other cost consultant's) estimate at the conclusion of the Construction Documents Phase or bid(s) or proposal(s) from the Contractor and/or prospective contractors, the Architect shall take action as required under Section 6.6, and request the Owner's approval of the Construction Documents.

### **§ 3.5 Procurement Phase Services**

#### **§ 3.5.1 Evaluation of Price Proposals**

**3.5.1.1** The Architect shall consider the Contractor's requests for substitutions and, upon written request of the Contractor, provide clarification or interpretations pertaining to the Drawings, Specifications, and other documents

submitted by the Architect. The Architect shall include the Owner on all communications related to substitution requests, clarifications, and interpretations.

**3.5.1.2** The Architect shall assist the Owner in reviewing any Guaranteed Maximum Price proposal. In the event that the Architect discovers any inconsistencies or inaccuracies in the information presented, the Architect shall promptly notify the Owner in writing.

**3.5.1.3** Upon authorization by the Owner, the Architect shall update the Drawings, Specifications, and other documents to incorporate the agreed upon assumptions and clarifications contained in any Guaranteed Maximum Price Amendment.

**3.5.1.4** The Architect shall assist the Owner in establishing a list of prospective contractors. Following the Owner's written approval of the Construction Documents, the Architect shall assist the Owner in (1) obtaining either competitive bids or negotiated proposals; (2) confirming responsiveness of bids or proposals; and (3) assisting the Owner in determining the successful bid or proposal, if any.

### § 3.5.2 Competitive Bidding

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

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

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

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

### § 3.5.3 Negotiated Proposals

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

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

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

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

### § 3.6 Construction Phase Services

#### § 3.6.1 General

**§ 3.6.1.1** The Architect shall provide administration of the contract between the Owner and the Contractor for the applicable Project (the "**Contract for Construction**") as set forth below and in the AdventHealth Revised AIA Document A201™-2017, General Conditions of the Contract for Construction (the "**General Conditions**"). If the Owner and Contractor modify the General Conditions, those modifications shall not increase the Architect's services under this Agreement unless the Owner and the Architect amend this Agreement. References herein to "Contract Documents" shall have the meaning given in the Contract for Construction. Nothing in the General Conditions shall be deemed to limit the Architect's responsibilities under this Agreement.

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

§ 3.6.1.3 Except as provided in Section 3.6.6.5, the Architect's responsibility to provide Construction Phase Services commences with the award of the Contract for Construction (or, if the Owner has entered into a modified AIA Document A133-2009, upon the Owner's execution of a Guaranteed Maximum Price Amendment) and terminates on the date the Owner makes final payment to the Contractor.

### § 3.6.2 Evaluations of the Work

§ 3.6.2.1 The Architect shall visit the site at intervals appropriate to the stage of construction, or when requested by the Owner, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine in general if the Work observed is being performed in accordance with the Contract Documents. However, the Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, the Architect shall keep the Owner informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner in writing (1) known deviations from the Contract Documents, (2) known deviations from the most recent construction schedule submitted by the Contractor and approved by the Owner, and (3) defects and deficiencies observed in the Work.

§ 3.6.2.1.1 The Architect and its consultants shall schedule site visits to coincide with the Owner-Architect-Contractor (OAC) job site meeting whenever possible.

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

§ 3.6.2.3 The Architect shall interpret, notify the Owner (in writing) of its interpretations, and decide (if the Architect is the Initial Decision Maker under the General Conditions) matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect's response to such requests shall be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

§ 3.6.2.4 Interpretations and decisions of the Architect shall be consistent with the requirements indicated in or reasonably inferable from, the Contract Documents and shall be in writing or in the form of drawings.

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

### § 3.6.3 Certificates for Payment to Contractor

§ 3.6.3.1 The Architect shall review and certify the amounts due the Contractor and shall issue certificates in such amounts within ten (10) days of the Architect's receipt of the Contractor's Application for Payment. The Architect's certification for payment shall constitute a representation to the Owner, based on the Architect's evaluation of the Work as provided in Section 3.6.2 and on the data comprising the Contractor's Application for Payment, that, to the best of the Architect's knowledge, information and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is entitled to payment in the amount certified. The foregoing representations are subject to (1) an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, (2) results of subsequent tests and inspections, (3) correction of

minor deviations from the Contract Documents prior to completion, and (4) specific qualifications expressed by the Architect.

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

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

#### § 3.6.4 Submittals

§ 3.6.4.1 The Architect shall review the Contractor's submittal schedule and shall not unreasonably delay or withhold approval of the schedule. The Architect's action in reviewing submittals shall be taken in accordance with the approved submittal schedule or, in the absence of an approved submittal schedule, with reasonable promptness but in no event more than ten (10) business days after the Architect's receipt of the submittal unless the Architect notifies the Owner and the Contractor that in the Architect's professional judgment more time is needed and the Owner agrees in writing to a longer period of time.

§ 3.6.4.2 The Architect shall review and approve, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data and Samples for the purpose of checking for conformance with the requirements of and the design concept expressed in the Contract Documents. Review of such submittals is not for the purpose of determining the accuracy and completeness of other information such as dimensions, quantities, and installation or performance of equipment or systems, which are the Contractor's responsibility. The Architect's review shall not constitute approval of safety precautions or construction means, methods, techniques, sequences or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component. However, the Architect shall promptly notify the Owner and the Contractor in writing of any concerns it has with a particular assembly.

§ 3.6.4.3 If the Contract Documents specifically require the Contractor to provide professional design services or certifications by a design professional related to systems, materials, or equipment, the Architect shall specify the appropriate performance and design criteria that such services must satisfy. The Architect shall review and take appropriate action on Shop Drawings and other submittals related to the Work designed or certified by the Contractor's design professional, provided the submittals bear such professional's seal and signature when submitted to the Architect. The Architect's review shall be for the purpose of checking for conformance with the requirements of and the design concept expressed in the Contract Documents. The Architect shall be entitled to rely upon the adequacy and accuracy of the services, certifications, and approvals performed or provided by such design professionals; provided, however, in the event the Architect observes any perceived defect or discrepancy in such services, certifications or approvals, the Architect shall promptly notify the Owner and the Contractor in writing of such perceived defect or discrepancy.

§ 3.6.4.4 The Architect shall review and respond to requests for information about the Contract Documents. The Architect shall set forth, in the Contract Documents, the requirements for requests for information. Requests for information shall include, at a minimum, a detailed written statement that indicates the specific Drawings or Specifications in need of clarification and the nature of the clarification requested. The Architect's response to such requests shall be made in writing simultaneously to the Contractor and the Owner within any time limits agreed upon, or otherwise with reasonable promptness, but in no case more than ten (10) days after the Request for Information is received by the Architect unless the Architect notifies the Owner and the Contractor that in the Architect's professional judgment more time is needed and the Owner agrees in writing to a longer period of time. If appropriate, the Architect shall prepare and issue supplemental Drawings and Specifications in response to the requests for information.

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

**§ 3.6.5 Changes in the Work**

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

**§ 3.6.5.2** The Architect shall maintain records relative to changes in the Work.

**§ 3.6.6 Project Completion**

**§ 3.6.6.1** The Architect shall:

- .1 conduct inspections to determine the date or dates of Substantial Completion and the date of final completion;
- .2 issue Certificates of Substantial Completion;
- .3 forward to the Owner, for the Owner’s review and records, the Contractor’s as-built Drawings, written warranties and other close-out documents required by the Contract Documents and received from the Contractor;
- .4 issue a final Certificate for Payment based upon a final inspection indicating that, to the best of the Architect’s knowledge, information, and belief, the Work complies with the requirements of the Contract Documents and all conditions to the issuance of final payment have been satisfied;
- .5 promptly after final completion of the Project, the Architect shall prepare reproducible record Drawings (in accordance with Section 3.1.10), to incorporate changes to the Drawings required by or reflected in Change Orders, Construction Change Directives, responses to requests for information, information provided by the Contractor (upon which information the Architect is entitled to rely, subject always to the exercise of the Standard of Care), and other changes in the Work made during construction, and shall affirm in writing to the best of the Architect’s knowledge, information and belief that such record drawings accurately reflect the as-constructed condition of the Work.

**§ 3.6.6.2** The Architect’s inspections shall be conducted with the Owner to check conformance of the Work with the requirements of the Contract Documents and to verify the accuracy and completeness of the list submitted by the Contractor of Work to be completed or corrected.

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

**§ 3.6.6.4** The Architect shall forward to the Owner the following information received from the Contractor: (1) consent of surety or sureties, if any, to reduction in or partial release of retainage or the making of final payment; (2) affidavits, receipts, releases and waivers of liens, or bonds indemnifying the Owner against liens; and (3) any other documentation required of the Contractor under the Contract Documents.

**§ 3.6.6.5** Upon request of the Owner, and prior to the expiration of one year from the date of Substantial Completion, the Architect shall, without additional compensation, conduct a meeting with the Owner to review the facility operations and performance.

**ARTICLE 4 ADDITIONAL SERVICES**

**§ 4.1 Intentionally deleted**

**§ 4.1.1** Intentionally deleted.

**§ 4.1.2 Intentionally deleted**

**§ 4.1.2.1** Intentionally deleted.

**§ 4.1.2.2** Intentionally deleted.

**§ 4.1.3** Intentionally deleted.

## § 4.2 Architect's Additional Services

"Additional Services" means material additional or changed services of the Architect: (a) not expressed in this Agreement or in a PSA as being part of the services included in the Services Agreement, and (b) not reasonably inferable from the nature of the included services required of the Architect as being part of the included services. The Owner may require the Architect to provide Additional Services after execution of a PSA without invalidating the Services Agreement. Except for services required due to the fault of the Architect, any Additional Services provided in accordance with this Section 4.2 shall entitle the Architect to compensation pursuant to Section 11.3 and, if appropriate, an adjustment in the Architect's schedule.

§ 4.2.1 Upon recognizing the need to perform Additional Services, the Architect shall notify the Owner in writing and with reasonable promptness and explain the facts and circumstances giving rise to the need. The Architect shall not proceed to provide Additional Services, such as, by way of example and not of limitation, those described below in subparts .1 through .13, until the Architect receives the Owner's written authorization in accordance with Section 4.2.6:

- .1 Services necessitated by a material change in: (a) previous instructions or approvals given by the Owner, (b) the Project, including size, quality, or complexity, (c) the Owner's schedule or budget for the Cost of the Work, or (d) procurement or delivery method;
- .2 Services necessitated by the enactment or revision of Applicable Laws after execution of a PSA, including changing or editing previously prepared Instruments of Service;
- .3 Changing or editing previously prepared Instruments of Service necessitated by official interpretations of Applicable Laws that are contrary to specific interpretations by the applicable authorities having jurisdiction made prior to the issuance of the building permit;
- .4 Services necessitated by failure of performance on the part of the Owner or the Owner's consultants or contractors;
- .5 Preparation of design and documentation for an extensive number of alternate bids or proposal requests proposed by the Owner;
- .6 Preparation for, and attendance at, a public presentation, meeting or hearing, other than such public presentation, meeting or hearing necessary to obtain the building permits or other governmental approvals required for the Project or as otherwise specified herein or the applicable Services Agreement as being part of the Basic Services;
- .7 Preparation for, and attendance at, a dispute resolution proceeding or legal proceeding, except where the Architect is party thereto;
- .8 Evaluation of the qualifications of entities providing bids or proposals;
- .9 Consultation concerning replacement of Work resulting from fire or other cause during construction;
- .10 Assistance to the Initial Decision Maker, if other than the Architect, in evaluating an extensive number of Claims;
- .11 Preparing Change Orders and Construction Change Directives that are not necessary because of the Architect's errors or omissions and that cumulatively exceed ten percent (10%) of the Cost of the Work for the Project;
- .12 Evaluating substitutions proposed during the Construction Phase by the Owner or Contractor and making subsequent revisions to Instruments of Service resulting therefrom that are not necessary because of the Architect's errors or omissions and that cumulatively exceed ten percent (10%) of the Cost of the Work for the Project; or
- .13 To the extent the Architect's Basic Services are affected, providing Construction Phase Services after the Owner's final payment to the Contractor, provided that the necessity of such Services is not a result of the error or omission of the Architect.

§ 4.2.2 Intentionally deleted.

§ 4.2.3 Intentionally deleted.

§ 4.2.4 Intentionally deleted.

§ 4.2.5 Intentionally deleted.

§ 4.2.6 Notwithstanding anything in this Agreement or any PSA to the contrary, the Architect shall not perform (except as provided in Section 8.2.8) and shall not be entitled to any payment for any Additional Services unless the Owner executes a written document setting forth a description of the Additional Services and the compensation to be paid for same. The Architect shall notify the Owner in writing promptly upon the Architect's determination that Additional Services are being required of it and it believes it is entitled to compensation for such Additional Services. The Architect shall indicate in that notice (a) the scope of the Additional Services, (b) the reason for the need for the Additional Services, (c) the party, if any, whose acts or omissions the Architect believes resulted in the proposed Additional Services, (d) the estimated financial and schedule impacts of the Additional Services, and (e) a statement of fees that the Architect believes to be due to the Architect for such proposed Additional Services. Such advance written notice is a CONDITION PRECEDENT to the Owner's obligation to pay for such services. No increase in compensation or extension of time to perform shall be granted unless this notice requirement is fully and timely satisfied. Failure to give prompt and complete written notice shall operate as a waiver of rights, if any exist, for adjustment of compensation and extension of time; but that failure does not relieve the Architect of the Architect's obligation to timely perform according to the instructions issued by the Owner. In addition to any other remedies available to the Owner under this Agreement or under law, if the Additional Services were the result, in whole or part, of error, omission, inconsistency, or lack of clarity in the Construction Documents or were otherwise avoidable by performance by the Architect, the required professional services shall be performed by the Architect at no additional cost to the Owner.

## ARTICLE 5 OWNER'S RESPONSIBILITIES

§ 5.1 Unless otherwise provided herein or in a Services Agreement, the Owner shall provide information in a timely manner in accordance with a schedule agreed to in writing by the Owner or, in the absence of such agreed schedule, with reasonable promptness, regarding requirements for and limitations on the Project, which information may, at the Owner's election, include a written program, which shall set forth the Owner's objectives; schedule; constraints and criteria, including space requirements and relationships; flexibility; expandability; special equipment; systems; and site requirements.

§ 5.2 The Owner shall establish the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Section 6.1; (2) the Owner's other costs; and, (3) reasonable contingencies related to all of these costs. The Owner may update the Owner's budget for the Project as the Owner determines to be necessary throughout the duration of the Project until final completion. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Architect in writing. The Owner and the Architect shall thereafter discuss in good faith whether a corresponding change in the Project's scope and quality is necessary.

§ 5.3 The Owner shall identify one or more representatives authorized to act on the Owner's behalf with respect to the Project. The Owner may add a, or change any, designated representative upon written notice to the Architect, and the Owner may specify, and/or modify, the scope of authority of any designated representative in a like manner. The Owner shall render decisions and respond to the Architect's submittals in accordance with a schedule agreed to in writing by the Owner or, in the absence of such an agreed schedule, with reasonable promptness.

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

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

§ 5.6 Intentionally deleted.

§ 5.7 Intentionally deleted.

§ 5.8 The Owner shall cooperate with the Architect's efforts to coordinate the services of the Architect and its consultants with the services of the Owner and the Owner's separate consultants. When relevant to the Architect's services, upon the Architect's request, the Owner shall furnish copies of the scope of services in the contracts between the Owner and the Owner's consultants. The Owner shall consider in good faith: (a) furnishing the services of consultants other than those designated in this Agreement, or (b) authorizing the Architect to furnish them as an Additional Service, when the Architect requests such services and demonstrates that they are reasonably required by the scope of the applicable Project.

§ 5.9 Unless otherwise provided in a Services Agreement, the Owner shall, or shall require the Contractor to, furnish tests, inspections and reports required by Applicable Laws or the Contract Documents, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials.

§ 5.10 Intentionally deleted.

§ 5.11 The Owner shall provide prompt written notice to the Architect if the Owner becomes aware of any defect in the Architect's services, including errors, omissions or inconsistencies in the Architect's Instruments of Service; provided, however, nothing in this Agreement or in any Services Agreement is intended or shall be construed to require the Owner to determine the adequacy, accuracy, or sufficiency of the Architect's or its consultants' designs or documents or the Architect's or its consultants' services.

§ 5.12 The Owner shall promptly notify the Architect of the substance of any direct communications between the Owner and the Contractor that affect the Architect's services. The Owner shall endeavor to communicate with the Architect's consultants when practicable and otherwise, the Owner shall either copy the Architect on any communications to the Architect's consultants regarding the Project or promptly notify the Architect of the substance of any such direct communications pertaining to the Project.

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

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

§ 5.15 Intentionally deleted.

## ARTICLE 6 COST OF THE WORK

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

§ 6.2 The Owner's budget for the Cost of the Work is provided in Initial Information, and may be adjusted throughout the Project. Evaluations of the Owner's budget for the Cost of the Work represent the Architect's judgment as a design professional familiar with the construction industry.

§ 6.2.1 The Architect shall endeavor to design each Project so as to achieve compliance within the Owner's budget for the Cost of the Work for the applicable Project. The Architect shall issue necessary Drawings, Specifications and other documents and information that describe the scope of the Project for Owner and its Contractor's use in preparing estimates of the Cost of the Work.

§ 6.2.2 If at any time a person other than the Owner's representative designated in accordance with Section 5.3 of this Agreement requests of the Architect an inclusion of or modification to any item in the Schematic Design Documents, the Design Development Documents or the Construction Documents that the Architect reasonably believes will impact the Cost of the Work, then the Architect shall promptly notify the Owner's representative in writing of such

requested inclusion or modification and the Architect's estimate of the impact of such request upon the Cost of the Work and shall obtain the written instruction of the designated Owner's representative before proceeding with incorporating such inclusion or modification into such documents.

**§ 6.3** The Owner shall require the Contractor to include appropriate contingencies for design, bidding or negotiating, price escalation, and market conditions in estimates of the Cost of the Work. The Architect shall be entitled to rely on the accuracy and completeness of estimates of the Cost of the Work the Contractor prepares as the Architect progresses with its Basic Services but shall promptly notify the Owner in writing if the Architect believes that the estimates of the Contractor are inaccurate or incomplete. The Architect, at the Owner's written request, shall prepare, as an Additional Service, revisions to the Drawings, Specifications or other documents required due to the Contractor's inaccuracies or incompleteness in preparing cost estimates, or due to market conditions the Architect could not reasonably anticipate. The Architect shall review the Contractor's estimates for the Architect's guidance in completion of its services, and the Architect shall report to the Owner any material inaccuracies and inconsistencies noted during any such review.

**§ 6.4** If, at any time, the Contractor's or cost consultant's estimate of the Cost of the Work exceeds the Owner's budget for the Cost of the Work, the Architect, in consultation with the Contractor, shall make appropriate recommendations to the Owner to adjust the Project's size, quality or budget for the Cost of the Work. Further, the Owner may require the Architect, as part of the Basic Services, to revise all or any portion of the design documents (e.g. Schematic Design Documents and Design Development Documents) to the extent that such revision is necessary to enable the Project to be constructed in accordance with the Owner's budget, Project schedule or other requirements established by the Owner, subject, however, to the provisions of Section 6.3 above providing that in certain circumstances such revisions may be an Additional Service (i.e. with respect to revisions to the Drawings, Specifications or other documents required due to the Contractor's inaccuracies or incompleteness in preparing cost estimates, or due to market conditions the Architect could not reasonably anticipate).

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

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

**§ 6.6** If the Owner chooses to proceed under Section 6.5.3, the Architect shall modify the Construction Documents as necessary to comply with the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services, or the budget as adjusted under Section 6.5.1. If the Owner requires the Architect to modify the Construction Documents because the lowest bona fide bid or negotiated proposal exceeds the Owner's budget for the Cost of the Work due to market conditions the Architect could not reasonably anticipate, the Owner shall compensate the Architect for the modifications as an Additional Service pursuant to Section 11.3; otherwise the Architect's services for modifying the Construction Documents shall be without additional compensation. The Architect's modifications of the Construction Documents shall be the limit of the Architect's responsibility under this Article 6.

**§ 6.7** After making revisions under Section 6.6, the Architect shall, as an Additional Service, make any required revisions to the Construction Documents necessitated by subsequent cost estimates that exceed the Owner's budget for the Cost of the Work, except when the excess is due to changes initiated by the Architect in scope, basic systems, or the kinds and quality of materials, finishes or equipment.

## **ARTICLE 7 COPYRIGHTS AND LICENSES**

**§ 7.1** The Architect and the Owner warrant that in transmitting Instruments of Service, or any other information, the transmitting party has permission from the copyright owner to transmit such information for its use in relation to the applicable Services Agreement. Without limitation, "Instruments of Service" include all Construction Documents and all other drawings, specifications, models, photographs, and other documents and work product of the Architect or its consultants, whether in oral, written graphic, electronic, machine readable, human readable, or any other form and in

whatsoever medium now known or hereinafter developed, and all copies of the foregoing and all information, data, and knowledge incorporating, based upon, or derived from the foregoing. If the Owner and Architect intend to transmit Instruments of Service or any other information or documentation in digital form, they shall endeavor to establish necessary protocols governing such transmissions.

**§ 7.2** The parties acknowledge and confirm that Owner has specially ordered or commissioned from Architect each Instrument of Service, and that no party other than Owner has rights, titles, or interests in the Instrument of Service. The parties expressly agree that each Instrument of Service is a work made for hire (as that term is used in the U.S. Copyright Act, 17 U.S.C. § 101, et seq.) by Architect for Owner. Without curtailing or limiting the aforesaid acknowledgement, Architect hereby assigns, grants, and delivers (and hereby further agrees to assign, grant, and deliver) exclusively to Owner all rights, titles, and interests of every kind and nature whatsoever in and to the Instruments of Service, and all copies and versions, including (a) all copyrights and/or registrations and renewals; (b) all trademark rights and/or registrations and renewals; and (c) any and all rights related to and necessary for licensing and merchandising, including rights of privacy and publicity. Architect further agrees to execute and deliver to Owner, its successors and assigns, such other and further assignments, instruments, and documents as Owner from time to time reasonably may request for the purpose of establishing, evidencing, enforcing, or defending its complete, exclusive, perpetual, and worldwide ownership of all rights, titles, and interests of every kind and nature whatsoever, including all copyrights, trademarks and other rights in and to the Instruments of Service, and Architect hereby constitutes and appoints Owner as its agent and attorney-in-fact, with full power of substitution, to execute and to deliver such assignments, instruments or documents as Architect may fail or refuse to execute and deliver, this power and agency being coupled with an interest and being irrevocable. ALL INSTRUMENTS OF SERVICE SHALL BE AND AT ALL TIMES SHALL REMAIN THE SOLE AND EXCLUSIVE PROPERTY OF THE OWNER. The Architect shall obtain, and the Owner's obligation to pay the Architect is expressly conditioned upon the Architect's obtaining, a valid written comprehensive assignment of all right, title, and interest from the Architect's consultants as to their respective Instruments of Service, including copyrights, in terms identical to those that obligate the Architect to the Owner as expressed in this Section 7.2, which right, title, and interest the Architect, in turn, hereby assigns to the Owner. The Architect will mark all Instruments of Service and will take all actions deemed necessary by the Owner to protect the Owner's rights therein. The Owner hereby grants the Architect and its consultants a revocable, nonexclusive license to reproduce the Instruments of Service only for purposes relating directly to the Architect's performance of its obligations under the applicable Services Agreement, for the Architect's archival records, and for the Architect's reproduction of drawings and photographs in the Architect's marketing materials, provided that the Project-related contents of those materials are approved as required in Section 10.7, and if applicable, Section 10.8, of this Agreement. This nonexclusive license shall terminate automatically upon the occurrence of either a breach of the applicable Services Agreement by the Architect or upon termination of the Services Agreement. This nonexclusive license is granted to the Architect alone and shall not be assigned by the Architect to any other person or entity, except that the nonexclusive license granted in this Agreement to the Architect for purposes of the Architect's performance under the applicable Services Agreement may be sub-licensed to the Architect's consultants (with the same limitations). Subject to the foregoing, this nonexclusive license shall terminate automatically upon an attempted assignment of this license in violation of this Section 7.2. Notwithstanding any provision contained in this Agreement to the contrary, the Architect shall retain the right to use and reuse all standard discrete elements contained within the Instruments of Service, including standard details, specifications or other design materials generated and authored by the Architect for its repeated, regular and ongoing use in plans, specifications, reports or other instruments of service for its clients (but the Architect shall not use the design of a Project as a whole or any Project-specific unique elements of the design for other projects).

**§ 7.3** In the event the Owner uses the Instruments of Service without retaining the authors of the Instruments of Service, the Owner releases the Architect and Architect's consultant(s) from all claims and causes of action arising from such uses. The Owner, to the extent permitted by law, further agrees to indemnify and hold harmless the Architect and its consultants from all costs and expenses, including the cost of defense, related to claims and causes of action asserted by any third person or entity to the extent such costs and expenses arise from the Owner's use of the Instruments of Service under this Section 7.3. The terms of this Section 7.3 shall not apply if the Owner rightfully terminates this Agreement for cause under Section 9.4.

**§ 7.4** Except for the licenses granted in this Article 7, no other license or right shall be deemed granted or implied under this Agreement.

§ 7.5 In addition to its other indemnification obligations under this Agreement, the Architect shall indemnify and hold the Indemnitees harmless from all Indemnity Claims arising out of or resulting from the actual or alleged infringement of any domestic or foreign patents, copyrights, trademarks or other intellectual property rights that may be attributable to the Architect or the Architect's consultants in connection with the Architect's services. In the event any suit or claim is brought or temporary restraining order or preliminary injunction is granted, related to the infringement of any patent, copyright or other intellectual property right, the Architect shall, in addition to its obligation above, make every reasonable effort, by giving a satisfactory bond or otherwise, to secure the suspension of the injunction or restraining order. If, in any such suit or claim, the services, the Project or any part, combination or process thereof, is held to constitute an infringement and its use is preliminarily or permanently enjoined, the Architect shall promptly use its best efforts to secure the Owner a license, at no cost to the Owner, authorizing continued use of the infringing work. If the Architect is unable to secure such a license within a reasonable time, the Architect shall, at its own expense and without impairing performance requirements, either replace the affected work, in whole or in part, with non-infringing components or parts or modify the same so that they become non-infringing.

§ 7.6 Except as otherwise stated in Section 7.2, the provisions of this Article 7 shall survive the termination of this Agreement and any Services Agreement.

## **ARTICLE 8 CLAIMS AND DISPUTES**

### **§ 8.1 General**

§ 8.1.1 The Owner and Architect shall commence all claims and causes of action, whether in contract, tort, or otherwise, against the other arising out of or related to this Agreement or any Services Agreement in accordance with the requirements of the method of binding dispute resolution selected in this Agreement within the period specified by Applicable Laws.

§ 8.1.2 To the extent proceeds are received from property insurance, and provided such property insurance permits a waiver of subrogation to be granted without additional cost to the insured, the Owner and Architect waive all rights against each other and against the contractors, consultants, agents, and employees of the other for damages, except such rights as they may have to the proceeds of such insurance as set forth in the General Conditions. The Owner or the Architect, as appropriate, shall require of the contractors, consultants, agents, and employees of any of them, similar waivers in favor of the other parties enumerated herein.

**§ 8.1.3 PURSUANT TO, BUT SUBJECT TO THE CONDITIONS AND LIMITATIONS OF, SECTION 558.0035, FLORIDA STATUTES, AN INDIVIDUAL EMPLOYEE OR AGENT OF THE ARCHITECT MAY NOT BE HELD INDIVIDUALLY LIABLE FOR NEGLIGENCE OCCURRING WITHIN THE COURSE AND SCOPE OF THIS AGREEMENT.**

§ 8.1.4 The Architect and Owner waive consequential damages for claims, disputes, or other matters in question, arising out of or relating to this Agreement except to the extent such damages are covered by the insurance required to be maintained by the Architect and its consultants under this Agreement or would have been covered but for the failure of the Architect or its consultants to maintain the insurance required to be maintained pursuant to this Agreement. This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination of this Agreement.

### **§ 8.2 Mediation**

§ 8.2.1 Other than a claim for injunctive relief which may be brought by a party in a court of competent jurisdiction, any claim, dispute or other matter in question arising out of or related to this Agreement or any Services Agreement shall be subject to mediation as a condition precedent to binding dispute resolution. If such matter relates to or is the subject of a lien arising out of the Architect's services, the Architect may proceed in accordance with applicable law to comply with the lien notice or filing deadlines prior to resolution of the matter by mediation or by binding dispute resolution.

§ 8.2.2 Except as otherwise provided in Section 8.2.1 above, the Owner and Architect shall endeavor to resolve claims, disputes and other matters in question between them by mediation, which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of this Agreement. A request for mediation shall be made in writing, delivered to the other party to this Agreement, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of a complaint or other appropriate demand for binding dispute resolution but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of thirty (30) days from the date of filing, unless stayed for a longer period by written agreement of the parties or court order.

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

§ 8.2.4 If the parties do not resolve a dispute through mediation pursuant to this Section 8.2 within thirty (30) days after filing for mediation, the method of binding dispute resolution shall be litigation in a court of competent jurisdiction. Each of the parties hereby (a) irrevocably and unconditionally consents to submit itself to the sole and exclusive personal jurisdiction of any federal or state court located within the County where the Project is located (the "Applicable Courts"), (b) waives any objection to the laying of venue of any such litigation in any of the Applicable Courts, (c) agrees not to plead or claim in any such court that such litigation brought therein has been brought in an inconvenient forum and agrees not otherwise to attempt to deny or defeat such personal jurisdiction or venue by motion or other request for leave from any such court, and (d) agrees that such party will not bring any action, suit, or proceeding in connection with any dispute, claim, or controversy arising out of or relating to this Agreement, any Services Agreement, or any Project in any court or other tribunal other than any of the Applicable Courts.

§ 8.2.5 THE OWNER AND THE ARCHITECT HEREBY WAIVE TRIAL BY JURY IN ANY ACTION, PROCEEDING, OR COUNTERCLAIM INVOLVING ANY MATTER WHATSOEVER ARISING OUT OF OR IN ANY WAY CONNECTED WITH (A) THIS AGREEMENT OR ANY SERVICES AGREEMENT, (B) THE PROJECT, (C) ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER VERBAL OR WRITTEN), OR (D) ANY ACTION OF EITHER PARTY. THE WAIVERS SET FORTH IN THIS SECTION ARE MADE KNOWINGLY, INTENTIONALLY, AND VOLUNTARILY BY BOTH PARTIES. THIS PROVISION IS A MATERIAL INDUCEMENT FOR THE OWNER AND THE ARCHITECT IN AGREEING TO ENTER INTO THIS AGREEMENT.

§ 8.2.6 In any suit, action or other proceeding arising out of or in any manner relating to this Agreement or any Services Agreement or the Project, including (a) the enforcement or interpretation of either party's rights or obligations under this Agreement or any Services Agreement whether in contract, tort, or both, or (b) the declaration of any rights or obligations under this Agreement or any Services Agreement, the prevailing party, as determined by the court, shall be entitled to recover from the losing party Attorneys' Fees. For purposes of this Section, "Attorneys' Fees" shall mean all reasonable fees and disbursements (including disbursements that would not otherwise be taxable as costs in the proceeding) which are incurred by a party, including all legal assistants', paralegals', law clerks' and experts' fees and all fees incurred through all post award or judgment and appellate levels and in connection with bankruptcy, and collection proceedings (post judgment and otherwise).

#### § 8.2.7 CHAPTER 558, FLORIDA STATUTES

EXCEPT AS PROVIDED IN SECTION 8.1.3 HEREOF, THE PARTIES EXPRESSLY AGREE THAT THE PROVISIONS OF CHAPTER 558, FLORIDA STATUTES, SHALL NOT APPLY TO THIS AGREEMENT, ANY SERVICES AGREEMENT, OR ANY DISPUTE RELATING TO IT OR ANY PROJECT.

#### § 8.2.8 CONTINUED PERFORMANCE

In the event of any dispute between the Owner and the Architect, including any dispute as to whether the Architect is entitled to additional compensation for any services requested, the Architect shall continue to proceed diligently with the performance of its services pending resolution of the dispute, and the Owner shall pay the Architect undisputed sums due under this Agreement for all services rendered by the Architect that are not the subject of dispute; provided,

however, nothing in this Section shall be deemed to limit a party's rights hereunder to terminate this Agreement in accordance with Article 9.

§ 8.3 The Architect shall include provisions substantially similar to those of this Article 8 in its agreements with the Architect's consultants.

§ 8.4 The provisions of this Article 8 shall survive the termination of this Agreement and any Services Agreement.

## ARTICLE 9 TERMINATION OR SUSPENSION

§ 9.1 If the Owner fails to make payments of amounts due to the Architect in accordance with a Services Agreement, such failure shall be considered substantial nonperformance and, subject to the provisions of this Section 9.1, cause for termination of such Services Agreement or, at the Architect's option, cause for suspension of performance of services under such Services Agreement. If the Architect elects to suspend services, the Architect shall give seven (7) days' written notice to the Owner before suspending services. Unless payment in full of the amounts due is received by the Architect within seven (7) days from the date of the Owner's receipt of the notice, the suspension of services shall take effect without further notice. In the event of a suspension of services because of the Owner's failure to make payment to the Architect of amounts due in accordance with the applicable Services Agreement after timely delivery to the Owner of the required notice, the Architect shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services. Before resuming services, the Architect shall be paid all sums due prior to suspension and any reasonable, actual, out-of-pocket expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the applicable time schedules shall be equitably adjusted. Notwithstanding anything herein to the contrary, the Architect shall not be entitled to suspend or terminate services under any Services Agreement based on claims or disputes related to a separate Services Agreement.

§ 9.2 The Owner reserves the right to suspend the Architect's services without being deemed in default of this Agreement or the applicable Services Agreement. Unless otherwise noted herein or indicated in the Project schedule most recently approved by the Owner, or unless caused by the Architect, if the Owner suspends a Project or the services of the Architect for more than ninety (90) consecutive days, the Architect shall be compensated for services performed prior to suspension. When the applicable Project is, or the Architect's services are, as applicable, resumed by request of the Owner, the Architect shall be compensated for reasonable, actual, out-of-pocket expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 9.3 If the Owner suspends the Architect's services for more than ninety (90) consecutive days for reasons other than the fault of the Architect, the Architect may terminate the applicable Services Agreement by giving not less than seven (7) days' written notice.

§ 9.4 Either party may terminate this Agreement and any Services Agreement upon not less than fourteen (14) days' written notice should the other party fail substantially to perform in accordance with the terms of this Agreement or the Services Agreement through no fault of the party initiating the termination and fail to cure the breach within said fourteen (14) day notice period. A default by the Architect under a Services Agreement may, at the Owner's option, be deemed a default under another or all other Services Agreements and this Agreement. Notwithstanding the foregoing, the Architect shall not terminate services due to the Owner's failure to pay to the Architect amounts due to the Architect if the Owner makes the required payment within the foregoing notice period.

§ 9.5 The Owner may terminate a Services Agreement upon not less than seven (7) days' written notice to the Architect for the Owner's convenience and without cause. Should the Owner terminate a Services Agreement for cause, but that cause be subsequently found to be insufficient to support termination, the termination shall be deemed one of convenience.

§ 9.6 In the event of termination not the fault of the Architect, the Architect shall be compensated for services performed prior to receipt of written notice from the Owner of such termination, together with Reimbursable Expenses incurred, up to the effective date of termination, which compensation shall be the Architect's sole and exclusive remedy for any termination.

§ 9.7 Notwithstanding anything in this Agreement or any Services Agreement to the contrary, under no circumstances shall the Owner be obligated to pay or reimburse the Architect for lost profits, unabsorbed overhead or any other consequential, incidental, special or punitive damages.

§ 9.8 This Agreement shall be effective for one (1) year from the date first written above. This Agreement will automatically renew for an additional term of one (1) year upon each anniversary of the date first written above, unless either party elects not to renew this Agreement prior to such renewal date. If a party elects not to renew this Agreement, it must provide written notice to the other party of such election not less than ninety (90) days prior to the renewal date; provided, however, the terms of this Agreement shall remain applicable to each Services Agreement until all Work executed under such Services Agreement is completed or terminated in accordance with the terms of the applicable Services Agreement.

§ 9.9 In the event of termination for any reason, the Architect shall cooperate with the Owner, its consultants, and any replacement architect so as to promote as smooth and seamless a transition as is feasible under the circumstances. Further, in the event of suspension or termination of the Architect's services, the Architect, upon request of the Owner and the Owner's payment of all undisputed fees due pursuant to the subject Services Agreement, shall deliver to the Owner reproducible copies of all Instruments of Service and other Project-related documents, whether completed or in process on the date of suspension or termination, in format acceptable to the Owner.

#### ARTICLE 10 MISCELLANEOUS PROVISIONS

§ 10.1 This Agreement and all Service Agreements entered into pursuant hereto shall be governed by the law of the place where the Project is located, excluding that jurisdiction's choice of law rules.

§ 10.2 Except as separately defined in this Agreement or a Services Agreement, terms in this Agreement or a Services Agreement, as applicable, shall have the same meaning as those in AIA Document A201™-2017, General Conditions of the Contract for Construction.

§ 10.3 The Owner and Architect, respectively, bind themselves, their agents, successors, assigns, and legal representatives to this Agreement and to each Services Agreement. The Architect shall not assign this Agreement, any Services Agreement, or any cause of action arising out of or relating to this Agreement or any Services Agreement without the written consent of the Owner. The Owner may assign this Agreement and any Services Agreement to: (a) a lender providing financing for the applicable Project; (b) the transferee of all or substantially all of the Owner's interest in the Project; or (c) an affiliate of the Owner, provided that the lender, affiliate or transferee, as the case may be, agrees to assume the Owner's rights and obligations under this Agreement and the applicable Services Agreement. Otherwise, the Owner may not assign this Agreement or a Services Agreement without the Architect's prior written consent, which shall not be unreasonably withheld, conditioned or delayed. The Architect shall promptly execute all consents reasonably required to facilitate a permitted assignment.

§ 10.4 If the Owner requests the Architect to execute certificates, the proposed language of such certificates shall be submitted to the Architect for review at least seven (7) days prior to the requested dates of execution. If the Owner requests the Architect to execute consents reasonably required to facilitate assignment to a permitted assignee, the Architect shall execute all such consents that are consistent with this Agreement, provided the proposed consent is submitted to the Architect for review at least seven (7) days prior to execution. The Architect shall not be required to execute certificates or consents that would require knowledge, services, or responsibilities beyond the scope of this Agreement or applicable Services Agreement.

§ 10.5 Except for the rights of Indemnitees specified herein, nothing contained in this Agreement or any Services Agreement shall create a contractual relationship with, or a cause of action in favor of, a third party against either the Owner or Architect.

§ 10.6 Unless otherwise provided herein or in a Services Agreement, the Architect shall have no responsibility for the discovery, presence, handling, removal or disposal of, or exposure of persons to, hazardous materials or toxic substances in any form at the Project site, except in the case of the Architect's improperly specifying the use of such substances. Should the Architect become aware of the presence of hazardous materials or toxic substances at the Project site, it shall immediately report that presence to the Owner in writing.

**§ 10.6.1** To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Architect, Architect's consultants, and their respective employees from and against claims, damages, losses, and expenses, including reasonable attorneys' fees, arising out of or resulting from the presence of hazardous materials or toxic substances at the Project site, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), except to the extent that such damage, loss, or expense is due to the Architect or its consultant improperly specifying the use of such materials or substances or is due to the fault or negligence of the Architect, the Architect's consultant or any of their employees. The provisions of this Section 10.6.1 shall survive the termination of this Agreement.

**§ 10.7** The Architect may, with the Owner's prior written consent, which shall not be unreasonably withheld, include photographic or artistic representations of the design of the Project among the Architect's promotional and professional materials. The Architect shall be given reasonable access to the completed Project to make such representations to which the Owner has consented in writing. However, the Architect's materials shall not include the Owner's confidential or proprietary information if the Owner has previously advised the Architect in writing of the information considered by the Owner to be confidential or proprietary. The Owner shall provide professional credit to the Architect in the Owner's promotional materials for the applicable Project that identify the design team for the Project. This Section 10.7 shall survive the termination of this Agreement and the applicable Services Agreement unless the Owner terminates this Agreement or the Services Agreement for cause pursuant to Section 9.4.

**§ 10.8** If the Architect or Owner receives information designated as "confidential" or "business proprietary" by the other party, the receiving party shall keep such information strictly confidential and shall not disclose it to any other person except as set forth in Section 10.8.1, provided that the Architect's and its consultants' Instruments of Service shall not be considered "confidential" or "business proprietary" for the purposes of this Section 10.8. The restrictions on the use and disclosure of the confidential information shall not apply to information which (a) was known to the Architect before receipt of same from the Owner; or (b) becomes publicly known other than through the Architect. This Section 10.8 shall survive the termination of this Agreement and any Services Agreement.

**§ 10.8.1** The receiving party may disclose confidential or business proprietary information when required by law, arbitrator's order, or court order, including a subpoena or other form of compulsory legal process issued by a court or governmental entity, or to the extent such information is reasonably necessary for the receiving party to defend itself in any dispute. The receiving party may also disclose such information to its employees, consultants, or contractors in order to perform services or work solely and exclusively for the Project, provided those employees, consultants and contractors are subject to the restrictions on the disclosure and use of such information as set forth in this Section 10.8. The receiving party agrees that, prior to disclosure pursuant to this Section 10.8.1, the receiving party shall provide seven (7) days' advance written notice to the other party; provided, however, in the event the receiving party is legally required to make such disclosure prior to the seven (7) day notice period, the receiving party shall be permitted to make such disclosure as required by law without breach of this Agreement and shall promptly notify the other party of such disclosure.

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

**§ 10.10** The failure of a party to insist, in any one or more instances, upon the performance of any of the terms, covenants or conditions of this Agreement or any Services Agreement, or to exercise any right herein or therein, shall not be construed as a waiver or relinquishment of such term, covenant, condition or right as respects further performance. No approval, consent or waiver by the Owner or the Architect shall be effective unless it is in writing and then only to the extent specifically stated. The remedies granted to Owner in this Agreement and in each Services Agreement are cumulative and not in limitation of any other rights and remedies of Owner at law or in equity. This Agreement has been negotiated by the parties with the advice of counsel. Therefore, this Agreement shall not be interpreted more strictly against one party than the other, including by virtue of one party having drafted some or all of this Agreement. The singular shall include the plural, the plural the singular, and the use of any gender shall include

all genders. Whenever the word "including", "include" or "includes" is used in this Agreement it shall be deemed to be followed by the words "without limitation". Caption headings are included for ease of use only and shall not be utilized for purposes of interpreting the provisions of this Agreement. All Section and Article references in this Agreement are to Articles and Sections of this Agreement unless expressly stated otherwise.

§ 10.11 The services provided by the Architect are deemed to be personal in nature. The Architect shall designate persons to serve Project leadership roles for each Project in the PSA (the "**Project Team**"). The Architect shall not make changes to this appointed Project Team without written approval of the Owner. Should circumstances beyond the control of the Architect compel changes to this Project Team, the Architect shall submit the credentials of the Architect's proposed replacement Project Team member(s) for the Owner's approval, which approval shall not be unreasonably withheld. However, nothing in this clause shall be construed to limit the Owner's rights to terminate this Agreement or any Services Agreement, as provided for herein, due to a change in the Project Team composition. Termination by the Owner as a result of a change in the Project Team shall be deemed a justifiable termination for cause.

§ 10.12 Nothing in this Agreement or any Services Agreement is intended or shall be construed to require the Owner to determine the adequacy, accuracy or sufficiency of the design, the Architect's Instruments of Service, or the Architect's or its consultants' services and nothing in this Agreement or any Services Agreement shall impose upon the Owner a duty to third parties to assure that the Architect, the Architect's consultants, and the Contractor, Subcontractors or others are adhering to Applicable Laws.

§ 10.13 Any notice pursuant to this Agreement or any Services Agreement shall be given in writing by (a) personal delivery, (b) reputable overnight delivery service with proof of delivery, or (c) email transmission, sent to the intended addressee at the address set forth on the first page of this Agreement, or to such other address or to the attention of such other person as the addressee shall have designated by written notice sent in accordance herewith, and shall be deemed to have been given upon receipt or refusal to accept delivery, or in the case of email transmission, as of the date of the email transmission, provided that for notices of default or termination an original of such email transmission is also delivered to the intended addressee by means described in clauses (a) or (b) above. Further, the Architect must deliver copies of all notices to the Owner via email to:

Adventist Health System/Sunbelt Inc. d/b/a AdventHealth  
Attention: Legal Department  
550 East Rollins Street, 6th floor  
Orlando, Florida 32803  
Telephone: (407) 303-8585  
Email: \_\_\_\_\_

§ 10.14 This Agreement and any PSA to it may be executed and delivered in counterparts, each of which shall be deemed to be an original and all of which, taken together, shall be deemed to be one agreement. For purposes of execution and delivery of this Agreement, a document signed and transmitted by (i) emailed PDF scan, or (ii) by electronic signature using DocuSign or other similar technology, shall be treated as an original document. The signature of either party on an emailed PDF scanned version of this Agreement or a copy of this Agreement signed by electronic signature using DocuSign or other similar technology shall be considered as an original signature and the document transmitted shall be considered to have the same binding legal effect as if it were originally signed. At the request of either party, any PDF scanned document or document signed using DocuSign or other similar technology shall be re-executed by both parties in original form. Neither party may raise the use of emailed PDF scan or DocuSign or other similar technology or the fact that any signature was transmitted by email as a defense to the enforcement of this Agreement or any amendment executed in compliance with this Section.

§ 10.15 All of the Architect's representations and indemnities made in, required by, or given under this Agreement and each Services Agreement, the warranty provided in Section 7.1, as well as all continuing obligations indicated in this Agreement and each Services Agreement, will survive final payment, completion, and acceptance of the Architect's services or termination or completion of each Services Agreement or termination of the services of the Architect.

§ 10.16 The Architect shall be acting as an independent contractor at all times during the performance of the Architect's services and no provision in this Agreement or any Services Agreement shall create an employment, agent

or fiduciary relationship between the parties. The parties have not entered into and do not intend to enter into any joint venture or partnership with each other. The Architect acknowledges that is shall have no authority to bind the Owner to any contractual or other obligation and the Architect shall have no authority to make any commitment for or on behalf of the Owner for any purpose without the Owner's express prior written consent. The Owner shall not in any manner be responsible or accountable for: (a) any violation by the Architect or the Architect's consultants of any Applicable Laws, or (b) for any injury, loss or damage arising from or out of any act or omission of the Architect or the Architect's consultants.

## ARTICLE 11 COMPENSATION

§ 11.1 For the Architect's Basic Services described in this Agreement and services described in a PSA, the Owner shall compensate the Architect as specified in the PSA. The amount of compensation specified in a given PSA represents adequate and sufficient compensation for the Architect's timely provision of all services of the applicable Services Agreement, including fees of all consultants required to provide any such services.

§ 11.1.1 Where the cost estimate for the scope of services to be performed by the Architect in a PSA is "not to exceed" a specified sum, the Architect shall notify Owner before each limit is exceeded and shall not continue to provide services beyond such limit unless Owner authorizes an increase in the amount of the limitation. If a "not to exceed" limitation is broken down into budgets for specific tasks, the task budget may be exceeded without Owner's written authorization so long as the total limitation is not exceeded.

§ 11.2 Intentionally deleted.

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

« Compensation for Additional Services shall be negotiated by the Owner and the Architect at the time of Owner's request for said services. »

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

« Compensation for Additional Services shall be negotiated by the Owner and the Architect at the time of Owner's request for said services. »

§ 11.5 When compensation for Basic Services is based on a stipulated sum or a percentage basis, the proportion of compensation for each phase of services shall be as specified in the applicable PSA.

§ 11.6 Intentionally deleted.

§ 11.6.1 Intentionally deleted.

§ 11.7 The hourly billing rates for services of the Architect to be rendered on the basis of the Architect's hourly rates for a given Project, if any, will be specified in a PSA for the Project and shall not increase by more than three percent (3%) per year.

### § 11.8 Compensation for Reimbursable Expenses

§ 11.8.1 Unless otherwise provided in a PSA, the following "Reimbursable Expenses" are in addition to compensation for Basic and Additional Services and include expenses incurred by the Architect and the Architect's consultants directly related to the Project, as follows:

- .1 Out-of-town transportation and authorized out-of-town travel in accordance with the Travel Policy Guidelines attached hereto and incorporated herein by reference as **Exhibit B**;
- .2 Amounts charged by third parties for long distance services, dedicated data and communication services, teleconferences, and, subject to the Owner's prior written approval, Project web sites and extranets;

- .3 Fees paid for securing approval of authorities having jurisdiction over the Project;
- .4 Amounts charged by third parties for printing, reproductions, plots, and standard form documents;
- .5 Amounts charged by third parties for postage, handling and delivery;
- .6 Amounts charged by third parties for presentation materials requested by the Owner in writing, including renderings, physical models, mock-ups, and professional photography;
- .7 If required by the Owner, and with the Owner's prior written approval, the Architect's consultants' expenses of professional liability insurance dedicated exclusively to this Project, or the expense of additional insurance coverage or limits in excess of those set forth in Section 2.5 or a PSA;
- .8 All taxes levied on professional services and on Reimbursable Expenses;
- .9 Site office expenses if approved by the Owner in advance in writing; and
- .10 Registration fees and other fees charged by the Certifying Authority or by other entities as necessary to achieve a sustainable objective set forth in a Services Agreement.

Actual, out-of-pocket expenses for necessary reprographic services shall not require prior written approval.

§ 11.8.2 For Reimbursable Expenses the compensation shall be the actual out-of-pocket expenses incurred by the Architect and the Architect's consultants without markup.

§ 11.9 Intentionally deleted.

§ 11.10 Payments to the Architect

§ 11.10.1 Intentionally deleted

§ 11.10.1.1 Intentionally deleted.

§ 11.10.1.2 Intentionally deleted.

§ 11.10.2 Progress Payments

§ 11.10.2.1 Unless otherwise agreed in writing, payments for services shall be made monthly in proportion to services performed. Payments of undisputed amounts are due and payable within thirty (30) days after the Owner's receipt of the Architect's invoice accompanied by all required or reasonably requested supporting information. Unless otherwise agreed by the Owner in writing, the Architect will submit monthly invoices to the Owner for the fees earned in accordance with a Services Agreement and for Reimbursable Expenses incurred by the Architect and the Architect's consultants during such month. All such invoices shall include or be accompanied by: (a) an itemized statement of Reimbursable Expenses incurred for such month with appropriate substantiation (such as copies of paid invoices), (b) for services rendered on the basis of hourly rates, time sheets or such other information acceptable to the Owner to evidence the relevant personnel and time spent by such personnel in rendering such services, (c) duly executed and notarized unconditional waivers and releases of lien for payments received, and, if requested by the Owner conditional waivers and releases of lien for payments requested, from the Architect and all of the Architect's consultants in form and substance to acceptable to the Owner, and (d) such other information as the Owner shall reasonably require to enable the Owner to verify, evaluate and approve the services completed, the fees earned and Reimbursable Expenses incurred in accordance with the terms and conditions of this Agreement.

§ 11.10.2.2 The Owner shall not withhold amounts from the Architect's compensation to impose a penalty or liquidated damages on the Architect. However, the Owner may withhold payment from the Architect on account of services that the Owner contends in good faith contain errors, omissions, or are otherwise incomplete, inconsistent, or do not conform to the requirements of this Agreement or the applicable Services Agreement, or are contrary to written instructions of the Owner, without prejudice to the Architect's right to assert a claim for such disputed sums. The Owner shall provide the Architect with a written explanation of any such withholding. The Owner's review of, inspection of, acceptance of, or payment for any of the Architect's services shall not constitute acceptance of, or a waiver of any of the Owner's rights or remedies relating to, services that fail to conform to the requirements of this Agreement or the applicable Services Agreement, unless the Owner expressly accepts in writing specified services acknowledged by the Owner therein as non-conforming.

§ 11.10.2.3 Records of Reimbursable Expenses and of expenses pertaining to Additional Services and services performed on the basis of hourly rates or a multiple of Direct Personnel Expense and all records and documents prepared or received by the Architect related to the applicable Project shall be available to the Owner or the Owner's

authorized representatives and the Owner's auditors at mutually convenient times. Further, the Architect shall keep full and detailed records and accounts related to the Architect's services. The Owner (or the Owner's authorized representative) and the Owner's auditors shall, during regular business hours and upon reasonable notice, be afforded access to, and shall be permitted to audit and copy, the Architect's records and accounts, including complete documentation supporting accounting entries, books, correspondence, instructions, drawings, receipts, consulting agreements and other data relating to this Agreement or a Services Agreement. The Architect shall preserve these records for at least five (5) years after Substantial Completion of the Project or for such longer period as may be required by law.

## ARTICLE 12 SPECIAL TERMS AND CONDITIONS

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

«§12.1 The Architect shall not perform services at the Project site from sunset Friday through sunset Saturday in conformance with the Owner's observance of the Sabbath.

§ 12.2 Smoking is prohibited on the Project site, and prohibited anywhere on Owner's property.

§ 12.3 Neither the Architect, nor any of its personnel or consultants shall ever shut off any utilities, including power, medical gas and water systems at any time for any reason. Medical gas systems shall only be shut off by Owner-authorized engineering personnel according to the Owner's policy. For all other utilities, the Architect, its personnel, and consultants shall follow the Owner's written procedures for shutting off, adjusting, switching, or modifying any utility service.

§ 12.4 To comply with the provisions of Section 952 of the Omnibus Reconciliation Act of 1980 (Public Law 96.499) and Regulations, the Architect hereby agrees to make available to the Secretary of Health and Human Services ("HHS"), the Comptroller General of the General Accounting Office ("GAO"), or their authorized representatives, all contracts, books, documents and records relating to the nature and extent of the costs hereunder for a period of four (4) years after the furnishing of services hereunder. In addition, the Architect hereby agrees, if services are to be provided by consultant with a related organization, to require by contract that such consultant make available to the HHS and GAO, or their authorized representatives, all contracts, books, documents and records relating to the nature and extent of the costs thereunder for a period of four (4) years after the furnishing of services thereunder.»

## ARTICLE 13 SCOPE OF THE AGREEMENT

§ 13.1 Each Services Agreement represents the entire and integrated agreement between the Owner and the Architect with respect to its subject matter and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement and a Services Agreement may be amended only by written instrument signed by both the Owner and Architect.

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

- .1 AIA Document B101™-2017, Standard Form Agreement Between Owner and Architect
- .2 Intentionally deleted  
(Insert the date of the E203-2013 incorporated into this agreement.)

« »

- .3 Exhibits:  
(Check the appropriate box for any exhibits incorporated into this Agreement.)

[ « » ] AIA Document E204™-2017, Sustainable Projects Exhibit, dated as indicated below:  
(Insert the date of the E204-2017 incorporated into this agreement.)

« »

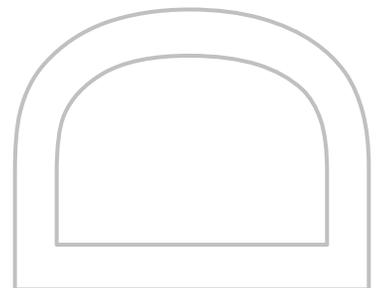
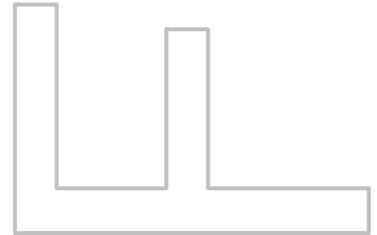
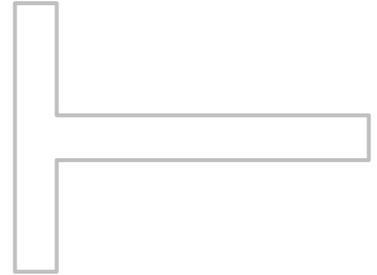
[ « X » ] Other Exhibits incorporated into this Agreement:  
(Clearly identify any other exhibits incorporated into this Agreement)

« **Exhibit A** – Professional Services Agreement Template

**Exhibit B** – Travel Policy Guidelines»

- .4 Other documents:  
*(List other documents, if any, forming part of the Agreement.)*

« »



Each of the individuals executing this Agreement represent and warrant that he or she has been duly authorized by the respective party on whose behalf he or she is executing this Agreement to execute this Agreement on such party's behalf and that once executed by him or her, this Agreement shall be valid and binding upon such party.

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

**Adventist Health System/Sunbelt, Inc.**  
**d/b/a AdventHealth**

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

« »« »

\_\_\_\_\_  
*(Printed name and title)*

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

« »« »

\_\_\_\_\_  
*(Printed name, title, and license number, if required)*

Florida License No. \_\_\_\_\_



**Exhibit A**  
**PSA Template**

**PROFESSIONAL SERVICES AUTHORIZATION**

Pursuant to Master Agreement dated \_\_\_\_\_ for the following PROJECT:

*(Name, location and detailed description)*

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**THE OWNER:**

*(Name, legal status and address)*

Adventist Health Systems/Sunbelt, Inc. d/b/a AdventHealth, a Florida not for profit corporation

550 East Rollins Street

Orlando, Florida 32803

Attention: \_\_\_\_\_

Telephone: \_\_\_\_\_

Email: \_\_\_\_\_

**THE ARCHITECT:**

*(Name, legal status and address)*

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Florida License No.: \_\_\_\_\_

Attention: \_\_\_\_\_

Telephone: \_\_\_\_\_

Email: \_\_\_\_\_

This Professional Services Authorization (“PSA”) together with the above-referenced Master Agreement between the Owner and the Architect form a “Services Agreement” for the above-specified Project.

**ARTICLE A1**  
**PROJECT INFORMATION**

**§A1.1** The Owner’s program for the Project:

*(Identify documentation or state the manner in which the program will be developed.)*

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**§A1.2** The Project’s physical characteristics:

*(Identify or describe, if appropriate, size, location, dimensions, or other pertinent information, such as geotechnical reports; site, boundary and topographic surveys; traffic and utility studies; availability of public and private utilities and services; legal description of the site; etc.)*

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**§A1.3** The Owner's budget for the Cost of the Work, as defined in Section 6.1 of the Master Agreement:

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**§A1.4** The Owner's anticipated design and construction milestone dates:

- (a) Design phase milestone dates: \_\_\_\_\_.
- (b) Commencement of construction date: \_\_\_\_\_.
- (c) Substantial Completion date: \_\_\_\_\_.
- (d) Other milestone dates: \_\_\_\_\_.

**§A1.5** The Owner intends the following procurement or delivery method for the Project:

*(Identify method such as competitive bid, negotiated contract, or construction management.)*

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**§A1.6** Other Project information:

*(Identify special characteristics or needs of the Project not provided elsewhere, such as sustainable objective or historic preservation requirements.)*

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**§A1.7** Basic Service to be provided by the Architect beyond those required by the Master Agreement:

*(identify and describe any other Basic Services)*

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**ARTICLE A2  
PROJECT TEAM**

**§A2.1** The Owner identifies the following representative in accordance with Section 5.3 of the Master Agreement:

*(List name, address and other information.)*

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**§A2.2** The persons or entities, in addition to the Owner's representative, who are required to review the Architect's submittals to the Owner are as follows:

*(List name, address and other information.)*

The Owner reserves the right to modify the list during the course of the Project.

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**§A2.3** The Owner will retain the following consultants and contractors:

*(List discipline and, if known, identify them by name and address.)*

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**§A2.4** The Architect identifies the following representative in accordance with Section 2.3 of the Master Agreement:

*(List name, address and other information.)*

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**§A2.5** The Architect will retain the consultants identified in Sections A.2.5.1. Before engaging any consultant to assist the Architect in the rendition of its Services, the Architect shall notify the Owner in writing of the identity of such consultant and the portion of the Services for which the Architect proposes to retain such consultant. The Architect shall not retain a consultant to whom the Owner has made reasonable and timely objection. Failure of the Owner to object in writing to such proposed consultant within 14 days after receipt of the information regarding such consultant shall constitute notice of no reasonable objection.

*(List discipline and, if known, identify them by name, legal status, address and other information.)*

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**§A2.5.1** Consultants retained under Basic Services:

**.1** Structural Engineer

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**.2** Mechanical Engineer

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**.3** Electrical Engineer

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**.4** Other Consultants retained by the Architect are as follows:

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**§A2.5.2** Project Team. The following persons are designated by the Architect as key members of the Project Team (*insert names and contact information*):

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**§A2.6** Other Initial Information on which the PSA is based: (*Provide other Initial Information.*)

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**ARTICLE A3  
INSURANCE**

The Architect shall maintain insurance as set forth in the Master Agreement. If the Architect is required to maintain insurance exceeding the requirements set forth in the Master Agreement, those additional requirements are as follows:



ARTICLE A5

MISCELLANEOUS

§A5.1 This Service Order may be executed and delivered in counterparts, each of which shall be deemed to be an original and all of which, taken together, shall be deemed to be one agreement. For purposes of executing this Service, Order a document signed and transmitted by emailed PDF scan shall be treated as an original document. The signature of either party on an emailed PDF scanned version of this Service Order shall be considered as an original signature and the document transmitted shall be considered to have the same binding legal effect as if it were originally signed. At the request of either party, any PDF scanned document shall be re-executed by all parties in original form. Neither party may raise the use of emailed PDF scan or the fact that any signature was transmitted by email as a defense to the enforcement of this Service Order or any amendment hereto executed in compliance with this Section.

§A5.2 Each of the individuals executing this Service Order and warrant that he or she has been duly authorized by the respective party on whose behalf he or she is executing this Service Order to execute this Service Order on such party's behalf and that once executed by him or her, this Service Order shall be valid and binding upon such party.

§A5.3 Special Terms and Conditions

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

**Adventist Health System/Sunbelt, Inc.  
d/b/a AdventHealth**

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

\_\_\_\_\_  
*(Printed name and title)*

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

\_\_\_\_\_  
*(Printed name and title)*

## Exhibit B

### Travel Policy Guidelines

The following guidelines shall apply to individuals or organizations under contract with the Owner for Professional services:

#### GUIDELINES

1. All commercial air travel is to be coach class. An exception can be made only if a statement is submitted stating that coach class accommodations are not available. It is expected that reservations will be made as early as possible to avoid that situation. Distance of the trip has no bearing on this guideline. If an individual prefers first-class travel, the Owner shall be billed only for the equivalent coach class rate.
2. The Architect or consultant may use a charter and/or privately-owned plane, however, the maximum reimbursement for private flying on the Owner's business is the equivalent commercial coach class fare.
3. An allowance equal to the current IRS allowance will apply to all business travel in personal cars. Only mileage outside a twenty-five (25) mile radius from the professional's office will be reimbursed. Personal cars should be used when commercial transportation is not available or is impractical. The Owner assumes no liability for damage to a personal car or for the driver's liability to the public.
4. Economy and convenience will determine the use of rental cars. Rental cars will not be used when other less expensive transportation is available---motel courtesy cars, airport limousines and taxicabs.
5. Reasonable cost for lodging and up to three meals a day will be reimbursed while traveling only. Attempts should be made to locate moderately priced lodging. Single occupancy rooms are acceptable.
6. Miscellaneous expenses may include turnpike and bridge tolls, parking fees and telephone calls.
7. Entertainment expenses generally are not reimbursed when only the Architect's personnel are involved. Entertainment involving agency representatives or other officials whose involvement directly relates to the Owner's business will be reimbursed. Documentation must include a listing of all individuals by name in attendance and their company affiliation.
8. Non-reimbursable expenses shall include but not limited to the following:
  - a. Personal items, such as clothes, toiletries, luggage, reading material, gifts, barber, shoe shine, laundry, valet, etc.
  - b. Cost of movies at the theater or charged by Hotel/Motel.
  - c. Charges for domestic and babysitters or child-care fees.
  - d. Cost of personal credit cards, travel, accident or life insurance.
  - e. Travel expenses of companions (including associates, spouse and others) not participating in the Owner's activities.
  - f. The excess cost of circuitous side trips for personal reasons.
  - g. Personal phone calls or faxes made while traveling.
  - h. Alcoholic beverages of any kind.

## GUIDELINES FOR BILLING

### TRAVEL AND DIRECT EXPENSES

Expenses shall never be charged direct to the Owner, but should be paid for by the contracting organization. The invoices should then be forwarded to the Owner for review and reimbursement. Reimbursement will be made for "cost" only. Service charges, multipliers or carrying charges will not be considered for payment.

1. Monthly billings, with expenses categorized, should be prepared for each individual Project. The Owner's Project number shall be shown on each billing.
2. To insure prompt payment, billings must be submitted to the Owner by the end of each month for expenses incurred during that month. Expenses submitted more than sixty (60) days after the expense was incurred may not be reimbursed.
3. Other non-travel related reimbursable expenses, with satisfactory documentary evidence (as defined by the terms of the Agreement) may be included in the submittals to the Owner. Such expenses (including printing, mailing, models, etc.) will be reimbursed in accordance with the terms of the Agreement.

### SUBCONTRACT SERVICES

1. Subcontracts with other consultants shall not be made in the name of the Owner.
2. Subcontract cost for services shall be billed at cost. No mark-up will be permitted.
3. Subcontract consultants shall be subject to these same Travel Policy Guidelines.

If there is any question about the acceptability of an expense, it is advisable to consult the Owner prior to incurring the expense. Any comments or questions relating to the Travel Policy and all monthly invoices should be directed to:

AdventHealth Facility:  
Contact:  
Telephone:  
SARDOCS 293489 16

**Exhibit A**

**PSA Template**

**PROFESSIONAL SERVICES AUTHORIZATION**

Pursuant to Master Agreement dated \_\_\_\_\_ for the following PROJECT:

*(Name, location and detailed description)*

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**THE OWNER:**

*(Name, legal status and address)*

Adventist Health Systems/Sunbelt, Inc. d/b/a AdventHealth, a Florida not for profit corporation  
601 East Rollins Street  
Orlando, Florida 32803  
Attention: \_\_\_\_\_  
Telephone: \_\_\_\_\_  
Email: \_\_\_\_\_

**THE ARCHITECT:**

*(Name, legal status and address)*

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Florida License No.: \_\_\_\_\_  
Attention: \_\_\_\_\_  
Telephone: \_\_\_\_\_  
Email: \_\_\_\_\_

This Professional Services Authorization (“PSA”) together with the above-referenced Master Agreement between the Owner and the Architect form a “Services Agreement” for the above-specified Project.

**ARTICLE A1  
PROJECT INFORMATION**

**§A1.1** The Owner’s program for the Project:

*(Identify documentation or state the manner in which the program will be developed.)*

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**§A1.2** The Project’s physical characteristics:

*(Identify or describe, if appropriate, size, location, dimensions, or other pertinent information, such as geotechnical reports; site, boundary and topographic surveys; traffic and utility studies; availability of public and private utilities and services; legal description of the site; etc.)*

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**§A1.3** The Owner's budget for the Cost of the Work, as defined in Section 6.1 of the Master Agreement:

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**§A1.4** The Owner's anticipated design and construction milestone dates:

- (a) Design phase milestone dates: \_\_\_\_\_.
- (b) Commencement of construction date: \_\_\_\_\_.
- (c) Substantial Completion date: \_\_\_\_\_.
- (d) Other milestone dates: \_\_\_\_\_.

**§A1.5** The Owner intends the following procurement or delivery method for the Project:

*(Identify method such as competitive bid, negotiated contract, or construction management.)*

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**§A1.6** Other Project information:

*(Identify special characteristics or needs of the Project not provided elsewhere, such as sustainable objective or historic preservation requirements.)*

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**§A1.7** Basic Service to be provided by the Architect beyond those required by the Master Agreement:

*(identify and describe any other Basic Services)*

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**ARTICLE A2  
PROJECT TEAM**

**§A2.1** The Owner identifies the following representative in accordance with Section 5.3 of the Master Agreement:

*(List name, address and other information.)*

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**§A2.2** The persons or entities, in addition to the Owner's representative, who are required to review the Architect's submittals to the Owner are as follows:

*(List name, address and other information.)*

The Owner reserves the right to modify the list during the course of the Project.

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**§A2.3** The Owner will retain the following consultants and contractors:

*(List discipline and, if known, identify them by name and address.)*

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**§A2.4** The Architect identifies the following representative in accordance with Section 2.3 of the Master Agreement:

*(List name, address and other information.)*

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**§A2.5** The Architect will retain the consultants identified in Sections A.2.5.1. Before engaging any consultant to assist the Architect in the rendition of its Services, the Architect shall notify the Owner in writing of the identity of such consultant and the portion of the Services for which the Architect proposes to retain such consultant. The Architect shall not retain a consultant to whom the Owner has made reasonable and timely objection. Failure of the Owner to object in writing to such proposed consultant within 14 days after receipt of the information regarding such consultant shall constitute notice of no reasonable objection.

*(List discipline and, if known, identify them by name, legal status, address and other information.)*

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**§A2.5.1** Consultants retained under Basic Services:

**.1** Structural Engineer

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**.2** Mechanical Engineer

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**.3** Electrical Engineer

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**.4** Other Consultants retained by the Architect are as follows:

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**§A2.5.2** Project Team. The following persons are designated by the Architect as key members of the Project Team (*insert names and contact information*):

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**§A2.6** Other Initial Information on which the PSA is based: (*Provide other Initial Information.*)

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**ARTICLE A3  
INSURANCE**

The Architect shall maintain insurance as set forth in the Master Agreement. If the Architect is required to maintain insurance exceeding the requirements set forth in the Master Agreement, those additional requirements are as follows:

*(Identify types and limits of insurance coverage, and other insurance requirements applicable to this PSA which exceed those specified in the Master Agreement, if any.)*

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**ARTICLE A4  
COMPENSATION**

**§A4.1** For Basic Services, the Owner shall compensate the Architect as follows:

*(Insert amount of, or basis for, compensation. Where the basis of compensation is set forth in an exhibit to this PSA, list the exhibit below.)*

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**§A4.2** Where compensation for Basic Services is based on a stipulated sum or percentage of the Cost of the Work, the compensation for each phase of services shall be as follows:

Schematic Design Phase	_____ percent (____%)
Design Development Phase	_____ percent (____%)
Construction Documents Phase	_____ percent (____%)
Bidding or Negotiation Phase	_____ percent (____%)
Construction Phase	_____ percent (____%)
<hr/>	
Total Basic Compensation	one hundred percent (100%)

**§A4.3** For Reimbursable Expenses, the Architect shall be compensated in accordance with the Master Agreement unless otherwise set forth below:

*(Insert amount of, or basis for, compensation if other than as set forth in the Master Agreement. Where the basis of compensation is set forth in an exhibit to this PSA, list the exhibit below.)*

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**§A4.4** The current hourly billing rates for services of the Architect to be rendered on the basis of the Architect's hourly rates are set forth below. The rates shall not increase by more than three percent (3%) per year:

*(If applicable, attach an exhibit of hourly billing rates or insert them below.)*

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**ARTICLE A5**

**MISCELLANEOUS**

**§A5.1** This Service Order may be executed and delivered in counterparts, each of which shall be deemed to be an original and all of which, taken together, shall be deemed to be one agreement. For purposes of executing this Service, Order a document signed and transmitted by emailed PDF scan shall be treated as an original document. The signature of either party on an emailed PDF scanned version of this Service Order shall be considered as an original signature and the document transmitted shall be considered to have the same binding legal effect as if it were originally signed. At the request of either party, any PDF scanned document shall be re-executed by all parties in original form. Neither party may raise the use of emailed PDF scan or the fact that any signature was transmitted by email as a defense to the enforcement of this Service Order or any amendment hereto executed in compliance with this Section.

**§A5.2** Each of the individuals executing this Service Order and warrant that he or she has been duly authorized by the respective party on whose behalf he or she is executing this Service Order to execute this Service Order on such party's behalf and that once executed by him or her, this Service Order shall be valid and binding upon such party.

**§A5.3 Special Terms and Conditions**

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

**Adventist Health System/Sunbelt, Inc.**  
**d/b/a AdventHealth**

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

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

\_\_\_\_\_  
*(Printed name and title)*

\_\_\_\_\_  
*(Printed name and title)*