



## **Invitation for Bid No. 2024-039**

### **Union County Health and Human Services Immunization Room Renovation**

**Due Date:** February 20, 2024  
**Time:** 2:00 PM Local Time  
**Receipt Location:** Union County Government Center  
500 N. Main Street  
7<sup>th</sup> Floor Conference Room  
Monroe, NC 28112

#### **(Non)-Mandatory Pre-Bid Conference and Site Visit**

**Date:** February 7, 2024  
**Time:** 10:00 AM Local time  
**Location:** Union County Health and Human Services Center  
2258 Concord Ave.  
Monroe, NC 28112

#### **Procurement Representative:**

Vicky Watts, CLGPO  
Senior Procurement Specialist  
Procurement Department  
(704) 283-3601  
[vicky.watts@unioncountync.gov](mailto:vicky.watts@unioncountync.gov)

#### **Prepared by:**

John Crawford, AIA  
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PROJECT MANUAL – 100% CONSTRUCTION DOCUMENTS

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## 1.1 LIST OF DRAWINGS

- A. Drawings: Drawings consist of the drawings listed on the Cover Sheet page of the separately bound drawing set titled 2023-020 – Union county HHS Immunization Room Renovation dated 06/20/2023, as modified by subsequent Addenda and Contract modifications.

CS	Cover Sheet	06.20.2023
G0.01	Sheet Index	06.20.2023
G1.01	Code Summary	06.20.2023
A1.01	Existing & Demo Floor Plans	06.20.2023
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A4.01	Existing & Demo Reflected Ceiling Plans	06.20.2023
A4.02	New Reflected Ceiling Plans	06.20.2023
A9.01	Schedules, Int. Elevations & Details	06.20.2023
FP00-01	Fire Protection Criteria	06.20.2023
P00-01	Plumbing Legends & Notes	06.20.2023
P11-01	Immunization Room – Domestic Water	06.20.2023
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M00-01	Mechanical Notes & Legends	06.20.2023
M11-01	Immunization Room – Mechanical	06.20.2023
E00-01	Electrical Notes & Legends	06.20.2023
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E11-01	Immunization Room – Lighting	06.20.2023
E11-02	Immunization Room – Power	06.20.2023
E20-01	Electrical Riser Diagram	06.20.2023

END OF DOCUMENT 00 01 15

**UNION COUNTY, NORTH CAROLINA**

**IFB #2024-039**

**HEALTH AND HUMAN SERVICES IMMUNIZATION ROOM RENOVATION**

ADVERTISEMENT FOR BIDS

Sealed Bids for Health and Human Service Immunization Room Renovation **will be received by the Union County Procurement Department until 2:00 PM local time on February 20, 2024** at the Union County Government Center, 500 N. Main Street, Suite 709, Monroe, NC 28112 at which time the Bids will be publicly opened and read aloud. Late bids will not be accepted.

If a Bid is sent by mail or other delivery system, the sealed envelope containing the Bid shall be enclosed in a separate package plainly marked on the outside with the notation "**BID ENCLOSED – 2024-039**" and shall be addressed to Union County Procurement Department, Vicky Watts, 500 N. Main Street, Suite 709, Monroe, NC 28112.

A Non-Mandatory Pre-Bid meeting will be held on **February 7, 2024 at 10:00 AM** local time at Union County Health and Human Services, 2330 Concord Avenue, Room No., Monroe, NC 28110. Attendance at this meeting is strongly encouraged.

Scope of Work: Construction of a new waiting room and immunization room within the existing Union County Health and Human Services (HHS) facility. The waiting room and immunization room shall be adjacent to an existing restroom group to minimize utility runs. The construction is approximately 186 square feet, with cold formed metal framing with gypsum wallboard on each side.

Bid will be received for a single prime, lump sum Contract.

**All questions about the meaning or intent of the Bidding Documents are to be submitted in writing to the Procurement contact person listed on the cover page ([vicky.watts@unioncountync.gov](mailto:vicky.watts@unioncountync.gov)). Deadline for questions is 5:00 PM local time on February 9, 2024.** Questions will be addressed via Addenda no later than 4 days prior to bid date.

The Issuing Office for the Bidding Documents is:

Union County Procurement Department  
500 N. Main Street, Suite 709  
Monroe, NC 28112

Contact: Vicky Watts  
[vicky.watts@unioncountync.gov](mailto:vicky.watts@unioncountync.gov)  
704-283-3601

Prospective Bidders may examine the Bidding Documents at the Issuing Office on Mondays through Fridays between the hours of 8:00 am and 5:00 pm, and may obtain copies of the Bidding Documents from the Issuing Office as described below.

Bidding Documents are available in electronic form free of charge and may be downloaded at this link: <https://www.unioncountync.gov/government/departments-f-p/procurement-contract-management/current-bids>.

Partial sets of Bidding Documents will not be available from the Issuing Office. Neither Owner nor Engineer will be responsible for full or partial sets of Bidding Documents, including Addenda if any, obtained from sources other than the Issuing Office.

Bidders must have a license to do work as a contractor in the State of North Carolina, as set forth under Article 1 chapter 87 of the North Carolina General statutes. The bidder's North Carolina Contractor license number shall be designated on the outside of the sealed envelope containing the Bid.

Bidders are required to provide a non-collusion affidavit, as set forth in the bidding documents.

The Owner reserves the right to reject any or all bids, including without limitation, nonconforming, nonresponsive, unbalanced, or conditional Bids. Owner further reserves the right to reject the Bid and Bidder whom they find, after reasonable inquiry and evaluation, to not be responsible. Owner may also reject the Bid and Bidder if the Owner believes that it would not be in the best interest of the Project to make an award to that Bidder. Owner also reserves the right to waive all informalities and technicalities not involving price, time, or changes in the Work and to negotiate, as allowed by law, contract terms with the Successful Bidder.

Union County encourages good faith effort outreach to Minority Businesses (HUB Certified) and Small Businesses.

Union County has received a payment from of the Coronavirus Response and Relief Supplemental Appropriations Act of 2021 (P.L. 116-260) and the American Rescue Plan Act of 2021 (P.L. 117-2), North Carolina received supplemental funding to assist the local health departments with coronavirus vaccine activities to support broad-based distribution, access, and vaccine coverage. Specifically, this supplement funding will be used to ensure greater equity and access to the COVID-19 vaccine by those disproportionately affected by COVID-19.

Union County may utilize such Fiscal Recovery Funds, in whole or in part, for the cost of the Agreement resulting from this solicitation and the services provided thereunder. In using these funds, the County must comply with the terms of ARPA, regulations issued by U.S. Department of Treasury governing the expenditure of monies distributed from the Fiscal Recovery Funds, the Award Terms and Conditions applicable to the Fiscal Recovery Funds, and such other guidance as the U.S. Department of Treasury has issued or may issue governing the expenditure of monies distributed from the Fiscal Recovery Funds (collectively, the "Regulatory Requirements").

The County must comply with the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 C.F.R. Part 200, other than such provisions as the U.S. Department of Treasury has determined or may determine are inapplicable to the Fiscal Recovery Funds. Pursuant to 2 C.F.R. § 200.327, the County must include within the Agreement applicable provisions described in Appendix II to 2 C.F.R. Part 200 and all other applicable law. Therefore, the County cannot enter into an Agreement or make any distributions to Bidder using monies from the Fiscal Recovery Funds absent agreement and adherence to each term and condition contained therein.

Bidder agrees to abide by the terms of the Agreement for these services, attached to this RFP, which includes certain specific terms and conditions related to the use of Fiscal Recovery Funds and ARPA in the Coronavirus State and Local Fiscal Recovery Funds Addendum, which is attached and incorporated therein.

END OF DOCUMENT 00 11 13

1.1 PROJECT INFORMATION

A. Notice to Bidders: Bidders are invited to submit bids for Project as described in this document.

1.2 Related Sections:

- A. 00 11 13 Advertisement for Bids
- B. 00 21 00 Instructions to Bidders
- C. 00 25 00 Pre-bid Meetings
- D. 00 41 13 Bid Form – Stipulated Sum
- E. 00 43 13 Bid Security Form

1.3 Project Identification:

- 1. Name: Union County Health and Human Services Immunization Room Renovation
- 2. Location: 2330 Concord Ave., Monroe, NC 28110
- 3. Designer: Creech & Associates, PLLC
- 4. Owner: Union County
  - a. The Owner designates person as its representative and a Point of Contact for this Bid. Bidders shall restrict all contact and direct all questions regarding this Bid, including responses. Questions regarding terms and conditions, and technical specifications, to the Procurement Point of Contact listed below in writing (via email) no later than **7 days** prior to the Bid Opening date, February 20, 2024, at 2:00 PM at the Union County Government Center 500 N. Main Street, Monroe, NC 28112.
  - b. Owner's Point of Contact:  
Vicky Watts, CLGPO, Senior Procurement Specialist  
Union County Procurement Department  
500 N. Main Street, Suite 709  
Monroe, NC 28112  
704.283.3601  
[vicky.watts@unioncountync.gov](mailto:vicky.watts@unioncountync.gov)

1.4 SUMMARY

- A. Construction of a immunization room and waiting room within the existing HHS facility. The waiting room and immunization room shall be adjacent to an existing restroom group to minimize utility runs.
- B. Architect Identification:
  - 1. Project Designer: Creech & Associates, PLLC
  - 2. Owner: Union County, NC.
- C. The project will be constructed in one phase.
- D. Construction Contract: Bids will be received for the following work:
  - 1. Construction of a waiting room and an immunization room as described in the drawings prepared by Creech & Associates.

1.5 BID SUBMITTAL AND OPENING

A. Owner will receive sealed bids until the bid time and date at the location indicated within the section 00 11 13 Advertisement for Bidders for Bid IFB#2024-039.

1.6 DOCUMENTS

A. Online Procurement and Contracting Documents. Complete sets of Bidding Documents can be obtained from the Issuing Office as described within the Section 00 11 13 Advertisement for Bidders for Bid IFB#2024-039.

1.7 TIME OF COMPLETION AND LIQUIDATED DAMAGES

A. Bidders shall begin the Work on receipt of Notice to Proceed and shall complete the work within 60 calendar days. Work is subjected to liquidated damages of \$100 per day.

1.8 BIDDER QUALIFICATIONS

- A. Bidders must be properly licensed under the laws governing their respective trades and be able to obtain insurance and bonds required for the Work. **A Performance and Payment Bond and Insurance in a form acceptable to Owner will be required of the successful Bidder.**

END OF DOCUMENT 00 11 16

1.1 INSTRUCTION TO BIDDERS

- A. AIA Document A701-2018 Instructions to Bidders, as modified by Owner.
- B. The above document is hereby incorporated into this Project Manual by reference.

END OF DOCUMENT 00 21 00





# AIA® Document A701® – 2018

## Instructions to Bidders

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

Union County HHS Immunization Room Renovations  
2330 Concord Ave.  
Monroe, NC 28210

**THE OWNER:**  
*(Name, legal status, address, and other information)*

Union County, North Carolina  
500 North Main Street  
Monroe, NC 28211

**THE ARCHITECT:**  
*(Name, legal status, address, and other information)*

Creech & Associates  
1000 W. Morehead Street  
Suite 120  
Charlotte, NC 28208

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- 8 **ENUMERATION OF THE PROPOSED CONTRACT DOCUMENTS**

### 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.

FEDERAL, STATE, AND LOCAL LAWS MAY IMPOSE REQUIREMENTS ON PUBLIC PROCUREMENT CONTRACTS. CONSULT LOCAL AUTHORITIES OR AN ATTORNEY TO VERIFY REQUIREMENTS APPLICABLE TO THIS PROCUREMENT BEFORE COMPLETING THIS FORM.

It is intended that AIA Document G612™–2017, Owner’s Instructions to the Architect, Parts A and B will be completed prior to using this document.

## ARTICLE 1 DEFINITIONS

§ 1.1 Bidding Documents include the Bidding Requirements and the Proposed Contract Documents. The Bidding Requirements consist of the advertisement or invitation to bid, Instructions to Bidders, supplementary instructions to bidders, the bid form, and any other bidding forms. The Proposed Contract Documents consist of the unexecuted form of Agreement between the Owner and Contractor and that Agreement's Exhibits, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, all Addenda, and all other documents enumerated in Article 8 of these Instructions.

§ 1.2 Definitions set forth in the General Conditions of the Contract for Construction, or in other Proposed Contract Documents apply to the Bidding Documents.

§ 1.3 Addenda are written or graphic instruments issued by the Architect, which, by additions, deletions, clarifications, or corrections, modify or interpret the Bidding Documents.

§ 1.4 A Bid is a complete and properly executed proposal to do the Work for the sums stipulated therein, submitted in accordance with the Bidding Documents.

§ 1.5 The Base Bid is the sum stated in the Bid for which the Bidder offers to perform the Work described in the Bidding Documents, to which Work may be added or deleted by sums stated in Alternate Bids.

§ 1.6 An Alternate Bid (or Alternate) is an amount stated in the Bid to be added to or deducted from, or that does not change, the Base Bid if the corresponding change in the Work, as described in the Bidding Documents, is accepted.

§ 1.7 A Unit Price is an amount stated in the Bid as a price per unit of measurement for materials, equipment, or services, or a portion of the Work, as described in the Bidding Documents.

§ 1.8 A Bidder is a person or entity who submits a Bid and who meets the requirements set forth in the Bidding Documents.

§ 1.9 A Sub-bidder is a person or entity who submits a bid to a Bidder for materials, equipment, or labor for a portion of the Work.

## ARTICLE 2 BIDDER'S REPRESENTATIONS

§ 2.1 By submitting a Bid, the Bidder represents that:

- .1 the Bidder has read and understands the Bidding Documents;
- .2 the Bidder understands how the Bidding Documents relate to other portions of the Project, if any, being bid concurrently or presently under construction;
- .3 the Bid complies with the Bidding Documents;
- .4 the Bidder has visited the site, become familiar with local conditions under which the Work is to be performed, and has correlated the Bidder's observations with the requirements of the Proposed Contract Documents;
- .5 the Bid is based upon the materials, equipment, and systems required by the Bidding Documents without exception; and
- .6 the Bidder has read and understands the provisions for liquidated damages, if any, set forth in the form of Agreement between the Owner and Contractor.

## ARTICLE 3 BIDDING DOCUMENTS

### § 3.1 Distribution

§ 3.1.1 Bidders shall obtain complete Bidding Documents, as indicated below, from the issuing office designated in the advertisement or invitation to bid, for the deposit sum, if any, stated therein.

*(Indicate how, such as by email, website, host site/platform, paper copy, or other method Bidders shall obtain Bidding Documents.)*

§ 3.1.2 Any required deposit shall be refunded to Bidders who submit a bona fide Bid and return the paper Bidding Documents in good condition within ten days after receipt of Bids. The cost to replace missing or damaged paper documents will be deducted from the deposit. A Bidder receiving a Contract award may retain the paper Bidding Documents, and the Bidder's deposit will be refunded.

§ 3.1.3 Bidding Documents will not be issued directly to Sub-bidders unless specifically offered in the advertisement or invitation to bid, or in supplementary instructions to bidders.

§ 3.1.4 Bidders shall use complete Bidding Documents in preparing Bids. Neither the Owner nor Architect assumes responsibility for errors or misinterpretations resulting from the use of incomplete Bidding Documents.

§ 3.1.5 The Bidding Documents will be available for the sole purpose of obtaining Bids on the Work. No license or grant of use is conferred by distribution of the Bidding Documents.

### § 3.2 Modification or Interpretation of Bidding Documents

§ 3.2.1 The Bidder shall carefully study the Bidding Documents, shall examine the site and local conditions, and shall notify the Architect of errors, inconsistencies, or ambiguities discovered and request clarification or interpretation pursuant to Section 3.2.2.

§ 3.2.2 Requests for clarification or interpretation of the Bidding Documents shall be submitted by the Bidder in writing and shall be received by the Architect at least seven days prior to the date for receipt of Bids.  
*(Indicate how, such as by email, website, host site/platform, paper copy, or other method Bidders shall submit requests for clarification and interpretation.)*

§ 3.2.3 Modifications and interpretations of the Bidding Documents shall be made by Addendum. Modifications and interpretations of the Bidding Documents made in any other manner shall not be binding, and Bidders shall not rely upon them.

### § 3.3 Substitutions

§ 3.3.1 The materials, products, and equipment described in the Bidding Documents establish a standard of required function, dimension, appearance, and quality to be met by any proposed substitution.

#### § 3.3.2 Substitution Process

§ 3.3.2.1 Written requests for substitutions shall be received by the Architect at least ten days prior to the date for receipt of Bids. Requests shall be submitted in the same manner as that established for submitting clarifications and interpretations in Section 3.2.2.

§ 3.3.2.2 Bidders shall submit substitution requests on a Substitution Request Form if one is provided in the Bidding Documents.

§ 3.3.2.3 If a Substitution Request Form is not provided, requests shall include (1) the name of the material or equipment specified in the Bidding Documents; (2) the reason for the requested substitution; (3) a complete description of the proposed substitution including the name of the material or equipment proposed as the substitute, performance and test data, and relevant drawings; and (4) any other information necessary for an evaluation. The request shall include a statement setting forth changes in other materials, equipment, or other portions of the Work, including changes in the work of other contracts or the impact on any Project Certifications (such as LEED), that will result from incorporation of the proposed substitution.

§ 3.3.3 The burden of proof of the merit of the proposed substitution is upon the proposer. The Architect's decision of approval or disapproval of a proposed substitution shall be final.

§ 3.3.4 If the Architect approves a proposed substitution prior to receipt of Bids, such approval shall be set forth in an Addendum. Approvals made in any other manner shall not be binding, and Bidders shall not rely upon them.

§ 3.3.5 No substitutions will be considered after the Contract award unless specifically provided for in the Contract Documents.

#### § 3.4 Addenda

§ 3.4.1 Addenda will be transmitted to Bidders known by the issuing office to have received complete Bidding Documents.

*(Indicate how, such as by email, website, host site/platform, paper copy, or other method Addenda will be transmitted.)*

§ 3.4.2 Addenda will be available where Bidding Documents are on file.

§ 3.4.3 Addenda will be issued no later than four days prior to the date for receipt of Bids, except an Addendum withdrawing the request for Bids or one which includes postponement of the date for receipt of Bids.

§ 3.4.4 Prior to submitting a Bid, each Bidder shall ascertain that the Bidder has received all Addenda issued, and the Bidder shall acknowledge their receipt in the Bid.

### ARTICLE 4 BIDDING PROCEDURES

#### § 4.1 Preparation of Bids

§ 4.1.1 Bids shall be submitted on the forms included with or identified in the Bidding Documents.

§ 4.1.2 All blanks on the bid form shall be legibly executed. Paper bid forms shall be executed in a non-erasable medium.

§ 4.1.3 Sums shall be expressed in both words and numbers, unless noted otherwise on the bid form. In case of discrepancy, the amount entered in words shall govern.

§ 4.1.4 Edits to entries made on paper bid forms must be initialed by the signer of the Bid.

§ 4.1.5 All requested Alternates shall be bid. If no change in the Base Bid is required, enter "No Change" or as required by the bid form.

§ 4.1.6 Where two or more Bids for designated portions of the Work have been requested, the Bidder may, without forfeiture of the bid security, state the Bidder's refusal to accept award of less than the combination of Bids stipulated by the Bidder. The Bidder shall neither make additional stipulations on the bid form nor qualify the Bid in any other manner.

§ 4.1.7 Each copy of the Bid shall state the legal name and legal status of the Bidder. As part of the documentation submitted with the Bid, the Bidder shall provide evidence of its legal authority to perform the Work in the jurisdiction where the Project is located. Each copy of the Bid shall be signed by the person or persons legally authorized to bind the Bidder to a contract. A Bid by a corporation shall further name the state of incorporation and have the corporate seal affixed. A Bid submitted by an agent shall have a current power of attorney attached, certifying the agent's authority to bind the Bidder.

§ 4.1.8 A Bidder shall incur all costs associated with the preparation of its Bid.

#### § 4.2 Bid Security

§ 4.2.1 Each Bid shall be accompanied by the following bid security:

*(Insert the form and amount of bid security.)*

§ 4.2.2 The Bidder pledges to enter into a Contract with the Owner on the terms stated in the Bid and shall, if required, furnish bonds covering the faithful performance of the Contract and payment of all obligations arising thereunder. Should the Bidder refuse to enter into such Contract or fail to furnish such bonds if required, the amount of the bid security shall be forfeited to the Owner as liquidated damages, not as a penalty. In the event the Owner fails to comply with Section 6.2, the amount of the bid security shall not be forfeited to the Owner.

§ 4.2.3 If a surety bond is required as bid security, it shall be written on AIA Document A310™, Bid Bond, unless otherwise provided in the Bidding Documents. The attorney-in-fact who executes the bond on behalf of the surety shall affix to the bond a certified and current copy of an acceptable power of attorney. The Bidder shall provide surety bonds from a company or companies lawfully authorized to issue surety bonds in the jurisdiction where the Project is located.

§ 4.2.4 The Owner will have the right to retain the bid security of Bidders to whom an award is being considered until (a) the Contract has been executed and bonds, if required, have been furnished; (b) the specified time has elapsed so that Bids may be withdrawn; or (c) all Bids have been rejected. However, if no Contract has been awarded or a Bidder has not been notified of the acceptance of its Bid, a Bidder may, beginning days after the opening of Bids, withdraw its Bid and request the return of its bid security.

### § 4.3 Submission of Bids

§ 4.3.1 A Bidder shall submit its Bid as indicated below:

*(Indicate how, such as by website, host site/platform, paper copy, or other method Bidders shall submit their Bid.)*

§ 4.3.2 Paper copies of the Bid, the bid security, and any other documents required to be submitted with the Bid shall be enclosed in a sealed opaque envelope. The envelope shall be addressed to the party receiving the Bids and shall be identified with the Project name, the Bidder's name and address, and, if applicable, the designated portion of the Work for which the Bid is submitted. If the Bid is sent by mail, the sealed envelope shall be enclosed in a separate mailing envelope with the notation "SEALED BID ENCLOSED" on the face thereof.

§ 4.3.3 Bids shall be submitted by the date and time and at the place indicated in the invitation to bid. Bids submitted after the date and time for receipt of Bids, or at an incorrect place, will not be accepted.

§ 4.3.4 The Bidder shall assume full responsibility for timely delivery at the location designated for receipt of Bids.

§ 4.3.5 A Bid submitted by any method other than as provided in this Section 4.3 will not be accepted.

### § 4.4 Modification or Withdrawal of Bid

§ 4.4.1 Prior to the date and time designated for receipt of Bids, a Bidder may submit a new Bid to replace a Bid previously submitted, or withdraw its Bid entirely, by notice to the party designated to receive the Bids. Such notice shall be received and duly recorded by the receiving party on or before the date and time set for receipt of Bids. The receiving party shall verify that replaced or withdrawn Bids are removed from the other submitted Bids and not considered. Notice of submission of a replacement Bid or withdrawal of a Bid shall be worded so as not to reveal the amount of the original Bid.

§ 4.4.2 Withdrawn Bids may be resubmitted up to the date and time designated for the receipt of Bids in the same format as that established in Section 4.3, provided they fully conform with these Instructions to Bidders. Bid security shall be in an amount sufficient for the Bid as resubmitted.

§ 4.4.3 After the date and time designated for receipt of Bids, a Bidder who discovers that it made a clerical error in its Bid shall notify the Architect of such error within two days, or pursuant to a timeframe specified by the law of the jurisdiction where the Project is located, requesting withdrawal of its Bid. Upon providing evidence of such error to the reasonable satisfaction of the Architect, the Bid shall be withdrawn and not resubmitted. If a Bid is withdrawn pursuant to this Section 4.4.3, the bid security will be attended to as follows:

*(State the terms and conditions, such as Bid rank, for returning or retaining the bid security.)*

## ARTICLE 5 CONSIDERATION OF BIDS

### § 5.1 Opening of Bids

If stipulated in an advertisement or invitation to bid, or when otherwise required by law, Bids properly identified and received within the specified time limits will be publicly opened and read aloud. A summary of the Bids may be made available to Bidders.

## **§ 5.2 Rejection of Bids**

Unless otherwise prohibited by law, the Owner shall have the right to reject any or all Bids.

## **§ 5.3 Acceptance of Bid (Award)**

**§ 5.3.1** It is the intent of the Owner to award a Contract to the lowest responsive and responsible Bidder, provided the Bid has been submitted in accordance with the requirements of the Bidding Documents. Unless otherwise prohibited by law, the Owner shall have the right to waive informalities and irregularities in a Bid received and to accept the Bid which, in the Owner's judgment, is in the Owner's best interests.

**§ 5.3.2** Unless otherwise prohibited by law, the Owner shall have the right to accept Alternates in any order or combination, unless otherwise specifically provided in the Bidding Documents, and to determine the lowest responsive and responsible Bidder on the basis of the sum of the Base Bid and Alternates accepted.

## **ARTICLE 6 POST-BID INFORMATION**

### **§ 6.1 Contractor's Qualification Statement**

Bidders to whom award of a Contract is under consideration shall submit to the Architect, upon request and within the timeframe specified by the Architect, a properly executed AIA Document A305™, Contractor's Qualification Statement, unless such a Statement has been previously required and submitted for this Bid.

### **§ 6.2 Owner's Financial Capability**

A Bidder to whom award of a Contract is under consideration may request in writing, fourteen days prior to the expiration of the time for withdrawal of Bids, that the Owner furnish to the Bidder reasonable evidence that financial arrangements have been made to fulfill the Owner's obligations under the Contract. The Owner shall then furnish such reasonable evidence to the Bidder no later than seven days prior to the expiration of the time for withdrawal of Bids. Unless such reasonable evidence is furnished within the allotted time, the Bidder will not be required to execute the Agreement between the Owner and Contractor.

### **§ 6.3 Submittals**

**§ 6.3.1** After notification of selection for the award of the Contract, the Bidder shall, as soon as practicable or as stipulated in the Bidding Documents, submit in writing to the Owner through the Architect:

- .1 a designation of the Work to be performed with the Bidder's own forces;
- .2 names of the principal products and systems proposed for the Work and the manufacturers and suppliers of each; and
- .3 names of persons or entities (including those who are to furnish materials or equipment fabricated to a special design) proposed for the principal portions of the Work.

**§ 6.3.2** The Bidder will be required to establish to the satisfaction of the Architect and Owner the reliability and responsibility of the persons or entities proposed to furnish and perform the Work described in the Bidding Documents.

**§ 6.3.3** Prior to the execution of the Contract, the Architect will notify the Bidder if either the Owner or Architect, after due investigation, has reasonable objection to a person or entity proposed by the Bidder. If the Owner or Architect has reasonable objection to a proposed person or entity, the Bidder may, at the Bidder's option, withdraw the Bid or submit an acceptable substitute person or entity. The Bidder may also submit any required adjustment in the Base Bid or Alternate Bid to account for the difference in cost occasioned by such substitution. The Owner may accept the adjusted bid price or disqualify the Bidder. In the event of either withdrawal or disqualification, bid security will not be forfeited.

**§ 6.3.4** Persons and entities proposed by the Bidder and to whom the Owner and Architect have made no reasonable objection must be used on the Work for which they were proposed and shall not be changed except with the written consent of the Owner and Architect.

## **ARTICLE 7 PERFORMANCE BOND AND PAYMENT BOND**

### **§ 7.1 Bond Requirements**

**§ 7.1.1** If stipulated in the Bidding Documents, the Bidder shall furnish bonds covering the faithful performance of the Contract and payment of all obligations arising thereunder.

§ 7.1.2 If the furnishing of such bonds is stipulated in the Bidding Documents, the cost shall be included in the Bid. If the furnishing of such bonds is required after receipt of bids and before execution of the Contract, the cost of such bonds shall be added to the Bid in determining the Contract Sum.

§ 7.1.3 The Bidder shall provide surety bonds from a company or companies lawfully authorized to issue surety bonds in the jurisdiction where the Project is located.

§ 7.1.4 Unless otherwise indicated below, the Penal Sum of the Payment and Performance Bonds shall be the amount of the Contract Sum.

*(If Payment or Performance Bonds are to be in an amount other than 100% of the Contract Sum, indicate the dollar amount or percentage of the Contract Sum.)*

## § 7.2 Time of Delivery and Form of Bonds

§ 7.2.1 The Bidder shall deliver the required bonds to the Owner not later than three days following the date of execution of the Contract. If the Work is to commence sooner in response to a letter of intent, the Bidder shall, prior to commencement of the Work, submit evidence satisfactory to the Owner that such bonds will be furnished and delivered in accordance with this Section 7.2.1.

§ 7.2.2 Unless otherwise provided, the bonds shall be written on AIA Document A312, Performance Bond and Payment Bond.

§ 7.2.3 The bonds shall be dated on or after the date of the Contract.

§ 7.2.4 The Bidder shall require the attorney-in-fact who executes the required bonds on behalf of the surety to affix to the bond a certified and current copy of the power of attorney.

## ARTICLE 8 ENUMERATION OF THE PROPOSED CONTRACT DOCUMENTS

§ 8.1 Copies of the proposed Contract Documents have been made available to the Bidder and consist of the following documents:

- .1 AIA Document A101™–2017, Standard Form of Agreement Between Owner and Contractor, unless otherwise stated below.  
*(Insert the complete AIA Document number, including year, and Document title.)*
  
- .2 AIA Document A101™–2017, Exhibit A, Insurance and Bonds, unless otherwise stated below.  
*(Insert the complete AIA Document number, including year, and Document title.)*
  
- .3 AIA Document A201™–2017, General Conditions of the Contract for Construction, unless otherwise stated below.  
*(Insert the complete AIA Document number, including year, and Document title.)*
  
- .4 AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:  
*(Insert the date of the E203-2013.)*
  
- .5 Drawings

Number	Title	Date	
.6	Specifications		
	<b>Section</b>	<b>Title</b>	<b>Date</b> <b>Pages</b>
.7	Addenda:		
	<b>Number</b>	<b>Date</b>	<b>Pages</b>
.8	Other Exhibits: <i>(Check all boxes that apply and include appropriate information identifying the exhibit where required.)</i>		
	<input type="checkbox"/> AIA Document E204™–2017, Sustainable Projects Exhibit, dated as indicated below: <i>(Insert the date of the E204-2017.)</i>		
	<input type="checkbox"/> The Sustainability Plan:		
	<b>Title</b>	<b>Date</b>	<b>Pages</b>
	<input type="checkbox"/> Supplementary and other Conditions of the Contract:		
	<b>Document</b>	<b>Title</b>	<b>Date</b> <b>Pages</b>
.9	Other documents listed below: <i>(List here any additional documents that are intended to form part of the Proposed Contract Documents.)</i>		



# **Additions and Deletions Report for** **AIA® Document A701® – 2018**

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.

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 09:01:19 ET on 01/03/2024.

## **PAGE 1**

Union County HHS Immunization Room Renovations  
2330 Concord Ave.  
Monroe, NC 28210

...

Union County, North Carolina  
500 North Main Street  
Monroe, NC 28211

...

Creech & Associates  
1000 W. Morehead Street  
Suite 120  
Charlotte, NC 28208

# **Certification of Document's Authenticity**

**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 09:01:19 ET on 01/03/2024 under Order No. 4104243830 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A701™ – 2018, Instructions to Bidders, other than those additions and deletions shown in the associated Additions and Deletions Report.

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

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

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

**BID INFORMATION**

Name of Bidder: \_\_\_\_\_

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

Project Name: Union Health and Human Services Immunization Renovation Project

Owner: Union County

Owner Project Number: IFB 2024-039

Designer: Creech & Associates

Designer Project Number: 2023-020

**CERTIFICATIONS OF BASE BID**

The undersigned Bidder, hereby declares that he has carefully investigated the scope of work and having thoroughly familiarized himself with the Contract Documents relative hereto, and has read all special provisions furnished prior to the opening of the bids; that he has satisfied himself relative to the work to be performed. The bidder further declares that he and his sub-contractors have fully complied with NCGS 64, Article 2 in regards to E-Verification as required by N.C. General Statute 143-129(j). The bidder agrees to hold the proposed bid price for 90 days.

The bidder proposes and agrees if this proposal is accepted, to contract with Union County Government, in the form of contract specified, to provide all necessary labor, equipment, materials, machinery, tools, apparatus, transportation, services, fees, permits, etc., to complete the construction of Union Health and Human Services Immunization Renovation all in accordance with the aforementioned Contract Documents to the full and entire satisfaction of Union County Government, with definite understanding that no money will be allowed for extra work except as set forth in the General Conditions and the Contract Documents for the lump sum of:

**Provide 10% of the base bid price as an Owner contingency allowance. Any funds not used from the Owner's contingency allowance will be returned to the Owner by deduct change order.**

**A) BASE BID PRICE:**

\_\_\_\_\_ Dollars (\$\_\_\_\_\_).

**B) OWNERS CONTINGENCY ALLOWANCE:**

\_\_\_\_\_ Dollars (\$\_\_\_\_\_).

**C) TOTAL BASE BID PRICE WITH OWNER CONTINGENCY (A+B=C):**

\_\_\_\_\_ Dollars (\$\_\_\_\_\_).

The above amount may be modified by the included Unit Prices and Alternates at the Owner's sole discretion.

**SUB-CONTRACTOR LIST:**

The following shall execute subcontracts with the Bidder for the portion of the work indicated:

Specialty Work Sub-Contractor (Name & License No.):

\_\_\_\_\_ License No. \_\_\_\_\_

Specialty Work Sub-Contractor (Name & License No.):

License No. \_\_\_\_\_

**LIQUIDATED DAMAGES:**

The undersigned further agrees, stipulates, and fixes as Liquidated Damages if delayed, but not as a penalty, the sum of **One Hundred Dollars (\$100.00)** per calendar day that the undersigned together with the undersigned’s surety shall pay the Owner for each calendar day or part thereof that expires after the date specified for the substantial completion of the work and until the Work is Substantially complete. By bidding, the undersigned hereby agrees to be responsible for liquidated damages.

**RECIPT OF ADDENDA:**

The undersigned acknowledges receipt of the following addenda which will be considered as part of the contract Documents:

Addendum No. \_\_\_\_\_ Dated \_\_\_\_\_ Addendum No. \_\_\_\_\_ Dated \_\_\_\_\_  
Addendum No. \_\_\_\_\_ Dated \_\_\_\_\_ Addendum No. \_\_\_\_\_ Dated \_\_\_\_\_  
Addendum No. \_\_\_\_\_ Dated \_\_\_\_\_ Addendum No. \_\_\_\_\_ Dated \_\_\_\_\_

**CONTRACTOR’S LICENSE:**

The undersigned further states that it is a duly licensed contractor for the proposed work in the State of North Carolina, and that all fees, permits, etc. pursuant to submitting this proposal have been paid in full.

**ACKNOWLEDGEMENT AND REPRESENTATIONS:**

If notice of acceptance of this bid is given to the undersigned within 90 days after the date of opening of bids, or any time thereafter before this bid is withdrawn, the undersigned will execute and deliver an Agreement in the prescribed form promptly after is has been presented to him for signature. Certificates of Insurance and Performance and Payment bonds shall be furnished to the Owner at the execution of this agreement and as required by North Carolina General Statutes.

The undersigned bidder agrees to submit evidence in affidavit form of applicable experience, adequate financial resources, work in hand capacity, adequate organization, and acceptable past performance. Submittal will be in the form of AIA Document A305 Contractor’s Qualification Statement. Bidder’s qualifications information shall be considered confidential.

The undersigned bidder certifies that neither he/she, nor any official, agent or employee has entered into any agreement, participated in any collusion, or otherwise taken any action which is in restraint of free competitive bidding in conjunction with this bid. The person signing this bid form represents that he/she has full authority and representative capacity to execute this Bid Form in the capacity indicated below.

The undersigned bidder agrees that they are expected to act as Project Expediter and coordinate work of all other contractors.

The firm signing this bid and registered under that name is legally qualified to perform all work included in the scope of the contract as determined by the State of North Carolina, in granting the registration.

**PROPOSAL SIGNATURE:**

Respectfully submitted this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
(Name of firm or corporation making bid)

By: \_\_\_\_\_  
Signature and Typed Name

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

Address of Bidder: \_\_\_\_\_  
\_\_\_\_\_

Bidders N.C. Contractor License No. \_\_\_\_\_

Type of License: \_\_\_\_\_

(Seal)

Limitations: \_\_\_\_\_

Attest:

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

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

END OF DOCUMENT 00 41 13

Instructions for Completing  
Certificate for North Carolina Sales Tax Form

---

Union County may apply for a refund of all sales and/or use taxes paid in North Carolina by the County's contractors on purchases of building materials, supplies, fixtures and equipment which become a part of or are annexed to any building or structure being erected, altered or repaired under contract with the County. Contractors shall include and must pay all other taxes imposed by governmental authorities which are applicable to the contract work. Examples of property on which sales and use tax has been paid by the contractor and for which the contractor will not be reimbursed by the County are scaffolding, forms for concrete, fuel for the operation of machinery and equipment, tools, equipment repair parts and equipment rentals, blueprints, etc, or any other items which do not become a part of or are not annexed to the building or structure being erected, altered, or repaired.

Please submit with this form invoices (or copies of invoices) from vendors covering the items purchased. This form should still be submitted as "0" if no sales tax was paid for the period covered.

Requests for sales tax reimbursements should be filed with each request for contract payment.

**Project or Contract Number:** The name of the project, or the County Contract Number.

**Date:** The date the form was completed.

**Trade:** Your trade, e.g., electrical, plumbing, concrete contractor, etc.

**Contractor:** The name of your company.

**Invoice Date:** The date the materials were purchased.

**Invoice Number:** The vendor's invoice number.

**Name of Vendor:** The vendor's name.

**Description of Materials:** The type of materials purchased, e.g., concrete, nails, roofing material, etc.

**Item Cost:** The cost of the item(s) before any taxes are added.

**State Tax:** The North Carolina State tax, currently 4.75% of the item cost.

**County Tax:** The County tax, currently 2% of the item cost.

**Total Invoice:** The sum of the Item Cost, State Tax, and County Tax.

**County Name:** County where material was purchased and sales tax paid, e.g., Mecklenburg, Union, Cabarrus, etc. The owner or an officer of the company must certify that the statement is correct. The signature should also be notarized.



## Certificate for North Carolina Sales Tax

Trade: \_\_\_\_\_

Contractor: \_\_\_\_\_

Project or Contract Number: \_\_\_\_\_

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

Invoice Date	Invoice Number	Name of Vendor	Description of Materials	Item Cost	State Tax	County Tax	Total Invoice	County Name
<b>Totals:</b>								

This is to certify that the above materials purchased on the invoices listed were used in the construction of the \_\_\_\_\_ and that the Sales Tax listed (State and County) is not included on the monthly estimate for contract payment or any other certificate for North Carolina sales tax. Further, that the items listed are annexed to, affixed to, or in some manner have become a part of the building or structure being erected, altered or repaired.

Certified to be correct by: \_\_\_\_\_  
Owner or Officer of Company

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

\_\_\_\_\_  
 (SEAL)  
 Notary Public

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



1.1 FORM OF AGREEMENT

- A. The following form of Owner/Contractor Agreement shall be utilized for the Project:
  - 1. AIA Document A101, Standard Form of Agreement Between Owner and Contractor, Stipulated Sum, 2017 Edition, as modified by Owner; sample attached at end of section.
  - 2. AIA Document A101 Exhibit A Insurance and Bonds, 2017 Edition, as modified by Owner; sample attached at end of section.
- B. Union County requires the successful bidder to submit five, (5) original agreement forms which shall be undated at the time of submission to the County. Forms will be dated by the County upon execution of the agreements.
- C. Union County requires the successful bidder to submit each copy with original wet ink signature, and original wet or raised corporate seal.

END OF DOCUMENT 00 52 00

# DRAFT AIA® Document A104® - 2017

## Standard Abbreviated 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)

« »  
« »  
« »

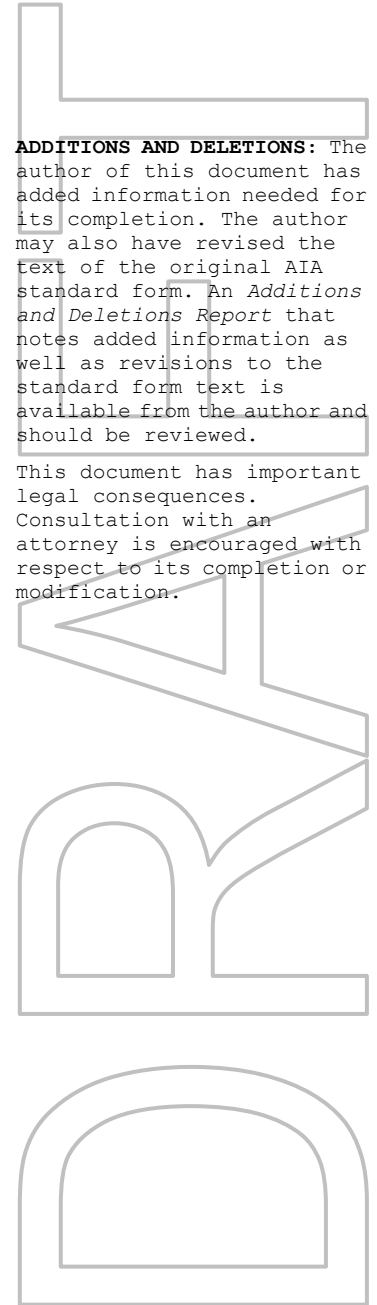
The Architect:  
(Name, legal status, address and other information)

« »  
« »  
« »  
« »

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.

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



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**TABLE OF ARTICLES**

**1 THE WORK OF THIS CONTRACT**

**2 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION**

**3 CONTRACT SUM**

**4 PAYMENT**

**5 DISPUTE RESOLUTION**

**6 ENUMERATION OF CONTRACT DOCUMENTS**

**7 GENERAL PROVISIONS**

**8 OWNER**

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**13 CHANGES IN THE WORK**

**14 TIME**

**15 PAYMENTS AND COMPLETION**

**16 PROTECTION OF PERSONS AND PROPERTY**

**17 INSURANCE AND BONDS**

**18 CORRECTION OF WORK**

**19 MISCELLANEOUS PROVISIONS**

**20 TERMINATION OF THE CONTRACT**

**21 CLAIMS AND DISPUTES**

**EXHIBIT A DETERMINATION OF THE COST OF THE WORK**

**ARTICLE 1 THE WORK OF THIS CONTRACT**

The Contractor shall execute the Work described in the Contract Documents, except as specifically indicated in the Contract Documents to be the responsibility of others.

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

**§ 2.1** The date of commencement of the Work shall be:

*(Check one of the following boxes.)*

[  ] The date of this Agreement.

[  ] A date set forth in a notice to proceed issued by the Owner.



[ « » ] Established as follows:  
(Insert a date or a means to determine the date of commencement of the Work.)

« »

If a date of commencement of the Work is not selected, then the date of commencement shall be the date of this Agreement.

§ 2.2 The Contract Time shall be measured from the date of commencement.

§ 2.3 Substantial Completion

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

[ « » ] Not later than « » ( « » ) calendar days from the date of commencement of the Work.

[ « » ] By the following date: « »

§ 2.3.2 Subject to adjustments of the Contract Time as provided in the Contract Documents, if portions of the Work are to be completed prior to Substantial Completion of the entire Work, the Contractor shall achieve Substantial Completion of such portions by the following dates:

Portion of Work

Substantial Completion Date

§ 2.3.3 If the Contractor fails to achieve Substantial Completion as provided in this Section 2.3, liquidated damages, if any, shall be assessed as set forth in Section 3.5.

ARTICLE 3 CONTRACT SUM

§ 3.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the Contract. The Contract Sum shall be one of the following:  
(Check the appropriate box.)

[ « » ] Stipulated Sum, in accordance with Section 3.2 below

[ « » ] Cost of the Work plus the Contractor's Fee, in accordance with Section 3.3 below

[ « » ] Cost of the Work plus the Contractor's Fee with a Guaranteed Maximum Price, in accordance with Section 3.4 below

(Based on the selection above, complete Section 3.2, 3.3 or 3.4 below.)

§ 3.2 The Stipulated Sum shall be « » (\$ « » ), subject to additions and deductions as provided in the Contract Documents.

§ 3.2.1 The Stipulated Sum is based upon the following alternates, if any, which are described in the Contract Documents and are hereby accepted by the Owner:  
(State the numbers or other identification of 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.)

« »

§ 3.2.2 Unit prices, if any:

(Identify the item and state the unit price and the quantity limitations, if any, to which the unit price will be applicable.)

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

§ 3.2.3 Allowances, if any, included in the stipulated sum:  
(Identify each allowance.)

Item	Price

§ 3.3 Cost of the Work Plus Contractor's Fee

§ 3.3.1 The Cost of the Work is as defined in Exhibit A, Determination of the Cost of the Work.

§ 3.3.2 The Contractor's Fee:

(State a lump sum, percentage of Cost of the Work or other provision for determining the Contractor's Fee and the method of adjustment to the Fee for changes in the Work.)

<< >>

§ 3.4 Cost of the Work Plus Contractor's Fee With a Guaranteed Maximum Price

§ 3.4.1 The Cost of the Work is as defined in Exhibit A, Determination of the Cost of the Work.

§ 3.4.2 The Contractor's Fee:

(State a lump sum, percentage of Cost of the Work or other provision for determining the Contractor's Fee and the method of adjustment to the Fee for changes in the Work.)

<< >>

§ 3.4.3 Guaranteed Maximum Price

§ 3.4.3.1 The sum of the Cost of the Work and the Contractor's Fee is guaranteed by the Contractor not to exceed << >> (\$ << >>), subject to additions and deductions by changes in the Work as provided in the Contract Documents. This maximum sum is referred to in the Contract Documents as the Guaranteed Maximum Price. Costs which would cause the Guaranteed Maximum Price to be exceeded shall be paid by the Contractor without reimbursement by the Owner. (Insert specific provisions if the Contractor is to participate in any savings.)

<< >>

§ 3.4.3.2 The Guaranteed Maximum Price is based on the following alternates, if any, which are described in the Contract Documents and are hereby accepted by the Owner:

(State the numbers or other identification of 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.)

<< >>

§ 3.4.3.3 Unit Prices, if any:

(Identify the item and state the unit price and the quantity limitations, if any, to which the unit price will be applicable.)

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

§ 3.4.3.4 Allowances, if any, included in the Guaranteed Maximum Price:

(Identify each allowance.)

Item	Price

§ 3.4.3.5 Assumptions, if any, on which the Guaranteed Maximum Price is based:

« »

§ 3.4.3.6 To the extent that the Contract Documents are anticipated to require further development, the Guaranteed Maximum Price includes the costs attributable to such further development consistent with the Contract Documents and reasonably inferable therefrom. Such further development does not include changes in scope, systems, kinds and quality of materials, finishes or equipment, all of which, if required, shall be incorporated by Change Order.

§ 3.4.3.7 The Owner shall authorize preparation of revisions to the Contract Documents that incorporate the agreed-upon assumptions contained in Section 3.4.3.5. The Owner shall promptly furnish such revised Contract Documents to the Contractor. The Contractor shall notify the Owner and Architect of any inconsistencies between the agreed-upon assumptions contained in Section 3.4.3.5 and the revised Contract Documents.

§ 3.5 Liquidated damages, if any:

*(Insert terms and conditions for liquidated damages, if any.)*

« »

## ARTICLE 4 PAYMENT

### § 4.1 Progress Payments

§ 4.1.1 Based upon Applications for Payment submitted to the Architect by the Contractor and Certificates for Payment issued by the Architect, the Owner shall make progress payments on account of the Contract Sum to the Contractor as provided below and elsewhere in the Contract Documents.

§ 4.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month, or as follows:

« »

§ 4.1.3 Provided that an Application for Payment is received by the Architect not later than the « » day of a month, the Owner shall make payment of the certified amount to the Contractor not later than the « » day of the « » month. If an Application for Payment is received by the Architect after the date fixed above, payment shall be made by the Owner not later than « » ( « » ) days after the Architect receives the Application for Payment.  
*(Federal, state or local laws may require payment within a certain period of time.)*

§ 4.1.4 For each progress payment made prior to Substantial Completion of the Work, the Owner may withhold retainage from the payment otherwise due as follows:  
*(Insert a percentage or amount to be withheld as retainage from each Application for Payment and any terms for reduction of retainage during the course of the Work. The amount of retainage may be limited by governing law.)*

« »

§ 4.1.5 Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below, or in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.  
*(Insert rate of interest agreed upon, if any.)*

« » % « »

### § 4.2 Final Payment

§ 4.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor when

- .1 the Contractor has fully performed the Contract except for the Contractor's responsibility to correct Work as provided in Section 18.2, and to satisfy other requirements, if any, which extend beyond final payment;

- .2 the Contractor has submitted a final accounting for the Cost of the Work, where payment is on the basis of the Cost of the Work with or without a Guaranteed Maximum Price; and
- .3 a final Certificate for Payment has been issued by the Architect in accordance with Section 15.7.1.

§ 4.2.2 The Owner’s final payment to the Contractor shall be made no later than 30 days after the issuance of the Architect’s final Certificate for Payment, or as follows:

<< >>

**ARTICLE 5 DISPUTE RESOLUTION**

**§ 5.1 Binding Dispute Resolution**

For any claim subject to, but not resolved by, mediation pursuant to Section 21.5, the method of binding dispute resolution shall be as follows:

*(Check the appropriate box.)*

Arbitration pursuant to Section 21.6 of this Agreement

Litigation in a court of competent jurisdiction

Other *(Specify)*

<< >>

If the Owner and Contractor do not select a method of binding dispute resolution, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, claims will be resolved in a court of competent jurisdiction.

**ARTICLE 6 ENUMERATION OF CONTRACT DOCUMENTS**

§ 6.1 The Contract Documents are defined in Article 7 and, except for Modifications issued after execution of this Agreement, are enumerated in the sections below.

§ 6.1.1 The Agreement is this executed AIA Document A104™–2017, Standard Abbreviated Form of Agreement Between Owner and Contractor.

§ 6.1.2 AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:

*(Insert the date of the E203–2013 incorporated into this Agreement.)*

<< >>

§ 6.1.3 The Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages

§ 6.1.4 The Specifications:

*(Either list the Specifications here or refer to an exhibit attached to this Agreement.)*

<< >>

Section	Title	Date	Pages

§ 6.1.5 The Drawings:

*(Either list the Drawings here or refer to an exhibit attached to this Agreement.)*

Number	Title	Date

§ 6.1.6 The Addenda, if any:

Number	Date	Pages

Portions of Addenda relating to bidding or proposal requirements are not part of the Contract Documents unless the bidding or proposal requirements are enumerated in this Article 6.

§ 6.1.7 Additional documents, if any, forming part of the Contract Documents:

.1 Other Exhibits:

(Check all boxes that apply.)

[  ] Exhibit A, Determination of the Cost of the Work.

[  ] AIA Document E204™-2017, Sustainable Projects Exhibit, dated as indicated below:  
(Insert the date of the E204-2017 incorporated into this Agreement.)

<< >>

[  ] The Sustainability Plan:

Title	Date	Pages

[  ] Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages

.2 Other documents, if any, listed below:

(List here any additional documents that are intended to form part of the Contract Documents.)

<< >>

ARTICLE 7 GENERAL PROVISIONS

§ 7.1 The Contract Documents

The Contract Documents are enumerated in Article 6 and consist of this Agreement (including, if applicable, Supplementary and other Conditions of the Contract), Drawings, Specifications, Addenda issued prior to the execution of this Agreement, other documents listed in this Agreement, and Modifications issued after execution of this Agreement. A Modification is (1) a written amendment to the Contract signed by both parties, (2) a Change Order, (3) a Construction Change Directive, or (4) a written order for a minor change in the Work issued by the Architect. The 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 to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the indicated results.

§ 7.2 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 between any persons or entities other than the Owner and the Contractor.



### § 7.3 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.

### § 7.4 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.

### § 7.5 Ownership and use of Drawings, Specifications and Other Instruments of Service

§ 7.5.1 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 will 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.

§ 7.5.2 The Contractor, Subcontractors, Sub-subcontractors and suppliers are authorized to use and reproduce the Instruments of Service provided to them, subject to the protocols established pursuant to Sections 7.6 and 7.7, 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 this Project outside the scope of the Work without the specific written consent of the Owner, Architect and the Architect’s consultants.

### § 7.6 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.

### § 7.7 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 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.

### § 7.8 Severability

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.

### § 7.9 Notice

§ 7.9.1 Except as otherwise provided in Section 7.9.2, 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 in accordance with AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, if completed, or as otherwise set forth below:

*(If other than in accordance with AIA Document E203–2013, insert requirements for delivering Notice in electronic format 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.)*

**§ 7.9.2** Notice of Claims 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.

**§ 7.10 Relationship of the Parties**

Where the Contract is based on the Cost of the Work plus the Contractor's Fee, with or without a Guaranteed Maximum Price, the Contractor accepts the relationship of trust and confidence established by this Agreement and covenants with the Owner to cooperate with the Architect and exercise the Contractor's skill and judgment in furthering the interests of the Owner; to furnish efficient business administration and supervision; to furnish at all times an adequate supply of workers and materials; and to perform the Work in an expeditious and economical manner consistent with the Owner's interests. The Owner agrees to furnish and approve, in a timely manner, information required by the Contractor and to make payments to the Contractor in accordance with the requirements of the Contract Documents.

**ARTICLE 8 OWNER**

**§ 8.1 Information and Services Required of the Owner**

**§ 8.1.1** Prior to commencement of the Work, at the 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 8.1.1, the Contract Time shall be extended appropriately.

**§ 8.1.2** The Owner shall furnish all necessary surveys and a legal description of the site.

**§ 8.1.3** 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.

**§ 8.1.4** Except for permits and fees that are the responsibility of the Contractor under the Contract Documents, including those required under Section 9.6.1, the Owner shall secure and pay for other necessary approvals, easements, assessments, and charges required for the construction, use, or occupancy of permanent structures or for permanent changes in existing facilities.

**§ 8.2 Owner's Right to Stop the Work**

If the Contractor fails to correct Work which is not in accordance with the requirements of the Contract Documents, or repeatedly fails to carry out the 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 is 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.

**§ 8.3 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 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 any 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 15.4.3, 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 the Owner's expenses and compensation for the Architect's additional services made necessary by such default, neglect, or failure. 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 21.

## ARTICLE 9 CONTRACTOR

### § 9.1 Review of Contract Documents and Field Conditions by Contractor

§ 9.1.1 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.

§ 9.1.2 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 8.1.2, 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.

§ 9.1.3 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.

### § 9.2 Supervision and Construction Procedures

§ 9.2.1 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, unless the Contract Documents give other specific instructions concerning these matters.

§ 9.2.2 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.

### § 9.3 Labor and Materials

§ 9.3.1 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.

§ 9.3.2 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 skilled in tasks assigned to them.

§ 9.3.3 The Contractor may make a substitution only with the consent of the Owner, after evaluation by the Architect and in accordance with a Modification.

### § 9.4 Warranty

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 under normal usage. All other 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 15.6.3.

## § 9.5 Taxes

The Contractor shall pay sales, consumer, use, and other similar taxes that are legally enacted when bids are received or negotiations concluded, whether or not yet effective or merely scheduled to go into effect.

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

§ 9.6.1 Unless otherwise provided in the Contract Documents, the Contractor shall secure and pay for the building permit as well as 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.

§ 9.6.2 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. 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.

## § 9.7 Allowances

The Contractor shall include in the Contract Sum all allowances stated in the Contract Documents. The Owner shall select materials and equipment under allowances with reasonable promptness. Allowance amounts shall include the costs to the Contractor of materials and equipment delivered at the site and all required taxes, less applicable trade discounts. Contractor's costs for unloading and handling at the site, labor, installation, overhead, profit, and other expenses contemplated for stated allowance amounts shall be included in the Contract Sum but not in the allowance.

## § 9.8 Contractor's Construction Schedules

§ 9.8.1 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 not exceed time limits current under the Contract Documents, shall be revised at appropriate intervals as required by the conditions of the Work and Project, shall be related to the entire Project to the extent required by the Contract Documents, and shall provide for expeditious and practicable execution of the Work.

§ 9.8.2 The Contractor shall perform the Work in general accordance with the most recent schedule submitted to the Owner and Architect.

## § 9.9 Submittals

§ 9.9.1 The Contractor shall review for compliance with the Contract Documents and submit to the Architect Shop Drawings, Product Data, Samples, and similar submittals required by the Contract Documents in coordination with the Contractor's construction schedule and in such sequence as to allow the Architect reasonable time for review. 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. The Work shall be in accordance with approved submittals.

§ 9.9.2 Shop Drawings, Product Data, Samples and similar submittals are not Contract Documents.

§ 9.9.3 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 or unless the Contractor needs to provide such services in order to carry out the Contractor's own responsibilities. If professional design services or certifications by a design professional are specifically required, the Owner and the Architect will specify the performance and design criteria that such services must satisfy. The Contractor shall cause such services or certifications to be provided by an appropriately licensed design professional. If no criteria are specified, the design shall comply with applicable codes and ordinances. Each Party shall be entitled to rely upon the information provided by the other Party. The Architect will review and approve or take other appropriate action on submittals for the limited purpose of checking for conformance with information provided and the design concept expressed in the Contract Documents. The Architect's review of Shop Drawings, Product Data, Samples, and similar submittals shall be for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract

Documents. In performing such review, the Architect will approve, or take other appropriate action upon, the Contractor's Shop Drawings, Product Data, Samples, and similar submittals.

#### **§ 9.10 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.

#### **§ 9.11 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.

#### **§ 9.12 Cleaning Up**

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 material from and about the Project.

#### **§ 9.13 Access to Work**

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

#### **§ 9.14 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.

#### **§ 9.15 Indemnification**

**§ 9.15.1** 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 which would otherwise exist as to a party or person described in this Section 9.15.1.

**§ 9.15.2** In claims against any person or entity indemnified under this Section 9.15 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 9.15.1 shall not be limited by a limitation on amount or type of damages, compensation or benefits payable by or for the Contractor or Subcontractor under workers' compensation acts, disability benefit acts or other employee benefit acts.

### **ARTICLE 10 ARCHITECT**

**§ 10.1** 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, unless otherwise modified in writing in accordance with other provisions of the Contract.

**§ 10.2** 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.

§ 10.3 The Architect will visit the site at intervals appropriate to the stage of the construction 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 safety precautions and programs in connection with the Work, since these are solely the Contractor's rights and responsibilities under the Contract Documents.

§ 10.4 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.

§ 10.5 Based on the Architect's evaluations of the Work and 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.

§ 10.6 The Architect has authority to reject Work that does not conform to the Contract Documents and to require inspection or testing of the Work.

§ 10.7 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.

§ 10.8 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 will make initial decisions on all claims, disputes, and other matters in question between the Owner and Contractor but will not be liable for results of any interpretations or decisions rendered in good faith.

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

## **ARTICLE 11 SUBCONTRACTORS**

§ 11.1 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.

§ 11.2 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 Subcontractors or suppliers proposed for each of the principal portions of the Work. The Contractor shall not contract with any Subcontractor or supplier to whom the Owner or Architect has made reasonable written objection within ten days after receipt of the Contractor's list of Subcontractors and suppliers. 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. The Contractor shall not be required to contract with anyone to whom the Contractor has made reasonable objection.

§ 11.3 Contracts between the Contractor and Subcontractors shall (1) require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by the 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, which the Contractor, by the Contract Documents, assumes toward the Owner and Architect, and (2) allow the Subcontractor the benefit of all rights, remedies and redress against the Contractor that the Contractor, by these Contract Documents, has against the Owner.

## **ARTICLE 12 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS**

§ 12.1 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.

§ 12.2 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 activities with theirs as required by the Contract Documents.

§ 12.3 The Owner shall be reimbursed by the Contractor for costs incurred by the Owner which are payable to a Separate Contractor because of delays, improperly timed activities, or defective construction of the Contractor. The Owner shall be responsible to the Contractor for costs incurred by the Contractor because of delays, improperly timed activities, damage to the Work, or defective construction of a Separate Contractor.

## **ARTICLE 13 CHANGES IN THE WORK**

§ 13.1 By appropriate Modification, changes in the Work may be accomplished after execution of the Contract. 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, with the Contract Sum and Contract Time being adjusted accordingly. Such changes in the Work shall be authorized by written Change Order signed by the Owner, Contractor, and Architect, or by written Construction Change Directive signed by the Owner and Architect. Upon issuance of the Change Order or Construction Change Directive, the Contractor shall proceed promptly with such changes in the Work, unless otherwise provided in the Change Order or Construction Change Directive.

§ 13.2 Adjustments in the Contract Sum and Contract Time resulting from a change in the Work shall be determined by mutual agreement of the parties or, in the case of a Construction Change Directive signed only by the Owner and Architect, by the Contractor’s cost of labor, material, equipment, and reasonable overhead and profit, unless the parties agree on another method for determining the cost or credit. Pending final determination of the total cost of a Construction Change Directive, the Contractor may request payment for Work completed pursuant to the Construction Change Directive. The Architect will make an interim determination of the amount of payment due for purposes of certifying the Contractor’s monthly Application for Payment. When the Owner and Contractor agree on adjustments to the Contract Sum and Contract Time arising from a Construction Change Directive, the Architect will prepare a Change Order.

§ 13.3 The Architect will have authority to order minor changes in the Work not involving adjustment in the Contract Sum or extension of the Contract Time and not inconsistent with the intent of the Contract Documents. Such changes shall be effected by written order and shall be binding on the Owner and Contractor. The Contractor shall carry out such written orders promptly. If the Contractor believes that the proposed minor change in the Work will affect the Contract Sum or Contract Time, the Contractor shall notify the Architect and shall not proceed to implement the change in the Work.

§ 13.4 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 equitably adjusted as mutually agreed between the Owner and Contractor; provided that the Contractor provides notice to the Owner and Architect promptly and before conditions are disturbed.

## **ARTICLE 14 TIME**

§ 14.1 Time limits stated in the Contract Documents are of the essence of the Contract. By executing this Agreement the Contractor confirms that the Contract Time is a reasonable period for performing the Work.

§ 14.2 Unless otherwise provided, Contract Time is the period of time, including authorized adjustments, allotted in the Contract Documents for Substantial Completion of the Work.

§ 14.3 The term “day” as used in the Contract Documents shall mean calendar day unless otherwise specifically defined.

§ 14.4 The date of Substantial Completion is the date certified by the Architect in accordance with Section 15.6.3.

§ 14.5 If the Contractor is delayed at any time in the commencement or progress of the Work by (1) changes ordered in the Work; (2) by labor disputes, fire, unusual delay in deliveries, abnormal adverse weather conditions not reasonably anticipatable, unavoidable casualties, or any causes beyond the Contractor's control; or (3) 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, subject to the provisions of Article 21.

## ARTICLE 15 PAYMENTS AND COMPLETION

### § 15.1 Schedule of Values

§ 15.1.1 Where the Contract is based on a Stipulated Sum or the Cost of the Work with a Guaranteed Maximum Price pursuant to Section 3.2 or 3.4, the Contractor shall submit a schedule of values to the Architect before the first Application for Payment, allocating the entire Stipulated Sum or Guaranteed Maximum Price 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 of values shall be used as a basis for reviewing the Contractor's Applications for Payment.

§ 15.1.2 The allocation of the Stipulated Sum or Guaranteed Maximum Price under this Section 15.1 shall not constitute a separate stipulated sum or guaranteed maximum price for each individual line item in the schedule of values.

### § 15.2 Control Estimate

§ 15.2.1 Where the Contract Sum is the Cost of the Work, plus the Contractor's Fee without a Guaranteed Maximum Price pursuant to Section 3.3, the Contractor shall prepare and submit to the Owner a Control Estimate within 14 days of executing this Agreement. The Control Estimate shall include the estimated Cost of the Work plus the Contractor's Fee.

§ 15.2.2 The Control Estimate shall include:

- .1 the documents enumerated in Article 6, including all Modifications thereto;
- .2 a list of the assumptions made by the Contractor in the preparation of the Control Estimate to supplement the information provided by the Owner and contained in the Contract Documents;
- .3 a statement of the estimated Cost of the Work organized by trade categories or systems and the Contractor's Fee;
- .4 a project schedule upon which the Control Estimate is based, indicating proposed Subcontractors, activity sequences and durations, milestone dates for receipt and approval of pertinent information, schedule of shop drawings and samples, procurement and delivery of materials or equipment the Owner's occupancy requirements, and the date of Substantial Completion; and
- .5 a list of any contingency amounts included in the Control Estimate for further development of design and construction.

§ 15.2.3 When the Control Estimate is acceptable to the Owner and Architect, the Owner shall acknowledge it in writing. The Owner's acceptance of the Control Estimate does not imply that the Control Estimate constitutes a Guaranteed Maximum Price.

§ 15.2.4 The Contractor shall develop and implement a detailed system of cost control that will provide the Owner and Architect with timely information as to the anticipated total Cost of the Work. The cost control system shall compare the Control Estimate with the actual cost for activities in progress and estimates for uncompleted tasks and proposed changes. This information shall be reported to the Owner, in writing, no later than the Contractor's first Application for Payment and shall be revised and submitted with each Application for Payment.

§ 15.2.5 The Owner shall authorize preparation of revisions to the Contract Documents that incorporate the agreed-upon assumptions contained in the Control Estimate. The Owner shall promptly furnish such revised Contract Documents to the Contractor. The Contractor shall notify the Owner and Architect of any inconsistencies between the Control Estimate and the revised Contract Documents.



### § 15.3 Applications for Payment

§ 15.3.1 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 15.1, for completed portions of the Work. The application shall be notarized, if required; be supported by all data substantiating the Contractor's right to payment that the Owner or Architect require; shall reflect retainage if provided for in the Contract Documents; and include any revised cost control information required by Section 15.2.4. 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.

§ 15.3.2 With each Application for Payment where the Contract Sum is based upon the Cost of the Work, or the Cost of the Work with a Guaranteed Maximum Price, the Contractor shall submit payrolls, petty cash accounts, receipted invoices or invoices with check vouchers attached, and any other evidence required by the Owner to demonstrate that cash disbursements already made by the Contractor on account of the Cost of the Work equal or exceed progress payments already received by the Contractor plus payrolls for the period covered by the present Application for Payment, less that portion of the progress payments attributable to the Contractor's Fee.

§ 15.3.3 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.

§ 15.3.4 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 other encumbrances adverse to the Owner's interests.

### § 15.4 Certificates for Payment

§ 15.4.1 The Architect will, within seven days after receipt of the Contractor's Application for Payment, either issue to the Owner a Certificate for Payment, with a copy to the Contractor, for such amount as the Architect determines is properly due, or notify the Contractor and Owner of the Architect's reasons for withholding certification in whole or in part as provided in Section 15.4.3.

§ 15.4.2 The issuance of a Certificate for Payment will constitute a representation by the Architect to the Owner, based on the Architect's evaluations 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 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.

§ 15.4.3 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 15.4.2 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 15.4.1. If the Contractor and the 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 9.2.2, 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;
- .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.

§ 15.4.4 When either party disputes the Architect's decision regarding a Certificate for Payment under Section 15.4.3, in whole or in part, that party may submit a Claim in accordance with Article 21.

### § 15.5 Progress Payments

§ 15.5.1 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.

§ 15.5.2 Neither the Owner nor Architect shall have an obligation to pay or see to the payment of money to a Subcontractor or supplier except as may otherwise be required by law.

§ 15.5.3 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.

§ 15.5.4 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.

### § 15.6 Substantial Completion

§ 15.6.1 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.

§ 15.6.2 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.

§ 15.6.3 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. When the Architect determines that the Work or designated portion thereof is substantially complete, the Architect will issue a Certificate of Substantial Completion which 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.

§ 15.6.4 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.

## § 15.7 Final Completion and Final Payment

§ 15.7.1 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 and, 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 stated in Section 15.7.2 as precedent to the Contractor's being entitled to final payment have been fulfilled.

§ 15.7.2 Final payment shall not become due until the Contractor has delivered to the Owner a complete release of all liens arising out of this Contract or receipts in full covering all labor, materials and equipment for which a lien could be filed, or a bond satisfactory to the Owner to indemnify the Owner against such lien. If such lien 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 such lien, including costs and reasonable attorneys' fees.

§ 15.7.3 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.

§ 15.7.4 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 the final Application for Payment.

## ARTICLE 16 PROTECTION OF PERSONS AND PROPERTY

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

- .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.

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 and property and their protection from damage, injury, or loss. The Contractor shall promptly remedy damage and loss to property 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 16.1.2 and 16.1.3. 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 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 9.15.

### § 16.2 Hazardous Materials and Substances

§ 16.2.1 The Contractor is responsible for compliance with the requirements of 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. 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 in the amount of the Contractor's reasonable additional costs of shutdown, delay, and start-up.

§ 16.2.2 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 16.2.1 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.

§ 16.2.3 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 indemnify the Contractor for all cost and expense thereby incurred.

## ARTICLE 17 INSURANCE AND BONDS

### § 17.1 Contractor's Insurance

§ 17.1.1 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 this Section 17.1 or elsewhere in the Contract Documents. The Contractor shall purchase and maintain the insurance required by this Agreement from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Contractor shall maintain the required insurance until the expiration of the period for correction of Work as set forth in Section 18.4, unless a different duration is stated below:

« »

§ 17.1.2 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, providing coverage for claims including

- .1 damages because of bodily injury, sickness or disease, including occupational sickness or disease, and death of any person;
- .2 personal and advertising injury;
- .3 damages because of physical damage to or destruction of tangible property, including the loss of use of such property;
- .4 bodily injury or property damage arising out of completed operations; and
- .5 the Contractor's indemnity obligations under Section 9.15.

§ 17.1.3 Automobile Liability covering vehicles owned by the Contractor 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.

§ 17.1.4 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 such primary and excess or umbrella insurance policies result in the same or greater coverage as those required under Section 17.1.2 and 17.1.3, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers.

§ 17.1.5 Workers' Compensation at statutory limits.

§ 17.1.6 Employers' Liability with policy limits not less than « » (\$ « ») each accident, « » (\$ « ») each employee, and « » (\$ « ») policy limit.

§ 17.1.7 If the Contractor is required to furnish professional services as part of the Work, the Contractor shall procure Professional Liability insurance covering performance of the professional services, with policy limits of not less than « » (\$ « ») per claim and « » (\$ « ») in the aggregate.

§ 17.1.8 If the Work involves the transport, dissemination, use, or release of pollutants, the Contractor shall procure Pollution Liability insurance, with policy limits of not less than « » (\$ « ») per claim and « » (\$ « ») in the aggregate.

§ 17.1.9 Coverage under Sections 17.1.7 and 17.1.8 may be procured through a Combined Professional Liability and Pollution Liability insurance policy, with combined policy limits of not less than « » (\$ « ») per claim and « » (\$ « ») in the aggregate.

§ 17.1.10 The Contractor shall provide certificates of insurance acceptable to the Owner evidencing compliance with the requirements in this Section 17.1 at the following times: (1) prior to commencement of the Work; (2) upon renewal or replacement of each required policy of insurance; and (3) upon the Owner's written request. An additional certificate evidencing continuation of liability coverage, including coverage for completed operations, shall be submitted with the final Application for Payment and thereafter upon renewal or replacement of such coverage until the expiration of the period required by Section 17.1.1. The certificates will show the Owner as an additional insured on the Contractor's Commercial General Liability and excess or umbrella liability policy.

§ 17.1.11 The Contractor shall disclose to the Owner any deductible or self- insured retentions applicable to any insurance required to be provided by the Contractor.

§ 17.1.12 To the fullest extent permitted by law, the Contractor shall cause the commercial liability coverage required by this Section 17.1 to include (1) the Owner, the Architect, and the Architect's Consultants as additional insureds for claims caused in whole or in part by the Contractor's negligent acts or omissions during the Contractor's operations; and (2) the Owner as an additional insured for claims caused in whole or in part by the Contractor's negligent acts or omissions for which loss occurs during completed operations. The additional insured coverage shall be primary and non-contributory to any of the Owner's general liability insurance policies and shall apply to both ongoing and completed operations. To the extent commercially available, the additional insured coverage shall be no less than that provided by Insurance Services Office, Inc. (ISO) forms CG 20 10 07 04, CG 20 37 07 04, and, with respect to the Architect and the Architect's Consultants, CG 20 32 07 04.

§ 17.1.13 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 this Section 17.1, 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 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.

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

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

Coverage	Limits

**§ 17.2 Owner's Insurance**

**§ 17.2.1 Owner's Liability Insurance**

The Owner shall be responsible for purchasing and maintaining the Owner's usual liability insurance.

**§ 17.2.2 Property Insurance**

§ 17.2.2.1 The Owner shall purchase and maintain, from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located, property insurance written on a builder's risk "all-risks" completed value or equivalent policy form and sufficient to cover the total value of the entire Project on a replacement cost basis. The Owner's property insurance coverage shall be no less than the amount of the initial Contract Sum, plus the value of subsequent Modifications and labor performed or materials or equipment supplied by others. The property insurance shall be maintained until Substantial Completion and thereafter as provided in Section

17.2.2.2, unless otherwise provided in the Contract Documents or otherwise agreed in writing by the parties to this Agreement. This insurance shall include the interests of the Owner, Contractor, Subcontractors, and Sub-subcontractors in the Project as insureds. This insurance shall include the interests of mortgagees as loss payees.

§ 17.2.2.2 Unless the parties agree otherwise, upon Substantial Completion, the Owner shall continue the insurance required by Section 17.2.2.1 or, if necessary, replace the insurance policy required under Section 17.2.2.1 with property insurance written for the total value of the Project that shall remain in effect until expiration of the period for correction of the Work set forth in Section 18.4.

§ 17.2.2.3 If the insurance required by this Section 17.2.2 is subject to deductibles or self-insured retentions, the Owner shall be responsible for all loss not covered because of such deductibles or retentions.

§ 17.2.2.4 If the Work involves remodeling an existing structure or constructing an addition to an existing structure, the Owner shall purchase and maintain, until the expiration of the period for correction of Work as set forth in Section 18.4, “all-risks” property insurance, on a replacement cost basis, protecting the existing structure against direct physical loss or damage, notwithstanding the undertaking of the Work. The Owner shall be responsible for all co-insurance penalties.

§ 17.2.2.5 Prior to commencement of the Work, the Owner shall secure the insurance, and provide evidence of the coverage, required under this Section 17.2.2 and, upon the Contractor’s request, provide a copy of the property insurance policy or policies required by this Section 17.2.2. The copy of the policy or policies provided shall contain all applicable conditions, definitions, exclusions, and endorsements.

§ 17.2.2.6 Within three (3) business days of the date the Owner becomes aware of an impending or actual cancellation or expiration of any insurance required by this Section 17.2.2, 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.

#### § 17.2.2.7 Waiver of Subrogation

§ 17.2.2.7.1 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 this 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 17.2.2.7 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.

§ 17.2.2.7.2 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 17.2.2.7.1 for damages caused by fire or other causes of loss covered by this separate property insurance.

§ 17.2.2.8 A loss insured under the Owner’s property insurance 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. The Owner shall pay the Architect and Contractor their just shares of insurance proceeds received by the Owner, and by appropriate agreements, written where legally required for validity, the Architect and Contractor shall make payments to their consultants and Subcontractors in similar manner.

**§ 17.2.3 Other Insurance Provided by the Owner**

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

Coverage	Limits

**§ 17.3 Performance Bond and Payment Bond**

**§ 17.3.1** The Owner shall have the right to require the Contractor to furnish bonds covering faithful performance of the Contract and payment of obligations arising thereunder as stipulated in the Contract Documents on the date of execution of the Contract.

**§ 17.3.2** 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.

**ARTICLE 18 CORRECTION OF WORK**

**§ 18.1** The Contractor shall promptly correct Work rejected by the Architect or failing to conform to the requirements of the Contract Documents, whether discovered before or after 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, unless compensable under Section A.1.7.3 in Exhibit A, Determination of the Cost of the Work.

**§ 18.2** In addition to the Contractor’s obligations under Section 9.4, 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 15.6.3, or by terms of an 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.

**§ 18.3** If the Contractor fails to correct nonconforming Work within a reasonable time, the Owner may correct it in accordance with Section 8.3.

**§ 18.4** 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.

**§ 18.5** The one-year period for correction of Work shall not be extended by corrective Work performed by the Contractor pursuant to this Article 18.

**ARTICLE 19 MISCELLANEOUS PROVISIONS**

**§ 19.1 Assignment of Contract**

Neither party to the Contract shall assign the Contract without written consent of the other, except that 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 such assignment.

**§ 19.2 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 21.6.

**§ 19.3 Tests and Inspections**

Tests, inspections, and approvals of portions of the Work required by the Contract Documents or by applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities shall be made at an appropriate time. 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.

**§ 19.4 The Owner’s representative:**

*(Name, address, email address and other information)*

« »  
« »  
« »  
« »  
« »  
« »

**§ 19.5 The Contractor’s representative:**

*(Name, address, email address and other information)*

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« »  
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**§ 19.6** Neither the Owner’s nor the Contractor’s representative shall be changed without ten days’ prior notice to the other party.

**ARTICLE 20 TERMINATION OF THE CONTRACT**

**§ 20.1 Termination by the Contractor**

If the Architect fails to certify payment as provided in Section 15.4.1 for a period of 30 days through no fault of the Contractor, or if the Owner fails to make payment as provided in Section 4.1.3 for a period of 30 days, the Contractor may, upon seven additional days’ notice to the Owner and the Architect, terminate the Contract and recover from the Owner payment for Work executed, including reasonable overhead and profit, costs incurred by reason of such termination, and damages.

**§ 20.2 Termination by the Owner for Cause**

**§ 20.2.1** 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 otherwise is guilty of substantial breach of a provision of the Contract Documents.

**§ 20.2.2** When any of the reasons described in Section 20.2.1 exists, the Owner, upon certification by the Architect that sufficient cause exists to justify such action, may, without prejudice to any other remedy the Owner may have and after giving the Contractor seven days’ notice, terminate the Contract and take possession of the site and of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Contractor and may finish the



Work by whatever reasonable method the Owner may deem expedient. Upon 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.

§ 20.2.3 When the Owner terminates the Contract for one of the reasons stated in Section 20.2.1, the Contractor shall not be entitled to receive further payment until the Work is finished.

§ 20.2.4 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 Architect, upon application, and this obligation for payment shall survive termination of the Contract.

### § 20.3 Termination by the Owner for Convenience

The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause. The Owner shall pay the Contractor for Work executed; and costs incurred by reason of such termination, including costs attributable to termination of Subcontracts; and a termination fee, if any, as follows:

*(Insert the amount of or method for determining the fee payable to the Contractor by the Owner following a termination for the Owner's convenience, if any.)*

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## ARTICLE 21 CLAIMS AND DISPUTES

§ 21.1 Claims, disputes, and other matters in question arising out of or relating to this Contract, including those alleging an error or omission by the Architect but excluding those arising under Section 16.2, shall be referred initially to the Architect for decision. Such matters, except those waived as provided for in Section 21.11 and Sections 15.7.3 and 15.7.4, shall, after initial decision by the Architect or 30 days after submission of the matter to the Architect, be subject to mediation as a condition precedent to binding dispute resolution.

### § 21.2 Notice of Claims

§ 21.2.1 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 18.2, shall be initiated by notice to the Architect 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.

§ 21.2.2 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 18.2, shall be initiated by notice to the other party.

### § 21.3 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 in accordance with the requirements of the final dispute resolution method selected in this Agreement whether in contract, tort, breach of warranty, or otherwise, 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 21.3.

§ 21.4 If a claim, dispute or other matter in question relates to or is the subject of a mechanic's lien, the party asserting such matter may proceed in accordance with applicable law to comply with the lien notice or filing deadlines.

§ 21.5 The parties shall endeavor to resolve their disputes by mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with their Construction Industry Mediation Procedures in effect on the date of this Agreement. A request for mediation shall be made in writing, delivered to the other party to this Agreement, and filed with the person or entity administering the mediation. The request may be made concurrently with the binding dispute resolution 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, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

**§ 21.6** If the parties have selected arbitration as the method for binding dispute resolution in this 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 the Construction Industry Arbitration Rules in effect on the date of this Agreement. 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 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.

**§ 21.7** Subject to the rules of the American Arbitration Association or other applicable arbitration rules, either party, at its sole discretion, 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).

**§ 21.8** Subject to the rules of the American Arbitration Association or other applicable arbitration rules, any party to an arbitration 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 a Claim not described in the written Consent.

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

**§ 21.10 Continuing Contract Performance**

Pending final resolution of a Claim, except as otherwise agreed in writing, the Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Contract Documents.

**§ 21.11 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 20. Nothing contained in this Section 21.11 shall be deemed to preclude an award of liquidated damages, when applicable, in accordance with the requirements of the Contract Documents.

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

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

« »« »

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

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

« »« »

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

# DRAFT AIA® Document A104® - 2017

## Exhibit A

### *Determination of the Cost of the Work*

for the following PROJECT:  
(Name, location and brief description)

<< >>  
<< >>  
<< >>

THE OWNER:  
(Name, legal status, address and other information)

<< >>< >>  
<< >>  
<< >>  
<< >>

THE CONTRACTOR:  
(Name, legal status, address and other information)

<< >>< >>  
<< >>  
<< >>  
<< >>

THE ARCHITECT:  
(Name, legal status, address and other information)

<< >>< >>  
<< >>  
<< >>  
<< >>

#### ARTICLE A.1 COSTS TO BE REIMBURSED

##### § A.1.1 Cost of the Work

§ A.1.1.1 The term Cost of the Work shall mean costs necessarily incurred by the Contractor in the proper performance of the Work. The Cost of the Work shall include only the items set forth in this Article A.1.

§ A.1.1.2 Where, pursuant to the Contract Documents, any cost is subject to the Owner's prior approval, the Contractor shall obtain such approval in writing prior to incurring the cost.

##### § A.1.2 Labor Costs

§ A.1.2.1 Wages or salaries of construction workers directly employed by the Contractor to perform the construction of the Work at the site or, with the Owner's prior approval, at off-site workshops.

§ A.1.2.2 Wages or salaries of the Contractor's supervisory and administrative personnel when stationed at the site and performing Work, with the Owner's prior approval.

**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.

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

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§ A.1.2.2.1 Wages or salaries of the Contractor's supervisory and administrative personnel when performing Work and stationed at a location other than the site, but only for that portion of time required for the Work, and limited to the personnel and activities listed below:

*(Identify the personnel, the type of activity, and, if applicable, any agreed percentage of time to be devoted to the Work.)*

<< >>

§ A.1.2.3 Wages or salaries of the Contractor's supervisory or administrative personnel engaged at factories, workshops or while traveling, in expediting the production or transportation of materials or equipment required for the Work, but only for that portion of their time required for the Work.

§ A.1.2.4 Costs paid or incurred by the Contractor, as required by law or collective bargaining agreements, for taxes, insurance, contributions, assessments and benefits, and, for personnel not covered by collective bargaining agreements, customary benefits such as sick leave, medical and health benefits, holidays, vacations, and pensions, provided such costs are based on wages and salaries included in the Cost of the Work under Section A.1.2.

§ A.1.2.5 If agreed rates for labor costs, in lieu of actual costs, are provided in this Agreement, the rates shall remain unchanged throughout the duration of this Agreement, unless the parties execute a Modification.

### § A.1.3 Subcontract Costs

Payments made by the Contractor to Subcontractors in accordance with the requirements of their subcontracts and this Agreement.

### § A.1.4 Costs of Materials and Equipment Incorporated in the Completed Construction

§ A.1.4.1 Costs, including transportation and storage at the site, of materials and equipment incorporated or to be incorporated in the completed construction.

§ A.1.4.2 Costs of materials described in the preceding Section A.1.4.1 in excess of those actually installed to allow for reasonable waste and spoilage. Unused excess materials, if any, shall become the Owner's property at the completion of the Work or, at the Owner's option, shall be sold by the Contractor. Any amounts realized from such sales shall be credited to the Owner as a deduction from the Cost of the Work.

### § A.1.5 Costs of Other Materials and Equipment, Temporary Facilities and Related Items

§ A.1.5.1 Costs of transportation, storage, installation, dismantling, maintenance, and removal of materials, supplies, temporary facilities, machinery, equipment, and hand tools not customarily owned by construction workers that are provided by the Contractor at the site and fully consumed in the performance of the Work. Costs of materials, supplies, temporary facilities, machinery, equipment, and tools that are not fully consumed shall be based on the cost or value of the item at the time it is first used on the Project site less the value of the item when it is no longer used at the Project site. Costs for items not fully consumed by the Contractor shall mean fair market value.

§ A.1.5.2 Rental charges for temporary facilities, machinery, equipment, and hand tools not customarily owned by construction workers that are provided by the Contractor at the site, and costs of transportation, installation, dismantling, minor repairs, and removal of such temporary facilities, machinery, equipment, and hand tools. Rates and quantities of equipment owned by the Contractor, or a related party as defined in Section A.1.8.1, shall be subject to the Owner's prior approval. The total rental cost of any such equipment may not exceed the purchase price of any comparable item.

§ A.1.5.3 Costs of removal of debris from the site of the Work and its proper and legal disposal.

§ A.1.5.4 Costs of the Contractor's site office, including general office equipment and supplies.

### § A.1.6 Miscellaneous Costs

§ A.1.6.1 Premiums for that portion of insurance and bonds required by the Contract Documents that can be directly attributed to this Contract.

§ **A.1.6.1.1** Costs of self-insurance for either full or partial amounts of the coverages required by the Contract Documents, with the Owner's prior approval.

§ **A.1.6.1.2** Costs of insurance through a captive insurer owned or controlled by the Contractor, with the Owner's prior approval.

§ **A.1.6.2** Sales, use, or similar taxes, imposed by a governmental authority that are related to the Work and for which the Contractor is liable.

§ **A.1.6.3** Fees and assessments for the building permit and for other permits, licenses, and inspections for which the Contractor is required by the Contract Documents to pay.

§ **A.1.6.4** Fees of laboratories for tests required by the Contract Documents, except those related to defective or nonconforming Work for which reimbursement is excluded by Article 18 of the Agreement or by other provisions of the Contract Documents, and which do not fall within the scope of Section A.1.7.3.

§ **A.1.6.5** Royalties and license fees paid for the use of a particular design, process, or product required by the Contract Documents.

§ **A.1.6.5.1** The cost of defending suits or claims for infringement of patent rights arising from requirements of the Contract Documents, payments made in accordance with legal judgments against the Contractor resulting from such suits or claims, and payments of settlements made with the Owner's consent, unless the Contractor has reason to believe that the required design, process, or product was an infringement of a copyright or a patent, and the Contractor failed to promptly furnish such information to the Architect as required by Section 9.14 of this Agreement. The costs of legal defenses, judgments, and settlements, shall not be included in the Cost of the Work used to calculate the Contractor's Fee or subject to the Guaranteed Maximum Price.

§ **A.1.6.6** Costs for communications services, electronic equipment, and software directly related to the Work and located at the site, with the Owner's prior approval.

§ **A.1.6.7** Costs of document reproductions and delivery charges.

§ **A.1.6.8** Deposits lost for causes other than the Contractor's negligence or failure to fulfill a specific responsibility in the Contract Documents.

§ **A.1.6.9** Legal, mediation, and arbitration costs, including attorneys' fees, other than those arising from disputes between the Owner and Contractor, reasonably incurred by the Contractor after the execution of this Agreement in the performance of the Work and with the Owner's prior approval, which shall not be unreasonably withheld.

§ **A.1.6.10** Expenses incurred in accordance with the Contractor's standard written personnel policy for relocation and temporary living allowances of the Contractor's personnel required for the Work, with the Owner's prior approval.

§ **A.1.6.11** That portion of the reasonable expenses of the Contractor's supervisory or administrative personnel incurred while traveling in discharge of duties connected with the Work.

**§ A.1.7 Other Costs and Emergencies**

§ **A.1.7.1** Other costs incurred in the performance of the Work with the Owner's prior approval.

§ **A.1.7.2** Costs incurred in taking action to prevent threatened damage, injury or loss in case of an emergency affecting the safety of persons and property.

§ **A.1.7.3** Costs of repairing or correcting damaged or nonconforming Work executed by the Contractor, Subcontractors, or suppliers, provided that such damaged or nonconforming Work was not caused by the negligence of, or failure to fulfill a specific responsibility by, the Contractor, and only to the extent that the cost of repair or correction is not recovered by the Contractor from insurance, sureties, Subcontractors, suppliers, or others.

### **§ A.1.8 Related Party Transactions**

**§ A.1.8.1** For purposes of this Section A.1.8, the term “related party” shall mean (1) a parent, subsidiary, affiliate, or other entity having common ownership of, or sharing common management with the Contractor; (2) any entity in which any stockholder in, or management employee of, the Contractor holds any equity interest in excess of ten percent in the aggregate; (3) any entity which has the right to control the business or affairs of the Contractor; or (4) any person, or any member of the immediate family of any person, who has the right to control the business or affairs of the Contractor.

**§ A.1.8.2** If any of the costs to be reimbursed arise from a transaction between the Contractor and a related party, the Contractor shall notify the Owner of the specific nature of the contemplated transaction, including the identity of the related party and the anticipated cost to be incurred, before any such transaction is consummated or cost incurred. If the Owner, after such notification, authorizes the proposed transaction in writing, then the cost incurred shall be included as a cost to be reimbursed, and the Contractor shall procure the Work, equipment, goods or service from the related party, as a Subcontractor, according to the terms of Article A.4. If the Owner fails to authorize the transaction in writing, the Contractor shall procure the Work, equipment, goods, or service from some person or entity other than a related party according to the terms of Article A.4.

### **ARTICLE A.2 COSTS NOT TO BE REIMBURSED**

**§ A.2.1** The Cost of the Work shall not include the items listed below:

- .1 Salaries and other compensation of the Contractor's personnel stationed at the Contractor's principal office or offices other than the site office, except as specifically provided in Section A.1.2.2;
- .2 Bonuses, profit sharing, incentive compensation, and any other discretionary payments, paid to anyone hired by the Contractor or paid to any Subcontractor or vendor, unless the Owner has provided written approval before such costs are incurred;
- .3 Expenses of the Contractor's principal office and offices other than the site office;
- .4 Overhead and general expenses, except as may be expressly included in Article A.1;
- .5 The Contractor's capital expenses, including interest on the Contractor's capital employed for the Work;
- .6 Except as provided in Section A.1.7.3 of this Agreement, costs due to the negligence of, or failure to fulfill a specific responsibility of the Contract by, the Contractor, Subcontractors and suppliers, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable;
- .7 Any cost not specifically and expressly described in Article A.1; and
- .8 Where a Guaranteed Maximum Price is part of this Agreement, costs, other than costs included in Change Orders approved by the Owner, that would cause the Guaranteed Maximum Price to be exceeded.

### **ARTICLE A.3 DISCOUNTS, REBATES AND REFUNDS**

**§ A.3.1** Cash discounts obtained on payments made by the Contractor shall accrue to the Owner if (1) before making the payment, the Contractor included the amount to be paid, less such discount, in an Application for Payment and received payment from the Owner, or (2) the Owner has deposited funds with the Contractor with which to make payments; otherwise, cash discounts shall accrue to the Contractor. Trade discounts, rebates, refunds, and amounts received from sales of surplus materials and equipment shall accrue to the Owner, and the Contractor shall make provisions so that they can be obtained.

**§ A.3.2** Amounts that accrue to the Owner in accordance with Section A.3.1 shall be credited to the Owner as a deduction from the Cost of the Work.

### **ARTICLE A.4 SUBCONTRACTS AND OTHER AGREEMENTS**

**§ A.4.1** Those portions of the Work that the Contractor does not customarily perform with the Contractor's own personnel shall be performed under subcontracts or other appropriate agreements with the Contractor. The Owner may designate specific persons from whom, or entities from which, the Contractor shall obtain bids. The Contractor shall obtain bids from Subcontractors and from suppliers of materials or equipment fabricated especially for the Work who are qualified to perform that portion of the Work in accordance with the requirements of the Contract Documents. The Contractor shall deliver such bids to the Architect and Owner with an indication as to which bids the Contractor intends to accept. The Owner then has the right to review the Contractor's list of proposed subcontractors and suppliers and, in consultation with the Architect, object to any subcontractor or supplier. Any advice of the Architect, or approval or objection by the Owner, shall not relieve the Contractor of its responsibility to perform the Work in accordance with the

Contract Documents. The Contractor shall not be required to contract with anyone to whom the Contractor has reasonable objection.

§ A.4.2 When the Contractor has provided a Guaranteed Maximum Price, and a specific subcontractor or supplier (1) is recommended to the Owner by the Contractor; (2) is qualified to perform that portion of the Work; and (3) has submitted a bid that conforms to the requirements of the Contract Documents without reservations or exceptions, but the Owner requires that another bid be accepted, then the Contractor may require that a Change Order be issued to adjust the Guaranteed Maximum Price by the difference between the bid of the person or entity recommended to the Owner by the Contractor and the amount of the subcontract or other agreement actually signed with the person or entity designated by the Owner.

§ A.4.3 Subcontracts or other agreements shall conform to the applicable payment provisions of this Agreement, and shall not be awarded on the basis of cost plus a fee without the Owner's prior written approval. If a subcontract is awarded on the basis of cost-plus a fee, the Contractor shall provide in the subcontract for the Owner to receive the same audit rights with regard to the Subcontractor as the Owner receives with regard to the Contractor in Article A.5.

#### **ARTICLE A.5 ACCOUNTING RECORDS**

§ A.5.1 The Contractor shall keep full and detailed records and accounts related to the Cost of the Work and exercise such controls as may be necessary for proper financial management under this Contract and to substantiate all costs incurred. The accounting and control systems shall be satisfactory to the Owner. The Owner and the Owner's auditors shall, during regular business hours and upon reasonable notice, be afforded access to, and shall be permitted to audit and copy, the Contractor's records and accounts, including complete documentation supporting accounting entries, books, job cost reports, correspondence, instructions, drawings, receipts, subcontracts, Subcontractor's proposals, Subcontractor's invoices, purchase orders, vouchers, memoranda, and other data relating to this Contract. The Contractor shall preserve these records, for a period of three years after final payment, or for such longer period as may be required by law.

§ A.5.2 When the Contractor believes that all the Work required by the Agreement has been fully performed, the Contractor shall deliver to the Owner's auditors a final accounting of the Cost of the Work.

§ A.5.3 The Owner's auditors will review and report in writing on the Contractor's final accounting within 30 days after delivery of the final accounting to the Architect by the Contractor. Based upon such Cost of the Work as the Owner's auditors report to be substantiated by the Contractor's final accounting, and provided the other conditions of Section 4.2.1 of the Agreement have been met, the Architect will, within seven days after receipt of the written report of the Owner's auditors, either issue to the Owner a final Certificate for Payment with a copy to the Contractor, or notify the Contractor and Owner in writing of the Architect's reasons for withholding a certificate as provided in Section 15.4.3 of the Agreement. The Architect is not responsible for verifying the accuracy of the Contractor's final accounting.

§ A.5.4 If the Owner's auditors' report concludes that the Cost of the Work as substantiated by the Contractor's final accounting is less than claimed by the Contractor, the Contractor shall be entitled to request mediation of the dispute without a further decision of the Architect. A request for mediation shall be made by the Contractor within 30 days after the Contractor's receipt of a copy of the Architect's final Certificate for Payment. If the Contractor fails to request mediation within this 30-day period, the substantiated amount reported by the Owner's auditors shall become binding on the Contractor. Pending a final resolution of the disputed amount, the Owner shall pay the Contractor the amount, if any, determined by the Owner's auditors to be due the Contractor.

§ A.5.5 If, subsequent to final payment and at the Owner's request, the Contractor incurs costs in connection with the correction of defective or non-conforming work as described in Article A.1, Costs to be Reimbursed, and not excluded by Article A.2, Costs Not to be Reimbursed, the Owner shall reimburse the Contractor such costs and the Contractor's Fee applicable thereto on the same basis as if such costs had been incurred prior to final payment, but not in excess of the Guaranteed Maximum Price, if any. If the Contractor has participated in savings, the amount of such savings shall be recalculated and appropriate credit given to the Owner in determining the net amount to be paid by the Owner to the Contractor.

1.1 NOTICE TO PROCEED

- A. The Notice to Proceed "Sample" is attached at the end of this section.

END OF DOCUMENT 00 55 00



**NOTICE TO PROCEED**

---

**Contractor:** Contractor  
Address Line 1  
Address Line 2

**Project:** XXXXXX

**Date:** XX XX, 2023

**Architect's Project #:** NOTICE TO PROCEED

---

You are hereby notified that the Contract Terms under the above Contract will commence to run upon receipt of the Notice to Proceed. On or before that date, you are to start performing your obligations under the Contract Documents. In accordance with Article 2 of AIA A101 Standard Form of Agreement Between Owner and Contractor – Stipulated Sum, as modified by Owner, the number of days to achieve substantial completion is XX (XXXXXXXXXX).

Before you may start any work at the site, Paragraph 11.1 and 11.2 of AIA A201 – 2017 General Conditions of the Contract for construction provide that you deliver to the Owner certificates of insurance which are required to be purchased and maintained in accordance with the Contract Documents.

---

Contractor:  
\_\_\_\_\_

Owner:  
Union County

Authorized Signature  
\_\_\_\_\_

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

1.1 CERTIFICATE OF INSURANCE

Union County's requires a Certificate of Insurance stating the required insurances and minimum limits.

END OF DOCUMENT 00 62 00

1.1 GENERAL CONDITIONS

- A. General Conditions for the Project are AIA Document A201-2017 General Conditions of the Contract for Construction, as modified by Owner.
- B. The above document is attached at end of section.

END OF DOCUMENT 00 72 00



# AIA® Document A201® – 2017

## General Conditions of the Contract for Construction

**for the following PROJECT:**

*(Name and location or address)*

Union County HHS Immunization Room Renovation  
2330 Concord Ave.  
Monroe, NC 28110

**THE OWNER:**

*(Name, legal status and address)*

Union County, North Carolina  
500 N. Main Street  
Monroe, NC 28112

**THE ARCHITECT:**

*(Name, legal status and address)*

Creech & Associates, PLLC, Professional Limited Liability Company  
1000 W. Morehead Street  
Suite 120  
Charlotte, NC 28208  
Telephone Number: 704.376.6000

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- 3      **CONTRACTOR**
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- 5      **SUBCONTRACTORS**
- 6      **CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS**
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- 10     **PROTECTION OF PERSONS AND PROPERTY**
- 11     **INSURANCE AND BONDS**
- 12     **UNCOVERING AND CORRECTION OF WORK**
- 13     **MISCELLANEOUS PROVISIONS**

**ADDITIONS AND DELETIONS:**

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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™, Guide for Supplementary Conditions.

Init.

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**User Notes:**

14 TERMINATION OR SUSPENSION OF THE CONTRACT

15 CLAIMS AND DISPUTES



Init.

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**User Notes:**

(810366552)

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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.

**§ 1.1.1.1** The Contractor acknowledges and warrants that it has closely examined all the Contract Documents, that they are suitable and sufficient to enable the Contractor to complete the Work in a timely manner for the Contract Sum, and that they include all work, whether or not shown or described, which reasonably may be inferred to be required or useful for the completion of the Work in full compliance with all applicable codes, laws, ordinances, and regulations.

#### **§ 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.

#### **§ 1.1.9 Knowledge**

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The terms "knowledge," "recognize," and "discover," their respective derivatives, and similar terms in the Contract Documents, as used in reference to the Contractor, shall be interpreted to mean that which the Contractor knows (or should know), recognizes (or should recognize), and discovers (or should discover) in exercising the care, skill, and diligence required by the Contract Documents. Analogously, the expression "reasonably inferable" and similar terms in the Contract Documents shall be interpreted to mean reasonably inferable by a contractor familiar with the Project and exercising the care, skill, and diligence required of the Contractor by the Contract Documents.

## **§ 1.2 Correlation and Intent of the Contract Documents**

**§ 1.2.1** The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all; performance by the Contractor shall be required only to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the indicated results. In the event of inconsistencies within or between parts of the Contract Documents, or between the Contract Documents and applicable standards, codes, and ordinances, the Contractor shall (i) provide the better quality or greater quantity of Work, or (ii) comply with the more stringent requirement; either or both in accordance with the Architect's interpretation. The terms and conditions of this Subparagraph 1.2.1, however, shall not relieve the Contractor of any of the obligations set forth in Sections 3.2 and 3.7.

**§ 1.2.1.1** The provisions hereof are severable, and should any provision be determined to be invalid, unlawful, or otherwise null and void by any court of competent jurisdiction, the other provisions shall remain in full force and effect and shall not thereby be affected unless such ruling shall make further performance hereunder impossible or impose an unconscionable burden upon one of the parties. The parties shall endeavor in good faith to replace the invalid, illegal, or unenforceable provisions with valid provisions the economic effect of which comes as close as practicable to that of the invalid, illegal, or unenforceable provisions.

**§ 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 of their respective Instruments of Service, including the Drawings and Specifications. Ownership of such documents shall be as set forth in the agreement between the Owner and Architect. 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 of such Instruments of Service.

## § 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 and notice of termination as set forth in Article 14 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

If the parties intend to transmit Instruments of Service or any other information or documentation in digital form, they shall endeavor to establish necessary protocols governing such transmissions, unless otherwise already provided in the Agreement or Contract Documents.

*(Paragraphs deleted)*

## § 1.8 Confidentiality

The Contractor warrants and represents that the Contractor shall not knowingly or negligently communicate or disclose at any time to any person or entity any information in connection with the Work or the Project, except (i) with prior written consent of the Owner, (ii) information that was in the public domain prior to the date of this Agreement, (iii) information that becomes part of the public domain by publication or otherwise not due to any unauthorized act or omission of the Contractor, or (iv) as may be required to perform the Work by any applicable law, including the Record set of the Drawings, Specifications, and other documents which the Contractor is permitted to retain under Section 1.5 above. Specific information shall not be deemed to fall within the scope of the foregoing exceptions merely because it is embraced by more generic information which falls within the scope of one or more of those exceptions. The Contractor shall not disclose to others that specific information was received from the Owner even though it falls within the scope of one or more of those exceptions. The Contractor acknowledges and agrees that the existence of the Owner's particular interests and plans in the geographical area of the Project is a type of such specific information. In the event that the Contractor is required by any court of competent jurisdiction or legally constituted authority to disclose any Owner Information, prior to any disclosure thereof, the Contractor shall notify the Owner and shall give the Owner the opportunity to challenge any such disclosure order or to seek protection for those portions that it regards as confidential.

## 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.

*(Paragraph deleted)*

### § 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.

§ 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.

§ 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** The Contractor warrants and represents that the Contractor shall not knowingly or negligently communicate or disclose at any time to any person or entity any information in connection with the Work or the Project (including, without limitation, information containing specific details of public security plans and arrangements or the detailed plans and drawings of public buildings and infrastructure facilities), except (i) with prior written consent of the Owner, (ii) information that was in the public domain prior to the date of this Agreement, (iii) information that becomes part of the public domain by publication or otherwise not due to any unauthorized act or omission of the Contractor, or (iv) as may be required to perform the Work by any applicable law, including any set of Drawings, Specifications, and other documents which the Contractor is permitted to retain. Specific information shall not be deemed to fall within the scope of the foregoing exceptions merely because it is embraced by more generic information which falls within the scope of one or more of those exceptions. The Contractor shall not disclose to others that specific information was received from the Owner even though it falls within the scope of one or more of those exceptions. The Contractor acknowledges and agrees that the existence of the Owner's particular interests and plans in the geographical area of the Project is a type of such specific information. In the event that the Contractor is required by any court of competent jurisdiction or legally constituted authority to disclose any Owner Information, prior to any disclosure thereof, the Contractor shall notify the Owner and shall give the Owner the opportunity to challenge any such disclosure order or to seek protection for those portions that it regards as confidential.

### **§ 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 development of real estate, use or occupancy of permanent structures or for permanent changes in existing facilities. Notwithstanding this § 2.3.1 or § 3.7.1, or anything else in the Contract Documents to the contrary, the Owner shall pay for the permits necessary for the proper execution and completion of the Work.

**§ 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 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, nor shall the exercise of the Owner's right hereunder give rise to any claim by the Contractor for additions to the Contract Sum or Contract Time. Such order of stoppage by the Owner shall not constitute grounds for Contract termination by the Contractor under Article 14.



### **§ 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 seven-day period after receipt of notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, correct such default or neglect. 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.

### **§ 2.6 Extent of Owner Rights**

**§ 2.6.1** The rights stated in this Article 2 and elsewhere in the Contract Documents are cumulative and not in limitation of any rights of the Owner (i) granted in the Contract Documents, (ii) at law, or (iii) in equity.

**§ 2.6.2** In no event shall the Owner have control over, charge of, or any responsibility for construction means, methods, techniques, sequences, or procedures or for safety precautions and programs in connection with the Work, notwithstanding any of the rights and authority granted the Owner in the Contract Documents.

## **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.

**§ 3.1.4** In performing the services pursuant to this Agreement, the Contractor shall comply with all laws, rules, regulations, ordinances, codes, standards, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.

### **§ 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 design information contained 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

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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 not proceed with that portion of the Work without further written instructions from the Architect. If the Contractor is then instructed to proceed with the required means, methods, techniques, sequences, or procedures without acceptance of changes proposed by the Contractor, the Owner shall be solely responsible for any loss or damage arising solely from those Owner-required 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 shall 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. The Contractor agrees to assign to the Owner at the time of Substantial Completion of the Work any and all manufacturer's warranties relating to materials and labor used in the Work and further agrees to perform the Work in such manner so as to preserve any and all such manufacturer's warranties. If necessary as a matter of law, the Contractor may retain the right to enforce directly any such manufacturers' warranties during the one year period following the date of Substantial Completion, referred to in Section 12.2.2.

### § 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. Pursuant to N.C.G.S. § 105-164.14, the Owner is eligible for sales and use tax refunds on all materials which become a permanent part of the construction. The Contractor agrees to provide the Owner such documentation as may be necessary to meet the requirements of the North Carolina Department of Revenue regarding requests for refund of sales and use taxes. Such requirements include those described in the North Carolina Department of Revenue Sales and Use Tax Technical Bulletins § 18-2(F), outlined below:

1. To substantiate a refund claim for sales or use taxes paid on purchases of building materials, supplies, fixtures, and equipment by the Contractor, the Owner must secure from the Contractor certified statements setting forth the specific required information. A "certified statement" is a statement signed by a contractor's owner, a corporate officer of a contractor, or an employee of a contractor who is authorized to provide information set forth in the statement. The certified statement must include all of the following information:
  - a. the date the property was purchased;
  - b. the type of property purchased;
  - c. the cost of property purchased and the amount of sales and use taxes paid thereon;
  - d. the vendor from whom the property was purchased;
  - e. the project for which the property was used;
  - f. if the property was purchased in the State of North Carolina, the county to which it was delivered, or, if the property was not purchased in the State of North Carolina, the county in which the property was used; and
  - g. the invoice number of the purchase.

In the event the Contractor makes several purchases from the same vendor, such certified statement must indicate the invoice numbers, the inclusive dates of the invoices, the total amount of the invoices, and the State and local sales and use taxes paid thereon. Such statement must also include the cost of any tangible personal property withdrawn from the Contractor's warehouse stock and the amount of State and local sales or use tax paid thereon by the Contractor. Any local sales or use taxes included in the Contractor's statements must be shown separately from the State sales or use taxes. The Contractor's statements must not contain sales or use taxes paid on purchases of tangible personal property purchased by the Contractor for use in performing the contract which does not annex to, affix to or in some manner become a part of the building or structure that is owned or leased by a governmental agency and is being erected, altered or repaired for use by a governmental entity as defined by N.C.G.S. § 105-164.14(c). Examples of property on which sales or use tax has been paid by the Contractor and which shall not be included in the Contractor's certified statement are scaffolding, forms for concrete, fuel for the operation of machinery and equipment, tools, equipment, equipment repair parts and equipment rentals. Similar certified statements by the Contractor's subcontractors must be obtained by the Contractor and furnished to the Owner.

The Contractor shall submit notarized sales tax certificates which meet the requirements detailed above with each Application for Payment. Payment will not be made until the sales tax certificate(s) have been submitted to the Owner. Owner is the recipient of sales tax refunds and no such funds shall be provided to the Contractor, or claim made by the Contractor therefor.

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

§ 3.7.1 Except as set forth in Section 2.3.1, the Contractor shall secure, pay for, and, as soon as practicable, furnish the Owner with copies or certificates of all permits and fees, licenses, and inspections necessary for the proper execution and completion of the Work, including, without limitation, all building permits. All connection charges, assessments, or inspection fees as may be imposed by any municipal agency or utility company are included in the Contract Sum and shall be the Contractor's responsibility. Upon completion of the Work, the Contractor shall deliver to the Architect original copies of all required certificates of inspection.

§ 3.7.2 The Contractor shall comply with and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, lawful orders, and all other requirements of public authorities applicable to performance of the Work. If the Contractor fails to comply with such laws or to give such notices, it shall be liable for and shall indemnify and hold harmless the Owner and the Architect and their respective employees, officers, and agents against any resulting fines, penalties, judgments, or damages, including reasonable attorneys' fees, imposed on or incurred by the parties indemnified hereunder. Further, and notwithstanding any other provision in the Contract Documents, the Contractor shall be responsible for all damages, including consequential damages, resulting from such failure.

§ 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.

### § 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. The Superintendent shall be in attendance at the Project site throughout the Work, including completion of the punchlist. The Superintendent shall be approved by the Owner in its sole discretion. The Superintendent shall be qualified in the type of Work to be undertaken and shall not be changed during the course of construction without the prior consent of Owner. Should a representative leave Contractor's employ, Contractor shall promptly designate a new representative. Owner shall have the right, at any time to direct a change in the Contractor's representatives if their performance is unsatisfactory. In the event of such a demand, Contractor shall, within seven (7) days after notification thereof, replace said individual(s) with an individual satisfactory to Owner, in Owner's sole discretion. If said replacement is disapproved, the Contract may, at Owner's option, be terminated for cause. Owner shall have no obligation to direct or monitor Contractor's employees.

§ 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.

§ 3.10.4 The construction schedule shall be in a format satisfactory to the Owner and the Architect that shall (i) provide a graphic representation of all activities and events that will occur during performance of the Work; (ii) identify each phase of construction and occupancy; and (iii) set forth dates that are critical in ensuring the timely and orderly completion of the Work in accordance with the requirements of the Contract Documents (hereinafter referred to as "Milestone Dates"). If not accepted, the construction schedule shall be promptly revised by the Contractor in accordance with the recommendations of the Owner and the Architect and resubmitted for acceptance. The Contractor shall monitor the progress of the Work for conformance with the requirements of the construction schedule and shall promptly advise the Owner of any delays or potential delays. The accepted construction schedule shall be updated to reflect actual conditions (sometimes referred to in these General Conditions as "progress reports") as set forth in Section 3.10.1 or if requested by either the Owner or the Architect. In the event any progress report indicates any delays, the Contractor shall propose an affirmative plan to correct the delay, including overtime and/or additional

labor, if necessary. In no event shall any progress report constitute an adjustment in the Contract Time, any Milestone Date, or the Contract Sum unless any adjustment is agreed to by the Owner and authorized pursuant to Change Order.

**§ 3.10.5** In the event the Owner determines that the performance of the Work, as of a Milestone Date, has not progressed or reached the level of completion required by the Contract Documents, the Owner shall have the right to order the Contractor to take corrective measures necessary to expedite the progress of construction, including, without limitation (i) working additional shifts or overtime, (ii) supplying additional manpower, equipment, and facilities, and (iii) other similar measures (hereinafter referred to collectively as "Extraordinary Measures"). Such Extraordinary Measures shall continue until the progress of the Work complies with the stage of completion required in the approved construction schedule. The Owner's right to require Extraordinary Measures is solely for the purpose of ensuring the Contractor's compliance with the construction schedule.

**§ 3.10.5.1** The Contractor shall not be entitled to an adjustment in the Contract Sum in connection with Extraordinary Measures required by the Owner under or pursuant to this Section 3.10.5.

**§ 3.10.5.2** The Owner may exercise the rights furnished the Owner under or pursuant to this Section 3.10.5 as frequently as the Owner deems necessary to ensure that the Contractor's performance of the Work will comply with any Milestone Date or completion date set forth in the construction schedule.

**§ 3.10.6** The Owner shall have the right to direct a postponement or rescheduling of any date or time for the performance of any part of the Work that may interfere with the operation of the Owner's premises or any tenants or invitees thereof. The Contractor shall, upon the Owner's request, reschedule any portion of the Work affecting operation of the premises during hours when the premises are not in operation. Any postponement, rescheduling, or performance of the Work under this Section 3.10.6 may be grounds for any extension of the Contract Time, if permitted under Section 8.3.1, and an equitable adjustment in the Contract Sum if (i) the performance of the Work was properly scheduled by the Contractor in compliance with the requirements of the Contract Documents, and (ii) such rescheduling or postponement is required for the convenience of the Owner.

### **§ 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 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

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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. If the Contractor submits Shop Drawings, Product Data, Samples, or similar submittals not in accordance with the submittal schedule approved by the Architect, then the cost to the Owner for the Architect's review of such Shop Drawings, Product Data, Samples, or similar submittals shall be the responsibility of the Contractor, and the Contractor shall reimburse the Owner for all such costs. Additionally, if the Contractor submits a Shop Drawing, Product Data, a Sample, or a similar submittal more than the number of times specified in the limit in Section 4.2.3.1 of the Agreement between the Owner and the Architect, if any such number is specified, or in a manner such that it requires the Architect to review such a submittal more than the number of times specified in the limit in Section 4.2.3.1 of the Agreement between the Owner and the Architect, if any such number is specified, then the cost to the Owner for the Architect's review of any such Shop Drawing, Product Data, Sample, or similar submittal shall be the responsibility of the Contractor and the Contractor shall reimburse the Owner for all such costs.

**§ 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 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 who shall comply with reasonable requirements of the Owner regarding qualifications and insurance, and 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. 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**

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

**§ 3.13.2** Only materials and equipment that are to be used directly in the Work shall be brought to and stored on the Project site by the Contractor. After equipment is no longer required for the Work, it shall be promptly removed from the Project site. Protection of construction materials and equipment stored at the Project site from weather, theft, damage, and all other adversity is solely the responsibility of the Contractor. The Contractor shall ensure that the Work, at all times, is performed in a manner that affords reasonable access, both vehicular and pedestrian, to the site of the Work and all adjacent areas. The Work shall be performed, to the fullest extent reasonably possible, in such a manner that public areas adjacent to the site of the Work shall be free from all debris, building materials, and equipment likely to cause hazardous conditions.

**§ 3.13.3** The Contractor and any entity for whom the Contractor is responsible shall not erect any sign on the Project site without the prior written consent of the Owner, which may be withheld in the sole discretion of the Owner.

**§ 3.13.4** Without limitation of any other provision in the Contract Documents, the Contractor shall use best efforts to minimize any interference with the occupancy or beneficial use of (i) any areas and buildings adjacent to the site of the Work, and (ii) the building in the event of partial occupancy, as more specifically described in Section 9.9. Without prior approval of the Owner, the Contractor shall not permit any workers to use any existing facilities at the Project site, including, without limitation, lavatories, toilets, entrances, and parking areas other than those designated by the Owner.

**§ 3.13.4.1** Without limitation of any other provision of the Contract Documents, the Contractor shall use its best efforts to comply with all rules and regulations promulgated by the Owner in connection with the use and occupancy of the Project site and the building, as amended from time to time. The Contractor shall immediately notify the Owner in writing if during the performance of the Work, the Contractor finds compliance of any portion of such rules and regulations to be impracticable, setting forth the problems of such compliance and suggesting alternatives through which the same results intended by such portions of the rules and regulations can be achieved. The Owner may, in the Owner's sole discretion, adopt such suggestions, develop new alternatives, or require compliance with the existing requirements of the rules and regulations.

**§ 3.13.4.2** The Contractor shall also comply with all insurance requirements applicable to use and occupancy of the Project site and the building.

### **§ 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.



§ 3.15.3 Removal of rubbish and waste material shall be performed a minimum of one time daily and additionally as required to keep rubbish and waste from stockpiling and creating a potential fire hazard.

### § 3.16 Access to Work

The Contractor shall provide the Owner and Architect with access to the Work in preparation and progress wherever located. Fire truck access to the existing facilities must be maintained at all times. Particular care shall be taken to minimize the off-loading time of material delivery trucks. The Contractor shall provide a flagman with a radio to provide for immediate relocation of trucks in the event of an emergency.

### § 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), including loss of use resulting therefrom, 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. The Contractor further agrees to investigate, handle, respond to, provide defense for, and defend the same at its sole expense and agrees to bear all other costs and expenses related thereto. 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.

§ 3.18.3 The Contractor's indemnity obligations under this Section 3.18 shall also specifically include, without limitation, all fines, penalties, damages, liability, costs, expenses (including, without limitation, reasonable attorneys' fees), and punitive damages, if any, arising out of, or in connection with, any (i) violation of or failure to comply with any law, statute, ordinance, rule, regulation, code, or requirements of a public authority that bears upon the performance of the Work by the Contractor, a Subcontractor, or any person or entity for whom either is responsible; (ii) means, methods, procedures, techniques, or sequences of execution or performance of the Work; and (iii) failure to secure and pay for permits, fees, approvals, licenses, and inspections as required under the Contract Documents, or any violation of any permit or other approval of a public authority applicable to the Work, by the Contractor, a Subcontractor, or any person or entity for whom either is responsible.

§ 3.18.4 The Contractor shall indemnify and hold harmless all of the indemnitees from and against any cost and expenses (including reasonable attorneys' fees) incurred by any of the indemnitees in enforcing any of the Contractor's defense, indemnity, and hold-harmless obligations under this Contract.

## 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. If the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents causes the Architect to visit the site more times than specified in the limit in Section 4.2.3.2 of the Agreement between the Owner and the Architect, if any such number is specified, over the duration of the Project during construction, then the cost to the Owner for Architect's additional visits to the site above such limit during construction shall be the responsibility of the Contractor and the Contractor shall reimburse the Owner for all such costs.

#### § 4.2.4 Communications

The Owner and the Contractor shall endeavor to communicate with each other through the Architect about matters arising out of or relating to the Contract Documents. 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.

§ 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. If the Contractor submits requests for information that are not prepared in accordance with the Contract Documents or where such information is available to the Contractor from a careful study and comparison of the Contract Documents, field conditions, other Owner-provided information, Contractor-prepared coordination drawings, or prior Project correspondence or documentation and the Architect reviews such requests for information, then the cost to the Owner for Architect's review of such requests for information shall be the responsibility of the Contractor and the Contractor shall reimburse the Owner for all such costs.

## **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 Pursuant to N.C.G.S. § 143-128, the Contractor was required to identify on its bid the contractors selected for the subdivisions or branches of work for: (i) heating, ventilating, and air conditioning; (ii) plumbing; (iii) electrical; and (iv) general. The Contractor shall not substitute any person as Subcontractor in the place of the Subcontractor listed in the original bid, except (i) if the listed Subcontractor's bid is later determined by the Contractor to be nonresponsible or nonresponsive or the listed Subcontractor refuses to enter into a contract for the complete performance of the bid work; or (ii) with the approval of the awarding authority for good cause shown. Regarding

Subcontractors performing Work under a subdivision or branch of work other than that listed above and provided that such Subcontractors are not otherwise required to be listed on the Contractor's bid by the Contract Documents or bidding documents, the Contractor, as soon as practicable after award of the Contract, shall furnish in writing to the Owner through the Architect the names of persons or entities (including those who are to furnish materials or equipment fabricated to a special design) proposed for each portion of the Work. The Owner or Architect may reply within 14 days to the Contractor in writing stating whether the Owner or Architect has reasonable objection to any such proposed person or entity. Failure of the Owner or Architect to reply 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.

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** If the Work in connection with a subcontract has been suspended for more than thirty (30) days after termination of the Contract by the Owner pursuant to Section 14.2 and the Owner accepts assignment of such subcontract, the Subcontractor's compensation shall be equitably adjusted for any increase in direct costs incurred by such Subcontractor as a result of 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.

§ 5.4.4 Each subcontract shall specifically provide that the Owner shall only be responsible to the Subcontractor for those obligations that accrue subsequent to the Owner's exercise of any rights under this conditional assignment.

## **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.

§ 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. Except as permitted in Section 7.3 and Section 9.7.2, a change in the Contract Sum or the Contract Time shall be accomplished only by Change Order. Accordingly, no course of conduct or dealings between the parties, nor express or implied acceptance of alterations or additions to the Work, and no claim that Owner has been unjustly enriched by any alteration of or addition to the Work, whether or not there is, in fact, any unjust enrichment to the Work, shall be the basis of any claim to an increase in any amounts due under the Contract Documents or a change in any time period provided for in the Contract Documents.

### § 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.

§ 7.2.2 Agreement on any Change Order shall constitute a final settlement of all matters relating to the change in the Work that is the subject of the Change Order, and any and all adjustments to the Contract Sum and the construction schedule.

### § 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.

§ 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. If the progress or completion of the Work is delayed by any fault, neglect, act, or failure to act on the part of the Contractor or anyone acting for or on behalf of the Contractor, then the Contractor shall, in addition to all of the other obligations imposed by this Contract and by law upon the Contractor, and at no cost or expense to the Owner, work such overtime or require the appropriate Subcontractor to work such overtime as may be necessary to make up for all time lost and to avoid delay in the progress and completion of the Work.

## § 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 to the extent such delay will prevent the Contractor from achieving Substantial Completion within the Contract Time and if the performance of the Work is not, was not, or would not have been delayed by any other cause for which the Contractor is not entitled to an extension in the Contract Time under the Contract Documents. The Contractor further acknowledges and agrees that adjustments in the Contract Time will be permitted for a delay only to the extent such delay (i) is not caused, or could not have been anticipated, by the Contractor; (ii) could not be limited or avoided by the Contractor's timely notice to the Owner of the delay or reasonable likelihood that a delay will occur, and (iii) is of a duration not less than one (1) day.

The Contractor's claims, if any, for extension of time must be made in writing to the Architect not more than five working days after the Contractor has notice of delay. Thereafter, the Contractor must provide full details and supporting documentation with regard to the cause of the delay within 15 working days of the initial notice of the delay to the Architect. If either the initial notice or the supporting documentation is not filed with the Architect in writing within the time periods specified, the claim for delay shall be waived. If the cause for the delay is a continuing one, then only one claim is necessary. The Contractor's supporting documentation to the Architect shall include an estimate of the probable effect of the delay on the progress of the Work and the Project Schedule.

§ 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. However, notwithstanding any other provision of the Contract Documents to the contrary, any damages recovered by the Contractor for delay shall be limited to the increase, if any, of direct costs incurred by the Contractor in performing the Work, which costs are incurred as a result of the delay. Except for direct costs, in no event shall the Contractor be entitled to any other compensation or recovery of any damages pursuant to this Agreement in connection with any delay, including, without limitation, consequential damages, lost opportunity costs, impact damages, profit, overhead, and other similar remuneration. The language in the two immediately preceding sentences shall not apply to damages for delay to the extent that such damages for delay are caused solely by the Owner or its agent.



## 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.

*(Paragraph deleted)*

### § 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.

§ 9.3.1.2 Applications for Payment shall not include requests for payment for portions of the Work for which the Contractor does not intend to pay a Subcontractor or supplier, unless such Work has been performed by others whom the Contractor intends to pay.

§ 9.3.1.3 Upon request by the Owner or Architect, each Application for Payment shall be accompanied by the following, all in form and substance satisfactory to the Owner: (i) a current Contractor's lien waiver and duly executed and acknowledged sworn statement showing all Subcontractors and suppliers with whom the Contractor has entered into subcontracts, the amount of each such subcontract, the amount requested for any Subcontractor and supplier in the requested progress payment, and the amount to be paid to the Contractor from such progress payment, together with similar sworn statements from all such Subcontractors and suppliers; (ii) duly executed waivers of mechanics' and material suppliers' liens from all Subcontractors and when appropriate, from suppliers and Sub-subcontractors establishing payment or satisfaction of payment of all amounts requested by the Contractor on behalf of such entities or persons in any previous Application for Payment; and (iii) all information and materials required to comply with the requirements of the Contract Documents or reasonably requested by the Owner or the Architect.

§ 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. In requesting payment for materials stored on or off the site, the Contractor shall submit with his Application for Payment the following: (i) An itemized list of stored material prepared in sufficient detail to identify the materials and their value; (ii) Evidence such as bills of sale or such other proof as may be requested by the Owner or Architect to substantiate that the materials listed have been paid for by the Contractor; and (iii) documentation satisfactory in form and substance to Owner that title to such materials shall be vested in Owner.

For material stored off the site, the Contractor shall also submit with his Application for Payment the following: (i) Evidence that the materials are stored at the location previously agreed to in writing; (ii) Evidence that the storage location is bonded; (iii) Evidence that the materials are insured while in storage and while in transit to the site, such insurance to be satisfactory to Owner and in such amount not less than the total value of the materials; and (iv) Evidence that transportation to the site will be provided. No payment will be certified for material stored off the site until the storage location has been agreed upon in writing. Representatives of the Owner and Architect shall have the right to make inspections of the storage facilities at any time. At the storage facility, such materials shall be specifically marked for use on the Project and segregated from other materials.

**§ 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;
- .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.

#### § 9.7 Failure of Payment

§ 9.7.1 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, 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.

**§ 9.7.2** If the Owner is entitled to reimbursement or payment from the Contractor under or pursuant to the Contract Documents, such payments shall be made promptly upon demand by the Owner. Notwithstanding any provision contained in the Contract Documents to the contrary, if the Contractor fails to promptly make any payment due the Owner, or the Owner incurs any costs and expenses to cure any default of the Contractor or to correct the defective Work, the Owner shall have the absolute right to offset such amount against the Contract Sum, and may, in the Owner's sole discretion, elect either to (i) deduct an amount equal to that which the Owner is entitled from any payments then or thereafter due the Contractor from the Owner; or (ii) issue a written notice to the Contractor reducing the Contract Sum by an amount equal to that which the Owner is entitled.

### **§ 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; provided, however, that as a condition precedent to Substantial Completion, the Owner has received all certificates of occupancy and any other permits, approvals, licenses, and other documents from any governmental authority having jurisdiction thereof necessary for the beneficial occupancy of the Project.

**§ 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. If the Contractor's failure to complete the Work or to complete or correct items identified on the list of such items causes the Architect to perform more inspections than the number specified in the limit in Section 4.2.3.3 of the Agreement between the Owner and the Architect, if any such number is specified, then the Contractor shall reimburse the Owner for all costs incurred including the cost of the Architect's services made necessary thereby.

**§ 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. All warranties and guarantees required under or pursuant to the Contract Documents shall be assembled and delivered by the Contractor to the Architect as part of the final Application for Payment. The final Certificate for Payment will not be issued by the Architect until all warranties and guarantees have been received and accepted by the Owner. In the event that more inspections by the Architect described above than the number specified in the limit in Section 4.2.3.4 of the Agreement between the Owner and the Architect, if any such number is specified, are made necessary by the failure of the Contractor to complete the Work or to complete or correct items identified on the list of such items, the Contractor shall reimburse the Owner for all costs incurred including the cost of the Architect's services made necessary thereby.

**§ 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, (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, (7) submission by the Contractor to the Architect and the Owner of as-built drawings, (8) submission by the Contractor by the Contractor to the Owner of a complete list of Subcontractors and principal suppliers and vendors on the Project, including addresses and telephone numbers, (9) submission by the Contractor to the Owner of an indexed looseleaf binder of complete installation, operation and maintenance manuals, including all manufacturers' literature, of equipment and materials used in the Work, (10) submission by the Contractor to the Owner, in an indexed, looseleaf binder, of all inspection reports, permits, and temporary and final certificates of occupancy and licenses necessary for the occupancy of the Project, and (11) any and all other items required pursuant to the Contract Documents. 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

- .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. The Contractor shall also be responsible, at the Contractor's sole cost and expense, for all measures necessary to protect any property adjacent to the Project and improvements therein. Any damage to such property or improvements shall be promptly repaired by the Contractor.

§ 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. If use or storage of explosives or other hazardous materials or equipment or unusual construction methods are necessary, the Contractor shall give the Owner and the Architect reasonable advance notice.

§ 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.

§ 10.2.9 When all or a portion of the Work is suspended for any reason, the Contractor shall securely fasten down all coverings and fully protect the Work, as necessary, from injury or damage by any cause.

§ 10.2.10 The Contractor shall promptly report in writing to the Owner and Architect all accidents arising out of or in connection with the Work that cause death, personal injury, or property damage, giving full details and statements of any witnesses. In addition, if death, serious personal injuries, or serious damages are caused, the accident shall be reported immediately by telephone or messenger to the Owner and the Architect.

**§ 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 concealed and undisclosed hazardous material or substance (as defined in CERCLA) 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. The term "rendered harmless" shall be interpreted to mean that levels of asbestos, polychlorinated biphenyls are less than any applicable exposure standards set forth in OSHA regulations. In no event, however, shall the Owner have any responsibility for any substance or material that is brought to the Project site by the Contractor, any Subcontractor, any material supplier, or any entity for whom any of them is responsible. The Contractor agrees not to use any fill or other materials to be incorporated into the Work that are hazardous, toxic, or made up of any items that are hazardous or toxic.

§ 10.3.3 *Intentionally omitted.*

§ 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. Each Contractor bringing chemicals onto the site must provide Owner with the appropriate hazard information on these substances, including the labels used and the precautionary measures to be taken in working with these chemicals.

§ 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.

*(Paragraph deleted)*

#### § 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 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 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.

§ 11.1.5 If the Contractor fails to purchase and maintain any insurance required, or required to be purchased and maintained, under AIA Document A101-2017, Exhibit A, or elsewhere in the Contract Documents, the Owner may, but shall not be obligated to, upon five (5) days' written notice to the Contractor, purchase such insurance on behalf of the Contractor and shall be entitled to be reimbursed by the Contractor upon demand. Any amount owed to the Owner by the Contractor pursuant to this Subparagraph may be deducted from any payments owed by the Owner to the Contractor for performance of the Contract.

§ 11.1.6 Requirements for performance bonds and payment bonds shall be set forth in AIA Document A101-2017, Exhibit A.

#### § 11.2 Owner's Insurance

The Owner shall be responsible for purchasing and maintaining any insurance required by AIA Document A101-2017, Exhibit A.

*(Paragraphs deleted)*

#### § 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 solely 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.

*(Paragraphs deleted)*

**§ 11.4** *Intentionally omitted.*

**§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 in good faith and made payable to the Owner in good faith 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. If prior to the date of Substantial Completion the Contractor, a Subcontractor, or anyone for whom either is responsible uses or damages any portion of the Work, including, without limitation, mechanical,

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electrical, plumbing, and other building systems, machinery, equipment, or other mechanical device, the Contractor shall cause such item to be restored to "like new" condition at no expense to the Owner. In addition, the Contractor shall promptly remedy damage and loss arising in conjunction with the Project 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 anyone for whose acts they may be liable and for which the Contractor is responsible.

### **§ 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. 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** Upon completion of any Work under or pursuant to this Paragraph 12.2, the one-year correction period in connection with the Work requiring correction shall be renewed and recommence. The obligations under Paragraph 12.2 shall cover any repairs and replacement to any part of the Work or other property that is damaged by the defective Work.

**§ 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 construed and enforced in accordance with the laws of the State of North Carolina. The parties to this Contract confer exclusive jurisdiction of all disputes arising hereunder upon the General Courts of Justice of Union County, North Carolina.

### **§ 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 or set forth elsewhere in the Contract Documents, 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 Except as expressly provided in the Contract Documents, 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. The Contractor also agrees that the cost of testing services required for the convenience of the Contractor in his scheduling and performance of the Work, and the cost of testing services related to remedial operations performed to correct deficiencies in the Work, shall be borne by the Contractor.

§ 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.

### § 13.6 Equal Opportunity

§ 13.6.1 The Contractor and all Subcontractors shall not discriminate against any employee or applicant for employment because of physical or mental handicap, race, religion, color, sex, national origin, or age. The Contractor shall take affirmative action to insure that applicants are employed, and that employees are treated during employment, without regard to their physical or mental handicap, race, religion, color, sex, national origin, or age. Such actions shall include, but shall not be limited to, the following: employment, upgrading, demotion, or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the policies of non-discrimination.

§ 13.6.2 The Contractor and all Subcontractors shall, in all solicitations or advertisements for employees placed by them or on their behalf, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, national origin, or age.

### § 13.7 General Provisions

§ 13.7.1 Should any evidence of the presence of endangered and/or threatened species or their critical habitat be brought to the attention of the Contractor, the Contractor will immediately report this evidence to the Architect.

§ 13.7.2 All personal pronouns used in this Contract, whether used in the masculine, feminine, or neuter gender, shall include all other genders; and the singular shall include the plural and vice versa. Titles of articles, sections, and subsections are for convenience only and neither limit nor amplify the provisions of this Contract. The use herein of the word "including," when following any general statement, term, or matter, shall not be construed to limit such statement, term or matter to the specific items or matters set forth immediately following such word or to similar items or matters, whether or not non-limiting language (such words as "without limitation," or "but not limited to," or words of similar import) is used with reference thereto, but rather shall be deemed to refer to all other items or matters that could reasonably fall within the broadest possible scope of such general statement, term or matter.

§ 13.7.3 Each party hereto agrees to do all acts and things and to make, execute, and deliver such written instruments, as shall from time to time be reasonably required to carry out the terms and provisions of the Contract Documents.

§ 13.7.4 Any specific requirement in this Contract that the responsibilities or obligations of the Contractor also apply to a Subcontractor is added for emphasis and is also hereby deemed to include a Subcontractor of any tier. The omission of a reference to a Subcontractor in connection with any of the Contractor's responsibilities or obligations shall not be construed to diminish, abrogate, or limit any responsibilities or obligations of a Subcontractor of any tier under the Contract Documents or the applicable subcontract.

### § 13.8 No Oral Waiver

The provisions of the Contract Documents shall not be changed, amended, waived, or otherwise modified in any respect except by a writing signed by the Owner. No person is authorized on behalf of the Owner to orally change, amend, waive, or otherwise modify the terms of the Contract Documents or any of the Contractor's duties or obligations under or arising out of the Contract Documents. Any change, waiver, approval, or consent granted to the Contractor shall be limited to the specific matters stated in the writing signed by the Owner, and shall not relieve the Contractor of any other of the duties and obligations under the Contract Documents. No "constructive" changes shall be allowed.

### § 13.9 E-Verify

E-Verify is the federal program operated by the United States Department of Homeland Security and other federal agencies, or any successor or equivalent program, used to verify the work authorization of newly hired employees pursuant to federal law. Contractor shall ensure that Contractor and any Subcontractor performing work under this Agreement: (i) uses E-Verify if required to do so by North Carolina law; and (ii) otherwise complies with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes.

### § 13.10 Iran Divestment Act

Pursuant to Article 6E of Chapter 147 of the North Carolina General Statutes, the Owner must require most entities with which it contracts, which would include the Contractor under this Contract, to certify that the entity is not identified on a list created by the State Treasurer pursuant to N.C.G.S. § 147-86.58 (the "Final Divestment List"). This requirement is related to ensuring that entities with which local governments contract are not involved in investment

activities in Iran. The Contractor certifies that: (i) it is not listed on the Final Divestment List, and (ii) it will not utilize any Subcontractor performing work under this Agreement which is listed on the Final Divestment List.

## **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 60 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;

*(Paragraphs deleted)*

**§ 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.

**§ 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 persistently 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

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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.

§ 14.4.3 Upon such termination, the Contractor shall recover as its sole remedy payment for Work properly performed in connection with the terminated portion of the Work prior to the effective date of termination and for items properly and timely fabricated off the Project site, delivered and stored in accordance with the Owner's instructions. The Contractor hereby waives and forfeits all other claims for payment and damages, including, without limitation, anticipated profits. The Owner shall be credited for (i) payments previously made to the Contractor for the terminated portion of the Work, (ii) claims that the Owner has against the Contractor under the Contract, and (iii) the value of the materials, supplies, equipment, or other items that are to be disposed of by the Contractor that are part of the Contract Sum.

## 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.

*(Paragraphs deleted)*

#### § 15.1.2 Intentionally omitted.

### § 15.1.3 Notice of Claims

§ 15.1.3.1 Claims by either the Owner or Contractor must 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; provided, however, that the claimant shall use its best efforts to furnish the Architect and the other party, as expeditiously as possible, with notice of any Claim, including, without limitation, those in connection with concealed or unknown conditions, once such a claim is recognized, and shall cooperate with the Architect and the party against whom the claim is made in any effort to mitigate the alleged or potential damages, delay, or other adverse consequences arising out of the condition that is the cause of such a Claim. Claims by either party must 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. Claims may also be reserved in writing within the time limits set forth in this Section 15.1.3.1. If a Claim is reserved, the Resolution of Claims and Disputes procedures

described in this Article 15 shall not commence until a written notice from the claimant is received by the Architect. Any notice of Claim or reservation of Claim must clearly identify the alleged cause and the nature of the Claim and include data and information then available to the claimant that will facilitate prompt verification and evaluation of the Claim.

*(Paragraph deleted)*

**§ 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 and written approval of the Owner shall be secured 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. Time extensions will not be granted for rain, wind, snow, or other natural phenomena of normal intensity for the locality where the Work is located. For the purpose of establishing that abnormal adverse weather conditions have caused a delay, and determining the extent of delay attributed to such weather conditions, the Contractor shall furnish with his claim National Oceanic and Atmospheric Administration National Weather Service records of climatic conditions during the same time interval for the previous five years for the locality of the Work; the Contractor's daily job site logs/daily construction reports showing weather, job activities, and the effect of weather on the progress of the Work; and an impact schedule showing the effects of the weather event on the critical path of the Contractor's Construction Schedule. For a time extension to be granted for abnormal, inclement weather: (a) such weather must, in the opinion of the Architect, actually have an adverse effect upon the progress of the Contractor's work which is of a critical nature; and (b) in the opinion of the Architect, the adverse effect must not be due to any fault or negligence of Contractor and could not have been avoided by the Contractor through proper planning, coordination, and implementation of adequate weather protection necessary to allow the Work to be continued without adverse effect upon labor production. Contractor agrees that the fact that abnormal inclement weather may occur does not, to itself, justify any time extension hereunder. Time extensions for weather delays, if granted, do not entitle the Contractor to recovery of "extended overhead" associated with that claim.

No extension of time will be made for abnormal inclement weather after principal portions of the Work are enclosed except for site work which critically affects the Contract time or specific dates. For the purpose of this Paragraph, the term "enclosed" is defined to mean when the Work is sufficiently closed in (exterior walls up and roof in place) so as to permit any structure or major portion thereof which is part of the Work, to be adequately heated so as to allow the various trades to perform their work. The Architect shall determine when the structure is "enclosed" and shall issue, upon the request of the Contractor, a letter certifying the date the Work became enclosed for the purpose hereof.

The Contractor understands and agrees that the time for performance of this Contract, as stated in the Contract Documents, includes an allowance for calendar days which may not be suitable for construction work.

Furthermore, unless the Contractor can substantiate to the satisfaction of the Architect that activities affected during the abnormal adverse weather conditions were being performed within seven (7) calendar days of their scheduled performance on the Contractor's progress schedule, the Contractor will not be entitled to an extension of time thereof.

#### **§ 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 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 arising prior to the date final payment is due. 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. The Owner, as a North Carolina local government, shall use the dispute resolution process adopted by the State Building Commission pursuant to N.C.G.S. § 143-135.26(11). This dispute resolution process will be available to all parties involved in this construction project including the Owner, the Architect, the Contractor, and the first-tier and lower-tier Subcontractors and shall be available for any issues arising out of the Contract or construction process, provided that the amount in controversy is \$15,000 or more. The Contractor shall make this process available to its Subcontractors by inclusion of this provision in the subcontractor agreements. The Owner and the Contractor agree that they shall submit any and all unsettled claims or counterclaims, disputes, or other matters in question between them arising out of or relating to the Contract Documents or the breach thereof in which the amount in controversy is at least \$15,000 to mediation in accordance with said rules.

§ 15.3.2 The parties shall endeavor to resolve their Claims by mediation. 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.

§ 15.3.3 *Intentionally omitted.*

§ 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.

*(Paragraphs deleted)*

# Additions and Deletions Report for AIA® Document A201® – 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.

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 13:13:22 ET on 12/07/2023.

## PAGE 1

Union County HHS Immunization Room Renovation  
2330 Concord Ave.  
Monroe, NC 28110

...

Union County, North Carolina  
500 N. Main Street  
Monroe, NC 28112

...

*(Name, legal status and address)*

Creech & Associates, PLLC, Professional Limited Liability Company  
1000 W. Morehead Street  
Suite 120  
Charlotte, NC 28208  
Telephone Number: 704.376.6000

## PAGE 10

§ 1.1.1.1 The Contractor acknowledges and warrants that it has closely examined all the Contract Documents, that they are suitable and sufficient to enable the Contractor to complete the Work in a timely manner for the Contract Sum, and that they include all work, whether or not shown or described, which reasonably may be inferred to be required or useful for the completion of the Work in full compliance with all applicable codes, laws, ordinances, and regulations.

...

The Initial Decision Maker is the person identified in the Agreement to render initial decisions on Claims in accordance with Section 15.2. ~~The Initial Decision Maker shall not show partiality to the Owner or Contractor and shall not be liable for results of interpretations or decisions rendered in good faith.~~

### § 1.1.9 Knowledge

The terms "knowledge," "recognize," and "discover," their respective derivatives, and similar terms in the Contract Documents, as used in reference to the Contractor, shall be interpreted to mean that which the Contractor knows (or should know), recognizes (or should recognize), and discovers (or should discover) in exercising the care, skill, and diligence required by the Contract Documents. Analogously, the expression "reasonably inferable" and similar terms in the Contract Documents shall be interpreted to mean reasonably inferable by a contractor familiar with the Project and exercising the care, skill, and diligence required of the Contractor by the Contract Documents.

## PAGE 11

**§ 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. In the event of inconsistencies within or between parts of the Contract Documents, or between the Contract Documents and applicable standards, codes, and ordinances, the Contractor shall (i) provide the better quality or greater quantity of Work, or (ii) comply with the more stringent requirement; either or both in accordance with the Architect's interpretation. The terms and conditions of this Subparagraph 1.2.1, however, shall not relieve the Contractor of any of the obligations set forth in Sections 3.2 and 3.7.

**§ 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. provisions hereof are severable, and should any provision be determined to be invalid, unlawful, or otherwise null and void by any court of competent jurisdiction, the other provisions shall remain in full force and effect and shall not thereby be affected unless such ruling shall make further performance hereunder impossible or impose an unconscionable burden upon one of the parties. The parties shall endeavor in good faith to replace the invalid, illegal, or unenforceable provisions with valid provisions the economic effect of which comes as close as practicable to that of the invalid, illegal, or unenforceable provisions.~~

...

**§ 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. Specifications. Ownership of such documents shall be as set forth in the agreement between the Owner and Architect. 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. owner of such Instruments of Service.~~

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**§ 1.6.2** ~~Notice of Claims as provided in Section 15.1.3 and notice of termination as set forth in Article 14 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.~~

...

~~The parties shall agree upon protocols governing the transmission and use of. If the parties intend to transmit 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 form, they shall endeavor to establish necessary protocols governing such transmissions, unless otherwise already provided in the Agreement or Contract Documents.~~

### **§ 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~~

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.

### **§ 1.8 Confidentiality**

The Contractor warrants and represents that the Contractor shall not knowingly or negligently communicate or disclose at any time to any person or entity any information in connection with the Work or the Project, except (i) with prior written consent of the Owner, (ii) information that was in the public domain prior to the date of this Agreement, (iii) information that becomes part of the public domain by publication or otherwise not due to any unauthorized act or omission of the Contractor, or (iv) as may be required to perform the Work by any applicable law, including the Record set of the Drawings, Specifications, and other documents which the Contractor is permitted to retain under Section 1.5 above. Specific information shall not be deemed to fall within the scope of the foregoing exceptions merely because it is embraced by more generic information which falls within the scope of one or more of those exceptions. The Contractor shall not disclose to others that specific information was received from the Owner even though it falls within the scope of one or more of those exceptions. The Contractor acknowledges and agrees that the existence of the Owner's particular interests and plans in the geographical area of the Project is a type of such specific information. In the event that the Contractor is required by any court of competent jurisdiction or legally constituted authority to disclose any Owner Information, prior to any disclosure thereof, the Contractor shall notify the Owner and shall give the Owner the opportunity to challenge any such disclosure order or to seek protection for those portions that it regards as confidential.

...

**§ 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.

**§ 2.2.1** 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.

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**§ 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. The Contractor warrants and represents that the Contractor shall not knowingly or negligently

communicate or disclose at any time to any person or entity any information in connection with the Work or the Project (including, without limitation, information containing specific details of public security plans and arrangements or the detailed plans and drawings of public buildings and infrastructure facilities), except (i) with prior written consent of the Owner, (ii) information that was in the public domain prior to the date of this Agreement, (iii) information that becomes part of the public domain by publication or otherwise not due to any unauthorized act or omission of the Contractor, or (iv) as may be required to perform the Work by any applicable law, including any set of Drawings, Specifications, and other documents which the Contractor is permitted to retain. Specific information shall not be deemed to fall within the scope of the foregoing exceptions merely because it is embraced by more generic information which falls within the scope of one or more of those exceptions. The Contractor shall not disclose to others that specific information was received from the Owner even though it falls within the scope of one or more of those exceptions. The Contractor acknowledges and agrees that the existence of the Owner's particular interests and plans in the geographical area of the Project is a type of such specific information. In the event that the Contractor is required by any court of competent jurisdiction or legally constituted authority to disclose any Owner Information, prior to any disclosure thereof, the Contractor shall notify the Owner and shall give the Owner the opportunity to challenge any such disclosure order or to seek protection for those portions that it regards as confidential.

...

**§ 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, development of real estate, use or occupancy of permanent structures or for permanent changes in existing facilities.~~ Notwithstanding this § 2.3.1 or § 3.7.1, or anything else in the Contract Documents to the contrary, the Owner shall pay for the permits necessary for the proper execution and completion of 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.~~ Section 6.1.3, nor shall the exercise of the Owner's right hereunder give rise to any claim by the Contractor for additions to the Contract Sum or Contract Time. Such order of stoppage by the Owner shall not constitute grounds for Contract termination by the Contractor under Article 14.

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If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a ~~ten-day~~ seven-day period after receipt of notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, correct such default or neglect. 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.

## **§ 2.6 Extent of Owner Rights**

**§ 2.6.1** The rights stated in this Article 2 and elsewhere in the Contract Documents are cumulative and not in limitation of any rights of the Owner (i) granted in the Contract Documents, (ii) at law, or (iii) in equity.

**§ 2.6.2** In no event shall the Owner have control over, charge of, or any responsibility for construction means, methods, techniques, sequences, or procedures or for safety precautions and programs in connection with the Work, notwithstanding any of the rights and authority granted the Owner in the Contract Documents.

...

**§ 3.1.4** In performing the services pursuant to this Agreement, the Contractor shall comply with all laws, rules, regulations, ordinances, codes, standards, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.

...

**§ 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 design information contained 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.

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**§ 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~~ not proceed with that portion of the Work without further written instructions from the Architect. If the Contractor is then instructed to proceed with the required means, methods, techniques, sequences, or procedures without acceptance of changes proposed by the Contractor, the Owner shall be solely responsible for any loss or damage arising solely from those Owner-required means, methods, techniques, sequences, or procedures.

...

**§ 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~~ shall 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. The Contractor agrees to assign to the Owner at the time of Substantial Completion of the Work any and all manufacturer's warranties relating to materials and labor used in the Work and further agrees to perform the Work in such manner so as to preserve any and all such manufacturer's warranties. If necessary as a matter of law, the Contractor may retain the right to enforce directly any such manufacturers' warranties during the one year period following the date of Substantial Completion, referred to in Section 12.2.2.

**PAGE 16**

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. Pursuant to N.C.G.S. § 105-164.14, the Owner is eligible for sales and use tax refunds on all materials which become a permanent part of the construction. The Contractor agrees to provide the Owner such documentation as may be necessary to meet the requirements of the North Carolina Department of Revenue regarding requests for refund of sales and use taxes. Such requirements include those described in the North Carolina Department of Revenue Sales and Use Tax Technical Bulletins § 18-2(F), outlined below:

1. To substantiate a refund claim for sales or use taxes paid on purchases of building materials, supplies, fixtures, and equipment by the Contractor, the Owner must secure from the Contractor certified statements setting forth the specific required information. A "certified statement" is a statement signed by a contractor's owner, a corporate officer of a contractor, or an employee of a contractor who is authorized to provide information set forth in the statement. The certified statement must include all of the following information:
  - a. the date the property was purchased;
  - b. the type of property purchased;
  - c. the cost of property purchased and the amount of sales and use taxes paid thereon;
  - d. the vendor from whom the property was purchased;
  - e. the project for which the property was used;
  - f. if the property was purchased in the State of North Carolina, the county to which it was delivered, or, if the property was not purchased in the State of North Carolina, the county in which the property was used; and
  - g. the invoice number of the purchase.

In the event the Contractor makes several purchases from the same vendor, such certified statement must indicate the invoice numbers, the inclusive dates of the invoices, the total amount of the invoices, and the State and local sales and use taxes paid thereon. Such statement must also include the cost of any tangible personal property withdrawn from the Contractor's warehouse stock and the amount of State and local sales or use tax paid thereon by the Contractor. Any local sales or use taxes included in the Contractor's statements must be shown separately from the State sales or use taxes. The Contractor's statements must not contain sales or use taxes paid on purchases of tangible personal property purchased by the Contractor for use in performing the contract which does not annex to, affix to or in some manner become a part of the building or structure that is owned or leased by a governmental agency and is being erected, altered or repaired for use by a governmental entity as defined by N.C.G.S. § 105-164.14(c). Examples of property on which sales or use tax has been paid by the Contractor and which shall not be included in the Contractor's certified statement are scaffolding, forms for concrete, fuel for the operation of machinery and equipment, tools, equipment, equipment repair parts and equipment rentals. Similar certified statements by the Contractor's subcontractors must be obtained by the Contractor and furnished to the Owner.

The Contractor shall submit notarized sales tax certificates which meet the requirements detailed above with each Application for Payment. Payment will not be made until the sales tax certificate(s) have been submitted to the Owner. Owner is the recipient of sales tax refunds and no such funds shall be provided to the Contractor, or claim made by the Contractor therefor.

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§ 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 Except as set forth in Section 2.3.1, the Contractor shall secure, pay for, and, as soon as practicable, furnish the Owner with copies or certificates of all permits and fees, licenses, and inspections necessary for the 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. Work, including, without limitation, all building permits. All connection charges, assessments, or inspection fees as may be imposed by any municipal agency or utility company are included in the Contract Sum and shall be the Contractor's responsibility. Upon completion of the Work, the Contractor shall deliver to the Architect original copies of all required certificates of inspection.

**§ 3.7.2** The Contractor shall comply with and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, ~~and lawful orders~~ lawful orders, and all other requirements of public authorities applicable to performance of the Work. If the Contractor fails to comply with such laws or to give such notices, it shall be liable for and shall indemnify and hold harmless the Owner and the Architect and their respective employees, officers, and agents against any resulting fines, penalties, judgments, or damages, including reasonable attorneys' fees, imposed on or incurred by the parties indemnified hereunder. Further, and notwithstanding any other provision in the Contract Documents, the Contractor shall be responsible for all damages, including consequential damages, resulting from such failure.

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**§ 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. The Superintendent shall be in attendance at the Project site throughout the Work, including completion of the punchlist. The Superintendent shall be approved by the Owner in its sole discretion. The Superintendent shall be qualified in the type of Work to be undertaken and shall not be changed during the course of construction without the prior consent of Owner. Should a representative leave Contractor's employ, Contractor shall promptly designate a new representative. Owner shall have the right, at any time to direct a change in the Contractor's representatives if their performance is unsatisfactory. In the event of such a demand, Contractor shall, within seven (7) days after notification thereof, replace said individual(s) with an individual satisfactory to Owner, in Owner's sole discretion. If said replacement is disapproved, the Contract may, at Owner's option, be terminated for cause. Owner shall have no obligation to direct or monitor Contractor's employees.

...

**§ 3.10.4** The construction schedule shall be in a format satisfactory to the Owner and the Architect that shall (i) provide a graphic representation of all activities and events that will occur during performance of the Work; (ii) identify each phase of construction and occupancy; and (iii) set forth dates that are critical in ensuring the timely and orderly completion of the Work in accordance with the requirements of the Contract Documents (hereinafter referred to as "Milestone Dates"). If not accepted, the construction schedule shall be promptly revised by the Contractor in accordance with the recommendations of the Owner and the Architect and resubmitted for acceptance. The Contractor shall monitor the progress of the Work for conformance with the requirements of the construction schedule and shall promptly advise the Owner of any delays or potential delays. The accepted construction schedule shall be updated to reflect actual conditions (sometimes referred to in these General Conditions as "progress reports") as set forth in Section 3.10.1 or if requested by either the Owner or the Architect. In the event any progress report indicates any delays, the Contractor shall propose an affirmative plan to correct the delay, including overtime and/or additional labor, if necessary. In no event shall any progress report constitute an adjustment in the Contract Time, any Milestone Date, or the Contract Sum unless any adjustment is agreed to by the Owner and authorized pursuant to Change Order.

**§ 3.10.5** In the event the Owner determines that the performance of the Work, as of a Milestone Date, has not progressed or reached the level of completion required by the Contract Documents, the Owner shall have the right to order the Contractor to take corrective measures necessary to expedite the progress of construction, including, without limitation (i) working additional shifts or overtime, (ii) supplying additional manpower, equipment, and facilities, and (iii) other similar measures (hereinafter referred to collectively as "Extraordinary Measures"). Such Extraordinary Measures shall continue until the progress of the Work complies with the stage of completion required in the approved construction schedule. The Owner's right to require Extraordinary Measures is solely for the purpose of ensuring the Contractor's compliance with the construction schedule.

**§ 3.10.5.1** The Contractor shall not be entitled to an adjustment in the Contract Sum in connection with Extraordinary Measures required by the Owner under or pursuant to this Section 3.10.5.

**§ 3.10.5.2** The Owner may exercise the rights furnished the Owner under or pursuant to this Section 3.10.5 as frequently as the Owner deems necessary to ensure that the Contractor's performance of the Work will comply with any Milestone Date or completion date set forth in the construction schedule.

**§ 3.10.6** The Owner shall have the right to direct a postponement or rescheduling of any date or time for the performance of any part of the Work that may interfere with the operation of the Owner's premises or any tenants or



invitees thereof. The Contractor shall, upon the Owner's request, reschedule any portion of the Work affecting operation of the premises during hours when the premises are not in operation. Any postponement, rescheduling, or performance of the Work under this Section 3.10.6 may be grounds for any extension of the Contract Time, if permitted under Section 8.3.1, and an equitable adjustment in the Contract Sum if (i) the performance of the Work was properly scheduled by the Contractor in compliance with the requirements of the Contract Documents, and (ii) such rescheduling or postponement is required for the convenience of the Owner.

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**§ 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. If the Contractor submits Shop Drawings, Product Data, Samples, or similar submittals not in accordance with the submittal schedule approved by the Architect, then the cost to the Owner for the Architect's review of such Shop Drawings, Product Data, Samples, or similar submittals shall be the responsibility of the Contractor, and the Contractor shall reimburse the Owner for all such costs. Additionally, if the Contractor submits a Shop Drawing, Product Data, a Sample, or a similar submittal more than the number of times specified in the limit in Section 4.2.3.1 of the Agreement between the Owner and the Architect, if any such number is specified, or in a manner such that it requires the Architect to review such a submittal more than the number of times specified in the limit in Section 4.2.3.1 of the Agreement between the Owner and the Architect, if any such number is specified, then the cost to the Owner for the Architect's review of any such Shop Drawing, Product Data, Sample, or similar submittal shall be the responsibility of the Contractor and the Contractor shall reimburse the Owner for all such costs.

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**§ 3.12.10.1** If professional design services or certifications by a design professional related to systems, materials, or equipment are specifically required of the Contractor by the Contract Documents, the Owner and the Architect will specify all performance and design criteria that such services must satisfy. The Contractor shall be entitled to rely upon the adequacy and accuracy of the performance and design criteria provided in the Contract Documents. The Contractor shall cause such services or certifications to be provided by an appropriately licensed design professional, professional who shall comply with reasonable requirements of the Owner regarding qualifications and insurance, and 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. professionals. 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.

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

**§ 3.13.2** Only materials and equipment that are to be used directly in the Work shall be brought to and stored on the Project site by the Contractor. After equipment is no longer required for the Work, it shall be promptly removed from the Project site. Protection of construction materials and equipment stored at the Project site from weather, theft, damage, and all other adversity is solely the responsibility of the Contractor. The Contractor shall ensure that the Work, at all times, is performed in a manner that affords reasonable access, both vehicular and pedestrian, to the site of the Work and all adjacent areas. The Work shall be performed, to the fullest extent reasonably possible, in such a manner that public areas adjacent to the site of the Work shall be free from all debris, building materials, and equipment likely to cause hazardous conditions.

§ 3.13.3 The Contractor and any entity for whom the Contractor is responsible shall not erect any sign on the Project site without the prior written consent of the Owner, which may be withheld in the sole discretion of the Owner.

§ 3.13.4 Without limitation of any other provision in the Contract Documents, the Contractor shall use best efforts to minimize any interference with the occupancy or beneficial use of (i) any areas and buildings adjacent to the site of the Work, and (ii) the building in the event of partial occupancy, as more specifically described in Section 9.9. Without prior approval of the Owner, the Contractor shall not permit any workers to use any existing facilities at the Project site, including, without limitation, lavatories, toilets, entrances, and parking areas other than those designated by the Owner.

§ 3.13.4.1 Without limitation of any other provision of the Contract Documents, the Contractor shall use its best efforts to comply with all rules and regulations promulgated by the Owner in connection with the use and occupancy of the Project site and the building, as amended from time to time. The Contractor shall immediately notify the Owner in writing if during the performance of the Work, the Contractor finds compliance of any portion of such rules and regulations to be impracticable, setting forth the problems of such compliance and suggesting alternatives through which the same results intended by such portions of the rules and regulations can be achieved. The Owner may, in the Owner's sole discretion, adopt such suggestions, develop new alternatives, or require compliance with the existing requirements of the rules and regulations.

§ 3.13.4.2 The Contractor shall also comply with all insurance requirements applicable to use and occupancy of the Project site and the building.

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§ 3.15.3 Removal of rubbish and waste material shall be performed a minimum of one time daily and additionally as required to keep rubbish and waste from stockpiling and creating a potential fire hazard.

The Contractor shall provide the Owner and Architect with access to the Work in preparation and progress wherever located. Fire truck access to the existing facilities must be maintained at all times. Particular care shall be taken to minimize the off-loading time of material delivery trucks. The Contractor shall provide a flagman with a radio to provide for immediate relocation of trucks in the event of an emergency.

...

§ 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), including loss of use resulting therefrom, 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. The Contractor further agrees to investigate, handle, respond to, provide defense for, and defend the same at its sole expense and agrees to bear all other costs and expenses related thereto. 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.

...

§ 3.18.3 The Contractor's indemnity obligations under this Section 3.18 shall also specifically include, without limitation, all fines, penalties, damages, liability, costs, expenses (including, without limitation, reasonable attorneys' fees), and punitive damages, if any, arising out of, or in connection with, any (i) violation of or failure to comply with any law, statute, ordinance, rule, regulation, code, or requirements of a public authority that bears upon the performance of the Work by the Contractor, a Subcontractor, or any person or entity for whom either is responsible; (ii) means, methods, procedures, techniques, or sequences of execution or performance of the Work; and (iii) failure to secure and pay for permits, fees, approvals, licenses, and inspections as required under the Contract Documents, or any violation of any permit or other approval of a public authority applicable to the Work, by the Contractor, a Subcontractor, or any person or entity for whom either is responsible.

§ 3.18.4 The Contractor shall indemnify and hold harmless all of the indemnitees from and against any cost and expenses (including reasonable attorneys' fees) incurred by any of the indemnitees in enforcing any of the Contractor's defense, indemnity, and hold-harmless obligations under this Contract.

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§ 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. If the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents causes the Architect to visit the site more times than specified in the limit in Section 4.2.3.2 of the Agreement between the Owner and the Architect, if any such number is specified, over the duration of the Project during construction, then the cost to the Owner for Architect's additional visits to the site above such limit during construction shall be the responsibility of the Contractor and the Contractor shall reimburse the Owner for all such costs.

...

~~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 the Contractor shall endeavor to communicate with each other through the Architect about matters arising out of or relating to the Contract Documents. 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.~~

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§ 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. If the Contractor submits requests for information that are not prepared in accordance with the Contract Documents or where such information is available to the Contractor from a careful study and comparison of the Contract Documents, field conditions, other Owner-provided information, Contractor-prepared coordination drawings, or prior Project correspondence or documentation and the Architect reviews such requests for information, then the cost to the Owner for Architect's review of such requests for information shall be the responsibility of the Contractor and the Contractor shall reimburse the Owner for all such costs.

...

§ 5.2.1 Unless otherwise stated in the Contract Documents, Pursuant to N.C.G.S. § 143-128, the Contractor was required to identify on its bid the contractors selected for the subdivisions or branches of work for: (i) heating, ventilating, and air conditioning; (ii) plumbing; (iii) electrical; and (iv) general. The Contractor shall not substitute any person as Subcontractor in the place of the Subcontractor listed in the original bid, except (i) if the listed Subcontractor's bid is later determined by the Contractor to be nonresponsible or nonresponsive or the listed Subcontractor refuses to enter into a contract for the complete performance of the bid work; or (ii) with the approval of the awarding authority for good cause shown. Regarding Subcontractors performing Work under a subdivision or branch of work other than that listed above and provided that such Subcontractors are not otherwise required to be listed on the Contractor's bid by the Contract Documents or bidding 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 furnish in writing to the Owner through the Architect the names of persons or entities (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) design) proposed for each portion of the Work. The Owner or Architect may reply within 14 days to the Contractor in writing stating

whether the Owner or Architect has reasonable objection to any such proposed person or entity or (2) requires additional time for review. Failure of the Architect to provide notice- entity. Failure of the Owner or Architect to reply within the 14-day period shall constitute notice of no reasonable objection.

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§ 5.4.2 Upon such assignment, if the Work- If the Work in connection with a subcontract has been suspended for more than 30 days, thirty (30) days after termination of the Contract by the Owner pursuant to Section 14.2 and the Owner accepts assignment of such subcontract, the Subcontractor's compensation shall be equitably adjusted for increases in cost resulting from any increase in direct costs incurred by such Subcontractor as a result of the suspension.

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§ 5.4.4 Each subcontract shall specifically provide that the Owner shall only be responsible to the Subcontractor for those obligations that accrue subsequent to the Owner's exercise of any rights under this conditional assignment.

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§ 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. Except as permitted in Section 7.3 and Section 9.7.2, a change in the Contract Sum or the Contract Time shall be accomplished only by Change Order. Accordingly, no course of conduct or dealings between the parties, nor express or implied acceptance of alterations or additions to the Work, and no claim that Owner has been unjustly enriched by any alteration of or addition to the Work, whether or not there is, in fact, any unjust enrichment to the Work, shall be the basis of any claim to an increase in any amounts due under the Contract Documents or a change in any time period provided for in the Contract Documents.

...

§ 7.2.2 Agreement on any Change Order shall constitute a final settlement of all matters relating to the change in the Work that is the subject of the Change Order, and any and all adjustments to the Contract Sum and the construction schedule.

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§ 8.2.3 The Contractor shall proceed expeditiously with adequate forces and shall achieve Substantial Completion within the Contract Time. If the progress or completion of the Work is delayed by any fault, neglect, act, or failure to act on the part of the Contractor or anyone acting for or on behalf of the Contractor, then the Contractor shall, in addition to all of the other obligations imposed by this Contract and by law upon the Contractor, and at no cost or expense to the Owner, work such overtime or require the appropriate Subcontractor to work such overtime as may be necessary to make up for all time lost and to avoid delay in the progress and completion of the Work.

...

§ 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 to the extent such delay will prevent the Contractor from achieving Substantial Completion within the Contract Time and if the performance of the Work is not, was not, or would not have been delayed by any other cause for which the Contractor is not entitled to an extension in the Contract Time under the Contract Documents. The Contractor further acknowledges and agrees that adjustments in the Contract Time will be permitted for a delay only to the extent such delay (i) is not caused, or could not have been anticipated, by the Contractor; (ii) could not be limited or avoided by the Contractor's timely notice to the Owner of the delay or reasonable likelihood that a delay will occur, and (iii) is of a duration not less than one (1) day.

The Contractor's claims, if any, for extension of time must be made in writing to the Architect not more than five working days after the Contractor has notice of delay. Thereafter, the Contractor must provide full details and supporting documentation with regard to the cause of the delay within 15 working days of the initial notice of the delay to the Architect. If either the initial notice or the supporting documentation is not filed with the Architect in writing within the time periods specified, the claim for delay shall be waived. If the cause for the delay is a continuing one, then only one claim is necessary. The Contractor's supporting documentation to the Architect shall include an estimate of the probable effect of the delay on the progress of the Work and the Project Schedule.

...

**§ 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. However, notwithstanding any other provision of the Contract Documents to the contrary, any damages recovered by the Contractor for delay shall be limited to the increase, if any, of direct costs incurred by the Contractor in performing the Work, which costs are incurred as a result of the delay. Except for direct costs, in no event shall the Contractor be entitled to any other compensation or recovery of any damages pursuant to this Agreement in connection with any delay, including, without limitation, consequential damages, lost opportunity costs, impact damages, profit, overhead, and other similar remuneration. The language in the two immediately preceding sentences shall not apply to damages for delay to the extent that such damages for delay are caused solely by the Owner or its agent.

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~~**§ 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.~~

...

**§ 9.3.1.3** Upon request by the Owner or Architect, each Application for Payment shall be accompanied by the following, all in form and substance satisfactory to the Owner: (i) a current Contractor's lien waiver and duly executed and acknowledged sworn statement showing all Subcontractors and suppliers with whom the Contractor has entered into subcontracts, the amount of each such subcontract, the amount requested for any Subcontractor and supplier in the requested progress payment, and the amount to be paid to the Contractor from such progress payment, together with similar sworn statements from all such Subcontractors and suppliers; (ii) duly executed waivers of mechanics' and material suppliers' liens from all Subcontractors and when appropriate, from suppliers and Sub-subcontractors establishing payment or satisfaction of payment of all amounts requested by the Contractor on behalf of such entities or persons in any previous Application for Payment; and (iii) all information and materials required to comply with the requirements of the Contract Documents or reasonably requested by the Owner or the Architect.

**§ 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. In requesting payment for materials stored on or off the site, the Contractor shall submit with his Application for Payment the following: (i) An itemized list of stored material prepared in sufficient detail to identify the materials and their value; (ii) Evidence such as bills of sale or such other proof as may be requested by the Owner or Architect to substantiate that the materials listed have been paid for by the Contractor; and (iii) documentation satisfactory in form and substance to Owner that title to such materials shall be vested in Owner.

For material stored off the site, the Contractor shall also submit with his Application for Payment the following: (i) Evidence that the materials are stored at the location previously agreed to in writing; (ii) Evidence that the storage location is bonded; (iii) Evidence that the materials are insured while in storage and while in transit to the site, such insurance to be satisfactory to Owner and in such amount not less than the total value of the materials; and (iv)

Evidence that transportation to the site will be provided. No payment will be certified for material stored off the site until the storage location has been agreed upon in writing. Representatives of the Owner and Architect shall have the right to make inspections of the storage facilities at any time. At the storage facility, such materials shall be specifically marked for use on the Project and segregated from other materials.

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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.  
§ 9.7.1 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, 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.

§ 9.7.2 If the Owner is entitled to reimbursement or payment from the Contractor under or pursuant to the Contract Documents, such payments shall be made promptly upon demand by the Owner. Notwithstanding any provision contained in the Contract Documents to the contrary, if the Contractor fails to promptly make any payment due the Owner, or the Owner incurs any costs and expenses to cure any default of the Contractor or to correct the defective Work, the Owner shall have the absolute right to offset such amount against the Contract Sum, and may, in the Owner's sole discretion, elect either to (i) deduct an amount equal to that which the Owner is entitled from any payments then or thereafter due the Contractor from the Owner; or (ii) issue a written notice to the Contractor reducing the Contract Sum by an amount equal to that which the Owner is entitled.

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§ 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; provided, however, that as a condition precedent to Substantial Completion, the Owner has received all certificates of occupancy and any other permits, approvals, licenses, and other documents from any governmental authority having jurisdiction thereof necessary for the beneficial occupancy of the Project.

...

§ 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. If the Contractor's failure to complete the Work or to complete or correct items identified on the list of such items causes the Architect to perform more inspections than the number specified in the limit in Section 4.2.3.3 of the Agreement between the Owner and the Architect, if any such number is specified, then the Contractor shall reimburse the Owner for all costs incurred including the cost of the Architect's services made necessary thereby.

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§ 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. All warranties and guarantees required under or pursuant to the Contract Documents shall be assembled and delivered by the Contractor to the Architect as part of the final Application for Payment. The final Certificate for Payment will not be issued by the Architect until all warranties and guarantees have been received and accepted by the Owner. In the event that more inspections by the Architect described above than the number specified in the limit in Section 4.2.3.4 of the Agreement between the Owner and the Architect, if any such number is specified, are made necessary by the failure of the Contractor to complete the Work or to complete or correct items identified on the list of such items, the Contractor shall reimburse the Owner for all costs incurred including the cost of the Architect's services made necessary thereby.

**§ 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.~~ by the Owner, (7) submission by the Contractor to the Architect and the Owner of as-built drawings, (8) submission by the Contractor by the Contractor to the Owner of a complete list of Subcontractors and principal suppliers and vendors on the Project, including addresses and telephone numbers, (9) submission by the Contractor to the Owner of an indexed looseleaf binder of complete installation, operation and maintenance manuals, including all manufacturers' literature, of equipment and materials used in the Work, (10) submission by the Contractor to the Owner, in an indexed, looseleaf binder, of all inspection reports, permits, and temporary and final certificates of occupancy and licenses necessary for the occupancy of the Project, and (11) any and all other items required pursuant to the Contract Documents. 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.

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**§ 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. The Contractor shall also be responsible, at the Contractor's sole cost and expense, for all measures necessary to protect any property adjacent to the Project and improvements therein. Any damage to such property or improvements shall be promptly repaired by the Contractor.

**§ 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. If use or storage of explosives or other hazardous materials or equipment or unusual construction methods are necessary, the Contractor shall give the Owner and the Architect reasonable advance notice.

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**§ 10.2.9** When all or a portion of the Work is suspended for any reason, the Contractor shall securely fasten down all coverings and fully protect the Work, as necessary, from injury or damage by any cause.

**§ 10.2.10** The Contractor shall promptly report in writing to the Owner and Architect all accidents arising out of or in connection with the Work that cause death, personal injury, or property damage, giving full details and statements of any witnesses. In addition, if death, serious personal injuries, or serious damages are caused, the accident shall be reported immediately by telephone or messenger to the Owner and the Architect.

**§ 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 concealed and undisclosed hazardous

material or substance (as defined in CERCLA) 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. The term "rendered harmless" shall be interpreted to mean that levels of asbestos, polychlorinated biphenyls are less than any applicable exposure standards set forth in OSHA regulations. In no event, however, shall the Owner have any responsibility for any substance or material that is brought to the Project site by the Contractor, any Subcontractor, any material supplier, or any entity for whom any of them is responsible. The Contractor agrees not to use any fill or other materials to be incorporated into the Work that are hazardous, toxic, or made up of any items that are hazardous or toxic.

**§ 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.~~Intentionally omitted.

**§ 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. Each Contractor bringing chemicals onto the site must provide Owner with the appropriate hazard information on these substances, including the labels used and the precautionary measures to be taken in working with these chemicals.~~

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**§ 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.~~

...

**§ 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.~~



...

**§ 11.1.5** If the Contractor fails to purchase and maintain any insurance required, or required to be purchased and maintained, under AIA Document A101-2017, Exhibit A, or elsewhere in the Contract Documents, the Owner may, but shall not be obligated to, upon five (5) days' written notice to the Contractor, purchase such insurance on behalf of the Contractor and shall be entitled to be reimbursed by the Contractor upon demand. Any amount owed to the Owner by the Contractor pursuant to this Subparagraph may be deducted from any payments owed by the Owner to the Contractor for performance of the Contract.

**§ 11.1.6** Requirements for performance bonds and payment bonds shall be set forth in AIA Document A101-2017, Exhibit A.

The Owner shall be responsible for purchasing and maintaining any insurance required by AIA Document A101-2017, Exhibit A.

**§ 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.~~

**§ 11.3.1** 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 solely 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.

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

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.

**§ 11.4 Intentionally omitted.**

**§ 11.5.1** A loss insured under the property insurance required by the Agreement shall be adjusted by the Owner as ~~fiduciary in good faith~~ and made payable to the Owner as ~~fiduciary in good faith~~ 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.

...

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. If prior to the date of Substantial Completion the Contractor, a Subcontractor, or anyone for whom either is responsible uses or damages any portion of the Work, including, without limitation, mechanical, electrical, plumbing, and other building systems, machinery, equipment, or other mechanical device, the Contractor shall cause such item to be restored to "like new" condition at no expense to the Owner. In addition, the Contractor shall promptly remedy damage and loss arising in conjunction with the Project 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 anyone for whose acts they may be liable and for which the Contractor is responsible.

**§ 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.~~ Contractor. 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.

...

**§ 12.2.2.3** ~~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. Upon completion of any Work under or pursuant to this Paragraph 12.2, the one-year correction period in connection with the Work requiring correction shall be renewed and recommence. The obligations under Paragraph 12.2 shall cover any repairs and replacement to any part of the Work or other property that is damaged by the defective Work.~~

...

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. ~~construed and enforced in accordance with the laws of the State of North Carolina. The parties to this Contract confer exclusive jurisdiction of all disputes arising hereunder upon the General Courts of Justice of Union County, North Carolina.~~

...

**§ 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, Section 13.2.2 or set forth elsewhere in the Contract Documents, 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.

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**§ 13.3.1** ~~Duties~~ Except as expressly provided in the Contract Documents, 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.

...

**§ 13.4.3** 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. The Contractor also agrees that the cost of testing services required for the convenience of the Contractor in his scheduling and performance of the Work, and the cost of testing services related to remedial operations performed to correct deficiencies in the Work, shall be borne by the Contractor.

...

### **§ 13.6 Equal Opportunity**

**§ 13.6.1** The Contractor and all Subcontractors shall not discriminate against any employee or applicant for employment because of physical or mental handicap, race, religion, color, sex, national origin, or age. The Contractor shall take affirmative action to insure that applicants are employed, and that employees are treated during employment, without regard to their physical or mental handicap, race, religion, color, sex, national origin, or age. Such actions shall include, but shall not be limited to, the following: employment, upgrading, demotion, or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the policies of non-discrimination.

**§ 13.6.2** The Contractor and all Subcontractors shall, in all solicitations or advertisements for employees placed by them or on their behalf, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, national origin, or age.

### **§ 13.7 General Provisions**

**§ 13.7.1** Should any evidence of the presence of endangered and/or threatened species or their critical habitat be brought to the attention of the Contractor, the Contractor will immediately report this evidence to the Architect.

**§ 13.7.2** All personal pronouns used in this Contract, whether used in the masculine, feminine, or neuter gender, shall include all other genders; and the singular shall include the plural and vice versa. Titles of articles, sections, and subsections are for convenience only and neither limit nor amplify the provisions of this Contract. The use herein of the word "including," when following any general statement, term, or matter, shall not be construed to limit such statement, term or matter to the specific items or matters set forth immediately following such word or to similar items or matters, whether or not non-limiting language (such words as "without limitation," or "but not limited to," or words of similar import) is used with reference thereto, but rather shall be deemed to refer to all other items or matters that could reasonably fall within the broadest possible scope of such general statement, term or matter.

**§ 13.7.3** Each party hereto agrees to do all acts and things and to make, execute, and deliver such written instruments, as shall from time to time be reasonably required to carry out the terms and provisions of the Contract Documents.

**§ 13.7.4** Any specific requirement in this Contract that the responsibilities or obligations of the Contractor also apply to a Subcontractor is added for emphasis and is also hereby deemed to include a Subcontractor of any tier. The

omission of a reference to a Subcontractor in connection with any of the Contractor's responsibilities or obligations shall not be construed to diminish, abrogate, or limit any responsibilities or obligations of a Subcontractor of any tier under the Contract Documents or the applicable subcontract.

### **§ 13.8 No Oral Waiver**

The provisions of the Contract Documents shall not be changed, amended, waived, or otherwise modified in any respect except by a writing signed by the Owner. No person is authorized on behalf of the Owner to orally change, amend, waive, or otherwise modify the terms of the Contract Documents or any of the Contractor's duties or obligations under or arising out of the Contract Documents. Any change, waiver, approval, or consent granted to the Contractor shall be limited to the specific matters stated in the writing signed by the Owner, and shall not relieve the Contractor of any other of the duties and obligations under the Contract Documents. No "constructive" changes shall be allowed.

### **§ 13.9 E-Verify**

E-Verify is the federal program operated by the United States Department of Homeland Security and other federal agencies, or any successor or equivalent program, used to verify the work authorization of newly hired employees pursuant to federal law. Contractor shall ensure that Contractor and any Subcontractor performing work under this Agreement: (i) uses E-Verify if required to do so by North Carolina law; and (ii) otherwise complies with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes.

### **§ 13.10 Iran Divestment Act**

Pursuant to Article 6E of Chapter 147 of the North Carolina General Statutes, the Owner must require most entities with which it contracts, which would include the Contractor under this Contract, to certify that the entity is not identified on a list created by the State Treasurer pursuant to N.C.G.S. § 147-86.58 (the "Final Divestment List"). This requirement is related to ensuring that entities with which local governments contract are not involved in investment activities in Iran. The Contractor certifies that: (i) it is not listed on the Final Divestment List, and (ii) it will not utilize any Subcontractor performing work under this Agreement which is listed on the Final Divestment List.

## **PAGE 42**

**§ 14.1.1** The Contractor may terminate the Contract if the Work is stopped for a period of 30-60 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:

...

- .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.

...

**§ 14.1.4** 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-persistently 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.

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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. Upon such termination, the Contractor shall recover as its sole remedy payment for Work properly performed in connection with the terminated portion of the

Work prior to the effective date of termination and for items properly and timely fabricated off the Project site, delivered and stored in accordance with the Owner's instructions. The Contractor hereby waives and forfeits all other claims for payment and damages, including, without limitation, anticipated profits. The Owner shall be credited for (i) payments previously made to the Contractor for the terminated portion of the Work, (ii) claims that the Owner has against the Contractor under the Contract, and (iii) the value of the materials, supplies, equipment, or other items that are to be disposed of by the Contractor that are part of the Contract Sum.

...

#### **§ 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.~~

#### **§ 15.1.2 Intentionally omitted.**

~~§ 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 Contractor must 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 Maker; provided, however, that the claimant shall use its best efforts to furnish the Architect and the other party, as expeditiously as possible, with notice of any Claim, including, without limitation, those in connection with concealed or unknown conditions, once such a claim is recognized, and shall cooperate with the Architect and the party against whom the claim is made in any effort to mitigate the alleged or potential damages, delay, or other adverse consequences arising out of the condition that is the cause of such a Claim. Claims by either party must 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. Claims may also be reserved in writing within the time limits set forth in this Section 15.1.3.1. If a Claim is reserved, the Resolution of Claims and Disputes procedures described in this Article 15 shall not commence until a written notice from the claimant is received by the Architect. Any notice of Claim or reservation of Claim must clearly identify the alleged cause and the nature of the Claim and include data and information then available to the claimant that will facilitate prompt verification and evaluation of the Claim.~~

~~§ 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.~~

#### **PAGE 44**

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 and written approval of the Owner shall be secured 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.

...

**§ 15.1.6.2** 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. Time extensions will not be granted for rain, wind, snow, or other natural phenomena of normal intensity for the locality where the Work is located. For the purpose of establishing that abnormal adverse weather conditions have caused a delay, and determining the extent of delay attributed to such weather conditions, the Contractor shall furnish with his claim National Oceanic and Atmospheric Administration National Weather Service records of climatic conditions during the same time interval for the previous five years for the locality of the Work; the Contractor's daily job site logs/daily construction reports showing weather, job activities, and the effect of weather on the progress of the Work; and an impact schedule

showing the effects of the weather event on the critical path of the Contractor's Construction Schedule. For a time extension to be granted for abnormal, inclement weather: (a) such weather must, in the opinion of the Architect, actually have an adverse effect upon the progress of the Contractor's work which is of a critical nature; and (b) in the opinion of the Architect, the adverse effect must not be due to any fault or negligence of Contractor and could not have been avoided by the Contractor through proper planning, coordination, and implementation of adequate weather protection necessary to allow the Work to be continued without adverse effect upon labor production. Contractor agrees that the fact that abnormal inclement weather may occur does not, to itself, justify any time extension hereunder. Time extensions for weather delays, if granted, do not entitle the Contractor to recovery of "extended overhead" associated with that claim.

No extension of time will be made for abnormal inclement weather after principal portions of the Work are enclosed except for site work which critically affects the Contract time or specific dates. For the purpose of this Paragraph, the term "enclosed" is defined to mean when the Work is sufficiently closed in (exterior walls up and roof in place) so as to permit any structure or major portion thereof which is part of the Work, to be adequately heated so as to allow the various trades to perform their work. The Architect shall determine when the structure is "enclosed" and shall issue, upon the request of the Contractor, a letter certifying the date the Work became enclosed for the purpose hereof.

The Contractor understands and agrees that the time for performance of this Contract, as stated in the Contract Documents, includes an allowance for calendar days which may not be suitable for construction work.

Furthermore, unless the Contractor can substantiate to the satisfaction of the Architect that activities affected during the abnormal adverse weather conditions were being performed within seven (7) calendar days of their scheduled performance on the Contractor's progress schedule, the Contractor will not be entitled to an extension of time thereof.

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§ 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. ~~Claim arising prior to the date final payment is due.~~ 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.

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§ 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. The Owner, as a North Carolina local government, shall use the dispute resolution process adopted by the State Building Commission pursuant to N.C.G.S. § 143-135.26(11). This dispute resolution process will be available to all parties involved in this construction project including the Owner, the Architect, the Contractor, and the first-tier and lower-tier Subcontractors and shall be available for any issues arising out of the Contract or construction process, provided that the amount in controversy is \$15,000 or more. The Contractor shall make this process available to its Subcontractors by inclusion of this provision in the subcontractor agreements. The Owner and the Contractor agree that they shall submit any and all unsettled claims or counterclaims, disputes, or other matters in question between them arising out of or relating to the Contract Documents or the breach thereof in which the amount in controversy is at least \$15,000 to mediation in accordance with said rules.

§ 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. ~~mediation.~~ 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. *Intentionally omitted.*

...

#### ~~§ 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.

#### ~~§ 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.

## **Certification of Document's Authenticity**

**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 13:13:22 ET on 12/07/2023 under Order No. 4104243830 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A201™ – 2017, General Conditions of the Contract for Construction, other than those additions and deletions shown in the associated Additions and Deletions Report.

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

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

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



PART 1 - GENERAL

1.1 RELATED DOCUMENTS

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

1.2 SUMMARY

- A. This Section includes the following:
  - 1. Work covered by the Contract Documents.
  - 2. Type of Contract.
  - 3. Work schedule and sequence.
  - 4. Use of premises.
  - 5. Work restrictions.
  - 6. Specification formats and conventions.

1.3 WORK COVERED BY CONTRACT DOCUMENTS

- A. Project Identification: Union County HHS Immunization Renovation
  - 1. Union County HHS, 2258 Concord Ave., Monroe, NC
  - 2. Owner: Union County, NC.

- B. SCOPE

- 1. Construct a new immunization waiting room and exam room using cold formed metal framing (CFMF) at 16" o.c. with bracing to match existing construction.
  - 2. Sheath each side of CFMF with one (1) layer of 5/8" impact resistant gypsum wall board. Finish level shall be XXX.
  - 3. The project construction onsite shall be substantially complete within sixty (60) days.

- C. Architect Identification:

- 1. Project Designer: Creech & Associates, PLLC
  - 2. Owner: Union County, NC.

1.4 CONTRACTS

- A. Project will be constructed under a general construction contract.

1.5 WORK SCHEDULE AND SEQUENCE

- A. The Work shall be conducted in a single phase in coordination with the County and HHS Staff for access, security, and shut-downs.

1.6 USE OF PREMISES

- A. General: Contractor shall have full use of premises for construction operations, including use of Project site, during construction period. Contractor's use of premises is limited only by Owner's right to perform work or to retain other contractors on portions of Project.
  - 1. Driveways and Entrances: Keep driveways and entrances serving premises clear and available to Owner, Owner's employees, and emergency vehicles at all times. Do not use these areas for parking or storage of materials.
    - a. Schedule deliveries to minimize use of driveways and entrances.
    - b. Schedule deliveries to minimize space and time requirements for storage of materials and equipment on-site.
    - c. Truck access to site loading area shall be maintained at all times.
- B. Deliveries: Provide representative to receive all materials and offload at the job site. The Owner will refuse all deliveries to other locations.

- C. Personnel Identification: All construction personnel in occupied portions of the facility must wear Contractor-furnished identification badges at all times. Personnel without proper identification are subject to removal from the site by the Owner.
- D. Safety and Security: Comply with Owner's requirements related to security and fire drills and alerts.
- E. Burning/Welding Operations: Comply with Owner's requirements related to Burning and Welding permits. Coordinate turning off fire/smoke detection systems in affected areas. Contractor shall be responsible for Fire Department response fees related to construction operations. Contractor shall conduct Fire Watch as required by Fire Marshal.
- F. Smoking: No smoking is allowed on the premises, except within 20 feet of the Contractor's job office trailer or as otherwise designated by Owner's representative.
- G. Use of Site: Limit use of premises to indicated areas within the Contract limits. Do not disturb portions of Project site beyond areas in which the Work is indicated.
  - a. Limits: Confine construction operations to areas indicated on Civil Drawings.

1.7 WORK RESTRICTIONS

- A. On-Site Work Hours: Work shall be generally performed during normal business working hours of 7:00 a.m. to 9:00 p.m., Monday through Friday, except otherwise indicated.
  - 1. Weekend Hours:
    - a. Saturday Hours: 8:00 a.m. to 6:00 p.m.
    - b. Sunday Hours: 1:00 p.m. to 6:00 p.m.
  - 2. Early Morning Hours: Restrict noisy work until after 7:00 a.m.
  - 3. Other work hours can be negotiated with the County as needed.

1.8 SPECIFICATION FORMATS AND CONVENTIONS

- A. Specification Format: The Specifications are organized into Divisions and Sections using the 33-division format and CSI/CSC's "MasterFormat" numbering system.
- B. Specification Content: The Specifications use certain conventions for the style of language and the intended meaning of certain terms, words, and phrases when used in particular situations. These conventions are as follows:
  - 1. Abbreviated Language: Language used in the Specifications and other Contract Documents is abbreviated. Words and meanings shall be interpreted as appropriate. Words implied, but not stated, shall be inferred, as the sense requires. Singular words shall be interpreted as plural, and plural words shall be interpreted as singular where applicable as the context of the Contract Documents indicates.
  - 2. Imperative mood and streamlined language are generally used in the Specifications. Requirements expressed in the imperative mood are to be performed by Contractor. Occasionally, the indicative or subjunctive mood may be used in the Section Text for clarity to describe responsibilities that must be fulfilled indirectly by Contractor or by others when so noted.
    - a. The words "shall," "shall be," or "shall comply with," depending on the context, are implied where a colon (:) is used within a sentence or phrase.

PART 2 - PRODUCTS (Not Used)

PART 3 - EXECUTION (Not Used)

END OF SECTION 01 10 00

PART 1 - GENERAL

1.1 RELATED DOCUMENTS

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

1.2 SUMMARY

- A. This Section specifies administrative and procedural requirements for handling and processing Contract modifications.

1.3 MINOR CHANGES IN THE WORK

- A. Architect will issue supplemental instructions authorizing Minor Changes in the Work, not involving adjustment to the Contract Sum or the Contract Time, on AIA Document G710, "Architect's Supplemental Instructions."

1.4 PROPOSAL REQUESTS

- A. Owner-Initiated Proposal Requests: Architect will issue a detailed description of proposed changes in the Work that may require adjustment to the Contract Sum or the Contract Time. If necessary, the description will include supplemental or revised Drawings and Specifications.
  - 1. Proposal Requests issued by Architect are for information only. Do not consider them instructions either to stop work in progress or to execute the proposed change.
  - 2. Within 20 days after receipt of Proposal Request, submit a quotation estimating cost adjustments to the Contract Sum and the Contract Time necessary to execute the change.
    - a. Include a list of quantities of products required or eliminated and unit costs, with total amount of purchases and credits to be made. If requested, furnish survey data to substantiate quantities.
    - b. Indicate applicable taxes, delivery charges, equipment rental, and amounts of trade discounts.
    - c. Include an updated Contractor's Construction Schedule that indicates the effect of the change, including, but not limited to, changes in activity duration, start and finish times, and activity relationship. Use available total float before requesting an extension of the Contract Time.
- B. Contractor-Initiated Proposals: If latent or unforeseen conditions require modifications to the Contract, Contractor may propose changes by submitting a request for a change.
  - 1. Include a statement outlining reasons for the change and the effect of the change on the Work. Provide a complete description of the proposed change. Indicate the effect of the proposed change on the Contract Sum and the Contract Time.
  - 2. Include a list of quantities of products required or eliminated and unit costs, with total amount of purchases and credits to be made. If requested, furnish survey data to substantiate quantities.
  - 3. Indicate applicable taxes, delivery charges, equipment rental, and amounts of trade discounts.
  - 4. Include an updated Contractor's Construction Schedule that indicates the effect of the change, including, but not limited to, changes in activity duration, start and finish times, and activity relationship. Use available total float before requesting an extension of the Contract Time.
  - 5. Comply with requirements in Division 01 Section "Product Requirements" if the proposed change requires substitution of one product or system for product or system specified.
- C. Proposal Request Form: Use AIA Document G709.

SECTION 01 26 00 - CONTRACT MODIFICATION PROCEDURES

1.5 CHANGE ORDER PROCEDURES

- A. On Owner's approval of a Proposal Request, Architect will issue a Change Order for signatures of Owner and Contractor on AIA Document G701.

1.6 CONSTRUCTION CHANGE DIRECTIVE

- A. Construction Change Directive: Architect may issue a Construction Change Directive on AIA Document G714. Construction Change Directive instructs Contractor to proceed with a change in the Work, for subsequent inclusion in a Change Order.
  - 1. Construction Change Directive contains a complete description of change in the Work. It also designates method to be followed to determine change in the Contract Sum or the Contract Time.
- B. Documentation: Maintain detailed records on a time and material basis of work required by the Construction Change Directive.
  - 1. After completion of change, submit an itemized account and supporting data necessary to substantiate cost and time adjustments to the Contract.

PART 2 - PRODUCTS (Not Used)

PART 3 - EXECUTION (Not Used)

END OF SECTION 01 26 00

PART 1 - GENERAL

1.1 RELATED DOCUMENTS

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

1.2 SUMMARY

- A. This Section specifies administrative and procedural requirements necessary to prepare and process Applications for Payment.

1.3 SCHEDULE OF VALUES

- A. Coordination: Coordinate preparation of the Schedule of Values with preparation of Contractor's Construction Schedule.
  - 1. Correlate line items in the Schedule of Values with other required administrative forms and schedules, including the following:
    - a. Application for Payment forms with Continuation Sheets.
    - b. Submittals Schedule.
    - c. Contractor's Construction Schedule.
  - 2. Submit the Schedule of Values to Architect at earliest possible date but no later than 10 days before the date scheduled for submittal of initial Applications for Payment.
  - 3. Sub-schedules: Where the Work is separated into phases requiring separately phased payments, provide sub-schedules showing values correlated with each phase of payment.
- B. Format and Content: Use the Project Manual table of contents as a guide to establish line items for the Schedule of Values. Provide at least one-line item for each Specification Section.
  - 1. Identification: Include the following Project identification on the Schedule of Values:
    - a. Project name and location.
    - b. Name of Architect.
    - c. Architect's project number.
    - d. Contractor's name and address.
    - e. Date of submittal.
  - 2. Submit draft of AIA Document G703 Continuation Sheets.
  - 3. Arrange the Schedule of Values in tabular form with separate columns to indicate the following for each item listed:
    - a. Related Specification Section or Division.
    - b. Description of the Work.
    - c. Name of subcontractor.
    - d. Name of manufacturer or fabricator.
    - e. Name of supplier.
    - f. Change Orders (numbers) that affect value.
    - g. Dollar value.
      - 1) Percentage of the Contract Sum to nearest one-hundredth percent, adjusted to total 100 percent.
  - 4. Provide a breakdown of the Contract Sum in enough detail to facilitate continued evaluation of Applications for Payment and progress reports. Coordinate with the Project Manual table of contents. Provide several line items for principal subcontract amounts, where appropriate. Include separate line items under required principal subcontracts for operation and maintenance manuals, punch list activities, Project Record Documents, and demonstration and training in the amount of 5 percent of the Contract Sum.
  - 5. Round amounts to nearest whole dollar; total shall equal the Contract Sum.
  - 6. Provide a separate line item in the Schedule of Values for each part of the Work where Applications for Payment may include materials or equipment purchased or fabricated and stored, but not yet installed.

- a. Differentiate between items stored on-site and items stored off-site. If specified, include evidence of insurance or bonded warehousing.
- 7. Provide separate line items in the Schedule of Values for initial cost of materials, for each subsequent stage of completion, and for total installed value of that part of the Work.
- 8. Allowances: Provide a separate line item in the Schedule of Values for each allowance. Show line-item value of unit-cost allowances, as a product of the unit cost, multiplied by measured quantity. Use information indicated in the Contract Documents to determine quantities.
- 9. Each item in the Schedule of Values and Applications for Payment shall be complete. Include total cost and proportionate share of general overhead and profit for each item.
  - a. Temporary facilities and other major cost items that are not direct cost of actual work-in-place may be shown either as separate line items in the Schedule of Values or distributed as general overhead expense, at Contractor's option.
- 10. Schedule Updating: Update and resubmit the Schedule of Values before the next Applications for Payment when Change Orders or Construction Change Directives result in a change in the Contract Sum.

#### 1.4 APPLICATIONS FOR PAYMENT

- A. Submit an Application for Payment shall be consistent with previous applications and payments as certified by Architect and paid for by Owner.
  - 1. Initial Application for Payment, Application for Payment at time of Substantial Completion, and final Application for Payment involve additional requirements.
- B. Payment Application Times: The date for each progress payment is the 15<sup>th</sup> day of each month, unless otherwise specified in the Agreement. The period covered by each Application for Payment starts on the day following the end of the preceding period and ends 15 days before the date for each progress payment.
- C. Payment Application Forms: Use AIA Document G702 and AIA Document G703 Continuation Sheets as form for Applications for Payment.
- D. Application Preparation: Complete every entry on form. Notarize and execute by a person authorized to sign legal documents on behalf of Contractor. Architect will return incomplete applications without action.
  - 1. Entries shall match data on the Schedule of Values and Contractor's Construction Schedule. Use updated schedules if revisions were made.
  - 2. Include amounts of Change Orders and Construction Change Directives issued before last day of construction period covered by application.
- E. Transmittal: Submit 4 signed and notarized original copies of each Application for Payment to Architect by a method ensuring receipt within 24 hours. One copy shall include waivers of lien and similar attachments if required.
  - 1. Transmit each copy with a transmittal form listing attachments and recording appropriate information about application.
- F. Waivers of Mechanic's Lien: With each Application for Payment, submit waivers of mechanic's lien from every entity who is lawfully entitled to file a mechanic's lien arising out of the Contract and related to the Work covered by the payment.
- G. Initial Application for Payment: Administrative actions and submittals that must precede or coincide with submittal of first Application for Payment include the following:
  - 1. List of subcontractors.
  - 2. Schedule of Values.
  - 3. Contractor's Construction Schedule (preliminary if not final).
  - 4. Products list (preliminary if not final).
  - 5. Schedule of unit prices.
  - 6. Submittals Schedule (preliminary if not final).
  - 7. List of Contractor's staff assignments.
  - 8. List of Contractor's principal consultants.

SECTION 01 29 00 - PAYMENT PROCEDURES

9. Copies of building permits.
  10. Copies of authorizations and licenses from authorities having jurisdiction for performance of the Work.
  11. Initial progress report.
  12. Report of preconstruction conference.
  13. Certificates of insurance and insurance policies.
- H. Application for Payment at Substantial Completion: After issuing the Certificate of Substantial Completion, submit an Application for Payment showing 100 percent completion for portion of the Work claimed as substantially complete.
1. Include documentation supporting claim that the Work is substantially complete and a statement showing an accounting of changes to the Contract Sum.
  2. This application shall reflect Certificates of Partial Substantial Completion issued previously for Owner occupancy of designated portions of the Work.
- I. Submittals that must precede or coincide with submittal of Application for Payment at Substantial Completion include the following:
1. Operation and Maintenance Data final submittal.
- J. Final Payment Application: Submit final Application for Payment with releases and supporting documentation not previously submitted and accepted, including, but not limited, to the following:
1. Evidence of completion of Project closeout requirements.
  2. Insurance certificates for products and completed operations where required and proof that taxes, fees, and similar obligations were paid.
  3. Updated final statement, accounting for final changes to the Contract Sum.
  4. AIA Document G706, "Contractor's Affidavit of Payment of Debts and Claims."
  5. AIA Document G706A, "Contractor's Affidavit of Release of Liens."
  6. AIA Document G707, "Consent of Surety to Final Payment."
  7. Evidence that claims have been settled.
  8. Final meter readings for utilities, a measured record of stored fuel, and similar data as of date of Substantial Completion or when Owner took possession of and assumed responsibility for corresponding elements of the Work.
  9. Final, liquidated damages settlement statement.

PART 2 - PRODUCTS (Not Used)

PART 3 - EXECUTION (Not Used)

END OF SECTION 01 29 00

PART 1 - GENERAL

1.1 RELATED DOCUMENTS

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

1.2 SUMMARY

- A. This Section includes administrative provisions for coordinating construction operations on Project including, but not limited to, the following:
  - 1. General Project coordination procedures.
  - 2. Coordination Drawings.
  - 3. Requests for Information.
  - 4. Project meetings.
- B. See Division 01 Section "Execution" for procedures for coordinating general installation and field-engineering services, including establishment of benchmarks and control points.

1.3 COORDINATION

- A. Coordination: Coordinate construction operations included in various Sections of the Specifications to ensure efficient and orderly installation of each part of the Work. Coordinate construction operations included in different Sections that depend on each other for proper installation, connection, and operation.
  - 1. Schedule construction operations in sequence required to obtain the best results where installation of one part of the Work depends on installation of other components, before or after its own installation.
  - 2. Coordinate installation of different components with other contractors to ensure maximum accessibility for required maintenance, service, and repair.
  - 3. Make adequate provisions to accommodate items scheduled for later installation.
  - 4. Where availability of space is limited, coordinate installation of different components to ensure maximum performance and accessibility for required maintenance, service, and repair of all components, including mechanical and electrical.
- B. Prepare memoranda for distribution to each party involved, outlining special procedures required for coordination. Include such items as required notices, reports, and list of attendees at meetings.
  - 1. Prepare similar memoranda for Owner and separate contractors if coordination of their Work is required.
- C. Administrative Procedures: Coordinate scheduling and timing of required administrative procedures with other construction activities and activities of other contractors to avoid conflicts and to ensure orderly progress of the Work. Such administrative activities include, but are not limited to, the following:
  - 1. Preparation of Contractor's Construction Schedule.
  - 2. Preparation of the Schedule of Values.
  - 3. Installation and removal of temporary facilities and controls.
  - 4. Delivery and processing of submittals.
  - 5. Progress meetings.
  - 6. Pre-installation conferences.
  - 7. Project closeout activities.



1.4 SUBMITTALS

- A. Coordination Drawings: Prepare Coordination Drawings if limited space availability necessitates maximum utilization of space for efficient installation of different components or if coordination is required for installation of products and materials fabricated by separate entities.
1. Content: Project-specific information, drawn accurately to scale. Do not base Coordination Drawings on reproductions of the Contract Documents or standard printed data. Include the following information, as applicable:
    - a. Indicate functional and spatial relationships of components of architectural, structural, civil, mechanical, and electrical systems.
    - b. Indicate required installation sequences.
    - c. Indicate dimensions shown on the Contract Drawings and make specific note of dimensions that appear to be in conflict with submitted equipment and minimum clearance requirements. Provide alternate sketches to Architect for resolution of such conflicts. Minor dimension changes and difficult installations will not be considered changes to the Contract.
  2. Sheet Size: At least 8-1/2 by 11 inches but no larger than 48 by 36 inches.
  3. Number of Copies: Submit two opaque copies of each submittal. Architect will return one copy.
  4. Refer to individual Sections for Coordination Drawing requirements for Work in those Sections.
  5. **Mechanical Coordination Drawings:** Obtain coordination drawings from the construction manager. Notify construction manager of conflicts with 5 days of receipt using a Request for Interpretation as specified. Submit Request for Interpretation to Owner and construction manager simultaneously.
- B. Key Personnel Names: Within 15 days of starting construction operations, submit a list of key personnel assignments, including superintendent and other personnel in attendance at Project site. Identify individuals and their duties and responsibilities; list addresses and telephone numbers, including home and office telephone numbers. Provide names, addresses, and telephone numbers of individuals assigned as standbys in the absence of individuals assigned to Project.
1. Post copies of list in Project meeting room, in temporary field office, and by each temporary telephone. Keep list current at all times.
- C. Requests for Information: Immediately on discovery of the need for clarification of the Contract Documents, submit a request for information to Architect. Include a detailed description of problem encountered, together with recommendations for changing the Contract Documents. Submit requests on CSI Form 13.2A, "Request for Interpretation".
- D. Submittal of RFIs: Submit Request for Information to Architect in accordance with the following procedures:
1. Submit RFI as soon as issue requiring clarification arises on form provided in this Project Manual. Allow minimum of 10 days for response from Architect.
  2. Completely identify all work affected by RFI by reference to all pertinent drawing numbers and specification paragraphs.
  3. Clearly identify field conditions or as-built conditions that affect work on sketches attached to RFI.
  4. If RFI addresses conflict in Contract Documents, clearly describe all dimensions, materials and other data necessary to enable Architect to respond to RFI.
  5. Include suggested solution to issue addressed in RFI. If, upon review of RFI by Architect, suggested solution is determined to affect construction time or costs, submit Proposal Request

## SECTION 01 31 00 - PROJECT MANAGEMENT AND COORDINATION

as described below. If no time or cost is involved, Architect will issue Architect's Supplemental Instruction (ASI) in response.

6. Allow each subcontractor or supplier involved or affected by RFI to review request before submission to Architect.
7. Incomplete RFIs, and RFIs that in the opinion of the Architect address issues adequately represented in the documents, will not be considered, and will be returned to Contractor.

### 1.5 ADMINISTRATIVE AND SUPERVISORY PERSONNEL

- A. General: In addition to Project superintendent, provide other administrative and supervisory personnel as required for proper performance of the Work.
  1. Include special personnel required for coordination of operations with other contractors.

### 1.6 PROJECT MEETINGS

- A. General: Schedule and conduct meetings and conferences at Project site, unless otherwise indicated.
  1. Attendees: Inform participants and others involved, and individuals whose presence is required, of date and time of each meeting. Notify Owner and Architect of scheduled meeting dates and times.
  2. Agenda: Prepare the meeting agenda. Distribute the agenda to all invited attendees.
  3. Minutes: Record significant discussions and agreements achieved. Distribute the meeting minutes to everyone concerned, including Owner and Architect, within 3 days of the meeting.
- B. Preconstruction Conference: Schedule a preconstruction conference before starting construction, at a time convenient to Owner and Architect, but no later than 15 days after execution of the Agreement. Hold the conference at Project site or another convenient location. Conduct the meeting to review responsibilities and personnel assignments.
  1. Attendees: Authorized representatives of Owner, Architect, and their consultants; Contractor and its superintendent; major subcontractors; manufacturers; suppliers; and other concerned parties shall attend the conference. All participants at the conference shall be familiar with Project and authorized to conclude matters relating to the Work.
  2. Agenda: Discuss items of significance that could affect progress, including the following:
    - a. Tentative construction schedule.
    - b. Phasing.
    - c. Critical work sequencing.
    - d. Designation of responsible personnel.
    - e. Procedures for processing field decisions and Change Orders.
    - f. Procedures for processing Applications for Payment.
    - g. Distribution of the Contract Documents.
    - h. Submittal procedures.
    - i. Preparation of Record Documents.
    - j. Use of the premises.
    - k. Responsibility for temporary facilities and controls.
    - l. Parking availability.
    - m. Office, work, and storage areas.
    - n. Equipment deliveries and priorities.
    - o. First aid.
    - p. Security.
    - q. Progress cleaning.
    - r. Working hours.
- C. Pre-installation Conferences: Conduct a pre-installation conference at Project site before each construction activity that requires coordination with other construction.

SECTION 01 31 00 - PROJECT MANAGEMENT AND COORDINATION

1. Attendees: Installer and representatives of manufacturers and fabricators involved in or affected by the installation and its coordination or integration with other materials and installations that have preceded or will follow, shall attend the meeting. Advise Architect of scheduled meeting dates.
  2. Agenda: Review progress of other construction activities and preparations for the particular activity under consideration, including requirements for the following:
    - a. Contract Documents.
    - b. Options.
    - c. Related Change Orders.
    - d. Purchases.
    - e. Deliveries.
    - f. Submittals.
    - g. Review of mockups.
    - h. Possible conflicts.
    - i. Compatibility problems.
    - j. Time schedules.
    - k. Weather limitations.
    - l. Manufacturer's written recommendations.
    - m. Warranty requirements.
    - n. Compatibility of materials.
    - o. Acceptability of substrates.
    - p. Temporary facilities and controls.
    - q. Space and access limitations.
    - r. Regulations of authorities having jurisdiction.
    - s. Testing and inspecting requirements.
    - t. Required performance results.
    - u. Protection of construction and personnel.
  3. Record significant conference discussions, agreements, and disagreements.
  4. Do not proceed with installation if the conference cannot be successfully concluded. Initiate whatever actions are necessary to resolve impediments to performance of the Work and reconvene the conference at earliest feasible date.
- D. Progress Meetings: Conduct progress meetings at monthly intervals. Coordinate dates of meetings with preparation of payment requests and building construction manager.
1. Attendees: In addition to representatives of Owner and Architect, each contractor, subcontractor, supplier, and other entity concerned with current progress or involved in planning, coordination, or performance of future activities shall be represented at these meetings. All participants at the conference shall be familiar with Project and authorized to conclude matters relating to the Work.
  2. Agenda: Review and correct or approve minutes of previous progress meeting. Review other items of significance that could affect progress. Include topics for discussion as appropriate to status of Project.
    - a. Contractor's Construction Schedule: Review progress since the last meeting. Determine whether each activity is on time, ahead of schedule, or behind schedule, in relation to Contractor's Construction Schedule. Determine how construction behind schedule will be expedited; secure commitments from parties involved to do so. Discuss whether schedule revisions are required to ensure that current and subsequent activities will be completed within the Contract Time.
    - b. Review present and future needs of each entity present, including the following:
      - 1) Interface requirements.
      - 2) Sequence of operations.

SECTION 01 31 00 - PROJECT MANAGEMENT AND COORDINATION

- 3) Status of submittals.
  - 4) Deliveries.
  - 5) Off-site fabrication.
  - 6) Access.
  - 7) Site utilization.
  - 8) Temporary facilities and controls.
  - 9) Work hours.
  - 10) Hazards and risks.
  - 11) Progress cleaning.
  - 12) Quality and work standards.
  - 13) Status of correction of deficient items.
  - 14) Field observations.
  - 15) Requests for interpretations (RFIs).
  - 16) Status of proposal requests.
  - 17) Pending changes.
  - 18) Status of Change Orders.
  - 19) Pending claims and disputes.
  - 20) Documentation of information for payment requests.
  - 21) Previous Meeting Minutes and resolve any corrections
  - 22) Work performed in last 30 days
  - 23) Work to be performed in next 30 days
  - 24) Contractor's revised Schedule and conformance to schedule
  - 25) Designer's inspection report – Non-Conforming Work
  - 26) Special Inspections Report – Deficiency Notices and Log
3. Minutes: Record and distribute the meeting minutes to Architect.
  4. Reporting: Distribute minutes of the meeting to each party present and to parties who should have been present. Include a brief summary, in narrative form, of progress since the previous meeting and report.
    - a. Schedule Updating: Revise Contractor's Construction Schedule after each progress meeting where revisions to the schedule have been made or recognized. Issue revised schedule concurrently with the report of each meeting.

PART 2 - PRODUCTS

(Not Used) PART 3 -

EXECUTION (Not Used)

END OF SECTION 01 31 00

## SECTION 01 32 00 - CONSTRUCTION PROGRESS DOCUMENTATION

### PART 1 - GENERAL

#### 1.1 RELATED DOCUMENTS

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

#### 1.2 SUMMARY

- A. This Section includes administrative and procedural requirements for documenting the progress of construction during performance of the Work, including the following:
  - 1. Preliminary Construction Schedule.
  - 2. Contractor's Construction Schedule.
  - 3. Submittals Schedule.
  - 4. Daily construction reports.
  - 5. Material location reports.
  - 6. Field condition reports.
  - 7. Special reports.
- B. Related Sections include the following:
  - 1. Division 01 Section "Payment Procedures" for submitting the Schedule of Values.
  - 2. Division 01 Section "Project Management and Coordination" for submitting and distributing meeting and conference minutes.
  - 3. Division 01 Section "Submittal Procedures" for submitting schedules and reports.
  - 4. Division 01 Section "Quality Requirements" for submitting a schedule of tests and inspections.

#### 1.3 SUBMITTALS

- A. Submittals Schedule: Submit three copies of schedule. Arrange the following information in a tabular format:
  - 1. Scheduled date for first submittal.
  - 2. Specification Section number and title.
  - 3. Submittal category (action or informational).
  - 4. Name of subcontractor.
  - 5. Description of the Work covered.
  - 6. Scheduled date for Architect's final release or approval.
- B. Contractor's Construction Schedule: Submit two printed copies of initial schedule, one a reproducible print and one a blue- or black-line print, large enough to show entire schedule for entire construction period.
- C. CPM Reports: Concurrent with CPM schedule, submit three copies of each of the following computer-generated reports. Format for each activity in reports shall contain activity number, activity description, cost and resource loading, original duration, remaining duration, early start date, early finish date, late start date, late finish date, and total float in calendar days.
  - 1. Activity Report: List of all activities sorted by activity number and then early start date, or actual start date if known.
  - 2. Logic Report: List of preceding and succeeding activities for all activities, sorted in ascending order by activity number and then early start date, or actual start date if known.
  - 3. Total Float Report: List of all activities sorted in ascending order of total float.
  - 4. Earnings Report: Compilation of Contractor's total earnings from the Notice to Proceed until most recent Application for Payment.
- D. Daily Construction Reports: Submit two copies at weekly intervals.

## SECTION 01 32 00 - CONSTRUCTION PROGRESS DOCUMENTATION

- E. Material Location Reports: Submit two copies at weekly intervals.
- F. Field Condition Reports: Submit two copies at time of discovery of differing conditions.
- G. Special Reports: Submit two copies at time of unusual event.

### 1.4 COORDINATION

- A. Coordinate preparation and processing of schedules and reports with performance of construction activities and with scheduling and reporting of separate contractors.
- B. Coordinate Contractor's Construction Schedule with the Schedule of Values, list of subcontracts, Submittals Schedule, progress reports, payment requests, and other required schedules and reports.
  - 1. Secure time commitments for performing critical elements of the Work from parties involved.
  - 2. Coordinate each construction activity in the network with other activities and schedule them in proper sequence.

## PART 2 - PRODUCTS

### 2.1 SUBMITTALS SCHEDULE

- A. Preparation: Submit a schedule of submittals, arranged in chronological order by dates required by construction schedule. Include time required for review, resubmittal, ordering, manufacturing, fabrication, and delivery when establishing dates.
  - 1. Coordinate Submittals Schedule with list of subcontracts, the Schedule of Values, and Contractor's Construction Schedule.
  - 2. Submit concurrently with the first complete submittal of Contractor's Construction Schedule.

### 2.2 CONTRACTOR'S CONSTRUCTION SCHEDULE (GANTT CHART)

- A. Gantt-Chart Schedule: Submit a comprehensive, fully developed, horizontal Gantt-chart-type, Contractor's Construction Schedule within 30 days of date established for the Notice of Award. Base schedule on the Preliminary Construction Schedule and whatever updating and feedback was received since the start of Project.
- B. Preparation: Indicate each significant construction activity separately. Identify first workday of each week with a continuous vertical line.
  - 1. For construction activities that require 3 months or longer to complete, indicate an estimated completion percentage in 10 percent increments within time bar.

### 2.3 SPECIAL REPORTS

- A. General: Submit special reports directly to Owner within one day(s) of an occurrence. Distribute copies of report to parties affected by the occurrence.
- B. Reporting Unusual Events: When an event of an unusual and significant nature occurs at Project site, whether or not related directly to the Work, prepare and submit a special report. List chain of events, persons participating, response by Contractor's personnel, evaluation of results or effects, and similar pertinent information. Advise Owner in advance when these events are known or predictable.

## PART 3 - EXECUTION

### 3.1 CONTRACTOR'S CONSTRUCTION SCHEDULE

- A. Contractor's Construction Schedule Updating: At monthly intervals, update schedule to reflect actual construction progress and activities. Issue schedule one week before each regularly scheduled progress meeting.

SECTION 01 32 00 - CONSTRUCTION PROGRESS DOCUMENTATION

1. Revise schedule immediately after each meeting or other activity where revisions have been recognized or made. Issue updated schedule concurrently with the report of each such meeting.
  2. Include a report with updated schedule that indicates every change, including, but not limited to, changes in logic, durations, actual starts and finishes, and activity durations.
  3. As the Work progresses, indicate Actual Completion percentage for each activity.
- B. Distribution: Distribute copies of approved schedule to Architect, Owner, separate contractors, testing and inspecting agencies, and other parties identified by Contractor with a need-to-know schedule responsibility.
1. Post copies in Project meeting rooms and temporary field offices.
  2. When revisions are made, distribute updated schedules to the same parties and post in the same locations. Delete parties from distribution when they have completed their assigned portion of the Work and are no longer involved in performance of construction activities.

END OF SECTION 01 32 00

PART 1 - GENERAL

1.1 RELATED DOCUMENTS

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

1.2 SUMMARY

- A. This Section includes administrative and procedural requirements for submitting Shop Drawings, Product Data, Samples, and other submittals.
- B. Related Sections include the following:
  - 1. Division 01 Section "Payment Procedures" for submitting Applications for Payment and the Schedule of Values.
  - 2. Division 01 Section "Project Management and Coordination" for submitting and distributing meeting and conference minutes and for submitting Coordination Drawings.
  - 3. Division 01 Section "Construction Progress Documentation" for submitting schedules and reports, including Contractor's Construction Schedule and the Submittals Schedule.
  - 4. Division 01 Section "Quality Requirements" for submitting test and inspection reports and for mockup requirements.
  - 5. Division 01 Section "Closeout Procedures" for submitting warranties.
  - 6. Division 01 Section "Project Record Documents" for submitting Record Drawings, Record Specifications, and Record Product Data.
  - 7. Division 01 Section "Operation and Maintenance Data" for submitting operation and maintenance manuals.
  - 8. Divisions 02 through 33 Sections for specific requirements for submittals in those Sections.

1.3 DEFINITIONS

- A. Technical Submittals and Action Submittals: Written and graphic information (data and drawings) that require Architect's responsive action.
- B. Informational Submittals: Written information that does not require Architect's responsive action. Submittals may be rejected for not complying with requirements.

1.4 SUBMITTAL PROCEDURES

- A. Coordination: Coordinate preparation and processing of submittals with performance of construction activities.
  - 1. Coordinate each submittal with fabrication, purchasing, testing, delivery, other submittals, and related activities that require sequential activity.
  - 2. Coordinate transmittal of different types of submittals for related parts of the Work so processing will not be delayed because of need to review submittals concurrently for coordination.
    - a. Architect reserves the right to withhold action on a submittal requiring coordination with other submittals until related submittals are received.
- B. Submittals Schedule: Comply with requirements in Division 01 Section "Construction Progress Documentation" for list of submittals and time requirements for scheduled performance of related construction activities.
- C. Processing Time: Allow enough time for submittal review, including time for resubmittals, as follows. Time for review shall commence on Architect's receipt of submittal. No extension of the Contract Time will be authorized because of failure to transmit submittals enough in advance of the Work to permit processing, including resubmittals.
  - 1. Initial Review: Allow 15 days for initial review of each submittal. Allow additional time if coordination with subsequent submittals is required. Architect will advise Contractor when a submittal being processed must be delayed for coordination.



2. Intermediate Review: If intermediate submittal is necessary, process it in same manner as initial submittal.
  3. Resubmittal Review: Allow 15 days for review of each resubmittal.
  4. Sequential Review: Where sequential review of submittals by Architect's consultants, Owner, or other parties is required, allow 21 days for initial review of each submittal.
- D. Identification: Place a permanent label or title block on each submittal for identification.
1. Indicate name of firm or entity that prepared each submittal on label or title block.
  2. Provide a space approximately 6 by 8 inches on label or beside title block to record Contractor's review and approval markings and action taken by Architect.
  3. Include the following information on label for processing and recording action taken:
    - a. Project name.
    - b. Date.
    - c. Name and address of Architect.
    - d. Name and address of Contractor.
    - e. Name and address of subcontractor.
    - f. Name and address of supplier.
    - g. Name of manufacturer.
    - h. Number and title of appropriate Specification Section.
    - i. Drawing number and detail references, as appropriate.
    - j. Location(s) where product is to be installed, as appropriate.
    - k. Reference identification procedures in this Section under "Technical and Action Submittals".
    - l. Other necessary identification.
- E. Deviations: Highlight, encircle, or otherwise specifically identify deviations from the Contract Documents on submittals.
- F. Additional Copies: Unless additional copies are required for final submittal, and unless Architect observes noncompliance with provisions in the Contract Documents, initial submittal may serve as final submittal.
- G. Transmittal: Package each submittal individually and appropriately for transmittal and handling. Transmit each submittal using a transmittal form. Architect will return submittals, without review, received from sources other than Contractor.
1. Transmittal Form: Use Contractor's standard form, with information and format specified in this Section.
  2. Transmittal Form: Provide locations on form for the following information:
    - a. Project name.
    - b. Date.
    - c. Destination (To:).
    - d. Source (From:).
    - e. Names of subcontractor, manufacturer, and supplier.
    - f. Category and type of submittal.
    - g. Submittal purpose and description.
    - h. Specification Section number and title.
    - i. Drawing number and detail references, as appropriate.
    - j. Transmittal number.
    - k. Submittal and transmittal distribution record.
    - l. Remarks.
    - m. Signature of transmitter.
  3. On an attached separate sheet, prepared on Contractor's letterhead, record relevant information, requests for data, revisions other than those requested by Architect on previous submittals, and deviations from requirements in the Contract Documents, including minor variations and limitations. Include same label information as related submittal.
- H. Resubmittals: Make resubmittals in same form and number of copies as initial submittal.

1. Note date and content of previous submittal.
  2. Note date and content of revision in label or title block and clearly indicate extent of revision.
  3. Resubmit submittals until they are marked "APPROVED" or "APPROVED AS NOTED".
- I. Distribution: Furnish copies of final submittals to manufacturers, subcontractors, suppliers, fabricators, installers, authorities having jurisdiction, and others as necessary for performance of construction activities. Show distribution on transmittal forms.
  - J. Use for Construction: Use only final submittals with mark indicating "APPROVED" or "APPROVED AS NOTED" taken by Architect.

## PART 2 - PRODUCTS

### 2.1 TECHNICAL SUBMITTALS AND ACTION SUBMITTALS

- A. General: Prepare and submit Technical and Action Submittals required by individual Specification Sections, and as follows:
  1. Identify each submittal separately using the CDI Division and sequential numbering i.e., 001-03 30 00-000, 002-03 30 00-0000, etc. Resubmittals must be returned using the same number previously used, plus a numeric suffix, i.e., 001-03 30 00-001, 001-03 30 00-002, etc.
  2. Review and stamp each submittal with Contractor's stamp.
  3. MSDS sheets are not to be included.
  4. Package each submittal individually using separate transmittals.
  5. Provide six copies of each initial technical submittal and six copies of each resubmittal. Three copies will be returned. Mark up and retain one returned copy as a Project Record Document.
- B. Product Data: Collect information into a single submittal for each element of construction and type of product or equipment.
  1. If information must be specially prepared for submittal because standard printed data are not suitable for use, submit as Shop Drawings, not as Product Data.
  2. Mark each copy of each submittal to show which products and options are applicable.
  3. Include the following information, as applicable:
    - a. Manufacturer's written recommendations.
    - b. Manufacturer's product specifications.
    - c. Manufacturer's installation instructions.
    - d. Standard color charts.
    - e. Manufacturer's catalog cuts.
    - f. Wiring diagrams showing factory-installed wiring.
    - g. Printed performance curves.
    - h. Operational range diagrams.
    - i. Mill reports.
    - j. Standard product operation and maintenance manuals.
    - k. Compliance with specified referenced standards.
    - l. Testing by recognized testing agency.
    - m. Application of testing agency labels and seals.
    - n. Notation of coordination requirements.
  4. Submit Product Data before or concurrent with Samples.
- C. Shop Drawings: Prepare Project-specific information, drawn accurately to scale. Do not base Shop Drawings on reproductions of the Contract Documents or standard printed data.
  1. Preparation: Fully illustrate requirements in the Contract Documents. Include the following information, as applicable:
    - a. Dimensions.
    - b. Identification of products.
    - c. Fabrication and installation drawings.
    - d. Roughing-in and setting diagrams.
    - e. Wiring diagrams showing field-installed wiring, including power, signal, and control wiring.

- f. Shopwork manufacturing instructions.
  - g. Templates and patterns.
  - h. Schedules.
  - i. Design calculations.
  - j. Compliance with specified standards.
  - k. Notation of coordination requirements.
  - l. Notation of dimensions established by field measurement.
  - m. Relationship to adjoining construction clearly indicated.
  - n. Seal and signature of professional engineer if specified.
  - o. Wiring Diagrams: Differentiate between manufacturer-installed and field-installed wiring.
2. Sheet Size: Except for templates, patterns, and similar full-size drawings, submit Shop Drawings on sheets at least 8-1/2 by 11 inches but no larger than 30 by 40 inches.
- D. Samples: Submit Samples for review of kind, color, pattern, and texture for a check of these characteristics with other elements and for a comparison of these characteristics between submittal and actual component as delivered and installed.
- 1. Transmit Samples that contain multiple, related components such as accessories together in one submittal package.
  - 2. Identification: Attach label on unexposed side of Samples that includes the following:
    - a. Generic description of Sample.
    - b. Product name and name of manufacturer.
    - c. Sample source.
    - d. Number and title of appropriate Specification Section.
  - 3. Disposition: Maintain sets of approved Samples at Project site, available for quality-control comparisons throughout the course of construction activity. Sample sets may be used to determine final acceptance of construction associated with each set.
    - a. Samples that may be incorporated into the Work are indicated in individual Specification Sections. Such Samples must be in an undamaged condition at time of use.
    - b. Samples not incorporated into the Work, or otherwise designated as Owner's property, are the property of Contractor.
  - 4. Samples for Initial Selection: Submit manufacturer's color charts consisting of units or sections of units showing the full range of colors, textures, and patterns available.
    - a. Number of Samples: Provide six copies of each sample for initial selection. Three copies will be returned. Architect will return submittal with options selected.
  - 5. Samples for Verification: Submit full-size units or Samples of size indicated, prepared from same material to be used for the Work, cured and finished in manner specified, and physically identical with material or product proposed for use, and that show full range of color and texture variations expected. Samples include, but are not limited to, the following: partial sections of manufactured or fabricated components; small cuts or containers of materials; complete units of repetitively used materials; swatches showing color, texture, and pattern; color range sets; and components used for independent testing and inspection.
    - a. Number of Samples: Provide six copies of each sample for verification. Three copies will be returned.
      - 1) Submit a single Sample where assembly details, workmanship, fabrication techniques, connections, operation, and other similar characteristics are to be demonstrated.
      - 2) If variation in color, pattern, texture, or other characteristic is inherent in material or product represented by a Sample, submit at least three sets of paired units that show approximate limits of variations.
- E. Product Schedule or List: As required in individual Specification Sections, prepare a written summary indicating types of products required for the Work and their intended location. Include the following information in tabular form:
- 1. Type of product. Include unique identifier for each product.
  - 2. Number and name of room or space.
  - 3. Location within room or space.

4. Number of Copies: Submit three copies of product schedule or list, unless otherwise indicated. Architect will return two copies.
  - a. Mark up and retain one returned copy as a Project Record Document.
- F. Submittals Schedule: Comply with requirements specified in Division 01 Section "Construction Progress Documentation."
- G. Application for Payment: Comply with requirements specified in Division 01 Section "Payment Procedures."
- H. Schedule of Values: Comply with requirements specified in Division 01 Section "Payment Procedures."
- I. Subcontract List: Prepare a written summary identifying individuals or firms proposed for each portion of the Work, including those who are to furnish products or equipment fabricated to a special design. Include the following information in tabular form:
  1. Name, address, and telephone number of entity performing subcontract or supplying products.
  2. Number and title of related Specification Section(s) covered by subcontract.
  3. Drawing number and detail references, as appropriate, covered by subcontract.
  4. Number of Copies: Submit three copies of subcontractor list, unless otherwise indicated. Architect will return two copies.
    - a. Mark up and retain one returned copy as a Project Record Document.

## 2.2 INFORMATIONAL SUBMITTALS

- A. General: Prepare and submit Informational Submittals required by other Specification Sections.
  1. Number of Copies: Submit three copies of each submittal, unless otherwise indicated. Architect will not return copies.
  2. Certificates and Certifications: Provide a notarized statement that includes signature of entity responsible for preparing certification. Certificates and certifications shall be signed by an officer or other individual authorized to sign documents on behalf of that entity.
  3. Test and Inspection Reports: Comply with requirements specified in Division 01 Section "Quality Requirements."
- B. Coordination Drawings: Comply with requirements specified in Division 01 Section "Project Management and Coordination."
- C. Contractor's Construction Schedule: Comply with requirements specified in Division 01 Section "Construction Progress Documentation."
- D. Qualification Data: Prepare written information that demonstrates capabilities and experience of firm or person. Include lists of completed projects with project names and addresses, names and addresses of architects and owners, and other information specified.
- E. Welding Certificates: Prepare written certification that welding procedures and personnel comply with requirements in the Contract Documents. Submit record of Welding Procedure Specification (WPS) and Procedure Qualification Record (PQR) on AWS forms. Include names of firms and personnel certified.
- F. Installer Certificates: Prepare written statements on manufacturer's letterhead certifying that Installer complies with requirements in the Contract Documents and, where required, is authorized by manufacturer for this specific Project.
- G. Manufacturer Certificates: Prepare written statements on manufacturer's letterhead certifying that manufacturer complies with requirements in the Contract Documents. Include evidence of manufacturing experience where required.
- H. Product Certificates: Prepare written statements on manufacturer's letterhead certifying that product complies with requirements in the Contract Documents.
- I. Material Certificates: Prepare written statements on manufacturer's letterhead certifying that material complies with requirements in the Contract Documents.
- J. Material Test Reports: Prepare reports written by a qualified testing agency, on testing agency's standard form, indicating and interpreting test results of material for compliance with requirements in the Contract Documents.

- K. Product Test Reports: Prepare written reports indicating current product produced by manufacturer complies with requirements in the Contract Documents. Base reports on evaluation of tests performed by manufacturer and witnessed by a qualified testing agency, or on comprehensive tests performed by a qualified testing agency.
- L. Research/Evaluation Reports: Prepare written evidence, from a model code organization acceptable to authorities having jurisdiction, that product complies with building code in effect for Project. Include the following information:
  - 1. Name of evaluation organization.
  - 2. Date of evaluation.
  - 3. Time period when report is in effect.
  - 4. Product and manufacturers' names.
  - 5. Description of product.
  - 6. Test procedures and results.
  - 7. Limitations of use.
- M. Schedule of Tests and Inspections: Comply with requirements specified in Division 01 Section "Quality Requirements."
- N. Preconstruction Test Reports: Prepare reports written by a qualified testing agency, on testing agency's standard form, indicating and interpreting results of tests performed before installation of product, for compliance with performance requirements in the Contract Documents.
- O. Compatibility Test Reports: Prepare reports written by a qualified testing agency, on testing agency's standard form, indicating and interpreting results of compatibility tests performed before installation of product. Include written recommendations for primers and substrate preparation needed for adhesion.
- P. Field Test Reports: Prepare reports written by a qualified testing agency, on testing agency's standard form, indicating and interpreting results of field tests performed either during installation of product or after product is installed in its final location, for compliance with requirements in the Contract Documents.
- Q. Maintenance Data: Prepare written and graphic instructions and procedures for operation and normal maintenance of products and equipment. Comply with requirements specified in Division 01 Section "Operation and Maintenance Data."
- R. Design Data: Prepare written and graphic information, including, but not limited to, performance and design criteria, list of applicable codes and regulations, and calculations. Include list of assumptions and other performance and design criteria and a summary of loads. Include load diagrams if applicable. Provide name and version of software, if any, used for calculations. Include page numbers.
- S. Manufacturer's Instructions: Prepare written or published information that documents manufacturer's recommendations, guidelines, and procedures for installing or operating a product or equipment. Include name of product and name, address, and telephone number of manufacturer. Include the following, as applicable:
  - 1. Preparation of substrates.
  - 2. Required substrate tolerances.
  - 3. Sequence of installation or erection.
  - 4. Required installation tolerances.
  - 5. Required adjustments.
  - 6. Recommendations for cleaning and protection.
- T. Manufacturer's Field Reports: Prepare written information documenting factory-authorized service representative's tests and inspections. Include the following, as applicable:
  - 1. Name, address, and telephone number of factory-authorized service representative making report.
  - 2. Statement on condition of substrates and their acceptability for installation of product.
  - 3. Statement that products at Project site comply with requirements.
  - 4. Summary of installation procedures being followed, whether they comply with requirements and, if not, what corrective action was taken.

5. Results of operational and other tests and a statement of whether observed performance complies with requirements.
  6. Statement whether conditions, products, and installation will affect warranty.
  7. Other required items indicated in individual Specification Sections.
- U. Insurance Certificates and Bonds: Prepare written information indicating current status of insurance or bonding coverage. Include name of entity covered by insurance or bond, limits of coverage, amounts of deductibles, if any, and term of the coverage.
- V. Material Safety Data Sheets (MSDSs): Submit information directly to Owner; do not submit to Architect, except as required in "Action Submittals" Article.

### 2.3 DELEGATED DESIGN

- A. Performance and Design Criteria: Where professional design services or certifications by a design professional are specifically required of Contractor by the Contract Documents, provide products and systems complying with specific performance and design criteria indicated.
1. If criteria indicated are not sufficient to perform services or certification required, submit a written request for additional information to Architect.
- B. Delegated-Design Submittal: In addition to Shop Drawings, Product Data, and other required submittals, submit three copies of a statement, signed and sealed by the responsible design professional, licensed in the State of North Carolina (or licensed where project is located if another state), for each product and system specifically assigned to Contractor to be designed or certified by a design professional.
1. Indicate that products and systems comply with performance and design criteria in the Contract Documents. Include list of codes, loads, and other factors used in performing these services.
  2. Identify, review, stamp and submit each submittal separately using the CSI Division number as described above in Technical Submittals.
  3. Provide four copies signed and sealed by the responsible design professional.
    - a. Two copies will be returned.

## PART 3 - EXECUTION

### 3.1 CONTRACTOR'S REVIEW

- A. Review each submittal and check for coordination with other Work of the Contract and for compliance with the Contract Documents. Note corrections and field dimensions. Mark with approval stamp before submitting to Architect.
- B. Approval Stamp: Stamp each submittal with a uniform, approval stamp. Include Project name and location, submittal number, Specification Section title and number, name of reviewer, date of Contractor's approval, and statement certifying that submittal has been reviewed, checked, and approved for compliance with the Contract Documents.

### 3.2 ARCHITECT'S / ACTION

- A. General: Architect will not review submittals that do not bear Contractor's approval stamp and will return them without action.
- B. Action Submittals: Architect will review each submittal, make marks to indicate corrections or modifications required, and return it. Architect will stamp each submittal with an action stamp and will mark stamp appropriately to indicate action taken, as follows:
1. NO EXCEPTIONS TAKEN. Fabrication and installation may proceed. Do not resubmit shop drawings.
  2. EXCEPTIONS INDICATED. Correct and resubmit shop drawings for final review. Do not fabricate or install.
  3. REVISE & RESUBMIT. Major nonconformance with requirements. Prepare new shop drawings. Do not fabricate nor install.
  4. REJECTED. Submittal rejected in its entirety.

SECTION 01 33 00 - SUBMITTAL PROCEDURES

5. RETURNED – REVIEW ONLY. Architect has reviewed information submitted and is returning to Contractor for his records.
  6. NOT REQUIRED / NOT REVIEWED. Architect's action is not required.
- C. Informational Submittals: Architect will review each submittal and will not return it, or will return it if it does not comply with requirements. Architect will forward each submittal to appropriate party.
- D. Partial submittals are not acceptable, will be considered nonresponsive, and will be returned without review.
- E. Submittals not required by the Contract Documents may not be reviewed and may be discarded.

END OF SECTION 01 33 00

PART 1 - GENERAL

1.1 SUMMARY

- A. This Section includes administrative and procedural requirements for quality assurance and quality control.
- B. Testing and inspecting services are required to verify compliance with requirements specified or indicated. These services do not relieve Contractor of responsibility for compliance with the Contract Document requirements.
  - 1. Specified tests, inspections, and related actions do not limit Contractor's quality-control procedures that facilitate compliance with the Contract Document requirements.
  - 2. Requirements for Contractor to provide quality-control services required by Architect, Owner, or authorities having jurisdiction are not limited by provisions of this Section.
- C. See Divisions 02 through 33 Sections for specific test and inspection requirements.

1.2 DEFINITIONS

- A. Quality-Assurance Services: Activities, actions, and procedures performed before and during execution of the Work to guard against defects and deficiencies and substantiate that proposed construction will comply with requirements.
- B. Quality-Control Services: Tests, inspections, procedures, and related actions during and after execution of the Work to evaluate that actual products incorporated into the Work and completed construction comply with requirements. Services do not include contract enforcement activities performed by Architect.
- C. Mockups: Full-size, physical assemblies that are constructed on-site. Mockups are used to verify selections made under sample submittals, to demonstrate aesthetic effects and, where indicated, qualities of materials and execution, and to review construction, coordination, testing, or operation; they are not Samples. Approved mockups establish the standard by which the Work will be judged.
- D. Laboratory Mockups: Full-size, physical assemblies that are constructed at testing facility to verify performance characteristics.
- E. Preconstruction Testing: Tests and inspections that are performed specifically for the Project before products and materials are incorporated into the Work to verify performance or compliance with specified criteria.
- F. Product Testing: Tests and inspections that are performed by an NRTL, an NVLAP, or a testing agency qualified to conduct product testing and acceptable to authorities having jurisdiction, to establish product performance and compliance with industry standards.
- G. Source Quality-Control Testing: Tests and inspections that are performed at the source, i.e., plant, mill, factory, or shop.
- H. Field Quality-Control Testing: Tests and inspections that are performed on-site for installation of the Work and for completed Work.
- I. Testing Agency: An entity engaged to perform specific tests, inspections, or both. Testing laboratory shall mean the same as testing agency.
- J. Installer/Applicator/Erector: Contractor or another entity engaged by Contractor as an employee, Subcontractor, or Sub-subcontractor, to perform a particular construction operation, including installation, erection, application, and similar operations.
  - 1. Using a term such as "carpentry" does not imply that certain construction activities must be performed by accredited or unionized individuals of a corresponding generic name, such as "carpenter." It also does not imply that requirements specified apply exclusively to tradespeople of the corresponding generic name.



- K. Experienced: When used with an entity, "experienced" means having successfully completed a minimum of five previous projects similar in size and scope to this Project; being familiar with special requirements indicated; and having complied with requirements of authorities having jurisdiction.

1.3 CONFLICTING REQUIREMENTS

- A. General: If compliance with two or more standards is specified and the standards establish different or conflicting requirements for minimum quantities or quality levels, comply with the most stringent requirement. Refer uncertainties and requirements that are different, but apparently equal, to Architect for a decision before proceeding.
- B. Minimum Quantity or Quality Levels: The quantity or quality level shown or specified shall be the minimum provided or performed. The actual installation may comply exactly with the minimum quantity or quality specified, or it may exceed the minimum within reasonable limits. To comply with these requirements, indicated numeric values are minimum or maximum, as appropriate, for the context of requirements. Refer uncertainties to Architect for a decision before proceeding.

1.4 SUBMITTALS

- A. Qualification Data: For testing agencies specified in "Quality Assurance" Article to demonstrate their capabilities and experience. Include proof of qualifications in the form of a recent report on the inspection of the testing agency by a recognized authority.
- B. Schedule of Tests and Inspections: Prepare in tabular form and include the following:
  - 1. Specification Section number and title.
  - 2. Description of test and inspection.
  - 3. Identification of applicable standards.
  - 4. Identification of test and inspection methods.
  - 5. Number of tests and inspections required.
  - 6. Time schedule or time span for tests and inspections.
  - 7. Entity responsible for performing tests and inspections.
  - 8. Requirements for obtaining samples.
  - 9. Unique characteristics of each quality-control service.
- C. Reports: Prepare and submit certified written reports that include the following:
  - 1. Date of issue.
  - 2. Project title and number.
  - 3. Name, address, and telephone number of testing agency.
  - 4. Dates and locations of samples and tests or inspections.
  - 5. Names of individuals making tests and inspections.
  - 6. Description of the Work and test and inspection method.
  - 7. Identification of product and Specification Section.
  - 8. Complete test or inspection data.
  - 9. Test and inspection results and an interpretation of test results.
  - 10. Ambient conditions at time of sample taking and testing and inspecting.
  - 11. Comments or professional opinion on whether tested or inspected Work complies with the Contract Document requirements.
  - 12. Name and signature of laboratory inspector.
  - 13. Recommendations on retesting and reinspecting.
- D. Permits, Licenses, and Certificates: For Owner's records, submit copies of permits, licenses, certifications, inspection reports, releases, jurisdictional settlements, notices, receipts for fee payments, judgments, correspondence, records, and similar documents, established for compliance with standards and regulations bearing on performance of the Work.

## 1.5 QUALITY ASSURANCE

- A. General: Qualifications paragraphs in this Article establish the minimum qualification levels required; individual Specification Sections specify additional requirements.
- B. Installer Qualifications: A firm or individual experienced in installing, erecting, or assembling work similar in material, design, and extent to that indicated for this Project, whose work has resulted in construction with a record of successful in-service performance.
- C. Manufacturer Qualifications: A firm experienced in manufacturing products or systems similar to those indicated for this Project and with a record of successful in-service performance, as well as sufficient production capacity to produce required units.
- D. Fabricator Qualifications: A firm experienced in producing products similar to those indicated for this Project and with a record of successful in-service performance, as well as sufficient production capacity to produce required units.
- E. Professional Engineer Qualifications: A professional engineer who is legally qualified to practice in jurisdiction where Project is located and who is experienced in providing engineering services of the kind indicated. Engineering services are defined as those performed for installations of the system, assembly, or products that are similar to those indicated for this Project in material, design, and extent.
- F. Testing Agency Qualifications: An NRTL, an NVLAP, or an independent agency with the experience and capability to conduct testing and inspecting indicated, as documented according to ASTM E 548; and with additional qualifications specified in individual Sections; and where required by authorities having jurisdiction, that is acceptable to authorities.
  - 1. NRTL: A nationally recognized testing laboratory according to 29 CFR 1910.7.
  - 2. NVLAP: A testing agency accredited according to NIST's National Voluntary Laboratory Accreditation Program.
- G. Factory-Authorized Service Representative Qualifications: An authorized representative of manufacturer who is trained and approved by manufacturer to inspect installation of manufacturer's products that are similar in material, design, and extent to those indicated for this Project.
- H. Preconstruction Testing: Where testing agency is indicated to perform preconstruction testing for compliance with specified requirements for performance and test methods, comply with the following:
  - 1. Contractor responsibilities include the following:
    - a. Provide test specimens representative of proposed products and construction.
    - b. Submit specimens in a timely manner with sufficient time for testing and analyzing results to prevent delaying the Work.
    - c. Provide sizes and configurations of test assemblies, mockups, and laboratory mockups to adequately demonstrate capability of products to comply with performance requirements.
    - d. Build site-assembled test assemblies and mockups using installers who will perform same tasks for Project.
    - e. Build laboratory mockups at testing facility using personnel, products, and methods of construction indicated for the completed Work.
    - f. When testing is complete, remove test specimens, assemblies, mockups, and laboratory mockups; do not reuse products on Project.
  - 2. Testing Agency Responsibilities: Submit a certified written report of each test, inspection, and similar quality-assurance service to Architect, with copy to Contractor. Interpret tests and inspections and state in each report whether tested and inspected work complies with or deviates from the Contract Documents.
- I. Mockups: Before installing portions of the Work requiring mockups, build mockups for each form of construction and finish required to comply with the following requirements, using materials indicated for the completed Work:
  - 1. Build mockups in location and of size indicated or, if not indicated, as directed by Architect.
  - 2. Notify Architect seven days in advance of dates and times when mockups will be constructed.

3. Demonstrate the proposed range of aesthetic effects and workmanship.
4. Obtain Architect's approval of mockups before starting work, fabrication, or construction.
5. Maintain mockups during construction in an undisturbed condition as a standard for judging the completed Work.
6. Demolish and remove mockups when directed, unless otherwise indicated.

#### 1.6 QUALITY CONTROL

- A. Owner Responsibilities: Where quality-control services are indicated as Owner's responsibility, Owner will engage a qualified testing agency to perform these services.
  1. Owner will furnish Contractor with names, addresses, and telephone numbers of testing agencies engaged and a description of the types of testing and inspecting they are engaged to perform.
  2. Costs for retesting and reinspecting construction that replaces or is necessitated by work that failed to comply with the Contract Documents will be charged to Contractor, and the Contract Sum will be adjusted by Change Order.
- B. Tests and inspections not explicitly assigned to Owner are Contractor's responsibility. Unless otherwise indicated, provide quality-control services specified and those required by authorities having jurisdiction. Perform quality-control services required of Contractor by authorities having jurisdiction, whether specified or not.
  1. Where services are indicated as Contractor's responsibility, engage a qualified testing agency to perform these quality-control services.
    - a. Contractor shall not employ same entity engaged by Owner, unless agreed to in writing by Owner.
  2. Notify testing agencies at least 24 hours in advance of time when Work that requires testing or inspecting will be performed.
  3. Where quality-control services are indicated as Contractor's responsibility, submit a certified written report, in duplicate, of each quality-control service.
  4. Testing and inspecting requested by Contractor and not required by the Contract Documents are Contractor's responsibility.
  5. Submit additional copies of each written report directly to authorities having jurisdiction, when they so direct.
- C. Manufacturer's Field Services: Where indicated, engage a factory-authorized service representative to inspect field-assembled components and equipment installation, including service connections. Report results in writing.
- D. Retesting/Reinspecting: Regardless of whether original tests or inspections were Contractor's responsibility, provide quality-control services, including retesting and reinspecting, for construction that revised or replaced Work that failed to comply with requirements established by the Contract Documents.
- E. Testing Agency Responsibilities: Cooperate with Architect and Contractor in performance of duties. Provide qualified personnel to perform required tests and inspections.
  1. Notify Architect and Contractor promptly of irregularities or deficiencies observed in the Work during performance of its services.
  2. Interpret tests and inspections and state in each report whether tested and inspected work complies with or deviates from requirements.
  3. Submit a certified written report, in duplicate, of each test, inspection, and similar quality-control service through Contractor.
  4. Do not release, revoke, alter, or increase requirements of the Contract Documents or approve or accept any portion of the Work.
  5. Do not perform any duties of Contractor.
- F. Associated Services: Cooperate with agencies performing required tests, inspections, and similar quality-control services, and provide reasonable auxiliary services as requested. Notify agency sufficiently in advance of operations to permit assignment of personnel. Provide the following:

1. Access to the Work.
  2. Incidental labor and facilities necessary to facilitate tests and inspections.
  3. Adequate quantities of representative samples of materials that require testing and inspecting. Assist agency in obtaining samples.
  4. Facilities for storage and field-curing of test samples.
  5. Delivery of samples to testing agencies.
  6. Preliminary design mix proposed for use for material mixes that require control by testing agency.
  7. Security and protection for samples and for testing and inspecting equipment at Project site.
- G. Coordination: Coordinate sequence of activities to accommodate required quality-assurance and quality-control services with a minimum of delay and to avoid necessity of removing and replacing construction to accommodate testing and inspecting.
1. Schedule times for tests, inspections, obtaining samples, and similar activities.
  2. Do not install finishes until required inspection of concealed construction is completed and work approved.
    - a. Coordinate in-wall and above-ceiling inspection by authorities having jurisdiction and observation by Architect.
- H. Schedule of Tests and Inspections: Prepare a schedule of tests, inspections, and similar quality-control services required by the Contract Documents. Submit schedule within 30 days of date established for the Notice to Proceed.
1. Distribution: Distribute schedule to Owner, Architect, testing agencies, and each party involved in performance of portions of the Work where tests and inspections are required.
- I. Special Tests and Inspections: Owner will engage a qualified testing agency or special inspector to conduct special tests and inspections required by authorities having jurisdiction as the responsibility of Owner, and as follows:
1. Verifying that manufacturer maintains detailed fabrication and quality-control procedures and reviewing the completeness and adequacy of those procedures to perform the Work.
  2. Notifying Architect and Contractor promptly of irregularities and deficiencies observed in the Work during performance of its services.
  3. Submitting a certified written report of each test, inspection, and similar quality-control service to Architect with copy to Contractor and to authorities having jurisdiction.
  4. Submitting a final report of special tests and inspections at Substantial Completion, which includes a list of unresolved deficiencies.
  5. Interpreting tests and inspections and stating in each report whether tested and inspected work complies with or deviates from the Contract Documents.
  6. Retesting and reinspecting corrected work.

## PART 2 - PRODUCTS (Not Used)

## PART 3 - EXECUTION

### 3.1 TEST AND INSPECTION LOG

- A. Prepare a record of tests and inspections. Include the following:
1. Date test or inspection was conducted.
  2. Description of the Work tested or inspected.
  3. Date test or inspection results were transmitted to Architect.
  4. Identification of testing agency or special inspector conducting test or inspection.
- B. Maintain log at Project site. Post changes and modifications as they occur. Provide access to test and inspection log for Architect's reference during normal working hours.

### 3.2 REPAIR AND PROTECTION

- A. General: On completion of testing, inspecting, sample taking, and similar services, repair damaged construction and restore substrates and finishes.

SECTION 01 40 00 - QUALITY REQUIREMENTS

1. Comply with the Contract Document requirements for Division 01 Section "Cutting and Patching."
- B. Protect construction exposed by or for quality-control service activities.
- C. Repair and protection are Contractor's responsibility, regardless of the assignment of responsibility for quality-control services.

END OF SECTION 01 40 00

## PART 1 - GENERAL

## 1.1 DEFINITIONS

- A. General: Basic Contract definitions are included in the Conditions of the Contract.
- B. "Approved": When used to convey Architect's action on Contractor's submittals, applications, and requests, "approved" is limited to Architect's duties and responsibilities as stated in the Conditions of the Contract.
- C. "Directed": A command or instruction by Architect. Other terms including "requested," "authorized," "selected," "approved," "required," and "permitted" have the same meaning as "directed."
- D. "Indicated": Requirements expressed by graphic representations or in written form on Drawings, in Specifications, and in other Contract Documents. Other terms including "shown," "noted," "scheduled," and "specified" have the same meaning as "indicated."
- E. "Regulations": Laws, ordinances, statutes, and lawful orders issued by authorities having jurisdiction, and rules, conventions, and agreements within the construction industry that control performance of the Work.
- F. "Furnish": Supply and deliver to Project site, ready for unloading, unpacking, assembly, installation, and similar operations.
- G. "Install": Operations at Project site including unloading, temporarily storing, unpacking, assembling, erecting, placing, anchoring, applying, working to dimension, finishing, curing, protecting, cleaning, and similar operations.
- H. "Provide": Furnish and install, complete and ready for the intended use.
- I. "Installer": Contractor or another entity engaged by Contractor as an employee, Subcontractor, or Sub-subcontractor, to perform a particular construction operation, including installation, erection, application, and similar operations.
  - 1. Using a term such as "carpentry" does not imply that certain construction activities must be performed by accredited or unionized individuals of a corresponding generic name, such as "carpenter." It also does not imply that requirements specified apply exclusively to tradespeople of the corresponding generic name.
- J. "Experienced": When used with an entity, "experienced" means having successfully completed a minimum of five previous projects similar in size and scope to this Project; being familiar with special requirements indicated; and having complied with requirements of authorities having jurisdiction.
- K. "Project Site": Space available for performing construction activities. The extent of Project site is shown on Drawings and may or may not be identical with the description of the land on which Project is to be built.

## 1.2 INDUSTRY STANDARDS

- A. Applicability of Standards: Unless the Contract Documents include more stringent requirements, applicable construction industry standards have the same force and effect as if bound or copied directly into the Contract Documents to the extent referenced. Such standards are made a part of the Contract Documents by reference.
- B. Publication Dates: Comply with standards in effect as of date of the Contract Documents, unless otherwise indicated.
- C. Conflicting Requirements: If compliance with two or more standards is specified and the standards establish different or conflicting requirements for minimum quantities or quality levels, comply with the most stringent requirement. Refer uncertainties and requirements that are different, but apparently equal, to Architect for a decision before proceeding.
  - 1. Minimum Quantity or Quality Levels: The quantity or quality level shown or specified shall be the minimum provided or performed. The actual installation may comply exactly with the minimum quantity or quality specified, or it may exceed the minimum within reasonable limits. To comply with these requirements, indicated numeric values are minimum or

maximum, as appropriate, for the context of requirements. Refer uncertainties to Architect for a decision before proceeding.

- D. Copies of Standards: Each entity engaged in construction on Project must be familiar with industry standards applicable to its construction activity. Copies of applicable standards are not bound with the Contract Documents.
1. Where copies of standards are needed to perform a required construction activity, obtain copies directly from publication source and make them available on request.
- E. Abbreviations and Acronyms for Standards and Regulations: Where abbreviations and acronyms are used in Specifications or other Contract Documents, they shall mean the recognized name of the standards and regulations in the following list.

ADAAG	Americans with Disabilities Act (ADA)
AGC	Associated General Contractors of America (The)
ASHRAE	American Society of Heating, Refrigerating and Air-Conditioning Engineers
ASTM	American Society for Testing and Materials International
BHMA	Builders Hardware Manufacturers Association
BIA	Brick Industry Association (The)
SMCNA	Sheet Metal and Air Conditioning Contractors' National Association
TCNA	Tile Council of North America, Inc.
UL	Underwriters Laboratories, Inc.

### 1.3 ABBREVIATIONS AND ACRONYMS

- A. Industry Organizations: Where abbreviations and acronyms are used in Specifications or other Contract Documents, they shall mean the recognized name of the entities indicated in Gale Research's "Encyclopedia of Associations" or in Columbia Books' "National Trade & Professional Associations of the U.S."
- B. Code Agencies: Where abbreviations and acronyms are used in Specifications or other Contract Documents, they shall mean the recognized name of the entities in the following list.

CABO	Council of American Building Officials (See ICC)
IAPMO	International Association of Plumbing and Mechanical Officials (The)
ICBO	International Conference of Building Officials
ICC	International Code Council, Inc. (Formerly: CABO - Council of American Building Officials)
SBCCI	Southern Building Code Congress International, Inc.

PART 2 - PRODUCTS (Not Used)

PART 3 - EXECUTION (Not Used)

END OF SECTION 01 42 00

PART 1 - GENERAL

1.1 RELATED DOCUMENTS

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

1.2 SUMMARY

- A. This Section includes requirements for temporary utilities, support facilities, and security and protection facilities.
- B. Related Sections include the following:
  - 1. Division 01 Section "Summary" for limitations on utility interruptions and other work restrictions.
  - 2. Division 01 Section "Submittal Procedures" for procedures for submitting copies of implementation and termination schedule and utility reports.
  - 3. Division 01 Section "Execution" for progress cleaning requirements.
  - 4. Divisions 02 through 33 Sections for temporary heat, ventilation, and humidity requirements for products in those Sections.

1.3 DEFINITIONS

- A. Permanent Enclosure: As determined by Architect, permanent or temporary roofing is complete, insulated, and weathertight; exterior walls are insulated and weathertight; and all openings are closed with permanent construction or substantial temporary closures.

1.4 USE CHARGES

- A. General: Cost or use charges for temporary facilities shall be included in the Contract Sum. Allow other entities to use temporary services and facilities without cost, including, but not limited to, Architect, testing agencies, and authorities having jurisdiction.
- B. Sewer Service: Pay sewer service use charges for sewer usage by all entities for construction operations.
- C. Water Service: Pay water service use charges for water used by all entities for construction operations.
- D. Electric Power Service: Pay electric power service use charges for electricity used by all entities for construction operations.

1.5 SUBMITTALS

- A. Site Plan: Show temporary facilities, utility hookups, staging areas, and parking areas for construction personnel.

1.6 QUALITY ASSURANCE

- A. Electric Service: Comply with NECA, NEMA, and UL standards and regulations for temporary electric service. Install service to comply with NFPA 70.
- B. Tests and Inspections: Arrange for authorities having jurisdiction to test and inspect each temporary utility before use. Obtain required certifications and permits.

1.7 PROJECT CONDITIONS

- A. Temporary Use of Permanent Facilities: Installer of each permanent service shall assume responsibility for operation, maintenance, and protection of each permanent service during its use as a construction facility before Owner's acceptance, regardless of previously assigned responsibilities.



PART 2 - PRODUCTS

2.1 MATERIALS

- A. Lumber and Plywood: Comply with requirements in Division 06 Section "Miscellaneous Carpentry."

2.2 TEMPORARY FACILITIES

- A. Field Offices, General: Prefabricated or mobile units with serviceable finishes, temperature controls, and foundations adequate for normal loading.
- B. Common-Use Field Office: Of sufficient size to accommodate needs of construction personnel. Keep office clean and orderly. Furnish and equip offices as follows:
  - 1. Furniture required for Project-site documents including file cabinets, plan tables, plan racks, and bookcases.
  - 2. Conference room of sufficient size to accommodate meetings of 15 individuals. Provide electrical power service and 120-V ac duplex receptacles, with not less than 1 receptacle on each wall. Furnish room with conference table, chairs, and 4-foot square tack board.
  - 3. Drinking water and private toilet.
  - 4. Coffee machine and supplies.
  - 5. Heating and cooling equipment necessary to maintain a uniform indoor temperature of 68 to 72 deg F.
  - 6. Lighting fixtures capable of maintaining average illumination of 20 fc at desk height.
- C. Storage and Fabrication Sheds: Provide sheds sized, furnished, and equipped to accommodate materials and equipment for construction operations.
  - 1. Store combustible materials apart from building.

2.3 EQUIPMENT

- A. Fire Extinguishers: Portable, UL rated; with class and extinguishing agent as required by locations and classes of fire exposures.
- B. HVAC Equipment: Unless Owner authorizes use of permanent HVAC system, provide vented, self-contained, liquid-propane-gas or fuel-oil heaters with individual space thermostatic control.
  - 1. Use of gasoline-burning space heaters, open-flame heaters, or salamander-type heating units is prohibited.
  - 2. Heating Units: Listed and labeled for type of fuel being consumed, by a testing agency acceptable to authorities having jurisdiction, and marked for intended use.
  - 3. Permanent HVAC System: If Owner authorizes use of permanent HVAC system for temporary use during construction, provide filter with MERV of 8 at each return air grille in system and remove at end of construction.

PART 3 - EXECUTION

3.1 TEMPORARY UTILITY INSTALLATION

- A. General: Install temporary service or connect to existing service.
  - 1. Arrange with utility company, Owner, and existing users for time when service can be interrupted, if necessary, to make connections for temporary services.
- B. Sewers and Drainage: Provide temporary utilities to remove effluent lawfully.
  - 1. Connect temporary sewers to municipal system as directed by authorities having jurisdiction.
- C. Water Service: Install water service and distribution piping in sizes and pressures adequate for construction.
- D. Sanitary Facilities: Provide temporary toilets, wash facilities, and drinking water for use of construction personnel. Comply with authorities having jurisdiction for type, number, location, operation, and maintenance of fixtures and facilities.

- E. Heating: Provide temporary heating required by construction activities for curing or drying of completed installations or for protecting installed construction from adverse effects of low temperatures or high humidity. Select equipment that will not have a harmful effect on completed installations or elements being installed.
- F. Ventilation and Humidity Control: Provide temporary ventilation required by construction activities for curing or drying of completed installations or for protecting installed construction from adverse effects of high humidity. Select equipment that will not have a harmful effect on completed installations or elements being installed. Coordinate ventilation requirements to produce ambient condition required and minimize energy consumption.
- G. Electric Power Service: Provide electric power service and distribution system of sufficient size, capacity, and power characteristics required for construction operations.
- H. Lighting: Provide temporary lighting with local switching that provides adequate illumination for construction operations, observations, inspections, and traffic conditions.
  - 1. Install and operate temporary lighting that fulfills security and protection requirements without operating entire system.
  - 2. Install lighting for Project identification sign.
- I. Telephone Service: Provide temporary telephone service in common-use facilities for use by all construction personnel. Install one telephone line(s) for each field office.
  - 1. Provide additional telephone lines for the following:
    - a. Provide a dedicated telephone line for each facsimile machine and computer in each field office.
  - 2. At each telephone, post a list of important telephone numbers.
    - a. Police and fire departments.
    - b. Ambulance service.
    - c. Contractor's home office.
    - d. Architect's office.
    - e. Engineers' offices.
    - f. Owner's office.
    - g. Principal subcontractors' field and home offices.
  - 3. Provide superintendent with cellular telephone or portable two-way radio for use when away from field office.
- J. Electronic Communication Service: Provide temporary electronic communication service, including electronic mail, in common-use facilities.
  - 1. Provide DSL in primary field office with wireless access for guests.

### 3.2 SUPPORT FACILITIES INSTALLATION

- A. General: Comply with the following:
  - 1. Provide incombustible construction for offices, shops, and sheds located within construction area or within 30 feet of building lines. Comply with NFPA 241.
  - 2. Maintain support facilities until near Substantial Completion. Remove before Substantial Completion. Personnel remaining after Substantial Completion will be permitted to use permanent facilities, under conditions acceptable to Owner.
  - 3. Provide dust-control treatment that is nonpolluting and nontracking. Reapply treatment as required to minimize dust.
- B. Project Identification and Temporary Signs: Provide Project identification and other signs. Install signs where indicated to inform public and individuals seeking entrance to Project. Unauthorized signs are not permitted.
  - 1. Engage an experienced sign painter to apply graphics for Project identification signs. Comply with details indicated on Drawings.
  - 2. Provide temporary, directional signs for construction personnel and visitors.
  - 3. Maintain and touchup signs so they are legible at all times.

## SECTION 01 50 00 - TEMPORARY FACILITIES AND CONTROLS

- C. Waste Disposal Facilities: Comply with requirements specified in Division 01 Section "Construction Waste Management and Disposal."
- D. Lifts and Hoists: Provide facilities necessary for hoisting materials and personnel.
  - 1. Truck cranes and similar devices used for hoisting materials are considered "tools and equipment" and not temporary facilities.

### 3.3 SECURITY AND PROTECTION FACILITIES INSTALLATION

- A. Environmental Protection: Provide protection, operate temporary facilities, and conduct construction in ways and by methods that comply with environmental regulations and that minimize possible air, waterway, and subsoil contamination or pollution or other undesirable effects.
  - 1. Comply with work restrictions specified in Division 01 Section "Summary."
- B. Pest Control: Engage pest-control service to recommend practices to minimize attraction and harboring of rodents, roaches, and other pests and to perform extermination and control procedures at regular intervals so Project will be free of pests and their residues at Substantial Completion. Obtain extended warranty for Owner. Perform control operations lawfully, using environmentally safe materials.
- C. Security Enclosure and Lockup: Install substantial temporary enclosure around partially completed areas of construction. Provide lockable entrances to prevent unauthorized entrance, vandalism, theft, and similar violations of security.
- D. Barricades, Warning Signs, and Lights: Comply with requirements of authorities having jurisdiction for erecting structurally adequate barricades, including warning signs and lighting.
- E. Temporary Enclosures: Provide temporary enclosures for protection of construction, in progress and completed, from exposure, foul weather, other construction operations, and similar activities. Provide temporary weathertight enclosure for building exterior.
  - 1. Where heating or cooling is needed and permanent enclosure is not complete, insulate temporary enclosures.
- F. Temporary Fire Protection: Install and maintain temporary fire-protection facilities of types needed to protect against reasonably predictable and controllable fire losses. Comply with NFPA 241.
  - 1. Prohibit smoking in construction areas.
  - 2. Supervise welding operations, combustion-type temporary heating units, and similar sources of fire ignition according to requirements of authorities having jurisdiction.
  - 3. Develop and supervise an overall fire-prevention and -protection program for personnel at Project site. Review needs with local fire department and establish procedures to be followed. Instruct personnel in methods and procedures. Post warnings and information.
  - 4. Provide temporary standpipes and hoses for fire protection. Hang hoses with a warning sign stating that hoses are for fire-protection purposes only and are not to be removed. Match hose size with outlet size and equip with suitable nozzles.

### 3.4 OPERATION, TERMINATION, AND REMOVAL

- A. Supervision: Enforce strict discipline in use of temporary facilities. To minimize waste and abuse, limit availability of temporary facilities to essential and intended uses.
- B. Maintenance: Maintain facilities in good operating condition until removal.
  - 1. Maintain operation of temporary enclosures, heating, cooling, humidity control, ventilation, and similar facilities on a 24-hour basis where required to achieve indicated results and to avoid possibility of damage.
- C. Temporary Facility Changeover: Do not change over from using temporary security and protection facilities to permanent facilities until Substantial Completion.

SECTION 01 50 00 - TEMPORARY FACILITIES AND CONTROLS

- D. Termination and Removal: Remove each temporary facility when need for its service has ended, when it has been replaced by authorized use of a permanent facility, or no later than Substantial Completion. Complete or, if necessary, restore permanent construction that may have been delayed because of interference with temporary facility. Repair damaged Work, clean exposed surfaces, and replace construction that cannot be satisfactorily repaired.
1. Materials and facilities that constitute temporary facilities are property of Contractor. Owner reserves right to take possession of Project identification signs.
  2. Remove temporary paving not intended for or acceptable for integration into permanent paving. Where area is intended for landscape development, remove soil and aggregate fill that do not comply with requirements for fill or subsoil. Remove materials contaminated with road oil, asphalt and other petrochemical compounds, and other substances that might impair growth of plant materials or lawns. Repair or replace street paving, curbs, and sidewalks at temporary entrances, as required by authorities having jurisdiction.
  3. At Substantial Completion, clean and renovate permanent facilities used during construction period. Comply with final cleaning requirements specified in Division 01 Section "Closeout Procedures."

END OF SECTION 01 50 00

## PART 1 - GENERAL

## 1.1 SUMMARY

- A. This Section includes administrative and procedural requirements for selection of products for use in Project; product delivery, storage, and handling; manufacturers' standard warranties on products; special warranties; product substitutions; and comparable products.
- B. Related Sections include the following:
  - 1. Division 01 Section "References" for applicable industry standards for products specified.
  - 2. Division 01 Section "Closeout Procedures" for submitting warranties for Contract closeout.
  - 3. Divisions 02 through 33 Sections for specific requirements for warranties on products and installations specified to be warranted.

## 1.2 DEFINITIONS

- A. Products: Items purchased for incorporating into the Work, whether purchased for Project or taken from previously purchased stock. The term "product" includes the terms "material," "equipment," "system," and terms of similar intent.
  - 1. Named Products: Items identified by manufacturer's product name, including make or model number or other designation shown or listed in manufacturer's published product literature, that is current as of date of the Contract Documents.
  - 2. New Products: Items that have not previously been incorporated into another project or facility, except that products consisting of recycled-content materials are allowed, unless explicitly stated otherwise. Products salvaged or recycled from other projects are not considered new products.
  - 3. Comparable Product: Product that is demonstrated and approved through submittal process, or where indicated as a product substitution, to have the indicated qualities related to type, function, dimension, in-service performance, physical properties, appearance, and other characteristics that equal or exceed those of specified product.
- B. Substitutions: Changes in products, materials, equipment, and methods of construction from those required by the Contract Documents and proposed by Contractor.
- C. Basis-of-Design Product Specification: Where a specific manufacturer's product is named and accompanied by the words "basis of design," including make or model number or other designation, to establish the significant qualities related to type, function, dimension, in-service performance, physical properties, appearance, and other characteristics for purposes of evaluating comparable products of other named manufacturers.

## 1.3 SUBMITTALS

- A. Product List: Submit a list, in tabular form, showing specified products. Include generic names of products required. Include manufacturer's name and proprietary product names for each product.
  - 1. Coordinate product list with Contractor's Construction Schedule and the Submittals Schedule.
  - 2. Form: Tabulate information for each product under the following column headings:
    - a. Specification Section number and title.
    - b. Generic name used in the Contract Documents.
    - c. Proprietary name, model number, and similar designations.
    - d. Manufacturer's name and address.
    - e. Supplier's name and address.
    - f. Installer's name and address.
    - g. Projected delivery date or time span of delivery period.
    - h. Identification of items that require early submittal approval for scheduled delivery date.
  - 3. Completed List: Within 60 days after date of commencement of the Work, submit 3 copies of completed product list. Include a written explanation for omissions of data and for variations from Contract requirements.

4. Architect's Action: Architect will respond in writing to Contractor within 15 days of receipt of completed product list. Architect's response will include a list of unacceptable product selections and a brief explanation of reasons for this action. Architect's response, or lack of response, does not constitute a waiver of requirement to comply with the Contract Documents.
- B. Substitution Requests: Submit three copies of each request for consideration. Identify product or fabrication or installation method to be replaced. Include Specification Section number and title and Drawing numbers and titles.
1. Substitution Request Form: Use form provided in this project manual.
  2. Documentation: Show compliance with requirements for substitutions and the following, as applicable:
    - a. Statement indicating why specified material or product cannot be provided.
    - b. Coordination information, including a list of changes or modifications needed to other parts of the Work and to construction performed by Owner and separate contractors, that will be necessary to accommodate proposed substitution.
    - c. Detailed comparison of significant qualities of proposed substitution with those of the Work specified. Significant qualities may include attributes such as performance, weight, size, durability, visual effect, and specific features and requirements indicated.
    - d. Product Data, including drawings and descriptions of products and fabrication and installation procedures.
    - e. Samples, where applicable or requested.
    - f. List of similar installations for completed projects with project names and addresses and names and addresses of architects and owners.
    - g. Material test reports from a qualified testing agency indicating and interpreting test results for compliance with requirements indicated.
    - h. Research/evaluation reports evidencing compliance with building code in effect for Project, from a model code organization acceptable to authorities having jurisdiction, where available for type of material proposed.
    - i. Detailed comparison of Contractor's Construction Schedule using proposed substitution with products specified for the Work, including effect on the overall Contract Time. If specified product or method of construction cannot be provided within the Contract Time, include letter from manufacturer, on manufacturer's letterhead, stating lack of availability or delays in delivery.
    - j. Cost information, including a proposal of change, if any, in the Contract Sum.
    - k. Contractor's certification that proposed substitution complies with requirements in the Contract Documents and is appropriate for applications indicated.
    - l. Contractor's waiver of rights to additional payment or time that may subsequently become necessary because of failure of proposed substitution to produce indicated results.
  3. Architect's Action: If necessary, Architect will request additional information or documentation for evaluation within 7 days of receipt of a request for substitution. Architect will notify Contractor of acceptance or rejection of proposed substitution within 15 days of receipt of request, or 7 days of receipt of additional information or documentation, whichever is later.
    - a. Form of Acceptance: Change Order.
    - b. Use product specified if Architect cannot make a decision on use of a proposed substitution within time allocated.
- C. Comparable Product Requests: Submit three copies of each request for consideration. Identify product or fabrication or installation method to be replaced. Include Specification Section number and title and Drawing numbers and titles.
1. Architect's Action: If necessary, Architect will request additional information or documentation for evaluation within one week of receipt of a comparable product request. Architect will notify Contractor of approval or rejection of proposed comparable product

request within 15 days of receipt of request, or 7 days of receipt of additional information or documentation, whichever is later.

- a. Form of Approval: As specified in Division 01 Section "Submittal Procedures."
- b. Use product specified if Architect cannot make a decision on use of a comparable product request within time allocated.

D. Basis-of-Design Product Specification Submittal: Comply with requirements in Division 01 Section "Submittal Procedures." Show compliance with requirements.

#### 1.4 QUALITY ASSURANCE

A. Compatibility of Options: If Contractor is given option of selecting between two or more products for use on Project, product selected shall be compatible with products previously selected, even if previously selected products were also options.

#### 1.5 PRODUCT DELIVERY, STORAGE, AND HANDLING

A. Deliver, store, and handle products using means and methods that will prevent damage, deterioration, and loss, including theft. Comply with manufacturer's written instructions.

B. Delivery and Handling:

1. Schedule delivery to minimize long-term storage at Project site and to prevent overcrowding of construction spaces.
2. Coordinate delivery with installation time to ensure minimum holding time for items that are flammable, hazardous, easily damaged, or sensitive to deterioration, theft, and other losses.
3. Deliver products to Project site in an undamaged condition in manufacturer's original sealed container or other packaging system, complete with labels and instructions for handling, storing, unpacking, protecting, and installing.
4. Inspect products on delivery to ensure compliance with the Contract Documents and to ensure that products are undamaged and properly protected.

C. Storage:

1. Store products to allow for inspection and measurement of quantity or counting of units.
2. Store materials in a manner that will not endanger Project structure.
3. Store products that are subject to damage by the elements, under cover in a weathertight enclosure above ground, with ventilation adequate to prevent condensation.
4. Store cementitious products and materials on elevated platforms.
5. Store foam plastic from exposure to sunlight, except to extent necessary for period of installation and concealment.
6. Comply with product manufacturer's written instructions for temperature, humidity, ventilation, and weather-protection requirements for storage.
7. Protect stored products from damage and liquids from freezing.

D. Material Moisture and Mold Control: Comply with recommendations contained in Associated General Contractors (AGC) document "Managing the Risk of Mold in the Construction of Buildings." Prepare and submit plan for protecting materials from water damage, including the following:

1. Indicate delivery, checking and storage operations affected by water damage control efforts.
2. Indicate procedures for protecting porous materials from water damage, and how damaged materials will be handled.
3. Indicate sequencing of work that requires water, such as sprayed fire-resistive materials, plastering, and terrazzo grinding, and describe plans for dealing with water from these operations. Show procedures for verifying that wet work has dried sufficiently to permit installation of related finish materials.
4. Describe protocol for dealing with large and unexpected water intrusion into completed portions of building. Indicate procedures for investigation of cause and effects, and methods for dealing with both.

## 1.6 PRODUCT WARRANTIES

- A. Warranties specified in other Sections shall be in addition to, and run concurrent with, other warranties required by the Contract Documents. Manufacturer's disclaimers and limitations on product warranties do not relieve Contractor of obligations under requirements of the Contract Documents.
  - 1. Manufacturer's Warranty: Preprinted written warranty published by individual manufacturer for a particular product and specifically endorsed by manufacturer to Owner.
  - 2. Special Warranty: Written warranty required by or incorporated into the Contract Documents, either to extend time limit provided by manufacturer's warranty or to provide more rights for Owner.
- B. Special Warranties: Prepare a written document that contains appropriate terms and identification, ready for execution. Submit a draft for approval before final execution.
  - 1. Manufacturer's Standard Form: Modified to include Project-specific information and properly executed.
  - 2. Specified Form: When specified forms are included with the Specifications, prepare a written document using appropriate form properly executed.
  - 3. Refer to Divisions 02 through 33 Sections for specific content requirements and particular requirements for submitting special warranties.
- C. Submittal Time: Comply with requirements in Division 01 Section "Closeout Procedures."

## PART 2 - PRODUCTS

## 2.1 PRODUCT SELECTION PROCEDURES

- A. General Product Requirements: Provide products that comply with the Contract Documents, that are undamaged and, unless otherwise indicated, that are new at time of installation.
  - 1. Provide products complete with accessories, trim, finish, fasteners, and other items needed for a complete installation and indicated use and effect.
  - 2. Standard Products: If available, and unless custom products or nonstandard options are specified, provide standard products of types that have been produced and used successfully in similar situations on other projects.
  - 3. Owner reserves the right to limit selection to products with warranties not in conflict with requirements of the Contract Documents.
  - 4. Where products are accompanied by the term "as selected," Architect will make selection.
  - 5. Where products are accompanied by the term "match sample," sample to be matched is Architect's.
  - 6. Descriptive, performance, and reference standard requirements in the Specifications establish "salient characteristics" of products.
  - 7. Or Equal: Where products are specified by name and accompanied by the term "or equal" or "or approved equal" or "or approved," comply with provisions in Part 2 "Comparable Products" Article to obtain approval for use of an unnamed product.
- B. Product Selection Procedures:
  - 1. Product: Where Specifications name a single product and manufacturer, provide the named product that complies with requirements.
  - 2. Manufacturer/Source: Where Specifications name a single manufacturer or source, provide a product by the named manufacturer or source that complies with requirements.
  - 3. Products: Where Specifications include a list of names of both products and manufacturers, provide one of the products listed that complies with requirements.
  - 4. Manufacturers: Where Specifications include a list of manufacturers' names, provide a product by one of the manufacturers listed that complies with requirements.
  - 5. Available Products: Where Specifications include a list of names of both products and manufacturers, provide one of the products listed, or an unnamed product, that complies with requirements. Comply with provisions in Part 2 "Comparable Products" Article for consideration of an unnamed product.



6. Available Manufacturers: Where Specifications include a list of manufacturers, provide a product by one of the manufacturers listed, or an unnamed manufacturer, that complies with requirements. Comply with provisions in Part 2 "Comparable Products" Article for consideration of an unnamed product.
7. Product Options: Where Specifications indicate that sizes, profiles, and dimensional requirements on Drawings are based on a specific product or system, provide the specified product or system. Comply with provisions in Part 2 "Product Substitutions" Article for consideration of an unnamed product or system.
8. Basis-of-Design Product: Where Specifications name a product and include a list of manufacturers, provide the specified product or a comparable product by one of the other named manufacturers. Drawings and Specifications indicate sizes, profiles, dimensions, and other characteristics that are based on the product named. Comply with provisions in Part 2 "Comparable Products" Article for consideration of an unnamed product by the other named manufacturers.
9. Visual Matching Specification: Where Specifications require matching an established Sample, select a product that complies with requirements and matches Architect's sample. Architect's decision will be final on whether a proposed product matches.
  - a. If no product available within specified category matches and complies with other specified requirements, comply with provisions in Part 2 "Product Substitutions" Article for proposal of product.
10. Visual Selection Specification: Where Specifications include the phrase "as selected from manufacturer's colors, patterns, textures" or a similar phrase, select a product that complies with other specified requirements.
  - a. Standard Range: Where Specifications include the phrase "standard range of colors, patterns, textures" or similar phrase, Architect will select color, pattern, density, or texture from manufacturer's product line that does not include premium items.
  - b. Full Range: Where Specifications include the phrase "full range of colors, patterns, textures" or similar phrase, Architect will select color, pattern, density, or texture from manufacturer's product line that includes both standard and premium items.

## 2.2 PRODUCT SUBSTITUTIONS

- A. Requests for substitution following award of contract must comply with requirements of this article and are restricted to those necessitated by the following circumstances:
  1. Specified product is no longer available for purchase.
  2. Specified product is not available within schedule requirements of project.
  3. Specified product is not compatible with other product approved for project.
  4. Specified warranty is not available.
- B. Timing: Architect will consider requests for substitution if received within 60 days after the Notice to Proceed. Requests received after that time may be considered or rejected at discretion of Architect.
- C. Conditions: Architect will consider Contractor's request for substitution when the following conditions are satisfied and so certified by Contractor. If the following conditions are not satisfied, Architect will return requests without action, except to record noncompliance with these requirements:
  1. Requested substitution offers Owner a substantial advantage in cost, time, energy conservation, or other considerations, after deducting additional responsibilities Owner must assume. Owner's additional responsibilities may include compensation to Architect for redesign and evaluation services, increased cost of other construction by Owner, and similar considerations.
  2. Requested substitution does not require extensive revisions to the Contract Documents.
  3. Requested substitution is consistent with the Contract Documents and will produce indicated results.
  4. Substitution request is fully documented and properly submitted.

5. Requested substitution will not adversely affect Contractor's Construction Schedule.
6. Requested substitution has received necessary approvals of authorities having jurisdiction.
7. Requested substitution is compatible with other portions of the Work.
8. Requested substitution has been coordinated with other portions of the Work.
9. Requested substitution provides specified warranty.
10. If requested substitution involves more than one contractor, requested substitution has been coordinated with other portions of the Work, is uniform and consistent, is compatible with other products, and is acceptable to all contractors involved.

### 2.3 COMPARABLE PRODUCTS

- A. Conditions: Architect will consider Contractor's request for comparable product when the following conditions are satisfied. If the following conditions are not satisfied, Architect will return requests without action, except to record noncompliance with these requirements:
1. Evidence that the proposed product does not require extensive revisions to the Contract Documents, that it is consistent with the Contract Documents and will produce the indicated results, and that it is compatible with other portions of the Work.
  2. Detailed comparison of significant qualities of proposed product with those named in the Specifications. Significant qualities include attributes such as performance, weight, size, durability, visual effect, and specific features and requirements indicated.
  3. Evidence that proposed product provides specified warranty.
  4. List of similar installations for completed projects with project names and addresses and names and addresses of architects and owners, if requested.
  5. Samples, if requested.

### PART 3 - EXECUTION (Not Used)

END OF SECTION 01 60 00

PART 1 - GENERAL

1.1 RELATED DOCUMENTS

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

1.2 SUMMARY

- A. This Section includes general procedural requirements governing execution of the Work including, but not limited to, the following:
  - 1. Construction layout.
  - 2. General installation of products.
  - 3. Coordination of Owner-installed products (if any).
  - 4. Coordinate with Owner's construction manager
  - 5. Progress cleaning.
  - 6. Starting and adjusting.
  - 7. Protection of installed construction.
  - 8. Correction of the Work.
- B. Related Sections include the following:
  - 1. Division 01 Section "Project Management and Coordination" for procedures for coordinating field engineering with other construction activities.
  - 2. Division 01 Section "Submittal Procedures" for submitting surveys.
  - 3. Division 01 Section "Closeout Procedures" for submitting final property survey with Project Record Documents, recording of Owner-accepted deviations from indicated lines and levels, and final cleaning.

1.3 SUBMITTALS

- A. Landfill Receipts: If hazardous waste is encountered, submit copy of receipts issued by a landfill facility licensed to accept hazardous materials for hazardous waste disposal.

PART 2 - PRODUCTS (Not Used)

PART 3 - EXECUTION

3.1 EXAMINATION

- A. Existing Conditions: The existence and location of utilities and other construction indicated as existing are not guaranteed. Before beginning work, investigate and verify the existence and location of mechanical and electrical systems and other construction affecting the Work.
  - 1. Before construction, verify the location and points of connection of utility services.
- B. Existing Utilities: The existence and location of underground and other utilities and construction indicated as existing are not guaranteed. Before beginning sitework, investigate and verify the existence and location of underground utilities and other construction affecting the Work.
  - 1. Before construction, verify the location and invert elevation at points of connection of sanitary sewer, storm sewer, and water-service piping; and underground electrical services.
  - 2. Furnish location data for work related to Project that must be performed by public utilities serving Project site.
- C. Acceptance of Conditions: Examine substrates, areas, and conditions, with Installer or Applicator present where indicated, for compliance with requirements for installation tolerances and other conditions affecting performance. Record observations.
  - 1. Written Report: Where a written report listing conditions detrimental to performance of the Work is required by other Sections, include the following:
    - a. Description of the Work.
    - b. List of detrimental conditions, including substrates.

- c. List of unacceptable installation tolerances.
- d. Recommended corrections.
- 2. Verify compatibility with and suitability of substrates, including compatibility with existing finishes or primers.
- 3. Examine roughing-in for mechanical and electrical systems to verify actual locations of connections before equipment and fixture installation.
- 4. Examine walls, floors, and roofs for suitable conditions where products and systems are to be installed.
- 5. Proceed with installation only after unsatisfactory conditions have been corrected. Proceeding with the Work indicates acceptance of surfaces and conditions.

### 3.2 PREPARATION

- A. Existing Utility Information: Furnish information to local utility that is necessary to adjust, move, or relocate existing utility structures, utility poles, lines, services, or other utility appurtenances located in or affected by construction. Coordinate with authorities having jurisdiction.
- B. Field Measurements: Take field measurements as required to fit the Work properly. Recheck measurements before installing each product. Where portions of the Work are indicated to fit to other construction, verify dimensions of other construction by field measurements before fabrication. Coordinate fabrication schedule with construction progress to avoid delaying the Work.
- C. Space Requirements: Verify space requirements and dimensions of items shown diagrammatically on Drawings.
- D. Review of Contract Documents and Field Conditions: Immediately on discovery of the need for clarification of the Contract Documents, submit a request for information to Architect. Include a detailed description of problem encountered, together with recommendations for changing the Contract Documents.

### 3.3 CONSTRUCTION LAYOUT

- A. Verification: Before proceeding to lay out the Work, verify layout information shown on Drawings, in relation to the property survey and existing benchmarks. If discrepancies are discovered, notify Architect promptly.
- B. General: Engage a land surveyor to lay out the Work using accepted surveying practices.
  - 1. Establish benchmarks and control points to set lines and levels at each story of construction and elsewhere as needed to locate each element of Project.
  - 2. Establish dimensions within tolerances indicated. Do not scale Drawings to obtain required dimensions.
  - 3. Inform installers of lines and levels to which they must comply.
  - 4. Check the location, level and plumb, of every major element as the Work progresses.
  - 5. Notify Architect when deviations from required lines and levels exceed allowable tolerances.
  - 6. Close site surveys with an error of closure equal to or less than the standard established by authorities having jurisdiction.
- C. Site Improvements: Locate and lay out site improvements, including pavements, grading, fill and topsoil placement, utility slopes, and invert elevations.
- D. Building Lines and Levels: Locate and lay out control lines and levels for structures, building foundations, column grids, and floor levels, including those required for mechanical and electrical work. Transfer survey markings and elevations for use with control lines and levels. Level foundations and piers from two or more locations.
- E. Record Log: Maintain a log of layout control work. Record deviations from required lines and levels. Include beginning and ending dates and times of surveys, weather conditions, name and duty of each survey party member, and types of instruments and tapes used. Make the log available for reference by Architect.

## 3.4 FIELD ENGINEERING

- A. Reference Points: Locate existing permanent benchmarks, control points, and similar reference points before beginning the Work. Preserve and protect permanent benchmarks and control points during construction operations.
  - 1. Do not change or relocate existing benchmarks or control points without prior written approval of Architect. Report lost or destroyed permanent benchmarks or control points promptly. Report the need to relocate permanent benchmarks or control points to Architect before proceeding.
  - 2. Replace lost or destroyed permanent benchmarks and control points promptly. Base replacements on the original survey control points.
- B. Benchmarks: Establish and maintain a minimum of two permanent benchmarks on Project site, referenced to data established by survey control points. Comply with authorities having jurisdiction for type and size of benchmark.
  - 1. Record benchmark locations, with horizontal and vertical data, on Project Record Documents.
  - 2. Where the actual location or elevation of layout points cannot be marked, provide temporary reference points sufficient to locate the Work.
  - 3. Remove temporary reference points when no longer needed. Restore marked construction to its original condition.
- C. Final Property Survey: Prepare a final property survey showing significant features (real property) for Project. Include on the survey a certification, signed by land surveyor, that principal metes, bounds, lines, and levels of Project are accurately positioned as shown on the survey.
  - 1. Show boundary lines, monuments, streets, site improvements and utilities, existing improvements and significant vegetation, adjoining properties, acreage, grade contours, and the distance and bearing from a site corner to a legal point.
  - 2. Recording: At Substantial Completion, have the final property survey recorded by or with authorities having jurisdiction as the official "property survey."

## 3.5 INSTALLATION

- A. General: Locate the Work and components of the Work accurately, in correct alignment and elevation, as indicated.
  - 1. Make vertical work plumb and make horizontal work level.
  - 2. Where space is limited, install components to maximize space available for maintenance and ease of removal for replacement.
  - 3. Conceal pipes, ducts, and wiring in finished areas, unless otherwise indicated.
  - 4. Maintain minimum headroom clearance of 8 feet(2.4 m) in spaces without a suspended ceiling.
- B. Comply with manufacturer's written instructions and recommendations for installing products in applications indicated.
- C. Install products at the time and under conditions that will ensure the best possible results. Maintain conditions required for product performance until Substantial Completion.
- D. Conduct construction operations so no part of the Work is subjected to damaging operations or loading in excess of that expected during normal conditions of occupancy.
- E. Tools and Equipment: Do not use tools or equipment that produce harmful noise levels.
- F. Templates: Obtain and distribute to the parties involved templates for work specified to be factory prepared and field installed. Check Shop Drawings of other work to confirm that adequate provisions are made for locating and installing products to comply with indicated requirements.
- G. Anchors and Fasteners: Provide anchors and fasteners as required to anchor each component securely in place, accurately located and aligned with other portions of the Work.
  - 1. Mounting Heights: Where mounting heights are not indicated, mount components at heights directed by Architect.
  - 2. Allow for building movement, including thermal expansion and contraction.
  - 3. Coordinate installation of anchorages. Furnish setting drawings, templates, and directions for installing anchorages, including sleeves, concrete inserts, anchor bolts, and items with

integral anchors, that are to be embedded in concrete or masonry. Deliver such items to Project site in time for installation.

- H. Joints: Make joints of uniform width. Where joint locations in exposed work are not indicated, arrange joints for the best visual effect. Fit exposed connections together to form hairline joints.
- I. Hazardous Materials: Use products, cleaners, and installation materials that are not considered hazardous.

### 3.6 OWNER-INSTALLED PRODUCTS (IF ANY)

- A. Site Access: Provide access to Project site for Owner's construction forces.
- B. Coordination: Coordinate construction and operations of the Work with work performed by Owner's construction forces.
  - 1. Construction Schedule: Inform Owner of Contractor's preferred construction schedule for Owner's portion of the Work. Adjust construction schedule based on a mutually agreeable timetable. Notify Owner if changes to schedule are required due to differences in actual construction progress.
  - 2. Preinstallation Conferences: Include Owner's construction forces at preinstallation conferences covering portions of the Work that are to receive Owner's work. Attend preinstallation conferences conducted by Owner's construction forces if portions of the Work depend on Owner's construction.

### 3.7 PROGRESS CLEANING

- A. General: Clean Project site and work areas daily, including common areas. Coordinate progress cleaning for joint-use areas where more than one installer has worked. Enforce requirements strictly. Dispose of materials lawfully.
  - 1. Comply with requirements in NFPA 241 for removal of combustible waste materials and debris.
  - 2. Do not hold materials more than 7 days during normal weather or 3 days if the temperature is expected to rise above 80 deg F (27 deg C).
  - 3. Containerize hazardous and unsanitary waste materials separately from other waste. Mark containers appropriately and dispose of legally, according to regulations.
- B. Site: Maintain Project site free of waste materials and debris.
- C. Work Areas: Clean areas where work is in progress to the level of cleanliness necessary for proper execution of the Work.
  - 1. Remove liquid spills promptly.
  - 2. Where dust would impair proper execution of the Work, broom-clean or vacuum the entire work area, as appropriate.
- D. Installed Work: Keep installed work clean. Clean installed surfaces according to written instructions of manufacturer or fabricator of product installed, using only cleaning materials specifically recommended. If specific cleaning materials are not recommended, use cleaning materials that are not hazardous to health or property and that will not damage exposed surfaces.
- E. Concealed Spaces: Remove debris from concealed spaces before enclosing the space.
- F. Exposed Surfaces in Finished Areas: Clean exposed surfaces and protect as necessary to ensure freedom from damage and deterioration at time of Substantial Completion.
- G. Waste Disposal: Burying or burning waste materials on-site will not be permitted. Washing waste materials down sewers or into waterways will not be permitted.
- H. During handling and installation, clean and protect construction in progress and adjoining materials already in place. Apply protective covering where required to ensure protection from damage or deterioration at Substantial Completion.
- I. Clean and provide maintenance on completed construction as frequently as necessary through the remainder of the construction period. Adjust and lubricate operable components to ensure operability without damaging effects.

- J. Limiting Exposures: Supervise construction operations to assure that no part of the construction, completed or in progress is subject to harmful, dangerous, damaging, or otherwise deleterious exposure during the construction period.

3.8 STARTING AND ADJUSTING

- A. Start equipment and operating components to confirm proper operation. Remove malfunctioning units, replace with new units, and retest.
- B. Adjust operating components for proper operation without binding. Adjust equipment for proper operation.
- C. Test each piece of equipment to verify proper operation. Test and adjust controls and safeties. Replace damaged and malfunctioning controls and equipment.
- D. Manufacturer's Field Service: If a factory-authorized service representative is required to inspect field-assembled components and equipment installation, comply with qualification requirements in Division 01 Section "Quality Requirements."

3.9 PROTECTION OF INSTALLED CONSTRUCTION

- A. Provide final protection and maintain conditions that ensure installed Work is without damage or deterioration at time of Substantial Completion.
- B. Comply with manufacturer's written instructions for temperature and relative humidity.

3.10 CORRECTION OF THE WORK

- A. Repair or remove and replace defective construction. Restore damaged substrates and finishes.
  - 1. Repairing includes replacing defective parts, refinishing damaged surfaces, touching up with matching materials, and properly adjusting operating equipment.
- B. Restore permanent facilities used during construction to their specified condition.
- C. Remove and replace damaged surfaces that are exposed to view if surfaces cannot be repaired without visible evidence of repair.
- D. Repair components that do not operate properly. Remove and replace operating components that cannot be repaired.
- E. Remove and replace chipped, scratched, and broken glass or reflective surfaces.

END OF SECTION 01 73 00

PART 1 - GENERAL

1.1 RELATED DOCUMENTS

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

1.2 SUMMARY

- A. This Section includes procedural requirements for cutting and patching.
- B. Related Sections include the following:
  - 1. Divisions 02 through 33 Sections for specific requirements and limitations applicable to cutting and patching individual parts of the Work.

1.3 DEFINITIONS

- A. Cutting: Removal of in-place construction necessary to permit installation or performance of other Work.
- B. Patching: Fitting and repair work required to restore surfaces to original conditions after installation of other Work.

1.4 SUBMITTALS

- A. Cutting and Patching Proposal: Submit a proposal describing procedures at least 10 days before the time cutting and patching will be performed, requesting approval to proceed. Include the following information:
  - 1. Extent: Describe cutting and patching, show how they will be performed, and indicate why they cannot be avoided.
  - 2. Changes to In-Place Construction: Describe anticipated results. Include changes to structural elements and operating components as well as changes in building's appearance and other significant visual elements.
  - 3. Products: List products to be used and firms or entities that will perform the Work.
  - 4. Dates: Indicate when cutting and patching will be performed.
  - 5. Utility Services and Mechanical/Electrical Systems: List services/systems that cutting and patching procedures will disturb or affect. List services/systems that will be relocated and those that will be temporarily out of service. Indicate how long services/systems will be disrupted.
  - 6. Structural Elements: Where cutting and patching involve adding reinforcement to structural elements, submit details and engineering calculations showing integration of reinforcement with original structure.
  - 7. Architect's Approval: Obtain approval of cutting and patching proposal before cutting and patching. Approval does not waive right to later require removal and replacement of unsatisfactory work.

1.5 QUALITY ASSURANCE

- A. Structural Elements: Do not cut and patch structural elements in a manner that could change their load-carrying capacity or load-deflection ratio.
- B. Miscellaneous Elements: Do not cut and patch miscellaneous elements or related components in a manner that could change their load-carrying capacity, that results in reducing their capacity to perform as intended, or that results in increased maintenance or decreased operational life or safety. Miscellaneous elements include the following:
  - 1. Water, moisture, or vapor barriers.
  - 2. Membranes and flashings.
  - 3. Exterior curtain-wall construction.
  - 4. Equipment supports.
  - 5. Piping, ductwork, vessels, and equipment.
  - 6. Noise- and vibration-control elements and systems.



- C. Visual Requirements: Do not cut and patch construction in a manner that results in visual evidence of cutting and patching. Do not cut and patch construction exposed on the exterior or in occupied spaces in a manner that would, in Architect's opinion, reduce the building's aesthetic qualities. Remove and replace construction that has been cut and patched in a visually unsatisfactory manner.
- D. Cutting and Patching Conference: Before proceeding, meet at Project site with parties involved in cutting and patching, including mechanical and electrical trades. Review areas of potential interference and conflict. Coordinate procedures and resolve potential conflicts before proceeding.

1.6 WARRANTY

- A. Existing Warranties: Remove, replace, patch, and repair materials and surfaces cut or damaged during cutting and patching operations, by methods and with materials so as not to void existing warranties.

PART 2 - PRODUCTS

2.1 MATERIALS

- A. General: Comply with requirements specified in other Sections.
- B. In-Place Materials: Use materials identical to in-place materials. For exposed surfaces, use materials that visually match in-place adjacent surfaces to the fullest extent possible.
  - 1. If identical materials are unavailable or cannot be used, use materials that, when installed, will match the visual and functional performance of in-place materials.

PART 3 - EXECUTION

3.1 EXAMINATION

- A. Examine surfaces to be cut and patched and conditions under which cutting and patching are to be performed.
  - 1. Compatibility: Before patching, verify compatibility with and suitability of substrates, including compatibility with in-place finishes or primers.
  - 2. Proceed with installation only after unsafe or unsatisfactory conditions have been corrected.

3.2 PREPARATION

- A. Temporary Support: Provide temporary support of Work to be cut.
- B. Protection: Protect in-place construction during cutting and patching to prevent damage. Provide protection from adverse weather conditions for portions of Project that might be exposed during cutting and patching operations.
- C. Adjoining Areas: Avoid interference with use of adjoining areas or interruption of free passage to adjoining areas.
- D. Existing Utility Services and Mechanical/Electrical Systems: Where existing services/systems are required to be removed, relocated, or abandoned, bypass such services/systems before cutting to minimize or prevent interruption to occupied areas.

3.3 PERFORMANCE

- A. General: Employ skilled workers to perform cutting and patching. Proceed with cutting and patching at the earliest feasible time, and complete without delay.
  - 1. Cut in-place construction to provide for installation of other components or performance of other construction, and subsequently patch as required to restore surfaces to their original condition.
- B. Cutting: Cut in-place construction by sawing, drilling, breaking, chipping, grinding, and similar operations, including excavation, using methods least likely to damage elements retained or adjoining construction. If possible, review proposed procedures with original Installer; comply with original Installer's written recommendations.

SECTION 01 73 29 - CUTTING AND PATCHING

1. In general, use hand or small power tools designed for sawing and grinding, not hammering and chopping. Cut holes and slots as small as possible, neatly to size required, and with minimum disturbance of adjacent surfaces. Temporarily cover openings when not in use.
  2. Finished Surfaces: Cut or drill from the exposed or finished side into concealed surfaces.
  3. Concrete and Masonry: Cut using a cutting machine, such as an abrasive saw or a diamond-core drill.
  4. Excavating and Backfilling: Comply with requirements in applicable Division 32 Sections where required by cutting and patching operations.
  5. Mechanical and Electrical Services: Cut off pipe or conduit in walls or partitions to be removed. Cap, valve, or plug and seal remaining portion of pipe or conduit to prevent entrance of moisture or other foreign matter after cutting.
  6. Proceed with patching after construction operations requiring cutting are complete.
- C. Patching: Patch construction by filling, repairing, refinishing, closing up, and similar operations following performance of other Work. Patch with durable seams that are as invisible as possible. Provide materials and comply with installation requirements specified in other Sections.
1. Inspection: Where feasible, test and inspect patched areas after completion to demonstrate integrity of installation.
  2. Exposed Finishes: Restore exposed finishes of patched areas and extend finish restoration into retained adjoining construction in a manner that will eliminate evidence of patching and refinishing.
    - a. Clean piping, conduit, and similar features before applying paint or other finishing materials.
    - b. Restore damaged pipe covering to its original condition.
  3. Floors and Walls: Where walls or partitions that are removed extend one finished area into another, patch and repair floor and wall surfaces in the new space. Provide an even surface of uniform finish, color, texture, and appearance. Remove in-place floor and wall coverings and replace with new materials, if necessary, to achieve uniform color and appearance.
    - a. Where patching occurs in a painted surface, apply primer and intermediate paint coats over the patch and apply final paint coat over entire unbroken surface containing the patch. Provide additional coats until patch blends with adjacent surfaces.
  4. Ceilings: Patch, repair, or rehang in-place ceilings as necessary to provide an even-plane surface of uniform appearance.
  5. Exterior Building Enclosure: Patch components in a manner that restores enclosure to a weathertight condition.
- D. Cleaning: Clean areas and spaces where cutting and patching are performed. Completely remove paint, mortar, oils, putty, and similar materials.

END OF SECTION 01 73 29

PART 1 - GENERAL

1.1 SUMMARY

- A. This Section includes administrative and procedural requirements for the following:
  - 1. Recycling nonhazardous demolition and construction waste.
  - 2. Disposing of nonhazardous demolition and construction waste.
- B. Related Sections include the following:
  - 1. Division 01 Section "Temporary Facilities and Controls" for environmental-protection measures during construction, and location of waste containers at Project site.
  - 2. Division 02 Section "Selective Structure Demolition" for disposition of waste resulting from demolition of buildings, structures, and site improvements, and for disposition of hazardous waste.
  - 3. Division 04 Section "Unit Masonry" for disposal requirements for masonry waste.

1.2 DEFINITIONS

- A. Construction Waste: Building and site improvement materials and other solid waste resulting from construction, remodeling, renovation, or repair operations. Construction waste includes packaging.
- B. Demolition Waste: Building and site improvement materials resulting from demolition or selective demolition operations.
- C. Disposal: Removal off-site of demolition and construction waste and subsequent sale, recycling, reuse, or deposit in landfill or incinerator acceptable to authorities having jurisdiction.
- D. Recycle: Recovery of demolition or construction waste for subsequent processing in preparation for reuse.

1.3 PERFORMANCE GOALS

- A. General: Develop waste management plan that results in end-of-Project rates for recycling of 75 percent by weight of total waste generated by the Work.
- B. Recycle Goals: Owner's goal is to recycle as much nonhazardous demolition and construction waste as possible including the following materials:
  - 1. Demolition Waste:
    - a. Asphaltic concrete paving.
    - b. Concrete.
    - c. Concrete reinforcing steel.
  - 2. Construction Waste:
    - a. Site-clearing waste.
    - b. Masonry and CMU.
    - c. Lumber.
    - d. Wood sheet materials.
    - e. Wood trim.
    - f. Metals.
    - g. Roofing.
    - h. Insulation.
    - i. Carpet and pad.
    - j. Gypsum board.
    - k. Piping.
    - l. Electrical conduit.
    - m. Packaging: Regardless of recycle goal indicated above, recycle 100 percent of the following uncontaminated packaging materials:
      - 1) Paper.
      - 2) Cardboard.
      - 3) Boxes.

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- 4) Plastic sheet and film.
- 5) Polystyrene packaging.
- 6) Wood crates.
- 7) Plastic pails.

### 1.4 SUBMITTALS

- A. Waste Management Plan: Submit 3 copies of plan within 30 days of date established for the Notice to Proceed.
- B. Waste Reduction Progress Reports: Concurrent with each Application for Payment, submit three copies of report. Include separate reports for demolition and construction waste. Include the following information:
  1. Material category.
  2. Generation point of waste.
  3. Total quantity of waste in tons.
  4. Quantity of waste recycled, both estimated and actual in tons.
  5. Total quantity of waste recovered (recycled) in tons.
  6. Total quantity of waste recovered (recycled) as a percentage of total waste.
- C. Waste Reduction Calculations: Before request for Substantial Completion, submit 3 copies of calculated end-of-Project rates for recycling and disposal as a percentage of total waste generated by the Work.
- D. Recycling and Processing Facility Records: Indicate receipt and acceptance of recyclable waste by recycling and processing facilities licensed to accept them. Include manifests, weight tickets, receipts, and invoices.
- E. Landfill and Incinerator Disposal Records: Indicate receipt and acceptance of waste by landfills and incinerator facilities licensed to accept them. Include manifests, weight tickets, receipts, and invoices.
- F. Qualification Data: For Waste Management Coordinator.
- G. Statement of Refrigerant Recovery: Signed by refrigerant recovery technician responsible for recovering refrigerant, stating that all refrigerant that was present was recovered and that recovery was performed according to EPA regulations. Include name and address of technician and date refrigerant was recovered.

### 1.5 QUALITY ASSURANCE

- A. Refrigerant Recovery Technician Qualifications: Certified by EPA-approved certification program.
- B. Regulatory Requirements: Comply with hauling and disposal regulations of authorities having jurisdiction.
- C. Waste Management Conference: Conduct conference at Project site to comply with requirements in Division 01 Section "Project Management and Coordination." Review methods and procedures related to waste management including, but not limited to, the following:
  1. Review and discuss waste management plan including responsibilities of Waste Management Coordinator.
  2. Review requirements for documenting quantities of each type of waste and its disposition.
  3. Review and finalize procedures for materials separation and verify availability of containers and bins needed to avoid delays.
  4. Review procedures for periodic waste collection and transportation to recycling and disposal facilities.
  5. Review waste management requirements for each trade.

### 1.6 WASTE MANAGEMENT PLAN

- A. General: Develop plan consisting of waste identification, waste reduction work plan, and cost/revenue analysis. Include separate sections in plan for demolition and construction waste. Indicate quantities by weight or volume, but use same units of measure throughout waste management plan.

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- B. Waste Identification: Indicate anticipated types and quantities of demolition, site-clearing and construction waste generated by the Work. Include estimated quantities and assumptions for estimates.
- C. Waste Reduction Work Plan: List each type of waste and whether it will be recycled or disposed of in landfill or incinerator. Include points of waste generation, total quantity of each type of waste, quantity for each means of recovery, and handling and transportation procedures.
  - 1. Recycled Materials: Include list of local receivers and processors and type of recycled materials each will accept. Include names, addresses, and telephone numbers.
  - 2. Disposed Materials: Indicate how and where materials will be disposed of. Include name, address, and telephone number of each landfill and incinerator facility.
  - 3. Handling and Transportation Procedures: Include method that will be used for separating recyclable waste including sizes of containers, container labeling, and designated location on Project site where materials separation will be located.
- D. Cost/Revenue Analysis: Indicate total cost of waste disposal as if there was no waste management plan and net additional cost or net savings resulting from implementing waste management plan. Include the following:
  - 1. Total quantity of waste.
  - 2. Estimated cost of disposal (cost per unit). Include hauling and tipping fees and cost of collection containers for each type of waste.
  - 3. Total cost of disposal (with no waste management).
  - 4. Revenue from recycled materials.
  - 5. Savings in hauling and tipping fees by donating materials.
  - 6. Savings in hauling and tipping fees that are avoided.
  - 7. Handling and transportation costs. Include cost of collection containers for each type of waste.
  - 8. Net additional cost or net savings from waste management plan.

### PART 2 - PRODUCTS (Not Used)

### PART 3 - EXECUTION

#### 3.1 PLAN IMPLEMENTATION

- A. General: Implement waste management plan as approved by Architect. Provide handling, containers, storage, signage, transportation, and other items as required to implement waste management plan during the entire duration of the Contract.
  - 1. Comply with Division 01 Section "Temporary Facilities and Controls" for operation, termination, and removal requirements.
- B. Waste Management Coordinator: Engage a waste management coordinator to be responsible for implementing, monitoring, and reporting status of waste management work plan. Coordinator shall be present at Project site full time for duration of Project.
- C. Training: Train workers, subcontractors, and suppliers on proper waste management procedures, as appropriate for the Work occurring at Project site.
  - 1. Distribute waste management plan to everyone concerned within three days of submittal return.
  - 2. Distribute waste management plan to entities when they first begin work on-site. Review plan procedures and locations established for recycling and disposal.
- D. Site Access and Temporary Controls: Conduct waste management operations to ensure minimum interference with roads, streets, walks, walkways, and other adjacent occupied and used facilities.
  - 1. Designate and label specific areas on Project site necessary for separating materials that are to be recycled.
  - 2. Comply with Division 01 Section "Temporary Facilities and Controls" for controlling dust and dirt, environmental protection, and noise control.

## SECTION 01 74 19 - CONSTRUCTION WASTE MANAGEMENT AND DISPOSAL

### 3.2 RECYCLING DEMOLITION AND CONSTRUCTION WASTE, GENERAL

- A. General: Recycle paper and beverage containers used by on-site workers.
- B. Recycling Incentives: Revenues, savings, rebates, tax credits, and other incentives received for recycling waste materials shall accrue to Contractor.
- C. Procedures: Separate recyclable waste from other waste materials, trash, and debris. Separate recyclable waste by type at Project site to the maximum extent practical.
  - 1. Provide appropriately marked containers or bins for controlling recyclable waste until they are removed from Project site. Include list of acceptable and unacceptable materials at each container and bin.
    - a. Inspect containers and bins for contamination and remove contaminated materials if found.
  - 2. Stockpile processed materials on-site without intermixing with other materials. Place, grade, and shape stockpiles to drain surface water. Cover to prevent windblown dust.
  - 3. Stockpile materials away from construction area. Do not store within drip line of remaining trees.
  - 4. Store components off the ground and protect from the weather.
  - 5. Remove recyclable waste off Owner's property and transport to recycling receiver or processor.

### 3.3 RECYCLING DEMOLITION WASTE

- A. Asphaltic Concrete Paving: Grind asphalt to maximum 1-1/2-inch size.
- B. Asphaltic Concrete Paving: Break up and transport paving to asphalt-recycling facility.
- C. Concrete: Remove reinforcement and other metals from concrete and sort with other metals.

### 3.4 RECYCLING CONSTRUCTION WASTE

- A. Packaging:
  - 1. Cardboard and Boxes: Break down packaging into flat sheets. Bundle and store in a dry location.
  - 2. Polystyrene Packaging: Separate and bag materials.
  - 3. Pallets: As much as possible, require deliveries using pallets to remove pallets from Project site. For pallets that remain on-site, break down pallets into component wood pieces and comply with requirements for recycling wood.
  - 4. Crates: Break down crates into component wood pieces and comply with requirements for recycling wood.
- B. Site-Clearing Wastes: Chip brush, branches, and trees on-site.
- C. Wood Materials:
  - 1. Clean Cut-Offs of Lumber: Grind or chip into small pieces.
  - 2. Clean Sawdust: Bag sawdust that does not contain painted or treated wood.
- D. Gypsum Board: Stack large clean pieces on wood pallets and store in a dry location.
  - 1. Clean Gypsum Board: Grind scraps of clean gypsum board using small mobile chipper or hammer mill. Screen out paper after grinding.

### 3.5 DISPOSAL OF WASTE

- A. General: Except for items or materials to be recycled, remove waste materials from Project site and legally dispose of them in a landfill or incinerator acceptable to authorities having jurisdiction.
  - 1. Except as otherwise specified, do not allow waste materials that are to be disposed of accumulate on-site.
  - 2. Remove and transport debris in a manner that will prevent spillage on adjacent surfaces and areas.
- B. Burning: Do not burn waste materials.
- C. Disposal: Transport waste materials off Owner's property and legally dispose of them.

SECTION 01 74 19 - CONSTRUCTION WASTE MANAGEMENT AND DISPOSAL

END OF SECTION 01 74 19

## PART 1 - GENERAL

## 1.1 SUMMARY

- A. This Section includes administrative and procedural requirements for contract closeout, including, but not limited to, the following:
  - 1. Inspection procedures.
  - 2. Warranties.
  - 3. Final cleaning.
- B. Related Sections include the following:
  - 1. Division 01 Section "Payment Procedures" for requirements for Applications for Payment for Substantial and Final Completion.
  - 2. Division 01 Section "Execution" for progress cleaning of Project site.
  - 3. Division 01 Section "Project Record Documents" for submitting Record Drawings, Record Specifications, and Record Product Data.
  - 4. Division 01 Section "Operation and Maintenance Data" for operation and maintenance manual requirements.
  - 5. Division 01 Section "Demonstration and Training" for requirements for instructing Owner's personnel.
  - 6. Divisions 02 through 33 Sections for specific closeout and special cleaning requirements for the Work in those Sections.

## 1.2 SUBSTANTIAL COMPLETION

- A. Preliminary Procedures: Before requesting inspection for determining date of Substantial Completion, complete the following. List items below that are incomplete in request.
  - 1. Prepare a list of items to be completed and corrected (punch list), the value of items on the list, and reasons why the Work is not complete.
  - 2. Advise Owner of pending insurance changeover requirements.
  - 3. Submit specific warranties, workmanship bonds, maintenance service agreements, final certifications, and similar documents.
  - 4. Obtain and submit releases permitting Owner unrestricted use of the Work and access to services and utilities. Include occupancy permits, operating certificates, and similar releases.
  - 5. Prepare and submit Project Record Documents, operation and maintenance manuals, Final Completion construction photographs, damage or settlement surveys, property surveys, and similar final record information.
  - 6. Deliver tools, spare parts, extra materials, and similar items to location designated by Owner. Label with manufacturer's name and model number where applicable.
  - 7. Make final changeover of permanent locks and deliver keys to Owner, if so required in Division 08 Section "Door Hardware." Advise Owner's personnel of changeover in security provisions.
  - 8. Complete startup testing of systems.
  - 9. Submit test/adjust/balance records.
  - 10. Terminate and remove temporary facilities from Project site, along with mockups, construction tools, and similar elements.
  - 11. Advise Owner of changeover in heat and other utilities.
  - 12. Submit changeover information related to Owner's occupancy, use, operation, and maintenance.
  - 13. Complete final cleaning requirements, including touchup painting.
  - 14. Touch up and otherwise repair and restore marred exposed finishes to eliminate visual defects.



- B. Inspection: Submit a written request for inspection for Substantial Completion. On receipt of request, Architect will either proceed with inspection or notify Contractor of unfulfilled requirements. Architect will prepare the Certificate of Substantial Completion after inspection or will notify Contractor of items, either on Contractor's list or additional items identified by Architect, that must be completed or corrected before certificate will be issued.
  - 1. Reinspection: Request reinspection when the Work identified in previous inspections as incomplete is completed or corrected.
  - 2. Results of completed inspection will form the basis of requirements for Final Completion.

### 1.3 FINAL COMPLETION

- A. Preliminary Procedures: Before requesting final inspection for determining date of Final Completion, complete the following:
  - 1. Submit a final Application for Payment according to Division 01 Section "Payment Procedures."
  - 2. Submit certified copy of Architect's Substantial Completion inspection list of items to be completed or corrected (punch list), endorsed and dated by Architect. The certified copy of the list shall state that each item has been completed or otherwise resolved for acceptance.
  - 3. Submit evidence of final, continuing insurance coverage complying with insurance requirements.
  - 4. Submit pest-control final inspection report and warranty.
- B. Inspection: Submit a written request for final inspection for acceptance. On receipt of request, Architect will either proceed with inspection or notify Contractor of unfulfilled requirements. Architect will prepare a final Certificate for Payment after inspection or will notify Contractor of construction that must be completed or corrected before certificate will be issued.
  - 1. Reinspection: Request reinspection when the Work identified in previous inspections as incomplete is completed or corrected.

### 1.4 LIST OF INCOMPLETE ITEMS (PUNCH LIST)

- A. Preparation: Submit three copies of list. Include name and identification of each space and area affected by construction operations for incomplete items and items needing correction including, if necessary, areas disturbed by Contractor that are outside the limits of construction. Use CSI Form 14.1A.
  - 1. Organize list of spaces in sequential order, starting with exterior areas first and proceeding from lowest floor to highest floor.
  - 2. Organize items applying to each space by major element, including categories for ceiling, individual walls, floors, equipment, and building systems.
  - 3. Include the following information at the top of each page:
    - a. Project name.
    - b. Date.
    - c. Name of Architect.
    - d. Name of Contractor.
    - e. Page number.

### 1.5 WARRANTIES

- A. Submittal Time: Submit written warranties on request of Architect for designated portions of the Work where commencement of warranties other than date of Substantial Completion is indicated.
- B. Partial Occupancy: Submit properly executed warranties within 15 days of completion of designated portions of the Work that are completed and occupied or used by Owner during construction period by separate agreement with Contractor.
- C. Organize warranty documents into an orderly sequence based on the table of contents of the Project Manual.

1. Bind warranties and bonds in heavy-duty, 3-ring, vinyl-covered, loose-leaf binders, thickness as necessary to accommodate contents, and sized to receive 8-1/2-by-11-inch paper.
2. Provide heavy paper dividers with plastic-covered tabs for each separate warranty. Mark tab to identify the product or installation. Provide a typed description of the product or installation, including the name of the product and the name, address, and telephone number of Installer.
3. Identify each binder on the front and spine with the typed or printed title "WARRANTIES," Project name, and name of Contractor.

## PART 2 - PRODUCTS

### 2.1 MATERIALS

- A. Cleaning Agents: Use cleaning materials and agents recommended by manufacturer or fabricator of the surface to be cleaned. Do not use cleaning agents that are potentially hazardous to health or property or that might damage finished surfaces.

## PART 3 - EXECUTION

### 3.1 DEMONSTRATION AND TRAINING

- A. Instruction: Instruct Owner's personnel to adjust, operate, and maintain systems, subsystems, and equipment not part of a system.
  1. Provide instructors experienced in operation and maintenance procedures.
  2. Provide instruction at mutually agreed-on times. For equipment that requires seasonal operation, provide similar instruction at the start of each season.
  3. Schedule training with Owner, through Architect, with at least seven days' advance notice.
  4. Coordinate instructors, including providing notification of dates, times, length of instruction, and course content.

### 3.2 FINAL CLEANING

- A. General: Provide final cleaning. Conduct cleaning and waste-removal operations to comply with local laws and ordinances and Federal and local environmental and antipollution regulations.
- B. Cleaning: Employ experienced workers or professional cleaners for final cleaning. Clean each surface or unit to condition expected in an average commercial building cleaning and maintenance program. Comply with manufacturer's written instructions.
  1. Complete the following cleaning operations before requesting inspection for certification of Substantial Completion for entire Project or for a portion of Project:
    - a. Clean Project site, yard, and grounds, in areas disturbed by construction activities, including landscape development areas, of rubbish, waste material, litter, and other foreign substances.
    - b. Sweep paved areas broom clean. Remove petrochemical spills, stains, and other foreign deposits.
    - c. Rake grounds that are neither planted nor paved to a smooth, even-textured surface.
    - d. Remove tools, construction equipment, machinery, and surplus material from Project site.
    - e. Remove snow and ice to provide safe access to building.
    - f. Clean exposed exterior and interior hard-surfaced finishes to a dirt-free condition, free of stains, films, and similar foreign substances. Avoid disturbing natural weathering of exterior surfaces. Restore reflective surfaces to their original condition.
    - g. Remove debris and surface dust from limited access spaces, including roofs, plenums, shafts, trenches, equipment vaults, manholes, attics, and similar spaces.
    - h. Sweep concrete floors broom clean in unoccupied spaces.
    - i. Vacuum carpet and similar soft surfaces, removing debris and excess nap; shampoo if visible soil or stains remain.

SECTION 01 77 00 - CLOSEOUT PROCEDURES

- j. Clean transparent materials, including mirrors and glass in doors and windows. Remove glazing compounds and other noticeable, vision-obscuring materials. Replace chipped or broken glass and other damaged transparent materials. Polish mirrors and glass, taking care not to scratch surfaces.
  - k. Remove labels that are not permanent.
  - l. Touch up and otherwise repair and restore marred, exposed finishes and surfaces. Replace finishes and surfaces that cannot be satisfactorily repaired or restored or that already show evidence of repair or restoration.
    - 1) Do not paint over "UL" and similar labels, including mechanical and electrical nameplates. Remove paint or other matter obscuring labels.
  - m. Wipe surfaces of mechanical and electrical equipment, elevator equipment, and similar equipment. Remove excess lubrication, paint and mortar droppings, and other foreign substances.
  - n. Replace parts subject to unusual operating conditions.
  - o. Clean plumbing fixtures to a sanitary condition, free of stains, including stains resulting from water exposure.
  - p. Replace disposable air filters and clean permanent air filters. Clean exposed surfaces of diffusers, registers, and grills.
  - q. Clean ducts, blowers, and coils if units were operated without filters during construction or if inspection indicates units are not in clean, like-new condition.
  - r. Clean light fixtures, lamps, globes, and reflectors to function with full efficiency. Replace burned-out bulbs, and those noticeably dimmed by hours of use, and defective and noisy starters in fluorescent and mercury vapor fixtures to comply with requirements for new fixtures.
  - s. Leave Project clean and ready for occupancy.
- C. Pest Control: Engage an experienced, licensed exterminator to make a final inspection and rid Project of rodents, insects, and other pests. Prepare a report.
- D. Comply with safety standards for cleaning. Do not burn waste materials. Do not bury debris or excess materials on Owner's property. Do not discharge volatile, harmful, or dangerous materials into drainage systems. Remove waste materials from Project site and dispose of lawfully.

END OF SECTION 01 77 00

PART 1 - GENERAL

1.1 SUMMARY

- A. This Section includes administrative and procedural requirements for preparing operation and maintenance manuals, including the following:
  - 1. Operation and maintenance documentation directory.
  - 2. Emergency manuals.
  - 3. Operation manuals for systems, subsystems, and equipment.
  - 4. Maintenance manuals for the care and maintenance of products, materials, and finishes and systems and equipment.

1.2 SUBMITTALS

- A. Initial Submittal: Submit 1 draft copy of each manual at least 15 days before requesting inspection for Substantial Completion. Include a complete operation and maintenance directory. Architect will return one copy of draft and indicate whether general scope and content of manual are acceptable.
- B. Final Submittal: Submit 1 copy of each manual in final form at least 15 days before final inspection. Architect will return copy with comments within 15 days after final inspection.
  - 1. Correct or modify each manual to comply with Architect's comments. Submit 3 copies of each corrected manual within 15 days of receipt of Architect's comments.

1.3 COORDINATION

- A. Where operation and maintenance documentation includes information on installations by more than one factory-authorized service representative, assemble and coordinate information furnished by representatives and prepare manuals.

PART 2 - PRODUCTS

2.1 OPERATION AND MAINTENANCE DOCUMENTATION DIRECTORY

- A. Organization: Include a section in the directory for each of the following:
  - 1. List of documents.
  - 2. List of systems.
  - 3. List of equipment.
  - 4. Table of contents.
- B. List of Systems and Subsystems: List systems alphabetically. Include references to operation and maintenance manuals that contain information about each system.
- C. List of Equipment: List equipment for each system, organized alphabetically by system. For pieces of equipment not part of system, list alphabetically in separate list.
- D. Tables of Contents: Include a table of contents for each emergency, operation, and maintenance manual.
- E. Identification: In the documentation directory and in each operation and maintenance manual, identify each system, subsystem, and piece of equipment with same designation used in the Contract Documents. If no designation exists, assign a designation according to ASHRAE Guideline 4, "Preparation of Operating and Maintenance Documentation for Building Systems."

2.2 MANUALS, GENERAL

- A. Organization: Unless otherwise indicated, organize each manual into a separate section for each system and subsystem, and a separate section for each piece of equipment not part of a system. Each manual shall contain the following materials, in the order listed:
  - 1. Title page.
  - 2. Table of contents.

- 3. Manual contents.
- B. Title Page: Enclose title page in transparent plastic sleeve. Include the following information:
  - 1. Subject matter included in manual.
  - 2. Name and address of Project.
  - 3. Name and address of Owner.
  - 4. Date of submittal.
  - 5. Name, address, and telephone number of Contractor.
  - 6. Name and address of Architect.
  - 7. Cross-reference to related systems in other operation and maintenance manuals.
- C. Table of Contents: List each product included in manual, identified by product name, indexed to the content of the volume, and cross-referenced to Specification Section number in Project Manual.
  - 1. If operation or maintenance documentation requires more than one volume to accommodate data, include comprehensive table of contents for all volumes in each volume of the set.
- D. Manual Contents: Organize into sets of manageable size. Arrange contents alphabetically by system, subsystem, and equipment. If possible, assemble instructions for subsystems, equipment, and components of one system into a single binder.
  - 1. Binders: Heavy-duty, 3-ring, vinyl-covered, loose-leaf binders, in thickness necessary to accommodate contents, sized to hold 8-1/2-by-11-inch paper; with clear plastic sleeve on spine to hold label describing contents and with pockets inside covers to hold folded oversize sheets.
    - a. If two or more binders are necessary to accommodate data of a system, organize data in each binder into groupings by subsystem and related components. Cross-reference other binders if necessary to provide essential information for proper operation or maintenance of equipment or system.
    - b. Identify each binder on front and spine, with printed title "OPERATION AND MAINTENANCE MANUAL," Project title or name, and subject matter of contents. Indicate volume number for multiple-volume sets.
  - 2. Dividers: Heavy-paper dividers with plastic-covered tabs for each section. Mark each tab to indicate contents. Include typed list of products and major components of equipment included in the section on each divider, cross-referenced to Specification Section number and title of Project Manual.
  - 3. Protective Plastic Sleeves: Transparent plastic sleeves designed to enclose diagnostic software diskettes for computerized electronic equipment.
  - 4. Supplementary Text: Prepared on 8-1/2-by-11-inch white bond paper.
  - 5. Drawings: Attach reinforced, punched binder tabs on drawings and bind with text.
    - a. If oversize drawings are necessary, fold drawings to same size as text pages and use as foldouts.
    - b. If drawings are too large to be used as foldouts, fold and place drawings in labeled envelopes and bind envelopes in rear of manual. At appropriate locations in manual, insert typewritten pages indicating drawing titles, descriptions of contents, and drawing locations.

2.3 EMERGENCY MANUALS

- A. Content: Organize manual into a separate section for each of the following:
  - 1. Type of emergency.
  - 2. Emergency instructions.
  - 3. Emergency procedures.
- B. Type of Emergency: Where applicable for each type of emergency indicated below, include instructions and procedures for each system, subsystem, piece of equipment, and component:
  - 1. Fire.
  - 2. Flood.
  - 3. Gas leak.

4. Water leak.
  5. Power failure.
  6. Water outage.
  7. System, subsystem, or equipment failure.
  8. Chemical release or spill.
- C. Emergency Instructions: Describe and explain warnings, trouble indications, error messages, and similar codes and signals. Include responsibilities of Owner's operating personnel for notification of Installer, supplier, and manufacturer to maintain warranties.
- D. Emergency Procedures: Include the following, as applicable:
1. Instructions on stopping.
  2. Shutdown instructions for each type of emergency.
  3. Operating instructions for conditions outside normal operating limits.
  4. Required sequences for electric or electronic systems.
  5. Special operating instructions and procedures.

## 2.4 OPERATION MANUALS

- A. Content: In addition to requirements in this Section, include operation data required in individual Specification Sections and the following information:
1. System, subsystem, and equipment descriptions.
  2. Performance and design criteria if Contractor is delegated design responsibility.
  3. Operating standards.
  4. Operating procedures.
  5. Operating logs.
  6. Wiring diagrams.
  7. Control diagrams.
  8. Piped system diagrams.
  9. Precautions against improper use.
  10. License requirements including inspection and renewal dates.
- B. Descriptions: Include the following:
1. Product name and model number.
  2. Manufacturer's name.
  3. Equipment identification with serial number of each component.
  4. Equipment function.
  5. Operating characteristics.
  6. Limiting conditions.
  7. Performance curves.
  8. Engineering data and tests.
  9. Complete nomenclature and number of replacement parts.
- C. Operating Procedures: Include the following, as applicable:
1. Startup procedures.
  2. Equipment or system break-in procedures.
  3. Routine and normal operating instructions.
  4. Regulation and control procedures.
  5. Instructions on stopping.
  6. Normal shutdown instructions.
  7. Seasonal and weekend operating instructions.
  8. Required sequences for electric or electronic systems.
  9. Special operating instructions and procedures.
- D. Systems and Equipment Controls: Describe the sequence of operation, and diagram controls as installed.
- E. Piped Systems: Diagram piping as installed, and identify color-coding where required for identification.

2.5 PRODUCT MAINTENANCE MANUAL

- A. Content: Organize manual into a separate section for each product, material, and finish. Include source information, product information, maintenance procedures, repair materials and sources, and warranties and bonds, as described below.
- B. Source Information: List each product included in manual, identified by product name and arranged to match manual's table of contents. For each product, list name, address, and telephone number of Installer or supplier and maintenance service agent, and cross-reference Specification Section number and title in Project Manual.
- C. Product Information: Include the following, as applicable:
  - 1. Product name and model number.
  - 2. Manufacturer's name.
  - 3. Color, pattern, and texture.
  - 4. Material and chemical composition.
  - 5. Reordering information for specially manufactured products.
- D. Maintenance Procedures: Include manufacturer's written recommendations and the following:
  - 1. Inspection procedures.
  - 2. Types of cleaning agents to be used and methods of cleaning.
  - 3. List of cleaning agents and methods of cleaning detrimental to product.
  - 4. Schedule for routine cleaning and maintenance.
  - 5. Repair instructions.
- E. Repair Materials and Sources: Include lists of materials and local sources of materials and related services.
- F. Warranties and Bonds: Include copies of warranties and bonds and lists of circumstances and conditions that would affect validity of warranties or bonds.
  - 1. Include procedures to follow and required notifications for warranty claims.

2.6 SYSTEMS AND EQUIPMENT MAINTENANCE MANUAL

- A. Content: For each system, subsystem, and piece of equipment not part of a system, include source information, manufacturers' maintenance documentation, maintenance procedures, maintenance and service schedules, spare parts list and source information, maintenance service contracts, and warranty and bond information, as described below.
- B. Source Information: List each system, subsystem, and piece of equipment included in manual, identified by product name and arranged to match manual's table of contents. For each product, list name, address, and telephone number of Installer or supplier and maintenance service agent, and cross-reference Specification Section number and title in Project Manual.
- C. Manufacturers' Maintenance Documentation: Manufacturers' maintenance documentation including the following information for each component part or piece of equipment:
  - 1. Standard printed maintenance instructions and bulletins.
  - 2. Drawings, diagrams, and instructions required for maintenance, including disassembly and component removal, replacement, and assembly.
  - 3. Identification and nomenclature of parts and components.
  - 4. List of items recommended to be stocked as spare parts.
- D. Maintenance Procedures: Include the following information and items that detail essential maintenance procedures:
  - 1. Test and inspection instructions.
  - 2. Troubleshooting guide.
  - 3. Precautions against improper maintenance.
  - 4. Disassembly; component removal, repair, and replacement; and reassembly instructions.
  - 5. Aligning, adjusting, and checking instructions.
  - 6. Demonstration and training videotape, if available.

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- E. Maintenance and Service Schedules: Include service and lubrication requirements, list of required lubricants for equipment, and separate schedules for preventive and routine maintenance and service with standard time allotment.
  - 1. Scheduled Maintenance and Service: Tabulate actions for daily, weekly, monthly, quarterly, semiannual, and annual frequencies.
  - 2. Maintenance and Service Record: Include manufacturers' forms for recording maintenance.
- F. Spare Parts List and Source Information: Include lists of replacement and repair parts, with parts identified and cross-referenced to manufacturers' maintenance documentation and local sources of maintenance materials and related services.
- G. Maintenance Service Contracts: Include copies of maintenance agreements with name and telephone number of service agent.
- H. Warranties and Bonds: Include copies of warranties and bonds and lists of circumstances and conditions that would affect validity of warranties or bonds.
  - 1. Include procedures to follow and required notifications for warranty claims.

PART 3 - EXECUTION

3.1 MANUAL PREPARATION

- A. Operation and Maintenance Documentation Directory: Prepare a separate manual that provides an organized reference to emergency, operation, and maintenance manuals.
- B. Emergency Manual: Assemble a complete set of emergency information indicating procedures for use by emergency personnel and by Owner's operating personnel for types of emergencies indicated.
- C. Operation and Maintenance Manuals: Assemble a complete set of operation and maintenance data indicating operation and maintenance of each system, subsystem, and piece of equipment not part of a system.
  - 1. Engage a factory-authorized service representative to assemble and prepare information for each system, subsystem, and piece of equipment not part of a system.
  - 2. Prepare a separate manual for each system and subsystem, in the form of an instructional manual for use by Owner's operating personnel.
- D. Drawings: Prepare drawings supplementing manufacturers' printed data to illustrate the relationship of component parts of equipment and systems and to illustrate control sequence and flow diagrams. Coordinate these drawings with information contained in Record Drawings to ensure correct illustration of completed installation.
  - 1. Do not use original Project Record Documents as part of operation and maintenance manuals.
  - 2. Comply with requirements of newly prepared Record Drawings in Division 01 Section "Project Record Documents."
- E. Comply with Division 01 Section "Closeout Procedures" for schedule for submitting operation and maintenance documentation.

END OF SECTION 01 78 23



PART 1 - GENERAL

1.1 SUMMARY

- A. This Section includes administrative and procedural requirements for Project Record Documents, including the following:
  - 1. Record Drawings.
  - 2. Record Specifications.
  - 3. Record Product Data.

1.2 SUBMITTALS

- A. Record Drawings: Comply with the following:
  - 1. Number of Copies: Submit one set(s) of marked-up Record Prints.
- B. Record Specifications: Submit one copy of Project's Specifications, including addenda and contract modifications.
- C. Record Product Data: Submit one copy of each Product Data submittal.
  - 1. Where Record Product Data is required as part of operation and maintenance manuals, submit marked-up Product Data as an insert in manual instead of submittal as Record Product Data.

PART 2 - PRODUCTS

2.1 RECORD DRAWINGS

- A. Record Prints: Maintain one set of blue- or black-line white prints of the Contract Drawings and Shop Drawings.
  - 1. Preparation: Mark Record Prints to show the actual installation where installation varies from that shown originally. Require individual or entity who obtained record data, whether individual or entity is Installer, subcontractor, or similar entity, to prepare the marked-up Record Prints.
    - a. Give particular attention to information on concealed elements that would be difficult to identify or measure and record later.
    - b. Accurately record information in an understandable drawing technique.
    - c. Record data as soon as possible after obtaining it. Record and check the markup before enclosing concealed installations.
  - 2. Content: Types of items requiring marking include, but are not limited to, the following:
    - a. Dimensional changes to Drawings.
    - b. Revisions to details shown on Drawings.
    - c. Depths of foundations below first floor.
    - d. Locations and depths of underground utilities.
    - e. Revisions to routing of piping and conduits.
    - f. Revisions to electrical circuitry.
    - g. Actual equipment locations.
    - h. Duct size and routing.
    - i. Locations of concealed internal utilities.
    - j. Changes made by Change Order or Construction Change Directive.
    - k. Changes made following Architect's written orders.
    - l. Details not on the original Contract Drawings.
    - m. Field records for variable and concealed conditions.
    - n. Record information on the Work that is shown only schematically.
  - 3. Mark the Contract Drawings or Shop Drawings, whichever is most capable of showing actual physical conditions, completely and accurately. If Shop Drawings are marked, show cross-reference on the Contract Drawings.

4. Mark record sets with erasable, red-colored pencil. Use other colors to distinguish between changes for different categories of the Work at same location.
  5. Mark important additional information that was either shown schematically or omitted from original Drawings.
  6. Note Construction Change Directive numbers, alternate numbers, Change Order numbers, and similar identification, where applicable.
- B. Newly Prepared Record Drawings: Prepare new Drawings instead of preparing Record Drawings where Architect determines that neither the original Contract Drawings nor Shop Drawings are suitable to show actual installation.
1. New Drawings may be required when a Change Order is issued as a result of accepting an alternate, substitution, or other modification.
  2. Consult Architect for proper scale and scope of detailing and notations required to record the actual physical installation and its relation to other construction. Integrate newly prepared Record Drawings into Record Drawing sets; comply with procedures for formatting, organizing, copying, binding, and submitting.
- C. Format: Identify and date each Record Drawing; include the designation "PROJECT RECORD DRAWING" in a prominent location.
1. Record Prints: Organize Record Prints and newly prepared Record Drawings into manageable sets. Bind each set with durable paper cover sheets. Include identification on cover sheets.
  2. Identification: As follows:
    - a. Project name.
    - b. Date.
    - c. Designation "PROJECT RECORD DRAWINGS."
    - d. Name of Architect.
    - e. Name of Contractor.

## 2.2 RECORD SPECIFICATIONS

- A. Preparation: Mark Specifications to indicate the actual product installation where installation varies from that indicated in Specifications, addenda, and contract modifications.
1. Give particular attention to information on concealed products and installations that cannot be readily identified and recorded later.
  2. Mark copy with the proprietary name and model number of products, materials, and equipment furnished, including substitutions and product options selected.
  3. Record the name of manufacturer, supplier, Installer, and other information necessary to provide a record of selections made.
  4. For each principal product, indicate whether Record Product Data has been submitted in operation and maintenance manuals instead of submitted as Record Product Data.
  5. Note related Change Orders, Record Product Data, and Record Drawings where applicable.

## 2.3 RECORD PRODUCT DATA

- A. Preparation: Mark Product Data to indicate the actual product installation where installation varies substantially from that indicated in Product Data submittal.
1. Give particular attention to information on concealed products and installations that cannot be readily identified and recorded later.
  2. Include significant changes in the product delivered to Project site and changes in manufacturer's written instructions for installation.
  3. Note related Change Orders, Record Specifications, and Record Drawings where applicable.

## 2.4 MISCELLANEOUS RECORD SUBMITTALS

- A. Assemble miscellaneous records required by other Specification Sections for miscellaneous record keeping and submittal in connection with actual performance of the Work. Bind or file miscellaneous records and identify each, ready for continued use and reference.

PART 3 - EXECUTION

3.1 RECORDING AND MAINTENANCE

- A. Recording: Maintain one copy of each submittal during the construction period for Project Record Document purposes. Post changes and modifications to Project Record Documents as they occur; do not wait until the end of Project.
- B. Maintenance of Record Documents and Samples: Store Record Documents and Samples in the field office apart from the Contract Documents used for construction. Do not use Project Record Documents for construction purposes. Maintain Record Documents in good order and in a clean, dry, legible condition, protected from deterioration and loss. Provide access to Project Record Documents for Architect's reference during normal working hours.

END OF SECTION 01 78 39

PART 1 - GENERAL

1.1 RELATED DOCUMENTS

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

1.2 SUMMARY

- A. This Section includes administrative and procedural requirements for instructing Owner's personnel, including the following:
  - 1. Demonstration of operation of systems, subsystems, and equipment.
  - 2. Training in operation and maintenance of systems, subsystems, and equipment.
  - 3. Demonstration and training videotapes.
- B. Related Sections include the following:
  - 1. Division 01 Section "Project Management and Coordination" for requirements for pre-instruction conferences.
  - 2. Divisions 02 through 33 Sections for specific requirements for demonstration and training for products in those Sections.

1.3 SUBMITTALS

- A. Instruction Program: Submit two copies of outline of instructional program for demonstration and training, including a schedule of proposed dates, times, length of instruction time, and instructors' names for each training module. Include learning objective and outline for each training module.
  - 1. At completion of training, submit one complete training manual(s) for Owner's use.

1.4 QUALITY ASSURANCE

- A. Pre-instruction Conference: Conduct conference at Project site to comply with requirements in Division 01 Section "Project Management and Coordination." Review methods and procedures related to demonstration and training including, but not limited to, the following:
  - 1. Inspect and discuss locations and other facilities required for instruction.
  - 2. Review and finalize instruction schedule and verify availability of educational materials, instructors' personnel, audiovisual equipment, and facilities needed to avoid delays.
  - 3. Review required content of instruction.
  - 4. For instruction that must occur outside, review weather and forecasted weather conditions and procedures to follow if conditions are unfavorable.

1.5 COORDINATION

- A. Coordinate instruction schedule with Owner's operations. Adjust schedule as required to minimize disrupting Owner's operations.
- B. Coordinate content of training modules with content of approved emergency, operation, and maintenance manuals. Do not submit instruction program until operation and maintenance data has been reviewed and approved by Architect.

PART 2 - PRODUCTS

2.1 INSTRUCTION PROGRAM

- A. Program Structure: Develop an instruction program that includes individual training modules for each system and equipment not part of a system, as required by individual Specification Sections.

PART 3 - EXECUTION

3.1 PREPARATION

- A. Assemble educational materials necessary for instruction, including documentation and training module. Assemble training modules into a combined training manual.
- B. Set up instructional equipment at instruction location.
- C. Provide at least three proposed training dates for each module, system, piece of equipment, etc. Agreed upon date must provide Owner 72 Hours (minimum) in advance of agreed upon training date.

3.2 INSTRUCTION

- A. Facilitator: Engage a qualified facilitator to prepare instruction program and training modules, to coordinate instructors, and to coordinate between Contractor and Owner for number of participants, instruction times, and location.
- B. Engage qualified instructors to instruct Owner's personnel to adjust, operate, and maintain systems, subsystems, and equipment not part of a system.
  - 1. Architect will furnish an instructor to describe basis of system design, operational requirements, criteria, and regulatory requirements.
  - 2. Owner will furnish an instructor to describe Owner's operational philosophy.
  - 3. Owner will furnish Contractor with names and positions of participants.
- C. Scheduling: Provide instruction at mutually agreed on times. For equipment that requires seasonal operation, provide similar instruction at start of each season.
  - 1. Schedule training with Owner, through Architect, with at least seven days' advance notice.
- D. Video Recording: Provide a video recording of each training module demonstrating system access, operation, and controls.
  - 1. Format: .mp4
- E. Evaluation: At conclusion of each training module, assess and document each participant's mastery of module by use of an oral, a written, or a demonstration performance-based test, as required by Owner.
- F. Cleanup: Collect used and leftover educational materials and give to Owner. Remove instructional equipment. Restore systems and equipment to condition existing before initial training use.

END OF SECTION 01 79 00