General Conditions of the Contract for Construction, Construction Manager as Adviser Edition

for the following PROJECT:

(Name, and location or address)

Reading School District 13th & Union Elementary Renovations 1600 North 13th Street Reading, PA 19604

THE CONSTRUCTION MANAGER:

(Name, legal status, and address)

CHA

1 E. Broad Street, Suite 310 Bethlehem, PA 18018 Telephone: 610-865-3000

THE OWNER:

(Name, legal status, and address)

Reading School District 800 Washington Street Reading, PA 19601. Phone: 484-258-7000

THE ARCHITECT:

(Name, legal status, and address)

AEM Architects, Inc. 3700 Perkiomen Avenue Reading, PA 19606 Phone: 610-779-3220

ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An Additions and Deletions Report that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

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

This document is intended to be used in conjunction with AIA Documents A132™-2019, Standard Form of Agreement Between Owner and Contractor, Construction Manager as Adviser Edition; B132™-2019, Standard Form of Agreement Between Owner and Architect, Construction Manager as Adviser Edition; and C132™-2019, Standard Form of Agreement Between Owner and Construction Manager as Adviser.

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User Notes:

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ARTICLE 1 **GENERAL PROVISIONS**

§ 1.1 Basic Definitions

§ 1.1.1 The Contract Documents. The Contract Documents consist of the Agreement, the General Conditions of the Contract for Construction, Drawings, Specifications, Advertisement for Bids, Instructions to Bidders, Addenda issued prior to execution of the Contract, other documents listed in the Agreement such as the Contractor's executed Bid Form, Bid Bond, Agreement of Surety, Performance Bond, Payment Bond, and Non-Collusion Affidavit, and Modifications issued after execution of the Contract. A Modification is (1) a written amendment to the Contract signed by both parties, (2) a Change Order, (3) a Construction Change Directive, or (4) a written order for a minor change in the Work issued by the Architect. The Contract Documents also include, but are not limited to sample forms and other information furnished by the Owner in anticipation of receiving bids, quotes, or proposals. The Contract Documents shall apply to all Contractors and each Contractor shall be responsible for the content of them all.

§ 1.1.1.1 The Contractor is responsible to read the entire AIA A232-2019 General Conditions of the Contract for Construction as it has been modified from the original AIA Document A232-2019.

- § 1.1.2 The Contract. The Contract Documents form the Contract for Construction. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. The Contract may be amended or modified only by a Modification. The Contract Documents shall not be construed to create a contractual relationship of any kind (1) between the Contractor and the Architect or the Architect's consultants, (2) between the Owner and the Construction Manager or the Construction Manager's consultants, (3) between the Owner and the Architect or the Architect's consultants, (4) between the Contractor and the Construction Manager or the Construction Manager's consultants, (5) between the Owner and a Subcontractor or Sub-subcontractor (6) between the Construction Manager and the Architect, or (7) except as provided in Article 6 of these General Conditions, between any persons or entities other than the Owner and Contractor. The Construction Manager and Architect shall, however, be entitled to performance and enforcement of obligations under the Contract intended to facilitate performance of their duties. Each Subcontractor, having received and reviewed the Contract Documents, as evidenced by its execution of a subcontract with the Contractor, agrees that these General Conditions have been incorporated in the Subcontractor's subcontract by reference and, to the extent such General Conditions conflict with the express provisions of the subcontract with respect to obligations Subcontractor may have to Owner, these General Conditions shall take precedence.
- § 1.1.2.1 Contractor acknowledges and warrants that it has closely examined all of the Contract Documents, that they are suitable and sufficient to enable the Contractor to complete the Work in a timely manner for the Contract Sum, and that they include all Work, whether or not shown or described, which reasonably may be inferred to be required or useful for the completion of the Work in full compliance with all applicable codes, laws, ordinances, regulations and/or requirements of any local, state, federal or other governmental agency.
- § 1.1.3 The Work. The term "Work" means the construction and services required by the Contract Documents, whether completed or partially completed, and includes all other labor, materials, equipment, and services provided or to be provided by the Contractor to fulfill the Contractor's obligations, and further including any Subcontractor and Sub-subcontractor Work, material suppliers, and/or any other entity from whom the Contractor is responsible whether on or off the site of the Project. . The Work may constitute the whole or a part of the Project.
- § 1.1.3.1 The Work shall include, without limitation, the obligation of the Contractor to visit the Project site before submitting a Bid. Such site visit shall be for the purpose of familiarizing the Contractor with the conditions as they exist and the character of the operations to be carried on under the Contract Documents, including, without limitation, all existing site conditions, access to the site, and the physical characteristics of the site and surrounding areas.
- § 1.1.3.2 Nothing in these General Conditions shall be interpreted as imposing on either the Owner, Construction Manager or Architect, or their respective agents, employees, officers, directors or consultants, any duty, obligation or authority with respect to any items that are not intended to be incorporated into the completed Project, or that do not comprise the Work, including, but not limited to, the following: shoring; scaffolding; hoists; weatherproofing; or any temporary facility; or activity, since these are the sole responsibility of the Contractor.
- § 1.1.4 The Project. The Project is the total construction of which the Work performed under the Contract Documents may be the whole or a part and which may include construction by the Owner's own forces and Separate Contractors.

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- § 1.1.5 Contractors. Contractors are persons or entities, other than the Contractor or Separate Contractors, who perform Work under contracts with the Owner that are administered by the Architect and Construction Manager. This includes all Prime Contractors who have mutual responsibility to each other.
- § 1.1.6 Separate Contractors. Separate Contractors are persons or entities who perform construction under separate contracts with the Owner not administered by the Architect and Construction Manager.
- § 1.1.7 The Drawings. The Drawings are the graphic and pictorial portions of the Contract Documents showing the design, location and dimensions of the Work, generally including plans, elevations, sections, details, schedules, and diagrams.
- § 1.1.7.1 The Drawings are diagrammatical and show the general arrangement and extent of the Work; exact locations and arrangements of parts shall be determined as the Work progresses and shall be subject to the Architect's approval. No extra compensation will be allowed due to conflicts, inconsistencies, or discrepancies between actual dimensions and those indicated. The right is reserved by the Architect to make any reasonable change in location of equipment, ductwork and piping prior to roughing in without involving additional compensation to the Prime Contractors. Each Contractor shall coordinate its Work with the Work of others, so that interference between trades does not occur. Each Contractor shall furnish and install offsets, bends, turns, and the like in connection with its Work to avoid interference with Work of other Contractors, to conceal Work where required, and to secure necessary clearance and access for operation and maintenance.
- § 1.1.7.2 Contractor shall carefully examine the Architectural, Mechanical, Plumbing, Electrical, and other Contract Drawings and Specifications. If any discrepancies occur between the Drawings or between the Drawings and Specifications, the Contractor shall report such discrepancies to the Architect and Construction Manager in writing and obtain written instructions as to the manner in which to proceed. No departures from the Contract Documents shall be made without prior written approval of the Architect and Construction Manager.
- § 1.1.8 The Specifications. The Specifications are that portion of the Contract Documents consisting of the written requirements for materials, equipment, systems, standards and workmanship for the Work, and performance of related services.
- § 1.1.9 Instruments of Service. Instruments of Service are representations, in any medium of expression now known or later developed, of the tangible and intangible creative work performed by the Architect and the Architect's consultants under their respective professional services agreements. Instruments of Service may include, without limitation, studies, surveys, models, sketches, drawings, specifications, and other similar materials.
- § 1.1.10 Initial Decision Maker. The Initial Decision Maker is the person identified in the Agreement to render initial decisions on Claims in accordance with Section 15.2. The Initial Decision Maker shall not show partiality to the Owner or Contractor and shall not be liable for results of interpretations or decisions rendered in good faith.
- § 1.1.11 Resident Project Engineer: The term Resident Project Engineer (RPE) shall be interchangeable with Construction Manager (CM) for this Project and shall mean CHA.
- § 1.1.12 Owner: The term Owner shall refer to the Reading School District.
- § 1.1.13 Architect: The term Architect refers to AEM Architects, Inc. and means the registered Architect of record.
- § 1.1.14 Completion Date: The term Completion Date means any substantial completion, final completion, milestone, phase, or other time sensitive date identified in the Contract Documents.

§ 1.2 Correlation and Intent of the Contract Documents

§ 1.2.1 The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all; performance by the Contractor shall be required only to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the indicated results.

- § 1.2.1.1 The invalidity of any provision of the Contract Documents shall not invalidate the Contract or its remaining provisions. If it is determined that any provision of the Contract Documents violates any law, or is otherwise invalid or unenforceable, then that provision shall be revised to the extent necessary to make that provision legal and enforceable. In such case the Contract Documents shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Contract.
- § 1.2.1.2 Notwithstanding anything else to the contrary in the Contract Documents, in the event of conflicts, inconsistencies or discrepancies between and/or within the Contract Documents and/or applicable codes, laws, ordinances, regulations and/or requirements of any state, federal or any other governmental agency, the Contractor shall (1) provide the better quality or greater quantity of Work or (2) comply with the more stringent requirement, or both, in accordance with the Architect's interpretation. The terms and conditions of this Section 1.2.1.2, however, shall not relieve the Contractor of any of the obligations set forth in Sections 3.2 and 3.7.
- § 1.2.1.3 In the event of conflicts, inconsistencies, or discrepancies between and/or within the Contract Documents, interpretations will be based on the following order of precedence:
 - .1 The Agreement
 - .2 Addenda, those of later date have precedence
 - .3 General Conditions of the Contract for Construction
 - .4 **Specifications**
 - .5 Large-scale Drawings shall supersede smaller-scale Drawings
 - .6 Dimensions shall govern over scaling of the Drawings
 - .7 In case of conflicts, inconsistencies, or discrepancies in the Drawings or in the Specifications, the latter shall be submitted to the Architect who will promptly provide a determination in writing. In the case of a conflict, inconsistency, or discrepancy between and/or within the Drawings and Specifications not clarified by Addendum, the better quality or greater quantity of Work shall be provided in accordance with the Architect's interpretation, and no additional compensation or extension of time will be allowed.
- § 1.2.1.4 If a minor change in the Work is found necessary due to actual field conditions, each Contractor shall submit detailed drawings of such departure for the approval by the Architect before making the change.
- § 1.2.2 Organization of the Specifications into divisions, sections and articles, and arrangement of Drawings shall not control the Contractor in dividing the Work among Subcontractors or in establishing the extent of Work to be performed by any trade. The Contractor represents that the Subcontractors, manufacturers, and suppliers engaged or to be engaged by it are and will be familiar with the requirements for performance by them.
- § 1.2.3 Unless otherwise stated in the Contract Documents, words that have well-known technical or construction industry meanings are used in the Contract Documents in accordance with such recognized meanings.
- § 1.2.4 Where the Work is shown in complete detail on only a portion of the Drawings or there is an indication of continuation, the remainder being shown in outline, the Work drawn out in detail shall be understood to apply to the other portions of the structure. The Drawings and Specifications are intended to be a common and complimentary set of documents. Anything shown on the Drawings but not in Specifications shall be equally binding as if both noted on the Drawings and called for in the Specifications.
- § 1.2.5 No measurement of a drawing by scale shall be used as working dimension. Working measurements shall be taken from figure dimensions. Work shown diagrammatically on Drawings shall be agreed upon for exact location before being installed. Where the activities of two or more trades are in close proximity, the Contractor shall confer with the other Contractor(s) concerned before making its installation. Work installed by the Contractor in an arbitrary manner without regard for the work of other separate contractors shall be promptly repaired and/or replaced by the Contractor to the satisfaction of the Architect at no additional cost to the Owner.
- § 1.2.6 The Contractor shall carefully examine the civil, architectural, plumbing, electrical, fire protection and other Drawings and Specifications. If any conflicts, inconsistencies, or discrepancies occur between and/or within the Drawings and Specifications and is discovered after the submission of bids, the Contractor shall promptly report such a conflict, inconsistency, or discrepancy to the Architect in writing and obtain written instructions as to the manner in

which to proceed. No departures from the Contract Documents shall be made without the prior written approval of the Architect and written notice to the Owner.

- § 1.2.7 The Drawings and Specifications, as a part of the Contract Documents, are for the purpose of illustrating and describing the general character and extent of the Work; and they are intended to agree and be mutually explanatory. Further, it is the intention that these instruments of service shall be complete in their meaning and shall represent completeness in design as well as any fragments thereof. It is the intent and purpose of the Specifications and Drawings to cover and include each item of material, machinery, apparatus, equipment, labor, and services necessary to properly install, equip, adjust, and put into perfect operation the respective portions of the installations specified, and to so interconnect the various items or sections of the Work as to form a complete and operating whole, and deliver the Work in the specified time. Any apparatus, machinery, material, equipment, labor, and services not specifically mentioned which may be found necessary to complete or perfect any portion of the Work in a substantial manner, and in compliance with the requirements stated, implied, or intended in the Contract Documents, shall be furnished without extra cost to the Owner. This shall include all material, devices, or methods peculiar to the type of construction furnished and installed by the Contractor.
- § 1.2.8 If the Contractor, in the course of the Work, finds any discrepancy between the Drawings and the physical conditions of the locality, or any errors in Drawings or in the layout as given by the points and instruction, the Contractor shall immediately inform the Construction Manager and Architect in writing and the Construction Manager and Architect, with reasonable promptness, shall verify the same. Any work done after such discovery, until authorized, shall be done at the Contractor's risk.
- § 1.2.9 Intentionally deleted.
- § 1.2.10 Division 01 shall govern the execution of all Specification Sections.

§ 1.3 Capitalization

Terms capitalized in these General Conditions include those that are (1) specifically defined, (2) the titles of numbered articles, or (3) the titles of other documents published by the American Institute of Architects.

§ 1.4 Interpretation

- § 1.4.1 In the interest of brevity the Contract Documents frequently omit modifying words such as "all" and "any" and articles such as "the" and "an," but the fact that a modifier or an article is absent from one statement and appears in another is not intended to affect the interpretation of either statement. Unless otherwise indicated, any reference to a Section means the Section of these General Conditions, including any subsections thereof.
- § 1.4.2 Unless otherwise defined herein or elsewhere in the Contract Documents, for the purpose of the Contract Documents, the meaning of all words, shall be in accordance with the definitions given in the latest edition of "The Random House Dictionary of the English Language." Certain terms used in the Contract Documents are defined in this Article. Definitions and explanations of this Article are not necessarily either complete or exclusive but are general for the Work to the extent they are not stated more explicitly in other provisions of the Contract Documents. These terms
 - .1 Indicated: The term "indicated" is a cross-reference to graphics, notes, or schedules on Drawings, to other paragraphs or schedules in the Specifications, and to similar means of recording requirements in Contract Documents. Where terms such as "shown", "noted", "scheduled", and "specified" are used in lieu of "indicated," it is for purpose of helping the reader locate a cross-reference, and no limitation of location is intended except as specifically noted.
 - .2 Directed, Requested, etc.: Where not otherwise explained, terms such as "directed," "requested," "authorized," "selected," "approved," "required," "accepted" and "permitted" mean "directed by the Architect, after consultation with the Owner." However, no such implied meaning will be interpreted to extend the Architect's responsibility into Contractor's area of construction supervision.
 - Approved: Where used in conjunction with Architect's response to submittals, requests, applications, inquiries, reports and claims by a Contractor, the term "Approved" will be held to limit the Architect's responsibilities and duties as specified in these General Conditions. In no case will "Approved" by the Architect be interpreted as a release of Contractor from responsibilities to fulfill requirements of Contract Documents.

- Furnish: Except as otherwise defined in greater detail, the term "furnish" is used to mean supply and deliver to the Project site, ready for unloading, unpacking, assembly, installation, and similar operations, as applicable in each instance.
- .5 Install: Except as otherwise defined in greater detail, the term "install" is used to describe operations at the Project site including, but not limited to, unloading, unpacking, assembly, erection, placing, anchoring, applying, working to dimension, finishing, curing, protection, cleaning, and similar operations, including, without limitation, the coordination with Subcontractors as applicable in each instance.
- .6 Relocate: The term "relocate" shall mean "move from the existing location to the new location installed complete and ready for use" for all items noted on the Drawings and/or indicated in the Specifications.
- .7 Provide: Except as otherwise defined in greater detail, the term "provide" means furnish and install, complete and ready for intended use, as applicable in each instance.
- .8 Coordinate: The term "coordinate" means to cooperate with related trades to furnish and install all connections between the trades in correct sequence, size, and location to create a complete system ready for the intended use.
- .9 Verify: The term "verify" means to measure, investigate, review, test, and check the accuracy or correctness of and prove by demonstration, evidence, or testimony, the location, size, dimension, and condition of an item.
- .10 Laws or Regulations: The terms "laws" and "regulations" each include, without limitation, laws, statutes, codes, ordinances, regulations, and lawful orders issued by authorities having jurisdiction, as well as rules, guidance, conventions and agreements within the construction industry that control performance of the Work, whether they are lawfully imposed by authorities having jurisdiction or not.
- Installer: The term an "Installer" is an entity engaged by a Contractor, either as an employee, Subcontractor or Sub- subcontractor for performance of a particular construction activity, including, but not limited to, installation, erection, application and similar operations. Installer is required to be experienced in the operations it is engaged to perform. The term "experienced," when used with the term "Installer" means having a minimum of five (5) years of previous project experience similar in size and scope to this Project, and familiar with the precautions required, and has complied with requirements of the authorities having jurisdiction.
- .12 Contract Description: The term "Contract Description" means a list of Specification Sections, narrative, and Contract Document references that will be the responsibility of the Contractor.
- "Agreement" and "Contract" is used interchangeably.
- The terms "project schedule", "construction schedule", or "schedule" shall be used interchangeably to mean the schedule of activities with dates and duration for each activity of work required for the project.

§ 1.5 Ownership and Use of Drawings, Specifications, and Other Instruments of Service

§ 1.5.1 Except as otherwise agreed to between Owner and Architect, the Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and retain all common law, statutory, and other reserved rights in their Instruments of Service, including copyrights. The Contractor, Subcontractors, Sub-subcontractors, and suppliers shall not own or claim a copyright in the Instruments of Service. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with the Project is not to be construed as publication in derogation of any reserved rights thereto.

§ 1.5.2 The Contractor, Subcontractors, Sub-subcontractors, and suppliers are authorized to use and reproduce the Instruments of Service provided to them, subject to any protocols established pursuant to Sections 1.7 and 1.8, solely and exclusively for execution of the Work. All copies made under this authorization shall bear the copyright notice, if any, shown on the Instruments of Service. The Contractor, Subcontractors, Sub-subcontractors, and suppliers may not use the Instruments of Service on other projects or for additions to the Project outside the scope of the Work without the specific written consent of the Owner, Architect, and the Architect's consultants, as applicable.

§ 1.6 Notice

§ 1.6.1 Except as otherwise provided in Section 1.6.2, where the Contract Documents require one party to notify or give notice to the other party, such notice shall be provided in writing to the designated representative of the party to whom the notice is addressed and shall be deemed to have been duly served if delivered in person, by mail, by courier, or by electronic transmission.

§ 1.6.2 Notice of Claims as provided in Section 15.1.3 shall be provided in writing and shall be deemed to have been duly served only if delivered to the designated representative of the party to whom the notice is addressed by certified or registered mail, or by courier providing proof of delivery.

§ 1.6.3 Written Notice

Written notice shall be deemed to have been duly served if delivered by registered or certified mail or by courier service providing proof of delivery to party's respective address identified in the Agreement.

§ 1.7 Digital Data Use and Transmission

The parties shall agree upon protocols governing the transmission and use of Instruments of Service or any other information or documentation in digital form. The parties will use AIA Document G202TM-2013, Project Building Information Modeling Protocol Form, to establish the protocols for the development, use, transmission, and exchange of digital data.

§ 1.8 Building Information Models Use and Reliance

Any use of, or reliance on, all or a portion of a building information model without agreement to protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set forth in AIA Document G202TM–2013, Project Building Information Modeling Protocol Form, shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

ARTICLE 2 **OWNER**

§ 2.1 General

§ 2.1.1 The Owner is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Owner shall designate in writing a representative who shall have express authority to bind the Owner with respect to all matters requiring the Owner's approval or authorization. The Owner is a Pennsylvania Public School District; therefore, the Owner's liability under the Contract cannot be increased without the affirmative vote of the Board of School Directors at a public meeting. Except as otherwise provided in Section 4.2.1, the Construction Manager and the Architect do not have such authority. The term "Owner" means the Owner or the Owner's authorized representative, and provided, however, the Construction Manager and Architect shall have the authority to act on behalf of the Owner with respect to providing notification, administering or enforcing the Contract Documents.

§ 2.1.2 Intentionally deleted.

§ 2.2 Evidence of the Owner's Financial Arrangements

- § 2.2.1 Intentionally deleted.
- § 2.2.2 Intentionally deleted.
- § 2.2.3 Intentionally deleted.
- § 2.2.4 Intentionally deleted.

§ 2.3 Information and Services Required of the Owner

- § 2.3.1 Except for permits and fees that are the responsibility of the Contractor under the Contract Documents, including those required under Section 3.7.1, the Owner shall secure and pay for necessary approvals, easements, assessments and charges required for construction, use or occupancy of permanent structures or for permanent changes in existing facilities.
- § 2.3.2 The Owner shall retain an architect lawfully licensed to practice architecture, or an entity lawfully practicing architecture, in the jurisdiction where the Project is located. That person or entity is identified as the Architect in the Agreement and is referred to throughout the Contract Documents as if singular in number.

- § 2.3.3 The Owner shall retain a construction manager adviser lawfully practicing construction management in the jurisdiction where the Project is located. That person or entity is identified as the Construction Manager in the Agreement and is referred to throughout the Contract Documents as if singular in number.
- § 2.3.4 If the employment of the Construction Manager or Architect terminates, the Owner shall employ a successor construction manager or architect to whom the Contractor has no reasonable objection and whose status under the Contract Documents shall be that of the Construction Manager or Architect, respectively.
- § 2.3.5 The Owner shall not be responsible for furnishing surveys or other information as to the physical characteristics of, legal limitations of, or utility locations for the site of the Project. The Contractor shall confirm the location of each utility, shall excavate and dispose of each on-site utility, and shall cap each off-site utility as required by the Work and as may be included in the Contract Documents. The Contractor represents that it is familiar with the Project site and has received all information it needs concerning the condition of the Project site. The Contractor represents that it has inspected the location of the Work and has satisfied itself as to the condition thereof, including, but not limited to, all structural, surface, and reasonably ascertainable subsurface conditions. Based upon the foregoing inspections, understandings, agreements and acknowledgments, the Contractor agrees and acknowledges: (1) that the Contract Sum is just and reasonable compensation for all Work, including, without limitation, foreseen and foreseeable risks, hazards and difficulties in connection therewith, and (2) that the Contract Time is adequate for the performance of the Work. The Contractor shall have no claims for surface or reasonably ascertainable subsurface conditions encountered. The Contractor shall exercise special care in executing subsurface Work in proximity of known subsurface utilities, improvements, and easements.
- § 2.3.6 The Owner shall furnish information or services required of the Owner by the Contract Documents with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Contractor's performance of the Work with reasonable promptness after receiving the Contractor's written request for such information or services.
- § 2.3.7 Unless otherwise provided in the Contract Documents, the Owner shall furnish free of charge to the Contractor copies of the Contract Documents as follows. Should a Contractor require a greater number of sets than provided below, they shall request additional sets, or individual sheets from the Architect and pay the cost involved. The Contractor should expect considerable delay in reproduction of additional sets of specifications if requested beyond those noted below.

.1	Contract No. 1:	General Construction Contract:	4 sets
.2	Contract No. 2:	Mechanical (HVAC/MC) Construction Contract:	2 sets
.3	Contract No. 3:	Electrical Construction Contract:	2 sets
.4	Contract No. 4:	Plumbing Construction Contract:	2 sets

- § 2.3.8 The Owner shall forward all communications to the Contractor through the Construction Manager and shall contemporaneously provide the same communications to the Architect about matters arising out of or relating to the Contract Documents. Other communication shall be made as set forth in Section 4.2.6.
- § 2.3.9 The Owner will furnish all land and rights-of-way necessary for the carrying out of the Agreement and the completion of the Work therein contemplated.
- § 2.3.10 The Contractor shall confirm the location of all utilities on the site prior to the commencement of any Work on site. To the extent required for the execution of the Work, the Contractor shall provide all temporary or permanent connections, terminations, removal, or alterations of the utility services to the site. Individual responsibilities of the separate Prime Contractors are delineated further in the Specifications.
- § 2.3.11 The Owner will provide such test borings and information that it has as to the existing subsurface conditions and site geology. The Owner does not assume any responsibility whatsoever with respect to sufficiency or accuracy of borings made, or of the logs of test borings, or of other investigations, or of the interpretations made thereof, and there is no warranty or guarantee, express or implied, that the conditions indicated by such investigations, borings, logs, or other information are representative of those existing throughout the Project site. There is no warranty or guarantee, express or implied, that unforeseen developments may not occur.

§ 2.4 Owner's Right to Stop the Work

If the Contractor fails to correct Work that is not in accordance with the requirements of the Contract Documents as required by Section 12.2 or fails to carry out Work in accordance with the Contract Documents, the Owner may issue a written order to the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, the right of the Owner to stop the Work shall not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity. Upon notice from the Owner, the Contractor shall resume performing such Work. This right shall be in addition to and not in restriction or derogation of the Owner's rights under Article 14 hereof. The Owner's right to stop the Work shall not relieve the Contractor of any of its responsibilities and obligations under or pursuant to the Contract Documents.

§ 2.5 Owner's Right to Carry Out the Work

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents or fails to adequately staff the Project with the proper management, supervision, materials and workforce, including its duty to proceed expeditiously with adequate forces so as to maintain the Project schedule, achieve the Project milestones, and substantial completion, and fails within a seven-day period after receipt of notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, correct such default or neglect. Notwithstanding the above, Owner shall not be required to comply with the notice provisions hereof and may proceed to correct such default and neglect if Contractor fails to, within a 24-hour period after receipt of written notice from the Owner, commence and continue correction of such default and neglect where further delay would cause disruption to the Project schedule. Owner shall have the further right to carry out work without any prior notice to Contractor, in an emergency affecting safety of persons or property, and said work is necessary to prevent threatened damage, injury or loss. The right of the Owner to carry out the Work pursuant to this Section 2.5 shall not give rise to any duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity. The Owner's rights set forth in Sections 2.4 and 2.5 hereof shall be in addition to all other rights of the Owner granted in the Contract Documents, at law, or in equity. In such case an appropriate Change Order shall be issued deducting from payments then or thereafter due the Contractor the reasonable cost of correcting such deficiencies, including, but not limited to, Owner's expenses, attorneys' fees and compensation for the Construction Manager's and Architect's and their respective consultants' additional services made necessary by such default, neglect, or failure. Such action by the Owner and amounts charged to the Contractor are both subject to prior approval of the Architect, after consultation with the Construction Manager. If payments then or thereafter due the Contractor are not sufficient to cover such amounts, the Contractor shall pay the difference to the Owner.

§ 2.6 Limitation of Responsibility

In no event shall the Owner, Construction Manager, and Architect have control over, charge of, or any responsibility for construction means, methods, techniques, sequences, or procedures or for safety precautions and programs in connection with the Work, notwithstanding any of the rights and authority granted the Owner in the Contract Documents. Hence, the Owner and Contractor hereby acknowledge and agree that the Owner has retained the Contractor as an independent contractor to perform the Work on the Project. It is expressly understood and agreed that the presence on the jobsite of the Owner's visiting officers or employees, the Owner, Architect, Construction Manager, or supervisory personnel employed by Owner, and the making by such personnel of any inspections of the Contractor's Work, materials, tools or equipment, or of the finished Work of the Contractor and their approval of same, or failure to take exception thereto, shall in no way relieve the Contractor from its absolute responsibility to perform its Work and furnish its materials in accord with the requirements of the Contract Documents. Any failure by the Owner or Architect to take exception to any Work of the Contractor shall not constitute a ratification or approval of the Work or work methods employed by the Contractor if the same did not in fact comply with the requirements of the Contract Documents.

ARTICLE 3 CONTRACTOR

§ 3.1 General

§ 3.1.1 The Contractor is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Contractor shall be lawfully licensed, if required by applicable laws in the jurisdiction where the Project is located. The Contractor shall designate in writing a representative who shall have express authority to bind the Contractor with respect to all matters under this Contract. The term "Contractor" means the Contractor or the Contractor's authorized representative.

- § 3.1.2 Where the term "Contractor" is modified in any way, such as, without limit, "this Contractor", "Plumbing Contractor", "HVAC Contractor" or "Mechanical Contractor", "General Contractor", "Electrical Contractor", the modified term shall be deemed to refer to the Prime Contractor, but such meaning does not relieve the Contractor from his responsibility for all Work, whether or not such Work is sublet or subcontracted. The Contractor shall perform the Work in strict accordance with the Contract Documents. The plural term "Prime Contractors" or "Multiple Prime Contractors" refers to persons or entities who perform construction under contracts with the Owner that are administered by the Construction Manager and Architect. The term does not include the Owner's own forces, including persons or entities under separate contracts not administered by the Construction Manager.
- § 3.1.3 The Contractor shall not be relieved of its obligations to perform the Work in accordance with the Contract Documents either by activities or duties of the Construction Manager or Architect in their administration of the Contract, or by tests, inspections or approvals required or performed by persons or entities other than the Contractor. The Contractor shall be responsible for the coordination of its Work with the other Subcontractors. The Owner, Architect and its consultants, and the Construction Manager and its consultants, shall not be responsible for coordination of the Contractor's Work.
- § 3.1.4 The General Contractor is designated as the Project Coordinator for this Project unless noted otherwise. See all of Articles 3 and 6 for additional information.

§ 3.2 Review of Contract Documents and Field Conditions by Contractor

- § 3.2.1 Execution of the Contract by the Contractor is a representation that the Contractor has visited the site, become generally familiar with local conditions under which the Work is to be performed, and correlated personal observations with requirements of the Contract Documents.
- § 3.2.2 The Contractor shall carefully study and compare the Drawings, the Specifications, Addenda and other Contract Documents relative to the Work shall take field measurements of any existing conditions related the Work, and shall observe any conditions at the Project site affecting the Work. Any design errors, omissions, or inconsistencies noted by a Contractor shall promptly be reported to the Construction Manager and Architect. Contractor acknowledges that the Contract Documents are full and complete, are sufficient to have enabled it to determine the Contract Sum and that the Drawings, the Specifications and all Addenda are sufficient to enable such Contractor to construct the Work outlined therein in accordance with applicable laws, statutes, ordinances, codes, building codes and regulations of any local, state, federal or any other governmental agency, and otherwise to fulfill all of its obligations under the Contract Documents.
- § 3.2.2.1 Except as to any reported errors, inconsistencies or omissions that have been acknowledged and corrected by the Architect and Construction Manager via Addendum, and to concealed or unknown conditions defined in Section 3.7.4 by executing the Agreement, the Contractor represents the following:
 - The Contract Documents are sufficiently complete and detailed for the Contractor to: (1) perform the Work required and to produce the results intended by the Contract Documents; and (2) comply with all requirements of the Contract Documents.
 - The Work required by the Contract Documents, including, but not limited to, all construction details, construction means, methods, procedures, and techniques necessary to perform the Work, use of materials, selection of equipment, and requirements of product manufacturers are consistent with: (1) good and sound practices within the construction industry; (2) generally prevailing and accepted industry standards applicable to Work; (3) requirements of any warranties applicable to the Work; and (4) all laws, statutes, ordinances, regulations, rules, orders, codes, and building codes of any state, federal or any other governmental agency which bear upon Contractor's performance of the Work.
- § 3.2.3 The Contractor shall satisfy itself as to the accuracy of all dimensions and locations. In all cases of interconnection of its Work with existing or other Work, the Contractor shall verify at the site all dimensions relating to such existing or other Work. Any errors due to the Contractor's failure to verify all such locations or dimensions shall be promptly rectified by the Contractor without any additional cost to the Owner.
- § 3.2.3.1 Measurement: Before ordering any materials or doing any Work, each Contractor and each Subcontractor shall verify measurements at the Project site and shall be responsible for the correctness of such measurements. No extra charge by the Prime Contractors or compensation to the Prime Contractors will be allowed on account of differences between actual dimensions and the dimensions indicated on the Drawings. Any difference which may be

found shall be submitted by the Prime Contractor to the Architect in writing for resolution before proceeding with the Work.

- § 3.2.3.2: Prior to proceeding with any Work, and in sufficient time as not to delay the Work, the Contractor shall:
 - Review, compare and analyze the Contract Documents and any information or surveys provided by the
 - .2 Inspect and check such portion of the Work for proper fit and matching with continuous Work and for proper coordination with other Work and the Work of the Owner or of separate contractors; and
 - .3 Verify all dimensions and measurements with actual field conditions at the Project.
- § 3.2.3.3: The Contractor shall immediately notify the Owner, Construction Manager, and Architect of any errors, omissions or inconsistencies noted as the result of the Contractor's activities under Section 3.2.3 as a request for information submitted to Construction Manager in such form as the Construction Manager and Architect may require. If the Contractor knows or reasonably should know of any such error, omission or inconsistency and proceeds with the construction in question without first giving such notice, any claim for an adjustment to the Contract Sum or the Contract Time shall be deemed waived and released and the Contractor and its Surety shall assume all responsibility and liability on a joint and several basis for such performance and shall indemnify the Owner for all costs, expenses, losses and damages incurred by the Owner, including, but not limited to, legal fees, costs, and expenses, incurred by the Owner as the result thereof, including any cost to repair, correct or rework the construction in question.
- § 3.2.4 If the Contractor believes that additional cost or time will be required as a direct result of clarifications or instructions the Architect issues in response to the Contractor's notices or requests for information pursuant to Sections 3.2.2 or 3.2.3 and its sub-Sections, the Contractor shall submit Claims as provided in Article 15. If the Contractor fails to perform the obligations of Sections 3.2.2 or 3.2.3 and its sub-Sections, the Contractor shall pay such costs and damages to the Owner, subject to Section 15.1.7, as would have been avoided if the Contractor had performed such obligations. If the Contractor performs those obligations, the Contractor shall not be liable to the Owner or Architect for damages resulting from errors, inconsistencies or omissions in the Contract Documents, for differences between field measurements or conditions and the Contract Documents, or for nonconformities of the Contract Documents to applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities.
- § 3.2.5 The Contractor shall review the drawings and the Work of others to determine if that Work affects the Contractor's planned Work and also to coordinate and schedule all required Work.

§ 3.3 Supervision and Construction Procedures

- § 3.3.1 The Contractor shall supervise and direct the Work, using the Contractor's best skill and attention. The Contractor shall be solely responsible for, and have control over, construction means, methods, techniques, sequences, and procedures, and for coordinating all portions of the Work under the Contract. If the Contract Documents give specific instructions concerning construction means, methods, techniques, sequences, or procedures, the Contractor shall evaluate the jobsite safety thereof and shall be solely responsible for the jobsite safety of such means, methods, techniques, sequences, or procedures. If the Contractor determines that such means, methods, techniques, sequences or procedures may not be safe, the Contractor shall give timely notice to the Owner, the Construction Manager, and the Architect, and shall propose alternative means, methods, techniques, sequences, or procedures. The Architect shall evaluate the proposed alternative solely for conformance with the design intent for the completed construction. The Construction Manager shall review the proposed alternative for sequencing, constructability, and coordination impacts on the other Contractors. Unless the Architect or the Construction Manager objects to the Contractor's proposed alternative, the Contractor shall perform the Work using its alternative means, methods, techniques, sequences, or procedures.
- § 3.3.1.1 The Contractor is to appoint a single representative on-site and will designate the same in writing, who has the authority to act on behalf of the Contractor and its Subcontractors and suppliers. Contractor's supervision of Work shall include expediting and coordination of work of trades. Contractor shall perform all supervising and procuring required to ensure delivery of materials to maintain work schedules of sub-contractors and progress schedule of Project to ensure full completion of work, to supply equipment or instruments necessary to complete specified test, checks, balancing of system, to furnish operating instructions, etc.

- § 3.3.1.2 At any time during the Project, the Owner, Architect, and Construction Manager shall have the right and authority, but not the duty, to require the replacement of the Contractor's Project Manager, Superintendent, or Foreman. The Construction Manager shall have the right and authority, but not the duty, to require the Contractor to assign additional supervisory personnel to the Project to ensure compliance with the schedule and quality requirements at no additional cost to the Owner and no increase in the Contract Sum. The Contractor shall not change or replace the assigned superintendent without the prior written consent of the Owner.
- § 3.3.1.3 When more than one major phase is being constructed at different locations of the Project site, supervision must be assigned to each phase when Work of that Agreement is being performed. When performing construction Work to maintain the progress schedule requires extended hours, multiple shifts, and/or additional workdays, adequate supervision shall be required during these times. The competence level and ability of supervisory personnel must be adequate to perform the construction activities involved.
- § 3.3.1.4 Although these various second level supervision personnel may be reassigned from time to time, the Contractor shall retain one superintendent with full responsibility while performing Work on the Project.
- § 3.3.1.5 The Contractor, his employees or his subcontractors shall not install any product or equipment in a manner that is in direct conflict with the manufacturer's recommended requirements. If the manufacturer of the product or equipment has requirements that cannot be met by the specific application indicated, the Contractor shall bring this information to the attention of the Architect. Products or equipment that are installed contrary to their manufacturer's requirements shall be replaced at no additional cost to the Owner unless specifically authorized in writing by the Architect.
- § 3.3.1.6 The Project involves numerous complex plumbing, mechanical, electrical, and general construction installations, Contractor's representatives shall be sufficiently familiar with these trades to provide intelligent and efficient supervision, coordination and scheduling through all phases of work.
- § 3.3.2 The Contractor shall be responsible to the Owner for acts and omissions of the Contractor's employees, Subcontractors and their agents and employees, and other persons or entities performing portions of the Work for, or on behalf of, the Contractor or any of its Subcontractors.
- § 3.3.2.1 After Award of Contract, any claims for additional costs associated with completion of the Work within the required Contract Time will not be considered. If extra time in any form, such as shift work, overtime, or premium time, is necessary to meet Contract requirements regardless of trade, such costs have been already included in the Contract Sum. The Contractor represents that it has allowed for these shift, overtime, and premium time requirements and include the costs necessary for completion of the Work within the specified time. Failure to recognize the extra costs in the Contract Sum shall not relieve the Contractor from utilizing shift, overtime, or premium time work in performance of its Contract nor entitle the Contractor to additional compensation. Where installation work is part of the Contract, all costs associated with meeting the time frames indicated in the construction schedules shall be included in the Contract Sum and the Owner shall incur no additional cost and there shall be no increase in the Contract Sum.
- § 3.3.2.2 No alleged verbal agreement or conversation with any officer, agent or employee of the Owner, Construction Manager or Architect, either before or after the execution of the Contract, shall affect or modify the terms or obligations herein contained. Failure to comply with any or all of the requirements of this Section 3.3 will not relieve the Contractor from the responsibility of properly estimating the difficulty or cost of successful completion of the Work, nor from the responsibility for the faithful performance of the provisions of this Contract. Modifications or changes may be made in writing only. This requirement may not be waived under any circumstances.
- § 3.3.2.3 The Contractor has reviewed the substantial completion dates and times for each milestone, phase and the entire Work of the Project set forth in the Contract Documents, agrees that such dates and times are reasonable and commits to achieve them. The Contract Sum includes costs associated with completion by those dates and times, including, but not limited to, costs associated with out-of-sequence work, come-back work, stand-by work, stacking of trades, coordination with the schedules and work of Prime and separate contractors, allowing sufficient time, work and storage areas, and site access for Prime and separate contractors to timely progress and complete their work, and overtime, expediting, and acceleration that may be required to complete the Work by those dates and times. After Award of Contract, no claims will be considered for any costs related to meeting the Project schedule.

- § 3.3.3 The Contractor shall not be relieved of obligations to perform the Work in accordance with the Contract Documents either by activities or duties of the Construction Manager or Architect in their administration of the Contract, or by tests, inspections or approvals required or performed by persons other than the Contractor.
- § 3.3.3.1 A Prime Contractor's failure to perform their Work or whose negligence in performing their Work impacts other Prime Contractors or separate contractors shall be responsible for costs or damages incurred by the other contractors that are necessary to maintain the Project Schedule. Prime Contractors shall be responsible for costs or damages incurred by Owner and the other Contractors, including but not limited to attorney fees and additional compensation of Construction Manager and Architect.
- § 3.3.4 The General Contractor is designated as the Project Coordinator for this Project. The Project Coordinator is responsible for coordination of the Work and is responsible for making all coordination decisions. § 3.3.5 The schedule of any Work affecting existing installations or facilities shall be coordinated with the other consultants, Owner and Construction Manager. At no time shall any of the Work or operations leading to Work defined in the Contract Documents interfere in any way with the Owner's day-to-day activities, service of power, light, heat, water, telephone, utilities, etc., which shall be maintained. Shutdown of utilities or equipment affecting existing operations will not be permitted except as provided below. Any premium time or additional cost to comply with these requirements shall be at the expense of the Contractor and shall be included in their bid. No shutdowns of existing installations and facilities, except by special permission, shall be scheduled between 5:00 a.m. and 6:00 p.m. All required shutdowns shall be during nights with the prior written approval of the Owner.
- § 3.3.6 Prime Contractor shall be responsible for the intermeshing of various separate contracts and their own Work, so that no part will be left in an unfinished condition Prime Contractor shall deliver a fully completed Project to the Owner.

§ 3.4 Labor and Materials

- § 3.4.1 Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work.
- § 3.4.1.1 Not later than 30 days from the Contract Date, the Contractor shall provide a list of all products proposed for installation, including the name of the manufacturer of each for approval by the Owner and Architect. The list shall be tabulated by, and be complete for, each Specification Section. Where applicable, subcontractor's names shall be included in such list. Only those materials specified in the Contract Documents or approved by Addendum may be used in construction.
- § 3.4.1.2 Any material specified by reference to the number, symbol, or title of a specified standard, such as a Commercial Standard, a Federal Specification, a trade association standard, or other similar standard, shall comply with the requirements in the latest revision thereof, and any amendment or supplement thereto in effect on the date of submission of the Bid, except as limited to type, class or grade, or modified in such reference. The standards referred to, except as modified in the Specifications, shall have full force and effect as though printed in full in the Specification.
- § 3.4.1.3 The specific mention of a manufacturer's name, brand of material, equipment, etc., shall be considered as indicating a standard of quality, grade or type desired. Materials of manufacturers other than those mentioned throughout the specifications may be accepted if they are equal in quality and performance to those specified and written approval is given by the Architect prior to bid. Any other substitution request procedures are further defined in the Contract Documents.
- § 3.4.2 Except in the case of minor changes in the Work approved by the Architect in accordance with Section 3.12.8 or ordered by the Architect in accordance with Section 7.4, the Contractor may make substitutions only with the consent of the Owner, after evaluation by the Architect, in consultation with the Construction Manager, and in accordance with a Change Order or Construction Change Directive. Contractor shall pay Architect directly for any costs associated with reviewing substitution requests and revising the Drawings and Specification as a result of any substitution requests.

§ 3.4.2.1 After the Agreement has been executed, the Owner will not consider a request for the substitution of products in place of those specified.

§ 3.4.2.2 If the Contractor makes a request for substitution, such request shall be deemed to be Contractor's:

- Representation that the Contractor has personally investigated the proposed substitute product and determined that it is equal or superior in all respects to the specified product.
- .2 Representation that the Contractor will provide the same warranty for the substituted product that the Contractor would for the specified product.
- .3 Certification that the cost data presented is complete and includes all related costs under this Agreement except the Architect's redesign costs and waives all claims for additional cost related to the substitution which subsequently become apparent.
- .4 Representation that it will coordinate the installation of the accepted substitute product and make such changes as may be required for the Work to be complete in all respects without additional cost to the Owner.
- .5 Representation that the use of the substituted product will not have an adverse effect on any other trade or the construction schedule. However, to the extent that the incorporation of a substituted item or assembly into the Work will require revisions or additions to the Work of other construction contracts, the Contractor proposing to use such substituted materials, products, or assembly represents that it will bear the cost of such revisions or additions for all applicable trades of Work at no change in the Contract Sum.
- § 3.4.3 The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Work. The Contractor shall not permit employment of unfit persons or persons not properly skilled in tasks assigned to them. The Owner, Architect and its consultants, and the Construction Manager and its consultants, shall not be responsible for coordination of the Contractor's work. Owner specifically reserves the right to reject any person that Owner deems unfit to be permitted on the Project site. Upon written notice from the Owner, the Contractor shall have all such persons removed from the Project site. Owner's right to declare such person unfit shall not be limited to the required exclusion of persons from Project site as set forth in Section 1-111 of the Pennsylvania Public School Code and/or Subchapter C.2 of the Child Protective Services Law.
- § 3.4.3.1 Competent Workmen: No person shall be employed to do Work under the Contract except competent and first-class workmen and mechanics. For projects where the total estimated cost is \$25,000 or less, no workmen shall be regarded as competent and first class, within the meaning of Federal legislation, Title X, P.L. 103-227, Goal 2000, Educate America Act of 1994 and state regulations, except those who are duly skilled in their respective branches of labor, and who shall be paid not less than such rates of wages and for such hours' of work as shall be established and current rates of wages paid for such hours by employers of organized labor in doing of similar work in the district where the Work is being done. The Contractor shall not employ workers, means, materials or equipment which may cause strikes, work stoppages or any disturbances by workers employed by the Contractor or the Owner or Subcontractors in connection with the Work of the Project or the location thereof. The Contractor agrees that all disputes as to jurisdiction of trades shall be adjusted in accordance with any plan for the settlement of jurisdictional disputes which may be in effect either nationally or in the locality in which the Work is being performed and that it shall be bound and abide by such adjustments and settlements of jurisdictional disputes, provided that the provisions of this Section shall not be in violation of or in conflict with any provisions of law applicable to the settlement of such disputes. Should the Contractor fail to carry out or comply with any of the foregoing provisions, the Owner shall have the right, in addition to any other rights and remedies provided by the Contract Documents, at law or at equity, after three (3) days' written notice mailed or delivered to the last known address of the Contractor, for all or any portion of the Work, and, for the purpose of completing the Work, to enter upon the premises and take possession. Workmen shall strictly comply with Drug and Alcohol-Free Workplace program set forth in the Contract Documents.
- § 3.4.3.2 Contractors' personnel shall not make any remarks to any students or Owner's personnel that violate decency or cause embarrassment to that individual or the Owner. Failure to comply will result in dismissal from the Project.
- § 3.4.3.3 The Contractor shall abide by the following requirements, which shall apply to all Contractors, all Subcontractors of any tier, and all employees of all Contractors and all Subcontractors of any tier:
 - .1 They shall not socialize with the students, faculty, visitors, or patrons.
 - .2 They are prohibited from smoking, vaping, and other use of tobacco in buildings and on the grounds owned by or under the control of the Owner.

- .3 They are not allowed to use the existing facilities, i.e., lunchroom, toilets, etc., unless specifically stated otherwise in these Contract Documents.
- .4 They are not allowed in the existing facility except in areas being renovated.
- .5 They shall not use radios on the site for music or entertainment purposes.
- .6 They shall not possess, or consume, or be under the influence of alcoholic beverages when on site.
- .7 They shall not use, possess, or be under the influence of any illegal substances (i.e., drugs, etc.) while on site.

Failure to comply with the above requirements may result in the Owner requiring the offending party to be removed from the Project and not allowed to return.

- § 3.4.3.4 Workers shall not smoke or use vaping devices within the limits of the Owner's property boundaries or as otherwise required by Federal legislation, Title X, P.L. 103-227, Goal 2000, Educate America Act of 1994 as amended from time to time, including without limitation, 20 U.S.C.A. Section 6081, et seq., the Pro-Children Act of 1994. Workers shall not possess or consume alcoholic beverages when within the limits of the Owner's property boundaries. The Contractor shall require its employees and agents, and its Subcontractor's employees and agents to work diligently and behave in an orderly manner at all times when at or about the Project site and shall remove from the Project any employee whose conduct is deemed objectionable. Unless otherwise approved by the Owner, persons performing Work shall not use the Owner's building facilities, including, without limitation, restroom facilities.
- § 3.4.4 Contract Sum Not Adjusted for Rising Costs: The Bid (and hence the Contract Sum) for the Contract must be guaranteed for the duration of this Project and shall thereby have incorporated within it any or all escalation factors related to market conditions. Notwithstanding any other provision in the Contract Documents to the contrary, Contractor's Contract Sum is intended to include all increases in cost, foreseen or unforeseen, including, without limitation, increases in costs arising from supply shortages, unusual delay in deliveries, increases in market prices for materials, labor, taxes and/or other causes beyond the Owner's control, all of which are to be borne solely by the applicable Contractor supplying the materials and/or labor to the Project. All loss and/or damage arising from any of the Work performed under this Agreement through unforeseen or unusual obstructions, difficulties or delays which may be encountered in the prosecution of same shall be borne solely by the applicable Contractor prosecuting the Work.
- § 3.4.5 The Contractor shall ensure that products incorporated into, and used to execute, the Work of the Project are free from asbestos and other hazardous materials. If any suspected asbestos-containing material is installed, the Owner has the right to have the material in question tested and if proven to contain asbestos, the Contractor shall remove all material in question and replace it with new acceptable material at no additional cost to the Owner and shall pay for costs associated with testing of the suspected material.
- § 3.4.6 Overtime: Any work necessary to be performed after regular working hours, on Sunday or Legal Holidays, shall be performed without additional expense to the Owner.
- § 3.4.7 The equipment and procedures used on portions of the Work shall be such that no damage to adjacent property or roadways will result from their use. No work of any kind shall be installed or stored in a manner which will endanger the structure of the building.
- § 3.4.8 Material Shipments: The Contractor in making or ordering shipments shall not consign or have consigned materials, equipment, or any other items in the name of the Construction Manager, Architect, or the Owner. Neither the Construction Manager, Architect or the Owner shall be under any obligation to make payment for charges on shipments made by or to the Contractor.

§ 3.5 Warranty

§ 3.5.1 The Contractor warrants to the Owner, Construction Manager, and Architect that materials and equipment furnished under the Contract will be of good quality and new unless the Contract Documents require or permit otherwise. The Contractor further warrants that the Work will conform to the requirements of the Contract Documents and will be free from defects, except for those inherent in the quality of the Work the Contract Documents require or permit. Work, materials, or equipment not conforming to these requirements may be considered defective. The Contractor's warranty excludes remedy for damage or defect caused by abuse, alterations to the Work not executed by

the Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear and normal usage. If required by the Construction Manager or Architect, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment. The warranty provided in this Section shall be in addition to and not in limitation of any other warranty required by the Contract Documents or otherwise prescribed by law.

§ 3.5.2 All material, equipment, or other special warranties required by the Contract Documents shall be issued in the name of the Owner, or shall be transferable to the Owner, and shall commence in accordance with Section 9.8.4.

§ 3.5.3 The Contractor hereby guarantees the Work to the full extent provided in the Drawings, Specifications, these General Conditions, and other Contract Documents. Materials and workmanship shall be guaranteed for a minimum of one (1) year from the date of Final Payment for the entire Project, except where a longer period is specified. The Contractor shall make good without cost to the Owner for any defective portion of the Work, including other Work damaged thereby, within seventy-two (72) hours of being notified of the defective work. Owner's rights and remedies hereunder shall be in addition to any other rights and remedies which the Owner may have pursuant to law, equity or other portions of the Contract Documents. Without limitation by the foregoing, the Contractor shall pay in addition for all damage to the Project resulting from defects in the Work and all costs and expenses necessary to correct, remove, replace and/or repair the Work and any other work or property which may be damaged in correcting, removing, replacing, or repairing the Work, as well as any consequential damages the Owner may suffer. If the Contractor fails to adhere to this provision, the Owner will be entitled to, in seeking to enforce its rights, recover, legal fees, consultant and expert witness fees, or any other expenses incurred by the Owner.

§ 3.5.4 The Contractor shall forward guarantee and warranty registration cards to the manufacturers in the name of the Owner showing the date of acceptable Substantial Completion of the Work as the beginning date for guarantee and warranty periods.

§ 3.6 Taxes

(Paragraph deleted)

§ 3.6.1 The Contractor shall pay sales, consumer, use and similar taxes for the Work or portions thereof provided by the Contractor that are legally enacted when bids are received or negotiations concluded, whether or not yet effective or merely scheduled to go into effect. The Owner is exempt (excluded) from sales and/or use tax in Pennsylvania on certain transactions. Contractor and all subcontractors shall bid and shall purchase as exempt (excluded) from Pennsylvania sales and/or use tax all tangible personal property within the definition of 'building machinery and equipment' as that term is defined in Act No. 45-1998. No charges for tax shall be allowed for such exempt items. It shall be the Contractor's responsibility to determine those items for which an exemption will apply, and the Contractor shall obtain legal or other tax advice to determine how and to what extent an exemption form the taxes apply. In order to facilitate such purchase free of sales and/or use tax in Pennsylvania, and upon certification by Contractor that an item is, in fact, tax exempt, the Owner agrees to execute a tax exemption certificate prepared by Contractor or a subcontractor as may be required by the regulations of the Pennsylvania Department of Revenue.

§ 3.6.2 The Contractor hereby accepts and assumes full and exclusive liability for payment of all sales taxes, state and municipal taxes including, without limitation, business privilege taxes, use taxes, and all contributions and payroll taxes under the provisions of Federal law or the laws of the Commonwealth of Pennsylvania, including, but not limited to, Social Security Acts, as to all employees engaged in the performance of the Work subject to this Agreement, and further agrees to meet all requirements that may be specified under regulations of government officials having jurisdiction over the Work. All such taxes are expressly included within the compensation owed to the Contractor under the terms of this Agreement. It is further agreed that the Owner shall have the right to deduct the amount of any and all such taxes from the compensation owed to the Contractor under the terms of this Agreement at any time, in the Owner's sole discretion, as the Owner deems advisable, it being agreed that the Owner shall have the right to deduct any and all such moneys from the next payments due under the Agreement and from the retained percentages.

§ 3.6.3 The Contractor hereby accepts and assumes full and exclusive liability for and shall indemnify, defend, protect, and save harmless the Architect, Construction Manager and Owner from and against the payment of:

All contributions, taxes or premiums (including, without limitation, interest and penalties thereon) which may be payable under any unemployment insurance laws of any state, the Older Workers Benefit Protection Act of 1990 (OWBPA) (P.L. 101-433, October 16, 1990, 104 Stat. 978), as amended from time to time, the Federal Social Security Act, as amended from time to time, Federal, State, County

- and/or Municipal tax withholding laws, or any other laws, measured upon the payroll of or required to be withheld from employees, by whomever employed, engaged in the Work.
- .2 All sales, use, personal property and other taxes (including, without limitation, interest and penalties thereon) required by any Federal, State, County, Municipal or any other laws to be paid or collected by the Contractor or any of its Subcontractors or vendors or any other person acting for, through or under it or any of them by reason of the performance of the Work or the acquisition, ownership, furnishing or use of any materials, equipment, supplies, labor, services or other items for or in connection with the
- .3 All pension, welfare, vacation, annuity and other employee and union benefit contributions payable under or in connection with labor agreements with respect to all persons, by whomsoever employed, engaged in the Work.
- In the event that any law is or has been passed, or any rule or regulation pursuant thereof is enacted, which requires the Owner to pay, either directly or indirectly, the amount of any such sales, use, personal property and other taxes (including, without limitation, interest and penalties thereon) required by any Federal, State, County, Municipal or any other laws or should any such law, rule or regulation direct the Owner to collect the same, or make the Owner liable for the collection thereof, or make the Owner responsible therefor, it is covenanted and agreed that the Contractor shall fully and completely make all payments therefor, and shall fully and completely indemnify and save the Owner harmless from any and all such taxes.
- § 3.6.4 The Contractor shall base its Bid on the properly charged, collected, and remitted sales tax due on only those "construction activities" which are presumed to become a permanent part of the real estate in accordance with 61 Pa. Code Section 31.11, et seq., as amended from time to time. The Contractor has not included in its Bid any tax for "sales activities" which do not become a permanent part of the real estate in accordance with 61 Pa. Code Section 31.11, et seq., as amended from time to time.
- § 3.6.4.1 The Contractor shall preserve all such records for a period of three (3) years, or for such longer period as may be required by law, after final payment. To the extent requested by Owner, copies of such records will be provided by the Contractor, and the Contractor shall immediately transmit to the Owner copies of all invoices and receipts for materials, equipment, and labor furnished in connection with the Work by the Contractor and any other materials that reflect sales and use tax paid or not paid.
- § 3.6.4.2 The Contractor agrees to assign and transfer to the Owner all of its rights to sales and use tax which may be refunded as a result of a claim for refund for materials and/or equipment purchased for the Project. The Contractor further agrees that it will not file a claim for refund for any sales or use tax which is the subject of this assignment. This assignment will include, without limitation, any tax erroneously paid by the Contractor. Further, the Contractor agrees to execute all such documents as may be necessary to effectuate such an assignment.
- § 3.6.5 The Contractor shall keep detailed records of all materials, equipment, and labor furnished in connection with the Work and shall keep such full and detailed accounts as may be necessary for the proper financial management under this Agreement and the system utilized by the Contractor shall be satisfactory to the Owner. The Owner or its representative shall be afforded access to the Contractor's records, books, correspondence, instructions, drawings, receipts, vouchers, memoranda, certifications, and similar data relating to this Agreement. Further, the Contractor must provide the Owner with certified payroll records in compliance with Section 16.3 for the labor furnished by the Contractor in connection with the Work. Contractor shall, at no additional charge to Owner, provide all necessary information and participate in any audits conducted on the Project, both during and after its completion, at the request of the Owner.
- § 3.6.5.1 The Contractor shall preserve all such records for a period of three (3) years, or for such longer period as may be required by law, after final payment. To the extent requested by Owner, copies of such records will be provided by the Contractor.
- § 3.6.5.2 Contractor shall require all of its Subcontractors to preserve and make their records, books, correspondence, instructions, drawings, receipts, vouchers, memoranda, certifications, and similar data relating to the Work for a period of three (3) years, from the date of Final Completion or for such longer period as may be required by law, after final payment.

§ 3.7 Permits, Fees, Notices, and Compliance with Laws

- § 3.7.1 The Contractors shall secure, and Owner will reimburse at no markup or pay directly, all permits, fees, licenses, and inspections required for construction. The Contractors shall secure and pay for all necessary administrative costs, insurances, business privilege licenses, certifications, or taxes to apply for the necessary permits required to perform the Work.
- § 3.7.2 The Contractor shall comply with and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities applicable to performance of the Work.
- § 3.7.2.1 It is the responsibility of the Contractor to determine what codes and local ordinances, if any, will affect its Work. The Contractor shall check for any County, City, Borough, or Township rules or regulations applicable to the area in which the Project is being constructed and, in addition, the Contractor shall check for any rules or regulations of other organizations having jurisdiction, including, without limitation, chambers-of-commerce, planning commission, railroads, industries, or utility companies who have jurisdiction over lands which the Contractor furnishes materials, equipment and labor in connection with the Work. Any costs of compliance with local controls shall be included in the Contract Sum, even though documents of such local controlling agencies are not listed herein.
- § 3.7.2.2 The Contractor shall comply with all aspects of the Federal Occupational Safety and Health Act of 1970 (O.S.H.A.) including specific responsibilities to perform reporting and recording requirements. The Contractor is responsible to obtain information regarding his responsibilities under the Act.
- § 3.7.2.3 The Contractor shall comply with all aspects of Pennsylvania Act 287 (December 10, 1974), requiring among other things that each Contractor who intends to perform excavation or demolition work in a site within a political subdivision, ascertain the location and type of utility lines and pipes at each site and notifies the utility company(s) three working days in advance of performing the excavation or demolition. Call Pennsylvania One Call System, Inc. (1-800-242-1776). The Contractor shall be responsible for timely notification to and coordination with all utility companies regarding the provision of services to the Project. The Contractor shall inform the Architect at once when the Owner's participation is required, and the Architect shall immediately notify the Owner. Connections for temporary and permanent utilities and payment for temporary utilities services required for the Work, whether the Work is new construction or renovation of an existing facility, are the responsibility of the Contractor unless otherwise agreed. If the Work is new construction, then payment for temporary and/or permanent utility services shall be the responsibility of the Contractor until Substantial Completion.
- § 3.7.2.4 The Contractor at all times shall observe and comply with all Federal and State Laws and local codes, ordinances and regulations in any manner affecting the conduct of work and all such orders or decrees as exist at present and those which may be enacted later by bodies or tribunals having jurisdiction or authority over the Work and shall indemnify, defend, and save harmless the Owner and all his officers, agents and servants against any claim or liability arising from or based on the violation of any such law, code, ordinance, regulations, order or decree, whether by himself or his employees. Any cost of compliance with such Federal and State laws and local codes ordinances and regulations shall be included in the prices bid even though explicit reference to such Federal and State laws and local codes ordinances are not listed herein.
- § 3.7.2.5 Each and every provision of law and clause required by law to be inserted in this Contract shall be deemed to be inserted herein and the Contract shall be read and enforced as though it were included herein, and if through mistake or otherwise such provision is not inserted, or is not correctly inserted, then upon the application of either party, the Contract shall forthwith be physically amended to make such insertion.
- § 3.7.3 It shall be the obligation of the Contractor to review the Contract Documents and to determine and to notify the Owner, the Architect, and the Construction Manager of any conflict, inconsistency, or discrepancy between standards, codes, laws, ordinances, building codes and regulations of which the Contractor has knowledge or should be reasonably able to determine. The Contractor shall not violate any zoning, setback or other requirements of applicable laws, codes, standards, regulations and/or ordinances, or of any recorded covenants of which the Contractor has knowledge. If the Contractor observes that portions of the Contract Documents are at variance with applicable laws, statutes, ordinances, building codes, standards, codes, rules or regulations, the Contractor shall notify the Architect and Construction Manager promptly in writing, and necessary changes shall be accomplished by appropriate modification.

- § 3.7.3.1 If the Contractor, any of its Subcontractors or any Sub-Subcontractors, performs Work contrary to laws, statutes, ordinances, building codes, and rules and regulations without such notice to the Construction Manager, Architect, and Owner, the Contractor shall assume full responsibility for such Work and shall bear the attributable costs, including but not limited, any fines or penalties from governmental authorities and the costs of corrective actions or replacement.
- § 3.7.3.2 To the extent Contractor pays for any permit, connection and/or tap-in fee not otherwise properly due, the Owner shall be entitled to any refund relating thereto and the Contractor agrees to assign any and all rights to said refund claim to the Owner. If any additional permit fees are required, then Contractor shall receive prior approval of Owner to pay such fees. In such case, the Contractor and all Subcontractors hereby assign to Owner all rights to claim any such refund claim and to any resulting refund and hereby appoint to the Owner as Attorney-in-Fact to execute and acknowledge in their respective names and to prosecute such refund claims before administrative agencies and courts in Pennsylvania having jurisdiction over such claims. The Owner or its agent shall have the right to review the books and records of Contractor and all subcontractors for the purpose of documenting and substantiating any such refund claim. Contractor and all subcontractors shall fully cooperate with Owner in pursuing any such refund claim and shall make available to Owner any applicable documents.
- § 3.7.4 Concealed or Unknown Conditions. If the Contractor encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, the Contractor shall contemporaneously provide notice to the Owner, Construction Manager, and the Architect before conditions are disturbed and in no event later than 10 days after first observance of the conditions. The Architect and Construction Manager will promptly investigate such conditions and, if the Architect, in consultation with the Construction Manager, determines that the conditions differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, will recommend that an equitable adjustment be made in the Contract Sum or Contract Time, or both. If the Architect, in consultation with the Construction Manager, determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Architect shall promptly notify the Owner, Construction Manager, and Contractor, stating the reasons. Claims by the Contractor in opposition to such determination must be made within 21 days after the Architect has given notice of the decision. If the Owner or Contractor disputes the Architect's determination or recommendation, either party may submit a Claim as provided in Article 15.
- § 3.7.5 If, in the course of the Work, the Contractor encounters human remains or recognizes the existence of burial markers, archaeological sites or wetlands not indicated in the Contract Documents, the Contractor shall immediately suspend any operations that would affect them and shall notify the Owner, Construction Manager, and Architect. Upon receipt of such notice, the Owner shall promptly take any action necessary to obtain governmental authorization required to resume the operations. The Contractor shall continue to suspend such operations until otherwise instructed by the Owner but shall continue with all other operations that do not affect those remains or features. Requests for adjustments in the Contract Time arising from the existence of such remains or features may be made as provided in Article 15. If Contractor notifies the Owner, Construction Manager, and/or Architect of any of the conditions set forth in this Section, Owner shall have the right, in such event, to terminate the Agreement, and upon payment to Contractor of all sums due as of the date of termination, Owner shall have no further liability or responsibility to Contractor under the Contract Documents.
- § 3.8 Allowances
- § 3.8.1 Intentionally deleted.
- § 3.8.2 Intentionally deleted.
 - .1 Intentionally deleted.
 - .2 Intentionally deleted.
 - .3 Intentionally deleted.
- § 3.8.3 Intentionally deleted.
- § 3.8.4 NO CASH ALLOWANCES are included in the Contract Documents for any purpose.

§ 3.9 Superintendent

§ 3.9.1 The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project site during performance of the Work. The superintendent shall represent the Contractor, and communications given to the superintendent shall be as binding as if given to the Contractor. At the request of the Construction Manager, Architect or Owner, the Contractor's superintendent shall attend Project meetings, whether the Project meetings are prior to the start of the Contractor's work or subsequent to the completion of the Contractor's work. The Superintendent shall be on the Project site full time during the progress of the Work until the day of substantial completion and for such additional time thereafter as the Construction Manager may determine to be necessary for the expeditious completion of Work.

§ 3.9.2 The Contractor, within 10 days following receipt of Notice of Intent to Award, shall furnish in writing to the Owner and Architect, through the Construction Manager, of the name and qualifications of a proposed superintendent. The proposed superintendent's resume shall include at least 3 recent projects of similar contract size and scope, with the names and telephone numbers of Owner and Architect representatives. Within 14 days of receipt of the information, the Construction Manager may notify the Contractor, stating whether the Owner, the Construction Manager, or the Architect (1) has reasonable objection to the proposed superintendent or (2) require additional time for review. Failure of the Construction Manager to provide notice within the 14-day period shall constitute notice of no reasonable objection.

§ 3.9.3 The Contractor shall not employ a proposed superintendent to whom the Owner, Construction Manager, or Architect has made reasonable and timely objection. The superintendent shall be on site full-time from the Notice to Proceed date, and the Contractor shall not change the superintendent without the Owner's and Construction Manager's consent, unless the superintendent proves to be unsatisfactory to the Contractor and ceases to be in the Contractor's employ. If any Contractor should at any time fail to provide adequate supervision and superintendence, as may be evidenced by incomplete, delayed or non-conforming Work, the Owner may provide supervision and superintendence and the cost thereof, including, but not limited to, compensation for additional professional services, legal fees, or other costs or expenses incurred, shall be charged to the applicable Contractor in the form of a Change Order incorporating an appropriate reduction in the Contract Sum. If the payments due to the Contractor are not sufficient to cover such amount, the Contractor shall pay the difference to the Owner. The Owner and/or Construction Manager shall have the right to dismiss from the Project any superintendent whose performance is not satisfactory in the sole discretion of the Owner. If during the course of the Project it is evident that the Superintendent is not competent or is not managing the progress of the Project or is not coordinating the various trades, entities, and/or persons under his supervision, then the Construction Manager will document such findings to the Contractor. If within 10 days of receiving such notice, no substantial effort or correction of the finding is made known to the Construction Manager, then the Construction Manager, as requested by the Owner, may require the immediate replacement of the superintendent with an acceptable one at no additional cost to the Owner. The Owner reserves the right to deduct \$800.00 per day from the Contract Sum, as liquidated damages and not as a penalty, for each day that a qualified superintendent is not on site for the entire day.

§ 3.9.4 As a consideration of the Contract between the Owner and the Contractor, the Contractor shall retain the same Superintendent for its Work on the Project while on the Project. The Superintendent shall not be reassigned from this Project prior to completion, unless by termination of employment by the Superintendent or the Contractor, or if required by the Construction Manager or by the Owner in accordance with Section 3.9.3.

§ 3.10 Contractor's Construction and Submittal Schedules

§ 3.10.1 The Contractor, promptly after being awarded the Contract, shall prepare and submit for the Architect's information and the Owner's and Construction Manager's approval, a Contractor's construction schedule for the Work. The schedule shall contain detail appropriate for the Project, including (1) the date of commencement of the Work, interim schedule milestone dates, and the date of Substantial Completion; (2) an apportionment of the Work by construction activity; and (3) the time required for completion of each portion of the Work. The schedule shall provide for the orderly progression of the Work to completion and shall not exceed time limits current under the Contract Documents. The schedule shall be revised monthly to reflect the conditions of the Work and Project. The Contractor shall cooperate with the in scheduling and performing the Contractor's Work to avoid conflict with, and as to cause no delay in, the work or activities of the construction or operations of the Owner's own forces or Separate Contractors.

.1 The Contractor's failure to cooperate and participate with the Owner, the Construction Manager, and separate contractors in the development and review of construction schedules as provided in this

Section 3.10 shall be a material breach of its obligations, entitling the Owner to exercise all rights and remedies under the Contract Documents and applicable law. In no event shall any revision to any construction schedule constitute the basis for an adjustment in the Contract Time or the Contract Sum unless such adjustment is agreed to by the Owner and authorized pursuant to Change Order. Failure of Contractor to fully comply with requirements of this Section 3.10, and the other Contract Documents regarding scheduling shall constitute default by Contractor of its obligations and be sufficient grounds for termination of the Contract.

- The schedules prepared by the Contractor and by the Project Coordinator, if any, under this Article shall be in the form of a CPM arrow network diagram, preferably organized by "IJ nodes" and shall include:
 - (1) A shop drawing and submittal schedule noting the relevant submittal, approval, order, fabrication and delivery durations.
 - (2) Integration of the shop drawing and submittal schedule with the installation activity logic in order to determine the effect of delivery on installation of any items of Work.
 - (3) The planned progressions of construction work showing the activities and duration of the Work of each contract phase and clearly noting any interim milestone dates.
 - (4) The appropriate restraints in order to clearly identify the interrelationships of work and crew and trade flow.
 - (5) Logic (CPM arrow network) diagrams summarized into a summary bar chart format that is capable of displaying current progress of all Work.
 - A computerized mathematical analysis of the CPM logic with each monthly schedule responsibility, activity duration, early (target) start date, early (target) finish date, late start date, late finish date, work tasks critical to completion within the Contract Time, and any interim milestone dates.
 - Crew sizes and planned labor hours for each activity shown on the schedule. Such schedules shall be produced using Primavera scheduling software or such other project management program as may be approved in writing by the Owner and Construction Manager prior to its implementation by the Contractor. The Contractor shall deliver to the Owner, upon Owner's request and in the format requested by the Owner, copies of all electronic files (including all schedule logic, restraints and all other electronic data and information used to create and maintain the schedule that the Owner may request) that comprise or relate to such schedules, including the original Project schedule, all schedule updates, any recovery schedules, and any schedule revisions.
- .3 The Project Schedule shall be submitted by the Contractor for all Work. All schedule and work items must be in conformance with the Project schedule requirements set forth in the Contract Documents including any phasing or other milestones provided. The Project Coordinator shall incorporate all Contractors' items of Work and issue the Project schedule. Upon written approval of the Project schedule by the Owner and Construction Manager, it shall with respect to time, become the essence of the Contract. The Project schedule may be changed or revised only with the written consent of the Construction Manager and Owner. No payment applications will be processed without an approved Project schedule.
- The Project Schedule is to be used by the Prime Contractors as a guide, and all Contractors and Sub-contractors shall be responsible to perform Work to ensure that the Project is completed by the Project Contract completion date(s), and all phasing and milestone dates established in the Contract Documents are met. Any claims for additional costs associated with completion of the Work within the required Contract time frames will not be considered. The Contractor and all Sub-contractors, who feel extra time, in any form such as shift work, overtime, and premium time, is necessary to meet Contract requirements regardless of trade, should include these costs in their Bids. Construction Manager, Architect, and Owner reserve the right to withhold processing of any monthly payment applications from Prime Contractor if schedule compliance is not being strictly adhered to. Such payment may be withheld until the Prime Contractor makes corrective action to comply with Project schedule.
- .5 Any preparation, review, enforcement, and updating of the Project schedule does not make Owner, Construction Manager or Architect liable to Contractor for time, cost overruns, or schedule changes which are required to maintain Project Contract completion date and all phasing and milestone dates established in the Contract Documents.
- .6 General Scheduling Requirements: Any of the scheduling requirements, including the format, content, and complexity, can be waived, or modified by the sole discretion of the Construction Manager only.

- Any modification or waiver by the Construction Manager shall not be grounds for any claim by Contractor against Owner, Construction Manager, or Architect. Project Coordinator shall submit final construction schedule and all schedule updates in electronic format with no restrictions for viewing and analyzing using the same software with which the schedule was created. Electronic format shall be submitted to the Construction Manager and to any Contractor that Construction Manager may direct.
- The Work under the Contract Documents shall be planned, scheduled, executed, reported, and accomplished using the cost and resource loaded "Critical Path Method" schedule, in calendar days (excluding Saturdays, Sundays and legal holidays). The provisions of the Division 01 General Requirements, and the directions of the Project Coordinator are to be followed by the Contractor in scheduling and coordinating construction activities. The scheduling services of the Project Coordinator are part of its contract with the Owner, but nothing herein relieves the obligations of the Contractor to schedule their own construction activities, and nothing herein alters the obligation of the Contractor to resolve all supervision, coordination, and scheduling issues between and among the Sub-Contractors. In addition, the requirements for subordinate coordination responsibilities and scheduling per the Division 01 General Requirements must be followed by the Prime Contractor.
- .8 Contractor is responsible for determining the sequence and logic of activities, the time estimates of the detailed construction activities and the means, methods, techniques, and procedures to be employed with regard to his portion of the Work. The construction schedule shall represent Contractor's best judgment of how he shall prosecute the Work in compliance with the requirements of the Contract Documents. Contractor shall ensure that the construction schedule is current and accurate and is properly and timely monitored, updated, and revised as Project conditions and the Contract Documents may require, and as may be directed by Project Coordinator.
- .9 Contractor shall consult with his major Subcontractors relating to the preparation of his construction plan and construction schedule. Major Subcontractors shall receive copies of those portions of Contractor's construction schedule that relates to their Work and shall be continually advised of any updates or revisions to the construction schedule as the Work progresses. When Contractor submits his construction schedule to the Project Coordinator or makes any proposed updates or revisions to such schedule, it shall be concluded by Construction Manager, Owner, and Project Coordinator that Contractor has consulted with and has the concurrence of his major Subcontractors. Contractor shall be solely responsible for ensuring that all Subcontractors comply with the requirements of the construction schedule for their portions of the Work.
- .10 Contractor shall provide the basic data as required by Project Coordinator relating to activities, durations, costs, and sequences as part of Contractor's draft of the Construction Schedule. This data shall reflect Contractor's actual construction plan for the Project and shall fully comply with all requirements of the Contract Documents.
- Contractor acknowledges and agrees that his construction schedule must be flexible in order to accommodate and allow for his coordination with all the construction activities and Work of Subcontractors, Owner's own forces, and other separate contractors.
- The review by Construction Manager, Owner, or Project Coordinator of the construction schedule or any other schedule or plan of construction of Contractor, does not constitute an agreement by Construction Manager, Owner, or Project Coordinator of any start or finish date in the schedule or specific durations or sequences for activities of the Contractor; further, nothing herein shall be construed as modifying or changing, or excusing the performance of Contractor of required portions of the Work by the completion dates as set forth in the Contract Documents.
- The completion, phasing, and milestone dates set forth in the Contract Documents represent only the .13 major items of Work and may include interface dates with the construction activities of others. Completion, phasing, and milestone dates are Contract requirements and are of the essence to the Contract Documents and to the coordination of the Work by the Contractor. Completion, phasing, and milestone dates represent the latest allowable completion time for those portions of the Work to which each date relates. The dates are not intended to be a complete listing of all Work under the Contract Documents or of all interfaces with Work performed by the Contractors or others. The Contractor shall determine the time requirements for all such interfaces and shall be responsible for planning, scheduling, and coordinating the Work in order to complete in accordance with those requirements.
- .14 Review by the Project Coordinator or Construction Manager of Contractor's Construction Schedule, or any revisions or updates thereto, are advisory only and shall not relieve Contractor of the responsibility for accomplishing each portion of the Work within each and every applicable Completion Date. Omissions and errors in the approved or accepted Construction Schedule, or any revisions or updates

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- shall not excuse performance, which is not in compliance with the Contract Documents. Review by the Project Coordinator does not make Owner, Project Coordinator, Construction Manager, or Architect liable to Contractor for time or cost overruns flowing from such omissions or errors.
- Should Contractor intend or plan to complete the Work, or any portion thereof, earlier than any applicable completion, phasing, or milestone date or the Contract Time, Contractor shall give timely and reasonable written notice of this fact to the Construction Manager. Earlier completion of any portion of the Work shall be promoted wherever feasible, and all Contractors must cooperate and accelerate towards earlier completion of any portion of the Work unless such Work affects the quality of work as determined by the Construction Manager. No claims for acceleration to complete early or to meet Project schedule will be considered.
- .16 In all respects, Project Coordinator shall cooperate with the Construction Manager in the performance of all duties described in the Contract Documents.
- At Construction Manager's sole discretion, if Contractor fails to fulfill their construction scheduling responsibilities in part or in whole, scheduling services may be provided by Construction Manager. Any scheduling services of the Construction Manager actually provided will result in deductions from the Contract Sum of the Prime Contractor by Change Order deduct so that the Construction Manager is fully reimbursed for this work, but nothing herein relieves the obligations of the Project Coordinator to schedule and coordinate their own construction activities.
 - (1) The preliminary Project schedule must be completed within 20 days of Notice to Proceed.
 - (2) The final Project schedule must be completed within 35 days of Notice to Proceed.
 - (3) Comply with requirements of Section 013200 "Construction Progress Documentation".
- If the Contractor does not comply with all the scheduling requirements and timelines, the Owner, upon recommendation from the Construction Manager, reserves the right to deduct as liquidated damages, and not as a penalty, \$800.00 from the Contract Sum for each day that Contractor does not comply. The Owner may also proceed with enforcing other requirements of the Contract Documents.
- Any measures so required or undertaken by the Contractor to maintain the Construction Schedule and to comply with related Section 013200 "Construction Progress Documentation", shall be provided by the Contractor at no additional cost to the Owner.
- § 3.10.2 The Contractor, promptly after being awarded the Contract and thereafter as necessary to maintain a current submittal schedule, shall submit a submittal schedule for the Construction Manager's and Architect's review. The submittal schedule shall (1) be coordinated with the Contractor's construction schedule, and (2) allow the Architect 14 days from time of receipt to review submittals. If the Contractor fails to submit a submittal schedule, or fails to provide submittals in accordance with the approved submittal schedule, the Contractor shall not be entitled to any increase in Contract Sum or extension of Contract Time based on the time required for review of submittals.
- § 3.10.3 The Contractor shall cooperate and participated uring the Work of this Project. The Contractor shall schedule and execute their Work to avoid delay to the Owner's own forces, or other separate contractors. The Contractor shall be financially responsible for undue delay they cause to Owner, and separate contractors on the Project. The Contractor shall defend and hold harmless the Owner, Construction Manager, and Architect for any claims, losses or delays of any kind whatsoever made by separate contractors arising from delays caused by the Contractor.
- § 3.10.4 The Contractor shall perform the Work in accordance with the most recent project construction schedule submitted to and approved by the Owner and Construction Manager.
- § 3.10.5 The Owner shall have the right to direct a postponement or rescheduling of any date or time for the performance of any part of the Work that may interfere with the operations of other contractors or of the Owner's premises or any of the Owner's operations. The Contractor shall, upon the Owner's request, schedule any portion of the Work affecting other contractors or the operation of the premises during hours when the premises are not in operation. Any postponement, rescheduling, or performance of the Work under this Section 3.10.5 may be grounds for an extension of the Contract Time, if permitted under Section 8.3, but not an increase in the Contract Sum.
- § 3.10.6 Progress payments to the Contractor shall not occur until the Contractor has met the requirements of schedule information stated in this Section 3.10 and the Contract Documents.

§ 3.11 Documents and Samples at the Site

- § 3.11.1 The Contractor shall maintain and make available, at the Project site, one copy of the Contract Documents, including Drawings, Specifications, Addenda, Change Orders, Construction Change Directives, and other Modifications, in good order and marked currently to indicate field changes and selections made during construction, and one copy of the approved Shop Drawings, Product Data, Samples, and similar required submittals. These shall be in paper copy, available to the Construction Manager, Architect, and Owner, and delivered to the Construction Manager for submittal to the Owner upon completion of the Work as a record of the Work as constructed.
- § 3.11.2 The Contractor shall also update the Construction Manager's record set of drawings on a weekly basis, at a minimum, and more frequently as necessitated by the Work. Upon completion of the Work, Contractor shall certify that such record drawings accurately reflect all "as built" conditions for which the Contractor is responsible, after which the Construction Manager will deliver its record drawings to the Architect for submittal to the Owner.

§ 3.12 Shop Drawings, Product Data, and Samples

- § 3.12.1 Shop Drawings are drawings, diagrams, schedules, and other data specially prepared for the Work by the Contractor or a Subcontractor, Sub-subcontractor, manufacturer, supplier, or distributor to illustrate some portion of the Work.
- § 3.12.2 Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams, and other information furnished by the Contractor to illustrate materials or equipment for some portion of the Work.
- § 3.12.3 Samples are physical examples that illustrate materials, equipment, or workmanship, and establish standards by which the Work will be judged.
- § 3.12.4 Shop Drawings, Product Data, Samples, and similar submittals are not Contract Documents. Their purpose is to demonstrate how the Contractor proposes to conform to the information given and the design concept expressed in the Contract Documents for those portions of the Work for which the Contract Documents require submittals. Review by the Architect and Construction Manager is subject to the limitations of Sections 4.2.10 through 4.2.12. Informational submittals upon which the Construction Manager and Architect are not expected to take responsive action may be so identified in the Contract Documents. Submittals that are not required by the Contract Documents may be returned by the Construction Manager or Architect without action.
- § 3.12.5 The Contractor shall review for compliance with the Contract Documents, approve, and submit to the Construction Manager, Shop Drawings, Product Data, Samples, and similar submittals required by the Contract Documents, in accordance with the Project submittal schedule approved by the Construction Manager and Architect or, in the absence of an approved Project submittal schedule, with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of other Contractors, Separate Contractors, or the Owner's own forces. The Contractor shall cooperate with the Construction Manager in the coordination of the Contractor's Shop Drawings, Product Data, Samples, and similar submittals with related documents submitted by other Prime Contractors. Submittals which are not marked as reviewed for compliance with the Contract Documents and approved by the Contractor may be returned by the Architect without action. The Contractor shall forward to the Architect a copy of the transmittal covering each such submittal.
- § 3.12.5.1 Except where otherwise specified or agreed by Architect, the Contractor shall submit all shop drawings, product data, samples, and similar submittals within ninety (90) days of the Notice to Proceed. When such initial submittals are rejected or otherwise required to be corrected and resubmitted, Contractor shall transmit complying submittals promptly so as to avoid delay in the Work, and in any case within thirty (30) days after return of the initial submittal, unless otherwise agreed by the Architect. Notwithstanding these time requirements for submittals, submittals that are required for work on the critical path of the construction schedule shall be submitted earlier and in a timely manner so as not to delay the Work.
- § 3.12.5.2 The Contractor agrees that the Owner will be damaged in an undeterminable amount if submission of shop drawings, product data, samples, and similar submittals is not made in compliance with Section 3.12.5.1.
- § 3.12.5.3 The Owner reserves the right to deduct \$800 per day, as liquidated damages, and not as a penalty, until all such required submittals have been respectively and accordingly transmitted.

- § 3.12.6 By submitting Shop Drawings, Product Data, Samples, and similar submittals, the Contractor represents to the Owner, Construction Manager, and Architect, that the Contractor has (1) reviewed and approved them, (2) determined and verified materials, field measurements and field construction criteria related thereto, or will do so, and (3) checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents.
- § 3.12.7 The Contractor shall perform no portion of the Work for which the Contract Documents require submittal and review of Shop Drawings, Product Data, Samples, or similar submittals, until the respective submittal has been reviewed and approved by the Architect. Further, Contractor shall not be entitled to additional costs or time in the event that Contractor orders products or materials prior to receipt of review and approval of the submittal therefor, and which submittal is subsequently rejected or modified by Architect.
- § 3.12.8 The Work shall be in accordance with approved submittals except that the Contractor shall not be relieved of responsibility for deviations from the requirements of the Contract Documents by the Architect's approval of Shop Drawings, Product Data, Samples, or similar submittals, unless the Contractor has specifically notified the Construction Manager and Architect of such deviation at the time of submittal and (1) the Architect has given written approval to the specific deviation as a minor change in the Work, or (2) a Change Order or Construction Change Directive has been issued authorizing the deviation. The Contractor shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples, or similar submittals, by the Architect's approval thereof.
- § 3.12.9 The Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data, Samples, or similar submittals, to revisions other than those requested by the Construction Manager and Architect on previous submittals. In the absence of such notice, the Architect's approval of a resubmission shall not apply to such revisions.
- § 3.12.10 The Contractor shall not be required to provide professional services that constitute the practice of architecture or engineering unless such services are specifically required by the Contract Documents for a portion of the Work or unless the Contractor needs to provide such services in order to carry out the Contractor's responsibilities for construction means, methods, techniques, sequences, and procedures. Where applicable law and/or the Contract Documents require that Contractor engage a licensed design professional to provide a service, Contractor shall employ a professional possessing the required license in order to perform the service required.
- § 3.12.10.1 If professional design services or certifications by a design professional related to systems, materials, or equipment are specifically required of the Contractor by the Contract Documents, the Owner and the Architect will specify all performance and design criteria that such services must satisfy. The Contractor shall be entitled to rely upon the adequacy and accuracy of the performance and design criteria provided in the Contract Documents. The Contractor shall cause such services or certifications to be provided by an appropriately licensed design professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, Shop Drawings, and other submittals prepared by such professional. Shop Drawings, and other submittals related to the Work, designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to the Architect. The Owner, the Architect, and the Construction Manager shall be entitled to rely upon the adequacy and accuracy of the services, certifications, and approvals performed or provided by such design professionals, provided the Owner and Architect have specified to the Contractor the performance and design criteria that such services must satisfy. Pursuant to this Section 3.12.10, the Architect will review and approve or take other appropriate action on submittals only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents.
- § 3.12.10.2 If the Contract Documents require the Contractor's design professional to certify that the Work has been performed in accordance with the design criteria, the Contractor shall furnish such certifications to the Construction Manager and Architect at the time and in the form specified by the Architect.
- § 3.12.11 Shop drawings, product data, and samples shall be submitted in quantity and procedures as directed by the Architect. It shall be the responsibility of the Prime Contractor to prepare and furnish to other Contractors engaged on the Project, copies of shop drawings as may be required by such other Contractors for the proper installation of their Work.

§ 3.12.12 Under no circumstances shall the Construction Manager, Architect, or Engineer's review of any shop drawing be construed as an approval of extra cost to the Owner for any work shown thereon. Any claim for extra cost shall be made as specified before the time of submitting shop drawings.

§ 3.12.13 All expenses incurred in delivering, transporting, packing, collecting, etc., of samples of materials or equipment shall be paid for by the Contractor, whether samples be delivered to the Project site, to the Architect, or to the laboratory. The cost of mill, fabrication, shop testing, or factory testing and inspection of all material required to be furnished under this Contract shall be borne by the Contractor. Any sample destroyed in the course of testing cannot be returned to the Contractor. Certain approved material, such as hardware, valves, fittings, fire alarm signals, in good condition and not subject to destructive tests, may be used in the Work by the Contractor. This material shall be the last of its particular kind to be incorporated in the building and may not be removed from the Architect's office until just previous to its use. Any material delivered to the job will be compared with the approved sample on file in the Architect's office and if necessary, an additional test shall be made on this material at the cost of the Contractor. Additionally, if a Contractor's shop drawing or other submittal requiring approval of the Architect requires review by the Architect more than three times, then the Contractor shall be responsible to the Owner and the Architect for any costs or expenses associated with reviews beyond the third review.

§ 3.12.14 To better facilitate the shop drawings process, copies of Floor Plan Backgrounds will be made available in electronic format to the Prime Contractors subject to the following provisions:

- The Contractor shall execute and submit the release and indemnification provided and requested by the Architect, Construction Manager, or Consultants.
- .2 The data contained in any and all electronic files is copyright protected by the Architect and shall be used solely for the facilitation of the shop drawing process on this Project only. Any other use that is not consistent with this intended use is strictly prohibited. Any misuse will be punishable to the fullest extent of the law.
- .3 Electronic media will only be made available to Prime Contractors. Direct requests from Subcontractors will not be honored. Prime Contractors shall bear the responsibility of distribution to their Subcontractors, if desired. Requests shall be made in writing directly to the Architect and shall indicate the list of drawings requested (indicate by drawing number). Drawings will be provided in .dwg format and issued electronically.
- The Prime Contractor shall thoroughly check all information and details of the Drawings and be satisfied that all information and details are correct. Information concerning existing conditions, if applicable, shall be thoroughly field checked and verified. Incorrect information and details shall immediately be called to the attention of the Architect. Please note that Addenda information may not be included on the electronic files. The Prime Contractor shall be responsible for incorporating all pertinent Addenda information.
- The Owner, the Construction Manager, the Architect, and the Architect's Consultants shall not be held responsible for any costs or other liabilities resulting from the use of electronic files or the failure of the Prime Contractor to detect errors and omissions concerning matters within his contractual responsibility through the use of said electronic files. The Prime Contractor shall indemnify, defend, and hold harmless, to the fullest extent permitted by law, the Owner, the Construction Manager, the Architect, and the Architect's Consultants, their directors, officers, agents, and employees from and against any and all claims, damages, losses and expenses, including attorney's fees arising out of the modification, misinterpretation, misuse of the electronic files, and for any and all errors or omissions alleged to have arisen out of the use of any electronic files.
- Nothing herein contained shall be construed as constituting a guarantee, warranty, or assurance, either expressed or implied, by any party, that the electronic files will yield or accomplish the Prime Contractor's desired outcome.

§ 3.13 Use and Protection of Site

§ 3.13.1 The Contractor shall confine operations at the site to areas permitted by applicable laws, statutes, ordinances, codes, rules and regulations, lawful orders of public authorities, and the Contract Documents and shall not unreasonably encumber the site with materials or equipment.

§ 3.13.1.1 If requested by Owner or Construction Manager, Contractor shall move materials from one temporary location shown on the Contract Documents to another, at the sole expense of Contractor, except that expense shall be borne by Owner when Owner requires that materials be moved from a location on the Contract Documents previously

assigned to Contractor by Owner. No advertising signs or flags of any nature shall be placed at or near the site, without the written consent of Owner. Owner may make use of any portions of the Work for which a Certificate of Substantial Completion has been accepted in writing by Owner and Contractor.

- § 3.13.2 The Contractor shall coordinate the Contractor's operations with, and secure the approval of, the Construction Manager before using any portion of the site. The Work shall be conducted so as not to impede traffic nor obstruct any thoroughfare or access to property, and so as not to interfere with the Work of other contractors or with the Owner's continued occupancy and operation of the property. All deliveries shall be coordinated around hours directed by the Owner.
- § 3.13.3 Only materials and equipment which are to be used directly in the Work may be brought to and stored on the Project site by the Contractor. Materials or equipment no longer required for the Work shall be promptly removed from the Project site. Protection of construction materials and equipment stored at the Project site from weather, theft, damage or all other adversity is solely the responsibility of the Contractor, and the Owner shall have no liability therefor.
- § 3.13.4 During the progress of the Work, the Contractor shall provide lights, barriers, warning signs or other prudent precautions as may be necessary to protect persons and property from the Work performed by the Contractor.
- § 3.13.5 The Contractor shall protect the Owner's property, all surrounding public and private properties, the Contractor's Work in place, and all the Work of separate contractors against damage, injury or loss arising in connection with the Contractor's Work.
- § 3.13.6 The Contractor shall, at all times, provide adequate protection of the Work against all kinds of weather so as to maintain all Work, apparatus and fixtures free from injury or damage. At the end of each day's work, all new work subject to potential damage shall be completely covered.
- § 3.13.7 The Contractor shall maintain all passageways, guard fences, lights, fire watch, and other facilities for protection necessary for compliance with applicable laws or otherwise required by authorities have jurisdiction.
- § 3.13.8 To the extent the Contractor is responsible for damage to any existing improvements or vegetation, including, without limitation, curbs, sewers, utilities, sidewalks, drainpipes, structures, lawns, shrubbery, trees, landscaping, hardscaping or other improvements at the site, the Contractor shall repair, restore or replace such damaged improvements or vegetation to the Owner's reasonable satisfaction.
- § 3.13.9 In case any direct or indirect injury is done to existing street or underground structure, sewers, mains, or to public or private property of any kind, or to any materials or fixtures, by or because of the Work in consequence of any act or omission on the part of the Contractor, his employees, or agents, the Contractor, at his own cost and expense, except where, hereinafter specified otherwise, shall restore such structures, property, or materials to a condition equal to or similar to the existing before such damage or injury was done, by repairing, rebuilding, or otherwise as may be required by the Architect. To the extent that the Contractor fails or refuses to meet the requirements of this Section and such failure and/or refusal results in the Owner incurring additional attorney's fees, professional fees, other costs or expense, the Contractor shall be liable for the same.
- § 3.13.10 If the Contractor fails to restore such property or make good such damage, the Owner may, by contract or otherwise, proceed to repair, rebuild, or otherwise restore such property as may be necessary, and the cost thereof will be deducted from any money due, or to become due, the Contractor under this Contract; or the Owner may deduct from any money due the Contractor a sum sufficient to reimburse the Owner of property so damaged.
- § 3.13.11 When the Contractor is working within a fully enclosed building with either temporary or permanent doors, the Contractor shall suitably lock the building to prevent access of unauthorized persons.
- § 3.13.12 All temporary shoring, bracing and sheet piling necessary for the underpinning and for the installation of new Work are included in the Contract Sum and shall be used in accordance with industry standards.
- § 3.13.13 Employees of the Contractor and is Subcontractors shall not park automobiles on the Owner's property except as approved by the Owner in writing or otherwise designated in the Drawings. Contractor shall direct and

require all its employees and Subcontractors' employees to park where required by the Contract Documents and the municipal authority.

§ 3.14 Cutting and Patching

- § 3.14.1 The Contractor shall be responsible for cutting, fitting, or patching required to complete the Work or to make its parts fit together properly. All areas requiring cutting, fitting, or patching shall be restored to the condition existing prior to the cutting, fitting, or patching, unless otherwise required by the Contract Documents.
- § 3.14.2 The Contractor shall not damage or endanger a portion of the Work or fully or partially completed construction of the Owner or of other Contractors by cutting, patching, or otherwise altering such construction, or by excavation. The Contractor shall not cut or otherwise alter construction by the Owner, Separate Contractors, or by other Contractors except with written consent of the Construction Manager, Owner, and such other Contractors or Prime Contractors. Consent shall not be unreasonably withheld. The Contractor shall not unreasonably withheld, from the Separate Contractors, Construction Manager, or the Owner, its consent to cutting or otherwise altering the Work.
- § 3.14.3 The Contractor, Subcontractor or Sub-Subcontractor requiring the cutting of openings in new work installed by other contractors shall have such openings cut and patched by the trade which installed the Work and such cutting and patching shall be at the expense of the Contractor, Subcontractor or Sub-Subcontractor requiring the opening. Approval to do such cutting and patching shall be received from the Construction Manager and the Architect prior to proceeding with the Work and shall include installation of such reinforcement of the Work as the Architect and the Construction Manager may direct at no additional cost to the Owner. Blocking, bracing, reinforcement, or structural enhancement required, due to cutting and patching, shall be provided at no additional cost to the Owner. Patching work shall match adjacent existing work unless otherwise noted.

§ 3.15 Cleaning Up

- § 3.15.1 The Contractor shall keep the premises and surrounding area free from accumulation of waste materials and rubbish caused by operations under the Contract. At completion of the Work, the Contractor shall remove waste materials, rubbish, the Contractor's tools, construction equipment, machinery, and surplus materials from and about the Project. The Contractor shall clean the Work areas daily and should the occasion arise that the Construction Manager must direct the Contractor to clean an area, the Contractor shall do so within twenty-four (24) hours.
- § 3.15.2 If the Contractor fails to clean up as provided in the Contract Documents, the Owner, or Construction Manager with the Owner's approval, may do so and the Owner shall be entitled to reimbursement from the Contractor. The Owner reserves the right to deduct \$800.00 per day from the Contract Sum, as liquidated damages and not as a penalty, for each day that Contractor fails to comply with Construction Manager's directions for required clean-up.
- § 3.15.3 In readiness for occupancy of the Owner, the Contractor, shall thoroughly clean all portions of the Work to be occupied and all applicable material and equipment surfaces suitable for occupancy. Cleaning of windows and other glass in the Project is a contractual requirement of the Contractor.
- § 3.15.4 The Contractor shall make provisions for and be personally responsible for removing all mud and debris from all vehicles and equipment leaving the construction site onto Municipal or PennDOT streets adjoining the Project site and shall remove any mud, debris and litter which may fall upon Municipal streets or adjacent properties. If the same is not removed and properly washed down within 24 hours after verbal notice from the Municipality or the Owner, said mud, debris and litter shall be removed from the street by the Owner at the Contractor's expense.

§ 3.16 Access to Work

- § 3.16.1 The Contractor shall provide the Owner, Construction Manager, and Architect with access to the Work in preparation and progress wherever located.
- § 3.16.2 The General Contractor shall perform snow plowing, cleanup, and provide all temporary facilities to keep the site accessible at all times and to permit the continuous progress of work by all Contractors.

§ 3.17 Royalties, Patents and Copyrights

The Contractor shall pay all royalties and license fees. The Contractor shall defend suits or claims for infringement of copyrights and patent rights and shall hold the Owner, Construction Manager, and Architect harmless from loss on account thereof, but shall not be responsible for defense or loss when a particular design, process, or product of a

particular manufacturer or manufacturers is required by the Contract Documents, or where the copyright violations are contained in Drawings, Specifications, or other documents prepared by the Owner, Architect, or Construction Manager. However, if an infringement of a copyright or patent is discovered by, or made known to, the Contractor, the Contractor shall be responsible for the loss unless the information is promptly furnished to the Architect through the Construction Manager.

§ 3.18 Indemnification

§ 3.18.1 To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the Owner, Construction Manager, Architect, and their officers, directors, consultants, agents, and employees (the "Indemnified Parties") from and against all claims, damages, losses and expenses, including but not limited to injuries to the Contractor's employees, legal fees, and defense costs, arising out of or resulting from the performance of the Work to the extent caused, in whole or in part, by the intentional or negligent acts or omissions of the Contractor, a Subcontractor, a Sub-subcontractor or material provider, anyone directly or indirectly employed by them, or anyone for whose acts or omissions they may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by the Indemnified Parties or any of them. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations for indemnity which would otherwise exist as to a party or person described in this Section 3.18. The Contractor agrees and does hereby assume on behalf of the Indemnified Parties the defense of any action, at law or in equity, which may be brought against the Indemnified Parties or any of them upon their demand and pay the amount of any judgment that may be entered against the Indemnified Parties in any such action. In the event that any such claim, loss, cost, expense, liability, damage or injury arises or is made, asserted or threatened against the Owner for which the Contractor or its insured does not admit coverage, or if the Owner reasonably determines such coverage to be inadequate, the Owner shall have the right to withhold from Contractor cost, expense, liability, damage or injury including, but limited to, legal fees and expenses reasonably necessary for the defense thereof. Contractor's obligations under this Section 3.18 shall survive the completion of the Work and Project.

(Paragraph deleted)

§ 3.18.2.1 In claims against any Indemnified Party under this Section 3.18 by an employee of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, the indemnification obligation under this Section 3.18 shall not be limited by a limitation on amount or type of damages, compensation, or benefits payable by or for the Contractor or a Subcontractor under workers' compensation acts, disability benefit acts, or other employee benefit acts or any immunity provided under any workers' compensation acts.

§ 3.18.2.2 The Contractor and each Subcontractor, of whatever tier, hereby certifies to the Owner that it complies with all employment related laws and regulations governing employment or collective bargaining agreements, if any. Nothing in this Agreement shall be construed as divesting any Contractor of Subcontractor of its sole and exclusive right to control the means, manner, or method of performance of the Work of any Contractor of their employees. Nothing in this Agreement shall be construed in a manner that would be violative of the legal or contractual rights of any employee. The Contractor, and each Subcontractor, regardless of tier, shall defend, hold harmless, and indemnify the Owner, Construction Manager, and Architect against and from any and all claims, demands, suits, actions, costs, and expenses including reasonable attorneys' fees, growing out of any claims by an employee or independent contractor of any Contractor or Subcontractor of any tier alleging the violation of any of the individuals' employment right, whether legal, constitutional or contractual in nature. This provision shall be accorded the broadest meaning permitted by law.

§ 3.18.3 Contractor shall indemnify, defend, and hold harmless the Owner against any assertion of claims and/or liens, including mechanic's liens by its Subcontractors, Sub-Subcontractors, or material suppliers and against any assertion of security interests by its suppliers of goods or materials. Contractor and each Subcontractor and supplier of any tier acknowledges that the Project is work for a purely public purpose; therefore, Pennsylvania law does not permit mechanics' liens to be filed against the Owner, the Property, the Project, or any portion thereof.

§ 3.18.4 No provision of Section 3.18 shall give rise to any duties on the part of the Architect, the Owner or the Construction Manager not otherwise provided for by law.

§ 3.18.5 In the event that Contractor or its insurer is requested but refuses to honor the defense and indemnity obligations hereunder, then the party refusing to honor such requests shall, in addition to all other obligations, pay the cost of bringing any such action, including, but not limited to, legal fees to the Indemnified Party, including, but not limited to, any legal, expert, or professional fees and costs incurred by the Indemnified Parties in enforcing the defense and indemnity obligations hereunder. Furthermore, the Contractor shall be solely responsible for all legal fees incurred by the Owner in responding to any claims or liens filed or asserted by a Subcontractor of any tier or a supplier of any tier.

§ 3.18.6 Any part of the Work which may cause contamination or pollution to the environment shall be performed by subcontractors who are properly certified to do such work and who normally carry contractually assumed indemnification insurance and public liability insurance to cover such Work in the amount required to be carried by Contractor for liability and contractually assumed liability coverage under this Contract.

§ 3.19 Representations and Warranties

§ 3.19.1 The Contractor represents and warrants the following to the Owner (in addition to the other representations and warranties contained in the Contract Documents), as an inducement to the Owner to execute the Owner-Contractor Agreement, which representations and warranties shall survive the execution and delivery of the Owner-Contractor Agreement and the Final Completion of the Work:

- that it is financially solvent, able to pay its debts as they mature and possesses sufficient working capital to complete the Work and perform its obligations under the Contract Documents.
- .2 that it is able to furnish the personnel, tools, materials, supplies, equipment and labor required to complete the Work and perform its obligations hereunder and has sufficient experience and competence to do so.
- .3 that it is authorized to do business in the Commonwealth of Pennsylvania and is properly licensed by all necessary governmental and public and quasi-public authorities having jurisdiction over it and over the Work for the Project.
- that its execution of the Owner-Contractor Agreement and its performance thereof is within its duly authorized powers.
- that it is familiar with all Federal, State, Municipal, and Department laws, codes, ordinances and .5 regulations, which may in any way affect the Work of those employed herein, including, but not limited to, any special acts relating to the Work or to the Project of which it is a part.
- .6 that it has determined what local ordinances, if any, will affect its Work. The Contractor has checked for any County, City, Borough, or Township rules or regulations applicable to the area in which the Project is being constructed and in addition, the Contractor has checked for any rules or regulations of other organizations having jurisdiction, including, but not limited to, chambers-of-commerce, planning commission, industries, or utility companies who have jurisdiction over lands which the Contractor occupies. Any costs of compliance with local controls are included in the Contract Sum, even though documents of such local controlling agencies are not listed herein.
- that such temporary and permanent Work required by the Contract Documents as is to be done by it, can be satisfactorily constructed and used for the purposes for which it is intended, and that such construction will not injure any person or damage any property.
- that it is familiar with local trade jurisdictional practices.
- that it has carefully examined the Plans and Specifications and that, from its own investigation, it has satisfied itself as to the nature and location of the Work, the character, quality and quantity of the surface and subsurface materials likely to be encountered, the character of equipment and other facilities needed for the performance of the Work, and the general local conditions, and all other materials which may in any way affect the Work or its performance.
- .10 that it is insurable in the Commonwealth of Pennsylvania.

§ 3.20 The Contractor agrees (in addition to the representations and warranties contained in the Contract Documents), as an inducement to the Owner to execute the Contract, that the Contractor shall be restricted to the rights and remedies set forth in Article 15 of these General Conditions with respect to Claims between the Contractor and the Owner. However, the Owner's right to recover under the Contract Documents, at law or in equity shall not be restricted to the rights and remedies set forth in Article 15 of these General Conditions. This Section 3.20 shall survive the expiration or sooner termination of the Contract.

§ 3.21 Record Drawings

Contractor shall prepare and provide a set of reproducible record drawings showing significant changes in the Work made during construction based on marked-up prints, drawings and other data furnished by the Contractor to the Architect, including, but not limited to, the location of water, sewer, telephone, electric, gas and any other utility lines,

and the Contractor shall certify these drawings as accurate. Said drawings shall be provided by the Contractor to the Architect.

§ 3.22 Owner's Manuals

Contractor shall turn over to Architect, for delivery to Owner, all operation manuals, maintenance instructions, and warranties for all equipment on or before the close of the Project.

ARCHITECT AND CONSTRUCTION MANAGER ARTICLE 4

§ 4.1 General

- § 4.1.1 The Architect is the person or entity retained by the Owner pursuant to Section 2.3.2 and identified as such in the Agreement.
- § 4.1.2 The Construction Manager is the person or entity retained by the Owner pursuant to Section 2.3.3 and identified as such in the Agreement.
- § 4.1.3 Duties, responsibilities, and limitations of authority of the Construction Manager and Architect as set forth in the Contract Documents shall not be restricted, modified, or extended without written consent of the Owner, Construction Manager, and Architect. Consent shall not be unreasonably withheld.

§ 4.2 Administration of the Contract

- § 4.2.1 The Construction Manager and Architect will provide administration of the Contract as described in the Contract Documents and will be the Owner's representatives during construction until the date the Architect issues the final Certificate for Payment, and with the Owner's concurrence, from time-to-time during the warranty or correction period for correction of the Work described in Section 12.2. The Construction Manager and Architect will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents. The Architect and Construction Manager will endeavor to guard the Owner against defects and deficiencies in the Work on the Project.
- § 4.2.2 The Architect will visit the site at intervals appropriate to the stage of construction, or as otherwise agreed with the Owner, to become generally familiar with and keep the Owner informed about the progress and quality of the portion of the Work completed, to guard the Owner against defects and deficiencies in the Work, and to determine in general if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, the Architect will keep the Owner and the Construction Manager reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner and Construction Manager known deviations from the Contract Documents and defects and deficiencies observed in the Work.
- § 4.2.3 The Construction Manager shall provide one or more representatives who shall be in attendance at the Project site whenever the Work is being performed. The Construction Manager will determine in general if the Work observed is being performed in accordance with the Contract Documents, will keep the Owner and Architect reasonably informed of the progress of the Work, and will promptly report to the Owner and Architect known deviations from the Contract Documents and the most recent Project schedule, and defects and deficiencies observed in the Work.
- § 4.2.4 The Construction Manager will observe the activities of the Contractor and inform the Architect and owner of any deviations from the latest approved construction schedule. The Project Coordinators shall schedule and coordinate the activities of the Contractor and major Subcontractors in accordance with the latest approved Project schedule.
- § 4.2.5 The Construction Manager, except to the extent required by Section 4.2.4, and Architect will not have control over, charge of, or responsibility for, the construction means, methods, techniques, sequences or procedures, or for the safety precautions and programs in connection with the Work, since these are solely the Contractor's rights and responsibilities under the Contract Documents, and neither will be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. Neither the Construction Manager nor the Architect will have control over or charge of, or be responsible for acts or omissions of, the Contractor, Subcontractors, or their agents or employees, or of any other persons or entities performing portions of the Work.

- § 4.2.6 Communications. Except as otherwise provided in the Contract Documents or when direct communications have been specially authorized, the Owner and Contractor shall endeavor to communicate with each other through the Construction Manager and shall contemporaneously provide the same communications to the Architect about matters arising out of or relating to the Contract Documents. The Owner shall promptly notify the Architect of the substance of any direct communications between the Owner and the Construction Manager otherwise relating to the Project. Communications by and with the Architect's consultants shall be through the Architect. Communications by and with Subcontractors and suppliers shall be through the Contractor. Communications by and with the Owner's own forces and Separate Contractors shall be through the Owner.
- **§ 4.2.7** The Construction Manager and Architect will review and certify all Applications for Payment by the Contractor, in accordance with the provisions of Article 9.
- **§ 4.2.8** The Owner, Architect and Construction Manager have the authority to reject Work that does not conform to the Contract Documents and will notify each other about the rejection. Whenever the Owner or Construction Manager considers it necessary or advisable, the Owner or Construction Manager will have authority to require inspection or testing of the Work in accordance with Sections 13.4.2 and 13.4.3, upon written authorization of the Owner, whether or not the Work is fabricated, installed or completed. The foregoing authority of the Owner and Construction Manager will be subject to the provisions of Sections 4.2.18 through 4.2.20 inclusive, with respect to interpretations and decisions of the Architect. However, neither the Architect's nor Owner's nor Construction Manager's authority to act under this Section 4.2.8 nor a decision made by any of them in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect, Owner, or the Construction Manager to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons performing any of the Work.
- § 4.2.9 Intentionally deleted.
- § 4.2.10 The Construction Manager shall coordinate with the Prime Contractor the distribution of the submittals required by the Contract Documents for review by the Architect. The Construction Manager will require that the Prime Contractor coordinate all submittals so as to integrate the Work of separate contractors. By submitting Shop Drawings, Product Data, Samples, and similar submittals, the Contractor represents to the Owner, Architect, and Construction Manager that the Contractor has reviewed and recommended them for approval. The actions will be taken in accordance with the Project submittal schedule approved by the Architect or, in the absence of an approved Project submittal schedule, with reasonable promptness while allowing sufficient time to permit adequate review by the Architect. The Construction Manager is not responsible for any design aspects of the Project, and therefore, the Construction Manager's submittal responsibility shall be limited to coordinating the procedure of submittal processing with the Architect and Prime Contractors.
- § 4.2.11 The Architect will review and approve, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data, and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect's action will be taken in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness as to cause no delay in the Work or in the activities of the Owner, Contractor, or other separate contractors while allowing sufficient time in the Architect's professional judgment to permit adequate review. Upon the Architect's completed review, the Architect shall transmit its submittal review to the Construction Manager. A copy of each submittal which has been approved shall be forwarded by the Architect to the Contractor and Construction Manager for its records. For any submittal which is not approved, the Contractor and Construction Manager shall be sent only a copy of the covering transmittal and pertinent portions of the unapproved submittal.
- § 4.2.12 Review of the Contractor's submittals by the Construction Manager and Architect is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of the Contractor as required by the Contract Documents. The Construction Manager and Architect's review of the Contractor's submittals shall not relieve the Contractor of the obligations under Sections 3.3, 3.5, and 3.12. The Construction Manager and Architect's review shall not constitute approval of safety precautions or of any construction means, methods, techniques, sequences, or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.
- § 4.2.13 The Construction Manager and Architect will prepare Change Orders and Construction Change Directives.

- § 4.2.14 The Construction Manager and the Architect will take appropriate action on Change Orders or Construction Change Directives in accordance with Article 7, and the Architect will have authority to order minor changes in the Work as provided in Section 7.4. The Architect, in consultation with the Construction Manager, will investigate and make determinations and recommendations regarding concealed and unknown conditions as provided in Section 3.7.4.
- § 4.2.15 Utilizing the documents provided by the Contractor, the Construction Manager will maintain at the site for the Owner one copy of all Contract Documents, approved Shop Drawings, Product Data, Samples, and similar required submittals, in good order and marked currently to record all changes and selections made during construction. These will be available to the Architect and the Contractor and will be delivered to the Owner upon completion of the Project.
- § 4.2.16 The Construction Manager will assist the Architect in conducting inspections to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion in conjunction with the Architect pursuant to Section 9.8; and receive and forward to the Owner written warranties and related documents required by the Contract and assembled by the Contractor. The Construction Manager will forward to the Architect a final Application for Payment upon the Contractor's compliance with the requirements of the Contract Documents.
- § 4.2.17 If the Owner and Architect agree, the Architect will provide one or more Project representatives to assist in carrying out the Architect's responsibilities at the site. The Owner shall notify the Construction Manager of any change in the duties, responsibilities and limitations of authority of the Project representatives.
- § 4.2.18 All Requests for Information shall be submitted by the Contractor to the Construction Manager in writing. The Construction Manager will review and forward the Requests for Information to the Architect and Owner. The Architect will interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of the Construction Manager, Owner, or Contractor through the Construction Manager. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness. However, the Architect shall not have the authority to bind the Owner to accept Work to which the Owner objects as being deficient or otherwise inconsistent with the Contract Documents. The Contractor shall be responsible for the Architect's fees and expenses in responding to Requests for Information where such information is available to the Contractor from a careful study and comparison of the Contract Documents, field conditions, other Owner provided information, Contractor provided coordination drawings, or prior Project correspondence or documentation.
- § 4.2.19 Interpretations and decisions of the Architect will be consistent with the intent of, and reasonably inferable from, the Contract Documents and will be in writing or in the form of drawings. When making such interpretations and decisions, the Architect will endeavor to secure faithful performance by both Owner and Contractor, will not show partiality to either, and in the absence of negligence, will not be liable for results of interpretations or decisions so rendered in good faith.
- § 4.2.20 The Architect's decisions on matters relating to aesthetic effect will be final if consistent with the intent expressed in the Contract Documents, and if approved by the Owner.
- § 4.2.21 The Construction Manager will receive and review requests for information from the Contractor and forward each request for information to the Architect and Owner, with the Construction Manager's recommendation. The Architect will review and respond in writing, through the Construction Manager, to requests for information about the Contract Documents. The Architect's response to such requests will be made within 14 days unless the Architect determines additional time is required. If the Architect determines additional time is required, the Architect will inform the Owner and Contractor, in writing, of the additional time needed. The Construction Manager's recommendation and the Architect's response to each request will be made in writing within any time limits agreed upon or otherwise with reasonable promptness. If appropriate, the Architect will prepare and issue supplemental Drawings and Specifications in response to the requests for information at no additional cost to the Owner.

ARTICLE 5 **SUBCONTRACTORS**

§ 5.1 Definitions

- § 5.1.1 A Subcontractor is a person or entity who has a direct contract with the Contractor to perform a portion of the Work at the site. The term "Subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Subcontractor or an authorized representative of the Subcontractor.
- § 5.1.2 A Sub-subcontractor is a person or entity who has a direct or indirect contract with a Subcontractor or other Sub-subcontractor to perform a portion of the Work at the site. The term "Sub-subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Sub-subcontractor or an authorized representative of the Sub-subcontractor.

§ 5.2 Award of Subcontracts and Other Contracts for Portions of the Work

- § 5.2.1 The Contractor shall, as stated below, notify in writing to the Construction Manager, for review by the Owner, Construction Manager and Architect, the name, trade and subcontract amount for each Subcontractor, persons or entities proposed for each principal portion of the Work, including those who are to furnish materials or equipment fabricated to a special design. In all cases, this notification shall be received in writing no less than five (5) days prior to a Subcontractor starting Work. The Contractor shall not contract with any Subcontractor or supplier to whom the Construction Manager, Owner or Architect has made reasonable written objection. Within 14 days of receipt of the information, the Construction Manager may notify the Contractor whether the Owner, the Construction Manager or the Architect (1) has reasonable objection to any such proposed person or entity or, (2) requires additional time for review. Failure of the Construction Manager to provide notice within the 14-day period shall constitute notice of no reasonable objection.
- § 5.2.1.1 Not later than 30 days after the date of the Notice to Proceed, the Contractor shall furnish in writing to the Owner through the Construction Manager the names of persons or entities proposed as manufacturers, fabricators or material suppliers for the products, equipment and systems identified in the Project Specifications and Drawings and, where applicable, the name of the installing Subcontractor. The Construction Manager and Owner reserve the right to deduct \$800.00 from the Contract Sum, as liquidated damages and not as a penalty, for each additional day that all information is not furnished in addition to all other remedies provided for herein.
- § 5.2.1.2 Not later than 60 days after the date of the Notice to Proceed, the Contractor shall furnish proof in writing (if requested) that all subcontracts and purchase orders for all work in the Project Specifications have been executed. The Construction Manager and Owner reserve the right to deduct \$800.00 from the Contract Sum, as liquidated damages and not as a penalty, for each day that any portion of Work has not been contracted for in addition to all other remedies provided for herein.
- § 5.2.2 The Contractor shall not contract with a proposed person or entity to whom the Owner, Construction Manager or Architect has made reasonable and timely objection. The Contractor shall not be required to contract with anyone to whom the Contractor has made reasonable objection.
- § 5.2.3 If the Owner, Construction Manager or Architect has reasonable objection to a person or entity proposed by the Contractor, the Contractor shall propose another to whom the Owner, Construction Manager or Architect has no reasonable objection; however, no increase in the Contract Sum or Contract Time shall be allowed for any such substitution.
- § 5.2.4 The Contractor shall not substitute a Subcontractor, person, or entity for one previously selected if the Owner, Construction Manager or Architect makes reasonable objection to such substitution.
- § 5.2.5 Upon request, the Contractor shall furnish the Owner, Construction Manager and Architect with (3) copies of any and all agreements by, between and among the Contractor and each Subcontractor along with all documentation related to such agreements. The Contractor shall name the Owner as a third-party beneficiary of each Subcontract and, whether written in such subcontract or not, each Subcontractor, having received and reviewed these General Conditions as evidenced by its execution of the subcontract, agrees that Owner shall be a third-party beneficiary of its subcontract.

§ 5.3 Subcontractual Relations

§ 5.3.1 By appropriate written agreement, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities, including the responsibility for safety of the Subcontractor's Work, that the Contractor, by these Contract Documents, assumes toward the Owner, Construction Manager and Architect. Each subcontract agreement shall preserve and protect the rights of the Owner, Construction Manager and Architect under the Contract Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the subcontract agreement, the benefit of all rights, remedies, and redress against the Contractor that the Contractor, by the Contract Documents, has against the Owner. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor, prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor will be bound, and, upon written request of the Subcontractor, identify to the Subcontractor terms and conditions of the proposed subcontract agreement that may be at variance with the Contract Documents. Subcontractors will similarly make copies of applicable portions of such documents available to their respective proposed Sub-subcontractors.

§ 5.3.2 Where Contractor sublets portions of the Work, the entire responsibility for the subdividing of work rests with the Contractor. The Owner and the Architect are not responsible for the manner of the subdivision of the Work, and neither will enter into nor settle disagreements or disputes between Contractor and Subcontractors. The arrangement of Specifications and the manner of graphic illustration of Drawings are for convenience of reference and do not comprise any exacting method of subdividing work for purposes of subcontracting, except where the Contract Documents require an undivided responsibility for certain work.

§ 5.3.3 Contractor shall require each Subcontractor to: (1) inspect surfaces and job conditions before beginning Work at Site, (2) accept or cite necessary corrections in surfaces and job conditions before beginning work at Site, and (3) protect his own materials, equipment and Work from damage, injury or loss due to weather or due to Work of the Contractor, other Subcontractors, or other Contractors. The best means of protection shall be supplied and removed when no longer required.

§ 5.4 Contingent Assignment of Subcontracts

- § 5.4.1 Each subcontract agreement for a portion of the Work is assigned by the Contractor to the Owner, provided that
 - assignment is effective only after termination of the Contract by the Owner for cause pursuant to Section 14.2 and only for those subcontract agreements that the Owner accepts by notifying the Subcontractor and Contractor in writing; and
 - .2 assignment is subject to the prior rights of the surety, if any, obligated under bond relating to the Contract.

Except as set forth in Section 5.4.3 hereof, when the Owner accepts the assignment of a subcontract agreement, the Owner assumes the Contractor's rights and obligations under the subcontract accruing on or after the date of assignment.

§ 5.4.2 The Contractor agrees, upon Owner's request, to execute whatever instruments Owner may require to confirm such assignment.

§ 5.4.3 Upon assignment to the Owner under this Section 5.4, the Owner may further assign the subcontract to a successor Contractor or other entity, and in such case, the successor contractor or other entity and not the Owner shall assume the Contractor's rights and obligations under the subcontract accruing on or after the date of assignment.

§ 5.5 Payments to Subcontractors or Material Supplier(s) by the Contractor

§ 5.5.1 The Contractor shall pay each Subcontractor, upon receipt of payment from the Owner, an amount equal to the percentage of completion allowed to the Contractor, on account of such Subcontractor's work, less the percentage retained from payments to the Contractor. The Contractor shall also require each Subcontractor to make similar payments to Sub-Subcontractors. All such payments shall be paid within the time limits required by the Pennsylvania Contractor and Subcontractor Payment Act, 73 P.S. Sec. 501, et seq., and all other applicable legal requirements. In the event a Subcontractor or material supplier alleges that the Contractor has failed to pay it in full, the Owner may, in addition to its other rights, set off said amounts from any amount due and owing to the Contractor.

§ 5.6 Payments to Subcontractors by the Owner

- § 5.6.1 If the Owner fails to approve an Application for Payment for a cause which the Owner and Architect determine is the fault of the Contractor, and not the fault of the particular Subcontractor, or if the Contractor fails to make payment which is properly due to a particular Subcontractor, the Owner may pay such Subcontractor directly, less the amount to be retained under its Subcontract. In such case, the amount(s) paid by the Owner to such Subcontractor shall be deducted by Change Order from the Contactor's Contract Sum.
- § 5.6.2 The Owner shall have no obligation to pay, or to see to the payment of, any monies to any Subcontractor or material supplier. Nothing contained in Section 5.6.1 shall be deemed to create any contractual duty of the Owner to any Subcontractor of any tier or Supplier of any tier or to create any rights in any Subcontractor of any tier or Supplier of any tier against the Owner.
- § 5.6.3 The Contractor shall promptly advise the Owner and the Architect of any claim or demand by a Subcontractor claiming that any amount is due to such Subcontractor claiming any default by the Contractor in any of its obligations to such Subcontractor.

ARTICLE 6 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS

- § 6.1 Owner's Right to Perform Construction with Own Forces and to Award Other Contracts
- § 6.1.1 The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and to award separate contracts in connection with other portions of the Project or other construction or operations on the site under Conditions of the Contract identically or substantially similar to those of this Contract, including those provisions of the Conditions of the Contract related to insurance and waiver of subrogation. This Project will be performed as a single Prime Contract as indicated in the Contract Documents. The Contractor shall be aware that schedule adjustments may be required to coordinate with the Work of their Contract with the Work of other Suncontractors.
- § 6.1.2 When the Owner performs construction or operations with the Owner's own forces or Separate Contractors, the Owner shall provide for coordination of such forces and Separate Contractors with the Work of the Contractor, who shall cooperate with them. When the Owner performs construction or operations with the Owner's own forces including persons or entities under separate contracts administered by the Construction Manager, the Construction Manager shall provide for coordination of such forces with the Work of the Contractor, who shall cooperate with them
- § 6.1.3 Intentionally deleted.

§ 6.2 Mutual Responsibility

- § 6.2.1 The Contractor shall afford the Owner's own forces, Separate Contractors, Construction Manager and other separate contractors reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities, and shall connect and coordinate the Contractor's construction and operations with theirs as required by the Contract Documents.
- § 6.2.2 If part of the Contractor's Work depends for proper execution or results upon construction or operations by the Owner's own forces or other Contractors, the Contractor shall, prior to proceeding with that portion of the Work, promptly notify the Construction Manager and Architect of apparent discrepancies or defects in the construction or operations by the Owner or Separate Contractor or other Contractors that would render it unsuitable for proper execution and results of the Contractor's Work. Failure of the Contractor to notify the Construction Manager and the Architect of apparent discrepancies or defects prior to proceeding with the Work shall constitute an acknowledgment that the Owner's or Separate Contractor's completed or partially completed construction is fit and proper to receive the Contractor's Work.
- § 6.2.2.1 Neither the Owner, the Construction Manager nor the Architect or their Consultants shall be responsible for the coordination of the Contractor's Work. Coordination of the Contractor's Work shall be governed by the Contract Documents.
- § 6.2.2.2 Prime Contractor shall be responsible for the coordination of their own Work with the major Subcontractors, and for observing the requirements set forth in Division 01. The coordination of mechanical, electrical, and plumbing Work shall also be subject to the responsibility of the Project Coordinator in connection with the rendering of final

construction decisions. Such responsibility shall however be invoked only after the provisions of Division 01 have been fully observed.

- § 6.2.3 Costs caused by delays, improperly timed activities or defective construction shall be borne by the parties responsible therefore, excepting, however, Owner, Architect and Construction Manager who shall not be liable to any Contractor or subcontractor for claims or damages of monetary or other nature caused by or arising out of delays of other contractors, contemplated or not contemplated. The sole remedy against the Owner, Architect, and Construction Manager for delays shall be the allowance to a successful claimant of additional time for completion of Work. If, notwithstanding the above, the Owner is required to reimburse a separate Contractor because of delays, lack of performance, improperly timed activities, or defective construction of the Contractor that failed to perform, then the Contractor responsible for the delay, lack of performance, improperly timed activities, or defective construction that Contractor shall then reimburse the Owner for the costs incurred by the Owner which are payable to the separate contractor because of delays, improperly timed activities, or defective construction of the Contractor. If the Contractor asserts a claim against the Owner, Architect, or Construction Manager in violation of the foregoing provisions, the Contractor shall, in addition to all other relief that is afforded, reimburse the Owner, Architect, and Construction Manager for its reasonable costs and fees of attorneys, architects, engineers, or other professionals, plus interest at the rate of ten (10%) percent per annum until such costs are paid. In the event that a separate contractor makes a claim or demand upon the Owner, the Architect and the Construction Manager, or any of them (notwithstanding that such claim or demand is in violation of such separate contractor's Contract for Construction with the Owner) for or on account of any actual or alleged act, omission, fault or breach of the Contract, by the Contractor, the Contractor shall indemnify and defend any and all of them from such claim or demand.
- § 6.2.4 The Contractor shall promptly remedy damage that the Contractor causes to completed or partially completed construction, or to property of the Owner, Separate Contractors, as provided in Section 10.2.5. The Contractor agrees to defend, indemnify and hold harmless the Owner, Construction Manager and Architect and the consultants, agents and employees of any of them from and against any claims or damages brought by other separate Contractor arising out of actions or omissions of the Contractor, or his Subcontractors, Sub-subcontractors, or suppliers in performing its Work under the Contract Documents. Should the Contractor wrongfully cause damage to the Work or property of any separate Contractor, the Contractor shall, upon due notice, promptly attempt to settle with the separate Contractor by agreement, or otherwise to resolve the dispute. Such dispute shall not delay the completion of the Work. The separate Contractor claiming damages at his expense subject to his right to recover damages shall continue Work. If such separate contractor sues the Owner, the Architect, or Construction Manager on account of any damage alleged to have been caused by another Contractor, the Owner, Architect or Construction Manager shall notify such other Contractor who shall defend such proceedings at the Contractor's expense, and if any judgment or award against the Owner, Construction Manager, or Architect arises therefrom the notified Contractor shall pay or satisfy it and shall reimburse the Owner, Construction Manager, or Architect for all attorneys' fees and court costs which the Owner, Construction Manager, or Architect has incurred.
- § 6.2.4.1 If the Contractor sues the Owner, Construction Manager, or the Architect on account of any damage alleged to have been caused by another Contractor, the Owner, Construction Manager, or Architect, shall notify the Contractor that allegedly caused the damage. That Contractor shall defend such proceedings at the Contractor's expense, and if any judgment or award against the Owner, Construction Manager, or Architect arises therefrom the Contractor shall pay or satisfy it and shall reimburse the Owner, Construction Manager, or Architect for all attorneys' fees and court costs which the Owner, Construction Manager, or Architect has incurred.
- **§ 6.2.5** The Owner, Separate Contractors, Prime Contractors, and other Contractors shall have the same responsibilities for cutting and patching as are described for the Contractor in Section 3.14.
- § 6.2.5.1 Should the Prime Contractor, either itself or by its Subcontractors or Sub-Subcontractors or their respective agents, servants, or employees, cause damage or injury to the property or Work, including, but not limited to Work performed by Prime Contractor or their Subcontractors, or by failing to perform its Work (including, without limitation, the Work of its Subcontractor or Sub-Subcontractors) with due diligence, delay any Contractor or their subcontractors, which suffer additional expense or damage as a result, the parties involved in such dispute and their respective Sureties shall settle by agreement or arbitrate said claim, dispute or action by referring same to the American Arbitration Association. Said claim, dispute or action shall be determined pursuant to the Construction Industry Arbitration Rules of the American Arbitration Association then in effect. The Contractor and Subcontractors agree that the Owner, Architect, and Construction Manager will not be a party to disputes or actions between or among

Contractors, the Sureties or Subcontractors concerning such additional expense or damage. It is agreed by all parties that claims, disputes or actions between or among Contractors, Sureties, and Subcontractors concerning the additional expense or damage will not delay completion of the Work, which shall be continued by the parties, subject to the rights hereinbefore provided. It is agreed by the parties to this Agreement (the Owner as promisee and the Contractor as promisor) that the intent of this clause is to benefit the Prime Contractor, Subcontractors, and their Sureties on the Project and to serve as an indication of the mutual intent of the Owner and the Contractor that this clause raise the Prime Contractor to the status of third-party beneficiaries only as to the terms and conditions of this Section 6.2.5. The Contractor agrees that the paragraphs of this Section 6.2.5 are provided as a benefit to the Contractor and, that they specifically exclude claims, disputes or actions against the Owner, Architect, and Construction Manager for delay or other damages.

§ 6.2.5.2 The Contractor agrees that all claims, disputes, and other matters in question between or among Sureties, Contractor, or their subcontractors which arise out of, or are related to the Work, this Agreement, or the breach thereof, as provided in Section 6.2.5.1, shall be settled by agreement or resolved by arbitration, in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association then in effect, unless the parties mutually agree otherwise. This agreement to arbitrate is in consideration of the fact that all Contractors agree to this same arbitration provision and is specifically enforceable under the prevailing arbitration law. The award rendered by the arbitrators shall be final, and judgment may be entered upon it in accord with applicable law in any court having jurisdiction thereof. Neither the Contractor, Surety nor a Subcontractor shall join the Owner, Architect, or Construction Manager as a party to such arbitration.

§ 6.2.5.3 Notice of the demand for arbitration shall be filed in writing with the Regional Office of the American Arbitration Association. A copy of the demand shall be filed with the Architect, Construction Manager, and the Owner. The demand for arbitration shall be made within thirty (30) days after the claim, dispute, or other matter in question has arisen. The Owner, Architect, and Construction Manager shall not be a party to the claim, dispute or other matter in question, but shall be a witness in any arbitration at the request of any party to the arbitration. The Owner will be provided with copies of all documents submitted to the arbitrator at no cost to the Owner.

§ 6.2.5.4 The Contractor and each of its Subcontractors (as evidenced by its acceptance of the subcontract) hereby agrees that the sole remedy for including, without limitation, injuries, damages, or expenses resulting from disputes between or among the Contractor, Sureties, or Subcontractors will be to seek recovery from the Contractor, Sureties, or Subcontractors for the transgressions of such other Sureties, or Subcontractors. The Contractor and each of its Subcontractors hereby further agrees that they shall have no recourse against the Owner, Architect or Construction Manager for the transgressions of Contractor, Sureties, or Subcontractors that result in including, without limitation, delay, acceleration, out-of-sequence Work, overtime, stacking of trades, failure to adequately clean the work areas, disputes over the scope of the Contractor's Work, or disputes between or among Contractor, Sureties, or Subcontractors regarding any other matter concerning the Project.

§ 6.2.5.5 The Contractor and each of its Subcontractors acknowledge that the restrictions contained in these General Conditions are reasonable and necessary in order to protect the legitimate interests of the Owner and that any violation of these General Conditions would result in irreparable injuries to the Owner and monetary damages would be inadequate to compensate the Owner for a violation of these General Conditions. Therefore, the Contractor and each of its Subcontractors hereby agree that if the Contractor or Subcontractor disregard any paragraph of these General Conditions, including, without limitation, any portion of this Article 6, and institutes or attempts to institute any proceeding (e.g., arbitration, litigation, mediation, etc.) against the Owner, Architect, or Construction Manager for including, without limitation, injuries, damages or expenses resulting from disputes between or among Contractor, Sureties, or Subcontractors, the Owner is entitled to obtain from any court of competent jurisdiction preliminary and permanent injunctive relief to prevent the Contractor or Subcontractor from pursuing any proceeding against the Owner, Architect, or Construction Manager, and the Owner is entitled to stay any such proceeding. In the event that the Owner pursues preliminary or permanent injunctive relief to prevent the Contractor from pursuing any proceeding against the Owner, Architect, or Construction Manager, or that the Owner attempts to stay any such proceeding, the Contractor and the Contractor's Surety shall be jointly and severally liable for reimbursing the Owner, immediately upon demand, for all of Owner's costs and expenses associated therewith, including, without limitation, all legal fees, professional fees, and all other costs associated therewith incurred by the Owner. In the event that the Owner pursues preliminary or permanent injunctive relief to prevent a Subcontractor from pursuing any proceeding against the Owner, Architect, or Construction Manager or that the Owner attempts to stay any such proceeding, the Subcontractor and the Subcontractor's Surety (if any) shall be jointly and severally liable for reimbursing the Owner, immediately upon demand, for all of Owner's costs and expenses associated therewith, including, without limitation, all legal fees, professional fees, and all other costs associated therewith incurred by the Owner. The Owner's rights set forth in this Section 6.2.5.5 shall be in addition to all other rights of the Owner granted in the Contract Documents, at law, or in equity.

§ 6.3 Owner's Right to Clean Up

If a dispute arises between the Contractor and the Owner as to the responsibility under the contract for maintaining the premises and surrounding area free from waste materials and rubbish, the Owner may clean up and the Construction Manager, with notice to the Architect, will allocate the cost to the Contractor.

ARTICLE 7 CHANGES IN THE WORK

§ 7.1 General

- § 7.1.1 Changes in the Work may be accomplished after execution of the Contract, and without invalidating the Contract, by Change Order, Construction Change Directive or order for a minor change in the Work, subject to the limitations stated in this Article 7 and elsewhere in the Contract Documents.
- § 7.1.2 A Change Order shall be based upon agreement among the Owner, Construction Manager, Architect and Contractor. A Construction Change Directive requires agreement by the Owner, Construction Manager and Architect and may or may not be agreed to by the Contractor. An order for a minor change in the Work may be issued by the Architect alone.
- § 7.1.3 Changes in the Work shall be performed under applicable provisions of the Contract Documents. The Contractor shall proceed promptly with changes in the Work after receipt of a letter to proceed issued by the Construction Manager or execution of the Change Order, Construction Change Directive, or order for a minor change in the Work, whichever occurs first.
- § 7.1.3.1 Notwithstanding anything contained in the Contract Documents to the contrary, a change in the Contract Sum, the Contract Time and/or any Milestone Date shall be accomplished only by Change Order or by a Constructive Change Directive. No course of conduct or dealing between the parties, no express or implied acceptance of alterations or additions of the Work, and no claim that the Owner has been unjustly enriched by any alteration or addition to the Work shall be the basis of any claim or adjustment in compensation due under the Contract and/or time period provided for under the Contract.
- § 7.1.3.2 Agreement on any Change Order shall constitute a final settlement of all direct and indirect costs associated with such change and any and all adjustments to the Contract Sum and the Contract Time. In the event a Change Order increases the Contract Sum, the Contractor shall include the Work covered by such Change Order in Applications for Payment as if such Work were originally part of the Contract Documents. Present or future claims by the Owner relating to defective performance of the Work shall not be deemed settled through agreement on a Change Order unless so expressly agreed in writing.
- § 7.1.4 Matters involving extra Work and changes in the Work are subject to the following provisions:
- § 7.1.4.1 Owner reserves the right to accept or reject Contractor's price, and in instances of more than one price, to accept one or more prices, or reject one or more or all prices. Contractor may not make a charge of any kind regarding proposed extra Work or proposed changes in the Work that were not accepted.
- § 7.1.4.2 Contractor agrees that prices for changes in the Work and or extra Work will not include charges involving penalties or damages for assumed delays in the Work, charges for estimating, cancellation charges on prior rejected Work, and similar amounts which do not relate directly to costs of labor and material and equipment appurtenant to Work involved.
- § 7.1.4.3 A Change Order or Construction Change Directive will establish whether the Contractor is permitted extra time because of extra Work or changes in the Work and, if so, the amount of extra time permitted. Such determinations will be final and will not alter the fact that time is of the essence in the Contract.
- § 7.1.4.4 No charges by Contractor for extra Work or changes in the Work, nor claims on account thereof, shall be valid unless duly authorized pursuant to the procedure herein described. Written authority to perform extra Work or

changes in the Work must be in possession of Contractor before such Work commences in order that Contractor's right to payment on account thereof may be valid.

- § 7.1.4.5 In order to facilitate checking of quotations for adjustments in the Contract Sum, all proposals, except those so minor that their propriety can be seen by inspection, shall be accompanied by a complete itemization of costs including, labor, materials, and subcontracts. Labor and materials shall be itemized in the manner prescribed herein. When major cost items are subcontracted, these costs shall be itemized also.
- § 7.1.4.6 All Change Orders shall be accompanied by detailed price breakdowns.

§ 7.2 Change Orders

- § 7.2.1 A Change Order is a written instrument prepared by the Construction Manager and signed by the Owner, Construction Manager, Architect, and Contractor, stating their agreement upon all of the following:
 - .1 The change in the Work;
 - .2 The amount of the adjustment, if any, in the Contract Sum; and
 - .3 The extent of the adjustment, if any, in the Contract Time.
- § 7.2.2 Methods used in determining adjustments to the Contract Sum may include those listed in Section 7.3.3.
- § 7.2.3 To the extent the Contractor makes an excessive number of Change Order requests, which excessiveness shall be determined solely in the discretion of the Owner, the Owner shall have the authority in its sole discretion, to disregard any subsequent Change Order requests made by such Contractor on the same or similar scope of services and the Contractor's sole remedy against the Owner under this Agreement shall be pursuant to Article 15 of these General Conditions. Furthermore, to the extent the Owner incurs any legal fees, professional fees, expenses, or costs (including, but not limited to, employee costs), arising out of or resulting from the Contractor making an excessive number of Change Order requests, the Contractor shall be liable to the Owner for such legal fees, professional fees, expenses, and costs.
- § 7.2.4 Any action(s) by the Owner, Construction Manager, Architect and/or the Contractor other than actions taken pursuant to the procedures set forth in Section 7.2.1 shall not constitute the approval of a Change Order, including, without limitation, the Owner's, Construction Manager's and/or the Architect's execution of the Contractor's time sheets upon which the Contractor submits a Change Order request. Furthermore, to the extent the Owner incurs any legal fees, professional fees, expenses, or costs (including, but not limited to, employee costs), arising out of or resulting from the Contractor's failure to follow the proper procedures for approval of a Change Order, the Contractor shall be liable for such legal fees, professional fees, expenses and costs.
- § 7.2.5 At Owner's election, Change Order costs shall be calculated by the Contractor and each Subcontractor or Sub-sub contractor as follows:
- § 7.2.5.1 Actual costs of labor, including social security and old age and unemployment insurance, fringe benefits and workers' compensation insurance associated with the Change in the Work (as calculated per Section 7.3.4).
- § 7.2.5.2 Actual costs of materials, supplies and equipment, including cost of transportation used in performing the Change in the Work.
- § 7.2.5.3 Actual rental costs of machinery and equipment rented from third parties, exclusive of hand tools required by the Change in the Work, whether incorporated or consumed.
- § 7.2.5.4 Actual costs of premiums for all bonds and insurance and permit fees and sales, use or similar taxes related to the Change in the Work.
- § 7.2.5.5 For any adjustments to the Contract Sum (other than those based upon unit prices which include overhead and profit), the Contractor and each Subcontractor agree to charge and accept, as payment for overhead and profit, the following percentages of costs attributable to the addition, deletion or change to the Work.
 - For adjustments which total less than fifty thousand dollars (\$50,000) exclusive of overhead and profit, a total of 10% for overhead and profit.

- .2 For adjustments which total more fifty thousand dollars (\$50,000) but less than two hundred fifty thousand dollars (\$250,000), exclusive of overhead and profit a total of 8% for overhead and profit.
- .3 For adjustments which total more than two hundred fifty thousand dollars (\$250,000) exclusive of overhead and profit, a total of five percent (5%) for overhead and profit.
- When both additions and credits are involved in any one change, the allowance for overhead and profit shall be figured on the basis of the net increase, if any
- .5 The foregoing charges include the overhead and profit for both the Contractor and any of its subcontractors that may be involved in the Work that is changed.
- .6 The charges for overhead and profit referred to herein shall include all claims and requests for payment by the Contractor of indirect and/or consequential costs and expenses of any kind arising out of the subject addition, deletion, or change to the Work or the effect of the addition, deletion, or change upon other Work or upon the scheduling progress or completion of other Work, including without limitation, home office overhead, field office overhead, and return of staff.

§ 7.2.6 Unit Prices and their use in Contract Adjustments

§ 7.2.6.1 If Unit Prices are stated in the Contract Documents or subsequently agreed upon, and if quantities originally contemplated are materially changed in a proposed Change Order or Construction Change Directive so that application of such Unit Prices to quantities of Work proposed will cause substantial inequity to the Owner or Contractor, the applicable Unit Prices shall be equitably adjusted.

§ 7.2.6.2 Approved Unit Prices, when accepted by the Construction Manager and Owner, shall be used where they apply to determine an equitable adjustment of the Contract Sum in connection with extra Work or changes ordered under the Contract. Approved Unit Prices shall apply to both additions to and deductions from the Contract Sum.

§ 7.2.6.3 Unit Prices submitted by a Contractor on the Bid Form for this Project shall include all profit, overhead, bonds, insurance, taxes, labor, materials, plant equipment and tools necessary and required to fully complete the Work item, as specified in detail for the Work item in the Contract Documents.

§ 7.3 Construction Change Directives

§ 7.3.1 A Construction Change Directive is a written order prepared by the Construction Manager and signed by the Owner, Construction Manager and Architect, directing a change in the Work prior to agreement on adjustment, if any, in the Contract Sum or Contract Time, or both. The Owner may by Construction Change Directive, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions, or other revisions, the Contract Sum and Contract Time being adjusted accordingly.

§ 7.3.2 A Construction Change Directive shall be used in the absence of total agreement on the terms of a Change Order.

§ 7.3.3 If the Construction Change Directive provides for an adjustment to the Contract Sum, the adjustment shall be allocated based on the approved Schedule of Values and based on one of the following methods:

- .1 Mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;
- .2 Unit prices stated in the Contract Documents or subsequently agreed upon;
- .3 Cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or
- As provided in Section 7.3.4.

§ 7.3.4 If the Contractor does not respond promptly or disagrees with the method for adjustment in the Contract Sum, the Construction Manager shall determine the adjustment on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, including, in case of an increase in the Contract Sum, an amount for overhead and profit as set forth in Section 7.2.5.5 and which includes, without limitation, Contractor's obligations under these General Conditions and Division 01 of the Specifications. In such case, and also under Section 7.3.3.3, the Contractor shall keep and present, in such form as the Construction Manager may prescribe, an itemized accounting together with appropriate supporting data. Unless otherwise provided in the Contract Documents, costs for the purposes of this Section 7.3.4 shall be limited to the following:

Costs of labor, including applicable payroll taxes such as social security, old age and unemployment insurance, fringe benefits required by agreement or custom, workers' compensation insurance (labor

- costs shall be the certified Base Prevailing Wage rate plus actual fringe benefits per the Prevailing Wage Determination Schedule included in the Project Manual plus FICA, SUTA, FUTA and Workmen's Compensation, and other employee costs approved by the Construction Manager and
- Costs of materials, supplies, and equipment, including cost of transportation, whether incorporated or
- .3 Rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or others:
- .4 Additional costs of premiums for all bonds and insurance, permit fees, and sales, use, or similar taxes, directly related to the change; and all bonds and insurance, permit fees, and sales, use, or similar taxes directly related to the change shall be submitted without markup;
- .5 Costs of supervision and field office personnel directly attributable to the change.
- § 7.3.5 If the Contractor disagrees with the adjustment in the Contract Time, the Contractor may make a Claim in accordance with applicable provisions of Article 15.
- § 7.3.6 Upon receipt of a Construction Change Directive, the Contractor shall promptly proceed with the change in the Work involved and advise the Owner, Architect, and Construction Manager of the Contractor's agreement or disagreement with the method, if any, provided in the Construction Change Directive for determining the proposed adjustment in the Contract Sum or Contract Time. Notwithstanding anything else to the contrary in the Contract Documents, when a Construction Change Directive is not agreed upon by the Contractor, the Contractor shall continue to perform the change in the Work involved so as not to delay the Project and the Contractor's sole remedy against the Owner under this Agreement shall be pursuant to Article 15 of these General Conditions.
- § 7.3.7 A Construction Change Directive signed by the Contractor indicates the Contractor's agreement therewith, including adjustment in Contract Sum and Contract Time or the method for determining them. Such agreement shall be effective immediately and shall be recorded as a Change Order.
- § 7.3.8 The amount of credit to be allowed by the Contractor to the Owner for a deletion or change that results in a net decrease in the Contract Sum shall be actual net cost plus overhead and profit as confirmed by the Construction Manager and Architect. When both additions and credits covering related Work or substitutions are involved in a change, the allowance for overhead and profit shall be figured on the basis of net increase, if any, with respect to that change.
- § 7.3.9 Pending final determination of the total cost of a Construction Change Directive to the Owner, amounts not in dispute for such changes in the Work shall be included in Applications for Payment to the extent that such Work was completed under the Construction Change Directive. For any portion of such cost that remains in dispute, the Construction Manager and Architect will make an interim determination for purposes of monthly certification for payment for those costs and certify for payment the amount that the Construction Manager and Architect determine to be reasonably justified. The interim determination of cost shall adjust the Contract Sum on the same basis as a Change Order, subject to the right of either party to disagree and assert a Claim in accordance with Article 15.
- § 7.3.10 When the Owner and Contractor agree with a determination made by the Construction Manager and Architect concerning the adjustments in the Contract Sum and Contract Time, or otherwise reach agreement upon the adjustments, such agreement shall be effective immediately and the Construction Manager shall prepare a Change Order. Change Orders may be issued for all or any part of a Construction Change Directive. The Contractor's agreement to a Change Order, or acceptance of payment therefore, or the Contractor's agreement to a Construction Change Directive, shall constitute a final settlement of all of the Contractor's rights, claims, and remedies relating to the change in the Work which is the subject matter thereof, including, without limitation, all direct and indirect costs, and all adjustments to the Contract Sum and the Contract Time or Project Construction Schedule. If the Owner and the Contractor do not agree with the Construction Manager's determination, then the parties shall resolve the dispute pursuant to the terms and conditions of Article 15.

§ 7.4 Minor Changes in the Work

§ 7.4.1 The Architect has the authority to order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. The Architect's order for minor changes shall be in writing issued through the Construction Manager and shall be binding

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on the Owner and Contractor. The Contractor shall carry out such written orders promptly. If the Contractor believes that the proposed minor change in the Work will affect the Contract Sum or Contract Time, the Contractor shall notify the Construction Manager and shall not proceed to implement the change in the Work. If the Contractor performs the Work set forth in the Architect's order for a minor change without prior notice to the Construction Manager that such change will affect the Contract Sum or Contract Time, the Contractor waives any adjustment to the Contract Sum or extension of the Contract Time.

- § 7.4.2 The Architect from time to time, as deemed necessary or if requested by the Owner and Construction Manager, will furnish supplementary instructions to clarify or amplify the Drawings and Specifications (Contract Documents). The supplementary instructions may be by means of drawings, or otherwise as is most appropriate, which will be consistent with the Contract Documents and true developments thereof, or amplifications reasonably inferable therefrom. The supplementary instructions shall be considered minor clarifications in the Work and shall not be an authorization for the Contractor to incur additional cost.
- § 7.4.3 The Owner reserves the right to change the location of any piece of apparatus or equipment within five (5) feet of location shown, up to the time of rough-in, without additional expense to the Owner. The changes of the location shall be considered minor changes in the Work and shall not be an authorization for the Contractor to incur additional

ARTICLE 8 TIME

§ 8.1 Definitions

- § 8.1.1 Unless otherwise provided, Contract Time is the period of time, including authorized adjustments, allotted in the Contract Documents for Substantial Completion of the Work.
- § 8.1.2 The date of commencement of the Work is the date established in the Notice to Proceed issued by the Architect or Construction Manager. The date shall not be postponed by the failure to act of the Contractor or of persons or entities for whom the Contractor is responsible.
- § 8.1.3 The date of Substantial Completion is the date certified by the Architect in accordance with Section 9.8.
- § 8.1.4 The term "day" as used in the Contract Documents shall mean calendar day unless otherwise specifically defined.

§ 8.2 Progress and Completion

- § 8.2.1 Time limits stated in the Contract Documents are of the essence of the Contract. By executing the Agreement, the Contractor confirms that the Contract Time, including the phasing schedule, and all activities, events, and milestones, is a reasonable period for performing the Work. The dates listed in the construction schedule are of the essence and the Contractor agrees to schedule, coordinate, and staff in accordance therewith based on the actual progress of the Work as necessary to maintain the orderly progress of the Work in accordance with the construction schedule.
- § 8.2.2 The Contractor shall not knowingly, except by agreement or instruction of the Owner in writing, commence the Work prior to the effective date of insurance required by Article 11 to be furnished by the Contractor and Owner.
- § 8.2.3 The Contractor shall proceed expeditiously with adequate forces and shall achieve Substantial Completion within the Contract Time. Contractor agrees to increase manpower, increase work hours, and to increase equipment necessary to maintain the Project schedule. Such measures undertaken by the Contractor will be at no additional cost to the Owner.
- § 8.2.4 Intentionally deleted.
- § 8.2.5 The Work shall reach Substantial Completion no later than the date(s) stated in the Contract Documents, and for each milestone and phase where applicable, subject to conditions stated therein, from the date of commencement of Work including authorized extensions of time approved in writing by the Owner. All Contractors shall cooperate with each other and shall coordinate their activities and Work so that the entire program of construction can be substantially complete on or before the completion dates for each milestone and phase.

- § 8.2.6 The Contractor shall complete the whole of the Work, and all milestones and phases as applicable, at or before the time or times stated. Contractor shall submit shop drawings and samples of material to be used, as required, and make delivery of material in accordance with the Project schedule. Contractor shall furnish, at all times, sufficient skilled workers, materials, and equipment to perform the Work to the entire satisfaction of the Construction Manager, Architect, and Owner and so as not to delay the completion of the whole or any part of the Project.
- § 8.2.7 It is mutually agreed by and between the parties hereto that time is of the essence as to each part of the Contract and that in case of the failure on the part of the Contractor to complete any part of the Contract within the time specified and agreed upon, the Owner will be damaged thereby. Further, it is mutually agreed that the amount of said damages, including, but not limited to, expenses for inspection, superintendence and necessary traveling expenses, being difficult, if not impossible, of definite ascertainment and proof, it is hereby agreed that the reasonable amount of liquidated damages in accordance with Section 9.11 of these General Conditions shall be the Owner's remedy.
- § 8.2.7.1 In addition to the liquidated damages set forth in Section 9.11, the Contractor agrees to pay all associated costs for the Construction Manager and Architect to extend their agreement to remain on the Project due to the failure of the Contractor to complete the Work within the time frame stipulated. Damage to other Contractors that are an extension of this clause, are to be recovered pursuant to Section 6.2 of these General Conditions.

§ 8.2.8 Adherence to Schedule

- § 8.2.8.1 The Owner reserves the right to withhold monthly progress payments if the Contractor is behind schedule, unless the Contractor proves, in writing, that the delays are not the fault of the Contractor and to which the Construction Manager agrees.
- § 8.2.8.2 The monthly progress payments will only be released after the Contractor reaches the status of completion for that month comprehended by the Project construction schedule.
- § 8.2.8.3 In the event the Construction Manager determines that the performance of the Work has not progressed or reached the level of completion required by the Contract Documents and the Project construction schedule, the Owner or Construction Manager shall have the right to order the Contractor to take corrective measures necessary to expedite the progress of construction, including, but not limited to, working additional shifts or overtime; supplying additional manpower, equipment, and facilities; and other similar measures (referred to collectively as "Extraordinary Measures"). Such Extraordinary Measures shall continue until the progress of the Work complies with the stage of completion required by the Contract Documents. The Owner's right to require Extraordinary Measures is solely for the purpose of ensuring the Contractor's compliance with the Project construction schedule and failure to comply shall be considered as breach of the Contract Documents. The Contractor shall not, under any circumstances, be entitled to an adjustment in the Contract Sum in connection with Extraordinary Measures required by Owner under or pursuant to Section 8.2.8.
- § 8.2.8.4 The Owner may exercise its rights pursuant to Section 8.2.8.3 as frequently as the Owner deems necessary to ensure that the Contractor's performance of the Work will comply with any completion dates set forth in the Contract Documents.

§ 8.2.9 PROCUREMENT SCHEDULE

If requested by the Construction Manager, the Contractor shall provide a procurement schedule within a reasonable period of time which shows items to be purchased, date of purchase, quoted dates of delivery, current estimated date of delivery, and last date of contact with the vendor. The procurement schedule shall be updated as requested by the Construction Manager.

§ 8.3 Delays and Extensions of Time

§ 8.3.1 If the Contractor is delayed at any time in the commencement or progress of the Work by (1) an act or neglect of the Owner, Architect, Construction Manager, or an employee of any of them, or of the Owner's own forces,; (2) by changes ordered in the Work; (3) by fire, unusual delay in deliveries, unavoidable casualties, adverse weather conditions documented in accordance with Section 15.1.6.2, or other causes beyond the Contractor's control; (4) by delay authorized by the Owner in writing (5) by other causes that the Contractor asserts and the Architect, based on the recommendation of the Construction Manager, determines justify delay, then the Contract Time shall be extended by Change Order to the extent such delay shall prevent the Contractor from achieving Substantial Completion within the Contract Time and if the performance of the Work is not, was not, or would not have been delayed by any other cause for which the Contractor is not entitled to an extension in the Contract Time under the Contract Documents. The Contractor further acknowledges and agrees that adjustments in the Contract Time for delay will only be allowed to the extent such delay is not caused by the Contractor, could not have been anticipated by the Contractor, could not be limited or avoided by the Contractor's timely notice to the Owner of the delay, and is of a duration not less than one (1) day.

§ 8.3.1.1 No extension of Contract Time will be considered or approved if the act or occurrence constituting the basis of the request or claim is for non-delivery of materials due to any act or neglect of the Contractor, or the failure of the Contractor to employ, furnish or obtain, as necessary for the timely prosecution of the Work, shop drawings, sufficient labor, materials or equipment, or other matters which shall be within the control of the Contractor. Any delay which results due to any of the foregoing causes shall be the sole responsibility of the Contractor

§ 8.3.2 Claims relating to time shall be made in accordance with applicable provisions of Article 15.

§ 8.3.3 Notwithstanding anything to the contrary in the Contract Documents, an extension in the Contract Time, to the extent permitted under this Section 8.3, shall be the sole remedy of the Contractor against the Owner, Construction Manager or Architect for (1) delay in the commencement, prosecution or completion of the Work; (2) hindrance or obstruction in the performance of the Work; (3) loss of productivity; or (4) other similar claims (collectively referred to in this Section 8.3.3 as "delays") whether or not such delays are foreseeable, unless a delay is caused by the acts of the Owner constituting active interference with the Contractor's performance of the Work, and only to the extent that such acts continue after the Contractor furnishes the Owner with written notice of such interference. In no event shall the Contractor be entitled to any compensation or recovery of any damages against the Owner, Construction Manager, or Architect, in connection with any delay, including, without limitation, consequential damages, lost opportunity cost, impact damages or similar remuneration. No payment or compensation will be made to the Contractor by Owner as compensation for damages for any delays or hindrances from any cause whatsoever in the progress of the Work, notwithstanding whether such delays be avoidable or unavoidable. The Contractor's sole remedy against Owner, Architect or Construction Manager for delays shall be an extension of Contract Time, pursuant to and only in accordance with this Section 8.3. The Owner's exercise or failure to exercise any rights or remedies under the Contract Documents (including without limitation, ordering changes in the Work, or directing suspension, rescheduling or correction of the Work), regardless of the extent or frequency thereof, shall not be construed as active interference with the Contractor's performance of the Work. Such extension shall be a period equivalent to the time lost, day for day, by reason of any and all of the aforesaid causes. The Contractor is not permitted to make any claim for acceleration or for costs or expenses associated with acceleration nor will the Contractor be permitted to make a claim for out-of-sequence work (e.g., winter protection costs). In the event that the Contractor chooses to assert such a claim for delay, acceleration or out-of-sequence work, or litigate this provision, the Contractor shall be liable to the Owner, Architect and Construction Manager for any attorney's fees, professional fees, costs or expenses associated with analyzing, defending or otherwise opposing any such claim or litigation plus interest at the rate of ten (10%) percent per annum until such costs are paid.

§ 8.3.4 The Owner, Architect and Construction Manager shall not be liable to the Contractor for any expenses, damages, loss of profits (anticipated or otherwise) or charges of any nature whatsoever (including, but not limited to, legal fees and professional fees) which shall result because of any extension of the time of completion which shall be granted by the Owner to the Contractor or to any other contractor employed by the Owner to perform any other portion of the Project, or which shall result because of any delay or hindrance of any nature whatsoever in the progress of the Work (e.g., winter protection costs), whether such delay or hindrance shall be avoidable or unavoidable. In the event the Contractor chooses to litigate and fails to prevail as to its entire claim in its litigation, the Contractor shall reimburse the Owner, the Construction Manager, and the Architect for any legal fees, professional fees and all other costs and expenses associated with analyzing, defending, or otherwise opposing any such claim or litigation.

§ 8.3.5 The Contractor shall recognize and reasonably anticipate that as the job progresses, the Project Coordinator will be making changes in and updating the Contractor's construction schedules pursuant to Section 3.10. Therefore, no claim for an increase in the Contract Sum for either acceleration, delay or out-of-sequence work will be allowed for decisions as to extensions of time pursuant to this Section 8.3 or for other changes in the construction schedules which may be experienced.

- § 8.3.6 No extension of Contract Time granted by the Owner shall be or shall be deemed to be a waiver by the Owner of any rights accruing to it under the Contract Documents and no extension of Contract Time granted by the Owner shall relieve or shall be deemed to relieve the Contractor from full responsibility for performance of the Work.
- § 8.3.7 Should the Owner be prevented or enjoined from proceeding with the Project either before or after the start of construction by reason of any litigation or any other reason beyond the control of the Owner, the Contractor shall not be entitled to make or assert claims for damage by reason of said delay, or for acceleration or out-of-sequence work; but time for completion of the Work will be extended to such reasonable time as the Owner and Architect may determine will compensate for time lost for such delay with such determination to be set forth in writing.
- § 8.3.8 Any delay attributable to lack of coordination or cooperation by and/or between Contractor and its Subcontractors, or Sub-subcontractors will not be recognized by the Owner as a basis for any claim for increasing any Contract Sum or Contract Time.

ARTICLE 9 PAYMENTS AND COMPLETION

§ 9.1 Contract Sum

- § 9.1.1 The Contract Sum is stated in the Agreement and, including authorized adjustments, is the total amount payable by the Owner to the Contractor for performance of the Work under the Contract Documents.
- § 9.1.2 If unit prices are stated in the Contract Documents or subsequently agreed upon, and if quantities originally contemplated are materially changed so that application of such unit prices to the actual quantities causes substantial inequity to the Owner or Contractor, the applicable unit prices shall be equitably adjusted.

§ 9.2 Schedule of Values

Within 14 days of receipt of the Notice to Proceed, the Contractor shall submit a schedule of values to the Construction Manager and Architect, before the first Application for Payment, allocating the entire Contract Sum to the various portions of the Work. The schedule of values shall be prepared in the form, and supported by the data to substantiate its accuracy, required by the Construction Manager and the Architect. This schedule, unless objected to by the Construction Manager or Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment.

§ 9.3 Applications for Payment

- § 9.3.1 The Contractor shall submit to the Construction Manager an itemized Application for Payment prepared in accordance with the schedule of values and Contract Documents, for completed portions of the Work. The application shall be notarized, if required, and supported by all data substantiating the Contractor's right to payment that the Owner, Construction Manager or Architect require, such as copies of requisitions, and releases of waivers of lien from Subcontractors and suppliers, and shall reflect retainage if provided for in the Contract Documents. The form of Application for Payment shall be notarized AIA Document G732, Construction Manager as Advisor Edition (CMa), Application and Certificate for Payment, supported by AIA Document G733, Continuation Sheet. By signing each Application for Payment, the Contractor stipulates and certifies to the following: that the information presented is true, correct, accurate and complete; that the Contractor has made the necessary detailed examinations, audits and arithmetic verifications; that the submitted Work has been completed to the extent represented in the Applications for Payment; that the materials and supplies identified in the Applications for Payment have been purchased, paid for and received; that the Subcontractors have been paid as identified in the Applications for Payment or that Contractor has been invoiced for same; that he has made the necessary on-site inspections to confirm the accuracy of the Applications for Payment; that there are no known mechanics' or materialmens' liens outstanding at the date of this requisition; all due and payable bills with respect to the Work have been paid to date or are included in the amount requested in the current application; that except for such bills not paid but so included, there is no known basis for the filing of any mechanics' or materialmens' liens on the Work; that the Payment Application includes only Work self-performed by Contractor or for which Contractor has been invoiced; and that releases from all Subcontractors and materialmen have been obtained in such form as to constitute an effective release of lien under the laws of the Commonwealth of Pennsylvania covering all Work performed and for which payment has been made by the Owner to the Contractor.
- § 9.3.1.1 As provided in Section 7.3.9, such applications may include requests for payment on account of changes in the Work that have been properly authorized by Construction Change Directives, or by interim determinations of the Construction Manager and Architect, but not yet included in Change Orders. Owner may withhold payment on disputed Construction Change Directive amounts.

- § 9.3.1.2 Applications for Payment shall not include requests for payment for portions of the Work for which the Contractor does not intend to pay a Subcontractor or supplier, unless such Work has been performed by others whom the Contractor intends to pay.
- § 9.3.1.3 Work applicable to the Contract Sum shall be kept separate from Work applicable to Change Orders. The Work of each shall contain a summary and a breakdown as stipulated by the Contract Documents.
- § 9.3.1.4 Contractor expressly waives any right to penalties, interest, and attorney's fees pursuant to the prompt payment provisions of the Pennsylvania Commonwealth Procurement Code, 62 Pa. C.S. § 3931 et seq.

§ 9.3.2 Stored Materials

- § 9.3.2.1 Unless otherwise provided in the Contract Documents, payments shall be made on account of materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. If approved in advance by the Owner, payment may similarly be made for materials and equipment suitably stored off the site at a location agreed upon in writing. Payment for materials and equipment stored on or off the site shall be conditioned upon compliance by the Contractor with procedures satisfactory to the Owner to establish the Owner's title to such materials and equipment or otherwise protect the Owner's interest, and shall include the costs of applicable insurance, storage, and transportation to the site, for such materials and equipment stored off the site.
- § 9.3.2.2 Materials stored off the construction site shall not be included for payment in the Contractor's application for payment unless prior written approval of the Owner has been obtained. Payment for materials stored off the construction site shall be subject to the conditions in this Section 9.3.2 and the following additional conditions:
 - Contractor shall provide property insurance for the full cost of the materials stored off the construction
 - .2 Contractor shall provide a bill of sale for the materials granting clear title to the materials to the Owner.
 - Contractor shall provide waivers of liens, encumbrances or claims relating to the bailment of the materials stored off site or as otherwise required by Owner.
 - Contractor shall provide Owner all information necessary for the filing of any notices under the Uniform Commercial Code relating to the materials stored off the construction site as may be required by Owner.
 - The materials stored off the construction site shall be clearly and conspicuously labeled so as to identify Owner's title to the materials and shall be segregated and not commingled with other materials at the storage location.
 - Contractor shall pay all storage costs, shall be responsible for any damage or deterioration of the materials while in storage or in transit to the construction site and shall pay the cost of inspection of the materials in storage by the Owner.
 - Contractor shall be responsible for and shall pay all costs of transportation of the materials to the construction site.
 - Neither Owner's payment for materials stored off the construction site nor the transfer of title to Owner shall in any way reduce Contractor's liability for the complete installation and construction relating to said materials or liability under any performance bond provided for the Project.
 - Contractor agrees to make the materials available for inspection by the Owner or Owner's representative at any time upon Owner's request.
- § 9.3.2.3 Materials stored on or off site shall be covered at all times from the weather. Any material or equipment, including outdoor exposed equipment, shall be suitably covered and protected at all times until final installation.
- § 9.3.2.4 The Contractor in making or ordering material shipments shall not consign or have consigned materials, equipment or any other items in the name of the Owner. The Owner shall not be under any obligation to make payment for charges on shipments made by or to the Contractor but may, at its option, pay such charges in which case the Contractor shall reimburse the Owner for the amount of such payments plus a service charge of twenty-five percent (25%) of the amount so paid.
- § 9.3.2.5 Materials delivered and stored both on and offsite are the responsibility of the Contractor. The Contractor shall be solely responsible for their safekeeping and usability at the time they are to be incorporated in the Work, and shall, at their own expense, care for and protect the same, employ security as needed, and take out insurance against theft, loss from other cause, damage, destruction and/or such other risks as may be involved which would render the aforesaid materials unfit or unsuitable for use in the Project. Any lost, stolen, or damaged materials shall be replaced at