

MASTER SERVICES AGREEMENT BETWEEN ARCHITECT AND CONSULTANT

This **MASTER SERVICES AGREEMENT BETWEEN ARCHITECT AND CONSULTANT** ("Agreement") is made and entered into this [] ("Effective Date") by and between [] ("Consultant") and Corgan Associates, Inc. and its related entities and subsidiaries with their principal office located at 401 N. Houston Street, Dallas, TX 75202 ("Architect").

NOW, THEREFORE, in consideration of the promises and mutual covenants in this Agreement and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the parties agree as follows:

ARTICLE 1: SCOPE OF CONSULTANT'S SERVICES

1.1 Throughout the term of this Agreement, Consultant will provide the Professional Services in the nature and manner described in each "Exhibit B: Statement of Work". Each "Exhibit B: Statement of Work" shall be separately executed by the parties and shall be subject to and incorporated by reference into the terms and conditions of this Agreement. Consultant's Services, fees, expenses, and schedule shall be set out in the applicable "Exhibit B: Statement of Work". Unless expressly otherwise agreed to in writing between Architect and Consultant, the fees, expenses, and other compensation (if any) set forth in "Exhibit B: Statement of Work" represents the total amount of compensation due to Consultant for its Services.

This Agreement is comprised of the following documents listed below in order of priority (unless prioritized otherwise in Articles 1 – 11 of this Agreement) which are incorporated into this Agreement for all purposes:

- .1 Prime Agreement between Architect and Owner ("Prime Agreement")
- .2 Consultant's Insurance Requirements, attached hereto as "Exhibit A: Insurance Requirements" ("Insurance Requirements"); and
- .3 Consultant's Services ("Consultant's Services") to be determined in project-specific Statement of Work in the form attached as "Exhibit B: Statement of Work."

1.2 The portion of Architect's Services (identified in the Prime Agreement) that Consultant shall supply pursuant to this Agreement is hereinafter called Consultant's Services. Consultant's Services consist of the entirety of the discipline listed below that Architect is bound by the Prime Agreement to provide to Owner, unless otherwise specifically provided and/or excluded in an "Exhibit B: Statement of Work."

[]

1.3 For Consultant's Services, Consultant hereby agrees to be bound to Architect to the same extent that Architect is bound to Owner in the Prime Agreement; therefore, should any conflict exist between the terms of this Agreement and the Prime Agreement concerning Consultant's duties towards Architect, Consultant acknowledges and agrees that the terms that impose the higher requirement on Consultant shall control, it being the intent of this paragraph to flow down all terms of the Prime Agreement applicable to Consultant's Services. The only exceptions are the following provisions of this Agreement which shall control over any such conflicting terms in the Prime Agreement:

- .1 Claims and Disputes described in Article 7
- .2 Compensation in Sections 9.1 and 9.3; and
- .3 Reimbursable Expenses described in Section 9.2

1.4 Prior or contemporaneous to the issuance of any "Exhibit B: Statement of Work," Architect shall provide the applicable Prime Agreement to Consultant. Consultant represents it has or will review the Prime Agreement (from which compensation amounts may be redacted), and hereby agrees to be legally bound to Architect so that no act or omission of Consultant will cause or otherwise contribute to any breach by Architect of any obligation under the Prime Agreement. To the extent the Consultant begins services prior to the execution of the Statement of Work, Consultant agrees to be bound by the Prime Agreement which will be attached to each "Exhibit B: Statement of Work" as "Attachment 1" and incorporated into this Agreement.

1.5 Terms in this Agreement shall have the same meaning as those in AIA Document A201™–2017, General Conditions of the Contract for Construction.

1.6 Consultant is an independent contractor and is not an employee, agent or partner of Architect. Architect shall not be responsible for the acts or omissions of Consultant. Consultant will be responsible for obtaining and maintaining in effect all

applicable professional licenses, registrations and permits (if applicable) necessary for the proper execution of its Services hereunder at its sole cost. Furthermore, to the extent the Prime Agreement requires particular background checks, screenings or drug tests, Consultant shall be responsible for obtaining such and satisfying these requirements at its sole cost.

ARTICLE 2: CONSULTANT'S RESPONSIBILITIES

2.1 Consultant shall perform Consultant's Services consistent with the more stringent of the degree of professional skill and care: (1) stated in the Prime Agreement; or (2) ordinarily provided by professionals performing the same or similar services practicing in the same or similar locality under the same or similar circumstances; whichever applies shall be the "Standard of Care". Consultant shall perform all Consultant's Services as expeditiously as is consistent with the professional Standard of Care and the orderly progress of the project to meet the time requirements stated in the Prime Agreement.

2.1.2 Upon execution of a "Exhibit B: Statement of Work," Consultant represents that it is qualified to conduct business and is lawfully authorized and licensed to provide the Consultant's Services in the jurisdiction of the project's location.

2.1.3 Consultant is solely responsible for the proper performance of Consultant's Services and for the means and methods used in performing Consultant's Services regardless of any review or approval by Architect, Owner, or any other entity performing work on the project. Any reference by Architect to a particular means, technique or procedure will be solely to specify the desired end product or service, and shall not be followed, if it is improper or will not result in the desired end product or service.

2.1.4 Consultant's Designated Representative as identified in each "Exhibit B: Statement of Work" of this Agreement shall be authorized to act on behalf of Consultant with respect to Consultant's Services, and Consultant shall identify additional key personnel who will perform Consultant's Services. Except for termination of employment, death or disability, Consultant shall not replace its Designated Representative or any key personnel without Architect's written approval, which shall not unreasonably be withheld.

2.2 Consultant shall conduct all communications regarding the project with and through Architect, and shall not communicate directly with Owner, Contractor, or any other entities with whom Consultant does not have a direct contract, unless such communications have been authorized in writing by Architect. Consultant shall immediately report to and forward to Architect any communication directed to Consultant by any such entity.

2.3 Consultant shall submit for Architect's approval a schedule for the performance of Consultant's Services consistent with the requirements of the Prime Agreement, which may be adjusted as the project proceeds. The Consultant's schedule shall allow reasonable time for Architect and other consultants to review the Consultant's submittals. Once approved by Architect, time limits established by the schedule shall not, except for reasonable cause, be exceeded by Consultant.

2.4 On an ongoing basis, Consultant shall:

- .1 Coordinate Consultant's Services, including but not limited to all aspects of the design, with those of the Architect and other consultants as necessary for the proper coordination of the project and to avoid unreasonable delay in the orderly and sequential progress of Architect's or other entities' services;
- .2 Review the Drawings and Specifications prepared by Consultant and its subconsultants pursuant to this Agreement for:
 - .1 Compliance with Owner's program and requirements;
 - .2 Overall coordination with the architectural and engineering requirements; and,
 - .3 Coordination with the drawings and specifications prepared by the Architect and consultants of Architect and/or Owner;
- .3 Provide prompt written notice to Architect if Consultant becomes aware of any errors, omissions or inconsistencies in Consultant's Services or information provided to Architect, or in services or information provided by Architect or by any other entity performing Work on the Project. Consultant shall not be responsible for the acts or omissions of Architect, Architect's other consultants, Contractor, Subcontractors, their agents or employees, or other persons performing any of the Work;

- .4 Based upon Consultant's site visits and observations under 2.4.7, Consultant shall advise Architect in writing whether Architect should reject Work for Consultant's Services which does not conform to the Contract Documents or whether additional inspection or testing is required;
- .5 Render written recommendations with reasonable promptness or other time period agreed upon on claims, disputes and other matters in question between the Owner and Contractor relating to the execution or progress of Consultant's Services as provided by the Contract Documents;
- .6 Furnish to Architect, upon Architect's request and with reasonable promptness, written interpretations and clarifications of the Contract Documents (which may or may not be in the form of drawings) including but not limited to:
 - .1 Documents prepared by Consultant;
 - .2 Shop Drawings, Product Data, Samples or other submissions of Contractor which pertain to Consultant's Services; and,
 - .3 Change Orders and Construction Change Directives which pertain to Consultant's Services; and,
- .7 Provide site visits at appropriate stages during construction of the Project. Consultant's construction contract administration services shall be the same as those required of Architect in the Prime Agreement for Consultant's Services or as otherwise designated in the "Exhibit B: Statement of Work."

2.5 Consultant shall recommend to Architect the appropriate investigations, surveys, tests, analyses, reports and services of other consultants that should be obtained for the proper execution of Consultant's Services.

2.6 Consultant shall provide copies of drawings, reports, specifications and other necessary information to Architect and other consultants in the format Architect requires.

2.7 Prior to engaging any subconsultant, Consultant shall submit the name of the proposed subconsultant; insurance certificates on Acord forms indicating amounts of professional liability, general liability, automobile, and worker's compensation insurance carried by subconsultant. Architect reserves the right to disapprove any proposed subconsultant for any reason. Copies of all executed agreements between Consultant and subconsultants shall be provided to Architect. Consultant shall bind each and every subconsultant to the terms stated herein and shall require that all persons rendering services under this Agreement are properly licensed to provide such services in the jurisdiction in which the Project is located. Consultant hereby agrees to include a provision in all contracts with subconsultants allowing Consultant to assign said contract to Architect or Owner without subconsultant's consent. Consultant shall require all subconsultants to include a similar assignment provision in any subagreements.

2.8 Consultant's proposal(s) if attached hereto or any "Exhibit B: Statement of Work" are incorporated by reference solely for the purpose of setting forth the scope of services to be undertaken by the Consultant, and for no other purpose whatsoever. Such incorporation does not constitute, nor shall it be deemed or understood to constitute an agreement by the Architect as to the terms and conditions of the proposal generally. Any description of the schedule of performance of the services set forth in the proposal shall only be deemed to be in fulfillment of the obligations of the Consultant hereunder to the extent that such schedule is separately approved in writing by the Architect. No provision of the proposal which purports to add any term or condition to this Agreement other than as a description of the services to be performed shall become part of this agreement, and shall be considered null and void. Without abrogating the generality of the foregoing, any provision that purports to: (a) limit the liability of the Consultant, (b) allocate responsibility or risk related to the Project in any way (including by way of indemnity, warranty, warrantee, or otherwise), (c) obligate the Architect or any third party in any way, (d) provide for the identification of additional services, (e) provide for payment to the Consultant (including amount, timing, or process of payment), (f) provide for insurance requirements of the Consultant, the Architect, the Owner, or any other party, or (g) set forth conditions, exceptions, provisos, or qualifications to the services to be performed by the Consultant shall not be deemed to be a part of this Agreement or any "Exhibit B: Statement of Work" unless and until the Architect and Consultant have expressly approved such term in writing. Provisions of this Agreement and the Prime Agreement shall supersede the provisions in the Consultant's proposal and any standard terms or conditions attached to the proposal, if any, in the case of any conflicting or inconsistent provisions.

ARTICLE 3: ADDITIONAL SERVICES

3.1 Additional Services may be provided after execution of this Agreement without invalidating the Agreement. Upon recognizing the need to perform Additional Services that may arise as the project proceeds, as described in the Prime Agreement, Consultant shall notify Architect. Consultant, however, shall not proceed to provide such services until Consultant receives Architect's written authorization. If Consultant proceeds and provides such services without the prior written consent of Architect, it shall be at Consultant's sole risk of non-payment. Except for services due to the fault of Consultant, and subject to the payment protocol in Section 9.3, any Additional Services provided in accordance with this Section 3.1 shall entitle Consultant to compensation pursuant to Section 9.1.

3.2 In the event of a disagreement between Architect and Consultant regarding whether or not any services requested of Consultant are Additional Services, the terms of the Prime Agreement shall prevail. If the terms of the Prime Agreement do not resolve the disagreement, Consultant shall provide the requested services and pursue remedies pursuant to the dispute resolution procedures provided in Article 7 of this Agreement.

ARTICLE 4: ARCHITECT'S RESPONSIBILITIES

4.1 Architect shall provide available information in a timely manner regarding requirements for and limitations on Consultant's Services, including a copy of Owner's program for the project if available. Within seven (7) days after receipt of a written request, Architect shall request information from Owner as necessary and relevant for Consultant to evaluate, give notice of, or enforce lien rights. Within seven (7) days of receipt of such information from Owner, Architect shall furnish the information to Consultant.

4.2 Architect shall identify a representative authorized to act on Architect's behalf with respect to Consultant's Services in each "Exhibit B: Statement of Work." Architect or such identified representative shall render decisions in a timely manner pertaining to documents submitted by Consultant to avoid unreasonable delay in the orderly and sequential progress of Consultant's Services.

4.3 Upon Consultant's request, Architect shall furnish to Consultant in a timely manner drawings and specifications, designs, and other documents and information available to Architect and/or specified or furnished by Architect or others for design and coordination of Consultant's Services. Architect shall provide to Consultant any and all requests for interpretations or clarifications of documents prepared by Consultant. If Consultant reasonably requests information from investigations, surveys, tests, analyses and reports, or Consultant's Services of other consultants not within the scope of Consultant's Services, Architect shall request that Owner furnish the information or services. Upon receipt, Architect shall provide such information to Consultant. Consultant shall be entitled to rely on the accuracy and completeness of Architect's services and information furnished by Architect.

4.4 Architect shall furnish to Consultant a copy of any estimates of the Cost of the Work if provided by Owner, bidding documents, bid tabulations, negotiated proposals and Contract Documents, including, to the extent they pertain to Consultant's Services, Change Orders and Construction Change Directives for Consultant's use in the design and coordination of Consultant's Services.

4.5 Architect shall be entitled to rely on the accuracy and completeness of Consultant's Services and information furnished by Consultant. Architect shall provide prompt written notice to Consultant if Architect becomes aware of any errors, omissions or inconsistencies in Consultant's Services or information.

ARTICLE 5: COST OF THE WORK

5.1 For purposes of this Agreement, the Cost of the Work is defined as set forth in the Prime Agreement, whether called the Cost of the Work, total construction cost of the Project, or by any similar terminology.

5.2 When the project requirements have been sufficiently identified, if required of Architect by the terms of the Prime Agreement, Consultant shall prepare and submit to Architect an estimate of Cost of the Work for Consultant's Services based on the same methodology required of Architect under the Prime Agreement. Consultant shall update the estimate for Consultant's Services as required by the Prime Agreement.

5.3 If at any time the estimate for the Cost of the Work exceeds Owner's budget for the Cost of the Work, Consultant shall make appropriate recommendations to Architect to adjust the Project's size, quality or budget related to Consultant's Services.

Additionally, Consultant shall cooperate with Architect and Architect's other consultants in redesigning the Work for Consultant's Services to comply with the budget for the Cost of the Work to the same extent required of Architect under the Prime Agreement. Payment for such redesign shall be contingent upon applicable payment terms for such redesign in the Prime Agreement.

ARTICLE 6: COPYRIGHTS AND LICENSES

6.1 Upon execution of this Agreement, Consultant grants Architect a license to use Consultant's Instruments of Service in the same manner and to the same extent as Architect has granted a license to Owner in the Prime Agreement. Should the Prime Agreement require transfer of ownership of Architect's Instruments of Service to Owner, then Consultant hereby grants such transfer of ownership in Consultant's Instruments of Service to Architect. Additionally, Consultant hereby grants Architect, upon Architect's payment to the Consultant of amounts properly due under this Agreement, or upon Architect's termination of Consultant for cause, a royalty free license to use the Design Construction Documents in connection with completing the project. Consultant, upon request from Architect, shall provide all documents in whatever form reasonably requested by Architect.

Architect shall, in its sole discretion, have the exclusive right to transfer or assign to Owner any of the foregoing rights granted to Architect. Architect agrees that all uses by Architect of Consultant's Instruments of Service shall be limited to the Project and shall indemnify Consultant for damages arising from any unauthorized use by Architect of such intellectual property on another project.

6.2 Subject to Architect's rights under Section 8.2, Architect and Consultant shall not make changes in each other's Instruments of Service without written permission of the other party.

6.3 Consultant shall maintain on file and make available to Architect design calculations for Consultant's Services and shall furnish copies thereof to Architect upon request.

ARTICLE 7: CLAIMS AND DISPUTES

7.1 Subject to Section 7.2, any claim, dispute or other matter in question arising out of or related to this Agreement shall be subject to the same venue, choice of law, and dispute resolution provisions as set forth in the Prime Agreement. If such matter relates to or is the subject of a lien arising out of Consultant's Services, Consultant may proceed in accordance with applicable law to comply with the lien notice or filing deadlines prior to resolution of the matter under the dispute resolution provisions set forth in the Prime Agreement.

7.2 If the claim, dispute or other matter in question arising out of or related to this Agreement is unrelated to a dispute between Architect and Owner, or if Consultant is legally precluded from being a party to the dispute resolution procedures set forth in the Prime Agreement, then claims, disputes or other matters in question shall be resolved in accordance with this Section 7.2. Texas law shall apply to such disputes without regard to the application of any principles addressing conflict of laws. Venue and jurisdiction shall be the state district courts of the county in which the project is located. Any such claim, dispute or matter in question shall be subject to mediation as a condition precedent to binding dispute resolution. A request for mediation shall be delivered in writing to the other party to the Agreement. The request may be made concurrently with the filing of a complaint or other appropriate demand for binding dispute resolution, which shall be stayed pending mediation for a period of sixty (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 equally. The mediation shall be held in Dallas County, Texas, 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 claim, dispute or matter in question through mediation, the method of binding dispute resolution shall be litigation in a court of competent jurisdiction.

7.3 INDEMNIFICATION

Unless the Prime Agreement contains a greater or more stringent defense and/or indemnity obligation (to which Consultant shall comply), Consultant shall indemnify Architect as follows:

FOR PROFESSIONAL SERVICES AND THE LIABILITY RESULTING THEREFROM, CONSULTANT AGREES TO THE FULLEST EXTENT PERMITTED BY LAW, TO INDEMNIFY AND HOLD HARMLESS ARCHITECT AND ARCHITECT'S CLIENT, AND THEIR RESPECTIVE OFFICERS, DIRECTORS AND EMPLOYEES, FROM ANY CLAIMS, CAUSES OF ACTION, LIABILITIES, LOSSES, DAMAGES, COSTS AND REASONABLY INCURRED EXPENSES, INCLUDING REASONABLE ATTORNEY'S FEES AND COSTS AS AN ELEMENT OF ARCHITECT'S

DAMAGES IF CONSULTANT IS FOUND LIABLE THEREFOR, BUT ONLY TO THE EXTENT CAUSED BY THE NEGLIGENCE OR WILFUL MISCONDUCT OF CONSULTANT, OR ANYONE FOR WHOM CONSULTANT IS LIABLE, INCLUDING ITS SUB-CONSULTANTS.

The foregoing indemnity shall be applied on a comparative fault basis according to Consultant's percentage of responsibility or fault, and in accordance with applicable law for the jurisdiction governing the performance of Consultant's Services.

FOR ALL CLAIMS ARISING FROM OTHER THAN PROFESSIONAL SERVICES (INCLUDING BUT NOT LIMITED TO ANY WORKER'S COMPENSATION CLAIMS MADE BY EMPLOYEES OF CONSULTANT, AND ALL OTHER CLAIMS NOT INCLUDED IN SECTION 7.3 ABOVE), CONSULTANT AGREES TO THE FULLEST EXTENT PERMITTED BY LAW TO DEFEND, INDEMNIFY, AND HOLD HARMLESS ARCHITECT AND ARCHITECT'S CLIENT AND THEIR RESPECTIVE OFFICERS, DIRECTORS, AND EMPLOYEES, FROM ANY AND ALL CLAIMS FOR BODILY INJURY, DEATH, AND/OR PROPERTY DAMAGE OF ANY KIND, ALL OR ANY RESULTING FROM ACTS OR OMISSIONS OF CONSULTANT OR ANYONE FOR WHOM CONSULTANT IS OR MAY BE LIABLE.

ARTICLE 8: TERMINATION OR SUSPENSION

8.1 This Agreement and/or any associated "Exhibit B: Statement of Work" may be terminated by Architect for convenience and without cause upon not less than seven (7) calendar days written notice to Consultant. In such event and subject to the payment terms of Section 9.3, Architect shall pay Consultant for all Consultant's Services performed and expenses incurred by Consultant, which are properly and timely invoiced, until and including the day the written notice is received by Consultant, less any amounts withheld pursuant to the terms of this Agreement and/or the Prime Agreement. Consultant's sole and exclusive remedy for termination for convenience shall be such payment.

8.2 If, in the reasonable opinion of Architect, Consultant (1) fails in any material respect to timely prosecute Consultant's Services, (2) fails to comply with a significant material provision of this Agreement or any other agreement between Consultant and Architect, (3) makes a general assignment for the benefit of its creditors, (4) has a receiver appointed, or (5) becomes insolvent, then, after serving seven (7) days written notice, Architect, at its option and without voiding the other provisions of this Agreement, may, (a) take such steps as are necessary to overcome the condition, in which case Consultant shall be liable to Architect for any costs and damages arising therefrom, or (b) partially or wholly terminate Consultant for cause. In the event of termination for cause, and notwithstanding any other provision of this Agreement, Architect may, at its option, use all of Consultant's Instruments of Service for completion of the project by others, take assignment of any or all of Consultant's agreements with any lower-tier consultants and/or have the remainder of Consultant's Services completed by others. In case of a termination for cause, Consultant shall not be entitled to receive any further payment until Consultant's Services are fully completed and accepted by Owner and payment made in full by Owner to Architect, at which point Consultant shall be paid the remainder of its fee less any costs and expenses incurred by Architect arising from actions to cure deficiencies or complete Consultant's Services. The rights, duties and obligations herein shall survive termination of this Agreement.

8.3 In the event Architect terminates Consultant for cause and it is later determined that the basis for such termination did not meet the requirements for termination for cause, such termination shall immediately and without further action by Architect be converted to a termination for convenience pursuant to Section 8.1. In such event, Consultant shall be entitled, as its sole remedy, to the remuneration identified in 8.1.

8.4 Either party may terminate this Agreement and/or any associated "Exhibit B: Statement of Work" at such time as the Prime Agreement is terminated. Architect shall promptly notify Consultant of such termination.

8.5 Consultant shall not be entitled to any claim for damages resulting from any termination, suspension, or delay including without limitation any claim for compensation or recovery of any damages, including but not limited to lost profits or anticipated profit, lost opportunity costs, impact damages or any special, indirect or consequential damages of any type.

8.6 Upon termination, Consultant shall immediately turn over all project documents, including all Instruments of Service, and shall cooperate with and take such measures as Architect may reasonably require to facilitate a transition of Consultant's Services.

ARTICLE 9: COMPENSATION

9.1 For Consultant's Services as described under Article 2, Architect shall compensate Consultant as set forth in "Exhibit B: Statement of Work." For Additional Services that may arise during the course of each project, Architect shall compensate the Consultant as negotiated. The hourly billing rates for Consultant and its subconsultants, if any, will be set forth in "Attachment 1" to "Exhibit B: Statement of Work." The rates shall be adjusted in accordance with Consultant's and Consultant's subconsultants' normal review practices.

9.2 Architect shall reimburse Consultant for reasonable, verifiable and approved costs and expenses necessarily incurred by Consultant or Consultant's employees directly relating to the Project, but only to the extent such costs and expenses are reimbursable to Architect under the Prime Agreement. Reimbursable Expenses are in addition to compensation for Consultant's Services and Additional Services.

9.3 Consultant will submit invoices for the Consultant's services and expenses monthly, but in no event later than sixty (60) days after the last day of the month in which the services were provided. Invoices submitted after sixty (60) days may not be paid. All invoices must include the project name and Architect's project number. Consultant must comply with invoicing procedure outlined at the following website: www.corgan.com/consultants. Architect will invoice the Owner for Consultant's services and use reasonable and diligent efforts to collect payment, from the Owner. Architect will pay Consultant within ten (10) calendar days after receipt of payment, to the extent that Architect receives payment from the Owner. However, to the extent permissible under applicable law, if Owner fails to pay Architect for Consultant's services, Consultant shall not be entitled to collect payment for those services from Architect. Consultant acknowledges that Owner's payment to Architect is a condition precedent to payment to Consultant. If a retainage is held by Owner, a proportionate amount shall be withheld from the Consultant until Architect has received payment of same.

- .1** Except for non-payment from the Owner for Consultant's Services to the extent that such non-payment is solely attributable to errors or omissions of Architect, all payments to Consultant shall be made by Architect solely and exclusively, and from no other source, out of funds actually received by Architect from Owner for Consultant's Services from the specific fund(s) established by the Owner for payments to Architect, including, but not limited to, those relating to this Agreement. Consultant acknowledges that it is sharing, to the extent of payments to be made to Consultant, in the risk that Owner may fail to make one or more payments to Architect for all or a portion of Consultant's Services. The full amount of payment to Consultant is to be solely a pro-rata portion of the total amount received by Architect from the Owner. The pro-rata portion shall be computed by dividing Consultant's compensation, excluding expenses by the total amount of Architect's Compensation amount with the Owner, and applying that same ratio to the total amount of payment actually received by Architect on the Prime Agreement.
- .2** The Parties acknowledges that the waiver of the Consultant's right to pursue Architect for non-payment by the Owner in the preceding paragraphs are a material provision of this Agreement. It has been expressly discussed and negotiated by and between the Consultant and Architect and their respective legal counsel, and the Parties would not have entered into this Agreement but for the Parties express agreement to include and abide by such provision. Notwithstanding the foregoing, Consultant specifically assumes the risk of non-payment for its services and reimbursable expenses (if applicable), including without limitation, the risk of the Owner's insolvency. Nothing prevents the Consultant from pursuing the Owner directly for non-payment of the Consultant's services, in which case Architect agrees to assign such rights that it may have to payment from the Owner for Consultant's Services and Reimbursable Expenses to Consultant.
- .3** If Consultant fails to timely submit its final payment application within sixty (60) days after substantial completion of its Services, such failure shall constitute a waiver of Consultant's right to any additional payment for its Services. Such waiver shall be applicable to any or other person claiming through, by or under the Consultant.
- .4** Records of the Consultant's payroll and benefit costs and reimbursable expenses pertaining to the project will be kept on a generally recognized accounting basis and will be available to Architect and Owner at mutually convenient times.
- .5** Receipt of Consultant's insurance certificate evidencing minimum required limits shall be a condition precedent to Architect's obligation to pay and Consultant's right to receive payment.

ARTICLE 10: MISCELLANEOUS PROVISIONS

10.1 Hazardous Materials. Unless otherwise required in the Prime Agreement, Architect and Consultant shall have no responsibility for the discovery, presence, handling, removal or disposal of, or exposure of persons to, hazardous materials or toxic substances in any form at the project site. Notwithstanding the foregoing, Consultant shall promptly notify Architect of the actual discovery of or reasonable suspicion of the presence of hazardous materials or toxic substances in any form at the project site.

10.2 Confidentiality. All information, drawings, specifications, building information models, and other data and materials, called "Confidential Project Information" herein, disclosed by Architect or Owner to Consultant, or by Consultant to Architect, in the course of performing this Agreement and any information or material derived from Confidential Project Information, whether in writing or otherwise, are confidential and proprietary to the author or owner of the Confidential Project Information, and subject to copyright laws, trade secret protection, and privacy laws and regulations. The receiving party shall keep such information strictly confidential and shall not disclose it to any other person except to (a) its employees, (b) those who need to know the content of such information to perform services or construction solely and exclusively for the project, or (c) its consultants and contractors whose contracts include similar restrictions on the use of confidential information. Confidential Project Information shall not be used in connection with other projects. Confidential Project Information will not, however, include information which the receiving party can demonstrate (i) was known by the receiving party prior to receiving the confidential information from the disclosing party; or (ii) is or becomes public knowledge through no breach of this Agreement; (iii) is lawfully disclosed by a third party acting in good faith and not bound by a confidentiality obligation; (iv) disclosure is required by law, by any court of competent jurisdiction, or by any official regulatory body.

10.3 Anti-Bribery/Corruption. Both parties acknowledge that Architect has entered this Agreement with Consultant based upon Architect's reasonable belief that Consultant shall not violate any anti-bribery laws, including, but not limited to, the United States Foreign Corrupt Practices Act ("FCPA"), UK Bribery Act 2010, and Singapore's Prevention of Corruption Act. Subject to the FCPA, the Consultant warrants that none of its employees, officers, or principals is an official or representative of any government or is a candidate for such position. In conformity with the FCPA and Architect's established corporate policies regarding foreign business practices, Consultant further represents and warrants that it and its employees, agents, and representatives shall not directly or indirectly make any offer, payment, promise to pay, or authorize the giving of anything of value for the purpose of influencing an act or decision of an official of any foreign government or candidate for such an office, including a decision not to act, or inducing such a person to use his influence to affect any government act or decision of a foreign government in connection with Architect's or Owner's business. Architect may automatically terminate this Agreement for cause if it reasonably believes that Consultant has violated the FCPA.

Consultant warrants and represents the following are true statements and will remain true during performance of the Services: (i) Consultant is authorized and duly qualified to perform the Services required in this Agreement; (ii) none of Consultant's personnel are foreign or domestic government employees, officials or other representatives; (iii) no money paid or thing of value given to Consultant by Architect will be paid, given or otherwise transferred directly or indirectly to any foreign or domestic government employee, official or other representative; (iv) Consultant is not in material violation of any laws, rules, or regulations which apply to the conduct of its business; (v) there has never been any citation, fine, or penalty imposed, asserted, or threatened against Consultant under any foreign, federal, state, local, or other law or regulation relating to employment, immigration, foreign or domestic corrupt practices or the avoidance of bribery and; (vi) Consultant is aware of no current circumstances likely to result in the imposition or assertion of any such a citation, fine, or penalty. Consultant will promptly notify Architect, in writing, if circumstances arise that would cause any of the foregoing statement to become false at any time during performance of the Services.

10.4 Federal Contracts. The following apply to all Agreements in which the Owner or end user is the United States Government: The Equal Employment Opportunity Clause required under Executive Order 11246, the affirmative action commitment for disabled veterans and veterans of the Vietnam era, set forth in 41 CFR 60-250.5, the affirmative action commitment for disabled veterans and other protected veterans, set forth in 41 CFR 60-300.5, the affirmative action clause for disabled workers, set forth in 41 CFR 60-741.5, and the related regulations of the Secretary of Labor, 41 CFR Chapter 60, are incorporated by reference in this Agreement. By accepting this Agreement, Consultant certifies that it complies with the authorities cited above and that it does not maintain segregated facilities or permit its employees to perform services at locations where segregated facilities are maintained, as required by 41 CFR 60-1.8, if applicable.

10.5 Consequential Damages. To the extent consequential damages are waived in the Prime Agreement, then neither party shall be liable to the other for loss of profits or revenue; loss of use or opportunity; loss of good will; cost of substitute facilities, goods, or services; cost of capital; or for any special, consequential, indirect, punitive, or exemplary damages.

10.6 Limitation of Liability. To the extent the Prime Agreement contains a limitation of liability, Consultant shall be entitled to the same limitation.

10.7 Tax Compliance. To assist Architect's tax compliance, upon job completion, Consultant's Designated Representative agrees to cooperate and provide documentation reasonably required by Architect, if any, in connection with Section 179D of the Internal Revenue Code. Furthermore, Consultant agrees that Architect will be designated the sole Section 179D beneficiary.

10.8 Maintenance of Records. Consultant shall keep and maintain such accounts as may be necessary for proper financial management under this Agreement. Consultant's system of accounts shall be maintained to Architect's and Owner's satisfaction; and, Architect and Owner have the right to access all of Consultant's records, books, correspondence, instructions, drawings, calculations, contracts, receipts, memoranda, daily journals, computer tapes, and similar data relating to this Agreement. Consultant shall preserve all such records for a period of at least four (4) years after the final payment is made hereunder.

10.9 Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of, a third party against either Architect or Consultant. Notwithstanding the foregoing, Owner shall be an intended third-party beneficiary of this Agreement.

10.10 Architect may in its sole discretion assign this Agreement to Owner, and Consultant consents to such assignment. No portion of Consultant's Services shall be assigned by Consultant to a third party without prior written agreement of Architect.

10.11 Architect and Consultant, respectively, bind themselves, their agents, successors, assigns and legal representatives to this Agreement.

10.12 In the event that either party is prevented from performing or is unable to perform any of its obligations under this Agreement (other than a payment obligation) due to any act of God, acts or decrees of governmental or military bodies, fire, casualty, flood, earthquake, war, strike, lockout, pandemic or epidemic, destruction of facilities, riot, insurrection, or any other events or circumstances not within the reasonable control of the party affected, whether similar or dissimilar to any of the foregoing (collectively, a "Force Majeure"), and if such party shall have used its commercially reasonable efforts to mitigate its effects, such party shall give prompt written notice to the other party, its performance shall be excused, and the time for the performance shall be extended for the period of delay or inability to perform due to such occurrences.

ARTICLE 11: INTEGRATION CLAUSE

11.1 This Agreement represents the entire and integrated agreement between the Architect and the Consultant and supersedes any and all proposals, prior negotiations, representations, promises or agreements, either written or oral. This Agreement may be supplemented or amended only by written instrument signed by both Architect and Consultant. The terms of this Agreement shall apply to all subsequent amendments and agreements for Additional Services regardless of, and notwithstanding any terms contained in subsequent proposals submitted by the Consultant for Additional Services, whether or not Services are provided by the Consultant prior to execution by the Architect and Consultant of an appropriate written instrument applicable to such services. In the event any term of this Agreement is found to be unenforceable, all other terms shall remain in full force and effect.

(signatures on next page)

IN WITNESS WHEREOF, Consultant and Architect have caused their authorized representatives to execute this Master Services Agreement for Professional Services.

Corgan Associates, Inc.
("Architect")

[Consultant Name]
("Consultant")

Signature

Signature

Printed Name and Title

Printed Name and Title

Date

Date

For review only - Non-negotiable

MASTER SERVICES AGREEMENT BETWEEN ARCHITECT AND CONSULTANT

EXHIBIT A: CONSULTANT'S INSURANCE REQUIREMENTS

1.1 Unless the Prime Agreement for a Project requires higher limits (for which Consultant shall comply), Consultant shall, at Consultant's sole expense, purchase and maintain the following kinds of insurance for the duration identified in Section 1.2.8 of this Exhibit, or for a longer period if otherwise required herein, for the purpose of insuring Consultant and the additional insureds on Consultant's policies for claims which may arise out of or result from the performance of Consultant's Services whether such services are performed by Consultant, its subconsultants, anyone employed by any of them, or anyone for whose acts any of them may be liable.

- .1 **Commercial General Liability** for bodily injury and property damage.
- .2 **Automobile Liability** covering any vehicle, owned, non-owned, and hired for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of automobiles.
- .3 **Worker's Compensation** or other employee benefit acts applicable to the work to be performed.
- .4 **Umbrella / Excess Coverage**
- .5 **Cyber Liability**
- .6 **Professional Liability** covering claims arising out of the performance of professional services under this Agreement and caused by negligent acts, errors or omissions for which Consultant is liable.

See Section 1.5 of this Exhibit for required limits.

During the pendency of this Agreement, or the time period in which Consultant is required to carry insurance hereunder, should Consultant not meet the required insurance limits due to: (1) reduction in coverages resulting from claims, demands or losses; or (2) cancellation or non-renewal of coverages, Consultant shall advise Architect in writing within ten (10) days of such non-compliance. Consultant shall take immediate measures to obtain additional insurance to satisfy the required coverages.

1.2 For every insurance policy required by this Exhibit, and prior to commencing Consultant's Services, Consultant shall obtain policies and provide certificates of insurance that:

- .1 Are issued by an insurance carrier authorized and admitted to do business in the State where the Project is located, and with a financial rating of not less than A: XII per A.M. Best;
- .2 Are endorsed to name Owner and Architect, and all other interested parties as may be reasonably required by Owner, as Certificate Holders and additional insureds on General Liability, Automobile Liability, and Umbrella / Excess (if any) policies;
- .3 Provide coverage to additional insureds pursuant to Section 1.1 of this Exhibit and its subparts as primary insurance;
- .4 If the additional insureds have other insurance which is applicable to the loss, such other insurance shall be on an excess or contingent basis and apply to the additional insureds only. The amount of Consultant's insurance shall not be reduced by the existence of such other insurance;
- .5 Are endorsed to contain provisions requiring the carrier to provide Architect written notice a minimum of thirty (30) days in advance of insurer's intent to cancel or not renew;
- .6 Include clauses providing that each underwriter shall waive all of its rights of recovery, under subrogation or otherwise, against Owner and Architect;
- .7 On an annual basis, within ten days of all renewals, and/or within ten days of Architect's written request, Consultant shall deliver to Architect renewal Certificates or other documents issued by the insurance carrier that Consultant has maintained the required insurance coverages.
- .8 Unless otherwise required in this Agreement, are maintained during the Project and after the completion of services under this Agreement until the expiration of the applicable statute of repose.

1.3 If Consultant fails to furnish and maintain the insurance required herein, Architect may (but is not required to) purchase such insurance on behalf of Consultant, and Consultant shall pay the cost thereof to Architect upon demand and shall furnish to Architect any information needed to obtain such insurance. Architect's presentation of proof of payment of premium shall be conclusive evidence of the reasonableness and payment of premium. Moreover, at its discretion, Architect may pay for such insurance with funds otherwise due Consultant under this or any other Agreement.

1.4 The requirements of this Exhibit are material terms of this Agreement, and any breach of these terms shall be cause for termination of this Agreement and/or Architect's right to withhold payment otherwise due Consultant under this or any other Agreement, it being understood and agreed that the production of evidence of required coverages, endorsements, and other documents required in this Exhibit shall be an express condition precedent, notwithstanding anything to the contrary in this Agreement, to Consultant's right to be paid any compensation or expenses under this Agreement. Architect's failure at any time, to object to Consultant's breach of any requirement of this Exhibit shall not be deemed a waiver of any of Architect's rights arising out of this Agreement.

(Intentionally blank)

(Continued on next page)

For review only - Non-negotiable

1.5 Required Limits

- .1 **General Liability** \$1,000,000 per occurrence and \$2,000,000 in the aggregate.
- .2 **Automobile Liability** \$1,000,000 per accident along with any other statutorily required coverage.
- .3 **Workers Compensation** at statutory limits.
- .4 **Excess Coverage** as set forth in the Prime Agreement (if required).
- .5 **Cyber Liability** \$1,000,000 per occurrence and \$1,000,000 in the aggregate
- .6 **Professional Liability determined by consultant type and project construction cost, per the below tier schedule:**

Consultant Type			
Primary	Secondary	Limited Scope	Specialty
Associate Architect Civil Engineer – Aviation/Airside Façade/ Envelope Consultant Fire Protection - Critical Facilities Mechanical/Electrical/Plumbing Structural	Accessibility Acoustical Baggage Handling Systems Civil Code Cost Estimating Exterior Building Maintenance Fire Protection (when not MEP) Fitness Food Service / Concessions Interior Design Pool/Spa Roofing/Waterproofing	Artwork Audio Visual Graphics/Wayfinding Hardware Landscape Design Lighting Design Third party Services/City Green Building Parking Design and Systems Planning Consultant Security Systems/Access Control Sensitive Compartmented Info Facility (SCIF) Sustainability/WELL Telecom / IT Traffic Analysis Urban Planning Water & Wastewater Engineering	Aquatic Design Clinical Planning Commissioning Daycare Elevator/Vertical Transportation Laundry Materials Management Medical Equipment Planning Pharmacy Radiation Shielding Sports Facility Consulting System Integrator (Studio)

Consultant Type	Construction Cost							
	\$0 - \$5,000,000		\$25,000,001 - \$50,000,000		\$50,000,001 - \$100,000,000		\$100,000,000+	
	Per Claim	Aggregate	Per Claim	Aggregate	Per Claim	Aggregate	Per Claim	Aggregate
Primary	\$2,000,000	\$4,000,000	\$2,000,000	\$4,000,000	\$5,000,000	\$7,000,000	\$10,000,000	\$10,000,000
Secondary	\$1,000,000	\$2,000,000	\$1,000,000	\$2,000,000	\$2,000,000	\$2,000,000	\$2,000,000	\$4,000,000
Limited Scope	\$1,000,000	\$2,000,000	\$1,000,000	\$2,000,000	\$1,000,000	\$2,000,000	\$2,000,000	\$2,000,000
Specialty	\$1,000,000	\$2,000,000	\$1,000,000	\$2,000,000	\$1,000,000	\$2,000,000	\$2,000,000	\$2,000,000