

Eastern Michigan University Professional Services Contract (Sample)



Physical Plant Department
875 Ann Street
Ypsilanti, Michigan 48197

February 18, 2008

**EASTERN MICHIGAN UNIVERSITY
CONTRACT FOR DESIGN PROFESSIONAL SERVICES AGREEMENT**

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Compiled from the Construction Owners Association of America document *Contract for Professional Services* (COAA Document #P-100A, Copyright 2000 and 2003 by the Construction Owners of America and used by permission).

OWNER'S PROJECT IDENTIFICATION INFORMATION:

Project Title:
Project Location
General Project Description:

It is the Owner's intent that the Project be constructed by the following Builder type *[Check one]*:

- Construction Manager (At-Risk Guaranteed Maximum Price)
- General Contractor

SAMPLE

DEFINITIONS

When capitalized, the words, terms or phrases used in this contract shall be interpreted first as defined below, second according to its generally accepted meaning in the construction industry, and third according to its common usage.

Builder: An entity, including but not limited to a general contractor, a trade contractor or a construction manager, engaged directly by the Owner pursuant to a Contract For Construction.

Construction Contract Price: The dollar amount for which a Builder agrees to perform the Work set forth in a Contract For Construction.

Construction Documents: Plans, specifications, change orders, revisions, addenda, and other information which describes the Work in detail.

Construction Schedule: The timetable which sets forth pertinent dates for timely completion of the Work.

Contract For Construction: A written agreement between the Owner and a Builder for provision of goods, products, materials, equipment, systems, management, supervision, labor and services required to construct all or part of a Project.

Contract For Professional Services (also The Contract): A written agreement between the Owner and a Professional for provision of services and related items required to design or engineer all or part of a Project.

Declaration Of Substantial Completion: Document declaring the Work substantially complete and suitable for occupancy or beneficial use by the Owner.

Final Completion: The stage of construction when the Work has been completed in accordance with the Contract for Construction and the Owner has received all documents and items necessary for closeout of the Work.

Hazardous Substances: The term "Hazardous Substance" shall have the same meaning and definition as set forth in the Comprehensive Environmental Response Compensation and Liability Act as amended, 42 USC § 6901 et seq., and regulations promulgated thereunder (collectively "CERCLA") and any corresponding state or local law or regulation, and shall also include: (a) any Pollutant or Contaminant as those terms are defined in CERCLA; (b) any Solid Waste or Hazardous Constituent as those terms are defined by, or are otherwise identified by, the Resource Conservation and Recovery Act as amended, 42 USC § 6901 et seq., and regulations promulgated thereunder (collectively "RCRA") and any corresponding state or local law or regulation; (c) crude oil, petroleum and fractions of distillates thereof; (d) any other material, substance or chemical defined, characterized or regulated as toxic or hazardous under any applicable law, regulation, ordinance, directive or ruling; and, (e) any infectious or medical waste as defined by any applicable federal or state laws or regulations.

Owner's Related Parties: Any parent, subsidiary or affiliated entities of the Owner, including the respective officers, trustees, office holders, directors, shareholders, partners, and employees of each.

Professional: An entity, including but not limited to an architect, civil engineer or geotechnical engineer, engaged directly by the Owner to provide design or engineering services.

Project: A planned construction undertaking as more specifically described immediately preceding the recitals in Chapter 1 of a Contract For Professional Services or in a Contract For Construction.

Project Design Schedule: The timetable which sets forth the required relationships between, and pertinent dates for, required completion of design and engineering services, documents and related activities.

Site: The geographical location of a Project, usually defined by legal boundary lines and the location characteristics including, but not limited to, grades and lines of streets, alleys, pavements and adjoining structures, rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, existing buildings and improvements, and service and utility lines.

Substantial Completion: The stage of construction when the Owner can occupy or beneficially use satisfactorily completed Work as intended.

Total Project Construction Cost: The total cost to the Owner to complete construction of the Project, including, without limitation, the Work, the cost of utilities, the cost of fees for permits and licenses, and modifications due to local conditions.

Work: Computers, construction machinery, documents, equipment, facilities, fixtures, furnishings, goods, heat, items, labor, licenses, management, materials, permits, products, services, supervision, supplies, systems, taxes, testing, things, tools, utilities, transportation, vehicles, and water required to properly execute and complete all or some portion of the Project, whether or not incorporated or to be incorporated into the Project.

RECITALS

- A. The Owner intends to construct the Project and is engaging the Professional to perform certain services for the Project.
- B. The Owner and Professional each acknowledges that it will act in good faith in carrying out its duties and obligations.
- C. The Owner's engagement of the Professional is based upon the Professional's representations to the Owner that it (i) is an organization of professionals experienced in the type of services the Owner is engaging the Professional to perform; (ii) is authorized and licensed to do business in the State in which the Project is located; (iii) is qualified, willing and able to perform professional services for the Project; and, (iv) has the expertise and ability to provide professional services which will meet the Owner's objectives and requirements, and which will comply with the requirements of all governmental, public and quasi-public authorities and agencies having jurisdiction over the Project.
- D. The Owner and Professional each acknowledges that it has reviewed and familiarized itself with this Contract For Design Professional Services, including the documents mentioned in Chapter 1, Article 1, and agrees to be bound by the terms and conditions contained therein.

NOW, THEREFORE, for good and valuable consideration, the parties agree as follows:

ARTICLE 1 CONTRACT DOCUMENTS

- 1.1 The "Contract For Design Professional Services" is comprised of the following documents:
 - (i) This "Chapter 1 – Professional's Agreement" (hereafter "Chapter 1"), including the foregoing recitals A. through D., and all attached documents, appendices and addenda;
 - (ii) "Chapter 2 – Design Professional's Required Scope of Services" and attached documents, appendices and addenda;
 - (iii) "Chapter 3 - General Terms and Conditions" and attached documents, appendices and addenda;
 - (iv) Design professionals qualification statement;
 - (v) Eastern Michigan University Design Phase Deliverables;
 - (vi) Eastern Michigan University Architectural / Engineering Standards for Design and Construction Documents;

- (vii) Eastern Michigan University Standards for Construction Projects;
- (viii) Additional documents: identify all additional documents specifying the Design Professional's scope of work, including documents such as the Owner's request for proposal, the design Professional's Proposal, and letters clarifying scope. Additional documents listed hereafter, if any:

1.2 In the event that a discrepancy or conflict is encountered in the project requirements, the strictest provision shall apply. During these instances, the Owner shall be the arbiter of the strictest provision to be enforced. If a requirement is in question, the Professional shall request a clarification from the Owner.

ARTICLE 2 NOTICES

2.1 Unless otherwise provided, all notices shall be in writing and considered duly given if original is (i) hand delivered; (ii) delivered by telex, facsimile, or telecopy; or (iii) sent by U.S. Mail, postage prepaid. All notices shall be given to the addresses set forth above. Notices hand delivered or delivered by telex, facsimile, or telecopy shall be deemed given the next business day following the date of delivery. Notices given by U.S. Mail shall be deemed given as of the second business day following the date of posting.

ARTICLE 3 DESIGN NOT TO EXCEED

3.1 The Professional understands and acknowledges that the Owner has established a budget for the Project. The Total Project Construction Cost shall not exceed _____ Dollars (\$_____).

3.2 The Professional agrees to design the Project so that the actual Total Project Construction Cost does not exceed the budgeted Total Project Construction Cost recited above.

3.3 If the lowest bona fide bid or negotiated Total Project Construction Cost exceeds the Owner's budgeted Total Project Construction Cost by more than ____ percent (____%) the Owner may, in addition to any other remedies provided in this Contract For Professional Services, (i) accept the bid or negotiated Total Project Construction Cost; (ii) require the Professional, at no cost to the Owner, to re-bid or re-negotiate the Work; (iii) cancel the Work or any portion of the Work; (iv) revise the scope of the Work, as required to reduce the Total Project Construction Cost; or (v) require the Professional, at no cost to the Owner, to modify the Construction Documents and re-bid or re-negotiate the Work to result in a bid or negotiated Total Project Construction Cost within the budgeted Total Project Construction Cost. In order to reduce the Total Project Construction Cost to the budgeted Total Project Construction Cost, the Professional shall, in addition to the above, at the Owner's request and at no additional cost to the Owner, (i) provide value engineering to reduce the Total Project Construction Cost to the budgeted Total Project Construction Cost; (ii) assist the Owner in redefining the scope of

the Project; and, (iii) incorporate all scope reductions and Project modifications into the modified Construction Documents.

ARTICLE 4 COMPENSATION OF DESIGN PROFESSIONAL

4.1 The Owner shall compensate the Professional for Required Services rendered in one of the following ways [Check one]:

Lump Sum Basis:

In accordance with the time schedule contained in the Professional's Payment Schedule, attached as Appendix A, the Owner shall pay the Professional _____ Dollars (\$_____) (the "Professional Contract Price").

Time Basis:

The Owner shall pay the Professional for time expended on an hourly-rate basis, at the rates set forth in the Professional's Payment Schedule, attached as Appendix A (in the aggregate the "Professional Contract Price"). The Professional Contract Price shall not exceed _____ Dollars (\$_____).

4.2 The Owner and the Professional shall agree in writing prior to the Professional's performance of Extra Services whether the Extra Services will be performed on an hourly-rate basis or a lump-sum basis. The Owner shall compensate the Professional for Extra Services

(i) if rendered on an hourly-rate basis, at the hourly rates set forth in the Professional's Payment Schedule, attached as Appendix A; and,

(ii) if rendered on a lump sum basis, in an amount mutually agreed to in writing by the Owner and the Professional prior to the performance of such services.

4.3 The Owner shall compensate the Professional for customary, necessary and reasonable out-of-pocket expenses pursuant to Paragraph 8.4 of Chapter 3, however, the parties agree that such amount shall not exceed _____ Dollars (\$_____).

4.4 To the extent that the Professional engages others to perform services, the maximum allowable mark-up the Professional shall be entitled to charge the Owner shall be _____ percent (____%) of the actual expense or cost to the Professional.

ARTICLE 5 SPECIFIC INSURANCE REQUIREMENTS

5.1 The Professional shall purchase and maintain, at its expense, from a company or companies licensed or authorized to do business in the state in which the Project is

located, insurance policies containing the following types of coverages and minimum limits of liability protecting from claims which may arise out of or result from the performance or non-performance of services under this Contract For Professional Services by the Professional or by anyone directly or indirectly employed by it, or by anyone for whose acts it may be liable:

- (i) Workers' Compensation, Disability Benefit, or similar employee benefit act coverage, and employer's liability coverage, as required by the state in which the Project is located.
- (ii) Commercial General Liability which (i) includes premises/operations, product/completed operations, contractual liability, independent contractors, broad-form property damage, underground, explosion and collapse hazard, and personal / advertising injury; and, (ii) names the Owner and the Owner's Related Parties as additional insureds, with per-occurrence limits of not less than Two Million Dollars Dollars (\$2,000,000)
- (iii) Commercial Comprehensive Automobile Liability which includes contractual liability coverage and coverage for all owned, hired and non-owned vehicles with limits of not less than Five Hundred Thousand Dollars Dollars (\$500,000) per accident for bodily injury and property damage, or One Million Dollars Dollars (\$1,000,000) combined single limit.
- (iv) Professional Liability coverage, including contractual liability, with limits of not less than Five Million Dollars Dollars (\$5,000,000)

ARTICLE 6 PERSONNEL AND CONSULTANT CHARTS

- 6.1 The Professional shall prepare and attach as Appendix B to this Agreement the Professional's Personnel Chart which lists by name, job category and responsibility the Professional's primary employees who will work on the Project. The Professional shall promptly inform the Owner in writing of any proposed replacements, the reasons therefor, and the name(s) and qualification(s) of proposed replacement(s). The Owner shall have the right to reject any proposed replacement.
- 6.2 The Professional shall (i) prepare and attach as Appendix C to this Agreement the Professional's Consultants Chart which lists by name and general duties each consultant retained by the Professional who will provide services with respect to the Project and the names of key team members in each Consultant's firm who will be performing services on behalf of the Consultant; (ii) not enter into any agreement with any consultant to which the Owner raises a timely objection; and, (iii) promptly inform the Owner in writing of any proposed replacements, the reasons therefor, and the name(s) and qualification(s) of proposed replacement(s). The Owner shall have the right to reject any proposed replacement.
- 6.3 The Owner shall provide and attach as Appendix D to this Agreement the Owner's

Consultants Chart which lists by name and general duties each consultant retained by the Owner who will provide services with respect to the Project. At any time during the term of this Agreement, the Owner reserves the right to engage any other consultants which it deems necessary or desirable for the Project, and, at its sole discretion, to remove any Consultant from the Project.

**ARTICLE 7
PROFESSIONAL SERVICES SCHEDULE**

- 7.1 The Professional shall commence Project services on or before _____.
- 7.2 The Project anticipated date of Final Completion is _____.

**ARTICLE 8
AMENDMENTS TO CHAPTER 3**

- 8.1 The following additions to, deletions from and/or modifications to the specifically referenced articles and paragraphs of Chapter 3 shall take precedence over the provisions of those referenced articles and paragraphs as follows:

[State the reference to each such article and paragraph and how the language is to be added to, deleted from or modified, or state "None"]

EASTERN MICHIGAN UNIVERSITY

("Owner")

By: _____

Its: _____

Date: _____

[Insert legal name of Professional]

("Professional")

By: _____

Its: _____

Date: _____

**APPENDIX A
PROFESSIONAL'S PAYMENT SCHEDULE**

- A. Schedule for payment of the Professional Contract Price on a lump sum basis.

- B. Hourly Rates for compensation for services rendered on an hourly-rate basis.

[Include hourly rates of (i) Professional; and, (ii) Professional's Consultants and Subcontractors, if any, as well as any allowable markup by Professional.]

SAMPLE

**APPENDIX B
PROFESSIONAL'S PERSONNEL CHART**

(Design Professional to attach as a separate document)

SAMPLE

APPENDIX C
PROFESSIONAL'S CONSULTANTS CHART
(Design Professional to attach as a separate document)

SAMPLE

**CONTRACT FOR PROFESSIONAL SERVICES
CHAPTER 2
PROFESSIONAL'S REQUIRED SCOPE OF SERVICES
(ARCHITECT'S FORM)**

**ARTICLE 1
GENERAL PROJECT SERVICES**

- 1.1 **Essential Services:** The Professional agrees to provide all necessary architectural and engineering services required to professionally accomplish the Professional's scope of services.
- 1.2 **Project Design Schedule And Professional Coordination Services:**
- 1.2.1 The Professional shall be responsible for coordinating all other Owner's Professionals and shall be required to keep the Project on schedule by coordinating the work of all such Owner's Professionals. The Professional shall inform all other Owner's Professionals of submittal dates necessary to meet project deadlines. If it appears that any of these deadlines will not be met, the Professional shall inform the Owner's representative in writing.
- 1.2.2 The Professional shall, not more than fourteen (14) calendar days after the execution of this Contract For Professional Services, prepare and submit a Project Design Schedule for review and acceptance by the Owner. The Project Design Schedule shall include all pertinent Project dates and periods.
- (i) The Project Design Schedule shall include the Project design completion date, any guidelines and milestone dates required by the Owner, sufficient time for review of documents and submittals, and the date of Final Completion as required by the Owner.
- (ii) The Project Design Schedule shall include and properly coordinate all dates for performance of services and tasks so that the Project design and the Project construction can be completed in a timely and orderly fashion consistent with the required date of Final Completion.
- (iii) By reviewing the Project Design Schedule, the Owner does not assume any of the Professional's responsibility that the Project Design Schedule be coordinated or complete, or for orderly and timely completion of the Project design and the Project construction by the required date of Final Completion, and review and acceptance of the Project Design Schedule by the Owner shall not relieve the Professional of any of its responsibilities.
- 1.2.3 If the Design Professional determines that adjustments to the Project Design Schedule are necessary, the Owner shall be promptly notified in writing. However, adjustments shall not be effective unless approved in

writing by the Owner.

1.2.4 Any additional Required Services or Modified Required Services included in Project Design Schedule Services are listed in Appendix A (Chapter 2) and incorporated herein by reference.

1.3 **Project Testing Services:** As required for the project,

1.3.1 **The Professional shall:**

- (i) Describe in the Construction Documents all appropriate and advisable Project testing requirements including geotechnical, hazardous materials, structural, chemical, electrical, or mechanical tests and investigations, and construction materials testing;
- (ii) prepare scopes of work, including but not limited to preliminary testing parameters for geotechnical work and topographic surveys, soil borings and load tests for soil bearing capacity, to assist the Owner in securing all necessary Project testing;
- (iii) coordinate all testing and determine timing and order of all testing;
- (iv) evaluate all test results; and,
- (v) recommend all necessary and advisable additional Project testing.

1.3.2 Additional Required Services or Modified Required Services, if any, included in Project Testing Services are listed in Appendix A (Chapter 2) and incorporated herein by reference.

1.4 **Project Approval Services:**

1.4.1 As required for the Project, the Professional shall

- (i) promptly assist the Owner in securing all approvals from governing authorities with jurisdiction over the Project, including making timely applications for rezoning, site plan approval, local variances or other approvals, including completion of all necessary applications and supporting documentation; and,
- (ii) attend any and all meetings required to secure all approvals from governing authorities with jurisdiction over the Project.
- (iii) as an extra service for which extra compensation will be paid, assist the Owner in securing grants and gifts through special investigations and analyses, including developing drawings or documents not included in the contract, preparing reports, attending conferences, and related activities connected with non-state agencies.

- 1.5 **Bid document Drawings and Specifications:** Bid document drawings and specifications, as proposed by the Design Professional and approved in writing by the Owner, must reflect a reasonable investigation of Site conditions based on existing drawings and examination of existing conditions. Exploratory openings deemed necessary by the Design Professional and the Owner will be managed and funded by the Owner without additional compensation to the Design Professional.

ARTICLE 2 Project Program Analysis

- 2.1 The Design Professional will provide the following written and graphic studies to evaluate and confirm programmed requirements.
- (i) Space assignment studies -- verify room areas and confirm that each is consistent with listed tasks and activities.
 - (ii) Space relationships studies -- indicate the interrelationships and their character and frequency between the various rooms and activities.
 - (iii) Building materials and construction systems studies -- indicate interrelationships between buildings with regard to construction types and programmed functions.
 - (iv) Submit a statement of final programmed areas and approximate project costs.
 - (v) Identify space relationships that have an unusual impact on energy requirements.
 - (vi) Security and safety studies – describe the security and safety implications of space relationships and program requirements.

ARTICLE 3 PROJECT SCHEMATIC DESIGN

- 3.1 Include the following in the graphic and written representation of the site, building design and cost.
- (i) Statement of areas (include comparisons of programmed areas to designed areas).
 - (ii) Area and/or site development studies.
 - (iii) Basic floor plans.

- (iv) Basic building sections.
- (v) Block elevations and necessary graphics that describe the building's form and mass.
- (vi) Description of materials and engineering systems.
- (vii) Built-in equipment list by category or department.
- (viii) Energy requirements, flows and interrelationships; develop an energy budget and predict resource and energy use and annual costs.
- (ix) Construction cost estimate based upon the anticipated bid date.
- (x) Proposed schedule through occupancy.

In the event that a discrepancy or conflict is encountered in the project requirements, the strictest provision shall apply. During these instances, Eastern Michigan University shall be the arbiter of the strictest provision to be enforced. If a requirement is in question, the consultant shall request a clarification from the Owner.

ARTICLE 4 PROJECT DESIGN DEVELOPMENT

- 4.1 The Design Professional shall provide a detailed architectural and engineering schematic design and include the following.
- (i) Site plans indicating locations and sizes of related roadways, walkways, utility services and topography. (The Owner will prepare the final site plan.)
 - (ii) Floor plan dimensions indicating built-in equipment essentials.
 - (iii) Basic sections and basic construction details and primary elevations.
 - (iv) Plans showing location and sizes of primary structural members and utility systems components.
 - (v) Construction specification outline which identifies the materials and systems that are most beneficial from a life cycle and cost perspective and ensures prudent energy consumption.
 - (vi) Revised area tabulation, if applicable.
 - (vii) Construction cost estimates.
 - (viii) Project cost estimates.
 - (ix) Proposed schedule through occupancy

- (x) Complete energy impact statement

ARTICLE 5 CONTRACT DOCUMENTS, BIDS, AND BID ANALYSIS

- 5.1 Complete the following types of bidding and construction documents, and make sure that they comply with applicable codes, regulations and the Eastern Michigan University Standards for Construction Projects. Include general services required to obtain and analyze bid proposals.
- (i) Draft an operation manual for building systems, prepared by the mechanical and electrical engineering designer, describing the concept of operation for the systems, potential problem areas, trouble-shooting suggestions and warnings. (This is not to consist of a file of manufacturers' publications.)
 - (ii) Prepare working drawings.
 - (iii) Prepare specifications, proposals, and construction contract forms.
 - (iv) Submit cost estimates by major trade categories and project budget.
 - (v) Submit all documents and the pre-bid cost estimate for the Owner to review and approve.
 - (vi) Correct documents according to the Owner's instructions.
 - (vii) Provide working drawings, specifications, and proposal forms as required for the Owner's use when soliciting bids and for construction purposes.
 - (viii) Issue bid documents.
 - (ix) Prepare and issue addenda.
 - (x) Before releasing bid documents, alert the Owner to any known changes to the energy impact Statement Data.
 - (xi) Provide the Owner with an unqualified recommendation for awarding the construction contract(s) and establish a Project Budget after analyzing bids and reviewing the successful bidder's qualifications.
 - (xii) When delivering the 100% review documents, provide drawings to scale of building floor plans in *.dwg or *.dxf format. Include permanent structural components (i.e. walls, windows, doors, columns, stairs, etc.), room numbers, and room areas in square feet.
 - (xiii) Maintain and keep current a Construction Standards Deviation Log of proposed and/or approved deviations from the EMU Standard for Construction Projects. Include the entry date, describe and give a reason for the deviation, indicate the impact on the budget and/or schedule, and

note the approval status. Review the log at each design progress meeting and submit it with each progress payment.

- (xiv) Respond in writing to all review comments provided by EMU personnel before the following scheduled document submission: 30% response is due before issuance of 60% review set; 90% response is due before bid documents are issued. Failure to provide timely responses shall be grounds for withholding progress payments.

ARTICLE 6 CONSTRUCTION ADMINISTRATION

- 6.1** Follow this list of tasks while administering the Construction Contract. Begin with the award of the contract and terminate when the building guarantee expires and as-built drawings are furnished to the Owner.
- (i) Maintain construction accounts, review contractors' payment applications, and prepare and issue certificates of payment.
 - (ii) Review and distribute shop drawings within two weeks of receipt. For complex shop drawings that cannot be reviewed in two weeks, provide a projected review completion date within one week of receiving shop drawings.
 - (iii) Prepare and issue bulletins and bulletin estimates, check quotations and recommend actions, and recommend and prepare change orders. Bulletins will be issued no less than monthly, unless there are no outstanding bulletin items. Change orders normally will be prepared and forwarded within one week of the Owner accepting the quotations.
 - (iv) Prepare and issue large-scale drawings when needed.
 - (v) Check and approve materials, samples, and representative equipment items submitted by the contractor.
 - (vi) Evaluate specified test results, and recommend additional testing or corrective actions precipitated by test results.
 - (vii) Assemble and transmit required waivers, guarantees, certificates, affidavits, operating instructions, manufacturers' brochures, and maintenance manuals to the Owner.
 - (viii) Prepare and issue certificates of completion and final certificates of payment.
 - (ix) Comment on the Owner's furnishing and equipment selection for the Project as they relate to the Design Professional's general design objectives.
 - (x) Prepare and issue certificates of completion and final certificates of payment.

- (xi) Prepare and transmit reproducible record drawings to the Owner, recording major concealed changes and significant construction bulletins based on marked-up prints, drawings, and other data furnished by the contractor to the Design Professional. Provide one complete set of blue-line prints and one complete set in AutoCAD DWG or DXF format.
- (xii) Prepare and transmit three updated and completed copies of the building systems operation manual to the Owner.
- (xiii) Monitor Work performed by the various contractor trades for conformity with the Contract Documents by administering the Contract for Construction and by on-Site observation.
- (xiv) Assist the contractor in interpreting Contract documents through conferences, meetings and other appropriate communications. Within three days of receipt, provide a complete answer to request for information (RFI) or indicate a reasonable time within which a complete response will be submitted to the Owner.
- (xv) Provide support when the contractor is establishing and maintaining a construction progress schedule by attending appropriate meetings with different trades at the Site and through weekly (or other mutually agreed upon interval) joint progress meetings with all contractors.
- (xvi) Take reasonable measures to protect the Owner against defects and deficiencies in the Work.
- (xvii) Provide the field observation needed, including regularly walking, taking notes and observing while on-Site, and attend meetings needed to properly execute the Project and complete a ready-to-use facility per the Contract for Construction.

ARTICLE 7 EXTRA COMPENSATION

7.1 The following are considered additional services for which extra compensation will be paid:

- (i) Project program development assistance. (Described in Appendix B (Chapter 2) and made a part of this Contract).
- (ii) Assisting to secure grants and gifts through special investigations and analyses, including developing drawings or documents not included in the contract, preparing reports, attending conferences, and related activities connected with non-state agencies.
- (iii) Revising specifications and drawings previously approved to accomplish changes requested by the Owner after the Schematic Design stage has been completed.

- (iv) Professional services associated with repairing or replacing Work damaged by fire or other causes during construction.

7.2 Additional Services shall be documented as instructed in Appendix A (chapter 2).

APPENDIX A ADDITIONAL REQUIRED SERVICES OR MODIFIED REQUIRED SERVICES

The Owner is to insert and identify known Additional Services and modified services that are required from the Design Professional at the time the agreement is executed, including but not limited to the list below. Any subsequent Additional Services or modified required services should be added by following the procedures outlined for modifying the Contract.

Project Design Schedule

Project Testing Services

Project Approval Services

General Project Services

Preliminary Design Services

Construction Documents Services

Pre-construction Services

Construction Services

APPENDIX B PROJECT PROGRAM DEVELOPMENT

In writing, describe the following needs of the Owner and the physical facilities proposed to meet those needs.

1. Purpose and objectives.
2. Activities to be accommodated (initial and long-term).
3. Scope and character of work-stations, rooms and/or room groups required to support programmed activities and their anticipated net assignable areas.
4. Describe general site relationships to other buildings and to activities, both immediate and long term.
5. Describe the space to be vacated and its expected disposition as a result of the proposed construction.
6. Expected budgetary requirements and sources.
7. Anticipated timetable.
8. Room and workstation utilization studies to document that the number of rooms required to support programmed activities (and the number of work stations in each) appropriately satisfies the current and projected needs and objectives.

**CHAPTER 3
GENERAL TERMS AND CONDITIONS**

**ARTICLE 1
PROFESSIONAL'S GENERAL RESPONSIBILITIES**

1.1 Professional's Services

- 1.1.1 The Design Professional's services consist of those services performed by the Design Professional, the Design Professional's employees, and the Design Professional's consultants and contractors.
- 1.1.2 The Design Professional, as professional advisor and consultant to the Owner for the Project accepts the relationship of trust and confidence established with the Owner and covenants to furnish professional services to the Owner in an expeditious, economical and proper manner consistent with the Owner's interests and objectives.
- 1.1.3 The Design Professional shall determine and promptly notify the Owner in writing when Additional Services are necessary or desirable in connection with the Project.

1.2 Professional's Performance Of Services

- 1.2.1 The Design Professional acknowledges that time is of the essence in completion of the Project and the Owner will incur damages if the Project is not completed on time. The Professional shall at all times carry out its duties and responsibilities as expeditiously as possible per the Project Design Schedule and all applicable schedules.
- 1.2.2 If the Design Professional or any of its principals, officers, employees, consultants, or agents has any direct or indirect financial interest in any material, product, system, equipment, design, process or any other item included in the plans or specifications, the Design Professional shall notify the Owner in writing of such interest when the plans and/or specifications are delivered to the Owner. The Owner may require the Design Professional to substantiate the reasons for including the item in the plans and/or specifications. The Owner may accept or reject the item. If the item is rejected, the Design Professional shall revise the plans and/or specifications to include an alternate or replacement at no cost to

the Owner.

1.2.3 The Design Professional shall not, without the express written permission of the Owner:

- (i) engage or recommend to the Owner engagement of any consultant, trade contractor, subcontractor or supplier to provide services on behalf of the Design Professional, Owner or Project in which the Professional has a direct or indirect proprietary or other pecuniary interest;
- (ii) require or recommend the use of products, materials, equipment, systems, processes or procedures in which the Professional or in which any consultant, trade contractor, subcontractor, or supplier of the Design Professional has a direct or indirect proprietary or other pecuniary interest.

1.2.4 Unless otherwise directed or indicated by the contract, the Design Professional shall not control or be in charge of construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, nor shall the Professional, for any of the foregoing purposes, be deemed the agent of the Owner.

1.3 Design Professional's Duties

1.3.1 The Design Professional shall cooperate and communicate in a timely manner with the Owner and all other persons or entities required for completing the Project satisfactorily.

1.3.2 When requested to do so by the Owner, the Professional shall process documents and provide other reasonably required drawings, services and certifications that are necessary to enable the Owner to obtain financing or insurance for the Project.

1.3.3 The Design Professional will perform this agreement in accordance with applicable statutes and regulations, including but not limited to safety and environmental requirements and limitations, and will ensure that the Design Professional and its subcontractors and consultants and all employees are licensed properly and certified for the tasks they are to perform under the agreement.

1.3.4 The Design Professional shall provide documents to the Owner for review in accordance with schedule requirements and with sufficient lead time to allow for a reasonable review.

- (i) Professionals shall respond in writing to all review comments provided by EMU personnel before the following scheduled document submission: 30% response is due before issuance of 60% review set; 90% response is due before the bid documents are issued. Failure to provide timely responses shall be grounds for withholding progress payments.

- (ii) The Design Professional shall maintain and keep current a Construction Standards Deviation Log of proposed and/or approved deviations from the EMU Standards. Include the entry date, description and reason for the proposed deviation, impact on the budget and/or schedule, and approval status, Review the log at each design progress meeting, and submit it with each progress payment.
- 1.3.5 The Design Professional shall process documents and provide other reasonably required documents, services and personnel, necessary to
 - (i) Obtain construction and other required approval, permits and Certificates of Occupancy for the Project; and,
 - (ii) Represent that the Design Professional's services and work product comply with requirements of governmental agencies having jurisdiction over the Project.
- 1.3.6 The Design Professional shall immediately make additions, changes and corrections to any documents prepared by the Design Professional due to errors and omissions in the Design Professional's performance of its services.
- 1.3.7 The Design Professional shall process documents and provide other reasonably required documents, services, and personnel necessary for the following:
 - (i) To obtain construction and other required approval, permits, and certificates of occupancy for the Project; and
 - (ii) To show that the Design Professional's services and Work product comply with requirements of governmental agencies having jurisdiction over the project within the limits of the standard of care in Chapter 3, Article 1.4.1.

1.4 Professional's Personnel And Consultants

- 1.4.1 All services rendered by the Design Professional for the Project shall be performed by or under the immediate supervision of experienced professional(s) licensed and registered in the state in which the Project is located and possessing expertise in the service being rendered. If the Design Professional chooses to subcontract or affiliate with another professional entity or organization for all or any portion of the Design Professional's scope of services, the Design Professional shall subcontract with a professional firm with the requisite licensure, skill, experience and expertise to provide the required services. The Design Professional shall furnish professional services in accordance with the professional standards currently practiced by professional firms on projects similar in size, complexity and cost to the Project.
- 1.4.2 The Design Professional shall retain and compensate any consultant(s) required in connection with the Design Professional's performance of Required Services. The obligations of the Design Professional's consultant(s) shall inure to the benefit of the Owner. The Design Professional's agreements with its

consultant(s) shall require that in the event of default under or termination of this Contract For Design Professional Services, the Design Professional's consultant(s) will perform services for the Owner upon request of the owner.

1.4.3 The Design Professional shall be responsible for all services performed by the Design Professional's consultant(s) and shall assure that the work of its consultants complies with the requirements of this Contract For Professional Services. Fees for the consultant(s) are included in the Design Professional Contract Price.

1.4.4 The Design Professional shall name a representative (the "Design Professional's Representative") to serve as the Owner's primary communication contact with the Professional.

1.5 **Design Professional's Records**

1.5.1 While performing its services, the Design Professional shall prepare records substantiating services rendered.

1.5.2 Unless otherwise provided, the Design Professional shall maintain substantiating records for seven years after the Project date of Final Completion or for any longer period of time as may be required by law or good construction practice. If the Design Professional receives notification of a dispute or the commencement of litigation regarding the Project within this seven-year period, the Design Professional shall continue to maintain all Project records until the dispute or litigation is resolved.

1.5.3 Records of the Design Professional's staff time and reimbursable expense items connected with the Project and the records of account between the Owner and the construction contractors shall be kept on a generally approved and recognized accounting basis. These records, and all others necessary to evaluate fees charged to the Project, shall be available to the Owner's representatives for audit.

1.6 **Contamination, Claim And Incident Reporting**

1.6.1 The Design Professional shall immediately notify the Owner both orally and in writing of the presence and location of any environmental contamination of the Site of which it becomes aware, including but not limited to Hazardous Substances and petroleum releases. A written report of the incident must follow within 24 hours of discovery.

1.6.2 1.6.2 The Design Professional shall immediately notify the Owner both orally and in writing of the details of all incidents of which it becomes aware which adversely affect or may adversely affect the quality or progress of the Work including, but not limited to, union jurisdictional disputes, accidents, damages to Work and similar significant occurrences. A written report of the incident must follow within 24 hours of discovery.

1.6.3 The Design Professional shall immediately notify the Owner both orally and in

writing of any claim of which it becomes aware made by anyone against the Owner, the Professional, the Builder, or any consultant, trade contractor, subcontractor, or supplier or any of them with respect to the Project.

1.7 Changes To The Contract

- 1.7.1 The Design Professional understands and agrees that the Contract For Design Professional Services cannot be changed except as provided herein.
- 1.7.2 The contract can only be modified in writing by formal modification and signed by the parties.
- 1.7.3 If the Professional disputes a decision with regard to one of the following, it will continue to provide its services but, in doing so, will not prejudice any claim that it may have with respect to a final decision:
 - (i) that a change has occurred in its scope of services;
 - (ii) whether a change in its scope of services will result in adjustment of its compensation or applicable schedules; or
 - (iii) the amount of any adjustment of compensation or applicable schedules.

ARTICLE 2 OWNER'S RESPONSIBILITIES

2.1 Information

- 2.1.1 The Owner shall provide the Design Professional with information reasonably necessary to assist the Design Professional in performing its services, including, if applicable, the Site legal description and any required survey.
- 2.1.2 If the Project involves an existing structure, the Owner shall provide the Design Professional with available as-built and record drawings, plans, specifications and structure system information in the Owner's possession with respect to the structure.
- 2.1.3 The Owner shall provide the Design Professional with the Owner's pertinent Project dates and key milestone dates.
- 2.1.4 The Owner shall provide the Professional with all written and tangible material in its possession concerning conditions below ground at the Project Site.
- 2.1.5 The Owner's furnishing of information to the Design Professional shall not relieve the Design Professional of the responsibility to evaluate the information provided by the Owner and to notify the Owner in writing of additional information needed or services required from the Owner in order for the Design Professional to perform its services. Any information and tangible material provided by the Owner to the Design Professional is furnished to the Design Professional only to make complete disclosure of such material in the possession of the Owner and for no other purpose. By furnishing such material, the Owner does not represent,

warrant, or guarantee its accuracy either in whole, in part, implicitly or explicitly, and shall have no liability therefore.

2.2 Owner's General Duties

- 2.2.1 The Owner shall timely compensate the Design Professional in accordance with the Contract For Design Professional Services.
- 2.2.2 The Owner shall secure and pay for all pre-construction testing unless it is to be provided by the Design Professional in its scope of services.
- 2.2.3 Documents prepared by the Design Professional shall be reviewed by the Owner in a timely manner and in accordance with schedule requirements. The review shall be for the sole purpose of determining whether such documents are generally consistent with the Owner's intent. No review of such documents shall relieve the Design Professional of any of its responsibilities.

2.3 Owner's Representative

- 2.3.1 The Owner shall name the Owner's Representative to serve as the Design Professional's primary communication contact with the Owner.

ARTICLE 3 DOCUMENT OWNERSHIP

3.1 Document Ownership

- 3.1.1 All drawings, specifications, contract documents, instruments of service and other documents (hereinafter referred to as "documents") prepared by the Design Professional pursuant to this Agreement are and shall be henceforth the property of the Owner. These documents may only be used and/or distributed, as the Owner deems appropriate. The originals of all such documents, including the final revised edition of any specifications and all of their word associated memory disks, plus all drawings tracings and all of their associated memory disks, shall be turned over to the Owner at the termination/early termination of this Agreement or the end of this Project, whichever comes first, and prior to the final payment of professional fees.

The Owner may use the documents to complete the Project, and/or for any correction, remodeling, renovation, reconstruction, alteration, modification of or addition to the Project, without compensation to the Design Professional.

- 3.1.2 The Design Professional may retain copies of the documents for their use and files as may be related to this project. These retained copies may not be used elsewhere by the Design Professional without the written consent of the Owner. All final documents shall be prepared in or converted for use in the currently used Owner formats. These formats include MSOffice (latest version) and Auto CAD (latest version).

**ARTICLE 4
APPLICABLE LAW AND DISPUTE RESOLUTION**

- 4.1 **Applicable State Law:** This Contract For Design Professional Services shall be deemed to be entered into in and shall be interpreted under the laws of the state of Michigan.
- 4.2 **Dispute Resolution:** All disputes, claims or other matters relating to this agreement, shall be submitted by the Design Professional in writing to the Owner (University's Vice President for Finance and Operations or Designee) for a review. Raised claims must be presented to the Owner's representative within 30 days of when the Design Professional knows or should have known of the issue in controversy. This informal dispute process is in place to precede any formal litigation. If the Design Professional is not satisfied with the outcome of the review, a dispute may be filed for resolution with the court of competent jurisdiction in Michigan. Claims and any appeals by the Design Professional affecting the payment of the fee shall be made before submitting the request for final payment. Unless otherwise instructed by the Owner, the Design Professional shall continue to work under this agreement without delaying the Project, or any portion thereof, pending the outcome of the dispute, claim or question.

**ARTICLE 5
TERMINATION OR SUSPENSION OF CONTRACT**

- 5.1 **Termination of Contract:** The Owner may, by written notice to the Design Professional, terminate this contract in whole or in part at any time, either for the Owner's convenience or for failure of the Design Professional to fulfill contract obligations. Upon receipt of such notice, the Design Professional shall immediately discontinue all services affected (unless the notice directs otherwise), and deliver to the Owner all data, drawings, specifications, reports, estimates, summaries, and such other information and materials that the Design Professional has accumulated in performing this contract, whether completed or in process.
- 5.1.1 If the termination is for the Owner's convenience, an equitable adjustment in the contract price shall be made, but no amount shall be allowed for anticipated profit on unperformed services.
- 5.1.2 If the termination is due to the failure of the Design Professional to fulfill the contract obligations, the Owner may take over the work and complete it by contract or otherwise. The Design Professional shall be liable for any additional costs to the owner.
- 5.1.3 If it is determined that the Design Professional had not failed to fulfill contract obligations, the termination shall be deemed for the owner's convenience. In such an event, an adjustment to the contract price shall be made as provided in this article.

5.1.4 The rights and remedies of the Owner provided in this Article are in addition to any other rights and remedies provided by law or under this contract.

ARTICLE 6 MISCELLANEOUS PROVISIONS

- 6.1 **Integration:** The Contract For Design Professional Services represents the entire and integrated agreement between the Owner and the Design Professional, and supersedes all prior negotiations, representations or agreements, either written or oral, for the Project. The Contract For Design Professional Services may be amended in writing only and signed by the Owner and the Professional, and it is subject to such reasonable modifications as may be required by the Owner's lender(s) or insurer(s), if any.
- 6.2 **Severability:** If any provision of the Contract For Design Professional Services, or the application thereof, is determined to be invalid or unenforceable, the remainder of that provision and all other provisions of this Contract For Design Professional Services shall remain valid and enforceable.
- 6.3 **Waiver:** Provisions of this Contract For Design Professional Services may not be waived except by written agreement of the parties. A waiver of any provision on one occasion shall not be deemed a waiver of that provision on any subsequent occasion, unless specifically stated in writing. A waiver of any provision shall not affect or alter the remaining provisions of this Contract For Design Professional Services.
- 6.4 **Strict Compliance:** Failure of the Owner to insist upon strict compliance by the Professional with any provision of this Contract For Design Professional Services shall not relieve the Design Professional of its contractual obligations.
- 6.5 **Third-Party Beneficiaries:** This Contract For Design Professional Services is solely for the benefit of the parties hereto and their successors and assigns. Except as provided in Subparagraph 1.4.2, nothing contained in this Contract For Design Professional Services is intended to or shall create a contractual relationship with, or any rights or cause of action in favor of, any third party against either the Owner or the Design Professional.
- 6.6 **Survival:** All provisions of this Contract For Design Professional Services which contain continuing obligations shall survive its expiration or termination.
- 6.7 **Assignment:** Neither party shall assign any or all of its benefits or executory obligations under this Contract For Design Professional Services without the written approval of the other party to this Contract For Design Professional Services, except in case of assignment solely for security or assignment by the Owner to a Related Party of the Owner. The Owner and the Design Professional bind their successors and assigns to the other party to this Contract For Design Professional Services.
- 6.8 **Non-Discrimination Statement:** The Design Professional shall not discriminate against an employee or applicant for employment with respect to hire, tenure, terms, conditions, or privileges of employment, or a matter directly or indirectly related to employment, because of race, color, religion, national origin, age, sex, height, weight, marital status,

sexual orientation, or gender identity or expression, or disability that is unrelated to the individual's ability to perform the duties of a particular job or position. A breach of this covenant may be regarded as a material breach of the contract.

ARTICLE 7 DAMAGES AND REMEDIES

- 7.1 **Services, Reimbursement And Deductions:** If the Design Professional fails to perform its duties the Design Professional shall, without compensation by the Owner, provide and process all documents, and provide other services, required as a result of the Design Professional's failure to perform; and shall promptly reimburse the Owner for any costs or damages incurred by the Owner. The Owner shall also have the right to deduct from payments to the Design Professional any costs or damages incurred, or which may be incurred, by the Owner as a result of the Design Professional's failure to perform.
- 7.2 **General Indemnity:** The Design Professional is responsible for any loss or damage to property or personal injury, damage or death due to negligence of the Design Professional while performing this contract and holds the Owner and the Owner's Related Parties harmless against all claims, loss or damage due to negligence, errors or omissions.
- 7.3 **Intellectual Property Indemnity:** To the fullest extent permitted by law, the Design Professional shall defend, protect, hold harmless, and indemnify the Owner and the Owner's Related Parties from and against any and all liability, loss, claims, demands, suits, costs, fees and expenses (including actual fees and expenses of attorneys, expert witnesses, and other consultants), by whomever brought or alleged, for infringement of patent rights, copyrights, or other intellectual property rights, except with respect to designs, processes or products of a particular manufacturer expressly required by the Owner in writing. If the Design Professional has reason to believe that the use of a required design, process or product is an infringement of a patent, the Design Professional shall be responsible for such loss unless such information is promptly given to the Owner.
- 7.4 **Non-Exclusivity Of Owner's Remedies:** The Owner's selection of one or more remedies for breach of this Contract For Design Professional Services shall not limit the Owner's right to invoke any other remedy available to the Owner under this Contract For Design Professional Services or by law.

ARTICLE 8 PAYMENT TO PROFESSIONAL

- 8.1 **General Invoicing Requirements:** Every month during the term of this Contract For Professional Services, the Professional shall submit invoices to the Owner generally in the form of Appendix A. Each invoice shall contain the Owner's Project identification, be signed by the Design Professional and have attached documentation as required by the Owner.
- 8.1.1 The invoice shall generally itemize or show a breakdown of the various phases or parts of the Design Professional Contract Price, the value of the various phases

or parts, the previously invoiced and approved amounts for payment, and the amount of the current invoice. Basic Services shall be invoiced separately from additional services and reimbursables.

- 8.1.2 The invoice shall also include a certification signed by the Design Professional stating that the Design Professional has paid its consultants, subcontractors and suppliers their proportional share of all previous payments received from the Owner.
- 8.1.3 The signature of the Design Professional on any invoice shall certify to the Owner that
- (i) the Design Professional has billed the Owner for all services rendered by it and any of the Design Professional's Consultants and subcontractors through the date of the invoice;
 - (ii) as of the invoice date, no other outstanding amounts are due from the Owner to the Design Professional for services rendered;
 - (iii) the services listed in the invoice have been completed and performed as required by the Contract Documents;
 - (iv) that the reimbursable expenses have been incurred; and
 - (v) that the amount requested is due and owing.
- 8.1.4 By accepting the Owner's payment of an invoiced amount, the Design Professional releases the Owner from any and all claims by the Design Professional and by the Design Professional's Consultants and subcontractors for Work performed but not invoiced during the period for which payment was received.

8.2 Invoicing Based on a Compensation Schedule and Invoicing for Payment of a Fixed Fee

- 8.2.1 Invoices for payment of the Design Professional Contract Price under a lump sum fixed fee or a series of lump sum amounts per a Compensation Schedule, shall, in addition to the invoice requirements contained in Paragraph 8.1, at a minimum:
- (i) state the total fee and expenses amount; and
 - (ii) state the amount due pursuant to the Compensation Schedule.

8.3 Invoicing For Compensation For Services Rendered On An Hourly Basis

- 8.3.1 When requesting payment of all or any portion of the Design Professional Contract Price or payment of services on an hourly basis, the invoice shall, in addition to the invoice requirements of Paragraph 8.1, at a minimum:
- (i) describe the type and nature of each service rendered;

- (ii) state the date each service was rendered;
- (iii) identify the technical classification and name of each person rendering each service;
- (iv) state the hours expended by each class of persons for each service;
- (v) state the hourly rate for each classification of service; and,
- (vi) state the total amount charged for each service.

8.4 Invoicing And Payment Of Expenses: Invoices for expenses shall, in addition to the invoice requirements of Paragraph 8.1, be accompanied by all documentation or support data as required by the Owner. The Design Professional shall:

- (i) be reimbursed only for the following expenses:
 - (a) transportation and travel expense to the Project site or other designated place incurred by the Design Professional's personnel while performing duties connected with the project and traveling beyond a radius of 100 miles from the firm's office at rates not to exceed those paid the Owner's employees;
 - (b) renderings or models required by the Owner;
 - (c) topographic surveys and soil borings requested by the Design Professional and authorized in writing by the Owner;
 - (d) other expenditures, including consultants who have been approved in writing by the Owner, for services outside the scope of the professional services in this agreement;
 - (e) reproduction of drawings and specifications and postage and handling of the documents for bidding purposes or construction of the Project, except those for use by the Design Professional and those necessary for the Owner's review, approval or record. Also excluded are preliminary or progressive documents prepared during or upon completing each phase of the services;
 - (f) long distance phone and facsimile charges except those made on mobile/cell phones.
- (ii) itemize the nature and cost of the expense item being billed and attach any written authorization required for such item; and
- (iii) bill expenses at actual cost or prevailing rate without adding an administrative charge, multiple or surcharge.

8.5 Time For Payment: Within thirty (30) calendar days after receipt Owner of the Professional's invoice, the Owner shall pay to the Design Professional the amount approved unless there is a dispute about the compensation due the Design Professional including, but not limited to, claims by the Owner against the Design Professional. The date on which payment is due shall be referred to as the "Payment Date." In the event of disputes, payment shall be made on or before the Payment Date for amounts and

services not in dispute, subject to any setoffs claimed by the Owner. Payments shall be deemed timely if postmarked at least two (2) business days before the Payment Date.

- 8.6 Periodic Payments:** The Owner shall make payments to the Design Professional during each phase of the services based on the value of the services completed by the Design Professional on that phase. Each such payment shall be based on the Owner's opinion of the value of the services completed as of the invoice date. The Design Professional may invoice the Owner when the submittal for the particular design phase is complete. The Owner shall make payment of a cumulative amount of not more than 95% of the value of that phase. The Design Professional may invoice the Owner for the remaining 5% (balance of the value of that phase) when the submittal has been reviewed and approved.

ARTICLE 9 GENERAL INSURANCE REQUIREMENTS

- 9.1 INSURANCE.** As outlined specifically in Chapter 1, Article 5 (complete with liability limits), the Design Professional shall purchase and maintain the following insurance:
- (i) Worker's Compensation Insurance for claims under Michigan's Worker's Compensation Act or other similar employee benefit act of any other state applicable to an employee.
 - (ii) Employer's Liability Insurance, in conjunction with Worker's Compensation Insurance, for claims for damages because of bodily injury, occupational sickness or disease or death of an employee when worker's compensation may not be an exclusive remedy.
 - (iii) Automobile Liability Insurance for claims arising from ownership, maintenance or use of a motor vehicle.
 - (iv) Professional Liability Insurance for claims for damages arising out of errors, omissions or negligent acts in the performance of professional services.
 - (v) General Liability Insurance for claims for damages because of bodily injury or death of any person, other than the Design Professional's employees, or damage to tangible property of others, including loss of use when such kinds of liability are not insured by any other insurance and are ordinarily insurable under general liability insurance.
 - (vi) Contractual Liability Insurance for claims for damages that may arise from the Design Professional's assumption of liability on behalf of the Owner under Article 7.2 of this chapter.
 - (vii) The Design Professional shall provide proof of such insurance as set forth in this clause.