This Services Agreement (the “Agreement)” is entered into as of the Effective Date between the University of Washington, located in Seattle, Washington (the “UW”), on behalf of the UW’s College of Built Environments (“CBE”), Department of Department Name (“Department”), and Customer Name (the “Customer”).

WHEREAS, the Department is a unit within the UW that provides specialized professional services and has developed unique techniques in the field of the built environment;

WHEREAS, Customer seeks the Department’s expertise and data for a project (the “Project”) described in Exhibit A, attached hereto and incorporated herein, and requires the Department’s services in order to carry out the Project; and

WHEREAS, the services are not commonly available, and UW is willing to provide the services through the Department for the Project.

NOW, THEREFORE, in consideration of the mutual agreements contained herein, UW and Customer hereby agree as follows:

# 1.0 Services

1.1 Services. UW, through the faculty, staff, and facilities within the Department, will provide to Customer the services (the “Services”), including deliverables (the “Deliverables”), specifically described in Exhibit A.

1.2 Records. UW shall maintain records of the Services provided to Customer under this Agreement. Unless otherwise specified, the period during which the records will be maintained shall be in accordance with the Department’s usual and customary practices. The parties agree that nothing in the Agreement shall require the Department to return or destroy documents in a manner inconsistent with applicable laws and policies relating to records retention, including but not limited to the Revised Code of Washington (RCW) Chapter 40.14, the Washington State Preservation and Destruction of Public Records Act.

# 2.0 Rates, Expenses, Taxes, Payment, and Audit

2.1 Rates. Customer will compensate UW for the Services at the rates described in Exhibit A.

2.2 Expenses. Customer further agrees to reimburse UW for any additional necessary direct expenses incurred by UW and requested by Customer in delivering the Services, including without limitation, any travel and other expenses not included in the price described in Exhibit A.

2.3 Equipment and Supplies. Unless otherwise expressly agreed in writing by Customer, UW shall furnish all of the supplies, tools, equipment and related expendables customary and appropriate for providing the Services under this Agreement.

2.4 Taxes. Each party shall be responsible for payment of any taxes (including all federal, state and local employment taxes) owed by it and arising from this Agreement.

2.5 Payments. Customer agrees to pay UW for the Services delivered under this Agreement within thirty (30) days of receipt of an invoice from the UW using remittance information as stated on invoice.

Invoices shall be sent to Customer addressed as follows:

Insert Customer contact and mailing address

2.6 Interest. In accordance with Washington state law, RCW 43.17.240, the UW will collect interest in the amount of 1% per month of the outstanding balance for all payments not made within 30 days of the date of the invoice.

2.7 Audit. Upon fifteen (15) business days’ notice and during regular business hours, Customer shall have reasonable access to inspect, copy, and audit the records of UW to verify the hours and expenses incurred by UW in the rendering of Services under this Agreement. Under no circumstances shall Customer be entitled to inspect, copy and audit any privileged or legally-protected documents under the control of UW.

# 3.0 Term and Termination

3.1 Effective Date and Term. This Agreement is effective as of the Effective Date and shall remain in effect for the period described in Exhibit A, unless otherwise terminated in accordance with the terms of this Agreement.

3.2 Termination. Either party may terminate this Agreement for any reason upon 90 (ninety) days’ written notice to the other party. Termination of this Agreement by either party shall not affect the rights and obligations of the parties accrued prior to the effective date of the termination, and in the event of a termination for any reason, Customer shall pay UW for any Services rendered and expenses incurred by UW prior to the effective date of termination.

3.3 Survival. Unless expressly provided otherwise herein, each provision of this Agreement reasonably interpreted as intending to survive after the termination or expiration of this Agreement shall survive any such termination or expiration, including without limitation, Articles 7 and 8 of this Agreement.

# 4.0 Compliance

4.1 Qualifications, Licenses, Permits. Upon request by Customer, UW agrees to provide Customer evidence of any licenses, permits, certifications or accreditations required to provide the Services under the terms of this Agreement.

4.2 Conformation to Applicable Laws and Professional Standards. UW agrees that UW and those persons providing Services will conform to and obey all applicable laws, ordinances, rules, regulations, requirements, and orders of all municipal, county, state or federal authorities or agencies and all professional standards applicable to providing the Services under this Agreement.

4.3 Legal Compliance. The parties intend this Agreement to comply with all applicable laws, regulations, and requirements. The parties further agree this Agreement shall be applied and interpreted in a manner consistent with full compliance with all such statutes and regulations. If at any time either party has reasonable grounds to believe that this Agreement may not conform to the then-current requirements or interpretations relevant to such matters, both parties agree that they will immediately negotiate in good faith for the purposes of bringing this Agreement into full compliance with such then-current requirements and interpretations.

4.4 Debarment. Each party represents that it is not excluded, debarred, suspended or otherwise ineligible to participate in educational programs. In connection with the performance of their respective obligations under this Agreement, the parties shall not knowingly employ or contract with, whether or not for compensation, any individual, or entity currently listed by a federal agency as excluded, debarred, suspended or otherwise ineligible to participate in federal programs.

4.5 Nondiscrimination. Both parties agree that they will not engage in any unlawful discrimination, nor will they discriminate against any person because of race, color, religion, national origin, age, handicap, status as a Vietnam era or disabled veteran, sex, or sexual orientation with respect to their employment, personnel, or patient care policies and practices as those matters may relate to the performance of the parties’ respective obligations under this Agreement.

# 5.0 Confidentiality, Use of Records, and Consents

5.1 Participant and Human Subject Records. UW and Customer agree to respect and abide by all federal, state, and local regulations regarding the confidentiality of participant records and human subject research records as they may pertain to this Agreement. Customer represents and warrants that it has obtained, or, prior to sharing, will obtain all legally required authorizations and consents to permit sharing of such records or related data with UW. The parties agree to negotiate and execute in good faith any such additional agreements necessary to preserve the confidentiality of these records and to abide by the terms of such agreement once executed.

5.2 Confidential Information. To the extent permitted by applicable law, the parties agree to keep confidential and not to use, except for the purpose of providing or receiving Services, all nonpublic information identified in writing as “Confidential” by one party (“Disclosing Party”) prior to receipt by the other party (“Receiving Party”). These obligations of confidentiality and non-use shall continue during the Term of this Agreement and for six (6) years after the termination of this Agreement. “Confidential” information does not include information that is: (i) is publicly available by use and/or publication before its receipt from the Disclosing Party, or thereafter becomes publicly available through no fault of the Receiving Party; (ii) was already in the Receiving Party’s possession prior to receipt from the Disclosing Party; or (iii) is properly obtained by the Receiving Party from a third party which has a valid right to disclose such information to Receiving Party, is not under a confidentiality obligation to the Disclosing Party, and is not disclosing such information to Receiving Party on behalf of Disclosing Party.

5.3 Public Disclosure Obligations. Notwithstanding anything to the contrary in this Agreement, Customer acknowledges and understands that UW is an agency of the state of Washington and is subject to the Washington Public Records Act, codified at RCW 42.56 and as modified from time to time (“Act”). Customer agrees that the UW’s obligations under the Act, as interpreted by UW in its sole discretion, shall take precedence over any UW obligation arising under the provisions of this Agreement. If UW receives a request under the Act for public records that contain any of Customer’s records or information, and if UW concludes, in its sole discretion, that such records are not otherwise exempt from disclosure under the Act, UW shall make a reasonable effort to provide to Customer notice of the request before releasing such

records to the requester. UW will make a reasonable effort to provide such notice in a timely manner to enable Customer to seek a protective order, if Customer so chooses and at Customer’s expense, by utilizing the procedures described in RCW 42.56.540. UW shall have no obligation to assist Customer in protecting Customer’s records in response to a public records request.

# 6.0 Intellectual Property

6.1 Ownership of Intellectual Property. The parties agree that ownership of and other rights in any intellectual property created by UW in the course of providing Services under this Agreement will be determined in accordance with the laws of the United States and the State of Washington and the UW’s “Patent, Invention, and Copyright Policy” ([Executive Order No. 36](http://www.washington.edu/admin/rules/policies/PO/EO36.html)). Except as otherwise expressly provided herein, neither party shall by reason of this Agreement or its performance obtain any right, title, license, or other interest, either express or implied, to the other party's intellectual property.

6.2 Grant of License. Providing that Customer has otherwise performed its material obligations under this Agreement, UW hereby grants to Customer a fully paid, non-exclusive, royalty-free, license to use the intellectual property provided to the Customer pursuant to the Services for the Project and specifically described as Deliverables in Exhibit A. Customer understands and agrees that excepting only the foregoing license, UW retains ownership of such Deliverables.

6.3 Trademarks, Trade Names and Service Publicity Marks. Except as otherwise agreed in advance in writing, neither party will use the other party’s name, either alone or in connection with another word or words, nor shall it use the other’s proprietary marks, trademarks, service marks, trade names, symbols, logos or designs, for any promotional or commercial purpose whatsoever (including, but not limited to, any press release, sales or marketing publication or correspondence, advertisement, or similar communication), without the express prior written approval of the other party’s officer who has been duly-designated for such purposes.

# 7.0 Relationship of the Parties

7.1 Independent Status. The parties hereby agree that they are at all times each acting as independent contractors who have entered into this Agreement on the terms and conditions set forth herein. Nothing in this Agreement will be construed or deemed to create a relationship of employer and employee, partner, joint venture, or principal and agent between Customer and UW, its faculty, employees, agents, or officers. Except as set forth in this Agreement, neither party shall have nor exercise any control or direction over the methods by which the other party performs its work or conducts its activities under this Agreement.

7.2 Workers’ Compensation. UW faculty, employees, fellows, trainees, and students participating in providing Materials to Customer will in no sense be considered employees of Customer and to the extent they are employees of UW will remain as employees of UW. Neither party will assume any liability for the other party’s employees under any law relating to worker’s compensation by reason of this Agreement.

7.3 Nature of Consulting Services. The parties acknowledge that the purpose and objective of the Services to be furnished under this Agreement is to provide assistance in the form of expert consulting advice to Customer in evaluation and support as specified in the Project, and not for the UW to provide, either directly or indirectly, any form of treatment or care to any patient or person receiving care. The parties agree that nothing in this Agreement shall be deemed to create any form of professional relationship, including without limitation, that of instructor-student, between UW and Customer’s students. Customer shall retain sole and exclusive responsibility and make all decisions related to its event and its role in the instruction of students.

# 8.0 Warranties, Limitations, Indemnification, and Insurance

8.1 Warranties and Limitations. UW through the Department agrees to make reasonable efforts to provide the Services, including any Deliverables, within the timeframe set forth in this Agreement in accordance with the overall analytical strategy of applicable methodologies. EXCEPTING ONLY THE FOREGOING, UW MAKES NO OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT, AND HEREBY DISCLAIM ALL SUCH WARRANTIES AS TO ANY MATTER WHATSOEVER.

8.2 Mutual Indemnification. To the extent permitted by applicable law, policy and governance documents, each party (the “Indemnifying Party”) will defend, indemnify, and hold harmless the other party, including its officers, employees, students and agents (collectively, the “Indemnified Party”), from and against any and all losses, claims, liabilities, damages, and costs of whatever kind and nature, including attorney fees and legal costs, for death or injury of any person and for loss or damage to any property, arising or alleged to arise due to the negligent acts or omissions of the Indemnifying Party or the failure of the Indemnifying Party to perform its obligations under this Agreement; providing, however, the Indemnifying Party shall not be obligated to defend, indemnify, and hold harmless the Indemnified Party to the extent any such losses, claims, liabilities, damages, and costs are the result of the negligence, gross negligence, willful malfeasance, or misconduct of the Indemnified Party or the failure of the Indemnified Party to perform its obligations under this Agreement.

8.3 Customer Indemnification. Notwithstanding anything to the contrary in Section 8.2 of this Agreement, Customer specifically agrees to defend, indemnify, and hold harmless UW, its faculty, employees, students, trainees, fellows, officers, regents, and agents from and against any and all losses, claims, liabilities, damages, and costs of whatever kind and nature, including attorney fees and legal costs, for death, injury, or illness of any person and for loss or damage to any property, occurring or claimed to occur as a result of or reasonably attributed to the use, sale, licensing or distribution by Customer or any third party of any deliverables, discoveries or products resulting from the Project; provided, however, that to the extent that any such losses, claims, liabilities, damages, and costs are the result of the gross negligence, willful malfeasance, or misconduct by any UW, to such limited extent, Customer’s obligations under this Section 8.3 shall not apply.

8.4 Limitation of Damages. In no event shall either party be liable to the other party for any claims for indirect, incidental, consequential, special, punitive, or exemplary damages or lost profits, arising or alleged to arise from this Agreement, its breach, or the transactions contemplated herein, however caused, under any theory of liability.

8.5 Insurance and Proof of Coverage. UW hereby notifies Customer that, as an agency of the State of Washington and in accordance with Washington law, UW maintains a self-insurance program pursuant to the RCW §§28B.20.250, 28B.20.253, and 28B.20.255. Customer agrees to maintain during the term of this Agreement professional and commercial general liability coverage with limits of not less than $1 million per occurrence and $3 million annual aggregate (or an equivalent program of self-insurance satisfactory to UW). Upon the request of either party, the other party will provide proof of insurance or loss coverage required under the terms of this Agreement. In addition, each party agrees to notify the other party in writing in the event of material modification or change in such coverage.

## 9.0 Disputes; Governing Law; Attorney’s Fees

9.1 Notice of Dispute, Negotiation and Mediation. Prior to commencing any legal action, the parties will attempt in good faith to resolve through negotiation any dispute, claim or controversy arising out of

or relating to this Agreement. Either party may initiate such negotiations by providing written notice to the other party specifying that this provision of this Agreement is being utilized and setting forth the subject of the dispute and the relief requested. The party receiving such notice will respond in writing within five business (5) days with a statement of its position on and recommended solution to the dispute. If the dispute is not resolved by this exchange of correspondence, then representatives of each party with full settlement authority shall meet at a mutually agreeable time and place in Seattle, Washington, within ten business (10) days of the date of the initial notice in order to exchange relevant information and perspectives, and to attempt in good faith to resolve the dispute. If the dispute is not resolved by these negotiations, the matter will be submitted to a mutually agreeable and recognized mediation service prior to initiating legal action. Any such mediation shall be conducted in Seattle, Washington, and the costs of the mediation service shall be shared equally by the parties.

9.2 Governing Law, Jurisdiction and Venue. This Agreement shall be governed by and enforced according to the laws of the State of Washington, without giving effect to its or any other jurisdiction’s choice of law provisions, and the Superior Court of Washington for King County shall have exclusive jurisdiction and venue of all disputes arising under this Agreement, except that in any case where the courts of the United States shall have exclusive jurisdiction over the subject matter of the dispute, the United States District Court for the Western District of Washington, Seattle division, shall have exclusive jurisdiction and venue.

9.3 Attorney Fees. The prevailing party in any action sought to enforce or interpret this Agreement or any provision of this Agreement shall be entitled to its reasonable attorney’s fees and costs, including any appeals thereon, as determined by a court in conjunction with any such legal proceeding.

# 10.0 Notices

10.1 Delivery of Notices. All notices, demands, requests or other communications required to be given or sent by UW or Customer will be in writing and will be delivered to the primary contact (i) in person, (ii) mailed by first-class mail, postage prepaid, or (iii) transmitted by electronic mail (email), addressed as follows:

|  |  |  |  |
| --- | --- | --- | --- |
| **CUSTOMER PRIMARY CONTACT** | | **UW PRIMARY CONTACT** | |
| name: | First Last | name: | First Last |
| title: | Title | title: | Title |
| address: | Address 1 | address: | University of Washington  Department of Department  Box 35XXXXX Seattle, WA 98195-XXXX |
| phone: | Phone | phone: | 206-XXX-XXXX |
| email: | Email | email: | XXXX@uw.edu |

10.2 Address Change and Receipt. Each party may designate a change of address at any time by notice in writing to the other party. All notices, demands, requests, or communications that are mailed will be deemed received five (5) days after deposit in the U.S. mail, postage prepaid, and all notices transmitted by facsimile or by email will be deemed received upon written confirmation by the receiving party of successful facsimile or email transmission.

# 11.0 Miscellaneous

11.1 Entire Agreement. This Agreement constitutes the entire agreement between the parties, and supersedes all prior oral or written agreements, commitments, or understandings concerning the matters provided for herein.

11.2 Amendment. This Agreement may only be modified by a subsequent written Agreement executed by the duly authorized representatives of the parties.

11.3 Severability. If any provision of this Agreement or of any other Agreement, document or writing pursuant to or in connection with this Agreement, shall be wholly or partially invalid or unenforceable under applicable law, said provision will be ineffective to that extent only, without in any way affecting the remaining parts or provision of said agreement, provided that the remaining provisions continue to affect the purposes of this Agreement.

11.4 Waiver. Neither the waiver by any of the parties hereto of a breach of or a default under any of the provisions of this Agreement, nor the failure of either of the parties, on one or more occasions, to enforce any of the provisions of this Agreement or to exercise any right or privilege hereunder will thereafter be construed as a waiver of any subsequent breach or default of a similar nature, or as a waiver of any such provisions, rights or privileges hereunder.

11.5 Force Majeure. Nonperformance by a party, other than payment of any amounts due hereunder by Customer, shall not operate as a default under or breach of the terms of this Agreement to the extent and for so long any such nonperformance is due to: strikes or other labor disputes; prevention or prohibition by law; the loss or injury to products in transit; an Act of God; or war or other cause beyond the control of such party.

11.6 Assignment. No party may assign, subcontract, or delegate any right or obligation under this Agreement, in whole or in part, without the express prior written consent of the other party, providing, however, this Agreement shall inure to the benefit of and be binding upon each Party’s successors and assigns.

11.7 Counterparts: This Agreement may be executed in counterparts.

|  |  |  |  |
| --- | --- | --- | --- |
| **CUSTOMER AUTHORIZED REPRESENTATIVE** | | **UW AUTHORIZED REPRESENTATIVE** | |
| Signature | | Signature | |
| name: |  | name: | Rachel Ward |
| title: |  | title: | Assistant Dean,  College of Built Environments |
| address: |  | address: | University of Washington  College of Built Environments  Box 355726  Seattle, WA 98195-5726 |
| phone: |  | phone: | 206-616-2440 |
| email: |  | email: | [wardrm@uw.edu](mailto:wardrm@uw.edu) |

If CUSTOMER is a Federal Agency, the following additional signature is required:

|  |  |
| --- | --- |
| **UW AUTHORIZED REPRESENTATIVE** | |
| Signature | |
| name: |  |
| title: | Senior Vice President, Finance |
| address: | University of Washington  Office of the President  Box 359441 Seattle, WA 98005-9441 |
| phone: |  |
| email: |  |