



DATE: July 24, 2013

SUBJECT: Data Centers,  
University Park & Hershey Medical Center

TO: ARUP  
BRUNS-PAK  
CCG  
EYP-MCF  
Gensler/AKF  
HFLenz/Corgan  
IDC Architects  
Jacobs/KlingStubbins  
PageSoutherlandPage  
RTKL

Congratulations, your firm has been selected as one of the firms on a long list for the design of the above referenced facilities. The Selection Committee will review responses to this Request for Proposals and identify a short list of three firms to be interviewed.

It is necessary that you provide us with the information requested in the enclosed questionnaire no later than **August 20, 2013 at noon**. Please answer all of the questions in the order requested. This will provide uniform information on all firms for evaluation and ultimate presentation to the Board of Trustees. We encourage you to be as brief as possible without sacrificing accuracy and completeness. A document not exceeding 40, 8-1/2 x 11 pages should be more than adequate to provide the requested information. Please submit to my office **eighteen** copies of all materials. In order to better understand our goals and the major issues driving these projects, we encourage you to visit the identified sites; please contact Robert Caputo with CS Technology, our Program Manager, at 646-473-2402, [robert.caputo@cstechnology.com](mailto:robert.caputo@cstechnology.com) to schedule your site visits and arrange a meeting with the appropriate individuals who will be involved in the design of these projects. Meetings in each location will be held July 31 through August 2. We have identified 1-1/2 hour slots during those days for firms to schedule their visits on a first call basis. Please contact Robert or Monica Reed, Project Manager (UP) at 814-863-5765, [mjr204@psu.edu](mailto:mjr204@psu.edu) and Keith Sunderman, Project Manager (HMC) at 717-531-1740, [krs24@psu.edu](mailto:krs24@psu.edu) with any programmatic or technical questions. Contact me if you have any general process or campus planning questions.

In addition to the questionnaire, in order to help you formulate a response, enclosed you will find a "Preliminary Basis of Design" document that represents a conventional approach to supporting the desired configuration. Please view this as descriptive rather than prescriptive and leverage your experience and expertise to develop innovative solutions. Also included is a non-binding fee proposal form for you to fill out; please submit one copy of this form under separate cover; to assist you in filling out this form please assume a construction budget of \$29,000,000 for



University Park and \$32,000,000 for Hershey. Finally, you will also find a copy of our Form of Agreement 1-P; please review this agreement to ensure that your firm accepts all terms and conditions as written.

A decision regarding the firms to be interviewed will be made by September 5, 2013 and posted to our web site. Interviews with the three short-listed firms will be held on September 16, 2013. Results of the interviews will be announced at the Board of Trustees meeting on September 20, 2013 and posted to our web site.

We appreciate your cooperation and interest in preparing this material. If the Board selects your firm, we will be looking forward to working with you on the development of these important projects.

Please do not hesitate to call me if you have any other questions.

Sincerely,

David Zehngut  
University Architect  
(814) 863-3158, E-mail dxz3@psu.edu

Enclosures

cc: Selection Committee Members

# QUESTIONNAIRE

Data Centers  
University Park & Hershey Medical Center

The following items of information must be supplied to the University. We have made no attempt to provide sufficient space below for you to fill in blanks but expect that you will provide the information requested on your own letterhead paper. Please use at a minimum an 11 pt. font. **Failure to answer all questions will be reason for disqualifying your team from further consideration.** Please provide **eighteen copies** of all material submitted. The deadline for submission is **August 20, 2013 at noon.**

1. Please describe your approach to this project. Include a description of the scope of work your team will provide. Specifically address how you propose to manage the demands of the two facilities concurrently. This issue may also impact the information provided in response to questions 3 and 4 below regarding specific individual's responsibilities.
2. In addition to any further thoughts you might have on the essence of this project, we would like to see further evidence of your firm's ability to translate design intentions into a meaningful project (including the site). Therefore, please discuss in detail, but in no more than one or two pages, an example from your portfolio relevant to our project that best indicates the appropriate resolution of an understanding of the uniqueness of a project, design intentions, and translation of those design intentions into a meaningful and synthesized final solution.
3. Qualifications and experience of the **lead design team members** for all major disciplines, **including consultants**, to be assigned to this project. Provide a clear indication of the specific roles to be performed by **each individual** in our project as well as the specific roles that they performed in the projects listed as part of their previous experience. Please be very specific regarding the personal involvement and on-site participation expected from each **lead design individual** for our project.

Please confirm that your firm and/or any firm that you will be partnering with to complete this scope of work maintains active and current licenses in the State of Pennsylvania for all appropriate stamping and sealing activities.

4. Consultant firms, if any, proposed for this project:

<u>Firm</u>	<u>No. of Projects Worked With Your Firm</u>	<u>Total Project Amt. Value</u>
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Architects  
Mechanical Engineers  
Electrical Engineers  
IT Engineers  
Structural Engineers  
Landscape Architects  
Cost Estimators  
Others

5. Experience of the firm and any consultants in the design of facilities similar to the ones proposed, completed or under construction during the past five years. We are specifically interested in your experience with university affiliated healthcare centers, multi-tier data centers, research related facilities and concurrent data-center builds. List for each the completion date, final construction cost, gross square feet provided and both initial and ultimate electrical capacity. Identify any unique or creative solutions that addressed program challenges or improved the functionality, efficiency or facility integration. Please be very specific about the services provided by your firm. Identify involvement in these projects by the individuals listed in 3 and 4 above.
6. Provide your firm's experience with BIM on similar recent projects and outline your recommended approach to this project.
7. Evidence of the team's commitment to sustainable design.
8. Please describe your firm's approach to the commissioning process:
  - a) Please describe your firm's approach to managing the commissioning of major M&E Components / Systems.
  - b) Provide a list of projects and licensed agents that you have worked with on projects of similar scope.
  - c) Provide a brief narrative on your commissioning oversight approach including your selection criteria for the commissioning agents.
  - d) Describe when you believe commissioning should occur in order to minimize build schedule impacts, process repetitions, and delays.
9. List CMs that your company has worked with on data center or similar projects and describe your experience and ability in selecting the CM.
10. List five client references for similar scope projects completed during the past ten years, giving name and telephone number. In order to give us an indication of your cost control track record, please **provide accurate and complete data indicating the initial and ultimate electrical capacity, the gross square foot area, the design estimated cost, bid cost, the final total construction cost and the bid date for each project.** Please explain the reason for any major discrepancies between estimated, bid and final construction costs. Please make sure the telephone number of each client reference is current.
11. Graphic examples of selected relevant projects personally done by **the lead design architect**, including brief description and completion date.
12. Please provide a proposed design schedule for each component of this project in graphic form allowing two weeks for any necessary Penn State University review. Include Basis of Design Narrative, Concept Plan, Schematic Design, 60%, 95%, 100% Construction Documents and Specifications. Incorporate all estimated permitting and land

development submission time requirements. Assume the design process will start in October, 2013.

13. List errors and omissions insurance coverage.
14. Number of personnel in present firm(s): Architects \_\_\_\_\_ Engineers \_\_\_\_\_  
Interior Designers \_\_\_\_\_ Landscape Architects \_\_\_\_\_ Others \_\_\_\_\_

How many of the above are professionally registered?

15. Briefly describe your current financial stability and advise of any pending litigation.
16. Integrated Project Delivery Principles.

PSU believes a more integrated project approach during all phases of a project will increase the likelihood of success, result in greater efficiencies, and ultimately provide a better solution. Please outline how you plan to incorporate (or not) the following IPD principles on this project: mutual respect and trust, early goal definition, co-location of project team, target value design, early contractor involvement (design-assist trades), extreme collaboration, transparency and open communication, and effective use of technology. Also, please share any experiences your proposed team members have on projects delivered in a more integrated approach (please be specific on the principles applied).

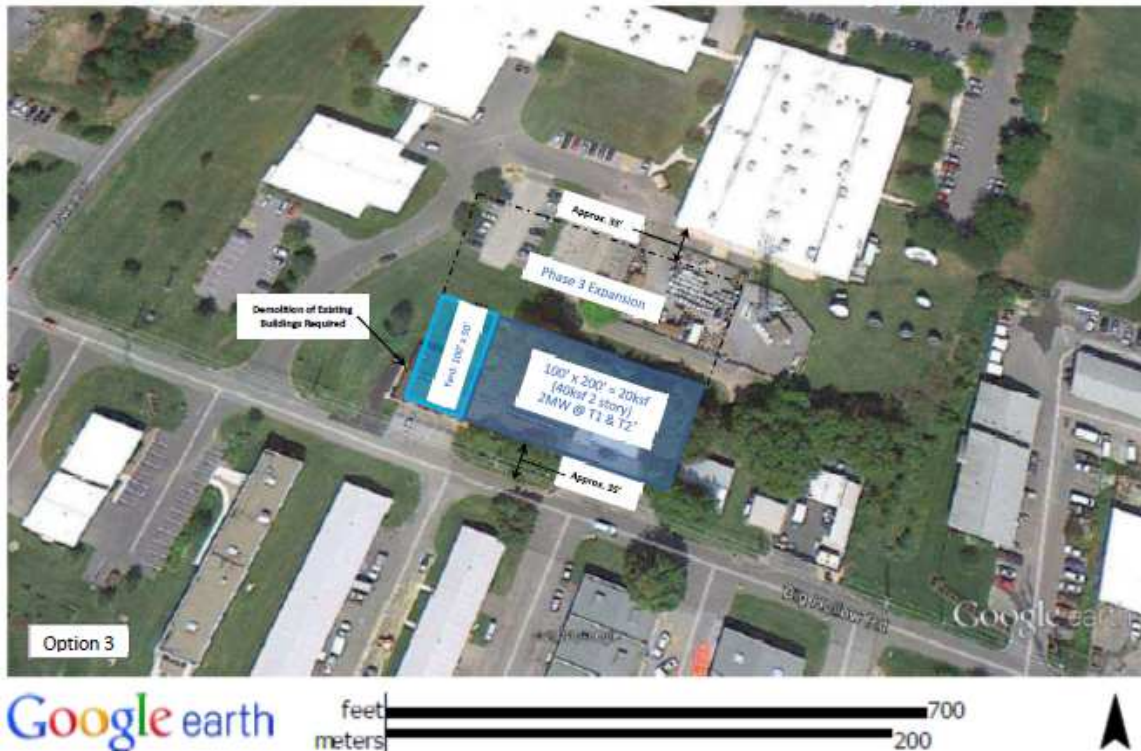
# PRELIMINARY BASIS OF DESIGN FOR DATA CENTERS

## Document Purpose

This document provides design intent for data center realization programs to enable prospective architectural and engineering firms to submit proposals for professional services. It provides a starting point for the formal, comprehensive Basis of Design that will be developed as a result of trade studies during the schematic design phase of the program.

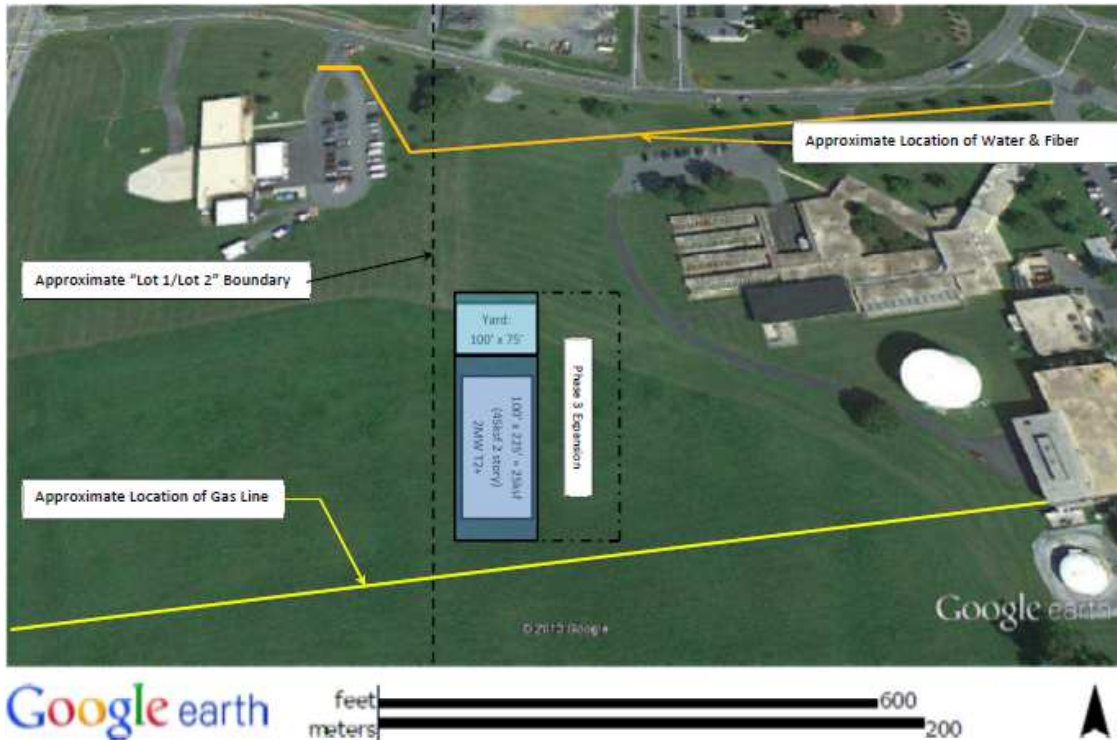
## General Information

- Penn State University will construct two data center facilities, one in University Park Pennsylvania and one in Hershey Pennsylvania. The Hershey site is vacant greenfield; the University Park site requires demolition of an existing office building.
- Each facility is to be built out in two phases. The current project provides for the 2MW (compute) core and shell outfitted to support the Phase 1 compute capacity (1MW). Phase 2 provides for an additional 1 MW compute capacity. The design shall be scalable and provide for capacity expansion and fit-out without interruption of the computing operation.
- A third phase is envisioned to double the Phase 2 end state compute capacity (to 4 MW). This phase falls entirely outside of the scope of the present project. However, the location of the building and supporting utilities on the property shall be such that Phase 3 expansion is possible without interruption of the computing operation.
- The candidate site at University Park is comprised of approximately 1.6 acres.



- The demolition of the existing building at University Park is not within the scope of this project.

- The candidate site at Hershey is comprised of approximately 6.8 acres.



- For planning purposes, the Hershey site provides unrestricted access to appropriate electric, telecommunication, water, sewage, and natural gas utilities. New electric circuits are required to support the University Park site; all other utilities are proximate.
- The data centers shall be designed to support both general computing and research computing. For planning purposes, the computing distribution at University Park is presumed to be 50% general/50% research whereas Hershey is presumed to be 100% general computing.
- Electrical systems supporting general computing shall be fully concurrently maintainable. Electrical systems supporting research computing may be non-redundant. HVAC systems for all computing operations shall provide for redundant capacity components. HVAC conveyance systems shall be designed as non-redundant (i.e. linear trunk & branch) with provision for upgrade to looped conveyance with appropriate isolation in a non-intrusive manner.
- All deployed equipment shall be new and fully warranted by manufacturer.
- Commonality in design between the two facilities is desirable to the greatest extent possible.

#### Site Requirements

- Paved and marked site access and circulation roadways shall be provided. The design of such shall readily accommodate tractor-trailer deliveries.
- ADA compliant paved and marked parking shall accommodate adequate parking for the facility.
- Exterior illumination to be code compliant and be adequate for CCTV.
- Finished landscaping to University standards shall be provided.

- Buildings shall be protected from vehicle breach via passive landscaping and/or protective bollards.
- A security barrier shall be deployed to provide protection and restricted access to an exterior electrical/mechanical equipment yard. Equipment shall be suitably protected from vehicular intrusion (bollards, etc.).
- An additional 8 feet high security barrier shall be constructed around the perimeter of the site and is to be no closer than 30' from the building envelope or any of the supporting infrastructure elements in the equipment yard.

#### **Shell and Structural Requirements**

- Facilities shall be single or multi-story structures, although owing to site limitations, the University Park facility will be two-story; for multi-story facilities, technology spaces shall be located on the second floor with supporting infrastructure on the first floor.
- Facility sizes are estimated as follows:
  - University Park: ~41,000 sf
  - Hershey Medical Center: ~45,000 sf
- The facility shall be compliant with ADA requirements and local codes for data center use.
- The facility (including roof) shall be designed and constructed to IBC Category II importance factors applied for seismic, snow & wind.
- Windowless, pre-cast concrete walls are preferred for protection of technology and infrastructure areas; staff areas may be equipped with windows.
- Perimeter walls shall be appropriately sealed with vapor barrier protection.
- A 40' x 30' minimum architectural grid is preferred.
- Roof shall consist of a membrane system and be light in color.
- Roof drainage shall be via perimeter drains only. Interior drains are not permitted. No roof penetrations shall be permitted over the data hall.
- Mechanical heat rejection and electrical generation equipment will require concrete pads located in an adjacent equipment yard comprising and sized appropriately to accommodate future expansion.
- The structural design shall satisfy a minimum of 250 pounds per square foot live load capacity for the technology spaces, loading dock, and intermediate conveyance routes. Major infrastructure elements are to be located in slab-on-grade areas designed to support the expected equipment loads. Lobby, office and related areas shall be designed to a minimum of 75 pounds per square foot live and dead load capacity
- The design shall account for deployment of equipment to support Phase 2 capacity and for ultimate replacement as the infrastructure reaches end of service life.

The data hall ceiling structure shall be capable of supporting hanging loads of 50 pounds per square foot averaged over the entire data hall. The ceiling structure in infrastructure areas shall be sufficient to support the requisite conduit and coolant conveyance.



## Architectural Requirements

- Preliminary facility space programming shall be presumed as follows:

Category	University Park Requirement	HMC Requirement
<b>Preliminary Space Programming</b>		
<b>Day 1 Data Hall</b>	6650 sf	6650 sf
<b>Day 2 Data Hall (Expansion)</b>	6650 sf	6650 sf
<b>Staff</b>	4000 sf	4000 sf
<b>Staging</b>	500 sf	500 sf
<b>Burn-in</b>	500 sf	500 sf
<b>Storage</b>	500 sf	500 sf
<b>MEP</b>	15,500 sf	19,000 sf
<b>Loading Dock</b>	900 sf	900 sf
<b>Shop</b>	500 sf	500 sf
<b>Circulation Allowance</b>	5300 sf	5900 sf
<b>Total</b>	41,000 sf	45,100 sf

- Staff area presumed to include private offices, open cubicle space, NOC, conference/situation room, public printers/copier area, and comfort facilities.
- Circulation allowance presumed to include passageways, vertical conveyance, entrance lobby with security station and person trap, etc.
- All infrastructure shall be housed within the facility or in the protected equipment yard; No infrastructure shall be deployed on the roof. Suitable physical isolation shall be provided as appropriate.
- The clear height (depressed slab to beam) shall be a minimum of 20 feet in the technology space and 16 feet elsewhere in the facility (no depressed slab).
- The data center shall be equipped with a minimum 42" access floor over depressed slab (no ramps). The support structure and floor tiles shall be able to support a design load of 2500

lbs. per tile. If equipped with raised access flooring, equipment transport corridors shall also be equipped with floor tiles rated to 2500 lbs.

- Acoustic ceiling at 12' AFF shall be installed in technology and people spaces; no ceiling shall be installed in the infrastructure and other support spaces. The data hall acoustic ceiling shall be used as return air plenum.
- Perimeter of data center shall be contained within a drywall enclosure incorporating necessary vapor barrier providing environmental segregation from remainder of space
- Demising partitions that separate technology and infrastructure space from common building space shall be constructed to achieve a minimum 2-hour fire rating.
- All wall penetrations shall be appropriately fire-stopped and sealed against smoke and air leakage.
- Firewall construction (2 hour rated) will be used in the building for infrastructure compartmentalization.
- The under-floor cavity will be used as an air supply plenum; the space above the architectural ceiling shall be used as an air return plenum.
- No power or data cabling shall be deployed in the underfloor plenum.
- Perforated tile requirement shall be coordinated with mechanical design to ensure adequate airflow to equipment cabinets necessary to support average electrical density of 150 W/SF, with local densities up to 300W/sf.
- Structured data cabling shall be deployed overhead via cable racks.
- Power distribution in the data hall shall be via overhead bus duct. Cable bus systems may be considered for selected circuits. IT equipment in the data hall shall be deployed on a hot aisle/cold aisle configuration.
- MEP infrastructure shall be located outside of the data hall to the greatest extent possible.
- The loading dock shall consist of a single bay, equipped with load leveler, to facilitate standard delivery truck access and a second bay for deployment of a trash compactor.
- Conveyance routes from the loading dock shall be of sufficient size and equipped with suitable protection for transport of IT and infrastructure equipment.
- A security barrier providing controlled access and equipment protection shall enclose the exterior equipment yard.

## Mechanical and Electrical Requirements

The mechanical and electrical system deployment described below represents a baseline design approach to meet the stated capacity and resiliency requirements for the purpose of conveying design intent and initial cost estimation. The University expects the final design solution to minimize energy consumption and the greenhouse gas footprint of the facility with a goal approaching “net zero”. At a minimum, the following energy saving alternatives warrant serious consideration and evaluation:

- Aisle containment
- Air & water side economization
- Heat rejection via either campus waste water or drainage systems
- Waste heat distribution to local buildings
- Renewable energy technologies, including solar PV, solar thermal, and ground coupled systems
- Regionalized heating and cooling systems
- Co-generation or tri-generation power/cooling/heating
- Other creative approaches at the engineers’ discretion

## Electrical Requirements

- The electrical system (capacity & distribution elements) shall be concurrently maintainable in service.
  - **Exception:** Power to research computing shall be non-redundant both for capacity and distribution.
- The electrical design shall be such that Phase 2 expansion may be realized in a non-intrusive/low risk manner.
- Electrical service to the site shall consist of redundant utility circuits each capable of supplying the ultimate Phase 1 & Phase 2 total facility load (approximately 4000 kVA). Preference is for circuits from separate substations.
- Utility substations/switchboards shall be sized appropriate for the ultimate Phase 1 and Phase 2 total facility load to facilitate non-intrusive expansion.
- Sizing of distribution elements shall consider tradeoffs between day 1 and ultimate costs.
- Power distribution shall be 2N from the utility through to the computing equipment.
  - **Exception:** Power to research computing shall be non-redundant from an appropriate point in the distribution tree.
- The UPS plant shall be comprised of 2N systems for both the Phase 1 and Phase 2 deployments. Sizing of UPS modules shall consider tradeoffs between Phase 1 and ultimate costs.
  - **Exception:** Power to research computing shall be non-redundant from an appropriate point in the distribution tree.
- For planning purposes, the secondary UPS electrical distribution will support an average electrical density of 150 W/SF with local densities up to 300 W/SF.
- UPS modules shall include fully rated static and wrap-around maintenance by-pass to facilitate maintenance activity.
- Double conversion UPS shall be considered the standard; use of “off-line” and rotary/flywheel UPS require cost/benefit trade analyses.
- The base building life safety, security, fire protection, and DCIM systems shall be powered from a dedicated, single module UPS equipped with fully rated static and wrap-around maintenance bypass.

- The University preference is for wet cell battery holdover for the UPS with a minimum of 15 minutes of holdover at rated load in the event of a utility outage.
- Protected power distribution to provide redundant circuits for general computing and BC/DR; non-redundant circuits shall be provided to research computing.
- Critical power distribution in technology spaces shall be via overhead bus duct sized to support an average density of 150W/sf; local areas may require densities of up to 300 W/sf.
- Power resilience for the HVAC systems shall be consistent with an N+1 resilient environmental conditioning plant. On-site emergency power system shall be comprised of N+1 generators for both the Phase 1 and Phase 2 deployments. The emergency power system shall be sized to support the total facility load. Sizing of generator modules shall consider tradeoffs between Phase 1 and ultimate cost.

**Exception:** If economically attractive, research computing may be load shed to reduce the total generator capacity required.

- At a minimum, fuel oil storage shall provide for operation of each generator for 12 hours at rated load. This quantity may be subject to requirements for clinical facilities (up to 96 hours).
- Fuel system shall provide for preheat, polishing and spill containment.
- Distribution of generator power shall be via coordinated breaker operation or an appropriate number of ATS.
- Installation of Transient Voltage Surge Suppression (TVSS), an equi-potential grounding system, and a Master Label Certified Lightning Protection system are required.
- A connection shall be provided for a load bank to facilitate maintenance activities for generators and UPS systems; this connection shall also facilitate the connection of a roll-up generator or UPS module.
- Studies of a circuit breaker coordination, short circuit, and arc-flash shall be performed by a licensed professional having experience in such analyses; equipment shall be appropriately labeled for hazard and requisite PPE identification in accordance with NFPA 70E.

#### **Mechanical / Fire Protection Requirements**

- HVAC system design shall take advantage of the local environment and distributed campus services, if any, to provide a highly efficient system.
- HVAC system shall be comprised of N+1 redundant capacity elements and N conveyance elements. Conveyance shall be designed to be upgradable in-service to a concurrently maintainable distribution.
- The data hall operating environment shall be in compliance with the ASHRAE TC9.9 recommended envelope.
- Cooling for the technology spaces shall be an N+1 equipment configuration. The minimum required redundancy is 20% (i.e. 6N/5).
- Conditioning for the electrical rooms shall be shall be an N+1 equipment configuration. The minimum required redundancy is 20% (i.e. 6N/5).
- The design shall accommodate the future deployment of in-row cooling solutions (chilled water/pumped refrigerant, etc.) in a non-intrusive manner.
- HVAC equipment shall be located outside of the data halls to the greatest practical extent.
- If deployed, open loop systems shall be supported from redundant make-up sources.
- The design shall provide sufficient thermal storage to ride through electric utility interruptions for the entire HVAC system restart interval.
- Technology space cooling shall accommodate an average of 150 W/SF, with localized densities up to 300 W/SF.

- As a baseline, cooling air circulation to be conventional under-floor distribution with ceiling plenum return; alternative configurations shall be considered during trade studies in the schematic design phase.
- Leak detection and spill containment provisions shall be deployed.
- Motorized HVAC equipment shall be powered from variable frequency drives.
- The base building HVAC system shall be independent from the HVAC for the technology pods and their associated electrical rooms.
- Humidity control via fresh air circulation system is preferred for the data hall. Separate controls are required for each individual technology space.
- Powering for the mechanical loads shall be consistent with N+1 redundancy.
- Installation of a dual-interlock pre-action fire suppression system with code compliant heat and smoke detection at the ceiling level and beneath the access floor. Each technology pod, electrical/mechanical room, and staff area shall be on a separate pre-action zone. Smoke detectors shall be of the addressable, high sensitivity (HSSD) type. Aspirating detectors are considered appropriate only for ducted conveyance.
- If mandated by local code, an emergency power off system shall be deployed. If deployed, system shall be testable in service and shall include a bypass function to facilitate maintenance activities. If an EPO system is required, it shall be zoned if local codes permit.
- A comprehensive data center information management (DCIM) system including but not limited to monitoring and control of all critical mechanical and electrical infrastructure components and cabinet-level electrical circuit monitoring. The system shall be such that in the event of a DCIM failure, all controls should fail to the last setting with subsequent manual adjustment capability. DCIM shall be capable of monitoring the electrical system from the utility input to the IT kit.

#### **Sustainability**

- Facility shall comply with the University sustainability requirements, the University LEED policy, and be certified to the LEED New Building Standard.

#### **Security Requirements**

- A security barrier shall be deployed to provide protection and restricted access to an exterior electrical/mechanical equipment yard. Equipment shall be suitably protected from vehicular intrusion (bollards, etc.)
- An additional 8 feet high security fence shall be constructed around the perimeter of the site and is to be no closer than 30' from the building envelope or any of the supporting infrastructure elements in the equipment yard.
- The building shall have one intercom equipped main entrance, monitored and controlled by security staff and accessible to resident staff via card reader. Code mandated egress shall be alarmed and equipped with an internal crash bar. Such doors shall not be equipped with external hardware.
- CCTV shall be strategically deployed at the building perimeter and doors, in the lobby, loading dock, circulation corridors, infrastructure rooms and throughout the technology pods. Cameras shall be equipped with PTZ and motion detection functionality. Image storage shall be digital with a minimum capacity of 30 days inherent retention per camera. The number of cameras shall be determined through the design process but will provide internal and external coverage. Specifications for exterior cameras shall be consistent with night-time lighting conditions.
- Card access to the facility from the lobby shall be via two-factor authentication. Access to technology and infrastructure spaces shall also be via two-factor authentication. The number of card readers shall be determined through the design process.
- Entrance lobby shall include provision for security station, and person trap

**Facility Commissioning Requirements**

- All installed systems shall require integrated testing and full, 5 level system commissioning.
- Commissioning shall be performed by an independent agent.

**Facility Telecommunications Requirements**

- The facility shall be designed for compliance with the TIA 942 standard for Tier 3 telecommunications.
- The facility shall be provided with multiple points of entry from diversely routed circuits.
- Telecommunication utilities shall be provided with appropriately sized points-of-entry and risers.
- Incoming telecommunication services shall be provided via 6 x 4" nonmetallic conduit configuration encased in concrete from the street to the POEs.

**Other Relevant Standards and Practices**

- The facilities shall be designed in accordance with:
  - The University Design and Construction Standards Manual
  - The Hershey Architectural Design Standards
  - Hershey MEP Standards
  - Hershey Infection Control Policy (as appropriate)
  - HIPAA standards as reflected in the Hershey compliance plan
  - DoD applications and other sensitive computing equipment will require partitioned spaces. (SCIFs are not anticipated)



## NON-BINDING ARCHITECT AND ENGINEER FEE SCHEDULE

Project: Data Centers,  
University Park & Hershey Medical Center

Firm Name: \_\_\_\_\_

	<u>Hours</u>	<u>Fee</u>
Programming/Site Analysis (confirmation)	_____	_____
Schematics	_____	_____
Design Development	_____	_____
Construction Documents	_____	_____
Bids	_____	_____
Construction Administration	_____	_____
Subtotal	_____	_____
Reimbursements (allowance)	_____	_____
<b>Total</b>	=====	=====

Please include a listing of your billable rates that will be used for this project.

Please return completed form by August 20, 2013 at noon to:

David Zehngut  
University Architect  
The Pennsylvania State University  
200 Physical Plant Building  
University Park, PA 16802-1118  
Phone (814) 863-3158

Note: Include any costs for consultants within amounts listed, not separately.

**Form of Agreement 1-P**

THE PENNSYLVANIA STATE UNIVERSITY

OWNER AND PROFESSIONAL

AGREEMENT

THIS AGREEMENT made this \_\_\_\_\_ day of \_\_\_\_\_

in the year Two Thousand \_\_\_\_\_, by and between THE PENNSYLVANIA STATE UNIVERSITY, a non-profit corporation and an instrumentality of the Commonwealth of Pennsylvania, having its principal offices at University Park, Centre County, created and existing under the laws of the Commonwealth of Pennsylvania, hereinafter called the "Owner," and

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

hereinafter called the "Professional," for the following Project:

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

(Title of Project should match the documents, must include project number)

In consideration of the promises set forth herein, and with intent to be legally bound, the parties agree to the terms set forth within this Agreement.

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### ARTICLE 13: SCHEDULE OF EXHIBITS

#### **DEFINITIONS:**

**Contract Documents** consist of the General Conditions of the Contract, Drawings, Specifications, Addenda issued prior to receipt of Trade Contract bids, Form of Proposal, other documents listed in the Agreement and those modifications to the Contract as follows: Owner's written authorization to the Contractor for changes to the Scope of Work, a Change Order, and a written order for a minor change in the Work issued by the Professional.

**Contractor** means the person or entity retained by the Owner to perform Work for the project and includes the Contractor's Representative.

**Construction Budget** means the project construction cost limit established by the Owner.

**Construction Cost Estimate** means a detailed breakdown of all costs associated with the scope of work required to meet the project requirements projected to the mid-point of construction.

**Final Completion** means the point at which the project is fully completed in accordance with the Contract Documents (this includes *all* physical/construction obligations, administrative obligations, and punch list obligations).

The **Owner** is The Pennsylvania State University, a non-profit corporation created and existing under the laws of the Commonwealth of Pennsylvania, and an instrumentality of the Commonwealth of Pennsylvania; this term shall include the Owner and/or the Owner's authorized representative.

The **Pennsylvania State University Design and Construction Standards** means those design and construction standards as set forth at: [http://www.opp.psu.edu/planning-construction/design\\_and\\_construction\\_standards/standards-and-forms](http://www.opp.psu.edu/planning-construction/design_and_construction_standards/standards-and-forms).

The **Professional** is the person lawfully licensed to practice architecture or engineering, or the firm employed to provide architectural or engineering services, for the referenced project. The term "Professional" shall mean the Professional or the Professional's authorized representative.

The **Project** shall comprise the Work defined by the Contract Documents and may include work by the Owner or other Separate Contractors, Trade Contractors, Sub-Trade Contractors or the Professional.

The **Scope of Work** means the work reasonably contemplated, required, implied, or reasonably inferable by the Contract Documents or normal standards of the building trades, whether or not explicitly contained in the Contract Documents.

**Services** means the services provided by the Professional and/or by consultants retained by the Professional for the Project.

**Substantial Completion** shall mean that stage in the progression of the Work when the Work is sufficiently complete in accordance with this Contract that the Owner can enjoy beneficial use or occupancy of the Work and can utilize the Work for its intended purpose.

**Work** means the construction and services necessary or incidental to fulfill the Contractor's or Professional's obligations for the Project in conformance with the agreement between the Owner and Contractor or the Owner and Professional.

### ARTICLE 1: PROFESSIONAL'S RESPONSIBILITIES

#### 1.1 General Responsibilities

1.1.1 The Professional shall furnish or provide the architectural and engineering services as outlined herein, and any other relevant data, specifications or documents, as necessary for a complete project. The Professional shall expeditiously perform said services in a manner consistent with professional skill, care, and the orderly progress of the work. In carrying out all obligations pursuant to this Agreement, including the furnishing of Construction Documents, the Professional shall in all respects conform to the applicable professional standard of care.

1.1.2 By executing this Agreement, the Professional represents to the Owner that the Professional possesses the requisite skill, expertise, and credentials to perform the required services, and that the Professional is licensed to practice by all public entities having jurisdiction over the Professional and the Project. The Professional further represents to the Owner that the Professional will maintain all necessary licenses, permits, or other authorizations necessary to act as Professional for the Project until the Professional's remaining duties hereunder have been satisfied. The Professional assumes full responsibility to the Owner for the negligent acts and omissions of the Professional's consultants or others employed or retained by the Professional in connection with the Project.

1.1.3 Execution of this Agreement by the Professional constitutes a representation that the Professional has become familiar with the Project site and the local conditions under which the Project is to be implemented.

1.1.4 The Professional shall provide the services required by this agreement in conformance with the most recent project schedule approved by the Owner.

1.1.5 The Professional shall provide Professional Services, per Exhibit A and per this agreement, in accordance with The Pennsylvania State University Design and Construction Standards referenced in Exhibit C.

1.1.6 The Professional is responsible for additional submission and presentation requirements as outlined for Board of Trustee approval or other administrative approval.

1.1.7 If a Construction Manager is hired by the Owner it will be the responsibility of the Professional to collaborate and work in concert with the Construction Manager throughout the duration of the project. Furthermore, the Professional shall reconcile all cost estimates with the Construction Manager.

1.1.8 (OPTIONAL) Payment of the Professional's fees, as per in Article 9, is contingent upon completion of the documents per the attached schedule. (NOTE: Attach Schedule as Exhibit D if schedule has been developed.)

1.1.9 (OPTIONAL) Adherence to Time Schedule. The Professional shall strictly adhere to submission schedules as set forth in this Agreement. Should the Professional become aware that he will be unable to meet any of the dates set forth in this Agreement, the Professional shall immediately notify the Owner in writing.

- The Professional shall include in the notice the reason(s) for the Professional's inability to meet the date(s) and a request that the Owner amend the time schedule.
- The Owner shall review the Professional's notice and determine whether or not to amend the time schedule.

If the Owner determines that the delay is **due to the fault of the Professional**, the Owner may amend the schedule and direct the Professional to expeditiously proceed with the design of the project, in which case **the Owner may hold the Professional responsible for any costs attributable to the delay**, or terminate the Agreement for default of the Professional, in accordance with the provisions of this Agreement.

If the Owner determines that the delay is not due to the fault of the Professional, the Owner may amend the time schedule. The Professional agrees that such an amendment of the time schedule is his

exclusive remedy for a delay and that he may not make any claims against the Owner for increased costs due to the delay.

1.1.10 Building Information Modeling (BIM). The project will be designed, constructed, and operated using Building Information Modeling (BIM). The BIM project scope is defined in The Pennsylvania State University Office of Physical Plant BIM Contract Addendum (BIM Addendum). This addendum applies to all projects exceeding a Total Project Cost of \$5 Million new construction, substantial renovation, or as directed by the Office of Physical Plant Project Manager. On qualifying projects, professionals shall use BIM application(s) and software to develop project designs and assist in the coordination of construction.

The Pennsylvania State University is committed to utilizing BIM technologies and processes to execute the design, construction, and operations of its new High Performance buildings and the updating of all existing structures and infrastructure. The intent is to achieve the following goals: facilitate a collaborative project environment between all project stakeholders beginning at project conception through facility operations; improve facility system coordination to streamline design and construction processes and minimize change orders; deliver a better overall facility design, visualize construction processes, avoid field conflicts, develop building life cycle costs, accurately project cost estimates, and seamlessly transition into facilities operations; develop high performance buildings in accordance to The Pennsylvania State University sustainability goals; incorporate the Record Model and As-Built Models, including infrastructure and building systems, into the existing Enterprise Asset Management system (EAM) to create an As-Maintained Facilities Management Model; and establish a technology platform and provide continuous support to incorporate future technologies into existing processes.

The Professional shall provide all deliverables in compliance with the BIM Addendum at stages described in the BIM Plan. The BIM Model is an instrument of service and is considered to be a component of Design and Construction Documents governed by Article 7 of this Agreement and within the BIM Addendum, without exception.

The Professional shall lead the development of a project specific BIM Execution Plan (BIM Plan), documenting the collaborative process in which BIM will be implemented throughout the life cycle of the project, during the design phase. An initial BIM Plan shall include the Professional's requirements identified in the BIM Addendum and the Office of Physical Plant Plan Template. It shall be submitted for approval by The Pennsylvania State University prior to the contract execution. A collaborative BIM Plan shall be developed with the Contractor/CM prior to completion of the schematic design phase. In the event that a Contractor is not procured for preconstruction services, the Professional Team and Owner shall develop the collaborative BIM Plan. The BIM Plan shall be revisited with the entire project team prior to Construction and submitted to the Office of Physical Plant for final approval. Payment may be held at each development phase until the BIM Plan is approved.

All costs associated with BIM, including model updates during construction, shall be included in the base contract price (contract Article 9.1.1). A breakdown of any cost associated with the implementation of BIM must be disclosed in the BIM Addendum.

Any questions or variations from this language shall be submitted in writing and agreed upon with the Office of Physical Plant BIM Manager or Manager of Design Services.

1.1.11 Contractor Design-Assist. The Owner anticipates utilizing contractor/vendor design-assist on some aspects of the project. If utilized, the Professional will assume the responsibility for incorporation of the design assist information into the overall design.

1.1.12 (OPTIONAL, If there is a cost impact for not meeting the LEED certification level, it should be outlined as a penalty in this section.) LEED Responsibility for Project. The Professional shall ensure that the LEED target certification level for the project is achieved. The Professional shall be primarily responsible for identifying the listing of credits to be achieved during the project in an effort to meet the certification level. The Professional shall also be responsible for preparing all documentation required for submission. The Professional shall use as a guide The Pennsylvania State University LEED Policy to be provided by the Owner.

## 1.2 Schematic Phase

The Professional shall review and comply with the Project program and The Pennsylvania State University Design and Construction Standards, both as furnished by the Owner, and shall conduct appropriate visits to the Project site. The Professional shall then provide to Owner a preliminary evaluation of the program and schedule and a preliminary construction cost estimate. The Professional shall review with the Owner alternative approaches to project design and construction, as may be required.

After the Owner has approved the Project scope, cost estimate and schedule as submitted by the Professional, the Professional shall prepare and submit to the Owner, for approval, Schematic Design Documents and any other documents required by the Owner. Refer to the Design Phase Submittal Requirements document available on the Office of Physical Plant web page for a listing of submission requirements for the Schematic Phase.

Following approval of Schematic Design Documents and any other documents required at such phase by the Owner, The Professional shall submit a Construction Cost Estimate. The estimate shall be determined by the Professional using the most accurate means available.

## 1.3 Design Development Phase

After approval by the Owner of the Schematic Design Documents, and any Owner-authorized changes in Project scope or construction budget, the Professional shall prepare and submit, for approval by Owner and any government authorities, Design Development drawings and any other documents required by the Owner for said approval. These drawings and other documents shall fix building size, delineate and describe the various construction materials to be used, and indicate the structural, mechanical, and electrical systems upon which the design is based. Refer to the Design Phase Submittal Requirements document available on the Office of Physical Plant web page for a listing of submission requirements for the Design Development Phase (noted as Preliminary and Design Phase in the document).

The Professional shall provide an update of the Construction Cost Estimate and schedule and advise the Owner immediately of any adjustments.

## 1.4 Construction Document Phase

After approval by the Owner of the Design Development Phase documents, and any further Owner-authorized changes in Project scope or construction budget, the Professional shall prepare and submit to the Owner, for approval, Construction Drawings and Specifications/Project Manual (hereinafter referred to as the "Construction Documents") required by the Owner for said approval. These Construction Documents shall delineate, detail, and completely specify all materials and equipment required to fully complete construction of the Project in every respect, consistent with current standards of the profession. The Construction Documents shall completely describe all work necessary to bid and construct the Project. Refer to the Design Phase Submittal Requirements document dated August 2006 (or any subsequent updates), available on the Office of Physical Plant web page, for a listing of submission requirements for the Construction Document Phase.

Any review and approval by the Owner of the Construction Documents shall not be deemed to diminish the Professional's obligations under this Agreement.

The Professional shall provide an update of the Construction Cost Estimate and schedule and shall advise the Owner immediately of any adjustments.

The Professional shall be responsible for completing all of the appropriate planning modules, soil and erosion control plans, and other documents which may be required.

The Professional shall be responsible for obtaining, on behalf of the Owner, whatever approvals are necessary to connect to non-Owner-owned utility lines.

The Professional shall coordinate the Construction Documents for all of the Separate Prime Contracts or trade packages, as required, and shall employ all reasonable and necessary efforts to prevent omissions, conflicts, overlaps, or duplications of any items of work or materials on the Project.

The Professional shall coordinate the services of all design consultants for the Project, including those retained by the Owner.

### 1.5 Bidding Phase

After approval by the Owner of the Construction Documents, the Professional shall prepare and distribute all necessary bidding correspondence and documents, evaluate bid proposals, attend pre-bid or pre-award meetings, clarify the scope or intent of the Construction Documents, evaluate proposed subcontractors, and assist in the preparation of construction contracts.

### 1.6 Construction Phase

The Professional shall issue a set of construction documents that incorporate all bidding documents and revisions per addenda prior to the start of construction.

The Professional's responsibility under this Agreement for Construction Phase services commences with the execution of the Contract(s) between the Contractor(s) and the Owner and terminates no earlier than the expiration of the Contractor's one-year guarantee period against defective materials, equipment, and/or workmanship. This paragraph is not intended to, and shall not be construed as, affecting in any way the calculation of any applicable legal statutes of limitation.

Administration, by the Professional, of the construction contract(s) shall be as outlined below and in accordance with the General Conditions of the Contract for Construction. The Professional agrees to perform all of its obligations under this Agreement consistent with said General Conditions. The extent of the Professional's duties and responsibilities and the limitations of its authority as specified thereunder shall not be modified without written agreement between the Owner and the Professional.

The Professional shall not be responsible for the Contractor's construction means, methods, techniques, sequences, or procedures, or for safety precautions and programs in connection with the work. However, if the Professional has actual knowledge of safety violations, the Professional shall immediately alert the relevant Contractor or Subcontractor and shall give prompt written notice to the Owner.

The Professional shall not be responsible for the Contractor's failure to carry out the Work in accordance with the Contract Documents. The Professional shall not be deemed to have control over or charge of acts or omissions of the Contractor, Subcontractors, or their agents or employees, or any other persons performing portions of the Work. However, the Professional shall provide all required assistance to the Contractor, Subcontractors and/or agents and employees in order to facilitate the appropriate and timely performance of the Work. Furthermore, Professional is responsible for notifying the Owner and the Contractor of the Contractor's failure to carry out the Work in accordance with the Contract Documents upon observing such failure by the Contractor.

1.6.1 Schedule of Values. Upon receipt, the Professional shall carefully review and examine the Contractor's Schedule of Values, together with any supporting documentation or data which the Owner or the Professional may require from the Contractor. The purpose of such review and examination will be to protect the Owner from an unbalanced Schedule of Values which allocates greater value to certain elements of the Work than is indicated by such supporting documentation or data or than is reasonable under the circumstances. If the Schedule of Values is found to be inappropriate, or if the supporting documentation or data is deemed to be inadequate, and unless the Owner directs the Professional to the contrary in writing, the Schedule of Values shall be returned to the Contractor for revision or supporting documentation or data. After making such examination, if the Schedule of Values is found to be

appropriate as submitted or, if necessary, as revised, the Professional shall sign the Schedule of Values thereby indicating the Professional's informed belief that the Schedule of Values constitutes a reasonable, balanced basis for payment of the Contract Price to the Contractor. The Professional shall not sign such Schedule of Values in the absence of such belief unless directed to do so, in writing, by the Owner. The Professional shall provide the Owner with a signed copy of the Schedule of Values after approval.

1.6.2 Access to Work. The Professional and its authorized representatives shall have full and safe access to the work at all times.

1.6.3 Visits to the Site/Inspection. The Professional and any consultants retained by the Professional, or an authorized and qualified representative, shall visit the Project periodically as required by the Owner during periods of active construction in order to review the progress of the work, and take such actions as are necessary or appropriate to achieve the requirements of the Construction Documents in the work of the responsible Contractors, including advising the Owner's representatives as to particular matters of concern. It shall also be the duty of the Professional to have its Consultants visit the site periodically as required during their respective Phases of the work, at such intervals as may reasonably be deemed necessary by the Owner and the Professional, to review their respective Phases of the work in order to achieve the requirements of the Construction Documents.

The purpose of such site visits and reviews will be to determine the quality, quantity, and progress of the Work in comparison with the requirements of the Construction Documents. In making such reviews, the Professional shall exercise care to protect the Owner from defects or deficiencies in the Work, from unexcused delays in the schedule, and from overpayment to the Contractor. Following each such review, the Professional shall submit a written report within (5) calendar days of such review, together with any appropriate comments or recommendations, to the Owner.

Whenever, in the Professional's opinion, it is necessary or advisable, the Professional shall require special inspection or testing of the Work in accordance with the provisions of the Construction Documents whether or not such Work is fabricated, installed, or completed. The Professional shall advise the Owner of all such occurrences requiring special inspection or testing of the Work and shall obtain prior approval from Owner before any funds are committed for inspection, beyond what has already been budgeted.

1.6.4 Approval of Payment to Contractors. Based on the Professional's review of the Project, the Professional will recommend, within seven (7) calendar days after receipt, approval or rejection of payment on the Application-Certificate of Payment. Approval of the Certificate of Payment shall constitute a representation by the Professional to the Owner that the work has progressed to the point indicated on the Application, and that to the best of the Professional's knowledge, information, and belief, the quality of the work is in accordance with the Contract Documents.

The Professional shall make recommendations to the Owner for the withholding of any payment, or portion thereof, due to inadequate progress and/or performance of the Contract.

The Professional agrees that time is of the essence with respect to this provision.

1.6.5 Interpreter. The Professional will be, in the first instance, the interpreter of the requirements of the Contract Documents. The Professional will, within a reasonable time as determined by the Owner, render such interpretation as it may deem necessary for the proper execution or Progress of the Work. All interpretations by the Professional shall be defined in writing and/or by drawing and shall be consistent with the intent of the Contract Documents.

In addition to the above, the Professional shall be required to attend, at the determination of the Owner, any and all Project site conferences dealing with interpretation of the Contract Documents.

The Professional's decisions, with Owner's prior approval, shall in matters relating to aesthetic effect be final if consistent with the intent of the Construction Documents.

1.6.6 Review of Contractor's Shop Drawings and Materials. The Professional shall review, approve, and process, subject to the right of review by the Owner, Shop Drawings to ensure compliance with the Contract Documents and all product data, samples, materials, and other submissions of the Contractor required by the Contract Documents for conformity to and in harmony with the design concept of the Project and for compliance with the requirements of the Contract Documents. The Professional shall not approve any substitution of specified materials and/or equipment without first obtaining the Owner's consent. Approval by the Professional of the Contractor's submittal shall constitute the Professional's representation in accordance with Article 5 of the General Conditions of the Contract for Construction to the Owner that such submittal is in conformance with the Contract Documents.

When the Contractor is required by the Contract Documents to provide professional certification of performance characteristics of materials, systems, or equipment, the Professional shall be entitled to rely upon such certification to establish that the materials, systems, or equipment will meet performance criteria required by the Contract Documents.

Based on the priorities of the construction schedule, the Prime Contractor(s) shall submit a shop drawing submittal schedule on or before the Second Regular Job Conference. The Professional shall review and check the shop drawing submittal schedule within fourteen (14) calendar days of receipt from the Contractor.

The Professional shall return the approved shop drawings, or detailed notation for resubmission, if required, within fourteen (14) calendar days after receipt from the Contractor unless mutually agreed otherwise by the Professional, Owner, and Contractor. The Professional shall act on any resubmissions within seven (7) calendar days of receipt thereof unless mutually agreed otherwise by the Professional, Owner, and Contractor. A detailed log shall be maintained by the Professional as to time of receipt of the shop drawings and time of return, with adequate notes as to their disposition.

Refer to 1.6.12 for electronic scanning and submission requirement of approved project shop drawings at the completion of the project.

The Professional is responsible to incorporate into the shop drawings comments by the Owner or Owner's authorized representative prior to the shop drawings being returned to the Contractor.

The Professional agrees that time is of the essence of this provision.

1.6.7 Job Conference Reports. The Professional shall take and retain a verbatim record of the biweekly Job Conference meetings and shall prepare and distribute summary minutes in a format approved by the Owner of each meeting within five (5) calendar days to the Owner, the Contractors, and all other interested parties.

1.6.8 Change Orders. The Professional shall review all Change Order requests within seven (7) calendar days and shall advise Owner, in writing, with respect to the necessity or advisability of same. The Professional shall also determine whether the cost is fair and reasonable for the additional work associated with the Change Order. In so doing, Professional shall provide all pertinent documents and data to the Owner, who shall make all decisions regarding approval or rejection of Change Order requests. The Professional shall maintain an appropriate Change Order log. The Professional may, after consultation with the Owner, authorize minor changes in the Work which do not involve an adjustment in the Contract sum or an extension of the Contract time and which are consistent with the intent of the Contract Documents.

1.6.9 Rejection of Work. The Professional is authorized and obligated to reject work which does not conform to the Contract Documents and shall immediately notify the Owner to stop a Contractor's work whenever, in the Professional's reasonable opinion, such action is necessary for the proper performance of the Construction Contract Work. The Professional shall not be liable to the Owner for the consequences of any recommendation made by the Professional in good faith, and in the exercise of due care in recommending to stop or not to stop the work.



1.6.10 Substantial Completion, Final, and One-Year Guarantee Inspections. The Professional and its consultants shall participate in Substantial Completion and Final Inspections to affix the dates of Substantial and Final Completion and shall concur in the report of Final Completion to the Owner prior to approving the Contractor's application for Final Payment. The Professional shall produce the punch list document and provide follow-up to ensure all items are completed to the satisfaction of the Owner. The Professional shall also acquire for Owner the Certificate of Occupancy.

The Professional and its consultants shall participate in an inspection prior to the expiration of the one (1) year guarantee period against defective materials, equipment, and/or workmanship to determine any defects in materials, equipment, and/or workmanship since the date of Substantial Completion. The Professional shall produce the (1) year guarantee period punch list document for distribution to the Contractor(s) and provide follow-up to ensure all items are completed to the satisfaction of the Owner.

1.6.11 Operations and Maintenance Data. At the time of Substantial Completion of the Project, the Professional shall review and approve all required close-out documentation required per the Specifications including, but not limited to, manufacturers' operating instructions, maintenance instructions, certificates, warranties, guaranties, and other pertinent operating and maintenance data.

The Professional shall electronically scan all reviewed and approved Operation and Maintenance data being returned to the Contractor and provide a complete set of Operation and Maintenance data for the Project in electronic .pdf format (organized by building system) to the Owner within (1) month after receipt from the Contractor.

1.6.12 Record Drawings. At the time of Final Completion of the Project, the Professional shall collect from the Prime Contractor(s) their complete sets of as-built drawings and will, within 30 days after receipt from the Contractors, transpose all the changes recorded by the Contractors, onto a full set of reproducible drawings which shall become the record (as-built) drawings of the Project. The record drawings must also be put on electronic media compatible with the Owner's ACAD system. The Professional shall submit the as-built drawing set to the Owner in both ACAD dwg format and electronic pdf format (if project is utilizing Building Information Modeling an additional record drawing format shall be required and approved by the Owner).

The Professional shall electronically scan all approved shop drawings being returned to the Contractor and provide a complete set of the approved shop drawings for the Project in electronic pdf format (organized by CSI division) to the Owner within (1) month after Substantial Completion of the project.

1.6.13 Corrections. The Professional shall, without additional compensation, promptly correct any errors, omissions, deficiencies, or conflicts in its work product.

1.6.14 Errors and Omissions. If it becomes necessary during the course of construction to issue change orders which increase the cost of the Project because of the Professional's failure to produce proper and coordinated specifications and drawings, the Professional shall be assessed as follows:

1.6.14.1 Omission Change Order: A change order will be considered to be an omission change order when the additional work is necessitated by the Professional's omission of required elements or specifications in the Construction Documents, and where no work must be removed or replaced in order to carry out the change order. In such cases, the Professional shall be assessed in an amount equal to the difference between the amount of the change order and what the Owner would have paid had the omission not occurred, plus administrative costs incurred by the Owner.

1.6.14.2 Error Change Order. A change order will be considered to be an error change order when the additional work is necessitated by a failure of the Professional to conform to the applicable professional standard of care, resulting in an error which may be rectified only by removal and/or replacement of work which has been performed. In such cases, the

Professional shall be assessed in an amount equal to the difference between the amount of the change order and what the Owner would have paid had the error not occurred.

At the completion of the project, the parties shall exercise good faith in seeking to amicably resolve any disputes that may exist regarding change orders. In the event that the parties are unable to reach an amicable resolution, the dispute resolution provision of Article 12.1 shall apply.

## ARTICLE 2: ADDITIONAL RESPONSIBILITIES OF PROFESSIONAL

### 2.1 Compliance

The Professional is responsible for the compliance of the Construction Documents with all applicable permits, laws, regulations, and ordinances of all commissions, agencies and governments, federal, state and local, insofar as they are applicable to, and have jurisdiction over, the Project. The Professional shall make all required submittals with the advance knowledge of the Owner to, and shall obtain all required approvals from, the applicable agency in a timely manner so as not to cause delays to the Project. The Professional shall also attend all hearings/meetings required for securing necessary approvals and permits.

The Professional shall be responsible for producing a submission document set for approval by Labor and Industry as required by the Commonwealth of Pennsylvania to obtain the necessary building permit. The Professional shall also be responsible for additional submissions as required by the Labor and Industry Building permit processes and procedures throughout the project design and construction.

### 2.2 Cooperation With Local Bodies

During the design of the Project, the Professional shall keep informed and comply with the requirements of all local zoning, planning, and supervisory bodies. Should these requirements substantially increase the cost of the Project, or should any required approvals be withheld by the local bodies, the Professional shall immediately notify the Owner.

### 2.3 Proprietary Items, Copyrights, Patents

The Professional shall not include in the design of the Project unless directed by the Owner any equipment, material, or mode of construction which is proprietary or which contains a copyright or patent right relating to designs, plans, drawings, or specifications, unless the equipment, material, or mode of construction is different and fairly considered superior in quality and performance. If the Professional includes in the design of the Project any equipment, material, or mode of construction which is proprietary, it shall have prior approval by the Owner and it shall only be because the item is different and fairly considered superior in quality and performance, and not for the purpose of preventing or restricting competitive bidding. Professional may not knowingly list as acceptable any item which cannot comply with the Steel Products Procurement Act.

## ARTICLE 3: OPTIONAL ADDITIONAL SERVICES

Unless required by the Project Scope, the services performed by the Professional, Professional's employees, and Professional's consultants as outlined in this Article are not included in Basic Services and shall be paid for by the Owner as provided in this Agreement in addition to the compensation for Basic Services.

None of these services shall be provided by the Professional, whether they are requested by the Owner or required due to circumstances unknown at the time of the execution of the Agreement, until approval in writing has been given by the Owner.

### 3.1 Project Representation

If more extensive representation at the site by the Professional is required by the Owner than is provided for under Basic Services, Paragraph 1.6, Construction Phase, the Professional shall provide one or more Project representatives to assist in carrying out such additional on-site representation.

Additional Project representative(s) shall be selected, employed, and directed by the Professional with the approval of the Owner, and the Professional shall be compensated therefore as mutually agreed, in advance, between the Owner and the Professional. Such supplemental agreement letter shall also delineate the duties and responsibilities of the additional Project representative(s).

### 3.2 Revisions to Approved Drawings and Specifications Prior to Construction Phase

3.2.1 Making revisions to the drawings and specifications requested by the Owner subsequent to the Owner's approval of the Construction Documents as outlined in Paragraph 1.4, Construction Document Phase, unless required to keep the estimated Construction Costs within the amount budgeted for same.

3.2.2 Making revisions to the drawings and specifications required by the enactment or revisions of codes, laws, or regulations subsequent to the completion of the Construction Documents as approved by the Owner.

### 3.3 Preplanning

Providing special analysis of the Owner's needs such as selection, planning, and development of the site; economic, demographic, and/or financial feasibility; preliminary design criteria and budget estimates; or other special studies except as herein provided as part of Basic Services.

### 3.4 Specialized Consultants

Providing unusual or specialized Consultant services other than those consistent with the inherent requirements of the Project scope and required to meet the functional needs of the Project.

### 3.5 Surveys

Providing a complete topographic survey and/or related aerial photography, ground control, photogrammetric plotting, property boundary survey, and the preparation of a metes and bounds legal description and a related plot.

### 3.6 Special Studies

Providing services related to the preparation of Environmental Assessments and/or Environmental Impact Statements, Energy Impact Statements, Analysis, or Feasibility Studies as may be required by local, state or federal government agencies, provided such services are in addition to the Project scope requirements.

### 3.7 Other Services

Providing services mutually agreed to that are not otherwise included in this Agreement.

## ARTICLE 4: INDEMNIFICATION

To the fullest extent permitted by law, The Professional shall indemnify and hold harmless the Owner and the Owner's respective officers, directors, agents, servants, and employees from and against any and all liability, claims, losses, costs, expenses or damages, including reasonable attorneys' fees, costs and expenses, for property damage, bodily injury or death, that may arise as a result of the failure of the Professional or Professional's agents, employees or consultants, to comply with the applicable

professional standards of care in rendering services in connection with this Agreement. Nothing in this indemnity section shall be construed to limit the insurance obligations agreed to herein.

## ARTICLE 5: OWNER'S RESPONSIBILITIES

### 5.1 Basic Information

The Owner shall provide the Professional all information available at the time regarding requirements for the Project. Such information shall include:

5.1.1 A Project Program setting forth the Owner's objectives, space requirements and relationships, special equipment, and systems and site requirements.

5.1.2 A Project Budget including the amount allocated for the Construction Cost and all other anticipated costs and expenses.

5.1.3 A Project Schedule setting forth the times allotted for the Design and Construction Phases of the Project.

If the information furnished is not sufficient for the process of initiation of design solutions, the Professional shall notify the Owner immediately.

### 5.2 Surveys

The Owner shall furnish to the Professional, as available, surveys describing (as applicable) grades and lines of streets, alleys and pavements; the location of all rights-of-way restrictions, easements, encroachments, zoning classification, boundaries and contours of the site; location, dimensions and other necessary data pertaining to any existing buildings, other improvements and trees; information concerning existing utilities throughout the site, including inverts and depth; and shall establish a Project benchmark.

### 5.3 Geotechnical Engineering Services

The Owner shall pay the costs of all geotechnical engineering services required for the Project and requested by the Professional and Owner. Such services shall include, but are not limited to, tests borings, samples, field and laboratory reports, final soil reports and logs, and foundation engineering evaluations and recommendations.

### 5.4 Miscellaneous Tests, Inspections, and Reports

The Owner shall furnish, at the Owner's expense, air and water pollution, hazardous material, environmental, and any other miscellaneous laboratory tests, inspections, and reports as may be required.

### 5.5 Approval or Disapproval of Design Work

Any approval or failure of the Owner to disapprove or reject design work submitted by the Professional shall not constitute an acceptance of the work such as to relieve the Professional of his full responsibility to the Owner for the proper and professional performance of all design work on the Project.

### 5.6 Owner Response

The Owner shall act with reasonable promptness on all submissions from the Professional, which require action by the Owner, in order to avoid unreasonable delay in the progression of the Project through the various Phases outlined in Article 1.

### 5.7 Notice of Nonconformance

The Owner shall notify the Professional immediately if the Owner becomes or is made aware of any fault or defect in the Project or nonconformance by any party with the Contract Documents.

#### 5.8 Copies of Owner's Documents

The Owner shall supply the Professional with copies of the Owner's Form of Agreement between Owner and Contractor and General Conditions of the Contract for Construction for inclusion, by the Professional, in the Bidding Documents. It shall be the Professional's responsibility to access, review, and implement The Pennsylvania State University Design and Construction Standards information provided by the Owner on the Office of Physical Plant web page. Refer to web page content listing in Exhibit C.

#### 5.9 (OPTIONAL) Preconstruction Services

The Owner intends to independently retain a Construction Management firm to provide preconstruction and construction services. The Professional will assist the Owner in reviewing proposals and allow for two full days of meetings to interview and rank prospective construction management firms.

### ARTICLE 6: CONSTRUCTION COST

#### 6.1 Project Cost Determination

The Construction Cost for all work described in the Construction Documents, as approved by the Owner shall be determined as outlined below, with precedence in the order listed:

6.1.1 For completed construction, the total cost to the Owner for such construction work less the amount of any change order work necessary because of errors or omissions on the part of the Professional as defined in Subparagraph 1.6.14 Errors and Omissions.

6.1.2 If the Project is not constructed, the sum of the lowest bona fide bids(s) received for all of the work, providing said bids do not exceed the fixed limitation of Construction as defined in Paragraph 9.1.4 or as amended by written agreement by the Owner and Professional as the basis for design. If such bids exceed the limitation previously agreed upon, said limitation shall become the basis of cost.

6.1.3 If bids are not received, the latest Construction Cost Estimate prepared by the Professional, provided such estimate does not exceed the fixed limitation of construction as defined in Paragraph 9.1.4 or as amended by written agreement by the Owner and Professional as the basis for design.

#### 6.2 Notification

It shall be the Professional's responsibility to promptly notify the Owner if, in the Professional's opinion, the Project cannot be designed and constructed within the fixed limitation on the cost of construction as authorized by the Owner. It is the Professional's responsibility to so notify the Owner as soon as such a situation becomes, or should have become, apparent to the Professional.

#### 6.3 Owner Options

If, without written acknowledgment by the Owner, the Professional permits the Construction Contracts to be bid, and if the fixed limitation on the cost of Construction is exceeded by the lowest bona fide bid(s) or negotiated proposal, the Owner may: (1) give written approval of an increase in such fixed limit; (2) authorize rebidding or renegotiating of the Project; (3) terminate the Project and this Agreement in accordance herewith; or (4) cooperate in revising the Project scope or quality, or both, as required to reduce the construction cost. In the case of (4), the Professional, without additional charge to the Owner, shall consult with the Owner and shall revise and modify the Construction Documents as necessary to achieve compliance with the fixed limitation on construction cost. Absent negligence on the part of the Professional in making its estimates of probable construction cost, such modifications and revisions shall be the limit of the Professional's responsibility arising from the establishment of such fixed limitation of

construction costs, and having done so, the Professional shall be entitled to compensation for all other services performed, in accordance with this Agreement.

If, after notification to the Owner by the Professional that the Project cannot be designed and constructed within the fixed limitation on the cost of construction, the Professional is by written authorization by the Owner instructed to proceed without a change in the Project program, design, or in the fixed limitation on the cost of construction, the Professional shall not be responsible for the cost of any subsequent redesign.

## ARTICLE 7: OWNERSHIP AND USE OF DOCUMENTS

All preliminary studies, Construction Documents, as-built documents, record drawings, special requirements, cost estimates, building information models and all other data compiled by the Professional under this Agreement shall become the property of the Owner and may be used for any purpose desired by the Owner except to use for the construction of an identical facility not covered by this Agreement. The Professional shall not be liable for any reuse of these documents by the Owner.

## ARTICLE 8: PROFESSIONAL'S EXPENSES

### 8.1 Billable Hourly Rates

8.1.1 Direct personnel expense is defined as the direct salaries of the principals, associates, and employees of the firm who are assigned to and are productively engaged on the Project, including clerical employees.

8.1.2 Billable hourly rates for this project are included in the personnel listing in Exhibit B. Billable hourly rates shall be the direct personnel expense rate for any principal's time and a multiple of a maximum of (2.5) the direct personnel expense per hour for the Professional's employees which shall include mandatory and customary benefits such as employment taxes, statutory employee benefits, insurance, sick leave, holidays, vacations, pensions, and similar contributions and benefits.

8.1.3 The billable hourly rates set forth in Exhibit B may be adjusted annually, subject to the Owner's approval, in accordance with generally accepted salary review practices of the profession. Payroll certification shall be provided by the Professional to the Owner upon demand.

### 8.2 Reimbursable Expenses

Reimbursable expenses are in addition to compensation for Basic and Additional Services and include those expenses as follows for which the Professional shall be reimbursed a not-to-exceed amount for his direct "out-of-pocket" costs (no mark-up allowed on reimbursable expenses). Reimbursable expenses shall be submitted with supporting documentation, which shall include detailed, itemized receipts. Where requested or authorized by the Owner, the following shall be reimbursable:

8.2.1 Out-of-town and out-of-state travel expenses and any necessary fee or permit payment required and paid to any governing body or authority having jurisdiction over the Project. Air travel expenses shall be approved in advance by the Owner. Maximum individual per diem expenses for travel to the job site shall be based on the Owner's allowable per diem for lodging and meals for that location.

8.2.2 Expense of reproductions including reproductions of record drawings, postage and handling of Drawings, Specifications, and other documents including the preparation and distribution of all necessary bidding correspondence and documents, receipt of bid proposals, and construction contract preparation. Reproductions made for the Professional's own use or review shall not be included.

8.2.3 Expense of renderings, models, mock-ups requested by the Owner, and/or discs for electronic format submissions of record drawings.

8.2.4 Expenses of specialized consultants identified as optional additional services in Article 3 of this Agreement.

8.2.5 Reimbursable expenses for individual travel, meals, and lodging expenses are limited to individuals under the direct employ of the Professional or their approved consultants.

8.3 Cost for Consultants (consultants not included in the Basic Services proposal/procured after award)

The Professional shall be reimbursed on a multiple of one and one-tenth (1.1) times the amounts billed to the Professional for such services.

ARTICLE 9: COMPENSATION AND PAYMENT

9.1 Compensation and Payment

9.1.1 The Owner agrees to pay the Professional as compensation for those Basic Services described in Article 1, Article 2, and any other agreed upon services described in Article 3: (Insert information in appropriate option below.)

(Option #1) \_\_\_% of the authorized and approved Construction Cost as defined in Article 6.

(Option #2) an amount not to exceed \_\_\_\_\_ Dollars (\$\_\_\_\_\_)  
for the Professional's Personnel Expense as defined in Paragraph 8.1 and cost for Consultants.

(Option #3) a fixed sum of \_\_\_\_\_ Dollars (\$\_\_\_\_\_).

9.1.2 Payment for Basic Services will be made monthly by the Owner in proportion to the service actually performed, but not to exceed the following percentages at the completion of each Phase.

Schematic Phase	15%
Design Development Phase	20%
Construction Document Phase	35%
Bidding Phase	5%
Construction Phase/Close-Out	25%

The close-out portion of the project refers to the development of the punch list and required follow-up, the submission of the as-built documents and other close-out document requirements, ongoing commissioning support, ongoing support of design-related project issues, and the performance of the (1) year bond inspection and punch-list development.

9.1.3 Reimbursable Expenses

The Owner agrees to pay the Professional as compensation for the Professional's Reimbursable Expenses, as defined in Paragraph 8.2, an amount not to exceed \_\_\_\_\_ Dollars (\$\_\_\_\_\_).

9.1.4 The fixed limitation on the cost of construction as defined by this Agreement shall be \_\_\_\_\_ Dollars (\$\_\_\_\_\_).

9.2 Optional Additional Services Compensation

If approved, the Owner agrees to compensate the Professional for Optional Additional Services beyond Basic Services, as defined in Article 3 in accordance with the rates defined in Exhibit B and as approved by the Owner.

9.3 Payment Procedures

9.3.1 Payments are due and payable forty-five (45) days from the date that the Professional's invoice is approved by the Owner.

9.3.2 Submission of the Professional's invoice for final payment and reimbursement shall further constitute the Professional's representation to the Owner that, upon receipt from the Owner of the amount invoiced, all obligations of the Professional to others, including its consultants, incurred in connection with the Project will be paid in full.

9.3.3 Documentation accurately reflecting the time expended by the Professional and its personnel and records of Reimbursable Expenses shall be maintained by the Professional and shall be available to the Owner for review and copying upon request.

#### 9.4 Owner's Right to Withhold Payment

In the event that the Owner becomes credibly informed that any representation of the Professional provided pursuant to Articles 8 or 9 is wholly or partially inaccurate, the Owner may withhold payment of sums then or in the future otherwise due to the Professional until the inaccuracy, and the cause thereof, is corrected to the Owner's reasonable satisfaction.

### ARTICLE 10: INSURANCE

#### 10.1 Professional Liability Insurance

The Professional shall secure and maintain, at its sole cost and expense, Professional Liability Insurance to protect against loss resulting from design errors and omissions, failure to coordinate the Construction Documents of the Project, and failure to execute the construction administration duties for the Project.

10.1.1 Unless otherwise specifically provided in this Agreement, the Professional shall secure and maintain Professional Liability Insurance with limits not less than \$1,000,000, or the total of the Professional's fee, whichever is greater.

10.1.2 The Professional shall secure and maintain Professional Liability Insurance, as required above, up to and including one year after the date of the (1) year guarantee inspection of the contracts under the Project.

#### 10.2 General Liability Insurance

The Professional shall secure and maintain, at its sole cost and expense, adequate General Liability Insurance to protect the Owner and the Owner's respective officers, agents, servants, and employees against claims arising out of the Professional's services during the design and construction of the Project for damages in law or equity for property damage and bodily injury, including wrongful death. The Owner shall be named as an additional insured in the policy, and the Professional shall submit a Certificate of Insurance to the Owner prior to execution of the Agreement. The limits of coverage shall be not less than \$1,000,000. The Professional is required to secure and maintain General Liability Insurance, up to and including one year after the date of the (1) year guarantee inspection of the contracts under the Project.

#### 10.3 Certificate of Insurance

The Professional shall furnish to the Owner annually, unless otherwise requested, during the active terms of this Agreement, a Certificate from an Insurance Carrier authorized to do business in Pennsylvania indicating: (1) the existence of the insurance required under this Article; (2) the amount of the deductible; and (3) the amount of coverage of such insurance. The Professional shall submit a Certificate of Insurance covering the Professional Liability Insurance requirement up to and including one year after the date of the (1) year guarantee inspection of the contracts under the Project.

#### 10.4 Failure to Comply with Insurance Requirements



During any period in which the Professional is not in compliance with the terms of this Article, no compensation shall be paid by the Owner to the Professional.

## ARTICLE 11: TERMINATION, ABANDONMENT, SUSPENSION, REACTIVATION

### 11.1 Termination by Owner

The Owner shall have the right at any time, for any reason, to terminate this Agreement upon not less than seven (7) calendar days' written notice to the Professional. The Professional shall comply with all reasonable instructions of the Owner then or subsequently given relating to such termination, including but not limited to: instructions concerning delivery of drawings, sketches, and other architectural/engineering data to the Owner; discontinuance of the work on outstanding contracts; and furnishing to the Owner information concerning all action to be taken respecting outstanding agreements with consultants, contracts, awards, orders, or other matters.

Copies of Construction Documents and any other materials in existence as of the date of termination will be furnished to the Owner as requested.

### 11.2 Compensation in the Event of Termination

In the event of termination, the Professional shall be compensated for its services to the termination date based upon services performed on any Phase to the termination date in accordance with the Compensation and Payment schedule contained herein at Article 9.1.2.

Such compensation shall be the Professional's sole and exclusive remedy for termination.

### 11.3 Suspension of Work

The Owner may, at any time, direct the Professional to suspend all work on the Project, or on any part thereof, pending receipt of further notice from the Owner. In all such cases the Owner and the Professional shall agree upon an appropriate phasing-out of the work in such a manner that the work may be resumed with a minimum of added cost to the Owner, but in no event shall the work be continued beyond the completion of the Phase in which it then is. The Professional shall be compensated as if the Agreement had been terminated at the completion of the agreed Phase. If work is suspended during the Construction Phase, compensation shall be paid for all Professional services provided to the date of suspension, but no additional compensation shall be paid during the period of suspension.

### 11.4 Reactivation Compensation

When a Project has been suspended or terminated for a longer time than six (6) months and is subsequently reactivated using the same Professional, the Owner and the Professional shall agree, prior to the beginning of the reactivation work, upon a lump sum, or other basis, of reimbursement to the Professional for its extra start-up costs occasioned as a result of the work having been suspended or terminated.

## ARTICLE 12: MISCELLANEOUS PROVISIONS

### 12.1 Dispute Resolution / Applicable Law

After Final Completion of the Project, any and all claims, disputes or controversies arising under, out of, or in connection with this Agreement, which the parties shall be unable to resolve within sixty (60) days of the time when the issue is first raised with the other party, shall be mediated in good faith. The party raising such dispute shall promptly advise the other party of such claim, dispute or controversy, in writing, describing in reasonable detail the nature of such dispute. By not later than five (5) business days after the recipient has received such notice of dispute, each party shall have selected for itself a representative who shall have the authority to bind such party, and shall additionally have advised the other party in

writing of the name and title of such representative. By not later than ten (10) business days after the date of such notice of dispute, the parties shall mutually select a Pennsylvania-based mediator, and such representatives shall schedule a date for mediation, not to exceed one (1) day in length, and less where applicable. The mediation session shall take place on the University Park Campus of The Pennsylvania State University, or upon the campus where the Work was performed, at the option of the Owner. The parties shall enter into good faith mediation and shall share the costs equally.

If the representatives of the parties have not been able to resolve the dispute within fifteen (15) business days after such mediation hearing, the parties shall have the right to pursue any other remedies legally available to resolve such dispute in the Court of Common Pleas of Centre County, Pennsylvania, jurisdiction to which the parties to this Agreement hereby irrevocably consent and submit.

Notwithstanding the foregoing, nothing in this clause shall be construed to waive any rights or timely performance of any obligations existing under this Agreement.

In all respects, this Agreement shall be interpreted and construed in accordance with the internal laws (and not the law of conflicts) of the Commonwealth of Pennsylvania.

#### 12.2 Successors and Assigns

This Agreement shall be binding on the successors and assigns of the parties hereto.

#### 12.3 Assignment

Neither the Owner nor the Professional shall assign, sublet, or in any manner transfer any right, duty, or obligation under this Agreement without prior written consent of the other party.

#### 12.4 Extent of Agreement

This Agreement, including any and all schedules, proposals and/or terms and conditions attached hereto, represent the entire and integrated agreement between the Owner and the Professional and supersedes all prior negotiations, representations, or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both the Owner and the Professional. In the event of a conflict between the provisions of this Agreement and those of any other document, including any that are attached hereto, the provisions of this Agreement shall prevail.

#### 12.5 Third Party

Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the Owner or the Professional.

#### 12.6 Hazardous Material

Unless otherwise provided in this Agreement, the Professional and its consultants shall have no responsibility for the discovery, presence, handling, removal, or disposal of, or exposure of persons to hazardous materials in any form at the Project site, including but not limited to asbestos, asbestos products, polychlorinated biphenyl (PCB), or other toxic material.

If the Professional encounters or suspects hazardous or toxic material, the Professional shall advise the Owner immediately.

#### 12.7 Promotional Material

The Professional shall not issue or disclose to third parties any information relating to the Project without prior consent of the Owner, except to the extent necessary to coordinate the Work with the Owner's agent, Contractors, Subcontractors, etc. The Professional may, with written consent of the Owner,

include design representation of the Project, including interior and exterior photographs, among the Professional's promotional and professional materials.

12.8 Terms/General Conditions

Terms contained in this Agreement and which are not defined herein shall have the same meaning as those in the Owner's Form of Agreement between Owner and Contractor and the Owner's General Conditions of the Contract for Construction, current as of the date of this Agreement.

ARTICLE 13: SCHEDULE OF EXHIBITS

The attached Exhibits are part of this agreement:

Exhibit A: Professional's proposal dated \_\_\_\_\_ (proposal is attached for scope of work reference **only**. By execution of this agreement, additional terms and conditions that may be included in the Professional's proposal are **not** considered part of this agreement).

Exhibit B: Professional's Billable Hourly Rates.

Exhibit C: The Pennsylvania State University Design and Construction Standards listing (screen print from the Office of Physical Plant web page).

(OPTIONAL) Exhibit D: Project Schedule (including design submission dates).

(PROFESSIONAL COMPANY NAME)  
THE PENNSYLVANIA STATE UNIVERSITY  
OWNER

\_\_\_\_\_  
Title

\_\_\_\_\_  
ATTEST, Secretary

(PROFESSIONAL COMPANY NAME)  
PROFESSIONAL

\_\_\_\_\_  
Signature

\_\_\_\_\_  
ATTEST, Secretary

Name: \_\_\_\_\_  
(print name of person signing above)

Title: \_\_\_\_\_  
(print title of person signing above)

Federal ID Number: \_\_\_\_\_

Attachments