10. **ARCHITECT’S RESPONSIBILITIES IN REGARD TO ASBESTOS AND OTHER HAZARDOUS SUBSTANCES.** It is envisioned that this Project will not involve the removal of and destruction of asbestos, asbestos-related materials, hazardous substances or other hazardous materials (collectively the “Hazardous Substances”). It is understood and agreed that the Owner will contract separately for the identification and removal of any Hazardous Substances, either prior to the commencement of this Project or at such time as such Hazardous Substances are detected. It is understood and agreed that the Architect shall not and does not prescribe any safety measure or abatement procedure and is not responsible for any act or omission relating to the acts of the Owner and/or professional consultant and/or the contractor and/or subcontractor which the Owner selects relating to the abatement of such Hazardous Substances. However, Architect is responsible to inform Owner and Owner’s Representative within 24 hours in writing if hazardous substances are encountered on any Project site.

11. **INSURANCE PROVISIONS.** During the term of this Contract, Architect shall maintain in full force and at its own expense each insurance coverage or policy noted below, from insurance companies or entities with an A.M. Best rating of A- or better that are authorized to transact the business of insurance and issue coverage in the State of Oregon:

   **A. Workers’ Compensation:** All employers, including Architect, that employ subject workers who work under this Contract in the State of Oregon shall comply with ORS 656.017 and provide the required Oregon workers’ compensation coverage, unless such employers are exempt under ORS 656.126. Architect shall ensure that each of its Consultants and subcontractors complies with these requirements.

   **Part b.** Architect shall secure Employers Liability Coverage with a limit of not less than $1,000,000.

   **B. Commercial General Liability:** Architect shall secure Commercial General Liability insurance with a combined single limit of not less than $2,000,000 each occurrence/$4,000,000 annual aggregate for bodily injury and property damage. It shall include personal injury coverage and contractual liability coverage for the indemnity provided under this Contract.

   **C. Automobile Liability:** Architect shall secure Automobile Liability insurance with a limit of not less than $2,000,000 each occurrence/$4,000,000 annual aggregate for bodily injury and property damage, including coverage for all owned, hired, or non-owned vehicles, as applicable. This coverage may be written in combination with the Commercial General Liability Insurance.

   **D. Professional Liability / Errors & Omissions:** Architect shall provide the Owner with proof of coverage for Professional Liability/Errors & Omissions insurance covering any damages caused by any negligent error, omission, or any act for the Project, its plans, drawings, specifications and/or project manual, and all related work product of the Architect. The policy may be either a practice based policy or a policy pertaining to the specific Project. Professional Liability insurance to be provided shall have a combined single limit of not less than $13,000,000 per claim, incident or occurrence/$25,000,000 annual aggregate.

   **E. “Tail” Coverage:** If any of the required liability insurance is arranged on a “claims made” basis, “tail” coverage will be required at the completion of the Contract for a duration of at least 24 months or the maximum time period available in the marketplace if less than 24 months. Architect will be responsible for furnishing certification of “tail” coverage as described or continuous “claims made” liability coverage for 24 months following completion. Continuous “claims made” coverage will be acceptable in lieu of “tail” coverage, provided its retroactive date is on or before the effective date of this Contract. This will be a condition of the Final Acceptance of Work or Services and Related Warranty, if any.

   **F. Certificate of Insurance:** Prior to the signature by the Owner to this Contract, Architect shall furnish to the appropriate DPL official Certificates of Insurance as evidence of the insurance
coverages required under this Contract. The certificate(s) shall provide that the insurance policies have been endorsed/amended so that the insurance company or companies shall give a 30 calendar day notice (without reservation) to the Owner’s representative set forth in Section 29, “Notice; Parties’ Representatives,” below if the applicable policy is canceled or materially changed, or if the aggregate limits have been reduced. The certificate(s) should state specifically that the insurance is provided for this Contract. Insuring companies are subject to acceptance by the Owner.

G. **Additional Insureds:** The Certificates of Insurance, except for Workers’ Compensation and Professional Liability/Errors & Omissions, shall provide that the policies have been endorsed/amended so that Owner its Board, officers, representatives, employees, volunteers, and agents are Additional Insureds with respect to the coverages required in this Section 11, and waiver of subrogation against them shall be obtained for all coverages.

H. **Primary Coverage.** All coverages obtained by Architect under this Section 11 shall be primary over any insurance Owner may carry on its own, including any excess coverage placed by the Architect as required in this contract.

12. **INDEMNITY.**

A. **Claims for Other Than Professional Liability.** Architect shall indemnify, hold harmless and defend the Owner and its officers, agents, employees, volunteers, and members from and against all claims, suits, actions, losses, damages, liabilities, costs and expenses of whatsoever nature resulting from, arising out of, or relating to the activities of the Architect or the Architect’s Consultants, partners, joint venturers, subcontractors, officers, agents or employees acting under or pursuant to this Contract or any supplement or amendment hereto.

B. **Claims for Professional Liability.** Architect shall save, defend, indemnify, and hold harmless Owner and its officers, agents, employees, volunteers, and members from and against all claims, suits or actions, losses, damages, liabilities, costs, and expenses of whatsoever nature resulting from, arising out of, or relating to the professional negligent acts, errors, or omissions of Architect or its Consultants, partners, joint venturers, subcontractors, officers, agents, or employees acting under or pursuant to this Contract or any supplement or amendment hereto.

C. **Owner Defense Requirements.** Notwithstanding the foregoing defense obligations of the Architect, neither the Architect nor any attorney engaged by the Architect shall defend any claim in the name of the Owner, Deschutes Public Library, nor purport to act as legal representative of the Owner, the Deschutes Public Library, without the prior written consent of the General Counsel of the Deschutes Public Library. The Owner may, at any time at its election assume its own defense and settlement in the event that it determines that the Architect is prohibited from defending the Owner, that Architect is not adequately defending the Owner’s interests, or that an important governmental principle is at issue or that it is in the best interests of the Owner to do so. The Owner reserves all rights to pursue any claims it may have against the Architect if the Owner elects to assume its own defense.

D. **Agency’s Actions.** Subsections A and B above do not include indemnification by the Architect of the Owner for damages directly caused by Owner, whether related to this Contract or otherwise. “Architect shall defend Owner from claims covered under this Section at Architect’s sole cost and expense until such time as:

1. An arbitration panel or court of competent jurisdiction determines that Owner is liable in whole or in part for the loss or claim caused by Owner’s negligence; or
2. Owner and Architect mutually agree to allocate the liability.”

13. **LIMITATION OF LIABILITIES.** Except for any liability of the Architect arising under or related to the Architect’s failure to perform according to the standard of care or any other liability arising under or related to the Architect’s representations and warranties under Section 2, “Architect’s Standard of Care; Representations and Warranties,” of this Contract, neither Party shall be liable for any indirect, incidental, consequential or special damages under this Contract or any damages of any sort arising solely from the termination of this Contract in accordance with its terms.