

AGREEMENT No. 2021-15

 **AIA** Document A151™ – 2019

**Standard Form of Agreement between Owner and Vendor for Furniture,
Furnishings, and Equipment (FF&E)**

AGREEMENT made as of the 21 day of September in the year 2021
(In words, indicate day, month, and year.)

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

The County of Franklin, Illinois
Campbell Building
901 Public Square
Benton, IL 62812

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

and the Vendor:
(Name, legal status, address, and other information)

Stiles Office Solutions, Inc.
601 W. Industrial Park Road
Carbondale, IL 62901

for the following Project:
(Name, location, and detailed description)

Furnishings for New County Courthouse for The County of Franklin, Illinois
100 Public Square
Benton, Illinois 62812

The Architect:
(Name, legal status, address, and other information)

White & Borgognoni Architects, P.C.
212 North Illinois Avenue
Carbondale, IL 62901

The Owner and Vendor agree as follows.

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ARTICLE 1 GENERAL PROVISIONS

§ 1.1 Governing Law, including the Uniform Commercial Code

This Agreement is for the sale of goods, specifically furniture, furnishings, and equipment (FF&E), and shall be governed by the law of the place where the Project is located, excluding that jurisdiction's choice of law rule and including the jurisdiction's Uniform Commercial Code (UCC) as adopted. If this Agreement conflicts with terms provided by the UCC, the Agreement shall prevail. If the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 14.7.

§ 1.2 The Contract Documents

The Contract Documents are enumerated in Article 15 and consist of this Agreement (including, if applicable, Supplementary and other Conditions of the Contract), Drawings, Specifications, Addenda issued prior to the execution of this Agreement, other documents listed in this Agreement, and Modifications issued after execution of this Agreement. The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Vendor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all. Performance by the Vendor shall be required to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the indicated results.

§ 1.3 The Contract

The Contract Documents form the Contract for the Work. The Contract represents the entire and integrated agreement between the parties hereto and supersedes all prior proposals, offers, terms and conditions, negotiations, representations, or agreements, either written or oral. The Contract may be amended or modified only by a Modification. The Contract Documents shall not be construed to create a contractual relationship of any kind between any persons or entities other

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than the Owner and the Vendor. The primary purpose of the Contract is the sale of goods, and any services provided are incidental to such primary purpose.

§ 1.4 Modifications

A Modification is a written amendment to the Contract for changes in the Work signed by both parties or a written order for a minor change in the Work signed by the Architect. A minor change in the Work is a change that is consistent with the intent of the Contract Documents and does not involve an adjustment in the Contract Sum or an extension of the Contract Time.

§ 1.5 The Work

The Work means the Vendor's performance, including the sale of FF&E and any incidental fabrication, shipping, warehousing, delivery, installation, and other items or services required by the Contract Documents and provided, or to be provided, by the Vendor. The Work includes all labor, materials, temporary protection, storage, and equipment necessary to fulfill the Vendor's obligations, except as specifically indicated in the Contract Documents to be the responsibility of others. The Work may constitute the whole or a part of the Project.

§ 1.6 Instruments of Service

Instruments of Service are representations, in any medium of expression now known or later developed, of the tangible and intangible creative work performed by the Architect and the Architect's consultants under their respective professional services agreements. Instruments of Service may include, without limitation, studies, surveys, models, sketches, drawings, specifications, and other similar materials.

§ 1.7 Ownership and Use of Drawings, Specifications, and Other Instruments of Service

§ 1.7.1 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and will retain all common law, statutory, and other reserved rights in their Instruments of Service, including copyrights. The Vendor, sub-vendors, and suppliers shall not own or claim a copyright in the Instruments of Service. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with the Project is not to be construed as publication in derogation of the Architect's or Architect's consultants' reserved rights.

§ 1.7.2 The Vendor, sub-vendors, and suppliers are authorized to use and reproduce the Instruments of Service provided to them, subject to the protocols established pursuant to Sections 1.8 and 1.9, solely and exclusively for execution of the Work. All copies made under this authorization shall bear the copyright notice, if any, shown on the Instruments of Service. The Vendor, sub-vendors, and suppliers may not use the Instruments of Service on other projects, or in connection with additions to this Project outside the scope of the Work without the specific written consent of the Owner, Architect, and the Architect's consultants.

§ 1.8 Digital Data Use and Transmission

The parties shall agree upon protocols governing the transmission and use of Instruments of Service or any other information or documentation in digital form. The parties will use AIA Document E203™-2013, Building Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data.

§ 1.9 Building Information Models Use and Reliance

Any use of, or reliance on, all or a portion of a building information model without agreement to protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set forth in AIA Document E203™-2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document G202™-2013, Project Building Information Modeling Protocol Form, shall be at the using or relying party's sole risk and without liability to the other party and its vendors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

§ 1.10 Severability

The invalidity of any provision of the Contract Documents shall not invalidate the Contract or its remaining provisions. If it is determined that any provision of the Contract Documents violates any law, or is otherwise invalid or unenforceable, then that provision shall be revised to the extent necessary to make that provision legal and enforceable. In such case the Contract Documents shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Contract.

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§ 1.11 Notice

§ 1.11.1 Except as otherwise provided in Section 1.11.2, where the Contract Documents require one party to notify or give notice to the other party, such notice shall be provided in writing to the designated representative of the party to whom the notice is addressed and shall be deemed to have been duly served if delivered in person, by mail, by courier, or by electronic transmission in accordance with AIA Document E203™-2013, Building Information Modeling and Digital Data Exhibit, if completed, or as otherwise set forth below:

(If other than in accordance with AIA Document E203-2013, insert requirements for delivering Notice in electronic format such as name, title, and email address of the recipient and whether and how the system will be required to generate a read receipt for the transmission.)

§ 1.11.2 Notice of Claims shall be provided in writing and shall be deemed to have been duly served only if delivered to the designated representative of the party to whom the notice is addressed by certified or registered mail, or by courier providing proof of delivery.

§ 1.12 Assignment of Contract

Neither party to the Contract shall assign the Contract without written consent of the other, except that the Owner may, without consent of the Vendor, assign the Contract to a lender providing financing for the Project if the lender assumes the Owner's rights and obligations under the Contract Documents. The Vendor shall execute all consents reasonably required to facilitate such assignment.

ARTICLE 2 CONTRACT SUM AND PAYMENTS

§ 2.1 Contract Sum

§ 2.1.1 The Owner shall pay the Vendor the Contract Sum in current funds for the Vendor's performance of the Contract. The Contract Sum shall be Four Hundred Seventy Nine Thousand Sixty Four dollars and Eleven cents. (\$ 479,064.11), subject to additions and deductions as provided in the Contract Documents.

§ 2.1.2 Alternates

§ 2.1.2.1 Alternates, if any, included in the Contract Sum:

| Item | Price |
|-------------|-----------------------|
| <u>None</u> | <u>Not applicable</u> |

§ 2.1.2.2 Subject to the conditions noted below, the following alternates may be accepted by the Owner following execution of this Agreement. Upon acceptance, the Owner shall issue a Modification to this Agreement. *(Insert below each alternate and the conditions that must be met for the Owner to accept the alternate.)*

| Item | Price | Conditions for Acceptance |
|------|-------|---------------------------|
|------|-------|---------------------------|

§ 2.1.3 Unit prices, if any:

(Identify the item and state the unit price and the quantity limitations, if any, to which the unit price will be applicable.)

| Item | Units and Limitations | Price per Unit (\$0.00) |
|---|-----------------------|-------------------------|
| <u>F-1 42"Wx18"Dx5h LATERAL FILE WITH TOP LIFT DOOR</u> | <u>Each</u> | <u>1,117.63</u> |
| <u>F-2 30"Wx18"Dx5h LATERAL FILE WITH TOP LIFT DOOR</u> | <u>Each</u> | <u>979.00</u> |
| <u>F-3 36"Wx18"Dx5h LATERAL FILE WITH TOP LIFT DOOR</u> | <u>Each</u> | <u>1,046.19</u> |
| <u>S-1 WOOD VENEER GUEST CHAIR WITH ARMS</u> | <u>Each</u> | <u>508.32</u> |

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| | | | |
|-------------|---|---------------|--|
| <u>S-1a</u> | <u>WOOD VENEER GUEST CHAIR WITH ARMS</u> | <u>Each</u> | <u>652.34</u> |
| <u>S-1b</u> | <u>WOOD VENEER GUEST CHAIR WITH ARMS</u> | <u>Each</u> | <u>530.53</u> |
| <u>S-2</u> | <u>UPHOLSTERED PERFORMANCE TASK CHAIR</u> | <u>Each</u> | <u>545.95</u> |
| <u>S-2a</u> | <u>UPHOLSTERED PERFORMANCE TASK CHAIR</u> | <u>Each</u> | <u>575.19</u> |
| <u>S-3</u> | <u>MESH BACK HIGH PERFORMANCE TASK CHAIR</u> | <u>Each</u> | <u>428.58</u> |
| <u>S-4</u> | <u>POLY MESH STACK CHAIR</u> | <u>Each</u> | <u>143.25</u> |
| <u>S-5</u> | <u>EXECUTIVE CHAIR FULLY UPHOLSTERED</u> | <u>Each</u> | <u>836.58</u> |
| <u>S-6</u> | <u>EXECUTIVE CHAIR FULLY UPHOLSTERED</u> | <u>Each</u> | <u>797.71</u> |
| <u>S-7</u> | <u>HIGH BACK LOUNGE WITH CLOSED ARMS</u> | <u>Each</u> | <u>1,034.19</u> |
| <u>ST-3</u> | <u>30"W x 26-11/16"D x 34-1/2" WOOD MOBILE UTILITY CART</u> | <u>Each</u> | <u>772.41</u> |
| <u>N/A</u> | <u>Storage of furniture for delayed delivery (include costs for storage, insurance, delivery, handling, and all other costs necessary).</u> | <u>Weekly</u> | <u>2,955.67 per week plus one time fee of \$21,000.00.</u> |

§ 2.1.4 Allowances, if any, included in the Contract Sum:
(Identify each allowance.)

| <u>Item</u> | <u>Price</u> |
|---|---|
| <u>Scope Coordination & Unforeseen Conditions Allowance</u> | <u>Thirty Thousand dollars (\$30,000)</u> |

§ 2.1.5 Liquidated damages, if any:
(Insert terms and conditions for liquidated damages, if any.)

Work is not subject to liquidated damages.

§ 2.1.6 Other:
(Insert provisions for bonus or other incentives, if any, that might result in a change to the Contract Sum.)

§ 2.2 Payments

§ 2.2.1 The Owner shall make payments to the Vendor in conformance with the following payment terms:
(Insert payment terms, such as payment due dates, deposit requirements, and prompt payment discounts, if any.)

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The Vendor intends to submit two pay applications. An initial invoice of \$221,000 shall be submitted at contract award to initiate product purchasing. A final invoice for the remainder shall be submitted at Substantial Completion. Payments will be made as soon as practicable after the Franklin County Board Meeting following receipt of the invoice

If Owner is entitled to deduct damages or amounts provided in the Contract Documents, including clean-up fees, then Owner shall be entitled to deduct such damages, amounts and fees at any time (Federal, state, or local laws may require payment within a certain period of time).

If Vendor fails or refuses to complete the Work, or has unsettled claims with Owner, any payment to Vendor shall be subject to deduction for such amounts as the Architect shall determine as the cost for completing incomplete Work and the value of unsettled claims.

Applications for Payments shall be submitted on AIA Documents G702 and G703. In the event of a dispute with regard to any item included in an Application for Payment, the Owner shall make payment for items not in dispute and shall have the right to withhold from payment the amount of such disputed item while the parties attempt to resolve the dispute in accordance with the dispute resolution provisions provided for in the Contract Documents.

Such applications shall include:

- Certified payrolls, An original accounting of all labor rates and hours of Work
- Invoices for all materials, rental equipment, and Vendor's statements.
- Compliance with prevailing wage laws

Final Payment

Final payment, constituting the entire unpaid balance of the Contract Sum minus disputed sums and authorized deductions, shall be made by the Owner to the Vendor after:

1. the Vendor has fully performed the Contract except for the Vendor's responsibility to correct Work, and to satisfy other requirements, if any, which extend beyond final payment; and
2. a final Certificate for Payment has been issued by the Architect.
3. The Vendor has completed all punch list items to the satisfaction of the Owner's Representative, Architect and Owner.
4. The Vendor has delivered all closeout Documentation required under the Vendor Documents, which include (1) original-final release of claims from Vendor (AIA G706 and G706A), in triplicate-operation and maintenance instructions/manuals; (1) original of final certified payrolls from Vendor and all lower tiered subcontractors, (1) original affidavit of compliance with prevailing wage laws from vendor and all lower tiered subcontractors, schedules, in triplicate equipment manuals, in triplicate marked up record documents, and in triplicate other closeout documents reasonably required by the Owner.

The Owner's final payment to the Vendor shall be made no later than 30 days after the issuance of the Architect's final Certificate for Payment.

Interest

Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below, or in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.
Two % (2.0%)

§ 2.2.2 When payment is due pursuant to the payment terms of Section 2.2.1, the Vendor shall submit to the Owner an itemized invoice, supported by data substantiating the Vendor's right to payment.

§ 2.2.3 Except with the Owner's knowledge and consent, the Vendor shall not engage in any activity, or offer any employment, interest, or contribution to the Owner's employees or consultants, that would reasonably appear to compromise the Owner's employees' or consultants' judgment with respect to this Project.

ARTICLE 3 TIME

§ 3.1 Contract Time

§ 3.1.1 Unless otherwise provided, Contract Time is the period of time, including authorized adjustments, allotted in the Contract Documents for completion of the Work. The Contract Time shall be measured from the date of commencement. The term "day" as used in the Contract Documents shall mean calendar day unless otherwise specifically defined.

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§ 3.1.2 Time limits stated in the Contract Documents are of the essence of the Contract. By executing this Agreement, the Vendor confirms that the Contract Time is a reasonable period for performing the Work.

§ 3.1.3 If the Vendor is delayed at any time in the commencement or progress of the Work by (1) changes ordered in the Work; (2) labor disputes, fire, unusual delay in deliveries, abnormal adverse weather conditions not reasonably anticipatable, unavoidable casualties, or any causes beyond the Vendor's control; or (3) other causes that the Vendor asserts, and the Architect determines, justify delay, then the Contract Time shall be extended for such reasonable time as the Architect may determine, subject to the provisions of Article 14.

§ 3.1.4 If the Vendor fails to achieve completion of the Work as provided in this Article 3, liquidated damages, if any, shall be assessed as set forth in Section 2.1.5.

§ 3.2 Date of Commencement

The date of commencement of the Work shall be:

(Check one of the following boxes.)

The date of this Agreement.

A date set forth in a notice to proceed issued by the Owner.

Established as follows:
(Insert a date or a means to determine the date of commencement of the Work.)

September 21, 2021

~~If a date of commencement of the Work is not selected, then the date of commencement shall be the date of this Agreement.~~

§ 3.3 Completion

§ 3.3.1 Completion of the Work occurs upon acceptance of all FF&E in the Contract Documents in accordance with Article 8.

§ 3.3.2 Subject to adjustments of the Contract Time as provided in the Contract Documents, the Vendor shall achieve completion of the entire Work:

(Check the appropriate box and complete the necessary information.)

Not later than () calendar days from the date of commencement of the Work.

By the following date: ~~X~~ By the following date: Substantial Completion by February 11, 2022 or sooner. Correction of Punchlist Items by February 25, 2022 or sooner.

~~§ 3.3.3 Subject to adjustments of the Contract Time as provided in the Contract Documents, if portions of the Work are to be completed prior to completion of the entire Work, the Vendor shall achieve completion of such portions by the following dates:~~

| Portion of Work | Completion Date |
|-----------------|-----------------|
|-----------------|-----------------|

ARTICLE 4 OWNER

§ 4.1 The Owner's Representative

The Owner shall identify a representative authorized to act on behalf of the Owner with respect to the Project. The Owner's representative shall not be changed without ten days' prior notice to the Vendor. The Owner identifies the following representative:

(Name, address, email address, and other information)

NAVIGATE Building Solutions

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Joe Sweitzer, Jr., Senior Project Manager
9920 Watson Road, Suite 201
St. Louis, MO 63126

The Owner has retained NAVIGATE Building Solutions, LLC as its Owner's Representative for the project. The Vendor shall cooperate with the Owner's Representative's Representative to the same extent as the Owner.

§ 4.2 Information and Services Required of the Owner

§ 4.2.1 The Owner shall retain an architect lawfully licensed to practice architecture, or an entity lawfully practicing architecture, in the jurisdiction where the Project is located. That person or entity is identified as the Architect in the Agreement and is referred to throughout the Contract Documents as if singular in number.

§ 4.2.2 Unless otherwise provided in the Contract Documents, the Owner shall provide

- .1 areas of the Project premises that the Vendor may use to perform the Work;
- .2 access to the Project premises for the Vendor at reasonable times;
- .3 information regarding any restrictions on the use of, or access to, the Project premises;
- .4 suitable space for receipt, inspection, acceptance, and staging of materials and FF&E;
- .5 utilities and facilities on the Project premises and vertical transportation necessary for progress and execution of the Work; and
- ~~.6 a secured premises for storage of FF&E until acceptance.~~

§ 4.2.3 The Owner shall furnish information or services required of the Owner by the Contract Documents with reasonable promptness. The Owner shall furnish any other information or services under the Owner's control and relevant to the Vendor's performance of the Work with reasonable promptness after receiving the Vendor's written request for such information or services.

ARTICLE 5 VENDOR

§ 5.1 The Vendor's Representative

The Vendor shall identify a representative authorized to act on behalf of the Vendor with respect to the Project. The Vendor's representative shall not be changed without ten days' prior notice to the Owner and Architect. The Vendor identifies the following representative:

(Name, address, email address, and other information)

Stiles Office Solutions, Inc.

Becky Phillips

601 W. Industrial Park Road, Carbondale, IL 62901

Phone: 618-529-4950

Fax: 618-457-7781

Email: bphillips@stilesos.com

§ 5.2 The Vendor shall not be relieved of its obligations to perform the Work in accordance with the Contract Documents by activities or duties of the Architect in the Architect's administration of the Contract.

§ 5.3 The Vendor shall coordinate its Work with the work provided by the Owner and the Owner's other vendors, consultants, and contractors. The Vendor may communicate with the Owner's other vendors, consultants, and contractors, for the purposes of completing the Work. The Vendor shall keep the Owner reasonably informed of any such communications. The Vendor shall be entitled to rely on the accuracy and completeness of work and information furnished by the Owner and the Owner's other vendors, consultants, and contractors. The Vendor shall provide prompt written notice to the Owner if the Vendor becomes aware of any error, omission, or inconsistency in such work or information.

§ 5.4 Review of Contract Documents and Inspection of Project Premises by Vendor

§ 5.4.1 Execution of the Contract by the Vendor is a representation that the Vendor has visited the Project premises, if required in the Contract Documents, and correlated personal observations with requirements of the Contract Documents.

§ 5.4.2 Before starting each portion of the Work, including placing orders for FF&E, the Vendor shall (1) carefully study and compare the various Contract Documents relative to that portion of the Work, as well as the information furnished by the Owner pursuant to Section 4.2; (2) visit and inspect the Project premises in order to gain an understanding of the

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conditions under which the Work is to be performed; (3) determine availability of facilities for access, delivery, transportation, and staging; (4) determine any restrictions imposed by the Owner and the Owner's separate vendors and contractors; and (5) correlate observations with the requirements of the Contract Documents. The Vendor shall promptly report to the Owner and Architect conditions observed that would impede the Vendor's performance of the Work. The Vendor's obligations to review the Contract Documents are for the purpose of facilitating delivery and installation by the Vendor and are not for the purpose of discovering errors, omissions, or inconsistencies in the Contract Documents; however, the Vendor shall promptly report to the Architect any errors, inconsistencies, or omissions discovered by or made known to the Vendor as a request for information in such form as the Architect may require. It is recognized that the Vendor's review is made in the Vendor's capacity as a vendor and not as a licensed design professional, unless otherwise specifically provided for in the Contract Documents.

§ 5.4.3 The Vendor is not required to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Vendor shall promptly report to the Architect any nonconformity discovered by or made known to the Vendor as a request for information in such form as the Architect may require.

§ 5.4.4 If the Vendor believes that additional cost or time is involved because of clarifications or instructions the Architect issues in response to the Vendor's notices or requests for information pursuant to Sections 5.4.2 or 5.4.3, the Vendor shall submit Claims as provided in Article 14. If the Vendor fails to perform the obligations of Sections 5.4.2 or 5.4.3, the Vendor shall pay such costs and damages to the Owner, subject to Section 14.12, as would have been avoided if the Vendor had performed such obligations. If the Vendor performs those obligations, the Vendor shall not be liable to the Owner or Architect for damages resulting from errors, inconsistencies, or omissions in the Contract Documents, for differences between field measurements or conditions and the Contract Documents, or for nonconformities of the Contract Documents to applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities.

§ 5.5 Supervision

§ 5.5.1 The Vendor shall supervise and direct the Work using the Vendor's best skill and attention. The Vendor shall be solely responsible for and have control over the means, methods, techniques, sequences, and procedures of fabrication, shipment, delivery, and installation, and for coordinating all portions of the Work under the Contract, unless the Contract Documents give other specific instructions concerning these matters.

§ 5.5.2 The Vendor shall be responsible to the Owner for acts and omissions of the Vendor's employees, sub-vendors, and their agents and employees, and other persons or entities performing portions of the Work for or on behalf of the Vendor or any of its sub-vendors.

§ 5.5.3 The Vendor shall be responsible for inspection of portions of the Work already performed to determine that such portions are in proper condition for subsequent Work.

§ 5.6 Labor and Materials

§ 5.6.1 Unless otherwise provided in the Contract Documents, the Vendor shall provide and pay for labor, materials, tools, installation equipment and machinery, delivery, and other facilities and services necessary for proper execution and completion of the Work whether temporary or permanent and whether or not incorporated or to be incorporated in the Work.

§ 5.6.2 The Vendor shall enforce strict discipline and good order among the Vendor's employees and other persons carrying out the Work. The Vendor shall not permit employment of unfit persons or persons not skilled in tasks assigned to them.

§ 5.6.3 The Vendor shall make no substitution or change in the Contract Documents unless done in accordance with a Modification, and after providing the Architect notice and a reasonable opportunity to evaluate the proposed substitution or change and consult with the Owner.

§ 5.7 Taxes

The Vendor shall pay sales, consumer, use, and other similar taxes that are legally enacted when quotes are received or negotiations concluded, whether or not yet effective or merely scheduled to go into effect.

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§ 5.8 Permits, Fees, Notices, and Compliance with Laws

§ 5.8.1 Unless otherwise provided in the Contract Documents, the Vendor shall secure and pay for permits, fees, licenses, and inspections by government agencies necessary for proper execution and completion of the Work that are customarily secured after execution of the Contract and legally required at the time bids are received or negotiations concluded.

§ 5.8.2 The Vendor shall comply with and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities applicable to performance of the Work. If the Vendor performs Work knowing it to be contrary to applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Vendor shall assume appropriate responsibility for such Work and shall bear the costs attributable to correction.

§ 5.8.3 The Vendor shall comply with all local, state, and federal laws, rules, and regulations applicable to the provision of services and products under the Contract, including but not limited to: the Americans with Disabilities Act, employment discrimination laws, wage and hour laws, and public contracting laws. The Vendor affirmatively states that payment of all local, state, and federal taxes and assessments owed by the Vendor is either current or under lawful protest with the applicable taxing jurisdiction.

§ 5.8.4 Not less than the prevailing hourly rate of wages specified under ILCS 130 and set out in the Wage Determination shall be paid to all workers performing Work under this Contract.

§ 5.9 Allowances

The Vendor shall include in the Contract Sum all allowances stated in the Contract Documents. The Owner shall select items under allowances with reasonable promptness. Allowance amounts shall include the costs to the Vendor of items delivered at the Project premises and all required taxes, less applicable trade discounts. Vendor's costs for unloading and handling at the Project premises, labor, installation, overhead, profit, and other expenses contemplated for stated allowance amounts shall be included in the Contract Sum but not in the allowance. Whenever costs are more than or less than allowances, the Contract Sum shall be adjusted accordingly by Modification. The amount of the Modification shall reflect the difference between actual costs and the allowances under Section 2.1.4.

§ 5.10 Vendor's Schedules

§ 5.10.1 The Vendor, promptly after being awarded the Contract, shall submit for the Owner's and Architect's information a progress schedule for the Work. The schedule shall not exceed time limits current under the Contract Documents, shall be revised at appropriate intervals as required by the progress of the Work and Project, shall be related to the entire Project, and shall provide for expeditious and practicable execution of the Work.

§ 5.10.2 The Vendor shall perform the Work in general accordance with the most recent schedule submitted to the Owner and Architect.

§ 5.10.3 The Vendor's progress schedule shall indicate dates for commencement and completion of phases of the Work within the Contract Time, including dates for order placement, fabrication, shipping, delivery, and installation. The schedule shall indicate other critical dates, such as deadlines for approval of submittals of colors, finishes, and materials. The Vendor shall obtain and submit for the Owner's and the Architect's information written confirmation from sub-vendors of dates of fabrication and delivery.

§ 5.10.4 The Vendor shall cooperate with the Owner and Architect in coordinating the Vendor's progress schedule with those of contractors and separate vendors and with the requirements of the Owner and Architect. The Vendor shall cooperate in determining mutually acceptable dates and times for delivery, installation, and inspection of the Work, and use of services and facilities provided to the Vendor, all to be confirmed in writing within a reasonable time in advance of such dates and times.

§ 5.11 Submittals

§ 5.11.1 The Vendor shall review for compliance with the Contract Documents and submit to the Architect shop drawings, product data, samples, and similar submittals required by the Contract Documents in coordination with the Vendor's progress schedule and in such sequence as to allow the Architect reasonable time for review. By submitting shop drawings, product data, samples, and similar submittals, the Vendor represents to the Owner and Architect that the Vendor has (1) reviewed and approved them; (2) determined and verified materials, field measurements, and field installation

criteria related thereto, or will do so; and (3) checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents. The Work shall be in accordance with approved submittals. Shop drawings, product data, samples and similar submittals are not Contract Documents.

§ 5.11.2 The Vendor shall provide the Owner with available manufacturer's warranty documents, product data, and material safety data sheets.

§ 5.12 Cleaning Up

The Vendor shall keep the Project premises and surrounding area free from accumulation of waste materials and rubbish caused by operations under the Contract. At completion of the Work, the Vendor shall remove waste materials, rubbish, the Vendor's tools, construction equipment, machinery, and surplus material from and about the Project.

§ 5.13 Access to Work

The Vendor shall provide the Owner and Architect with reasonable access to the Work in preparation and progress wherever located.

§ 5.14 Indemnification

§ 5.14.1 To the fullest extent permitted by law, the Vendor shall indemnify and hold harmless the Owner, Architect, Architect's consultants, and agents and employees of any of them from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by the negligent acts or omissions of the Vendor, a sub-vendor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this Section 5.14.1.

§ 5.14.2 In claims against any person or entity indemnified under Section 5.14.1 by an employee of the Vendor, a sub-vendor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, the indemnification obligation under Section 5.14.1 shall not be limited by a limitation on amount or type of damages, compensation, or benefits payable by or for the Vendor or sub-vendor under workers' compensation acts, disability benefit acts, or other employee benefit acts.

§ 5.14.3 Provided the Owner has fulfilled its payment obligations under the Contract Documents, the Vendor shall defend and indemnify the Owner from all loss, liability, damage or expense, including reasonable attorney's fees and litigation expenses, arising out of any lien claim or other claim for payment by any sub-vendor or supplier of any tier. Upon receipt of notice of a lien claim or other claim for payment, the Owner shall notify the Vendor. If approved by the applicable court, when required, the Vendor may substitute a surety bond for the property against which the lien or other claim for payment has been asserted.

ARTICLE 6 TITLE AND RISK OF LOSS

§ 6.1 Title to all FF&E shall be transferred to the Owner upon acceptance in accordance with Article 8.

§ 6.2 The risk of loss with respect to all FF&E provided by the Vendor shall remain with the Vendor, and the Owner has no obligation to insure such FF&E, until acceptance in accordance with Article 8.

ARTICLE 7 DELIVERY AND INSTALLATION

§ 7.1 The Vendor shall deliver FF&E in accordance with the Vendor's progress schedule, or at a time agreed upon by the Owner and Architect, and in accordance with Article 5.

§ 7.2 Delivery and installation of all FF&E shall be made at the Project premises unless otherwise specified in the Contract Documents.

§ 7.3 The Vendor shall coordinate with the Owner regarding the logistics of the Vendor's delivery and installation obligations at the Project premises.

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ARTICLE 8 ACCEPTANCE

§ 8.1 The Owner and Architect may conduct a preliminary inspection of FF&E within seven days after its delivery to the Project premises for the purpose of verifying the delivery and quantities. Preliminary inspections shall not constitute acceptance of, taking charge over, or taking control of, such FF&E. The Architect shall report to the Vendor any defects, damage, deficiencies, or nonconformity observed during the preliminary inspection.

§ 8.2 When the Vendor considers the Work, or a portion thereof which the Owner agrees to accept separately, to be complete, the Vendor shall notify the Owner and Architect. The Vendor shall allow the Owner and Architect a reasonable amount of time to inspect the FF&E to determine, based on conformance with the Contract Documents, if it is accepted or rejected in whole or in part. Based on the Architect's recommendation to the Owner and the Owner's own inspection, if any, the Owner shall accept or reject the FF&E, in whole or in part.

§ 8.3 If the Owner rejects any of the FF&E, the Owner, or the Architect acting on behalf of the Owner, shall notify the Vendor within seven days of the date of inspection, specifying the basis for such rejection. Upon rejection, the Vendor shall provide a remedy and evidence of arrangements to accomplish such remedy. The Owner shall allow the Vendor a reasonable amount of time to remedy the rejected FF&E. When the Vendor considers the remedied FF&E to be complete, the parties shall follow the procedures set forth in Section 8.2. If the Owner rejects any of the FF&E for a second time, the Owner shall promptly notify the Vendor and the Vendor shall promptly remove the rejected FF&E from the Project premises and refund payments made for such rejected goods to the Owner. If the Vendor disagrees with an Owner's rejection, the Vendor may make a claim.

§ 8.4 FF&E not inspected in accordance with Section 8.2 or rejected in accordance with Section 8.3 shall be deemed accepted.

§ 8.5 The Owner's acceptance under this Article 8 cannot be revoked; however, the provisions of this Article 8 do not preclude recovery of damages as provided by law. The Owner's acceptance, or failure to discover a Vendor's breach after acceptance, shall not bar the Owner from making claims in accordance with Article 14 or from remedies and damages due to the Vendor's breach of this Agreement, including the Vendor's breach of warranties in Article 9.

ARTICLE 9 WARRANTIES

§ 9.1 The Vendor warrants to the Owner that the FF&E furnished under the Contract will be of good quality and new unless the Contract Documents require or permit otherwise. The Vendor further warrants that the FF&E will conform to the requirements of the Contract Documents. FF&E not conforming to these requirements may be considered defective. The Vendor's warranty excludes remedy for damage or defect caused by abuse, alterations to the FF&E not executed by the Vendor, improper or insufficient maintenance, improper operation, or normal wear and tear and normal usage.

§ 9.2 The Vendor assigns to the Owner all FF&E manufacturers' warranties and guarantees upon acceptance in accordance with Article 8.

§ 9.3 The Vendor hereby provides to the Owner all warranties relating to the FF&E implied by law, including the warranty of merchantability and warranty of fitness for a particular purpose.

§ 9.4 The Vendor acknowledges that no exclusion of, or limitation on, warranties contained in any proposal, product literature, or other submittal shall affect the warranties provided in this Article 9.

ARTICLE 10 ARCHITECT

§ 10.1 The Architect will provide administration of the Contract as described in the Contract Documents and will be an Owner's representative during the Vendor's performance, and until completion, of the Work. The Architect will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents, unless otherwise modified in writing in accordance with other provisions of the Contract.

§ 10.2 Except as otherwise provided in the Contract Documents or when direct communications have been specially authorized, the Owner and Vendor shall endeavor to communicate with each other through the Architect about matters arising out of or relating to the Contract. Communications by and with the Architect's consultants shall be through the Architect. Communications by and with sub-vendors and suppliers shall be through the Vendor. Communications by and with separate vendors shall be through the Owner. The Contract Documents may specify other communication protocols.

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§ 10.3 The Architect will assist the Owner in coordinating schedules for fabrication, delivery, and installation of the Work, but will not be responsible for failure of the Vendor or a sub-vendor to meet schedules for completion or to perform their respective duties and responsibilities in conformance with applicable schedules.

§ 10.4 The Architect will visit the Project premises at intervals appropriate to the stage of the Work, or as otherwise agreed with the Owner, to become generally familiar with, and to keep the Owner informed about, the progress and quality of the portion of the Work completed, and to determine, in general, if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. The Architect will not have control over, charge of, or responsibility for, the means, methods, techniques, sequences, or procedures of fabrication, shipment, delivery, storage, or installation, or for the safety precautions and programs in connection with the Work, as these are solely the Vendor's rights and responsibilities under the Contract Documents.

§ 10.5 The Architect may order minor changes in the Work. The Architect's order for minor changes shall be in writing. If the Vendor believes that the proposed minor change in the Work will affect the Contract Sum or Contract Time, the Vendor shall notify the Architect and shall not proceed to implement the change in the Work. If the Vendor performs the Work set forth in the Architect's order for a minor change without prior notice to the Architect that such change will affect the Contract Sum or Contract Time, the Vendor waives any adjustment to the Contract Sum or extension of the Contract Time.

§ 10.6 The Architect will conduct inspections of FF&E and provide recommendations as set forth in Article 8. Pursuant to Article 8, the Architect is only responsible for identifying defects, deficiencies, or nonconformities that the Architect actually observes, or reasonably should observe, during its inspections. The Architect is not required to make exhaustive or continuous inspections to fulfill its responsibilities in Article 8 and has no responsibility to discover latent defects.

§ 10.7 The Architect will review and approve or take other appropriate action upon the Vendor's submittals such as shop drawings, product data, and samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents.

ARTICLE 11 RELATED ACTIVITIES OF OWNER OR OF SEPARATE VENDORS

§ 11.1 The Owner shall coordinate the activities of the Owner's own forces and of each separate vendor or contractor, if any, with the Work.

§ 11.2 If the Work depends for proper execution or results upon activities by the Owner or a separate vendor or contractor, the Vendor shall, prior to proceeding with that portion of the Work, promptly report to the Owner and Architect apparent discrepancies or defects in, or arising from, the activities of the Owner or separate vendors or contractors, that would impede the Vendor in achieving proper execution and results. If the Vendor fails to report reasonably discoverable discrepancies or defects, it shall be responsible for deficiencies or defects in its Work due to such deficiencies or defects.

§ 11.3 The Vendor shall reimburse the Owner for costs the Owner incurs that are payable to a separate vendor or contractor because of the Vendor's delays, improperly timed activities, or damage to the work of a separate vendor or contractor. The Owner shall be responsible to the Vendor for costs the Vendor incurs because of the delays, improperly timed activities, or damage to the Work caused by a separate vendor or contractor.

§ 11.4 If a dispute arises among the Vendor, separate vendors, or contractors, and the Owner as to the responsibility under their respective contracts for maintaining the Project premises and surrounding area free from waste materials and rubbish, the Owner may clean up and the Architect will allocate the cost among those responsible.

ARTICLE 12 PROTECTION OF PERSONS AND PROPERTY

§ 12.1 Safety Precautions and Programs

The Vendor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the Contract. The Vendor shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury, or loss to

- .1 employees on the Work and other persons who may be affected thereby;
- .2 the Work, and materials and FF&E to be incorporated therein, whether in storage on or off the Project premises, under care, custody, or control of the Vendor or sub-vendors; and
- .3 other property at the Project premises or adjacent thereto.

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The Vendor shall comply with, and give notices required by, applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities bearing on safety of persons and property and their protection from damage, injury, or loss. The Vendor shall promptly remedy damage and loss to property caused in whole or in part by the Vendor, sub-vendors, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Vendor is responsible under Sections 12.1.2 and 12.1.3. The Vendor may make a claim for the cost to remedy the damage or loss to the extent such damage or loss is attributable to acts or omissions of the Owner or Architect, or of anyone for whose acts either of them may be liable, and not attributable to the fault or negligence of the Vendor. The foregoing obligations of the Vendor are in addition to the Vendor's obligations under Section 5.14.

§ 12.2 Hazardous Materials and Substances

§ 12.2.1 The Vendor is responsible for compliance with the requirements of the Contract Documents regarding hazardous materials or substances. If the Vendor encounters a hazardous material or substance not addressed in the Contract Documents, and if reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including but not limited to asbestos or polychlorinated biphenyl (PCB), encountered on the Project premises by the Vendor, the Vendor shall, upon recognizing the condition, immediately stop Work in the affected area and notify the Owner and Architect of the condition. When the material or substance has been rendered harmless, Work in the affected area shall resume upon written agreement of the Owner and Vendor. By written agreement between the Owner and Vendor, the Contract Time shall be extended appropriately, and the Contract Sum shall be increased in the amount of the Vendor's reasonable additional costs of shutdown, delay, and start-up.

§ 12.2.2 To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Vendor, sub-vendors, Architect, Architect's consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work in the affected area, if in fact, the material or substance presents the risk of bodily injury or death as described in Section 12.2.1 and has not been rendered harmless, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), except to the extent that such damage, loss, or expense is due to the fault or negligence of the party seeking indemnity.

§ 12.2.3 If, without negligence on the part of the Vendor, the Vendor is held liable by a government agency for the cost of remediation of a hazardous material or substance solely by reason of performing Work as required by the Contract Documents, the Owner shall indemnify the Vendor for all cost and expense thereby incurred.

ARTICLE 13 INSURANCE

§ 13.1 The Vendor shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in this Article 13 or elsewhere in the Contract Documents. The Vendor shall purchase and maintain the insurance required by this Agreement from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Vendor shall maintain the required insurance from the date of commencement of the Work to the date of completion of the Work, unless a different duration is stated below.

§ 13.2 Commercial General Liability insurance for the Project written on an occurrence form with policy limits of not less than ~~(\$ -) each occurrence, (\$ -) general aggregate, and (\$ -) One Million Dollars (\$ 1,000,000.00) each occurrence. Three Million Dollars (\$ 3,000,000.00) general aggregate, and One Million Dollars (\$ 1,000,000.00) aggregate for~~ products-completed operations hazard, providing coverage for claims including

- .1 damages because of bodily injury, sickness or disease, including occupational sickness or disease, and death of any person;
- .2 personal and advertising injury;
- .3 damages because of physical damage to or destruction of tangible property, including the loss of use of such property;
- .4 bodily injury or property damage arising out of completed operations; and
- .5 the Vendor's indemnity obligations under Section 5.14.15.14.

§ 13.3 Automobile Liability covering vehicles owned by the Vendor and non-owned vehicles used by the Vendor, with policy limits of not less than ~~(\$ -) Three Million Dollars (\$ 3,000,000.00) per accident, for bodily injury, death of any person, and property damage arising out of the ownership, maintenance, and use of those motor vehicles along with any other statutorily required automobile coverage.~~

§ 13.4 The Vendor may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided such primary and excess or umbrella insurance policies result in the same or greater coverage as those required under Sections 13.2 and 13.3, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers.

§ 13.5 Workers' Compensation at statutory limits.

§ 13.6 ~~Employers' Liability with policy limits not less than (\$) each accident, (\$) each employee, and (\$) policy limit.~~ Workers' Compensation: Statutory coverage per 820 ILCS 305 et seq.; Employer's Liability: One Million Dollars (\$1,000,000.00) for bodily injury each accident or disease, each employee for injury by disease.

§ 13.7 ~~If the Vendor is required to furnish professional services as part of the Work, the Vendor shall procure Professional Liability insurance covering performance of the professional services, with policy limits of not less than (\$) per claim and (\$) in the aggregate.~~

§ 13.8 The Vendor shall provide certificates of insurance acceptable to the Owner evidencing compliance with the requirements in this Article 13 at the following times: (1) prior to commencement of the Work; (2) upon renewal or replacement of each required policy of insurance; and (3) upon the Owner's written request. An additional certificate evidencing continuation of liability coverage, including coverage for completed operations, shall be submitted with the final invoice and thereafter upon renewal or replacement of such coverage until the expiration of the period required by Section 13.1. The certificates will show the Owner as an additional insured on the Vendor's Commercial General Liability and excess or umbrella liability policy.

§ 13.9 The Vendor shall disclose to the Owner any deductible or self-insured retentions applicable to any insurance required to be provided by the Vendor.

§ 13.10 To the fullest extent permitted by law, the Vendor shall cause the commercial liability coverage required by this Article 13 to include (1) the Owner, the Architect, and the Architect's Consultants as additional insureds for claims caused in whole or in part by the Vendor's negligent acts or omissions during the Vendor's operations; and (2) the Owner as an additional insured for claims caused in whole or in part by the Vendor's negligent acts or omissions for which loss occurs during completed operations. The additional insured coverage shall be primary and non-contributory to any of the Owner's general liability insurance policies and shall apply to both ongoing and completed operations. To the extent commercially available, the additional insured coverage shall be no less than that provided by Insurance Services Office, Inc. (ISO) forms CG 20 10 07 04, CG 20 37 07 04, and, with respect to the Architect and the Architect's Consultants, CG 20 32 07 04.

§ 13.11 Within three (3) business days of the date the Vendor becomes aware of an impending or actual cancellation or expiration of any insurance required by this Article 13, the Vendor shall provide notice to the Owner of such impending or actual cancellation or expiration. Upon receipt of notice from the Vendor, the Owner shall, unless the lapse in coverage arises from an act or omission of the Owner, have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by the Vendor. The furnishing of notice by the Vendor shall not relieve the Vendor of any contractual obligation to provide any required coverage.

§ 13.12 Other Insurance Provided by the Vendor

(List below any other insurance coverage to be provided by the Vendor and any applicable limits.)

Coverage

Limits

§ 13.13 Waiver of Subrogation

§ 13.13.1 The Owner and Vendor waive all rights against (1) each other and any of their sub-vendors, agents, and employees, each of the other; (2) the Architect and Architect's consultants; and (3) separate vendors or contractors, if any, and any of their sub-vendors, subcontractors, sub-subcontractors, agents, and employees, for damages caused by fire, or other causes of loss, to the extent those losses are covered by property insurance required by this Agreement or other

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property insurance applicable to the Project, except such rights as they have to proceeds of such insurance. The Owner or Vendor, as appropriate, shall require similar written waivers in favor of the individuals and entities identified above from the Architect, Architect's consultants, separate vendors and contractors, and sub-vendors, subcontractors, and sub-subcontractors. The policies of insurance purchased and maintained by each person or entity agreeing to waive claims pursuant to this Section 13.13.1 shall not prohibit this waiver of subrogation. This waiver of subrogation shall be effective as to a person or entity (1) even though that person or entity would otherwise have a duty of indemnification, contractual, or otherwise, (2) even though that person or entity did not pay the insurance premium directly or indirectly, or (3) whether or not the person or entity had an insurable interest in the damaged property.

§ 13.13.2 A loss insured under the Owner's property insurance shall be adjusted by the Owner as fiduciary and made payable to the Owner as fiduciary for the insureds, as their interests may appear, subject to requirements of any applicable mortgagee clause. The Owner shall pay the Architect and Vendor their just shares of insurance proceeds received by the Owner, and by appropriate agreements, written where legally required for validity, the Architect and Vendor shall make payments to their consultants and sub-vendors in similar manner.

ARTICLE 14 CLAIMS AND DISPUTES

§ 14.1 Binding Dispute Resolution

For any claim subject to, but not resolved by, mediation pursuant to Section 14.6, the method of binding dispute resolution shall be as follows:

(Check the appropriate box.)

- Arbitration pursuant to Section 14.7 of this Agreement
- Litigation in a court of competent jurisdiction
- Other *(Specify)*

Mediated as provided in Section 14.2. If either party so desires, or if mediation fails to resolve the dispute, the dispute may be resolved by litigation.

If the Owner and Vendor do not select a method of binding dispute resolution, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, claims will be resolved in a court of competent jurisdiction.

§ 14.2 Claims, disputes, and other matters in question arising out of or relating to this Contract, including those alleging an error or omission by the Architect but excluding those arising under Section 12.2, shall be referred initially to the Architect for decision. ~~Such matters, except those waived as provided for in Section 14.12, shall, after initial decision by the Architect or 30 days after submission of the matter to the Architect, be subject to mediation as a condition precedent to binding dispute resolution.~~ Any claims or disputes between the parties of this agreement arising from or relating to this agreement or breach thereof, shall, as a condition prior to binding litigation, shall be submitted to non-binding mediation. The mediator's fees and expenses and any costs associated with the mediation shall be borne equally by both parties. Each party shall be responsible for paying its own costs, expenses, and attorney fees related to participating in the mediation. Disputes under this agreement shall be exclusively litigated in the Circuit Court for Franklin County, Illinois.

§ 14.3 Notice of Claims

Claims by either the Owner or Vendor shall be initiated by notice to the other party in accordance with Section 1.11.2.

§ 14.4 Time Limits on Claims

The Owner and Vendor shall commence all claims and causes of action against the other and arising out of or related to the Contract in accordance with the requirements of the final dispute resolution method selected in this Agreement, whether in contract, tort, breach of warranty, or otherwise, within the period specified by applicable law, but in any case not more than 10 years after the date of completion of the Work. The Owner and Vendor waive all claims and causes of action not commenced in accordance with this Section 14.4.

§ 14.5 If a claim, dispute, or other matter in question relates to or is the subject of a mechanic's lien, the party asserting such matter may proceed in accordance with applicable law to comply with the lien procedures, including notice or filing deadlines.

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§ 14.6 The parties shall endeavor to resolve their disputes by mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with their Construction Industry Mediation Procedures in effect on the date of this Agreement. A request for mediation shall be made in writing, delivered to the other party to this Agreement, and filed with the person or entity administering the mediation. The request may be made concurrently with the binding dispute resolution proceedings but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration is stayed pursuant to this Section, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

§ 14.7 If the parties have selected arbitration as the method for binding dispute resolution in this Agreement, any claim, subject to, but not resolved by, mediation shall be subject to arbitration which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association, in accordance with the Construction Industry Arbitration Rules in effect on the date of this Agreement. Demand for arbitration shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the arbitration. The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

§ 14.8 Subject to the rules of the American Arbitration Association or other applicable arbitration rules, either party, at its sole discretion, may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation; (2) the arbitrations to be consolidated substantially involve common questions of law or fact; and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).

§ 14.9 Subject to the rules of the American Arbitration Association or other applicable arbitration rules, any party to an arbitration may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration provided that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of a Claim not described in the written Consent.

§ 14.10 The foregoing agreement to arbitrate and other agreements to arbitrate with an additional person or entity duly consented to by parties to this Agreement shall be specifically enforceable under applicable law in any court having jurisdiction thereof.

§ 14.11 Continuing Contract Performance

Pending final resolution of a Claim, except as otherwise agreed in writing, the Vendor shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Contract Documents.

§ 14.12 Waiver of Claims for Consequential Damages

The Vendor and Owner waive claims against each other for consequential damages arising out of or relating to this Contract. This mutual waiver includes

- .1 damages incurred by the Owner for rental expenses, for losses of use, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons; and
- .2 damages incurred by the Vendor for principal office expenses including the compensation of personnel stationed there, for losses of financing, business, and reputation, and for loss of profit except anticipated profit arising directly from the Work.

This mutual waiver is applicable, without limitation, to all consequential damages. Nothing contained in this Section 14.12 shall be deemed to preclude an assessment of liquidated damages, when applicable, in accordance with the requirements of the Contract Documents.

~~ARTICLE 16~~ — ENUMERATION OF CONTRACT DOCUMENTS

~~ARTICLE 15~~ — MISCELLANEOUS PROVISIONS

~~§ 15.1 The Contract Documents are defined in Article 1 and, except for Modifications issued after execution of this Agreement, are enumerated in the sections below, may be terminated by the Owner or the Vendor as provided below:~~

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No Right To Stop Work for Non-Payment

The Vendor has no right to stop Work as a consequence of non-payment. In the event of any disagreement between the Vendor and Owner involving the Vendor's entitlement to payment, the Vendor's only remedy is to file a Claim in accordance with Article 15. The Vendor must diligently proceed with the Work pending resolution of the Claim. If, however, an Application for Payment has been approved for payment by the Owner, and the Owner fails to make payment within sixty (60) days of the approval for payment by the Owner, the Vendor may upon ten (10) days written notice to the Owner, stop work if payment is not made by the Owner within ten (10) days following the notice.

Termination by the Owner for Cause

§ 15.2 The Owner may terminate the Contract if the Vendor

1. Fails to supply adequate properly skilled workers or proper materials;
2. Fails to make payment to Subcontractors or Suppliers for materials or labor in accordance with the respective agreements between the Vendor and the Subcontractors or Suppliers;
3. Fails to comply with any laws, ordinances, or rules, regulations or orders of a public authority having jurisdiction;
4. Fails to perform the Work in accordance with the Contract Documents or otherwise breaches any provision of the Contract Documents;
5. Anticipatorily breaches or repudiates the Contract;
6. Fails to make satisfactory progress in the prosecution of the Work required by the Contract; or
7. Endangers the performance of this Contract.

The Owner may terminate the Contract, in whole or in part, whenever the Owner determines that sufficient grounds for termination exist. The Owner will provide the Vendor with a written notice to cure the default. If the default is not cured, the termination for default is effective on the date specified in the Owner's written notice. However, if the Owner determines that default contributes to the curtailment of an essential service or poses an immediate threat to life, health, or property, the Owner may terminate the Contract immediately upon issuing oral or written notice to the Vendor without any prior notice or opportunity to cure. In addition to any other remedies provided by law or the Contract, the Vendor must compensate the Owner for additional costs that foreseeably would be incurred by the Owner, whether the costs are actually incurred or not, to obtain substitute performance. A termination for default is a termination for convenience if the termination for default is later found to be without justification.

§ 15.3 Upon receipt of written notice from the Owner of termination, the Vendor must:

1. cease operations as directed by the Owner in the notice and, if required by the Owner, participate in an inspection of the Work with the Owner, and the Architect to record the extent of completion thereof, to identify the Work remaining to be completed or corrected, and to determine what temporary facilities, tools, equipment and construction machinery are to remain at the Site pending completion of the Work;
2. complete or correct the items directed by the Owner, and take actions necessary, or that the Owner may direct, for the protection and preservation of any stored materials and equipment and completed Work;
3. unless otherwise directed by the Owner, remove its tools, equipment and construction machinery from the Site, and
4. except as directed by the Owner, terminate all existing subcontracts and purchase orders and enter into no further subcontracts or purchase orders.

§ 15.4 Following written notice from the Owner of termination, the Owner may:

1. take possession of the Site and of all materials and equipment thereon, and at the Owner's option, such temporary facilities, tools, construction equipment and machinery thereon owned or rented by the Vendor that the Owner elects to utilize in completing the Work;
2. accept assignment of subcontracts and purchase orders, and
3. complete the Work by whatever reasonable method the Owner may deem expedient.

§ 15.5 Upon termination for cause, the Vendor must take those actions described in Section 14.2.3, and the Owner may take those actions described in Section 14.2.4, subject to the prior rights of the Vendor's Surety.

§ 15.6 When the Owner terminates the Contract for cause, the Vendor is not entitled to receive further payment until the Work is completed and the costs of completion have been established.

§ 15.7 If the unpaid balance of the Contract Sum less amounts which the Owner is entitled to offset from the unpaid Contract balance including actual or Liquidated Damages, exceeds the costs of completing the Work, including compensation for the Owner's and the Architect's services made necessary thereby, such excess will be paid to the Vendor or Surety, as directed by the Surety. If such costs exceed the unpaid Contract balance, the Vendor must pay the difference to the Owner upon written demand. This obligation for payment survives termination of the Contract.

§ 15.8 In completing the Work following termination for cause, the Owner is not required to solicit competitive bids or to award completion work to the lowest bidder, but may obtain such completion work and related services on the basis of sole source procurement and negotiated compensation.

§ 15.9 If the Vendor files for protection, or a petition is filed against it, under the Bankruptcy laws, and Vendor wishes to affirm the Contract, Vendor shall immediately file with the Bankruptcy Court a motion to affirm the Contract and shall provide satisfactory evidence to Owner and to the Court of its ability to cure all present defaults and its ability to timely and successfully complete the Work. If Vendor does not make such an immediate filing, Vendor accepts that Owner shall petition the Bankruptcy Court to lift the Automatic Stay and permit Owner to terminate the Contract.

§ 15.12 Regulations – Vendor's Responsibilities

§ 15.12.1 The Vendor shall assume all responsibility and costs in complying with Federal, State and Local regulations for Equal Opportunity Employment, Anti-Discrimination, Safety and other Regulations.

§ 15.12.2 The Vendor shall assume all responsibility and costs in complying with State Regulations for Certified Payrolls.

§ 15.13 Liability and Indemnity:

§ 15.13.1 In no event shall the Owner be liable to the Vendor for special, indirect, or consequential damages, except those caused by the Owner's willful misconduct arising out of or in any way connected with a breach of this Contract. The maximum liability of the Owner shall be limited to the amount of money to be paid by the Owner under this Contract.

§ 15.13.2 The Vendor shall defend, indemnify, and hold harmless the Owner, its elected or appointed officials, Architect, Owner's Representative, and their respective consultants, insurers, agents, and employees, from and all liability, suits, damages, costs (including attorney fees), losses, outlays and expenses from claims not caused by, or allegedly caused by, or arising out of or connected with, this Contract, or the work of tract hereunder (the Vendor hereby assuming full responsibility for relations with subcontractors), including but not limited to claims for personal injuries, death, or property damage (other than the Work itself), regardless of whether the loss to be indemnified was caused in part by an indemnified person.

§ 15.13.3 The Vendor shall indemnify and hold the Owner harmless from all wages or overtime compensation due any employees in rendering services pursuant to the Contract or any subcontract, including payment of reasonable attorneys' fees and costs in the defense of any claim made under the Fair Labor Standards Act, the Illinois Prevailing Wage Law or any other federal or state law.

§ 15.13.4 By executing this Contract the Vendor represents that the Vendor has reviewed the Contract Documents and affirms that the Vendor is not aware of any material defects in said documents that might prevent the Vendor from completing the Work and the Project as promised herein. The Vendor accordingly waives any claim of such material defect against the Owner.

§ 15.13.5 Vendor stipulates that Owner is a political subdivision of the State of Illinois, and as such, enjoys immunities from suit and liability as provided by the Constitution and laws of the State of Illinois. By entering into this Agreement, Owner does not waive any of its immunities from suit and/or liability, except as otherwise specifically provided herein and as specifically authorized by law.

§ 15.13.6 The Vendor may not assign its responsibilities, duties, obligations and rights under this Agreement, without the express written consent of the Owner. This does not prevent Vendor from engaging subcontractors to perform various phases of the Project, but Vendor shall be fully responsible to Owner for the work, actions and omissions of all such subcontractors.

§ 15.13.7 This Agreement, in its entirety, shall be binding upon all the parties hereto, their respective successors, heirs,

executors, administrators or assigns.

§ 15.13.8 No delay or omission by either of the parties hereto in exercising any right or power accruing upon the noncompliance or failure of performance by the other party hereto of any of the provisions of this Agreement shall impair any such right or power or be construed to be a waiver thereof. A waiver by either of the parties hereto of any of the covenants, conditions or agreements hereof to be performed by the other party hereto shall not be construed to be a waiver of any subsequent breach thereof or of any other covenant, condition or agreement herein contained.

§ 15.13.9 Vendor's Responsibility for Subcontractors

The Vendor shall be as fully responsible to the Owner for the acts and omissions of its Subcontractors, and of persons either directly or indirectly employed by them, as Vendor is for the acts and omissions of persons it directly employs. The Vendor shall cause appropriate provisions to be inserted in all subcontracts relating to this work to bind all Subcontractors to Vendor by all the terms herein set forth, insofar as applicable to the work of Subcontractors, and to give Vendor the same power regarding termination of any subcontract as the Owner may exercise over the Vendor under any provisions of this Contract. Nothing contained in this Contract shall create any contractual relation between any Subcontractor and the Owner or between any Subcontractors.

§ 15.13.9.1 The Vendor shall enforce the Owner's alcohol-free, drug-free, tobacco-free, harassment-free and weapon-free policies and zones, which will require compliance with those policies and zones by Vendor's employees, subcontractors, and all other persons carrying out the Contract.

§ 15.14 Conflicts:

§ 15.14.1 Vendor covenants that it has no interest and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with the performance of services to be performed under this Contract. The Vendor further covenants that the performance of Contract no person having such interest shall be employed.

§ 15.14.2 No salaried officer, employee or elected official of the Owner shall have a financial interest, direct or indirect, in this Contract. A violation of this provision renders the Contract void. Any federal regulations and applicable provisions in ILCS 105/3, shall not be violated.

§ 15.15 Assignment:

Vendor shall not assign or transfer any interest in this Contract (whether by assignment or novation), and shall not substitute any specific individuals and/or personnel qualifications without prior written consent of the Owner, except that claims for money due or to become due to the Vendor from the Owner under this Contract may be assigned to a bank, trust company, or other financial institution without such approval, but notice of such assignment or transfer shall be furnished in writing promptly to the Owner. Any such assignment is expressly subject to all rights and remedies of the Owner under this agreement, including the right to change or delete activities from the Contract or to terminate the same as provided herein, and no such assignment shall require the Owner to give any notice to any such assignee of any actions which the Owner may take under this agreement, though Owner will attempt to so notify any such assignee.

§ 15.16 General Independent Vendor Clause:

This Contract does not create an employee/employer relationship between the parties. It is the parties' intention that the Vendor will be an independent contractor and not the Owner's employee for all purposes, including, but not limited to, the application of the Fair Labor Standards Act minimum wage and overtime payments, Federal Insurance Contribution Act, the Social Security Act, the Federal Unemployment Tax Act, the provisions of the Internal Revenue Code, Illinois revenue and taxation laws, Illinois workers' compensation and unemployment insurance laws subject to the provisions of this Contract, the Vendor will retain sole and absolute discretion in the judgment of the manner and means of carrying out the Vendor's activities and responsibilities hereunder. The Vendor agrees that it is a separate and independent enterprise from the Owner, that it has a full opportunity to find other business, that it has made its own investment in its business, and that it will utilize a high level of skill necessary to perform the work. This agreement shall not be construed as creating any joint employment relationship between the Vendor and the Owner, and the Owner will not be liable for any obligation incurred by the Vendor, including but not limited to unpaid minimum wages and/or overtime premiums.

§ 15.17 Other provisions:

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User Notes:

(1231801558)

Payments made to the Vendor by the Owner under this Contract shall be effected either by check, electronically or by wire transfer. Vendor shall provide the Owner with information necessary to facilitate same.

Vendor agrees to use the Project Labor Agreement as established between Franklin County, Illinois and the Egyptian Building and Construction Trades Council for the project, should it exceed \$50,000 contract value.

ARTICLE 16 ENUMERATION OF CONTRACT DOCUMENTS

§ 16.1 The Contract Documents are defined in Article 1 and, except for Modifications issued after execution of this Agreement, are enumerated in the sections below.

§ 16.2 The Agreement is this executed AIA Document A151™-2019, Standard Form of Agreement Between Owner and Vendor for Furniture, Furnishings, and Equipment.

§ 16.3 AIA Document E203™-2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below: (Insert the date of the E203-2013 incorporated into this Agreement.)

§ 16.4 The Specifications: (Either list the Specifications here or refer to an exhibit attached to this Agreement.)

| <u>Section</u> | <u>Title</u> | <u>Date</u> | <u>Pages</u> |
|-------------------|---|---------------------------------------|--------------|
| <u>00 01 15</u> | <u>LIST OF DRAWING SHEETS</u> | <u>08/09/2021</u> <u>(typical)</u> | <u>1</u> |
| <u>00 11 13.F</u> | <u>ADVERTISEMENT FOR BIDS</u> | | <u>2</u> |
| <u>00 21 13</u> | <u>INSTRUCTION TO BIDDERS (AIA Document A701)</u> | | <u>8</u> |
| <u>00 22 13</u> | <u>SUPPLEMENTARY INSTRUCTIONS TO BIDDERS</u> | | <u>5</u> |
| <u>00 25 13</u> | <u>PREBID MEETINGS</u> | | <u>2</u> |
| <u>00 26 00</u> | <u>PROCUREMENT SUBSTITUTION PROCEDURES</u> | | <u>3</u> |
| <u>00 41 13.F</u> | <u>BID FORM – STIPULATED SUM (SINGLE PRIME CONTRACT)</u> | | <u>10</u> |
| <u>00 43 13</u> | <u>BID BOND (AIA Document A310)</u> | | <u>2</u> |
| <u>00 43 73</u> | <u>PROPOSED SCHEDULE OF VALUES FORM</u> | | <u>1</u> |
| <u>00 43 93</u> | <u>BID SUBMITTAL CHECKLIST</u> | | <u>1</u> |
| <u>00 52 13</u> | <u>STANDARD FORM OF AGREEMENT BETWEEN OWNER AND VENDOR FOR FF&E (AIA Document A151)</u> | | <u>24</u> |
| <u>00 61 13</u> | <u>PERFORMANCE BOND (AIA Document A312)</u> | | <u>4</u> |
| <u>00 61 14</u> | <u>PAYMENT BOND (AIA Document A312)</u> | | <u>4</u> |
| <u>01 10 00</u> | <u>SUMMARY</u> | | <u>4</u> |
| <u>01 20 00.F</u> | <u>SCOPE OF WORK</u> | | <u>6</u> |
| <u>01 22 00</u> | <u>UNIT PRICES</u> | | <u>1</u> |
| <u>01 25 00</u> | <u>SUBSTITUTION PROCEDURES</u> | | <u>3</u> |

| | | |
|-----------------|---|------------|
| <u>01 26 00</u> | <u>CONTRACT MODIFICATION PROCEDURES</u> | <u>3</u> |
| <u>01 29 00</u> | <u>PAYMENT PROCEDURES</u> | <u>5</u> |
| <u>01 31 00</u> | <u>PROJECT MANAGEMENT AND COORDINATION</u> | <u>6</u> |
| <u>01 32 00</u> | <u>CONSTRUCTION PROGRESS DOCUMENTATION</u> | <u>4</u> |
| <u>01 33 00</u> | <u>SUBMITTAL PROCEDURES</u> | <u>6</u> |
| <u>01 40 00</u> | <u>QUALITY REQUIREMENTS</u> | <u>6</u> |
| <u>01 42 00</u> | <u>REFERENCES</u> | <u>4</u> |
| <u>01 60 00</u> | <u>PRODUCT REQUIREMENTS</u> | <u>5</u> |
| <u>01 73 00</u> | <u>EXECUTION</u> | <u>8</u> |
| <u>01 74 19</u> | <u>CONSTRUCTION WASTE MANAGEMENT AND DISPOSAL</u> | <u>3</u> |
| <u>01 77 00</u> | <u>CLOSEOUT PROCEDURES</u> | <u>5</u> |
| <u>01 78 23</u> | <u>OPERATION AND MAINTENANCE DATA</u> | <u>4</u> |
| <u>01 78 39</u> | <u>PROJECT RECORD DOCUMENTS</u> | <u>3</u> |
| <u>12 50 00</u> | <u>FURNITURE</u> | <u>175</u> |
| <u>12 61 00</u> | <u>FIXED AUDIENCE SEATING</u> | <u>4</u> |

§ 16.5 The Drawings:

(Either list the Drawings here or refer to an exhibit attached to this Agreement.)

| <u>Number</u> | <u>Title</u> | <u>Date</u> |
|---------------|--------------------------------------|-------------------|
| <u>G1.0</u> | <u>Cover Sheet</u> | <u>08/09/2021</u> |
| <u>F1.0</u> | <u>First Floor Furnishings Plan</u> | <u>08/09/2021</u> |
| <u>F2.0</u> | <u>Second Floor Furnishings Plan</u> | <u>08/09/2021</u> |
| <u>F3.0</u> | <u>Third Floor Furnishings Plan</u> | <u>08/09/2021</u> |

§ 16.6 The Addenda, if any:

| <u>Number</u> | <u>Date</u> | <u>Pages</u> |
|-------------------|-------------------|--------------|
| <u>Addendum 1</u> | <u>08/22/2021</u> | <u>9</u> |
| <u>Addendum 2</u> | <u>09/03/2021</u> | <u>49</u> |

Portions of Addenda relating to quotations or proposal requirements are not part of the Contract Documents unless the quotation or proposal requirements are enumerated in this Article 15.

§ 16.7 Additional documents, if any, forming part of the Contract Documents:

.1 Other Exhibits:
(Check all boxes that apply.)

Supplementary and other Conditions of the Contract:

| <u>Document</u> | <u>Title</u> | <u>Date</u> | <u>Pages</u> |
|-----------------|--------------|-------------|--------------|
|-----------------|--------------|-------------|--------------|

.2 Other documents, if any, listed below:
(List here any additional documents that are intended to form part of the Contract Documents.)

Init.

This Agreement entered into as of the day and year first written above.

J. Larry Miller

OWNER (Signature)

Larry Miller, County Board
(Printed name and title)

Becky Phillips 9/22/21

VENDOR (Signature)

Becky Phillips, President
(Printed name and title)

int.

~~This page is intentionally blank. § 15.2 The Agreement is this executed AIA Document A151™ - 2019, Standard Form of Agreement Between Owner and Vendor for Furniture, Furnishings, and Equipment.~~

~~§ 15.3 AIA Document E203™ - 2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:
(Insert the date of the E203 - 2013 incorporated into this Agreement.)~~

~~§ 15.4 The Specifications:
(Either list the Specifications here or refer to an exhibit attached to this Agreement.)~~

| Section | Title | Date | Pages |
|---------|-------|------|-------|
|---------|-------|------|-------|

~~§ 15.5 The Drawings:
(Either list the Drawings here or refer to an exhibit attached to this Agreement.)~~

| Number | Title | Date |
|--------|-------|------|
|--------|-------|------|

~~§ 15.6 The Addenda, if any:~~

| Number | Date | Pages |
|--------|------|-------|
|--------|------|-------|

Int.

Portions of Addenda relating to quotations or proposal requirements are not part of the Contract Documents unless the quotation or proposal requirements are enumerated in this Article 15.

~~§ 15.7~~ Additional documents, if any, forming part of the Contract Documents:

~~1~~ Other Exhibits:

(Check all boxes that apply.)

The Sustainability Plan:

| Title | Date | Pages |
|-------|------|-------|
|-------|------|-------|

Supplementary and other Conditions of the Contract:

| Document | Title | Date | Pages |
|----------|-------|------|-------|
|----------|-------|------|-------|

~~2~~ Other documents, if any, listed below:

(List here any additional documents that are intended to form part of the Contract Documents.)

This Agreement entered into as of the day and year first written above.

OWNER *(Signature)*

VENDOR *(Signature)*

(Printed name and title)

(Printed name and title)

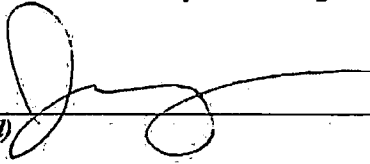
Int.

Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, Joe Sweitzer, Jr., hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with this certification at 17:33:30 ET on 09/21/2021 under Order No. 0307220936 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A151™ – 2019, Standard Form of Agreement between Owner and Vendor for Furniture, Furnishings, and Equipment (FF&E), as published by the AIA in its software, other than changes shown in the attached final document by underscoring added text and striking over deleted text.

(Signed)



(Title)

JOE SWEITZER, JR. NAVIGATE BUILDING SOLUTIONS

(Dated)

09.21.2021