

# S P E C I F I C A T I O N S

## JACKSON COUNTY ADMINISTRATION BUILDING RE-ROOFING

JACKSON COUNTY SCHOOL

SYLVA, NORTH CAROLINA

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P I N N A C L E   A R C H I T E C T U R E ,   P . A .

PO BOX 187,  
(630 TEAM ROAD, SUITE 200)  
MATTHEWS, NC 28106-0187 (28105)

CIGAR FACTORY BUILDING  
701 EAST BAY STREET, SUITE 302  
CHARLESTON, SC 29403

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**for**  
**Jackson County Administration Building– Reroofing project**  
**Sylva, North Carolina**

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# State of North Carolina --AFFIDAVIT B-- Intent to Perform Contract with Own Workforce.

County of \_\_\_\_\_

Affidavit of \_\_\_\_\_

(Name of Bidder)

I hereby certify that it is our intent to perform 100% of the work required for the \_\_\_\_\_

\_\_\_\_\_ contract.

(Name of Project)

In making this certification, the Bidder states that the Bidder does not customarily subcontract elements of this type project, and normally performs and has the capability to perform and will perform all elements of the work on this project with his/her own current work forces; and

The Bidder agrees to provide any additional information or documentation requested by the owner in support of the above statement. The Bidder agrees to make a Good Faith Effort to utilize minority suppliers where possible.

The undersigned hereby certifies that he or she has read this certification and is authorized to bind the Bidder to the commitments herein contained.

Date: \_\_\_\_\_ Name of Authorized Officer: \_\_\_\_\_

Signature: \_\_\_\_\_

Title: \_\_\_\_\_



State of \_\_\_\_\_, County of \_\_\_\_\_

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

Notary Public \_\_\_\_\_

My commission expires \_\_\_\_\_

# State of North Carolina AFFIDAVIT A – Listing of Good Faith Efforts

County of \_\_\_\_\_

(Name of Bidder)

Affidavit of \_\_\_\_\_

I have made a good faith effort to comply under the following areas checked:

## Bidders must earn at least 50 points from the good faith efforts listed for their bid to be considered responsive. (1 NC Administrative Code 30 I.0101)

- 1 – (10 pts)** Contacted minority businesses that reasonably could have been expected to submit a quote and that were known to the contractor, or available on State or local government maintained lists, at least 10 days before the bid date and notified them of the nature and scope of the work to be performed.
- 2 --(10 pts)** Made the construction plans, specifications and requirements available for review by prospective minority businesses, or providing these documents to them at least 10 days before the bids are due.
- 3 – (15 pts)** Broken down or combined elements of work into economically feasible units to facilitate minority participation.
- 4 – (10 pts)** Worked with minority trade, community, or contractor organizations identified by the Office of Historically Underutilized Businesses and included in the bid documents that provide assistance in recruitment of minority businesses.
- 5 – (10 pts)** Attended prebid meetings scheduled by the public owner.
- 6 – (20 pts)** Provided assistance in getting required bonding or insurance or provided alternatives to bonding or insurance for subcontractors.
- 7 – (15 pts)** Negotiated in good faith with interested minority businesses and did not reject them as unqualified without sound reasons based on their capabilities. Any rejection of a minority business based on lack of qualification should have the reasons documented in writing.
- 8 – (25 pts)** Provided assistance to an otherwise qualified minority business in need of equipment, loan capital, lines of credit, or joint pay agreements to secure loans, supplies, or letters of credit, including waiving credit that is ordinarily required. Assisted minority businesses in obtaining the same unit pricing with the bidder's suppliers in order to help minority businesses in establishing credit.
- 9 – (20 pts)** Negotiated joint venture and partnership arrangements with minority businesses in order to increase opportunities for minority business participation on a public construction or repair project when possible.
- 10 - (20 pts)** Provided quick pay agreements and policies to enable minority contractors and suppliers to meet cash-flow demands.

The undersigned, if apparent low bidder, will enter into a formal agreement with the firms listed in the Identification of Minority Business Participation schedule conditional upon scope of contract to be executed with the Owner. Substitution of contractors must be in accordance with GS143-128.2(d) Failure to abide by this statutory provision will constitute a breach of the contract.

The undersigned hereby certifies that he or she has read the terms of the minority business commitment and is authorized to bind the bidder to the commitment herein set forth.

Date: \_\_\_\_\_ Name of Authorized Officer: \_\_\_\_\_

Signature: \_\_\_\_\_

Title: \_\_\_\_\_



State of \_\_\_\_\_, County of \_\_\_\_\_

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_

Notary Public \_\_\_\_\_

My commission expires \_\_\_\_\_

# State of North Carolina - AFFIDAVIT C - Portion of the Work to be Performed by HUB Certified/Minority Businesses

County of \_\_\_\_\_

(Note this form is to be submitted only by the apparent lowest responsible, responsive bidder.)

If the portion of the work to be executed by HUB certified/minority businesses as defined in GS143-128.2(g) and 128.4(a),(b),(e) is equal to or greater than 10% of the bidders total contract price, then the bidder must complete this affidavit.  
 This affidavit shall be provided by the apparent lowest responsible, responsive bidder within **72 hours** after notification of being low bidder.

Affidavit of \_\_\_\_\_ I do hereby certify that on the \_\_\_\_\_  
 (Name of Bidder)

Project ID# \_\_\_\_\_ (Project Name) Amount of Bid \$ \_\_\_\_\_

I will expend a minimum of \_\_\_\_\_% of the total dollar amount of the contract with minority business enterprises. Minority businesses will be employed as construction subcontractors, vendors, suppliers or providers of professional services. Such work will be subcontracted to the following firms listed below.

Attach additional sheets if required

Name and Phone Number	*Minority Category	**HUB Certified Y/N	Work Description	Dollar Value

\*Minority categories: Black, African American (**B**), Hispanic (**H**), Asian American (**A**) American Indian (**I**), Female (**F**) Socially and Economically Disadvantaged (**D**)

\*\* HUB Certification with the state HUB Office required to be counted toward state participation goals.

Pursuant to GS143-128.2(d), the undersigned will enter into a formal agreement with Minority Firms for work listed in this schedule conditional upon execution of a contract with the Owner. Failure to fulfill this commitment may constitute a breach of the contract.

The undersigned hereby certifies that he or she has read the terms of this commitment and is authorized to bind the bidder to the commitment herein set forth.

Date: \_\_\_\_\_ Name of Authorized Officer: \_\_\_\_\_

Signature: \_\_\_\_\_

Title: \_\_\_\_\_



State of \_\_\_\_\_, County of \_\_\_\_\_

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_

Notary Public \_\_\_\_\_

My commission expires \_\_\_\_\_

# State of North Carolina AFFIDAVIT D – Good Faith Efforts

County of \_\_\_\_\_

(Note this form is to be submitted only by the apparent lowest responsible, responsive bidder.)

If the goal of 10% participation by HUB Certified/ minority business **is not** achieved, the Bidder shall provide the following documentation to the Owner of his good faith efforts:

Affidavit of \_\_\_\_\_ I do hereby certify that on the \_\_\_\_\_  
(Name of Bidder)

\_\_\_\_\_ (Project Name)  
Project ID# \_\_\_\_\_ Amount of Bid \$ \_\_\_\_\_

I will expend a minimum of \_\_\_\_\_% of the total dollar amount of the contract with HUB certified/ minority business enterprises. Minority businesses will be employed as construction subcontractors, vendors, suppliers or providers of professional services. Such work will be subcontracted to the following firms listed below. (Attach additional sheets if required)

Name and Phone Number	*Minority Category	**HUB Certified Y/N	Work Description	Dollar Value

\*Minority categories: Black, African American (**B**), Hispanic (**H**), Asian American (**A**) American Indian (**I**), Female (**F**) Socially and Economically Disadvantaged (**D**)

**\*\* HUB Certification with the state HUB Office required to be counted toward state participation goals.**

**Examples** of documentation that may be required to demonstrate the Bidder's good faith efforts to meet the goals set forth in these provisions include, but are not necessarily limited to, the following:

- A. Copies of solicitations for quotes to at least three (3) minority business firms from the source list provided by the State for each subcontract to be let under this contract (if 3 or more firms are shown on the source list). Each solicitation shall contain a specific description of the work to be subcontracted, location where bid documents can be reviewed, representative of the Prime Bidder to contact, and location, date and time when quotes must be received.
- B. Copies of quotes or responses received from each firm responding to the solicitation.
- C. A telephone log of follow-up calls to each firm sent a solicitation.
- D. For subcontracts where a minority business firm is not considered the lowest responsible sub-bidder, copies of quotes received from all firms submitting quotes for that particular subcontract.
- E. Documentation of any contacts or correspondence to minority business, community, or contractor organizations in an attempt to meet the goal.
- F. Copy of pre-bid roster
- G. Letter documenting efforts to provide assistance in obtaining required bonding or insurance for minority business.
- H. Letter detailing reasons for rejection of minority business due to lack of qualification.
- I. Letter documenting proposed assistance offered to minority business in need of equipment, loan capital, lines of credit, or joint pay agreements to secure loans, supplies, or letter of credit, including waiving credit that is ordinarily required.

Failure to provide the documentation as listed in these provisions may result in rejection of the bid and award to the next lowest responsible and responsive bidder.

Pursuant to GS143-128.2(d), the undersigned will enter into a formal agreement with Minority Firms for work listed in this schedule conditional upon execution of a contract with the Owner. Failure to fulfill this commitment may constitute a breach of the contract.

Do not submit with the bid Do not submit with the bid Do not submit with the bid Do not submit with the bid Do not submit with the bid  
The undersigned hereby certifies that he or she has read the terms of this commitment and is authorized to bind the bidder to the commitment herein set forth.

Date: \_\_\_\_\_ Name of Authorized Officer: \_\_\_\_\_

Signature: \_\_\_\_\_

Title: \_\_\_\_\_



State of \_\_\_\_\_, County of \_\_\_\_\_

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_

Notary Public \_\_\_\_\_

My commission expires \_\_\_\_\_

# AIA<sup>®</sup> Document A105<sup>®</sup> – 2017

## ***Standard Short Form of Agreement Between Owner and Contractor***

AGREEMENT made as of the    day of    in the year  
*(In words, indicate day, month and year.)*

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

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

for the following Project:  
*(Name, location and detailed description)*

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

The Owner and Contractor agree as follows.

### **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.

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**ARTICLE 1 THE CONTRACT DOCUMENTS**

The Contractor shall complete the Work described in the Contract Documents for the Project. The Contract Documents consist of

- .1 this Agreement signed by the Owner and Contractor;
- .2 the drawings and specifications prepared by the Architect, dated , and enumerated as follows:

Drawings:		
<b>Number</b>	<b>Title</b>	<b>Date</b>

Specifications:		
<b>Section</b>	<b>Title</b>	<b>Pages</b>

- .3 addenda prepared by the Architect as follows:
- |               |             |              |
|---------------|-------------|--------------|
| <b>Number</b> | <b>Date</b> | <b>Pages</b> |
|---------------|-------------|--------------|

- .4 written orders for changes in the Work, pursuant to Article 10, issued after execution of this Agreement; and
- .5 other documents, if any, identified as follows:

**ARTICLE 2 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION**

§ 2.1 The Contract Time is the number of calendar days available to the Contractor to substantially complete the Work.

**§ 2.2 Date of Commencement:**

Unless otherwise set forth below, the date of commencement shall be the date of this Agreement.  
*(Insert the date of commencement if other than the date of this Agreement.)*

**§ 2.3 Substantial Completion:**

Subject to adjustments of the Contract Time as provided in the Contract Documents, the Contractor shall achieve Substantial Completion, as defined in Section 12.5, of the entire Work:  
*(Check the appropriate box and complete the necessary information.)*

Not later than ( ) calendar days from the date of commencement.

By the following date:

**ARTICLE 3 CONTRACT SUM**

§ 3.1 The Contract Sum shall include all items and services necessary for the proper execution and completion of the Work. Subject to additions and deductions in accordance with Article 10, the Contract Sum is:

(\$ )

§ 3.2 For purposes of payment, the Contract Sum includes the following values related to portions of the Work:  
*(Itemize the Contract Sum among the major portions of the Work.)*

Portion of the Work	Value
---------------------	-------

§ 3.3 The Contract Sum is based upon the following alternates, if any, which are described in the Contract Documents and hereby accepted by the Owner:

*(Identify the accepted alternates. If the bidding or proposal documents permit the Owner to accept other alternates subsequent to the execution of this Agreement, attach a schedule of such other alternates showing the amount for each and the date when that amount expires.)*

§ 3.4 Allowances, if any, included in the Contract Sum are as follows:  
*(Identify each allowance.)*

Item	Price
------	-------

§ 3.5 Unit prices, if any, are as follows:  
*(Identify the item and state the unit price and quantity limitations, if any, to which the unit price will be applicable.)*

Item	Units and Limitations	Price per Unit (\$0.00)
------	-----------------------	-------------------------

**ARTICLE 4 PAYMENTS**

§ 4.1 Based on Contractor’s Applications for Payment certified by the Architect, the Owner shall pay the Contractor, in accordance with Article 12, as follows:

*(Insert below timing for payments and provisions for withholding retainage, if any.)*

§ 4.2 Payments due and unpaid under the Contract Documents shall bear interest from the date payment is due at the rate below, or in the absence thereof, at the legal rate prevailing at the place of the Project.

*(Insert rate of interest agreed upon, if any.)*

%

**ARTICLE 5 INSURANCE**

§ 5.1 The Contractor shall maintain the following types and limits of insurance until the expiration of the period for correction of Work as set forth in Section 14.2, subject to the terms and conditions set forth in this Section 5.1:

§ 5.1.1 Commercial General Liability insurance for the Project, written on an occurrence form, with policy limits of not less than ( \$ ) each occurrence, ( \$ ) general aggregate, and ( \$ ) aggregate for products-completed operations hazard.

§ 5.1.2 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Contractor, with policy limits of not less than ( \$ ) per accident, for bodily injury, death of any person, and property damage arising out of the ownership, maintenance, and use of those motor vehicles along with any other statutorily required automobile coverage.

§ 5.1.3 The Contractor may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided that such primary and excess or umbrella insurance policies result in the same or greater coverage as those required under Section 5.1.1 and 5.1.2, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require exhaustion of the underlying limits only through the actual payment by the underlying insurers.

§ 5.1.4 Workers’ Compensation at statutory limits.

§ 5.1.5 Employers’ Liability with policy limits not less than ( \$ ) each accident, ( \$ ) each employee, and ( \$ ) policy limit.

§ 5.1.6 The Contractor shall provide builder’s risk insurance to cover the total value of the entire Project on a replacement cost basis.

**§ 5.1.7 Other Insurance Provided by the Contractor**

*(List below any other insurance coverage to be provided by the Contractor and any applicable limits.)*

**Coverage**

**Limits**

§ 5.2 The Owner shall be responsible for purchasing and maintaining the Owner’s usual liability insurance and shall provide property insurance to cover the value of the Owner’s property. The Contractor is entitled to receive an increase in the Contract Sum equal to the insurance proceeds related to a loss for damage to the Work covered by the Owner’s property insurance.

§ 5.3 The Contractor shall obtain an endorsement to its Commercial General Liability insurance policy to provide coverage for the Contractor’s obligations under Section 8.12.

§ 5.4 Prior to commencement of the Work, each party shall provide certificates of insurance showing their respective coverages.

§ 5.5 Unless specifically precluded by the Owner's property insurance policy, the Owner and Contractor waive all rights against (1) each other and any of their subcontractors, suppliers, agents, and employees, each of the other; and (2) the Architect, Architect's consultants, and any of their agents and employees, for damages caused by fire or other causes of loss to the extent those losses are covered by property insurance or other insurance applicable to the Project, except such rights as they have to the proceeds of such insurance.

## ARTICLE 6 GENERAL PROVISIONS

### § 6.1 The Contract

The Contract represents the entire and integrated agreement between the parties and supersedes prior negotiations, representations or agreements, either written or oral. The Contract may be amended or modified only by a written modification in accordance with Article 10.

### § 6.2 The Work

The term "Work" means the construction and services required by the Contract Documents, and includes all other labor, materials, equipment, and services provided, or to be provided, by the Contractor to fulfill the Contractor's obligations.

### § 6.3 Intent

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.

### § 6.4 Ownership and Use of Architect's Drawings, Specifications and Other Documents

Documents prepared by the Architect are instruments of the Architect's service for use solely with respect to this Project. The Architect shall retain all common law, statutory, and other reserved rights, including the copyright. The Contractor, subcontractors, sub-subcontractors, and suppliers are authorized to use and reproduce the instruments of service solely and exclusively for execution of the Work. The instruments of service may not be used for other Projects or for additions to this Project outside the scope of the Work without the specific written consent of the Architect.

### § 6.5 Electronic Notice

Written notice under this Agreement may be given by one party to the other by email as set forth below.

*(Insert requirements for delivering written notice by email such as name, title, and email address of the recipient, and whether and how the system will be required to generate a read receipt for the transmission.)*

## ARTICLE 7 OWNER

### § 7.1 Information and Services Required of the Owner

§ 7.1.1 If requested by the Contractor, the Owner shall furnish all necessary surveys and a legal description of the site.

§ 7.1.2 Except for permits and fees under Section 8.7.1 that are the responsibility of the Contractor, the Owner shall obtain and pay for other necessary approvals, easements, assessments, and charges.

§ 7.1.3 Prior to commencement of the Work, at the written request of the Contractor, the Owner shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract. The Contractor shall have no obligation to commence the Work until the Owner provides such evidence.

### § 7.2 Owner's Right to Stop the Work

If the Contractor fails to correct Work which is not in accordance with the Contract Documents, the Owner may direct the Contractor in writing to stop the Work until the correction is made.

### § 7.3 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 and fails within a seven day period after receipt of written 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, correct such

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(13-45802081)

deficiencies. In such case, the Architect may withhold or nullify a Certificate for Payment in whole or in part, to the extent reasonably necessary to reimburse the Owner for the cost of correction, provided the actions of the Owner and amounts charged to the Contractor were approved by the Architect.

**§ 7.4 Owner's Right to Perform Construction and to Award Separate Contracts**

§ 7.4.1 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.

§ 7.4.2 The Contractor shall coordinate and cooperate with the Owner's own forces and separate contractors employed by the Owner.

**ARTICLE 8 CONTRACTOR**

**§ 8.1 Review of Contract Documents and Field Conditions by Contractor**

§ 8.1.1 Execution of the Contract by the Contractor is a representation that the Contractor has visited the site, become familiar with local conditions under which the Work is to be performed, and correlated personal observations with requirements of the Contract Documents.

§ 8.1.2 The Contractor shall carefully study and compare the Contract Documents with each other and with information furnished by the Owner. Before commencing activities, the Contractor shall (1) take field measurements and verify field conditions; (2) carefully compare this and other information known to the Contractor with the Contract Documents; and (3) promptly report errors, inconsistencies, or omissions discovered to the Architect.

**§ 8.2 Contractor's Construction Schedule**

The Contractor, promptly after being awarded the Contract, shall prepare and submit for the Owner's and Architect's information a Contractor's construction schedule for the Work.

**§ 8.3 Supervision and Construction Procedures**

§ 8.3.1 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.

§ 8.3.2 The Contractor, as soon as practicable after award of the Contract, shall furnish in writing to the Owner, through the Architect, the names of subcontractors or suppliers for each portion of the Work. The Contractor shall not contract with any subcontractor or supplier to whom the Owner or Architect have made a timely and reasonable objection.

**§ 8.4 Labor and Materials**

§ 8.4.1 Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, materials, equipment, tools, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work.

§ 8.4.2 The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Contract Work. The Contractor shall not permit employment of unfit persons or persons not skilled in tasks assigned to them.

**§ 8.5 Warranty**

The Contractor warrants to the Owner and Architect that: (1) materials and equipment furnished under the Contract will be new and of good quality unless otherwise required or permitted by the Contract Documents; (2) the Work will be free from defects not inherent in the quality required or permitted; and (3) the Work will conform to the requirements of the Contract Documents. Any material or equipment 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 12.5.

**§ 8.6 Taxes**

The Contractor shall pay sales, consumer, use, and similar taxes that are legally required when the Contract is executed.

**§ 8.7 Permits, Fees and Notices**

§ 8.7.1 The Contractor shall obtain and pay for the building permit and other permits and governmental fees, licenses, and inspections necessary for proper execution and completion of the Work.

§ 8.7.2 The Contractor shall comply with and give notices required by agencies having jurisdiction over the Work. If the Contractor performs Work knowing it to be contrary to applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Contractor shall assume full responsibility for such Work and shall bear the attributable costs. The Contractor shall promptly notify the Architect in writing of any known inconsistencies in the Contract Documents with such governmental laws, rules, and regulations.

**§ 8.8 Submittals**

The Contractor shall promptly review, approve in writing, and submit to the Architect shop drawings, product data, samples, and similar submittals required by the Contract Documents. Shop drawings, product data, samples, and similar submittals are not Contract Documents.

**§ 8.9 Use of Site**

The Contractor shall confine operations at the site to areas permitted by law, ordinances, permits, the Contract Documents, and the Owner.

**§ 8.10 Cutting and Patching**

The Contractor shall be responsible for cutting, fitting, or patching required to complete the Work or to make its parts fit together properly.

**§ 8.11 Cleaning Up**

The Contractor shall keep the premises and surrounding area free from accumulation of debris and trash related to the Work. At the completion of the Work, the Contractor shall remove its tools, construction equipment, machinery, and surplus material; and shall properly dispose of waste materials.

**§ 8.12 Indemnification**

To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the Owner, Architect, Architect's consultants, and agents and employees of any of them, from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by the negligent acts or omissions of the Contractor, a subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder.

**ARTICLE 9 ARCHITECT**

§ 9.1 The Architect will provide administration of the Contract as described in the Contract Documents. The Architect will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents.

§ 9.2 The Architect will visit the site at intervals appropriate to the stage of construction to become generally familiar with the progress and quality of the Work.

§ 9.3 The Architect will not have control over or charge of, and will not be responsible for, construction means, methods, techniques, sequences, or procedures, or for safety precautions and programs in connection with the Work, since these are solely the Contractor's responsibility. The Architect will not be responsible for the Contractor's failure to carry out the Work in accordance with the Contract Documents.

§ 9.4 Based on the Architect's observations and evaluations of the Contractor's Applications for Payment, the Architect will review and certify the amounts due the Contractor.

§ 9.5 The Architect has authority to reject Work that does not conform to the Contract Documents.

§ 9.6 The Architect will promptly review and approve or take appropriate action upon Contractor's submittals, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents.

§ 9.7 On written request from either the Owner or Contractor, the Architect will promptly interpret and decide matters concerning performance under, and requirements of, the Contract Documents.

§ 9.8 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 will not be liable for results of interpretations or decisions rendered in good faith.

§ 9.9 The Architect's duties, responsibilities, and limits of authority as described in the Contract Documents shall not be changed without written consent of the Owner, Contractor, and Architect. Consent shall not be unreasonably withheld.

#### **ARTICLE 10 CHANGES IN THE WORK**

§ 10.1 The Owner, without invalidating the Contract, may order changes in the Work within the general scope of the Contract, consisting of additions, deletions or other revisions, and the Contract Sum and Contract Time shall be adjusted accordingly, in writing. If the Owner and Contractor cannot agree to a change in the Contract Sum, the Owner shall pay the Contractor its actual cost plus reasonable overhead and profit.

§ 10.2 The Architect may authorize or 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. Such authorization or order shall be in writing and shall be binding on the Owner and Contractor. The Contractor shall proceed with such minor changes promptly.

§ 10.3 If concealed or unknown physical conditions are encountered at the site that differ materially from those indicated in the Contract Documents or from those conditions ordinarily found to exist, the Contract Sum and Contract Time shall be subject to equitable adjustment.

#### **ARTICLE 11 TIME**

§ 11.1 Time limits stated in the Contract Documents are of the essence of the Contract.

§ 11.2 If the Contractor is delayed at any time in progress of the Work by changes ordered in the Work, or by labor disputes, fire, unusual delay in deliveries, unavoidable casualties, or other causes beyond the Contractor's control, the Contract Time shall be subject to equitable adjustment.

§ 11.3 Costs caused by delays or by improperly timed activities or defective construction shall be borne by the responsible party.

#### **ARTICLE 12 PAYMENTS AND COMPLETION**

##### **§ 12.1 Contract Sum**

The Contract Sum stated in this Agreement, including authorized adjustments, is the total amount payable by the Owner to the Contractor for performance of the Work under the Contract Documents.

##### **§ 12.2 Applications for Payment**

§ 12.2.1 At least ten days before the date established for each progress payment, the Contractor shall submit to the Architect an itemized Application for Payment for Work completed in accordance with the values stated in this Agreement. The Application shall be supported by data substantiating the Contractor's right to payment as the Owner or Architect may reasonably require, such as evidence of payments made to, and waivers of liens from, subcontractors and suppliers. 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 stored, and protected from damage, off the site at a location agreed upon in writing.

§ 12.2.2 The Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Contractor further warrants that upon submittal of an Application for Payment,

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all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Contractor's knowledge, information, and belief, be free and clear of liens, claims, security interests, or other encumbrances adverse to the Owner's interests.

### § 12.3 Certificates for Payment

The Architect will, within seven days after receipt of the Contractor's Application for Payment, either (1) issue to the Owner a Certificate for Payment in the full amount of the Application for Payment, with a copy to the Contractor; (2) issue to the Owner a Certificate for Payment for such amount as the Architect determines is properly due, and notify the Contractor and Owner in writing of the Architect's reasons for withholding certification in part; or (3) withhold certification of the entire Application for Payment, and notify the Contractor and Owner of the Architect's reason for withholding certification in whole. If certification or notification is not made within such seven day period, the Contractor may, upon seven additional days' written notice to the Owner and Architect, stop the Work until payment of the amount owing has been received. The Contract Time and the Contract Sum shall be equitably adjusted due to the delay.

### § 12.4 Progress Payments

§ 12.4.1 After the Architect has issued a Certificate for Payment, the Owner shall make payment in the manner provided in the Contract Documents.

§ 12.4.2 The Contractor shall promptly pay each subcontractor and supplier, upon receipt of payment from the Owner, an amount determined in accordance with the terms of the applicable subcontracts and purchase orders.

§ 12.4.3 Neither the Owner nor the Architect shall have responsibility for payments to a subcontractor or supplier.

§ 12.4.4 A Certificate for Payment, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not in accordance with the requirements of the Contract Documents.

### § 12.5 Substantial Completion

§ 12.5.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so the Owner can occupy or utilize the Work for its intended use.

§ 12.5.2 When the Contractor believes that the Work or designated portion thereof is substantially complete, it will notify the Architect and the Architect will make an inspection to determine whether the Work is substantially complete. When the Architect determines that the Work is substantially complete, the Architect shall prepare a Certificate of Substantial Completion that shall establish the date of Substantial Completion, establish the responsibilities of the Owner and Contractor, and fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

### § 12.6 Final Completion and Final Payment

§ 12.6.1 Upon receipt of a final Application for Payment, the Architect will inspect the Work. When the Architect finds the Work acceptable and the Contract fully performed, the Architect will promptly issue a final Certificate for Payment.

§ 12.6.2 Final payment shall not become due until the Contractor submits to the Architect releases and waivers of liens, and data establishing payment or satisfaction of obligations, such as receipts, claims, security interests, or encumbrances arising out of the Contract.

§ 12.6.3 Acceptance of final payment by the Contractor, a subcontractor or supplier shall constitute a waiver of claims by that payee except those previously made in writing and identified by that payee as unsettled at the time of final Application for Payment.

## ARTICLE 13 PROTECTION OF PERSONS AND PROPERTY

The Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs, including all those required by law in connection with performance of the Contract. The Contractor shall take

reasonable precautions to prevent damage, injury, or loss to employees on the Work and other persons who may be affected thereby, the Work and materials and equipment to be incorporated therein, and other property at the site or adjacent thereto. The Contractor shall promptly remedy damage and loss to property caused in whole or in part by the Contractor, or by anyone for whose acts the Contractor may be liable.

#### **ARTICLE 14 CORRECTION OF WORK**

§ 14.1 The Contractor shall promptly correct Work rejected by the Architect as failing to conform to the requirements of the Contract Documents. The Contractor shall bear the cost of correcting such rejected Work, including the costs of uncovering, replacement, and additional testing.

§ 14.2 In addition to the Contractor's other obligations including warranties under the Contract, the Contractor shall, for a period of one year after Substantial Completion, correct work not conforming to the requirements of the Contract Documents.

§ 14.3 If the Contractor fails to correct nonconforming Work within a reasonable time, the Owner may correct it in accordance with Section 7.3.

#### **ARTICLE 15 MISCELLANEOUS PROVISIONS**

##### **§ 15.1 Assignment of Contract**

Neither party to the Contract shall assign the Contract as a whole without written consent of the other.

##### **§ 15.2 Tests and Inspections**

§ 15.2.1 At the appropriate times, the Contractor shall arrange and bear cost of tests, inspections, and approvals of portions of the Work required by the Contract Documents or by laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities.

§ 15.2.2 If the Architect requires additional testing, the Contractor shall perform those tests.

§ 15.2.3 The Owner shall bear cost of tests, inspections, or approvals that do not become requirements until after the Contract is executed. The Owner shall directly arrange and pay for tests, inspections, or approvals where building codes or applicable laws or regulations so require.

##### **§ 15.3 Governing Law**

The Contract shall be governed by the law of the place where the Project is located, excluding that jurisdiction's choice of law rules.

#### **ARTICLE 16 TERMINATION OF THE CONTRACT**

##### **§ 16.1 Termination by the Contractor**

If the Work is stopped under Section 12.3 for a period of 14 days through no fault of the Contractor, the Contractor may, upon seven additional days' written notice to the Owner and Architect, terminate the Contract and recover from the Owner payment for Work executed including reasonable overhead and profit, and costs incurred by reason of such termination.

##### **§ 16.2 Termination by the Owner for Cause**

§ 16.2.1 The Owner may terminate the Contract if the Contractor

- .1 repeatedly refuses or fails to supply enough properly skilled workers or proper materials;
- .2 fails to make payment to subcontractors for materials or labor in accordance with the respective agreements between the Contractor and the subcontractors;
- .3 repeatedly disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority; or
- .4 is otherwise guilty of substantial breach of a provision of the Contract Documents.

§ 16.2.2 When any of the above reasons exist, the Owner, after consultation with the Architect, may without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractor's surety, if any, seven days' written notice, terminate employment of the Contractor and may

- .1 take possession of the site and of all materials thereon owned by the Contractor, and
- .2 finish the Work by whatever reasonable method the Owner may deem expedient.

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§ 16.2.3 When the Owner terminates the Contract for one of the reasons stated in Section 16.2.1, the Contractor shall not be entitled to receive further payment until the Work is finished.

§ 16.2.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work, such excess shall be paid to the Contractor. If such costs exceed the unpaid balance, the Contractor shall pay the difference to the Owner. This obligation for payment shall survive termination of the Contract.

**§ 16.3 Termination by the Owner for Convenience**

The Owner may, at any time, terminate the Contract for the Owner’s convenience and without cause. The Contractor shall be entitled to receive payment for Work executed, and costs incurred by reason of such termination, along with reasonable overhead and profit on the Work not executed.

**ARTICLE 17 OTHER TERMS AND CONDITIONS**

*(Insert any other terms or conditions below.)*

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

*(If required by law, insert cancellation period, disclosures or other warning statements above the signatures.)*

\_\_\_\_\_  
OWNER *(Signature)*

\_\_\_\_\_  
*(Printed name and title )*

\_\_\_\_\_  
CONTRACTOR *(Signature)*

\_\_\_\_\_  
*(Printed name and title )*

LICENSE NO.:  
JURISDICTION:

Init.

## **Additions and Deletions Report for** *AIA<sup>®</sup> Document A105<sup>®</sup> – 2017*

This Additions and Deletions Report, as defined on page 1 of the associated document, reproduces below all text the author has added to the standard form AIA document in order to complete it, as well as any text the author may have added to or deleted from the original AIA text. Added text is shown underlined. Deleted text is indicated with a horizontal line through the original AIA text.

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*There are no differences.*

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***AIA® Document D401™ – 2003***

I, \_\_\_\_\_, hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 11:35:06 ET on 06/03/2026 under Order No. 2114467096 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A105™ – 2017, Standard Short Form of Agreement Between Owner and Contractor, other than those additions and deletions shown in the associated Additions and Deletions Report.

\_\_\_\_\_  
*(Signed)*

\_\_\_\_\_  
*(Title)*

\_\_\_\_\_  
*(Dated)*

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STATE OF NORTH CAROLINA  
 COUNTY SALES AND USE TAX REPORT  
 SUMMARY TOTALS AND CERTIFICATION

CONTRACTOR: \_\_\_\_\_

Page  1  of      

PROJECT: \_\_\_\_\_

FOR PERIOD: \_\_\_\_\_

	TOTAL FOR COUNTY OF:	TOTAL FOR COUNTY OF:	TOTAL FOR COUNTY OF:	TOTAL FOR COUNTY OF:	TOTAL FOR COUNTY OF:	TOTAL FOR COUNTY OF:	TOTAL ALL COUNTIES
CONTRACTOR							
SUBCONTRACTOR(S)*							
COUNTY TOTAL							

\* Attach subcontractor(s) report(s)  
 \*\* Must balance with Detail Sheet(s)

I certify that the above figures do not include any tax paid on supplies, tools and equipment which were used to perform this contract and only includes those building materials, supplies, fixtures and equipment which actually became a part of or annexed to the building or structure. I certify that, to the best of my knowledge, the information provided here is true, correct, and complete.

Sworn to and subscribed before me,

This the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
 Signed

\_\_\_\_\_  
 Notary Public

My Commission Expires: \_\_\_\_\_

\_\_\_\_\_  
 Print or Type Name of Above

Seal

NOTE:  
 This certified statement may be subject to audit.

STATE OF NORTH CAROLINA  
SALES AND USE TAX REPORT DETAIL

CONTRACTOR: \_\_\_\_\_

Page  2  of \_\_\_\_\_

SUBCONTRACTOR \_\_\_\_\_

FOR PERIOD: \_\_\_\_\_

PROJECT: \_\_\_\_\_

PURCHASE DATE	VENDOR NAME	INVOICE NUMBER	TYPE OF PROPERTY	INVOICE TOTAL	COUNTY TAX PAID	COUNTY OF SALE *
				\$	\$	
<b>TOTAL:</b>					<b>\$</b>	

\* If this is an out-of-state vendor, the County of Sale should be the county to which the merchandise was shipped.

**DIVISION 00**

**PA Form 1**

**AFFIDAVIT AND WAIVER OF LIEN**  
**PRIME CONTRACTOR**

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

Personally appeared before me, the undersigned Notary Public for said County and State \_\_\_\_\_ (Name of Individual), \_\_\_\_\_ (Title) of \_\_\_\_\_ (Prime Contractor), who being duly sworn by me states on oath that all product suppliers and Subcontractors, payrolls, sales tax, privilege tax or license, old age benefits tax, state and federal unemployment insurance, and other liabilities incurred in the performance of \_\_\_\_\_ (Type of Contract) Contract for the construction of improvements at \_\_\_\_\_ (Name of Project), have been paid in full and that the above named Prime Contractor waives any claims and releases \_\_\_\_\_ (Owner) from any rights or claims (including lien rights) for debts due and owing by virtue of the furnishing of any labor, products, and supplies furnished for such improvements.

The above named Prime Contractor agrees to indemnify the Owner and save him harmless on account of any loss he may sustain in reliance upon this Affidavit and Waiver of Lien including the amount of any lien he may be compelled to pay all costs relating thereto and a reasonable attorney's fee.

\_\_\_\_\_  
(Prime Contractor)

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Sworn to and subscribed before me

this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

**DIVISION 00**

**PA Form 2**

**RELEASE AND WAIVER OF CLAIMS BY  
SUBCONTRACTORS AND PRODUCT VENDORS**

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

Personally appeared before me the undersigned authority in and for said County and State \_\_\_\_\_ (Name of Individual), \_\_\_\_\_ (Title) of \_\_\_\_\_ (Company), who, being duly sworn by me states on oath that all bills for labor and products, sales tax, privilege tax or license, old age benefits tax, state and federal unemployment insurance and other liabilities have been paid in full, or that funds are in hand to discharge such liabilities when due, incurred in the performance of its Subcontract for furnishing labor or products in the construction of improvement at \_\_\_\_\_ (Name of Project), \_\_\_\_\_ (Location), upon receipt of check in the amount of \$ \_\_\_\_\_, the undersigned company waives any claims and releases \_\_\_\_\_ (Owner) and \_\_\_\_\_ (Contractor) from any rights or claims for debts due and owing by virtue of the furnishing of any labor or products and any lien therefore.

\_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Sworn to and subscribed before me

this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

**DIVISION 00**

**PA Form 3**

**CONTRACTOR'S AFFIDAVIT  
AS TO STATUS OF LIENS**

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

Personally appeared before me, the undersigned Notary Public for said County and State,  
\_\_\_\_\_ (Name of Individual),  
\_\_\_\_\_ (Title) of \_\_\_\_\_ (Prime Contractor), who being duly sworn by me states on oath that to the best of his knowledge and belief, except as listed below, the Releases and Waivers of Claim attached hereto include all Subcontractors and all suppliers of labor, products, and equipment provided by all persons who may have liens against the property of \_\_\_\_\_ (Owner), located at \_\_\_\_\_ (Location of Project), arising out of the construction of improvements thereon.

Exceptions: (If none, write "NONE." Any exception listed shall be bonded by the Contractor to indemnify the Owner, and a copy of each such bond shall be attached hereto.)

- 1.
- 2.
- 3.

\_\_\_\_\_  
(Name of Company)

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Sworn to and subscribed before me

this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

**DIVISION 00**

**PA Form 4**

Date \_\_\_\_\_  
(Date Project Accepted by Owner)

**GENERAL GUARANTEE**

\_\_\_\_\_ (Name of Contractor) guarantees all products and workmanship incorporated in the \_\_\_\_\_ (Name of Project), \_\_\_\_\_ (Location), against defect due to faulty products or faulty workmanship or negligence for a period of (12) twelve months for the General Guarantee and a period of (24) twenty four months for incidental building watertightness not covered by specific Sections of the Project Manual as set forth in the General Conditions and the Supplementary Conditions or for such longer periods as may be designated by specific Sections of the Project Manual.

He shall, immediately upon notification by the Owner of water penetration, determine the source of water penetration and, at his own expense, do any and all work necessary to return the building to a watertight condition. He shall also, at his own expense, repair or replace any other damaged products, finishes, and furnishings, damaged as a result of this water penetration, to return the building to its original condition.

This guarantee is binding where defects occur due to normal usage conditions and does not cover willful or malicious damage, damage caused by acts of God, or other casualty.

\_\_\_\_\_  
(Contractor)

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Sworn to and subscribed before me

this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

**DIVISION 00**

**PA Form 5**

Date: \_\_\_\_\_  
(Date Project Accepted by Owner)

**ROOFING AND SHEET METAL GUARANTEE**

Notwithstanding and in addition to the roofing products manufacturer's guarantee, \_\_\_\_\_ (Name of Roofing Contractor/Subcontractor) guarantees all products and workmanship incorporated in the \_\_\_\_\_ (Name of Project), \_\_\_\_\_ (Location), against defects due to faulty products, negligence, and poor and/or faulty workmanship for a period of 24 months as set forth in the General Conditions, Supplementary Conditions, Roofing Specification Section \_\_\_\_\_, and Sheet Metal Flashing and Trim Specification Section \_\_\_\_\_.

Notwithstanding and in addition to the roofing products manufacturer's guarantee, blisters, buckles, curled edges, fish mouths, splits, wrinkles, damaged insulation, damaged vapor retarder loose flashings, deteriorating flashings, deteriorating flashing caulking, etc., shall be considered as evidence of poor and/or faulty workmanship and products and shall be repaired when discovered during the annual roof inspections of this guarantee. This guarantee is binding where defects occur due to normal usage conditions and does not cover willful or malicious damage and damage caused by acts of God or other casualty.

As a condition of this guarantee, the Contractor and the Roofing Contractor/Subcontractor agree to make 2 annual roofing system inspections, in the presence of the Owner, prior to the expiration of the 2-year guarantee period.

The Owner will call for the date and time for the annual inspections at the end of the first year and at the end of the second year.

He shall, immediately upon notification by the Owner of water penetration, determine the source of water penetration and, at his own expense, do any and all work necessary to return the building to a watertight condition. He shall also, at his own expense, repair or replace any other damaged products, finishes, and furnishings, damaged as a result of this water penetration, to return the building to its original condition.

\_\_\_\_\_  
(Roofing Contractor/Subcontractor)

\_\_\_\_\_  
(Contractor)

By: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Sworn to and subscribed before me  
this \_\_\_\_ day of \_\_\_\_\_, 20\_\_

Sworn to and subscribed before me  
this \_\_\_\_ day of \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
Notary Public  
My Commission Expires: \_\_\_\_\_

\_\_\_\_\_  
Notary Public  
My Commission Expires: \_\_\_\_\_

**DIVISION 00**

**SECTION 00 65 06: WATERTIGHTNESS GUARANTEE**

**PA Form 6**

Date \_\_\_\_\_

(Date Project Accepted by Owner)

**WATERTIGHTNESS GUARANTEE**

(Does *not* include **Roofing and Sheet Metal Guarantee** if applicable to Project)

\_\_\_\_\_ (Name of Subcontractor/Manufacturer) guarantees all products and workmanship incorporated in the \_\_\_\_\_ (Name of Project),

\_\_\_\_\_ (Location), against defect due to faulty products or faulty workmanship or negligence for a period of (60) sixty months for watertightness guarantee covering work in Section \_\_\_\_\_ as set forth in the General Conditions and Supplementary Conditions or for such longer periods as may be designated by specific Sections or of the Supplemental Sheets of these Specifications.

He shall, immediately upon notification by the Owner of water penetration, determine the source of water penetration and, at his own expense, do any and all work necessary to return the building to a watertight condition. He shall also, at his own expense, repair or replace any other damaged products, finishes, and furnishings, damaged as a result of this water penetration, to return the building to its original condition.

This guarantee is binding where defects occur due to normal usage conditions and does not cover willful or malicious damage, damage caused by acts of God or other casualty.

\_\_\_\_\_  
(Subcontractor of Manufacturer)

\_\_\_\_\_  
(Contractor)

By: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Check the following as applicable:

Subcontractor       Manufacturer

Sworn to and subscribed before me

Sworn to and subscribed before me

this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

## **DIVISION 00**

### **SECTION 00 72 00: GENERAL CONDITIONS OF THE CONTRACT**

#### A. DEFINITIONS

1. The Contract Documents consist of the Construction Agreement, Instructions to Bidders, General Conditions of the Contract, the Contract Documents and the accepted proposal.
2. The AIA® Document A201™-2017 General Conditions will be considered a part of these Contract Documents. A copy of AIA® Document A201™-2017 is herein attached or if not attached may be obtained by writing AIA Headquarters, 1735 New York Avenue, Washington, DC 20006-5292 or may be examined at the Architects office.
3. The Owner and the Contractor are those mentioned as such in the Construction Agreement.
4. The Architect is:  
  
**Pinnacle Architecture, P.A.**  
**PO Box 187, (630 Team Road, Suite 200)**  
**Matthews, North Carolina, 28106 (28105)**  
**Telephone: 704/847-9851 FAX: 704/847-9853**
5. The term "Work" of the Contractor or any of his Subcontractors includes labor, materials or both.

#### B. CORRELATION AND INTENT OF THE DOCUMENTS

1. The Contract Documents are complementary and what is called for by any one shall be as binding as if called for by all. The intention of the documents is to include all labor, materials, equipment, and transportation necessary for the proper execution of the work. It is not intended, however, that materials or work not covered by or properly inferable from the heading, branch, class or trade of the specifications shall be supplied unless distinctly so noted on the drawings. Materials or work described in words which so applied have a well-known technical meaning or trade meaning shall be held to refer to such recognized standards.
2. The Specifications are intended to be typical and complete with only the applicable items of material used. However, the items of material as required by the drawings are not limited to those noted in the specifications.
3. Bidders are required to carefully examine SECTION 00 91 13: SUPPLEMENTAL SHEETS. Note all deletions, additions and corrections made to the specifications.
4. Manufacturer's names and brands are mentioned in the sections of the Specifications, which follow in order to establish the type, quality, and dimensions for any one product. For items specified "or equal", the Contractor may use a product or brand other than that specified, but must submit to the Architect the data and/or samples of the proposed products and brands to be used, along with

samples of the product specified for comparison. If considered to be an equal to that specified in the opinion of the Architect, it will be approved in writing. No substitutions will be permitted without the written approval of the Architect.

5. All "or equal" approvals shall be obtained before bidding. Such approvals during construction will be extremely difficult to obtain.
6. Where dimensions are given on the drawings, said dimensions are to be followed in preference to measurements obtained by scale. Where no dimension is given, Architect is to be contacted for interpretation.

C. THE ARCHITECT'S STATUS

1. The Architect is the interpreter of the Contract Documents. The Architect is the agent of the Owner, only to the extent provided for in the Contract Documents, and when, in special instances, he is authorized by the Owner to so act; and in such instances, he shall, upon request, show the Contractor written authority.

D. PRIME CONTRACTORS

1. All Prime Contractors and their sub-contractors shall cooperate in the execution of the work and shall plan their work in such manner as to avoid conflicting schedules or delay of the work.
2. If any part of a Prime Contractor's work depends upon the work of another contractor, defects which may affect that work shall be reported to the Architect in order that prompt inspection may be made and the defects corrected. Commencement of work by a Contractor where such condition exists will constitute acceptance of the other contractor's work as being satisfactory in all respects to receive the work commenced, except as to defects which may develop. The Architect shall be the judge as to quality of work and shall settle all disputes on the matter between contractors.
3. Any mechanical, electrical or plumbing work such as sleeves, inserts, chases, etc. which is located in the work of the General Contractor shall be built in by the General Contractor under the competent supervision of a qualified representative of such mechanical and/or electrical contractor. The responsibility for the exact location of such items shall be that of the mechanical, electrical, or plumbing contractor.
4. Each Contractor or Subcontractor shall leave all such chases, holes, or openings straight, true, and of the proper size in his own work as may be necessary for the proper installation of another Subcontractor's work, consulting with the Subcontractor concerned regarding proper location and size of same. No excessive cutting will be permitted nor shall any piers or other structural members be cut without the consent of the Architect. After such work has been installed, he shall carefully fit around, close up, repair, patch and point up same as directed, to the entire satisfaction of the Architect. All this work shall be done with the proper tools and by careful workmen of the particular trade to which such work belongs, and shall be done without any extra charge to the Owner.

E. SEPARATE CONTRACTS

1. The Owner reserves the right to let other contracts in connection with the work. The Contractor shall afford other Contractors reasonable opportunity for the introduction and storage of their materials and the execution of their work, and shall properly connect and coordinate his work with theirs.

F. PROJECT EXPEDITER

1. It shall be the responsibility of the General Contractor to schedule the work of all prime contractors; to maintain a progress schedule for all prime contractors for this project; and to notify the designer of any changes in the progress schedule. He shall be responsible for providing adequate notice to all prime contractors to insure efficient continuity of all phases of the project work. The General Contractor will be "Project Expediter."
2. Designation as "Project Expediter" entails an additional project control responsibility and does not alter in any way the responsibilities of the other Prime Contractors.
3. Each other Prime Contractor is held responsible for keeping the "Project Expediter" fully informed as to his work progress, including immediate notification of any work progress changes.
4. It will be the responsibility of each Prime Contractor to initiate and maintain such programs as may be necessary to comply with Section 107 of the Contract Work Hours and Safety Standards Act (86. Stat. 96; 40 U.S.C. 327) commonly known as the Construction Safety Act, as published in Volume 36, Number 75 of the Federal Register dated April 17, 1971, or as amended.

G. CONSTRUCTION SUPERINTENDENT

1. Each Contractor shall keep a thoroughly competent Superintendent on the work during its progress. If observed to be inattentive to the requirements set forth in these documents and/or the work in progress the superintendent may be removed from the project at request of the Architect.

H. PERMITS AND/OR LICENSES

1. The Contractor shall pay for any building permits necessary in connection with the work unless otherwise indicated. The Contractor (each prime contractor) shall obtain and prepare all necessary paperwork. The Contractor(s) shall file for and obtain the permits.

I. DRAWINGS FOR JOB USE

1. All complete sets of plans and specifications used in bidding the project shall be issued to the successful Contractor. These shall be picked up and signed for at the office of the Architect. Any additional set requested shall be furnished at reproduction and postage costs. Upon completion of the work, and before final acceptance, all sets of drawings and specifications must be returned to the office of the Architect who will issue a receipt for same.

J. OWNERSHIP OF DRAWINGS

1. All drawings, specifications, and copies furnished by the Architect are his property. They are not to be used on other work, and with the exception of the signed contract set, are to be returned to him on request at the completion of the work.
2. The Owner shall, upon full payment of all compensation due to the Architect obtain the rights and privileges to use the drawings and specifications prepared under this agreement. For such consideration, the Owner assumes the responsibility and liability for all damages, direct and indirect, for the future use of the documents. In addition, the Owner shall defend, indemnify and hold the Architect harmless from any and all costs, obligations or liability arising from law suits or threatened law suits by any person, firm or corporation arising from the future use of the documents, including payment of the Architect's defense cost and legal fees. The Owner acknowledges that the documents are site specific and shall not use the drawings and specifications for execution of any project, including renovations and additions, other than that for which it was originally developed, nor shall the Owner give, bequeath or sell the drawings or specifications to others under any circumstances, except by agreement in writing with the appropriate compensation to the Architect. The Architect may retain copies of the original documents and has full rights to reuse their content and reserves the right to remove his title block and seal from any reproducible copies provided the Owner.

K. EXTRA AND/OR ADDITIONAL WORK CHANGES

1. The Contractor shall not make any changes or do any extra or additional work, or both, without the prior written approval of the Architect.

L. ASSIGNMENT OF CONTRACT

1. Neither this contract nor any monies due, or to become due there under, may be assigned by the Contractor without the prior written approval of the Architect.

M. SUB-CONTRACTING

1. No part of this Contract shall be sublet without the prior written approval of the Architect.

N. MEASUREMENTS

1. Before ordering any materials or doing any work, each Subcontractor shall verify all measurements at the building and shall be responsible for the correctness of same. No extra charge or compensation will be allowed on account of differences between the actual dimensions and the measurements indicated on the drawings.

O. COMMENCEMENT AND COMPLETION OF THE WORK

1. The Contractor shall commence work under his contract upon receipt of Notice to Proceed (reference AIA® Document A201™-2017, Section 3.1), shall expedite the work to the best of his/her ability and shall fully complete same within as short a time as conditions affecting the work will permit.

- P. LIQUIDATED DAMAGES FOR FAILURE TO FURNISH SECURITY FOR AND EXECUTE CONTRACT
1. If the successful bidder fails to provide security for and execute the Contract as provided herein and in the general conditions within ten (10) days after notice of acceptance of his proposal, the bid check for bidder's bond submitted with his bid shall be forfeited to the Owner as liquidated damages.
- Q. USE OF PROPOSAL FORM
1. All proposals shall be made on the form issued with the other documents and signed in longhand. All blank spaces in the form shall be filled out. All spaces left blank will be read zero (0) or no change.
- R. LICENSE
1. All bidders must be registered and licensed to do general contracting in the state in which the building is to be erected. All Subcontractors must be licensed Contractors.
- S. INSURANCE CONTRACTOR'S COVERAGE
1. The Contractor shall not commence work under this Contract until all insurance required under SECTION 00 73 00: Supplementary General Conditions of the Contract - Article 11 hereof has been obtained, and such insurance has been approved by the Owner, nor shall the Contractor allow any Subcontractor to commence work on his subcontract until all similar insurance required of the Subcontractor has been so obtained and approved.
- T. MAINTENANCE AND GUARANTEE
1. The contractor shall warrant and provide a performance bond to assure the Owner's interests as follows:
    - a. The Contractor shall bind all of the Subcontractors with him in warranties hereinafter required. Their performance bond shall remain in force for a period of one year from the date of acceptance of the work covered by this Contract as a guarantee that the Contractor will, at his own expense, repair or replace and make good all defects of material or workmanship, in connection with this contract, which may develop during the period of warranty.
    - b. In addition to the performance bond, the Contractor shall guarantee all built-up and single membrane roofing and flashing for a period of two (2) years after a certificate of occupancy is acquired. Shingle roofs and single membrane roofs will be factory warranted for a period of not less than twenty (20) years.
    - c. If, at any time during the warranty period, defects of materials or workmanship, from any cause whatsoever, shall develop or become evident through inspection, the Contractor shall, at his own expense, replace or repair the parts affected. If the Owner shall deem it necessary and so order, such repairs or replacements shall be commenced within 48 hours after the serving of notice, and shall be completed without delay. Should the Contractor, after due notice, refuse or neglect to make good the defects as

notified, then the Owner is empowered to proceed to make good all such defects by whatsoever means they see fit. In such instances, all the actual expenses incurred thereby for remedying such defects shall be billed to and paid for by the Contractor, or in case of his default, his surety shall become liable for and pay for all such expenses.

- d. The Contractor further guarantees the entire equipment, fixtures, piping, apparatus, etc., as installed and connected under his contract to perform all of the duties specified or expected under the condition notes without failure, defects, etc., for a period of one year after the date of acceptance by the Owner. Where no definite performance of equipment is specified, the equipment as installed and connected shall be guaranteed by the Contractor to equal the best and most efficient performance of the equipment as specified by name or performance.

U. SIGN:

1. Refer to detailed drawing of project identification sign contained in SECTION 01 58 13: Project Sign. If not shown herein, the Architect will issue a drawing of same. All projects will have a construction sign identifying the project, the Architects and all Prime Contractors. Location of sign will be by Architect at pre-construction. Project sign must be in place before first pay request will be considered.

END OF SPECIFICATIONS

## **DIVISION 00**

### **SECTION 00 73 00: SUPPLEMENTARY GENERAL CONDITIONS OF THE CONTRACT**

#### **00 73 00.01: GENERAL**

1. General Conditions of the Contract for Construction, American Institute of Architects Document A201™ dated 2017 will be considered part of these specifications. These Supplementary General Conditions contain changes and additions to the AIA® General Conditions, Document A201™-2017. Where any portion of an AIA General Conditions Article is modified or voided in part by the Supplementary Conditions the unaltered provisions shall remain in effect. A copy of the AIA® General Conditions, Document A201™-2017 may be examined at the Architect's office.
2. All references in Articles 8.3.1, 15.3.2 and 15.4 to arbitration in accordance with the construction arbitration rules of the American Arbitration Association shall be deleted. It is the specific intent that where interpretations of the Architect, given in writing as final, remain, in dispute by either the Owner or the Contractor and said disputes cannot be amicably resolved by the parties, final settlement will be made by the courts having jurisdiction.

#### **ARTICLE 1 – GENERAL PROVISIONS:**

##### 1.1 BASIC DEFINITIONS: Add the following Subsection:

###### 1.1.6.1 Specification Terms:

"Or Approved Equal" and "Equal To": Shall mean products by manufacturers other than those specified in the Project Manual and Addenda which the Contractor may submit for substitution and prove to be equal to those specified in the Project Manual and Addenda and on the drawings and which may be incorporated in the work after review and concurrence by the Architect and acceptance by the Owner.

"Provide": Shall mean furnish and install complete, in place, and ready for use.

"Indicated" and "Shown": Shall mean as detailed, scheduled, or called for in the Contract Documents.

"Latest Edition": Shall mean the current printed document issued up to thirty (30) calendar days prior to date of receipt of bids.

"Quality": Shall mean the meticulous attention to the detail of installation and workmanship necessary to the assemblage of products in the highest grade of excellence by skilled craftsmen of the trade.

"Prime Contractor": These documents are written to encompass "multi prime" bidding. Where "Prime Contractor" appears (in a single prime bidding scenario) read as "General Contractor".

##### 1.1.9 Divisions of Responsibility: Add the following Section:

The following responsibilities are in addition to those called for in the General Conditions and in these Supplementary Conditions.

The Architect is responsible for general overall design and not for product design, product fabrication, and construction.

The Contractor is responsible for overall construction and safety.

The Subcontractor is responsible to the Contractor for the proper construction of and proper design when called for, the work under his Subcontract.

The manufacturer is responsible to the Subcontractor and the Contractor for product design and product fabrication.

The Owner is responsible for proper maintenance and proper usage after completion and acceptance of the Project.

## 1.2 CORRELATION AND INTENT OF THE CONTRACT DOCUMENTS:

### 1.2.2.1 Add the following Subsection:

Such dividing of the work shall not operate to make the Architect an arbiter to establish limits of work between Subcontractors or between Contractor and Subcontractor. The General Contractor is the "Project Expeditor" and will operate and be responsible in that capacity.

### 1.2.3 Add the following to the existing Section:

All work shall conform to Contract Documents. No change there from shall be made without a review by Architect. Where only part of the work is indicated, similar parts shall be considered repetition. Where any detail is shown and the components therefore are fully described, similar details shall be construed to require equal products and construction.

Add the following Sections:

1.2.4 Should drawings disagree in themselves or with specifications, the better quality or greater quantity of work or material shall be furnished, unless otherwise ordered in writing.

1.2.5 Contractor will understand that work herein described shall be completed in every detail. Contractor will be held to provide labor and material necessary for entire completion of work intended to be described, and shall not avail him of any manifestly unintentional error or omission, should same exist.

1.2.6 Preference shall be given to calculated dimensions on drawings rather than measurements by scale. Contractor shall report any error or inconsistency noted in dimensions to the Architect before commencing work.

1.2.7 In such cases where the nature of the work requires clarification by the Architect, such clarification shall be furnished with reasonable promptness by means of written instructions or detail drawings, or both. Clarifications and drawings shall be consistent with the intent of documents and become a part thereof.

## **ARTICLE 2 - OWNER**

2.1 GENERAL: Add the following Section:

2.1.3 The Owner, when referred to throughout the Contract Documents, shall be as listed in Advertisement for Bids and/or Instructions for Bidders contained herein.

2.3 INFORMATION AND SERVICES REQUIRED OF THE OWNER:

2.3.7 Add the following Section:

The Owner reserves the right to have his authorized representative and agents inspect all work, materials, payrolls, records of personnel, invoices of materials, and other relevant data and records.

## **ARTICLE 3 - CONTRACTOR**

### **3.1 GENERAL:**

#### **3.1.4** Add the following Section:

Only one (1) Contractor is recognized as a party to the Contract and the term "Contractor" refers to the Contractor who signed the Contract. When the Owner executes separate Contracts, the term "Prime Contractor" is used to distinguish these from the Subcontractor.

### **3.2 REVIEW OF CONTRACT DOCUMENTS AND FIELD CONDITIONS BY CONTRACTOR:**

#### **3.2.1** Add the following Subsection:

The Contractor shall carefully study and compare the Contract Documents with each other and with information furnished by the Owner pursuant to Subparagraph 2.2.3 and shall at once report to the Architect errors, inconsistencies or omissions discovered.

If Contractor fails to give such notice and, knowingly, proceeds with incorrect work, he shall correct any such errors, inconsistencies or omissions at no additional cost. Should the Specifications and Drawings fail to particularly describe the product or kind of goods to be used in any place, then it shall be the duty of the Contractor to make inquiry of the Architect for what is best suited. The product that would normally be used in this place to produce first quality finished work shall be considered a part of the Contract.

### **3.3 SUPERVISION AND CONSTRUCTION PROCEDURES:**

#### **3.3.4** Add the following Section:

The Contractor has the responsibility to ensure that all product suppliers, and Subcontractors, their agents and employees, adhere to the Contract Documents and that they order products on time. The Contractor shall coordinate his work with that of all others on the Project including for deliveries, storage, installations, and construction utilities. The Contractor shall be responsible for the space requirements, locations, and routing of his equipment. In areas and locations where the proper and most effective space requirements, locations, and routing cannot be made as indicated, the Contractor shall meet with all others involved, before installation, to plan the most effective and efficient method of overall installation. A general example is equipment above corridor ceilings where ductwork, piping, conduit, lights, etc., will be installed. A thorough coordinated plan shall be used to install the equipment to furnish proper clearances, radii of turns, locations, pipe slopes, supporting appurtenances, and access where required.

### **3.4 LABOR AND MATERIALS:** Add the following Section:

**3.4.4** All materials and labor shall be in strict accordance with all governing rules and regulations of the State and any and all local rules, laws, or ordinances governing or otherwise appertaining thereto. All contractors are required to comply with Public Law 91- 54, "Federal Construction Safety Act of 1969", and Public Law 91- 596, "Occupational Safety and Health Act of 1970" with amendments through January 1, 2004, or its latest revision.

### **3.5 WARRANTY:** Add to the existing Section:

**3.5.1** All warranties shall include labor and products and shall be signed by the manufacturer or subcontractor, as the case may be, and countersigned by the Contractor. All warranties shall be addressed to the Owner and delivered to the Architect upon completion of the project and before or with the submission of request for final payment.

Add the following Sections:

- 3.5.3 Except where a longer guarantee time is specifically called for in the Specification Sections, the general guarantee shall be for twelve (12) months. Material, equipment, and labor replaced during the warranty period will be guaranteed for twelve (12) months after the replacement of same. The Contractor shall make good such defective materials, equipment or workmanship within the stipulated guarantee period without cost to the Owner.
- 3.5.4 The Contractor signing a Contract with the Owner shall issue to the Owner a "General Guarantee," PA Form 4, for all work under his Contract. It shall cover incidental building watertightness not covered by specific Sections of these Specifications. It shall not include the individual specific guarantees for watertightness and roofing and sheet metal.
- 3.5.5 The Contractor signing a Contract with the Owner shall issue to the Owner a "Watertightness Guarantee," PA Form 6, for each Section of these Specifications covering such that is under his Contract. Submit a separate guarantee for each Section requiring a guarantee for watertightness. This guarantee shall not include the guarantee for roofing and sheet metal.
- 3.5.6 The Contractor signing a Contract with the Owner shall issue to the Owner a "Roofing and Sheet Metal Guarantee," PA Form 5, which is in addition to that to be issued by manufacturers of products. The Contractor signing a Contract with the Owner shall issue to the Owner a "Landscape Plants and/or Grass Guarantee," PA Form 7.
- 3.5.7 The Contractor signing a Contract with the Owner shall obtain and forward to the Owner any and all guarantee issued by the manufacturers specifically for certain products and systems covered under his Contract. In the event the manufacturer does not have a suitable "preprinted warranty form" to fully cover the guarantee requirements as set forth in the Specification Section, he shall produce a warranty form patterned after those contained hereinafter which shall fully document the guarantee as set forth in the Specification Section.
- 3.5.8 Warranties shall become effective on a date established by the Architect. This date generally shall be the date of Final Acceptance of the Total Project, or shall be at Substantial Completion should it become expedient for the Owner to accept portions of the work prior to total completion of the Total Project.
- 3.5.9 In the case of Substantial Completion, separate warranties shall be issued for those specific portions of the Total Project which were accepted and shall be dated the date the specific portion was accepted. As additional work is accepted, separate warranties for those specific portions of the work shall be issued and properly dated. Substantial Completion Reviews and Acceptance will be considered when the progress of the Project conforms to Paragraph 8.1.3.
- 3.5.10 Substantial Completion Acceptance shall in no way become the basis for Application for Final Payment nor shall it become a means by which the Contractor and his Subcontractors, Sub-Subcontractors, product suppliers, etc., may sue to obtain early acceptance and warranty dates.
- 3.5.11 In the event that the Architect considers it impractical, because of unsuitable test conditions, or some other factors, to execute simultaneous final acceptance of all equipment, portions of the installation may be certified by the Architect for final acceptance when that portion of the system is complete and ready for operation as called for in Paragraph 9.8.
- 3.5.12 The Contractor shall guarantee for a period of TWENTY-FOUR (24) MONTHS that the building shall be watertight and leak proof at every point and every area, except where leaks can be attributed to damage to the building by external forces beyond his control. He shall, immediately upon notification by the Owner of water penetration, determine the source of water penetration and, at his own expense, do any work necessary to make the building watertight. He shall also at his own expense, repair or replace any other damaged material, finishes, and furnishings, damaged as a result of this water penetration to return the building to its original accepted condition.

3.5.13 If, for any reason, the Contractor cannot guarantee any part of his work using products or construction methods which have been specified, or shown, he shall notify the Architect in writing before contracts are signed, giving reasons, together with the names of products and data on substitutions he can guarantee.

Should the Contractor fail to so notify the Architect prior to the Signing of Contracts, he will be held to have agreed to guarantee all work specified or shown.

3.10 CONTRACTOR'S CONSTRUCTION SCHEDULES:

3.10.1.1 Add the following Subsection:

General Contractor, or Project Expediter, shall prepare a Progress Schedule as follows:

A proposed Progress Schedule shall be prepared covering all work on the Project and shall be submitted to the Architect for review within twenty (20) consecutive calendar days after the Notice to Proceed. Every Prime Subcontractor or every other Prime Contractor, as the case may be on the Project, shall submit to the preparer of the overall Progress Schedule, his Progress Schedule for the proper preparation of the overall Progress Schedule for the entire Project. Every Prime Subcontractor or every other Prime Contractor, as the case on the Project, shall cooperate with the preparer of the overall Progress Schedule, in the preparation of this document so that the work of all will be coordinated.

The Progress Schedule shall be in a bar chart form similar to the example bound hereinafter. The bar chart shall show the date when the operation of each Specification Section is to begin and is to be completed and its total dollar value percent to be completed each month. Each Progress Schedule, after the first submission, shall incorporate a progress barometer indicating the planned percent and actual percent of the total work completed by that Contractor as of the Progress Schedule date. The Progress Schedule shall be brought up-to-date each month showing actual progress in time and dollar value through that month and shall be submitted each month with the Application for Payment excluding the Application for Final Payment.

If any Contractor or Subcontractor at any time knows or has reason to believe that the delivery of any product or the shortage of qualified labor or delays caused by others or the occurrence of any other difficulty may cause a delay in carrying out the Progress Schedule, the Contractor i.e. "Project Expediter" shall notify the Architect in writing within three (3) days.

3.10.1.2 Add the following Subsection:

The purpose of the Progress Schedule and monthly updates as hereinbefore described, or as may be otherwise submitted and approved, shall be to furnish the Owner and Architect with information to indicate that the Contractor has planned the Project in sufficient detail for the Contractor to ensure that its construction can be accomplished within the stipulated time frame. The dollar value estimates to be included on the schedule are to assist the Owner in his cash flow planning so that funds will be readily available to pay Contractor Applications for Payment. Monthly updates are to furnish the Owner with current status of any changes required in the original schedule which will assist the Owner in scheduling delivery and installation of any products, furnishings, etc., necessary for the operation of the facility for its intended purpose.

The responsibility for construction planning and the effective efficient implementation of such, or the converse, to meet the Contract completion date, or authorized appropriate extensions thereof, are the total responsibility of the Contractor i.e. Project Expediter and such responsibility shall not transfer to the Owner/Architect. Review of the original Progress Schedule and subsequent modifications thereto, by the Owner and/or the Architect, shall be limited to the general purposes set out above. Such approval shall not operate to imply the agreement of the Owner/Architect to the Contractor's planned procedures, coordination, critical path scheduling, etc., as being appropriate or reasonable.

3.12 SHOP DRAWINGS, PRODUCT DATA AND SAMPLES:

3.12.4.1 Add the following Subsection:

All shop drawings, product data, and samples shall be submitted to the Architect, through the Contractor, for review within thirty (30) calendar days after the Notice to Proceed. Samples and product data required for substitutions shall be submitted with the request for substitution. Shop drawings will **not** be considered for review on substituted products that have not been submitted as called for in SECTION 00 21 13: INSTRUCTIONS FOR BIDDERS, SECTION 00 72 00 – GENERAL CONDITIONS and SECTION 01 33 00: SHOP DRAWINGS AND SUBMITTALS or which have not been completely checked, approved, and stamped by the Contractor, Subcontractor, and Fabricator. Shop drawings shall be prepared showing the specific locations and installation requirements of the Project.

Samples shall be in triplicate, one (1) to be retained by the Architect and two (2) to be returned to the Contractor, one (1) of which is to be placed on file in the field office for comparison to the products delivered. Where full-size samples are required and specified to be installed on the Project, only one (1) sample will be required.

For each shop drawing required for the initial submission, submit four (4) copies not exceeding 24" x 36" in size. After Architect reviews, three (3) copies will be returned to the Contractor who may reproduce his required number of copies before returning the reviewed copy to the Fabricator. Should printed product data be required with the submission, one (1) copy will be retained by the Architect and the remainder submitted will be returned to the Contractor. When corrections are necessary and a resubmittal is not requested, one (1) copy of corrected "field use" drawings will be forwarded to the Architect for file purposes.

After the Electrical, Plumbing, Heating, Ventilating and Air Conditioning submittals have received a favorable review the Contractor shall submit to the Architect for the Owner three (3) copies of complete operating and maintenance manuals as called for in DIVISIONS 22, 23, 26 AND 28. Three (3) copies of similar manuals shall also be submitted for other than those in DIVISIONS 22, 23, 26 AND 28. These manuals, bound in a hard binder and indexed, shall be submitted not later than sixty (60) calendar days before occupancy and shall be received before final Certificate for Payment is issued.

The Architect's review of shop drawings, product data, or samples shall not relieve the Contractor of his responsibility for any deviation from the requirements of the Contract Documents unless the Contractor has informed the Architect in writing of such deviation at the time of submission and the Architect has given consideration to the specific deviation, nor shall the Architect's review relieve the Contractor from his responsibility for errors or omissions in the shop drawings, product data, or samples.

3.12.7.1 Add the following Subsection:

The Contractor shall make all corrections required after review by the Architect and shall resubmit the required number of corrected copies of shop drawings, new product data, or new samples in accordance with the Architect's review stamp. When corrections are necessary and a resubmittal is not requested, three (3) copies of corrected "field use" drawings will be forwarded to the Architect for file purposes. The Contractor shall direct specific attention in writing or on resubmitted shop drawings, product data, and samples as to revisions other than the corrections requested by the Architect on previous submittals.

3.12.8.1 Add the following Subsection:

No portion of the work requiring submission of a shop drawing, product data, or sample shall be commenced until the submittal has been reviewed and approved by the Architect.

## **ARTICLE 4 - ARCHITECT**

### 4.2 ADMINISTRATION OF THE CONTRACT

#### 4.2.6.1 Add the following Subsection:

Any instructions which the Architect may issue the Contractor shall be adjudged an interpretation of the Contract requirements and not an act of supervision. The Architect has no authority, nor accepts any responsibility, either direct or implied, to direct and/or superintend the work.

## **ARTICLE 5 - SUBCONTRACTORS**

### 5.2 AWARDS OF SUBCONTRACTS AND OTHER CONTRACTS FOR PORTIONS OF THE WORK:

#### 5.2.1 Add to the existing Section:

"As soon as practical" as stated above will be within fourteen (14) consecutive calendar days after the Construction Agreement. The list of Subcontractors and Craftsmen shall be enumerated in accordance with the Sections of these Specifications. Those listed on the Bid Form shall also be included.

### 5.3 SUBCONTRACTURAL RELATIONS: Add the following Section:

#### 5.3.1 The Owner or Architect will not undertake to settle any differences between the Contractor and his Subcontractors or between Subcontractors.

## **ARTICLE 6 – CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS**

### 6.2 MUTUAL RESPONSIBILITY: Add the following Section:

#### 6.2.6 Each Contractor agrees to coordinate his work with each other separate Contractor within the total time frame established by the preparer of the overall Progress Schedule i.e. Project Expediter and made a part of the agreement. This time frame shall be as called for in 3.10 PROGRESS SCHEDULE which requires the participation and agreement of all Contractors in its preparation and acceptance.

Should any Contractor or combination of Contractors allege that another Contractor or combination of Contractors has caused a delay in his Contractor or their Contract, then the Contractor or combination of Contractors causing the delay shall indemnify and hold harmless the Owner and the Architect from any cause of action, resulting from the alleged delay or delays and the responsible Contractor or combination of Contractors shall bear all costs and expenses, including all attorneys' fees and court costs, which the Owner and/or Architect may have incurred in the resolution of such claim or claims.

## **ARTICLE 7 – CHANGES IN THE WORK**

### 7.2 CHANGE ORDERS:

#### 7.2.1 Add to the existing Section:

All Change Orders shall be approved by the Owner and Architect BEFORE the Contractor begins the work covered by the Change Order.

**8.2** PROGRESS AND COMPLETION: Add the following Section:

**8.2.4** The work will not be considered suitable for Substantial Completion Review until all Project systems are operational as designed; all designated or required governmental inspections and certifications have been made and posted, designated instruction of Owner's personnel in the operation of systems has been completed, and all final finishes are in place. In general, the only remaining work shall be minor in nature, such that the Owner could occupy the building on the following date and the completion of the work by the Contractor would not materially interfere or hamper the Owner's normal business operation. As a further condition of Substantial Completion Acceptance, the Contractor shall certify that all remaining work will be completed within thirty (30) consecutive calendar days following the date of Substantial Completion, and the failure to do so shall automatically reinstitute the provisions for damages due the Owner as contained elsewhere in the Agreement or as provided by law or such period of time as may be required by the Contractor to fully complete the work whether the Owner has occupied the work or not.

Exceptions to the above conditions for acceptance of designated portions of the Project, or other conditions of whatever kind, may be instituted by and in the sole discretion of the Owner, subject to concurrence of the Contractor; or, unless otherwise provided for elsewhere in the Agreement. The Owner may not reasonably withhold acceptance of the Total Project after Certification of Completion by the Architect.

**8.3** DELAYS AND EXTENSIONS OF TIME:

**8.3.4** Add the following Section:

Requests for extensions of construction time due to adverse weather conditions shall include U.S. Weather Bureau Climatological Reports for the months involved plus a report indicating the average precipitation, temperature, etc., for the past ten (10) years from the nearest reporting station. The 10-year average will determine the number of adverse weather days which the Contractor would normally expect to encounter. Extensions of time may be requested for any month of construction for days lost due to adverse weather in excess of the expected lost time.

**8.3.5** Add the following Section:

Extension of time shall be Contractor's sole remedy for delay unless the same shall have been caused by acts constituting intentional interference by the Owner with Contractor's performance of the work and where and to the extent that such acts continue after Contractor's notice to Owner of such interference. Owner's exercise of any of its rights under ARTICLE 7 CHANGES IN THE WORK regardless of the extent or number of suspensions of the work, or requirement of correction or re-execution of any defective work, shall not under any circumstances be construed as intentional interference with the Contractor's performance of the work.

## **ARTICLE 9 –PAYMENTS AND COMPLETION**

**9.2** SCHEDULE OF VALUES:

**9.2.1** Add the following Subsection:

The schedule of values shall be listed in numerical order of the Sections of the Specifications, and shall include: Description of the item, quantities, and the labor, product and total Contact amount for each item. This schedule of values shall be dated and signed by the Contractor.

General and Plumbing; Heating, Ventilating, and Air Conditioning; and Electrical Contracts or Subcontracts, as the case may be, shall be broken down in accordance with the Table of Contents.

9.3 APPLICATIONS FOR PAYMENT: Add the following Section:

Each month the Owner will make a progress payment to the Contractor based on the Contractor's approved estimate and Application for Payment for work performed under this Contract during the preceding calendar month. Application for Payment shall list products and labor separately. The Owner will retain five (5) percent of the amount of each estimate and Application for Payment until final completion and acceptance of all work covered by this Contract.

A final payment including retained amounts and authorized additions and deductions will be made upon full completion and acceptance of all work covered by this Contract.

**APPLICATION FOR PAYMENT WILL NOT BE APPROVED WITHOUT AN UPDATED PROGRESS SCHEDULE.**

**APPLICATION FOR FINAL PAYMENT WILL NOT BE APPROVED WITHOUT CONTRACT COMPLETION REQUIREMENTS IN PARAGRAPH 16.2.**

9.3.1 Add to the existing Section:

The application shall be on AIA® Documents G702™ and G703™. The Contractor shall include on each monthly Application for Payment, AIA® Documents G702™ and G703™, the following statement if surety is required for the Project:

"We certify that the Surety for this Project has been duly notified of the amount of this request." Unless exception to pay is made by the Surety to the Architect within four (4) calendar days following the date of request, it will be assumed that the Surety concurs in the payment of this application. American Institute of Architects Documents G702™ and G703™ may generally be obtained at office supply firms or directly from The American Institute of Architects, 1735 New York Avenue, N.W., Washington, DC 20006.

9.3.2.1 Add the following Subsection:

When Application for Payment includes products stored off the Project Site or stored on the Project Site but not incorporated in the Project, for which no previous payment has been requested, a complete description of such product shall be attached to the application. Suitable storage which is off the Project Site shall be bonded warehouse with the stored products properly tagged and identifiable for the Project. The Owner's written approval shall be obtained before the use of an off-site storage is made.

9.5 DECISIONS TO WITHHOLD CERTIFICATION:

9.5.2 Add to the existing Section:

Any money withheld due to any of the preceding causes constitutes a waiver of the Contractor's right to interest as stipulated in Paragraph 13.5.

**ARTICLE 11 – INSURANCE AND BONDS:**

11.1 CONTRACTOR'S LIABILITY INSURANCE:

11.1.1 Add to the existing Section:

Certificate of Insurance shall be on an AIA® Document G715™.

11.1.1.1 Add to the following Subsection:

Certificates of Insurance shall be attached to each copy of the Agreement by the Contractor before they are returned to the Architect for the Owner's signature, and Certificates shall be addressed to the Owner in care of the Architect.

11.1.2 Add to the existing Section:

Without limiting any of the other obligations or liabilities of the Contractor, the Contractor shall purchase and maintain minimum insurance coverage as follows.

The Contractor shall purchase and maintain Builder's Risk Insurance until Certificate of Occupancy is obtained.

The Contractor shall include a waiver of subrogation to Owner and Architect, which applies to all insurance policies.

The Contractor shall purchase and maintain insurance coverage on his tools, equipment, and machinery and shall waive subrogation to Owner and Architect for damage thereto.

The amounts of the Contractor's Liability Insurance shall be written for not less than the following, or greater if required by law:

- a. WORKMEN'S COMPENSATION:
  - 1) Statutory
  - 2) Employers Liability: \$100,000/500,000/100,000
- b. COMPREHENSIVE GENERAL LIABILITY:
  - 1) Bodily Injury & Property Damage including Contractual Liability Coverage: \$500,000 each occurrence/1,000,000 aggregate
- c. COMPREHENSIVE AUTOMOBILE LIABILITY:
  - 1) Bodily Injury & Property Damage: \$500,000
- d. PREMISES LIABILITY COVERAGE:
  - 1) Duration of the project.  
\$500,000 each occurrence/1,000,000 aggregate

Add the following Sections:

11.1.5 Contractors Installation Floater: Contractor and all Subcontractors are required to furnish evidence of insurance on materials that are intended for use on the Project that will become part of the building but are not stored within limits of the construction site. The Contractor shall furnish bonds in a surety company authorized to do business in project state in the amount of 100% of contract. Cost shall be included in proposal. Bonds shall not only guarantee faithful performance of contract, but shall further guarantee payment of all bills for labor and materials when said bills are due. Performance Bond and Labor and Material Payment are to be executed on latest AIA® Forms.

11.1.6 A Performance Bond and a Labor and Material Payment Bond are required. The Contractor shall obtain a Performance Bond and Labor and Material Payment Bond, acceptable to the Owner in a surety company authorized to do business in the state in which the Project is constructed for the full amount of the Contract Sum. The bond shall guarantee the Contractor's faithful performance of the Contract and the payment of all obligations arising there under. The bond shall remain in force until (1) the building has been completed and accepted by the Owner, (2) the provisions of all guarantees required by these Contract Documents have been fulfilled, and the time limitation for all guarantees has expired, or (3) until the time for the filing of all mechanics' lien has expired, whichever is longer, after which it shall become void. The Contractor shall pay all charges in connection with this bond as a part of the Contract. One executed copy of the bond shall be attached to each copy of the Contract before they are returned to the Architect for the Owner's signature.

11.1.7 This bond shall be written on AIA® Document A312™, latest edition. Copies of AIA® Document A312™ may be obtained from the local office supply or stationery store or maybe ordered from the American Institute of Architects, 1735 New York Avenue, N.W., Washington, D.C. 20006. A current Power-of-

Attorney shall be attached to this bond. It shall be the Contractor's sole responsibility to abide by and conform to this section.

11.1.8 Contractor's Default: If the Contractor defaults, the Contractor or his Surety, if Surety is required, shall reimburse the Owner for any additional architectural fees for additional services made necessary because of the Contractor's default.

11.2 OWNER'S INSURANCE:

11.2.1 Add to the existing Section:

"Policy shall include coverage for all risks and all perils."

The Contractor shall purchase and maintain Builder's Risk Insurance until Certificate of Occupancy is obtained.

11.2.1.1 Add the following Subsection:

The Contractor shall be financially responsible for the deductible of any and all claims against the Owner's property insurance.

The following are additions to the 2007 Edition of the AIA® GENERAL CONDITIONS OF THE CONTRACT FOR CONSTRUCTION A201™.

**ARTICLE 16 - COMPLETION:**

16.1 FINAL REVIEW AND ACCEPTANCE:

16.1.1 At the completion of the Project, two (2) reviews will be performed by the Architect to establish acceptance of the work.

The terminology of these reviews shall be:

PRELIMINARY REVIEW - will establish check list of items to be corrected and completed before the Final Review.

FINAL REVIEW - will determine whether items on the check list have been corrected and completed, and whether the Project can be accepted by the Owner.

16.1.2 On a date approximately fourteen (14) calendar days before the Time of Completion as set forth on the Owner-Contractor Agreement, or on an amended date agreed to by the Contractor and the Architect and approved by the Owner, a Preliminary Review will be held and a check list of items will be prepared for correction and completion before the Final Review.

16.1.3 At the Time of Completion as set forth in the Owner-Contractor Agreement, a Final Review will be held to determine completion for acceptance of the Project. If, after review by the Architect, all work appears to comply with the requirements of the Agreement, final payment will be made in accordance with the Agreement.

16.1.4 In the event all items of the Preliminary Review Check List have not been corrected or completed by the Contractor on the date of Final Review, except items for which an extension of time had been agreed upon, the Contractor shall be deemed to have neglected to prosecute the work properly, and subsequent reviews required by the Architect to substantiate final completion will be deemed an extra service to the Owner. For this extra service, the Architect will be reimbursed by the Owner in the amount of \$200.00 each day or fraction thereof, per person, required to expeditiously review the major Divisions of the work in the total Project (General; Electrical; Heating, Ventilating, and Air Conditioning, Plumbing; etc.), for each subsequent review required.

Due to the Contractor's failure to complete the work as required, this reimbursement will be deducted from the funds due the Contractor by the Owner under terms of their Agreement. In addition to the above, the provisions of Paragraph 2.4 may be invoked by the Owner.

In lieu of the invocation of the provisions of Paragraph 2.4, the Owner may request the Architect to provide an Architectural Representative to more closely review the residual completion activities of the Contractor. For this service, the Architect will be reimbursed in the amount of \$200.00 each day for each day or fraction thereof that the Owner considers it necessary for the Architectural Representative to visit the Project site. This reimbursement to the Architect will be deducted from funds due to Contractor by the Owner under the terms of their Contract. This reimbursement will be in addition to any liquidated damages that may become due the Owner, and shall be considered as compensation to the Owner for extra architectural services made necessary by the Contractor's failure to complete the work as scheduled.

## 16.2 CONTRACT COMPLETION REQUIREMENTS:

16.2.1 The final payment of retained amount due the Contractor on account of the Contract shall not become due until the Contractor has furnished to the Owner, through the Architect, completion documents as enumerated below:

1. Warranties as set forth in Paragraph 3.5, including other Guarantees required by specific Sections of the Specifications, four (4) copies each.
2. Shop drawings, product data, operating and maintenance manuals as set forth in Paragraph 3.12.4.
3. Affidavit and Waiver of Lien Prime Contractor (PA Form 1), four (4) copies.
4. Release and Waiver of Claims by each Subcontractors and Product Vendors (PA Form 2), four (4) copies.
5. Contractor's Affidavit as to Status of Liens (PA Form 3), four (4) copies.
6. Contractor's General Guarantee (PA Form 4), four (4) copies.
7. Contractor's Roofing and Sheet Metal Guarantee, if applicable (PA Form 5), four (4) copies.
8. Contractor's Watertightness Guarantee, if applicable (PA Form 6), four (4) copies.
9. Consent of Surety Company to Final Payment (Document G707™), four (4) copies.
10. Original As-builts.

In addition to the above, all other submissions and certifications required by other Articles and Sections of the Specifications shall be in the hands of the Architect before approval of final payment.

END OF SECTION

# AIA<sup>®</sup> Document A201<sup>™</sup> – 2017

## General Conditions of the Contract for Construction

for the following PROJECT:

*(Name and location or address)*

THE OWNER:

*(Name, legal status and address)*

THE ARCHITECT:

*(Name, legal status and address)*

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### 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.

For guidance in modifying this document to include supplementary conditions, see AIA Document A503<sup>™</sup>, Guide for Supplementary Conditions.

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## ARTICLE 1 GENERAL PROVISIONS

### § 1.1 Basic Definitions

#### § 1.1.1 The Contract Documents

The Contract Documents are enumerated in the Agreement between the Owner and Contractor (hereinafter the Agreement) and consist of the Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of the Contract, other documents listed in the Agreement, 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. Unless specifically enumerated in the Agreement, the Contract Documents do not include the advertisement or invitation to bid, Instructions to Bidders, sample forms, other information furnished by the Owner in anticipation of receiving bids or proposals, the Contractor's bid or proposal, or portions of Addenda relating to bidding or proposal requirements.

#### § 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 a Subcontractor or a Sub-subcontractor, (3) between the Owner and the Architect or the Architect's consultants, or (4) between any persons or entities other than the Owner and the Contractor. The Architect shall, however, be entitled to performance and enforcement of obligations under the Contract intended to facilitate performance of the Architect's duties.

#### § 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. The Work may constitute the whole or a part of the Project.

#### § 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 and by Separate Contractors.

#### § 1.1.5 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.

#### § 1.1.6 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.

#### § 1.1.7 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.

#### § 1.1.8 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.

### § 1.2 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.

§ 1.2.2 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.

§ 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.

### § 1.3 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

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.

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

§ 1.5.1 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 the Architect's or Architect's consultants' reserved rights.

§ 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.

### § 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 if a method for electronic transmission is set forth in the Agreement.

§ 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.

### § 1.7 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 E203™-2013, Building Information Modeling and Digital Data Exhibit, 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 E203™-2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document

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G202™–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. Except as otherwise provided in Section 4.2.1, the Architect does not have such authority. The term "Owner" means the Owner or the Owner's authorized representative.

§ 2.1.2 The Owner shall furnish to the Contractor, within fifteen days after receipt of a written request, information necessary and relevant for the Contractor to evaluate, give notice of, or enforce mechanic's lien rights. Such information shall include a correct statement of the record legal title to the property on which the Project is located, usually referred to as the site, and the Owner's interest therein.

### § 2.2 Evidence of the Owner's Financial Arrangements

§ 2.2.1 Prior to commencement of the Work and upon written request by the Contractor, the Owner shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract. The Contractor shall have no obligation to commence the Work until the Owner provides such evidence. If commencement of the Work is delayed under this Section 2.2.1, the Contract Time shall be extended appropriately.

§ 2.2.2 Following commencement of the Work and upon written request by the Contractor, the Owner shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract only if (1) the Owner fails to make payments to the Contractor as the Contract Documents require; (2) the Contractor identifies in writing a reasonable concern regarding the Owner's ability to make payment when due; or (3) a change in the Work materially changes the Contract Sum. If the Owner fails to provide such evidence, as required, within fourteen days of the Contractor's request, the Contractor may immediately stop the Work and, in that event, shall notify the Owner that the Work has stopped. However, if the request is made because a change in the Work materially changes the Contract Sum under (3) above, the Contractor may immediately stop only that portion of the Work affected by the change until reasonable evidence is provided. If the Work is stopped under this Section 2.2.2, the Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and start-up, plus interest as provided in the Contract Documents.

§ 2.2.3 After the Owner furnishes evidence of financial arrangements under this Section 2.2, the Owner shall not materially vary such financial arrangements without prior notice to the Contractor.

§ 2.2.4 Where the Owner has designated information furnished under this Section 2.2 as "confidential," the Contractor shall keep the information confidential and shall not disclose it to any other person. However, the Contractor may disclose "confidential" information, after seven (7) days' notice to the Owner, where disclosure is required by law, including a subpoena or other form of compulsory legal process issued by a court or governmental entity, or by court or arbitrator(s) order. The Contractor may also disclose "confidential" information to its employees, consultants, sureties, Subcontractors and their employees, Sub-subcontractors, and others who need to know the content of such information solely and exclusively for the Project and who agree to maintain the confidentiality of such information.

### § 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 If the employment of the Architect terminates, the Owner shall employ a successor to whom the Contractor has no reasonable objection and whose status under the Contract Documents shall be that of the Architect.

§ 2.3.4 The Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a legal description of the site. The Contractor shall be entitled to rely on the accuracy of information furnished by the Owner but shall exercise proper precautions relating to the safe performance of the Work.

§ 2.3.5 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.

§ 2.3.6 Unless otherwise provided in the Contract Documents, the Owner shall furnish to the Contractor one copy of the Contract Documents for purposes of making reproductions pursuant to Section 1.5.2.

#### § 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 repeatedly 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, except to the extent required by Section 6.1.3.

#### § 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 and fails within a ten-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. Such action by the Owner and amounts charged to the Contractor are both subject to prior approval of the Architect and the Architect may, pursuant to Section 9.5.1, withhold or nullify a Certificate for Payment in whole or in part, to the extent reasonably necessary to reimburse the Owner for the reasonable cost of correcting such deficiencies, including Owner's expenses and compensation for the Architect's additional services made necessary by such default, neglect, or failure. If current and future payments are not sufficient to cover such amounts, the Contractor shall pay the difference to the Owner. If the Contractor disagrees with the actions of the Owner or the Architect, or the amounts claimed as costs to the Owner, the Contractor may file a Claim pursuant to Article 15.

### 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 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 The Contractor shall perform the Work in accordance with the Contract Documents.

§ 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 Architect in the Architect's administration of the Contract, or by tests, inspections or approvals required or performed by persons or entities other than the Contractor.

#### § 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 Because the Contract Documents are complementary, the Contractor shall, before starting each portion of the Work, carefully study and compare the various Contract Documents relative to that portion of the Work, as well as the information furnished by the Owner pursuant to Section 2.3.4, shall take field measurements of any existing conditions related to that portion of the Work, and shall observe any conditions at the site affecting it. These obligations are for the purpose of facilitating coordination and construction by the Contractor and are not for the purpose of discovering errors, omissions, or inconsistencies in the Contract Documents; however, the Contractor shall promptly report to the Architect any errors, inconsistencies or omissions discovered by or made known to the Contractor as a request for information in such form as the Architect may require. It is recognized that the Contractor's review is made in the Contractor's capacity as a contractor and not as a licensed design professional, unless otherwise specifically provided in the Contract Documents.

§ 3.2.3 The Contractor is not required to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Contractor shall promptly report to the Architect any nonconformity discovered by or made known to the Contractor as a request for information in such form as the Architect may require.

§ 3.2.4 If the Contractor believes that additional cost or time is involved because 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, 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, 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.

### § 3.3 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 and 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. Unless the Architect objects to the Contractor's proposed alternative, the Contractor shall perform the Work using its alternative means, methods, techniques, sequences, or procedures.

§ 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.

§ 3.3.3 The Contractor shall be responsible for inspection of portions of Work already performed to determine that such portions are in proper condition to receive subsequent Work.

### § 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.

§ 3.4.2 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 and in accordance with a Change Order or Construction Change Directive.

§ 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.

### § 3.5 Warranty

§ 3.5.1 The Contractor warrants to the Owner 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 Architect, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

§ 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.

### § 3.6 Taxes

The Contractor shall pay sales, consumer, use and similar taxes for the Work 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.

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

§ 3.7.1 Unless otherwise provided in the Contract Documents, the Contractor shall secure and pay for the building permit as well as for other permits, fees, licenses, and inspections by government agencies necessary for proper execution and completion of the Work that are customarily secured after execution of the Contract and legally required at the time bids are received or negotiations concluded.

§ 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.

§ 3.7.3 If the Contractor performs Work knowing it to be contrary to applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Contractor shall assume appropriate responsibility for such Work and shall bear the costs attributable to correction.

### § 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 promptly provide notice to the Owner and the Architect before conditions are disturbed and in no event later than 14 days after first observance of the conditions. The Architect will promptly investigate such conditions and, if the Architect determines that they 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 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 and Contractor, stating the reasons. If either party disputes the Architect's determination or recommendation, that 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 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 Sum and Contract Time arising from the existence of such remains or features may be made as provided in Article 15.

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### § 3.8 Allowances

§ 3.8.1 The Contractor shall include in the Contract Sum all allowances stated in the Contract Documents. Items covered by allowances shall be supplied for such amounts and by such persons or entities as the Owner may direct, but the Contractor shall not be required to employ persons or entities to whom the Contractor has reasonable objection.

§ 3.8.2 Unless otherwise provided in the Contract Documents,

- .1 allowances shall cover the cost to the Contractor of materials and equipment delivered at the site and all required taxes, less applicable trade discounts;
- .2 Contractor's costs for unloading and handling at the site, labor, installation costs, overhead, profit, and other expenses contemplated for stated allowance amounts shall be included in the Contract Sum but not in the allowances; and
- .3 whenever costs are more than or less than allowances, the Contract Sum shall be adjusted accordingly by Change Order. The amount of the Change Order shall reflect (1) the difference between actual costs and the allowances under Section 3.8.2.1 and (2) changes in Contractor's costs under Section 3.8.2.2.

§ 3.8.3 Materials and equipment under an allowance shall be selected by the Owner with reasonable promptness.

### § 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.

§ 3.9.2 The Contractor, as soon as practicable after award of the Contract, shall notify the Owner and Architect of the name and qualifications of a proposed superintendent. Within 14 days of receipt of the information, the Architect may notify the Contractor, stating whether the Owner or the Architect (1) has reasonable objection to the proposed superintendent or (2) requires additional time for review. Failure of the Architect 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 or Architect has made reasonable and timely objection. The Contractor shall not change the superintendent without the Owner's consent, which shall not unreasonably be withheld or delayed.

### § 3.10 Contractor's Construction and Submittal Schedules

§ 3.10.1 The Contractor, promptly after being awarded the Contract, shall submit for the Owner's and Architect's information 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 at appropriate intervals as required by the conditions of the Work and Project.

§ 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 Architect's approval. The Architect's approval shall not be unreasonably delayed or withheld. The submittal schedule shall (1) be coordinated with the Contractor's construction schedule, and (2) allow the Architect reasonable time 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 perform the Work in general accordance with the most recent schedules submitted to the Owner and Architect.

### § 3.11 Documents and Samples at the Site

The Contractor shall make available, at the Project site, the Contract Documents, including Change Orders, Construction Change Directives, and other Modifications, in good order and marked currently to indicate field changes and selections made during construction, and the approved Shop Drawings, Product Data, Samples, and similar required submittals. These shall be in electronic form or paper copy, available to the Architect and Owner, and

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delivered to the Architect for submittal to the Owner upon completion of the Work as a record of the Work as constructed.

### § 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 is subject to the limitations of Section 4.2.7. Informational submittals upon which the Architect is 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 Architect without action.

§ 3.12.5 The Contractor shall review for compliance with the Contract Documents, approve, and submit to the Architect, Shop Drawings, Product Data, Samples, and similar submittals required by the Contract Documents, in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of the Owner or of Separate Contractors.

§ 3.12.6 By submitting Shop Drawings, Product Data, Samples, and similar submittals, the Contractor represents to the Owner 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 approved by the 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 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 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. The Contractor shall not be required to provide professional services in violation of applicable law.

§ 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

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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 and the Architect 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 Architect at the time and in the form specified by the Architect.

### § 3.13 Use of Site

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.

### § 3.14 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 Separate Contractors by cutting, patching, or otherwise altering such construction, or by excavation. The Contractor shall not cut or otherwise alter construction by the Owner or a Separate Contractor except with written consent of the Owner and of the Separate Contractor. Consent shall not be unreasonably withheld. The Contractor shall not unreasonably withhold, from the Owner or a Separate Contractor, its consent to cutting or otherwise altering the Work.

### § 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.

§ 3.15.2 If the Contractor fails to clean up as provided in the Contract Documents, the Owner may do so and the Owner shall be entitled to reimbursement from the Contractor.

### § 3.16 Access to Work

The Contractor shall provide the Owner and Architect with access to the Work in preparation and progress wherever located.

### § 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 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 or Architect. 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.

### § 3.18 Indemnification

§ 3.18.1 To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the Owner, Architect, Architect's consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by the negligent acts or omissions of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity that would otherwise exist as to a party or person described in this Section 3.18.

§ 3.18.2 In claims against any person or entity indemnified 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 Section 3.18.1 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.

## ARTICLE 4 ARCHITECT

### § 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 Duties, responsibilities, and limitations of authority of the Architect as set forth in the Contract Documents shall not be restricted, modified, or extended without written consent of the Owner, Contractor, and Architect. Consent shall not be unreasonably withheld.

### § 4.2 Administration of the Contract

§ 4.2.1 The Architect will provide administration of the Contract as described in the Contract Documents and will be an Owner's representative during construction until the date the Architect issues the final Certificate for Payment. The Architect will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents.

§ 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 the progress and quality of the portion of the Work completed, 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. The 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.

§ 4.2.3 On the basis of the site visits, the Architect will keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner (1) known deviations from the Contract Documents, (2) known deviations from the most recent construction schedule submitted by the Contractor, and (3) defects and deficiencies observed in the Work. The Architect will not be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect will not have control over or charge of, and will not be responsible for acts or omissions of, the Contractor, Subcontractors, or their agents or employees, or any other persons or entities performing portions of the Work.

### § 4.2.4 Communications

The Owner and Contractor shall include the Architect in all communications that relate to or affect the Architect's services or professional responsibilities. The Owner shall promptly notify the Architect of the substance of any direct communications between the Owner and the Contractor 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 Separate Contractors shall be through the Owner. The Contract Documents may specify other communication protocols.

§ 4.2.5 Based on the Architect's evaluations of the Contractor's Applications for Payment, the Architect will review and certify the amounts due the Contractor and will issue Certificates for Payment in such amounts.

§ 4.2.6 The Architect has authority to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect will have authority to require inspection or testing of the Work in accordance with Sections 13.4.2 and 13.4.3, whether or not the Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons or entities performing portions of the Work.

§ 4.2.7 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 while allowing sufficient time in the Architect's professional judgment to permit adequate review. Review of such submittals 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 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 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.

§ 4.2.8 The Architect will prepare Change Orders and Construction Change Directives, and may order minor changes in the Work as provided in Section 7.4. The Architect will investigate and make determinations and recommendations regarding concealed and unknown conditions as provided in Section 3.7.4.

§ 4.2.9 The Architect will conduct inspections to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion pursuant to Section 9.8; receive and forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract and assembled by the Contractor pursuant to Section 9.10; and issue a final Certificate for Payment pursuant to Section 9.10.

§ 4.2.10 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 Contractor of any change in the duties, responsibilities and limitations of authority of the Project representatives.

§ 4.2.11 The Architect will interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

§ 4.2.12 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 will not be liable for results of interpretations or decisions rendered in good faith.

§ 4.2.13 The Architect's decisions on matters relating to aesthetic effect will be final if consistent with the intent expressed in the Contract Documents.

§ 4.2.14 The Architect will review and respond to requests for information about the Contract Documents. The Architect's response to such requests 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.

## 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. The term "Subcontractor" does not include a Separate Contractor or the subcontractors of a Separate Contractor.

§ 5.1.2 A Sub-subcontractor is a person or entity who has a direct or indirect contract with a 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 Unless otherwise stated in the Contract Documents, the Contractor, as soon as practicable after award of the Contract, shall notify the Owner and Architect of the 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. Within 14 days of receipt of the information, the Architect may notify the Contractor whether the Owner or the Architect (1) has reasonable objection to any such proposed person or entity or (2) requires additional time for review. Failure of the Architect to provide notice within the 14-day period shall constitute notice of no reasonable objection.

§ 5.2.2 The Contractor shall not contract with a proposed person or entity to whom the Owner 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 or Architect has reasonable objection to a person or entity proposed by the Contractor, the Contractor shall propose another to whom the Owner or Architect has no reasonable objection. If the proposed but rejected Subcontractor was reasonably capable of performing the Work, the Contract Sum and Contract Time shall be increased or decreased by the difference, if any, occasioned by such change, and an appropriate Change Order shall be issued before commencement of the substitute Subcontractor's Work. However, no increase in the Contract Sum or Contract Time shall be allowed for such change unless the Contractor has acted promptly and responsively in submitting names as required.

§ 5.2.4 The Contractor shall not substitute a Subcontractor, person, or entity for one previously selected if the Owner or Architect makes reasonable objection to such substitution.

### § 5.3 Subcontractual Relations

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 and Architect. Each subcontract agreement shall preserve and protect the rights of the Owner 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.

### § 5.4 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

- .1 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; and
- .2 assignment is subject to the prior rights of the surety, if any, obligated under bond relating to the Contract.

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When the Owner accepts the assignment of a subcontract agreement, the Owner assumes the Contractor's rights and obligations under the subcontract.

§ 5.4.2 Upon such assignment, if the Work has been suspended for more than 30 days, the Subcontractor's compensation shall be equitably adjusted for increases in cost resulting from the suspension.

§ 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. If the Owner assigns the subcontract to a successor contractor or other entity, the Owner shall nevertheless remain legally responsible for all of the successor contractor's obligations under the subcontract.

## ARTICLE 6 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS

### § 6.1 Owner's Right to Perform Construction and to Award Separate Contracts

§ 6.1.1 The term "Separate Contractor(s)" shall mean other contractors retained by the Owner under separate agreements. The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and with Separate Contractors retained under Conditions of the Contract substantially similar to those of this Contract, including those provisions of the Conditions of the Contract related to insurance and waiver of subrogation.

§ 6.1.2 When separate contracts are awarded for different portions of the Project or other construction or operations on the site, the term "Contractor" in the Contract Documents in each case shall mean the Contractor who executes each separate Owner-Contractor Agreement.

§ 6.1.3 The Owner shall provide for coordination of the activities of the Owner's own forces and of each Separate Contractor with the Work of the Contractor, who shall cooperate with them. The Contractor shall participate with any Separate Contractors and the Owner in reviewing their construction schedules. The Contractor shall make any revisions to its construction schedule deemed necessary after a joint review and mutual agreement. The construction schedules shall then constitute the schedules to be used by the Contractor, Separate Contractors, and the Owner until subsequently revised.

§ 6.1.4 Unless otherwise provided in the Contract Documents, when the Owner performs construction or operations related to the Project with the Owner's own forces or with Separate Contractors, the Owner or its Separate Contractors shall have the same obligations and rights that the Contractor has under the Conditions of the Contract, including, without excluding others, those stated in Article 3, this Article 6, and Articles 10, 11, and 12.

### § 6.2 Mutual Responsibility

§ 6.2.1 The Contractor shall afford the Owner and 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 or a Separate Contractor, the Contractor shall, prior to proceeding with that portion of the Work, promptly notify the Architect of apparent discrepancies or defects in the construction or operations by the Owner or Separate Contractor that would render it unsuitable for proper execution and results of the Contractor's Work. Failure of the Contractor to notify 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. The Contractor shall not be responsible for discrepancies or defects in the construction or operations by the Owner or Separate Contractor that are not apparent.

§ 6.2.3 The Contractor shall reimburse the Owner for costs the Owner incurs that are payable to a Separate Contractor because of the Contractor's delays, improperly timed activities or defective construction. The Owner shall be responsible to the Contractor for costs the Contractor incurs because of a Separate Contractor's delays, improperly timed activities, damage to the Work or defective construction.

§ 6.2.4 The Contractor shall promptly remedy damage that the Contractor wrongfully causes to completed or partially completed construction or to property of the Owner or Separate Contractor as provided in Section 10.2.5.

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§ 6.2.5 The Owner and each Separate Contractor shall have the same responsibilities for cutting and patching as are described for the Contractor in Section 3.14.

### § 6.3 Owner's Right to Clean Up

If a dispute arises among the Contractor, Separate Contractors, and the Owner as to the responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and rubbish, the Owner may clean up and the Architect will allocate the cost among those responsible.

## 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, Contractor, and Architect. A Construction Change Directive requires agreement by the Owner 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, unless otherwise provided in the Change Order, Construction Change Directive, or order for a minor change in the Work.

### § 7.2 Change Orders

§ 7.2.1 A Change Order is a written instrument prepared by the Architect and signed by the Owner, Contractor, and Architect 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.

### § 7.3 Construction Change Directives

§ 7.3.1 A Construction Change Directive is a written order prepared by the Architect and signed by the Owner 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 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
- .4 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 Architect 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 the Agreement, or if no such amount is set forth in the Agreement, a reasonable amount. In such case, and also under Section 7.3.3.3, the Contractor shall keep and present, in such form as the Architect 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:

- .1 Costs of labor, including applicable payroll taxes, fringe benefits required by agreement or custom, workers' compensation insurance, and other employee costs approved by the Architect;
- .2 Costs of materials, supplies, and equipment, including cost of transportation, whether incorporated or consumed;
- .3 Rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or others;
- .4 Costs of premiums for all bonds and insurance, permit fees, and sales, use, or similar taxes, directly related to the change; and
- .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 Architect 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.

§ 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 as confirmed by the 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, the Contractor may request payment for Work completed under the Construction Change Directive in Applications for Payment. The Architect will make an interim determination for purposes of monthly certification for payment for those costs and certify for payment the amount that the Architect determines, in the Architect's professional judgment, to be reasonably justified. The Architect's 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 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 Architect will prepare a Change Order. Change Orders may be issued for all or any part of a Construction Change Directive.

#### § 7.4 Minor Changes in the Work

The Architect may 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. 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 Architect 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 Architect 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.

### 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 Agreement.

§ 8.1.3 The date of Substantial Completion is the date certified by the Architect in accordance with Section 9.8.

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§ 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 is a reasonable period for performing the Work.

§ 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 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.

## § 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 or Architect, of an employee of either, or of a Separate Contractor; (2) by changes ordered in the Work; (3) by labor disputes, 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 pending mediation and binding dispute resolution; or (5) by other causes that the Contractor asserts, and the Architect determines, justify delay, then the Contract Time shall be extended for such reasonable time as the Architect may determine.

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

§ 8.3.3 This Section 8.3 does not preclude recovery of damages for delay by either party under other provisions of the Contract Documents.

## 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

Where the Contract is based on a stipulated sum or Guaranteed Maximum Price, the Contractor shall submit a schedule of values to the 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 Architect. This schedule, unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment. Any changes to the schedule of values shall be submitted to the Architect and supported by such data to substantiate its accuracy as the Architect may require, and unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's subsequent Applications for Payment.

### § 9.3 Applications for Payment

§ 9.3.1 At least ten days before the date established for each progress payment, the Contractor shall submit to the Architect an itemized Application for Payment prepared in accordance with the schedule of values, if required under Section 9.2, 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 or Architect require, such as copies of requisitions, and releases and waivers of liens from Subcontractors and suppliers, and shall reflect retainage if provided for in the Contract Documents.

§ 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 Architect, but not yet included in Change Orders.

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§ 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.

§ 9.3.2 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.

§ 9.3.3 The Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Contractor further warrants that upon submittal of an Application for Payment all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Contractor's knowledge, information, and belief, be free and clear of liens, claims, security interests, or encumbrances, in favor of the Contractor, Subcontractors, suppliers, or other persons or entities that provided labor, materials, and equipment relating to the Work.

#### § 9.4 Certificates for Payment

§ 9.4.1 The Architect will, within seven days after receipt of the Contractor's Application for Payment, either (1) issue to the Owner a Certificate for Payment in the full amount of the Application for Payment, with a copy to the Contractor; or (2) issue to the Owner a Certificate for Payment for such amount as the Architect determines is properly due, and notify the Contractor and Owner of the Architect's reasons for withholding certification in part as provided in Section 9.5.1; or (3) withhold certification of the entire Application for Payment, and notify the Contractor and Owner of the Architect's reason for withholding certification in whole as provided in Section 9.5.1.

§ 9.4.2 The issuance of a Certificate for Payment will constitute a representation by the Architect to the Owner, based on the Architect's evaluation of the Work and the data in the Application for Payment, that, to the best of the Architect's knowledge, information, and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is entitled to payment in the amount certified. The foregoing representations are subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to results of subsequent tests and inspections, to correction of minor deviations from the Contract Documents prior to completion, and to specific qualifications expressed by the Architect. However, the issuance of a Certificate for Payment will not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work; (2) reviewed construction means, methods, techniques, sequences, or procedures; (3) reviewed copies of requisitions received from Subcontractors and suppliers and other data requested by the Owner to substantiate the Contractor's right to payment; or (4) made examination to ascertain how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

#### § 9.5 Decisions to Withhold Certification

§ 9.5.1 The Architect may withhold a Certificate for Payment in whole or in part, to the extent reasonably necessary to protect the Owner, if in the Architect's opinion the representations to the Owner required by Section 9.4.2 cannot be made. If the Architect is unable to certify payment in the amount of the Application, the Architect will notify the Contractor and Owner as provided in Section 9.4.1. If the Contractor and Architect cannot agree on a revised amount, the Architect will promptly issue a Certificate for Payment for the amount for which the Architect is able to make such representations to the Owner. The Architect may also withhold a Certificate for Payment or, because of subsequently discovered evidence, may nullify the whole or a part of a Certificate for Payment previously issued, to such extent as may be necessary in the Architect's opinion to protect the Owner from loss for which the Contractor is responsible, including loss resulting from acts and omissions described in Section 3.3.2, because of

- .1 defective Work not remedied;
- .2 third party claims filed or reasonable evidence indicating probable filing of such claims, unless security acceptable to the Owner is provided by the Contractor;
- .3 failure of the Contractor to make payments properly to Subcontractors or suppliers for labor, materials or equipment;

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- .4 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
- .5 damage to the Owner or a Separate Contractor;
- .6 reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay; or
- .7 repeated failure to carry out the Work in accordance with the Contract Documents.

§ 9.5.2 When either party disputes the Architect's decision regarding a Certificate for Payment under Section 9.5.1, in whole or in part, that party may submit a Claim in accordance with Article 15.

§ 9.5.3 When the reasons for withholding certification are removed, certification will be made for amounts previously withheld.

§ 9.5.4 If the Architect withholds certification for payment under Section 9.5.1.3, the Owner may, at its sole option, issue joint checks to the Contractor and to any Subcontractor or supplier to whom the Contractor failed to make payment for Work properly performed or material or equipment suitably delivered. If the Owner makes payments by joint check, the Owner shall notify the Architect and the Contractor shall reflect such payment on its next Application for Payment.

### § 9.6 Progress Payments

§ 9.6.1 After the Architect has issued a Certificate for Payment, the Owner shall make payment in the manner and within the time provided in the Contract Documents, and shall so notify the Architect.

§ 9.6.2 The Contractor shall pay each Subcontractor, no later than seven days after receipt of payment from the Owner, the amount to which the Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of the Subcontractor's portion of the Work. The Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to Sub-subcontractors in a similar manner.

§ 9.6.3 The Architect will, on request, furnish to a Subcontractor, if practicable, information regarding percentages of completion or amounts applied for by the Contractor and action taken thereon by the Architect and Owner on account of portions of the Work done by such Subcontractor.

§ 9.6.4 The Owner has the right to request written evidence from the Contractor that the Contractor has properly paid Subcontractors and suppliers amounts paid by the Owner to the Contractor for subcontracted Work. If the Contractor fails to furnish such evidence within seven days, the Owner shall have the right to contact Subcontractors and suppliers to ascertain whether they have been properly paid. Neither the Owner nor Architect shall have an obligation to pay, or to see to the payment of money to, a Subcontractor or supplier, except as may otherwise be required by law.

§ 9.6.5 The Contractor's payments to suppliers shall be treated in a manner similar to that provided in Sections 9.6.2, 9.6.3 and 9.6.4.

§ 9.6.6 A Certificate for Payment, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not in accordance with the Contract Documents.

§ 9.6.7 Unless the Contractor provides the Owner with a payment bond in the full penal sum of the Contract Sum, payments received by the Contractor for Work properly performed by Subcontractors or provided by suppliers shall be held by the Contractor for those Subcontractors or suppliers who performed Work or furnished materials, or both, under contract with the Contractor for which payment was made by the Owner. Nothing contained herein shall require money to be placed in a separate account and not commingled with money of the Contractor, create any fiduciary liability or tort liability on the part of the Contractor for breach of trust, or entitle any person or entity to an award of punitive damages against the Contractor for breach of the requirements of this provision.

§ 9.6.8 Provided the Owner has fulfilled its payment obligations under the Contract Documents, the Contractor shall defend and indemnify the Owner from all loss, liability, damage or expense, including reasonable attorney's fees and litigation expenses, arising out of any lien claim or other claim for payment by any Subcontractor or supplier of any tier. Upon receipt of notice of a lien claim or other claim for payment, the Owner shall notify the Contractor. If approved by the applicable court, when required, the Contractor may substitute a surety bond for the property against which the lien or other claim for payment has been asserted.

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## § 9.7 Failure of Payment

If the Architect does not issue a Certificate for Payment, through no fault of the Contractor, within seven days after receipt of the Contractor's Application for Payment, or if the Owner does not pay the Contractor within seven days after the date established in the Contract Documents, the amount certified by the Architect or awarded by binding dispute resolution, then the Contractor may, upon seven additional days' notice to the Owner and Architect, stop the Work until payment of the amount owing has been received. The Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and start-up, plus interest as provided for in the Contract Documents.

## § 9.8 Substantial Completion

§ 9.8.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work for its intended use.

§ 9.8.2 When the Contractor considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Contractor shall prepare and submit to the Architect a comprehensive list of items to be completed or corrected prior to final payment. Failure to include an item on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents.

§ 9.8.3 Upon receipt of the Contractor's list, the Architect will make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Architect's inspection discloses any item, whether or not included on the Contractor's list, which is not sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work or designated portion thereof for its intended use, the Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct such item upon notification by the Architect. In such case, the Contractor shall then submit a request for another inspection by the Architect to determine Substantial Completion.

§ 9.8.4 When the Work or designated portion thereof is substantially complete, the Architect will prepare a Certificate of Substantial Completion that shall establish the date of Substantial Completion; establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance; and fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

§ 9.8.5 The Certificate of Substantial Completion shall be submitted to the Owner and Contractor for their written acceptance of responsibilities assigned to them in the Certificate. Upon such acceptance, and consent of surety if any, the Owner shall make payment of retainage applying to the Work or designated portion thereof. Such payment shall be adjusted for Work that is incomplete or not in accordance with the requirements of the Contract Documents.

## § 9.9 Partial Occupancy or Use

§ 9.9.1 The Owner may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate agreement with the Contractor, provided such occupancy or use is consented to by the insurer and authorized by public authorities having jurisdiction over the Project. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided the Owner and Contractor have accepted in writing the responsibilities assigned to each of them for payments, retainage, if any, security, maintenance, heat, utilities, damage to the Work and insurance, and have agreed in writing concerning the period for correction of the Work and commencement of warranties required by the Contract Documents. When the Contractor considers a portion substantially complete, the Contractor shall prepare and submit a list to the Architect as provided under Section 9.8.2. Consent of the Contractor to partial occupancy or use shall not be unreasonably withheld. The stage of the progress of the Work shall be determined by written agreement between the Owner and Contractor or, if no agreement is reached, by decision of the Architect.

§ 9.9.2 Immediately prior to such partial occupancy or use, the Owner, Contractor, and Architect shall jointly inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition of the Work.

§ 9.9.3 Unless otherwise agreed upon, partial occupancy or use of a portion or portions of the Work shall not constitute acceptance of Work not complying with the requirements of the Contract Documents.

#### § 9.10 Final Completion and Final Payment

§ 9.10.1 Upon receipt of the Contractor's notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Architect will promptly make such inspection. When the Architect finds the Work acceptable under the Contract Documents and the Contract fully performed, the Architect will promptly issue a final Certificate for Payment stating that to the best of the Architect's knowledge, information and belief, and on the basis of the Architect's on-site visits and inspections, the Work has been completed in accordance with the Contract Documents and that the entire balance found to be due the Contractor and noted in the final Certificate is due and payable. The Architect's final Certificate for Payment will constitute a further representation that conditions listed in Section 9.10.2 as precedent to the Contractor's being entitled to final payment have been fulfilled.

§ 9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Architect (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect, (3) a written statement that the Contractor knows of no reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) consent of surety, if any, to final payment, (5) documentation of any special warranties, such as manufacturers' warranties or specific Subcontractor warranties, and (6) if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts and releases and waivers of liens, claims, security interests, or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien, claim, security interest, or encumbrance. If a lien, claim, security interest, or encumbrance remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging the lien, claim, security interest, or encumbrance, including all costs and reasonable attorneys' fees.

§ 9.10.3 If, after Substantial Completion of the Work, final completion thereof is materially delayed through no fault of the Contractor or by issuance of Change Orders affecting final completion, and the Architect so confirms, the Owner shall, upon application by the Contractor and certification by the Architect, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed, corrected, and accepted. If the remaining balance for Work not fully completed or corrected is less than retainage stipulated in the Contract Documents, and if bonds have been furnished, the written consent of the surety to payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the Contractor to the Architect prior to certification of such payment. Such payment shall be made under terms and conditions governing final payment, except that it shall not constitute a waiver of Claims.

§ 9.10.4 The making of final payment shall constitute a waiver of Claims by the Owner except those arising from

- .1 liens, Claims, security interests, or encumbrances arising out of the Contract and unsettled;
- .2 failure of the Work to comply with the requirements of the Contract Documents;
- .3 terms of special warranties required by the Contract Documents; or
- .4 audits performed by the Owner, if permitted by the Contract Documents, after final payment.

§ 9.10.5 Acceptance of final payment by the Contractor, a Subcontractor, or a supplier, shall constitute a waiver of claims by that payee except those previously made in writing and identified by that payee as unsettled at the time of final Application for Payment.

### ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY

#### § 10.1 Safety Precautions and Programs

The Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the Contract.

#### § 10.2 Safety of Persons and Property

§ 10.2.1 The Contractor shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury, or loss to

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- .1 employees on the Work and other persons who may be affected thereby;
- .2 the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody, or control of the Contractor, a Subcontractor, or a Sub-subcontractor; and
- .3 other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures, and utilities not designated for removal, relocation, or replacement in the course of construction.

§ 10.2.2 The Contractor shall comply with, and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities, bearing on safety of persons or property or their protection from damage, injury, or loss.

§ 10.2.3 The Contractor shall implement, erect, and maintain, as required by existing conditions and performance of the Contract, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards; promulgating safety regulations; and notifying the owners and users of adjacent sites and utilities of the safeguards.

§ 10.2.4 When use or storage of explosives or other hazardous materials or equipment, or unusual methods are necessary for execution of the Work, the Contractor shall exercise utmost care and carry on such activities under supervision of properly qualified personnel.

§ 10.2.5 The Contractor shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Contract Documents) to property referred to in Sections 10.2.1.2 and 10.2.1.3 caused in whole or in part by the Contractor, a Subcontractor, a Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible under Sections 10.2.1.2 and 10.2.1.3. The Contractor may make a Claim for the cost to remedy the damage or loss to the extent such damage or loss is attributable to acts or omissions of the Owner or Architect or anyone directly or indirectly employed by either of them, or by anyone for whose acts either of them may be liable, and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to the Contractor's obligations under Section 3.18.

§ 10.2.6 The Contractor shall designate a responsible member of the Contractor's organization at the site whose duty shall be the prevention of accidents. This person shall be the Contractor's superintendent unless otherwise designated by the Contractor in writing to the Owner and Architect.

§ 10.2.7 The Contractor shall not permit any part of the construction or site to be loaded so as to cause damage or create an unsafe condition.

#### § 10.2.8 Injury or Damage to Person or Property

If either party suffers injury or damage to person or property because of an act or omission of the other party, or of others for whose acts such party is legally responsible, notice of the injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding 21 days after discovery. The notice shall provide sufficient detail to enable the other party to investigate the matter.

#### § 10.3 Hazardous Materials and Substances

§ 10.3.1 The Contractor is responsible for compliance with any requirements included in the Contract Documents regarding hazardous materials or substances. If the Contractor encounters a hazardous material or substance not addressed in the Contract Documents and if reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including but not limited to asbestos or polychlorinated biphenyl (PCB), encountered on the site by the Contractor, the Contractor shall, upon recognizing the condition, immediately stop Work in the affected area and notify the Owner and Architect of the condition.

§ 10.3.2 Upon receipt of the Contractor's notice, the Owner shall obtain the services of a licensed laboratory to verify the presence or absence of the material or substance reported by the Contractor and, in the event such material or substance is found to be present, to cause it to be rendered harmless. Unless otherwise required by the Contract Documents, the Owner shall furnish in writing to the Contractor and Architect the names and qualifications of persons or entities who are to perform tests verifying the presence or absence of the material or substance or who are to perform the task of removal or safe containment of the material or substance. The Contractor and the Architect will

promptly reply to the Owner in writing stating whether or not either has reasonable objection to the persons or entities proposed by the Owner. If either the Contractor or Architect has an objection to a person or entity proposed by the Owner, the Owner shall propose another to whom the Contractor and the Architect have no reasonable objection. When the material or substance has been rendered harmless, Work in the affected area shall resume upon written agreement of the Owner and Contractor. By Change Order, the Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable additional costs of shutdown, delay, and start-up.

§ 10.3.3 To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Contractor, Subcontractors, Architect, Architect's consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work in the affected area if in fact the material or substance presents the risk of bodily injury or death as described in Section 10.3.1 and has not been rendered harmless, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), except to the extent that such damage, loss, or expense is due to the fault or negligence of the party seeking indemnity.

§ 10.3.4 The Owner shall not be responsible under this Section 10.3 for hazardous materials or substances the Contractor brings to the site unless such materials or substances are required by the Contract Documents. The Owner shall be responsible for hazardous materials or substances required by the Contract Documents, except to the extent of the Contractor's fault or negligence in the use and handling of such materials or substances.

§ 10.3.5 The Contractor shall reimburse the Owner for the cost and expense the Owner incurs (1) for remediation of hazardous materials or substances the Contractor brings to the site and negligently handles, or (2) where the Contractor fails to perform its obligations under Section 10.3.1, except to the extent that the cost and expense are due to the Owner's fault or negligence.

§ 10.3.6 If, without negligence on the part of the Contractor, the Contractor is held liable by a government agency for the cost of remediation of a hazardous material or substance solely by reason of performing Work as required by the Contract Documents, the Owner shall reimburse the Contractor for all cost and expense thereby incurred.

#### § 10.4 Emergencies

In an emergency affecting safety of persons or property, the Contractor shall act, at the Contractor's discretion, to prevent threatened damage, injury, or loss. Additional compensation or extension of time claimed by the Contractor on account of an emergency shall be determined as provided in Article 15 and Article 7.

### ARTICLE 11 INSURANCE AND BONDS

#### § 11.1 Contractor's Insurance and Bonds

§ 11.1.1 The Contractor shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Contractor shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Owner, Architect, and Architect's consultants shall be named as additional insureds under the Contractor's commercial general liability policy or as otherwise described in the Contract Documents.

§ 11.1.2 The Contractor shall provide surety bonds of the types, for such penal sums, and subject to such terms and conditions as required by the Contract Documents. The Contractor shall purchase and maintain the required bonds from a company or companies lawfully authorized to issue surety bonds in the jurisdiction where the Project is located.

§ 11.1.3 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor shall promptly furnish a copy of the bonds or shall authorize a copy to be furnished.

§ 11.1.4 **Notice of Cancellation or Expiration of Contractor's Required Insurance.** Within three (3) business days of the date the Contractor becomes aware of an impending or actual cancellation or expiration of any insurance required by the Contract Documents, the Contractor shall provide notice to the Owner of such impending or actual cancellation or expiration. Upon receipt of notice from the Contractor, the Owner shall, unless the lapse in coverage arises from an act

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or omission of the Owner, have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by the Contractor. The furnishing of notice by the Contractor shall not relieve the Contractor of any contractual obligation to provide any required coverage.

## § 11.2 Owner's Insurance

§ 11.2.1 The Owner shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Owner shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located.

§ 11.2.2 **Failure to Purchase Required Property Insurance.** If the Owner fails to purchase and maintain the required property insurance, with all of the coverages and in the amounts described in the Agreement or elsewhere in the Contract Documents, the Owner shall inform the Contractor in writing prior to commencement of the Work. Upon receipt of notice from the Owner, the Contractor may delay commencement of the Work and may obtain insurance that will protect the interests of the Contractor, Subcontractors, and Sub-Subcontractors in the Work. When the failure to provide coverage has been cured or resolved, the Contract Sum and Contract Time shall be equitably adjusted. In the event the Owner fails to procure coverage, the Owner waives all rights against the Contractor, Subcontractors, and Sub-subcontractors to the extent the loss to the Owner would have been covered by the insurance to have been procured by the Owner. The cost of the insurance shall be charged to the Owner by a Change Order. If the Owner does not provide written notice, and the Contractor is damaged by the failure or neglect of the Owner to purchase or maintain the required insurance, the Owner shall reimburse the Contractor for all reasonable costs and damages attributable thereto.

§ 11.2.3 **Notice of Cancellation or Expiration of Owner's Required Property Insurance.** Within three (3) business days of the date the Owner becomes aware of an impending or actual cancellation or expiration of any property insurance required by the Contract Documents, the Owner shall provide notice to the Contractor of such impending or actual cancellation or expiration. Unless the lapse in coverage arises from an act or omission of the Contractor: (1) the Contractor, upon receipt of notice from the Owner, shall have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by either the Owner or the Contractor; (2) the Contract Time and Contract Sum shall be equitably adjusted; and (3) the Owner waives all rights against the Contractor, Subcontractors, and Sub-subcontractors to the extent any loss to the Owner would have been covered by the insurance had it not expired or been cancelled. If the Contractor purchases replacement coverage, the cost of the insurance shall be charged to the Owner by an appropriate Change Order. The furnishing of notice by the Owner shall not relieve the Owner of any contractual obligation to provide required insurance.

## § 11.3 Waivers of Subrogation

§ 11.3.1 The Owner and Contractor waive all rights against (1) each other and any of their subcontractors, sub-subcontractors, agents, and employees, each of the other; (2) the Architect and Architect's consultants; and (3) Separate Contractors, if any, and any of their subcontractors, sub-subcontractors, agents, and employees, for damages caused by fire, or other causes of loss, to the extent those losses are covered by property insurance required by the Agreement or other property insurance applicable to the Project, except such rights as they have to proceeds of such insurance. The Owner or Contractor, as appropriate, shall require similar written waivers in favor of the individuals and entities identified above from the Architect, Architect's consultants, Separate Contractors, subcontractors, and sub-subcontractors. The policies of insurance purchased and maintained by each person or entity agreeing to waive claims pursuant to this section 11.3.1 shall not prohibit this waiver of subrogation. This waiver of subrogation shall be effective as to a person or entity (1) even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, (2) even though that person or entity did not pay the insurance premium directly or indirectly, or (3) whether or not the person or entity had an insurable interest in the damaged property.

§ 11.3.2 If during the Project construction period the Owner insures properties, real or personal or both, at or adjacent to the site by property insurance under policies separate from those insuring the Project, or if after final payment property insurance is to be provided on the completed Project through a policy or policies other than those insuring the Project during the construction period, to the extent permissible by such policies, the Owner waives all rights in accordance with the terms of Section 11.3.1 for damages caused by fire or other causes of loss covered by this separate property insurance.

## § 11.4 Loss of Use, Business Interruption, and Delay in Completion Insurance

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The Owner, at the Owner's option, may purchase and maintain insurance that will protect the Owner against loss of use of the Owner's property, or the inability to conduct normal operations, due to fire or other causes of loss. The Owner waives all rights of action against the Contractor and Architect for loss of use of the Owner's property, due to fire or other hazards however caused.

#### § 11.5 Adjustment and Settlement of Insured Loss

§ 11.5.1 A loss insured under the property insurance required by the Agreement shall be adjusted by the Owner as fiduciary and made payable to the Owner as fiduciary for the insureds, as their interests may appear, subject to requirements of any applicable mortgagee clause and of Section 11.5.2. The Owner shall pay the Architect and Contractor their just shares of insurance proceeds received by the Owner, and by appropriate agreements the Architect and Contractor shall make payments to their consultants and Subcontractors in similar manner.

§ 11.5.2 Prior to settlement of an insured loss, the Owner shall notify the Contractor of the terms of the proposed settlement as well as the proposed allocation of the insurance proceeds. The Contractor shall have 14 days from receipt of notice to object to the proposed settlement or allocation of the proceeds. If the Contractor does not object, the Owner shall settle the loss and the Contractor shall be bound by the settlement and allocation. Upon receipt, the Owner shall deposit the insurance proceeds in a separate account and make the appropriate distributions. Thereafter, if no other agreement is made or the Owner does not terminate the Contract for convenience, the Owner and Contractor shall execute a Change Order for reconstruction of the damaged or destroyed Work in the amount allocated for that purpose. If the Contractor timely objects to either the terms of the proposed settlement or the allocation of the proceeds, the Owner may proceed to settle the insured loss, and any dispute between the Owner and Contractor arising out of the settlement or allocation of the proceeds shall be resolved pursuant to Article 15. Pending resolution of any dispute, the Owner may issue a Construction Change Directive for the reconstruction of the damaged or destroyed Work.

### ARTICLE 12 UNCOVERING AND CORRECTION OF WORK

#### § 12.1 Uncovering of Work

§ 12.1.1 If a portion of the Work is covered contrary to the Architect's request or to requirements specifically expressed in the Contract Documents, it must, if requested in writing by the Architect, be uncovered for the Architect's examination and be replaced at the Contractor's expense without change in the Contract Time.

§ 12.1.2 If a portion of the Work has been covered that the Architect has not specifically requested to examine prior to its being covered, the Architect may request to see such Work and it shall be uncovered by the Contractor. If such Work is in accordance with the Contract Documents, the Contractor shall be entitled to an equitable adjustment to the Contract Sum and Contract Time as may be appropriate. If such Work is not in accordance with the Contract Documents, the costs of uncovering the Work, and the cost of correction, shall be at the Contractor's expense.

#### § 12.2 Correction of Work

##### § 12.2.1 Before Substantial Completion

The Contractor shall promptly correct Work rejected by the Architect or failing to conform to the requirements of the Contract Documents, discovered before Substantial Completion and whether or not fabricated, installed or completed. Costs of correcting such rejected Work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for the Architect's services and expenses made necessary thereby, shall be at the Contractor's expense.

##### § 12.2.2 After Substantial Completion

§ 12.2.2.1 In addition to the Contractor's obligations under Section 3.5, if, within one year after the date of Substantial Completion of the Work or designated portion thereof or after the date for commencement of warranties established under Section 9.9.1, or by terms of any applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly after receipt of notice from the Owner to do so, unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner shall give such notice promptly after discovery of the condition. During the one-year period for correction of Work, if the Owner fails to notify the Contractor and give the Contractor an opportunity to make the correction, the Owner waives the rights to require correction by the Contractor and to make a claim for breach of warranty. If the Contractor fails to correct nonconforming Work within a reasonable time during that period after receipt of notice from the Owner or Architect, the Owner may correct it in accordance with Section 2.5.

§ 12.2.2.2 The one-year period for correction of Work shall be extended with respect to portions of Work first performed after Substantial Completion by the period of time between Substantial Completion and the actual completion of that portion of the Work.

§ 12.2.2.3 The one-year period for correction of Work shall not be extended by corrective Work performed by the Contractor pursuant to this Section 12.2.

§ 12.2.3 The Contractor shall remove from the site portions of the Work that are not in accordance with the requirements of the Contract Documents and are neither corrected by the Contractor nor accepted by the Owner.

§ 12.2.4 The Contractor shall bear the cost of correcting destroyed or damaged construction of the Owner or Separate Contractors, whether completed or partially completed, caused by the Contractor's correction or removal of Work that is not in accordance with the requirements of the Contract Documents.

§ 12.2.5 Nothing contained in this Section 12.2 shall be construed to establish a period of limitation with respect to other obligations the Contractor has under the Contract Documents. Establishment of the one-year period for correction of Work as described in Section 12.2.2 relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.

### § 12.3 Acceptance of Nonconforming Work

If the Owner prefers to accept Work that is not in accordance with the requirements of the Contract Documents, the Owner may do so instead of requiring its removal and correction, in which case the Contract Sum will be reduced as appropriate and equitable. Such adjustment shall be effected whether or not final payment has been made.

## ARTICLE 13 MISCELLANEOUS PROVISIONS

### § 13.1 Governing Law

The Contract shall be governed by the law of the place where the Project is located, excluding that jurisdiction's choice of law rules. If the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 15.4.

### § 13.2 Successors and Assigns

§ 13.2.1 The Owner and Contractor respectively bind themselves, their partners, successors, assigns, and legal representatives to covenants, agreements, and obligations contained in the Contract Documents. Except as provided in Section 13.2.2, neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

§ 13.2.2 The Owner may, without consent of the Contractor, assign the Contract to a lender providing construction financing for the Project, if the lender assumes the Owner's rights and obligations under the Contract Documents. The Contractor shall execute all consents reasonably required to facilitate the assignment.

### § 13.3 Rights and Remedies

§ 13.3.1 Duties and obligations imposed by the Contract Documents and rights and remedies available thereunder shall be in addition to and not a limitation of duties, obligations, rights, and remedies otherwise imposed or available by law.

§ 13.3.2 No action or failure to act by the Owner, Architect, or Contractor shall constitute a waiver of a right or duty afforded them under the Contract, nor shall such action or failure to act constitute approval of or acquiescence in a breach thereunder, except as may be specifically agreed upon in writing.

### § 13.4 Tests and Inspections

§ 13.4.1 Tests, inspections, and approvals of portions of the Work shall be made as required by the Contract Documents and by applicable laws, statutes, ordinances, codes, rules, and regulations or lawful orders of public authorities. Unless otherwise provided, the Contractor shall make arrangements for such tests, inspections, and

approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority, and shall bear all related costs of tests, inspections, and approvals. The Contractor shall give the Architect timely notice of when and where tests and inspections are to be made so that the Architect may be present for such procedures. The Owner shall bear costs of tests, inspections, or approvals that do not become requirements until after bids are received or negotiations concluded. The Owner shall directly arrange and pay for tests, inspections, or approvals where building codes or applicable laws or regulations so require.

§ 13.4.2 If the Architect, Owner, or public authorities having jurisdiction determine that portions of the Work require additional testing, inspection, or approval not included under Section 13.4.1, the Architect will, upon written authorization from the Owner, instruct the Contractor to make arrangements for such additional testing, inspection, or approval, by an entity acceptable to the Owner, and the Contractor shall give timely notice to the Architect of when and where tests and inspections are to be made so that the Architect may be present for such procedures. Such costs, except as provided in Section 13.4.3, shall be at the Owner's expense.

§ 13.4.3 If procedures for testing, inspection, or approval under Sections 13.4.1 and 13.4.2 reveal failure of the portions of the Work to comply with requirements established by the Contract Documents, all costs made necessary by such failure, including those of repeated procedures and compensation for the Architect's services and expenses, shall be at the Contractor's expense.

§ 13.4.4 Required certificates of testing, inspection, or approval shall, unless otherwise required by the Contract Documents, be secured by the Contractor and promptly delivered to the Architect.

§ 13.4.5 If the Architect is to observe tests, inspections, or approvals required by the Contract Documents, the Architect will do so promptly and, where practicable, at the normal place of testing.

§ 13.4.6 Tests or inspections conducted pursuant to the Contract Documents shall be made promptly to avoid unreasonable delay in the Work.

#### § 13.5 Interest

Payments due and unpaid under the Contract Documents shall bear interest from the date payment is due at the rate the parties agree upon in writing or, in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.

### ARTICLE 14 TERMINATION OR SUSPENSION OF THE CONTRACT

#### § 14.1 Termination by the Contractor

§ 14.1.1 The Contractor may terminate the Contract if the Work is stopped for a period of 30 consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, for any of the following reasons:

- .1 Issuance of an order of a court or other public authority having jurisdiction that requires all Work to be stopped;
- .2 An act of government, such as a declaration of national emergency, that requires all Work to be stopped;
- .3 Because the Architect has not issued a Certificate for Payment and has not notified the Contractor of the reason for withholding certification as provided in Section 9.4.1, or because the Owner has not made payment on a Certificate for Payment within the time stated in the Contract Documents; or
- .4 The Owner has failed to furnish to the Contractor reasonable evidence as required by Section 2.2.

§ 14.1.2 The Contractor may terminate the Contract if, through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, repeated suspensions, delays, or interruptions of the entire Work by the Owner as described in Section 14.3, constitute in the aggregate more than 100 percent of the total number of days scheduled for completion, or 120 days in any 365-day period, whichever is less.

§ 14.1.3 If one of the reasons described in Section 14.1.1 or 14.1.2 exists, the Contractor may, upon seven days' notice to the Owner and Architect, terminate the Contract and recover from the Owner payment for Work executed, as well as reasonable overhead and profit on Work not executed, and costs incurred by reason of such termination.

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§ 14.1.4 If the Work is stopped for a period of 60 consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, or their agents or employees or any other persons or entities performing portions of the Work because the Owner has repeatedly failed to fulfill the Owner's obligations under the Contract Documents with respect to matters important to the progress of the Work, the Contractor may, upon seven additional days' notice to the Owner and the Architect, terminate the Contract and recover from the Owner as provided in Section 14.1.3.

## § 14.2 Termination by the Owner for Cause

§ 14.2.1 The Owner may terminate the Contract if the Contractor

- .1 repeatedly refuses or fails to supply enough properly skilled workers or proper materials;
- .2 fails to make payment to Subcontractors or suppliers in accordance with the respective agreements between the Contractor and the Subcontractors or Suppliers;
- .3 repeatedly disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority; or
- .4 otherwise is guilty of substantial breach of a provision of the Contract Documents.

§ 14.2.2 When any of the reasons described in Section 14.2.1 exist, and upon certification by the Architect that sufficient cause exists to justify such action, the Owner may, without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractor's surety, if any, seven days' notice, terminate employment of the Contractor and may, subject to any prior rights of the surety:

- .1 Exclude the Contractor from the site and take possession of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Contractor;
- .2 Accept assignment of subcontracts pursuant to Section 5.4; and
- .3 Finish the Work by whatever reasonable method the Owner may deem expedient. Upon written request of the Contractor, the Owner shall furnish to the Contractor a detailed accounting of the costs incurred by the Owner in finishing the Work.

§ 14.2.3 When the Owner terminates the Contract for one of the reasons stated in Section 14.2.1, the Contractor shall not be entitled to receive further payment until the Work is finished.

§ 14.2.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work, including compensation for the Architect's services and expenses made necessary thereby, and other damages incurred by the Owner and not expressly waived, such excess shall be paid to the Contractor. If such costs and damages exceed the unpaid balance, the Contractor shall pay the difference to the Owner. The amount to be paid to the Contractor or Owner, as the case may be, shall be certified by the Initial Decision Maker, upon application, and this obligation for payment shall survive termination of the Contract.

## § 14.3 Suspension by the Owner for Convenience

§ 14.3.1 The Owner may, without cause, order the Contractor in writing to suspend, delay or interrupt the Work, in whole or in part for such period of time as the Owner may determine.

§ 14.3.2 The Contract Sum and Contract Time shall be adjusted for increases in the cost and time caused by suspension, delay, or interruption under Section 14.3.1. Adjustment of the Contract Sum shall include profit. No adjustment shall be made to the extent

- .1 that performance is, was, or would have been, so suspended, delayed, or interrupted, by another cause for which the Contractor is responsible; or
- .2 that an equitable adjustment is made or denied under another provision of the Contract.

## § 14.4 Termination by the Owner for Convenience

§ 14.4.1 The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause.

§ 14.4.2 Upon receipt of notice from the Owner of such termination for the Owner's convenience, the Contractor shall

- .1 cease operations as directed by the Owner in the notice;
- .2 take actions necessary, or that the Owner may direct, for the protection and preservation of the Work; and
- .3 except for Work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing subcontracts and purchase orders and enter into no further subcontracts and purchase orders.

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§ 14.4.3 In case of such termination for the Owner's convenience, the Owner shall pay the Contractor for Work properly executed; costs incurred by reason of the termination, including costs attributable to termination of Subcontracts; and the termination fee, if any, set forth in the Agreement.

## ARTICLE 15 CLAIMS AND DISPUTES

### § 15.1 Claims

#### § 15.1.1 Definition

A Claim is a demand or assertion by one of the parties seeking, as a matter of right, payment of money, a change in the Contract Time, or other relief with respect to the terms of the Contract. The term "Claim" also includes other disputes and matters in question between the Owner and Contractor arising out of or relating to the Contract. The responsibility to substantiate Claims shall rest with the party making the Claim. This Section 15.1.1 does not require the Owner to file a Claim in order to impose liquidated damages in accordance with the Contract Documents.

#### § 15.1.2 Time Limits on Claims

The Owner and Contractor shall commence all Claims and causes of action against the other and arising out of or related to the Contract, whether in contract, tort, breach of warranty or otherwise, in accordance with the requirements of the binding dispute resolution method selected in the Agreement and within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Contractor waive all Claims and causes of action not commenced in accordance with this Section 15.1.2.

#### § 15.1.3 Notice of Claims

§ 15.1.3.1 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered prior to expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by notice to the other party and to the Initial Decision Maker with a copy sent to the Architect, if the Architect is not serving as the Initial Decision Maker. Claims by either party under this Section 15.1.3.1 shall be initiated within 21 days after occurrence of the event giving rise to such Claim or within 21 days after the claimant first recognizes the condition giving rise to the Claim, whichever is later.

§ 15.1.3.2 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by notice to the other party. In such event, no decision by the Initial Decision Maker is required.

#### § 15.1.4 Continuing Contract Performance

§ 15.1.4.1 Pending final resolution of a Claim, except as otherwise agreed in writing or as provided in Section 9.7 and Article 14, the Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Contract Documents.

§ 15.1.4.2 The Contract Sum and Contract Time shall be adjusted in accordance with the Initial Decision Maker's decision, subject to the right of either party to proceed in accordance with this Article 15. The Architect will issue Certificates for Payment in accordance with the decision of the Initial Decision Maker.

#### § 15.1.5 Claims for Additional Cost

If the Contractor wishes to make a Claim for an increase in the Contract Sum, notice as provided in Section 15.1.3 shall be given before proceeding to execute the portion of the Work that is the subject of the Claim. Prior notice is not required for Claims relating to an emergency endangering life or property arising under Section 10.4.

#### § 15.1.6 Claims for Additional Time

§ 15.1.6.1 If the Contractor wishes to make a Claim for an increase in the Contract Time, notice as provided in Section 15.1.3 shall be given. The Contractor's Claim shall include an estimate of cost and of probable effect of delay on progress of the Work. In the case of a continuing delay, only one Claim is necessary.

§ 15.1.6.2 If adverse weather conditions are the basis for a Claim for additional time, such Claim shall be documented by data substantiating that weather conditions were abnormal for the period of time, could not have been reasonably anticipated, and had an adverse effect on the scheduled construction.

### § 15.1.7 Waiver of Claims for Consequential Damages

The Contractor and Owner waive Claims against each other for consequential damages arising out of or relating to this Contract. This mutual waiver includes

- .1 damages incurred by the Owner for rental expenses, for losses of use, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons; and
- .2 damages incurred by the Contractor for principal office expenses including the compensation of personnel stationed there, for losses of financing, business and reputation, and for loss of profit, except anticipated profit arising directly from the Work.

This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination in accordance with Article 14. Nothing contained in this Section 15.1.7 shall be deemed to preclude assessment of liquidated damages, when applicable, in accordance with the requirements of the Contract Documents.

### § 15.2 Initial Decision

§ 15.2.1 Claims, excluding those where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2 or arising under Sections 10.3, 10.4, and 11.5, shall be referred to the Initial Decision Maker for initial decision. The Architect will serve as the Initial Decision Maker, unless otherwise indicated in the Agreement. Except for those Claims excluded by this Section 15.2.1, an initial decision shall be required as a condition precedent to mediation of any Claim. If an initial decision has not been rendered within 30 days after the Claim has been referred to the Initial Decision Maker, the party asserting the Claim may demand mediation and binding dispute resolution without a decision having been rendered. Unless the Initial Decision Maker and all affected parties agree, the Initial Decision Maker will not decide disputes between the Contractor and persons or entities other than the Owner.

§ 15.2.2 The Initial Decision Maker will review Claims and within ten days of the receipt of a Claim take one or more of the following actions: (1) request additional supporting data from the claimant or a response with supporting data from the other party, (2) reject the Claim in whole or in part, (3) approve the Claim, (4) suggest a compromise, or (5) advise the parties that the Initial Decision Maker is unable to resolve the Claim if the Initial Decision Maker lacks sufficient information to evaluate the merits of the Claim or if the Initial Decision Maker concludes that, in the Initial Decision Maker's sole discretion, it would be inappropriate for the Initial Decision Maker to resolve the Claim.

§ 15.2.3 In evaluating Claims, the Initial Decision Maker may, but shall not be obligated to, consult with or seek information from either party or from persons with special knowledge or expertise who may assist the Initial Decision Maker in rendering a decision. The Initial Decision Maker may request the Owner to authorize retention of such persons at the Owner's expense.

§ 15.2.4 If the Initial Decision Maker requests a party to provide a response to a Claim or to furnish additional supporting data, such party shall respond, within ten days after receipt of the request, and shall either (1) provide a response on the requested supporting data, (2) advise the Initial Decision Maker when the response or supporting data will be furnished, or (3) advise the Initial Decision Maker that no supporting data will be furnished. Upon receipt of the response or supporting data, if any, the Initial Decision Maker will either reject or approve the Claim in whole or in part.

§ 15.2.5 The Initial Decision Maker will render an initial decision approving or rejecting the Claim, or indicating that the Initial Decision Maker is unable to resolve the Claim. This initial decision shall (1) be in writing; (2) state the reasons therefor; and (3) notify the parties and the Architect, if the Architect is not serving as the Initial Decision Maker, of any change in the Contract Sum or Contract Time or both. The initial decision shall be final and binding on the parties but subject to mediation and, if the parties fail to resolve their dispute through mediation, to binding dispute resolution.

§ 15.2.6 Either party may file for mediation of an initial decision at any time, subject to the terms of Section 15.2.6.1.

§ 15.2.6.1 Either party may, within 30 days from the date of receipt of an initial decision, demand in writing that the other party file for mediation. If such a demand is made and the party receiving the demand fails to file for mediation within 30 days after receipt thereof, then both parties waive their rights to mediate or pursue binding dispute resolution proceedings with respect to the initial decision.

§ 15.2.7 In the event of a Claim against the Contractor, the Owner may, but is not obligated to, notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a Contractor's default, the Owner may, but is not obligated to, notify the surety and request the surety's assistance in resolving the controversy.

§ 15.2.8 If a Claim relates to or is the subject of a mechanic's lien, the party asserting such Claim may proceed in accordance with applicable law to comply with the lien notice or filing deadlines.

### § 15.3 Mediation

§ 15.3.1 Claims, disputes, or other matters in controversy arising out of or related to the Contract, except those waived as provided for in Sections 9.10.4, 9.10.5, and 15.1.7, shall be subject to mediation as a condition precedent to binding dispute resolution.

§ 15.3.2 The parties shall endeavor to resolve their Claims by mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of the Agreement. A request for mediation shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of binding dispute resolution proceedings but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration is stayed pursuant to this Section 15.3.2, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

§ 15.3.3 Either party may, within 30 days from the date that mediation has been concluded without resolution of the dispute or 60 days after mediation has been demanded without resolution of the dispute, demand in writing that the other party file for binding dispute resolution. If such a demand is made and the party receiving the demand fails to file for binding dispute resolution within 60 days after receipt thereof, then both parties waive their rights to binding dispute resolution proceedings with respect to the initial decision.

§ 15.3.4 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

### § 15.4 Arbitration

§ 15.4.1 If the parties have selected arbitration as the method for binding dispute resolution in the Agreement, any Claim subject to, but not resolved by, mediation shall be subject to arbitration which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of the Agreement. The Arbitration shall be conducted in the place where the Project is located, unless another location is mutually agreed upon. A demand for arbitration shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the arbitration. The party filing a notice of demand for arbitration must assert in the demand all Claims then known to that party on which arbitration is permitted to be demanded.

§ 15.4.1.1 A demand for arbitration shall be made no earlier than concurrently with the filing of a request for mediation, but in no event shall it be made after the date when the institution of legal or equitable proceedings based on the Claim would be barred by the applicable statute of limitations. For statute of limitations purposes, receipt of a written demand for arbitration by the person or entity administering the arbitration shall constitute the institution of legal or equitable proceedings based on the Claim.

§ 15.4.2 The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

§ 15.4.3 The foregoing agreement to arbitrate and other agreements to arbitrate with an additional person or entity duly consented to by parties to the Agreement, shall be specifically enforceable under applicable law in any court having jurisdiction thereof.

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§ 15.4.4 Consolidation or Joinder

§ 15.4.4.1 Subject to the rules of the American Arbitration Association or other applicable arbitration rules, either party may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation, (2) the arbitrations to be consolidated substantially involve common questions of law or fact, and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).

§ 15.4.4.2 Subject to the rules of the American Arbitration Association or other applicable arbitration rules, either party may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration, provided that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent.

§ 15.4.4.3 The Owner and Contractor grant to any person or entity made a party to an arbitration conducted under this Section 15.4, whether by joinder or consolidation, the same rights of joinder and consolidation as those of the Owner and Contractor under this Agreement.

## **GUIDELINES FOR RECRUITMENT AND SELECTION OF MINORITY BUSINESSES FOR PARTICIPATION IN STATE CONSTRUCTION CONTRACTS**

In accordance with G.S. 143-128.2 (effective January 1, 2002) these guidelines establish goals for minority participation in single-prime bidding, separate-prime bidding, construction manager at risk, and alternative contracting methods, on State construction projects in the amount of \$300,000 or more. The legislation provides that the State shall have a verifiable ten percent (10%) goal for participation by minority businesses in the total value of work for each project for which a contract or contracts are awarded. These requirements are published to accomplish that end.

### **SECTION A: INTENT**

It is the intent of these guidelines that the State of North Carolina, as awarding authority for construction projects, and the contractors and subcontractors performing the construction contracts awarded shall cooperate and in good faith do all things legal, proper and reasonable to achieve the statutory goal of ten percent (10%) for participation by minority businesses in each construction project as mandated by GS 143-128.2. Nothing in these guidelines shall be construed to require contractors or awarding authorities to award contracts or subcontracts to or to make purchases of materials or equipment from minority-business contractors or minority-business subcontractors who do not submit the lowest responsible, responsive bid or bids.

### **SECTION B: DEFINITIONS**

1. Minority - a person who is a citizen or lawful permanent resident of the United States and who is:
  - a. Black, that is, a person having origins in any of the black racial groups in Africa;
  - b. Hispanic, that is, a person of Spanish or Portuguese culture with origins in Mexico, South or Central America, or the Caribbean Islands, regardless of race;
  - c. Asian American, that is, a person having origins in any of the original peoples of the Far East, Southeast Asia and Asia, the Indian subcontinent, the Pacific Islands;
  - d. American Indian, that is, a person having origins in any of the original peoples of North America; or
  - e. Female
2. Minority Business - means a business:
  - a. In which at least fifty-one percent (51%) is owned by one or more minority persons, or in the case of a corporation, in which at least fifty-one percent (51%) of the stock is owned by one or more minority persons or socially and economically disadvantaged individuals; and
  - b. Of which the management and daily business operations are controlled by one or more of the minority persons or socially and economically disadvantaged individuals who own it.
3. Socially and economically disadvantaged individual - means the same as defined in 15 U.S.C. 637. "Socially disadvantaged individuals are those who have been subjected to racial or ethnic prejudice or cultural bias because of their identity as a member of a group without regard to their individual qualities". "Economically disadvantaged individuals are those socially disadvantaged individuals whose ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities as compared to others in the same business area who are not socially disadvantaged".
4. Public Entity - means State and all public subdivisions and local governmental units.
5. Owner - The State of North Carolina, through the Agency/Institution named in the contract.
6. Designer – Any person, firm, partnership, or corporation, which has contracted with the State of North Carolina to perform architectural or engineering, work.
7. Bidder - Any person, firm, partnership, corporation, association, or joint venture seeking to be awarded a public contract or subcontract.

8. Contract - A mutually binding legal relationship or any modification thereof obligating the seller to furnish equipment, materials or services, including construction, and obligating the buyer to pay for them.
9. Contractor - Any person, firm, partnership, corporation, association, or joint venture which has contracted with the State of North Carolina to perform construction work or repair.
10. Subcontractor - A firm under contract with the prime contractor or construction manager at risk for supplying materials or labor and materials and/or installation. The subcontractor may or may not provide materials in his subcontract.

## **SECTION C: RESPONSIBILITIES**

1. Office for Historically Underutilized Businesses, Department of Administration (hereinafter referred to as HUB Office).

The HUB Office has established a program, which allows interested persons or businesses qualifying as a minority business under G.S. 143-128.2, to obtain certification in the State of North Carolina procurement system. The information provided by the minority businesses will be used by the HUB Office to:

- a. Identify those areas of work for which there are minority businesses, as requested.
- b. Make available to interested parties a list of prospective minority business contractors and subcontractors.
- c. Assist in the determination of technical assistance needed by minority business contractors.

In addition to being responsible for the certification/verification of minority businesses that want to participate in the State construction program, the HUB Office will:

- (1) Maintain a current list of minority businesses. The list shall include the areas of work in which each minority business is interested.
- (2) Inform minority businesses on how to identify and obtain contracting and subcontracting opportunities through the State Construction Office and other public entities.
- (3) Inform minority businesses of the contracting and subcontracting process for public construction building projects.
- (4) Work with the North Carolina trade and professional organizations to improve the ability of minority businesses to compete in the State construction projects.
- (5) The HUB Office also oversees the minority business program by:
  - a. Monitoring compliance with the program requirements.
  - b. Assisting in the implementation of training and technical assistance programs.
  - c. Identifying and implementing outreach efforts to increase the utilization of minority businesses.
  - d. Reporting the results of minority business utilization to the Secretary of the Department of Administration, the Governor, and the General Assembly.

2. State Construction Office

The State Construction Office will be responsible for the following:

- a. Furnish to the HUB Office a minimum of twenty-one days prior to the bid opening the following:
  - (1) Project description and location;
  - (2) Locations where bidding documents may be reviewed;
  - (3) Name of a representative of the owner who can be contacted during the advertising period to advise who the prospective bidders are;
  - (4) Date, time and location of the bid opening.
  - (5) Date, time and location of prebid conference, if scheduled.
- b. Attending scheduled prebid conference, if necessary, to clarify requirements of the general statutes regarding minority-business participation, including the bidders' responsibilities.

- c. Reviewing the apparent low bidders' statutory compliance with the requirements listed in the proposal, that must be complied with, if the bid is to be considered as responsive, prior to award of contracts. The State reserves the right to reject any or all bids and to waive informalities.
- d. Reviewing of minority business requirements at Preconstruction conference.
- e. Monitoring of contractors' compliance with minority business requirements in the contract documents during construction.
- f. Provide statistical data and required reports to the HUB Office.
- g. Resolve any protest and disputes arising after implementation of the plan, in conjunction with the HUB Office.

### 3. Owner

Before awarding a contract, owner shall do the following:

- a. Develop and implement a minority business participation outreach plan to identify minority businesses that can perform public building projects and to implement outreach efforts to encourage minority business participation in these projects to include education, recruitment, and interaction between minority businesses and non-minority businesses.
- b. Attend the scheduled prebid conference.
- c. At least 10 days prior to the scheduled day of bid opening, notify minority businesses that have requested notices from the public entity for public construction or repair work and minority businesses that otherwise indicated to the Office for Historically Underutilized Businesses an interest in the type of work being bid or the potential contracting opportunities listed in the proposal. The notification shall include the following:
  - 1. A description of the work for which the bid is being solicited.
  - 2. The date, time, and location where bids are to be submitted.
  - 3. The name of the individual within the owner's organization who will be available to answer questions about the project.
  - 4. Where bid documents may be reviewed.
  - 5. Any special requirements that may exist.
- d. Utilize other media, as appropriate, likely to inform potential minority businesses of the bid being sought.
- e. Maintain documentation of any contacts, correspondence, or conversation with minority business firms made in an attempt to meet the goals.
- f. Review, jointly with the designer, all requirements of G.S. 143-128.2(c) and G.S. 143-128.2(f) – (i.e. bidders' proposals for identification of the minority businesses that will be utilized with corresponding total dollar value of the bid and affidavit listing good faith efforts, or affidavit of self-performance of work, if the contractor will perform work under contract by its own workforce) - prior to recommendation of award to the State Construction Office.
- g. Evaluate documentation to determine good faith effort has been achieved for minority business utilization prior to recommendation of award to State Construction Office.
- h. Review prime contractors' pay applications for compliance with minority business utilization commitments prior to payment.
- i. Make documentation showing evidence of implementation of Owner's responsibilities available for review by State Construction Office and HUB Office, upon request

### 4. Designer

Under the single-prime bidding, separate prime bidding, construction manager at risk, or alternative contracting method, the designer will:

- a. Attend the scheduled prebid conference to explain minority business requirements to the prospective bidders.
- b. Assist the owner to identify and notify prospective minority business prime and subcontractors of potential contracting opportunities.
- c. Maintain documentation of any contacts, correspondence, or conversation with minority business firms made in an attempt to meet the goals.
- d. Review jointly with the owner, all requirements of G.S. 143-128.2(c) and G.S.143-128.2(f) – (i.e. bidders' proposals for identification of the minority businesses that will be utilized with

corresponding total dollar value of the bid and affidavit listing Good Faith Efforts, or affidavit of self-performance of work, if the contractor will perform work under contract by its own workforce) - prior to recommendation of award.

- e. During construction phase of the project, review “MBE Documentation for Contract Payment” – (Appendix E) for compliance with minority business utilization commitments. Submit Appendix E form with monthly pay applications to the owner and forward copies to the State Construction Office.
- f. Make documentation showing evidence of implementation of Designer’s responsibilities available for review by State Construction Office and HUB Office, upon request.

5. Prime Contractor(s), CM at Risk, and Its First-Tier Subcontractors

Under the single-prime bidding, the separate-prime bidding, construction manager at risk and alternative contracting methods, contractor(s) will:

- a. Attend the scheduled prebid conference.
- b. Identify or determine those work areas of a subcontract where minority businesses may have an interest in performing subcontract work.
- c. At least ten (10) days prior to the scheduled day of bid opening, notify minority businesses of potential subcontracting opportunities listed in the proposal. The notification will include the following:
  - (1) A description of the work for which the subbid is being solicited.
  - (2) The date, time and location where subbids are to be submitted.
  - (3) The name of the individual within the company who will be available to answer questions about the project.
  - (4) Where bid documents may be reviewed.
  - (5) Any special requirements that may exist, such as insurance, licenses, bonds and financial arrangements.

If there are more than three (3) minority businesses in the general locality of the project who offer similar contracting or subcontracting services in the specific trade, the contractor(s) shall notify three (3), but may contact more, if the contractor(s) so desires.

- d. During the bidding process, comply with the contractor(s) requirements listed in the proposal for minority participation.
- e. Identify on the bid, the minority businesses that will be utilized on the project with corresponding total dollar value of the bid and affidavit listing good faith efforts as required by G.S. 143-128.2(c) and G.S. 143-128.2(f).
- f. Make documentation showing evidence of implementation of PM, CM-at-Risk and First-Tier Subcontractor responsibilities available for review by State Construction Office and HUB Office, upon request.
- g. Upon being named the apparent low bidder, the Bidder shall provide one of the following: (1) an affidavit (Affidavit C) that includes a description of the portion of work to be executed by minority businesses, expressed as a percentage of the total contract price, which is equal to or more than the applicable goal; (2) if the percentage is not equal to the applicable goal, then documentation of all good faith efforts taken to meet the goal. Failure to comply with these requirements is grounds for rejection of the bid and award to the next lowest responsible and responsive bidder.
- h. The contractor(s) shall identify the name(s) of minority business subcontractor(s) and corresponding dollar amount of work on the schedule of values. The schedule of values shall be provided as required in Article 31 of the General Conditions of the Contract to facilitate payments to the subcontractors.
- i. The contractor(s) shall submit with each monthly pay request(s) and final payment(s), “MBE Documentation for Contract Payment” – (Appendix E), for designer’s review.
- j. During the construction of a project, at any time, if it becomes necessary to replace a minority business subcontractor, immediately advise the owner, State Construction Office, and the Director of the HUB Office in writing, of the circumstances involved. The prime contractor shall make a good faith effort to replace a minority business subcontractor with another minority business subcontractor.

- k. If during the construction of a project additional subcontracting opportunities become available, make a good faith effort to solicit subbids from minority businesses.
- l. It is the intent of these requirements apply to all contractors performing as prime contractor and first tier subcontractor under construction manager at risk on state projects.

6. Minority Business Responsibilities

While minority businesses are not required to become certified in order to participate in the State construction projects, it is recommended that they become certified and should take advantage of the appropriate technical assistance that is made available. In addition, minority businesses who are contacted by owners or bidders must respond promptly whether or not they wish to submit a bid.

**SECTION 4: DISPUTE PROCEDURES**

It is the policy of this state that disputes that involves a person's rights, duties or privileges, should be settled through informal procedures. To that end, minority business disputes arising under these guidelines should be resolved as governed under G.S. 143-128(g).

**SECTION 5:** These guidelines shall apply upon promulgation on state construction projects. Copies of these guidelines may be obtained from the Department of Administration, State Construction Office, (physical address) 301 North Wilmington Street, Suite 450, NC Education Building, Raleigh, North Carolina, 27601-2827, (mail address) 1307 Mail Service Center, Raleigh, North Carolina, 27699-1307, phone (919) 807-4100, Website: [www.nc-sco.com](http://www.nc-sco.com)

**SECTION 6:** In addition to these guidelines, there will be issued with each construction bid package provisions for contractual compliance providing minority business participation in the state construction program.

## MINORITY BUSINESS CONTRACT PROVISIONS (CONSTRUCTION)

### APPLICATION:

The **Guidelines for Recruitment and Selection of Minority Businesses for Participation in State Construction Contracts** are hereby made a part of these contract documents. These guidelines shall apply to all contractors regardless of ownership. Copies of these guidelines may be obtained from the Department of Administration, State Construction Office, (physical address) 301 North Wilmington Street, Suite 450, NC Education Building, Raleigh, North Carolina, 27601-2827, (mail address) 1307 Mail Service Center, Raleigh, North Carolina, 27699-1307, phone (919) 807-4100, Website: <http://www.nc-sco.com>

### MINORITY BUSINESS SUBCONTRACT GOALS:

The goals for participation by minority firms as subcontractors on this project have been set at 10%.

The bidder must identify on its bid, the minority businesses that will be utilized on the project with corresponding total dollar value of the bid and affidavit (Affidavit A) listing good faith efforts **or** affidavit (Affidavit B) of self-performance of work, if the bidder will perform work under contract by its own workforce, as required by G.S. 143-128.2(c) and G.S. 143-128.2(f).

The lowest responsible, responsive bidder must provide Affidavit C, that includes a description of the portion of work to be executed by minority businesses, expressed as a percentage of the total contract price, which is equal to or more than the applicable goal.

**OR**

Provide Affidavit D, that includes a description of the portion of work to be executed by minority businesses, expressed as a percentage of the total contract price, **with documentation of Good Faith Effort, if the percentage is not equal to the applicable goal.**

**OR**

Provide Affidavit B, which includes sufficient information for the State to determine that the bidder does not customarily subcontract work on this type project.

**The above information must be provided as required. Failure to submit these documents is grounds for rejection of the bid.**

## **MINIMUM COMPLIANCE REQUIREMENTS:**

All written statements, affidavits or intentions made by the Bidder shall become a part of the agreement between the Contractor and the State for performance of this contract. Failure to comply with any of these statements, affidavits or intentions, or with the minority business Guidelines shall constitute a breach of the contract. A finding by the State that any information submitted either prior to award of the contract or during the performance of the contract is inaccurate, false or incomplete, shall also constitute a breach of the contract. Any such breach may result in termination of the contract in accordance with the termination provisions contained in the contract. It shall be solely at the option of the State whether to terminate the contract for breach.

In determining whether a contractor has made Good Faith Efforts, the State will evaluate all efforts made by the Contractor and will determine compliance in regard to quantity, intensity, and results of these efforts. Good Faith Efforts include:

- (1) Contacting minority businesses that reasonably could have been expected to submit a quote and that were known to the contractor or available on State or local government maintained lists at least 10 days before the bid or proposal date and notifying them of the nature and scope of the work to be performed.
- (2) Making the construction plans, specifications and requirements available for review by prospective minority businesses, or providing these documents to them at least 10 days before the bid or proposals are due.
- (3) Breaking down or combining elements of work into economically feasible units to facilitate minority participation.
- (4) Working with minority trade, community, or contractor organizations identified by the Office for Historically Underutilized Businesses and included in the bid documents that provide assistance in recruitment of minority businesses.
- (5) Attending any prebid meetings scheduled by the public owner.
- (6) Providing assistance in getting required bonding or insurance or providing alternatives to bonding or insurance for subcontractors.
- (7) Negotiating in good faith with interested minority businesses and not rejecting them as unqualified without sound reasons based on their capabilities. Any rejection of a minority business based on lack of qualification should have the reasons documented in writing.
- (8) Providing assistance to an otherwise qualified minority business in need of equipment, loan capital, lines of credit, or joint pay agreements to secure loans, supplies, or letters of credit, including waiving credit that is ordinarily required. Assisting minority businesses in obtaining the same unit pricing with the bidder's suppliers in order to help minority businesses in establishing credit.
- (9) Negotiating joint venture and partnership arrangements with minority businesses in order to increase opportunities for minority business participation on a public construction or repair project when possible.
- (10) Providing quick pay agreements and policies to enable minority contractors and suppliers to meet cash-flow demands.

**APPENDIX E**

**MBE DOCUMENTATION FOR CONTRACT PAYMENTS**

Prime Contractor/Architect: \_\_\_\_\_

Address & Phone: \_\_\_\_\_

Project Name: \_\_\_\_\_

Pay Application #: \_\_\_\_\_ Period: \_\_\_\_\_

The following is a list of payments made to Minority Business Enterprises on this project for the above-mentioned period.

MBE FIRM NAME	* INDICATE TYPE OF MBE	AMOUNT PAID THIS MONTH	TOTAL PAYMENTS TO DATE	TOTAL AMOUNT COMMITTED

\*Minority categories: Black, African American (B), Hispanic (H), Asian American (A), American Indian (I), Female (F), Social and Economically Disadvantage (D)

Date: \_\_\_\_\_ Approved/Certified By: \_\_\_\_\_

Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Signature

**SUBMIT WITH EACH PAY REQUEST & FINAL PAYMENT**

## **DIVISION 00**

### **SECTION 00 91 14: SUPPLEMENTAL SHEETS**

#### **Jackson County Administration Building – Reroofing project Sylva, North Carolina**

##### **00 91 14.01: GENERAL**

1. These supplemental sheets are a part of the Specifications and are intended to give additional information on items which may or may not be noted in the specifications or on the drawings. It is suggested that the Contractor carefully read these sheets and note changes, additions, etc., in the corresponding section of these specifications.
2. The specifications are typical and only those parts applicable to this project will be considered.
3. **IRAN Divestment Act (N.C.G.S 147 Article 6E) prohibits state agencies and** Local governments from entering into contracts with entities that the North Carolina State Treasurer has determined are engaged in certain investments activities in the Iranian energy sector.

The Article requires the State Treasurer's Office to publish a list of entities it has identified as investing in the Iranian energy sector and update the list every 180 days. This list can be found at <https://www.nctreasurer.com/inside-the-department/OpenGovernment/Pages/Iran-Divestment-Act-Resources.aspx>. An entity identified on the Treasurer's list (called the "Final Divestment List") is prohibited from contracting with state agencies and local governments. In addition, all entities contracting with the State and local governments are prohibited from subcontracting with any entity included on the Final Divestment List. Contracts entered into with an entity included on the Final Divestment List are rendered void by operation of the statute.

Submission of a signed Bid in response to this solicitation indicates contractor's understanding of the requirements of this act and will serve as certification by the individual signing that the entity is not included on the Final Divestment List and they are prohibited from subcontracting with any entity included on the Final Divestment List. Any contract entered into with an entity included on the Final Divestment List is void and government entities in North Carolina are not authorized to issue payment for such a contract.

4. **Divestment From Companies Boycotting Israel Act** (NC G.S. 147, Article 6G) prohibits State agencies and local governments from entering into contracts costing over \$1,000.00 with any entity that the North Carolina State Treasurer has determined boycotts or is involved in a boycott of Israel. The article requires the State Treasurer's office to publish a list of entities it has determined boycotts or is involved in a boycott of Israel and update the list at least annually. An entity identified on the Treasurer's list (called the "Final Divestment List") is prohibited from contracting with state agencies and local governments. Contracts entered into with an entity included on the Final Divestment List are rendered void by operation of the statute.

5. **Background Checks are Mandatory** for any contractor (non-JCPS Employee) that will be on school grounds. JCPS holds the rights to request a copy of the background checks at any given time.

**00 91 14.02: MODIFICATION**

RESERVED FOR FUTURE MODIFICATIONS

**00 91 14.03: ADDITIONAL SPECIFICATION**

Add the following:

**00 91 14.04: DRAWINGS**

RESERVED FOR FUTURE MODIFICATIONS AND CLARIFICATIONS PER ADDENDUM

**00 91 14.05: PRIOR APPROVAL**

RESERVED FOR FUTURE MODIFICATIONS AND CLARIFICATIONS PER ADDENDUM

**DIVISION 01**

**SECTION 01 10 00: PROJECT SUMMARY**

**Jackson County Administration Building –Re-Roofing  
Sylva North Carolina**

**01 10 00.01: GENERAL**

A. SCOPE

The Project consists of the re-roofing of the existing Jackson County Public Schools Administration Building. Approximately 10,000 square feet of re-roofing.

B. BIDDING

1. Bidding will be by invitation and/or by pre-approved licensed subcontractors by the Owner through the Architect. Subcontractor should have five (5) years of construction experience with at least three (3) similar projects to his credit (with favorable recommendations).
2. All Subcontractors must visit the site and by submitting a bid has satisfied himself that he understands the scope of the work.
3. The bidding is "turn-key" and includes all permitting, equipment, scaffolding and clean up (disposing) to present a complete project ready to use by the Owner.

C. LOCATION

1. The Project is located at 398 Hospital Rd. Sylva, NC 28779

**01 10 00.02: DRAWINGS**

A. SCHEDULE OF DRAWINGS:

1. The following drawing sheets amplify/illustrate and compliment these specifications and together will be considered as one document.

General Construction:

Sheet A100

- Code Summary

Sheet A200

- Roof Plan Notes & Details

**DIVISION 01**

**SECTION 01 22 00: UNIT PRICES**

**Jackson County Administration Building – Re-Roofing  
Sylva, North Carolina**

**01 22 00.01: GENERAL**

A. SCOPE

1. The Contractor shall state on his Proposal the amounts to be added for each of the unit prices specified herein. Each unit price shall cover all costs, by trades, required for that particular part of the work completed, in place and ready for use by the Owner. All Bonds, insurance, overhead and profit, etc. to be included per unit specified.
2. A unit price unaddressed will be considered as "no change" in contract price.
3. The Owner reserves the right to issue a change order for any quantity of any unit at any time during the course of contract and amend the Contract accordingly. Price will be figured by simply multiplying unit price by quantity necessary.
4. Unit prices will also be used to deduct materials from the Contract including base bid and alternates. Amount of deduction will be quantity by cost per unit.
5. All unit prices including any unit price not specifically mentioned herein shall be in accordance with all sections of specifications governing those items - including SECTIONS 00 21 13, 00 72 00, 00 73 00 and 00 91 13.

**01 22 00.02: UNIT PRICES**

A. TAPERED INSULATION – ((3" THICKNESS) PER SQUARE FOOT)

This tapered insulation shall be approved by the Roof Membrane Manufacturer.

B. METAL CAP FLASHING – (PER LINEAR FOOT)

The Metal Cap Flashing shall be .050 aluminum or 24 ga. Galvanized steel with joint covers and Kynar 500 finish.

C. TECTUM DECKING – (PER SQUARE FOOT)

Remove and reinstall any damaged tectum or roof deck

## **DIVISION 01**

### **SECTION 01 25 00: SUBSTITUTION PROCEDURES**

#### **01 25 00.01: GENERAL**

##### A. RELATED DOCUMENTS

1. Drawings and general provisions of Contract, including General and Supplementary Conditions and other Division 01 Specification Sections, apply to this Section.

##### B. SUMMARY

1. This Section specifies administrative and procedural requirements for handling requests for substitutions made after award of the Contract.
2. The Contractor's Construction Schedule and the Schedule of Submittals are included under Section "Submittals."
3. Standards: Refer to Section "Definitions and Standards" for applicability of industry standards to products specified.
4. Procedural requirements governing the Contractor's selection of products and product options are included under Section "Materials and Equipment."

##### C. DEFINITIONS

1. Definitions used in this Article are not intended to change or modify the meaning of other terms used in the Contract Documents.
2. Substitutions: Requests for changes in products, materials, equipment, and methods of construction required by Contract Documents proposed by the Contractor after award of the Contract are considered requests for "substitutions." The following are not considered substitutions:
  - a. Substitutions requested by Bidders during the bidding period, and accepted prior to award of Contract, are considered as included in the Contract Documents and are not subject to requirements specified in this Section for substitutions.
  - b. Revisions to Contract Documents requested by the Owner or **PINNACLE ARCHITECTURE, P.A.**
  - c. Specified options of products and construction methods included in Contract Documents.
  - d. The Contractor's determination of and compliance with governing regulations and orders issued by governing authorities.

D. SUBMITTALS

1. Substitution Request Submittal: Requests for substitution will be considered if received within thirty (30) days after commencement of the Work. Requests received more than thirty (30) days after commencement of the Work may be considered or rejected at the discretion of **PINNACLE ARCHITECTURE, P.A.**
  - a. Submit three (3) copies of each request for substitution for consideration. Submit requests in the form and in accordance with procedures required for Change Order proposals.
  - b. Identify the product, or the fabrication or installation method to be replaced in each request. Include related Specification Section and Drawing numbers. Provide complete documentation showing compliance with the requirements for substitutions, and the following information, as appropriate:
    - 1) Product Data, including Drawings and descriptions of products, fabrication and installation procedures.
    - 2) A detailed comparison of significant qualities of the proposed substitution with those of the Work specified. Significant qualities may include elements such as size, weight, durability, performance and visual effect.
    - 3) Coordination information, including a list of changes or modifications needed to other parts of the Work and to construction performed by the Owner and separate Contractors, that will become necessary to accommodate the proposed substitution.
    - 4) A statement indicating the substitution's effect on the Contractor's Construction Schedule compared to the schedule without approval of the substitution. Indicate the effect of the proposed substitution on overall Contract Time.
    - 5) Cost information, including a proposal of the net change, if any in the Contract Sum.
    - 6) Certification by the Contractor that the substitution proposed is equal-to or better in every significant respect to that required by the Contract Documents, and that it will perform adequately in the application indicated. Include the Contractor's waiver of rights to additional payment or time that may subsequently become necessary because of the failure of the substitution to perform adequately.
  - c. **PINNACLE ARCHITECTURE, P.A.**'s Action: Within one week of receipt of the request for substitution, **PINNACLE ARCHITECTURE, P.A.** will request additional information or documentation necessary for evaluation of the request. Within two (2) weeks of receipt of the request, or one week of receipt of the additional information or documentation, whichever is later, **PINNACLE ARCHITECTURE, P.A.** will notify the Contractor of acceptance or rejection of the proposed substitution. If a decision on use of a proposed substitute cannot be made or obtained within the time allocated, use the product specified by name. Acceptance will be in the form of a Change Order.

## **01 25 00.02: PRODUCTS**

### A. SUBSTITUTIONS

1. Conditions: The Contractor's substitution request will be received and considered by **PINNACLE ARCHITECTURE, P.A.** when one or more of the following conditions are satisfied, as determined by **PINNACLE ARCHITECTURE, P.A.**; otherwise requests will be returned without action except to record noncompliance with these requirements.
  - a. Extensive revisions to Contract Documents are not required.
  - b. Proposed changes are in keeping with the general intent of Contract Documents.
  - c. The request is timely, fully documented and properly submitted.
  - d. The request is directly related to an "or equal" clause or similar language in the Contract Documents.
  - e. The specified product or method of construction cannot be provided within the Contract Time. The request will not be considered if the product or method cannot be provided as a result of failure to pursue the Work promptly or coordinate activities properly.
  - f. The specified product or method of construction cannot receive necessary approval by a governing authority, and the requested substitution can be approved.
  - g. A substantial advantage is offered the Owner, in terms of cost, time, energy conservation or other considerations of merit, after deducting offsetting responsibilities the Owner may be required to bear. Additional responsibilities for the Owner may include additional compensation to **PINNACLE ARCHITECTURE, P.A.** for redesign and evaluation services, increased cost of other construction by the Owner or separate Contractors, and similar considerations.
  - h. The specified product or method of construction cannot be provided in a manner that is compatible with other materials, and where the Contractor certifies that the substitution will overcome the incompatibility.
  - i. The specified product or method of construction cannot be coordinated with other materials, and where the Contractor certifies that the proposed substitution can be coordinated.
  - j. The specified product or method of construction cannot provide a warranty required by the Contract Documents and where the Contractor certifies that the proposed substitution provide the required warranty.
2. The Contractor's submittal and **PINNACLE ARCHITECTURE, P.A.**'s acceptance of Shop Drawings, Product Data or Samples that relate to construction activities not complying with the Contract Documents does not constitute an acceptable or valid request for substitution, nor does it constitute approval.

**DIVISION 01**

**SECTION 01 26 13: REQUEST FOR INFORMATION**

Date: \_\_\_\_\_

**Jackson County Administration Building – Reroofing project**  
**398 Hospital Road**  
**Sylva, North Carolina 28779**

To: Pinnacle Architecture, P.A.  
P.O. Box 187 (630 Team Rd. Ste 200)  
Matthews, NC 28106 (28105)  
[shannon@pinnaclearchitecture.net](mailto:shannon@pinnaclearchitecture.net)  
[randy@pinnaclearchitecture.net](mailto:randy@pinnaclearchitecture.net)  
Fax: 704-847-9853

RFI Number: \_\_\_\_\_

In reference to the above listed project, we are hereby requesting a clarification, determination and/or information concerning the following:

Section Number: \_\_\_\_\_ Drawing Number: \_\_\_\_\_

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Requested By: \_\_\_\_\_ Date of Request: \_\_\_\_\_

Title: \_\_\_\_\_ Date Reply Required: \_\_\_\_\_

Company: \_\_\_\_\_

In reply to your request, be advised: \_\_\_\_\_

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Reply By: \_\_\_\_\_ Date of Reply: \_\_\_\_\_

Title: \_\_\_\_\_ Date Reply Returned: \_\_\_\_\_

## **DIVISION 01**

### **SECTION 01 33 00: SHOP DRAWINGS AND SUBMITTALS**

#### **01 33 00.01: GENERAL**

##### **A. SCOPE**

1. The reviewing of shop drawings and submittals is to be regarded as assisting the Contractor, and in reviewing same, the Architect does not relieve the Contractor from the responsibility for errors or omissions which may exist even though in accordance with the approved drawings. Should errors or omissions be discovered at a later date, they must be made good by the contractor, irrespective of any approval of the Architect. Manufacturer's or fabricator's shop drawings shall be submitted to the General Contractor and before the General Contractor, or his Subcontractors, submits shop drawings to the Architect for approval, he shall:
  - a. Submit shop drawings, product data and samples where called for by these specifications.
  - b. Shop, erection and setting drawings, certificates, catalog cuts, and schedules required for work of various trades, shall be checked before submission, as hereinafter specified, by technically qualified employees of Contractor for accuracy, completeness and compliance with contract requirements. All submittals must be stamped and signed by the Contractor certifying to such check and must be accompanied by a letter of transmittal signed by Contractor.
  - c. When requested by the Architect, the Contractor shall submit shop drawings, erection or setting drawings, and schedules of various items of work, whether or not such drawings or schedules are specifically mentioned in the technical sections of the specifications.
  - d. No items shall be fabricated, nor any portion thereof shipped to site prior to approval of applicable shop drawings.
  - e. The Contractor is responsible for any delay caused by his failure to observe these requirements, and the time for the completion of his contract will not be extended because of such delays.

#### **01 33 00.02: SUBMISSION PROCEDURE**

##### **A. IN ORDER THAT THE ARCHITECT MAY EXPEDITE THE APPROVAL AND RETURN OF THE SHOP DRAWINGS, ALL MUST BE SUBMITTED AS FOLLOWS:**

1. Shop drawings of materials shown on coded sections, details, etc., must bear the same section and code identification as noted on the Architectural drawings.
2. For each drawing/document required, submit four (4) copies not exceeding 24" x 36" in size.
3. Each drawing shall have marked thereon proper descriptive title, manufacturer's project and sheet number, name of project for which submitted and exact location where material covered by such drawings is to be used.

4. A space 5" x 5" shall be reserved on each drawing to accommodate Architectural stamp.
5. Each submittal must be properly stamped, dated and signed by the Contractor verifying that same has been completely checked for accuracy, completeness and compliance with contract requirements.
6. The submittals will be reviewed by the Architect and returned to the General Contractor for corrections. Any delays resulting from compliance with this directive shall be the responsibility of the Contractor. Regardless of corrections made to such drawings by the Architect, the Contractor will nevertheless be responsible for the accuracy of such drawings and their conformance to the Plans and Specifications unless he gives notice in writing of any deviations at the time such drawings are furnished.
7. Shop drawings are reviewed by the Architect for compliance with the design concept of the project and compliance with the information given in the contract documents. The Contractor is responsible for dimensions to be confirmed and correlated at the site; for information that pertains solely to the fabrication processes or to the means, methods, techniques, sequences, and procedures of construction; and for coordination of the work of all trades. The Architect's review of a specific item does not indicate approval of an assembly of which the item is a component.
8. Drawings returned to the Contractor with the Architect's "No Exception Taken", "Make Corrections Noted" or "Exceptions Indicated" stamp need not be resubmitted for approval, however any notes or corrections indicated by the Architect on the "Make Corrections Noted" or "Exceptions Indicated" copies of shop drawings shall be complied with in the selections, fabrications, and installation. Corrected copies of "Make Corrections Noted" or "Exceptions Indicated" shop drawings shall be furnished for record when requested.
9. If submittals are stamped "Revise and Resubmit" or "Rejected - See Remarks", the corrections shall be made and new documents shall be submitted to the Architect for approval.
10. Each Contractor shall maintain, in readable condition at his job office, one complete set of working drawings and specifications of his work including all shop drawings bearing the appropriate Architect's stamp. Such drawings and specifications shall be available for use by the Architect.

B. CERTIFICATES SCHEDULES AND CATALOG CUTS (MANUFACTURER'S DATA)

1. Certificates, schedules and catalog cuts shall be submitted in quadruplicate (4). When catalog cuts are submitted, the specific item to be considered shall be identified as specified above. Items that are not so identified will be returned to the Contractor without action.

C. SAMPLES

1. Samples shall be submitted as called for in the technical sections of these specifications. Each sample shall be identified with descriptive title, manufacturer's name, name of project for which submitted, and location where material is to be used.
2. Samples shall be in triplicate (3), one (1) to be retained by the Architect and two (2) to be returned to the Subcontractor, one (1) of which is to be placed on file in the field office for comparison to the products delivered. Where full-size samples are required and specified to be installed on the Project, only one (1) sample will be required.

## **DIVISION 01**

### **SECTION 01 50 00: TEMPORARY FACILITIES**

#### **01 50 00.01: GENERAL**

##### A. SCOPE

1. Provide all temporary structures and utilities required for proper execution of the work including, but not limited to, those items specified herein.

#### **01 50 00.02: TEMPORARY FACILITIES**

##### A. TEMPORARY STRUCTURES

1. The General Contractor shall erect a temporary field office, complete with lights, telephone (installed at the Contractor's expense) and heat (in cold weather.)
2. Each contractor shall provide all necessary storage sheds, shanties, etc. of adequate size, for his own use. All temporary structures shall be built in a sound waterproof manner and shall remain on the premises until their removal is directed by the Architect.

##### B. TEMPORARY TOILETS

1. The General Contractor shall provide toilet facilities for all employees, as required by local ordinances, for complete adequate sanitary arrangements. These facilities shall be kept neat and clean at all times and shall be available to other contractors at all times.

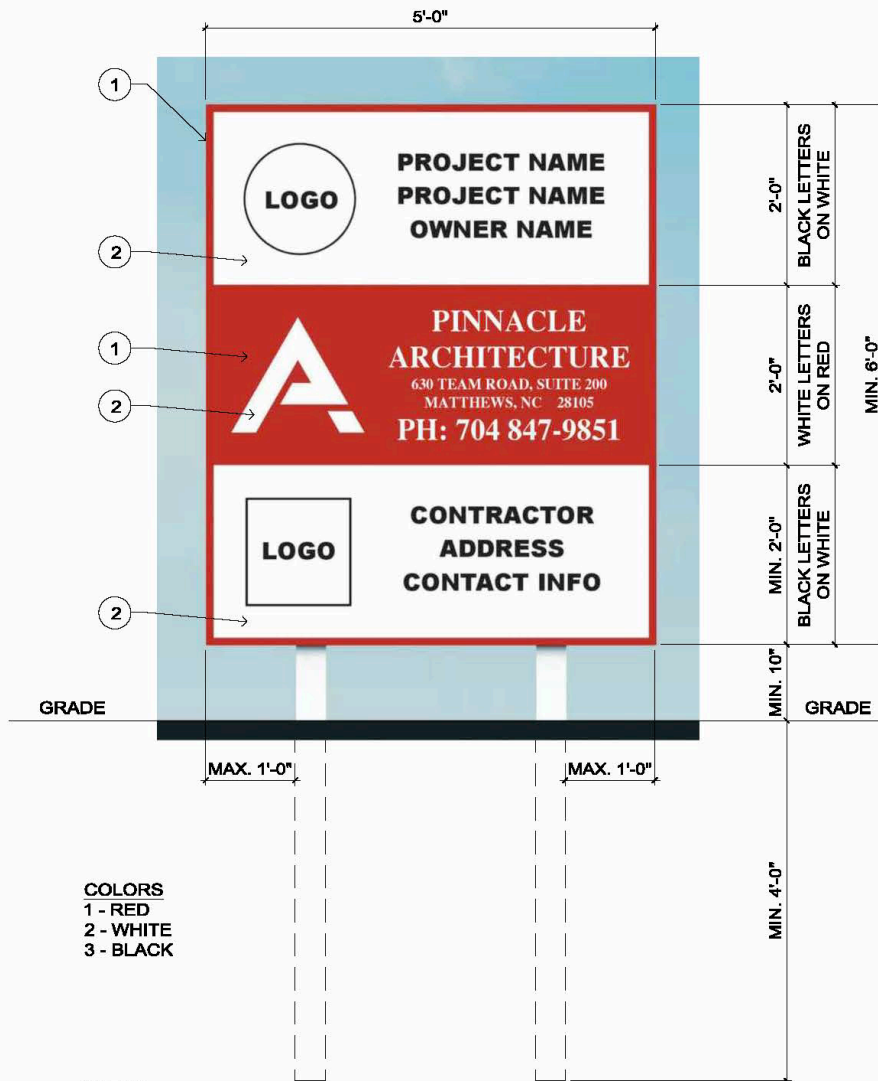
##### C. TEMPORARY UTILITIES

1. The General Contractor shall provide water required by all trades for building purposes.
2. The General Contractor shall negotiate with the local electric utility for all necessary power requirements for construction purposes on the basis of applicable construction power rate schedules. Any expenses in securing electrical service and cost of the electrical energy usages for construction purposes shall be borne by the Contractor. Other contractors who have special electrical needs will make satisfactory arrangements with the General Contractor for same. In the event that special power requirements are necessary during the construction stages, the Contractor shall be responsible for the provisions thereof, with full co-operation and coordination of the Architect and other contractor(s) involved in order to meet the requirements of the approved plans and specifications. The Contractor's responsibility for electric service ceases upon the issuance of the "Certificate of Occupancy" or acceptance by Owner. At this time, notice should be given the local electric utility for Contractor's construction service "disconnect" and Owner's service "connect".

3. The General Contractor shall provide necessary heat as required before the building is closed or as directed by the Architect. The Contractor shall close all exterior openings, and keep same closed, until permanent enclosures are in place and while the building is being heated. Temporary heat shall be kept in operation as required, or as directed by the Architect. Other contractors with special needs will make arrangements with the General Contractor for same, but in no case will the General Contractor be relieved of the above requirement.
4. If the building's permanent mechanical systems are used for temporary heating or cooling during construction, the General Contractor shall pay for the fuel consumed. Under such circumstances the Contractor must provide temporary filters for all air handling equipment.
5. If the Contractor elects to use the mechanical systems for his own purposes (comfort, dry-out building, etc.) the Architect, or his engineer representative, shall conduct an inspection of the system prior to its being started. The Manufacturer's guarantee period begins from the day the equipment is started. The General Contractor will be responsible for the additional guarantee period needed to total 12 months to the Owner following the date of Substantial Completion.
6. If the Owner elects to use the mechanical systems for his own purposes (install lockers, equipment, etc.) prior to the date of Substantial Completion, then the Owner's 12-month guarantee period will begin on the day he begins using the facility. The Architect is to be notified and an inspection made prior to starting the mechanical systems.
7. The contractor shall, at all times, keep the premises free from accumulation of waste material or rubbish caused by his work or employees, and, at the completion of his work, he shall remove all debris and all his tools, scaffolding, and surplus material from the premises.
8. Do all shoring and build all barricades and temporary partitions necessary to protect the public and present property from all damage, danger and weather.

**DIVISION 01**

**SECTION 01 58 13: PROJECT SIGN**



**MATTHEWS, NC ADDRESS:**

**PINNACLE  
 ARCHITECTURE**  
 630 TEAM ROAD, SUITE 200  
 MATTHEWS, NC 28105  
 PH: 704 847-9851

**CHARLESTON, SC ADDRESS**

**PINNACLE  
 ARCHITECTURE**  
 701 EAST BAY STREET, SUITE 302  
 CHARLESTON, SC 29403  
 PH: 843 872-5345

## **DIVISION 01**

### **SECTION 01 60 00: PRODUCT REQUIREMENTS**

#### **01 60 00.01: GENERAL**

##### **A. SUMMARY**

1. Work included:
  - a. Protect products scheduled for use in the work.
  - b. Product options and substitutions.
  - c. Each Subcontractor is responsible for receipt, storage, protection and on-site movement of their products and equipment.
2. Related work:
  - a. Section 01 33 00: Submittal Procedures (shop drawings, product data and samples).
  - b. Additional procedures may be prescribed in other Sections of these Specifications.

##### **B. MANUFACTURERS RECOMMENDATIONS**

1. Comply with manufacturers' recommendations on product handling, storage and protection.

##### **C. PACKAGING**

1. Deliver products to the job site in their manufacturer's original container, with labels intact and legible.

##### **D. STORAGE**

1. Generally, elevate all materials from the ground.
2. Store all products likely to be stolen in a locked area.
3. Store all products susceptible to weathering, mold, decay, ultra violet or other form of deterioration, in a protected and humidity controlled environment.

##### **E. PROTECTION**

1. Protect finished surfaces, including jambs and soffits of openings used as passageways, through which equipment and materials are handled.
2. Provide protection for finished floor surfaces in traffic areas prior to allowing equipment or materials to be moved over such surfaces.
3. Maintain furnished surfaces cleaned, unmarred and suitably protected until accepted by the Owner.

F. REPAIRS AND REPLACEMENTS

1. In the event of damage, promptly make replacements and repairs to the approval of the Architect and at no additional cost to the Owner.
2. Additional time required to secure replacements and to make repairs will not be considered by the Architect to justify an extension in the Contract Time of Completion.

G. PRODUCT OPTIONS AND SUBSTITUTIONS

1. Various components in these Specifications are part of assemblies used to conform to requirements of Fire and Life Safety, A.D.A., State Energy Code, IBC and other similar regulations. These assemblies may or may not involve proprietary products. Substitution of one component of an assembly could invalidate the approval of the assembly and must, therefore, be carefully considered.
2. The following products do not require further approval except for interface within the Work:
  - a. Products specified by reference to standard specifications such as ASTM and similar standards.
  - b. Products specified by manufacturer's name and catalog model number.
  - c. Do not substitute materials, equipment or methods unless such substitution has been specifically approved by the Architect.
3. "Or equal":
  - a. Where the phrase "or equal", or "or equal as approved by the Architect", occurs in the Contract Documents, do not assume that the materials, equipment or methods will be approved as equal unless the item has been specifically so approved for this Work by the Architect.
4. Substitution Requests:
  - a. The Contract is based on the standards of quality established in the Contract Documents. Substitutions will be considered only when requested at time of bidding and when substantiated by the submittal of required data.
  - b. Substitution requests made prior to bidding will require an Addendum to notify all bidders of allowable alterations.
    - 1) No substitution requests will be accepted within ten (10) working days of the bid date.
  - c. Substitutions after the award of Contract are governed by Section 01 25 00: Substitution Procedures.
5. Review authority:
  - a. Unless directed otherwise, all submittals shall be made according to Section 01 33 00.

## **DIVISION 01**

### **SECTION 01 70 00: PROJECT CLOSEOUT**

#### **01 70 00.01: GENERAL**

##### A. SCOPE

1. The Contractor shall supply all documents and provide all labor and materials required to comply with all items of the project closeout procedure as specified herein. **Do not provide the original Closeout Binders to the Owner until the Architect has reviewed and approved.**

#### **01 70 00.02: PROCEDURE**

##### A. SUBSTANTIAL COMPLETION

1. The Contractor shall notify the Architect of substantial completion of the project and shall prepare a list of items remaining to be completed.
2. Within seven (7) days of notification by the Contractor, the Architect shall conduct an inspection to determine whether or not substantial completion has been achieved.
3. If the Architect finds the project to be substantially complete, he shall prepare a Certificate of Substantial Completion and a list of items the Contractor must complete or correct before final payment will be made.

##### B. FINAL COMPLETION

1. Upon completion and/or correction of the items noted by the Architect, the Contractor shall email one (1) copy of each of the following documents to the Architect for review. **NOTE:** Please list each by Sections as per Table of Contents and highlight the Guarantee/Warranty information.
  - a. Final Application and Certificate for Payment
  - b. Contractor's Affidavit & Waiver of Lien (PA Form 00 65 01)
  - c. Subcontractor's, Supplier/Vendor's Release & Waiver (PA Form 00 65 02). Must receive from **each** Sub, supplier and/or vendor.
  - d. Status of Liens Affidavit (Form PA 00 65 03)
  - e. Contractor's General Guarantee (Form PA 00 65 04)
  - f. Roofing and Sheet Metal Guarantee (Form PA 00 65 05) – if applicable
  - g. Watertightness Guarantee (Form 00 65 06) - if applicable
  - h. Landscape Plants and/or Grass Guarantee (Form 00 65 07) - if applicable
  - i. Operation and Service Manuals – One (1) copy (refer to NOTE under B.1.).
  - j. Guarantee and Warranties per Specification Documents, with the required information highlighted, (refer to NOTE under B. 1.)
  - k. Copy of the Original Record Drawings with any changes or modifications marked (As-Builts). If no changes were made, then note on Cover Sheet: "NO MODIFICATIONS WERE MADE TO THE CONSTRUCTION DOCUMENTS" Date, and sign. Original As-builts will be given to the Owner.

2. When the Architect determines that all items of work have been completed in Agreement with the Contract Documents, and all Closeout Documents have been reviewed and approved, he will issue the Final Certificate of Payment for the Owner's action. Per the Construction Documents; provide to the Owner in hardback binders;
  - a. Four (4) hard copies of all items list above (B.1.a.-j.)
  - b. One (1) Original hard copy of (B.1.j.), shall be provided to the Owner.

NOTE: You can verify the quantities required with the Owner.

END OF SECTION

## **DIVISION 02**

### **SECTION 02 41 19: SELECTIVE DEMOLITION**

#### **02 41 19.01: GENERAL**

##### A. RELATED DOCUMENTS

1. The Drawings and provisions of the General Conditions, Supplementary Conditions, and the Sections included under Division 01, General Requirements, are included as part of this Section as though bound herein.

##### B. SUMMARY

1. Selective demolition work requires removal and offsite disposal of existing building elements.
2. Refer to the Drawings for particular whole or partial elements requiring demolition and the extent of each.

##### C. SUBMITTALS

1. Schedule: Submit schedule indicating proposed methods and sequence of operations for selective demolition work to the Architect for review prior to commencement of Work. Include coordination for shut-off, capping, and continuation of utility services as required, together with details for dust and noise control.
2. Provide detailed sequence of demolition and removal work to ensure uninterrupted progress of Owner's on-site operations.
3. Coordinate with Owner's continuing occupation of portions of existing building, with Owner's partial occupancy of completed new addition.

##### D. JOB CONDITIONS

1. Condition of Structures: Owner assumes no responsibility for actual condition of items or structures to be demolished. Conditions existing at time of commencement of Contract will be maintained by Owner insofar as practicable. However, variations within structure may occur by Owner's removal and salvage operations prior to start of selective demolition work.
2. Partial Demolition and Removal: Items indicated to be removed but having salvable value to Contractor may be removed from structure as work progresses. Transport salvaged items from site as they are removed.
3. Storage or sale of removed items on site will not be permitted.
4. Protections: Provide temporary barricades and other forms of protection as required to protect the public and the Owner's personnel from injury due to selective demolition work.

- a. Provide protective measures as required to provide free and safe passage of the public and the Owner's personnel to and from occupied portions of building.
  - b. Provide interior and exterior shoring, bracing, or support to prevent movement, settlement, or collapse of structure or element to be demolished, and adjacent facilities or work to remain.
  - c. Protect from damage, when and as directed, existing finish work that is to remain in place and becomes exposed during demolition operations.
  - d. Construct temporary insulated solid dust proof partitions when required to separate areas where noisy or extensive dirt or dust operations are performed. Equip partitions with dust proof doors if required.
  - e. Provide temporary weather protection during interval between demolition and removal of existing construction on exterior surfaces, and installation of new construction to insure that no water leakage or damage occurs to structure of interior areas of existing building.
  - f. Protect improvements on adjoining properties as well as those on the Owner's property.
  - g. Restore improvements damage by this Work to their original condition, as acceptable to the Owner or other parties or authorities having jurisdiction.
  - h. Remove project protection measures at completion of Work.
5. Use of explosives will not be permitted.
6. Utility Services: Maintain existing utilities indicated to remain, keep in service, and protect against damage during demolition operations. Coordinate with the Owner.
- a. Do not interrupt existing utilities serving occupied or used facilities, except when approved by the Owner.
  - b. Environmental Controls: Use temporary enclosures, and other suitable methods to limit dispersed dust and noise to lowest practical levels.
  - c. Traffic: Conduct demolition operations and the removal of debris to ensure minimum interference with roads, streets, walks, and other adjacent occupied or used facilities.
  - d. Coordinate with Mechanical and Electrical Work prior to start and during demolition operations.

## **02 41 19.02: PRODUCTS**

No work in this Section

## **02 41 19.03: EXECUTION**

### **A. PREPARATION**

1. Cover and protect furniture, equipment, and fixtures to remain from soiling or damage when demolition work is performed in rooms or areas from which such items have not been removed.
2. Erect and maintain dust proof partitions and closures as required in preventing the spread of dust or fumes to occupied portions of the building.

3. Provide weatherproof closures for exterior openings resulting from demolition work.
4. Locate, identify, stub off, and disconnect utility services that are not indicated to remain.
5. Provide bypass connections as necessary to maintain continuity of service to occupied areas of building. Provide minimum of 72 hours advance notice to Owner if shutdown of service is necessary during changeover.

B. DEMOLITION

1. Perform selective demolitions work in a systematic manner. Use such methods as required to complete Work indicated on Drawings in accordance with Demolition Schedule and governing regulations.
2. Demolish concrete and masonry in small sections. Cut concrete and masonry at junctures with construction to remain using power driven masonry saw or hand tools.
3. Demolish foundation walls to a depth of not less than 12 inches below existing ground surface.
4. Demolish and remove below-grade wood or metal construction.
5. Completely fill below-grade areas and voids resulting from demolition work. Provide fill consisting of approved earth, gravel, or sand, free of trash, debris, stones over 6 inch diameter, roots, and other organic matter.
6. Note: If unanticipated, mechanical, electrical, or structural elements which conflict with intended function or design are encountered, investigate and assess both nature and extent of the conflict. Submit report to the Architect in written, accurate detail. Pending receipt of directive from the Architect, rearrange selective Demolition Schedule as necessary to continue overall job progress without delay.

C. DISPOSAL OF DEMOLISHED MATERIALS

1. Remove debris, rubbish, and other materials resulting from demolition operations from building site. Transport and legally dispose of materials off site.
2. Burning of removed materials is not permitted on project site.

D. CLEAN-UP AND REPAIR

1. Upon completion of demolition work, remove tools, equipment, and demolished materials from site. Remove protections and leave interior areas broom clean.
2. Repair demolition performed in excess of that required. Return structures and surfaces to remain, back to the condition existing prior to commencement of selective demolition work. Repair adjacent construction or surfaces soiled or damaged by selective demolition work.

## **DIVISION 06**

### **SECTION 06 10 00: ROUGH CARPENTRY**

#### **06 10 00.01: GENERAL**

##### A. SCOPE

1. The work covered by this section of the specifications consists of furnishing all labor, equipment, materials, appliances, scaffolding, etc., in connection with the complete installation, ready for use, of the items specified herein in strict accordance with this section of the specifications, the general conditions, and the applicable drawings.
2. Work consists of all temporary enclosures, supports, grounds, all rough carpentry work, door bucks, nailers, plates, blocking, framing for cabinets, framing around all roof openings, furring, etc., as shown or noted on the drawings or as required to complete all finish work in a satisfactory manner. All of this work shall be properly installed and anchored as shown or required in a strong and substantial manner.
3. All nails, screws, bolts, anchors and other rough hardware for proper installation of rough carpentry shall be provided.
4. Items not specifically mentioned herein shall conform to details on the drawings and with specifications for other similar items.

##### B. COORDINATION

1. Coordinate the location and installation of framing and furring members with the installation of finishes specified to be furnished under other sections of these specifications.

##### C. ACTION SUBMITTALS

1. Product Data: For each type of process and factory-fabricated product.
  - a. Include data for wood-preservative treatment from chemical treatment manufacturer and certification by treating plant that treated materials comply with requirements.
  - b. Include data for fire-retardant treatment from chemical treatment manufacturer and certification by treating plant that treated materials comply with requirements.

#### **06 10 00.02: PRODUCTS**

##### A. WOOD PRODUCTS, GENERAL

1. Lumber: DOC PS 20 and applicable rules of grading agencies indicated. If not grading agency is indicated, provide lumber that complies with the applicable rules of any rules-writing agency certified by the ALSC Board of Review. Provide lumber graded by an agency certified by the ALSC Board of Review to inspect and grade lumber under the rules indicated.
  - a. Factory mark each piece of lumber with grade stamp of grading agency.

- b. For exposed lumber indicated to receive a stained or natural finish, mark grade stamp on end or back of each piece.
  - c. Provide dressed lumber, S45, unless otherwise indicated.
2. Maximum Moisture Content of Lumber: 19 percent unless otherwise indicated.
3. Engineered Wood Products: Provide engineered wood products acceptable to authorities having jurisdiction and for which current model code research or evaluation reports exist that show compliance with building code in effect for Project.
  - a. Allowable Design Stresses: Provide engineered wood products with allowable design stresses, as published by manufacturer that meet or exceed those indicated. Manufacturer's published values shall be determined from empirical data or by rational engineering analysis and demonstrated by comprehensive testing performed by a qualified independent testing agency.

B. WOOD PRESERVATIVE-TREATED LUMBER

1. Preservative Treatment by Pressure Process: AWWA U1; Use Category UC2 for interior construction not in contact with the ground, use Category UC3b for exterior construction not in contact with the ground, and use Category UC4a for items in contact with the ground. All wood framing members of any type within 4 feet of floor, all wood nailers on concrete floor, all nailers used to apply or hold in place roof insulation, gravel stops and scuppers, or where conditions of moisture or high humidity prevail, shall be pressure preservative treated in accordance with SECTION 06 05 73 - WOOD TREATMENT.
  - a. Preservative Chemicals: Acceptable to authorities having jurisdiction and containing no arsenic or chromium.
2. Kiln-dry lumber after treatment to a maximum moisture content of 19 percent. Do not use material that is warped or that does not comply with requirements for untreated material.
3. Mark lumber with treatment quality mark of an inspection agency approved by the ALSC Board of Review.
4. Application: Treat items indicated on Drawings, and the following:
  - a. Wood cants, nailers, curbs equipment support bases, blocking, stripping, and similar members in connection with roofing, flashing, vapor barriers, and waterproofing.
  - b. Wood sills, sleepers, blocking, and similar concealed members in contact with masonry or concrete.
  - c. Wood framing and furring attached directly to the interior of below-grade exterior masonry or concrete walls.
  - d. Wood framing members that are less than 18 inches above the ground in crawlspaces or unexcavated areas.
  - e. Wood floor plates that are installed over concrete slabs-on-grade.

C. DIMENSION LUMBER FRAMING

1. Non-Load-Bearing Interior Partitions: Construction or No. 2
  - a. Application: Interior partitions not indicated as load-bearing.
  - b. Species:
    - 1) Mixed southern pine; SPIB.
2. No. 2 grade.
  - a. Application: Framing other than interior partitions not indicated as load-bearing.
  - b. Species:
    - 1) Southern pine; SPIB.
3. Framing Other Than Non-Load-Bearing Interior Partitions: Any species and grade with a modulus of elasticity of at least 1,500,000 psi and an extreme fiber stress in bending of at least 1,000 psi for 2-inch nominal thickness and 12-inch nominal width for single-member use.
  - a. Application: Framing other than interior partitions not indicated as load-bearing.
4. Exposed Framing: Provide material hand-selected for uniformity of appearance and freedom from characteristics, on exposed surfaces and edges that would impair finish appearance, including decay, honeycomb, knot-holes, shake, splits, torn grain and wane.
  - a. Application: exposed
  - b. Species and Grade: Indicated above for load-bearing construction of same type.

D. ENGINEERED WOOD PRODUCTS

1. Laminated-Veneer Lumber: Structural composite lumber made from wood veneers with grain primarily parallel to member lengths, evaluated and monitored according to ASTM D 5456 and manufactured with an exterior-type adhesive complying with ASTM D 2559.
  - a. Extreme Fiber Stress in Bending, Edgewise: 2600 psi for 12-inch nominal-depth members.
  - b. Modulus of Elasticity, Edgewise: 1,900,000 psi

E. MISCELLANEOUS LUMBER

1. General: Provide miscellaneous lumber indicated and lumber for support or attachment of other construction, including the following:
  - a. Blocking
  - b. Nailers.
  - c. Rooftop equipment bases and support curbs.
  - d. Cants.
  - e. Furring
  - f. Grounds.

2. For items of dimension lumber size, provide Construction or No. 2 grade lumber of any species.
3. For concealed boards, provide lumber with 19 percent maximum moisture content and of the following species and grades:
  - a. Mixed southern pine; No. 2 grade; SPIB

F. FASTENERS

1. General: Provide fasteners of size and type indicated that comply with requirements specified in this article for material and manufacture.
  - a. Where rough carpentry is exposed to weather, in ground contact, pressure-preservative treated, or in area of high relative humidity, provide fasteners with hot-dip zinc coating complying with ASTM A 153/A 153M.
2. Power-Driven Fasteners: NES NER-272.
3. Bolts: Steel bolts complying with ASTM A 307, Grade A; with ASTM A 563 hex nuts and, where indicated, flat washers.

G. METAL FRAMING ANCHORS

1. Basis-of-Design Product: Subject to compliance with requirements, provide product indicated on Drawings or comparable product by one of the following:
  - a. Simpson Strong-Tie Co., Inc.
  - b. USP Structural Connectors
  - c. Phoenix Metal Products, Inc.
2. Allowable Design Loads: Provide products with allowable design loads, as published by manufacturer that meet or exceed those products of manufacturers listed. Manufacturer's published values shall be determined from empirical data or by rational engineering analysis and demonstrated by comprehensive testing performed by a qualified independent testing agency.
3. Galvanized-Steel Sheet: Hot-dip, zinc-coated steel sheet complying with ASTM A 653/A 653M, G60 coating designation.
  - a. Use for interior locations unless otherwise indicated.
4. Hot-Dip, Heavy-Galvanized Steel Sheet: ASTM A 653/A653M; structural steel (SS), high-strength low-alloy steel Type A (HSLAS Type A), or high-strength low-alloy steel Type B (HSLAS Type B); G185 coating designation; and not less than 0.036 inch thick.
  - a. Use for wood-preservative-treated lumber and where indicated.

## **06 10 00.03: EXECUTION**

### **A. INSTALLATION, GENERAL**

1. Set rough carpentry to required levels and lines, with members plumb, true to line, cut and fitted. Fit rough carpentry to other construction; scribe and cope as needed for accurate fit. Locate furring, nailers, blocking and similar supports to comply with requirements for attaching other construction.
2. Framing Standard: Comply with AF&PA's WCD 1, "Details for Conventional Wood Frame Construction," unless otherwise indicated.
3. Framing with Engineered Wood Products: Install engineered wood products to comply with manufacturer's written instructions.
4. Metal Framing Anchors: Install metal framing anchors to comply with manufacturer's written instructions. Install fasteners through each fastener hole.
5. Do not splice structural members between supports unless otherwise indicated.
6. Comply with AWPA M4 for applying field treatment to cut surfaces of preservative-treated lumber.
7. Securely attach rough carpentry work to substrate by anchoring and fastening as indicated, complying with the following:
  - a. NES NER-272 for power-driven fasteners.
  - b. Table 2304.9.1, "Fastening Schedule," in ICC's International Building Code.
  - c. Table R602.3(1), "Fastener Schedule for Structural Members," and Table R602.3(2), "Alternate Attachments," in ICC's International Residential code for One- and Two-Family Dwellings.

### **B. WORKMANSHIP**

1. All framing shall be erected in a careful and workmanlike manner and shall be in accordance with the details. Where there are no specific details for framing, same shall be erected in accordance with the best practice. Framing shall be cut square on bearing, closely fitted, accurately set to required lines and levels, properly braced and rigidly secured in place.
2. All wood grounds, blocking, furring and nailers shall be of size and shape required for securing gypsum wallboard, wood trim or other work or equipment in place.

### **C. DELIVERY, STORAGE AND HANDLING**

1. Immediately upon delivery to job site, place materials in an area protected from the weather. If despite protection, inorganic boron-treated wood becomes wet, apply EPA-registered borate treatment. Apply borate solution by spraying to comply with EPA-registered label.
2. Store materials in a minimum of 6 inches above ground on a framework or blocking and cover with protective waterproof covering providing for adequate air circulation or ventilation.

3. Do not store seasoned materials in wet or damp portions of the building.
4. Protect fire-retardant materials against high humidity and moisture during storage and erection.
5. Protect sheet materials from broken corners and damaged surfaces, while unloading.
6. Any material rendered unfit for use shall be removed from the site.

## **DIVISION 07**

### **SECTION 07 20 00: BUILDING INSULATION**

#### **07 20 00.01: GENERAL**

##### A. SCOPE

1. The work covered by this section of the specifications consists of furnishing all labor, equipment, materials, appliances, scaffolding, etc., in connection with the complete installation, ready for use, of the items specified herein, in strict accordance with this section of the specifications, the general conditions, and the applicable drawings.

##### B. SUBMITTALS

1. Submit manufacturer's information on each material proposed for use. Obtain approval of materials prior to placing orders.

#### **07 20 00.02: PRODUCTS**

##### A. BATT TYPE INSULATION

1. Fiberglass Insulation with reinforced kraft-paper backing. Insulation thickness shall match the thickness of the studs or framing providing a minimum R-value of 13.

##### B. LOOSE FILL INSULATION

1. Loose fill type insulation shall be vermiculite. The insulation is in loose form and is poured into the concrete block voids and in cavity spaces indicated in the solid brick walls and piers. Equal to Zonolite® Masonry Insulation by Specialty Vermiculite Corp. and will meet or exceed all governing state and local energy code(s).

##### C. RIGID TYPE INSULATION

1. Rigid insulation shall be extruded polystyrene foam board type with high compressive strength and water resistance as manufactured by Dow, Owens-Corning or equal that will be rated at not less than is required by [either NCSBC or ASHRAE 90.1 (energy conservation code)]. This insulation will be placed in the cavity between the exterior veneer and base wall construction.

##### D. FOUNDATION INSULATION

1. Perimeter insulation will be rigid board type insulation as manufactured by Dow, Owens-Corning or equal that will be rated at not less than is required by [either NCSBC or ASHRAE 90.1 (energy conservation code)], placed at all perimeter walls from floor level to 18" below finished grade. Where slab on grade is proposed, all such conditions will have in addition to the above mentioned insulation, boards placed horizontally at the entire perimeter (to provide 24" of horizontal coverage).

E. GENERAL NOTE

1. Any condition not noted above or shown on the drawings will be verified with the Architect. All perimeter conditions will be insulated to a minimum R-value of 11 or sufficient to achieve a perimeter envelope R-value of 19 when included in the total R-value of the wall. Refer to the Contract Documents and Drawings for specific specifications. If there is conflicting information, contact the Architect for clarification.

**07 20 00.03: EXECUTION**

A. INSTALLATION

1. Batt type insulation shall be securely mounted. Work insulation carefully around all obstructions to insure a continuous barrier.
2. Fill insulation will be poured into the masonry cavities as the wall is laid up. Fill all cavities and void spaces. The installation equipment will be approved by the manufacturer. The insulation will extend from the top of the footings to the top of the walls.
3. Rigid insulation at floor slab edges shall extend 24" in from the exterior wall. Insulation shall be placed with joints closely butted and with vertical joints staggered. Installation shall be in strict accordance with manufacturer's installation instructions.

## **DIVISION 07**

### **SECTION 07 53 41: FULLY ADHERED MEMBRANE ROOFING SYSTEM**

#### **07 53 41.01: GENERAL**

##### A. SCOPE

1. The Contractor shall furnish all labor and materials to complete all roofing, sheet metal and associated work shown on the drawings, specified herein or both.

##### B. WORK INCLUDED

1. Membrane roofing systems – fully adhered.
2. Metal copings, gravel stops and scuppers in the membrane roofing area.
3. Flashing, caulking, and counter flashing as indicated and/or necessary to make work watertight.
4. Roof drains as indicated on the drawings in the area to be covered by the membrane roofing.
5. Roof insulation as specified and shown on the drawings or as required by the manufacturer. Tapered insulation may be used to provide positive drainage to roof drainage system.
6. All cants and curbs, etc.
7. All other material as required by the manufacturer to warranty the roofing system as specified herein.

##### C. COORDINATION

1. Contractor shall coordinate the work of all trades on the project as required to conform to the specific recommendations of the roofing manufacturer, to provide successful performance of the roofing system.

##### D. SUBMITTALS

1. Submit written notification of the brand name and manufacturer of each material proposed for use and include a statement that all proposed materials meet the specification requirements. Obtain Architect's approval prior to placing orders.
2. Submit manufacturer's technical literature describing all materials, and submit an 8" x 10" sample of the proposed roofing membrane.
3. Submit manufacturer's written statement that the applicator is acceptable and experienced in the installation of the proposed system.
4. Shop drawings shall be submitted to the Architect that addresses all items and shall show proposed slope of roofing to drains to ensure positive drainage to roof drainage system.

5. Submit manufacturer's written approval of all components to be included in the roofing application which are not an integral part of the roof system. Submit sample of the roof warranty to be issued upon final completion.

## **07 53 41.02: PRODUCTS**

### **A. MATERIALS**

1. The membrane roofing system shall be a fully adhered TPO or PVC system including the following components:
  - a. The TPO-(80 mil)/PVC membrane shall consist of a continuous Polymer rubber sheeting 60 mils thick minimum. The splicing cement and seam sealer shall be furnished by the system manufacturer. Acceptable system manufacturers are Mule-Hide Products Co. Inc., Duro-Last, Firestone Building Products Co. and Versico Roofing Systems.
  - b. The TPO-(80 mil)/PVC material for flashing and counter flashing shall be composite of 60 mils thick (minimum) uncured neoprene sheeting.
2. Cant strips and blocking shall be as recommended by manufacturer.
3. Roof drains shall be equal to Series 21500 as manufactured by Josam. Note: All leaders will be furnished and installed under PLUMBING - DIVISION 22.
4. The metal gravel stops shall be Hickman, Econosnap, or Architect approved equal; formed elements of .050 aluminum or 24 ga. galvanized steel with joint covers as (if) indicated on the drawings with Kynar 500 finish. The metal coping shall be Hickman Permasnap or equal 24 ga. galvanized steel with Kynar 500 finish with joint covers. Colors to be selected by the Architect. All edge condition(s) shall meet or exceed ANSI/SPRI ES-1 (No Exceptions).
5. Roof insulation where indicated shall be Hy-Therm brand Polyisocyanurate foam insulation manufactured by The Celotex Corporation or an approved equal which is acceptable to the manufacturer of the roofing system to be installed and does not void the warranty. Minimum edge thickness shall be 1/2" and minimum in-place thickness 1-1/4" or as required by membrane manufacturer. Provide tapered insulation as needed.
6. Flashings shall be minimum 16 gauge copper or as roofing manufacturer recommends and caulking shall be 100% silicone.

### **B. DELIVERY, STORAGE AND HANDLING**

1. All materials shall be delivered to the site in the original containers with each container or roll bearing the label of the manufacturer. All materials going into the roof membrane shall be labeled with appropriate Underwriter's Laboratories, Inc., labels.
2. All roof goods shall be stored on clean floors or on platforms. Damaged materials shall not be used.

3. Store cartons and drums of adhesive and sealer upright on level standing. Do not stack more than one container high. Protect all containers from extended rain or snow.

### **07 53 41.03: EXECUTION**

#### **A. PREPARATION**

1. Before the installation of any roofing materials, the Roofing Contractor, General Contractor, and the Architect together shall inspect the finished roof deck to determine its fitness to receive the roof system. Any condition making it unsuitable shall be corrected prior to commencing the roofing work. The deck shall be clean, dry, smooth, free of sharp edges and any foreign materials which may damage the membrane.
2. Building walls shall be adequately protected with tarps, or other suitable material, from soil or spillage at all hoisting points. The Contractor will be responsible for preventing damage to the building from his operations. Any such damage shall be repaired at his expense to the Owner's satisfaction or to restore to the original condition.

#### **B. INSTALLATION**

1. Install the TPO/PVC Fully Adhered Roofing System (and insulation) in accordance with current, respective roofing system specifications, details and workmanship requirements of the accepted manufacturer to achieve the completed roof system to be warranted as specified below.
2. To assure no water entry under the completed roof, it is imperative that all roofing installed each day is complete and watertight by the end of each working day. Night tie-offs are mandatory.
3. Flash drains and other roof openings in accordance with manufacturer's standard detail drawings or as indicated.
4. Roof insulation (if required) shall be installed in strict accordance with roofing manufacturer's recommendations. Tapered insulation may be required to achieve slopes for positive drainage to roof drainage system.

### **07 53 41.04: GUARANTEE**

#### **A. GUARANTEE**

1. Upon completion of the work, furnish a warranty covering the membrane roofing work performed under this section providing that for a period of twenty (20) years from date of final acceptance the manufacturer will at his own expense maintain the work performed in a watertight condition, roof is installed to eliminate ponding of water and correct any defects which may develop, including but not limited to, blisters, wrinkles, ridges, splits, warped insulation and loose flashings in such a way to restore work to a condition comparable to that at date of final acceptance. Guarantee will include manufacturer's agreement to perform emergency repairs within 24 hours of notice and to perform permanent repairs within a reasonable time. A copy of the warranty form to be submitted on completion of the work shall

be submitted to the Contractor along with the roofing proposal. This form shall be submitted to the Architect prior to the award of the General Contract.

## **DIVISION 07**

### **SECTION 07 90 00: CAULKING AND SEALANTS**

#### **07 90 00.01: GENERAL**

##### A. SCOPE

1. Furnish all labor, materials and equipment necessary to complete all caulking and pointing shown on the drawings and specified herein.

##### B. WORK INCLUDED

1. On the exterior, caulk wall control joints, around all frames in walls, all other locations shown on drawings and/or specified, and as required to assure weather-tight construction.
2. On the interior, caulk and point as necessary at locations shown on drawings and/or specified.
3. Where items are specified to be bedded in caulking compound during installation or erection, caulking is specified to be furnished and applied with such items in accordance with the requirements of this section.

##### C. SUBMITTALS

1. Submit written notification of the brand name and manufacturer of each material proposed for use. Obtain approval of materials prior to placing orders. Provide location for each proposed material and use.

#### **07 90 00.02: PRODUCTS**

##### A. INTERIOR CAULKING COMPOUND

1. All interior caulking shall be done with a gun grade DAP Flexiseal one-part Polysulfide Sealant or equal Thiokol Sealant meeting Federal Specifications TT-S-230.

##### B. EXTERIOR CAULKING COMPOUND

1. All exterior caulking shall be done with Dow Corning 795 Building Sealant or equal. Compound shall be color to match adjacent work. Material shall be delivered to site in manufacturer's original sealed packages.

##### C. JOINT BACKING MATERIAL

1. Joint backing material, where required, shall be non-staining resilient polyurethane or polyethylene foam rod type. A bond breaker must be used between the filler and the sealant and will be 25% oversized to the joint to permit the sealant bead to be in compression.

D. MASONRY JOINT SEALS

1. Joint seals shall be specially compounded styrene-butadiene rubber molded into the shape shown on the drawings.

**07 90 00.03: EXECUTION**

A. APPLICATION

1. Joint and spaces to be caulked shall be clean, dry and free of loose materials. Joints more than 1/2-inch-deep and all joints where suitable backstop has not been provided shall be packed with joint backing material to within 1/2-inch of surface before applying caulking. In place material will be no thicker than 3/8" and no thinner than 1/8".
2. Apply caulking primer to all surfaces in contact with caulking compound in strict accordance with instructions of manufacturer of caulking compound.
3. Apply caulking compound with gun having proper size and type nozzle; use sufficient pressure to fill all voids and joints solid. Remove excess caulking and leave surfaces neat and clean. Upon completion caulking shall have a smooth even finish. All caulked joints shall be weather-tight and watertight.