

## **SUPPLEMENTARY CONDITIONS**

**THESE SUPPLEMENTARY CONDITIONS** constitute changes, modifications, additions and deletions to "General Conditions of the Contract for Construction" (AIA Document A201, 1997 Edition) (the "General Conditions") which are incorporated by reference in the "Standard Form of Agreement Between Owner and Contractor" (AIA Document A101, 1997 Edition) by and between Charter Westgate, LLC, as Owner, and \_\_\_\_\_, as Contractor (the "Basic Agreement"). In the event of any conflict between these Supplementary Conditions and the General Conditions, or between these Supplementary Conditions and any general conditions contained in the bidding documents, these Supplementary Conditions shall control.

### **1.2 EXECUTION, CORRELATION AND INTENT**

Add the following subparagraphs:

1.2.4 If Contractor discovers that the Contract Documents or any portion of the Work (whether or not completed or covered) do not comply with requirements of Laws, Contractor shall notify Owner and Architect thereof promptly in writing.

1.2.5 Contractor shall be responsible for having taken all steps necessary to ascertain the nature of the Work and the general and local conditions which can affect the Work or the cost thereof. Any failure of the Contractor to do so will not relieve it from responsibility for successfully performing the Work without additional expense to Owner, except as otherwise expressly set forth to the contrary in the Contract Documents.

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

### **7.3 CONSTRUCTION CHANGE DIRECTIVES**

7.3.4: In line 2, place a period after the word "involved" and replace the remainder of the subparagraph with the following:

Together with Contractor's submission of any Contractor-proposed change in the Work or within seven (7) days after receipt of an Owner or Architect-originated proposed Change Order or Construction Change Directive, Contractor shall advise Owner in writing if Contractor will claim an increase in the Contract Sum and/or the Contract Time for the Work covered by such Contractor-proposed change or Owner or Architect-originated proposed Change Order or Construction Change Directive. Contractor shall state the amount of such increase, together with such detailed cost and other supporting data as Owner or Architect may reasonably request. If Contractor does not provide such written advice together with Contractor's submission of Contractor's proposed change or within seven (7) business days of Contractor's receipt of the Owner or Architect-proposed Change Order or Construction Change Directive, Owner shall not be liable for any increase in the Contract Sum or Contract Time with respect to such proposed Change Order or Construction Change Directive. Should Contractor determine that accurate pricing of additional cost incurred by virtue of a change in the Work shall reasonably require more than the seven (7) day business period set forth this Subparagraph 7.3.4, then Contractor shall so notify Owner in writing within such seven (7) business day period and notify Owner of the additional time required, which additional time shall in no event exceed an additional seven (7) business days.

7.3.6: In lines 4, delete the words "a reasonable allowance for overhead and profit" and substitute, "an allowance for overhead and profit in accordance with Clauses 7.3.10.1 through 7.3.10.6 below."

Add the following subparagraphs:

7.3.10 In Subparagraph 7.3.6, the allowance for combined overhead (including general conditions) and profit included in the total cost to Owner shall be based on the following schedule:

1. For Contractor, for Work performed by Contractor's own forces, (a) \_\_\_\_\_**[to be taken from Contractor's bid as accepted by Owner]** percent of the costs of such Work for overhead and profit (i.e., fee) plus (b) the actual out-of-pocket net costs to Contractor for any increase in General Conditions.

2. For Contractor, for Work performed by a Subcontractor or Sub-subcontractor, (a) \_\_\_\_\_ percent [**to be taken from Contractor's bid as accepted by Owner**] of the amount due Contractor's Subcontractor for overhead and profit (i.e., fee) plus (b) the actual out-of-pocket net costs to Contractor for any increase in General Conditions.
3. For each Subcontractor or Sub-subcontractor involved, for Work performed by that Subcontractor or Sub-subcontractor's own forces, ten (10) percent of the costs of such Work.
4. For each Subcontractor, for Work performed by the Subcontractor's Sub-subcontractors, ten (10) percent of the amount due the Sub-subcontractor.
5. Costs to which overhead and profit is to be applied shall be determined in accordance with Subparagraph 7.3.6.

7.3.11 Contractor shall not be entitled to any increase in the Contract Sum for any change in the Work required by reason of Contractor's fault, inaccuracy, errors, omissions, or negligence.

### **8.3 DELAYS AND EXTENSIONS OF TIME**

8.3.1: Delete in its entirety and replace as follows:

8.3.1: Except as otherwise expressly set forth in this Agreement or otherwise agreed to in writing by Owner and Contractor, the Contract Time shall not be extended for any reason whatsoever, other than on account of strikes occurring on the job during the performance of the Work which are industry-wide and not specific to Contractor, riots, civil commotions, fire, flood and other like casualty, unusual delays in deliveries and other similar causes of delay beyond the control of Contractor and which Contractor could not have reasonably anticipated (and by so anticipating been able to take reasonable action to avoid such delay), delays caused by an act or neglect of Owner or Architect or of an employee of either, or of a separate contractor employed by Owner, and for delays caused by Change Orders or Construction Change Directives, subject however, to Contractor's compliance with the terms and conditions of Subparagraph 7.3.4.

## **ARTICLE 9 - PAYMENTS AND COMPLETION**

### **9.3 APPLICATIONS FOR PAYMENT**

9.3.1: Add the following at the end of this subparagraph:

All Applications for Payment shall be accompanied by full, complete, and true copies of Subcontractors' submissions for payment as same may have been reduced or modified by Contractor; bills of sale in form satisfactory to Owner, and Owner's lender (if any), all of the foregoing in respect of Work performed through the end of the calendar month preceding the calendar month in which the Application for Payment is submitted. The Application for Payment shall also be accompanied by Owner's prior approved Schedule of Values showing as to each portion of the Work and each phase thereof the percentage of completion through the end of such preceding calendar month. The form of Application for Payment shall be AIA Document G702 "Application and Certificate for Payment" (as then currently revised), supported by AIA Document G703, Continuation Sheet (as then currently revised) and shall be accompanied by partial waivers of lien executed by Contractor and all subcontractors in a form that complies with Mass. Gen. L. c.254 and is acceptable to Owner's lender, reflecting payment received through the date of the Application. Nothing in these Contract Documents shall be construed to require Contractor to waive its rights to file a lien or otherwise claim for amounts due and payable under this Agreement and not paid by Owner to Contractor.

## 11.1 CONTRACTOR'S LIABILITY INSURANCE

11.1.1: In line 2, after the word "Contractor" insert, "and Owner".

11.1.3.: In line 2, after the word "shall" insert, "name Owner and any other party requested by Owner as additional insureds and"

Add the following subparagraphs:

11.1.4 All insurance policies must be in form and content acceptable to Owner and Owner's lender (if any) and shall be written on an "occurrence" rather than a "claims made" basis. Owner and Owner's lender (if any) shall be named as additional insureds on the Commercial General Liability and Automobile Liability policies.

11.1.5 The required coverages and limits of liability insurance are more particularly described as follows:

11.1.5.1 Workers Compensation and Employer's Liability Insurance:

Worker's Compensation:	
State:	Statutory
Applicable Federal:	Statutory
Employer's Liability:	\$1,000,000
Benefits required by	
Union labor contracts:	As applicable

11.1.5.2 Commercial General Liability Insurance: The base coverage shall be in a combined single limit per occurrence for personal injury and property damage of not less than \$3,000,000. Such insurance shall also include:

- (a) Products and Completed Operations Insurance, which shall be maintained for at least four (4) years after final payment; Contractor shall provide evidence of such coverage to Owner on an annual basis during such period; and
- (b) Blanket Contractual Liability Insurance;

11.1.5.3 Comprehensive Automobile Liability Insurance, covering owned, lease or rented vehicles, in the minimum amount of \$3,000,000, combined single limit per occurrence.

11.1.5.4 Umbrella Liability: \$2,000,000.

11.1.5.6. Should any loss occur under any of Contractor's required insurance policies, Contractor shall be liable for the amount of any deductible specified in such policy.

11.3.3: Delete this subparagraph in its entirety.

END OF SUPPLEMENTARY CONDITIONS