

DOCUMENT 00800

SUPPLEMENTARY CONDITIONS

The General Conditions of the Contract for Construction of the American Institute of Architects, AIA Document A201-1997 bound herein and hereinafter referred to as the “AIA General Conditions,” and paragraphs of this Section form the General Conditions of the Contract for Construction. Where any Article, Paragraph, Subparagraph or Clause in the AIA General Conditions is supplemented by one of the following Articles, Paragraphs, Subparagraphs or Clauses, the provisions shall be considered as added thereto. Where any Article, Paragraph, Subparagraph or Clause in the AIA General Conditions is amended, voided, or superseded by one of the following Articles, Paragraphs, Subparagraphs or Clauses, the provisions of such Article, Paragraph, Subparagraph or Clause not so amended shall remain in effect.

ARTICLE 1 GENERAL PROVISIONS

Add the following sentence to the end of Subparagraph 1.1.1:

The Contract Documents executed or identified in accordance with Subparagraph 1.5.1 shall prevail in case of an inconsistency with subsequent versions made through manipulatable electronic operations involving computers.

Add the following after the word “Sub-subcontractor” in part (2) of Subparagraph 1.1.2: except as set forth in Paragraphs 5.3 and 5.4.

Add Clause 1.2.1.1 to Subparagraph 1.2.1:

1.2.1.1 In the event of conflicts or discrepancies among the Contract Documents, interpretations will be based on the following priorities:

1. Modifications.
2. The Agreement.

3. Addenda, with those of later date having precedence over those of earlier date.
4. The Supplementary Conditions.
5. The General Conditions of the Contract for Construction.
6. Division 1 of the Specifications.
7. Drawings and Divisions 2-16 of the Specifications.

In the event of conflicts or discrepancies between Drawings and Divisions 2-16 of the Specifications, or within either Document, which have not been clarified by Addendum, the Architect will determine which takes precedence in accordance with Subparagraph 4.2.11.

Add the following at the end of the existing Subparagraph 1.2.3:

.1 Whenever a product is specified in accordance with a Federal Specifications, an ASTM Standard, an American National Standards Institute Specification, or other Association Standard, the Contractor shall present an affidavit from the manufacturer when requested by the Architect or required in the Specifications, certifying that the product complies with the particular Standard or Specification. When requested by the Architect or specified, support test data shall be submitted to substantiate compliance.

Add Subparagraphs 1.2.4 through 1.2.17 to Paragraph 1.2:

1.2.4 Errors, conflicts or omissions found in the Contract Documents after award of the Contract shall be brought to the Architect's attention for clarification before proceeding with the Work. The Architect's decision shall be made as stipulated in Article 4, Paragraph 4.2.12.

1.2.5 Should the Work proceed after the discovery by the Contractor of errors, conflicts or omissions and clarification has not been received from the Architect, the Contractor will be held fully responsible for the costs of replacing or correcting the affected area, as directed by the Architect.

1.2.6 The Drawings are not intended to be scaled or to act as Shop Drawings. In case of discrepancies, figured dimensions shall take precedence over scaled drawings.

1.2.7 Before ordering any material or doing any Work, each trade shall verify all measurements at the Project. No extra charge or compensation will be allowed on account of difference between actual dimensions and the measurements indicated on the Drawings. Differences that may be found, if any, shall be reported to the Architect for consideration before proceeding with the Work.

1.2.8 All indications or notations which apply to one of a number of similar situations, materials or processes shall be deemed to apply to all such situations, materials or processes wherever they appear in the Work, except where a contrary result is clearly indicated by the Contract Documents.

1.2.9 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 set for receiving Bids on the Project, except where otherwise indicated.

1.2.10 Where no explicit quality or standards for materials or workmanship are established for the Work, such Work is to be of good quality for the intended use and consistent with the quality of the surrounding Work and of the construction of the Project generally.

1.2.11 All manufactured articles, materials and equipment shall be applied, installed, connected, erected, used, cleaned, and conditioned in accordance with the manufacturer's written or printed directions and instructions unless otherwise indicated in the Contract Documents.

1.2.12 The Mechanical, Electrical and Fire Protection Drawings are diagrammatic only, and are not intended to show the alignment, physical locations or configurations of such Work. Such Work shall be installed without additional cost to the Owner to clear all obstructions, permit proper clearances for the Work of other trades, and present an orderly appearance where exposed. Prior to beginning such Work, the Contractor shall prepare coordination drawings showing the exact alignment, physical location and configuration of the Mechanical, Electrical and Fire Protection installations and demonstrating to the Contractor's satisfaction that the installations will comply with the preceding sentence.

1.2.13 Exact locations of fixtures and outlets shall be obtained from the Architect as provided in Subparagraph 3.2.5 before the Work is roughed in. Work installed without such information from the Architect shall be relocated as directed by the Architect, at the Contractor's expense.

1.2.14 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 Architect 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 reliance by the Contractor on such information shall be allowed except as provided in Subparagraph 4.3.6.

1.2.15 Where the Work is to fit with existing conditions or work to be performed by others, the Contractor shall fully and completely join the Work with such conditions or work, unless otherwise specified.

1.2.16 Wherever the terms “necessary,” “suitable,” “as directed,” “satisfactory,” “good and sufficient,” “approved,” or other general qualifying terms are used on the Drawings, they are deemed to be followed by the words “in the opinion of the Architect” or “by the Architect,” as the case may be.

1.2.17 The terms “approval,” “approved,” “approved equal,” “equal,” or “other approved” mean “approved by Architect.”

Add the following at the end of Subparagraph 1.5.2

Prior to the execution of the Agreement, the Contractor and each Subcontractor shall evaluate and satisfy themselves as to the conditions and limitations under which the Work is to be performed including, without limitation, (i) the location, condition, layout and nature of the Project site and surrounding areas, (ii) generally prevailing climatic conditions, (iii) anticipated labor supply and costs, (iv) availability and cost of materials, tools and equipment, and (v) other similar issues. The Owner assumes no responsibility or liability for the physical condition or safety of the Project site or any improvement located on the Project site. Except as set forth in Paragraph 10.3, the Contractor shall be solely responsible for providing a safe place for the performance of the Work. The Owner shall not be required to make any adjustment in either the Contract Sum or the Contract Time in connection with any failure by the Contractor or any Subcontractor to have complied with the requirements of this Subparagraph 1.5.2.

Add the following Subparagraph 1.6.2 to Paragraph 1.6:

1.6.2 Contractor's Use of Instruments of Service in Electronic Form.

1.6.2.1 The Architect may, with the concurrence of the Owner, furnish to the Contractor versions of Instruments of Service in electronic form. The Contract Documents executed or identified in accordance with Subparagraph 1.5.1 shall prevail in case of an inconsistency with subsequent versions made through manipulatable electronic operations involving computers.

1.6.2.2 The Contractor shall not transfer or reuse Instruments of Service in electronic or machine-readable form without the prior written consent of the Architect.

Add the following Paragraph 1.7 to Article 1:

1.7 Representatives of the Owner, Contractor, and Architect shall meet periodically at mutually agreed-upon intervals for the purpose of establishing procedures to facilitate cooperation, communication, and timely responses among the participants. By participating in this arrangement, the parties do not intend to create additional contractual obligations or modify the legal relationships that may otherwise exist.

ARTICLE 2 OWNER

Delete Subparagraph 2.2.5 and substitute the following:

2.2.5 The Contractor will be furnished, free of charge, three (3) copies of Drawings and Project Manuals. Additional sets will be furnished at the cost of reproduction, postage and handling.

Add Subparagraph 2.2.6 to Paragraph 2.2:

2.2.6 The Owner will procure and bear costs of structural tests and special inspections as required by the applicable building code.

Delete the existing Subparagraph 2.4.1 and substitute the following:

2.4.1 If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a seven-day period after receipt of written notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, correct such non-conforming Work. In such case, an appropriate Construction Change Directive shall be issued deducting from payments then or thereafter due the Contractor the reasonable cost of correcting such non-conforming Work, including the Owner's expenses and compensation for the Architect's additional services made necessary by such default, neglect or failure.

ARTICLE 3 CONTRACTOR

Add the following Clauses to Subparagraph 3.2.1:

.1 The exactness of grades, elevations, dimensions, or locations given on Drawings issued by the

Architect, or the work installed by other contractors, is not guaranteed by the Architect or the Owner.

.2 The Contractor shall satisfy itself as to the accuracy of all grades, elevations, dimensions, and locations.

In all cases of interconnection of the Work with existing or other work, the Contractor shall verify at

the site all dimensions relating to such existing or other work. Errors, if any, due to the Contractor's

failure to so verify all such grades, elevations, dimensions, or locations shall be promptly rectified by

the Contractor without additional cost to the Owner.

Add the following Subparagraphs to Paragraph 3.2:

3.2.4 The Contractor shall give the Architect timely notice of additional Drawings, Specifications, or instructions, if any, required to define the Work in greater detail, or to permit 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 Architect as provided in Subparagraph 3.2.4. If the Contractor proceeds with such Work without obtaining further Drawings, Specifications or instructions, the Contractor, at the Contractor's expense, shall correct Work incorrectly done.

3.2.6 The Owner shall be entitled to deduct from the Contract Sum amounts paid to the Architect for the Architect to evaluate and respond to the Contractor's requests for information, where such information was 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.

Delete everything after the end of the second sentence of Subparagraph 3.3.1 and substitute the following:

If the Contract Documents refer to particular construction means, methods, techniques, sequences, or procedures, or indicate or imply that such are to be used on the Work, such mention is intended only to indicate that the operations of the Contractor shall be such as to produce at least the quality of Work implied by the operations described, but that the actual determination of whether or not the described operations may be safely and suitably employed on the Work shall be the responsibility of the Contractor, who shall notify the Architect in writing of the actual means, methods, techniques, sequences or procedures which will be employed on the Work, if these differ from those mentioned in the Contract Documents. All loss, damage, or liability, or cost of correcting defective Work arising from the employment of any construction means, methods, techniques, sequences or procedures referred to, indicated or implied by the Contract Documents, are the responsibility of the Contractor, unless the Contractor has given timely notice to the Architect in writing that such means, methods, techniques, sequences, or procedures are not safe or suitable, and the Contractor has then been instructed in writing to proceed at the Owner's risk.

Add the following at the end of the existing Subparagraph 3.4.1:

The term “provide” shall mean furnish and install complete, including connections, unless otherwise specified. Whenever any item, device, or part of equipment is referred to in the Contract Documents in singular number, as many items, devices or parts as are required for a complete installation shall be installed.

Delete Subparagraph 3.4.2 and substitute the following:

3.4.2 After the Contract has been executed, the Owner and Architect will consider a formal request for the substitution of products in place of those specified only under the conditions set forth in the General Requirements (Division 1 of the Specifications). By making requests for substitutions, the Contractor:

- .1 represents that the Contractor has personally investigated the proposed substitute product and determined that it is equal or superior in all respects to that specified,
- .2 represents that the Contractor will provide the same warranty for the substitution that the Contractor would for that specified,
- .3 certifies that the cost data presented is complete and includes all related costs under this Contract except the Architect's redesign costs, and waives all claims for additional costs related to the substitution which subsequently become apparent, and
- .4 will coordinate the installation of the accepted substitute, making such changes as may be required for the Work to be complete in all respects, all without additional costs.

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 Architect shall judge the design and appearance of proposed substitutions on the basis of their suitability in relation to the overall design of the Project, as well as for their intrinsic merits. The Architect will not approve proposed substitutions that, in the Architect's opinion, would be out of character, obtrusive, or otherwise inconsistent with the character or quality of design of the Project.

Add the following Subparagraph 3.4.4 to Paragraph 3.4:

3.4.4 The Owner shall be entitled to deduct from the Contract Sum amounts paid to the Architect to evaluate the Contractor's proposed substitutions and to make agreed-upon changes in the Drawings and Specifications made necessary by the Owner's acceptance of such substitutions.

Delete the third sentence of Subparagraph 3.5.1.

Add new Subparagraphs 3.5.2 through 3.5.5, inclusive, as follows:

3.5.2 The Contractor shall be responsible for determining that all materials furnished for the Work meet all requirements of the Contract Documents. The Architect may require the Contractor to produce reasonable evidence that a material meets such requirements. Such evidence must be such, in the Architect's opinion, as to lead to a reasonable certainty that all

materials used, or proposed to be used, in the Work meets the requirements of the Contract Documents. All such data shall be furnished at the Contractor's expense. This provision shall not require the Contractor to pay for periodic testing of different batches of this same material, unless such testing is specifically required by the Contract Documents to be performed at the Contractor's expense.

3.5.3 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.

3.5.4 The Contractor shall procure and deliver to the Architect, 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 its terms and conditions.

3.5.5 The Contractor agrees to assign to the Owner at the time of final 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 as to preserve all such manufacturer's warranties.

Delete Subparagraph 3.7.1 and substitute the following:

3.7.1 Except as set forth in Subparagraph 2.2.2, 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.

Add new Subparagraphs 3.7.5 through 3.7.7, inclusive, as follows:

3.7.5 Upon completion of the Work and prior to final payment by the Owner, the Contractor shall secure and present to the Owner Certificates of Inspection and approval from the several departments having jurisdiction over the Work.

3.7.6 The Contractor shall give written notice to the Owner of agreements, if any, between the Contractor and an owner or tenant of land in the vicinity of the Work concerning the use of water or utility services, or the use of land for storage of materials or access to the Work, or the like, whether or not there is to be any compensation for such use. The notice shall specify the terms of such agreements or, if the agreement is written, shall include a copy of such agreement. In no event shall the provisions of this Subparagraph 3.7.6 be construed as an authorization for the Contractor to make such agreements, nor to bind the Owner to their performance, nor shall the receipt by the Owner of a notice of such agreement be construed as approval or assent to the same.

3.7.7 All fees charges and assessments in connection with the requirements of this Paragraph 3.7 shall be paid by the Contractor.

Delete the semicolon at the end of Clause 3.8.2.2 and add the following:

, except that if installation is included as part of an allowance in Divisions 1-16 of the Specifications, the installation and labor cost for greater or lesser quantities of Work shall be determined in accordance with Subparagraph 7.3.6;

Delete the first sentence of Subparagraph 3.9.1 and substitute the following:

The Contractor shall employ a competent Superintendent reasonably acceptable to the Owner, and necessary assistants who shall be in attendance at the Project site full time during the progress of the Work until the Date of Substantial Completion, and for such additional time thereafter as the Architect may determine to be necessary for the expeditious completion of the Work. The Superintendent or an assistant shall be knowledgeable in mechanical and electrical systems and capable of reading, interpreting and coordinating Drawings, Specifications, and Shop Drawings pertaining to such systems. The Superintendent or an assistant shall assist the Subcontractors in arranging space conditions to eliminate interference between the mechanical and electrical systems and other Work and shall supervise the preparation of coordination drawings documenting the spatial arrangements for such systems within restricted spaces. The Superintendent or an assistant shall assist in planning and expediting the proper sequence of delivery of mechanical and electrical equipment to the site. The Contractor shall remove the Superintendent if requested to do so in writing by the Owner, and shall promptly replace him with a competent person reasonably acceptable to the Owner.

Add the following Subparagraphs 3.9.3 through 3.9.4 to 3.9:

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

3.9.3 The Contractor shall coordinate and supervise the Work performed by Subcontractors to the end that the Work is carried out without conflict between trades and so that no trade, at any time, causes delay to the general progress of the Work. The Contractor shall at all times afford each trade, separate contractors, and the Owner, every reasonable opportunity for the installation of Work and the storage of materials.

3.9.4 The Contractor shall arrange for and attend job meetings with the Architect and such other persons as the Architect may from time to time wish to have present. The Contractor shall be represented by a principal, project manager or other authorized main office representative, as well as by the Contractor's Superintendent. An authorized representative of any Subcontractor or Sub-subcontractor shall attend such meetings if the representative's presence is requested by the Architect. 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. Notices required under the Contract, if any, may be served on such representatives.

Delete Subparagraph 3.10.1 and substitute the following:

3.10.1 The Contractor shall prepare and submit to the Architect a progress schedule as described in Subparagraphs 8.2.4 through 8.2.8, inclusive.

3.10.1.1 The Owner may authorize construction activities to commence prior to completion of the Drawings and Specifications. If the Drawings and Specifications require further development at the time the initial construction schedule is prepared, the Contractor shall 1) allow time in the schedule for further development of the Drawings and Specifications by the Architect, including time for review by the Owner and Contractor and for the Contractor's coordination of Subcontractors' Work, and 2) furnish to the Owner in a timely manner information regarding anticipated market conditions and construction cost, availability of labor, materials and equipment; and proposed methods, sequences and time schedules for construction of the Work.

Delete Subparagraph 3.10.3 and substitute the following:

3.10.3 The Owner shall have the right to direct a postponement or rescheduling of any date or time for 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 Subparagraph 3.10.3 may be grounds for an extension of the Contract Time, if permitted under Subparagraph 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.

Add Subparagraph 3.12.11 to Paragraph 3.12:

3.12.11 The Architect's review of the Contractor's submittals will be limited to examination of an initial submittal and one (1) resubmittal. The Architect's review of additional submittals will be made only with the consent of the Owner after notification by the Architect. The Owner shall be entitled to deduct from the Contract Sum amounts paid to the Architect for evaluation of such additional resubmittals.

Delete Subparagraph 3.12.6 and substitute the following:

3.12.6 By approving and submitting Shop Drawings, Product Data, Samples, and similar submittals, the Contractor thereby represents that the Contractor has determined and verified all dimensions, quantities, field dimensions, relationships 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 verified compliance with all requirements of the Contract Documents. The accuracy of all such information is the responsibility of the Contractor. In reviewing Shop Drawings, Product Data, Samples, and similar submittals the Architect shall be entitled to rely upon the Contractor's representation that such information is correct and accurate.

Add the following at the end of Subparagraph 3.12.9:

Unless such written notice has been given, the Architect'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.

Delete Subparagraph 3.13.1 and substitute the following:

3.13.1 The Owner shall, at all times, have the right to possession of the premises and the improvements made thereon by the Contractor. The Contractor's right to entry and use thereof arises solely from the permission granted by the Owner under the Contract Documents. The Owner shall not be liable to the Contractor, the Subcontractors, their employees or anyone else with respect to the conditions of the premises, except only for a condition caused directly and solely by the negligence of the Owner.

Add the following Subparagraphs 3.13.2 through 3.13.4 to 3.14:

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 Contractor's responsibility. 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 all entities for which 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 of the Contract Documents, the Contractor shall use best efforts to minimize interference with the occupancy or beneficial use of areas and buildings adjacent to the site of the Work. 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.

Add the following Subparagraphs 3.14.3 through 3.14.5 to 3.14:

3.14.3 The Contractor shall carefully fit around, close up, repair, patch and paint around the Work if specified herein so that the completed Work will be plumb, level, smooth and compatible to adjacent Work.

3.14.4 In the event that the Contractor fails to leave or cut all required openings, or have all required sleeves or inserts provided and set, the Contractor shall cut them or set them afterward at the Contractor's expense. In no event will excessive cutting be permitted, nor shall any piers, bearing walls, beams, or any other structural members be cut without the written consent of the Architect. All holes in masonry shall be cut with power core drill. Edges of large holes in masonry shall be trimmed with a power saw.

3.14.5 Where field cutting is authorized or directed, the Contractor shall provide adequate reinforcement for weakened areas, if any.

Add the following at the end of Subparagraph 3.15.1:

Immediately prior to the Architect's inspection for Substantial Completion, the Contractor shall completely clean the premises. Concrete and ceramic surfaces shall be cleaned and washed. Resilient coverings shall be cleaned, waxed and buffed. Woodwork shall be dusted and cleaned. Sash, fixtures and equipment shall be thoroughly cleaned. Stains, spots, dust, marks and smears shall be removed from all surfaces. Hardware and all metal surfaces shall be cleaned and polished. Glass and plastic surfaces shall be thoroughly cleaned by professional window cleaners. All damaged, broken or scratched glass or plastic shall be replaced by the Contractor at the Contractor's expense.

Delete the words "but only to the extent caused" from Subparagraph 3.18.1.

Add the following Subparagraphs 3.18.3 and 3.18.4 to 3.18:

3.18.3 The Contractor's indemnity obligations under this Paragraph 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 requirement 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, techniques, procedures 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 the Owner, the Architect, the Architect's consultants, and agents and employees of any of them from and against all costs and expenses (including, without limitation, reasonable attorneys' fees) incurred by any of the indemnities referred to above in enforcing any of the Contractor's defense, indemnity and hold harmless obligations under the Contract.

ARTICLE 4 ADMINISTRATION OF THE CONTRACT

Delete Subparagraph 4.1.2. and substitute the following:

4.1.2 The Owner reserves the right to modify, extend or limit the duties, responsibilities and authority of the Architect compared to those set forth in the Contract Documents. Specifically, but without limitation, the Owner's Representative may substitute for the Architect and perform the Architect's duties (where allowed by law), at the Owner's sole discretion, upon notification to the Contractor.

Add Clause 4.2.2.1 to Subparagraph 4.2.1:

4.2.2.1 The Contractor shall reimburse the Owner for compensation paid to the Architect for site visits in addition to those described above which are made necessary by the fault or neglect of the Contractor.

Delete Subparagraph 4.2.5.

Insert a “.” after the word “Contractor” in the fourth line of Subparagraph 4.2.9 and delete the balance of the Subparagraph.

Delete Subparagraph 4.2.10.

Delete the first sentence of Subparagraph 4.2.11 and substitute the following:

The Architect shall interpret and decide matters concerning performance of the Contractor under, and per the requirements of, the Contract Documents on written request of the Owner.

Add the following at the end of Subparagraph 4.2.11:

The Architect may, as the Architect judges desirable, issue additional drawings or instructions indicating in greater detail the construction or design of the various parts of the Work. Provided such drawings or instructions are reasonably consistent with the previously 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 notice as provided in Subparagraph 4.3.7.

In Subparagraph 4.2.12, delete the following words from the second sentence:

shall endeavor to secure faithful performance by both the Owner and Contractor, shall not show partiality to either, and

Delete Subparagraph 4.2.13.

Add the following Clauses 4.3.7.3 and 4.3.7.4 to Subparagraph 4.3.7:

4.3.7.3 Claims for increase in the Contract Time shall set forth in detail the circumstances that form the basis for the Claim, the date upon which each cause of delay began to affect the progress of the Work, the date upon which each cause of delay ceased to affect the progress of the Work and the number of days increase in the Contract Time claimed as a consequence of each such cause of delay. The Contractor shall provide such supporting documentation as the Owner may require including, where appropriate, a revised critical path method schedule indicating all the activities affected by the circumstances forming the basis of the Claim.

4.3.7.4 The Contractor shall not be entitled to a separate increase in the Contract Time for each one of the number of causes of delay which may have concurrent or interrelated effects on the progress of the Work, or for concurrent delays due to the fault of the Contractor.

Add the following at the end of the first sentence of Subparagraph 4.4.1:
if the claimant first initiates the Claim prior to the date of final payment to the Contractor.

Delete the period at the end of the first sentence of Subparagraph 4.6.1 and add:
, provided such Claim involves an amount less than or equal to Fifty Thousand dollars (\$50,000.00).

Delete Subparagraph 4.6.4.

Add the following Subparagraph 4.6.7 to 4.6:
4.6.7 Except where such condition is expressly prohibited by law, an award or judgment against the Owner in accordance with the procedure described in this Paragraph 4.6 shall be a condition precedent to the filing by the Contractor or any Subcontractor or Sub-subcontractor of an attachment or lien of any nature against the real estate on which the Work is situated or against the Owner's property.

ARTICLE 5 SUBCONTRACTORS

Delete Subparagraph 5.4.2 and substitute the following:
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 Paragraph 14.2, and the Owner accepts assignment of such subcontract, the Subcontractor's compensation shall be equitably adjusted for the increase in direct costs incurred by the Subcontractor, if any, as a result of the suspension.

ARTICLE 7 CHANGES IN THE WORK

Add the following at the end of Subparagraph 7.1.3:
Except as permitted in Paragraph 7.3 and Subparagraph 9.7.2, a change in the Contract Sum or the Contract Time shall be accomplished only in writing 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 the 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.

Add the following Subparagraph 7.1.4 to Paragraph 7.1:
7.1.4 The combined overhead and profit included in the total cost to the Owner of a change in the Work shall be based on the following schedule:

- .1 For the Contractor, for Work performed by the Contractor's own forces, fifteen percent (15%) of the cost.

- .2 For the Contractor, for Work performed by the Contractor's Subcontractors, seven and one-half percent (7.5%) of the amount due the Subcontractors.
- .3 For each Subcontractor involved, for Work performed by that Subcontractor's own forces, fifteen percent (15%) of the cost.
- .4 For each Subcontractor involved, for Work performed by the Subcontractor's Sub-subcontractors, seven and one-half percent (7.5%) of the cost.
- .5 Cost to which overhead and profit is to be applied shall be determined in accordance with Subparagraph 7.3.6, but in no event shall a percentage for overhead and profit be allowed on Social Security payments and Unemployment Insurance premiums.
- .6 In order to facilitate checking of quotations for extras or credits, all proposals for changes, except those so minor that their propriety can be seen by inspection, shall be accompanied by a complete itemization of costs including labor, materials, and subcontracts. Labor and materials shall be itemized in the manner prescribed above. Where major cost items are subcontracts, they shall be itemized also. In no case will a change involving over \$1,000.00 be approved without such itemization.

Add the following Subparagraph 7.2.3 to Subparagraph 7.2:

7.2.3 Agreement on a 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 including, but not limited to, all direct and indirect costs associated with such change and all adjustments, if any, to the Contract Sum and construction schedule and the Contract Time.

ARTICLE 8 TIME

Add the following Subparagraphs 8.2.4 through 8.2.10 to Subparagraph 8.2:

8.2.4 Within two (2) weeks after award of the Contract, the Contractor shall submit to the Architect a Progress Schedule showing for each category of Work included in the Schedule of Values, the percentage of completion to be achieved and the total dollar value of the Work to be completed as of the first of each month until Substantial Completion. All calculations shall be on the basis of the Work in place, but not including the value of materials delivered but not in place. The Progress Schedule shall show a Milestone date for the completion of preparatory Work necessary to permit the water treatment installation to be made, as described on the applicable construction checklist supplied by the Owner. Such preparatory Work must be completed as described by the established Milestone date.

8.2.5 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 shall be a Critical Path Method (CPM) schedule prepared using Primavera or Microsoft Project software, or other software using substantially similar logic and having substantially similar output. The Progress Schedule will

be reviewed by the Architect for compliance with the requirements of this Article and will either be accepted by the Architect or returned to the Contractor for revision and resubmittal. Unless specifically required by law, no payment under this Contract shall be due until the Progress Schedule has been approved by the Architect.

8.2.6 If, in any Application for Payment, the total value of the completed Work in place, as certified by the Architect, is less than ninety percent (90%) of the total value of the Work in place as estimated in the Progress Schedule, the Owner may, at the Owner's option, require the Contractor to accelerate the progress of the Work, without cost to the Owner, by increasing the work force or hours of work, or by other reasonable means approved by the Owner.

8.2.7 If each of three (3) successive applications, as certified by the Architect, indicate that the actual Work completed is less than ninety percent (90%) of the values estimated in the Progress Schedule to be complete by the respective dates, the Owner may, at the Owner's option treat the Contractor's delinquency as a default justifying the action permitted under Paragraph 14.2.

8.2.8 If the Architect has determined that the Contractor should be permitted to extend the time for completion as provided in Paragraph 8.3, the calendar dates in the Progress Schedule shall be adjusted accordingly to retain their same relationship to the adjusted Date of Substantial Completion, and the dollar value of Work to be completed as of the first of each month shall be adjusted pro-rata.

8.2.9 If the Contractor fails to submit an Application for Payment in any month, the Architect shall, for the purpose of this evaluation of progress, certify separately to the actual value of the Work in place completed as of the first of the month to the best of the Architect's knowledge.

8.2.10 Nothing herein shall limit the Owner's right to liquidated or other damages for delays by the Contractor or to any other remedy which the Owner may possess under other provisions of the Contract Documents or by law. Without limiting the foregoing in any way, the Contractor and the Contractor's surety, if any, shall be liable for and shall pay the Owner the sum of Two Thousand Five Hundred Dollars (\$2,500.00) as liquidated damages if the preparatory Work necessary to permit the water treatment installation to be made is not completed by the Milestone date established in accordance with Subparagraph 8.2.4, above.

Delete Subparagraph 8.3.3 and substitute the following:

8.3.3 Notwithstanding anything to the contrary in the Contract Documents, an extension in the Contract Time, to the extent permitted under Subparagraph 8.3.1, shall be the sole remedy of the Contractor for any (i) delay in the commencement, prosecution or completion of the Work, (ii) hindrance or obstruction in the performance of the Work, (iii) loss of productivity, or (iv) other similar claims (collectively, as used in this Subparagraph, "Delays") whether or not such Delays are foreseeable, unless a Delay is caused by acts of the Owner constituting active interference with the Contractor's performance of the Work, and only to the extent such acts continue after the Contractor furnishes the Owner with notice of such interference. In no event shall the Contractor be entitled to any compensation or recovery of any damages in connections with any

Delay including, without limitation, consequential damages, lost opportunity costs, impact damages, or other similar remuneration. The Owner's exercise of any of its rights or remedies under the Contract Documents (including, without limitation, ordering changes in the Work, or directing suspension, rescheduling, or correction of such Work), regardless of the extent or frequency of the Owner's exercise of such rights or remedies, shall not be construed as active interference with the Contractor's performance of the Work.

Add the following Subparagraph 8.3.4 to Paragraph 8.3:

8.3.4 If the Contractor submits a Progress Schedule indicating, or otherwise expresses an intention to achieve, Substantial Completion of the Work prior to any completion date required by the Contract Documents or expiration of the Contract Time, no liability of the Owner to the Contractor for any failure of the Contractor to so complete the Work shall be created or implied.

ARTICLE 9 PAYMENTS AND COMPLETION

In Paragraphs 9.2 through 9.7, inclusive, delete the word "Architect" in every instance and substitute the word "Owner."

Add the following at the end of Subparagraph 9.2.1:

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

Delete the words "or Architect" from the fourth and fifth lines of Subparagraph 9.3.1.

Add the following sentence to Subparagraph 9.3.1:

The form of Application for Payment, duly notarized, shall be a current, authorized edition of AIA Document G702, Application and Certificate for Payment, supported by a current, authorized edition of AIA Document G703, Continuation Sheet.

Add the following Subparagraph 9.3.4 to Paragraph 9.3:

Each Application for Payment shall be accompanied at the Owner's option by (i) a waiver of liens from each Subcontractor or (ii) a certificate from each Subcontractor stating that the Subcontractor has been paid all amounts due the Subcontractor on the basis of the previous periodic payment to the Contractor, or else stating the amount not so paid and the reason for the discrepancy. In the event of any such discrepancy, the Contractor shall furnish the Contractor's own written explanation to the Owner through the Architect. Such waiver or certificate shall be in a form acceptable to the Owner.

Delete Subparagraph 9.4.1 and substitute the following:

9.4.1 Within fourteen (14) days after receipt of the Contractor's Application for Payment the Owner will notify the Contractor if the Owner intends to withhold payment in whole or in part.

Delete Subparagraph 9.4.2.

Delete Subparagraph 9.5.1 up to Clause 9.5.1.1 and substitute the following:

9.5.1 If the Owner believes that the Contractor’s Application for Payment is not justified, the Owner shall notify the Contractor of the amount which it believes is justified either because the Work has not progressed to the point indicated or as necessary to protect itself from loss for which the Contractor is responsible, including loss resulting from acts or omissions described in Subparagraph 3.3.2, because of:

Add the following Clauses 9.5.1.8 and 9.5.1.9 to Subparagraph 9.5.1:

- .8 a lien or attachment is filed contrary to Subparagraph 4.6.7; 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 Owner before approval of the Contractor’s monthly Application for Payment.

Delete Subparagraph 9.5.2.

In Subparagraph 9.6.1, delete the words “After the Architect has issued a Certificate for Payment,” and capitalize the “T” in the following word.

Add the following at the end of Subparagraph 9.6.2:

Notwithstanding anything in this Subparagraph 9.6.2 to the contrary, the Owner may elect, in the Owner’s sole discretion, to make any payment requested by the Contractor on behalf of a Subcontractor of any tier jointly payable to the Contractor and such Subcontractor. The Contractor and such Subcontractor shall be responsible for the allocation and disbursement of funds included as part of such joint payment, if any. In no event shall any joint payment be construed to create any (i) contract between the Owner and a Subcontractor of any tier, (ii) obligations from the Owner to such Subcontractor, or (iii) rights in such Subcontractor against the Owner.

Delete the words “Architect and” from the first line of Subparagraph 9.6.3.

Delete the words “Neither the Owner nor Architect shall have an obligation” from the first line of Subparagraph 9.6.4 and substitute the following:

The Owner shall not be obligated

Delete Subparagraph 9.7.1 and substitute the following:

9.7.1 If the Owner is entitled to reimbursement or payment from the Contractor under or pursuant to the Contract Documents, such payment shall be made promptly upon demand by the Owner. Notwithstanding anything contained in the Contract Documents to the contrary, if the Contractor fails promptly to make any payment due the Owner, or if the Owner incurs any costs and expenses to cure any default of the Contractor or to correct defective Work, the Owner shall have an 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 payment 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.

Add the following 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 completed or corrected. Further, as a condition precedent to Substantial Completion, the Owner has received all certificates of occupancy and other permits, approvals, if any, from governmental authorities having jurisdiction thereof necessary for the beneficial occupancy of the Project.

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 Architect (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 Architect, 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.

Add the following Clause 9.8.3.1 to Subparagraph 9.8.3:

9.8.3.1 Except with the consent of the Owner, the Architect will perform no more than two (2) inspections to determine whether the Work or a designated portion thereof has attained Substantial Completion in accordance with the Contract Documents. The Owner shall be entitled to deduct from the Contract Sum amounts paid to the Architect for more inspections than indicated in the preceding sentence.

Delete Subparagraph 9.10.1 and substitute the following:

9.10.1 Upon written notice that the Work is ready for final inspection and acceptance, and upon submission to the Owner of a final Application for Payment, the Architect will promptly make such inspection and, when the Architect finds the Work acceptable under the Contract Document and the Contract fully performed, the Architect shall so notify the Owner and Contractor.

Add the following Clause 9.10.1.1 to Subparagraph 9.10.1:

9.10.1.1 Except with the consent of the Owner, the Architect will perform no more than one (1) inspection to determine whether the Work or a designated portion thereof has attained Final Completion in accordance with the Contract Documents. The Owner shall be entitled to deduct from the Contract Sum amounts paid to the Architect for more inspections than indicated in the preceding sentence.

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

If the Contractor fails to furnish releases or waivers as the Owner reasonably requires to satisfy the Owner that there are not 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 such liens, if any. In situations where it is impracticable to obtain such releases and an appropriate value of bond cannot be established, the Owner may withhold the final payment until the enforceable period of the lien has expired.

Add the following Clause 9.10.4.4 and supplemental language to Subparagraph 9.10.4:

.4 Maintenance service, under Paragraph 12.4.

All claims which have not been waived in accordance with this Subparagraph shall be deemed to have accrued upon discovery by the Owner of the condition or breach upon which such Claim is based, for the purpose of any applicable statute of limitations.

ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY

Delete the word “and” at the end of Clause 10.2.1.2.

Add the word “and” at the end of Clause 10.2.1.3.

Add the following Clause 10.2.1.4 to Subparagraph 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.

Add the following at the end of Subparagraph 10.2.2:

The Contractor will provide the Owner with a list of hazardous materials to be utilized by Contractor or its Subcontractors on the Project.

Add the following at the end of Subparagraph 10.2.4:

and shall be in compliance with all federal, state and local laws and regulations pertaining to such Work.

Add the following Clause 10.2.4.1 to Subparagraph 10.2.4:

10.2.4.1 When use or storage of explosives, or other hazardous materials, substances, or equipment, or unusual methods are necessary for execution of the Work, the Contractor shall give the Owner reasonable advance notice.

Delete Subparagraph 10.2.5 and substitute the following:

The Contractor shall promptly remedy damage and loss to property referred to in Clauses 10.2.1.2, 10.2.1.3, and 10.2.1.4. If the damage or loss is due in whole or in part to the Contractor's failure to take the precautions required by this Paragraph 10.2, the Contractor shall, subject to any reimbursement to which the Contractor is entitled under property insurance required by the Contract Documents, bear the cost.

Add the following Subparagraphs 10.2.8 through 10.2.13, inclusive to Paragraph 10.2:

10.2.8 The Contractor shall provide and maintain in good operating condition suitable and adequate fire protection equipment and services, and shall comply with all reasonable recommendations regarding fire protection made by the representative of the fire insurance company carrying insurance on the Work or by the local fire chief or fire marshal. The area within the site limits shall be kept orderly and clean, and all combustible rubbish shall be promptly removed from the site.

10.2.9 The Contractor shall at all times protect excavations, trenches, buildings and materials, from rain water, ground water, backup or leakage of sewers, drains and other piping, and from water of any other origin and shall remove promptly accumulation of water, if any. The Contractor shall provide and operate all pumps, piping and other equipment necessary to accomplish this result.

10.2.10 The Contractor shall remove snow and ice which might result in damage or delay to the Work.

10.2.11 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, unless otherwise provide in the Contract Documents.

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

10.2.13 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 witnesses, if any. 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's Vice President of Corporate Health, Safety, Environmental Affairs, Engineering, and Risk Management (HSEAE&RM). Upon request by the Owner, the Contractor will provide copies of the two (2) most recent years of OSHA accident reports and comprehensive general and automobile liability losses.

Delete the second to last sentence of Subparagraph 10.3.2 and substitute the following:

The Work in the affected area shall be resumed immediately following the occurrence of any one of the following events: (i) the Owner causes remedial work to be performed that results in the absence of materials or substances such as asbestos or polychlorinated byphenyl (PCB) or (ii) the Owner and Contractor, by written agreement, decide to resume performance of the Work, or (iii) the Work may safely and lawfully proceed, as determined by an appropriate governmental authority or as evidenced by a written report to both the Owner and Contractor, which is

prepared by an environmental engineer reasonably satisfactory to both the Owner and Contractor.

Delete Subparagraph 10.3.3.

Add the following Subparagraphs 10.6.2 and 10.6.3 to Paragraph 10.6:

10.6.2 Contractor agrees to notify Owner's Director of HSEAE&RM of any operation (e.g., removal of potential asbestos containing materials) which could result in a harmful exposure to any persons or property.

10.6.3 The Contractor shall furnish the Owner with a typewritten list of the names, addresses and telephone numbers of members of the Contractor's organization to be contacted in the event of emergency at the Project site. The list shall be prepared on the Contractor's letterhead and shall designate the responsible parties to be contacted outside of normal work hours.

ARTICLE 11 INSURANCE AND BONDS

Delete Subparagraph 11.1.1 in its entirety and substitute the following:

11.1.1 During the life of the Contract, or such additional time as may be required, the Contractor shall provide, pay for, and maintain in full force and effect, with a company or companies lawfully authorized to do business in the state in which the Project is located, the insurance outlined in this Article for coverages at not less than the prescribed minimum limits of liability, covering the Contractor's activities, those of all Subcontractors, anyone directly employed by any of them and by anyone for whose acts any of them may be liable.

Delete Subparagraphs 11.1.2 and 11.1.3 and substitute the following:

11.1.2 The insurance required by this Paragraph 11.1 shall be written for not less than the limits of liability specified in the Contract Documents or required by law, whichever is greater. Coverages, whether written on an occurrence or claims-made basis, shall be maintained without interruption from the date of commencement of the Work until the date of final payment and termination of any coverage required to be maintained after final payment.

11.1.3 Certificates of insurance, identifying the project and the Contractor, completed by a duly authorized representative of the Contractor's insurer(s) certifying that at least the minimum coverages required under Paragraph 11.1 are in effect, and acceptable to the Owner, shall be filed with the Owner prior to commencement of the Work. These certificates and the insurance policies required by this Paragraph 11.1 shall contain a provision that coverages afforded under the policies will not be cancelled or allowed to expire until at least 30 days' prior notice has been given to the Owner. If any of the foregoing insurance coverages are required to remain in force after final payment and are reasonably available, an additional certificate of insurance evidencing continuation of such coverage shall be submitted with the final Application for Payment as required by Subparagraph 9.10.2. Information concerning reduction of coverage on account of revised limits or claims paid under the General Aggregate, or both, shall be furnished by the

Contractor with reasonable promptness in accordance with the Contractor's best knowledge, information and belief.

11.1.3.1 The certificates of insurance shall specify that the liability coverages are written on an occurrence form and that the coverages shall not be canceled, non-renewed, or materially changed by endorsement or through issuance of other policy(s) of insurance without 60 days advance written notice to:

Fresenius Medical Care – North America
95 Hayden Avenue
Two Ledgesmont Center
Lexington, MA 02420
Attn: FDMS {Name of Project}

11.1.3.2 Failure of the Owner to demand such certificates of insurance or other evidence of full compliance with the insurance requirements, or failure of the Owner to identify a deficiency from evidence provided, shall not be construed as a waiver of the Contractor's obligation to maintain such insurance.

11.1.3.3 The acceptance by the Owner of delivery of a certificate of insurance evidencing the required coverages and limits does not constitute approval or agreement by the Owner that the insurance requirements have been met or that the insurance policies shown in the certificate of insurance are in compliance with the requirements.

11.1.3.4 The Owner has the right, but not the obligation, of prohibiting the Contractor or any Subcontractor of any tier from entering the Project site until such certificates or other evidence that insurance has been placed in complete compliance with these requirements is received and approved by the Owner.

11.1.4 All coverages required of the Contractor will be primary over any insurance or self-insurance program carried by the Owner.

11.1.5 By requiring insurance, the Owner does not represent that the specified coverage and limits will necessarily be adequate to protect the Contractor. Insurance effected or procured by the Contractor will not reduce or limit the Contractor's contractual obligation to indemnify and defend the Owner for claims or suits which result from or are connected with the performance of the Contract.

11.1.6 To the extent commercially available at no additional cost, the policy or policies providing insurance as required, with the exception of professional liability (if applicable) and workers' compensation, will defend and include the Owner, the Architect, directors, landlords, officers, representatives, agents, and employees of both of them as additional insureds on a primary basis for Work

performed under or incidental to the Contract. If the additional insured has other insurance applicable to the loss or claim, it will not be reduced by the existence of such other insurance.

11.1.7 All required coverage will be maintained without interruption for the entire term of the Contract plus an additional three (3) years for products and completed operations coverage following the final acceptance of the Work by the Owner.

11.1.8 The Contractor's general liability insurance policy must be endorsed to reflect the fact that the Owner and tenants, if any, may continue to operate business activities at the premises during activities of the Contractor and that no property used in connection with the Owner's and/or tenant's activities will be considered by the Contractor's insurance company as being in the care, custody, or control of the Contractor.

11.1.9 If any insurance required hereunder is to be issued or renewed on a claims-made basis form as opposed to an occurrence form, the retroactive date for coverage will be no later than the commencement date of the Work and will state that in the event of cancellation or non-renewal, the discovery period for insurance claims (tail coverage) will be at least 36 months.

11.1.10 The Contractor will cause each Subcontractor to purchase and maintain insurance of the types specified in Paragraph 11.1. When requested by the Owner, the Contractor will furnish copies of certificates of insurance evidencing coverage for each Subcontractor.

11.1.11 The Contractor shall require all insurance policies in any way related to the Work, and secured and maintained by the Contractor, to include clauses stating that each underwriter will waive all rights of recovery under subrogation or otherwise, against Owner, Architect, Contractor, and all tiers of Subcontractors or consultants engaged by them. The Contractor will require of Subcontractors, by appropriate written agreements, similar waivers each in favor of all parties enumerated in this Paragraph 11.1.

11.1.12 The Contractor and the Owner agree to fully cooperate, participate, and comply with all reasonable requirements and recommendations of the insurers and insurance brokers issuing or arranging for issuance of the policies required in this Paragraph 11.1, in all areas of safety, insurance program administration, claims reporting and investigation and audit procedures.

11.1.13 Insurance Limits and Coverage:

11.1.13.1 To the extent applicable, the amounts and types of insurance will conform to the minimum terms, conditions, and coverages of Insurance Services Offices (ISO) policies, forms, and endorsements.

11.1.13.2 If the Contractor has any self-insured retentions or deductibles under any of the following minimum required coverages, the Contractor must identify on the certificate of insurance the nature and amount of such self-insured retentions or deductibles and provide

satisfactory evidence of financial responsibility for such obligations. All self-insured retentions or deductibles will be the Contractor's sole responsibility.

11.1.13.3 The Contractor will maintain commercial general liability insurance covering all operations by or on behalf of the Contractor on an occurrence basis against claims for personal injury (including bodily injury and death) and property damage (including loss of use). Such insurance will have the following minimum limits and coverage:

- Minimum Limits: \$1,000,000 Each occurrence
\$2,000,000 General aggregate with dedicated limits per Project
\$2,000,000 Products and Completed Operations aggregate.
- Coverage:
1. Products and Completed Operations coverage maintained for at least 3 years following final acceptance of the Project by the Owner.
 2. Blanket contractual liability
 3. Broad form property damage
 4. Severability of interest
 5. Underground explosion and collapse
 6. Personal injury
 7. Incidental medical malpractice
 8. Specific waivers of subrogation
 9. Joint venture as named insured
 10. Additional insured endorsement.

11.1.13.4 The Contractor will maintain automobile liability insurance covering liability arising out of any automobile (including owned, hired, and non-owned automobiles).

- Minimum limits: \$1,000,000 Combined single limit each accident
- Coverages:
1. Additional insured endorsement
 2. Specific waiver of subrogation
 3. Contractual liability
 4. Pollution liability, which includes vehicle overturn and collision.

11.1.13.5 The Contractor will maintain workers' compensation and employer's liability insurance.

- Minimum limits: Workers' compensation - statutory limits Employer's liability
\$1,000,000 bodily injury for each accident.
\$1,000,000 bodily injury by disease for each employee
\$1,000,000 bodily injury aggregate.
- Coverage: Specific waiver of subrogation.

Add the following Clauses 11.4.1.6 through 11.4.1.8 to Subparagraph 11.4.1:

11.4.1.6 The Owner will not purchase property insurance coverage to insure the Contractor's or

the Subcontractor's tools and equipment, nor will the Owner be liable for any loss of or damage to any of the Contractor's or Subcontractor's tools and equipment used in conjunction with the Work.

11.4.1.7 The Contractor and Subcontractors shall purchase and maintain during the life of the Contract and at all times while Contractor's and/or Subcontractor's tools and equipment are used in conjunction with the Work, whether on or away from the Project site, all risk property insurance covering tools and equipment and insuring the full replacement value of the Contractor's and Subcontractors' tools and equipment.

11.4.1.8 Owner and Contractor will provide each other with certificates of property insurance evidencing the property insurance required under this Subparagraph 11.4. Subcontractors will provide the Owner with certificates of property insurance for their property insurance covering tools and equipment used in conjunction with the Work.

Add the following at the end of Subparagraph 11.5.1:

If requested to do so by the Owner, the Contractor will be required to furnish surety bonds guaranteeing the faithful performance of the Work and the payment of all obligations arising thereunder, each in the penal sum of one hundred percent (100%) of the Contract Sum. The premiums for such bonds shall be paid by the Owner. Each bond shall be signed by the Contractor as principal and by an established bonding company approved by the Owner as surety, and shall be accompanied by appropriate power-of-attorney clearly establishing the extent and limitations of the authority of each signer to so sign, where the Work is performed and to whom any requisite notices may be delivered, and on whom service of process may be had in matters arising out of requirements of the laws of the State where Work is to be executed.

ARTICLE 12 UNCOVERING AND CORRECTION OF WORK

Delete the last sentence of Clause 12.2.1.1 and substitute the following:

Cost of correcting such rejected Work, including additional testing and inspections and compensation for the Architect's services and expenses made necessary thereby and the cost, loss or damages to the Owner, if any, resulting from such failure or defect, shall be at the Contractor's expense.

Add the following Clause 12.2.2.4 to Subparagraph 12.2.2:

12.2.2.4 Upon request by the Owner, and prior to the expiration of one year from the date of Substantial Completion, the Architect will conduct and the Contractor shall attend a meeting with the Owner to review the facility operations and performance.

Add the following Paragraph 12.4 to Article 12:

12.4 MAINTENANCE SERVICE

12.4.1 For a period of one year after Substantial Completion of the entire Project, the Contractor

shall provide service for all Work installed under the Contract, when such service is requested by the Owner. Service shall include repair, adjustment or replacement of such Work.

12.4.2 If such service is required because of defective materials or workmanship, or because of failure to comply with the Contract Documents as provided in Paragraph 12.2.2, service shall be provided without cost to the Owner. Otherwise, the Owner shall reimburse the Contractor for such service on the same terms provided in Article 7 of the General Conditions for changes in the Work. No charge shall be made by the Contractor for attending meetings at the site to diagnose problems or to instruct the Owner's personnel in the proper operation or maintenance of mechanical systems or other movable Work during the one-year service period. Work requiring excessive servicing shall be deemed defective.

12.4.3 The Contractor shall provide the service described in this Paragraph promptly upon notice from the Owner. In case of emergency, service shall be provided on a 24 hour, seven-days-a-week basis if necessary to avoid loss or damage or to maintain normal use of the premises.

ARTICLE 13 MISCELLANEOUS PROVISIONS

Add the following Subparagraph 13.2.3 to Paragraph 13.2:

13.2.3 If the Owner conveys its interest in the Project to a third party, rights which the Owner may have, if any, against the Contractor arising from the Agreement including, without limitation, Claims under Article 12 or Claims which, under the terms of Subparagraph 9.10.4, are reserved to the Owner after the making and acceptance of final payment, shall automatically transfer to such third party.

Delete Subparagraph 13.5.4 and substitute the following:

13.5.4 The Contractor shall obtain and deliver promptly to the Architect the occupancy permit and certificates of final inspection, if any, of any part of the Work and operating permits for mechanical apparatus, such as elevator, escalators, boilers, air compressors, emergency electrical power generators, and the like, if any, 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 Architect shall be a condition precedent to Substantial Completion of the Work.

Delete Paragraph 13.7.

Add the following Paragraph 13.8 to Article 13:

13.8 LIMITATION OF LIABILITY

13.8.1 The Owner shall be liable only to the extent of its interest in the Project, and no officer, director, partner, agent or employee of the Owner (or any partner of a partner or any agent or employee of a partner) shall ever be personally or individually liable with respect to this Contract or the Work. Each subcontract shall include the foregoing limitation, which shall be effective if

the Owner ever succeeds to the Contractor's rights and obligations under a Subcontract.

ARTICLE 14 TERMINATION OR SUSPENSION OF THE CONTRACT

Delete Clause 14.1.1.4.

Delete Subparagraph 14.3.2.

END OF SECTION