

SECTION 00810

EXHIBIT A
SUPPLEMENTARY GENERAL CONDITIONS

THE GENERAL CONDITIONS

The "General Conditions of the Contract for Construction," AIA Document A201, Fourteenth Edition (1987), Articles 1 through 14 inclusive, is a part of this Contract.

THE SUPPLEMENTARY CONDITIONS

The following supplements modify and/or change, delete from and/or add to the General Conditions. Where any Article, Paragraph or subparagraph in the General Conditions is supplemented by one of the following paragraphs, the provisions of such Article, Paragraph, or subparagraph shall remain in effect and the supplemental provisions shall be considered as added thereto. Where any Article, Paragraph, or subparagraph in the General Conditions is amended, voided or superseded by any of the following paragraphs, the provisions of such Article, Paragraph or subparagraph not so amended, voided, or superseded shall remain in effect.

INDEX

Delete "Arbitration" and the references pertaining to it.

ARTICLE I GENERAL PROVISIONS

A. Delete the fourth sentence in Subparagraph 1. 1.2 and substitute the following:

"Except as provided in Paragraph 3.18, this Contract Document shall create a contractual relationship solely between the owner and Contractor.

B. Delete Subparagraph 1.2. 1.

C. Add the following to the end of Subparagraph 1.2.3:

"All Work mentioned or indicated in the Contract Documents shall be performed by the Contractor as part of this Contract unless it is specifically indicated in the Contract Documents that such Work is to be done by others. In the event of conflicts or discrepancies among the Contract Documents, the Documents shall be interpreted on the basis of the following priorities:

Highest Priority: Modifications
Second Priority: Agreement
Third Priority: Addenda - later date to take precedence
Fourth Priority: General Requirements - Division I
Fifth Priority: Supplementary Conditions
Sixth Priority: General Conditions
Seventh Priority: Drawings and Specifications

In case of conflicts between Drawings and specifications, or within either the Drawings or specifications, the Contractor shall provide the better quality or greater quantity of work and materials unless otherwise directed by written Addendum or Change Order to the Contract."

- E. Add Subparagraphs 1.2.6 through 1.2.13 as follows:

1.2.6 Where codes, standards, requirements and publications of public and private bodies are referred to in the Specifications, references shall be understood to be to the latest revision prior to the date of receiving bids, except where otherwise indicated.

1.2.7 Test boring or soil test information included with the Contract Documents or otherwise made available to the Contractor was obtained by the Owner for use by the Owner in the design of the Project or Work. The Owner does not hold out such information to the Contractor as an accurate or approximate indication of subsurface conditions, and no claim for extra cost or extension of time resulting from a reliance by the Contractor on such information shall be allowed except as provided in Subparagraph 4.3.6.

ARTICLE 2 OWNER

- A. Delete everything following the words "execution of the Agreement" in the last sentence in Subparagraph 2.1.2.

- B. Delete Subparagraph 2.2.1.

- C. Delete Subparagraph 2.2.4 and substitute the following:

2.2.4 Information or services required of the Owner hereunder shall be furnished by the Owner with reasonable promptness after receipt from the Contractor of a request for such information or services.

- D. Delete Subparagraph 2.2.5 and substitute the following:

2.2.5 The Owner will supply the Contractor with one reproducible set of the Drawings and specifications. The Contractor shall provide its Subcontractors with Contract Documents.

- E. Add Subparagraph 2.2.7 as follows:

2.2.7 The Contractor shall be responsible for coordinating the schedule for testing which is mutually agreed upon by Owner, Architect and Contractor. The Owner shall be responsible for the employment of Independent Testing Laboratories (ITL).

The Contractor shall bear all costs for retesting done by the Independent Testing Laboratory (ITL) due to nonconforming work.

- F. In the sixth line of Subparagraph 2.3. 1, after the word "may" add the following:

", after Contractor's receipt of a seven (7) day written notice and failure by Contractor to cure,".

- G. Delete the first and second sentences of Subparagraph 2.4.1 and substitute the following:

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

- H. In the third sentence in Subparagraph 2.4. 1, delete the words "Change Order" and substitute the words "Construction Change Directive" and delete the fourth sentence.

ARTICLE 3 CONTRACTOR

- A. Delete Subparagraph 3.2.1 and substitute the following:

3.2.1 Before starting the Work, and at frequent intervals during the progress thereof, the Contractor shall carefully review and compare the Contract Documents with each other and with the information furnished by the Owner pursuant to Subparagraph 2.2.2 and shall at once report to the Owner any error, inconsistency or omission the Contractor may discover. Any necessary change shall be ordered as provided in Article 7, subject to the requirements of Paragraph 1.2 and other provisions of the Contract Documents. If the Contractor proceeds with the Work without such notice to the Owner, having discovered such errors, inconsistencies or omissions, or if by reasonable review of the Contract Documents the Contractor could have discovered such, the Contractor shall bear all costs arising therefrom.

- B. Add Subparagraph 3.2.4 and 3.2.5 as follows:

3.2.4 The Contractor shall give the Owner timely notice of any additional Drawings, Specifications, or instructions required to define the Work in greater detail or to permit the proper progress of the Work.

3.2.5 The Contractor shall not proceed with any Work not clearly and consistently defined in detail in the Contract Documents, but shall request additional drawings or instructions from the Owner as provided in Subparagraph 3.2.4. If the Contractor proceeds with such work without obtaining further Drawings, Specifications or instructions, the Contractor shall correct Work incorrectly done at the Contractor's own expense.

- C. Delete the first sentence in Subparagraph 3.5.1 and substitute the following:

"The Contractor warrants that the materials and equipment furnished under the Contract will be new and of recent manufacture unless otherwise specified, and that all Work will be of good quality, free from faults and defects, and in conformance with the Contract Documents.

- D. Delete the last two sentences in Subparagraph 3.5.1.

- E. Add Subparagraphs 3.5.3 through 3.5.9 as follows:

3.5.3 In all cases in which a manufacturer's name, trade name or other proprietary designation is used in connection with materials or articles to be furnished under this Contract, whether or not the phrase "or equal" is used after such name, the Contractor shall furnish the product of the named manufacturer(s) without substitution, unless a written request for a substitute has been submitted by the Contractor and approved in writing by the Architect as provided in Subparagraph 3.5.4 and within the time limits and conforming to the procedures outlined in Section 01600 of the General Requirements.

3.5.4 If the Contractor proposes to use a material which, while suitable for the intended use, deviates in any way from the detailed requirements of the Contract Documents, the Contractor shall inform the Owner in writing of the nature of such deviations at the time the material is submitted for approval, and shall request written approval of the deviation from the requirements of the Contract Documents.

3.5.5 In requesting approval of deviations or substitutions, the Contractor shall provide, upon request, evidence leading to a reasonable certainty that the proposed substitution or deviation will provide a quality of result at least equal to that otherwise attainable. If, in the opinion of the Owner, the evidence presented by the Contractor does not provide a sufficient basis for such reasonable certainty, the Owner may reject such substitution or deviation without further investigation.

3.5.6 The Contract Documents are intended to produce a building of consistent character and quality of design. All components of the building including visible items of mechanical and electrical equipment have been selected to have a coordinated design in relation to the overall appearance of the building. The Owner shall judge the design and appearance of proposed substitutes on the basis of their suitability in relation to the overall design of the Project, as well as for their intrinsic merits. The Owner will not approve as equal to materials specified proposed substitutes which, in the Owner's opinion, would be out of character, obtrusive, or otherwise inconsistent with the character or quality of design of the Project. In order to permit coordinated design of color and finishes the Contractor shall, if required by the Owner, furnish the substituted material in any color, finish, texture, or pattern which would have been available from the manufacturer originally specified, at no additional cost to the Owner.

3.5.7 Any additional cost, or any loss or damage arising from the substitution of any material or requirement for those originally specified shall be borne by the Contractor, notwithstanding approval or acceptance of such substitution by the Owner, unless such substitution was made at the written request or direction of the Owner.

3.5.8 The warranty provided in this paragraph 3.5 shall be in addition to and not in limitation of any other warranty required by the Contract Documents or otherwise prescribed by law.

3.5.9 The Contractor shall procure and deliver to the Owner, no later than the date claimed by the Contractor as the date of Substantial Completion, all special warranties required by the Contract Documents. Delivery by the Contractor shall constitute the Contractor's guarantee to the Owner that the warranty will be performed in accordance with the warranty's terms and conditions.

E. Delete Subparagraph 3.6.1 and substitute the following:

3.6.1 The Owner is a non-profit organization and is exempt from all sales, consumer, use and other similar taxes as provided by law. The Contractor, Subcontractors, sub-subcontractors, material and equipment suppliers and the like, providing taxable goods for incorporation into the Work shall take this into account, so that the Owner does not pay such taxes. Obtain rebates for any taxes incorrectly paid and reimburse the Owner in the full amount on a Change Order. The Owner will provide the necessary evidence and certificates of tax exemption on request for those concerned.

F. Add subparagraph 3.9.1.1 as follows:

"3.9.1.1 The Contractor shall provide and maintain a telephone beeper for use by the Project Superintendent/Manager.

G. Add Subparagraphs 3.9.2 through 3.9.5 as follows:

3.9.2 The Contractor shall retain a competent Registered Professional Engineer or Registered Land Surveyor, acceptable to the Owner, who shall establish the exterior lines and required elevations of all buildings and structures to be erected on the site and shall establish sufficient lines and grades for the construction of associated Work such as, but not limited to, roads, utilities and site grading. The Engineer or Land Surveyor shall certify as to the actual location of the constructed facilities in relation to property lines, building lines, easements, and other restrictive boundaries.

3.9.3 The Contractor shall establish the building grades, lines, levels, column, wall and partition lines required by the various Subcontractors in laying out their Work.

3.9.4 The Contractor shall coordinate and supervise the Work performed by Subcontractors to the end that the Work is carried out between trades and that no trade, causes delay to the general progress of the Work. The Contractor and all Subcontractors shall afford each trade, any separate contractor, or the Owner, reasonable opportunity for the installation of Work and the storage of materials.

3.9.5 The Contractor shall arrange for and conduct job meetings with the Owner and such other persons as the Owner may from time to time wish to have present. The Contractor shall be represented by a principal, project manager, general superintendent or other authorized main office representative, as well as by the Contractor's own superintendent. An authorized representative of any Subcontractor or Sub-subcontractor shall attend such meetings if the representative's presence is requested by the Owner. Such representatives shall be empowered to make binding commitments on all matters to be discussed at such meetings, including costs, payments, change orders, time schedules and manpower. All notices required under the Contract may be served on such representatives

H. Add Subparagraphs 3.10.4 and 3.10.5 as follows:

3.10.4 The Progress Schedule shall be based on an orderly progression of the Work, allowing adequate time for each operation (including adequate time for submission and review of submittals), and leading to a reasonable certainty of Substantial Completion by the date established in the Agreement. The Progress Schedule will be reviewed by the Owner for compliance with the requirements of this Article and Section 01300 and will be accepted by the Owner or returned to the Contractor for revision and resubmittal.

3.10.5 If the Owner in agreement with the owner has determined that the Contractor should be permitted to extend the time for completion as provided in Paragraph 8.3, the Progress Schedule shall be adjusted accordingly, and the dollar value of Work to be completed as of the first of each month shall be recalculated.

I. Delete Subparagraph 3.12.7 and substitute the following:

3.12.7 By approving and submitting Shop Drawings, Product Data, Samples and similar submittals, the Contractor thereby represents that the Contractor has or will have determined and verified all dimensions (including field dimensions), quantities, relationship to existing work, coordination with work to be installed later, coordination with information on previously accepted Shop Drawings, Product Data, Samples and similar submittals, and verification of compliance with an requirements of the Contract Documents. The accuracy of such information is the responsibility of the Contractor. In reviewing Shop Drawings, Product Data, Samples, and similar submittals, the Owner shall be entitled to rely upon the Contractor's representation that such information is correct and accurate.

J. Insert the following at the end of Subparagraph 3.12.9:

"Unless such written notice has been given, the Owner's approval of a resubmitted Shop Drawing, Product Data, Sample, or similar submittal shall not constitute approval of any changes not requested on the prior submittal."

K. Delete Subparagraph 3.12.11 and substitute the following:

3.12.11 When professional certification of performance criteria of materials, systems or equipment is required by the Contract Documents, the Owner shall be entitled to rely upon such certifications, and neither the Owner shall be expected to make any independent examination with respect thereto.

L. In the second line of Subparagraph 3.15.2, after the word "Documents," insert the following:

"after reasonable written notice from the Owner of such failure,"

ARTICLE 4 ADMINISTRATION OF THE CONTRACT

A. Delete Subparagraph 4.1.2.

B. Delete Subparagraph 4.1.4.

C. Delete the second sentence in Subparagraph 4.2.7 and substitute the following:

"The Owner's action will be taken with reasonable promptness, while allowing sufficient time in the Owner's professional judgment to permit adequate review, taking into account the time periods set forth in the latest schedule prepared by the Contractor and reviewed by the Owner pursuant to Subparagraphs 8.2.4 through 8.2.10."

D. In Subparagraph 4.2.7, in the fifth sentence, delete the words "unless otherwise specifically stated by the Owner".

E. In Subparagraph 4.2.8 delete the following:
"Change Orders and".

Insert the following at the end of Subparagraph 4.2.8:
"and Subparagraph 7.1.2. 1."

F. In Subparagraph 4.2.11, in the last sentence delete the words "15 days" and substitute the following:

"seven (7) days".

G. In Subparagraph 4.2.12 after the first sentence add the following:

"The Owner may, as the Owner judges desirable, issue additional drawings or instructions indicating in greater detail the construction or design of the various parts of the Work, such drawings or instructions may be affected by field order or other notice to the Contractor, and provided such drawings or instructions are reasonably consistent with the previous existing Contract Documents, the Work shall be executed in accordance with such additional drawings or instructions without additional cost or extension of the Contract Time. If the Contractor claims additional cost or time on account of such additional drawings or instructions, the Contractor shall give the notice provided in Subparagraph 4.3.7."

H. In Subparagraph 4.3.3, in the first sentence change "21 days" to "7 days".

At the end of the second sentence in Subparagraph 4.3.3, add the following:

"within 7 working days and quantification of the claims made within 15 working days."

Delete the last sentence in Subparagraph 4.3.3 and substitute the following:

"Any change or addition to a previously made claim shall be made by timely written notice in accordance with this Subparagraph 4.3.3."

I. In Subparagraph 4.3.4, in the first sentence delete the words "including arbitration".

K. In Subparagraph 4.3.6 change "21 days" to the following:

"seven (7) days".

After the fourth sentence add the following:

Written notice of the claim must be made within seven (7) working days with quantification of the claim submitted within 15 working days.

Delete Subparagraph 4.3.7 and substitute the following:

4.3.7 If the Contractor claims that any acts or omissions of the Owner, including any instructions or orders, whether oral, written, by Drawings, or otherwise, involve extra cost or time, and the Contractor has not received a written acknowledgment by the Owner that extra payment will be made or time extended on account thereof, the Contractor shall promptly (but within seven (7) days) so notify the Owner in writing of such claim and shall not proceed with the Work relating to such claim until the Contractor has received a further written order to proceed in accordance with Paragraph 4.4 except, as provided in Paragraph 10.3, in the case of an emergency affecting life or property. No claim by the Contractor on account of such acts, omissions, instructions or orders shall be valid unless the Contractor has so notified the Architect, before proceeding, and has received the further written order to proceed.

"The Contractor shall have the burden of demonstrating the effect of the claimed delay on the Contract Time, and shall furnish the Owner with such documentation relating thereto as the Owner may reasonably require, demonstrating the change to the project end date due solely to the inclusion of the delaying activity."

L. Add the following to the end of Clause 4.3.8.2:

Delaying weather is extreme weather, as defined by the National Weather Service in Gray, Maine. If another contractor works in similar conditions, no delay will be granted.

The contractor must consider weather in the schedule by adding durations to those activities which are weather dependant and occurs during seasons when weather may be an issue.

M. In Subparagraph 4.4.4 in the first sentence, delete the words "but subject to arbitration".

Delete Paragraph 4.5 ARBITRATION.

ARTICLE 5 SUBCONTRACTORS

A. Delete Subparagraph 5.4.2.

ARTICLE 6 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS

A. Delete Subparagraph 6.2.5.

B. In Subparagraph 6.3.1 in the fifth line after the word "Owner" add the following:

"after written notice".

ARTICLE 7 CHANGES IN THE WORK

A. In Article 7 delete the words "a reasonable allowance for overhead and profit" wherever they occur and substitute the following:

"an amount for overhead and profit in accordance with the schedule set forth in subparagraph 7.3.3.2".

B. Add Clause 7.1.2.1 as follows:

7.1.2.1 The Owner may issue Bulletins. A Bulletin is either:

- a) a clarification to the Contract Documents, in accordance with Subparagraph 4.212, or
- b) a minor change in the Work in accordance with paragraph 7.4, or
- c) proposed extra Work resulting in an adjustment to the Contract Sum and/or Contract Time.

Upon receipt of a Bulletin, the Contractor shall review it promptly; if a Bulletin is determined by the Contractor to be a clarification to the Contract Documents or a minor change in the Work, the Contractor shall proceed in accordance with Paragraph 7.4. If the Bulletin is determined by the Contractor to be extra Work resulting in an adjustment to the Contract Sum and/or Contract Time, the Contractor shall not proceed with the Work described in the Bulletin, unless specifically authorized to do so in writing, but shall submit a detailed estimate in accordance with new Subparagraphs 7.3.1.1 and 7.3.3.

C. Add Subparagraph 7.1.5 as follows:

In order to facilitate checking for quotations of extras or credits, all proposals, except those so minor that their propriety can be seen by inspection, shall be accompanied by a complete itemization of costs including labor, materials and subcontracts. Where major cost items are Subcontracts, they shall be itemized also. In no case will a change involving over \$600.00 be approved without such itemization.

D. Delete Subparagraph 7.2.2.

E. Add Clause 7.3.1.1 as follows:

7.3.1.1 Upon request of the Owner, the Contractor shall without cost to the Owner submit to the Owner, in such form as the Owner may require, an accurate written estimate of the cost of any proposed extra Work or change. The estimate shall indicate the quantity and unit cost of each item of materials, and the number of hours of work and hourly rate for each class of labor, as well as the description and amounts of all other costs chargeable under the terms of this Article. Unit labor costs for the installation of each item of materials shall be shown if required by the Owner. The Contractor shall promptly revise and resubmit such estimate if the Owner determines that it is not in compliance with the requirements of this Article, or that it contains errors of fact or mathematical errors. If required by the Owner, in order to establish the exact cost of new Work added or of previously required Work omitted, the Contractor shall obtain and furnish to the Owner bona fide proposals from recognized suppliers for furnishing any material included in such Work. Such estimates shall be furnished promptly so as to occasion no delay in the Work, and shall be furnished at the Contractor's expense. The Contractor shall state in the estimate any extension of time required for the completion of the Work if the change or extra work is ordered.

F. Delete Subparagraph 7.3.3 and substitute the following:

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, as selected by the Owner.

- (a) By unit price stated in the Contract Documents or otherwise mutually agreed upon.
- (b) By Cost and Percentages estimated by the Contractor as provided in Clause 7.3. 1.1 and accepted by the Owner; the Contractor's estimate shall become a fixed price which shall not be changed by any variation in the actual cost of executing the Work covered by the change.
- (c) By actual Cost determined after the Work covered by the change is completed, plus Percentage.

G. Add Subparagraphs 7.3.3.1, 7.3.3.2, 7.3.3.3, and 7.3.3.4 as follows:

7.3.3.1 As used in this paragraph, 'Cost' shall mean the estimated or actual net increase or decrease in cost to the Contractor, Subcontractor, or Sub-subcontractor for performing the Work covered by the change, including actual payments for materials, equipment rentals, expendable items, wages and associated benefits to workmen and to supervisors employed full time at the site, insurance, bonds and other provable direct costs, but not including any administrative, accounting or expediting costs, or other indirect or overhead costs, or any wages or benefits of supervisory personnel not assigned full time to the site, or any amount for profit or fee to the Contractor, Subcontractor or Sub-subcontractor.

7.3.3.2 "Percentage" shall mean an allowance to be added to or subtracted from the cost in lieu of overhead and profit and of any other expenses which is not included in the Cost of the Work covered by the change, as defined above. When, in the reasonable judgement of the Owner, a series of Construction Change Directives or Change Orders effect a single change, Percentage shall be calculated on the cumulative net increase or decrease in Cost, if any.

1. Percentage for a Sub-subcontractor shall be 10 percent of any net increase or decrease of Cost of any Work performed by the Sub-subcontractor's own forces plus 5 percent of any aggregate net increase in Cost of any work performed for the Sub-subcontractor by other contractors.

2. Percentage for a Subcontractor shall be 10 percent of any net increase or decrease of Cost of any Work performed by the Subcontractor's own forces plus 5 percent of any aggregate net increase in Cost of any work performed for the Subcontractor by other Subsubcontractors.

3. The Percentage for the Contractor shall be 10 percent of any net increase or decrease of Cost of any Work performed by the Contractor's own forces plus 5 percent of any net increase or decrease in the Cost for all other Work covered by the change.

7.3.3.3 If the Owner elects to determine the cost of the Work as provided in method (a) using unit prices stated in the Contract Documents or subsequently agreed upon, the unit prices shall be subject to Subparagraph 7.1.4. Notwithstanding the inclusion of unit prices in the Contract Documents, it shall be the Owner's option to require the Cost of any given change to be determined by one of the other methods stated in 7.3.3. If the owner elects to determine Cost of the change work by unit prices and the nature of the work is such that its extent cannot readily be measured after the completion of such work or any subsequent work, the Contractor shall keep daily records, available at all times to the Owner for inspection, of the actual quantities of such work put in place, and delivery receipts or other adequate evidence, acceptable to the Owner, indicating the quantities of materials delivered to the site for use in such unit price work, and distinguishing such from other similar material delivered for use in work included in the base Contract Sum. If so required by the Owner, materials for use in unit price work shall be stored apart from all other materials on the Project.

7.3.3.4 If the Owner elects to determine the cost of the Work as provided in methods (c) or (d) of Subparagraph 7.3.3 or if the method of determining the cost has not been established before the work is begun, the Contractor shall keep detailed daily records of labor and materials costs applicable to the work.

H. In Subparagraph 7.3.7 at the end of the second sentence, add the following:

"and agreed to by the Owner."

ARTICLE 8 TIME

A. Add Subparagraph 8.1.5 as follows:

"The term "working day" shall mean any calendar day except Saturdays, Sundays, and legal holidays at the jurisdiction of the Project."

- B. Add Subparagraphs 8.2.4 through 8.2.10 as follows:

8.2.4 Promptly after award of the Contract, but prior to the second Application for Payment, the Contractor shall submit to the Owner a Progress Schedule as described in this Subparagraph and General Requirements Section 01300, "Submittals." The schedule shall show for each class of work included in the Schedule of Values, the percentage completion to be obtained and the total dollar value of work to be completed as of the first of each month until Substantial Completion. All calculations shall be on the basis of work in place, but not including the value of materials delivered but not in place.

- C. In Subparagraph 8.3. 1, delete the words "pending arbitration" in line seven. Delete the words "Change Order" in line 9 and substitute "Construction Change Directive." Add the following to the end of Subparagraph 8.3.1:

"If the Contract Time is extended pursuant to this Subparagraph, such extension shall be the exclusive remedy of the Contractor, and said Contractor shall not be entitled to recover damages from the Owner."

- D. Delete Subparagraph 8.3.3.

ARTICLE 9 PAYMENTS AND COMPLETION

- A. In Subparagraph 9.1.1, change "total" in line two to "maximum."

- B. In Subparagraph 9.2.1 in the first line delete the words "Before the first Application for Payment" and substitute the following:

"Promptly after award of the Contract but before the second Application for Payment"

Add at the end of the first sentence of Subparagraph 9.2. 1:

"and shall be revised if later found by the Owner to be inaccurate."

Add after the word "schedule" in the last sentence of Subparagraph 9.2.1:

"shall be coordinated with the progress schedule and".

- C. Delete the first twelve words of the first sentence of Subparagraph 9.3.1 and substitute "At the time or times established in the Agreement". After the first sentence of Subparagraph 9.3. 1, add "The format and number of copies of such Applications for Payment shall be as directed by the Owner".

- D. Delete Clause 9.3.1.1 and change Subparagraph 9.3.1.2 to 9.3.1.1

- E. Add Subparagraphs 9.3.1.2, 9.3.1.3, as follows:

9.3.1.2 The Owner will pay 90 percent of the amount due the Contractor on account of progress payments.

9.3.1.3 The Owner shall make Progress Payments and Final Payment within 30 days of application date.

- F. Add Subparagraph 9.3.4 as follows:

9.3.4 Each Application for Payment or periodic estimate requesting payment shall be accompanied by a waiver of liens from each Subcontractor and Contractor. Such waiver shall be in a form acceptable to the Owner.

G. In Subparagraph 9.5. 1, at the end of item 2. add the words:

"for which the Contractor is not entitled to a Claim as provided herein or which are not covered by insurance".

In Subparagraph 9.5.1, change item 6. and add new items 8. and 9. as follows:

"6. reasonable evidence that the Work will not be completed within the Contract Time,"

"8. a lien or attachment is filed contrary to Subparagraph 4.5.9; or

9. failure of mechanical trade or electrical trade subcontractors to comply with mandatory requirements for maintaining record drawings. The Contractor shall check record drawings each month. Written confirmation that the record drawings are current will be required by the Architect before approval of the Contractor's monthly payment requisition."

H. Delete Subparagraph 9.6.3.

I. Delete Subparagraph 9.6.4 and substitute the following:

9.6.4 The Owner shall have an obligation to pay or to see to the payment of money to a Subcontractor, Sub-subcontractor or material supplier.

J. Delete Subparagraph 9.6.5.

K. Delete the words "or awarded by arbitration" from line 6 of Subparagraph 9.7.1.

L. Add at the end of Subparagraph 9.8.1:

"and only minor items which can be corrected or completed without any material interference with the Owner's use of the Work remain to be corrected or completed."

M. Delete Subparagraph 9.8.2 and substitute the following:

9.8.2. When the Contractor considers that the Work, or a portion thereof designated in the Contract Documents for separate completion, is substantially complete and the premises comply with Subparagraph 3.15. 1, the Contractor shall submit to the Owner (1) a list of items to be completed or corrected, (2) all special warranties required by the Contract Documents, endorsed by the Contractor and in a form reasonably acceptable to the Owner and (3) the permits and certificates referred to in Subparagraph 13.5.4. The failure to include any items on the list mentioned in the preceding sentence does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract documents. When the Owner on the basis of an inspection determines that the Work or designated portion thereof is substantially complete and the other conditions have been met, the Owner will then prepare a Certificate of Substantial Completion which shall establish the Date of Substantial Completion, shall state the responsibilities of the Owner and the Contractor for security, maintenance, heat, utilities, damage to the Work, and insurance, and shall fix the time within which the Contractor shall complete the items listed therein. 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 for Substantial Completion. The Certificate of Substantial Completion shall be submitted to the Owner and Contractor for their written acceptance of the responsibilities assigned to them in such Certificate.

Delete Subparagraph 9.9.1 and substitute the following:

9.9.1 The Owner may occupy or use any completed or partially completed portion of the Work at any stage. Such partial occupancy or use may begin whether or not the portion is substantially complete, provided that the respective responsibilities of the Owner and Contractor with respect to payments, retainage, if any, security, maintenance, heat, utilities, damage to the Work, insurance, indemnification, correction of the Work, and warranties shall be established by agreement of the Owner and Contractor or, absent such agreement shall be determined by the Owner subject to the right of either party to contest such determination.

Delete the second sentence in Subparagraph 9.10.2 and substitute the following:

"If the Contractor fails to furnish such releases or waivers as the Owner reasonably requires to satisfy the Owner that there are no outstanding liens, the Owner may require the Contractor, as a condition of final payment and at the Contractor's expense, to furnish a bond satisfactory to the Owner to indemnify the Owner against any such liens."

At the end of Subparagraph 9.10.2 add the following:

"Final payment for a given Work Category constituting the entire unpaid balance for the Subcontract amount may be paid by the Owner to the Contractor following receipt of both the final Certificate for Payment from the Architect and the Final Lien Waiver from the Subcontractor and the Contractor. The Final Lien Waiver shall be submitted by the Subcontractor and Contractor on the form acceptable to the Owner. Final payments to the Subcontractor shall be made by Contractor after payment has been received by the Contractor.

P. Add Paragraph 9.11 as follows:

9.11 STORAGE OF MATERIALS OFF SITE

9.11.1 The Contractor, his Subcontractors, and Sub-subcontractors shall obtain prior written approval from the Owner for permission to store materials to be incorporated in the Work, for which Progress Payments will be requested, at off-site locations. Any and all charges for storage, including insurance, shall be borne solely by the Contractor. Before approval, Owner will require proper proof of insurance naming the Owner as an additionally insured party, and letter in which is furnished:

1. The name of the Contractor and/or Subcontractor or Subordinate Subcontractor leasing the storage area,
2. The location of such leased space,
3. The leased area: the entire premises of certain areas of a warehouse giving the number of floors or portions thereof,
4. The date on which the material is first stored,
5. The value of the material stored,
6. Transfer of Title to the Owner, Right of Entry and Removal.

9.11.2 The Contractor, his Subcontractors and Subordinate Subcontractors shall notify the Contractor and the Owner to inspect, at least once each month, the materials being stored at any location.

9.11.3 The Contractor, his Subcontractors and Subordinate Subcontractors shall mark each sealed carton with the name and address of the Project, the Contractor and Owner.

9.11.4 A perpetual inventory shall be maintained for all materials held in storage for which payment has been requested.

9.11.5 Payment for materials stored off site shall be at the sole discretion of the owner. Any additional costs to the Owner resulting from storage of material off site for which payment is requested, such as, but not limited to, travel expenses and time for inspectors, shall be backcharged to, and paid by, the Contractor.

9.11.6 Transfer of Title to the Owner, Right of Entry and Removal.

ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY

- A. Delete the words "or in accordance with final determination by the Owner on which arbitration has not been demanded" in the last sentence in Subparagraph 10.1.2.
- B. Delete the words "asbestos and polychlorinated biphenyl (PCB's)" and the words "asbestos or polychlorinated biphenyl (PCB's)" in Subparagraphs 10.1.2, 10.1.3, and 10. 1.4 and substitute the words "unsafe materials"
- C. Add Subparagraph 10.1.5

10.1.5 If reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance encountered but not created on the site by the Contractor, the Contractor shall, upon recognizing the condition, immediately stop Work in the affected area and report the condition to the Owner in writing. The Owner and Contractor shall then proceed in the same manner described in Subparagraph 10.1.2. The Owner shall be responsible for obtaining 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 verify that it has been rendered harmless.

- D. Delete the word "and" at the end of the Clause 10.2.1.2.
- E. Add the word "and" to the end of the Clause 10.2.1.3.
- F. Add Clause 10.2.1.4 as follows:

10.2.1.4 Any other property of the Owner, whether or not forming part of the Work, located at the site or adjacent thereto in areas to which the Contractor has access.

- G. In Subparagraph 10.2.5, in two places after the word "10.2.1.3", add the words ", and 10.2.1.4".
- H. Add Subparagraphs 10.2.8 through 10.2.11 as follows:

10.2.8 During the progress of the Work and at all times prior to the date of Substantial Completion or occupancy of the Work by the Owner, whichever is earlier, the Contractor shall provide temporary heat, ventilation, and enclosure, adequate to permit the Work to proceed in a timely fashion, and to prevent damage to completed Work or Work in progress, or to materials stored on the premises. The permanent heating and ventilation systems may be used for these purposes when available.

ARTICLE 11 INSURANCE AND BONDS

- A. Delete Subparagraph 11.1.2 and substitute the following:

Prior to commencement of any work under this Contract and until completion and final acceptance of the work, the Contractor and each and every Subcontractor of the Contractor shall, at its sole expense, maintain the

following insurance on its own behalf, and furnish to the City of Portland, certificates of insurance evidencing same and reflecting the effective date of such coverage as follows:

The term "Contractor & Subcontractor" as used in this insurance rider, shall mean and include Contractors and Subcontractors of every tier.

- B. Workers Compensation and Occupational Disease Insurance, statutory coverage, with \$100,000 limit for Employer's Liability coverage.
- C. Commercial General Liability with a combined Bodily Injury and Property Damage limit of \$ 400,000 Coverage should include Contractual Liability, Broad Form Property Damage, "X,C&U" coverage where applicable, Personal Injury Liability, Independant Contractors. All coverage to be provided on an "occurrence" basis with licensed, admitted carriers approved by the City.
- D. Commercial Automobile Liability, including all owned, non-owned and hired vehicles, with a combined limit of \$400,000 for Bodily Injury or Property Damage.
- E. The certificate for above insurance shall each contain the provision that:

This insurance will not be cancelled, materially changed or not renewed without a thrity (30) day advance written notice to the City of Portland, Portland, ME.
- F. The amount of insurance contained in aforementioned insurance coverages, shall not be construed to be a limitation of the liability on the part of the Contractor or any of its Subcontractors.
- G. The Contractor shall file certificates of insurance prior to the commencement of work and/or payment with the City of Portland which shall be subject to the City of Portland and approval of adequacy of protection and the satisfactory character of the Insurer. The carrying of the insurance described shall in no way be interpreted as relieving the Contractor of any responsibility for liability under this Contract.
- H. Regarding "Builder's Risk/All Risk" insurance, The City of Portland will obtain its own Builder's Risk/All Risk insurance. The Contractor will not be responsible for providing this coverage for the City of Portland.

"Builder's Risk/All Risk" Property Insurance on the project and all materials, equipment and supplies located at the project site which are to become a permanent part of the construction, while awaiting erection and until completion of erection. Coverage is provided on a replacement cost basis.
- I. The carrying of the insurance described shall in no way be interpreted as relieving the Contractor of any responsibility for liability under this Contract.
- J. Any policies effected by the Contractor on its Owned and/or Rented Equipment and Materials shall contain a provision requiring the insurance carriers to waive their rights of subrogation against the City of Portland, and all other indemnities named in the Contract.
- K. Should the Contractor or a Subcontractor engage a Subcontractor, the same conditions will apply under this contract to each Subcontractor, however, the Subcontractor shall be required to maintain limits of liability not less than Four Hundered Thousand Dollars (\$400,000) per occurrence and in the aggregate, with said limits applicable on a per project basis, or such greater limits as may be required by the Contractor.
- L. Certificates of Liability for each policy should be required to be provided to the City before work is commenced. City of Portland should appear as Additional Insured in all cases and the certificate should provide for notice of cancellation, material change or non-renewal to the City at least thirty (30) days prior to the cancellation, change or non-renewal.

ARTICLE 12 UNCOVERING AND CORRECTION OF WORK

- A. At the end of Subparagraph 12.2.2 add the following:

"For the purpose of establishing the guarantee period, the Date of Substantial Completion shall be deemed to occur when Certificates of Substantial Completion have been issued for all Work. In the case of Owner use and/or occupancy of a portion of the Work (including mechanical or electrical equipment) prior to completion of this phase of the Project, the guarantee period for said portion of Work shall commence upon the date of Owner occupancy."

ARTICLE 13 MISCELLANEOUS PROVISIONS

- A. Add Subparagraph 13.2.2 as follows:

- B. Delete Subparagraph 13.4.2 and substitute the following:

13.4.2 No consent or waiver, express or implied, by the Owner, or of, any breach of any covenant, condition or duty of the Contractor shall be construed as a consent to or waiver of any other breach of the same or any other covenant, condition or duty.

- C. In the last sentence of Subparagraph 13.5.2, after the word "costs" add the following: "and changes to the Contract Time".

- D. Delete Subparagraph 13.5.4 and substitute the following:

13.5.4 The Contractor shall obtain and deliver promptly to the Owner any occupancy permit and any certificates of final inspection of any part of the Contractor's work and operating permits for any mechanical apparatus, such as elevators, escalators, boilers, air compressors, etc., which may be required by law to permit full use and occupancy of the premises by the Owner. Receipt of such permits or certificates by the Owner shall be a condition precedent to Substantial Completion of the Work.

- E. Delete Paragraph 13.7.

- F. Add Paragraph 13.8 as follows:

13.8 EQUAL OPPORTUNITY

13.8.1 The Contractor shall maintain policies of employment as follows:

1. The Contractor and his Subcontractors shall not discriminate against any employee or applicant for employment because of race, religion, color, sex or national origin. The Contractor shall take affirmative action to insure that applicants are employed, and that employees are treated during employment without regard to their race, religion, color, sex or national origin. Such action shall include, but 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.

2. The Contractor and his Subcontractors shall, in all solicitations for 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 or national origin.

H. Add Paragraph 13.9 as follows:

ARTICLE 14 TERMINATION OF THE CONTRACT

A. In Subparagraph 14.1.2 in the first line delete the word "above, and after the word "exists" add the following:
"it as stated in Subparagraph 14.1.1,".

In Subparagraph 14.1.2 in the fourth line after the word "executed" add the following:
"termination and cancellation costs, "

B. In Subparagraph 14.2.2 in the first sentence delete the words "above" and "upon certification by the Owner that sufficient cause exists to justify such action".

In Subparagraph 14-2.2 in the first line after the word "exist" add the following:

"as stated in Subparagraph 14.2. 1, ".

C. Delete Paragraph 14.3 and substitute the following:

14.3 TERMINATION BY THE OWNER FOR CONVENIENCE

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

14.3.2 Upon receipt of written notice from the owner of such termination for the Owner's convenience, the Contractor shall:

1. Cease operations as directed by the Owner in such 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.

14.3.3 In case of such termination for the Owner's convenience, the Contractor shall be entitled to receive payment from the Owner on the same basis provided in Subparagraph 14.1.2.

Add ARTICLE 15 - OTHER CONDITIONS OF THE CONTRACT

15.1 Typographical errors in application for Payments or Change Orders shall not be grounds for additional payments.

15.2 If Section 952 of the Omnibus Reconciliation Act of 1980 is found to apply to this contractual relationship, it is agreed that the following Access to Records provision applies.

1. Until the expiration of four years after the furnishing of the services provided under this Contract, the Contractor will make available to the Secretary, U. S. Comptroller General, and their representatives, this Contract and all books, and documents and records necessary to certify the nature

and extent of the costs for those services. If the Contractor carries out the duties of the Contract through a subcontract worth \$10,000.00 or more over a twelve month period with a related organization the subperiod will also contain the access clause to permit access by the Secretary, Comptroller-General, and their representative to the related organization's books and records.

15.3 It is the intent of the parties hereby to comply with the provisions of Section 1861(v) (1) (1) of the Social Security Act.

END OF SECTION