

**AIA**[®]**Document B105[™] – 2007****Standard Form of Agreement Between Owner and Architect for a Residential or Small Commercial Project**

AGREEMENT(Contract #____) made as of the _____ day of _____ in the year 2016
 (In words, indicate day, month and year)

BETWEEN the Owner:
 (Name, address and other information)

The Board of Regents of the Nevada System of Higher Education on behalf of the
 University of Nevada, Las Vegas
 4505 South Maryland Parkway
 Box
 Las Vegas, Nevada 89154

and the Architect:
 (Name, address, FTIN and other information)

Successful Proposer

for the following Project:

This is a Task Order Agreement pursuant to RFQ 681-BC. Individual project proposals will be solicited by Informal Request for Qualifications ("IRFQ") and/or Informal Request for Proposa ("IRFP")l. Projects will be issued by Purchase Order. Details of the Project will be specified in those documents. Legal terms in any proposal are of no effect unless expressly accepted in a Purchase Order.

CONTRACT NUMBER:

The Owner and Architect agree as follows.

When a particular project arises that is determined to be best accommodated through this contract ("Project"), the UNLV Planning and Construction department will prepare a preliminary scope of work for the Project following UNLV policies and issue an IRFQ and/ or IFRP to on-call Architect(s) as appropriate. The Architect (s) may prepare and submit qualifications in response to an IRFQ. Owner will provide/communicate an IRFP to an Architect selected as the best qualified, for specific prices for the Project. The Architect may subcontract various specialty elements of the work as may be necessary.

Upon acceptance or successful negotiation of the prices, the Architect will be issued a Purchase Order to perform the work. The Architect may not begin the work until a Purchase Order has been issued. UNLV will issue a Purchase Order for each specific Project to be performed under this Agreement. It is envisioned that multiple Purchase Orders will be issued through the life of this Agreement. The annual aggregate total for all Purchase Orders should not exceed \$300,000.00 without the prior written consent by an authorized signatory of Owner. . The actual volume of work will depend solely on UNLV's needs. . An IRFP shall not be interpreted, or construed, as a commitment or a promise by Owner to expend any specific sum of money for the services identified in the

ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

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

State or local law may impose requirements on contracts for home improvements. If this document will be used for Work on the Owner's residence, the Owner should consult local authorities or an attorney to verify requirements applicable to this Agreement.

Init.

IRFP; only a Purchase Order commits Owner. Owner reserves the right at any time to conduct a formal solicitation for any particular project.



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ARTICLE 1 ARCHITECT'S RESPONSIBILITIES

With reference to the Project, Architect agrees with Owner as follows: (a) in the performance of services Architect shall utilize Architect's professional efforts, skill, judgment and abilities in accordance with the common law standard of care for architects and in a manner which is consistent with locally accepted standards for professional skill and care; (b) Architect shall perform services with respect to the Project in compliance, to the best of Architect's knowledge, information and belief, with applicable laws, regulations, codes and order of governmental bodies having jurisdiction; (c) Architect shall specify usage of only suitable materials for the Project; and (d) the Project, if built in compliance with the design and Construction Drawings, will comply, to the best of Architect's knowledge, information and belief with applicable laws, regulations, codes, ordinances and orders of governmental bodies. The Architect represents to the Owner that the Architect is financially solvent and possesses sufficient license, authority and personnel to complete the services required hereunder. Architect will correct those services not performed consistent with the foregoing standards without any additional compensation of any sort.

The Architect shall assist the Owner in determining consulting services required for the Project. The Architect's services include the following consulting services, if any:

Refer to the IRFQ and/or IRFP for the particular Project.

Architect will submit with each response to an IRFP, a Project organization chart setting out Architect's personnel, and their responsibilities in connection with the Project, which Architect proposes to use in connection with the performance of its services in that Project. If, at any time after entering into this Agreement, Owner has any reasonable objection to any personnel or consultant employed by Architect proposes to use in connection with a Project, Architect shall promptly propose substitutes to whom the Owner has no reasonable objection,

During the Design Phase, the Architect shall review the Owner's scope of work, budget and schedule and reach an understanding with the Owner of the Project requirements. Based on the approved Project requirements, the Architect shall develop a design. The Architect shall provide a cost estimate of the construction cost of the design unless waived by the Owner in writing. Upon the Owner's approval of the design, the Architect shall prepare Construction Documents indicating requirements for construction of the Project and shall coordinate its services with any consulting services the Owner provides. The Architect shall update the cost estimate of the construction cost upon the completion of Construction Documents unless waived by the Owner in writing. The Architect shall assist the Owner in filing documents required for the approval of governmental authorities, in obtaining proposals and in awarding contracts for construction.

During the Construction Phase, the Architect shall act as the Owner's representative and provide administration of the Contract between the Owner and Contractor. The extent of the Architect's authority and responsibility during construction is described in AIA Document A105™–2007 as modified, Standard Form of Agreement Between Owner and Contractor for a Residential or Small Commercial Project. Architect represents that it has reviewed such AIA Document A105™–2007 as modified, Standard Form of Agreement Between Owner and Contractor for a Residential or Small Commercial Project and agrees to perform all of Architect's obligations and duties required thereunder of Architect. Generally, the Architect's services during construction include interpreting the Contract Documents, responding to the Contractor's Requests for Information in a timely manner, generally not to exceed 3 days or earlier as requested by Owner, reviewing the Contractor's submittals in a timely manner and providing comments no later than 14 days after receipt of submittals or earlier as requested by Owner, visiting the site at intervals appropriate to the progress of the work, with subconsultants appropriate to the nature of the work, coordinated with the Owner and the Contractor, reviewing and certifying payments, and rejecting nonconforming Work, among other services.

The Architect shall identify a representative in writing authorized to act on behalf of the Architect with respect to the Project. Owner shall have the right to rely on all communications of such representative without any further inquiry or investigation by Owner.

ARTICLE 2 OWNER'S RESPONSIBILITIES

The Owner shall provide full information about the objectives, schedule, constraints and existing conditions of the Project, and shall establish a budget that includes reasonable contingencies and meets the Project requirements. The Owner shall provide decisions and furnish required information as expeditiously as necessary for the orderly

progress of the Project. The Architect shall be entitled to rely on the accuracy and completeness of the Owner's information. The Owner shall furnish consulting services not provided by the Architect, but required for the Project, such as surveying, which shall include property boundaries, topography, utilities, and wetlands information; geotechnical engineering; and environmental testing services. The Owner shall employ a Contractor, experienced in the type of Project to be constructed, to perform the construction Work and to provide price information.

With the issuance of each IRFQ/IRFP, the Owner shall designate in writing a representative authorized (the Owner's Project Manager) to whom all matters requiring the Owner's approval or authorization shall be submitted. This representative shall convey such matters to Owner's officers and/or governing bodies, as appropriate.

ARTICLE 3 USE OF DOCUMENTS

When providing architectural services as defined in NRS Chapter 623, drawings, specifications and other documents prepared by the Architect are instruments of the Architect's service and are for the Owner's use solely with respect to this Project. The Architect shall retain all common law, statutory and other reserved rights, including the copyright. The Architect grants to the Owner a nonexclusive license to use the Architect's Instruments of Service solely and exclusively for purposes of constructing, using, maintaining, altering and adding to the Project. Such license shall extend to those parties retained by the Owner for such purposes, including other design professionals. When transmitting copyright-protected information for use on the Project, the transmitting party represents that it is either the copyright owner of the information, or has permission from the copyright owner to transmit the information for its use on the Project.

Except when services are defined by NRS chapter 623 as architectural services, the Architect acknowledges that all materials produced under this Agreement and any renewals will become the property of the Owner immediately upon receiving any payment for the services performed in developing such materials. The Architect is to provide such materials to the Owner immediately upon receiving the Owner's request or at project completion per design document and Record Document transmittal requirements in this agreement.

(Paragraphs deleted)

ARTICLE 4 TERM; TERMINATION, SUSPENSION, ABANDONMENT, OR TERMINATION BASED NON-APPROPRIATION OF FUNDS

The Agreement shall commence as of the Effective Date and remain in effect one (1) year, unless otherwise terminated in accordance with this Agreement ("**Initial Term**" or "**Term**"). Upon mutual written agreement this Agreement may be renewed for up to four (4) additional one (1) year terms ("**Renewal Term(s)**" or "**Term(s)**"). Notwithstanding the foregoing, the terms and conditions of this Agreement shall survive to the extent necessary to complete any outstanding Project.

In the event of termination, suspension or abandonment of the Project by the Owner, the Architect shall be compensated for services performed. The Owner's failure to make payments in accordance with this Agreement shall be considered substantial nonperformance and sufficient cause for the Architect to suspend or terminate services. Either the Architect or the Owner may terminate this Agreement after giving no less than seven days' written notice if the Project is suspended for more than 90 days.

The terms of this Agreement are contingent upon sufficient appropriations and authorizations being made by the Owner for the performance of this Agreement. If sufficient appropriations and authorizations are not made by the Owner, this Agreement shall terminate, without penalty or expense to the Owner of any kind whatsoever, upon written notice being given by the Owner to the Architect. Upon receipt of such notice, the Architect shall take immediate action to mitigate any damage or additional expense.

If either party materially fails to perform under this contract or any Purchase Order issued under this contract, after providing not less than seven days notice of such failure to perform, a Notice of Default may be issued. If the basis of the Notice has not been corrected within seven days after receipt of such Notice of Default, this contract may be terminated for Cause. Upon receipt of a Notification of Termination, the Architect shall take immediate action to mitigate any damage or additional expense.

ARTICLE 5 MISCELLANEOUS PROVISIONS

This Agreement shall be governed by the laws of the State of Nevada without regard to conflict of law principles that would result in the application of any law other than the law of the State of Nevada. . Terms in this Agreement shall have the same meaning as those in AIA Document A105–2007 as modified, Standard Form of Agreement Between Owner and Contractor for a Residential or Small Commercial Project. Neither party to this Agreement shall assign the contract as a whole without written consent of the other.

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 Architect.

The Architect and Architect's consultants shall have no responsibility for the identification, discovery, presence, handling, removal or disposal of, or exposure of persons to, hazardous materials in any form at the Project site.

§5.1 Architect shall advise Owner where any royalties and license fees required to be paid for the use of a particular design, process or product required by the Design and/or Contract Documents. Architect shall provide alternative and recommendations to accomplish the Project objectives without the use of a particular design, process or product that requires any royalties and license fees required to be paid. Where any royalties and license fees are required to be paid, Architect shall account for these costs in all cost estimates for the Project. If Architect's or its Consultants services require the payment of any royalty or license fees, these royalties or license fees shall be a part of the Architect's Basic Services Fee and Compensation. If a royalty or license fee is not paid by the Architect or its Consultants, for the use of a particular design, process or product required by the Design and/or Contract Documents, the cost of defending suits or claims of infringement of patent rights arising from such requirement of the Design and/or Contract Documents and payments made in accordance with legal judgments against the Architect or its Consultants resulting from such suits or claims and payments of settlements shall be the responsibility of the Architect. The provisions of this **§5.1** shall survive the completion of the Work or earlier termination of the Agreement.

§5.2 The parties agree that the laws of the State of Nevada shall govern the validity, construction, interpretation, and effect of this Agreement, excluding any laws or principals regarding the conflict or choice of laws. Any and all disputes arising out of or in connection with this Agreement shall be litigated in a court of competent jurisdiction in Clark County, State of Nevada, and Architect expressly consents to the jurisdiction of said court.

§5.3 Architect and each Consultant must comply with the applicable requirements of Nevada Revised Statutes ("NRS") Chapter 338 and Nevada Administrative Code ("NAC") Chapter 338. To the extent a provision of this Agreement is prohibited by NRS Chapter 338 or NAC Chapter 338, it is hereby deemed modified to the extent necessary to comply with the applicable provisions. To the extent a provision is required to be inserted into this Agreement by NRS Chapter 338 or NAC Chapter 338, it is deemed inserted.

§5.4. Architect, and each Consultant and other person who provides labor, equipment, materials, supplies or services for the public work shall comply with the requirements of all applicable state and local laws, including, without limitation, any applicable licensing requirements and requirements for the payment of sales and use taxes on equipment, materials and supplies provided for the public work.

5.5. In connection with the performance of work under this Agreement, the Architect agrees not to discriminate against any employee or applicant because of race, creed, color, national origin, sex, sexual orientation, gender identity or expression, or age, including, without limitation, with regard to employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination , rates of pay or other forms of compensation, and selection for training, including, without limitation, apprenticeship.

The Architect further agrees to insert this provision in all sub-agreements hereunder, except sub-agreements for standard commercial supplies or raw materials.

5.6. The prevailing party in an action to enforce the Contract is entitled to reasonable attorney's fees and costs.

ARTICLE 6 PAYMENTS AND COMPENSATION TO THE ARCHITECT

The Architect's Compensation shall be:

Specific payment schedules will be identified in the IRFP and/or Purchase Orders on individual Projects. Generally payment installments will be based on the following:

Basic Services	% of Fee	Cost
Program		XXXXXXX
Schematic Design	15%	XXXXXXX
Design Development	15%	XXXXXXX
Construction Documents	40%	XXXXXXX
Bidding Phase	5%	XXXXXXX
Construction Administration Phase	25%	
Total, Basic Services		XXXXXXX
Expanded Services		XXXXXXX
Reimbursable Expenses		XXXXXXX
Total, Basic and Expanded Services And Reimbursable Expenses		XXXXXXX

Interest on any amounts due from Owner to Architect, or from Architect to Owner, as the case may be, shall bear interest from the date due until paid at a rate equal to the lesser of (i) six percent (6%) per annum, (ii) that fluctuating rate of interest announced from time to time by the Bank of America National Trust and Savings Association as its prime or reference commercial lending rate of interest (or in the event such bank is no longer announcing such rate, by such other federally regulated banking institution of comparable stature as Owner shall determine) or (iii) the maximum interest rate permitted by law.

The Owner shall reimburse the Architect for approved Reimbursable Expenses incurred in the interest of the Project at net cost, outside of usual and customary expenses.

Usual and customary expenses including office supplies, rent, utilities, general clerical, accounting, office support and secretarial services, local/long distance phone calls/faxes, local automobile travel, CAD services, and depreciation are not Reimbursable Expenses under the terms of this Agreement. The cost of all reproductions required for the execution of the project shall be deemed to be included in the Basic Services fee.

Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable within 30 days of receipt of an accurate and approved Consultant's invoice.

At the request of the Owner, the Architect shall provide services not included in Article 1 for additional compensation. Such services may include providing or coordinating services of consultants not identified in Article 1; revisions solely made by the Owner due to changes in the scope, quality or budget of the Project outside of the Architect's determinations of these items for the scope defined for the services per Article 1, and evaluating changes in the Work.

In the event the Owner shall request additional compensated services from the Architect during the term of this Agreement or during any allowable renewals, payments shall be made as agreed to between the Architect and the Owner, but in no case will payments for such additional services be made until such services are accepted by the Owner through a formal Agreement amendment and performed/invoiced by the Architect. Any such payments and any such payment schedules shall be as negotiated between the Owner and the Architect prior to the commencement of any work.

ARTICLE 7 OTHER PROVISIONS

§ 7.1 INSURANCE

§ 7.1.1 The Architect shall provide and maintain, or cause to be provided and maintained in the case of subconsultants to the Architect, insurance acceptable to the Owner based on the structure, contracting relationship

and scope/risk assignment of the Architect and its Consultants and Licensed/Professional Design Subcontractors. All such insurance shall be in compliance with the terms and conditions of this Agreement.

The Architect and its Consultants and Licensed/Professional Design Subcontractors shall procure and maintain the following insurance at their respective own and sole expense:

1. Commercial General liability insurance in the amount of \$1,000,000 per occurrence and \$2,000,000 annual aggregate. Coverage shall be at least as broad as Insurance Services Office (ISO) form CG 00 01 10 01 and shall cover liability arising from premises, operations, independent contractors, completed operations, personal injury, products, and liability assumed under contract.
2. Automobile liability insurance in the amount of \$1,000,000 Combined Single Limit per occurrence. Coverage shall include owned, non-owned, and hired vehicles and be written on ISO form CA 00 01 10 01 or a substitute providing equal or broader liability coverage.
3. Employers Liability Limits shall be at least \$100,000 per occurrence and for occupational disease. Workers' Compensation is required by law for anyone with employees. Sole proprietors and corporate officers can waive coverage with mandatory affidavit available from the Owner. All contractors providing services shall provide proof of Workers' Compensation insurance as required by NRS 616B.627 or proof that compliance with the provisions of Nevada Revised Statutes, Chapter 616A-D and all other related chapters, is not required.
4. Professional Liability in the amount of \$1,000,000 per claim and \$3,000,000 aggregate minimum. In addition to Professional Liability Insurance specified in 7.1.1.4, for construction cost between \$1,000,000 and \$9,999,999, limit of liability shall be \$3,000,000 project specific/dedicated limit per claim/aggregate. For construction cost over \$10,000,000, limit of liability shall be \$5,000,000 project specific/dedicated limit per claim/aggregate.
 - a. Retroactive date must be prior to commencement of the performance of this agreement.
 - b. The discovery period is to be three (3) years after termination date of contract. A thirty six month (36) Supplemental Extended Reporting Period must be endorsed to the insurance policy.
 - c. The Board of Regents on behalf of UNLV shall not be added as an additional insured on contractor's professional insurance policies.

§ 7.1.2 Parties contracting directly with the Owner must have their policy endorsed to reflect that their insurance coverage is primary over any other applicable insurance coverage available.

§ 7.1.3 The Board of Regents of the Nevada System of Higher Education shall be named as additional insured on the Commercial General Liability, and Excess/Umbrella policy with the exception of Professional Liability Insurance by Insurance Services Office (ISO) standard endorsement CG 20 26 07 04 entitled ADDITIONAL INSURED-DESIGNATED PERSON OR ORGANIZATION.

§ 7.1.4 Loss Payee: The Board of Regents of the Nevada System of Higher Education on behalf of UNLV shall be named as loss payee as respects their interest in any property that the Architect has an obligation to insure on behalf of the Board of Regents of the Nevada System of Higher Education on behalf of UNLV.

§ 7.1.5 Policy Cancellation Endorsement: Architect shall have each of its insurance policies endorsed to provide ten (10) days' notice for non-payment of premium. Architect shall specify that, without sixty (60) days prior written notice to UNLV, the policy shall not be canceled, non-renewed, or coverage and/or limits reduced or materially altered. Notices required by this paragraph be sent by certified mail to the Owner and their Risk Management and Safety Department.

§ 7.1.6 Each insurance policy shall be:

- .1: Issued by insurance companies authorized to do business in the State of Nevada or eligible surplus lines insurers acceptable to the State and having agents in Nevada upon whom service of process may be made, and
- .2: Currently rated by A.M. Best as A - IX or better.
- .3: Until such time as the insurance is no longer required by the Board of Regents of the Nevada System of Higher Education on behalf of UNLV, contractors shall provide the Owner with renewal or replacement

evidence of insurance no less than thirty (30) days before the expiration or replacement of the required insurance. If at any time during the period when insurance is required by the contract, an insurer or surety shall fail to comply with the requirements of this contract, as soon as contractor has knowledge of any such failure, contractor shall immediately notify the Owner and immediately replace such insurance or bond with insurance or bond meeting the contract requirements.

§ 7.1.7 Evidence of Insurance: Prior to the start of any work the Architect must provide the following documents to the Owner:

- .1 Certificate of Insurance: The Accord 25 Certification of Insurance form or a form substantially similar must be submitted to UNLV to evidence the insurance policies and coverage required of contractor.
- .2 Additional Insured Endorsements: Original Additional Insured Endorsement(s) signed by an authorized insurance company representative(s).
- .3 Policy Cancellation Endorsement.
- .4 Waiver of Subrogation Endorsement.
- .5 Endorsement reflecting the contractor's insurance is primary over any other applicable insurance.
- .6 Loss Payee Endorsement.

§ 7.1.8 Insurance maintained by Architects shall apply on a first dollar basis without application of a deductible or self-insured retention, which shall not exceed \$5,000.00 per occurrence unless otherwise specifically agreed to by the Owner. Such approval shall not relieve Architect's from the obligation to pay any deductible or self-insured retention.

§ 7.1.9 Any insurance or self-insurance available to the Board of Regents of the Nevada System of Higher Education on behalf of UNLV shall be in excess of and non-contributing with any insurance required.

§ 7.1.10 The insurance as specified shall not be cancelled, non-renewed, or coverage and/or limits reduced or materially altered, and shall provide that notices required by this paragraph shall be sent by certified mail to the Owner. A copy of this signed endorsement must be attached to the certificate of insurance.

§ 7.1.11 The Architect and its Consultants shall make available to the Owner, upon request by the Owner, at Architect's expense a copy of each policy and/or loss history related to insurance coverage required by Article 7. Each policy shall contain all generally applicable conditions, definitions, exclusions and endorsements related to this Project.

§7.2 INDEMNITY

To the fullest extent permitted by law, the Architect shall indemnify and hold harmless the Owner, Contractor and agents and employees of any of them from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by the negligent acts or omissions of the Architect, a subconsultant, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this paragraph. Architect shall provide Owner with written notification as to any circumstances to which this paragraph may give rise to an Owner indemnification promptly after Architect becomes aware of such circumstances. This agreement to indemnify and hold harmless shall survive the expiration or other termination of this Agreement.

To the extent Architect is a design professional who is not a member of a design-build team, for the provision of services in connection with a public work, the design professional is not required to defend the public body with respect to the liabilities, damages, losses, claims, actions or proceedings caused by the negligence, errors, omissions, recklessness or intentional misconduct of the design professional which are based upon or arising out of the professional services of the design professional. If the design professional is adjudicated to be liable by a trier of fact, the trier of fact shall award reasonable attorney's fees and costs incurred by UNLV in defending the action, by the design professional in an amount proportionate to the liability of the design professional.

§7.3 GENERAL PROVISIONS

The Architect shall ensure adequate in-house and sub-consulting staff to perform the services required of this Agreement in the stipulated time.

The Architect shall attend with sub-consultants all required meetings and the preparation and distribution of all meeting minutes to parties designated by the Project Manager within five (5) working days of the meeting.

The Architect shall coordinate the work stipulated in this Agreement in a timely manner with the Owner, as well as with other defined and related Owner projects. Should the Architect discern that the project schedule will not be met for any reason, they shall notify the Owner as soon as possible.

The Architect shall perform thorough on-site existing condition verifications of project work areas identified in the proposal and scope of work. The Architect and his subconsultants shall determine the actual field dimensions and conditions under which the work is to be performed.

The Architect shall comply with all project planning, design, sustainability, operations and procedures standards of the Owner, and will not deviate from the standards unless agreed upon in writing by the Executive Director of Planning and Construction.

The Architect shall not utilize in any way the services of any subconsultant unless approved by the Owner. The fees of any/all subconsultants retained by the Architect for the execution of the project shall be deemed included in the Basic Services Fee. Failure by any of the Architect's personnel to cooperate fully in the execution of the project shall, upon notice by the Owner, cause them to be relieved of their duties in connection with the project and be replaced with personnel approved by the Project Manager.

The Architect shall recommend, design, and specify only those materials that are asbestos free. Furthermore, the Architect shall include language in the material specifications that the Contractor shall use only asbestos free materials.

All project documents shall be transmitted in an electronic format acceptable to the Owner. Upon completion of the Project, the Architect shall compile for and deliver to the Owner a reproducible set of Record Documents conforming to the marked-up prints, drawings and other data furnished to the Architect by the Contractor. This set of Record Documents will show the reported location of the Work and significant changes made during the construction process. Because these Record Documents are based on unverified information provided by other parties that will be assumed reliable, the Architect does not warrant their accuracy.

§7.4 MISCELLANEOUS PROVISIONS

Use of Owner name and/or logo in advertising: Architect acknowledges that it cannot use the name of the Board of Regents of the Nevada System of Higher Education (NSHE), UNLV, the UNLV Logo or any other related name in the performance of its services, in its advertising, or in the production of any materials related to this Agreement, without the prior written approval of the Owner.

Confidentiality: Architect acknowledges that any materials and/or data that may result from its efforts, as related to this Agreement, are the property of the Owner, and, as such, may not be disseminated in any form whatsoever to any person, group or organization without the prior written authorization of the Owner. Architect acknowledges that the Owner would be materially harmed if such confidentiality is not maintained and any referenced material and/or data was disseminated in any form without the Owner's prior written approval. Architect agrees to indemnify the Owner for any negligent or willful conduct on the part of its employees regarding unauthorized release of the Owner's information submitted for imaging.

No Waiver: No action or failure to act by the Owner or Architect shall constitute a waiver of any right or duty afforded under this agreement, nor shall any such action or failure to act constitute any approval of or acquiescence in any breach hereunder, except as may be specifically agreed in writing.

Counterparts: This Agreement may be executed in any number of counterparts, all of which taken together shall constitute one and the same Agreement.

Invalidity; Rights and Remedies: If any one or more of the provisions (or any part thereof) contained in the Agreement are for any reason held to be illegal, invalid or otherwise unenforceable, such invalidity, illegality or unenforceability shall not affect any other provision (or part thereof) of this Agreement. Duties and obligations imposed by this Agreement and rights and remedies available thereunder shall be in addition to and not a limitation of duties, obligations, rights and remedies otherwise imposed or available by law or equity.

Electronic Signatures: Any signature of or pursuant to this Agreement shall be considered for all purposes an original signature and of the same legal effect as an original, provided that at the request of a party any signature sent by facsimile or email shall be subsequently be confirmed by an original re-execution.

No Limitation: Unless expressly stated otherwise herein, the duties and obligations imposed upon the parties under this agreement, and the rights and remedies available hereunder shall be in addition to and not a limitation of, any duties imposed or available at law or in equity.

Time Limits: Time limits set out in or under this Agreement are solely for the protection and benefit of the Owner and Architect and create no third-party beneficiary rights in any other party.

§7.5 SUCCESSORS AND ASSIGNS

The Owner and Consultant respectively bind themselves, their partners, successors, assigns and legal representatives to covenants, agreements and obligations contained in the Contract Documents. Except as specifically provided elsewhere in this Contract, neither party to the Contract shall assign the Contract as a whole, or in part, without written consent of the other. If either party attempts to make such an assignment without such consent, such assignment shall not be effective and shall constitute a default under the Contract. Any party assigning its interest pursuant to properly granted consent of the other party shall nevertheless remain legally responsible for all obligations under the Contract.

§7.6 WAIVERS OF SUBROGATION: Subrogation must be waived against the Board of Regents of the Nevada System of Higher Education on behalf of UNLV.

§7.7 BINDING DISPUTE RESOLUTION

GENERAL The Owner and Architect shall commence all claims and causes of action, whether in contract, tort, or otherwise, against the other arising out of or related to this Agreement in accordance with the requirements of the method of binding dispute resolution selected in this Agreement within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Architect waive all claims and causes of action not commenced in accordance with this Section 7.7.

To the extent damages are covered by property insurance, the Owner and Architect waive all rights against each other and against the contractors, Architects, agents and employees of the other for damages, except such rights as they may have to the proceeds of such insurance as set forth in AIA Document A105–2007 as modified, General Conditions of the Contract for Construction. The Owner or the Architect, as appropriate, shall require of the contractors, Architects, agents and employees of any of them similar waivers in favor of the other parties enumerated herein.

§7.8 MEDIATION Any claim, dispute or other matter in question arising out of or related to this Agreement shall be subject to mediation as a condition precedent to binding dispute resolution. If such matter relates to or is the subject of a lien arising out of the Architect's services, the Architect may proceed in accordance with applicable law to comply with the lien notice or filing deadlines prior to resolution of the matter by mediation or by binding dispute resolution.

The Owner and Architect shall endeavor to resolve claims, disputes and other matters in question between them by mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of the Agreement. A request for mediation shall be made in writing, delivered to the other party to the Agreement, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of a complaint or other appropriate demand for binding dispute resolution but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order.

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

If the parties do not resolve a dispute through mediation pursuant to this Section 7.8, the method of binding dispute resolution shall be the following:

(Check the appropriate box. If the Owner and Architect do not select a method of binding dispute resolution below, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, the dispute will be resolved in a court of competent jurisdiction.)

☐ Arbitration pursuant to Section 8.3 of this Agreement

☒ Litigation in a court of competent jurisdiction

☐ Other *(Specify)*

§7.9 WRITTEN NOTICE PROVISIONS

Written notice shall be deemed to have been duly served if delivered in person to the individual, to a member of the firm or entity, or to an officer of the corporation for which it was intended; or sent by registered or certified mail or delivered by courier service with return receipt providing proof of delivery to:

Owner	Architect
David S. Frommer, AIA Executive Director, Planning and Construction University of Nevada, Las Vegas Box 451027, 4505 Maryland Pkwy. Las Vegas, NV 89154-1027	Architect (Owner) Title Company Name Address Las Vegas, NV 89xxx
AND Sharrie Mayden, C.P.M. Director of Purchasing University of Nevada, Las Vegas Box 451033, 4505 Maryland Pkwy. Las Vegas, NV 89154-1033	

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be duly executed the day and year first above written.

Init.

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(1) ARCHITECT

DATE APPROVED: _____

(Row deleted)

(Signature)

(Printed name and title)

(2) OWNER - BOARD OF REGENTS OF THE NEVADA
SYSTEM OF HIGHER EDUCATION ON BEHALF OF
THE UNIVERSITY OF NEVADA, LAS VEGAS

DATE RECOMMENDED: _____

(Signature)

David S. Frommer, AIA

Executive Director of Planning and Construction

DATE APPROVED: _____

(Signature)

Gerry J. Bomotti

Senior Vice President of Finance and Business

Init.

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Additions and Deletions Report for AIA[®] Document B105[™] – 2007

This Additions and Deletions Report, as defined on page 1 of the associated document, reproduces below all text the author has added to the standard form AIA document in order to complete it, as well as any text the author may have added to or deleted from the original AIA text. Added text is shown underlined. Deleted text is indicated with a horizontal line through the original AIA text.

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 16:45:56 on 09/29/2016.

PAGE 1

AGREEMENT-AGREEMENT(Contract # _____) made as of the _____ day of _____ in the year 2016
(In words, indicate day, month and ~~year~~-year)

...

(Name, ~~legal status~~, address and other information)

The Board of Regents of the Nevada System of Higher Education on behalf of the University of Nevada, Las Vegas
4505 South Maryland Parkway
Box
Las Vegas, Nevada 89154

...

(Name, ~~legal status~~, ~~address~~ address, FTIN and other information)

Successful Proposer

...

(Name, location and detailed description)**This is a Task Order Agreement pursuant to RFQ 681-BC. Individual project proposals will be solicited by Informal Request for Qualifications("IRFO") and/or Informal Request for Proposa ("IRFP")I. Projects will be issued by Purchase Order. Details of the Project will be specified in those documents. Legal terms in any proposal are of no effect unless expressly accepted in a Purchase Order.**

CONTRACT NUMBER:

...

When a particular project arises that is determined to be best accommodated through this contract ("Project"), the UNLV Planning and Construction department will prepare a preliminary scope of work for the Project following UNLV policies and issue an IRFO and/ or IRFP to on-call Architect(s) as appropriate. The Architect (s) may prepare and submit qualifications in response to an IRFO. Owner will provide/communicate an IRFP to an Architect selected as the best qualified, for specific prices for the Project. The Architect may subcontract various specialty elements of the work as may be necessary.

Upon acceptance or successful negotiation of the prices, the Architect will be issued a Purchase Order to perform the work. The Architect may not begin the work until a Purchase Order has been issued. UNLV will issue a Purchase Order for each specific Project to be performed under this Agreement. It is envisioned that multiple Purchase Orders will be issued through the life of this Agreement. The annual aggregate total for all Purchase Orders should not exceed \$300,000.00 without the prior written consent by an authorized signatory of Owner. . The actual volume of work will depend solely on UNLV's needs. . An IRFP shall not be interpreted, or construed,

as a commitment or a promise by Owner to expend any specific sum of money for the services identified in the IRFP; only a Purchase Order commits Owner. Owner reserves the right at any time to conduct a formal solicitation for any particular project.



The Architect shall provide architectural services for the Project as described in this Agreement in a manner. With reference to the Project, Architect agrees with Owner as follows: (a) in the performance of services Architect shall utilize Architect's professional efforts, skill, judgment and abilities in accordance with the common law standard of care for architects and in a manner which is consistent with locally accepted standards for professional skill and care; (b) Architect shall perform services with respect to the Project in compliance, to the best of Architect's knowledge, information and belief, with applicable laws, regulations, codes and order of governmental bodies having jurisdiction; (c) Architect shall specify usage of only suitable materials for the Project; and (d) the Project, if built in compliance with the design and Construction Drawings, will comply, to the best of Architect's knowledge, information and belief with applicable laws, regulations, codes, ordinances and orders of governmental bodies. The Architect represents to the Owner that the Architect is financially solvent and possesses sufficient license, authority and personnel to complete the services required hereunder. Architect will correct those services not performed consistent with the foregoing standards without any additional compensation of any sort.

Refer to the IRFQ and/or IRFP for the particular Project.

Architect will submit with each response to an IRFP, a Project organization chart setting out Architect's personnel, and their responsibilities in connection with the Project, which Architect proposes to use in connection with the performance of its services in that Project. If, at any time after entering into this Agreement, Owner has any reasonable objection to any personnel or consultant employed by Architect proposes to use in connection with a Project, Architect shall promptly propose substitutes to whom the Owner has no reasonable objection.

During the Design Phase, the Architect shall review the Owner's scope of work, budget and schedule and reach an understanding with the Owner of the Project requirements. Based on the approved Project requirements, the Architect shall develop a design. The Architect shall provide a cost estimate of the construction cost of the design unless waived by the Owner in writing. Upon the Owner's approval of the design, the Architect shall prepare Construction Documents indicating requirements for construction of the Project and shall coordinate its services with any consulting services the Owner provides. The Architect shall update the cost estimate of the construction cost upon the completion of Construction Documents unless waived by the Owner in writing. The Architect shall assist the Owner in filing documents required for the approval of governmental authorities, in obtaining proposals and in awarding contracts for construction.

During the Construction Phase, the Architect shall act as the Owner's representative and provide administration of the Contract between the Owner and Contractor. The extent of the Architect's authority and responsibility during construction is described in AIA Document A105™-2007, A105™-2007 as modified, Standard Form of Agreement Between Owner and Contractor for a Residential or Small Commercial Project. Architect represents that it has reviewed such AIA Document A105™-2007 as modified, Standard Form of Agreement Between Owner and Contractor for a Residential or Small Commercial Project and agrees to perform all of Architect's obligations and duties required thereunder of Architect. Generally, the Architect's services during construction include interpreting the Contract Documents, reviewing the Contractor's submittals, visiting the site, responding to the Contractor's Requests for Information in a timely manner, generally not to exceed 3 days or earlier as requested by Owner, reviewing the Contractor's submittals in a timely manner and providing comments no later than 14 days after receipt of submittals or earlier as requested by Owner, visiting the site at intervals appropriate to the progress of the work, with subconsultants appropriate to the nature of the work, coordinated with the Owner and the Contractor, reviewing and certifying payments, and rejecting nonconforming Work. Work, among other services.

The Architect shall identify a representative in writing authorized to act on behalf of the Architect with respect to the Project. Owner shall have the right to rely on all communications of such representative without any further inquiry or investigation by Owner.

With the issuance of each IRFQ/IRFP, the Owner shall designate in writing a representative authorized (the Owner's Project Manager) to whom all matters requiring the Owner's approval or authorization shall be submitted. This representative shall convey such matters to Owner's officers and/or governing bodies, as appropriate.

~~Drawings, When providing architectural services as defined in NRS Chapter 623, drawings, specifications and other documents prepared by the Architect are instruments of the Architect's service and are for the Owner's use solely with respect to this Project. The Architect shall retain all common law, statutory and other reserved rights, including the copyright. Upon completion of the Project or termination of this Agreement, the Owner's right to use the instruments of service shall cease.~~ The Architect grants to the Owner a nonexclusive license to use the Architect's Instruments of Service solely and exclusively for purposes of constructing, using, maintaining, altering and adding to the Project. Such license shall extend to those parties retained by the Owner for such purposes, including other design professionals. When transmitting copyright-protected information for use on the Project, the transmitting party represents that it is either the copyright owner of the information, or has permission from the copyright owner to transmit the information for its use on the Project.

Except when services are defined by NRS chapter 623 as architectural services, the Architect acknowledges that all materials produced under this Agreement and any renewals will become the property of the Owner immediately upon receiving any payment for the services performed in developing such materials. The Architect is to provide such materials to the Owner immediately upon receiving the Owner's request or at project completion per design document and Record Document transmittal requirements in this agreement.

ARTICLE 4 — TERMINATION, SUSPENSION OR ABANDONMENT

In the event of termination, suspension or abandonment of the Project by the Owner, the Architect shall be compensated for services performed. The Owner's failure to make payments in accordance with this Agreement shall be considered substantial nonperformance and sufficient cause for the Architect to suspend or terminate services. Either the Architect or the Owner may terminate this Agreement after giving no less than seven days' written notice if the Project is suspended for more than 90 days, or if the other party substantially fails to perform in accordance with the terms of this Agreement.

ARTICLE 4 TERM; TERMINATION, SUSPENSION, ABANDONMENT, OR TERMINATION BASED NON-APPROPRIATION OF FUNDS

The Agreement shall commence as of the Effective Date and remain in effect one (1) year, unless otherwise terminated in accordance with this Agreement ("**Initial Term**" or "**Term**"). Upon mutual written agreement this Agreement may be renewed for up to four (4) additional one (1) year terms ("**Renewal Term(s)**" or "**Term(s)**"). Notwithstanding the foregoing, the terms and conditions of this Agreement shall survive to the extent necessary to complete any outstanding Project.

In the event of termination, suspension or abandonment of the Project by the Owner, the Architect shall be compensated for services performed. The Owner's failure to make payments in accordance with this Agreement shall be considered substantial nonperformance and sufficient cause for the Architect to suspend or terminate services. Either the Architect or the Owner may terminate this Agreement after giving no less than seven days' written notice if the Project is suspended for more than 90 days.

The terms of this Agreement are contingent upon sufficient appropriations and authorizations being made by the Owner for the performance of this Agreement. If sufficient appropriations and authorizations are not made by the Owner, this Agreement shall terminate, without penalty or expense to the Owner of any kind whatsoever, upon written notice being given by the Owner to the Architect. Upon receipt of such notice, the Architect shall take immediate action to mitigate any damage or additional expense.

If either party materially fails to perform under this contract or any Purchase Order issued under this contract, after providing not less than seven days notice of such failure to perform, a Notice of Default may be issued. If the basis of the Notice has not been corrected within seven days after receipt of such Notice of Default, this contract may be terminated for Cause. Upon receipt of a Notification of Termination, the Architect shall take immediate action to mitigate any damage or additional expense.

This Agreement shall be governed by the law of the place where the Project is located. ~~laws of the State of Nevada without regard to conflict of law principles that would result in the application of any law other than the law of the State of Nevada.~~ Terms in this Agreement shall have the same meaning as those in AIA Document A105-2007, A105-2007 as modified, Standard Form of Agreement Between Owner and Contractor for a Residential or Small Commercial Project. Neither party to this Agreement shall assign the contract as a whole without written consent of the other.

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§5.1 Architect shall advise Owner where any royalties and license fees required to be paid for the use of a particular design, process or product required by the Design and/or Contract Documents. Architect shall provide alternative and recommendations to accomplish the Project objectives without the use of a particular design, process or product that requires any royalties and license fees required to be paid. Where any royalties and license fees are required to be paid, Architect shall account for these costs in all cost estimates for the Project. If Architect's or its Consultants services require the payment of any royalty or license fees, these royalties or license fees shall be a part of the Architect's Basic Services Fee and Compensation. If a royalty or license fee is not paid by the Architect or its Consultants, for the use of a particular design, process or product required by the Design and/or Contract Documents, the cost of defending suits or claims of infringement of patent rights arising from such requirement of the Design and/or Contract Documents and payments made in accordance with legal judgments against the Architect or its Consultants resulting from such suits or claims and payments of settlements shall be the responsibility of the Architect. The provisions of this §5.1 shall survive the completion of the Work or earlier termination of the Agreement.

§5.2 The parties agree that the laws of the State of Nevada shall govern the validity, construction, interpretation, and effect of this Agreement, excluding any laws or principals regarding the conflict or choice of laws. Any and all disputes arising out of or in connection with this Agreement shall be litigated in a court of competent jurisdiction in Clark County, State of Nevada, and Architect expressly consents to the jurisdiction of said court.

§5.3 Architect and each Consultant must comply with the applicable requirements of Nevada Revised Statutes ("NRS") Chapter 338 and Nevada Administrative Code ("NAC") Chapter 338. To the extent a provision of this Agreement is prohibited by NRS Chapter 338 or NAC Chapter 338, it is hereby deemed modified to the extent necessary to comply with the applicable provisions. To the extent a provision is required to be inserted into this Agreement by NRS Chapter 338 or NAC Chapter 338, it is deemed inserted.

§5.4. Architect, and each Consultant and other person who provides labor, equipment, materials, supplies or services for the public work shall comply with the requirements of all applicable state and local laws, including, without limitation, any applicable licensing requirements and requirements for the payment of sales and use taxes on equipment, materials and supplies provided for the public work.

5.5. In connection with the performance of work under this Agreement, the Architect agrees not to discriminate against any employee or applicant because of race, creed, color, national origin, sex, sexual orientation, gender identity or expression, or age, including, without limitation, with regard to employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including, without limitation, apprenticeship.

The Architect further agrees to insert this provision in all sub-agreements hereunder, except sub-agreements for standard commercial supplies or raw materials.

5.6. The prevailing party in an action to enforce the Contract is entitled to reasonable attorney's fees and costs.

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Specific payment schedules will be identified in the IRFP and/or Purchase Orders on individual Projects. Generally payment installments will be based on the following:

<u>Basic Services</u>	<u>% of Fee</u>	<u>Cost</u>
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User Notes:

(1652053313)

<u>Program</u>		<u>\$XXXXXX</u>
<u>Schematic Design</u>	<u>15%</u>	<u>\$XXXXXX</u>
<u>Design Development</u>	<u>15%</u>	<u>\$XXXXXX</u>
<u>Construction Documents</u>	<u>40%</u>	<u>\$XXXXXX</u>
<u>Bidding Phase</u>	<u>5%</u>	<u>\$XXXXXX</u>
<u>Construction Administration Phase</u>	<u>25%</u>	
<u>Total, Basic Services</u>		<u>\$XXXXXX</u>
<u>Expanded Services</u>		<u>\$XXXXXX</u>
<u>Reimbursable Expenses</u>		<u>\$XXXXXX</u>
<u>Total, Basic and Expanded Services And Reimbursable Expenses</u>		<u>\$XXXXXX</u>

The Owner shall pay the Architect an initial payment of — (\$ —) as a minimum payment under this Agreement. The initial payment shall be credited to the final invoice. Interest on any amounts due from Owner to Architect, or from Architect to Owner, as the case may be, shall bear interest from the date due until paid at a rate equal to the lesser of (i) six percent (6%) per annum, (ii) that fluctuating rate of interest announced from time to time by the Bank of America National Trust and Savings Association as its prime or reference commercial lending rate of interest (or in the event such bank is no longer announcing such rate, by such other federally regulated banking institution of comparable stature as Owner shall determine) or (iii) the maximum interest rate permitted by law.

The Owner shall reimburse the Architect for ~~expenses approved~~ Reimbursable Expenses incurred in the interest of the Project, plus — percent (— %) Project at net cost, outside of usual and customary expenses.

Payments are due and payable upon receipt of the Architect's monthly invoice. Amounts unpaid — (—) days after the invoice date shall bear interest from the date payment is due at the rate of — percent (— %) —, or in the absence thereof, at the legal rate prevailing at the principal place of business of the Architect. Usual and customary expenses including office supplies, rent, utilities, general clerical, accounting, office support and secretarial services, local/long distance phone calls/faxes, local automobile travel, CAD services, and depreciation are not Reimbursable Expenses under the terms of this Agreement. The cost of all reproductions required for the execution of the project shall be deemed to be included in the Basic Services fee.

Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable within 30 days of receipt of an accurate and approved Consultant's invoice.

At the request of the Owner, the Architect shall provide services not included in Article 1 for additional compensation. Such services may include providing or coordinating services of consultants not identified in Article 1; revisions solely made by the Owner due to changes in the scope, quality or budget; evaluating changes in the Work and Contractors' requests for substitutions of materials or systems; and services not completed within — (—) months of the date of this Agreement through no fault of the Architect. budget of the Project outside of the Architect's determinations of these items for the scope defined for the services per Article 1, and evaluating changes in the Work.

In the event the Owner shall request additional compensated services from the Architect during the term of this Agreement or during any allowable renewals, payments shall be made as agreed to between the Architect and the Owner, but in no case will payments for such additional services be made until such services are accepted by the Owner through a formal Agreement amendment and performed/invoiced by the Architect. Any such payments and any such payment schedules shall be as negotiated between the Owner and the Architect prior to the commencement of any work.

...

(Insert descriptions of other services and modifications to the terms of this Agreement.) **§ 7.1 INSURANCE**

§ 7.1.1 The Architect shall provide and maintain, or cause to be provided and maintained in the case of subconsultants to the Architect, insurance acceptable to the Owner based on the structure, contracting relationship and scope/risk assignment of the Architect and its Consultants and Licensed/Professional Design Subcontractors. All such insurance shall be in compliance with the terms and conditions of this Agreement.

The Architect and its Consultants and Licensed/Professional Design Subcontractors shall procure and maintain the following insurance at their respective own and sole expense:

1. Commercial General liability insurance in the amount of \$1,000,000 per occurrence and \$2,000,000 annual aggregate. Coverage shall be at least as broad as Insurance Services Office (ISO) form CG 00 01 10 01 and shall cover liability arising from premises, operations, independent contractors, completed operations, personal injury, products, and liability assumed under contract.
2. Automobile liability insurance in the amount of \$1,000,000 Combined Single Limit per occurrence. Coverage shall include owned, non-owned, and hired vehicles and be written on ISO form CA 00 01 10 01 or a substitute providing equal or broader liability coverage.
3. Employers Liability Limits shall be at least \$100,000 per occurrence and for occupational disease. Workers' Compensation is required by law for anyone with employees. Sole proprietors and corporate officers can waive coverage with mandatory affidavit available from the Owner. All contractors providing services shall provide proof of Workers' Compensation insurance as required by NRS 616B.627 or proof that compliance with the provisions of Nevada Revised Statutes, Chapter 616A-D and all other related chapters, is not required.
4. Professional Liability in the amount of \$1,000,000 per claim and \$3,000,000 aggregate minimum. In addition to Professional Liability Insurance specified in 7.1.1.4, for construction cost between \$1,000,000 and \$9,999,999, limit of liability shall be \$3,000,000 project specific/dedicated limit per claim/aggregate. For construction cost over \$10,000,000, limit of liability shall be \$5,000,000 project specific/dedicated limit per claim/aggregate.
 - a. Retroactive date must be prior to commencement of the performance of this agreement.
 - b. The discovery period is to be three (3) years after termination date of contract. A thirty six month (36) Supplemental Extended Reporting Period must be endorsed to the insurance policy.
 - c. The Board of Regents on behalf of UNLV shall not be added as an additional insured on contractor's professional insurance policies.

§ 7.1.2 Parties contracting directly with the Owner must have their policy endorsed to reflect that their insurance coverage is primary over any other applicable insurance coverage available.

§ 7.1.3 The Board of Regents of the Nevada System of Higher Education shall be named as additional insured on the Commercial General Liability, and Excess/Umbrella policy with the exception of Professional Liability Insurance by Insurance Services Office (ISO) standard endorsement CG 20 26 07 04 entitled ADDITIONAL INSURED-DESIGNATED PERSON OR ORGANIZATION.

§ 7.1.4 Loss Payee: The Board of Regents of the Nevada System of Higher Education on behalf of UNLV shall be named as loss payee as respects their interest in any property that the Architect has an obligation to insure on behalf of the Board of Regents of the Nevada System of Higher Education on behalf of UNLV.

§ 7.1.5 Policy Cancellation Endorsement: Architect shall have each of its insurance policies endorsed to provide ten (10) days' notice for non-payment of premium. Architect shall specify that, without sixty (60) days prior written notice to UNLV, the policy shall not be canceled, non-renewed, or coverage and/or limits reduced or materially altered. Notices required by this paragraph be sent by certified mail to the Owner and their Risk Management and Safety Department.

§ 7.1.6 Each insurance policy shall be:

- .1: Issued by insurance companies authorized to do business in the State of Nevada or eligible surplus lines insurers acceptable to the State and having agents in Nevada upon whom service of process may be made, and
- .2: Currently rated by A.M. Best as A - IX or better.

.3: Until such time as the insurance is no longer required by the Board of Regents of the Nevada System of Higher Education on behalf of UNLV, contractors shall provide the Owner with renewal or replacement evidence of insurance no less than thirty (30) days before the expiration or replacement of the required insurance. If at any time during the period when insurance is required by the contract, an insurer or surety shall fail to comply with the requirements of this contract, as soon as contractor has knowledge of any such failure, contractor shall immediately notify the Owner and immediately replace such insurance or bond with insurance or bond meeting the contract requirements.

§ 7.1.7 Evidence of Insurance: Prior to the start of any work the Architect must provide the following documents to the Owner:

- .1 Certificate of Insurance: The Accord 25 Certification of Insurance form or a form substantially similar must be submitted to UNLV to evidence the insurance policies and coverage required of contractor.
- .2 Additional Insured Endorsements: Original Additional Insured Endorsement(s) signed by an authorized insurance company representative(s).
- .3 Policy Cancellation Endorsement.
- .4 Waiver of Subrogation Endorsement.
- .5 Endorsement reflecting the contractor's insurance is primary over any other applicable insurance.
- .6 Loss Payee Endorsement.

§ 7.1.8 Insurance maintained by Architects shall apply on a first dollar basis without application of a deductible or self-insured retention, which shall not exceed \$5,000.00 per occurrence unless otherwise specifically agreed to by the Owner. Such approval shall not relieve Architect's from the obligation to pay any deductible or self-insured retention.

§ 7.1.9 Any insurance or self-insurance available to the Board of Regents of the Nevada System of Higher Education on behalf of UNLV shall be in excess of and non-contributing with any insurance required.

§ 7.1.10 The insurance as specified shall not be cancelled, non-renewed, or coverage and/or limits reduced or materially altered, and shall provide that notices required by this paragraph shall be sent by certified mail to the Owner. A copy of this signed endorsement must be attached to the certificate of insurance.

§ 7.1.11 The Architect and its Consultants shall make available to the Owner, upon request by the Owner, at Architect's expense a copy of each policy and/or loss history related to insurance coverage required by Article 7. Each policy shall contain all generally applicable conditions, definitions, exclusions and endorsements related to this Project.

§7.2 INDEMNITY

To the fullest extent permitted by law, the Architect shall indemnify and hold harmless the Owner, Contractor and agents and employees of any of them from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by the negligent acts or omissions of the Architect, a subconsultant, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this paragraph. Architect shall provide Owner with written notification as to any circumstances to which this paragraph may give rise to an Owner indemnification promptly after Architect becomes aware of such circumstances. This agreement to indemnify and hold harmless shall survive the expiration or other termination of this Agreement.

To the extent Architect is a design professional who is not a member of a design-build team, for the provision of services in connection with a public work, the design professional is not required to defend the public body with respect to the liabilities, damages, losses, claims, actions or proceedings caused by the negligence, errors, omissions, recklessness or intentional misconduct of the design professional which are based upon or arising out of the professional services of the design professional. If the design professional is adjudicated to be liable by a trier of fact, the trier of fact shall award reasonable attorney's fees and costs incurred by UNLV in defending the action, by the design professional in an amount proportionate to

the liability of the design professional.

§7.3 GENERAL PROVISIONS

The Architect shall ensure adequate in-house and sub-consulting staff to perform the services required of this Agreement in the stipulated time.

The Architect shall attend with sub-consultants all required meetings and the preparation and distribution of all meeting minutes to parties designated by the Project Manager within five (5) working days of the meeting.

The Architect shall coordinate the work stipulated in this Agreement in a timely manner with the Owner, as well as with other defined and related Owner projects. Should the Architect discern that the project schedule will not be met for any reason, they shall notify the Owner as soon as possible.

The Architect shall perform thorough on-site existing condition verifications of project work areas identified in the proposal and scope of work. The Architect and his subconsultants shall determine the actual field dimensions and conditions under which the work is to be performed.

The Architect shall comply with all project planning, design, sustainability, operations and procedures standards of the Owner, and will not deviate from the standards unless agreed upon in writing by the Executive Director of Planning and Construction.

The Architect shall not utilize in any way the services of any subconsultant unless approved by the Owner. The fees of any/all subconsultants retained by the Architect for the execution of the project shall be deemed included in the Basic Services Fee. Failure by any of the Architect's personnel to cooperate fully in the execution of the project shall, upon notice by the Owner, cause them to be relieved of their duties in connection with the project and be replaced with personnel approved by the Project Manager.

The Architect shall recommend, design, and specify only those materials that are asbestos free. Furthermore, the Architect shall include language in the material specifications that the Contractor shall use only asbestos free materials.

All project documents shall be transmitted in an electronic format acceptable to the Owner. Upon completion of the Project, the Architect shall compile for and deliver to the Owner a reproducible set of Record Documents conforming to the marked-up prints, drawings and other data furnished to the Architect by the Contractor. This set of Record Documents will show the reported location of the Work and significant changes made during the construction process. Because these Record Documents are based on unverified information provided by other parties that will be assumed reliable, the Architect does not warrant their accuracy.

§7.4 MISCELLANEOUS PROVISIONS

Use of Owner name and/or logo in advertising: Architect acknowledges that it cannot use the name of the Board of Regents of the Nevada System of Higher Education (NSHE), UNLV, the UNLV Logo or any other related name in the performance of its services, in its advertising, or in the production of any materials related to this Agreement, without the prior written approval of the Owner.

Confidentiality: Architect acknowledges that any materials and/or data that may result from its efforts, as related to this Agreement, are the property of the Owner, and, as such, may not be disseminated in any form whatsoever to any person, group or organization without the prior written authorization of the Owner. Architect acknowledges that the Owner would be materially harmed if such confidentiality is not maintained and any referenced material and/or data was disseminated in any form without the Owner's prior written approval. Architect agrees to indemnify the Owner for any negligent or willful conduct on the part of its employees regarding unauthorized release of the Owner's information submitted for imaging.

No Waiver: No action or failure to act by the Owner or Architect shall constitute a waiver of any right or duty afforded under this agreement, nor shall any such action or failure to act constitute any approval of or acquiescence in any breach hereunder, except as may be specifically agreed in writing.

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~~This Agreement entered into as of the day and year first written above.~~ Counterparts: This Agreement may be executed in any number of counterparts, all of which taken together shall constitute one and the same Agreement.

Invalidity; Rights and Remedies: If any one or more of the provisions (or any part thereof) contained in the Agreement are for any reason held to be illegal, invalid or otherwise unenforceable, such invalidity, illegality or unenforceability shall not affect any other provision (or part thereof) of this Agreement. Duties and obligations imposed by this Agreement and rights and remedies available thereunder shall be in addition to and not a limitation of duties, obligations, rights and remedies otherwise imposed or available by law or equity.

Electronic Signatures: Any signature of or pursuant to this Agreement shall be considered for all purposes an original signature and of the same legal effect as an original, provided that at the request of a party any signature sent by facsimile or email shall be subsequently be confirmed by an original re-execution.

No Limitation: Unless expressly stated otherwise herein, the duties and obligations imposed upon the parties under this agreement, and the rights and remedies available hereunder shall be in addition to and not a limitation of, any duties imposed or available at law or in equity.

Time Limits: Time limits set out in or under this Agreement are solely for the protection and benefit of the Owner and Architect and create no third-party beneficiary rights in any other party.

§7.5 SUCCESSORS AND ASSIGNS

The Owner and Consultant respectively bind themselves, their partners, successors, assigns and legal representatives to covenants, agreements and obligations contained in the Contract Documents. Except as specifically provided elsewhere in this Contract, neither party to the Contract shall assign the Contract as a whole, or in part, without written consent of the other. If either party attempts to make such an assignment without such consent, such assignment shall not be effective and shall constitute a default under the Contract. Any party assigning its interest pursuant to properly granted consent of the other party shall nevertheless remain legally responsible for all obligations under the Contract.

§7.6 WAIVERS OF SUBROGATION: Subrogation must be waived against the Board of Regents of the Nevada System of Higher Education on behalf of UNLV.

§7.7 BINDING DISPUTE RESOLUTION

GENERAL The Owner and Architect shall commence all claims and causes of action, whether in contract, tort, or otherwise, against the other arising out of or related to this Agreement in accordance with the requirements of the method of binding dispute resolution selected in this Agreement within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Architect waive all claims and causes of action not commenced in accordance with this Section 7.7.

To the extent damages are covered by property insurance, the Owner and Architect waive all rights against each other and against the contractors, Architects, agents and employees of the other for damages, except such rights as they may have to the proceeds of such insurance as set forth in AIA Document A105–2007 as modified, General Conditions of the Contract for Construction. The Owner or the Architect, as appropriate, shall require of the contractors, Architects, agents and employees of any of them similar waivers in favor of the other parties enumerated herein.

§7.8 MEDIATION Any claim, dispute or other matter in question arising out of or related to this Agreement shall be subject to mediation as a condition precedent to binding dispute resolution. If such matter relates to or is the subject of a lien arising out of the Architect's services, the Architect may proceed in accordance with applicable law to comply with the lien notice or filing deadlines prior to resolution of the matter by mediation or by binding dispute resolution.

The Owner and Architect shall endeavor to resolve claims, disputes and other matters in question between them by mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of the Agreement. A request for mediation shall be made in writing, delivered to the other party to the Agreement, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of

a complaint or other appropriate demand for binding dispute resolution but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order.

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

If the parties do not resolve a dispute through mediation pursuant to this Section 7.8, the method of binding dispute resolution shall be the following:

(Check the appropriate box. If the Owner and Architect do not select a method of binding dispute resolution below, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, the dispute will be resolved in a court of competent jurisdiction.)

☐ Arbitration pursuant to Section 8.3 of this Agreement

☒ Litigation in a court of competent jurisdiction

☐ Other (Specify)

§7.9 WRITTEN NOTICE PROVISIONS

Written notice shall be deemed to have been duly served if delivered in person to the individual, to a member of the firm or entity, or to an officer of the corporation for which it was intended; or sent by registered or certified mail or delivered by courier service with return receipt providing proof of delivery to:

<u>Owner</u>	<u>Architect</u>
<u>David S. Frommer, AIA</u> <u>Executive Director, Planning and Construction</u> <u>University of Nevada, Las Vegas</u> <u>Box 451027, 4505 Maryland Pkwy.</u> <u>Las Vegas, NV 89154-1027</u>	<u>Architect (Owner)</u> <u>Title</u> <u>Company Name</u> <u>Address</u> <u>Las Vegas, NV 89xxx</u>
<u>AND</u> <u>Sharrie Mayden, C.P.M.</u> <u>Director of Purchasing</u> <u>University of Nevada, Las Vegas</u> <u>Box 451033, 4505 Maryland Pkwy.</u> <u>Las Vegas, NV 89154-1033</u>	

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be duly executed the day and year first above written.

(1) ARCHITECT

DATE APPROVED:

OWNER

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(Printed name and title)

(Printed name and title)

(2) OWNER - BOARD OF REGENTS OF THE NEVADA
SYSTEM OF HIGHER EDUCATION ON BEHALF OF
THE UNIVERSITY OF NEVADA, LAS VEGAS

DATE RECOMMENDED:

ARCHITECT

David S. Frommer, AIA
Executive Director of Planning and Construction

DATE APPROVED:

(Signature)

(Printed name and title)

Gerry J. Bomotti
Senior Vice President of Finance and Business

Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, _____, hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 16:45:56 on 09/29/2016 under Order No. 3238470576_1 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document B105™ – 2007, Standard Form of Agreement Between Owner and Architect for a Residential or Small Commercial Project, as published by the AIA in its software, other than those additions and deletions shown in the associated Additions and Deletions Report.

(Signed)

(Title)

(Dated)