



September 28, 2009

Mr. Jeffrey Epstein
LSJ, LLC
6100 Red Hook Quarters, Suite B-3
St. Thomas, Virgin Islands 00802

Subject: **Agreement for Architectural Services**
For Epstein Interests
Little St. James Pool Area and Screening Room
Gensler Project Number 05.7112.000

Dear Mr. Epstein:

This Agreement is between Mr. Jeffrey Epstein ("Client") and M. Arthur Gensler Jr. and Associates, Inc. ("Gensler") for architectural services.

A. PROJECT

A.1 Project Description. The project is located on Little St. James Island, a private Island off the coast of St. Thomas.

The project includes five main areas:

1. New construction of a Pool Area and subterranean Screening Room, including: 13,700 SF Pool Deck with 2,100 SF Pool, 2,500 Covered Porch, 500 SF Shade Structure, 820 SF Cabana, 350 SF Cabana, two 700 SF Pavilions, a 3000 SF Screening Room, and associated Mechanical and Support spaces.
2. New construction of a 1,200 SF ATV Garage building.
3. Exterior façade alterations and a new roof for the Main Residences.
4. New Dock House building on an existing dock.
5. Landscaping for the Service Road and Office Path.

A.2 Project Budget. Client and Gensler will review Client's budget goals for the Project at the commencement of design. During design, Client and Gensler will monitor the Project Budget, and Client will adjust it to reflect changes in the program requirements, design, and level of design detail, or adjust the program to be consistent with the Project Budget.

A.3 Project Schedule. Gensler will develop a Project Schedule of important milestones for Client's review and approval. During design, Gensler and Client will monitor the Project for conformance with the Schedule, and Gensler will notify Client of any necessary changes in the Schedule. The following milestones are presently projected:

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- a) Commencement of Basic Services (approximate dates, to be confirmed, pending authorization by Client to proceed with each phase):
 - Schematic Design (approx 6 weeks): December 2008
 - Design Development (approx 8 weeks): April 2009
 - Construction Documents (approx 12 weeks): September 2009
- b) Commencement of Construction (approx 8 months): January 2009
- c) Substantial Completion or Occupancy: August 2010

B. SCOPE OF SERVICES PROVIDED BY GENSLER

Client and Gensler will provide the names of their Project team members, including the primary contact person and the person authorized to make decisions.

B.1 GENSLER'S BASIC SERVICES

Gensler's Basic Services include design services for the Project, and design services for the following building systems or components:

- a) Architectural Design.
- b) Interior Design (Screening Room only).
- c) Structural Engineering.
- d) Mechanical, Electrical and Plumbing Engineering (within 5' of the building perimeter).
- e) Acoustical Engineering (Screening Room).
- f) Audio/Visual System Design for sound and projection equipment (Screening Room only).
- g) General lighting design.
- h) Landscape design (pool deck and service road areas).
- i) Swimming Pool Design
- j) Waterproofing System Design

Refer to Attachment B for additional information regarding specific scope in each portion of the project.

Phase One - Design

1. Schematic Design. Based on the approved Conceptual Design and Client's authorization to proceed, Gensler will develop the Schematic Design, consisting of:

- a) Site plan;
- b) Building elevations;
- c) Typical building sections;
- d) Floor plans;
- e) Outline description of building systems included in Gensler's scope of services, prepared by Gensler's consultants;
- f) Preliminary project description;
- g) Perspective views of 3D "Sketch-up" model.

Gensler will provide two copies of the Schematic Design Documents and will meet with Client one time (location TBD) to present and review the material.

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2. Design Development. Based on the approved Schematic Design and Client's authorization to proceed, Gensler will proceed with Design Development, to further develop the design, including:

- a) Site plan;
- b) Building elevations;
- c) Building sections;
- d) Floor plans of each typical and unique level;
- e) Preliminary designs of building systems included in Gensler's scope of services, prepared by Gensler's consultants;
- f) Reflected ceiling plans of common spaces;
- g) Exterior lighting;
- h) Interior lighting;
- i) Architectural treatments, including materials palettes;
- j) Key details;
- k) Preliminary interior finishes;
- l) Additional perspective views of 3D "Sketch-up" model as necessary to describe the project.

Gensler will provide two copies of the Design Development Documents and will meet with Client one time (location TBD; additional meetings as necessary to resolve design issues) to present and review the material.

3. Construction Documents. Based on the approved Design Development Documents, authorized adjustments to the Project Budget, and Client's authorization to proceed, Gensler will provide Drawings and Specifications intended to be used for constructing the Project, including:

- a) Site plan;
- b) Building sections and elevations;
- c) Enlarged plans and elevations of special areas;
- d) Floor plans of each typical and unique level;
- e) Roof and penthouse plans;
- f) Design details;
- g) Finish plans and finish schedules;
- h) Engineering drawings of systems included in Gensler's scope of services, prepared by Gensler's consultants;
- i) Reflected ceiling plans;
- k) Specifications.

Phase Two - Implementation

1. Bidding or Negotiation. Gensler's assistance will be limited to architectural matters. Gensler will assist with Client's assessment of pricing and contracting strategies, and selection of vendors. No meetings are included in this phase.

2. Permit Applications. Gensler will assist Client in connection with filing documents required by governmental authorities having jurisdiction over the Project. The Client will provide an "expediter" to submit the drawings for all required approvals, and coordinate with authorities having jurisdiction. Gensler

will secure an Architectural License in USVI, through reciprocal agreements between the US and USVI. Gensler Consultants will secure similar licenses, if required by local agencies.

3. Construction Administration. Gensler will assist Client with Construction Administration. Gensler's Construction Administration services will begin with the award of the Construction Contract and end thirty (30) days after Substantial Completion or when Gensler signs the Contractor's final payment application, whichever occurs first.

3.1 Meetings and Site Visits. Gensler will visit the Project site during construction to attend job meetings and to walk through the Project as often, in Gensler's professional judgment, as is appropriate to become generally familiar with the progress and quality of the Work, and to determine whether the Work is in general conformance with the aesthetic design intent. Gensler's fee for Basic Services includes eight one-day site visits during active construction. If Gensler observes Work that does not conform to the Construction Documents, Gensler will recommend that Client reject it. Gensler will also recommend inspection or testing of the Work if Gensler believes it is appropriate.

3.2 Communications During Construction. Client and Contractor shall communicate with each other, and with Gensler's consultants, through Gensler. Gensler will maintain logs of documents received, reviewed, and/or issued by Gensler.

3.2.1 Requests for Information. Upon Client's or Contractor's request for information, Gensler will provide written or graphic interpretations and clarifications of the Construction Documents.

3.2.2 Bulletins. Gensler will use its Bulletin form to: a) authorize minor changes in the Work; b) issue supplemental instructions related to the Work; c) confirm Field Orders; and d) request proposals for changes in the Work.

3.2.3 Submittals. Gensler will review and take appropriate action on Samples, Product Data, Shop Drawings, and other submittals that the Construction Documents require Contractor to submit ("Submittals"), to determine whether those items and Contractor's proposed methods of fabrication are generally consistent with the aesthetic design intent. Gensler will conduct up to two (2) reviews of any Submittal as a Basic Service.

3.3. Changes. Gensler may authorize minor changes in the Work if they are consistent with the aesthetic design intent and do not involve an adjustment in the Project Budget or Schedule.

3.4. Contractor's Payment Applications. Gensler will review Contractor's monthly payment applications and make recommendations to Client regarding amounts due. Gensler's approval of a payment application shall represent to

Client that, to the best of Gensler's knowledge, information, and belief, the Work has progressed to the point indicated and is consistent with the aesthetic design intent.

3.5 Substantial Completion. Gensler will conduct one field review, and if necessary, one follow-up field review, to observe whether the Work is substantially complete. These field reviews are included within the eight visits noted in Item 3.1 above. When Gensler determines that the Work is substantially complete, Gensler will issue the Certificate of Substantial Completion.

3.6 Final Completion and Project Close-Out. No later than thirty (30) days following Substantial Completion, Gensler will conduct one field review, and if necessary, one follow-up field review, to observe Contractor's completed punch list items. When Gensler believes that the Work has been sufficiently completed in conformance with the Construction Documents, Gensler will approve Contractor's final payment application.

B.2 CAD FORMAT AND STANDARDS. Gensler and its consultants will use AutoCAD 2004 or 2006 and Gensler's CAD Standards. At the completion of the Project, Gensler will deliver electronic files of Gensler's Construction Documents and Bulletins. Gensler will translate CAD files provided by Client and/or Client's consultants as an Additional Service.

B.3 GENSLER'S ADDITIONAL SERVICES. Gensler will provide services beyond Basic Services ("Additional Services") if requested by Client and confirmed in writing by Gensler. Additional Services include, but are not limited to, value engineering, professional models or renderings, Client-requested revisions that are inconsistent with prior approvals or instructions, and preparation or review of record drawings.

C. SCOPE OF SERVICES PROVIDED BY CLIENT

C.1 SERVICES PROVIDED BY CLIENT OR OTHERS. The following services may be required on the Project, and shall be provided by Client, Client's consultants, or others:

- a) Consulting services other than those included in Gensler's scope above.
- b) Civil Engineering, including shoring, excavation, grading, drainage, on-site and off-site utilities, septic systems, exterior pavement and curbs for parking, drives, and street connections five feet beyond the building perimeter.
- c) Soils or Geotechnical Engineering.
- d) Fire Alarm and Detection Systems Engineering (fire sprinkler system, fire alarm system).
- e) Design Services related to utilities to be supplied to the building, including water supply and storage, electrical supply and transformers, propane, and septic systems
- f) Furniture, fixtures and equipment, and other Owner-supplied items.
- g) Indoor air quality consultant services.

- h) Services for telephone, security systems and other special wiring and equipment.
- i) Services for off-site work.
- j) Special exterior lighting and illuminated signage services.
- k) Special acoustical considerations, analysis of existing structures, and analysis and testing of this project during and after construction.
- l) THX, Imax or other specialty presentation design standards/
- m) Custom lighting.
- n) Custom art work and murals.
- o) Design-build services (pool);

C.2 CLIENT FURNISHED INFORMATION. The following is a partial list of information to be provided by the Owner (additional information may be required as the project proceeds):

- a) Site survey (AutoCAD format), with location of property lines, setbacks, easements, topography (1' elevation increments), main utilities, roadways, other structures, and any other information that may be pertinent to the Project, to be provided by a licensed surveyor.
- b) As-built drawings of existing surrounding buildings.
- c) Soils and Geology reports, for determination of design criteria for building's foundations and location of septic systems.
- d) Civil Engineering, including shoring, grading and drainage systems design.
- e) Any criteria from the Owner related to the design and layout of the auditorium, casework and equipment, sound and projection systems, screens, seating, or any other programmatic requirements.
- f) Information related to Owner-provided furniture, fixtures or equipment.
- g) Planning, zoning and easement information, if required.
- h) Requirements and restrictions from all governing agencies if applicable.
- i) Security, computer, and telephone systems information.

C.3 CLIENT'S REQUIREMENTS OF CONTRACTOR. Client will, through the Construction Contract, require Contractor to:

- a) Provide access to Work;
- b) Provide the Submittal Schedule for Gensler's approval and provide required Submittals in accordance with the Schedule;
- c) Review Submittals, identify any changes, and approve before submitting to Gensler;
- d) Follow proper procedures for requests for substitutions;
- e) Maintain logs of all documents issued to and received from all other parties;
- f) Provide required certificates or statements of performance characteristics;
- g) Complete punch list items within thirty (30) days of Substantial Completion;
- h) Provide to Client record drawings, maintenance manuals, written warranties, and related documents within thirty (30) days of Substantial Completion.

D. COMPENSATION

Compensation to Gensler for Basic Services, Additional Services, and Reimbursable Expenses shall be as described below. When Gensler's compensation is based on hourly rates, the rates shall be those set forth in Gensler's Standard Hourly Billing Rates (attached).

D.1 Basic Services. Compensation for Basic Services shall be on a lump sum basis, billed as indicated below.

1. Pool Area (includes landscape at service road and office path):	\$937,750
2. ATV Garage:	\$ 20,000
3. Existing Main Residence:	\$ 23,500
4. Dock House:	\$ 22,000
	<hr/>
	\$1,003,250

Refer to the Attachment B, Scope and Fee Summary, for additional information.

D.1.1 Initial Payment. An initial payment shall be paid upon commencement of each phase of Gensler's and our Consultants' services.

a) Schematic Design Phase:	\$50,000 plus 50% Consultants' SD Fee
b) Design Development Phase:	\$50,000 plus 50% Consultants' DD Fee
c) Construction Documents Phase:	\$100,000 plus 25% Consultants' CD Fee
d) Construction Administration Phase:	\$25,000 plus 25% Consultants' CA Fee

The initial payment shall be held as a retainer for each phase, to be credited against the final invoice for each phase. If the final invoice for any phase is less than the amount of the retainer held, the difference shall be returned to the Client after all appropriate credits have been made.

D.2 Additional Services. Compensation for Additional Services (if not agreed upon as a lump sum amount) shall be based on Gensler's Standard Hourly Billing Rates. Additional Services shall include, but not be limited to, the following:

Making revisions in Drawings, Specifications, Project Manual or other documents when such revisions are: (a) inconsistent with approvals or instructions previously given by Client, including revisions made necessary by adjustments in Client's program, Project Budget or Project location; (b) required by the enactment, revised interpretation, jurisdictional differences in interpretation, or revision of codes, laws or regulations subsequent to the preparation of such documents, or additional costs caused by delays resulting from such; or (c) due to changes required as a result of Client's failure to render decisions in a timely manner. In addition, professional renderings or models (other than Sketch-Up format computer modeling done by Gensler) produced by others are deemed to be an Additional Service.

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D.3 Reimbursable Expenses. Compensation for Reimbursable Expenses incurred by Gensler in connection with the Project shall be based on amounts invoiced to Gensler, plus twelve percent (12%).

D.4 Consultants. Additional Consultants' fees, beyond those already included in this Contract, shall be compensated based on amounts invoiced to Gensler, plus fifteen percent (15%).

D.5 Progress Payments. Progress payments shall be made monthly. Where Gensler's fee is based on a lump sum, progress payments for Basic Services shall be based on the percentage of services provided during the previous month, as indicated below.

- Schematic Design: Initial Payment as indicated above; balance due at the end of the phase.
- Design Development: Initial Payment as indicated above; balance due at the end of phase.
- Construction Documents: Initial Payment as indicated above; 1/3 balance due at end of 1st, 2nd and 3rd months.
- Construction Administration: Initial Payment as indicated above; balance billed monthly as percentage complete.

E. AGREEMENT AND ACCEPTANCE

E.1 Agreement. This Agreement is comprised of and incorporates the following documents, in order of precedence:

- a) amendments and modifications signed by both parties;
- b) This Letter of Agreement;
- c) The attached Standard Terms and Conditions (STC);
- d) The attached Gensler Standard Billing Rate Schedule (Attachment A);
- e) The detailed fee summary (Attachment B);
- f) The attached Scope Diagrams dated March 20, 2009.

Where a portion of one document is amended by another of higher precedence, all unmodified portions shall remain in effect.

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E.2 Effective Date. The effective date of this Agreement shall be deemed the date Gensler started to provide services on the Project (the date we received the Schematic Design Phase initial payment), on or about January 13, 2009.

By Gensler

By Client

Warwick Ian Wicksman, AIA

(Printed Name of Signatory)

By _____
(Signature)

By _____
(Signature)

Principal, _____
(Title) (Date)

(Title) (Date)

On behalf of Andrew P. Cohen
Executive Director - Santa Monica Office,
California Registration Number C12855

cc: Andrew P. Cohen, Robert Jernigan, Nila Leiserowitz, Joe Harris

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Attachment A: Gensler Standard Hourly Billing Rates

Warwick Wicksman	Project Principal/Project Manager	\$230.00
Tom Sze	Project Designer	\$180.00
Bob Anderson	Project Architect	\$150.00
Senior Professional Staff		\$140.00 - \$200.00
Intermediate Professional Staff		\$85.00 - \$135.00
Junior Professional Staff		\$60.00 - \$80.00

Our rates are reviewed annually based upon an assessment of the market value of the position/function.

Attachment B: Scope and Fee Summary

1. Pool Area:

New Construction. Includes East and West Cabanas, North and South Pavilions, Grand Stair, Pool, Pool Deck, and Basement. Architectural services include shell/core services for all areas, and Interior Design services at the Screening Room only.

	SD	DD	CD	CA	Total
Gensler	\$100,000	\$96,000	\$222,000	\$95,000	\$513,000
Structural	\$9,375	\$11,500	\$32,625	\$6,000	\$59,500
MEP	\$10,500	\$16,250	\$24,000	\$25,000**	\$75,750
Acoustical	\$4,500	\$6,000	\$15,000	\$4,500	\$30,000
Lighting	\$5,000	\$7,500	\$17,500	\$5,000	\$35,000
A/V	\$8,000	\$10,000	\$29,000	\$5,000	\$52,000
A/V THX Certification	Not included				
Waterproofing	\$4,000	\$5,250	\$13,250	\$4,000	\$26,500
Landscape	\$12,500	\$24,000	\$36,500	Not included	\$73,000
Pool	\$14,500	\$14,500	\$29,500***	\$14,500***	\$73,000
Total	\$168,375	\$191,000	\$419,375	\$159,000	\$937,750*

Consultant fees are broken down by phase for convenience only. Actual phasing of consultant services may vary with required sequences of coordination.

* Plus standard reimbursable expenses.

** Allowance, to be billed hourly

*** Pool CD/CA Services pending further review by the Owner.

2. ATV Garage:

New construction. Assumes all design services are performed in conjunction with the Pool Area work described above, and are integrated into one set of documents with the Pool Area.

	SD	DD	CD	CA	Total
Gensler	Included in Item 1 above	\$4,000	\$8,000	Included in Item 1 above	\$12,000
Structural	Included in Item 1 above	\$1,000	\$2,000	Included in Item 1 above	\$3,000
MEP	\$1,000	\$1,000	\$3,000	Included in Item 1 above	\$5,000
Total	\$1,000	\$6,000	\$13,000		\$20,000*

Consultant fees are broken down by phase for convenience only. Actual phasing of consultant services may vary with required sequences of coordination.

* Plus standard reimbursable expenses.

3. **Existing Main Residence, Existing Pavilions, Existing Master Bedroom Suite:**
 Renovation. Main Residence and Pavilion scope includes new roofing, column covers, cornice/gutter, and new HVAC systems. Master Bedroom Suite scope is new HVAC only. Scope does not include any remodeling or expansion of existing buildings.

	SD	DD	CD	CA	Total
Gensler	Included in #1 above				
Structural	-	-	-	-	\$3,500**
MEP	\$5,000	\$5,000	\$10,000	Included in #1 above	\$20,000
Waterproofing	-	-	-	-	Included in #1 above
Total	\$5,000	\$5,000	\$10,000	-	\$23,500*

* Plus standard reimbursable expenses.

**Allowance to be billed hourly.

4. **Dock House:**
 New construction over at existing dock. Scope includes Architectural Schematic Design only, and DD/CD review of Construction Documents prepared by others.

	SD	DD	CD	CA	Total
Gensler	\$15,000	\$2,000**	\$5,000**	Not included	\$22,000
Total	\$15,000	2,000**	\$5,000**	-	\$22,000*

* Plus standard reimbursable expenses.

**Allowance to be billed hourly.

5. **Landscaping at Service Road and Office Path:**
 Includes landscape design for these areas, and coordination by the Architect.

	SD	DD	CD	CA	Total
Gensler	Included in #1 above	Included in #1 above	Not included	Included in #1 above	Included in #1 above
Landscape	Included in #1 above	Included in #1 above	Not included	Not included	Included in #1 above
Total	Included in #1 above	Included in #1 above	Not included	Not included	Included in #1 above

* Plus standard reimbursable expenses.

STANDARD TERMS AND CONDITIONS OF THE AGREEMENT BETWEEN CLIENT AND ARCHITECT FOR ARCHITECTURAL / INTERIORS SERVICES (STC)

Article 1 - Definitions and General Provisions

1.1 Parties. The terms "Client" and "Architect" include each party's authorized representatives, officers, directors, shareholders, and employees.

1.2 Project Budget. The Project Budget includes the construction budget, furniture, furnishings, equipment costs, and cost of all goods and services to be furnished by Client, Contractor, and any of their subcontractors or consultants, and contingency allowances.

1.3 Days or Time. Time periods refer to calendar days, unless otherwise stated.

Article 2 - Architect's Services

2.1 Architect's services shall be performed as expeditiously as is consistent with professional skill and care and the orderly progress of the Work.

2.2 Limitations of Construction Responsibilities. Architect shall not have control over, or charge of, and shall not be responsible for, construction means, methods, schedules, or delays, or for safety precautions and programs in connection with the Work.

Article 3 - Client's Responsibilities

3.1 Information. Client shall provide full information regarding the requirements for the Project.

3.2 Legal and Financial Information. Client shall furnish Architect with: (a) a legal description of the property; (b) the name and address of the property owner; and (c) the name and address of any construction lender(s).

3.3 Surveys. Client shall furnish surveys fully describing physical characteristics, legal limitations, and utility locations for the Project site.

3.4 Existing or Base Building Information. Upon request, Client shall provide information, drawings, specifications, and other documents that describe the existing utility services, site conditions, build-out and base building construction, and systems in or with which the Project is to be located or integrated.

3.5 Client's Consultants. When requested by Architect, or required by authorities having jurisdiction over the Project, Client shall furnish the services of geotechnical, civil, and environmental engineers and any other services required by the scope of the Project.

3.6 Tests. Client shall furnish structural, mechanical, chemical, air, and water pollution and hazardous materials tests, and other laboratory and environmental tests, inspections, and reports required by law or by authorities having jurisdiction over the Project, or reasonably requested by Architect.

3.7 Legal, Accounting, and Insurance Services. Client shall furnish all legal, accounting, and insurance counseling services as may be necessary for the Project.

3.8 Client's Services and Information. Architect shall be entitled to rely upon the accuracy and completeness of the services, information, surveys, and reports provided by Client, Contractor, or any of their subcontractors or consultants.

Article 4 - Construction Cost

4.1 Construction Cost. The Construction Cost shall be the total cost or estimated cost to Client of all Project elements designed or specified by Architect.

4.2 Estimates. Architect cannot and does not warrant or represent that bids or negotiated prices will not vary from Client's Project Budget or from any cost estimate or evaluation prepared or reviewed by Architect.

4.3 Fixed Limit. No fixed limit of Construction Cost shall be established as a condition of this Agreement by the furnishing, proposal, or establishment of a Project Budget.

Article 5 - Use of Architect's Documents and Data

5.1 The Drawings, Specifications, and other documents (collectively "Documents") and any computer tapes, disks, electronic data, or CAD files (collectively "Data") prepared by Architect are instruments of service and shall remain Architect's property, until such time as Client has paid all amounts to which Architect is entitled under this Agreement, after which condition precedent, all right, title and ownership interest in the Documents and Data shall transfer and accrue to Client, including all copyrights and other proprietary rights and interest, with the exception of standard constructions details or specifications included as part of the Documents or Data, the origination of which preexisted this Agreement ("Preexisting Intellectual Property"). Notwithstanding the foregoing or anything express or implied to the contrary, Architect shall hold and remain the owner of all rights, title and interest in Preexisting Intellectual Property.

5.2 Upon completion of Architect's services and payment of all amounts due Architect, Client may retain copies or reproduces of the Documents and/or Data for information and reference in connection with Client's use and occupancy of the completed Project.

5.3 Client agrees to indemnify and hold Architect harmless from and against any and all claims, liabilities, suits, demands, losses, damages, costs, and expenses (including reasonable attorneys' fees and costs of defense), together with interest thereon, accruing or resulting to any persons, firms, or other legal entities, on account of any damages or losses to property or persons, including death or economic loss, arising out of the unauthorized use, re-use, transfer or modification of the Documents and/or Data.

Article 6 - Claims and Disputes

6.1 Mediation. Claims, disputes, or other matters in question between the parties shall be subject to mediation under the auspices of a recognized professional mediation service prior to undertaking any legal action. The cost of the mediation service shall be borne equally by the parties.

6.2 Attorneys' Fees. In any proceeding following unsuccessful mediation, the prevailing party shall be entitled, in addition to such other relief as may be granted, to a reasonable sum for attorneys' fees and costs of defense.

6.3 Mutual Indemnification. Architect agrees to indemnify and hold Client harmless from and against any and all claims, liabilities, suits, demands, losses, damages, costs, and expenses (including reasonable attorneys' fees and costs of defense), together with interest thereon, to

the extent caused by the negligent acts, errors, or omissions of Architect, its consultants, or anyone for whose acts either of them may be legally liable. Client agrees to indemnify and hold Architect harmless from and against any and all claims, liabilities, suits, demands, losses, damages, costs, and expenses (including reasonable attorneys' fees and costs of defense), together with interest thereon, to the extent caused by the negligent acts, errors, or omissions of Client, its contractors or consultants, or anyone for whose acts any of them may be legally liable.

Article 7 - Termination

7.1 Termination by Either Party. This Agreement may be terminated by either party, **with or without cause**, upon not less than seven (7) days written notice should the other party fail substantially to perform in accordance with the terms of this Agreement.

7.2 Failure to Make Payments. Client's failure to make payments to Architect in accordance with this Agreement shall constitute substantial nonperformance and cause for termination or suspension.

7.3 Compensation Upon Termination. In the event of termination, Architect shall be compensated for services performed prior to termination, together with Reimbursable Expenses then due, ~~and Termination Expenses, which shall be defined as Architect's expenses directly attributable to termination.~~

Article 8 - Payments to Architect

8.1 Hourly Rates. Where services are to be compensated on an hourly basis, compensation shall be based on the flat hourly rates set forth in Architect's and Architect's consultants' standard rate schedules, which are subject to periodic adjustment.

8.2 Reimbursable Expenses. Reimbursable Expenses are in addition to compensation for Basic and Additional Services and include expenses incurred by Architect and Architect's consultants in the interest of the Project, including, but not limited to the following:

- (a) Data communications, telecommunications, reproduction, shipping, handling, and delivery.
- (b) Mileage, tolls, cab fares, and parking.
- (c) Renderings, models, computer modeling, mock-ups, and photography.
- (d) Sales taxes and other transactional taxes, and fees paid for securing approval of authorities having jurisdiction over the Project.
- (e) Authorized out-of-town travel (**business class unless upgrade is preapproved by Client**), including travel time, out-of-town living expenses (**business class hotel unless upgrade is preapproved by Client**), and long-distance communications.
- (f) Additional insurance coverage or limits requested by Client in excess of that normally provided by Architect and Architect's consultants.

8.3 Progress Payments. Progress payments for Basic and Additional Services and Reimbursable Expenses shall be due and payable upon receipt of Architect's invoices. Disputes or questions regarding an invoice or a portion of an invoice shall not be cause for withholding payment for the remaining portions due. Amounts unpaid thirty (30) days after the issue date of Architect's invoice shall be assessed a service charge of one and one-half percent (1-1/2%) per month.

8.4 Time Extensions. This Agreement anticipates that Architect's services will proceed continuously in accordance with the Project schedule. If, and to the extent that, time limits set forth in the original schedule are extended more than **one-hundred and eighty (180) days** beyond the dates outlined **in the Project Schedule** in the agreement, Architect's compensation shall be equitably adjusted.

8.5 Change In Project Scope. If portions of the Project are deleted or otherwise not constructed, compensation for those portions of the Project shall be payable to the extent services are performed on those portions.

Article 9 - Miscellaneous Provisions

9.1 Governing Law. This Agreement shall be governed by the law of the location of Architect's office identified in the Letter of Agreement.

9.2 Property Insurance Waivers. Client shall cause Architect and Architect's consultants to be named as Additional Insureds on Contractor's General Liability Policy and any property insurance purchased for the period of construction of the Project. Such insurance shall be endorsed to provide a waiver of the insurers' rights of subrogation against Architect and Architect's consultants.

9.3 Mutual Waiver of Consequential Damages. The parties hereby waive, as against each other, any claims for incidental, special, exemplary or consequential damages.

9.4 Successors and Assigns. Neither party shall assign this Agreement or any right or cause of action arising out of this Agreement or the performance of obligations hereunder without the written consent of the other.

9.5 Entire Agreement. This Agreement represents the entire and integrated agreement between Client and Architect and supersedes all prior negotiations, representations, or agreements.

9.6 Third Parties. Nothing contained in this Agreement shall create a contractual relationship with, or a cause of action in favor of, any third party.

9.7 Professional Credits. Architect shall have the right **to request** to include representations of the design of the Project, **including, upon Client's approval, not to be unreasonably withheld**, photographs of the exterior and interior, among Architect's professional materials, including, but not limited to, promotional materials, professional publications, and competition submissions.

9.8 Latent Conditions. In the event that the Project includes any remodeling, alteration, or rehabilitation work, Client acknowledges that certain design and technical decisions shall be made on assumptions based on available documents and visual observations of existing conditions.

9.9 Areas and Measurements. Areas and measurements provided by Architect are derived from drawing dimensions or field measurements and are not intended to be used as the basis for calculating rent or for other similar purposes.

9.10 Hazardous Materials. Client acknowledges that Architect has no expertise in, and is not being retained for the purposes of, investigating, detecting, abating, replacing, remediating, or removing any items, products, or materials containing hazardous substances.

9.11 Design/Build by Contractor. Architect and its consultants shall have no responsibility for the design, technical adequacy or accuracy, installation, or performance of any Design/Build portions of the Project.

9.12 Separate Consultants. Architect's coordination of its services with Client's and Contractor's subcontractors or consultants shall be limited to that necessary for consistency of Architect's documents with those of such subcontractors or consultants.