

Section 5: RFP Terms and Conditions

Respondent Acceptance of RFP

By submitting a proposal, the Respondent signifies acceptance of the terms and conditions of this RFP.

Simon Property Group Ownership

It is Simon Property Group's intent that all service descriptions, specifications, reports, data, ideas, discoveries, inventions, systems, developed, modified, created by the Respondent pursuant to the definitive agreement which results from this RFP will be deemed work for hire and Simon shall have sole and exclusive rights of ownership therein. All such items shall be treated as confidential and proprietary information of Simon. The Respondent shall execute and cause any subcontractor, if any, providing the services to execute any and all assignments and other transfer documents which are necessary, in the opinion of Simon for Simon to retain all rights, title and interest in such items.

Acceptance / Rejection Process

Simon Property Group reserves the right to make an award without further discussion of the proposals submitted. Subsequent to the receipt of the proposals, and at Simon's option, discussions may be scheduled with individual respondents if it becomes necessary to clarify elements of their proposal. Each Respondent shall be prepared to elaborate upon and clarify its written proposal. Proposals will be reviewed for business value, completeness, competitiveness, simplicity and realism. Decision will be based on the proposal(s) that Simon Property Group determines best meet(s) their business and operational requirements. Simon Property Group also reserves the right to reject any/all proposals received or any part thereof. Simon Property Group may accept a proposal for all or a portion of the work proposed.

Related Party Relationship Disclosure

By its execution of this Agreement, the Contractor hereby certifies that to the best of its knowledge there are no direct or indirect ownership interests in the Contractor held by any person that also has a related party relationship with one or more employees of Simon Property Group or its subsidiaries and affiliates (the "Company"). At a minimum, related party relationships between the Contractor and the Company requiring disclosure include those involving the following immediate family members:

1. spouse or legal partner
2. parent
3. child
4. sibling
5. mothers and fathers-in-law
6. sons and daughters-in-law

7. brothers and sisters-in-law

If a related party relationship exists, the Contractor agrees to disclose the nature of the relationship in the RFP.

Amendments and Withdrawal

Simon Property Group reserves the right to amend this RFP prior to the due date of the Proposal. If it becomes necessary to amend any part of this RFP, an addendum will be provided to all potential respondents.

Confidentiality

Information as used herein shall mean both (i) written information received from the other party which is marked or identified as confidential, and (ii) oral or visual information identified as confidential at the time of disclosure which is summarized in writing and provided to the other party in such written form promptly after such oral or visual disclosure.

Each party may use information received from the other party hereunder, and may provide such information to its parent corporations, if applicable, and their respective employees for their use only in connection with the evaluation and execution of this RFP. Each party agrees that, for a period of two (2) years from receipt of information, such party shall use the same means it uses to protect its own confidential and proprietary information, but in any event not less than reasonable means, to prevent the disclosure and to protect the confidentiality of the information received. The foregoing shall not prevent either party from disclosing information which belongs to such party or is (i) already known by the recipient party without an obligation of confidentiality, (ii) publicly known or becomes publicly known through no unauthorized act of the recipient party, (iii) rightfully received from a third party without obligation of confidentiality, (iv) independently developed by the recipient party without use of the other party's information, (v) disclosed without similar restrictions to a third party by the party owning the information, (vi) approved by the other party for disclosure, or (vii) required to be disclosed pursuant to a requirement of a governmental agency or law so long as the disclosing party provides the other party with notice of such requirement prior to any such disclosure.

Media Release

Except for any announcement intended solely for internal distribution by the Respondent or any disclosure required by legal, accounting or regulatory requirements beyond the reasonable control of the Respondent, all media releases, public announcements, or public disclosures (including, but not limited to, promotional or marketing material) by the Respondent or its employees including the name, trade name, trademark or symbol of Simon Property Group, L.P or any of its affiliates, or any other developer, owner or mall, shall be coordinated with and approved in writing by The Procurer prior to its release. Respondent shall not represent directly or indirectly that any service provided by the Respondent to Simon Property Group and has been approved or endorsed by Simon Property Group or include the name, trade name, trademark or symbol of Simon, Simon Property Group or any of its affiliates on a list of Respondent's customers without the Procurer's express written consent.

Cost of Proposal Preparation

Simon Property Group accepts no obligation for costs incurred by prospective Bidders in anticipation of receiving an award pursuant to this RFP. The costs of developing and submitting a Proposal are entirely the responsibility of the Bidder. All Proposals will become the property of Simon Property Group. Simon Property Group has the right to use such Proposals and other materials or information and any or all ideas presented therein without cost or obligation.

Inquiries/Submission

Non-compliance to the terms and conditions of this RFP may result in the rejection of a proposal. General questions concerning this RFP should be provided via e-mail to the key contact listed herein. Questions regarding the RFP will be answered in writing and those answers will be sent to all respondent's receiving this RFP, as appropriate

Lawsuits and Legal Actions

Simon Property Group requires information about any significant or relevant lawsuits, liens, restraining orders, consent decrees, foreclosures or other legal/financial actions either now pending, in progress or which have been brought against the company or any of its officers/principals in the past three years. For lawsuits, please include date initiated, plaintiff, description, name of court location, docket number, resolution and current status.

LEED for Existing Buildings

Respondent is encouraged to identify and provide as an alternative(s) bid to the Required Scope of Work in Section 3 any product(s) or process(s) which will assist Simon Property Group in meeting the requirements of LEED for Existing Buildings: Operations and Maintenance Green Building Rating System requirements outlined by the U.S. Green Building Council. The alternative(s) must be specifically identified as an alternative and must also include any supporting documentation providing such alternative(s) meet the requirements. If possible, list the credit or prerequisite for which the product or service is applicable.

Sub-contracting and Assignment

The Respondent shall not sub-contract the whole or any part of the Contract or any Work including subcontracting or labor only, without the prior written consent of Simon. If such consent is given it shall not relieve the Respondent from any liability or obligation under the Contract or the Work and the Respondent shall be responsible for the acts, omissions, defaults or negligence of any sub-contractor, its agents or employees as fully as if they were the acts, omissions, defaults or negligence of the Respondent.

If consent is granted by Simon under the above clause, the Respondent shall ensure that all rights, duties and obligations that the Respondent has under the Contract or Work shall be included in any contract that the Respondent has with any sub-contractor.

The Respondent shall not assign the Contract or any Work in whole or part or any benefit or interest therein with the prior written consent of Simon.

Non-Solicitation

Until contract award, Respondent shall not, directly or indirectly, solicit any employee of Simon in order to accept employment with the Respondent, its affiliates, actual or prospective subcontractors, or any person acting in concert with the Respondent, without prior written approval. This does not prevent the employment by a Respondent of a Simon employee who has initiated contact with the Respondent.

Section 6: Contract Terms and Conditions

We require all bidders to price their bids on the terms of the Design Professional Agreement attached below.

Owner will not entertain any changes to the Design Professional Agreement.

SERVICE AGREEMENT DESIGN PROFESSIONAL Form 933 Simon (Rev. 10/2016)	Shopping Center Name (Shopping Center)		Corp #	GL Account	Sub-Account	Sub-Ledger
	Location (City, State, Zip)					
	Type of Service		Date			
PROFESSIONAL			OWNER			
Legal Name						
Trade Name/DBA						
Principal Office Address			Principal Office Address			
City, State, Zip			City, State, Zip			
Business Phone		Business Fax	Business Phone		Business Fax	
PROJECT:			COMPLETION DATE:		TOTAL CONTRACT COST (NOT TO EXCEED):	
Remit to Address:			Direct all Invoices to:			
			Purchase Order #: (All invoices must have a PO #)			

In consideration of the mutual promises, covenants and agreements set forth, it is agreed by and between the parties as follows:

1. Scope of Services. The Professional shall provide the following architectural, engineering and other design and/or professional services in connection with the Project to satisfy Owner's Criteria and within Owner's budget (the "Services"):

(Describe here or include an Exhibit; if included in an Exhibit, indicate the name of the Exhibit here)

2. Criteria. Owner's Criteria (including Owner's budget) for the Project consist of the following:

(Describe here or include an Exhibit; if included in an Exhibit, indicate the name of the Exhibit here)

3. Contract Term. The term of this Agreement shall commence on the date it is fully executed and shall continue in full force and effect until the Completion Date, unless sooner terminated as herein provided. Notwithstanding anything herein to the contrary, Owner may at any time during the term hereof, elect to terminate this Agreement without cause by providing Professional with thirty (30) days advance written notice.

4. Payment. Owner shall pay Professional for the Services according to the Total Contract Cost (which includes Reimbursable Expenses incurred by the Professional, if any) as further defined by Exhibit A. In order to receive payment hereunder, Professional shall furnish Owner with a pay application that includes an itemized statement of all charges for which payment is sought, including sales and use taxes paid. Professional shall also furnish Owner with vouchers, receipts, affidavits, proof of payment of sales or use taxes, and any other proof which may reasonably be requested or required by Owner in order to support Professional's charges for labor and materials furnished by consultants and subcontractors (collectively a "Pay Application"). Professional shall also furnish lien waivers from consultants and subcontractors, if any. In no event shall Professional be entitled to receive payment for any item of service or materials hereunder unless and until Professional first has paid its consultants and subcontractors for all Services. Additional services, if authorized by Owner in writing, shall be based on the hourly rates set forth in Exhibit A. The Professional shall make all claims for payment in strict compliance with the procedures outlined herein. If the Professional claims it is entitled to additional sums or time, it must notify Owner within 7 days of the date the Professional first knew or should have known of the basis for the claim. No additional sums shall be paid and no additional time shall be granted or recognized unless approved in writing by Owner. As a condition to payment under this Agreement, Professional must register as a supplier on the Simon supplier web portal and pay the applicable annual fee for such registration.

5. Completion Date. Time is of the essence with respect to performance of every provision of this Agreement. The timing of the Services shall conform to Owner's schedule for the Project, consistent with the Completion Date. Owner shall have the right to modify the schedule. Should the Services be delayed by Owner, the Completion Date shall be extended. A request for an extension of the Completion Date shall be made in writing to Owner no later than 5 days after the commencement of the occurrence giving rise to the delay; otherwise, it shall be waived. The Professional shall provide Owner with an estimate of the probable effect of such occurrence on the Completion Date. An extension of the Completion Date shall be the Professional's sole and exclusive remedy for any claim for delay. If the Project is delayed by the Professional, the Professional shall compensate

Owner for, and indemnify Owner against, all damages, losses and expenses, including attorney's fees resulting from the delay. Professional shall cooperate with any other professionals and contractors engaged by Owner.

6. Consultants. The Professional shall not engage a consultant or subcontractor to whom Owner has a reasonable objection. The Professional shall be responsible to Owner for the acts and omissions of its consultants and subcontractor.

7. Legal Requirements. Unless expressly indicated otherwise in Section 1 or an Exhibit incorporated herein by reference, the Professional and its consultants shall meet with governmental and regulatory authorities having jurisdiction over the Project to clarify and confirm applicable Legal Requirements and shall, upon Owner's request, obtain formal approvals from such authorities. "Legal Requirements" means all applicable federal, state and local laws, codes, ordinances, rules, regulations, orders and decrees of any government or quasi-government entity or agency having jurisdiction over the Project or the practices involved in the Project, including but not limited to local and national building codes, the Occupational Safety and Health Act and the Americans with Disabilities Act.

8. Standard of Care. The standard of care for all Services performed under this Agreement shall be the care and skill exercised by nationally-recognized members of the applicable profession practicing under similar conditions in the same locality of the Project on projects of similar type, size and complexity. If Owner's Criteria call for performance standards for any aspect of the Project, the Services shall be performed to achieve such standards. The Professional shall be responsible for the quality, technical accuracy, coordination, and timely completion of all documents, designs, studies, reports and other Services furnished by the Professional under this Agreement.

9. Termination of Agreement; Default. In addition to the other rights granted to Owner

hereunder, Owner shall have the right to terminate this Agreement for cause, by giving written notice to Professional or its legal representative if Professional: (a) fails to timely perform the Services; or (b) should die, attempt to assign this Agreement or become insolvent; or (c) should seek bankruptcy protection, make a general assignment for the benefit of its creditors, or if a receiver should be appointed on account of Professional's insolvency; or (d) should, in the reasonable opinion of Owner, fail to supply a sufficient number of properly skilled professionals or consultants to perform the Services; or (e) should fail to make prompt payment to consultants or subcontractors; or (f) should fail to obtain or maintain any of the insurance coverages required hereunder; or (g) should not comply with laws, ordinances or the instructions of Owner; or (h) should otherwise breach or violate any provision of this Agreement, for which termination shall be effective immediately upon the giving of such notice by Owner to Professional. Owner may, after 48 hours written notice, take such steps to correct, cure or overcome the Default as Owner deems expedient and charge all damages, costs and expenses, including attorneys' fees, to the Professional, or terminate this Agreement. Failure or forbearance by Owner to terminate this Agreement upon the occurrence of any default shall not constitute a waiver by Owner of such default on that occasion or upon the occurrence of a similar default upon a future occasion. If Owner terminates this Agreement, Owner may complete the Services. If the expense of completing the Services and other damages, costs and expenses incurred by Owner exceeds the unpaid balance due to the Professional, the Professional shall pay the difference to Owner. **10. Indemnification.** The Professional shall defend, indemnify and hold Owner, Owner's Managing Agent, Simon Property Group, Inc., Simon Property Group, L.P. and their respective officers, directors, shareholders, members, partners, parents, subsidiaries and any other affiliated or related entities, managers, agents, servants, and employees of these persons or entities ("Owner Parties") harmless from and against any and all claims, liabilities, obligations, losses, penalties, actions, suits, damages, expenses, disbursements (including legal fees and expenses), or costs of any kind and nature

whatsoever ("Claims") for property damage, bodily injury and death brought by third-parties in any way relating to or resulting, in whole or in part, from Professional's (and its subcontractors' and employees') acts or omissions, performance or alleged failure to perform the Services or any other breach of this Agreement. The provisions of this Section shall survive the termination of this Agreement until all claims involving any indemnified matter are fully and finally barred by the applicable statute of limitations.

11. Professional Liability Insurance. The Professional shall maintain, at its own expense, a professional liability or "errors and omissions" insurance policy in the amount of \$2,000,000 per claim and \$2,000,000 aggregate, with a deductible amount of not more than \$75,000, including contractual liability coverage, but only for liability that would have existed in absence of the contract, and with all coverage retroactive to the earlier of the date of this Agreement or commencement of Professional's Services. This policy must remain continuously in force for a period of three (3) years after the final payment by Owner to Professional with respect to the Services. In the event of termination of this coverage by Professional, the Professional must provide evidence of either a thirty-six (36) month extended reporting endorsement, or a replacement policy with a retroactive effective date no later than the date of this Agreement or commencement of Professional's Services with respect to the Project, whichever is earlier.

12. Other Insurance. The Professional shall, at all times during the term of this Agreement and any extensions, at Professional's sole cost and expense, obtain and maintain the following policies of insurance:

(a) Commercial General Liability with a limit of not less than \$2,000,000 (\$5,000,000 if any portion of the services to be performed by Professional hereunder involves or affects in any way the roof of the Shopping Center) for each occurrence, with \$2,000,000 (\$5,000,000 if any portion of the services to be performed by Professional hereunder involves or affects in any way the roof of the Shopping Center) general aggregate limit. The Commercial General Liability policy shall name the Owner Parties as additional insureds which shall provide that Owner Parties are additional insureds with respect to liability arising out of Professional's ongoing and completed operations. Professional shall provide notice to Owner immediately upon receipt of any notice received by the Professional from its' insurance carrier advising of non-renewal or cancellation of the policies required under this Agreement.

(b) Commercial Automobile Liability in the amount of \$1,000,000 combined single limit for bodily injury and property damage, covering all owned, non-owned or hired automobiles used in the course of Professional's business.

(c) Workers' Compensation in compliance with any and all statutes requiring such coverage in the state where the Shopping Center is located.

(d) Employer's liability insurance covering all employees, volunteers, temporary employees and leased workers in a minimum amount of \$1,000,000 each accident, \$1,000,000 each employee and \$1,000,000 policy aggregate.

(e) Such other insurance as may be required from time to time by Owner. All policies of insurance required of Professional under this Agreement shall be obtained from reputable insurers ~~authorized licensed~~ to do business in the state where the Shopping Center is located and have an A.M. Best Rating of at least A- VIII. ~~A copy of each insurance policy or a legally enforceable~~ certificate of insurance on all insurance policies required of Professional under this Agreement shall be deposited with Owner promptly on or before the commencement of the term of this Agreement. Any insurance provided by Owner Parties shall be strictly excess, secondary and non-contributory of the insurance coverage provided by Professional when additional insured status is provided.

13. Waiver of Lien. If any payment claim or lien related to Professional's Services is made or filed with or against Owner or the Shopping Center or the Project, the Professional shall immediately satisfy, discharge or bond-off the claim or lien, cause Owner to be dismissed from any action brought in connection with the claim or lien, and compensate Owner for, and indemnify Owner against, all losses, damages, and expenses, including attorney's fees, sustained or incurred by Owner. Owner may issue joint checks or make payments directly to those furnishing labor, goods or services to the Professional.

14. Limitation of Liability. Anything to the contrary herein contained notwithstanding, there shall be absolutely no liability on persons, firms or entities other than Owner with respect to any of the terms, covenants, conditions and provisions of this Agreement and Professional shall, subject to the rights of any first mortgagee, look solely to the interest of Owner or its successors and assigns, in the Shopping Center for the satisfaction of each and every remedy of Professional in the event of default by Owner hereunder; such exculpation of personal liability is absolute and without any exception whatsoever.

15. Intellectual Property; Ownership of Documents. The Professional hereby assigns to Owner, without reservation, all rights, including the copyright, to all Project-related documents, models, photographs, and other forms of expression created by the Professional and its consultants pursuant to this Agreement. Owner and Owner's affiliates may utilize the documents for the completion of the Project and any other project and the maintenance, repair, alteration, expansion, modification and reconstruction of the Project and any other project; provided, however, that the Professional shall have no liability for any losses related to any later re-use of Project-related documents where such losses arise from (a) changes in applicable laws, regulations or building codes occurring subsequent to Professional's delivery of such documents to Owner; or (b) other circumstances that Professional should not reasonably have taken into account when preparing such documents. The parties expressly recognize that Professional's Services rendered to Owner under this Agreement and all work product resulting therefrom ("Work Product") have been specially ordered and commissioned by Owner as a contribution to a collective work, supplemental work or such other category of work as may be eligible for treatment as a "work made for hire" as that term is defined in the Copyright Act, 17 U.S.C. § 101 et seq. Owner and/or Simon Property Group, L.P. and/or its affiliates shall be deemed the sole author of the Services and Work Product, their contents and any work embodying or derived from any portion of the Services and Work Product, and their attendant intellectual property rights.

16. Binding Effect; Entire Agreement. This Agreement represents the entire and integrated agreement between Owner and the Professional, supersedes all prior negotiations, representations and agreements, written or oral, and shall not be modified, supplemented or interpreted by evidence of course of dealing, course of performance or usage of trade. This Agreement shall be binding upon and inure to the benefit of the respective heirs, successors, assigns and personal representatives of the parties, subject however, to the restriction upon assignment by Professional as hereinabove set forth in Section 7. Owner expressly limits its acceptance to the terms contained in this Agreement, including any Exhibits that are expressly referenced and incorporated herein pursuant to Section 26, and objects to and rejects any additional or different terms outside of pricing and scope of services that may be set forth by Professional in any other attachments hereto. Commencement of the Services by the Professional shall constitute acceptance by the Professional of the terms and conditions of this Agreement.

17. Venue; Choice of Law. This Agreement shall be governed by the laws of the state in which the Shopping Center is located without giving effect to conflict of law provisions. Any action, suit or proceeding relating to, arising out of or in connection with the terms, conditions and covenants of this Agreement may be brought by Owner against Professional in any state or federal court of competent jurisdiction in Marion County, Indiana and Professional consents to laying of venue in such court. Professional hereby irrevocably and unconditionally waives any objection to the laying of venue in any such court and any claim that such court is an inconvenient forum. To the extent permitted by applicable law, Professional hereby waives trial by jury in any action, proceeding or counterclaim brought by either party against the other on any matter whatsoever arising out of or in any way connected with this Agreement.

18. Confidentiality. Professional agrees to hold the terms of this Agreement and all proprietary information it obtains from or about the Owner Parties in connection with this Agreement in the strictest of confidence, not to use such information other than for the performance of its obligations under this Agreement, not to use the names, trademarks or logos of Owner Parties in any sales or marketing publications or advertisements without the prior written consent of the relevant Owner Party and to cause its employees, agents, and consultants to be bound to the same obligation of confidentiality.

19. Interpretation. This Agreement represents the results of bargaining and negotiations between the parties and is the result of combined draftsmanship. The terms and conditions hereof shall be interpreted and construed in accordance with their usual and customary meanings and the parties hereby expressly waive and disclaim any rule of law or procedure requiring otherwise, including but not limited to any rule of law to the effect that ambiguous or conflicting terms or conditions shall be interpreted or construed against the party whose counsel prepared this Agreement or any earlier draft hereof.

20. Set Off. Owner shall be entitled to deduct from or set off against any sums payable to Professional under this Agreement: (a) any amount expended by the Owner exercising Owner's rights under this Agreement to perform any of the Professional's obligations that the Professional has failed to perform; (b) any damages, costs or expenses incurred by the Owner as a result of the failure of Professional to perform any of its obligations under this Agreement; and/or (c) any other amount owing from Professional to Owner under this Agreement or otherwise. Owner may withhold payment from the Professional to the extent necessary, in Owner's reasonable opinion, to protect Owner against loss or damage due to errors or omissions, claims or liens filed or probable of filing, evidence that the Services may not be completed by the Completion Date, or the failure of the Professional to comply with any other requirements of this Agreement.

21. Notices. All notices required or permitted by this Agreement may be delivered to the addresses for Professional and Owner set forth above (or such other address hereafter designated) by U.S. Mail, registered, return receipt requested (in which case, they shall be deemed to have been received three (3) days after deposit in the U.S. Mail), or by recognized overnight courier service (in which case they shall be deemed delivered on the date of the courier service's proof of delivery).

22. Severability. The parties agree that if one or more provisions of this Agreement is determined to be invalid, illegal and/or unenforceable in any respect, said provision shall be considered void to the extent of such invalidity, and all remaining provisions nevertheless shall remain effective and binding on the parties and the validity, legality and enforceability thereof shall not be affected or impaired thereby.

23. Waiver of Subrogation. Professional and all parties claiming, by, through or under Professional hereby release and discharge Owner from all claims and liabilities arising from or caused by any casualty or hazard covered or required hereunder to be covered in whole or in part by Professional's insurance or in connection with Professional's activities conducted at the Shopping Center, and Professional waives any right of subrogation which might otherwise exist in or accrue to any person on account thereof and further agrees to evidence such waiver by endorsement to the required insurance policies.

24. Audit.

(A) No acceptance of any account stated, invoice, billing statement or payment tendered by Owner shall be construed as either an accord and satisfaction that the amount claimed to be due from Owner is in fact the correct amount or as a release or waiver of any claim that Owner may have to dispute the billing, the adequacy of the Services or for reimbursement of excess payments.

(B) Owner or authorized employees, agents or representatives of Owner (including a third-party auditor or firm) shall have the right to interview personnel and inspect, examine, copy and audit the books and records of Professional relating to the Services and all associated work, costs and expenses. Professional shall, for a period of three (3) years following the date of any final payment made by Owner for any goods or services provided pursuant to the Agreement, keep and preserve at all times at the Professional's business all documents and records (whether in written or electronic format) that pertain in any way to the Agreement, including, without limitation, records related to bidding (including but not limited to bids by Professional, subcontractors and material suppliers), invoices and receipts for material and services from subcontractors, material suppliers or other vendors, payroll records (including, without limitation, employee work schedules and payroll records) and full, complete and accurate books of account. Any such audits shall be conducted within three (3) years following the date of any final payment made by Owner for any goods or services supplied pursuant to the Agreement, and shall take place during Professional's normal business hours (or as otherwise may be agreed), upon not less than seven (7) days prior written notice.

(C) To the extent this Agreement is based, in whole or in part, on time and materials, or cost plus or such other similar arrangement, the purpose of the audit shall be to verify compliance with the Agreement and the accuracy of amounts charged by Professional for any goods or services provided pursuant to the Agreement, and all amounts billed or paid shall be subject to audit. If such audit discloses that Professional has overcharged Owner or that Owner has paid any excess amount, Professional shall pay Owner, upon demand, the amount of any excess payment or, if payment has not been made, revise any account statement, invoice or billing to reflect the correct amount owed. If, as a result of such audit, it is revealed that Owner has been overbilled or overpaid amounts owed by one percent (1%) or more, then, in addition to making full repayment of the amount of the overpayment, Professional shall reimburse Owner for the cost of the audit.

(D) Only to the extent this Agreement is based on a lump sum or fixed sum or other similar arrangement, the purpose of the audit shall be to determine compliance with the Agreement, including, without limitation, any and all requirements for deliverables, approved plans and specifications, and any provisions regarding pricing of any change orders.

25. Background Checks; Compliance Certification.

To the extent permitted by applicable federal, state and local law (including, but not limited to, the federal Fair Credit Reporting Act and Americans with Disabilities Act), Professional shall conduct appropriate criminal background and reference checks of personnel assigned to work at Owner's property. Professional represents and warrants that it will conduct any criminal background or reference checks in a lawful manner.

Professional represents and warrants that, an Employment Eligibility Verification (commonly known as an I-9 Form), issued by the U.S. Citizenship and Immigration Services, has been properly completed and will be maintained for each Professional employee that works at the Shopping Center.

Professional will certify to Owner that it has complied with the obligations in this paragraph. Professional will provide this certification upon request to Owner but, in any event, will provide a certification letter to Owner within 30 days following the effective date of any contract and, subsequently, in January of each year.

26. Exhibits. The following Exhibits are incorporated herein by reference: (List attached Exhibits, including letter or number designation and heading, if any.)

Ethical Practices. Owner maintains a Fraud Hotline (1-866-363-3728) to enhance our commitment to ensuring that business conducted with the Company is done so in a lawful and ethical manner. The Fraud Hotline is manned 24 hours a day, seven days a week by a communications specialist employed by an outside company. All communications will be addressed promptly and professionally, and without retribution.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed on the day and year first above written.

"Owner"

"Professional"

BY:

BY:

Printed:

Printed:

Title:

Date:

Title:

Date: