



AIA[®] Document C195[™] – 2008

Standard Form Single Purpose Entity Agreement for Integrated Project Delivery

SINGLE PURPOSE ENTITY AGREEMENT (hereinafter, the Agreement) is made as of the _____ day of _____ in the _____ year
(In words, indicate day, month and year.)

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

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

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

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

TO FORM a limited liability company (hereinafter, the Company) to be known as:
(Name and address of the Company's principal place of business)

BY AND AMONG those persons listed above executing this Agreement as members of the Company (hereinafter, the Members). The Members currently constitute all of the Members of the Company. The Limited Liability Company Act of _____, as amended (hereinafter, the Act), authorizes the Members to enter into an agreement governing the operation of the Company.

FOR THE PURPOSE of planning, designing, constructing and commissioning the following Project:
(Name and location or address)

The Members agree as follows.

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ARTICLE 1 PURPOSE, INTENT AND POWERS OF THE COMPANY

§ 1.1 PURPOSE

The Company is formed for the object and purpose of furnishing, through separate agreements with Members and Non-Members, the planning, design, construction and commissioning of the Project, the legal description of which is set forth in Exhibit A, as well as engaging in any lawful act or activity for which limited liability companies may be formed under the Act.

§ 1.2 INTENT

§ 1.2.1 The Members intend that the Company shall achieve its object and purpose in a collaborative environment following the principles of Integrated Project Delivery. The Members, pursuant to separate agreements with the Company, are expected to contribute their knowledge, skill and services during all phases of the Project and to bring to bear their collective expertise at the most opportune time. The successful accomplishment of the Project is paramount and takes precedence over individual concerns or desires. For that reason, the Members shall act as a team to establish and accomplish mutually agreed-upon Project Goals that they shall set forth in the Target Cost Amendment to this Agreement, the form of which is attached as Exhibit E. The Members acknowledge and agree that success or failure shall be shared and measured not in individual terms, but upon meeting the specifically defined and agreed-upon Project Goals.

§ 1.2.2 The Members shall deliver the improvements to the real property described in Exhibit A in the following phases: Conceptualization, Criteria Design, Detailed Design, Implementation Documents, Agency Review, Buyout, Construction, and Closeout. The descriptions of these phases and the Members' respective responsibilities during each phase are more fully set forth in the Workplan, attached as Exhibit D.

§ 1.2.3 Pursuant to Article 5, the Members intend to establish a Target Cost of the Project and to amend this Agreement to incorporate the Target Cost. The Members expect that through their collaborative efforts the Actual Cost to complete the Project shall be less than the Target Cost. To the extent that the Actual Cost is less than or greater than the Target Cost, the Members shall share in any savings or excess realized in accordance with the terms of their respective agreements with the Company.

§ 1.3 POWERS OF THE COMPANY

The Company shall have the power and authority to take any and all actions necessary, appropriate, proper, advisable, incidental or convenient to, or for the furtherance of, the purpose set forth in Section 1.1.

ARTICLE 2 DEFINED TERMS

§ 2.1 "Actual Cost" means all costs incurred by the Company to complete the Project and is more fully defined in Section 5.8 Actual Cost.

§ 2.2 "Additional Member" has the meaning set forth in Section 15.2 Additional Members.

§ 2.3 "Affiliate" means, with respect to a specified Person, any Person that directly or indirectly controls, is controlled by, or is under common control with, the specified Person. As used in this definition, the term "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through ownership of voting securities, by contract or otherwise.

§ 2.4 "Architect Agreement" means the agreement between the Company and the Architect for the provision of professional services required for the planning, designing, constructing and commissioning of the Project.

§ 2.5 "Board Member" means a Member's representative designated to serve on the Company's Governance Board pursuant to the provisions of Section 8.2 Governance Board.

§ 2.6 "Building Information Model" (Model(s)) is a digital representation of the physical and functional characteristics of the Project. The term "Model" may be used to describe a single model or multiple models used in the aggregate. "Building Information Modeling" (BIM) means the process and technology used to create the Model.

§ 2.7 "Certificate of Formation" means the certificate of formation of the Company, as filed in accordance with the Act in the jurisdiction identified on the first page of this Agreement.

§ 2.8 “Construction Manager Agreement” means the Agreement between the Company and the Construction Manager for the provision of construction management services required for the planning, designing, constructing, and commissioning of the Project.

§ 2.9 “Covered Person” means a Member, any Affiliate of a Member, any officers, directors, shareholders, partners, employees, representatives or agents of a Member, or an Affiliate of a Member, or any employee, board member, or agent of the Company or its Affiliates.

§ 2.10 “Fiscal Year” means a calendar year, or any portion thereof as to which Profits, Losses or Net Cash Flow must be determined.

§ 2.11 “Goal Achievement Compensation” means payments made to the Members for achievement of any Project Goals identified in the Target Cost Amendment. Goal Achievement Compensation may also be established in agreements between the Company and Non-Members.

§ 2.12 “Incentive Compensation” means any amounts paid to the Members pursuant to their respective Member Agreements representing the difference between the Actual Cost and Target Cost. Incentive Compensation may also be established in agreements between the Company and Non-Members.

§ 2.13 “Instruments of Service” are representations, in any medium of expression now known or later developed, of the tangible and intangible creative work provided by the Members under the Member Agreements and the Non-Members under their respective service agreements. Instruments of Service may include, without limitation, studies, surveys, Models, sketches, drawings, specifications, and other similar materials.

§ 2.14 “Integrated Project Delivery” is a project delivery approach that integrates people, systems, business structures and practices into a process that collaboratively harnesses the talents and insights of all participants to reduce waste and optimize efficiency through all phases of design, fabrication and construction.

§ 2.15 “Interest” means a Member’s interest in the Company including a Member’s right to share in any Profits, Losses and distributions of the Company, and a Member’s right to participate in the management of the Company, each in accordance with the provisions of this Agreement and the Act.

§ 2.16 “Member” means a Person reflected in the records of the Company as a member of the Company and includes any Person admitted as an Additional Member pursuant to the provisions of Article 15 Members, Additional Members and Assignment. “Members” means two or more of such Persons when acting in their capacities as members of the Company.

§ 2.17 “Member Agreement” means any of the Owner Agreement, the Architect Agreement, the Construction Manager Agreement, or other agreement between the Company and a Member, as the case may be.

§ 2.18 “Net Cash Flow” means, for each Fiscal Year or other period of the Company, the gross cash receipts of the Company from all sources, less all amounts paid by or for the account of the Company during the same Fiscal Year or other period, and less any amounts determined by the Members to be necessary to provide a reasonable reserve for working capital needs or any other contingencies of the Company.

§ 2.19 “Neutral” means a third party whom the Members have identified below. The Neutral shall have the responsibilities set forth in Article 18 Dispute Resolution.

(Provide below the Neutral’s name, address and other information.)

§ 2.20 A “Non-Member” means a Person that is not a Member; the Company may enter agreements for services or construction with Non-Members.

§ 2.21 “Non-Owner Member” means a Member other than the Owner.

§ 2.22 “Owner Agreement” means the agreement between the Company and the Owner for the funding, planning, design, construction, and completion of the Project.

§ 2.23 “Person” includes any individual, corporation, association, partnership (general or limited), joint venture, trust, estate, limited liability company, or other legal entity or organization.

§ 2.24 “Profits” and “Losses” means, for each Fiscal Year, an amount equal to the Company’s gross income less expenses for the Fiscal Year.

§ 2.25 “Project Goal” means a goal the Members mutually establish and set forth in the Target Cost Amendment.

§ 2.26 “Target Cost” means the estimate of all costs the Company may incur to plan, design, construct and commission the Project, as set forth in the Target Cost Amendment of this Agreement, and includes any adjustments permitted under this Agreement.

§ 2.27 “Target Cost Amendment” means the amendment to this Agreement entered into pursuant to Article 5 Target Cost and Actual Cost.

§ 2.28 The term “Work” means the services and construction required to complete the Project, whether completed or partially completed, and includes all labor, materials, equipment and services needed to complete the Project.

ARTICLE 3 FORMATION AND TERM

§ 3.1 FORMATION

§ 3.1.1 By executing this Agreement, the Members hereby form the Company as a limited liability company under, and pursuant to, the provisions of the Act and agree that the rights, duties and liabilities of the Members shall be as provided in the Act, except as may be otherwise provided in this Agreement.

§ 3.1.2 The identity and mailing address of each Member is set forth on the first page of this Agreement. The Members may add Additional Members pursuant to Article 15 Members, Additional Members and Assignment.

§ 3.1.3 The name of the Company formed hereby is identified on the first page of this Agreement. Upon compliance with all applicable laws, the business of the Company may be conducted under any other name the Members designate.

§ 3.1.4 The Company’s registered agent is identified below. At any time, the Members may designate another registered agent and/or registered office.

(Provide below the registered agent’s name, address and other information.)

§ 3.1.5 The principal place of business of the Company is identified on the first page of this Agreement. At any time, the Members may change the location of the Company’s principal place of business.

§ 3.1.6 The Members shall, if required by law or if deemed advisable by the Members, cause the Company to be qualified, formed or registered under assumed or fictitious name statutes or similar laws in any jurisdiction in which the Company transacts business.

§ 3.2 TERM

The term of the Company shall commence on the date the Certificate of Formation is filed and unless otherwise dissolved pursuant to Article 16 Dissolution, Liquidation and Termination, shall continue until the Company’s obligations under this Agreement, or under other agreements the Company enters into, are satisfied.

ARTICLE 4 CAPITAL CONTRIBUTIONS

§ 4.1 PERCENTAGE INTERESTS

§ 4.1.1 Each Member's Interest in the Company (Percentage Interest) is and, unless modified pursuant to an amendment to this Agreement, shall remain as follows:

Member	Percentage Interest (0.00%)	Capital Contribution (\$0.00)
Owner	%	\$
Architect	%	\$
Construction Manager	%	\$

§ 4.1.2 For all purposes, a Member's Percentage Interest shall be personal property. A Member has no interest in specific Company property.

§ 4.2 CAPITAL CONTRIBUTIONS

§ 4.2.1 Each Member shall contribute to the capital of the Company the amount set forth in Section 4.1.1 (Capital Contribution). In exchange for its Capital Contribution, if any, and the obligations and agreements set forth in this Agreement, the Member shall receive the Percentage Interest in the Company as set forth in Section 4.1.1. With the unanimous consent of the Members, a Member may make additional contributions of capital to the Company.

§ 4.2.2 The amount of a Member's Capital Contributions may be returned, in whole or in part, at any time, but only with the unanimous consent of the Members.

§ 4.2.3 No Member shall receive any salary or draw with respect to its Capital Contributions or its Capital Account in its capacity as a Member.

§ 4.2.4 The Members shall only be required to make Capital Contributions pursuant to this Article 4, and no Member shall be required to lend any funds to the Company or, after a Member's Capital Contributions have been paid, to make any additional Capital Contributions to the Company, unless the Members unanimously consent otherwise. No Member shall have any personal liability for the repayment of any Capital Contribution of any other Member.

§ 4.2.5 If any Member advances any funds to the Company in excess of its Capital Contributions, the amount of the advance shall not increase its Capital Account or Percentage Interest. The amount of the advance shall be a debt obligation of the Company to the Member, and shall be subject to terms and conditions acceptable to the Company and the Member. Any such advance shall be payable and collectible only out of Company assets, and the other Members shall not be personally obligated to repay any part of it.

§ 4.3 CAPITAL ACCOUNTS

The Company shall maintain an account for each Member's Capital Contributions (Capital Account) in accordance with the following provisions:

- .1 Each respective Member's Capital Account shall be credited the Member's Capital Contribution, distributive share of Profits, and distributive share of other items of income or gain; and
- .2 Each respective Member's Capital Account shall be debited the amount of cash and the fair market value of property distributed by the Company to such Member, distributive share of Losses, and distributive share of other items of loss or deduction.

ARTICLE 5 TARGET COST AND ACTUAL COST

§ 5.1 TARGET COST PROPOSAL

§ 5.1.1 The Members shall jointly develop a Target Cost proposal for the Owner's acceptance. To do so, the Members shall perform the services set forth in the Integrated Scope of Services matrix of the Target Cost Amendment as necessary to develop a Target Cost proposal, and shall jointly undertake the actions necessary under Section 5.2 Preconditions to Establishing the Target Cost.

§ 5.1.2 In consultation with the Owner and Architect, the Construction Manager shall be primarily responsible for developing the Target Cost proposal, which the Construction Manager and Architect shall present to the Owner no later than the conclusion of the Criteria Design phase. The Construction Manager shall not present the Target Cost proposal to the Owner without the Architect's agreement.

§ 5.1.3 The Target Cost proposal shall be set forth in sufficient detail and with such support as to permit the Owner to make a proper evaluation. All fees and contingency amounts in the Target Cost proposal shall be clearly identified and explained. The Construction Manager shall promptly respond to all inquiries regarding the Target Cost proposal and shall, upon request, provide such additional information as is reasonable under the circumstances.

§ 5.2 PRECONDITIONS TO ESTABLISHING THE TARGET COST

§ 5.2.1 DEVELOP A PROJECT DEFINITION

The Members shall jointly develop a Project Definition upon which they shall base the Target Cost. The Project Definition shall provide critical information about the scope of the Project and shall define all elements having a material bearing on cost and schedule. It shall include, at a minimum, the program, site information, regulatory information, identification of contractors and consultants, the Project Criteria, and the Project Criteria Design. The Members shall develop the Project Criteria from the information set forth in the Owner's Criteria, attached as Exhibit B, which the Members shall discuss, augment and amend as mutually agreed. The Members shall include in the Project Criteria Design any graphic representations, Models, product data and other information necessary to illustrate the Project Criteria. The Project Definition shall form a part of this Agreement as an exhibit to the Target Cost Amendment and it shall be incorporated by reference, as necessary, into the Company's agreements with Non-Members.

§ 5.2.2 CONDUCT A COLLABORATION STANDARDS WORKSHOP

The Members shall meet, at the earliest practical moment, to delineate the types of software to be used on the Project and to establish protocols, standards and tolerances required for the proper execution of the Work. The Members shall work together to establish the permitted uses for all digital information, including the Model, to be exchanged on the Project. Such determinations shall be set forth in AIA Document E201™–2007, Digital Data Protocol Exhibit, or a similar protocol document. The protocol document shall form a part of this Agreement as an exhibit to the Target Cost Amendment and it shall be incorporated by reference, as necessary, into the Company's agreements with Non-Members.

§ 5.2.3 DEVELOP A RISK MATRIX

The Members shall jointly develop a Risk Matrix that identifies the principal risks of planning, designing, constructing and commissioning the Project and determines primary responsibility for managing each risk identified. The Construction Manager shall be responsible for periodically updating the Risk Matrix and providing guidance to the Members with respect to items contained therein. Unless mutually agreed otherwise, risks will be managed on a "best person" principle depending upon the person's ability to control the risk. The Risk Matrix shall be a project management tool only and it shall not be incorporated into this Agreement, Member Agreements or agreements with Non-Members.

§ 5.2.4 DEVELOP THE PROJECT GOALS

The Members shall jointly establish goals for the Project and agree upon the Goal Achievement Compensation to be paid for the achievement of specific Project Goals. The agreed-upon Project Goals and their associated compensation shall form a part of this Agreement as an exhibit to the Target Cost Amendment and shall be incorporated by reference, as necessary, into the Company's agreements with Non-Members.

§ 5.2.5 COMPLETE THE INTEGRATED SCOPE OF SERVICES MATRIX

Members shall jointly complete the Integrated Scope of Services matrix, a form of which is included in Exhibit E Target Cost Amendment. The Integrated Scope of Services matrix identifies the tasks required to plan, design, construct and commission the Project. For each task identified, one Member shall be assigned primary responsibility for performing the task. All remaining Members agree to assist in the performance of the task to the extent of the Member's knowledge, skill and expertise. The Member with primary responsibility for performing a task may subcontract the task to others, but remains responsible for the successful performance of the task. Each Member is responsible for coordinating its own services with the services of other Members, whether or not the services are for primary performance or assistance. Where the Members assign tasks to Non-Members, a Member must be assigned the responsibility to coordinate, integrate and ensure completeness of the task. The completed Integrated Scope of Services matrix shall form a part of this Agreement as an exhibit to the Target Cost Amendment and it shall be incorporated by reference, as necessary, into the Company's agreements with Non-Members.

§ 5.2.6 DEVELOP A PROJECT SCHEDULE

The Members shall jointly develop a Project Schedule that shall set forth the dates of Substantial Completion, Final Completion, and of any material milestones. The Project Schedule shall form a part of this Agreement as an exhibit to the Target Cost Amendment and shall be incorporated by reference, as necessary, into the Company's agreements with Non-Members.

§ 5.2.7 DEVELOP A FUNDING SCHEDULE

The Members shall jointly develop a schedule for the Project funding (Funding Schedule) that shall ensure that the Company's commitment to plan, design, construct and commission the Project can be accomplished as intended under the Company's agreements with Members and Non-Members. The Funding Schedule shall be incorporated into the Owner Agreement.

§ 5.2.8 PREPARE A TARGET COST BREAKDOWN

The Target Cost proposal shall break down and itemize the Project costs (Target Cost Breakdown) so as to identify with detail the various elements of the Target Cost. The Target Cost Breakdown shall form a part of this Agreement as an exhibit to the Target Cost Amendment and shall be incorporated by reference, as necessary, into the Company's agreements with Non-Members.

§ 5.3 MINIMUM REQUIRED ELEMENTS OF THE TARGET COST

The Target Cost Breakdown shall, at a minimum, contain the elements set forth below:

- .1 The Company's expected cost to plan, design, estimate, schedule, manage, construct, commission and closeout the Project, including the cost to develop the Target Cost.
- .2 A reasonable contingency for uncertainty in the scope of Work, risk, potential indemnity costs, market conditions, and other factors material to estimating costs. The Members shall utilize the Risk Matrix in developing the Target Cost contingency.
- .3 Expected costs of insurance, including deductible amounts, risk management and insurance-related advice, and any bonds anticipated to be secured.
- .4 All potential Goal Achievement Compensation payable under the Member Agreements and the Company's agreements with Non-Members.
- .5 Any costs the Company expects to incur in connection with the dispute resolution provisions set forth in Article 18 Dispute Resolution.
- .6 Any other costs the Company expects to incur to perform its obligations to deliver the Project successfully, including legal, accounting, administrative and licensing costs.

§ 5.4 ELEMENTS NOT INCLUDED IN THE TARGET COST

§ 5.4.1 The Target Cost shall not include any costs or expenses the Owner independently incurs to plan, design, estimate, schedule, manage, construct, commission and closeout the Project as well as the cost of any contracts the Owner enters into with respect to the Project to which the Company is not a party.

§ 5.4.2 The Target Cost shall not include any costs or expenses the Owner incurs to evaluate the Target Cost proposal through a cost consultant not engaged by the Company.

§ 5.5 ACCEPTING OR REJECTING THE TARGET COST

If the Owner accepts the Target Cost proposal, it shall become the Target Cost and shall be set forth in the Target Cost Amendment to this Agreement no later than at the conclusion of the Criteria Design phase. If the Target Cost proposal is unacceptable to the Owner, the Members shall confer and make such alterations in the Project Definition and Project Schedule as are necessary to arrive at a mutually agreeable Target Cost, which shall be set forth in the Target Cost Amendment. In the event the Members are unable to arrive at a mutually agreeable Target Cost, the Company shall dissolve and this Agreement shall terminate pursuant to Article 16 Dissolution, Liquidation and Termination.

§ 5.6 ADJUSTING THE TARGET COST

§ 5.6.1 Once the Target Cost is established, it shall not be adjusted except as stated in this Section 5.6, or for other reasons upon the unanimous, written agreement of the Members. A Target Cost adjustment must be recorded as an amendment to this Agreement pursuant to Article 9 Amendments. If the Members cannot agree with respect to adjusting the Target Cost, the Members shall resolve the matter pursuant to Article 18 Dispute Resolution.

§ 5.6.2 The Target Cost may be adjusted as a result of Owner-initiated changes in the Project Definition, Owner-initiated changes to the Project Schedule, and events falling within Article 14 Force Majeure.

§ 5.6.3 The Target Cost shall be reduced to the extent that a Project Goal identified in the Target Cost Amendment is not achieved and, as a result, Goal Achievement Compensation for the unachieved goal is not awarded.

§ 5.7 MONITORING AND MAINTAINING THE TARGET COST

§ 5.7.1 The Members agree that a primary Project Goal is to maintain the Target Cost. The Company shall take all steps necessary to ensure that the Target Cost is not exceeded without the Owner's express written approval. The Company shall closely monitor Actual Costs and make such periodic cost projections as are necessary to satisfy all Members that the Target Cost is being maintained. The Company shall distribute all periodic cost projections to the Members for review and approval. Unless agreed to otherwise, the periodic cost projections shall be made monthly, shall identify all material variations between incurred Actual Costs and Target Costs, and shall project those variations to Project completion.

§ 5.7.2 If any periodic cost projection reveals that the Target Cost is projected to be exceeded, the Company shall develop a recovery plan to maintain the Target Cost (Recovery Plan) and distribute it for review and approval by all Members. The Recovery Plan might entail alterations to the Project Definition and Project Schedule.

§ 5.7.3 If any Member comes to believe or acquires information to suggest that the Target Cost may be exceeded, it shall immediately notify in writing the other Members setting forth the basis for its belief and any pertinent information acquired. The Members shall then timely meet to evaluate the matter. If, after reviewing the matter, it is the consensus of the Members that the Target Cost is threatened, the Company shall develop a Recovery Plan for review and approval by all Members.

§ 5.7.4 If an event justifying an adjustment to the Target Cost under Article 14 Force Majeure occurs or is expected to occur, the Company shall notify all Members and either appropriately adjust the Target Cost by written amendment or, upon the request of any Member, develop a Recovery Plan for review and approval by all Members.

§ 5.7.5 If the Target Cost is projected to be exceeded for reasons for which an adjustment is not justified under Section 5.6 Adjusting The Target Cost, the Members shall jointly prepare a Recovery Plan for review and approval by all Members. If the Owner declines to approve the Recovery Plan in writing, the Company shall proceed with the Work and take such mitigation steps as are reasonable to keep cost escalation to a minimum.

§ 5.7.6 Recovery Plans called for under this Section shall be developed without consideration of which Member(s) is (are) responsible for the failure to maintain the Target Cost. The Members reaffirm their commitment to work collaboratively to maintain the Target Cost and to develop Recovery Plans when necessary.

§ 5.8 ACTUAL COST

Actual Cost consists of all costs the Company incurs to plan, design, construct, commission and otherwise complete the Project, except for those costs expressly excluded from the Target Cost.

ARTICLE 6 CONTRACTING

§ 6.1 GENERAL

§ 6.1.1 The Company shall contract with the Architect for the planning, design, construction contract administration and such other services as are necessary to deliver the Project on schedule and within the Target Cost in collaboration with the other Members.

§ 6.1.2 The Company shall contract with the Construction Manager for construction management and such other services as are necessary to deliver the Project on schedule and within the Target Cost in collaboration with the other Members.

§ 6.1.3 The Company shall contract with the Owner for the Project funding, as more fully explained in Article 7 Members' Funding Obligations. The Owner shall collaborate with the other Members for the timely and successful delivery of the Project.

§ 6.1.4 The Company shall secure the insurance required under this Agreement, or cause the Members to secure the required coverage, and may enter into agreements as necessary to obtain insurance and surety bonding advice. The Company may enter into agreements to obtain legal, accounting, or other services necessary to fulfill its obligations.

§ 6.1.5 The Company shall contract with Members or Non-Members as necessary to timely and successfully deliver the Project. The Company shall endeavor to contract with Non-Members on stipulated sum or guaranteed maximum price arrangements where possible. All cost reimbursement contracts shall delineate clearly and completely all costs to be reimbursed from those that are not reimbursable. The delineation set out in AIA Document A102™-2007, Agreement Between Owner and Contractor, is an acceptable model.

§ 6.1.6 In contracts with Non-Members, the Company shall clearly set forth any Incentive Compensation and Goal Achievement Compensation to be paid to Non-Members.

§ 6.1.7 The Company shall require all Non-Members to provide services or construction consistent with the delivery phases set forth in this Agreement and the Workplan, and to collaborate with the Company where necessary to achieve the timely and successful delivery of the Project.

§ 6.2 MEMBER AGREEMENTS

§ 6.2.1 The executed Architect Agreement, Construction Manager Agreement and any other Non-Owner Member Agreement shall be attached at Exhibit C and shall, at a minimum, contain provisions for the following:

- .1 A commitment to provide services in the highly collaborative and integrated environment envisioned for the Project and the requirement to obligate similarly any subcontractors and consultants retained.
- .2 Services to be provided on the basis of direct and indirect cost reimbursement only.
- .3 Percentage distribution of any savings realized between the Actual Cost and Target Cost as described in Section 10.1 Incentive Compensation.
- .4 Goal Achievement Compensation amounts to be paid for the achievement of the Project Goals identified in the Target Cost Amendment.
- .5 The right of the Company to audit the Member's accounts to verify direct and indirect costs.
- .6 To the fullest extent permitted by applicable law, a limitation of the Member's liability to the Company to the proceeds of available insurance, except for those claims arising from the Member's willful misconduct.
- .7 Indemnification by the Company for damages, losses and claims not covered by the insurance required under this Agreement or the Member Agreement, except for damages, losses and claims arising from the Member's willful misconduct.
- .8 Subcontracting or assignment made only with Company approval.
- .9 Right of the Company to terminate for its convenience upon payment to the Member of all amounts due and owing including a reasonable amount for any customary profit earned up to the date of termination.
- .10 Waivers of subrogation.
- .11 To the fullest extent permitted by applicable law, a limitation of the other Member's right to recover against another Member to the proceeds of insurance available for the other Member's liability, except for those claims arising from one of the other Member's willful misconduct.
- .12 Member's assignment to the Company of all claims against a Member or a Non-Member providing services or performing Work for the Project.
- .13 Incorporation by reference of the executed Target Cost Amendment.
- .14 Members as the authors and owners of their respective Instruments of Service and retaining all common law, statutory and other reserved rights, including copyrights; licenses from Members granting the Company the right to use the Members' Instruments of Service to construct, maintain, alter and add to the Project.
- .15 Member's obligation to obtain insurance policies in accordance with Article 13 Insurance.
- .16 Requirement that disputes with the Company or other Members be resolved pursuant to the dispute resolution procedures in Article 18 Dispute Resolution.
- .17 Such other provisions as the Company requires.

§ 6.2.2 The executed Owner Agreement shall be attached at Exhibit C, and shall, at a minimum, contain provisions for the following:

- .1 The Owner's provision of access to the Project site.
- .2 The Owner's agreement, pursuant to Article 7, to fund the Company amounts sufficient to cover all costs the Company incurs.
- .3 The Company's agreement to furnish the services necessary to provide the Owner a Target Cost for the Project, and if accepted by the Owner, to complete the Project.
- .4 Reimbursement to the Owner of any costs the Owner funds for which the Company is reimbursed by third parties, including by any insurers.
- .5 The Owner's right to audit the Company's accounts.
- .6 Indemnification by the Company for any damages, losses and claims not covered by insurance, except for damages, losses and claims arising from the Owner's willful misconduct.
- .7 Waivers of subrogation.

- .8 To the fullest extent permitted by applicable law, a limitation of the Owner's right to recover against another Member to the proceeds of insurance available for the other Member's liability, except for those claims arising from one of the other Member's willful misconduct.
- .9 Owner's assignment to the Company of all claims against a Member or a Non-Member providing services or performing Work for the Project.
- .10 Incorporation by reference of the executed Target Cost Amendment.
- .11 Owner's obligation to obtain insurance policies in accordance with Article 13 Insurance.
- .12 Requirement that disputes with the Company or other Members be resolved pursuant to the dispute resolution procedures in Article 18 Dispute Resolution.
- .13 Such other provisions as the Company requires.

ARTICLE 7 MEMBERS' FUNDING OBLIGATIONS

§ 7.1 The Company requires funds to pay for the labor, services, materials and equipment necessary to plan, design, construct, commission and otherwise complete the Project. Amounts paid to the Company pursuant to the Member Agreements are neither Capital Contributions nor advances.

§ 7.2 OWNER'S FUNDING OBLIGATION

Pursuant to the Owner Agreement, the Owner shall provide the Company with sufficient funds to meet its obligations to establish and provide a Target Cost and, if accepted by the Owner, to complete the Project. Amounts the Owner pays to fund the Company's commitments to develop a Target Cost and to complete the Project are neither Capital Contributions nor advances, but are merely amounts paid for services. These amounts paid for services are in addition to the Owner's Capital Contributions, and the Owner's obligation to pay these amounts shall be set forth in detail in the Owner Agreement.

§ 7.2.1 Until the Owner accepts the Target Cost, the Owner's only funding obligation to the Company is to pay amounts sufficient to cover the Company's obligations to the Architect, Construction Manager, other Members and Non-Members as required to establish the Target Cost, and to pay the amount of any administrative costs the Company incurs.

§ 7.3 NON-OWNER MEMBERS' FUNDING OBLIGATIONS

The Architect, Construction Manager, and other Non-Owner Members shall have no funding obligations to plan, design, construct, commission and otherwise complete the Project. However, if the Actual Cost the Company incurs is equal to or greater than the Target Cost, the Architect, Construction Manager and other Non-Owner Members shall not be entitled to compensation for services beyond (1) their direct and indirect costs up to the amount of the Target Cost, and (2) the amount of any Goal Achievement Compensation earned for the achievement of Project Goals.

ARTICLE 8 MANAGEMENT OF THE COMPANY

§ 8.1 GENERAL

§ 8.1.1 Management of the Company shall be vested in the Members.

§ 8.1.2 The Members shall have full, exclusive and complete discretion to manage the business and affairs of the Company, to make all decisions affecting the business and affairs of the Company and to take such actions as they deem necessary or appropriate to accomplish the purpose of the Company.

§ 8.1.3 The Members shall manage and direct the business and affairs of the Company solely through their representatives on the Governance Board. The Governance Board shall, on behalf of the Members, exercise all rights, powers, and authority of the Members with respect to the Company.

§ 8.2 GOVERNANCE BOARD

§ 8.2.1 The Governance Board shall consist of five Board Members, or such other odd number of Board Members as the Members may determine from time to time. Each Non-Owner Member shall appoint one representative to the Governance Board. The Owner shall appoint a number of representatives to the Governance Board such that the total number of Owner representatives on the Governance Board shall be one more than the total number of Non-Owner Members. The Owner shall appoint one of its representatives to serve as the chairperson of the Governance Board. The Company shall have no obligation to compensate or reimburse the expenses of Members for their services as Board Members.

§ 8.2.2 At its sole discretion, a Member may remove its Board Member at any time, with or without cause, by delivery of written notice to the Company and the other Members. The written notice shall designate the person who shall fill the position of the new Board Member. In the event of the death, resignation, or disability of any Board Member, the Member that designated the Board Member shall promptly designate a successor.

§ 8.2.3 Except for those matters specifically set forth in Section 8.2.4 allowing the Company to take action by majority vote, all authorizations, approvals, or other actions of the Governance Board shall require the unanimous affirmative vote of the Board Members. The Governance Board may meet by telephone upon reasonable prior written notice transmitted through e-mail or other instantaneous means of delivery.

§ 8.2.4 The following authorizations, approvals or other actions may be accomplished through a majority vote of the Governance Board:

ARTICLE 9 AMENDMENTS

This Agreement represents the entire and integrated agreement between the Members and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by all the Members.

ARTICLE 10 INCENTIVE COMPENSATION, ALLOCATIONS AND DISTRIBUTIONS

§ 10.1 INCENTIVE COMPENSATION

Upon final completion of the Project, if the Actual Cost the Company incurs to complete the Project is less than the Target Cost, then the Company shall pay to the Non-Owner Members a portion of the savings thereby realized as Incentive Compensation in accordance with the terms of the respective Non-Owner Member Agreements.

§ 10.2 ALLOCATIONS

§ 10.2.1 The Members do not anticipate that the Company will generate Profits or Losses. Instead, the Members anticipate that the costs incurred by the Company and the revenues received by the Company shall be equal.

§ 10.2.2 If the Company (1) generates Profits and Losses for any Fiscal Year that are not the result of any disparity between the Target Cost and Actual Cost of the Project, or (2) receives monies, or (3) incurs costs not the right or responsibility of a particular Member, then the Company shall allocate such Profits or Losses among the Members in proportion to their respective Percentage Interests.

§ 10.3 DISTRIBUTIONS

§ 10.3.1 Except as otherwise provided in Article 16 Dissolution, Liquidation and Termination, any distribution of Net Cash Flow shall be made to the Members in proportion to their respective Percentage Interests.

§ 10.3.2 All distributions pursuant to Section 10.3.1 shall be at such times and in such amounts as the Governance Board shall determine.

ARTICLE 11 ACCOUNTING, BOOKS AND RECORDS

§ 11.1 At all times during the continuance of the Company, the Company shall maintain, at its principal place of business, separate books of account for the Company that shall show a true and accurate record of all costs and expenses incurred, all charges made, all credits made and received and all income derived in connection with the operation of the Company business in accordance with generally accepted accounting principles consistently applied, and, to the extent inconsistent therewith, in accordance with this Agreement. Such books of account, together with a copy of this Agreement and of the Certificate of Formation, shall at all times be maintained at the principal place of business of the Company and shall be open to inspection and examination at reasonable times by each Member and its duly authorized representative for any purpose reasonably related to the Member's Interest in the Company.

§ 11.1.2 The books and records of the Company shall be kept on the method of accounting selected by the Governance Board applied in a consistent manner and shall reflect all Company transactions and be appropriate and adequate for the Company's business.

§ 11.2 Any information a Member provides to the Company or other Members relating to that Member's accounting records, business methods, including methods for determining costs and expenses for purposes of determining the Actual Cost, and other related business and accounting information, shall be deemed confidential and business proprietary. Accordingly, the receiving party shall be subject to the requirements set forth in Section 17.2 with regard to maintaining the confidentiality of such information. This provision applies regardless of whether or not the transmitting party designates such information as "confidential" or "business proprietary."

ARTICLE 12 LIABILITY, EXCULPATION AND INDEMNIFICATION

§ 12.1 LIABILITY

§ 12.1.1 Except as otherwise provided by the Act, the debts, obligations and liabilities of the Company, whether arising in contract, tort or otherwise, shall be solely the debts, obligations and liabilities of the Company, and no Covered Person shall be obligated personally for any such debt, obligation or liability of the Company solely by reason of being a Covered Person.

§ 12.1.2 To the extent that, at law or in equity, a Covered Person has duties and liabilities relating thereto to the Company or to any other Covered Person, a Covered Person acting under this Agreement shall not be liable to the Company or to any Member for its good faith reliance on the provisions of this Agreement, except for obligations that may expressly arise from a separate agreement with the Company. To the extent this Agreement restricts the duties and liabilities of a Covered Person otherwise existing at law or in equity, the Members agree that the provisions of this Agreement replace such other duties and liabilities of the Covered Person.

§ 12.2 EXCULPATION

Except for obligations that may expressly arise from a separate agreement with the Company, no Covered Person shall be liable to the Company or to any other Covered Person for any loss, damage or claim incurred by reason of any act or omission performed or omitted by the Covered Person in good faith on behalf of the Company and in a manner reasonably believed to be within the scope of authority conferred on the Covered Person by this Agreement, except that a Covered Person shall be liable for any such loss, damage or claim incurred by reason of the Covered Person's willful misconduct.

§ 12.3 INDEMNIFICATION

§ 12.3.1 Except for obligations that may expressly arise from a separate agreement with the Company, the Company shall indemnify a Covered Person, to the fullest extent permitted by applicable law, for any loss, damage or claim the Covered Person incurs by reason of any act or omission performed or omitted by the Covered Person in good faith on behalf of the Company and in a manner reasonably believed to be within the scope of authority conferred on the Covered Person by this Agreement. However, no Covered Person shall be entitled to be indemnified for any loss, damage or claim the Covered Person incurs by reason of its willful misconduct with respect to the acts or omissions. Any indemnity under this Section 12.3 shall be provided out of, and to the extent of, Company assets only and no Member shall have any personal liability on account thereof.

§ 12.3.2 To the fullest extent permitted by applicable law, expenses, including legal fees incurred by a Covered Person in defending any claim, demand, action, suit or proceeding shall, from time to time, be advanced by the Company prior to the final disposition of the claim, demand, action, suit or proceeding. Such expenses may be advanced only upon the Company's receipt of an undertaking by or on behalf of the Covered Person to repay the advanced amount if it shall be determined that the Covered Person is not entitled to be indemnified as authorized in this Section 12.3.

ARTICLE 13 INSURANCE

§ 13.1 INTEGRATED COVERAGE

The Company shall retain an insurance consultant experienced in integrated insurance programs to provide advice and assistance with respect to a Company-Controlled Insurance Program (CCIP). Any CCIP elected shall be instituted upon the acceptance of the Target Cost and structured to provide adequate coverage at reasonable cost, striving to avoid duplication in coverage or exposure gaps. The Company shall cause the Members and eligible Non-Members, through their respective contracts, to enroll in any CCIP instituted by the Company and to secure the insurance coverages required of them in this Agreement and the Member Agreements. Each Member is entitled to receive copies of all policies required under this Article 13.

§ 13.2 PRE-TARGET COST INSURANCE

Prior to acceptance of the Target Cost, the Company shall cause the Members to secure the following coverages in such coverage amounts and upon such terms as set forth in each Member's Agreement:

- .1 From Architect: Commercial General Liability, Automobile Liability, Workers' Compensation/Employers Liability, and Professional Liability.
- .2 From Construction Manager: Commercial General Liability, Automobile Liability, Workers' Compensation/Employers Liability. If the Construction Manager performs design services, it shall procure Professional Liability insurance.
- .3 Architect and Construction Manager shall name the Company as an additional insured under its Commercial General Liability and Automobile Liability insurance.

§ 13.3 POST-TARGET COST INSURANCE

After acceptance of the Target Cost, the Company shall secure, either directly or through agreements with Members and Non-Members, the following coverages, with coverage amounts and other specific insurance matters set forth in the Member Agreements and Non-Member Agreements:

- .1 Workers' Compensation/Employers Liability, Commercial General Liability, Automobile Liability, Builder's Risk, Excess Liability, and Professional Liability.
- .2 Such other coverages, such as Pollution Liability Insurance, as may be appropriate for the Project.
- .3 If a CCIP is instituted, such additional coverages from Members and Non-Members as recommended by the Company's insurance consultant.

ARTICLE 14 FORCE MAJEURE

§ 14.1 FORCE MAJEURE EVENT

As used in this Agreement, a "Force Majeure Event" shall mean any act or event that prevents a Member from, or interferes with the Member in, performing its obligations under this Agreement if such act or event is beyond the reasonable control of, and not the fault of, the Member. A Force Majeure Event shall include, but not be limited to, the following events: war; earthquake; fire; volcanic eruption; unanticipated change in law; landslide; unusually severe weather; conditions encountered at the site that are unknown physical conditions of an unusual nature differing materially from those normally found to exist and recognized generally as inherent in construction activities; explosion; strikes or labor disputes, but expressly excluding any strikes or labor disputes involving only employees or other direct labor of Members; civil disturbance; act of God or the public enemy; or action of a court or public authority that reasonable action could not have prevented.

§ 14.2 EXCUSED PERFORMANCE

Except for payment obligations accruing in accordance with any Member Agreement, if any Member is rendered wholly or partially unable to perform its obligations under the Agreement because of a Force Majeure Event, that Member shall be excused from whatever performance is affected by the Force Majeure Event to the extent so affected, provided that:

- .1 the affected Member, within ten (10) business days after becoming aware of the occurrence of a Force Majeure Event, gives the other Members written notice describing the particulars of the occurrence, including an estimation of its expected duration and probable impact on the performance of the Member's obligations, and thereafter continues to furnish timely, regular reports of its effects during the continuation of the Force Majeure Event;
- .2 the Member's suspended performance shall be of no greater scope and of no longer duration than is reasonably required by the Force Majeure Event;
- .3 no performance of a Member for an event that arose before the occurrence of the Force Majeure Event shall be excused as a result of the occurrence; and
- .4 the affected Member shall exercise all reasonable efforts to mitigate or limit damages to the other Members, provided that, and notwithstanding anything in this Agreement to the contrary, the affected Member shall not be obligated to otherwise incur costs that would not normally be incurred in performance of its services in order to overcome any delay due to a Force Majeure Event, unless the Member is compensated for the costs incurred.

§ 14.3 ADJUSTING TARGET COST FOR FORCE MAJEURE EVENTS

The Target Cost shall be subject to adjustment based on the reasonable costs incurred as a result of a Force Majeure Event. If the Members cannot reach agreement with respect to adjusting the Target Cost where applicable, their dispute shall be resolved pursuant to Article 18 Dispute Resolution.

ARTICLE 15 MEMBERS, ADDITIONAL MEMBERS AND ASSIGNMENT

§ 15.1 MEMBERS

§ 15.1.1 The Members shall have the power to exercise any and all rights or powers granted to the Members pursuant to the express terms of this Agreement and the Act.

§ 15.1.2 Independently or with others, any Member or Affiliate may engage in or possess an interest in other business ventures of any nature or description, whether similar or dissimilar to the business of the Company. The Company and the Members shall have no rights by virtue of this Agreement in such independent ventures or to the income or profits derived therefrom. The pursuit of any such venture, even if competitive with the business of the Company, shall not be deemed wrongful or improper. No Member or Affiliate shall be obligated to present any particular investment opportunity to the Company, even if such opportunity is of a character that could be taken by the Company, and any

Member or Affiliate shall have the right to take for its own account or to recommend to others any such particular investment opportunity.

§ 15.1.3 Each Member hereby agrees to execute and deliver to the Company, within five (5) business days after receipt of a written request therefor, such documents and instruments, designations, special or limited powers of attorney and other instruments requested and to take such other action as the Governance Board deems necessary to comply with any laws as may be necessary to enable the Company to carry out fully the provisions of this Agreement in accordance with its terms.

§ 15.2 ADDITIONAL MEMBERS

With the unanimous consent of the Members, the Company may admit any Person as an additional Member of the Company (Additional Member). Each such Person shall receive a Percentage Interest determined by the Members. Each such Person shall be admitted as an Additional Member at the time such Person

- .1 executes this Agreement or a counterpart of this Agreement, and
- .2 is named as a Member in an amendment hereto.

§ 15.3 ASSIGNMENT

§ 15.3.1 No Member may assign, pledge or otherwise encumber the whole or any part of its Interest without the unanimous consent of the other Members.

§ 15.3.2 No assignment or pledge of any Interest, or any part thereof, that is in violation of this Section 15.3 shall be valid or effective, and neither the Company nor the Members shall recognize the same for the purpose of making distributions pursuant to this Agreement. Neither the Company nor the Members shall incur any liability as a result of refusing to make any such distributions to the assignee of any such invalid assignment.

ARTICLE 16 DISSOLUTION, LIQUIDATION AND TERMINATION

§ 16.1 DISSOLUTION

The Company shall be dissolved and its affairs shall be wound up upon the occurrence of any of the following events:

- .1 The sale or disposition of all or substantially all of the assets of the Company;
- .2 The Members' failure to arrive at a mutually agreeable Target Cost pursuant to Article 5 Target Cost and Actual Cost;
- .3 The unanimous written consent of the Members; or
- .4 The entry of a decree of judicial dissolution under the Act.

§ 16.2 LIQUIDATION

Upon dissolution of the Company, the Members shall carry out the winding up of the Company and shall immediately commence to wind up the Company's affairs; however, a reasonable time shall be allowed for the orderly liquidation of the Company's assets and the satisfaction of liabilities to creditors so as to enable the Members to minimize the losses attendant upon a liquidation. The Members shall continue to share Profits and Losses during liquidation in the same proportions, as specified in Article 10 Incentive Compensation, Allocations and Distributions as before liquidation. The proceeds of liquidation shall be distributed in the following order and priority:

- .1 To creditors of the Company, including Members who are creditors, to the extent otherwise permitted by law, in satisfaction of the liabilities of the Company, whether by payment or the making of reasonable provision for payment thereof; and
- .2 To the Members in accordance with their respective Percentage Interests.

§ 16.3 TERMINATION

§ 16.3.1 The Company shall terminate when (1) all of the Company's assets, after payment of or due provision for all of the Company's debts, liabilities and obligations, have been distributed to the Members in the manner provided for in this Article 16; and (2) the articles of termination have been filed in the manner required by the Act.

§ 16.3.2 The Members shall look solely to the Company's assets for the return of their Capital Contributions, and if the assets of the Company remaining after payment of or due provision for all debts, liabilities and obligations of the Company are insufficient to return such Capital Contributions, the Members shall have no recourse against the Company or any other Member.

ARTICLE 17 MISCELLANEOUS PROVISIONS

§ 17.1 NOTICES

All notices provided for in this Agreement shall be in writing. Written notice shall be deemed to have been duly served if delivered in person to the individual, to a member of the firm or entity, or to an officer of the corporation for which it was intended; or if delivered at, or sent by registered or certified mail or by courier service providing proof of delivery to, the last business address known to the party giving notice.

§ 17.2 CONFIDENTIALITY

If any Member receives information specifically designated by another Member as “confidential” or “business proprietary,” or as otherwise required under Section 11.2 of this Agreement, the receiving Member shall keep such information strictly confidential and shall not disclose it to any other person except to

- .1 its employees,
- .2 those who need to know the content of such information in order to perform services or construction solely and exclusively for the Project, or
- .3 its consultants and contractors whose contracts include similar restrictions on the use of confidential information.

§ 17.3 FAILURE TO PURSUE REMEDIES

The failure of any Member to seek redress for violation of, or to insist upon the strict performance of, any provision of this Agreement shall not prevent a subsequent act, which would have originally constituted a violation, from having the effect of an original violation.

§ 17.4 CUMULATIVE REMEDIES

Except for those rights and remedies expressly waived or compromised in this Agreement or the Member Agreements, the rights and remedies provided by this Agreement are cumulative and the use of any one right or remedy by any party shall not preclude or waive its right to use any or all other remedies. These rights and remedies are given in addition to any other rights the Members may have by law, statute, ordinance or otherwise.

§ 17.5 BINDING EFFECT

This Agreement shall be binding upon and inure to the benefit of all of the Members and, to the extent permitted by this Agreement, their successors, legal representatives and assigns.

§ 17.6 GOVERNING LAW

Unless the Members mutually agree otherwise, this Agreement and the rights of the Members hereunder shall be interpreted in accordance with the laws of the jurisdiction where the Company’s principal place of business is located, and all rights and remedies shall be governed by such laws without regard to principles of conflict of laws.

ARTICLE 18 DISPUTE RESOLUTION

§ 18.1 GENERAL

All disputes between Members, or between one or more Members and the Company, whether arising out of or related to this Agreement or any Member Agreement and regardless of whether stated in contract, tort or otherwise, shall be subject to the provisions of this Article 18.

§ 18.2 UNANIMOUS RESOLUTION

The Members shall endeavor to resolve all disputes amicably. Any Member having a dispute with the Company or another Member shall timely give notice of the dispute and a meeting shall be held within fifteen (15) days of such notice between representatives of all affected Members in an attempt to reach a mutual resolution. If a unanimous resolution is reached, it shall be recorded and disseminated by the Construction Manager to all Members. Any resulting adjustment to Target Cost, Actual Cost, Project Definition or Project Schedule shall be executed as an amendment to this Agreement. In the event a unanimous resolution cannot be achieved, the matter shall be presented to the Governance Board for resolution. The Governance Board shall confer on the dispute for the purpose of a unanimous resolution and shall render a mutually agreed-upon decision within thirty (30) days of receipt of written notice of the claim or dispute.

§ 18.3 FAILURE TO REACH UNANIMOUS RESOLUTION

All disputes that are not resolved through the procedures set forth in Section 18.2 shall be referred to arbitration through a Dispute Resolution Committee for full and final resolution. The Dispute Resolution Committee shall consist of the chief executive of each Member and the Neutral identified in Article 2 Defined Terms. If there is no Neutral

identified in Article 2 and the Members cannot mutually agree upon a Neutral, the Neutral shall be selected in accordance with the American Arbitration Association's Construction Industry Mediation Procedures.

§ 18.4 DISPUTE RESOLUTION COMMITTEE

The Dispute Resolution Committee shall be chaired by the Neutral and shall meet and consider such information as the Members can mutually agree upon or that the Neutral deems appropriate. The Neutral shall endeavor to facilitate a mutual resolution of the dispute, which shall be executed as an amendment to this Agreement. If a mutual resolution is not achieved within sixty (60) days of the dispute being referred to the Dispute Resolution Committee, the Neutral, as sole arbitrator, shall decide the matter. The Neutral shall render a decision consistent with the risk allocation principles set forth in this Agreement, including any applicable limitations of liability. The Neutral shall request the Members to provide whatever documentation they believe is appropriate for resolution and shall render a decision within sixty (60) days of the request for documentation, or within such time as the Dispute Resolution Committee deems appropriate. The Neutral's decision shall be final and binding and any Member may seek entry of judgment on behalf of the Company in accordance with applicable law in any court having jurisdiction thereof.

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

MEMBERS

OWNER (Signature)

ARCHITECT (Signature)

(Printed name and title)

(Printed name and title)

CONSTRUCTION MANAGER (Signature)

OTHER (Signature)

(Printed name and title)

(Printed name and title)

CAUTION: You should sign an original AIA Contract Document, on which this text appears in RED. An original assures that changes will not be obscured.