**SERVICE CONTRACT**

**THIS SERVICE CONTRACT** (this “Contract”) is made and executed as of the Execution Date (as defined below) by and between Responsible Party (as defined below), and Contractor (as defined below).

The parties hereto, each intending to be legally bound, hereby covenant and agree as follows:

1. Basic Contract Provisions. For convenience of the parties, certain basic provisions of this Contract are set forth herein. The provisions set forth herein are subject to the remaining terms and conditions of this Contract and are to be interpreted in light of such remaining terms and conditions.
   1. This Contract shall take effect upon the Commencement Date (as defined below), except as specifically otherwise provided within this Contract, each of the provisions hereof shall be binding upon and inure to the benefit of Responsible Party (as defined below) and Contractor (as defined below) from the date of execution and delivery hereof by all parties hereto.
   2. “Responsible Party”:
   3. “Contractor”:
   4. “Execution Date”:
   5. “Commencement Date”:
   6. “Expiration Date”:
   7. “Property”:
   8. “Property Manager”: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, which Contractor acknowledges that, until further notice, shall act as “Responsible Party’s Agent” with respect to this Contract, with full authority to act on Responsible Party’s behalf in administration of this Contract.
   9. Addresses for notice purposes are:

If to Responsible Party:

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**4570 Executive Drive, Suite 400  
San Diego, California 92121  
Attn: Legal Department  
Email: [legalreview@biomedrealty.com](mailto:legalreview@biomedrealty.com)

If to Contractor:

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

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**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

With a copy to:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

4570 Executive Drive, Suite 400

San Diego, California 92121

Attn: Vice President, Property Management

Email: [propertymanagement@biomedrealty.com](mailto:propertymanagement@biomedrealty.com)

* 1. “Contract Amount”: Subject to additions or deductions as hereinbefore or hereinafter provided, Responsible Party shall pay Contractor an amount, inclusive of all applicable taxes, (the “Contract Amount”) as full and complete compensation for the performance of the Services, and/or T&M Services (as defined below), pursuant to the following chart:

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Dates** | **Amount** | **# of Payments** | **Payment Frequency** | **Type of Services** | **Annual Amount** |
|  | $ 0.00 |  | Select | Select | $ 0.00 |
|  | $ 0.00 |  | Select | Select | $ 0.00 |
|  | $ 0.00 |  | Select | Select | $ 0.00 |
|  | $ 0.00 |  | Select | Select | $ 0.00 |
|  | $ 0.00 |  | Select | Select | $ 0.00 |
|  | $ 0.00 |  | Select | Select | $ 0.00 |
|  | $ 0.00 |  | Select | Select | $ 0.00 |
|  | $ 0.00 |  | Select | Select | $ 0.00 |
|  | $ 0.00 |  | Select | Select | $ 0.00 |
|  | $ 0.00 |  | Select | Select | $ 0.00 |
|  | | | | **Total Contract Amount** | $0.00 |

1. **Scope of Services.** Contractor shall furnish and supply all labor, material, tools and equipment, and supervision necessary to fully and promptly perform the following services and undertakes all obligations described elsewhere in the Contract Documents (as defined below) (collectively, the “Services”) in certain premises (the “Premises”) that are owned by Responsible Party and located at the Property:

Services shall include all incidental and related work necessary to complete the Services in accordance with best industry practices. In addition, if applicable, the Services may include any services to be performed by Contractor on a time and materials basis (“T&M Services”) upon written request by Responsible Party (for which purposes an email from an authorized employee or agent of Responsible Party shall be deemed sufficient), pursuant to the amounts and limits set forth in Section 1.10 above.

T&M Services are included in this Contract: ☐ YES ☐ NO

1. **Term.** Contractor shall (a) commence performance of the Services on the Commencement Date, and (b) perform the Services throughout the Term. The “Term” of this Contract shall be from the Commencement Date until the Expiration Date, provided, however, that upon the Expiration Date, if this Contract has not been terminated by Responsible Party or Contractor in accordance with Article 13 of this Contract, and if Responsible Party has not otherwise delivered written notice (which may be by email) to Contractor that this Contract will terminate on the Expiration Date (which notice Responsible Party may elect to deliver in its sole discretion for any reason or no reason), then the Term shall automatically continue on a month-to-month basis for successive one (1) month periods not to exceed a total of three (3) months, unless and until the earlier to occur of (i) Responsible Party’s termination of this Contract in accordance with Article 13 of this Contract, or (ii) the last day of the third (3rd) month after the Expiration Date.
2. **Payments**.
   1. Releases of Liens. Before making any payment hereunder, Responsible Party, in its sole discretion, may require from Contractor releases of all liens and other claims for materials furnished and services performed under this Contract by Contractor and Subcontractors (as hereinafter defined) and may set off any amounts incurred by Responsible Party in connection with the discharge of any such lien against any amounts due Contractor.
   2. Payment Terms. Responsible Party and Contractor agree that the Contract Amount represents full payment in respect of the performance of all of Contractor’s obligations under the Contract Documents and Responsible Party shall not be obligated to pay to Contractor any amounts other than the Contract Amount for the performance of Contractor’s obligations under the Contract Documents. The Contract Amount includes the cost of all labor, personnel, taxes, insurance, fees, systems, equipment, materials, Contractor’s general conditions and Contractor’s fee, profit and overhead.
   3. Invoices. Within three (3) business days after the end of each calendar month, Contractor shall submit to Responsible Party an invoice for all Services performed by Contractor during such preceding month.
   4. Payment Not Acceptance. No payment under this Contract (either in whole or in part) shall be evidence of performance of this Contract by Contractor (either in whole or in part), and no payment or delivery of payment by Responsible Party shall be construed to be an acceptance of defective or improper work, materials or services, or an affirmation of any invoice against which such payment is made.
3. **Contract Documents.** The “Contract Documents” consist of (a) this Contract, (b) any modifications or amendments executed and delivered by both Responsible Party and Contractor after execution of this Contract and (c) items included within Contractor’s proposal attached as Exhibit B hereto (“Contractor’s Proposal”), but only to the extent that such attachments provide a description, schedule or pricing information for the Services, and only if and to the extent that such Contractor’s Proposal does not conflict with, modify or delete the terms of this Contract.  By way of example only (and not of limitation), the following shall not be incorporated into this Contract and shall not constitute a part of the Contract Documents, unless such terms are expressly agreed to in writing by an authorized officer of Responsible Party:  (x) any general contract terms (including Contractor’s form of “terms and conditions” or similar “boilerplate” contract provisions), (y) any terms that address issues or topics not addressed in this Contract or any modifications issued by Responsible Party and accepted by Contractor after execution of this Contract that do not conform to the intent of the remainder of the Contract Documents and (z) any terms that assign liability or responsibility or limit or eliminate responsibility for either or both of the same.  The Contract Documents represent the entire agreement between the parties hereto and supersede all prior negotiations, representations or agreements, whether written or oral.  In the event that a provision of the Contract Documents conflicts with the Applicable Laws (as defined below), then the most stringent requirement shall control.
4. **Quality of Services; Correction of Defects; Representations; Staffing.**
   1. Examination by Contractor. Contractor has by careful examination ascertained the following: (a) the nature and location of the Property, (b) the condition of the Property where the Services will be performed, (c) the character, quality and quantity of the materials, equipment and facilities necessary to complete the Services, (d) the general and local conditions pertaining to the Services and (e) all other matters that in any way might affect the performance of this Contract by Contractor. Contractor enters into this Contract solely because of the results of that examination and not because of any representations pertaining to the Property made to Contractor by Responsible Party or any agent of Responsible Party and not contained in this Contract.
   2. Quality of Services and Standards. Contractor shall perform all Services in a good and workmanlike manner and hereby guarantees that (a) all workmanship shall be of first quality and free from defects, (b) any and all materials, equipment and furnishings incorporated in or used to perform the Services shall be of good quality and new unless otherwise required or permitted by the Contract Documents and (c) the Services shall be free from defects not inherent in the quality required or permitted. Services not conforming to these requirements, including substitutions not properly approved and authorized by Responsible Party, shall be considered defective. Contractor shall supervise and direct the Services, using Contractor’s best skills and attention, and shall be solely responsible for all means, methods, techniques, procedures and coordination of all portions of the Services, unless the Contract Documents (other than Contractor’s Proposal) give specific contrary instructions concerning such matter. Any necessary changes or deviations from the standards set forth herein shall be accomplished only by written modification approved and executed by Responsible Party.
   3. Correction of Defects. If any material, equipment or services supplied or labor performed by Contractor are defective or fail to comply with any Contract Document or any Applicable Laws, and if notice thereof is given to Contractor by Responsible Party, such defective materials, equipment, services or workmanship shall, upon Responsible Party’s request, be immediately replaced and corrected at no cost to Responsible Party.
   4. Representations by Contractor. In order to induce Responsible Party to enter into this Contract, Contractor represents and warrants that (a) it is an expert in the Services to be undertaken by Contractor hereunder, (b) it has made a complete and extensive survey of the Premises and the Property (including the grounds and amenities related thereto) and their existing physical conditions, (c) all employees have been paid and there are no unpaid wage debts, and (d) the Contract Amount reflects a total cost to Responsible Party to complete the scope of the Services set forth in the Contract Documents (including completion of all necessary incidental and related work) in accordance with best industry practices.
   5. Staffing Performance, Quality and Compensation. Contractor shall provide suitably trained and competent personnel to perform the Services in accordance with the Contract Documents. Contractor shall screen employees to determine, to the extent reasonably possible, their ability and honesty. Contractor shall be responsible to Responsible Party for the acts and omissions of Contractor’s employees and for any damages, losses, costs and expenses resulting from such acts or omissions. Contractor shall enforce strict discipline and good order among Contractor’s employees and other persons carrying out the Services. Contractor shall not permit employment of any person or persons not appropriately skilled in the task assigned. Contractor shall be responsible for labor relations and shall resolve any disputes between Contractor and Contractor’s employees or any organization representing such employee so as to avoid, picketing and boycotts of, on or about the Premises or the Property, and shall be responsible for any adverse consequences resulting therefrom. Upon notification by Responsible Party or its Agent, as applicable, that the conduct of anyone employed by Contractor is unsatisfactory, Contractor shall immediately remove such person from the Services. Contractor covenants to pay any wages to Contractor’s employees when and as such wages are due. Contractor’s obligations under this Section shall survive the expiration or earlier termination of this Contract.
   6. Additional Services. If Responsible Party requests in writing that additional services be performed by Contractor (the “Additional Services”), then the cost of the Additional Services shall be agreed upon by Responsible Party and Contractor and such agreed-upon amount shall be added to the Contract Amount in writing and paid by Responsible Party on completion of the Additional Services. If Responsible Party requests in writing to reduce the Services to be performed by Contractor, then the cost of the Services that Contractor will no longer perform as a result of such reduction (the “Excluded Services”) shall be deducted from the Contract Amount in writing, and Responsible Party shall no longer have any obligation to pay for the Excluded Services. No other person is authorized to request Additional Services or any reduction in the Services for Responsible Party. Contractor is entitled to be paid for all Additional Services requested in writing by Responsible Party.
   7. Emergency Services. Upon receipt of notification from Responsible Party of the potential need for Contractor to perform emergency Services, Contractor shall respond to the Property within forty-five (45) minutes after such notification and shall (a) notify Responsible Party of the scope of remediation required and, upon notification by Responsible Party to proceed, immediately commence such remediation or (b) if delay caused by the notice to proceed requirement of Subsection 6.7(a) would result in imminent or further damage to property or injury to persons, commence remediation of the emergency conditions, including (without limitation), by performing (w) water containment, extraction and drying of the Property in the case of flooding, (x) hazardous waste removal and remediation in compliance with all Applicable Laws (as defined below), including Environmental Laws (as defined below), (y) gutting and removal of damaged and unstable areas of the Property, in the case of fire damage, and (z) and any other commercially reasonable actions required depending on the specific type of emergency to which Contractor is responding. Contractor shall provide a detailed report of its actions to Responsible Party within twenty-four (24) hours following the commencement of performance of any emergency Services.
5. **Equipment; Removal of Debris and Clean-Up.**  Contractor shall supply its own facilities for storage of tools and materials. Contractor is responsible for all equipment necessary for the full completion of the Services. Contractor shall remove all debris and excess material resulting from the Services promptly from the jobsite, shall remove all of its materials from the jobsite immediately after the Services are completed and shall leave the Premises and the Property in “broom clean” condition. In the event Contractor shall fail to remove any debris or rubbish accumulated in connection with the Services as aforesaid, Responsible Party may do so and charge the cost thereof to Contractor.
6. **Other Contractors Not Prohibited; Compliance and Permits.**
   1. Other Contractors. Nothing herein contained shall limit the right of Responsible Party to employ employees or other contractors and Subcontractors to perform similar services at or about the Property in the same trade or in any other trade (a) in connection with the Services or other services being performed by Responsible Party in the Premises or at the Property, (b) in the event of Contractor’s default hereunder, or if, in the sole opinion of Responsible Party, Contractor shall not be able to complete the Services within the time frames required or (c) if Responsible Party deems it appropriate to do so for any other reason. Contractor shall have no right to perform or to bid or be invited to bid upon any additional services to be performed in the Premises or at the Property. Contractor shall not accept any services in the Premises or at the Property from any person, firm or corporation other than Responsible Party without the prior written approval of Responsible Party.
   2. Compliance, Permits and Taxes. Contractor shall comply and shall cause all subcontractors, material suppliers and laborers (collectively, “Subcontractors”) to comply with all applicable federal, state and local laws, ordinances, codes, rules and regulations, including but not limited to those relating to labor, health, fire, safety and construction (“Applicable Laws”), as well as Responsible Party’s safety standards and protocols, and shall obtain and pay for, or shall arrange for the payment of, all licenses, permits and fees required by any governmental authority having jurisdiction over the Services, all of which payments are included in the Contract Amount payable to Contractor hereunder. Without limiting the generality of the foregoing, Contractor shall, at its own cost, and included within the Contract Amount, secure and maintain, and shall provide Responsible Party with copies of, permits and licenses necessary to carry out the Services. Contractor shall (and shall cause all Subcontractors to) comply with and be responsible for all requirements under the rules and regulations of the Occupational Safety and Health Act of 1970 (as amended) and any other State-specific occupational safety and health plan or program in effect in the State in which (and at the time that) the Services are performed. Contractor acknowledges and agrees that the Contract Amount includes all applicable local, state, and federal taxes required to be paid by Contractor in connection with this Contract or the Services, including gross receipts and sales taxes, and any benefits related to employee programs or benefits, and that Contractor is solely responsible for the payment of such taxes, and Responsible Party has no obligation to contribute any amounts toward the payment of such taxes. Contractor shall pay, and shall indemnify, defend and hold harmless Responsible Party from and against its failure to pay, all such obligations.
   3. ADA Compliance. Contractor agrees that the Services shall be rendered in compliance with the current understanding and interpretation of the Americans with Disabilities Act Guidelines, Appendix A to the Americans with Disabilities Act of 1990, 42 U.S.C. Sections 12101 through 12213 (“ADA”) and any similar Applicable Laws. If Responsible Party requests changes to the Contract Documents or the Services that may conflict with the requirements of the ADA or any similar Applicable Laws, Contractor shall so advise Responsible Party in writing. If Responsible Party requires that the Services deviate from Contractor’s reasonable judgment and understanding of the provisions of the ADA or any similar Applicable Laws after Contractor has notified Responsible Party of such deviation, then Responsible Party shall hold Contractor harmless from any claim based upon such deviation. For clarity, this does not relieve Contractor of its duty to adhere to applicable state and local building codes or any other provision of Applicable Laws.
   4. Appropriate Licensing. Contractor warrants that it is licensed by the appropriate governmental authorities to do the Services required hereunder and has paid all of the required license and permit fees. Upon request of Responsible Party, Contractor shall produce evidence satisfactory to Responsible Party of such right, license or permit.
7. **Environmental Matters.** Contractor expressly agrees and undertakes that all of its Services shall be performed and discharged by Contractor in strict compliance with all applicable present and future Applicable Laws relating to the environment or to any “hazardous substances” or any “environmental activity” (collectively, “Environmental Laws”); and, in respect of the foregoing, Contractor expressly agrees to comply strictly with all Environmental Laws relating to the performance of the Services hereunder, and not to engage in or otherwise permit the occurrence of any environmental activity in violation of any applicable Environmental Laws. As used herein the following terms shall have the following respective meanings: (a) “environmental materials” means any actual, proposed or threatened storage, holding, existence, release, emission, discharge, generation, processing, abatement, removal, disposition, handling or transportation of any hazardous substances from, under, into or on the Premises or the Property or otherwise relating to the Premises or the Property or the use of any of them, or any other activity or occurrence that causes or would cause any such event to exist and (b) “hazardous substance” means any “hazardous substance,” “hazardous waste,” “infectious waste,” “hazardous material,” “regulated substance,” “pollutant” or “contaminate” as defined, at any time and from time to time, in, or regulated by, any applicable Environmental Law, and asbestos and any petroleum product, and any additional substances or materials that at any time and from time to time are classified or considered to be hazardous or toxic under any Environmental Law. If (s) Contractor or any Contractor Party breaches such obligation, (t) the presence of hazardous substances as a result of such a breach by Contractor or any Contractor Party results in contamination of the Premises or Property, any portion thereof, or any adjacent property, or (u) contamination of the Premises or Property occurs as a result of hazardous substances that are placed on or under or are released into the Premises or Property by Contractor or any Contractor Party, then Contractor shall indemnify, save, defend (at Responsible Party’s option and with counsel reasonably acceptable to Responsible Party) and hold harmless Responsible Party and its affiliates and their respective shareholders, lenders, ground lessors, partners, members, directors, officers, employees, successors and assigns, and its contractors and agents (collectively with Responsible Party, each an “Responsible Party Indemnitee”) for, from and against any and all demands, claims, liabilities, losses, costs, expenses, actions, causes of action, damages, suits or judgments, and all reasonable expenses (including reasonable attorneys’ fees, charges and disbursements, regardless of whether the applicable demand, claim, action, cause of action or suit is voluntarily withdrawn or dismissed) incurred in investigating or resisting the same (collectively, “Claims”), of any kind or nature, including (w) diminution in value of the Premises or Property or any portion thereof, (x) damages for the loss or restriction on use of rentable or usable space or of any amenity of the Premises or Property, (y) damages arising from any adverse impact on marketing of space in the Premises or Property or any portion thereof and (z) sums paid in settlement of Claims that arise during or after the term of this Contract as a result of such breach or contamination, This indemnification by Contractor includes costs incurred in connection with any investigation of site conditions or any clean-up, remedial, removal or restorative work required by any Governmental Authority because of hazardous substances present in the air, soil or groundwater above, on, under or about the Premises or Property. Contractor’s obligations under this Section shall not be affected, reduced or limited by any limitation on the amount or type of damages, compensation or benefits payable by or for Contractor under workers’ compensation acts, disability benefit acts, employee benefit acts or similar legislation. Contractor’s obligations under this Section shall survive the expiration or earlier termination of this Contract.
8. **Insurance.** Contractor shall provide and maintain at its own expense, during the Term of this Contract, such insurance as may be required from time to time either by Responsible Party or by Applicable Laws, including, without limitation, all insurance requirements set forth in Exhibit A attached hereto and made a part hereof. It is expressly agreed and understood that the insurance policies and limits required hereunder shall not limit the liability of Contractor hereunder, and that Responsible Party makes no representation that these types or amounts of insurance are sufficient or adequate to protect Contractor’s interests or liabilities, but are merely minimums. Any insurance maintained by Contractor shall be primary and any insurance carried by Responsible Party shall be secondary and non-contributory to that carried by Contractor. Contractor must disclose any self-insurance, including self-insurance retentions, to Responsible Party in writing in advance, which shall be subject to Responsible Party’s prior written approval in its sole discretion. If Contractor self-insures with Responsible Party’s prior written approval, Contractor is itself acting as though it were providing the insurance required under the provisions of this Agreement, and Contractor shall pay those amounts due in lieu of insurance proceeds that would have been covered and payable if the insurance policies had been carried for such self-insured coverages, which amounts shall be treated as insurance proceeds for all purposes under this Agreement.
9. **Indemnification.** Contractor agrees to reimburse, indemnify, save, defend (at Responsible Party’s option and with counsel reasonably acceptable to Responsible Party) and hold harmless Responsible Party, Responsible Party’s Agent, if applicable, and Responsible Party Indemnitees for, from and against any and all demands, claims, liabilities, losses, costs, expenses, actions, causes of action, damages, suits or judgments, and all reasonable expenses (including reasonable attorneys’ fees, charges and disbursements, regardless of whether the applicable demand, claim, action, cause of action or suit is voluntarily withdrawn or dismissed) incurred in investigating or resisting the same (collectively, “Claims”) of any kind or nature arising from any (a)injury to or death of any person or damage to or loss of any property, real or alleged, arising directly or indirectly out of the presence, use or occupancy of the Premises or Property by Contractor or its employees, agents, contractors, subcontractors or invitees (collectively with Contractor, each a “Contractor Party”), (b) act or omission on the part of any Contractor Party, (c) breach or default by Contractor in the performance of any of its obligations hereunder, (d) mechanics’ or materialmen’s liens filed as a claim against title to the Property for work or services claimed to have been done for, or materials claimed to have been furnished to, or obligations incurred by Contractor or a Contractor Party, including any administrative, court or other legal proceedings related to such liens, (e) compensation claimed by any person or entity employed or engaged (or claiming to have been employed or engaged) by Contractor, except to the extent directly arising from Responsible Party’s gross negligence or willful misconduct. Contractor’s obligations under this Section shall not be affected, reduced or limited by any limitation on the amount or type of damages, compensation or benefits payable by or for Contractor under workers’ compensation acts, disability benefit acts, employee benefit acts or similar legislation. Contractor’s obligations under this Section shall survive the completion of the Services and the expiration or earlier termination of this Contract.
10. **Disputes; Labor Disputes.**
    1. Disputes. In the event of any claim by or against, or any dispute with, Contractor hereunder, the Services shall, at Responsible Party’s option, be continued by Contractor, unless Contractor terminates this Agreement in accordance with Section 13.3 below. Any dispute between the parties hereto shall be settled by a court of competent jurisdiction located in the state where the Property is located. To the extent not prohibited by Applicable Laws, each party waives its right to a jury trial with respect to all issues arising hereunder.
    2. Labor Disputes. In the event Contractor becomes involved in any labor dispute or labor-related stoppage, Responsible Party, at its option, may terminate this Contract upon one (1) days’ notice to Contractor.
11. **Default by Contractor; Termination.**
    1. Termination for Failure to Perform. Without any further obligation to Contractor, except for payment for Services satisfactorily completed prior to the effective time of termination, Responsible Party may, by written notice to Contractor, terminate this Contract if Contractor fails to perform any of its obligations hereunder and does not cure such failure within three (3) days after receipt of written notice from Responsible Party specifying such failure.
    2. Termination for Any or No Reason. Without any further obligation to Contractor, except for payment for Services satisfactorily completed prior to the effective time of termination, Responsible Party may terminate this Contract at any time during the Term for any reason or no reason, with or without cause, by at least twenty (20) days’ prior written notice to Contractor declaring such termination, in which case, upon receipt of such notice, Contractor shall halt any new Services and shall take such action as may be necessary to complete existing Services so that the Property is stabilized and the Premises and the Property are surrendered to Responsible Party in safe and clean condition.
    3. Contractor’s Right to Terminate. Contractor may only terminate this Contract if Responsible Party shall fail to make a payment required hereunder and Responsible Party shall fail to cure such non-payment or notify Contractor of a dispute within thirty (30) days after receipt of written notice of such non-payment from Contractor.
    4. Responsible Party’s Right to Stop Services. If Contractor fails to correct Services that are not in accordance with the requirements of the Contract Documents or fails to carry out the Services in accordance with the Contract Documents, Responsible Party may deliver a notice to Contractor setting forth that such a failure is occurring and has occurred, and demanding that Contractor commence a cure of such failure within three (3) days and diligently pursue such cure thereafter. In the event that the cure is not commenced within such three (3) day period or is not pursued diligently thereafter, Responsible Party may, by a second written notice to Contractor, order Contractor to stop the Services, or any portion thereof, until the cause for such order has been eliminated; provided, however, that the right of Responsible Party to stop the Services shall not give rise to a duty on the part of Responsible Party to exercise this right for the benefit of Contractor or any other person or entity and shall not give rise to any liability of Responsible Party to Contractor resulting from any delay (except to the extent that such order is found to be improper).
    5. Remedies Not Exclusive. Anything herein to the contrary notwithstanding, the rights, powers and remedies conferred upon Responsible Party herein for the breach of Contractor’s obligations under this Contract shall not be exclusive, but shall be in addition to and concurrent with all other rights, powers and remedies available to Responsible Party at law or in equity. Responsible Party, at its option, may exercise any and all such rights or remedies either jointly, severally, independently, consecutively or concurrently. The failure of Responsible Party to exercise any right, power or remedy hereunder with respect to any default shall not be deemed to be a waiver by Responsible Party as to any remaining unexercised right or remedy or as to any subsequent default, or as to the default in question. Responsible Party shall be entitled to collect from Contractor all costs and expenses (including, reasonable attorneys’ fees) incurred by Responsible Party in connection with the enforcement of this Contract.
12. **Loss or Damage Prior to Completion.** Responsible Party shall not be responsible for any loss or damage, however caused (even if arising from the active or passive negligence of Responsible Party), to the materials, equipment or tools used or to be used by Contractor in the performance of the Services.
13. **No Assignment by Contractor.** Contractor shall not, voluntarily or by operation of law, directly or indirectly (whether by merger or otherwise), assign, pledge, hypothecate, or otherwise transfer this Contract or any of Contractor’s rights, interests or obligations under this Contract, in whole or in part, without the prior written consent of Responsible Party in its sole and absolute discretion, and any such purported assignment, pledge, hypothecation, or transfer without the prior written consent of Responsible Party shall be null and void.
14. **Concerning Subcontractors.** 
    1. General Coordination. Contractor is responsible to coordinate, direct, fully supervise and inspect the Services under this Contract with all Subcontractors and all trades involved in the Services.
    2. Approval of Subcontractors and Subcontracts. Contractor shall not enter into any contract, oral or written, with any person, firm or corporation relating to the performance of the Services or the supplying of materials or equipment to the Premises or the Property (a “Subcontract”) without the prior written consent of Responsible Party. Contractor shall submit to Responsible Party a list of all proposed Subcontractors and, at Responsible Party’s request, such list shall include job references and descriptions of all relevant jobs performed by such Subcontractors. Such Subcontractors, and the terms and form of each of their respective Subcontracts, shall be subject to the prior written approval of Responsible Party, and shall be on terms substantially the same as this Contract, limited, nevertheless, to the scope of services and areas of trade involved in such Subcontract, including, without limitation, payment terms, dispute resolution, insurance, compliance with Applicable Laws, permits, waivers of lien and labor matters. Each Subcontract with a Subcontractor shall be expressly subject to this Contract.
    3. Miscellaneous. Responsible Party shall have the right, at any time during the Term of this Contract, to demand from Contractor a list of all of Contractor’s Subcontractors who are providing labor, materials or equipment to Contractor, and the terms and provisions of any Subcontracts with such Subcontractors, as well as the extent to which such Subcontractors have provided any labor, materials or equipment to the date of such request and the extent to which they have been paid therefor. In the event any Subcontractors do not confirm for Responsible Party in writing information given by Contractor to Responsible Party with respect to such Subcontractor within five (5) days after receipt of demand to do so from Responsible Party, Responsible Party may withhold further payment to Contractor until receipt of such confirmation from the Subcontractor in question. As a part of its coordination and supervision of Subcontractors, Contractor shall review each invoice submitted by any of them, shall inspect with care the services that are the subject of the invoice, and shall approve (or state that it does not approve) each Subcontractor invoice for services related to the Services. Contractor shall resolve all disputes among Subcontractors.
15. **Notices.** Except as otherwise stated in this Contract, any notice, consent, demand, invoice, statement or other communication required or permitted to be given under this Contract shall be in writing and shall be given by (a) personal delivery, (b) overnight delivery with a reputable international overnight delivery service, such as FedEx, or (c) facsimile or email transmission, so long as such transmission is followed within one (1) business day by delivery utilizing one of the methods described in (a) or (b). Any such notice, consent, demand, invoice, statement or other communication shall be deemed delivered (x) upon receipt, if given in accordance with subsection (a); (y) one business (1) day after deposit with a reputable international overnight delivery service, if given if given in accordance with subsection (b); or (z) upon transmission, if given in accordance with subsection (c). Any notice, consent, demand, invoice, statement or other communication required or permitted to be given under this Contract shall be addressed to the parties at the addresses set forth above. Either party may, by notice to the other given pursuant to this Section, specify additional or different addresses for notice purposes.
16. **Miscellaneous.**
    1. Attorneys’ Fees. Except as otherwise expressly set forth in this Contract, each party shall pay its own costs and expenses incurred in connection with this Contract and such party’s performance under this Contract, provided, that if either party commences an action, proceeding, demand, claim, action, cause of action or suit against the other party arising out of or in connection with this Contract, then the substantially prevailing party shall be reimbursed by the other party for all reasonable costs and expenses, including reasonable attorneys’ fees and expenses, incurred by the substantially prevailing party in such action, proceeding, demand, claim, action, cause of action or suit, and in any appeal in connection therewith (regardless of whether the applicable action, proceeding, demand, claim, action, cause of action, suit or appeal is voluntarily withdrawn or dismissed).
    2. Construction. Where applicable in this Contract, the singular includes the plural and the masculine or neuter includes the masculine, feminine and neuter. The words “include,” “includes,” “included” and “including” mean “‘include,’ etc., without limitation.” The word “shall” is mandatory and the word “may” is permissive. The section headings of this Contract are not a part of this Contract and shall have no effect upon the construction or interpretation of any part of this Contract. Responsible Party and Contractor have each participated in the drafting and negotiation of this Contract, and the language in all parts of this Contract shall be in all cases construed as a whole according to its fair meaning and not strictly for or against either Responsible Party or Contractor.
    3. Headings. The headings preceding the text of the Articles, Sections, paragraphs and subparagraphs hereof are for convenience of reference only, and such shall not be deemed a part of this Contract nor shall they affect its meaning, construction or effect.
    4. Governing Law. The provisions hereof shall be governed by the law of the state in which the Property is located, without regard to that state’s conflict of law principles.
    5. Authority. Contractor guarantees, warrants and represents that the individual or individuals signing this Contract on its behalf have the power, authority and legal capacity to sign this Contract on behalf of and to bind all entities, corporations, partnerships, limited liability companies, joint venturers or other organizations and entities on whose behalf such individual or individuals have signed.
    6. Entire Agreement. The terms of this Contract are intended by the parties as a final, complete and exclusive expression of their agreement with respect to the terms that are included in this Contract, and may not be contradicted or supplemented by evidence of any other prior or contemporaneous agreement.
    7. National Contract. If at any time during the Term of this Contract, or any renewal thereof, Responsible Party or any affiliate thereof enters into an agreement or contract with Contractor to provide services at multiple properties or buildings and such agreement allows for a discount for multiple units serviced by Contractor, such discount shall apply to this Contract on the effective date of such other contract.
    8. Further Assurances. Contractor shall take all such actions and execute all such documents as are reasonable and necessary to implement or evidence the transactions contemplated by this Contract.
    9. Independent Obligations. Notwithstanding anything to the contrary contained in this Contract, Contractor’s obligations under this Contract are independent and shall not be conditioned upon performance by Responsible Party.
    10. Reasonable Consent. Whenever consent or approval of either party is required pursuant to this Contract, that party shall not unreasonably withhold, condition or delay such consent or approval, except as may be expressly set forth to the contrary in this Contract.
    11. Severability. Any provision of this Contract that shall prove to be invalid, void or illegal shall in no way affect, impair or invalidate any other provision hereof, and all other provisions of this Contract shall remain in full force and effect and shall be interpreted as if the invalid, void or illegal provision did not exist.
    12. Successors and Assigns. Each of the covenants, conditions and agreements contained in this Contract shall inure to the benefit of and shall apply to and be binding upon the parties hereto and their respective heirs, legatees, devisees, executors, administrators and permitted successors and assigns. Nothing in this section shall in any way alter the provisions of this Contract restricting assignment.
    13. No Waiver; Cumulative Remedies. No waiver of any term, covenant or condition of this Contract shall be binding unless executed in writing by the party entitled to the benefit of such term, covenant or condition. The waiver of any breach or default of any term, covenant or condition contained in this Contract shall not be deemed to be a waiver of any preceding or subsequent breach or default of such term, covenant or condition or any other term, covenant or condition of this Contract. Except as expressly provided in this Contract, the rights and remedies under this Contract are in addition to and not exclusive of any other rights, remedies, powers and privileges under this Contract or available at law, in equity or otherwise. No failure to exercise or delay in exercising any right, remedy, power or privilege shall operate as a waiver thereof, and no single or partial exercise of any right, remedy, power or privilege shall preclude the exercise of any other right, remedy, power or privilege.
    14. Waiver of Jury Trial. To the extent permitted by applicable laws, the parties waive trial by jury in any action, proceeding or counterclaim brought by the other party hereto related to matters arising out of or in any way connected with this Contract or any claim of injury or damage related to this Contract.
    15. Time of the Essence. Time is of the essence for this Contract.
    16. Covenant and Condition. Each provision of this Contract performable by Contractor shall be deemed both a covenant and a condition.
    17. Relationship of Parties. The parties to this Contract are independent contractors and are not, by virtue of this Contract or otherwise, in any employer-employee, principal-agent, contractor-subcontractor, joint venture or partnership relationship with each other. Neither party is authorized to act on the other party’s behalf or bind the other party.
    18. Counterparts. This Contract may be executed in one or more counterparts, each of which, when taken together, shall constitute one and the same document.
    19. Signatures. A facsimile, electronic or portable document format (PDF) signature on this Contract shall be equivalent to, and have the same force and effect as, an original signature.
    20. Amendment. No provision of this Contract may be modified, amended or supplemented except by an agreement in writing signed by Responsible Party and Contractor.
    21. Confidentiality. Contractor and the Contractor Parties shall keep confidential and shall not disclose to any third party any non-public or proprietary information related to this Contract, the Property or Responsible Party’s or any Property tenant’s  business, operations or financial condition that may be disclosed to Contractor or the Contractor Parties or of which Contractor or the Contractor Parties may become aware. Without limiting the generality of the foregoing, neither Contractor nor any of the Contractor Parties shall make any public statement, press release, or any public disclosure whatsoever regarding the Contract, the Property, Responsible Party or the Property tenants without the Responsible Party’s prior written consent, which Responsible Party may grant or withhold in its sole discretion.
17. **Equal Employment Opportunity**. During the performance of this Contract, Contractor shall comply with applicable provisions of the Civil Rights Act, as amended, and shall offer employment opportunity to all qualified persons without regard to race, color, religion, national origin, sex or age. Contractor shall establish and enforce procedures and practices to ensure equal employment opportunities in recruiting, hiring, training, upgrading, promotions, transfer, layoffs, recalls, terminations, compensations, working conditions, benefits and privileges.
18. **COVID.** Contractor acknowledges and agrees that COVID-19 may be present in or around the Property and individuals working at or near the Property. Contractor, on behalf of itself and all other Contractor Parties, hereby waives any recourse against, releases Responsible Party and all other Responsible Party Indemnitees from, and expressly assumes the risk of any and all injury, sickness, loss or damage, including death, arising from the presence of COVID-19 in or around the Property or individuals working at or near the Property. Contractor shall indemnify, reimburse, save, defend (at Responsible Party’s option and with counsel reasonably acceptable to Responsible Party) and hold the Responsible Party Indemnitees harmless for, from and against any and all Claims of any kind or nature arising from Contractor Parties’ contact with COVID-19 at or near the Property or in relation to the Services. The foregoing obligations of Contractor are in addition to Contractor’s obligations under Section 11. In addition, Contractor shall (and shall ensure that all Contractor Parties) adhere to any federal, state and local requirements and recommendations (including from the Centers for Disease Control and Prevention) related to COVID-19.
19. **Data Privacy**. Responsible Party and Contractor shall take all further actions and execute all further documents as are necessary to comply with Applicable Laws, including the California Consumer Privacy Act, relating to privacy, personal information and data security. Responsible Party and Contractor acknowledge that the other party may collect certain personal information (including without limitation, names and contact information) of the other party’s and its affiliates’ employees (and, if applicable, subcontractors and consultants), and use such information in connection with performing its duties and obligations, and exercising its rights under this Contract. Neither Responsible Party nor Contractor shall retain, use or disclose any personal information received from the other party pursuant to this Contract for any purpose other than to perform its duties and obligations, and exercise its rights under this Contract or as required by Applicable Laws.

IN WITNESS WHEREOF, the parties hereto have executed this Contract as of the date and year first above written.

RESPONSIBLE PARTY:

By:

Name:

Title:

CONTRACTOR:

By:

Name:

Title:

**EXHIBIT A**

**INSURANCE REQUIREMENTS**

Contractor shall provide and maintain during the term of this Agreement and any additional periods as noted below, the following minimum insurance with insurers financially acceptable and lawfully authorized to do business in the applicable jurisdiction. With the exception of Workers’ Compensation, the following entities shall be included as additional insureds as respects liability arising from the Services:

Additional Insureds:

1. Responsible Party: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
2. Responsible Party’s Other Additional Insureds: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

and each of their lenders, affiliates, subsidiaries, directors, officers, representatives, employees, landlords, and ground lessors.

Commercial General Liability:

Commercial General Liability Insurance at least as broad as the *Insurance Services Office* *Commercial General Liability Policy, form CG 0001*, current edition, with minimum limits of $1,000,000 per occurrence for bodily injury and property damage, $1,000,000 for personal and advertising injury, $2,000,000 for products/completed operations aggregate, and $2,000,000 per location aggregate. The policy shall include contractual liability coverage sufficient to address the obligations of this Agreement.

Commercial Automobile Liability:

Commercial Automobile Liability insurance covering liability arising from the use or operation of any auto on behalf of Contractor or invited by Contractor (including those owned, hired, rented, leased, borrowed, scheduled or non-owned). The coverage shall be at least as broad as the *Insurance Services Office Business Automobile Policy form CA 0001*, current edition and provide minimum limits of $1,000,000 combined single limit per accident for bodily injury and property damage

Excess Liability:

Umbrella/Excess Liability insurance shall be in excess of and at least as broad as Commercial General Liability and Commercial Auto Liability policies required in this exhibit with a minimum amount of $1,000,000 per occurrence and general aggregate.

Workers’ Compensation and Employer’s Liability Insurance:

Workers’ Compensation in compliance with all Applicable Laws or as may be available on a voluntary basis. Employer’s Liability must be at least in the amount of $1,000,000 for bodily injury by accident for each employee, $1,000,000 for bodily injury by disease for each employee, and $1,000,000 bodily injury by disease for policy limit. To the extent permitted by applicable laws, the Contractor’s and Subcontractors’ Workers’ Compensation / Employer’s Liability policies shall be endorsed to waive subrogation against Responsible Party, the other additional insureds and their respective consultants and agents.

Cyber Liability Insurance:

If Contractor or any Subcontractors maintains, collects, or stores personally identifiable information, has access to or provides services to Responsible Party’s network or systems, Cyber Liability insurance is required in the amount of $1,000,000 per claim for liabilities arising from (1) loss or disclosure of confidential information no matter how it occurs (2) transmission of computer viruses, Trojan horses, worms and any other type of malicious or damaging code (3) dishonest, fraudulent, malicious, or criminal use of a computer system by a person, whether identified or not, to affect, alter, copy, corrupt, delete, disrupt, or destroy a computer system or to steal or take electronic data (4) denial of Service for which the Insured is responsible that results in the degradation of or loss of access to internet or network activities or normal use of a computer system, (5) Loss of Service for which the Contractor or Subcontractor is responsible that results in the inability of a third party, who is authorized to do so, to gain access to a computer system and conduct normal internet or network activities (6) Access to a computer system or computer system resources by an unauthorized person or persons or an authorized person in an unauthorized manner. Coverage shall contain severability for the insured organization for any intentional act exclusions. Such policy shall cover consequential or vicarious liabilities (e.g., claims brought against the Responsible Party or Responsible Party’s Other Additional Insureds due to the wrongful acts and failures committed by Contractor) and direct losses (e.g., claims made by the Responsible Party or Responsible Party’s Other Additional Insureds against Contractor for financial loss due to Contractor’s wrongful acts or failures).

Contractor’s Pollution Liability Insurance

If Contractor or any Subcontractors are engaged for environmental abatement or remediation work, including treatment, storage, removal or transport of Hazardous Materials (including, but not limited to, asbestos containing materials, silica, lead, PCBs and contaminated soil) at, to, or from the site, or if Contractor’s or a subcontractor’s work includes, but is not limited to, excavation, boring, grading, demolition, plumbing, HVAC, fire sprinkler and process piping or any other work which could in any way contribute to or cause moisture to be introduced into the interior of the building, either by construction, sealing or penetrating any portion of the building’s exterior envelope or releasing moisture within the building, that party must provide a minimum limit of $1,000,000 each loss. The contractor’s pollution liability insurance shall include coverage for bodily injury, property damage or environmental damage, and cover liability arising out of cleanup, removal, storage or handling of hazardous or toxic chemicals, materials or substances, or any other pollutants (including mold, asbestos or asbestos containing materials) and any exacerbation of existing conditions, by Contractor or any Subcontractor.

Additional Requirements:

All insurance carriers shall at all times maintain a current minimum policy holder rating of “A-” and a financial category rating of class VII by the A.M. Best Company.

Contractor shall deliver to Responsible Party certificates of insurance necessary to evidence the coverages required herein.

To the extent permitted by applicable law, Contractor and its insurers agree to waive all rights against the Responsible Party as respects any loss, damage, claims, suits or demands howsoever caused, that are covered, or should have been covered, by valid and collectible insurance, including any deductibles or self-insurance maintained thereunder. If necessary, Contractor shall endorse the required workers’ compensation insurance policies to permit waivers of subrogation in favor of Responsible Party as required hereunder. With respect to workers’ compensation insurance only, Contractor agrees to hold harmless and indemnify Responsible Party for any loss or expense incurred as a result of Contractor’s failure to obtain such waivers of subrogation from Contractor’s insurers.

All insurance coverages applicable to the Premises shall remain in full force and effect to the conclusion of the Services and in accordance with any stipulated completed operations period. Such policies shall require the insurance carrier to give Responsible Party at least thirty (30) days’ prior written notice before any cancellation, non-renewal, modification or reduction of insurance becomes effective (except in the event of non-payment of premium, in which case ten (10) days prior written notice shall be given). Should carrier be unwilling or unable to provide such notice, Contractor shall provide notice to Responsible Party in accordance with this section.

It is expressly agreed and understood that the insurance policies and limits required hereunder shall not limit the liability of Contractor under this Agreement, and that Responsible Party makes no representation that these types or amounts of insurance are sufficient or adequate to protect Contractor’s interests or liabilities, but are merely minimums. Any coverage maintained by Contractor shall be primary and any insurance carried by Responsible Party shall be secondary and non-contributory to that carried by Contractor.

**EXHIBIT B**

**CONTRACTOR’S PROPOSAL**

(See attached)