

**STATE OF MINNESOTA
MINNESOTA STATE COLLEGES AND UNIVERSITIES**

**FACILITIES PROFESSIONAL/TECHNICAL CONSULTANTS
MASTER CONTRACT**

FOR ARCHITECTURAL, OWNER REPRESENTATIVE, REAL ESTATE, AND RELATED PROFESSIONAL AND TECHNICAL SERVICES

THIS DOCUMENT ESTABLISHES THE TERMS AND CONDITIONS OF AN AGREEMENT BETWEEN A MnSCU COLLEGE OR UNIVERSITY, OR THE MnSCU OFFICE OF THE CHANCELLOR AND THE NAMED CONTRACTOR FOR THE TYPE OF PROFESSIONAL SERVICES DESCRIBED IN THE CONTRACTOR'S RESPONSE TO MnSCU'S REQUEST FOR INFORMATION (RFI).

ANY CONTRACT FOR SERVICES (HOURLY BASIS OF PAYMENT ONLY) SHALL, WHEN COMPLETED, CONSIST OF THIS EXECUTED DOCUMENT AND A PURCHASE ORDER DESCRIBED HEREIN SPECIFYING THE PRECISE NATURE OF THE WORK, THE TIMING AND TERMS OF THE WORK, AND THE COMPENSATION FOR THE WORK.

THIS CONTRACT, and amendments and supplements thereto, is between the State of Minnesota, by and through the Board of Trustees of the Minnesota State Colleges and Universities, (hereinafter MnSCU) and an independent contractor, not an employee of the State of Minnesota, (hereinafter CONTRACTOR),

WHEREAS, MnSCU, pursuant to Minnesota Statutes Chapter, 136F, is empowered to procure from time to time certain consultant/professional/technical services, and

WHEREAS, MnSCU is in need of consultant/professional/technical services, and

WHEREAS, the CONTRACTOR represents that it is duly qualified and willing to perform the services set forth herein;

NOW, THEREFORE, it is agreed:

I. CONTRACTOR'S DUTIES. The CONTRACTOR shall:

Perform services of the nature disclosed in the CONTRACTOR'S response to MnSCU's Request for Information when selected by MnSCU project manager for a specific project. For each specific project, MnSCU shall provide the selected CONTRACTOR with a project description (title, location/address and scope of work) at the time of selection by means of a Purchase Order, which will formally authorize the CONTRACTOR to proceed with the work. MnSCU's RFI and the CONTRACTOR's response thereto are incorporated in this Agreement by reference to establish the nature and scope of the services specified by the CONTRACTOR that it is willing and able to provide.

CONTRACTOR understands that this Facilities Professional/Technical Consultants Master Contract is not a guarantee of work. MnSCU has determined that it may have need for the services under this Master Contract, but does not commit to issuing purchase orders or spending any money for services provided by the CONTRACTOR.

II. CONSIDERATION AND TERMS OF PAYMENT.

A. Consideration for all services performed and goods or materials supplied by the CONTRACTOR pursuant to this contract shall be paid by MnSCU as follows:

1. Compensation:

For a Not to Exceed amount for all compensation and reimbursement to the CONTRACTOR to be determined at the time of the Project and specified in the Purchase Order or design contract.

2. Reimbursement shall be provided for travel and subsistence expenses actually and necessarily incurred by the CONTRACTOR in performance of this contract; provided that CONTRACTOR shall be reimbursed for travel and subsistence expenses in the same manner and in no greater amount than provided in the current "Commissioner's Plan" promulgated by the Commissioner of Employee Relations. The CONTRACTOR shall not be reimbursed for travel and subsistence expense incurred outside the State of Minnesota unless it has received prior written approval for such out of state travel from MnSCU.

Reimbursement for printing, postage, courier fees, long distance telephone, fax transmissions, advertisements for bids, mylars, and specialty subconsultants requested by MnSCU shall be as provided by and agreed to in the Purchase Order or design contract.

B. Terms of Payment

1. Payment shall be made by MnSCU promptly after the CONTRACTOR'S presentation of invoices for services performed and acceptance of such services by MnSCU's authorized representative pursuant to Clause VI. Invoices shall be submitted according to the following schedule:

Monthly

2. Payments may be made from federal funds obtained by MnSCU. If at any time such funds become unavailable, this contract shall be terminated immediately upon written notice of such fact by MnSCU to the CONTRACTOR. In the event of such termination, the CONTRACTOR shall be entitled to payment, determined on a pro rata basis, for services satisfactorily performed. In the event of the use of Federal funds, the CONTRACTOR shall be required to execute and submit to MnSCU a completed "Certification Regarding Lobbying" (Form PUR015 of 1/30/01) (Attachment 2) at the time of submitting its proposal to be selected for a Project.
3. Nonresident Aliens: Pursuant to 26 U.S.C. §1441, MnSCU is required to withhold certain federal income taxes on the gross compensation paid to nonresident aliens, as defined by Internal Revenue Code §7701(b). MnSCU will withhold all required taxes unless and until CONTRACTOR submits documentation required by the Internal Revenue Service indicating that CONTRACTOR is a resident of a country with tax treaty benefits. MnSCU makes no representations regarding whether or to what extent tax treaty benefits are available to CONTRACTOR. To the extent that MnSCU does not withhold these taxes for any reason, CONTRACTOR agrees to indemnify and hold MnSCU harmless for any taxes owed and any interest or penalties assessed.

III. CONDITIONS OF PAYMENT. All services provided by the CONTRACTOR pursuant to this contract shall be performed to the satisfaction of MnSCU, as determined at the sole discretion of its authorized representative, and in accord with all applicable federal, state, and local laws, ordinances, rules and regulations. The CONTRACTOR shall not receive payment for work found by MnSCU to be unsatisfactory, or performed in violation of federal, state or local law, ordinance, rule or regulation.

IV. TERM OF CONTRACT. This contract shall be effective upon January 1, 2010 or the date that the final required signature is obtained by MnSCU and shall remain in effect until June 30, 2012 unless otherwise cancelled.

THE CONTRACTOR UNDERSTANDS THAT NO WORK SHOULD BEGIN UNDER THIS CONTRACT UNTIL ALL REQUIRED SIGNATURES HAVE BEEN OBTAINED, A DULY AUTHORIZED AND EXECUTED PURCHASE ORDER HAS BEEN ISSUED, AND THE CONTRACTOR IS NOTIFIED TO BEGIN WORK BY MnSCU'S AUTHORIZED REPRESENTATIVE.

The term of any purchase order issued under this Facilities Professional/Technical Consultants Master Contract may not extend beyond the expiration of this Master Contract.

V. CANCELLATION. This Master Contract for Facilities Professional/Technical Consultant may be canceled by MnSCU or the CONTRACTOR at any time with or without cause upon thirty (30) days written notice to the other party. Cancellation by the CONTRACTOR shall have the effect of removing the CONTRACTOR from MnSCU's Master List. Upon any cancellation, the CONTRACTOR shall be entitled

to payment for work or services satisfactorily performed for any work in progress, determined on an hourly basis.

- VI. MnSCU's AUTHORIZED REPRESENTATIVE. MnSCU's authorized representative for the purposes of administration of this contract is the MnSCU project manager to be determined at the time of the Project, and identified in the Purchase Order. Such representative shall have final authority for acceptance of the CONTRACTOR'S services and if such services are accepted as satisfactory, shall so certify on each invoice submitted pursuant to Clause II, paragraph B.
- VII. ASSIGNMENT. The CONTRACTOR shall neither assign nor transfer any rights or obligations under this contract without the prior written consent of MnSCU.
- VIII. AMENDMENTS. Any amendments to this contract shall be in writing and shall be executed by the same parties who executed the original contract, or their successors in office.
- IX. LIABILITY. Subject to the provisions of Minnesota Statutes 337.01 and 337.02, and to the extent those provisions are applicable to MnSCU, CONTRACTOR shall indemnify, save, and hold MnSCU, its representatives and employees harmless from any and all claims or causes of action, including all attorneys' fees incurred by the STATE, arising from the performance of this contract by the CONTRACTOR or CONTRACTOR'S agents or employees. This clause shall not be construed to bar any legal remedies the CONTRACTOR may have for the STATE'S failure to fulfill its obligations pursuant to this contract.
- X. AUDITS. The books, records, documents, and accounting procedures and practices of the CONTRACTOR relevant to this contract shall be subject to examination by the contracting department and the Legislative Auditor for a minimum of six (6) years from the end of work done under any purchase order issued pursuant to this accelerated master contract.
- XI. GOVERNMENT DATA PRACTICES ACT. The CONTRACTOR must comply with the Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13, as it applies to all data provided by MnSCU in accordance with this contract, and as it applies to all data, created, collected, received, stored, used, maintained, or disseminated by the CONTRACTOR in accordance with this contract. The civil remedies of Minnesota Statutes Section 13.08, apply to the release of the data referred to in this Article by either the CONTRACTOR or MnSCU.

In the event the CONTRACTOR receives a request to release the data referred to in this Article, the contractor must immediately notify MnSCU. MnSCU will give the CONTRACTOR instructions concerning the release of the data to the requesting party before the data is released.

- XII. OWNERSHIP OF MATERIALS AND INTELLECTUAL PROPERTY RIGHTS. Drawings, specifications and other documents, including those in electronic form, prepared by the CONTRACTOR and the CONTRACTOR'S consultants are Instruments of Service, and the CONTRACTOR and CONTRACTOR'S consultants shall be deemed the authors and owners of their respective Instruments of Service and shall retain ownership of all common law, statutory and other reserved rights, including copyrights. MnSCU shall jointly own all rights, title and interest in all of the Instruments of Service and all of the other materials conceived or created by the CONTRACTOR, or its employees or consultants, either individually or jointly with others and which arise out of the performance of this contract, including any inventions, reports, studies, designs, drawings, specifications, notes, documents, software and documentation, computer based training modules, electronically, magnetically or digitally recorded material, and other work in whatever form (hereafter "MATERIALS"). All finished or unfinished MATERIALS prepared by the CONTRACTOR under this Contract shall be the joint property of MnSCU whether or not the Project is completed or this Contract is canceled prior to expiration.

The CONTRACTOR shall, upon request of MnSCU, execute all papers and perform all other acts necessary to assist MnSCU to obtain and register copyrights, patents or other forms of protection provided by law for the MATERIALS to the extent necessary to protect MnSCU's interest in the MATERIALS. Copies of all of the MATERIALS, whether in paper, electronic, or other form, shall be remitted to MnSCU by the CONTRACTOR, its employees and any subconsultants, and the CONTRACTOR shall not copy, reproduce, allow or cause to have the MATERIALS copied, reproduced or used for any purpose other than performance of the CONTRACTOR's obligations under this Contract without the prior written consent of MnSCU's Authorized Representative.

The foregoing shall not be construed to mean that MnSCU shall acquire an exclusive possessory right, by copyright or otherwise, to the exclusion of the CONTRACTOR, in standard elements found in the MATERIALS (such as standard details) generated and authored by the CONTRACTOR for its regular, repeated and ongoing use in designs, plans and drawings for its customers in the regular course of its business. However, if MnSCU, prior to the CONTRACTOR's signing of this Contract, provides written notice to the CONTRACTOR that MnSCU considers the design of the Project to be a signature design unique to the Project, then the CONTRACTOR shall not substantially replicate the design of the Project on any other project without the written consent of MnSCU. MnSCU further waives any claim it might have against the CONTRACTOR for errors or omissions arising specifically from changes made by MnSCU or others to the MATERIALS after the completion or termination of the work provided by this Contract. This waiver does not extend to errors or omissions in the MATERIALS unrelated to any such changes by MnSCU or others.

The CONTRACTOR represents and believes that MATERIALS produced or used under this Contract do not and will not infringe upon any intellectual property rights of another, including but not limited to patents, copyrights, trade secrets, trade names, and service marks and names. The CONTRACTOR shall indemnify and defend MnSCU at the CONTRACTOR'S expense from any action or claim brought against MnSCU to the extent that it is based on a claim that all or part of the MATERIALS infringe upon the intellectual property rights of another. The CONTRACTOR shall be responsible for payment of any and all such claims, demands, obligations, liabilities, costs, and damages including, but not limited to, reasonable attorney fees arising out of this Contract, amendments and supplements thereto, which are attributed to such claims or actions. This paragraph shall not apply to claims that arise from MATERIALS specifically required by MnSCU, or to portions of the MATERIALS which MnSCU directed the CONTRACTOR to include within said MATERIALS.

If such a claim or action arises, or in the CONTRACTOR'S or MnSCU's opinion is likely to arise, the CONTRACTOR shall, at MnSCU's discretion, either procure for MnSCU the right or license to continue using the MATERIALS at issue or replace or modify the allegedly infringing MATERIALS. This remedy shall be in addition to and shall not be exclusive to other remedies provided by law.

XIII. PUBLICITY. Any publicity given to the program, publications, or services provided resulting from this contract, including, but not limited to, notices, informational pamphlets, press releases, research, reports, signs, and similar public notices prepared by or for the CONTRACTOR or its employees individually or jointly with others, or any subcontractors shall identify MnSCU as the sponsoring agency and shall not be released prior to receiving the approval of MnSCU's authorized representative.

XIV. AFFIRMATIVE ACTION. When the respective requirement as described in the Request for Information (RFI) is applicable, the CONTRACTOR certifies either that 1) it has received a certificate of compliance from the Commissioner of Human Rights pursuant to Minnesota Statutes, Section 363A.36, a copy of which shall be provided to MnSCU with the CONTRACTOR's response to the RFI, or 2) that the CONTRACTOR certifies that it has otherwise complied with the requirements of Minnesota Statutes 363A.36 as described in the RFI. It is hereby agreed between the parties that Minnesota Statutes, Section 363A.36 and Minnesota Rules 5000.3400 – 5000.3600 are incorporated into this contract by reference and the CONTRACTOR shall comply with all applicable provisions thereof. The CONTRACTOR shall submit with its response to the RFI a completed MnSCU Affirmative Action Data Page (Attachment 3) which shall be part of this Master Contract as well as a current affirmative action Certificate of Compliance if the Data Page reflects that such a Certificate is required. If the CONTRACTOR was not required due to its employee status to have a certificate of compliance at the time of the execution of this Master Contract, but that status thereafter changes to call for a Certificate of Compliance, it shall be the obligation of the CONTRACTOR to promptly inform MnSCU of the change of status, keep its MnSCU Affirmative Action Data Page current, and obtain the Certificate. In any event, the CONTRACTOR must obtain the Certificate before it can be considered to be selected for any project work with a value over \$100,000 (including reimbursables).

XV. MINNESOTA STATUTES §181.59: NONDISCRIMINATION

The CONTRACTOR will comply with the provisions of Minnesota Statutes §181.59, which require:

Every contract for or on behalf of the state of Minnesota, or any county, city, town, township, school, school district, or any other district in the state, for materials, supplies, or construction shall contain provisions by which the contractor agrees: (1) That, in the hiring of common or skilled labor for the performance of any work under any contract, or any subcontract, no contractor, material supplier, or vendor, shall, by reason of race, creed, or color, discriminate against the person or persons who are citizens of the United States or resident aliens who are qualified and available to perform the work to which the employment relates; (2) That no contractor, material supplier, or vendor, shall, in any manner, discriminate against, or intimidate, or prevent the employment of any person or persons identified in clause (1) of this section, or on being hired, prevent, or conspire to prevent, the person or persons from the performance of work under any contract on account of race, creed, or color; (3) That a violation of this section is a misdemeanor; and (4) That this contract may be canceled or terminated by the state, county, city, town, school board, or any other person authorized to grant the contracts for employment, and all money due, or to become due under the contract, may be forfeited for a second or any subsequent violation of the terms or conditions of this contract.

- XVI. WORKERS' COMPENSATION. In accordance with the provision of Minnesota Statutes, Section 176.182, as enacted, the CONTRACTOR shall provide acceptable evidence of compliance with the workers' compensation insurance coverage requirement of Minnesota Statutes, Section 176.181, subdivision 2, as enacted, prior to commencement of any duties to be performed under this contract. The Contractor's employees and agents will not be considered MnSCU employees. Any claims that may arise under the Minnesota Workers' Compensation Act on behalf of these employees or agents and any claims made by any third party as a consequence of any act or omission on the part of these employees or agents are in no way MnSCU's obligation or responsibility.
- XVII. ANTITRUST. The CONTRACTOR hereby assigns to the MnSCU and the State of Minnesota any and all claims for overcharges as to goods and/or services provided in connection with this contract resulting from antitrust violations which arise under the antitrust laws of the United States and the antitrust laws of the State of Minnesota.
- XVIII. JURISDICTION AND VENUE. This contract, and amendments and supplements thereto, shall be governed by the laws of the State of Minnesota. Venue for all legal proceedings arising out of this contract, or breach thereof, shall be in the state or federal court with competent jurisdiction in Ramsey County, Minnesota.
- XIX. ORGANIZATIONAL CONFLICT OF INTEREST. The CONTRACTOR warrants that, to the best of its knowledge and belief, and except as otherwise disclosed, there are no relevant facts or circumstances which could give rise to organizational conflict of interest. An organizational conflict of interest exists when, because of existing or planned activities or because of relationships with other persons, a CONTRACTOR is unable or potentially unable to render impartial assistance or advice to MnSCU, or the CONTRACTOR's objectivity in performing contract work is or might be otherwise impaired, or the CONTRACTOR has an unfair advantage. The CONTRACTOR agrees that, if an organizational conflict of interest is discovered, an immediate full disclosure in writing shall be made to MnSCU, which shall include a description of the action which the CONTRACTOR has taken or proposes to take to avoid or mitigate such conflicts. If an organizational conflict of interest is determined to exist, MnSCU may, at its discretion, cancel the contract. In the event the CONTRACTOR was aware of an organizational conflict of interest prior to the award of a contract and did not disclose the conflict to MnSCU, MnSCU may terminate the contract for default. The provisions of this clause shall be included in all subcontracts for work within the service provided by the prime CONTRACTOR, with the terms "CONTRACTOR", "contract", and "contractor" modified appropriately to preserve MnSCU's rights.
- XX. NON-COLLUSION: The CONTRACTOR shall arrive at any proposal for Project work independently and without any collusion, and without any agreement, understanding or planned common course of action with any other vendor of the Project work or materials designed to limit independent quoting or proposing. The CONTRACTOR shall likewise not communicate the contents of its Proposal to any person not its own employee or agent or surety prior to the official opening or receipt by MnSCU of proposals. The CONTRACTOR shall submit an Affidavit of Non-Collusion (Attachment 4) to this effect with its response to the RFI, which shall be a part of this Master Contract and which shall be applicable to all project work for which the CONTRACTOR may be selected during the term of the Master Contract.

- XXI. SURVIVAL OF TERMS: The following terms survive the expiration, cancellation or termination of this contract: Liability, Publicity, Government Practices Act, Ownership of Materials and Intellectual Property Rights, Jurisdiction and Venue and Audits.
- XXII. INSURANCE: At the time that a CONTRACTOR is selected for project work, it shall have in effect insurance as specified below, which shall be reflected in Certificates of Insurance to be provided to the selecting MnSCU campus or Office of the Chancellor before the purchase order for the project work is executed.

A. PROFESSIONAL LIABILITY INSURANCE:

The CONTRACTOR who produces or provides a design, whether or not a member of a profession licensed by the State of Minnesota or any other state, shall maintain insurance covering the negligent acts, errors or omissions arising out of the performance of professional services included in this Master Contract and any Purchase Order associated with it for any specific Project performed by the CONTRACTOR. Additionally, the CONTRACTOR shall require its subconsultants, if any, to maintain professional liability insurance. All such insurance shall be maintained for a minimum period of five (5) years, if commercially available, otherwise a minimum of three (3) years, following final Substantial Completion or earlier termination of this Master Contract or any purchase order for a specific MnSCU project. Unless otherwise specified, the insurance minimum amounts shall be as follows:

Minimum limit of liability of \$2,000,000 per claim, \$2,000,000 annual aggregate.
Deductible not to exceed \$50,000.

If the CONTRACTOR desires authority from MnSCU to have a deductible in a higher amount, the CONTRACTOR shall so request in writing, specifying the amount of the desired deductible and documenting said request with its financial documentation consisting of no less than the CONTRACTORS most current balance sheet and income statement, but in any event sufficient in the opinion of MnSCU to demonstrate the ability of the CONTRACTOR to cover the deductible for any claim from its own resources.

If the policy is claims made, it shall contain the following language: (1) Prior acts or retroactive date of coverage shall not be after the effective date of a Purchase Order which, together with this Master Contract, provides for work on a specific project to be performed by CONTRACTOR for MnSCU; (2) Automatic or extended discovery provisions of five (5) years, if commercially available, otherwise a minimum period of three (3) years following final Substantial Completion or earlier termination of this Master Contract or any Purchase Order for a specific MnSCU project.

At the time of signing this Master Contract, the CONTRACTOR shall provide to MnSCU's authorized representative certificates of insurance in accordance with the requirements of this subparagraph A. The CONTRACTOR shall pay the insurance premiums.

B. WORKERS COMPENSATION INSURANCE:

The CONTRACTOR shall provide workers compensation insurance for all employees and shall require any subconsultant to provide workers compensation insurance in accordance with the statutory requirements of the State of Minnesota and shall include: a) Coverage B: Employer's Liability, including Stop-Gap Liability for monopolistic states, at limits of not less than \$100,000 bodily injury by disease per employee; \$500,000 bodily injury by disease aggregate; and \$100,000 bodily injury by accident; b) Coverage C: All States coverage; c) If applicable, USL&H, Maritime Voluntary, and Foreign cover; and d) a waiver of subrogation in favor of MnSCU.

At the time of signing this Master Contract, the CONTRACTOR shall provide to MnSCU's authorized representative certificates of insurance in accordance with the requirements of this subparagraph B. The CONTRACTOR shall pay the insurance premiums.

C. COMMERCIAL GENERAL LIABILITY INSURANCE:

The CONTRACTOR shall maintain Commercial General Liability insurance to cover claims which may arise from operations under this Master Contract together with a Purchase Order for any specific MnSCU project, whether such operations be by the CONTRACTOR or by a subconsultant or by

anyone directly or indirectly employed under this Master Contract together with a Purchase Order for any specific MnSCU project. Unless otherwise specified, the insurance minimum amounts shall be as follows:

- \$2,000,000 per occurrence
- \$2,000,000 annual aggregate applying per project or location
- \$2,000,000 annual aggregate applying to Products/Completed Operations
- \$50,000 Fire Damage (any one fire)
- \$5,000 Medical Expense (any one person)

The following coverage shall be included:

- Premises and Operations Bodily Injury and Property Damage
- Personal Injury and Advertising Injury
- Products and Completed Operations Liability
- Contractual Liability as provided in Insurance Services Office (ISO) Commercial General Liability Coverage form CG 00 01 10 01 or its equivalent
- Pollution exclusion with standard exception per ISO form CG 00 01 10 01 or equivalent
- Independent Contractors (let or sublet work)
- Host Liquor Liability
- Waiver of subrogation in favor of MnSCU

The Board of Trustees of the Minnesota State Colleges and Universities and its officers and members, to include the Project's College or University, the State of Minnesota, officers and employees of the State of Minnesota and the CONTRACTOR and its agents shall be named as Additional Insureds, by endorsement, ISO forms CG 20 10 and CG 20 37 or their equivalent, for claims arising of the negligence of the CONTRACTOR or the negligence of those for whom the CONTRACTOR is responsible.

At the time of signing this Master Contract, the CONTRACTOR shall provide to MnSCU's authorized representative certificates of insurance in accordance with the requirements of this subparagraph C. The CONTRACTOR shall pay the insurance premiums.

D. BUSINESS AUTOMOBILE LIABILITY INSURANCE:

The CONTRACTOR shall maintain Business Automobile Liability coverage for liability arising out of the operations, use or maintenance of all owned, non-owned and rented vehicles. Unless otherwise specified, the insurance minimum amounts shall be as follows:

\$2,000,000 per occurrence Combined Single limit for Bodily Injury and Property Damage. The following coverages shall be included: a) Owned, hired and non-owned; b) Waiver of subrogation in favor of MnSCU.

The Board of Trustees of the Minnesota State Colleges and Universities and its officers and members, to include the Project's College or University, the State of Minnesota, officers and employees of the State of Minnesota and the CONTRACTOR and its agents shall be named as Additional Insureds, by endorsement, ISO forms CG 20 48 or its equivalent, for claims arising of the negligence of the CONTRACTOR or the negligence of those for whom the CONTRACTOR is responsible.

At the time of signing this Master Contract, the CONTRACTOR shall provide to MnSCU's authorized representative certificates of insurance in accordance with the requirements of this subparagraph D. The CONTRACTOR shall pay the insurance premiums.

E. ADDITIONAL INSURANCE CONDITIONS:

1. The CONTRACTOR's policy(ies) shall be primary and non-contributory to any other valid and collectible insurance available to the State of Minnesota and the Board of Trustees of the Minnesota State Colleges and universities, to include the Project's College or University, with respect to any claim arising out of this Master Contract and any Purchase associated with it for any specific Project performed by the CONTRACTOR.

2. The CONTRACTOR is responsible for payment of contract and Purchase Order related insurance premiums and deductibles.

3. Insurance companies providing coverage as outlined in Paragraph XXII must have an “AM Best” rating of A-minus and a Financial Size Category of Class VII or better, and be authorized to do business in the State of Minnesota.

4. Insurance companies for all policies shall waive the right to assert immunity of MnSCU as a defense to any claims made, and endorsements to policies or the certificate of insurance shall indicate this waiver.

5. Paragraph XXII of this Master Contract establishes minimum insurance requirements. It is the sole responsibility of the CONTRACTOR to determine the need for, and to procure, additional insurance that may be needed in connection with this Master Contract and any Purchase Order associated with it for any specific Project performed by the CONTRACTOR.

6. Certificates of insurance acceptable to MnSCU shall be filed with MnSCU’s authorized representative prior to commencement of the Work; this requirement cannot be waived. The CONTRACTOR shall not allow insurance to lapse, be reduced in limits or coverage, be materially changed or be canceled during the term of this Master Contract, including the warranty period of any specific Project work performed by the CONTRACTOR. In the event of any cancellation, non-renewal, reduction or material change of any of the policies, thirty (30) days written notice shall be given to MnSCU through its authorized representative, and all insured parties. Certificates of insurance shall bear acknowledgement of this notice requirement.

7. A fully-certified copy of any insurance policy obtained by the CONTRACTOR as required above, with all endorsements, may be requested by MnSCU at any time, and the CONTRACTOR, upon such request, will promptly provide said copy.

8. The failure of MnSCU to obtain from the CONTRACTOR copies of the certificate(s) of insurance for the policies required under Paragraph XXII, or renewals thereof, shall not constitute a waiver by MnSCU of the CONTRACTOR’s obligation to provide such insurance.

9. All policies and certificates of insurance shall provide that the policies shall remain in force and effect throughout the term of this Master Contract.

10. If the CONTRACTOR is self-insured, a certificate of self-insurance must be provided to MnSCU.

IN WITNESS WHEREOF, the parties have caused this contract to be duly executed intending to be bound thereby.

APPROVED:

1. CONTRACTOR: CONTRACTOR certifies that the appropriate person(s) have executed the contract on behalf of CONTRACTOR as required by applicable articles, by-laws, resolutions, or ordinances:

Legal Name of Contractor (Individual or Firm)
Full Address
City, State, Zip Code

By (authorized CONTRACTOR signature)
Title
Date

By (authorized CONTRACTOR signature)
Title
Date

2. MINNESOTA STATE COLLEGES AND UNIVERSITIES:

By (authorized MnSCU signature)
Title
Date

3. AS TO FORM AND EXECUTION:

By (authorized MnSCU signature)
Title
Date