

CONTRACTOR/CONSULTANT/ARCHITECT
SERVICES AGREEMENT
For
REPAIRS AND MAINTENANCE PROJECTS
(UNDER \$20,000)

THIS AGREEMENT ("**Agreement**"), is entered into and effective this the _____ day of _____ ("**Effective Date**") by and between ROMAN CATHOLIC CHURCH IN THE STATE OF HAWAII ("**Owner**") and _____ ("*enter state where registered and entity type*") _____ ("**Contractor/Consultant/Architect**").

WITNESSETH:

- A. SERVICES:** Contractor/Consultant/Architect, agree to perform for Parish/Facility (*enter name of parish/Facility*) _____ the services provided for herein which are set forth with greater particularity in **Exhibit "A"** annexed hereto and hereby made a part hereof (the "Services"). The Services shall be performed by Contractor/Consultant/Architect in good and a workmanlike manner. The Contractor/Consultant/Architect shall be fully licensed, certified and bonded as customary or required by Owner or applicable law, from time to time, subject to and in accordance with the STANDARD TERMS AND CONDITIONS hereof which are hereby specifically incorporated herein.
- B. SCOPE OF WORK; See Exhibit "A"**
- C. PAYMENT TERMS: See Exhibit "A".**
- D. CONTRACT TIME: See Exhibit "A".**
- E. REQUIRED INSURANCE:** At Contractor/Consultant/Architect expense, shall maintain insurance coverage of the following types continuously throughout the term of this contract or during any period work is performed relating to this contract:

Contractor/Consultant/Architect shall carry Workers Compensation per applicable laws and Employers Liability insurance with a limit not less than \$500,000 each accident for bodily injury, \$500,000 each employee for bodily injury by disease, and \$500,000 policy limit for disease.

Contractor/Consultant/Architect shall carry Commercial General Liability (CGL) insurance on an occurrence form with a limit of not less than \$1,000,000 each occurrence covering liability arising from independent Contractor/Consultant/Architect, products-completed operations, personal injury and advertising injury, and liability assumed under an insured contract. Indemnitees shall be included as additional insureds under the CGL on form CG 20-10 or equivalent. This insurance shall apply as primary with respect to any other insurance or self-insurance available to Parish/Facility.

If Contractor/Consultant/Architect's scope of work under this contract requires or involves the ownership, maintenance or use of an auto, Contractor/Consultant/Architect shall carry Commercial Auto Insurance with a limit of insurance no less than \$1,000,000 each accident covering "any auto" whether owned, scheduled, leased, hired or other.

Contractor/Consultant/Architect may, at its option, purchase insurance to cover its personal property. In no event shall Parish/Facility be liable for any damage to or loss of personal property sustained by Contractor/Consultant/Architect whether or not it is insured, even if such loss is caused by the negligence of Parish/Facility, its employees, officers, directors, or agents.

Contractor/Consultant/Architect waives on behalf of its self and its insurers all rights against Parish/Facility and its agents, officers, directors, and employees for recovery of damages to the extent these damages are covered by its insurance regardless of deductibles, if any. Insurance companies affording the coverage required above shall have an AM Best Rating of no less than A-VII. Failure to maintain the required insurance may result in termination of this Agreement at Parish/Facility's option. By requiring insurance herein, Parish/Facility does not represent that coverage and limits will be adequate to protect Contractor/Consultant/Architect. The requirements contained herein shall not be construed in any manner to relieve or limit Contractor/Consultant/Architect's indemnification obligations for any loss or claim arising out of this Agreement.

Prior to the execution date of this Agreement or commencement of any activity contemplated under this Agreement, whichever is earlier, Contractor/Consultant/Architect shall furnish Owner (the Roman Catholic Church in the State of Hawaii and [*cite name of parish and school*], its officers, officials, employees and volunteers are hereby named as an additional insured), with evidence of compliance with the above requirements. Thirty (30) days written notice to Owner prior to cancellation or material change is required. Contractor/Consultant/Architect shall further provide certified copies of all insurance policies required above within ten (10) days of Owner's written request for said copies.¹

Evidence shall be delivered to the location(s) where work under this contract shall take place.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the day and year first above written.

Contractor/Consultant/Architect
(Insert Company Name)

Parish/Facility
(Insert Name of Parish/Facility)

(Contractor/Consultant/Architect)

(Parish/Facility)

(sign here)

(sign here)

By: _____
(name)

By: _____
(name)

Title: _____

Title: _____

EXHIBIT A

I. SCOPE OF WORK. The Work to be provided by Contractor/Consultant/Architect is as follows:

II. PAYMENT TERMS. The Contract Price of _____ (\$ _____) shall be due and payable as follows, unless otherwise agreed between Contractor/Consultant/Architect and Parish/Facility: (i) if the Contract Time is less than thirty (30) days, the Contract Price shall be due and payable within thirty (30) days after approval by Parish/Facility of Contractor/Consultant/Architect's request for payment following Final Completion of the Work.; or (ii) if the Contract Time is more than thirty (30) days, Contractor/Consultant/Architect shall submit payment requests to Parish/Facility on or before the twentieth (20th) day of each month in accordance with an approved schedule of values, such request to be supported by such documentation as Parish/Facility shall require to verify entitlement. Once reviewed and approved by Parish/Facility, Contractor/Consultant/Architect's requests for payment shall be payable within thirty (30) calendar days after receipt by Parish/Facility.

Notwithstanding the foregoing, Parish/Facility shall be permitted to retain ten percent (10%) of any payment(s) due hereunder in order for Parish/Facility to confirm Contractor/Consultant/Architect's full and complete performance under this Agreement in strict accordance with all of its terms and conditions. This retention shall be released to Contractor/Consultant/Architect by not later than sixty (60) days following Final Completion of the Work, provided that Parish/Facility so confirms Contractor/Consultant/Architect's has performed all the Scope of Work requirements.

III. CONTRACT TIME. Contractor/Consultant/Architect shall commence its Work on or before _____ and shall complete its Work on or before _____. If applicable, Contractor/Consultant/Architect shall perform its Work in accordance with the following schedule: **Attach Work Schedule**

STANDARD TERMS AND CONDITIONS

1. PROFESSIONAL EXPERTISE; WARRANTY: Contractor/Consultant/Architect is being engaged by Parish/Facility in reliance upon Contractor/Consultant/Architect's certifications and representations of professional expertise in the field of such Services and ability to provide the required Services independently without substantial direction by Parish/Facility. The manner and means Contractor/Consultant/Architect employs to provide professional services under this Agreement are matters entirely within its discretion. Contractor/Consultant/Architect warrants that the Services performed by it shall be performed in a first-class workman-like manner and the materials provided by it hereunder shall be free from defects in workmanship and/or materials and agrees that any damage arising from any breach of this representation and warranty shall be promptly remedied by Contractor/Consultant/Architect at its sole expense. Contractor/Consultant/Architect shall provide all required work product to Parish/Facility promptly for Parish/Facility's review, provided no such work product shall be deemed accepted and no rights of Parish/Facility shall be deemed waived at any time except as may be expressly stated in an acceptance or waiver signed by a duly authorized representative of Parish/Facility.

2. INDEPENDENT CONTRACTOR/CONSULTANT/ARCHITECT: During the term hereof and thereafter, Contractor/Consultant/Architect and family members of Contractor/Consultant/Architect and any and all of its sub-contractor agents, servants, licensees, invitees or employees, and any other person claiming by, under or through Contractor/Consultant/Architect to any extent ("Contractor/Consultant/Architect Parties") shall not be entitled to receive and shall not be eligible for any benefits of employment generally available to Parish/Facility's employees or their family members, including without limitation, group health, life and disability insurance benefits, annual vacation and sick pay benefits, pensions plans, thrift savings plans, or the like, as such benefits may be modified from time to time. Contractor/Consultant/Architect's employees shall be and remain the employees and agents of Contractor/Consultant/Architect for all purposes of this Agreement and Contractor/Consultant/Architect's employees shall not be deemed or construed to be employees, agents or servants of Parish/Facility for any purpose whatsoever. Contractor/Consultant/Architect's employees shall not be deemed or construed to be "loaned employees" working for or at the direction of Parish/Facility nor "fellow servants" of Parish/Facility's or their employees. All payments received hereunder by Contractor/Consultant/Architect shall be reported by Contractor/Consultant/Architect on its federal and state tax returns as consideration for Contractor/Consultant/Architect's Services hereunder as an independent Contractor/Consultant/Architect. Contractor/Consultant/Architect acknowledges and agrees that Contractor/Consultant/Architect is solely responsible and liable for the filing of all tax returns and the payment of all taxes, contributions, and other payments relating to Contractor/Consultant/Architect's business and Services. Parish/Facility will not deduct, withhold or pay (unless legally required to do so), and Contractor/Consultant/Architect shall be solely responsible for, U.S. FICA, FUTA, Medicare or federal, state or local income, employment, or wage taxes, workers' compensation insurance premiums, state disability insurance, unemployment benefit insurance, or any other payments that are ordinarily submitted or withheld by an employer on behalf of an employee (including without limitation any penalties or fines which may be assessed at any time). Parish/Facility shall report payments to Contractor/Consultant/Architect hereunder to the IRS as payments to an independent Contractor/Consultant/Architect and Contractor/Consultant/Architect shall be solely responsible for all reporting and record keeping requirements applicable to independent Contractor/Consultant/Architect. If Contractor/Consultant/Architect desires any such insurance or benefits for itself or

Contractor/Consultant/Architect Parties, Contractor/Consultant/Architect must obtain such insurance or benefits itself at its own cost and expense.

Contractor/Consultant/Architect acknowledges and agrees that Contractor/Consultant/Architect is solely responsible and liable for performance of all duties, obligations and responsibilities as an employer of individuals hired or retained by Contractor/Consultant/Architect to provide services to Owner, including, but not limited to, recruitment, interviewing, hiring, maintenance of personnel records, compliance with Form I-9 Employment Eligibility Verifications, drug testing, payment of wages, setting wage rates and supervision. At any time upon Parish/Facility's request, Parish/Facility may require Contractor/Consultant/Architect to provide proof of background checks for individuals hired or retained by Contractor/Consultant/Architect to provide services to Parish/Facility.

3. FEES & EXPENSES: Contractor/Consultant/Architect acknowledges that Contractor/Consultant/Architect is not eligible for and has not received any express or implied assurance with respect to receipt of any bonus, contingent, incentive, deferred or other compensation, or increase in fees. Other than as specifically provided on Exhibit A, Contractor/Consultant/Architect shall be solely responsible for out-of-pocket expenses incurred in connection with its Services hereunder, including travel expenses, food, and lodging. Other than as specifically provided on Exhibit A, Contractor/Consultant/Architect will be solely responsible and liable for all other costs of conducting and operating its business and providing its Services hereunder, including expenses directly related to services provided to Parish/Facility.

4. EQUIPMENT, MATERIALS AND SUPPLIES: Contractor/Consultant/Architect shall provide at its expense, without remuneration or reimbursement of any kind, all equipment, materials and supplies required in performing the Services hereunder, except for equipment, materials and supplies, if any, to be provided or paid for by Parish/Facility as specifically set forth in Exhibit A. Any equipment, materials, supplies or other personal property of Contractor/Consultant/Architect used, held or stored on the premises of Parish/Facility shall be at the sole risk of Contractor/Consultant/Architect and Parish/Facility shall not be liable for any loss thereof or damage thereto for any reason whatsoever. Upon termination of this Agreement for any reason, Contractor/Consultant/Architect shall immediately remove all of its property from the premises of Parish/Facility and any property not so removed may be removed by Parish/Facility at Contractor/Consultant/Architect's expense. In the event of loss, damage or destruction of equipment, materials or supplies in Contractor/Consultant/Architect's possession that were provided or paid for by Parish/Facility (except for the normal consumption of consumable items by Contractor/Consultant/Architect in performing the Services), Contractor/Consultant/Architect shall reimburse Parish/Facility for the replacement thereof together with all incidental costs and expenses.

5. SCHEDULE OF SERVICES: Contractor/Consultant/Architect shall perform the Services during the times and at the frequencies set forth in Exhibit A or, as specified, during the times and at the frequencies as may from time to time be designated by Parish/Facility.

6. REPRESENTATIONS AND WARRANTIES OF CONTRACTOR/CONSULTANT/ARCHITECT: Contractor/Consultant/Architect represents and warrants that there are no agreements or arrangements, whether written or oral, that would be breached by Contractor/Consultant/Architect upon execution of this Agreement or that would impair or prevent Contractor/Consultant/Architect from rendering the Services to Parish/Facility during the term hereof, and Contractor/Consultant/Architect further represents, warrants, covenants and agrees that it has and will maintain throughout the term hereof all qualifications required

to perform its Services hereunder, and that it has not made and will not make any commitment or do any act in conflict with this Agreement. Contractor/Consultant/Architect shall promptly provide Parish/Facility with all information reasonably requested by Parish/Facility or its Audit Committee with respect to Contractor/Consultant/Architect and its affiliates including their respective officers, directors or shareholders. The information requested may include but not necessarily be limited to financial condition, personal and family background, litigation, indictment, criminal proceedings and the like in which any of the aforementioned may have been involved (collectively, the "Requested Information"), in order for Parish/Facility to determine that the Requested Information does not disclose any fact which might adversely affect, in any manner, any licenses or permits held by Parish/Facility or its affiliates. Contractor/Consultant/Architect hereby represents that any and all materials provided by Contractor/Consultant/Architect to Parish/Facility pursuant to this Agreement shall be original materials created by Contractor/Consultant/Architect, materials which were provided by Parish/Facility to Contractor/Consultant/Architect, or works which are in the public domain, and shall not infringe the copyright rights or proprietary rights of any third party. Contractor/Consultant/Architect agrees and acknowledges that all works created by Contractor/Consultant/Architect for Parish/Facility pursuant to this agreement are and shall be deemed to be works made for hire and the copyright therein shall be owned exclusively by Parish/Facility. To the extent that any materials created by Contractor/Consultant/Architect for Parish/Facility pursuant to this Agreement are deemed not to constitute works for hire as a matter of law, Contractor/Consultant/Architect agrees to assign and hereby assigns all copyright rights therein exclusively to Parish/Facility.

Restricted Persons and Anti-bribery Representations and Warranties;

Contractor/Consultant/Architect represents and warrants to Parish/Facility that to Contractor/Consultant/Architect's actual or constructive knowledge neither Contractor/Consultant/Architect, including Contractor/Consultant/Architect's directors and officers, senior management, shareholders or other persons having a controlling interest in Contractor/Consultant/Architect, and any funding sources, are not owned or controlled by, or acting on behalf of any of the following "Restricted Persons": (1) the government of any country that is subject to an embargo imposed by the United States government; (2) entities located in or organized under the laws of any country that is subject to an embargo imposed by the United States government; (3) individuals ordinarily resident in any country that is subject to an embargo imposed by the United States government; or (4) persons identified from time to time by any government or legal authority under applicable laws as a person with whom dealings and transactions by Contractor/Consultant/Architect, Parish/Facility and/or its Entities are prohibited or restricted, including persons designated on the U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) List of Specially Designated Nationals and Other Blocked Persons (including terrorists and narcotics traffickers); and similar restricted party listings, including those maintained by other governments pursuant to applicable United Nations, regional or national trade or financial sanctions. Contractor/Consultant/Architect agrees that Contractor/Consultant/Architect will notify Parish/Facility in writing immediately upon the occurrence of any event which would render the foregoing representations and warranties of this Subparagraph.

Contractor/Consultant/Architect further represents and warrants to Parish/Facility that Contractor/Consultant/Architect will not directly or indirectly pay, offer, give or promise to pay or authorize the payment of any monies or other things of value to:

- (a) any official or employee of a government department, agency or instrumentality, state-owned or controlled enterprise or public international organization;

- (b) any political party or candidate for political office; or
- (c) any other person at the suggestion, request or direction or for the benefit of any of the above-described persons and entities if any such payment, offer, act or authorization is for purposes of influencing official actions or decisions or securing any improper advantage in order to obtain or retain business, or engaging in acts or transactions otherwise in violation of any applicable anti-bribery legislation

7. EMPLOYEES: Parish/Facility may, from time to time, establish reasonable rules and regulations relating to standards to be met by Contractor/Consultant/Architect as to the appearance or conduct of employees or agents of Contractor/Consultant/Architect employed in connection with providing the Services to Parish/Facility. In any event, all agents, employees, or other persons employed in any manner by Contractor/Consultant/Architect in connection with providing the Services to Parish/Facility shall appear and conduct themselves at all times while on the premises of Parish/Facility, or otherwise engaged in the performance of their duties hereunder, if not on the premises of Parish/Facility, in a manner which is as unobtrusive as possible and consistent with the character and reputation of Parish/Facility and in such a way as not to annoy or interfere with any guests, parishioners or business of Parish/Facility or bring any discredit upon the names of any of the Indemnitees, as defined below. Contractor/Consultant/Architect shall be responsible at all times for the conduct of all such persons. Contractor/Consultant/Architect, promptly after demand by Parish/Facility, will cause to be removed from the premises of Parish/Facility any of such persons to whom Parish/Facility shall or may reasonably object and will undertake that any such person so removed shall not thereafter be employed by Contractor/Consultant/Architect in connection with provision of Services to Parish/Facility hereunder.

8. NON-AGENCY, ADVERTISING, NO USE OF NAMES:

Contractor/Consultant/Architect shall not at any time represent that it is employed by Parish/Facility, or that it is authorized to make any contracts, agreements or obligations on behalf of Parish/Facility or any of its affiliates, any Parish/Facility or owners thereof, and Contractor/Consultant/Architect shall not take any actions on behalf of Parish/Facility or in Parish/Facility's name. Contractor/Consultant/Architect shall not display or distribute any advertising signs or notices of any kind whatsoever upon the premises of Parish/Facility, except caution and work in progress signs, without the prior written permission of Parish/Facility in each instance, any such permission to be revocable at any time thereafter without prior notice at the sole discretion of Parish/Facility. Contractor/Consultant/Architect hereby covenants and agrees not to use the name of Parish/Facility, or any variation thereof, without the prior written approval of Parish/Facility and, in the event of such approval, only in the manner and at such times as shall be prescribed in such approval.

9. CONFIDENTIALITY: Contractor/Consultant/Architect acknowledges that it may learn, collect, obtain, maintain, transmit or develop data, information or materials (including without limitation this Agreement) from Parish/Facility, its parishioners, suppliers, and/or others, without warranty or representation of any kind, which is or which Parish/Facility considers or which Contractor/Consultant/Architect should consider proprietary, sensitive and confidential to or of independent value to Parish/Facility, actual or potential, as well as data and information which may be non-public financial information, personally identifiable information or otherwise, regardless whether protectible under any law or regulation, and regardless of protection, markings or dissemination ("Confidential Information"). Contractor/Consultant/Architect covenants and agrees that all Confidential Information will be considered, deemed and protected as proprietary and confidential to Parish/Facility.

Contractor/Consultant/Architect will not use for its own benefit (other than in the performance of Services) or the benefit of any other party, disclose, make available or permit inevitable disclosure of Confidential Information (including without limitation storage or transmission in any electronic medium now known or hereafter developed), it will not allow or permit any Confidential Information to be corrupted or infected or misappropriated or used except and solely to Parish/Facility's right, title, interest and benefit, and Contractor/Consultant/Architect shall execute such further instruments as Parish/Facility may require to carry out these covenants and agreements. Both parties agree that the restrictions herein are mutually agreed to be and shall be deemed to constitute reasonable efforts to maintain confidentiality and ensure compliance with applicable laws and regulations.

10. COMPLIANCE WITH LAWS, LICENSES AND REGULATIONS:

Contractor/Consultant/Architect shall comply with all applicable laws, codes, regulations, ordinances and rules with respect to the work to be performed and the equipment or materials to be furnished hereunder promulgated by Parish/Facility and any and all federal, state, municipal or other legislative bodies, courts or agencies having jurisdiction over the Parish/Facility. Contractor/Consultant/Architect shall, at its expense, procure and maintain all permits or licenses which may be required at any time in connection with the performance of the Services, or the procurement, storage or use of related equipment, materials or supplies, and shall furnish to Parish/Facility copies of each such permit or license, and shall obtain and pay for all inspections and give all notices required in connection herewith.

11. LIENS: Contractor/Consultant/Architect covenants and agrees to keep the equipment and property of Parish/Facility and the premises of Parish/Facility free and clear from any and all liens for work performed or materials furnished hereunder, and Contractor/Consultant/Architect agrees to indemnify Parish/Facility against any and all costs, expenses, losses and all damage resulting from the filing of any such liens against Parish/Facility or the premises of Parish/Facility. As a condition to payment hereunder, Contractor/Consultant/Architect shall from time to time, upon request by Parish/Facility, furnish waivers or releases of such liens or receipts in full for all claims for such work or materials and an affidavit that all such claims have been fully satisfied.

12. NO SOLICITATION OF EMPLOYEES AND CONTRACTOR/CONSULTANT/ARCHITECTS:

Contractor/Consultant/Architect further agrees that during the term hereof and for a period of thirty-six (36) months thereafter, it will not, directly or indirectly, for itself, or as agent, or on behalf of or in conjunction with any other person, firm, partnership, corporation or other entity, induce or entice any employee or Contractor/Consultant/Architect of Parish/Facility or its affiliates to leave such employment or contract or cause anyone else to do so.

13. ASSIGNMENT, SUBCONTRACTING, PERSONAL SERVICES, DILIGENCE: The Services to be provided by Contractor/Consultant/Architect hereunder are personal in nature and Contractor/Consultant/Architect will make available on a priority basis all personnel required to perform the Services. Regardless of cause (including without limitation events of *force majeure*), failure to provide all necessary time, attention and expertise shall be a breach and default by Contractor/Consultant/Architect hereunder and shall entitle Parish/Facility to exercise any and all remedies to which it may be entitled at law or in equity, including without limitation, immediate termination of this Agreement. Contractor/Consultant/Architect may not assign or encumber this Agreement or any rights of Contractor/Consultant/Architect hereunder nor delegate or subcontract any performance or other obligations hereunder without the prior written consent of Parish/Facility and compliance with all other terms and

conditions herein. Contractor/Consultant/Architect will faithfully perform its obligations to the best of its ability in accordance with the requirements of this Agreement. Contractor/Consultant/Architect will devote to the performance of such obligations all necessary time and attention, and, although Contractor/Consultant/Architect may perform similar services for others, it will not otherwise become associated with, or engaged in, or render services to, any other business as an employee, Contractor/Consultant/Architect or agent during hours when it is providing Services hereunder or at any time to the detriment of Parish/Facility or the Services required hereunder. Parish/Facility may assign this Agreement or any rights, obligations or benefits hereunder to any party, including without limitation its owners, successors or affiliates, whether now in being or formed at some future time. This Agreement is by and between Parish/Facility and Contractor/Consultant/Architect and there are no third party beneficiaries to this Agreement. Subject to the foregoing, this Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

14. INDEMNIFICATION: Contractor/Consultant/Architect shall indemnify, defend with counsel approved by Owner, and hold harmless the Owner and the Parish/Facility and their respective officers, directors, agents and employees (collectively, the "Indemnitees") from and against any and all claims, injuries, liabilities, damages, losses, costs and expenses of any nature or kind including reasonable attorneys' fees (collectively, "Claims"), arising out of or resulting from performance of the Work or this Agreement, but only if such Claims are attributable to bodily injury, sickness, disease or death or to damage, injury or destruction of tangible property (other than the Work itself) and only to the extent caused by the negligent or intentional acts or omissions of the Contractor/Consultant/ Architect, a subcontractor, anyone directly or indirectly employed by the Contractor/Consultant/Architect or a subcontractor of or vendor to the Contractor/Consultant/Architect or by anyone for whose acts the Contractor/Consultant/Architect or such a subcontractor or vendor may be liable, regardless of whether or not such Claims are caused in part by one or more persons indemnified hereunder. Contractor's obligations under this paragraph shall survive termination of this Agreement. Such obligations shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person under this Agreement and shall not include indemnity for the established negligence or willful misconduct of the Indemnitees.

15. TERMINATION: This Agreement shall terminate, unless Parish/Facility otherwise elects by notice to Contractor/Consultant/Architect, upon the occurrence of any of the following events:

- (a) If Contractor/Consultant/Architect shall violate or breach any of the terms, conditions or covenants hereof and shall not remedy such violation or breach within ten (10) days after written notice by Parish/Facility to Contractor/Consultant/Architect of such violation or breach or Parish/Facility discovers through notice from Contractor/Consultant/Architect or through our own investigation that the representations are or have become false;
- (b) If Contractor/Consultant/Architect shall at any time conduct the business or Services provided for hereunder in a manner not conforming to any reasonable rules, standards or practices established by Parish/Facility hereunder and shall fail to remedy any such noncompliance within ten (10) days after written notice by Parish/Facility to Contractor/Consultant/Architect of such noncompliance;
- (c) If Contractor/Consultant/Architect shall make an assignment for the benefit of creditors or file a voluntary petition in bankruptcy or be adjudicated a bankrupt or insolvent or shall admit in writing its inability to meet its obligations as they mature, or

if a permanent receiver of all or any portion of Contractor/Consultant/Architect's property shall be appointed in any judicial proceeding, or there shall be entered against it an order adjudicating it a bankrupt or insolvent or an order appointing a liquidator, receiver or trustee for it or for all or substantially all of its assets or approving as properly filed against it a petition seeking reorganization, arrangement or other proceeding under any bankruptcy or other law for the relief of debtors, which order shall continue unstayed and in effect for, or which proceeding shall not be terminated and Contractor/Consultant/Architect released from such proceeding within, thirty (30) days, or if Contractor/Consultant/Architect shall attempt to assign or encumber this Agreement or permit any other person, firm or corporation to conduct the business or Services provided hereunder;

(d) If any statute, ordinance, rule or regulation hereafter promulgated by any legislative body or agency having jurisdiction over the Contractor/Consultant/Architect shall prohibit the furnishing of the Services or the transaction of business of the nature to be provided or transacted hereunder, or

(e) Upon the expiration of thirty (30) days following written notice of intention to terminate this Agreement given by either party to the other.

(f) In the event that Contractor/Consultant/Architect shall fail to provide the Parish/Facility Information within thirty (30) days of the date of its request, or if information with respect to Contractor/Consultant/Architect or its affiliates, whether provided by Contractor/Consultant/Architect or obtained through Parish/Facility's own investigation, discloses facts concerning Contractor/Consultant/Architect or its affiliates including their respective officers, directors or shareholders which, in the reasonable opinion of Parish/Facility, might adversely affect any licenses and permits held by Parish/Facility then Parish/Facility shall have the right to terminate the Agreement upon written notice to Contractor/Consultant/Architect.

Notwithstanding any such termination of this Agreement, the rights acquired or obligations incurred by the parties thereto prior to such termination shall not be affected and Contractor/Consultant/Architect shall remain liable for any and all damages, consequential and otherwise, sustained by Parish/Facility by reason of such termination or by reason of Contractor/Consultant/Architect's default or breach and Parish/Facility shall have and retain unimpaired all pertinent rights and remedies, whether at law or in equity. Parish/Facility shall be entitled to recover its reasonable attorney's fees, expert witness fees, costs and disbursements in any action brought to enforce or interpret this Agreement. The right of Parish/Facility to require strict performance and observation of any obligations hereunder shall not be affected in any way by any previous waiver, forbearance or course of dealing.

16. REMEDIES: Contractor/Consultant/Architect acknowledges and agrees that Parish/Facility's remedy at law for breach of Contractor/Consultant/Architect's obligations hereunder would be inadequate, and agrees and consents that temporary and permanent injunctive relief and/or specific performance may be granted in any proceeding which may be brought to enforce this Agreement without the necessity of proof of actual damage, in addition to all other remedies provided hereunder or available at law.

17. AUDITS. Until the later of three (3) years after expiration or termination of this Agreement or the date such retention is no longer required to meet Parish/Facility's records retention policy or such period of time necessary to comply with applicable law and regulation, Contractor/Consultant/Architect will maintain and provide access to the records, data, documents and other information required to fully and completely enable and permit Parish/Facility to take advantage of its audit rights as described hereinafter. Contractor/Consultant/Architect will maintain a complete audit trail of all transactions and activities,

financial and non-financial, in connection with the Services performed under this Agreement. Contractor/Consultant/Architect will provide to Parish/Facility, its internal or external auditors, inspectors, regulators and other designated representatives, at reasonable times (and in the case of regulators, at any time required by such regulators) access to Contractor/Consultant/Architect personnel and to any and all Contractor/Consultant/Architect resources for the purpose of performing audits and inspections of Contractor/Consultant/Architect and/or any or all of the records, data and information applicable to the Services. At a minimum, such audits, inspections and access shall be conducted to (i) verify the accuracy of charges and invoices; (ii) verify the security and integrity of information and data (including, without limitation, Confidential Information) and examine the systems that process, store, maintain, support and transmit data and information in connection with the Services; (iii) examine and verify Contractor/Consultant/Architect's security procedures and controls; (iv) verify Contractor/Consultant/Architect's disaster recovery, continuity planning and contingency arrangements; and (v) audit the performance of Services. Contractor/Consultant/Architect shall cooperate in connection with such audits and with regard to examinations by regulatory authorities, including the installation and operation of audit software.

18. MISCELLANEOUS: Neither party hereto shall be deemed to be the drafter of this Agreement and, if this Agreement is construed in any court or arbitration proceeding, said court or arbitrator shall not construe this Agreement or any provision hereof against either party as the drafter hereof. Contractor/Consultant/Architect is solely and directly responsible for prompt payment of any and all international, national, federal, state and local excise, sales, use, value-added, duty, tariff and all other taxes or charges imposed on any party related in any way to this Agreement or the Services, now known or unknown and now imposed or hereafter imposed and hereby indemnifies and holds harmless the Indemnitees from any such impositions. If any phrase, clause or provisions of this Agreement is declared invalid or unenforceable by a court or arbitrator of competent jurisdiction, such phrase, clause or provision shall be deemed severed from this Agreement, but will not affect any other provision of this Agreement, which shall otherwise remain in full force and effect. If any restriction or limitation in this Agreement is deemed to be unreasonable, onerous or unduly restrictive by a court or arbitrator of competent jurisdiction, it shall not be stricken in its entirety and held totally void and unenforceable, but shall remain effective to the maximum extent permissible within reasonable bounds. Paragraphs D, 1, 4, 9, 11, 12, 14, 15, 16 of this Services Agreement and any other provisions hereof which expressly provide that they survive expiration or termination or which must survive expiration or termination in order to be fully operative shall survive the expiration or termination of this Agreement.

19. NATURE OF AGREEMENT: No license or other interest in any space in the Parish/Facility is granted hereby. Contractor/Consultant/Architect has non-exclusive permission to use the space solely as required to perform its obligations hereunder, revocable at any time without notice. In no event shall this agreement be deemed or construed to run with the land or create or vest any easements or other rights in Roman Catholic Church in the State of Hawaii property. Contractor/Consultant/Architect agrees that no permanent or possessory interest shall accrue to Contractor/Consultant/Architect or its licensees in Roman Catholic Church in the State of Hawaii property at any time or by exercise of the permission given hereunder, and that Contractor/Consultant/Architect shall not claim any such interest in Roman Catholic Church in the State of Hawaii property. THIS AGREEMENT DOES NOT CREATE ANY RECORDABLE INTEREST AND SHALL NOT BE RECORDED IN ANY OFFICIAL RECORDS.

20. NOTICES: All notices to be given hereunder shall be in writing and shall be deemed to be given when mailed by certified or registered mail, to the addresses of Parish/Facility and

Contractor/Consultant/Architect specified in this Agreement unless either party hereto shall specify to the other party a different address for the giving of such notice.

21. ENTIRETY OF AGREEMENT AND MODIFICATION: This Agreement contains the full and complete understanding of the parties hereto as to the subjects contained herein and supersedes any and all prior written or oral agreements or understandings between the parties hereto. In the event of any conflict between the terms of this Agreement and the terms of any attachments, proposals, specifications, invoices, purchase orders, or any other documents or correspondence, the terms of this Agreement shall prevail. This Agreement may not be modified except by a subsequent writing executed by duly-authorized officers of both parties hereto which expressly states that it is a modification of this Agreement.

22. MEDIATION: In the event of any claim, dispute or other matter arising out of or relating to this Agreement, the parties shall attempt to resolve any dispute amicably at a meeting to be attended by persons with decision-making authority. If, within thirty (30) days after such meeting, the parties have not resolved the dispute, they shall submit the dispute to mediation by written demand in accordance with the Construction Industry Mediation Procedures of the Dispute Prevention and Resolution Inc. 1003 Bishop St. Pauahi Tower Suite 1155, Honolulu, HI 96813 and bear equally the costs of the mediation.

23 ARBITRATION: If the mediation does not result in settlement of the dispute, then the same shall be settled by arbitration administered Dispute Prevention and Resolution Inc. 1003 Bishop St. Pauahi Tower Suite 1155, Honolulu, HI 96813 and not by litigation. Either party may submit such unresolved dispute to arbitration, which shall be conducted by a sole arbitrator. The arbitrator shall be selected in accordance with Dispute Prevention and Resolution Inc. 1003 Bishop St. Pauahi Tower Suite 1155, Honolulu, HI 96813, however, that the arbitrator must have experience in construction disputes and must not have any conflict of interest. The compensation of the arbitrator and all related expenses shall be borne equally by the parties, unless otherwise awarded by the arbitrator. Unless otherwise agreed, the arbitration shall be conducted in the State of Hawaii. The prevailing party shall be entitled to recover its reasonable attorneys' fees, costs and disbursements in any action brought to enforce its rights under this Agreement.

24. GOVERNING LAW: This agreement will be governed by and interpreted pursuant to the internal laws of the State of Hawaii.