GENERAL CONDITIONS OF A/E CONSULTING SERVICES
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1.0 DEFINITIONS

The following terms, wherever used in any provision contained herein or in any amendment thereto, mean:

1.1 “Addenda” means a written communication, prior to the parties executing the Agreement, from the University to the Contractor or Consultant, as may be applicable, revising a term of the Contract Documents;

1.2 “Agreement” means the executed Agreement between the University and the Consultant describing the undertaking by the parties to perform their respective duties, responsibilities and obligations as described herein, or any amendments thereto, and numbered in accordance with GC 2.2;

1.3 “Alternative Proposal” means a proposal from a Bidder in response to issuance of a Trade Package issued by the University on behalf of the Contractor that proposes the use of materials, products, or processes that differ from those outlined in the Bid documents;

1.4 “Approved Construction Budget” means the University's budget for construction of the Project excluding GST and contingencies approved by the University.

1.5 “Certificate of Construction Completion” means that notice issued by the Consultant certifying that the entire Work, but exclusive of warranty period(s), and all defects and deficiencies as identified and recorded by the Consultant, including damage to other work resulting therefrom, has been completed;

1.6 “Certificate of Payment” means that notice issued by the Consultant to the University certifying a claim for payment made by the Contractor in the amount applied for or in such amount as the Consultant determines to be properly due;

1.7 “Certificate of Substantial Performance” means that notice issued by the Contractor in accordance with the Builders Lien Act of Alberta;

1.8 “Certificate of Total Performance” means that notice issued by the Consultant certifying that the work has been completed in general accordance with the requirements, standards, quality, and scope of the Contract Documents; identified defects due to faulty materials and/or workmanship have been corrected or a course of corrective action, cost, and schedule have been established by the Consultant, approved by the University and accepted and agreed thereto by the Contractor for outstanding deficiencies including damage to other work resulting therefrom, and the one-year warranty period, notwithstanding any warranties as apply for such longer periods for specific products or parts of the Work as the Contract Documents require, has expired. Such certification of total performance shall not relieve the Contractor of any obligations with regards to extended warranties as may apply;

1.9 “Change Directive” means a written order prepared by the Consultant and signed by both the Contractor and the University authorizing a change in the Work on a time & Material basis to a maximum dollar amount, which will be confirmed by means of a Change Order when the Work is complete and final cost established;

1.10 “Change in Work” means any change in, addition to, or deletion from the responsibilities and obligations of the Contractor;

1.11 “Change Order” means a written order prepared and issued by the Consultant and signed by both the Contractor and the University authorizing a Change in the Work;
1.12 “Change Quotation" means a written quotation from the Contractor outlining the adjustments, if any, to the Contract Price and the Contract Time, or both, as the result of a Contemplated Change Notice;

1.13 “Change Request" means a written notice from the Consultant to the University of a contemplated change in the consulting services;

1.14 "Commencement Date" means the date that the Consultant's Work is to commence as set out in the Proposal Form;

1.15 "Construction Cost" means the dollar value representing the cost of construction, excluding GST and contingencies, calculated as the average of the Approved Construction Budget and the Final Cost of Construction;

1.16 “Construction Documents" means only those documents prepared by the Consultant that refer to the physical construction requirements established for the Work, including but not limited to drawings, technical and performance specifications;

1.17 “Construction Manager" when so engaged by the University means the person, firm, or corporation engaged by the University for provision of construction management services. Any reference in the Agreement to the term “Contractor" shall constitute a reference to the Construction Manager;

1.18 "Consultant" is the corporation, person, or entity, identified in the Agreement and includes those Sub-Consultants engaged by the Consultant to render complementary professional services relative to the Work. The term Consultant means the Consultant or the Consultant’s authorized representative

1.19 “Consulting Fees" refer to the consideration provided to the Consultant for provision of the Consulting Services;

1.20 “Consulting Services" means the services outlined in the Scope of Services included in the Contract Documents;

1.21 “Contemplated Change Notice" means a written notice prepared by the Consultant, approved by the University and issued by the Consultant to the Contractor of a contemplated Change in the Work;

1.22 “Contract Documents” consists of those documents listed in the Agreement - CONTRACT DOCUMENTS and amendments thereto agreed upon between the University and the parties;

1.23 “Contract Price" means the total amount payable (excluding GST) to the Contractor in consideration for its obligations as set out in the Contract Documents;

1.24 “Contractor" means the person, firm, or corporation engaged by the University for provision of construction services or construction management services in relation to the Project. Where there is more than one person or entity providing such construction services, “Contractor" includes all such persons or entities and all related references in the singular shall then be read with such changes as are reasonably necessary to accommodate the plural, the word Contractor is synonymous with the word Construction Manager, and where ever used are to be considered to have the same meaning;

1.25 “Contractor's Prepared Documents" means all plans, shop drawings, submittals, other drawings, specifications, schedules, calculations, reports, opinions, notes, models, Bid or Proposal documents, software, data and other documents prepared by the Contractor pursuant to the Contract Documents whether written or stored electronically;
1.26 “Construction Cost Estimate” means that class of estimate as prepared by the Consultant and or the Construction Manager as referred to in the Scope of Services as Class A, Class B, Class C or Class D as may be applicable and is based on the following:

1.26.1 “Class A Estimate” is based on the “Class B Estimate” which has been updated concurrently with the development of Construction Documents and is submitted as a final pre-bid estimate. It requires that project systems be designed and specified to completion, and based on a realistic construction schedule and accurate labour and material costs. This is the final estimate before the Bid/Proposal Call. This estimate shall be presented in elemental format and include all actual associated costs, including cash allowances, design, estimating and inflation allowances and anticipated amendment amounts as applicable. The expected degree of accuracy is within 5%.

1.26.2 “Class B Estimate” is based on data (on cost, time and construction) of a level of precision as is typically available when the design of the major systems and sub-systems of the project/facility (including outline specifications and preliminary drawings and models) as well as when the results of all site or installation investigations are completed. This estimate shall be presented in elemental format and include allowance for all costs resulting from the anticipated schedule, all actual associated costs, including cash allowances, design, estimating and inflation allowances, market conditions and anticipated amendment amounts as applicable. The expected degree of accuracy is within 10%.

1.26.3 “Class C Estimate” is based on updated user requirements; general description of the end built works, preliminary site information and existing conditions, and takes into consideration construction experience and market conditions as well as basic implementation logistics. The expected degree of accuracy is within 15%.

1.26.4 “Class D Estimate” provides an indication of the cost of the work, based on the user’s functional requirements to the degree known at the time. It shall as a minimum be based on historical cost data for similar work, suitably adjusted for such factors as the effect of inflation, location, risk, quality, size, and time. All related factors affecting cost are considered to the extent possible. This estimate provides the University an indication of the order of magnitude of the work cost and estimated completion date. The expected degree of accuracy is within 20%.

1.27 “Day” means a calendar day, unless otherwise defined in an article in the GC or in a Supplementary General Condition;

1.28 “Deficient and Incomplete Work List” means a list prepared by the Consultant, and provided to the Contractor and/or the Construction Manager, which shall contain an itemized list of all deficiencies and incomplete work and which list shall provide an estimate of the cost to correct each deficiency and complete each work item, and which shall be basis for the University to determine progress of payment.

1.29 “Design Change Order” means a written order signed by the Consultant and the University authorizing a change in the Consulting Services;

1.30 “Detailed Space Program” is the document furnished by the University with respect to the University requirements for final use of the Project;

1.31 “Drawings” mean all drawings, plans, sketches and maps and any revisions thereto, issued by the Consultant to the Contractor during the performance of the Work;

1.32 “Employer” has the meaning ascribed to it in the Occupational Health and Safety Act of Alberta;
1.33 “Field Order” means a written communication from the Consultant to the Contractor clarifying the Contract Documents, issuing additional instructions, or requesting information; a Field Order shall have no impact on contract material issues including, price and contract time;

1.34 “Final Cost of Construction” means the Contract Price following issuance of a Certificate of Construction Completion by the Consultant, and calculations of the final cost of construction by the University;

1.35 “General Conditions A/E Consulting Services” means the terms and conditions in which this definition appears contained in the Contract Documents between the University and the Consultant, entitled General Conditions A/E Consulting Services;

1.36 “General Conditions Construction” means the terms and conditions contained in the Contract Documents between the University and the Contractor, entitled General Conditions Construction;

1.37 “Hazardous Materials” means any substance which is hazardous to persons, animals, property, and includes biological hazards, hazardous substances, controlled products, hazardous waste, chlorofluorocarbon (CFC or ozone depleting substances), pesticides, and dangerous goods, all as identified or defined under applicable Law, as well as any prescribed product under the Nuclear Safety and Control Act (Canada);

1.38 “Key Personnel” means those personnel so identified in the Proposal Form or as amended in accordance with the Contract Documents;

1.39 “Law” means the common law, the law of equity and all federal or provincial statutes or municipal by-laws and all regulations, orders, directives, codes, permits and licenses thereunder, which apply to or otherwise affect the University or the Consultant with respect to the Project, or the property of the University or the Consultant, real or personal, or any part thereof, including but not limited to all environmental, occupational, health and safety Laws;

1.40 “Lien Holdback Release Certificate” means a notice issued by the Consultant to the University certifying the date of the expiry of the holdback period required by the Builders Lien Act of Alberta;

1.41 “Material” shall mean collectively all material and commodities required to be furnished under the Contract Documents;

1.42 “Milestone Dates” means those dates set out in the Bid or Proposal Form and or any attached Schedules;

1.43 “Other Contractor” means any corporation, person, or entity having a contract or agreement directly or indirectly with the University other than through the Contractor;

1.44 “Plant” means collectively all tools, implements, machinery, vehicles, structures, equipment, and other things required for the execution of the Work and provided by the Contractor;

1.45 “Prime Contractor” has the meaning ascribed to it in the Occupational Health and Safety Act of Alberta or any amendments thereto;

1.46 “Product” shall mean collectively machinery or assembled components or structures specifically provided for the Work and standard product designed and produced for a specific use;

1.47 “Proposal Forms” means the documents that the Consultant, executed to bid the Work, and includes but is not limited to, the price, terms, conditions, and schedules included in the Contract Documents and entitled Proposal Forms;
1.48 "Reimbursable Expenses" means those expenses so identified in Schedule G2;

1.49 "Schedule of Deliverables" means the documents prepared by the Construction Manager and approved by the University listing the schedule and requirements for the sequentially tendered Trade Packages required to implement the fast track multiple stage construction program;

1.50 "Schedule of Values" means the Contractor’s projected forecast of the construction progress claim amounts for the various parts of the Work;

1.51 "Specialty Consultant" means that person, corporation or entity other than the Consultant and its Sub-Consultants and other than officers or employees of the University, engaged directly by the University to provide professional services with respect to the Work;

1.52 "Sub-Consultant" means a person, firm or corporation having a direct contract with the Consultant for the execution of a part or parts of the Consulting Services;

1.53 "Sub-Contractor" is any corporation, person or entity having a direct contract with the Contractor for the execution of a part or parts of the Work included in the Contract Documents, provided however that the term Sub-Contractor shall not include one who merely supplies to the Contractor Material or Product for the Work without any reworking of the Material or Product for the purpose of incorporation into the Work;

1.54 "Supplementary General Conditions" means the terms and conditions contained in the Contract Documents entitled Supplementary General Conditions if so issued;

1.55 "Supplier" means any corporation, person or entity having a direct contract with the Contractor to supply to the Contractor Material or Product for the Work without any reworking of the Material or Product for the purpose of incorporation into the Work;

1.56 "Suspended Services" has the meaning ascribed thereto in GC 15 of A/E Consulting;

1.57 "Suspended Work" has the meaning ascribed thereto in GC 14 of Construction;

1.58 "Trade Package" means the documents, including but not limited to, drawings, specifications, notes, schedules, tables and other documents that clearly define the individual trade or Sub-Contractor Scope of Work, and include the University “front end” documents which include Instructions to Bidders, General Conditions, and other commercial considerations for a portion of the construction work as defined by the Construction Manager, to be carried out by an individual trade or Sub-Contractor. The Trade Package shall be to be assembled, co-coordinated and prepared for tender by the Construction Manager and completed by a Contractor acting as a Sub-Contractor to the Construction Manager. The term Trade Package is synonymous with the term Bid Package or Tender Package;

1.59 "University" means The Governors of the University of Alberta;

1.60 "University's Confidential Information" has the meaning ascribed thereto in GC 20

1.61 "Warranty" means those warranties set forth in the Contract Documents between the University and the Contractor and has the meaning ascribed in GC 30 in the General Conditions Construction;

1.62 "Warranty Period" means the period of time from date of issuance of the Certificate of Substantial Performance to issuance of a Certificate of Total Performance by the Consultant during which time the Contractor shall correct deficiencies in the Work;
1.63 “Work” means all labour, supervision, administration, materials, transportation, supplies, plant, product, temporary facilities, storage facilities, and such other work and materials necessary to be performed or supplied for the construction work including any construction work which is not expressly described in the Contract Documents but which is nevertheless necessary for the proper execution of the construction work required by the Construction Contract Documents;

1.64 “Work Schedule” means a detailed schedule for the Contractors performance of the Work as referred to in GC 6.8 of the General Conditions of Construction;

1.65 “Work Site” means the site or location where all or any of the construction Work is to be performed, provided however that the spatial boundaries shall not extend outside the area identified in the Supplementary General Conditions;

1.66 “Work Site for the Purpose of the Occupational Health and Safety Act” is that area defined as such in the Supplementary General Conditions of Construction.

2.0 AGREEMENT AND INTERPRETATION

2.1 The Agreement, schedules and attachments, as may be applicable, constitute the sole and entire agreement between the University and the Consultant relating to the Project and supersedes all prior agreements between them, whether written or oral respecting the subject matter hereof and no other terms, conditions or warranties, whether express or implied, shall form a part of the Contract Documents.

2.2 A number as assigned by the University shall identify the Agreement.

2.3 Only a written amending agreement signed by both the University and the Consultant may amend the Agreement.

2.4 If any term, condition, or covenant of the Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions of the Agreement shall be binding on the University and the Consultant.

2.5 Words importing the singular or masculine only also include the plural or feminine or body corporate where the context requires.

2.6 The headings in the Agreement are for convenience only and shall not be deemed to be part of the Agreement and shall not be taken into consideration in the interpretation of the Agreement.

2.7 Schedules and attachments as may be applicable and attached to the Agreement shall form part of the Agreement between the University and the Consultant. If there is a conflict or discrepancy between the Agreement and the schedule or attachments, then the Agreement shall supersede the schedule or attachments.

3.0 CONSULTING SERVICES

3.1 The Consultant shall perform the consulting services in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances.

4.0 PAYMENT

4.1 In consideration for Consulting Services, the University shall pay the Consulting Fees plus GST in accordance with the payment provisions of this GC 4 and Schedule “G2” attached hereto.

4.2 Following the end of each month, the Consultant shall deliver to the University an invoice based
on the estimated value of the portion of the Consulting Services performed during the preceding
month, in proportion to the amount payable for each phase of the Consulting Services, if
applicable, and the sum of all eligible Reimbursable Expenses. The invoice shall include a
complete breakdown of the cost of Consulting Services provided and shall indicate the following:

4.2.1 amounts previously paid for Consulting Services; and

4.2.2 amounts currently owing for Consulting Services; and

4.2.3 amounts remaining in the Consultant’s budget for Consulting Services.

4.3 Wherever amounts included in an invoice submitted in accordance with GC 4.2 include fees
payable by the Consultant to any Sub-Consultant, the Consultant shall include with said invoice, a
statutory declaration issued by the Consultant or a letter from the Sub-Consultant attesting to
receipt of payment for services rendered and detailing the amounts paid and amounts due.

4.4 Within ten (10) days of receipt of the invoice submitted in accordance with GC 4.2 and 4.3, the
University shall provide details of any items or costs included therein which, in the sole and
unfettered discretion of the University, contain errors, inconsistencies, or omissions. Upon receipt
of such details, if any, the Consultant shall adjust the invoice to remedy the errors,
inconsistencies, or omissions and resubmit the adjusted invoice to the University.

4.5 The University shall approve the Consultant’s invoice within ten (10) days of receipt of an invoice
submitted in accordance with GC 4.2 and 4.3, if it does not provide details of any errors,
inconsistencies, or omissions or resubmitted in accordance with GC 4.4. The University shall pay
to the Consultant within twenty (20) days thereafter all amounts due according to the approved
invoice.

4.6 Payments made to the Consultant for Consulting Services and Reimbursable Expenses shall
include GST, which will be shown as a separate item.

4.7 Hourly Rates are fixed for the duration of the services provided by the Consultant to complete the
project and shall not increase.

5.0 ADDITIONAL CONDITIONS

5.1 Any additional conditions forming part of the Agreement are as described in the Supplementary
General Conditions.

6.0 TERM OF AGREEMENT

6.1 The term of the Agreement for Consulting Services shall commence from the date specified
within written notice provided by the University until the completion of the Consulting Services,
which is the date of issuance of the Certificate of Total Performance. With the issuance of the
Certificate of Total Performance the Consultant shall include a statutory declaration indicating that
all Sub-Consultants have been paid and statutory declarations or letters from each Sub-
Consultant confirming all payments have been received. The Consultant shall provide a letter
confirming that all defects and deficiencies have been corrected provided that if there are defects
or deficiencies in the Consulting Services that the University has notified the Consultant of these
in writing, and shall acknowledge receipt of all payments owed to it by the University.

7.0 CONSULTANT’S RESPONSIBILITIES

7.1 The Consultant shall provide all necessary qualified personnel to provide the Consulting Services
expeditiously and to coordinate and integrate all parts of the Consulting Services.
7.2 The Consulting Services performed by the Consultant shall be subject to the inspection and the review of the University at all times. Such inspection and review shall not relieve the Consultant from its responsibility for the proper performance of the Consulting Services.

7.3 The Consultant shall perform, at its cost and expense, any remedial advice, or service necessitated by the discovery of defects during the construction of the Work whether or not such defects are attributable to errors and/or omissions on the part of the Consultant or its Sub-Consultants and until such time as responsibility for such defects can be determined. If responsibility for such defects rests on an entity other than the Consultant or its Sub-Consultants, the Consulting Fees shall be adjusted to compensate the Consultant for the cost of the remedial advice, service or work so provided.

7.4 Notwithstanding the provision of information by the University pursuant to GC 8.1, the Consultant and Sub-Consultants shall provide the necessary on-site investigations, inspections and analysis of the conditions at the Work Site and existing building elements and systems in order to determine the physical configuration and accessibility of the systems, and to assess the general accuracy of the as-built record drawings and general site conditions for all systems which may be affected by the Work. The Consultant shall also determine which systems, if any, require detailed testing and verification by the University in order to confirm the overall loads and capacities of these existing elements and systems. If required, the Consultant shall participate in meetings with the University and other affected parties to review any conditions relating to the site.

7.5 The Consultant shall designate a representative authorized to act on its behalf who shall receive and examine documents submitted by the University or the Contractor and render decisions pertaining thereto promptly to avoid unreasonable delay in the progress of the Consulting Services or, if applicable, the Work.

8.0 UNIVERSITY’S RESPONSIBILITIES

8.1 Without in any way limiting the University’s obligations elsewhere in the Agreement, the University shall:

8.1.1 provide project appropriate details of the University’s total requirements in connection with the Work. Without limiting the generality of the foregoing, the University shall provide where appropriate a program setting forth the University’s objectives, constraints, schedules, and criteria, including:

.1 spatial and functional requirements and relationships;
.2 flexibility and expandability;
.3 special equipment and systems;
.4 Work Site requirements;
.5 any applicable time constraints;
.6 the Approved Construction Budget;

8.1.2 examine documents submitted by the Consultant and give the Consultant decisions and approvals as required;

8.1.3 obtain and pay the cost of all required consents, approvals, licenses and permits from authorities having jurisdiction except those consents, approvals, licenses and permits required by the Consultant or any Sub-Consultant and related to the Consultant’s or the Sub-Consultant’s ordinary course of business;
8.1.4 designate a representative authorized to act on its behalf who shall receive and examine documents submitted by the Consultant and render decisions pertaining thereto promptly to avoid unreasonable delay in the progress of the Consulting Services;

8.1.5 arrange and make provisions for the Consultant to enter onto the Work Site as well as other public and private property as required for the Consultant to perform the Consulting Services;

8.1.6 engage Specialty Consultants directly as required to perform items of work not included in the Consulting Services and necessary to enable the Consultant to carry out the Consulting Services;

8.1.7 The following information, surveys, reports and services will either be provided by the University or the University will authorize the Consultant to obtain the information, surveys, reports and services from the University Special Consultant or approve the Consultant to provide the information, surveys, reports and services as an additional service under its contract with the University:

.1 surveys describing physical characteristics, legal limitations and utility locations for the Work Site, and a written legal description of the Site and adjoining properties as necessary showing the following survey and legal information, as applicable: grades and lines of streets, alleys, pavements and adjoining property and structures; adjacent drainage; rights of way; restrictions; easements; encroachments; zoning; deed restrictions; boundaries and contours of the site; locations, dimensions and data pertaining to existing buildings, other improvements, and trees; and information concerning utility services, both public and private, above and below grade, including inverts and depths;

.2 subsurface investigation and reports which include but are not limited to test borings, test pits, determination of soil bearing values, percolation tests, a list of and evaluations of Hazardous Materials present at the Work Site, ground corrosion and resistivity tests, including necessary operations for anticipating subsoil conditions, with reports and appropriate professional recommendations;

.3 reports and appropriate professional recommendations of Special Consultants; and

.4 existing as-built record drawings of the existing facility, consisting of ozalid prints, or, if reasonably available to the University, AutoCAD files, for the Work areas only, the reasonable accuracy and completeness of which the Consultant shall be entitled to rely upon, provided, however, that the existing as-built record drawings shall be a reasonably true record of the existing building as-built conditions for the elements and systems shown only to the best of the University’s knowledge and belief and may not necessarily identify all existing elements and systems or may be incomplete.

8.1.8 if required the University shall provide, at no cost to the Consultant, detailed testing and/or verification of specific existing mechanical and electrical systems within the Work area to determine loads, capacities or functions of systems which may be affected by the Project.

8.1.9 whenever applicable, provide all legal, accounting and insurance counseling services as may be necessary at any time for the Work, to verify the Consultant’s applications for payment or to ascertain how or for what purpose the Contractor uses the monies paid by or on behalf of the University;
8.1.10 immediately notify the Consultant in writing if the University observes or otherwise becomes aware of any fault or deficiency in the Work or any nonconformity with the requirements of the Agreement;

9.0 REPRESENTATIONS AND WARRANTIES

9.1 The Consultant represents and warrants that it has the experience and capability necessary and agrees to perform the Consulting Services with reasonable diligence using reasonable skill and care to a standard which is expected of a reputable consulting firm providing services similar to the Consulting Services.

9.2 The Consultant warrants that it is knowledgeable in all current statutes, codes, regulations and legislation pertaining to the Work and the consulting service deliverables are in general compliance with current statutes, codes, regulations and legislation.

10.0 SUB-CONSULTANTS

10.1 The Consultant shall engage such Sub-Consultants as are necessary for the complete provision of the Consulting Services.

10.2 Fees for services performed by Sub-Consultants shall be included as a part of the Consulting Fees.

10.3 The University may, at its sole and unfettered discretion, accept or reject the use of any Sub-Consultant. The Consultant shall not engage the services of any Sub-Consultant prior to obtaining written approval of the Sub-Consultant from the University. Notwithstanding, the prior written acceptance of the University of any Sub-Consultants, the Consultant shall be solely responsible and accountable for the instruction, direction and co-ordination of all Sub-Consultants so engaged and for the satisfactory performance of all Consulting Services provided by Sub-Consultants.

10.4 The Consultant shall, in accordance with any agreements made with Sub-Consultants, make payments to Sub-Consultants for all Consulting Services satisfactorily performed. If the Consultant withholds payments from a Sub-Consultant for Consulting Services, the Consultant shall promptly notify the University in writing of the reasons for withholding such payments.

11.0 SUCCESSORS AND ASSIGNS

11.1 Neither party may assign the Agreement or any part thereof without the prior written consent of the other party.

11.2 The Agreement shall enure to the benefit of and be binding upon the parties hereto and upon their executors, administrators, successors, and assigns.

12.0 INSURANCE

12.1 Unless expressly instructed otherwise in writing by the University, the Consultant shall pay the cost of and maintain the following insurance policies:

12.1.1 Professional Liability Insurance from a company and in a form acceptable to the University which shall:

.1 insure, on a claims made basis, against claims arising from errors, omissions, or negligent acts in the performance of Consulting Services;

.2 have limits of not less than one million dollars ($1,000,000.00) per claim and subject to
an annual aggregate limit of not less than one million dollars ($1,000,000.00) or as specified in the Supplementary General Conditions.

.3 be maintained in full force and effect for a minimum period of three (3) years following provision by the Consultant of Consulting Services pursuant to the Agreement.

The Consultant shall immediately notify the University of any reported claim under the policy.

12.1.2 Commercial General Liability Insurance with limits of liability not less than five million dollars ($5,000,000.00) with a minimum coverage equivalent to that provided according to the appropriate standard form from the Insurance Bureau of Canada or as otherwise set out herein. Such insurance policy shall:

.1 name the University as an additional insured;

.2 provide cross liability coverage and contractual liability coverage;

.3 be primary insurance in respect to the University, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the University, its officers, employees, agents, or volunteers shall be in excess of the Consultant's insurance and shall not contributed to it; and

.4 be with a company and in a form acceptable to the University;

12.1.3 Automobile Liability Insurance in respect of licensed vehicles with limits of not less than two million dollars ($2,000,000.00) inclusive per occurrence for bodily injury, death and damage to property, providing Third Party Liability and Accident benefits Insurance and covering licensed vehicles owned or operated by or on behalf of the Consultant; and

The Consultant shall comply with all terms and conditions of the aforesaid insurance policies and, without limiting the generality of the foregoing, on the happening of any loss or damage shall at no expense to the University furnish all necessary notices and proofs and do all necessary acts required by such policies in a timely manner.

12.2 The Consultant shall require all Sub-Consultants to procure, pay the cost of, and maintain insurance coverage comparable to that provided by the Consultant under the Agreement.

12.3 Consultant shall provide to the University certificates of insurance evidencing coverage required according to GC 12.1. Each certificate shall provide that the coverage therein afforded shall not be cancelled or materially changed except after thirty (30) days prior written notice to the University. Should this occur, the Consultant shall procure and furnish new certificates confirming coverage prior to such effective date. Upon request at any time, the Consultant shall provide certified copies of all policies, which shall be reasonably acceptable to the University.

12.4 If the University desires that the Consultant obtain further or increased insurance against any risk beyond the coverage provided by the aforesaid policies, the Consultant shall, at the University's expense, obtain such insurance.

12.5 In the event that the Consultant does not have or fails to provide the required forms and coverage of insurance, the University shall have the right to provide and maintain the aforesaid commercial general liability insurance specified in GC 12.1.2 and give evidence thereof to the Consultant. Subject to GC 12.6:

12.5.1 the cost thereof shall be payable by the Consultant to the University on demand or the University may deduct the cost thereof from monies which are due or may become due to the Consultant, and
12.5.2 all deductibles shall remain and be borne by the Consultant in event that a claim is brought under the said insurance.

12.6 Should any of the policies required of the Consultant be materially changed or cancelled, the Consultant shall provide to the University thirty (30) days advance written notice of such change or cancellation. Should the University provide insurance in accordance with the provisions of GC 12.5 and should change or cancellation of same be pending, it shall provide the Consultant with similar notice.

13.0 WORKERS’ COMPENSATION

13.1 The Consultant and Sub-Consultants shall have proof of an account in good standing with the Workers’ Compensation Board (Alberta) and such accounts shall remain in good standing for the duration of the Contract Time. Coverage shall include all employees of the Consultant and Sub-Consultants as well as Personal Coverage for any employers, proprietors, partners and directors performing work at the University.

13.2 Prior to the Commencement Date, and at any time thereafter at the University's request, the Consultant shall arrange to have the Workers’ Compensation Board (Alberta) send a clearance letter to the University, verifying that all required assessments and contributions have been paid by the Consultant and Sub-Consultants.

14.0 INDEMNIFICATION

14.1 The Consultant shall:

14.1.1 be liable to the University for;

14.1.2 indemnify and hold harmless the University, its Board, directors, officers, agents, advisors and employees from and against:

any and all liabilities, claims, suits or actions, costs, damages and expenses (and without limiting the generality of the foregoing, any losses, costs, damages and expenses of the University, including costs as between a solicitor and his own client) which may be brought or made against the University or which the University may pay or incur as a result of or in connection with:

a) any breach, violation or non-performance of any covenant, condition or agreement set forth in this Agreement and required to be fulfilled, kept, observed and performed by the Consultant;

b) any negligent or wrongful act or omission of the Consultant, its agents, employees or sub-contractors or suppliers in connection with the provision of Services.

This indemnity shall survive the expiry or earlier termination of the Term.

14.2 Notwithstanding any thing to the contrary expressed or implied in this Agreement, the University shall not be liable to the Consultant for any general, indirect or consequential damages or any economic losses of any kind, regardless of whether the liability to which such damages relate arises in contract, tort or otherwise in Law.

15.0 SUSPENSION OF SERVICES

15.1 In addition to any other rights that the University may have hereunder or in Law, the University may in the exercise of its sole and unfettered discretion by notice to the Consultant specifying the effective date of the suspension, require the Consultant to suspend the Consulting Services or
any portion thereof (the "Suspended Services"). Upon receiving notice, the Consultant shall:

15.1.1 discontinue the Suspended Services;

15.1.2 continue to perform all Consulting Services which are not Suspended Services; and

15.1.3 take reasonable steps, as may be necessary or desirable to minimize the costs associated with the Suspended Services.

15.2 The University may at any time authorize resumption of the Suspended Services or any part thereof, by giving the Consultant reasonable notice specifying the part of the Suspended Services to be resumed and the effective date of such resumption. Subject to 15.3, the Consultant shall resume the Suspended Services on the date and to the extent specified in the notice at no additional cost to the University.

15.3 If the date for resumption of Suspended Services is more than thirty (30) days after the date of suspension the Consultant's Fees and Reimbursable Expenses shall be equitably adjusted, taking into account the actual verifiable costs incurred by the Consultant in the resumption of the Suspended Services.

16.0 TERMINATION OF CONSULTING SERVICES BY UNIVERSITY

16.1 In addition to any other rights that the University may have hereunder, or in Law, the University may at any time, in the exercise of its sole and unfettered discretion, terminate the Consulting Services, or any portion thereof, by giving notice to the Consultant specifying the Consulting Services to be terminated and the effective date of the termination. Upon receipt of such notice, the Consultant shall:

16.1.1 discontinue the Consulting Services in accordance with the notice;

16.1.2 continue to perform all portions of the Consulting Services not terminated; and

16.1.3 take whatever other steps may be reasonable to minimize the costs associated with the termination of the Consulting Services, or the portion thereof;

16.1.4 negotiate in good faith with the University regarding an equitable adjustment to the value of the Consulting Fees, taking into account the value, to the University, of the Consulting Services terminated. If the parties fail to reach an agreement regarding the appropriate adjustment to the value of the Consulting Fees, the parties shall proceed in accordance with GC 18.

16.2 Except in the event that the Consulting Services, or a portion thereof, are terminated in accordance with GC 16.3 or 16.4, the University shall reimburse the Consultant for those costs reasonably incurred by the Consultant as a direct result of the termination. In this regard, the Consultant shall:

16.2.1 maintain full and complete records of all cancellation and termination charges;

16.2.2 make such records available on request to audit and inspection by the University; and

16.2.3 allow the University to make copies of and to take extracts from any or all of such records and to furnish the University with any information it may require from time to time in connection with such records.

16.3 Not so as to limit the generality of GC 16.1, the University may in its sole and unfettered discretion terminate the Consulting Services, or a portion thereof, by notice to the Consultant or, if
applicable, receiver or trustee in bankruptcy, in any of the following circumstances:

16.3.1 if the Consultant becomes insolvent or makes a general assignment for the benefit of its creditors or otherwise acknowledges its insolvency or if a bankruptcy or receiving order is filed or made against the Consultant;

16.3.2 if an order is made or resolution is passed for the winding up or liquidation of the Consultant;

16.3.3 if a custodian, receiver, manager or other officer with similar powers is appointed in respect of the Consultant or any of the Consultant’s property;

16.3.4 if the Consultant ceases to carry on in the ordinary course of business;

16.3.5 if an encumbrancer takes possession of any of the Consultant’s property or if a distress, execution or any similar process is levied or enforced against such property and remains unsatisfied by the Consultant; or

16.3.6 if the Consultant fails or refuses at any time to comply with applicable Laws or University safety policies.

Upon receipt of such notice, the Consultant or receiver or trustee in bankruptcy shall discontinue the Consulting Services in accordance with the notice, and shall take such steps as may be necessary or desirable to minimize the costs to the University associated with the termination of the Consulting Services. The University shall not be liable for those costs incurred by the Consultant as a result of the termination of the Consulting Services pursuant to this GC 16.3.

16.4 If the Consultant is in default in carrying out any of the terms, conditions, covenants or obligations of the Agreement, or has made a false representation, declaration or warranty, the University may give the Consultant notice of default. Except as otherwise specified in GC 16.3, the Consultant shall have five (5) days following receipt of the notice or such longer time as the University has specified in the notice of default within which to remedy the default. If the Consultant fails to rectify the default in the time required, the University may, by further notice in writing to the Consultant, terminate the Consulting Services or any portion thereof. In the case of any default which would reasonably require more than the time allowed to rectify the default, the Consultant shall be deemed to have rectified the default if within the allowed time it has submitted to the University a schedule for rectification of the default which the University has accepted and it has commenced rectification and thereafter promptly and diligently and continuously proceeded with the rectification of the default, in accordance with the approved schedule. Upon notice of termination, the Consultant shall discontinue the Consulting Services in accordance with the notice and shall take such steps, as may be necessary or desirable to minimize the costs to the University associated with the termination of Consulting Services. The University shall not be liable for those costs incurred by the Consultant as a result of the termination of the Consulting Services pursuant to this GC 16.4.

16.5 If the Consulting Services, or any portion thereof, are terminated pursuant to GC 16.3 or 16.4, the University shall:

16.5.1 pay the Consultant for all Consulting Services satisfactorily performed to the date of termination, less the sum of all monies already paid to the Consultant and all costs the University shall pay in excess of the Consulting Fees to obtain satisfactory completion of the Consulting Services by others. If the costs the University shall pay in excess of the Consulting Fees exceeds the sum of all monies owed by the University to the Consultant for Consulting Services satisfactorily performed less the sum of monies already paid, the Consultant shall pay said costs to the University, and
16.5.2 pay the Consultant in consideration for Consulting Services performed after the termination of a portion of the Consulting Services, if any, the Consulting Fees as adjusted in accordance with GC 16.1.4.

16.6 Upon termination of the Consulting Services, or any portion thereof, pursuant to GC 16.3 or 16.4, the Consultant shall turn over to the University, in both hard copy and electronic form, all work performed prior to the date of termination, whether complete or incomplete, including all drawings, specifications, models, sketches, reports, and other documentation pertaining to the Consulting Services so terminated and the University shall retain sole copyright in said documents. The Consultant shall not be liable for any documentation forwarded to the University in accordance with this GC 16.6. Drawings forwarded to the University in accordance with this GC 16.6, if any shall be provided in the most current format release of AutoCAD or as mutually agreed.

16.7 Notwithstanding GC 16.2, the University shall not be liable for any penalties, consequential, indirect, or similar damages or loss on account of anticipated profits as a result of the termination of the Consulting Services, or any portion thereof, by the University.

17.0 TERMINATION OF THE AGREEMENT BY THE CONSULTANT

17.1 If the University fails to make a payment to the Consultant when due and payable pursuant to the Agreement, the Consultant may give the University notice of default. If the University fails to rectify the default within five (5) days, or is not contesting the Consultant’s entitlement to payment in good faith, then the Consultant may suspend the further performance of the Consulting Services, without prejudice to all other rights and remedies it may have at Law. In the event that the University remains in default of payment for a further period of fourteen (14) days after suspension of the Consulting Services by the Consultant, the Consultant may terminate the Agreement, without prejudice to all other rights and remedies it may have at Law. The University shall be liable for and pay to the Consultant all amounts on account of Consulting Services satisfactorily performed to the date of suspension under this GC 17.1 and reasonable costs associated with the termination, excluding loss of profit.

17.2 If all Consulting Services are suspended in accordance with GC 15 for a period in excess of ninety (90) days, the Consultant may, by written notice to the University, terminate the Agreement. The University shall be liable for and pay to the Consultant all amounts on account of Consulting Services satisfactorily performed to the date of suspension and reasonable costs associated with the termination, excluding loss of profit.

18.0 DISPUTE RESOLUTION

18.1 The parties shall make all reasonable efforts to resolve all disputes and claims by negotiation and agree to provide, without prejudice, open and timely disclosure of relevant facts, information and documents to facilitate these negotiations.

18.2 Any disputes, claims, or differences from the Agreement not resolved through good faith negotiation by the parties in accordance with GC 18.1 may, with the consent of both parties, be resolved through mediation. The procedural terms of the mediation shall, unless otherwise agreed to by the parties, be conducted in accordance with Alberta Arbitration and Mediation Society procedures for mediation; provided however that in the event of any inconsistency between the Alberta Arbitration and Mediation Society procedures and the Agreement, the provisions of the Agreement shall prevail. The parties shall use reasonable efforts to complete the mediation within ten (10) days of the parties consenting to proceed with mediation.

18.3 Any disputes, claims, or differences arising from the Agreement not resolved through good faith negotiation by the parties in accordance with GC 18.1 may, with the consent of both parties, be resolved through arbitration in accordance with the Arbitration Act of Alberta. All terms of the
arbitration shall, unless otherwise agreed to by the parties, be conducted in accordance with the Alberta Arbitration and Mediation Society procedures for arbitration; provided however that in the event of any inconsistency between the Alberta Arbitration and Mediation Society procedures and the Agreement, the provisions of the Agreement shall prevail.

18.4 If no agreement is made to proceed with arbitration or mediation, or if mediation fails to produce a resolution to the dispute, then either party may submit the dispute to such judicial tribunal as the circumstances may require.

18.5 In the event of a dispute between the parties, each of the parties shall, without in any way prejudicing the rights it may have at Law and irrespective of the method of dispute resolution adopted in accordance with this GC 18, continue with the uninterrupted performance of its obligations under the Agreement.

18.6 Notwithstanding the dispute resolution procedures set out herein, the parties may, at any point in the dispute resolution process, resolve the dispute through negotiation.

19.0 CONFLICT OF INTEREST

19.1 The Consultant shall exercise reasonable care and diligence to prevent any actions or conditions, which could result in a conflict with the University's best interests. This obligation shall apply to the activities of the Consultant and its Sub-Contractors and Suppliers, and their respective employees and agents, in their relations or dealings with the employees of the University and their families, and other third parties arising from its obligations under the Agreement.

19.2 Immediately upon becoming aware of the circumstances, the Consultant shall disclose to Supply Management Services any facts which may or do constitute a conflict of interest relating to this Agreement, including details of any University employee or immediate family member who may receive a financial or other benefit or who holds an interest or directorship in the Consultant or its Sub-Contractors or Suppliers. If the University deems the particular circumstances or any other circumstances disclosed to or discovered by the University to constitute a conflict of interest, the University may, at its sole discretion determine that the Consultant is in default of its obligations under this Agreement and may give notice of default to the Consultant. If the Consultant does not remove the conflict in accordance with such notice of default, the University may, at its sole discretion, terminate the Agreement.

19.3 To preserve the image and integrity of the University and its employees and agents, business gifts other than items of minor value shall not be offered. Reasonable hospitality is an accepted courtesy of a business relationship. The frequency and nature of gifts or hospitality shall not be allowed whereby the recipient might be or might be deemed by others to have been influenced in making a business decision as a consequence of accepting such hospitality or gifts.

20.0 CONFIDENTIAL INFORMATION AND PUBLICITY

20.1 The term "University's Confidential Information", as used herein, shall mean all information relating to the Work and any process, technology or system relating thereto, the design, construction, operation, maintenance or any other aspect of the Work Site, or relating to the nature of the University's business and affairs, which the Consultant directly or indirectly receives or acquires from the University or anyone on behalf of the University, either in writing or verbally, or through observation of the Work Site or the Work, except information falling into any one of the following categories:

20.1.1 information that the Consultant can show was in the Consultant's lawful possession prior to the Consultant's receipt or acquisition thereof from the University;

20.1.2 information which, after the Consultant's receipt or acquisition thereof from the University
as aforesaid, becomes lawfully available through no act of the Consultant or of any third party under an obligation of confidence with respect to such information, but only after such information becomes lawfully available; or

20.1.3 Information, which, after receipt or acquisition thereof from the University as aforesaid, is lawfully obtained by the Consultant from a third party and provided such third party, is under no obligation of confidence with respect to such information.

Specific information shall not be considered to be within the scope of any of the exceptions listed above merely because it is included with general information within the scope of the above exceptions.

20.2 The Consultant shall keep all of the University's Confidential Information in confidence and shall not disclose it to others without the prior approval of the University. The Consultant shall not use the University's Confidential Information, except in performance of the Consulting Services.

20.3 Notwithstanding GC 20.2 hereof, the Consultant may disclose the University's Confidential Information to those of its employees and Sub-Consultants and their respective employees to whom disclosure is required in order for the Consultant to perform the Consulting Services, provided the Consultant shall ensure that its employees and agents comply with and shall contractually require its Sub-Consultants and their respective employees and agents to comply with GC 20.2.

20.4 The Consultant shall not disclose details of any documents produced by the Consultant or Sub-Consultants as part of the Consulting Services to others without the prior approval of the University, except as necessary to perform the Consulting Services.

20.5 The Consultant shall not use the University's name, registered or unregistered trademarks or any of the University's slogans in any advertising or promotional materials or publicity releases, without the prior written approval of the University.

20.6 The University is a public body subject to the Freedom of Information and Protection of Privacy Act. Confidentiality of any document produced as part of the Consulting Services by the Consultant or its Sub-Consultants cannot be ensured. If the University receives a request for information under the Freedom of Information and Protection of Privacy Act, the University will give the Consultant notice of such a request and the Consultant shall proceed to process the request for information in accordance with the notice and the Freedom of Information and Protection of Privacy Act. The Consultant shall be responsible for all costs related to its confidentiality requirements and requests for information and record management practices under the Freedom of Information and Protection of Privacy Act. The Consultant's obligations under the Freedom of Information and Protection of Privacy Act shall survive the termination of the Agreement.

21.0 OWNERSHIP AND USE OF DOCUMENTS, PATENTS, AND TRADEMARKS

21.1 All documents prepared by Consultant with respect to this Agreement including, without limitation, instruments of service, all concept and formalized design and construction drawings, reports, calculations, notes, and other documentation produced (whether electronically or otherwise and regardless of whether the building information model used is owned by the Consultant or the University) (the “Documents”) shall be deemed to be the sole and exclusive property of the University. Subject to the terms of this Agreement, the Consultant reserves the copyright in any actual design developed pursuant to this Agreement except where the Consultant and the University otherwise agree. Subject to GC 21.2, the University shall be entitled to use the Documents in any manner whatsoever including, without limitation, amending, altering or revising the same.
21.2 In the event that the Documents are used by the University for purposes other than in connection with the Work or if the Documents have been amended, altered or revised in any manner whatsoever without notice to the Consultant and without receiving the Consultant’s prior written consent, the Consultant does not warrant the fitness of same for the University’s use, and the University agrees to indemnify, hold harmless and defend the Consultant from and against all claims, demand, losses, damages, liability and costs associated with such use by the University.

21.3 Submissions or distribution of the Documents to meet official regulatory or reporting requirements or for other purposes in connection with the Work, including posting of the Documents is not to be construed as publication in derogation of the Consultant’s reserved copyright.

21.4 The Consultant shall not be entitled to keep original models or architectural renderings specifically commissioned by the University.

21.5 The Consultant shall be entitled to photograph and publish details of the completed project including general information pertaining to the Approved Construction Budget with the consent of the University, which shall not be unreasonably withheld.

22.0 TAXES AND APPLICABLE LAWS

22.1 The Consultant shall be responsible for the payment of:

22.1.1 all taxes imposed by reason of the performance or completion of the Consulting Services including but not limited to license and registration fees and the Consultant's income, profit, franchise, business, and personal property taxes; and

22.1.2 all employment taxes and contributions imposed by Law or required to be paid on behalf of the employees of the Consultant or Sub-Consultants.

Any increase in taxes and charges described herein shall be the sole responsibility of the Consultant.

22.2 The Agreement is governed and construed in accordance with the Laws in force in the Province of Alberta and the parties attorn to the jurisdiction of the applicable Courts of the Province of Alberta.

23.0 UNIVERSITY POLICIES

23.1 The Consultant shall comply with the University's waste management and parking policies and all other applicable policies established by the University.

24.0 PARTNERSHIP

24.1 If the Consultant is a partnership:

24.1.1 a true copy of the partnership agreement shall be forwarded to the University;

24.1.2 where the partnership is established to provide Consulting Services to the University, the partnership agreement shall continue for the purposes it was established, and will not be dissolved until all Consulting Services are complete, a Certificate of Total Performance has been issued, all warranties and extended warranties have expired, and the University agrees in writing to a written request from the members of the partnership to dissolve the partnership.
partnership, and the University is in agreement;

24.1.3 each member of the partnership shall be jointly and severally liable for the performance of the Consulting Services and for any liability of the Consultant thereunder or arising there from or otherwise arising pursuant to the Agreement;

24.1.4 any invoice submitted by the Consultant under the Agreement shall be in the name of the partnership and shall be submitted in accordance with the provisions of the Agreement and the partnership agreement;

24.1.5 payment by the University of any invoice to the partnership shall discharge the payment obligations of the University to each of the members of the partnership for the Consulting Services invoiced and the University shall have no independent responsibility or liability for payment to the aforesaid members of the partnership or either of them;

24.1.6 no dispute between the members of the partnership shall entitle a member of the partnership to withhold Consulting Services that are the responsibility of the Consultant under the Agreement;

24.1.7 the insurance which the Consultant is required to provide pursuant to the Agreement shall provide coverage for each member of the partnership, jointly and severally;

24.1.8 none of the following shall release the Consultant or any member of the partnership from its obligations to the University under the Agreement;

.1 the wind-up, bankruptcy, insolvency or ceasing to exist of or the ceasing to carry on business by, any member of the partnership;

.2 the inability of any individual member of the partnership to perform its obligations for any reasons beyond its reasonable control in circumstances where all members of the partnership are not similarly affected;

.3 the termination of the partnership;

.4 the improper or inappropriate allocation of monies paid by the University pursuant to the Agreement among the members of the partnership, whether occurring honestly or otherwise;

.5 the failure of any member of the partnership to fulfill its obligations under the partnership agreement;

24.1.9 all costs incurred by the Consultant in establishing and operating the partnership shall be to the account of the Consultant and not the University and the Consultant shall take all steps reasonably necessary, at the Consultant’s expense, to ensure that the University is not disadvantaged by reason of the Consultant consisting of the partnership rather than a single entity.

25.0 JOINT VENTURES

25.1 If the Consultant is a joint venture:

25.1.1 a true copy of the joint venture agreement shall be forwarded to the University;

25.1.2 where the joint venture is established to provide Consulting Services to the University, the joint venture agreement shall continue for the purposes it was established, and will not be dissolved until all Consulting Services are complete, a Certificate of Total
Performance has been issued, all warranties and extended warranties have expired, and the University agrees in writing to a written request from the members of the joint venture to dissolve the joint venture, and the University is in agreement;

25.1.3 each member of the joint venture shall be jointly and severally liable for the performance of the Consulting Services and for any liability of the Consultant thereunder or arising there from or otherwise arising pursuant to the Agreement;

25.1.4 any invoice submitted by the Consultant under the joint venture shall be in the name of the joint venture and shall be submitted in accordance with the provisions of the joint venture agreement;

25.1.5 payment by the University of any invoice to the Joint Venture shall discharge the payment obligations of the University to each of the members of the joint venture for the Consulting Services invoiced and the University shall have no independent responsibility or liability for payment to the aforesaid members of the joint venture or either of them;

25.1.6 no dispute between the members of the joint venture shall entitle a member of the joint venture to withhold Consulting Services that are the responsibility of the Consultant under the Agreement;

25.1.7 the insurance which the Consultant is required to provide pursuant to the Agreement shall provide coverage for each member of the joint venture, jointly and severally;

25.1.8 none of the following shall release the Consultant or any member of the joint venture from its obligations to the University under the Agreement;

.1 the wind-up, bankruptcy, insolvency or ceasing to exist of or the ceasing to carry on business by, any member of the joint venture;

.2 the inability of any individual member of the joint venture to perform its obligations for any reasons beyond its reasonable control in circumstances where all members of the joint venture are not similarly affected;

.3 the termination of the joint venture;

.4 the improper or inappropriate allocation of monies paid by the University pursuant to the Agreement among the members of the joint venture, whether occurring honestly or otherwise;

.5 the failure of any member of the joint venture to fulfill its obligations under the joint venture agreement;

25.1.9 all costs incurred by the Consultant in establishing and operating the joint venture shall be to the account of the Consultant and not the University and the Consultant shall take all steps reasonably necessary, at the Consultant’s expense, to ensure that the University is not disadvantaged by reason of the Consultant consisting of the joint venture rather than a single entity.

26.0  **RIGHT TO AUDIT AND RECORDS TO BE KEPT BY THE CONSULTANT**

26.1 The Consultant shall keep detailed, proper and accurate records and accounts for the Project in a form and manner consistent with standard accounting practices. The University shall have the right to inspect, audit, make copies and take extracts from the Consultants records and accounts to ensure conformity with the provisions of the Agreement including changes to the contract amount as stipulated in the Agreement and for up to two (2) years following the date of
completion of the Work. The Consultant shall cooperate with the University to undertake an inspection and audit of the records. The Consultant shall account for errors or omissions discovered as a result of such audit.

26.2 The Consultant shall make available to the University, a copy of all Sub-Contractor Agreements it has entered into to complete the Work. It is understood that by obtaining a copy of the signed Agreements between the Consultant and its Sub-Contractor’s, that this is for the University’s audit and information purposes only, and does not imply that the University has read or accepted any of the terms and or conditions of such Agreements and assumes no responsibility or liability in regards to such Agreements.

27.0 NOTICES AND COMMUNICATION

27.1 All notices required by the Agreement to be given by either party shall be deemed to be properly given and received within two (2) business days if made in writing to the other party by registered mail addressed to the regular business address of such party as identified in the executed Agreement.

28.0 MISCELLANEOUS

28.1 Time shall be of the essence of the Agreement and the parties herewith undertake not to unreasonably withhold such recommendations, acceptances or actions as are required to further the progress of the Consulting Services or, if applicable, the Work.

28.2 The Consultant or the Sub-Consultants, if any, shall produce all required design drawings and as-built record drawings using the most current release of AutoCAD or as mutually agreed. The drawings shall be developed using an AutoCAD drawing format that shall be based upon the AutoCAD standards and layering guidelines provided by the University. The cost of upgrading the Consultant’s hardware and software to accommodate the most current release of AutoCAD or in meeting the University standards shall be borne by the Consultant.

29.0 WAIVER

29.1 The University shall not be liable or responsible in any way for any personal injury or property damage of any nature whatsoever that may be suffered or sustained by the Consultant, its Sub-Consultants or persons for whom they have assumed responsibility in the performance or non-performance of the Agreement save and except for such injury or damage caused by the sole negligence of the University.