FACILITIES & OPERATIONS
ARCHITECTURE, ENGINEERING AND CONSTRUCTION
UNIVERSITY OF MICHIGAN

STANDARD GENERAL CONDITIONS

APPLICABLE TO PROJECTS WHERE THE OWNER HAS RETAINED THE SERVICES OF A

CONTRACTOR

Form Date: November 1, 2016; Rev. 6/18, 8/21

CONTRACTOR - TABLE OF CONTENTS

Article 1 GENERAL PROVISIONS 1
1.1 BASIC DEFINITIONS 1
1.2 INTERPRETATION AND PRIORITY OF DOCUMENTS 5
1.3 FURNISHING OF DRAWINGS, SPECIFICATIONS AND FORMS 7
1.4 OWNERSHIP OF DRAWINGS, SPECIFICATIONS AND OTHER DOCUMENTS 7
1.5 PROJECT SITE 7
1.6 PARKING 8
Article 2 OWNER'S RIGHTS, DUTIES AND RESPONSIBILITIES 8
2.1 OWNER'S REPRESENTATIVE 8
2.2 LIMITATIONS ON OWNER'S RESPONSIBILITY 8
2.3 OWNER'S RIGHT TO STOP THE WORK 9
2.4 OWNER'S RIGHT TO CARRY OUT THE WORK 9
2.5 OWNER PROVIDED DATA 9
2.6 CONFIDENTIALITY 9
Article 3 CONTRACTOR'S ROLE 10
3.1 GENERAL RESPONSIBILITY 10
3.2 CONTRACT DOCUMENTS; PHYSICAL CONDITION; CONCEALED CONDITIONS 11
3.3 THE CONSTRUCTION SCHEDULE 12
3.4 SUPERVISION AND CONSTRUCTION PROCEDURES 14
3.5 QUALITY CONTROL 15
3.6 TESTING AND INSPECTION OF THE WORK 17
3.7 CONTROL OF PROJECT SITE; SURVEYS 18
3.8 UTILITIES 19
3.9 TEMPORARY LIGHTING AND POWER 19
3.10 SUBMITTALS 19
3.11 SUBSTITUTIONS 21
3.12 SOIL EROSION AND SEDIMENTATION CONTROL (SESC) 21
3.13 TAXES 21
3.14 ROYALTIES AND LICENSE FEES 21
3.15 PERMITS, FEES AND NOTICES 22
3.16 USE OF SITE 22
3.17 CUTTING AND PATCHING 25
3.18 REMOVAL OF EXISTING WORK AND CLEANING UP 25
3.19 CONTRACTOR MARK-UP SET (commonly called "As-Builts") 26
3.20 CONTRACTOR'S WARRANTY 26
3.21 MANUFACTURERS' WARRANTIES AND MANUALS 27
Article 4 DESIGN PROFESSIONAL'S ROLE 27
4.1 ADMINISTRATION OF THE CONTRACT 27
Article 5 SUBCONTRACTORS; SUPPLY CONTRACTS 28
5.1 AWARD OF SUBCONTRACTS 28

5.2 RELATIONS WITH SUBCONTRACTORS 28
5.3 [INTENTIONALLY OMITTED] 29
5.4 CONSTRUCTION TEAM PERFORMANCE 29
5.5 CONTINGENT ASSIGNMENT OF CONTRACTS 29

Article 6 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS 30
6.1 OWNER'S RIGHT TO PERFORM CONSTRUCTION AND TO AWARD SEPARATE CONTRACTS 30
6.2 MUTUAL RESPONSIBILITY 30
6.3 THE OWNER'S RIGHT TO CLEAN UP 31

Article 7 CHANGES IN THE WORK 31
7.1 GENERAL 31
7.2 AUTHORIZATION REQUIREMENTS 31
7.3 NOTICES TO SURETIES 32
7.4 CONSTRUCTION CHANGE DIRECTIVES (CCDs) 32
7.5 BULLETINS 32
7.6 CHANGE ORDER PRICING AND COST PROPOSAL PROCEDURES 32
7.7 CHANGE ORDERS 36

Article 8 CONSTRUCTION PROGRESS; DELAYS AND SUSPENSION 37
8.1 CONSTRUCTION PROGRESS 37
8.2 PARTIAL OCCUPANCY 37
8.3 SUBSTANTIAL COMPLETION 38
8.4 PUNCHLIST 38
8.5 FINAL COMPLETION 39
8.6 DELAYS 39
8.7 SUSPENSION BY OWNER 42

Article 9 PAYMENTS 43
9.1 ALLOWANCES 43
9.2 UNIT PRICES 43
9.3 SCHEDULE OF VALUES 43
9.4 PROGRESS PAYMENTS 44
9.5 APPLICATIONS FOR PAYMENT 44
9.6 MATERIALS PAYMENTS; OFF-SITE STORAGE 45
9.7 TRANSFER OF TITLE 46
9.8 OWNER'S RIGHT TO WITHHOLD PAYMENT 46
9.9 FINAL PAYMENT 46

Article 10 PROTECTION OF PERSONS AND PROPERTY 47
10.1 SAFETY 47
10.2 EMERGENCIES 48
10.3 PROTECTION OF THE WORK 48
10.4 LIMITATION OF IMPACT TO OWNER 48
10.5 EXPLOSIVES & OTHER HAZARDOUS ACTIVITIES 48

10.6 INCIDENT REPORTING 49
10.7 HAZARDOUS MATERIALS 49
10.8 MICHIGAN RIGHT TO KNOW 50
10.9 SECURITY 51
10.10 FIRE PRECAUTIONS 51
10.11 FIRE PROTECTION 52
Article 11 INSURANCE AND INDEMNIFICATION; BONDS 53
11.1 GENERAL PROVISIONS 53
11.2 CERTIFICATES OF INSURANCE 54
11.3 INSURANCE POLICY REQUIREMENTS 54
11.4 MINIMUM INSURANCE REQUIREMENTS FOR THE CONTRACTOR 55
11.5 OWNER'S FIRE AND EXTENDED COVERAGE INSURANCE 56
11.6 WAIVER OF RIGHTS OF RECOVERY 57
11.7 INDEMNIFICATION 57
11.8 PERFORMANCE AND PAYMENT BONDS 58
Article 12 UNCOVERING AND CORRECTION OF WORK 59
12.1 UNCOVERING OF WORK 59
12.2 CORRECTION OF WORK 59
12.3 REMOVAL OF DEFECTIVE WORK 60
12.4 OWNER'S RIGHT TO CORRECT OR REMOVE 60
12.5 PERIODS OF LIMITATION 61
12.6 ACCEPTANCE OF NON-CONFORMING WORK 61
Article 13 STATUTORY REQUIREMENTS 61
13.1 NON-DISCRIMINATION PROVISION 61
13.2 [SECTION DELETED – MICHIGAN PREVAILING WAGE ACT REPEALED] 61
13.3 COMPLIANCE WITH "KICK-BACK" AND WAGE REGULATIONS STATUTES 61
13.4 MEDICARE AND MEDICAID PROVISIONS 61
Article 14 TERMINATION OF THE CONTRACT 62
14.1 TERMINATION BY OWNER FOR CAUSE 62
14.2 TERMINATION BY OWNER FOR CONVENIENCE 63
14.3 TERMINATION BY THE CONTRACTOR 64
Article 15 CLAIMS 64
15.1 CLAIMS 64
15.2 TIME LIMITS ON CLAIMS 65
15.3 CONTINUING CONTRACT PERFORMANCE 65
15.4 CLAIMS FOR ADDITIONAL COST 65
15.5 ASSERTION OF CLAIMS BY CONTRACTOR 65
15.6 [INTENTIONALLY OMMITTED] 65
15.7 WAIVER 65
15.8 [INTENTIONALLY OMITTED] 66

15.9 [INTENTIONALLY OMITTED] ... 66

Article 16 MISCELLANEOUS PROVISIONS ... 66

16.1 CHOICE OF LAW ... 66
16.2 BINDING EFFECT ... 66
16.3 ASSIGNMENT ... 66
16.4 REMEDIES NOT EXCLUSIVE ... 66
16.5 [INTENTIONALLY OMITTED] ... 66
16.6 OWNER'S RIGHT TO AUDIT ... 66
16.7 SUBMISSION TO PROCEEDINGS ... 67
16.8 NO PERSONAL LIABILITY ... 67
16.9 INTEGRATION ... 67
16.10 THIRD-PARTY BENEFICIARIES ... 68
16.11 NO WAIVER ... 68
16.12 CONSTRUCTION ... 68
16.13 HEADINGS ... 68
16.14 PATENTS AND COPYRIGHTS ... 68
16.15 SURVIVAL ... 68
16.16 NOT EXCLUDED ... 69
16.17 LIMITATION ON CONTRACTOR PERSONNEL ... 69
16.18 BUY DOMESTIC/BUY MICHIGAN PROVISION ... 69

Items that have been [intentionally omitted] from this document are items that are included in the Construction Manager version of the Standard General Conditions but do not apply to a Contractor.

ADOBE ACROBAT READER & MS WORD / WINDOWS USERS: After using a link within this document to jump to a cross-reference, you may return to your point of origin by pressing "ALT" + "Left Arrow" on your keyboard.

STANDARD GENERAL CONDITIONS
APPLICABLE TO PROJECTS WHERE THE OWNER HAS RETAINED THE SERVICES OF A
CONTRACTOR

Article 1 GENERAL PROVISIONS

1.1 BASIC DEFINITIONS

When used in the Contract Documents, the following terms will carry the meanings herein ascribed to them, unless the context clearly requires to the contrary:

1.1.1 "**Activity**", as used in connection with the CPM Schedule, means a discrete portion of the Work for a Project that can be identified for planning, scheduling, monitoring and controlling the Project.

1.1.2 "**Addenda**" are written or graphic instruments issued by the Owner or the Design Professional prior to the execution of the Agreement which modify or interpret the Drawings and Specifications, by addition, deletion, clarification, or correction.

1.1.3 The "**Agreement**" is that portion of the Contract Documents consisting of the written *Agreement between the Contractor and the Owner for Construction*, as amended by Modifications, identifying the Scope of the Work, Contract Time, Contract Sum, the method of progress payments and final payment, and a listing of the Contract Documents by which the Work is to be completed.

1.1.4 "**Applicable Laws**" means all applicable codes, statutes, ordinances, laws (including the Americans with Disabilities Act ["**ADA**"]), rules and regulations, and lawful orders of all public authorities having jurisdiction over the Owner, any member of the Construction Team, the Project, the Work Site, the Work or the prosecution of the Work.

1.1.5 The "**As-constructed Record Drawings**" are the record of the Project, prepared by the Design Professional based on information provided by the Contractor, including but not limited to the Final Contractor Mark-up Set referenced in §3.19.3.

1.1.6 A "**Bulletin**" is a written or graphic instrument issued by the Owner or the Design Professional after the execution of the Agreement which (i) describes a proposed change in the Work and (ii) requests a proposal from the Contractor that, if accepted by the Owner, will cause the execution of a Change Order.

1.1.7 A "**Certificate of Substantial Completion**" is a document in form and substance reasonably acceptable to the Owner that has been executed by the Design Professional, the Contractor and the Owner to indicate that Substantial Completion of the Work has been accomplished.

1.1.8 A "**Change Order**" is a written instrument in a form provided by the Owner, and signed by the Owner, the Design Professional, and the Contractor, stating their agreement upon a change in one or more of the following:

(a) the Work;

(b) the Contract Time;

(c) the Contract Sum; and/or

(d) other Contract terms or conditions.

If any one or more of the foregoing is not specifically addressed in a Change Order, the parties will be deemed to have agreed that it is unaffected by the Change Order. For example, if a Change Order modifies the Work and the Contract Time but is silent as to the Contract Sum, the parties will be deemed to have agreed that the Contract Sum is not affected by the Change Order.

1.1.9 A "**Construction Change Directive**" "**(CCD)"** is a written order signed by the Owner directing a change in the Work and which may (but need not) state a proposed basis for adjustment in the Contract Sum and/or the Contract Time in accordance with §7.4.

1.1.10 [intentionally omitted]

1.1.11 The "**Construction Schedule**" is the Critical Path Method ("CPM") schedule for construction of the Work, prepared by the Contractor and accepted by the Owner in accordance with §3.3. As provided below, the Construction Schedule can be modified only by Change Order; following any Modification, the term "Construction Schedule" will mean the most recent Owner accepted version.

1.1.12 The "**Construction Team**" includes the Contractor, Subcontractors and Suppliers and (i) all other persons in privity of contract with any of them in connection with the Work (except the Owner), (ii) anyone else providing labor, materials, supplies, equipment or services as part of or in connection with the Work (except those, if any, hired directly by the Owner), and (iii) all of their officers, employees, agents, and independent contractors.

1.1.13 The Contract Documents form the "**Contract"** between the Owner and the Contractor. The Contract may be modified only by a written Modification.

1.1.14 The **"Contractor"** is the party named in the Agreement who will execute the Work and who is, except as expressly provided in the Contract Documents, in every way responsible to the Owner for the timely and proper performance of the Work.

1.1.15 The "**Contract Documents**" consist of: the Agreement, the Drawings, Specifications, and Addenda, the Construction Schedule, Change Orders and Construction Change Directives, other documents so designated in the Agreement, these Standard General Conditions and any Supplemental or Special Conditions applicable to the Work, all Modifications issued after the date of the Agreement, and any documents incorporated by reference into any of the foregoing. The Contract Documents do not include any other documents, unless designated or incorporated by reference as provided above, such as (i) bidding requirements, advertisements or invitations to bid, proposals, Bulletins, instructions to bidders, a Notice to Proceed, sample forms, soils, geotechnical, or other reports, surveys, or analyses, which may be printed, bound, or assembled with the Contract Documents, or otherwise made available for review or information, (ii) bids, or (iii) portions of the Addenda relating to bidding requirements.

1.1.16 The **"Contract Sum"** is the maximum amount to be paid by the Owner to the Contractor for performance of the Work pursuant to the Contract Documents. Such amount may be modified from time to time with a Change Order pursuant to the terms and provisions of the Contract Documents.

1.1.17 The "**Contract Time**" is the number of calendar days between the date of the Notice to Proceed and the Substantial Completion date set forth in Article 2 of the Agreement, subject to any extensions granted in executed Change Orders or otherwise specifically permitted by the Contract Documents.

1.1.18 The "**Contractor Mark-up Set**" (commonly called "**As-Builts**") is one current, regularly updated record copy of the Design, beginning with the Record Bid Set, that the Contractor will maintain in good order at the Work Site in accordance with §3.19 and which it will make available to the Owner and the Design Professional

1.1.19 The term "**Critical Path**" means the longest continuous chain of activities through the network schedule that establishes the minimum time to achieve Final Completion of the Work.

1.1.20 The term "**day**" as used in the Contract Documents will mean a calendar day unless otherwise specifically defined.

1.1.21 The "**Design**" consists of the Drawings, Specifications, Addenda and Modifications for the Work prepared by the Design Professional.

1.1.22 The "**Design Professional**" is the organization hired by the Owner which either employs architects, engineers, planners, designers, etc., or hires them as Sub-consultant(s) and which engages in performing the duties and responsibilities to design the Project. If the employment of the Design Professional is terminated, the Owner will appoint a successor Design Professional against whom the Contractor makes no reasonable objection and whose status under the Contract Documents will be that of the former Design Professional.

1.1.23 The "**Drawings**" are the graphic and pictorial portions of the Contract Documents, wherever located and whenever issued, showing the design, location and dimensions of the Work, generally including plans, elevations, sections, details, schedules and diagrams.

1.1.24 "**Extraordinary Measures**" are corrective measures necessary to expedite the progress of construction, including:

(a) Increase construction manpower, equipment, and facilities;

(b) Increase the number of working hours per shift, shifts per working day, working days per week or any combination of these;

(c) Expedite the delivery of materials;

(d) Reschedule Activities to achieve maximum practical concurrence of scheduled activities. (The Contractor will not, however, without the Owner's prior consensus and approval, reschedule or re-sequence the Work so that an action, approval, or Activity of the Owner moves onto the Critical Path or otherwise becomes critical to the Contract Time if the action, approval, or Activity would not in fact have been critical but for the rescheduling or re-sequencing.)

1.1.25 "**Final Completion**" is the time when Final Payment is due pursuant to §9.9.

1.1.26 "**Final Payment**" is the last payment due to the Contractor under §9.9.

1.1.27 The term "**Float**" means the amount of time an Activity can be delayed without adversely affecting the early start of the Activity that follows it.

1.1.28 The "**Indemnitees**" are the Owner, including its Regents, officers, agents and employees.

1.1.29 "**Interest**" means interest calculated at two (2) percentage points above the "Consensus Prime Rate" published in The Wall Street Journal, as adjusted from time to time.

1.1.30 The "**Milestone Dates**" are those dates included in the Construction Schedule that are critical to ensuring the timely and orderly completion of the Work in accordance with the requirements of the Contract Documents.

1.1.31 A "**Modification**" is (i) a written amendment to one or more of the Contract Documents signed by both parties, (ii) a Change Order, or (iii) a Construction Change Directive. Modifications do not include minor changes in the Work or Design Professional interpretations.

1.1.32 The "**Notice to Proceed"** is any written notice given by the Owner to the Contractor fixing the date on which the Contract Time will commence and on which the Contractor will start to perform its obligations under the Contract Documents.

1.1.33 The "**Owner**" is the Regents of the University of Michigan, a Michigan constitutional corporation.

1.1.34 "**Permitted Materials**" are general supplies and equipment that have a hazardous or potentially hazardous nature and are or will be used for their intended purpose and which do not pose any significant threat of contamination to the Project Site or neighboring properties.

1.1.35 "**Product Data**" are illustrations, standard schedules, performance charts, instructions, brochures, diagrams and other information furnished by the Contractor or one of the Construction Team to illustrate materials or equipment for some portion of the Work.

1.1.36 The "**Project**" is described in the Project Manual. The Work may be the whole or a part of the Project, and the Project may include construction by the Owner or contractors not hired by the Contractor.

1.1.37 The "**AEC Project Manual**" is that volume, if any, assembled for the Work which may include the bidding requirements, specifications, sample forms, and portions of the Contract Documents. The Project Manual is not one of the Contract Documents.

1.1.38 The "**Project Site**" is the place where the Work is being carried on as indicated in the Contract Documents.

1.1.39 "**Punchlist**" means a list of uncompleted or unacceptable items of Work which do not interfere with the use or occupancy of any part of the Work for its intended purpose and which, unless delayed by a need to order materials that should not reasonably have been anticipated by the Contractor, collectively are capable of being completed within thirty (30) days, or other period as permitted by the Owner.

1.1.40 The "**Record Bid Set**" refers to the Design in effect and upon which the Contractor has based his bid or proposal at the time the contract is awarded. It includes the Project Manual, Addenda and other instruments mutually accepted in writing by both authorized parties at the time of award.

1.1.41 The "**Record Documents**" will include: a record copy of all logs, reports, Contract Documents, and As-constructed Record Drawings, in good order and marked to record all changes made during construction; all approved Shop Drawings, Product Data, Samples, and other Submittals; applicable handbooks; maintenance and operating manuals and instructions; and other related documents and revisions which arise out of the Contract Documents or the Work. As part of the Record Documents, the Contractor will maintain records of principal building layout lines, elevations of the bottoms of footings, project floor levels and key site elevations certified by a qualified surveyor.

1.1.42 willwill"**Samples**" are physical examples which illustrate materials, equipment or Workmanship and establish standards by which the Work will be judged.

1.1.43 The "**Schedule of Values**" is a document allocating the cost of the Work, or a portion of the Work, over its component parts.

1.1.44 The "**Services**" are all construction management services necessary or appropriate to the timely completion of the Work in accordance with the Contract Documents, including both the specific services described in the Contract Documents and those which are reasonably inferable from the terms, provisions and conditions of the Contract Documents.

1.1.45 "**Shop Drawings**" are drawings, diagrams, schedules and other data specially prepared for the Work by a member of the Construction Team to illustrate some portion of the Work.

1.1.46 The "**Specifications**" are that portion of the Contract Documents consisting of the written requirements for materials, equipment, structures, systems, standards and Workmanship for the Work, and performance of related services. The Specifications may include performance-based requirements.

1.1.47 A "**Subcontract**" is an agreement between the Contractor and a Subcontractor. Where it would be reasonable in the context of its usage, the term "Subcontract" will include subcontracts of all tiers.

1.1.48 A "**Subcontractor**" is a person who is hired by the Contractor, not the Owner, to perform a portion of the Work at the Project Site, under a Subcontract. Where it would be reasonable in the context of its usage, the term "Subcontractor" will include subcontractors of all tiers.

1.1.49 "**Substantial Completion**" is that stage in the progress of the Work when the Work or designated portion of the Work is sufficiently complete and functional, with all systems and components approved and operational, in accordance with the requirements of the Contract Documents so the Owner can legally use and occupy it for its intended purposes without material interference from unfinished or improperly finished items of Work and subject only to Punchlist items which do not preclude occupancy in accordance with §8.3.

1.1.50 "**Supplemental General Conditions**" and "**Special Conditions**", if included by the Owner in the Contract Documents, are revisions, modifications, amendments, deletions or substitutions to, and that take precedence over, the Standard General Conditions.

1.1.51 A "**Supplier**" is a person who is hired under a Supply Contract solely to provide materials, equipment or supplies in connection with the Work and who does not provide labor at the Project Site.

1.1.52 A "**Supply Contract**" is an agreement between the Contractor, or a Subcontractor, and a Supplier.

1.1.53 [intentionally omitted]

1.1.54 [intentionally omitted]

1.1.55 [intentionally omitted]

1.1.56 The "**Work**" consists of all goods and services, such as labor, transportation, materials, tools, and equipment (i) to be incorporated into the Project (or the Contractor's portion of the Project if the Contractor is not responsible for the entire Project), (ii) required of the Contractor under the Contract Documents, and (iii) necessary or appropriate to fully construct, fixture, operate and maintain the Project (or the Contractor's portion of the Project if the Contractor is not responsible for the entire Project). The Work will be performed strictly in accordance with the Contract Documents. The Work may constitute the whole or a part of the Project.

1.2 INTERPRETATION AND PRIORITY OF DOCUMENTS

1.2.1 The intent of the Contract Documents is to include everything necessary for the proper execution and completion of the Work. The Contract Documents are complementary, and what is required by one will be as binding as if required by all. Work called for on the Drawings and not mentioned in the Specifications, or vice versa, will be performed as though fully set forth in both. Nothing in this §1.2.1, however, will relieve the Contractor of any of its obligations under the Contract Documents. Other conflicts between or among the Contract Documents will be resolved under the following rules of construction:

(a) The Contractor will always (i) provide the better quality or greater quantity of Work, or (ii) comply with the more stringent requirement, either or both in accordance with the Design Professional's interpretation.

(b) The specific will govern over the general.

(c) Specified dimensions shown on the Drawings will govern, even though they may differ from dimensions scaled on the Drawings, if any;

(d) Drawings of larger scale will govern over those of smaller scale; any special Drawing details will govern over standard detail;

(e) Specifications will govern over Drawings in matters of material or equipment specified; Drawings will govern over Specifications in matters of construction or installation detail;

(f) Documents of later date will always govern.

1.2.2 Work not particularly detailed, marked or specified will be the same as similar parts that are detailed, marked or specified. On certain Contract Documents, only a portion of the detail may be fully

shown and the remainder indicated in outline, in which case the general detail will be understood as applying also to other like portions of the Work. For example, if case carving, ornament, facing, veneer or similar treatment is indicated by starting of the detail, such detail must be continued throughout the course of parts in which it occurs, and to all similar parts in the Work wherever general detail will apply unless otherwise specifically provided in the Contract Documents.

1.2.3 The organization of the Specifications into divisions, sections, and/or articles, and the arrangement of the Drawings, will not dictate to the Contractor in any way how the Work is to be divided among Subcontractors, or establish the extent of Work to be performed by any trade.

1.2.4 Unless otherwise stated in the Contract Documents, words which have well-known technical or construction industry meanings are used in the Contract Documents in accordance with recognized meanings.

1.2.4.1 The words "consent," "approved," "satisfactory," "proper," "as directed," any derivatives of them, or similar terms, mean written approval by, or direction from, the Owner, and may include approval of the Design Professional if the Owner so directs. Except where a different standard is specifically established, the Owner has the right to grant or withhold approval in its sole discretion.

1.2.4.2 The word "provide" and any derivatives thereof, and similar terms, mean to properly fabricate, complete, transport, deliver, install, erect, construct, test and furnish all labor, materials, equipment, apparatus, appurtenances, and all items and expenses necessary to properly complete in place, ready for operation or use under the terms of the Contract Documents.

1.2.4.3 The terms "known," "knowledge," "recognize," "believe," "discover" and any derivatives thereof and similar terms, when used in reference to the Contractor, will mean that which the Contractor knows or should reasonably know, recognizes or should reasonably recognize, and discovers or should reasonably discover in exercising the care, skill, and diligence required of a contractor familiar with the Work. Analogously, the expression “reasonably inferable” and similar terms mean reasonably inferable by a contractor familiar with work having the same size and scope of the Work and exercising the care, skill, and diligence required of a contractor familiar with the Work.

1.2.4.4 The word "including" will not be a word of limitation, but instead will be construed as introducing one or more nonexclusive examples.

1.2.4.5 Whenever the word “strictly” is used, it means “strictly, not substantially.” Likewise, use of the word “strict” means “strict, not substantial.”

1.2.4.6 When the phrases “at no cost to the Owner,” “without additional cost to the Owner,” “without increase in the cost to the Owner,” “without adjustment to the Contractor’s Compensation,” or phrases having like import are used, they will mean that the required task will be performed solely at the expense of the Contractor, without any additional cost to the Owner, whether by increase in the Contract Sum, claim or otherwise.

1.2.5 Other terms may be defined elsewhere in the Contract Documents. If the Contract Documents contain words or abbreviations that are not defined but have well-known technical, trade or construction industry meanings, those meanings will be ascribed to them. The singular will include the plural and vice versa. Pronouns are interchangeable. The word "person" includes human beings and recognized legal entities. When a defined document is later modified by the parties, any reference to that document will mean the document as modified. In the interest of brevity, terms and phrases frequently omit modifying words such as "all" and "any" and articles such as "the" and "an," but the fact that a modifier or an article is absent from one statement and appears in another is not intended to affect the interpretation of either statement. Use of the word “Section” (**“§”**) includes any subdivision of each Part of the Agreement or these Standard General Conditions. Unless the context clearly requires otherwise, reference to a Section (§) will include all subsections beneath it bearing identical introductory numbers.

1.2.6 The Contractor acknowledges that there may be items of the Work which the Contractor is responsible to provide under the Agreement which are not drawn or specified in the Design but which are necessary for the proper execution and completion of the Work and are consistent with and reasonably inferable from the Drawings and Specifications. All such items will be provided as part of the Work without delay in its progress and without any increase in the Contract Sum.

1.2.7 Whenever a provision of the Contract Documents conflicts with any agreement, regulation or applicable trade practice which regulates or distinguishes the portions of the Work which will or will not be performed by a particular trade, the Contractor will make necessary arrangements to reconcile the conflict without delay, damage, cost or recourse to the Owner. Delays in the Work resulting from the failure of the Contractor to use its best efforts to reconcile any conflicts will not result in an extension of the Contract Time or added cost to the Owner.

1.2.8 If provided, the Project Manual, while not one of the Contract Documents, has been furnished by the Owner to provide information about the Project to potential bidders. In the event of a conflict between the Project Manual and the Contract Documents, the Contract Documents will prevail.

1.3 FURNISHING OF DRAWINGS, SPECIFICATIONS AND FORMS

1.3.1 Unless otherwise provided in the Contract Documents, the Contractor will be given access to an electronic set of Drawings and specifications posted on the Owner's designated web service. Designated printer service companies will also be provided with an electronic set of Drawings and specifications.

1.3.2 The Contractor may order paper copies of these documents, as needed, at its expense. The Contractor is responsible to obtain and distribute Drawings and specifications as necessary for the performance of the Work.

1.3.3 Unless the Owner directs otherwise, forms that are designated as being "provided by Owner" within the Contract Documents will be downloaded for use by the Contractor from the Owner's website: *http://www.umaec.umich.edu/for-vendors/project-documents/bid-resources/*.

1.4 OWNERSHIP OF DRAWINGS, SPECIFICATIONS AND OTHER DOCUMENTS

The Drawings, Specifications, and other documents and all data used in compiling, and the results of, any tests, surveys or inspections at the Project Site, as well as all photographs, drawings, specifications, schedules, data processing output, computer-aided design/drafting (CADD) system disks/tapes, computations, studies, audits, reports, models and other items of like kind, and all intellectual property, prepared or created for or in connection with the Project and required to be left at the Project Site, regardless of whether they were prepared by the Owner, the Contractor, or a third party, belong to the Owner. The Contractor may retain one Contract record set. All copies of them, except Contractor's record set, will be returned or suitably accounted for upon completion of the Work. They are for use solely with respect to the Project. The Contractor will not, without the prior written consent of the Owner, use or permit anyone to use any Drawings, Specifications, or other documents prepared for or in connection with the Project, or any concepts or ideas developed in connection with the Project, for any purpose other than the Project. The Owner will at all times have access to and control over the disposition of any Drawings, Specifications, and other documents pertaining to the Project.

1.5 PROJECT SITE

1.5.1 Unless otherwise indicated in the Contract Documents, and upon issuance of the Notice to Proceed, the Owner will provide access to the lands and facilities upon which the Work is to be performed, including access to other lands and facilities designated in the Contract Documents for use by Contractor.

1.5.2 The Contractor acknowledges that it, and not the Owner, is solely in control of the Project Site even if the Owner has one or more separate contractors on site in accordance with Article 6. The Owner, its consultants and other persons authorized by the Owner will at all times have access to the Work

wherever it is in preparation or progress, but will be subject to the requirements of the Safety Plan. The Contractor will provide safe and proper facilities for access and for inspection.

1.6 PARKING

Project parking locations on the Owner's property will be designated in Division 01 of the Specifications or, if no designation is given, availability may be determined through the Owner's Project representative. To determine fees and pay for paid parking on the Owner's property, the Contractor will contact the University of Michigan Parking and Transportation Office. For any other parking or routing of traffic on property other than the Owner's, the Contractor will contact the municipality or other agency having jurisdiction over the property for instructions.

Article 2 OWNER'S RIGHTS, DUTIES AND RESPONSIBILITIES

2.1 OWNER'S REPRESENTATIVE

2.1.1 At the time the Agreement is executed, the Owner will designate a representative to act on the Owner's behalf with respect to the Work. Upon notice, the Owner may, at any time and from time to time, in its sole and absolute discretion, change its representative.

2.1.2 The Owner may at any time and from time to time designate a third-party, such as an architect or engineer or other professional consultant, to perform any of its duties under the Agreement. In the event of any designation, the Owner will provide written notice to the Contractor.

2.1.3 The Contractor will be entitled to rely upon only those instructions and directions provided by the Owner's authorized representative.

2.2 LIMITATIONS ON OWNER'S RESPONSIBILITY

2.2.1 The Owner will not under any circumstances have control over or charge of and will not be responsible for construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, since these are solely the Contractor's responsibility. The Owner will not be responsible for the Contractor's failure to carry out the Work in accordance with the Contract Documents. The Owner will not have control over or charge of and will not be responsible for acts or omissions of any member of the Construction Team.

2.2.2 Copies of Submittals will be received by the Owner for record purposes only. The Owner may, from time to time review and approve or take other appropriate action upon the Contractor's submittals, such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with the Owner's objectives and goals. Any review of Submittals will not be conducted for the purpose of determining their accuracy and completeness of details, such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of the Contractor. The Owner's review and approval of or taking other appropriate action on the Contractor's submittals will not relieve the Contractor or the Design Professional of any of their obligations or permit deviations from the Contract Documents. The Owner's approval of a specific item will not indicate approval of an assembly of which the item is a component. The Owner's receipt of any informational Submittals, of any Submittals relating to equipment or systems designed by the Contractor, or of any Submittals relating to alternatives proposed by any member of the Construction Team will not constitute approval of or action by the Owner on Submittals.

2.2.3 The Owner may from time to time review or observe or take other appropriate action concerning the Work and any administrative management plans, documents, and the selection of Subcontractors and Suppliers. The Owner's doing so will be solely for the limited purpose of providing the Contractor with information as to how those items relate to the Owner's objectives and goals with respect to the Work and not for the purpose of determining their accuracy and completeness and will in no way

create any responsibility on the part of the Owner for or complicity by the Owner in errors, inconsistencies, or omissions, nor will any review, approval, other action or payment of the Contractor alter or in any way reduce the Contractor's obligations under the Agreement.

2.3 OWNER'S RIGHT TO STOP THE WORK

If the Contractor fails to correct Work which is not in accordance with the requirements of the Contract Documents as required by §12.2 or fails to carry out the Work in accordance with the Contract Documents, the Owner may, by written order, direct the Contractor to stop the Work, or any portion thereof, until the cause for the order has been eliminated; however, the right of the Owner to stop the Work will not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity.

2.4 OWNER'S RIGHT TO CARRY OUT THE WORK

If the Contractor fails to carry out the Work in accordance with the Contract Documents, fails to provide sufficient labor, materials, equipment, tools, and services necessary to maintain the Contract Schedule, or otherwise fails to comply with any material term of the Contract Documents, and, after receipt of written notice from the Owner, fails within forty-eight (48) hours, excluding Saturdays, Sundays and legal holidays, or within any other additional time as the Owner may specify, to correct the failure, the Owner may, without prejudice to any other remedy the Owner may have, correct the failure and recover from the Contractor all costs and expenses of every kind that the Owner incurs in doing so. In this case, the Owner will be entitled to deduct from payments then or thereafter due to the Contractor the cost of correcting the failure including, without limitation, compensation for all additional services and expenses of the Owner's Design Professional and other consultants made necessary thereby. If payments then or thereafter due to the Contractor are not sufficient to cover the amounts, the Contractor will pay the additional amount to the Owner.

2.5 OWNER PROVIDED DATA

2.5.1 If required for performance of the Work, as determined by the Owner's Representative, the Owner will make available selected existing soil borings taken from the Project Site, existing surveys describing certain physical characteristics of the Project Site, and, when appropriate to the Project scope, the approximate location of known utilities. The Contractor may, but only acting in accordance with a reasonable standard of care, rely upon the accuracy of these documents.

2.5.2 The Design Professional or the Owner will direct the Contractor to any known existing reference points that the Contractor may rely upon in order to establish required alignment and elevations. The Contractor will be responsible for protecting and preserving these reference points.

2.5.2.1 In accordance with §3.7.2, the Contractor will be responsible for and will pay for all surveys required to establish new or, if in doubt, verification of existing reference points and resolution of any discrepancies for required alignment and elevations.

2.5.3 If the Contractor requests additional information or services from the Owner, and it is deemed by the Owner to be necessary for the Contractor to perform its obligations, the Owner will furnish the required information and services and will render approvals and decisions with reasonable promptness as necessary for the orderly progress of the Work, but the Owner will always be given sufficient time to permit adequate review.

2.5.4 The Contractor will provide reasonable assistance and coordination for all Consultants, Testing Firms and Inspectors required by law or furnished by the Owner in connection with the performance of the Work.

2.6 CONFIDENTIALITY

2.6.1 Project Information and Records.

2.6.1.1 The Contractor will not knowingly or negligently communicate or disclose at any time to any person any information concerning the Work or the Project, except: (i) with prior written consent of the Owner, (ii) information which has become part of the public domain prior to the date of the Agreement, (iii) information which becomes part of the public domain by means other than an unauthorized act or omission of the Contractor, or (iv) as may be required to perform the Work or by any Applicable Law or to its professional advisors or lender (all of whom will be required to maintain the information in confidence).

2.6.1.2 The Contractor will promptly upon the request of the Owner return and surrender to the Owner the original or legible copies of any materials, records, notices, memoranda, recordings, Drawings, Specifications and mock-ups and any other documents furnished by the Owner to the Contractor.

2.6.2 Proprietary Information and Use of Owner's Identity.

2.6.2.1 The Contractor will maintain, and will cause all of its members of the Construction Team to maintain, during and after the term of the Agreement, the confidentiality of all trade secrets, know-how, confidential data or other proprietary information of the Owner when designated as such and will not use the information for any purpose whatsoever except for uses permitted by §2.6.3.

2.6.2.2 The Contractor will not identify, expressly or by implication, the Owner, or its corporate affiliates, or use any of their trademarks, trade names, service marks, other proprietary marks, or reference the Work performed under the Agreement, in any advertising, press releases, publicity matters, or other promotional materials without the Owner's prior written permission.

2.6.3 Use of Project Information.

The Contractor will not, without the express written consent of the Owner, discuss the Work or any part thereof with persons under circumstances in which the communications cannot reasonably be expected to be published in newspapers, magazines or trade journals or broadcast on radio or television. This restriction will not apply to statements consistent with a crisis management plan development and agreed to by both parties with respect to the Work. This restriction also will not apply to any fair response by the Contractor to publicity released by the Owner that is detrimental to the reputation of the Contractor. Any such contact will be referred to the Owner for response. Further, without the Owner's consent, the Contractor will not participate in professional or trade seminars or publish or submit articles for publication, the subject of which is, in whole or in part, the Work. Any proposed article or publication will be submitted to the Owner for review and approval, which will not be unreasonably withheld.

2.6.4 Site Visitors.

The Contractor will not, without the express written consent of the Owner, allow access to, or conduct tours of the Project to individuals that do not have direct roles in contributing to the completion of the Work.

2.6.5 Subcontractor Compliance.

The Contractor will cause all members of the Construction Team to specifically acknowledge that the provisions of this §2.6 are binding upon them.

Article 3 CONTRACTOR'S ROLE

3.1 GENERAL RESPONSIBILITY

3.1.1 Except as otherwise provided in the Contract Documents, the Contractor will hire, contract, coordinate, administer, supervise, and pay for all labor, materials, equipment, tools, construction equipment and machinery, water, heat, light, power, utilities, transportation, and other goods, facilities and services necessary for, or appropriate to, the proper and timely execution and completion of the Work, whether

temporary or permanent and whether or not incorporated or to be incorporated in the Work, including any temporary heat, any temporary utilities, scaffolding, bracing, barricades, structures and the like. If the Work is to be performed in phases, the provisions of the Contract Documents will apply fully to each phase.

3.2 CONTRACT DOCUMENTS; PHYSICAL CONDITION; CONCEALED CONDITIONS

3.2.1 Before undertaking each part of the Work:

(a) The Contractor will carefully study and compare the Contract Documents with each other and with information furnished by the Owner. It will also compare all of the foregoing with the observable physical condition of the Project Site.

(b) The Contractor will take field measurements, verify field conditions and underground utility locations and will carefully compare such field measurements, conditions, locations and other information known to the Contractor with the Contract Documents.

(c) In all cases of interconnection of the Work with existing or other work, the Contractor will verify at the Project Site all dimensions relating to such existing or other work.

(d) The Contractor will review conditions at the Project Site to determine if field assembly of the equipment is required and notify the manufacturer accordingly if units are to be shipped in sections.

(e) The Contractor will recheck measurements, dimensions and elevations of the Work as an integral step of starting each installation. The Contractor will recognize the need to obtain accurate field dimensions in ample time to permit fabrication of certain items (e.g., electrical equipment, mechanical equipment, casework, cabinets and other work) and allow for delivery and installation in time to maintain the project schedule. The Contractor will coordinate Subcontractors to complete work phases in order to accommodate the schedule for obtaining dimensions and to prevent fabrication delay. In the event it is impractical to have Work in place to permit field dimensions, the Contractor will guarantee necessary dimensions, before construction, to the various fabricators and be responsible to insure the dimensions.

(f) The Contractor will at once report to the Owner any errors, inconsistencies or omissions it discovers.

3.2.2 If the Contract Sum exceeds Seventy Five Thousand Dollars ($75,000), and during the course of any part of the Work, the Contractor discovers a subsurface or latent physical condition at the Project site that differs materially from those indicated in the Contract Documents or an unknown condition of an unusual nature differing materially from those ordinarily encountered and generally recognized as inhering in work of the character provided for in the Contract Documents, whether or not it is entitled to assert a Claim under §3.2.4, the Contractor will promptly (and before disturbing any physical condition) notify the Owner in writing of such conditions so that the Owner can (i) comply with the requirements of MCL 125.1592 and (ii) determine if such conditions require design details which differ from those design details shown in the Design or require some other remedial action. The Contractor will be liable to the Owner for any extra costs incurred as the result of the Contractor's failure to promptly give such notice.

3.2.2.1 If the Owner receives such a notice from the Contractor, the Owner will promptly investigate the physical condition and prepare a written response.

3.2.2.2 If the Owner determines that the conditions described in any such notice (i) (a) in fact materially differ and (b) will cause an increase or decrease in costs or the time needed to perform the Contract Documents, and (ii) do not involve (x) an error, inconsistency or omission in the Contract Documents or (y) a physical condition at the Project Site, either or both of which the Contractor recognized or should, employing the degree of diligence required of it under the Contract Documents, have recognized, the Owner will propose an equitable adjustment in the Contract Sum

or the Contract Time, or both (as the case may be). If the Contractor agrees with the Owner's proposal, the Contract Documents will be modified in writing accordingly.

3.2.2.3 If the Contractor does not agree with the Owner's determination, and the Contractor has complied with the notice requirements of this section, then with the Owner's consent the Contractor may complete performance on the Contract Documents and assert a claim under Article 15 for an equitable adjustment in the Contract Sum or the Contract Time, or both (as the case may be). Under no circumstances, however, will, the Contractor be entitled to make a claim for an adjustment under the Contract Documents after the Contractor has received the Final Payment.

3.2.3 The foregoing notwithstanding, if the Contractor permits any construction activity to be performed, that involves an error, inconsistency or omission in the Contract Documents or a physical condition at the Project Site it recognized or, employing the degree of diligence required of it under the Contract Documents, should have recognized without having given notice to the Owner and having received authorization to proceed, the Contractor will assume responsibility for such performance and bear all costs attributable to correction, without recovery.

3.2.4 The Contractor cannot make a claim for additional costs or time because of a physical condition unless the Contractor has complied strictly with the notice requirements of this section. The Owner may extend the time required for notice under this section.

3.3 THE CONSTRUCTION SCHEDULE

3.3.1 The Contractor, within twenty (20) days after the Notice to Proceed or other time period stipulated in writing by the Owner's Representative or the Contract Documents, will submit a comprehensive Construction Schedule to serve as the schedule for the performance of the Work and that meets the completion dates required in the Contract Documents. The Construction Schedule will be in a detailed critical path method format satisfactory to the Owner which will also: (i) provide a graphic representation coordinating and sequencing all activities and events that will occur during performance of the Work; (ii) identify each phase of construction and occupancy; (iii) identify Float Time with early start/late start and early finish/late finish dates for each Activity on the schedule; and (iv) set forth Milestone Dates and manpower loading.

3.3.1.1 The Construction Schedule will represent the Contractor's plan for organizing, directing, managing, controlling, staffing and executing the Work required by the Contract Documents. The Owner will rely on the Construction Schedule to coordinate and otherwise plan the Work of the Owner, Design Professional, or other separate contractors, and to evaluate progress for payment purposes or other purposes as described in the Contract Documents.

3.3.2 The Construction Schedule will provide for the expeditious execution of the Work. The Construction Schedule will be reviewed and updated monthly or at appropriate intervals as required by the conditions of the Work. Updates to the Construction Schedule will identify the actual start and finish dates of all Activities completed and the actual start date and remaining duration of all Activities in progress.

3.3.3 All Float time in the Construction Schedule will be used in all cases for the benefit of the Project, including to the extent possible changes thereto, so as to achieve Substantial Completion as required by the Contract Documents.

3.3.4 Upon review and acceptance by the Owner, the Construction Schedule will be deemed part of the Contract Documents and will not be subject to change except in accordance with §8.6 and Article 7. If it is not accepted, the Construction Schedule will be promptly revised by the Contractor in accordance with the recommendations of the Owner and resubmitted for acceptance.

3.3.4.1 The Construction Schedule, subject to any Modification granted in accordance with the Agreement, will establish the Contract Time within which the Contractor must achieve Substantial Completion of the Project as required in the Contract Documents.

3.3.4.2 The Contractor is responsible for the completeness of the Construction Schedule. The Contractor will confirm in writing, with each submission of the Construction Schedule, that the Contractor has reviewed the Construction Schedule with the appropriate Construction Team members and has coordinated and allowed for the lead times associated with the delivery of materials or equipment required for the proper progress of the Work.

3.3.4.3 The sequence of activities in the Construction Schedule will reflect the Contractor's intended approach to the execution of and completion of the Work. The Construction Schedule will be broken into Work areas to provide for a clear identification of the planned progress of the Work. Unless it is impractical, the duration of each Activity will not be greater than thirty (30) calendar days.

3.3.4.4 The Owner's or the Design Professional's review of the Construction Schedule will not constitute or imply the acceptance of or relieve the Contractor of the responsibility for the means, methods, sequences, techniques or procedures used in the performance of the Work.

3.3.5 The Construction Schedule will also allow for and depict the following:

(a) the submission of Shop Drawings, Samples and other required submittals;

(b) the beginning of manufacturing of associated components;

(c) the delivery of those components to the site;

(d) the installation of those components into the Work;

(e) local weather conditions;

(f) local jurisdictional or other Work restrictions;

(g) specific restrictions, constraints and Contract completion dates stipulated in the Contract Documents;

(h) intermediate completion dates stipulated in the Contract Documents;

(i) time for needed approvals by the Owner, Design Professional, or other agency or authority;

(j) Owner, Design Professional, or other agency or authority inspections and/or tests where required by the Contract Documents;

(k) the Work of separate contractors or the Owner;

(l) Float;

(m) necessary resources to accomplish the Work within the Contract Time;

(n) full commissioning of systems and equipment;

(o) Owner training;

(p) a legend for each report or chart which clearly identifies how to interpret each; and

(q) other information that may be provided by the Design Professional or the Owner.

3.3.6 The Contractor will proceed strictly in accordance with the Critical Path set forth in the Construction Schedule. The Contractor will monitor the progress of the Work for conformance with the requirements of the Construction Schedule and will promptly advise the Owner of any delays or potential delays. If any progress report indicates that the Critical Path or Milestone dates are or may be at risk, the Contractor will propose and implement, without adjustment to the Contract Sum, an affirmative plan to correct the delay, including Extraordinary Measures, if the Owner believes the use of Extraordinary Measures is necessary. Any recovery schedules will, if necessary, include utilization of Extraordinary Measures.

3.3.7 The planning, scheduling, management and execution of the Work is the sole responsibility of the Contractor. The progress schedule requirements in the Contract Documents are established to (i)

allow the Owner to review the Contractor's planning, scheduling, management and execution of the Work; (ii) to assist the Owner in evaluating Work progress and make progress payments; (iii) to allow other contractors to coordinate their activities with those of the Contractor; and (iv) to provide the Owner with information about the Construction Schedule.

3.3.8 The Contractor will review the initial Construction Schedule, and any subsequent changes thereto, with the Owner to resolve any conflicts. The Owner's acceptance of the Construction Schedule will not relieve the Contractor from responsibility for deviations from the Contract Documents unless the Contractor has, in writing, called the Owner's attention to the deviations at the time of submission and the Owner has given written agreement to the specific deviations, nor will any acceptance of the Construction Schedule by the Owner relieve the Contractor from responsibility for errors and omissions in the Contractor's schedule submittals.

3.4 SUPERVISION AND CONSTRUCTION PROCEDURES

3.4.1 The Contractor will keep on the Project, at all times during the progress of the Work, a competent full time Superintendent and any necessary assistants, all satisfactory to the Owner, and the Design Professional. The Superintendent will be located at the Project site unless otherwise approved by the Owner. The Superintendent will represent the Contractor and all directions, directives, notices and other communications given by or to the Superintendent will be as binding as if given by or to the Contractor. The Superintendent will remain on-site daily until full completion of the entire Work, including Punchlist Work.

3.4.2 The Contractor will conduct project progress meetings no less frequently than biweekly. The purpose of these meetings will be to update the Owner and Design Professional on project safety and project execution.

3.4.3 The Contractor will supervise and direct the Work, using the Contractor's best skill and attention. The Contractor will be solely responsible for and have control over the construction means, methods, techniques, sequences and procedures and for coordinating all portions of the Work under the Contract.

3.4.4 The members of the Construction Team will cooperate with each other and with any separate contractors or persons employed by the Owner. Each of these parties will correlate their Work and activities with the Work of others, and in the case of disagreements as to the proper procedure, sequence of Work, use of space, responsibility for damage, or other matters related to the Work, the parties involved will abide by the Contractor's decision as to the procedure to be followed.

3.4.5 The Contractor will keep and forward a report of daily progress to the Design Professional, and the Owner. The report will include, but not be limited to, the number of workers by trade and/or Subcontractor on the Project, indicating where on the Project each was working and what work activity was performed. The report will also address and record the delivery of major materials and equipment to the site, accidents of any nature and the severity of each occurring on the Project, the daily temperature and weather, visitors to the site, and inspectors, testing agencies or other authorities on the Project site. The Contractor's daily progress report will also note any variances between the requirements of the Contract Documents and the actual construction of the Work.

3.4.6 The Contractor will be responsible for inspecting portions of Work already performed to determine that they are in proper condition to receive subsequent Work.

3.4.7 The Contractor will establish a process for managing Subcontractor requests for information (RFI). All RFI’s will initially be submitted to the Contractor, which will review them and respond, if possible, in a timely manner. Upon receipt of an RFI to which the Contractor cannot respond, the Contractor will consult with the Design Professional or the Owner for interpretation and response.

3.5 QUALITY CONTROL

The term **"Quality Control"** refers to, but is not necessarily limited to quality control program development, inspections, testing and associated requirements and activities of the Contractor to ensure that the intended quality of the Contract Documents is attained. Except as specifically excluded in the Contract Documents, the Contractor will be responsible to provide all quality control/testing/inspection necessary to verify and ensure compliance with the Contract Documents.

3.5.1 Residual Contractor Responsibility: All inspection, testing and similar quality control provisions to be performed by independent agencies and which are not indicated to be the Owner's responsibility, will be the Contractor's responsibility. The costs for these required services by independent testing laboratories are recognized to be included in the Contractor's proposal. Unless noted otherwise or specifically approved by the Design Professional and the Owner, all tests and inspections of any member of the Construction Team's Work, materials or equipment will be performed by independent agencies.

3.5.1.1 Where inspection and test reports and certificates are required by governing authorities, the Contractor will provide additional copies as required, and where required, will send copies directly from the inspection or testing agency to the governing authority. In addition, the Contractor will provide copies of all such reports and certificates to the Design Professional and the Owner.

3.5.2 Contractor's General Responsibility: No failure of testing agencies, whether engaged by the Owner or the Contractor, to perform adequate inspections or tests or to properly analyze report results, will relieve the Contractor of responsibility for the fulfillment of the requirements of the Contract Documents. Any testing by the Owner is not intended to limit the Contractor's regular quality control program. The Owner reserves the right to conduct tests beyond those indicated to be conducted by the Owner in the Contract Documents. Neither this right to conduct tests beyond those indicated to be conducted by the Owner in the Contract Documents nor a decision made in good faith to exercise or not exercise this right will give rise to a duty or responsibility of the Design Professional, or the Owner to any member of the Construction Team, or to any surety. The Owner's election not to exercise this right will not relieve the Contractor of its obligations to execute the construction in accordance with the requirements of the Contract Documents.

3.5.3 General Workmanship Standards: The Contractor will execute the Project in compliance with recognized workmanship quality standards within the industry as applicable to each unit of Work. All references to standards whether for materials, processes, assemblies, workmanship, performance, or similar purpose will mean, unless otherwise noted, the most recent available published version of such standard as of the date of the execution of the Contract. When reference is made to standards, they will become a part of the Contract Documents and will be as binding as if fully reproduced therein. It is a requirement that each category of tradesperson or installer performing the Work be prequalified, to the extent of being familiar with applicable and recognized quality standards for that category of Work, and being capable of workmanship complying with those standards.

3.5.3.1 The Contractor will handle, store and protect materials and products, including fabricated components, by methods and means which will prevent damage, deterioration and losses including theft, and resulting delays, thereby ensuring the highest quality results as performance of the Work progresses. The Contractor will control delivery schedules so as to minimize unnecessary long-term storage at the Project site prior to installation.

3.5.3.2 The Contractor will inspect each item of material or equipment immediately prior to installation and reject damaged and defective items.

3.5.3.3 Prior to starting their Work, each member of the Construction Team will verify and accept the Work of the previous Construction Team member. Any defective Work will be reported to the Contractor to assure that it is promptly corrected.

3.5.4 Authority of Quality Control Agencies: Testing agencies, regardless of whether they are engaged by the Owner or the Contractor, are not authorized to change or modify or negate requirements

of the Contract Documents. Each agency will coordinate its assigned Work with the Construction Schedule as maintained by the Contractor and will perform its Work promptly so as not to delay the Work. The Contractor will give reasonable notice to the Owner or the Owner's testing agencies as to when testing or inspections are required. Observances by agencies having bearing on the Work will be reported to the Contractor and Design Professional in the most expeditious way possible and will be recorded in writing to the Contractor, Design Professional and the Owner. Agency personnel will not interfere with or assume the duties of the Contractor.

3.5.5 Coordination with Owner's Agencies: The Contractor will afford proper and safe access to the Work wherever it is in progress or preparation, and reasonable time in the construction sequence, for the Owner's, the Design Professional's, any testing agency's or other governmental or regulatory agency's inspections, tests or observations to be performed. The Contractor will cooperate with the Owner and the Owner's agencies and provide incidental labor and services needed for the removal and delivery of test samples, and for inspections and taking measurements. The Contractor will provide patching and restoration services where test samples have been removed, complying with individual technical sections of the Contract Documents. Except for specialized laboratory sampling equipment, and except as otherwise indicated, the Contractor will supply and operate tools and construction equipment at the Contractor's expense as needed to obtain test samples from the Work, including cutting devices for sawing, drilling, flame-cutting, coring and similar operations, and will assist agencies in labeling and packaging of test samples removed from the Work. All patching of the Work necessitated by testing called for in the Contract Documents will be performed by the Contractor at the Contractor's expense, except as required by §3.6.6.

3.5.6 Reports: The testing or inspection agency will prepare reports of inspections and laboratory tests, including analysis and interpretations of test results where applicable. The agency will properly identify each report and, where required, provide the agency's certification of test results. The agency will describe test methods used, and compliance with recognized test standards, if any. The agency will complete and submit these reports at the earliest possible date in each case to the Contractor, Design Professional and the Owner.

3.5.7 Pre-Installation Conferences: Well in advance of the installation of every major unit of Work which requires coordination with other Work, the Contractor will meet at the Project site with the installers and representatives of the Suppliers who are involved in or affected by the unit of Work, or in its coordination or integration with other Work which has preceded or will follow. At each meeting, the Contractor will review progress of other Work and preparations for the particular Work under consideration, including requirements of the Contract Documents, options, related Modifications, purchases, deliveries, Shop Drawings, Product Data, quality control Samples, possible conflicts, compatibility problems, time schedules, weather limitations, temporary facilities, space and access limitations, structural limitations, governing regulations, safety, inspection and testing requirements, performance results, recording requirements, protection, and similar considerations. The Contractor will record significant discussions of each conference and agreements and disagreements along with the final plan of action to be taken. The Contractor will distribute records of each meeting promptly to everyone concerned, including the Design Professional and the Owner.

3.5.7.1 The Contractor will not proceed with a specific component of the Work if the associated pre-installation conference cannot be concluded successfully. If required the Contractor will implement actions to resolve impediments to the performance of the Work, and will reconvene the pre- installation conference at the earliest date feasible.

3.5.8 Installers Inspection of Conditions: The Contractor will require the installer of each major unit of Work to inspect that portion of the Project to receive the Work, and conditions under which the Work will be performed, and to report any unsatisfactory conditions, in writing, to the Contractor, the Design Professional and the Owner. The Contractor will provide copies of each report to the Design Professional and the Owner. The installer will not proceed with the Work until all unsatisfactory conditions have been corrected in a manner acceptable to the installer.

3.5.9 Product Standards: To the extent a product is specified in accordance with a Federal Specification, an ASTM Standard, an American National Standards Institute Specification, or other

Association Standard, the Contractor will present an affidavit from the manufacturer when requested by the Owner or required in the Specifications, certifying that the product complies with the particular Standard or Specification. When requested by the Owner or specified, support test data will be submitted to substantiate compliance.

3.5.10 Manufacturers' Instructions: Where installations include manufactured products, the Contractor will comply with the manufacturer's applicable instructions and recommendations for installation. To whatever extent the manufacturer's instructions are more explicit than applicable requirements found in the Contract Documents, the manufacturer's instructions and recommendations will govern.

3.6 TESTING AND INSPECTION OF THE WORK

3.6.1 All Work will be subject to tests and inspections at all reasonable times and at all places prior to acceptance. Any inspection or test will be for the sole benefit of the Owner and will not relieve the Contractor of the responsibility of providing quality control measures to assure that the Work strictly complies with the requirements of the Contract Documents. Inspections or tests conducted by the Design Professional or the Owner will not relieve the Contractor of the obligation to perform the Work in accordance with the Contract Documents. Inspections and tests will not be construed as constituting or implying acceptance of Work which does not comply with the requirements of the Contract Documents, unless a deviation from the Contract Documents is explicitly brought to the Design Professional's and the Owner's attention in writing, and subsequently and explicitly accepted by the Design Professional, and the Owner, in writing.

3.6.1.1 The Contractor will provide reasonable assistance and coordination for all consultants, testing firms and inspectors required by law or furnished by the Owner in connection with the performance of the Work.

3.6.1.2 Neither the right of the Design Professional or the Owner to inspect or test the Work, or reject Work which does not comply with the requirements of the Contract Documents, nor a decision made in good faith to exercise or not exercise this right, will give rise to any duty or responsibility of the Design Professional or the Owner to any member of the Construction Team, or to any surety. No inspection or test, or other action or inaction, on the part of the Design Professional, or the Owner, will constitute or imply the acceptance of or the responsibility for the Contractor's means, methods, techniques, sequences or procedures in the performance of the Work, or safety precautions and programs.

3.6.2 Tests, inspections and approvals of portions of the Work required by the Agreement, the Contract Documents, or by Applicable Laws, will be made on a timely basis. The Contractor will give the Owner and the Design Professional timely advance notice of when and where tests and inspections are to be made so they may observe the procedures.

3.6.3 Except as otherwise specifically provided in the Contract Documents, the Contractor will make arrangements for tests, inspections and approvals with an independent testing laboratory or entity designated by the Owner, or with the appropriate public authority, and the Owner will bear all related costs of tests, inspections and approvals.

3.6.4 The Owner may (but will not be obligated to) from time to time, at its own cost and expense, perform or cause to be performed additional tests and inspections of the Work as the Owner may determine to be necessary or appropriate, and the Contractor will, upon receipt of reasonable prior written notice identifying any tests and inspections, coordinate the Work so as to accommodate the performance of tests and inspections. Copies of any results of Owner initiated tests and inspections will be made available to the Contractor if the Contractor so requests, provided, the Contractor will not be entitled to rely upon the results (and the Owner makes no representation or warranty as to the accuracy or completeness thereof) and the Owner's performance of any tests and inspections will not serve to relieve the Contractor of its obligation to perform the Work in accordance with the requirements set forth in the Contract Documents.

3.6.5 If the Design Professional determines that any Work requires special inspection, testing, or approval which §3.6.2 does not include, it will, upon written authorization from the Owner, instruct the

Contractor to order a special inspection, testing or approval, and the Contractor will give notice as provided in §3.6.2.

3.6.6 If Owner or public authorities having jurisdiction determine that portions of the Work require additional testing, inspection or approval not included under §3.6.2, Owner may instruct the Contractor to make arrangements for additional testing, inspection or approval by an entity designated by Owner, and the Contractor will give timely notice to Owner of when and where tests and inspections are to be made so Owner may observe the procedures. Owner will bear the costs except as provided in §3.6.7.

3.6.7 If procedures for testing, inspection or approval under §3.6.1 through §3.6.6 reveal failure of the portions of the Work to comply with requirements established by the Contract Documents, the Contractor will bear all costs made necessary by failure, including those of repeated procedures, compensation for the Design Professional's additional services made necessary by the failure, and compensation for Owner's services and expenses.

3.6.8 The Design Professional, or the Owner will have the right to reject all materials furnished and/or Work performed which, in their judgment, does not meet the requirements of the Contract Documents. The Contractor will, without charge, promptly replace any material, equipment or workmanship failing to meet the requirements of the Contract Documents. The Owner may accept defective Work, at the Owner's sole discretion and, if it does so, the Contract Sum will be decreased to reflect the loss of value to the Owner.

3.6.9 No extension to the Contract Time will be allowed in connection with the Contractor's correction of Work which was not performed in accordance with the requirements of the Contract Documents.

3.6.10 Required certificates for testing, inspection or approval will, unless otherwise required by the Contract Documents, be secured by the Contractor and promptly delivered to Owner.

3.6.11 All persons performing plumbing, mechanical, or electrical Work on property owned or operated by the Owner are required to contact the Code Inspection Office in the Owner’s Department of Architecture, Engineering and Construction prior to starting Work, to arrange for Code Inspection. The Owner provides, at no charge to the Contractor, plumbing, mechanical, and electrical inspections by the Owner’s personnel, for all Work performed on the Owner’s property or on the Owner’s facilities. These inspections are on a periodic basis when called for by the Contractor and are for the purpose of determining if the Work is in compliance with applicable codes. In all cases, the Contractor will call for inspections prior to the Work’s being concealed and, if it fails to do so, will uncover the Work at the Contractor’s expense without recovery from the Owner.

3.7 CONTROL OF PROJECT SITE; SURVEYS

3.7.1 The Contractor acknowledges that it, and not the Owner, is solely in control of the Project Site even if the Owner has one or more separate contractors on site in accordance with Article 6.

3.7.2 The Contractor will be responsible for and will obtain and pay for all surveys required to establish building alignment and elevations. The Contractor will employ a registered land surveyor to stake out and locate all the construction and reference points needed to properly locate the Work for its use and the use of others. The surveyor will locate all significant points of each element and pertinent features of the Project site and establish necessary references and benchmarks. For existing structures with intersecting floors, the surveyor will also validate alignment of new and existing floors. The Contractor will preserve all stakes and benchmarks and replace at its expense any that are lost or destroyed. All Work will be located with respect to references and benchmarks, except where locations are determined by columns, existing openings or other building features. In the case of a discrepancy between a location determined by reference, column or other building feature, the Contractor will immediately report same to the Design Professional for resolution.

3.7.2.1 The Contractor will recognize the need to obtain accurate field dimensions in ample time to permit fabrication of certain items (e.g., casework, cabinets and other Work) and allow for delivery and installation in time to maintain the Construction Schedule. All Subcontractors will cooperate in completing Work phases to accommodate the schedule for obtaining dimensions and to prevent fabrication delay. If it is impractical to have Work in place to permit field dimensions, the Contractor will guarantee necessary dimensions, before construction, to the various fabricators and be responsible to ensure the dimensions.

3.8 UTILITIES

3.8.1 In all cases involving utilities, unless the Contract Documents specifically provide otherwise, it will be the Contractor's responsibility to coordinate the Work with the providers of utility services, to protect such utilities and assure the safety of those working with or in the vicinity of the utilities. The Contractor will coordinate any work required to be performed by public or private utility companies to provide necessary utilities to the Project Site and/or coordinate relocation of utilities as required for the proper performance of the Work.

3.8.2 The Contractor will protect utilities, or other services which may be encountered, from damage, unless or until they are abandoned. The Contractor will immediately order the repair and restoration of any damaged or disrupted utilities and services to an equal or better condition than that which existed prior to the damage or disruption. The cost of repair will be borne solely by the Contractor without recovery from the Owner, whether under the Contract Sum or otherwise.

3.8.3 Unless directed in writing by the Owner, no one except the Owner is permitted to connect or activate any utility services in any building or facility owned or occupied by the Owner. When connection or activation services are required, the Owner will be contacted, and all such Work will, unless otherwise specifically provided in the Contract Documents, be performed by Owner personnel. In all cases, the Contractor will give notice of the need for services to the Owner, at least ten (10) days in advance, so as to avoid delays to the Project's progress.

3.9 TEMPORARY LIGHTING AND POWER

3.9.1 The Contractor will furnish, install, maintain and remove temporary lighting and power as needed during construction. The cost of temporary utilities will be borne by the Contractor unless the Contract Documents provide otherwise. On projects utilizing existing lighting and power sources, the Contractor will turn off all lighting and non-essential power during non-work hours.

3.9.2 Temporary lighting levels during non-Work hours will be reduced to only illumination of the first floor and major stairs.

3.9.3 Temporary lighting will be controlled by timing devices or scheduled manual switching which reduce lighting levels during non-Work hours.

3.9.4 Temporary lighting will be shielded and screened so no light will glare directly onto any public right-of-way or private property. The Contractor will be responsible for resolving complaints about temporary lighting that shines beyond the premises.

3.9.5 When existing street or pedestrian lighting is demolished or blocked as a result of the Work, temporary lighting will be provided by the Contractor at the same lighting level and for the same times per day as the demolished or blocked lighting.

3.9.6 Temporary power circuits will be separate from temporary lighting circuits and will not be controlled by timing devices.

3.10 SUBMITTALS

3.10.1 Shop Drawings, Product Data, Samples, catalog cuts, brochures, illustrations, material lists, equipment lists, performance data, diagrams, schedules, other data and similar submittals

(collectively "**Submittals**") are not Contract Documents. Their purpose is to demonstrate for those portions of the Work for which Submittals are required the way the Contractor proposes to conform to information it has been given and the Design concept expressed in the Contract Documents.

3.10.1.1 The Contractor will obtain and furnish to the Design Professional all Submittals which may be required by the Contract Documents, requested by the Design Professional or otherwise necessary for the proper execution of the Work.

3.10.1.2 As part of the document control system, the Contractor will develop and keep current a Submittal log which is coordinated with the Construction Schedule.

3.10.1.3 The Contractor will take appropriate action to ensure the timely submission and review of Submittals.

3.10.1.4 Submittals presented by the Contractor which are not required by the Contract Documents and not requested by the Design Professional or the Owner, or otherwise necessary for or appropriate to the proper execution of the Work, may be returned without action.

3.10.1.5 The Contractor will be responsible for the accuracy, constructability, content, completeness and consistency of all Submittals.

3.10.2 Prior to their submission, the Contractor will (i) carefully check all Submittals to verify measurements, sizes of members, materials and all other details to assure that they conform to the intent of the Contract Documents and (ii) cause any necessary corrections to be made promptly and, in any event, without delay to the Critical Path set forth in the Construction Schedule. The Contractor will notify the Owner and the Design Professional if any Submittal will result in any material change to the Contract Documents.

3.10.2.1 After the Contractor has checked and approved a Submittal, the Contractor will (i) place on it the approval date and the legible signature of the individual who reviewed it and (ii) submit it to the Design Professional for review in sufficient time to prevent delays in delivery of materials or in the progress or completion of the Work, and in the order to assure the prompt and proper delivery of materials and/or equipment to the site at the time required to assure the proper and timely execution of the Work. The Design Professional may refuse to check or review any Submittal which is not submitted in compliance with the requirements of §3.10.

3.10.2.2 The Design Professional will review the Submittals with reasonable promptness and within any time limits agreed upon in writing and will return them, indicating by notation, or by written instructions, or other directions, any corrections, which in the judgment of the Design Professional, may be necessary to meet the requirements of the Contract Documents. The Contractor will then review the notations, instructions, or directions, and if the Contractor concurs therein, will make or have made the corrections (but no other changes), and resubmit corrected Submittals to the Design Professional as soon as possible, for final review.

3.10.2.3 If the Contractor questions or disagrees with notations, instructions, or directions, provided by the Design Professional, the Contractor will consult with the Design Professional and the Owner for further clarification before resubmittal.

3.10.2.4 Corrections or changes indicated on Submittals are not orders for a change in the Work or to perform extra Work.

3.10.3 The Contractor, and not Design Professional, is responsible for errors, omissions or deviations from the Contract Documents contained in any Submittals.

3.10.4 The Contractor will permit no portion of the Work requiring review of any Submittal to be performed until the submittal has been approved by the Design Professional. Once they have been approved, Work will be in accordance with all approved Submittals.

3.11 SUBSTITUTIONS

3.11.1 The Contractor may make substitutions only with the consent of the Owner, after evaluation by the Design Professional and authorized by a Change Order or Construction Change Directive in accordance with Article 7. If after execution of the Agreement, and prior to submittal of applicable Shop Drawings, the Contractor desires to submit an alternate product or method in lieu of what has been specified or indicated by the Contract Documents, the Contractor may request permission to do so in writing, which writing will include the following:

(a) A full explanation of the proposed substitution and submittal of all supporting data including technical information, catalog cuts, warranties. test results, installation instructions, operating procedures and other like information necessary for a complete evaluation of the substitution;

(b) The reasons the substitution is advantageous and necessary including benefits to the Owner and the Work in the event the substitution is acceptable;

(c) The adjustment, if any, in the Contract Sum in the event the substitution is acceptable;

(d) The adjustment, if any, in the Contract Time and the Construction Schedule in the event the substitution is acceptable; and

(e) An affidavit stating that (i) the proposed substitution conforms and meets all the requirements of the pertinent Specifications and requirements shown on the Drawings. and (ii) the Contractor accepts the warranty and correction obligations in connection with the proposed substitution as if originally specified by the Design Professional. Proposals for substitutions will be submitted in triplicate to the Design Professional in sufficient time to allow the Design Professional no less than ten (10) working days for approval. No substitutions will be considered or allowed without the Contractor's submittal of complete substantiating data and information as stated hereinbefore.

3.12 SOIL EROSION AND SEDIMENTATION CONTROL (SESC)

3.12.1 The Contractor will implement and maintain a soil erosion and sedimentation control plan as specified in the Contract Documents.

3.12.2 The Owner’s Environment, Health & Safety Department (EHS) will inspect the site regularly to determine compliance with the Contract Documents and with EHS's SESC Procedures, available for viewing and download at http://ehs.umich.edu/construction-projects/environmental-considerations/. Deficiencies identified by EHS inspection must be corrected by the Contractor within 24 hours of notification if waters of the State are impacted or within five (5) days if waters of the State are not impacted.

3.12.3 Should the Contractor fail to correct the deficiencies within the indicated period, the Owner reserves the right to cause the corrective Work to be performed, and to back charge the Contractor for the actual costs incurred by the Owner for the performance of this Work.

3.13 TAXES

The Contract Sum will include all applicable Federal, State, Local, County or Municipal taxes of whatever nature and description. The Contractor will be responsible for the payment of all taxes.

3.14 ROYALTIES AND LICENSE FEES

The Contractor will pay all royalties and license fees owing on account of the Project, for copyright, patent or other proprietary rights of others, under the Contract Sum.

3.15 PERMITS, FEES AND NOTICES

3.15.1 The Contractor will identify, obtain, and pay for all permits and other fees necessary for the execution of the Work. Upon request, the Contractor will furnish the Owner with a copy of any permit or certificate obtained and/or the amount paid for any such permit or certificate.

3.15.2 The following exceptions to §3.15.1 will be obtained and paid for by the Owner unless otherwise specified:

(a) municipal water and sanitary service connection charges;

(b) municipal inspection fees requiring the establishment of escrow accounts (Contractor responsible to schedule testing);

(c) municipal planning fees;

(d) permanent parking meter removal charges; and

(e) applications, governmental/jurisdictional approvals and easements/License Agreements for installations or permanent changes of existing facilities in Rights-of-Way and their associated inspection fees.

3.15.3 The Contractor will be responsible for any permit re-inspection fees incurred as a result of the Contractor's deficient Work or failure to be prepared for a permit inspection requested by the Contractor.

3.15.4 The Contractor will give notices required by Applicable Laws.

3.15.5 When the Contract Documents require the Work or any part of the Work to be done on public or private property, other than the Owner's property, the Contractor will secure a permit, license or temporary easement and give adequate notice to the municipality and/or any other agency having jurisdiction over it. The Work will be carried out in accordance with the laws, ordinances, rules and regulations, and to the satisfaction of each municipality, agency or department having jurisdiction. If the Contractor observes that the Contract Documents are at variance therewith, the Contractor will promptly notify the Design Professional, in writing, and any necessary Contract changes will be made as provided in the Contract Documents for changes in the Work. If the Contractor performs any Work which it knew, or under a reasonable standard of care should have known, to be contrary to laws, ordinances, rules and regulations, the Contractor will bear all costs arising therefrom.

3.15.6 The Contractor will notify the municipality, public utilities, agencies, Miss Dig and the Owner, in a timely manner so as to allow reasonable response time, before digging any tunnels or similar underground work; and will protect all existing utilities, sidewalks, streets, and similar improvements, while performing the Work.

3.16 USE OF SITE

3.16.1 The Contractor will confine operations at the Project Site to areas permitted by the Contract Documents, Applicable Laws and permits and will not unreasonably encumber the Project Site with materials or equipment.

3.16.2 The Contractor will take appropriate measures to verify the suitability of all intended access routes and will not load or permit any part of the property leading to or at the site to be loaded with a weight that will endanger the structural integrity of the property or the safety of workmen or any other persons on or about the Work.

3.16.3 Only materials and equipment which are to be used directly in the Work will be brought to and stored on the Project Site. After equipment is no longer required for the Work, if feasible, it will 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 casualty is solely the responsibility of the Contractor, who will bear the risk thereof.

3.16.3.1 Prior to Substantial Completion, all temporary Work, of every nature, will be dismantled and removed from the Owner's premises.

3.16.3.2 If at any time it becomes necessary to move material or equipment which has been temporarily located or stored on the site during construction, the Contractor will, when directed, cause them to be moved to another location without charge to the Owner.

3.16.4 No member of the Construction Team will erect any sign on the Project Site without the Owner's prior consent. No smoking will be permitted, except in designated areas.

3.16.5 The Contractor will ensure that the Work is at all times performed in a manner that affords the Owner, the Design Professional, and the Owner's separate contractors reasonable access, both vehicular and pedestrian, to the Project Site and all adjacent areas. The Work will be performed, to the fullest extent possible, in a manner so that public areas adjacent to the Project Site will be free from all debris, building materials and equipment. Without limiting any other provision of the Contract Documents, the Contractor will use its best efforts to minimize any interference with the occupancy or beneficial use of any areas and buildings adjacent to the Project Site or portions of the Project in which Work is not being carried out in the event of partial occupancy.

3.16.6 The Contractor will not, without the Owner's prior written approval, permit any workers to use any existing facilities at the Project Site, including, without limitation, lavatories, toilets, entrances, and eating and parking areas, other than those designated by the Owner. The Contractor will enforce compliance with all rules and regulations promulgated by the Owner in connection with the use and occupancy of the Project Site and the surrounding area. The Contractor will immediately notify the Owner in writing if, during the performance of the Work, the Contractor reasonably determines compliance with any portion of these rules and regulations to be impractical, setting forth the problems of compliance and suggesting alternative means through which the results intended by those portions of the rules and regulations can be achieved. The Owner may, in its discretion, adopt the suggestions, develop new alternatives or require compliance with the existing requirements of the rules and regulations.

3.16.7 Anything contained in the Contract Documents to the contrary notwithstanding, no one except the Owner will be permitted to disrupt the operation of any building system or any other services without the Owner's prior written consent. Any request to perform such work will be in writing, received by the Owner no less than five (5) days prior to the commencement of the requested disruption, and will detail (i) the exact nature and duration of the interruption, (ii) the area affected, and (iii) any impact upon the Construction Schedule caused by the proposed temporary disruption. The Contractor's failure to comply with the notice provisions of this section will constitute a waiver by the Contractor of any right it may have to an adjustment of its compensation, or the Construction Time, on account of any postponement, rescheduling, or other delays ordered by the Owner in connection with any Work for which the required notice was not furnished.

3.16.8 The Contractor will consult with the Owner concerning any necessary operations at the Project site, including staging area limits, office or storage trailer locations, dumpster operations, equipment and material deliveries, hoisting areas and any other construction impacts on the Owner's grounds.

3.16.8.1 All areas used by members of the Construction Team must be properly fenced. Unless the Contract Documents designate another specific type of temporary fencing to be used, the minimum temporary fencing requirement will be the use of chain-link fence having a minimum exposed height of eight (8) feet above grade. Temporary barricades will also be provided as necessary for the safety of the general public.

3.16.8.2 The Contractor will locate all underground utilities and lawn irrigation piping prior to driving fence posts.

3.16.8.3 Materials, equipment, trailers, vehicles and all other operations are not to be located under or within the drip line of trees and the use of orange plastic webbed fencing or snow fencing will be used to protect these areas. Construction, staging or storage operations in flower and shrub plantings and beds are to be avoided.

3.16.8.4 Driving of vehicles on lawn areas is strictly prohibited.

3.16.8.5 Any tree trimming or tree root disturbances will be performed only after consultation, inspection and approval by the Owner.

3.16.8.6 All existing traffic control devices, such as bollards, chain and posts, building signs, or traffic signs, will not be removed without specific approval from the Owner.

3.16.8.7 Unless stated otherwise in the Contract Documents, the Contractor will be responsible to restore, to the Owner's satisfaction, all disturbed areas caused by the Work.

3.16.8.8 All lawn, shrub and tree restoration Work, including soil aerification, tree trimming and plant material replacements will be performed by a qualified landscape contractor.

3.16.8.9 The Contractor will also cause all streets, drives, sidewalks, walls, lights, signs, fences, poles and the like where disturbed or damaged by the Work to be repaired, and will leave them in the same condition after completion of the Work as before operations started.

3.16.8.10 The Contractor will provide and maintain pedestrian walkways and other means of access to and from any building or facility requiring them as a result of the execution of the Work. This means of access will be as required by the Contract Documents and/or the Owner's directions.

3.16.8.11 The Contractor will be responsible for providing site security to the extent necessary to safeguard the building, tools, materials, and completed Work.

3.16.8.12 Prior to and after normal working hours all entrances and exits will be closed and secured by the Contractor. The Contractor will provide to the Owner copies of keys (up to 6 each) for all doors and gates secured with other than the existing (University of Michigan owned) lock mechanisms.

3.16.8.13 The Owner may, at the Owner's option, provide any surveillance and security measures that the Owner deems necessary within the construction site.

3.16.8.14 The Contractor will schedule and coordinate its Work so that any existing card-reader access is maintained.

3.16.9 The Contractor will provide and maintain temporary stairs, main ladders and runways for access to all areas for the use of all trades. The Contractor will provide additional runways and ladders as may be required for the execution of the Contractor's Work. All apparatus, equipment and construction will meet all requirements for safety and all provisions of federal, state or local laws and ordinances applicable thereto. Permanent stairs will be erected as soon as possible, and the Contractor will provide same with protective treads, handrails and shaft protection.

3.16.10 In accordance with §3.16.6, the Contractor will provide suitable toilet facilities, at locations approved by the Owner, for the use of all its employees and those other members of the Construction Team and will maintain same in proper sanitary condition acceptable to the Owner. All temporary toilet facilities will be removed upon completion of the Work.

3.16.11 When the Work has progressed sufficiently to permit the installation of new elevators, and after the enclosing walls of the elevator shaft have been built, the Contractor will, at the Contractor's expense, make arrangements with the elevator contractor or subcontractor to provide, install and maintain one new elevator for temporary use. Elevator service will be furnished free of charge to the Owner, Design Professional, their employees, and all other persons or parties performing services for the Owner. All labor for loading and unloading of materials, will be provided by the party using the elevator.

3.16.11.1 Before temporary use of the elevator, the Contractor will protect the elevator cab with a metal screen ceiling below the permanent ceiling. Padding and a substantial wood lining to protect the walls and floor against damage will also be installed. During the temporary use, the elevator will be equipped with electric lights and car gates, and the shaft opening will be protected with temporary gates as required for safety and by applicable law.

3.16.11.2 Temporary wiring to elevator machinery for temporary use will be provided by a member of the Construction Team. The Contractor will furnish, at the Contractor's expense, the services of competent elevator operators during the entire time that elevators are used for construction purposes.

3.16.11.3 At the completion of the Work the Contractor will turn over the elevator used on a temporary basis to the Owner in like-new condition. The Contractor will pay the costs of all refurbishing or repairs, required to satisfy this requirement.

3.17 CUTTING AND PATCHING

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

3.17.2 The Contractor will not endanger any Work by cutting, digging, or performing other similar activities, and will not cut or alter the Work of any separate contractor without the written consent of the Design Professional.

3.17.3 The Contractor will not cut or otherwise alter any portion of any structure of which the Work is a part or to which the Work is attached without in each instance having first submitted to the Owner Shop Drawings accurately locating each cut or alteration. The Design Professional's approval of the Shop Drawings must be obtained prior to making any cut or alteration.

3.18 REMOVAL OF EXISTING WORK AND CLEANING UP

3.18.1 Unless indicated otherwise in the Contract Documents, the Contractor will remove existing Work and equipment as may be necessary to permit the proper installation of the new Work. All cutting, repairing or patching in connection with these removals will be performed without additional cost to the Owner.

3.18.1.1 Except to the extent otherwise prohibited by law, unless indicated otherwise in the Contract Documents, all equipment and materials removed from existing buildings will become the property of the Contractor.

3.18.1.2 Except to the extent otherwise prohibited by law, the risk of loss and all other aspects of ownership of materials, removed by Contractor for disposal or of salvaged materials not specified to remain the property of the Owner, will pass from Owner to Contractor at the time of removal by the Contractor from its fixed position.

3.18.2 The Contractor will keep the Project Site and all staging and surrounding areas free from accumulation of waste materials or rubbish caused by the Work. Upon completion of the Work, all waste and Contractor owned salvaged materials, rubbish, tools, scaffolding, construction equipment, machinery, surplus materials and other materials used on the Project Site will be removed from the Project Site and all staging and surrounding areas.

3.18.2.1 Construction debris and rubbish as generated by the Work will be removed from the point of origin daily and not allowed to accumulate. It will be deposited in a trash container provided on the site until hauled away. Scrap materials for reuse in temporary Work will be segregated and properly stored, protected and covered as for new materials. The result of the above will be the maintenance of a clean project, with a minimum of fire hazards. The Contractor will establish and implement a clean-up routine.

3.18.3 The Contractor will take precautions to prevent tracking of mud or debris on adjacent paved roads. Mud and debris on adjacent roads will be removed on a daily basis or at other times as the Owner may direct if needed to maintain safe and convenient access to the site.

3.18.4 If the Contractor fails to keep the Project Site and all staging and surrounding areas clean as required by the Contract Documents and in accordance with the instructions of the Owner, the Owner may, following forty-eight (48) hours' notice, do so and the cost thereof will be charged to the Contractor.

This charge may be deducted from the payment or payments next owed to the Contractor, or if they are insufficient to cover the amount owing, the Owner may send an invoice to the Contractor for payment, and the Contractor will pay the invoice upon demand.

3.18.5 Unless the Contract Documents require a different standard, the Contractor will leave all Work installed or modified under the Agreement and all existing materials and surfaces affected by the Work and each area of the Project Site clean to the satisfaction of the Owner. This will include at a minimum: complete dusting, sweeping, vacuuming, mopping, polishing, and other activities as necessary to remove all dust, dirt and other construction residues, and removal of all tools and equipment, construction debris, rubbish, and surplus materials.

3.18.6 Immediately before turning any portion of the Project over to the Owner, the Contractor will have all glass cleaned by professional window washers. Care will be taken not to scratch any glass. Acid or other cleaning material which will injure or mar the surface or adjacent Work will not be allowed. Any damage resulting from glass cleaning will be corrected by the Contractor, including the furnishing of new glass of same character and quality or the replacement of other Work damaged or disturbed.

3.19 CONTRACTOR MARK-UP SET (commonly called “As-Builts”)

3.19.1 The Contractor will keep one copy of the Contractor Mark-up Set, as defined in §1.1.18, in good order at the Project site, available for review to all parties having rightful interest in the Project, and will at all times keep it current and made available to the Owner and the Design Professional on request.

3.19.2 The Contractor will, at minimum, keep note on the Contractor Mark-up Set of (i) revisions made, (ii) omissions, including Work omitted by Change Order or accepted alternates, (iii) exact dimensioned locations of concealed lines, (iv) locations of all control devices, (v) any discrepancies in site conditions it may have encountered during the course of the Work, (vi) any additions to Work, (vii) changes in significant details, and (viii) any other information of a similar nature.

3.19.3 Upon Substantial Completion of the Project, the Contractor will provide the Owner with a copy of the up-to-date Contractor Mark-up Set, either hard-copy or in PDF format. Within sixty (60) days of Substantial Completion, the Contractor's notes on the Contractor Mark-up Set will be neatly transcribed and will be submitted to the Owner and the Design Professional as the “Final” Contractor Mark-up Set. The Contractor will provide the Final Contractor Mark-up Set to the Owner as a color scanned single combined PDF at 300 DPI with optical character recognition. Additional details are specified in the Owner’s Design Guidelines Section 2

3.20 CONTRACTOR’S WARRANTY

3.20.1 The Contractor warrants to the Owner that all materials and equipment furnished as part of the Work will be of good quality and new unless otherwise required or permitted by the Contract Documents, that the Work will be complete, free from faults and defects not inherent in the quality required or permitted, and that the Work will conform strictly (not substantially) with the requirements of the Contract Documents. Work not conforming to these requirements, including substitutions not properly approved and authorized, will be considered "Defective." If required by the Owner, the Contractor will furnish satisfactory evidence as to the kind and quality of materials and equipment.

3.20.1.1 To the extent possible, materials and equipment will be delivered to the Project site in original containers or wrappings. Used materials or equipment will not be permitted to be incorporated into the Work without the written approval of the Design Professional and the Owner or unless specifically allowed and called for in the Contract Documents. The Design Professional, or the Owner reserves the right to have any improper used materials or equipment removed from the Project site or completed Work whenever detected. Neither this right nor a decision made in good faith to exercise or not exercise this right will give rise to a duty or responsibility of the Design Professional, or the Owner to any member of the Construction Team, or to any surety, to conduct inspections solely for the purpose of detecting used materials or

equipment. The Design Professional's, or Owner's failure to detect used materials or equipment will not relieve the Contractor of its obligations under §3.20.1.

3.20.2 Contractor will perform the Work in a manner that will preserve any and all manufacturer's warranties.

3.20.3 If the Contractor uses any portion of the Work or the Owner's other property, these items will be restored to the condition they were in immediately prior to their use at or before the time of Substantial Completion, or as otherwise specified in the Contract Documents.

3.21 MANUFACTURERS' WARRANTIES AND MANUALS

3.21.1 The Contractor will bind and turn over to the Owner four (4) sets of manufacturers' warranties and operating and/or maintenance manuals, instructions or schedules for all equipment and special materials requiring such. The Contractor will also turn over an electronic copy of the above-referenced manual in PDF form with indexing so the document can be searched. Binders will clearly categorize and index each piece of equipment and material included, and will be clearly marked noting "project specific" equipment, model numbers, and other applicable information. Manuals will be collected and organized by the Contractor and submitted to the Owner at one time, prior to the issuance of the Certificate of Substantial Completion.

3.21.2 The Contractor will assign to the Owner at the time of Substantial Completion any and all manufacturer's warranties relating to materials and labor used in the Work. If the Contract Documents specify warranty requirements for manufactured items, the Contractor will provide a suitable separate warranty certificate for each item, assigned to the Owner, that meets the requirements of the Contract Documents. All manufacturers' warranties will clearly indicate the names, addresses, telephone numbers and email addresses of personnel to contact for service and/or information.

3.21.3 The Contractor is responsible to make all manufacturer's warranties effective starting on the date of Substantial Completion.

Article 4 DESIGN PROFESSIONAL'S ROLE

4.1 ADMINISTRATION OF THE CONTRACT

4.1.1 The Design Professional will assist with the administration of the contract for construction in accordance with the Owner's contract with the Design Professional.

4.1.2 The Design Professional will have authority to act on behalf of the Owner only to the extent the Owner has granted that authority in writing.

4.1.3 The Design Professional will assist the Owner with the review and, when they are in proper form, certification of the Contractor's Applications for Payment.

4.1.4 The Design Professional will have authority to reject Work which does not conform to the Contract Documents. Whenever the Design Professional considers it necessary or advisable to implement the intent of the Contract Documents, the Design Professional will have authority to require additional inspection or testing of the Work, whether or not the Work is fabricated, installed or completed. However, neither this authority of the Design Professional nor a decision either to exercise or not to exercise authority will give rise to a duty or responsibility of the Design Professional to any member of the Construction Team.

4.1.5 The Design Professional will review and approve or take other appropriate action upon the Contractor's submittals, such as Shop Drawings, Product Data and Samples. The Design Professional's review of the Contractor's submittals will not reduce the Contractor's obligations under the Contract Documents. The Design Professional's approval of a specific item will not indicate approval of an assembly of which the item is a component.

4.1.6 At the request of the Owner, the Design Professional will interpret and decide matters concerning the Design.

4.1.6.1 The Contractor will promptly comply, and cause all Subcontractors to comply, with the Design Professional's written interpretations and decisions, subject to its rights under Article 15 if any interpretation or decision materially changes one or more of the Contract Documents.

4.1.7 The Design Professional's response to requests for interpretation or for approval of submittals will be made with reasonable promptness and within any time limits agreed upon in writing. The parties recognize that timely response by the Design Professional is important to the success of the Work. Accordingly, the Owner, the Contractor and the Design Professional will meet promptly after execution of the Agreement to establish mutually acceptable time lines for Design Professional's responses.

4.1.8 The Design Professional will conduct inspections to help the Owner determine the date or dates of Substantial Completion and the date of Final Completion.

4.1.9 If and to the extent required by its agreement with the Owner, the Design Professional will provide one or more project representatives to carry out the duties assigned to it. The Contractor will cooperate with the Design Professional's representatives.

Article 5 SUBCONTRACTORS; SUPPLY CONTRACTS

5.1 AWARD OF SUBCONTRACTS

5.1.1 The Contractor will, prior to the execution of the Contract, notify the Owner, in writing, of the names of Subcontractors and Suppliers and their business classifications, proposed for the principal parts of the Work and for others as the Owner may direct.

5.1.2 If the Owner has a reasonable objection to any of the proposed Subcontractors or Suppliers, the Contractor will not enter into a contract with any Subcontractor or Supplier.

5.1.3 The Contractor will not substitute a Subcontractor, person or entity previously selected if the Owner makes reasonable objection to substitution. If the substitution is allowed, the Contractor will not be entitled to any increase in Contract Sum or extension of Contract Time on account of substitution.

5.2 RELATIONS WITH SUBCONTRACTORS

5.2.1 By appropriate written agreement, the Contractor will require each Subcontractor to be bound to the Contractor by the terms of these Standard General Conditions, except to the extent clearly inapplicable to the Work to be performed by the Subcontractor. Each Subcontract will preserve and protect the rights of the Owner with respect to the Work to be performed by the Subcontractor so that its rights will not be prejudiced. Where appropriate, the Contractor will require each Subcontractor to enter into similar agreements with other members of the Construction Team.

5.2.2 Without limiting the generality of the foregoing, each Subcontract will contain provisions that:

(a) requires that portion of the Work be performed in accordance with the requirements of the Contract Documents;

(b) requires timely submission of Subcontractor's Applications for Payment and ancillary materials in order to enable the Contractor to apply for payment in accordance with the provisions of Article 9 and also requires compliance with §16.6.2;

(c) recognizes the rights of the Owner pursuant to the Contingent Assignment of Subcontracts contained in §5.5 and require the Subcontractor (upon notice by the Owner that the Owner has terminated the Agreement with the Contractor pursuant

to the terms of Article 14, and that the Owner has elected to retain the Subcontractor pursuant to the terms of its Subcontract with the Contractor) to complete the unperformed obligations under the Subcontract and, if requested by the Owner, to enter into an appropriate agreement evidencing the fact that the Subcontractor is bound to the Owner under its Subcontract in the manner in which it had been bound to the Contractor;

(d) includes the following sentence: "Owner is an intended third-party beneficiary of this Subcontract.";

(e) [intentionally omitted];

(f) requires each Subcontractor to make all claims for changes or extensions of time to the Contractor strictly in the manner provided in the Contract Documents;

(g) limits claims and damages in the manner provided in the Contract Documents;

(h) [intentionally omitted]; and

(i) are in no way inconsistent with any provision of the Contract Documents.

5.2.3 [intentionally omitted]

5.2.4 The failure of the Contractor or any member of the Construction Team to comply strictly with the requirements of §5.2.2 will render the noncompliant party liable to the Owner for any and all loss, liability, cost or damage that the Owner suffers as a result of the omission.

5.2.5 Upon request, the Contractor will deliver a copy of any Subcontract or Supply Contract to the Owner.

5.3 [INTENTIONALLY OMITTED]

5.4 CONSTRUCTION TEAM PERFORMANCE

5.4.1 The Contractor is fully responsible for the acts and omissions of Subcontractors and Suppliers, and of any persons or entities either directly or indirectly employed by the Subcontractors and Suppliers, to the same extent as the Contractor is responsible for the acts and omissions of persons or entities directly employed by the Contractor.

5.4.2 The Contractor will ensure satisfactory and timely (with reference to both Milestone and Substantial Completion Dates) performance from each of the Construction Team members. The Contractor will take appropriate measures when any Subcontractor is not performing in accordance with the Contract Documents.

5.4.3 Should material, workmanship, or parties who are not performing in accordance with the requirements of the Contract Documents, or should a violation of the Contract exist at the Project and continue after the Contractor has received from the Design Professional, or the Owner a reasonable notice, then, after seven (7) days written notice from the Design Professional, or the Owner, the objectionable parties will be dismissed, removed from the Work and excluded from the Project. In this case, the Contractor will remedy and continue the Work to the satisfaction of the Design Professional, and the Owner.

5.5 CONTINGENT ASSIGNMENT OF CONTRACTS

5.5.1 Each Subcontract and Supply Contract entered into by the Contractor as part of the Work is assigned by the Contractor to the Owner provided that:

(a) assignment is effective only after termination of the Agreement by the Owner pursuant to the terms of the Contract Documents and only for those Subcontracts or Supply Contracts which Owner accepts by notifying the Subcontractor or Supplier in writing; and

(b) assignment is subject to the prior rights of the surety, if any, obligated under a bond relating to the Work.

5.5.2 If any assignment under this §5.5 becomes effective, the Owner will be deemed to have agreed to defend and indemnify the Contractor against and hold it harmless from all claims, losses or expenses (including attorneys' fees) arising from or in connection with the assigned contract as a result of any event happening after the assignment becomes effective, and the Contractor will be deemed to have agreed to defend and indemnify the Owner against and hold it harmless from all claims, losses or expenses (including attorneys' fees) arising from or in connection with the assigned contract as a result of any event happening before the assignment becomes effective, except insofar as the Owner is responsible to reimburse the Contractor.

5.5.3 Upon the Owner's request, the Contractor will execute further documentation conditionally assigning each contract to the Owner on the terms stated above (and the Contractor will cause the Subcontractor(s) and Supplier(s) to acknowledge said assignment). Copies of the executed contracts will be delivered to the Owner upon the Owner's request.

Article 6 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS

6.1 OWNER'S RIGHT TO PERFORM CONSTRUCTION AND TO AWARD SEPARATE CONTRACTS

6.1.1 The Owner reserves the right, but will have no obligation, to perform construction or operations related to the Project with the Owner's own forces, and to award separate contracts in connection with other portions of the Project or other construction or operations on the Project Site. The Owner will notify the Contractor of its intent to engage its own forces or those of a separate contractor to allow coordination of the work of all parties on site by Contractor. The Contractor will, nevertheless, retain control of the Project Site. The Contractor will promptly notify the Owner in writing upon becoming aware that an independent action will in any way compromise the Contractor's ability to meet its responsibilities under the Contract Documents.

6.1.2 The Contractor will cooperate with the sequencing of the Work and, without additional cost to the Owner, coordinate the activities of the Owner's own forces and of each separate contractor with the Work of members of the Construction Team, who will, without additional cost to the Owner, cooperate with them. The Contractor will participate with other separate contractors and the Owner in reviewing their Construction Schedules when directed to do so.

6.1.2.1 When the Contractor's Work is dependent upon the Work of the Owner or the Owner's separate contractors, the Contractor will notify the Owner of the condition in ample time to prevent any delays to the Project's progress.

6.2 MUTUAL RESPONSIBILITY

6.2.1 The Contractor will afford the Owner and separate contractors reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities and will connect and coordinate the Contractor's construction and operations with theirs so as to produce the results indicated by or reasonably inferable from the Contract Documents.

6.2.2 If part of the Contractor's Work depends, for proper execution or results, upon construction or operations performed by the Owner or a separate contractor, the Contractor will, prior to allowing that portion of the Work to proceed, conduct an inspection and promptly report to the Owner discrepancies or defects in other construction that would render it unsuitable for the proper execution of the Work to achieve the indicated results. The Contractor's failure to report will constitute an acknowledgment that the Owner's or any separate contractors' completed or partially completed construction to the extent determinable from a reasonable inspection, is fit and proper to receive the Contractor's Work.

6.2.3 Costs caused by delays or by improperly timed activities or Defective construction will be borne by the party responsible therefor.

6.2.4 Subject to the provisions of, and rights to recover from, any property insurance that the Owner is responsible to provide, the Contractor will at its expense, without recovery from the Owner, under the Contract Sum, promptly remedy damage caused by any member of the Construction Team to completed or partially completed construction or to property of the Owner or separate contractors.

6.3 THE OWNER'S RIGHT TO CLEAN UP

If a dispute arises among the Contractor, separate contractors and the Owner as to the responsibility under their respective contracts for maintaining the Project Site and surrounding area free from waste materials and rubbish, the Owner may assume responsibility therefor and allocate the cost among those responsible in its reasonable discretion.

Article 7 CHANGES IN THE WORK

7.1 GENERAL

The Contractor acknowledges (i) that the Owner may, without invalidating the Agreement, order changes in the Work (including extra Work, less Work or alterations) at any time and (ii) that changes in the Work, regardless of their scope or number, are within the contemplation of the parties.

7.2 AUTHORIZATION REQUIREMENTS

7.2.1 Changes in the Work may be authorized only by a written Construction Change Directive (CCD), as provided in §7.4, or Change Order, as provided in §7.7. A Bulletin, issued by the Owner or the Design Professional, may request a proposal from the Contractor that evaluates potential changes in the Work, but will at no time be an instrument of authorization to proceed with the described changes in the Work.

7.2.2 The Contractor will not proceed with any change in the Work without the Owner's authorization as described in §7.2.1, except in an emergency as provided under §10.2.

7.2.3 Except in an emergency as provided in §10.2, the Contractor's failure to obtain the Owner's authorization as described in §7.2.1 for a change in the Work constitutes a waiver by the Contractor of an adjustment to the Contract Sum or Contract Time, or both, for the related Work.

7.2.4 Changes in the Work will be performed under applicable provisions of the Contract Documents, and the Contractor will cause the Work involved to be commenced and completed promptly, unless the written authorization provides otherwise. Any change in the Contract Sum or the Contract Time must result from the provisions of this Article 7. Accordingly, no verbal instructions, 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 or addition to the Work, whether or not there is, in fact, any unjust enrichment to the Work, will in the absence of a written authorization 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. All such claims are hereby waived by the Contractor and are forever barred.

7.2.5 Nothing contained herein will limit the right of the Owner to order changes in Work, even if the Contractor has not accepted a proposed Change Order, and the Contractor will promptly cause all Work required under the Contract Documents or a Construction Change Directive to be performed despite its refusal to accept or execute a Change Order.

7.3 NOTICES TO SURETIES

7.3.1 Changes in the Work may be made without notice to sureties, and absence of notice will not relieve sureties of any of their obligations to the Owner.

7.3.2 If notice of any extra Work or change in the Work affecting the general scope of the Work or the provisions of the Contract Documents is required by the provisions of any bond to be given to any surety issuing bonds the giving of any notice will be the Contractor's sole responsibility.

7.4 CONSTRUCTION CHANGE DIRECTIVES (CCDs)

7.4.1 A "**Construction Change Directive"** ("**CCD**") is a written order signed by the Owner directing a change in the Work and which may (but need not) state a proposed basis for adjustment in Contract Sum and/or the Contract Time.

7.4.2 A CCD may be issued by the Owner alone and may or may not be agreed to by the Contractor.

7.4.3 The Contract Sum and the Contract Time will be adjusted appropriately when changes in the Work are ordered via a CCD. However, the Contract Time will be adjusted only if the Contractor demonstrates to the Owner that the changes in the Work required by the CCD adversely affect the Critical Path of the Work.

7.4.4 A CCD may be used in the absence of total agreement on the terms of a Change Order.

7.4.5 If the CCD provides for an adjustment to the Contract Sum, it will state the method that the Owner proposes to be used for the adjustment.

7.4.6 Upon receipt of a CCD, the Contractor will advise the Owner of the Contractor's agreement or disagreement with the method, if any, provided in the CCD for determining the proposed adjustment in the Contract Sum or the Contract Time.

7.4.7 A CCD signed by the Contractor indicates the Contractor's agreement with all of its terms, including adjustment in the Contract Sum and the Contract Time or the method for determining them. An agreement will be effective immediately and will have the same legal effect of and be recorded as a Change Order.

7.5 BULLETINS

7.5.1 If one or more changes in the Work are contemplated by the Owner or the Design Professional, a Bulletin may be prepared by the Design Professional and delivered to the Contractor describing the change(s) and requesting the submission of a pricing quotation in accordance with Method No. 1 or Method No. 2 described in §7.6.2.

7.5.2 The Contractor will not proceed with any changes referred to in a Bulletin unless the Owner has issued a CCD or the parties have executed a Change Order.

7.6 CHANGE ORDER PRICING AND COST PROPOSAL PROCEDURES

7.6.1 All pricing/cost proposals must be submitted with a summarized detailing of labor, materials, equipment, overhead and profit to the extent that a reasonable determination of the values of the changes in the Work can be made by the Design Professional or the Owner and in accordance with §7.6.3 and §7.6.4. All Subcontract Work listed in the summary must be supported with similarly detailed Subcontractor quotes. All proposals will be prepared and submitted by the Contractor using the current Contractor Quotation spreadsheet template form provided by the Owner in accordance with §1.3.3.

7.6.2 Pricing Methods

Adjustments in the Contract Sum or the Contract Time resulting from changes in the Work will be determined by one or more of the following methods, which will be selected by the Owner's Representative:

7.6.2.1 **Method No. 1**: By mutual acceptance of a lump sum proposal utilizing one of the following procedures:

(a) In cases where the scope of the change is limited and the value is readily apparent, the Contractor will promptly provide a lump sum proposal in accordance with §7.6.1 which, upon acceptance by the Owner, will be authorized by issuance of a CCD or Change Order. If the proposal is not accepted by the Owner, or if the scope is more complex, procedure (b), directly below, will be utilized.

(b) For more complex changes the Contractor will, within twenty (20) days of receipt of a CCD from the Owner, submit a detailed lump sum proposal in accordance with §7.6.1, including a substantiation of any request for an extension of the Contract Time. The allowable time for the submission of the Contractor's proposal may be extended by written authorization from the Owner.

(c) If the Contractor fails to submit a timely proposal pursuant to this §7.6.2.1 the Owner will have the right, after fourteen (14) days prior written notice to the Contractor of the failure of the Contractor to submit the required Quotation, to determine the Contract Sum adjustment for additional, deleted or changed Work and to adjust the Contract Sum accordingly.

7.6.2.2 **Method No. 2**: By unit prices stated in the Contract Documents or subsequently agreed upon, subject to the provisions below:

(a) Actual quantities and classifications of unit price Work will be submitted by the Contractor to the Design Professional and the Owner. All quantities and classifications will be subject to review and approval by the Design Professional and the Owner. The Design Professional, or the Owner, may make independent measures of Work completed to verify the Contractor's reported quantities or classifications. The estimated quantities of items of unit price Work, identified in the Contract Documents, are not guaranteed and are solely for the purpose of comparison of bids and determining an initial Contract Sum.

(b) Where the quantity of any item of unit price Work differs by twenty (20) percent or more from the estimated quantity included in the Contract, and significantly alters the cost to perform the total Work, the Contractor or the Owner may make a claim for an adjustment in the unit price, and corresponding Contract Sum, in accordance with Article 15, if the parties are unable to agree to the adjustments.

(c) Each unit price will be deemed to include an amount, in addition to the Cost of the Changes, adequate to cover all overhead and profit.

7.6.2.3 **Method No. 3**: On the basis of the actual Cost of the Changes as provided for in §7.6.3.1 and §7.6.3.2, plus a fee to the Contractor for overhead and profit as determined by §7.6.3.3.

(a) The Contractor will keep and present in such a form as the Design Professional or the Owner may direct, an itemized accounting, together with supporting data, vouchers and approved daily time sheets, of all costs associated with the extra or changed Work.

(b) A summary, supporting documentation and labor rates must be submitted in accordance with §7.6.3 and §7.6.4 when submitting Applications for Payment under this method.

7.6.2.4 If the Owner and the Contractor fail to agree upon the adjustment in the Contract Sum, upon issuance of a Construction Change Directive from the Owner, the Contractor will nevertheless cause the changes in Work to be promptly commenced and completed.

7.6.3 Cost of the Changes

7.6.3.1 The term **Cost of the Changes** means the sum of all costs necessary and reasonable in the proper performance of the changed Work. All costs will be in amounts no higher than those prevailing in the locality of the Work. The following costs will constitute the recoverable Cost of the Changes to which the Contractor is entitled when performing extra or changed Work, or making any other claim for a Contract Sum adjustment. These costs will also form the basis for the Contractor's recoverable costs which are associated with extensions of the Contract Time caused by extra or changed Work, or other cause solely within the control of the Design Professional, or the Owner, and which are further substantiated by the Contractor in accordance with the requirements of §7.6.2.3.

(a) The Cost of Labor in accordance with §7.6.4.

(b) The costs of all materials and equipment furnished and incorporated into the Work by the Contractor, including costs of transportation, and storage where applicable. All trade discounts, rebates and refunds and all returns from sales of surplus materials and equipment will accrue to the Owner.

(c) Payments made by the Contractor to subcontractors for Work performed. Subcontractors' recoverable costs will be determined in the same manner as the Contractor's. If required by the Owner, the Contractor will obtain competitive bids from subcontractors who are acceptable to the Contractor and the Owner and will hire those accepted by the Owner.

(d) Sales, consumer, use or similar taxes related to the Work, and for which the Contractor is liable, or are otherwise imposed by laws and regulations.

(e) Construction equipment costs of Contractor's equipment or rental costs from others; hourly, daily, weekly or monthly rates will be applied where appropriate in order to obtain lowest net cost.

(f) Other supplemental costs which are substantiated by the Contractor as specifically being required for the proper execution of the extra or changed Work, unless specifically prohibited by §7.6.3.2.

7.6.3.2 The Contractor's recoverable Actual Cost of the Changes, or any other claim for a Contract Sum adjustment, including any claims associated with extensions of the Contract Time, will NOT include any of the following costs:

(a) expenses of the Contractor's principal and branch offices other than the Contractor's office located on the Work site;

(b) any part of the Contractor's capital expenses, including interest on Contractor's capital employed for the Work and charges against Contractor for delinquent payments;

(c) any parking costs associated with the execution of the Work;

(d) cost of premiums for the extension of any bonds or insurance coverage required to be secured by the Contractor by the Contract Documents, and in accordance with §7.3.1;

(e) costs associated with Work arising from the one year correction of the Work period, warranties, or guarantees which are required by the Contract Documents; and

(f) any other supplemental costs which are not substantiated by the Contractor as specifically being required for the proper execution of the extra or changed Work.

7.6.3.3 When using "Method 1" and "Method 3" of §7.6.2, the Contractor will be allowed a mark-up of no more than fifteen percent (15%) on materials and Work performed with their own tradespersons and no more than five percent (5%) on Work performed by others. Subcontractors, through all subsequent tiers, will determine their fee in the same manner as the Contractor. The

cumulative mark-up charged to the Owner, from all tiers of subcontractors, will not exceed twenty six and eight tenths percent (26.8%) (the net compounded amount). This cumulative amount includes the Contractor's markup.

7.6.3.4 If Changes in the Work involve both added Work and deducted Work in the same portion of the Work, Contractor's fees will not be allowed if the deducted cost exceeds the added cost. If the added cost exceeds the deducted cost, Contractor's fees will be allowed only on the difference between the two amounts.

7.6.3.5 When time for completion is a factor in determining an adjustment pursuant to this Article 7 and the Contractor has complied with the provisions of §7.6.1, but the Owner and the Contractor fail to agree upon an appropriate adjustment to the Contract Time, the Owner will determine a reasonable time adjustment, taking into account all pertinent factors, such as the Critical Path of the Work, the duration of any delay caused by the change, the complexity of any extra Work required or of Work abandoned, and the difficulty in procuring additional materials, supplies, equipment or labor or the procurement time that would be saved.

7.6.3.6 When the Owner and the Contractor reach agreement upon any adjustments, their agreement will be effective immediately and will be recorded by preparation and execution of an appropriate Change Order.

7.6.4 Cost of Labor

7.6.4.1 Labor rates quoted on pricing cost proposals must match those on the *Labor Rate Calculation Sheets* (provided by the Owner in accordance with §1.3.3), submitted by the Contractor and approved by the Owner prior to the submittal of any quote, proposal or invoice. No Change Order, quote, proposal or invoice involving labor will be approved until all applicable Labor Rates are approved by the Owner.

7.6.4.2 The Cost of Labor includes payroll costs for employees of the Contractor directly employed in the physical performance of the Work. Payroll costs for employees not directly employed in the physical performance of the Work, such as Superintendents, are recoverable to the extent that additional supervision or staffing is specifically required to be added for the proper execution of the Work. Percentage add-ons, or other costs, for employees not directly employed in the physical performance of the Work will not be allowed unless the Contractor establishes that the employees are or were required for the proper execution of the Work and further that the employees were actually added to the Contractor's Work staff, or their time on the Work was extended as a result of the extra or changed Work. Payroll costs will include salaries or wages paid plus the cost of itemized fringe benefits, including social security contributions, unemployment and workers' compensation insurance. The payroll costs associated with premiums paid for performing the Work after regular hours, on weekends or holidays will be allowed only to the extent that these are previously authorized and approved by the Owner.

(a) Overtime, when specifically authorized by the Owner in a Change Order for reasons other than the failure of the Contractor to perform the Work in accordance with the Construction Schedule or otherwise in conformity with the Contract Documents (but not overtime resulting from the Owner's direction to use Extraordinary Measures, the cost of which will be solely the Contractor's responsibility), will be paid for by the Owner solely on the basis of the overtime rates established by the approved *Labor Rate Calculation Sheets* in accordance with §7.6.4.1.

(b) The performing contractor will not be allowed a fee for overhead and profit on the premium time "Adder" wages paid, as indicated on the *Labor Rate Calculation Sheets*.

7.6.4.3 The following items will NOT be accepted by the Owner as elements of the Cost of Labor:

(a) Payroll costs and other compensation of the Contractor's officers, executives, principals, general managers, project managers, owners, engineers, architects, estimators, attorneys, auditors, accountants, purchasing or contracting agents, expediters, clerks, or any other employees or agents who are not specifically employed full-time on the Work. Those employees or agents not employed full-time on the Work are to be considered as administrative costs which are covered by the Contractor's fee. Exceptions to this requirement will only be made on a case-by-case basis, each of which will require prior Owner authorization and approval.

(b) Overhead and profit items including, but not limited to:

(1) Automobiles, job vehicles, vehicle maintenance, fuel, and other commute expenses;

(2) Consumables and replacement parts (these are covered by the small tools allowance built into the rate calculation sheet);

(3) Home office and field estimating;

(4) Training, except where specifically allowed by labor agreement;

(5) Safety and safety equipment;

(6) Project management;

(7) General conditions items including phones, radios and pagers; uniforms; clean up; office, shop and field equipment; utilities and fuel; trailer and storage expenses;

(8) Workmanship warranty;

(9) Bond costs, general liability and other insurances (Bonds and GL are covered by the allowances built into the rate calculation sheet, others are considered overhead); and

(10) Cost of parking and transportation to/from the jobsite.

(c) Other items which may be billed separately with supporting documentation, including:

(1) Freight charges and cartage;

(2) Engineering and cost of drawings;

(3) Supervision of labor; and

(4) Equipment rental for items valued over One Thousand Dollars ($1,000) only, others are included in the small tools allowance.

7.7 CHANGE ORDERS

7.7.1 A "**Change Order**" is a written instrument in a form provided by the Owner, and signed by the Owner, the Design Professional, and the Contractor, stating their agreement upon a change in one or more of the following:

(a) the Work;

(b) the Contract Time;

(c) the Contract Sum; and/or

(d) other Contract terms or conditions.

7.7.1.1 If any one or more of the foregoing is not specifically addressed in a Change Order, the parties will be deemed to have agreed that it is unaffected by the Change Order. For example,

if a Change Order modifies the Work and the Contract Time but is silent as to the Contract Sum, the parties will be deemed to have agreed that the Contract Sum is not affected by the Change Order.

7.7.2 Following a discussion with the Contractor, the Owner will have the right to issue a **Unilateral Change Order**, without the Contractor's signature, where the Owner determines that a change in the Work requires an adjustment of the Contract Sum or Contract Time, even though no agreement has been reached between the Owner and the Contractor with regard to the change in the Work.

7.7.3 An agreement on any Change Order will constitute a final settlement of and a waiver of and permanent bar to all claims and matters relating to the change in the Work which is the subject of the Change Order and all previous Change Orders, including all direct and indirect costs associated with the change and any and all adjustments to the Contract Sum and the Contract Time. The Contractor will include the Work covered by Change Orders in its Applications for Payment as if the Work were originally part of the Contract Documents.

Article 8 CONSTRUCTION PROGRESS; DELAYS AND SUSPENSION

8.1 CONSTRUCTION PROGRESS

8.1.1 All time limits stated in the Contract Documents are of the essence of the Contract. The Contractor will see to the diligent, expeditious performance of the Work, with adequate resources so that all the Work will be completed within the Contract Time.

8.1.2 If the Contractor will not meet the contractual completion dates on the Critical Path, as amended by Change Orders or Construction Change Directives or except as otherwise specifically provided in §8.6.3.2, the Contractor will promptly take Extraordinary Measures without additional costs to the Owner.

8.1.2.1 Subject to the Contractor's rights under Article 15, the Owner will have the right to order Contractor to take Extraordinary Measures when it determines that the performance of the Work, as of a Milestone Date, has not progressed to or reached the level of completion required by the Contract Documents.

8.1.2.2 Subject to reasonable prior notice and opportunity to cure, and except to the extent caused by Owner Delay, the Owner will also have the right to offset against any amounts then or thereafter due to the Contractor, or to be reimbursed by the Contractor for, any costs incurred as a result of an increase in the Owner's own labor force or for overtime, Saturday, Sunday, and/or holiday Work as a result of implementing Extraordinary Measures for which the Contractor is responsible to pay.

8.2 PARTIAL OCCUPANCY

8.2.1 The Owner, at its election, may from time to time make use of or occupy any of the units or parts of the Project as the Work in connection therewith is completed, provided that the Owner determines that the units or parts of the Project are ready for the Owner's intended use.

8.2.2 Prior to any partial occupancy, the Owner will give notice to the Contractor thereof and the occupancy will be upon the following terms:

(a) the Correction Period, as outlined in §12.2.2, will not begin to run until the Certificate of Substantial Completion for the entire Work is issued;

(b) other warranties or guarantees required by the Contract Documents will not begin to run until the Certificate of Substantial Completion for the entire Work has been issued;

(c) the occupancy will not constitute an acceptance of Work not performed in accordance with the requirements of the Contract Documents or relieve the

Contractor of the liability to perform any Work required by the Contract Documents but not completed at the time of occupancy. The Contractor will be afforded reasonable access to complete or correct the Work;

(d) the Contractor will be relieved of all maintenance costs on the units or parts partially occupied;

(e) the Contractor will not be responsible for the wear and tear or damage resulting from the occupancy; and

(f) the Contractor will not be required to furnish heat, light, water or other services used in the units or parts occupied without proper remuneration thereof.

8.3 SUBSTANTIAL COMPLETION

8.3.1 Substantial Completion will not be achieved until (i) all system training, operation and maintenance manuals have been submitted to the Owner, (ii) the Design Professional has certified that the Work is substantially complete and (iii) the Design Professional, the Owner and the Contractor have executed a Certificate of Substantial Completion pursuant to §8.3.2.

8.3.2 Certificate of Substantial Completion.

8.3.2.1 When the Contractor has performed all tasks necessary to achieve Substantial Completion of the entire Work, or designated portion(s) thereof, the Contractor will notify the Owner and request that a Certificate of Substantial Completion be issued. Along with this notification, the Contractor will submit a list of all Work not completed or Work that the Contractor believes to not be completed in accordance with the requirements of the Contract Documents. Within a reasonable time after being notified, the Design Professional will review, and may amend, the list of Work not completed and make a preliminary inspection of the Work to determine if it is substantially complete. If in the opinion of the Design Professional the Work is not substantially complete, the Contractor will be so notified and will be required to bring the Work to a state of Substantial Completion and have it re-inspected by the Design Professional at no increase in the Contract Sum. Upon notification from the Design Professional that the Work is Substantially Complete, the Owner will execute a Certificate of Substantial Completion for the Design Professional's certification. The Design Professional will deliver fully-executed copies to the Contractor and the Owner.

8.3.2.2 Upon the issuance of a Certificate of Substantial Completion of the entire Work, or a portion thereof, the Owner will be responsible for security, maintenance, damages to the completed Work, utility costs, and operations of the plant or facility. The Contractor, however, will be responsible for any damages caused by the Contractor's efforts to complete the Work, including any clean-up costs. The Contractor will also remain responsible for any safety precautions associated with the Contractor's completion of any Work.

8.4 PUNCHLIST

8.4.1 The Contractor will coordinate with the Design Professional to ensure that the Punchlist, which will be updated by the Design Professional at Substantial Completion, will be in a database format compatible with that of the Contractor and the Owner. The Punchlist, will be attached to and will become a part of each Certificate of Substantial Completion. Failure to include an item on the list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents. The Contractor will proceed promptly to cause completion and correction of all items on the Punchlist executed by the Design Professional. The Contractor will monitor each Subcontractor's progress in completing its Punchlist items satisfactorily, and will Work with the Subcontractor to ensure that, unless delayed by a need to order materials that should not reasonably have been anticipated by the Contractor, its Punchlist items are completed in thirty (30) days or less following the date of Substantial Completion, or such other time as the Owner allows. The Contractor understands that the Design Professional will make only two (2) Punchlist reviews: (i) one to create the initial Punchlist; and (ii) a second to determine that the initial Punchlist items have been completed.

8.4.2 The Contractor will maintain a running/rolling Punchlist with each Subcontractor throughout the job in an attempt to resolve Punchlist items on an on-going basis to minimize the length of the Punchlist to be developed by the Design Professional at Substantial Completion. A copy will be submitted to the Owner and to the Design Professional at least monthly during the progress of the Work.

8.5 FINAL COMPLETION

Final Completion will be achieved when the Contractor has (a) completed the Work; (b) completed all training of Owner personnel required by the Contract Documents; and (c) delivered to the Owner (i) where required by Applicable Law, a written certification from the applicable governmental authority authorizing occupancy of the Work, (ii) all outstanding warranties, in accordance with §3.21, with a complete warranty contact list and (iii) a fully executed Punchlist approved by the Design Professional. When the Contractor considers that the entire Work is in a state of Final Completion, the Contractor will notify the Design Professional and the Owner that this Milestone has been reached. Within a reasonable time after being notified, the Design Professional and the Owner will inspect the Work. If the Design Professional determines that the entire Work is not in a state of Final Completion, the Contractor will be so required to bring the Work to that state, at no additional cost to the Owner. Should the Owner, following the initial "final" inspection, find that the Work is not acceptable under the Contract Documents and the obligations of the Contractor not fully performed, costs associated with the Owner's and the Design Professional's re-inspections under this §8.5 will be reimbursed through a deductive Change Order to the Owner by the Contractor upon demand. When the Design Professional determines that the Work is in a state of Final Completion, the Contractor will submit an "Application for Final Payment" to the Design Professional who will review and submit the Application to the Owner for payment in accordance with §9.9.

8.6 DELAYS

8.6.1 Except as provided in this §8.6, the Contractor will be fully responsible for the timely completion of the Work in accordance with the Construction Schedule. The Contractor will cause all members of the Construction Team to meet all Milestone Dates in the Construction Schedule. The Contractor agrees to use its best efforts to avoid the occurrence of any cause for delay, to avoid any extension of performance dates, and to mitigate the effect of any delay that does occur.

8.6.1.1 The Contractor acknowledges that in preparing the Construction Schedule and in agreeing to the times or dates of completion set forth the Contract Documents it will be required to make an appropriate allowance for all events that are on the Critical Path.

8.6.1.2 Without limiting the specific procedure applicable to Owner Delays and Force Majeure (as defined in §8.6.3 and §8.6.4 respectively), immediately following the commencement of any cause for delay, representatives of the Contractor will contact the Owner and they will confer for the purpose of determining the probable length of the delay and a course of action which would end or eliminate the occurrence or event that is causing delay.

8.6.1.3 The Contract Sum will be adjusted, and Contract Time will be extended only under the exact circumstances described in this §8.6 and then if, and only, if the Contractor complies strictly (not substantially) with the requirements of this §8.6.

8.6.1.4 Except only as provided in §8.6.3, an extension of the Contract Time, to the extent permitted under this §8.6, and the Contractor's rights in connection with a suspension of the Work as provided in §8.7.1, will be the sole and exclusive remedies (in lieu of all other remedies whatsoever) of the Contractor for any delay, interference, hindrance in the performance of the Work, loss of productivity, manpower inefficiencies, impact damages and similar claims and damages, whether or not contemplated by the parties. Except only as provided in §8.6.3, under no circumstances will the Contractor be entitled to any compensation or recovery of any damages in connection with any delay, including, without limitation, consequential damages, lost opportunity costs, impact damages or other similar remuneration. Except as permitted under §8.6.3, the Contractor hereby expressly waives and covenants and agrees not to assert any claims against the Owner for any damages, costs, losses or expenses of any nature whatsoever which any member of the Construction Team may incur as a result of any delays, interferences, suspensions,

rescheduling, changes in sequences, congestion, disruptions, or the like arising from, out of or in connection with any act or omission of the Owner, its representatives or agents.

8.6.2 A delay is a "**Critical Delay**" if and only to the extent it adversely affects the Critical Path of the Work as established in the Construction Schedule or subsequent Subcontractor schedules that fall within the Construction Schedule. When two (2) or more delays occur concurrently, and each such concurrent delay by itself without consideration of the other delay(s) would be critical, then all such concurrent delays will be considered Critical Delays. For the purpose of determining whether and to what extent the Contract Time should be adjusted, such concurrent Critical Delays will be treated as a single delay which commences at the start of the delay that begins first and terminates at the cessation of the delay that ends last.

8.6.3 "**Owner Delay**" means, and is limited to, a Critical Delay to Contractor's completion of the Work to the extent caused by one or more of the following: (i) Change Orders and Construction Change Directives (CCDs) (excluding minor changes in the Work and Design Professional interpretations), (ii) the Owner's failure (or that of any other person for whom the Owner is responsible to the Contractor, including the Design Professional or a separate contractor hired by the Owner) to provide any data or information requested by the Contractor in writing that is reasonably necessary for Contractor to carry out its duties and is the Owner's obligation to provide (so long as the Owner and any other responsible person are given adequate time to respond); or (iii) interference by the Owner or persons for whom it is responsible to the Contractor, including the Design Professional or a separate contractor hired by the Owner, with the Contractor's performance of the Work (which continues after written notice to the Owner of such interference).

8.6.3.1 The Owner's exercise of any of its rights under the Contract Documents or the Owner's good faith exercise of any of its remedies, including requirement of correction or re-execution of any Defective Work, regardless of the extent, number or frequency of the Owner's good faith exercise of such rights or remedies, will not under any circumstances be construed as interference with the Contractor's performance of the Work or an event of default.

8.6.3.2 In the event of Owner Delay, the Contractor will be entitled to an equitable adjustment in the Contract Sum. This adjustment will be based solely upon and limited to additional direct out-of-pocket expenses to the extent they are incurred directly as a result of the Owner Delay. Without limiting the generality of the foregoing, such out-of-pocket expenses will be calculated on an actual out-of-pocket cost basis, and will exclude home office expense and other overhead, profit and the value of lost opportunities. The Contractor will furnish such documentation as may be requested by the Owner, including, without limitation, cost records, to substantiate its claim and allow the Owner to evaluate it.

8.6.3.3 Following receipt of all requested information, the Owner will decide whether to grant, grant in part or deny a request for an equitable adjustment to the Contract Sum. Any adjustment granted will be memorialized in the form of a Change Order. Acceptance and execution of any such Change Order by the parties will constitute an accord and satisfaction that forever bars any and all claims for an equitable adjustment to the Contract Sum arising out of or in connection with the Owner Delay. If the Contractor disagrees with the Owner's decision, it may pursue the remedies available to it under Article 15.

8.6.3.4 Subject to, and in accordance with the provisions of, §8.6.5.2, the Contractor will also be entitled to schedule relief in the case of Owner Delay.

8.6.3.5 Notices in connection with Owner Delays will be made by the Contractor to the Owner in accordance with this §8.6.3.5. The Contractor will use its best efforts to provide verbal notice to the Owner within twenty-four (24) hours after the commencement of a delay. It must in any event do so as soon as possible and not later than three (3) days after commencement of the delay. Any verbal notice given will be confirmed in writing within four (4) days. If the Contractor fails to deliver verbal notice within three (3) days after the commencement of a delay, it will not be entitled to any relief pertaining to the period of time before it gave verbal notice. If the Contractor fails to confirm any verbal notice within four (4) days after the verbal notice was given, it will not be entitled to any relief for the period of time beginning after the passage of such four (4) days and

ending when the confirmation is actually received by the Owner. And, if the Contractor fails to provide verbal notice within ten (10) days after the commencement of a delay or to confirm any verbal notice within ten (10) days after the verbal notice was given, the Contractor will be barred from seeking any relief whatsoever relating to the delay. The Contractor will also within twenty-one (21) days after the cessation of such delay notify the Owner of the date of such cessation and the total amount of delay, if any, in performance dates which the Contractor is entitled to claim by reason of any such occurrence.

8.6.3.6 Failure of the Contractor to timely assert any alleged Owner Delay or claim for an equitable adjustment to the Contract Sum or schedule relief strictly (not substantially) in accordance with the provisions of this §8.6 will constitute a waiver of and will forever bar that claim, even if the Owner was not prejudiced thereby.

8.6.3.7 The Contractor will use its best efforts to avoid or reduce delay damages to any member of the Construction Team caused by Owner Delay.

8.6.4 The term "**Force Majeure**" means, and is limited to, the following:

(a) strikes, lockouts, or picketing (legal or illegal) of an area-wide, trade-wide, Owner-wide, or industry-wide nature (a strike, lockout or picket [legal or illegal] specific to the Project Site, or directed at the Contractor or any of its Affiliates will not be considered an area-wide, trade-wide or industry-wide strike, and does not constitute Force Majeure);

(b) governmental stop-work orders or other governmental action resulting from emergency circumstances, and condemnation;

(c) riot, civil commotion, insurrection, and war;

(d) fire or other casualty not the fault of the Contractor, accident, acts of God or the public enemy;

(e) unusual adverse weather conditions not reasonably expected for the location of the Work and the time of the year in question;

(f) unavailability of fuel, power, supplies or materials that is not the fault of the Contractor; or

(g) the passage or unexpected interpretation or application of any statute, law, regulation or moratorium of any governmental authority that has the effect of delaying the Work, excluding any green building statute, law, or regulation as to which any public or advance notice was available prior to its adoption or issuance.

8.6.4.1 If the Contractor is delayed by Force Majeure and the delay is a Critical Delay, then the Construction Schedule and the Contract Time may be adjusted.

8.6.4.2 If the Contractor is delayed by a Force Majeure Event, it will immediately notify the Owner by telephone and promptly (and not more than 24 hours following the commencement of the occurrence of a Force Majeure delay), also notify the Owner in writing, setting forth the cause of the delay, a description of the portions of the Work affected, and additional relevant details, such as the anticipated duration of the delay. Failure to submit the notice of Force Majeure delay required herein will constitute a waiver of claim by the Contractor. In the case of a continuing cause of Force Majeure delay, only one notice is necessary.

8.6.4.3 All claims for extension of time on account of Force Majeure will be made in writing to the Owner no more than seven (7) days after the conclusion of the delay.

8.6.5 If the Contractor intends to request an extension of time on account of an Owner Delay or Force Majeure, it will in the notice given pursuant to §8.6.3.5 or §8.6.4.2 the specific extension or adjustment requested and justifying the reason for the extension or adjustment. The Contractor will furnish such documentation as may be requested by the Owner, including, without limitation, CPM Schedule analysis, to substantiate its claim and allow the Owner to evaluate it. Following receipt of all requested information,

the Owner will decide whether to grant, grant in part or deny the request. Any extension of time or adjustment granted will be memorialized in the form of a Change Order. Acceptance and execution of any such Change Order by the parties will constitute an accord and satisfaction that forever bars any and all claims arising out of or in connection with the Contractor's request for schedule relief. If the Contractor disagrees with the Owner's decision, it may pursue the remedies available to it under Article 15.

8.6.5.1 When permitted under this §8.6, schedule relief will be granted as necessary to compensate for the delay (but the total extension of all Critical Path Activities may not exceed the period of time required by the Contractor, using its best efforts, to mitigate the effect of the delay).

8.6.5.2 Adjustments in the Contract Time will be permitted for any Owner Delay or Force Majeure only to the extent such delay (i) is not caused or contributed to, and could not have been anticipated, by the Contractor using the degree of diligence required by the Contract Documents, (ii) could not have been prevented by the exercise of reasonable care, reasonable precautions, or reasonably circumvented by the Contractor through the use of alternate sources, workaround plans or other means, including disaster recovery plans; (iii) was critical, that is, had an impact on the overall completion of the Project or rendered other activities critical that otherwise were not critical; (iv) was not concurrent with any other contemporaneous delays attributable to or controlled by the Contractor; (v) could not be limited or avoided by the Contractor's timely notice to the Owner of the delay, (vi) for which an equitable adjustment is provided or excluded under any other provision of the Contract Documents, or (vii) is of a duration of not less than one (1) day.

8.6.5.3 Failure of the Contractor to timely assert any alleged delay or claim for schedule relief strictly (not substantially) in accordance with the provisions of this §8.6 will constitute a waiver of and will forever bar that claim, even if the Owner was not prejudiced thereby.

8.6.6 If the Contractor, but for a delay not within its control, would have completed the Work prior to the expiration of the Contract Time, the Contractor will not be entitled to recovery of damages arising out of any event or delay whatsoever which prevented such early completion of the Work.

8.6.7 Nothing contained in this §8.6 will preclude the recovery of other damages by the Owner for delay.

8.7 SUSPENSION BY OWNER

8.7.1 The Owner may, for any reason, order the Contractor in writing to suspend, postpone, delay or interrupt the Work in whole or in part for such period of time as Owner may determine (a "**Suspension**"). In the event of any Suspension, the Owner will have the right, in its discretion, upon written notice to the Contractor, to keep the Agreement in effect during the period of the Suspension; provided, however, that if the Suspension exceeds a period of seven (7) days, the Contractor will be reimbursed for the actual out-of-pocket costs incurred by the Contractor or its Subcontractors directly as a result of the Suspension (such as reasonable demobilization and remobilization costs), and an appropriate extension of the Contract Time will also be granted.

8.7.2 If the Work is suspended for a period of more than ninety (90) days, the Contractor may terminate the Contract in accordance with §14.3.

8.7.3 No reimbursement pursuant to §8.7.1 will be made to the extent that (i) performance is, was or would have been so suspended, delayed or interrupted by another cause for which Contractor is responsible; or (ii) an equitable adjustment for any particular cost item is made or denied under another provision of the Agreement.

8.7.4 Except as specifically set forth above, no Suspension will give rise to any cause of action or claim against the Owner for damages, loss of profits, expenses or other remuneration of any kind.

8.7.5 Notwithstanding any other provisions of the Agreement, if a Suspension arose on account of the Contractor's failure to fulfill its obligations under the Agreement or on account of any other fault of any member of the Construction Team, the Owner may withhold payment to the Contractor in an amount

equal to the costs or damage that the Owner will suffer, and the Contractor will not be entitled to any recovery on account of the Suspension. The Contractor will remain liable to the Owner for all damages and expenses in excess of any such monies being withheld by the Owner. The failure of the Owner to withhold monies from the Contractor will not be construed as an acknowledgment by the Owner that no such damages or expenses exist and will not prevent the Owner from thereafter making any claim against the Contractor therefor.

Article 9 PAYMENTS

9.1 ALLOWANCES

All allowances named in the Contract Documents will cause the Work so covered to be done by or under such Subcontractors and Suppliers and for such sums as the Owner or the Design Professional may direct, the Contract Sum being adjusted accordingly where such sums exceed or are less than the identified allowances. All unused allowance amounts will belong to the Owner. The Owner reserves the right to audit the Contractor's books and records with respect to any permitted allowances.

9.2 UNIT PRICES

9.2.1 Where the Contract Documents provide that all or part of the Work is to be Unit Price Work, the Owner will pay only for materials completely installed in place. Quoted Unit Prices will include all costs related to construction, including but not limited to general conditions, labor, materials, overhead and profit for the Contractor and its subcontractors.

9.2.2 For Unit Price Contracts, the estimated quantities provided by the Owner appearing in the bid schedule are not guaranteed and are prepared solely for the comparison of bids and determining an initial Contract Sum. Payment to the Contractor will be made only for the actual quantities of Work performed and accepted in accordance with §7.6.2.2.

9.3 SCHEDULE OF VALUES

9.3.1 Cost Breakdown - At least twenty (20) calendar days prior to the first Application for Payment, the Contractor will submit to the Design Professional and the Owner a schedule of values for all of the Work, allocating the Contract Sum to various portions of the Work. The Contractor's overhead and profit will be proportionately included within each value of the construction Work identified.

9.3.1.1 The total shown on the Schedule of Values will equal the Contract Sum.

9.3.1.2 The amount of further detail, method of breakdown and supporting data required to substantiate the accuracy of the schedule of values may be determined by the Owner. The schedule of values will indicate, where appropriate, the quantities of Allowances, Unit Price Work and other various portions of the Work included within a specific line item.

9.3.1.3 Any breakdown which fails to include sufficient detail to verify its accuracy, is unbalanced or exhibits “front-end loading” of the value of the Work will be rejected. If a breakdown had been initially approved and subsequently used, but later found improper for any reason, sufficient funds will be withheld from future Applications for Payment to ensure an adequate reserve (exclusive of normal retainage) to complete the Work.

9.3.2 Basis for Payments - The schedule of values, after review by the Design Professional, and the Owner, will be used as the basis for making progress payments to the Contractor for actual Work performed, unless such Work is found to be unacceptable to the Design Professional or the Owner. In such case the Contractor will be required to correct and resubmit for approval a revised schedule of values prior to subsequent applications. Progress payments for portions of the Work performed on a unit price basis will be based upon the number of units verified as complete by the Contractor and approved by the Design Professional. Unless noted otherwise, it will be the Contractor's responsibility to establish that the progress

reported is accurate. The schedule of values will be revised, as necessary, to reflect adjustments to the Contract Sum made by Change Orders or written Modifications.

9.3.3 If requested by the Owner, or required by the Contract Documents, the Contractor will submit within thirty (30) days after the receipt of the Notice to Proceed, a monthly payment cash flow schedule of anticipated progress payments for the project duration, based upon the Contractor's planned progress of the Work.

9.4 PROGRESS PAYMENTS

9.4.1 The Owner will make progress payments, in accordance with this Article 9, for completed Work performed . Execution by both parties of the Agreement is a condition precedent to payments to the Contractor hereunder. Progress payments will be made based on the percentage of Work completed in comparison to the schedule of values.

9.4.2 To assure proper performance of the Contract Documents by the Contractor, the Owner may retain out of each progress payment a "Retainage" equal to ten percent (10%) of the dollar value of the work in place until the Work is fifty percent (50%) in place. After the Work is fifty percent (50%) in place, additional retainage will not be withheld unless the Owner determines that the Contractor is not making satisfactory progress or for another specific cause relating to the Contractor's performance under the Contract Documents. If the Owner so determines, it may retain not more than ten percent (10%) of the dollar value of Work more than fifty percent (50%) in place. Retainage will be released to the Contractor not later than the time of Final Payment.

9.4.2.1 The Owner will have the right, but not the obligation, to release Retainage related to a Subcontractor who achieves final completion of its subcontracted portion of the Work, under the Subcontract, substantially earlier than Final Completion of the Project, but only upon the written recommendation of the Contractor that such Retainage should be released.

9.4.3 At any time after ninety four percent (94%) of Work under the contract is in place and at the request of the original Contractor, the Owner will release the Retainage to the original Contractor, but only if the original Contractor provides to the Owner an irrevocable letter of credit in the amount of the retainage, issued by a bank authorized to do business in Michigan, containing terms mutually acceptable to the Contractor and the Owner.

9.4.4 For itself and on behalf of all members of the Construction Team, the Contractor releases the Owner from the obligation to have Retainage funds deposited in an interest bearing account and permits the Owner to commingle Retainage funds with the Owner's other funds.

9.4.5 The Contractor will hold all payments in trust and will promptly pay each Subcontractor and laborer upon receipt of payment from the Owner, out of the amount paid to the Contractor on account of their portion of the Work, the amount to which each is entitled, reflecting percentages actually retained from payments to the Contractor on account of such Subcontractor's or laborer's portion of the Work. The Contractor will require each Subcontractor to make payments in a similar manner. The Contractor will notify the Owner of any money it knows any Subcontractor to be holding for back charges against any member of the Construction Team.

9.4.6 Pursuant to and in accordance with MCL 125.1564, the Owner will have the option to submit those matters described in MCL 125.1564(3) to the decision of an agent as defined in the Public Acts of 1980.

9.5 APPLICATIONS FOR PAYMENT

9.5.1 "**Applications for Payment**" will be submitted on AIA Documents G-702 and G-703, or such other form as the Owner may reasonably require. Applications for Payment will be notarized if required by the Owner, will be based upon the applicable approved Schedule of Values. Submission of an Application for Payment will constitute a representation and warranty by the Contractor that the Work for

which payment is sought has been properly performed to the degree of completion indicated in the Application.

9.5.2 Each Application for Payment will be accompanied by the following, all in form and substance reasonably satisfactory to the Owner:

(a) a duly executed and acknowledged sworn statement in statutory form with all information provided, together with sworn statements, current through the previous draw, from the Contractor and all of the Subcontractors; and

(b) except as otherwise provided, a duly executed Acknowledgement of Payment, in the form provided by the Owner in accordance with §1.3.3, establishing payment or satisfaction of all obligations as reflected on the sworn statements referred to in (a), provided, however, that the Contractor will furnish with each Application for Payment applicable Acknowledgement of Payments and sworn statements covering the immediately preceding Application for Payment, and provided Final Payment will not be forthcoming until the Acknowledgement of Payment of all funds due has been received from the Contractor and all of the Subcontractors.

9.5.3 The Design Professional and/or the Owner, will, within seven (7) days after receipt of the Contractor's Application for Payment, either certify the Application for Payment with an authorized signature for such amount as the Design Professional and/or the Owner determines is properly due, or notify the Contractor in writing of the reasons for withholding certification in whole or in part, as provided in §9.8. The Design Professional and/or the Owner will notify the Contractor in writing within seven (7) days of receipt of the Application of Payment as to the amount and cause for not approving payment.

9.5.4 The certification of an Application for Payment will not be a representation that the Owner or the Design Professional has (1) made inspections to check the quality or quantity of the Work; (2) reviewed construction means, methods, techniques, sequences or procedures; (3) reviewed copies of requisitions received from Subcontractors and other data requested by the Owner to substantiate the Contractor's right to payment; or (4) made examination to ascertain how or for what purpose the Contractor has used money previously paid on account of the Construction Cost.

9.6 MATERIALS PAYMENTS; OFF-SITE STORAGE

9.6.1 At the Owner’s sole discretion and with its prior written approval, payments will be made on account of materials or equipment not yet incorporated in the Work but delivered and suitably stored at the Project Site or at some other Owner approved location in strict compliance with §9.6.2. Such payment will be conditioned upon submission by the Contractor of the following: (i) an itemized bill of sale, using the current Itemized Bill of Sale template form provided by the Owner in accordance with §1.3.3, warranting title to the Owner and identifying the Project; (ii) if stored off-site, a certificate of insurance covering the replacement value of the material for fire, theft and vandalism with the Owner listed as an Additional Insured in accordance with §11.3.2; (iii) if stored off-site, confirmation of compliance with §9.6.2; and (iv) such other evidence as the Owner may reasonably require demonstrating that Owner is the owner of such material free and clear of all rights in others. The Contractor will have full responsibility for all stored materials and will bear the risk of all loss, damage of theft thereof or thereto.

9.6.2 If the Contractor requests payment for materials and equipment to be stored off-site, the Owner must consent in writing in each instance, and upon approval, the Contractor will comply with the following specific requirements:

(a) Title to materials will be vested in the Owner, after payment therefor to the Contractor, in accordance with §9.6.1 and §9.7.

(b) Only assembled components may be stored off the Project Site.

(c) Materials will be (i) protected from diversion, destruction, theft and damage to the satisfaction of the Owner, (ii) specifically marked for use in the Project, and (iii) segregated from other materials at the storage facility.

(d) Representatives of the Owner will have the right to make inspections of the storage areas at any time.

9.7 TRANSFER OF TITLE

The Contractor warrants and guarantees that title to all Work, materials and equipment covered by any Application for Payment, whether incorporated into the Work or not, will pass to the Owner no later than the time of payment, free and clear of all encumbrances, liens, charges and security interests.

9.8 OWNER'S RIGHT TO WITHHOLD PAYMENT

9.8.1 The Owner may withhold payment in whole or in part, to the extent reasonably necessary to protect the Owner, if (i) the Work has not progressed to the point indicated on the Application for Payment, or (ii) the quality of the Work is not in accordance with the Contract Documents.

9.8.2 The Owner may also refuse to make any progress or Final Payment, or because of subsequently discovered evidence or subsequent observations, may revoke the approval it gave through a prior Application for Payment, to such extent as may be necessary, and the Owner will be entitled to withhold payment to the same extent, to protect the Owner from loss because of:

(a) defective Work not remedied;

(b) claims filed or reasonable evidence indicating probable filing of claims;

(c) failure of the Contractor to make payments properly to Subcontractors;

(d) reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;

(e) damage that is the fault of any member of the Construction Team to the property of the Owner or another contractor that is outside the scope of the Owner's property insurance;

(f) evidence that the Work will not be completed within the Contract Time, and that the unpaid balance of the Contract Sum would not be adequate to cover damages which the Owner is entitled to recover for the anticipated delay;

(g) failure to carry out the Work in accordance with the Contract Documents;

(h) stop notices;

(i) failure to have supplied operations and maintenance manuals, Record Documents, schedules, cost projections, and/or other information that may be required by other sections of the Contract Documents on a timely basis; or

(j) any other failure of the Contractor to perform its obligations under the Agreement.

9.9 FINAL PAYMENT

9.9.1 When the Work is in a state of Final Completion, pursuant to the terms of §8.5, and upon receipt of the final Application for Payment certified by the Design Professional, the Owner will make payment in accordance with the requirements of §9.5, subject to the conditions of §9.8.

9.9.2 Neither Final Payment nor payment of any remaining Retainage will become due until the Contractor submits to the Owner (1) consent of all sureties to Final Payment; (2) final Record Drawings; (3) the final versions of all manufacturers' warranties, operations and maintenance manuals, Record Documents, and/or other information that may be required by the Contract Documents, embodying such corrections and modifications from initial versions as the Owner will reasonably request; and (4) a final contractor's sworn statement from the Contractor duly executed and acknowledged showing all Subcontractors and laborers to be fully paid, and similar final sworn statements from all members of the Construction Team. If any member of the Construction Team refuses to furnish an Acknowledgement of

Payment required by the Owner, the Contractor may furnish or maintain a bond satisfactory to the Owner to indemnify the Owner against any claim asserted by that Subcontractor.

9.9.3 Acceptance of Final Payment by the Contractor or any member of the Construction Team will constitute a waiver of all claims by that payee (which will be a permanent bar to them) except those previously made in writing and identified by that payee as unsettled at the time of final Application for Payment.

9.9.4 The Contractor will attach to Final Payment request, a written closeout statement utilizing the current *Contract Closeout / Final Payment Checklist* Form, provided by the Owner in accordance with §1.3.3, attesting that all project closeout procedures have been completed. All checklist items that do not apply to the project should be marked "N/A" in the appropriate check box.

Article 10 PROTECTION OF PERSONS AND PROPERTY

10.1 SAFETY

10.1.1 The Contractor will develop, implement and adhere to a project-specific health and safety plan and program to be titled the "(Project Name) Jobsite Safety Plan" ("**Safety Plan**"). The Contractor warrants that it will read, understand and incorporate in its plan, at a minimum, the requirements set forth in the Owner's current Construction Safety Guidelines provided by the Owner in accordance with §1.3.3.

10.1.1.1 The Contractor acknowledges that the Owner's submission of its Construction Safety Guidelines and any Owner's review and acceptance of the Safety Plan is not intended to, and does not constitute an expression by the Owner that the Safety Plan is adequate to protect persons or property from loss, damage or injury. The Owner will assume no duty by reviewing the proposed Safety Plan.

10.1.2 The Contractor acknowledges that it, and not the Owner, is solely in control of the Project Site and solely responsible, not only for implementing and assuring compliance with the Safety Plan as defined in §10.1.1, but also for taking, at its expense, whatever action may be necessary or appropriate to fully protect persons and property from any and all loss, damage or injury that may arise out of, or in connection with the Work. The Contractor will take all necessary precautions to ensure the safety of passersby, employees, and visitors on, about or adjacent to the Project Site.

10.1.3 The Contractor's failure to implement, adhere to or assure compliance with the Safety Plan will constitute an event of default under this Agreement. The Contractor will erect and properly maintain at all times, as required by the conditions and progress of the Work, all necessary safeguards for the protection of workers, the Indemnitees and the public, including passersby.

10.1.4 The Contractor will designate a member of its organization whose responsibility will include the administration of the Contractor's safety program, and the prevention of accidents. The name and position of this person will be reported to the Design Professional and the Owner at the start of the Work and will not be changed unless notice is given to the Design Professional and the Owner.

10.1.5 The Contractor will provide a general review of safety programs developed by each of the Subcontractors, including a verification that each Subcontractor has submitted its report of the recommended safety precautions and programs, as required by the Contract Documents. If the Contractor observes a safety violation, the Contractor will require a Subcontractor to correct it. After written notification to the Subcontractor to correct the safety violation, if the Subcontractor does not correct the problem in a timely fashion, the Contractor will cause the Work to be corrected by other means. The performance of such services by the Contractor will not relieve the Subcontractors of their responsibilities for performance of the Work and for the safety of persons and property, and for compliance with all federal, state and local statutes, rules, regulations and orders applicable to the conduct of the Work. The Contractor will conduct regular safety meetings with Subcontractors' superintendents to ensure the Subcontractors' compliance

with federal, state or local statutes, rules, and regulations relating to the workers' safety or any other aspect of the Work.

10.2 EMERGENCIES

10.2.1 In an emergency affecting the safety of persons or property, the Contractor will take whatever action may be necessary to prevent such threatened loss, damage or injury. Any compensation claimed by the Contractor on the account of emergency Work will be determined in accordance with the provisions contained in Article 7.

10.3 PROTECTION OF THE WORK

10.3.1 The Contractor will continuously maintain adequate protection of all Work from damage and will protect the Owner's property from injury or loss. The Contractor will make good any such damage, injury or loss at no cost to the Owner, except to the extent directly caused by agents or employees of the Owner. The Contractor will adequately protect the Work and adjacent property as required by law, the Contract Documents, or as otherwise required, to cause no damage to the Work and adjacent property during the execution of the Work. This requirement will also apply to structures above and below ground as conditions of the site require.

10.3.2 The Contractor will provide protection to prevent damage or loss to:

(a) the Work and materials and equipment to be incorporated therein, whether in storage on or off the Project Site, under care, custody or control of the Contractor or any other member of the Construction Team;

(b) other property at the Project Site such as trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction; and

(c) any property adjacent to the Project Site and improvements therein. Any damage to such property or improvements will be promptly repaired by the Contractor.

10.4 LIMITATION OF IMPACT TO OWNER

10.4.1 The Work will be executed in a manner which will cause as little inconvenience as possible to the Owner in the Owner's use of the property and existing facilities and structures. Where applicable the Contractor will provide and maintain adequate, dust tight, protective coverings, enclosures and barricades about the Work and will keep the same in repair throughout the entire Work. Enclosures of appropriate fire rated construction will be installed by the Contractor where necessary to divide the Work area from the Owner's occupied areas.

10.4.2 During the execution of the Work, the Owner may use and occupy the buildings and site adjacent to and surrounding the Project Site. At all times during the construction period, safe and convenient access will be maintained to and from these buildings and any other portions of the site occupied by the Owner and/or Subcontractors.

10.5 EXPLOSIVES & OTHER HAZARDOUS ACTIVITIES

10.5.1 When use or storage of explosives or Hazardous Materials or equipment or unusual methods are necessary for execution of the Work, the Contractor will exercise utmost care and carry on such activities under supervision of properly qualified personnel. When in the course of the Work use or storage of explosives or Hazardous Materials or equipment or unusual construction methods are necessary, the Contractor will give the Owner reasonable advance notice.

10.5.1.1 No explosives will be permitted on the Owner's premises unless written permission is given by the Owner not less than seventy-two (72) hours in advance of the time of delivery of such explosives. All risks, regardless of the Owner's approval, associated with the

storage, handling and use of explosives are solely borne by the Contractor, as are any costs associated with damages, injuries or losses arising out of the use of such explosives.

10.6 INCIDENT REPORTING

The Contractor will promptly report in writing to the Owner all accidents arising out of or in connection with the Work which cause death, personal injury, or property damage, giving full details and statements of any witnesses. In addition, if death, serious personal injuries, or serious property damages are caused, the accident will be reported immediately by telephone or messenger to the Owner. The obligations in this §10.6 are in addition to the Contractor's reporting obligations under Applicable Laws.

10.7 HAZARDOUS MATERIALS

10.7.1 The term "Hazardous Materials" as used in the Contract Documents includes any toxic or hazardous materials or substances as defined in any environmental law or regulation, including §101 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. § 9601 et. seq. [or any successor statute], Part 201 of Michigan's Natural Resources and Environmental Protection Act, MCL 324.1 et seq., asbestos, PCB's and petroleum.

10.7.2 "Permitted Materials" are general supplies and equipment that have a hazardous or potentially hazardous nature or component and are or will be used for their intended purpose and which do not pose any significant threat of contamination to the Project Site or neighboring properties.

10.7.3 The Contractor will not bring, generate, keep, store, use, transport, release or dispose of any Hazardous or potentially Hazardous Materials on, in or about the Project Site except Permitted Materials, nor will it permit any other member of the Construction Team to do so.

10.7.3.1 The Contractor will cause the presence, use, storage and/or disposal of Permitted Materials by any member of the Construction Team to be in strict compliance in every respect with all Applicable Laws and the Contractor will maintain—and provide promptly to Owner upon demand—appropriate and complete documentation evidencing the Contractor's compliance therewith.

10.7.3.2 The Contractor will take care to minimize the use of Permitted Materials to the extent consistent with the orderly conduct of the Work. To the maximum extent practical, the Contractor will cause Permitted Materials which contain Hazardous Materials (and any explosive materials which are not Hazardous Materials) to be stored off the Project Site and off Owner's premises.

10.7.3.3 The Contractor will promptly notify the Owner if any amount of Permitted Materials or any other Hazardous Materials are released on the Project Site at any time in a quantity that would have to be reported or remediated under any Applicable Laws.

10.7.3.4 The Contractor will not permit inclusion of asbestos, polychlorinated biphenyls or urea formaldehyde in any construction materials.

10.7.4 If any member of the Construction Team encounters on the Project Site material which it believes is a Hazardous Material in any form (other than Permitted Materials being used in an appropriate manner), the Contractor will (i) immediately stop Work in the area affected, (ii) report the condition to the Owner as expeditiously as possible, and (iii) clear all persons from the area of exposure. The Work in the affected area will not be resumed until the Hazardous Material has been removed or rendered harmless as evidenced by written agreement of the Owner and the Contractor. The term "rendered harmless" will be interpreted to mean that the levels are less than any applicable exposure standards set forth in OSHA regulations.

10.7.5 The Contractor will be responsible for the removal and cleanup of all Hazardous Materials and wastes brought to the Project Site or generated at the Project Site by any member of the Construction Team. The Contractor will at its expense, without recovery from the Owner, under the Contract Sum, any contingency or otherwise, fully and promptly remediate each and every release of Hazardous Materials

(whether or not included in Permitted materials) in full compliance with all Applicable Laws, to the most stringent standards available thereunder.

10.7.5.1 Except as provided in §10.7.8, the Contractor will at its expense, without recovery from the Owner, under the Contract Sum, any contingency or otherwise, be solely responsible to the Indemnitees for and will defend and indemnify the Indemnitees against and hold them harmless from any and all claims, damages costs, fines, judgments and liabilities, including attorneys' fees and costs, arising out of or in connection with the generation, storage, use, transporting, disposal or presence of Permitted Materials or Hazardous Materials at the Project Site or in connection with the Work by or due to any member of the Construction Team or for any noncompliance with §10.7 by any member of the Construction Team.

10.7.5.2 The Contractor's responsibility under the foregoing section will include any and all governmentally mandated removal and/or cleanup of any such Permitted Materials or Hazardous Materials.

10.7.5.3 The Contractor will also be fully responsible under this §10.7.5 if and to the extent, after recognizing the presence and general location of Hazardous Materials that were pre-existing at the Site, or after it should have recognized such presence and general location, it exacerbates this contamination.

10.7.5.4 If the Contractor will receive any notice, whether oral or written, of any inquiry, test, investigation, enforcement proceeding, environmental audit or the like by or against the Contractor, any member of the Construction Team, or the Work with regard to any Hazardous Materials at or emanating from the Project Site, the Contractor will immediately notify the Owner.

10.7.6 The foregoing portions of §10.7 will not apply when the remediation of Hazardous Materials is part of the scope of the Work. In that case, the Contractor will comply in all respects with the specifications for the Project, all Applicable Laws, and the Contract Documents.

10.7.7 The Contractor will undertake all activities under this §10.7 with adequate notice to, and in full cooperation and consultation with, the Owner's Environment Health & Safety Department ("EHS").

10.7.8 The Contractor's responsibility under this §10.7 and its indemnity obligations will not (except when remediation is part of the scope of the Work) apply to the presence of Hazardous Materials at the Project Site to the extent they arise out of or in connection with (i) contamination that existed before Work began at the Project Site which was not exacerbated by the Contractor or any member of the Construction Team (after it recognized or should, in accordance with a reasonable standard of care, have recognized the presence and general location of such contamination) or (ii) contamination that was caused directly and solely by the Owner, the Design Professional, a contractor of the Owner who is not a member of the Construction Team, or any third party.

10.8 MICHIGAN RIGHT TO KNOW

10.8.1 The Contractor will comply with and be governed by all acts as they pertain to the safety of its employees while working on the Owner's property. The Michigan Occupational Safety and Health Act (MIOSHA) prescribes and regulates working conditions and duties of employers and employees as to places and conditions of employment, relative to occupational and construction health and safety. The Michigan Hazard Communication Standard affords workers with the right to know about the identities and hazards of the substances to which they may be exposed in their place of employment.

10.8.2 The Contractor will furnish a list of all hazardous or suspected hazardous chemicals that will be used during construction. Hazardous chemicals will be properly labeled and have applicable hazard warning attached. Examples of hazardous chemicals/products are welding rods, combustible gases and liquids, etc. All hazardous or suspected hazardous chemicals used during construction will be handled and stored in compliance with all Applicable Laws.

10.8.3 Safety and Data Sheets (SDS) for all hazardous chemicals and products utilized during the progress of the Work will be available for inspection upon request and also available for construction employees.

10.8.4 The Owner will in turn upon request provide a list of hazardous chemicals/products and their locations within the construction area to the Contractor. Safety Data Sheets will be available for review and inspection in a central location upon request.

10.9 SECURITY

10.9.1 The Contractor hereby acknowledges that the nature of the Owner's operations requires strict security measures. All members of the Construction Team will cooperate with the Owner's security personnel and will comply with all of the Owner's security requirements. Such requirements will include, without limitation, if requested by the Owner, delivering to the Owner's security personnel, prior to the commencement of the Work on each day, a list of all personnel who will be permitted access to the Work. The foregoing, however, will not relieve the Contractor of any obligation to provide a safe and secure Workplace for all parties entering the Project Site.

10.9.1.1 The Contractor will be responsible for providing Project site security to the extent necessary to safeguard the building, tools, materials, and completed Work. The Contractor's written plan for Project site security will be submitted to the Owner for approval within twenty (20) days of the execution of the Agreement.

10.9.1.2 The entrances to the Project site may remain unlocked during normal working hours for the use of all members of the Construction Team. Prior to and after normal working hours, all entrances and exits will be locked by the Contractor. The Contractor will provide to the Owner copies of keys (2 each) for all doors and gates secured.

10.9.2 The Owner reserves the right to bar access to any individual for reasonable security reasons. Furthermore, the Owner reserves the right to limit the location of entries to the Work which may be used by members of the Construction Team.

10.10 FIRE PRECAUTIONS

10.10.1 All members of the Construction Team will take all necessary precautions to guard against and eliminate all possible fire hazards and to prevent fire damage to any construction Work, building materials, equipment, temporary field offices, storage sheds, and all other property, both public and private. The members of the Construction Team will comply with all conditions and requirements set forth herein, and will immediately correct any hazardous conditions resulting from their operations when brought to their attention.

10.10.1.1 Materials and/or equipment stored in cardboard cartons, wood crates, or other combustible containers, will be stored in an orderly manner and will be readily accessible.

10.10.1.2 Before starting Work, the Contractor will consult with the Owner regarding established rules and regulations relative to fire protection requirements and procedures governing any welding and cutting operations. The Contractor will strictly conform and will cause all members of the Construction Team to strictly conform with such rules and regulations in carrying out the Work. No such operations will be carried out without proper safeguards for fire safety.

10.10.1.3 No open fires will be permitted. No tar or other melting kettles will be allowed within fifty (50) feet of any building.

10.10.1.4 All tarpaulins used during the course of the Work will be of flameproof type, secured in place against damage or flapping from wind.

10.10.1.5 All oil soaked rags, papers and other similar combustible material will be removed from any building at the close of each day's Work, or more often if necessary, and placed in metal containers with self-closing lids.

10.10.1.6 Gasoline, benzene or like combustible material will not be poured into sewers, manholes, or traps, but will be disposed of, together with all flammable or waste material subject to spontaneous combustion, in a manner to avoid hazard or damage to persons or property.

10.10.1.7 All heating devices in connection with temporary heating facilities will be of the least hazardous type, will have all proper safety provisions and will be installed at such locations and in such manner as will minimize the hazard. Oil fired stoves, gas fired heaters and heating units will be of types approved by Underwriters Laboratories and will have proper safety combustion controls. Oil fired heaters will have integral fuel tanks not to exceed fifteen (15) gallons capacity for each unit. No more than one (1) day's supply of fuel will be permitted to each heater which are inside of any building or facility.

10.10.1.8 Temporary heating facilities will be inspected regularly to assure that they are in a safe and proper operating condition at all times. The Contractor will provide continuously during operation properly trained personnel for said inspections.

10.10.1.9 Temporary structures of combustible construction will not be placed inside of any structure. Such temporary structures will be detached at a sufficiently safe distance from any building. Totally non-combustible temporary structures may, if necessary and feasible, be located inside of the structure.

10.10.1.10 Heaters and/or stoves installed in field offices or storage structures will have fire resistant material underneath and at all sides, partitions and walls. Pipe sleeved will be used where stove pipes run through walls or roof.

10.10.2 The Contractor will provide necessary personnel and firefighting equipment to effectively control fires resulting from welding, flame cutting, or other operations involving the use of flame, sparks, or sparking devices. During such operations, all highly combustible or flammable materials will be removed from the immediate working area. If removal is impossible the same will be protected with fire blankets or suitable non-combustible shields.

10.10.2.1 The Contractor must obtain from the Owner a cutting/welding Hot Work Permit and comply with the requirements and precautions contained in such. The permit is available for review by prospective bidders from the Owner.

10.10.3 Not more than one day's supply of flammable liquids, such as oil, gasoline, solvent, or roofing materials, will be brought into any building at any one time. All flammable liquids having a flash point of 110 degrees F, or below, which must be brought into any building, will be confined to Underwriters Laboratories labeled safety cans. The bulk supply of any flammable liquid will be stored at a sufficiently safe distance from any building and from yard storage of building materials. Spigots on drums containing flammable liquids are prohibited on the Project site. Drums are to be equipped with approved vented pumps.

10.10.4 Only a reasonable working supply of flammable building materials will be located inside of or on the roof of any building.

10.11 FIRE PROTECTION

10.11.1 The Contractor will maintain free access to the building areas for firefighting equipment and will at no time block off main roadways or fire aisles without providing adequate auxiliary roadways and means of entrance for firefighting equipment, including heavy fire department trucks, where applicable.

10.11.2 The Contractor will at all times cooperate with the Owner and keep the municipal fire department informed of the means of entrance and changes to roadways or fire aisles as needed to provide fire department access to or around to Project site.

10.11.3 The Contractor will, during the entire construction period and until the completion of the Work, provide and maintain all material, equipment and services necessary for an adequate fire protection system, which will meet the approval of the Owner and/or the Design Professional. The system will, at a minimum, meet the requirements set forth in the Contract Documents and of Applicable Laws. These

requirements will be augmented and/or the installations relocated, as may be necessary to meet, at all times, the demands of adequate protection in all areas and will not be reduced prior to the completion of the Work without the written approval of the Owner.

10.11.4 The Contractor will maintain during construction an appropriate number of fire extinguishers to meet the requirements of Owner's insurance carriers. Fire extinguishers will be in good working order, conveniently located, clearly visible and readily accessible for proper protection of the Work.

10.11.5 Fire extinguishers will be an approved type, equivalent to 2-1/2 gallon water pressurized, suitable for the hazards to be encountered. In areas of flammable liquid, asphalt, or electrical hazards, fire extinguishers will be equivalent to the carbon dioxide type or dry chemical type. During freezing weather, extinguishers will be enclosed in heated cabinets or be of an antifreeze type.

10.11.6 All other parties with temporary structures on the project will provide and maintain fire extinguishers in each of such structures.

Article 11 INSURANCE AND INDEMNIFICATION; BONDS

11.1 GENERAL PROVISIONS

11.1.1 Before Work is started, the Contractor will file with the Owner certificates of the insurance coverage required to be maintained by the Contractor, evidencing such insurance. No Work under the Contract will be commenced until all insurance required by the Contract Documents has been obtained and reviewed by the Owner. If there is a conflict between the insurance requirements of these Standard General Conditions and any set forth in the Special Conditions, if any, those set forth in the Special Conditions will govern. The insurance required under the Contract Documents will be maintained without interruption from the date the Work commences until (i) the date of Final Payment, or (ii) a later date if required under the Contract Documents.

11.1.2 Insurance coverage obtained by the Contractor will be written with insurance carriers authorized to do business in the State of Michigan. Insurance coverage will be in a form and provided by an insurer acceptable to the Owner with an A.M. Best rating of A-, XII or better and will name the Contractor as a "named insured," as opposed to an "additional insured."

11.1.3 At the written request of the Owner to the Contractor, the Contractor will provide to the Owner a copy of any insurance policy required herein, including all endorsements, within ten (10) calendar days of such written request (or a binder if a policy is not yet available). If the Contractor fails to do so, or if the insurer or form or limits of insurance is unacceptable to the Owner, Owner will have the right, but not the obligation, to purchase insurance ("**Replacement Insurance**") in the name of the Contractor. Upon purchasing Replacement Insurance, the Owner will issue, and the Contractor will execute, a Change Order reducing the Construction Cost by the cost of the Replacement Insurance. The Contractor will furnish all information necessary to obtain and maintain such Replacement Insurance.

11.1.4 The Contractor's obligations to the Owner under the Contract Documents will not be relieved or diminished by its securing insurance coverage, by its complying with the requirements of this Article, or by the Owner's acceptance of certificates of insurance or policies. Nor will any acceptance of insurance coverage by the Owner be construed as waiving any of the requirements of this Article.

11.1.5 The provisions of §11.4 specify the minimum insurance requirements. These insurance requirements are not intended to be a determination of or recommendation as to the types of insurance or maximum coverage limits that should be obtained. If the Contractor has in force any insurance coverage in limits higher than the minimums required herein or broader than the insurance terms required herein, such insurance will insure and be available to all "Additional Insureds" (defined in §11.3.2).

11.1.6 [intentionally omitted]

11.1.7 The Contractor will be solely responsible for insuring against any loss or damage to all owned, borrowed or rented property, including but not limited to tools, materials, supplies, equipment, forms, scaffolding, towers, staging, bunkhouses and other temporary structures, including their contents. Such insurance will be for the full replacement cost of such items and will include the waiver of subrogation required by §11.3.1.

11.2 CERTIFICATES OF INSURANCE

11.2.1 Prior to commencing any Work at the Project Site, the Contractor will submit to the Owner or the Owner's designee one or more certificates of insurance evidencing both the coverage and coverage limits required. Each certificate of insurance will (i) be in the form required by §11.2.2, (ii) be addressed to the Owner at its Insurance Notice Address (below), (iii) provide for written notice by mail to the Owner at its Insurance Notice Address no less than thirty (30) calendar days prior to any cancellation, non-renewal or reduction in coverage limits, and (iv) not be qualified by the words "endeavor to" or similar words.

Insurance Notice Address: The Regents of the University of Michigan,
a Michigan Constitutional Corporation
326 East Hoover Ave.
Ann Arbor, MI 48109-1002
Attn: AEC Project Controls Office

Additionally, the Contractor will email a .PDF copy of the certificates to the Owner at "AEC-Contracts@umich.edu".

11.2.1.1 Within three (3) business days prior to any renewal, change or replacement of coverage, or promptly upon request of the Owner, the Contractor will submit to the Owner or the Owner's designee one or more additional certificates of insurance evidencing both the coverage and coverage limits required and in the case of a renewal, change or replacement coverage, setting forth its duration.

11.2.2 All certificates of insurance will be in form and content acceptable to Owner and will list all insurance policies carried by the Contractor for the coverage required herein. Each certificate of insurance will state (i) policy limits of the policy it purports to identify, which will be not less than those required in §11.4, and (ii) that (a) the Additional Insureds are additional insureds on the Contractor's policy, and (b) the Contractor's coverage, including the additional insured coverage, is primary and does not provide for contribution by the Additional Insureds' other insurance. The additional insured endorsement, a waiver of subrogation endorsement, and an endorsement requiring advance written notice to the Owner of cancellation, non-renewal or reduction in coverage limits of the policy and all other endorsements will accompany the certificate of insurance. At the Owner's request, the Contractor will provide a copy of the policy's declaration page and schedule of forms and endorsements page.

11.3 INSURANCE POLICY REQUIREMENTS

The policies of insurance provided by the Contractor will contain the provisions described in this §11.3, unless otherwise noted.

11.3.1 Waiver of Subrogation—Each policy, or an endorsement thereto, will contain a waiver of subrogation in favor of:

> "The Regents of the University of Michigan, a Michigan Constitutional Corporation, including its board members, officers, employees and agents."

11.3.2 Additional Insureds—Other than policies of insurance for worker's compensation and professional liability, each policy will be endorsed to name the following parties as "**Additional Insureds**":

(a) "The Regents of the University of Michigan, a Michigan Constitutional Corporation, including its board members, officers, employees and agents";

(b) “the Design Professional”; and

(c) “the Design Professional’s consultants.”

11.3.3 Primary Insurance—All policies, or endorsements thereto, will contain language that such insurance coverage will be primary to and will seek no contribution from any insurance available to the Owner, with any insurance procured or maintained by or on behalf of the Owner being excess, secondary and noncontributing. It is the specific intent that all insurance held by the Owner will be excess, secondary and not contribute to any insurance provided by any member of the Construction Team.

11.3.4 Separation of Insureds—Each policy, or an endorsement thereto, will contain wording such that the insurance afforded by the policy will apply separately to each insured against whom claim is made or suit is brought, subject to the policy limits.

11.3.5 Prohibited Endorsements—Exclusions or limitations that would in any way reduce the availability of the insurance coverage required by the Contract Documents.

11.3.6 Inquiry Concerning Policy Specifications—The Additional Insureds will be entitled to communicate directly with the insurance agents of the Contractor to verify amounts, coverages, deductibles and other terms of insurance they carry. The Contractor will provide assistance to the Owner, if required by the agent, in obtaining this direct information. Any failure of the Additional Insureds to demand such certificates or other evidence of full compliance with these insurance requirements or failure of an Additional Insured to specify deficiency from evidence that is provided will not be construed as a waiver of the obligation of the Contractor to maintain such insurance. The limits of liability may be provided by a single policy of insurance or by a combination of primary and excess policies, but in no event will the total limits of liability available for any one occurrence or accident be less than the amount specified.

11.4 MINIMUM INSURANCE REQUIREMENTS FOR THE CONTRACTOR

11.4.1 The Contractor will, during the continuance of the Work under the Contract, including any extra or changed Work, maintain insurance coverage as described below. Such insurance will protect the named insured from claims which may arise out of or result from the Contractor's operations under the Contract, including extra or changed Work in connection therewith, whether such operations be by the Contractor or by a Subcontractor or by a Sub-subcontractor or by anyone directly or indirectly employed by the Contractor or any Subcontractor or any Sub-subcontractor.

11.4.1.1 Workers’ Compensation & Employer’s Liability insurance and any insurance required by any employee benefit acts or other statutes applicable where the Work is to be performed. All such insurance limits will be statutory. The Employer's Liability limits will not be less than:

(a) $500,000 Each Accident
(b) $500,000 Disease - Policy Limit
(c) $500,000 Disease - Each Employee

11.4.1.2 Commercial General Liability and Property Damage insurance (including Contractor's protective), which may be satisfied by a combination of Primary General Liability insurance coverage together with a following form Umbrella/Excess Liability insurance coverage, in any amounts required by the Owner on an occurrence form (not claims made) but not less than the following limits of liability:

Contract Sum	Item	Minimum
<$5 million	General Aggregate	$ 2,000,000
	Products/Completed-Operations Aggregate	$ 1,000,000
	Personal & Advertising Injury	$ 1,000,000
	Each Occurrence	$ 1,000,000

≥$5 million	General Aggregate	$10,000,000
	Products/Completed-Operations Aggregate	$ 5,000,000
	Personal & Advertising Injury	$ 5,000,000
	Each Occurrence	$ 5,000,000

and affording insurance for the protection against all risks of damage or destruction of property or bodily injury, wherever located, resulting from any action, omission or operation under the Contract or in connection with the Work. Such insurance will be primary and non-contributory.

11.4.1.3 Comprehensive Automobile Liability insurance, covering all liability arising out of any vehicle operations, covering all owned or rented equipment used in connection with the Work, in amounts not less than:

Combined Single Limit	$ 1,000,000

including death resulting at any time therefrom.

11.4.2 Except as specifically provided with respect to property damage only under this §11.5, the Contractor will specifically and distinctly assume, and does so assume, all risk of damage or destruction of property or of bodily injury, occupational sickness or disease of persons (including death resulting at any time therefrom) used or employed on or in connection with the Work, and of all damages or destruction of property or of bodily injury, occupational sickness or disease of persons (including death resulting therefrom), wherever located, resulting from any action, omission or operation under the Contract or in connection with the Work.

11.4.3 Compliance by the Contractor with the foregoing requirements as to carrying insurance and furnishing certificates will not relieve the Contractor of the Contractor's liabilities and obligations under this Article 11 or any other portion of the Contract.

11.4.4 In the event that any class of employees is engaged in hazardous Work under the Contract and such class is not included under the Workers' Compensation Acts, the Contractor will maintain Special Hazards Insurance of a nature and in limits as approved by the Owner.

11.4.5 The Contractor will maintain all insurance coverage for a period not less than two (2) years following the date final payment under the contract is made by the Owner to the Contractor.

11.4.6 All insurance policies will be endorsed to cover the liabilities assumed under this Contract.

11.5 OWNER'S FIRE AND EXTENDED COVERAGE INSURANCE

11.5.1 The Owner will effect and maintain insurance against loss or damage arising from fire or other perils normally insured against by standard "All Risk" property insurance policies to cover not less than the value of Work performed and materials delivered to the site of the Project which are to be included in and remain a part of the permanent construction whether or not installed, only while on the premises described or within one hundred (100) feet thereof, except as otherwise provided in §11.5.4.

11.5.2 Losses, if any, under such insurance will be payable to the Owner.

11.5.3 The Contractor will be responsible for any and all loss of materials, equipment and tools connected with the construction due to unexplainable disappearance, theft or misappropriation of any kind or nature and any other loss that may be excluded in the Owner's standard "All Risk" property insurance policy.

11.5.4 The foregoing provisions will not operate to relieve the Contractor of the responsibility for insuring against any loss or damage to owned or borrowed or rented property or property of employees, of whatever kind or nature occurring from the above named causes or due to any other cause, including but not limited to tools, materials, supplies, equipment, forms, scaffolding, towers, staging, bunkhouses and other temporary structures including their contents, regardless of Ownership of such contents, except for

such contents as are to be included in and remain a part of the permanent construction. The Owner will in no event be liable for any loss or damage to any of the aforementioned items, or the work connected with the Contractor or the Design Professional, or employees, agents or servants of same, which is not to be included in and remain a part of the permanent construction.

11.5.5 The Owner's "All Risk" policy excludes losses on account of faulty workmanship, faulty material, faulty construction and/or faulty design, from any cause. The Contractor is liable and indemnifies the Owner from all loss under the contract, as outlined within §11.4.2.

11.5.6 The Contractor will report to the Owner each claim immediately after an occurrence of a loss.

11.5.7 Compliance by the Contractor with the foregoing requirements will not relieve the Contractor of the Contractor's liabilities or obligations under this §11.5 or any other portion of the Contract Documents.

11.6 WAIVER OF RIGHTS OF RECOVERY

The Contractor, Subcontractors, and Sub-subcontractors severally waive any rights of recovery they may have against the Owner and Design Professional for damage or destruction of their own or borrowed or rented property, or property of their employees, of whatever kind or nature.

11.7 INDEMNIFICATION

11.7.1 To the fullest extent permitted by law, the Contractor agrees to defend and indemnify the Indemnitees against and hold them harmless from any and all losses, claims, liabilities, injuries, damages, and expenses whatsoever, including attorneys' fees and costs, that the Indemnitees may incur by reason of (i) the breach of the Agreement or the Contract Documents by the Contractor or any member of the Construction Team; (ii) any injury to or damage sustained by any person or property (including, but not limited to, any one or more of the Indemnitees) to the extent arising out of, or occurring in connection with, (a) the Contractor's errors, omissions, intentional misconduct or negligent acts or those of any member of the Construction Team, or (b) the performance or lack of performance by the Contractor or any member of the Construction Team of its or their duties and obligations under or pursuant to the Agreement or the Contract Documents; or (iii) the assertion of any claim or lien whatsoever against the Owner by any member of the Construction Team, except only claims or liens caused by the Owner's failure to pay the Contractor funds to which it is entitled under the Agreement. This obligation will not be construed to negate, abridge or otherwise reduce other rights or obligations of indemnity which would otherwise exist as to any party or person.

11.7.2 [intentionally omitted]

11.7.3 The indemnification obligations under this §11.7 will not be limited by any assertion or finding that the person or entity indemnified is liable by reason of a non-delegable duty.

11.7.4 In the cases of claims against any Indemnitee by an employee of the Contractor or any member of the Construction Team, the Contractor's indemnification obligation will not be reduced by a limitation on amount or type of damages, compensation or benefits payable by insurance or by the Contractor or one of the Construction Team under workers' compensation acts, disability benefit acts or other employee benefit acts.

11.7.5 If any claim of lien or stop-notice or any other demand for payment or security therefor, including claims or demands upon performance and payment bond sureties, is made or filed with the Owner, any surety, or the Work by any person claiming that the Contractor or any of the Construction Team has failed to perform its contractual obligations or to make payment for any labor, services, trust fund contribution, materials, equipment, taxes, or other item furnished or obligation incurred for, or in connection with, the Work, or if at any time there will be reasonable evidence of such nonperformance or nonpayment of any claim or lien or stop-notice or other demand for which, if established, the Owner or the Work might

become liable (and in either case so long as the Owner has discharged its payment obligations to the Contractor in connection with the matter which is the subject of the lien or other demand), then the Owner will have the right to retain from any payment then or thereafter due under the Contract or to be reimbursed to the Contractor an amount sufficient to satisfy or discharge any such lien or other demand.

11.7.6 If the Contractor or Subcontractor, Supplier or other member of the Construction Team makes, records, or files, or maintains any action on or respecting a claim of construction or mechanic's lien, stop-notice, equitable lien, payment, or performance bond, or a lis pendens, relating to the Work, the Contractor will promptly and without increase in the Contract Sum, procure, furnish, and record appropriate statutory release bonds, in order to extinguish or expunge said claim, stop-notice, lien, or lis pendens, except to the extent caused by the Owner's failure to pay the Contractor amounts to which it is entitled under the Agreement.

11.7.7 If the Contractor fails to honor its obligation to defend and indemnify any Indemnitee, as required in the Contract Documents, the Indemnitee may defend itself with counsel of its choosing, but at the Contractor's expense, without recovery from the Owner, under the Contract Sum, any contingency or otherwise. The Indemnitee may also under such circumstances settle any claim upon whatever terms as it in its reasonable judgment deems appropriate. The Contractor will be bound by any defense asserted by the Indemnitee, any settlement reached, or any judgment or award entered.

11.8 PERFORMANCE BOND AND PAYMENT BONDS

11.8.1 The Contractor will furnish a Performance Bond and Labor and Material Payment Bond (Bonds) meeting all statutory requirements of the State of Michigan and complying with the following specific requirements:

(a) Except as otherwise required by statute, the form and substance of such bonds will be reasonably satisfactory to the Owner;

(b) Bonds will be executed by a responsible surety licensed in the State of Michigan with a Best's rating of no less than A/XII;

(c) Bonds will remain in effect until the following conditions have been met: (i) final payment has been made, (ii) the time required to resolve any items of incomplete Work and the payment of any disputed amounts and (iii) until such period that claimants have no statutory right to make a claim;

(d) Bonds will each be in an amount sufficient to comply with all statutory requirements;

(e) The Contractor will cause the attorney-in-fact who executes the required bonds on behalf of its surety to affix thereto a certified and current copy of his or her power of attorney indicating the monetary limit of such power; and

(f) Every bond under this §11.8 must display the surety's bond number. A rider including substantially the following provisions will be attached to each bond:

(1) Surety hereby agrees that it consents to and waives notice of any addition, alteration, omission, change, or other Modification of the Contract Documents and the Subcontracts. Any addition, alteration, change, extension of time, or other Modification of the Contract Documents or the Subcontracts, or a forbearance on the part of either the Owner, the Contractor or one or more Subcontractors to one or more of the others, will not release the Surety of its obligations, and notice to the Surety of such matters is hereby waived. Capitalized words and terms will have the meanings given them in the Contract Documents.

(2) Surety agrees that it is obligated under the bonds to any successor, grantee or assignee of the Owner or the Contractor.

11.8.1.1 The Contractor's surety will also agree, in the form of a rider to each bond or via a separate agreement, that before it may seek exoneration, release, or any kind of relief from its obligations under the bond as a result of any default by the Owner or the Contractor in the performance of any obligations to the Contractor under the Agreement, the surety will cause written notice of such default (specifying said default in detail) to be given to the Owner and the Contractor, and both of them will have thirty (30) days from the date of receipt of such notice within which to cure such default or cause it to be cured, or such additional reasonable period of time as may be required if the nature of such default is such that it cannot be cured immediately. Such Notice of Default will be sent by certified or registered U.S. Mail, return receipt requested, first class postage prepaid, to the Owner and the Contractor.

11.8.2 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract Documents or any Subcontract, the Contractor will promptly furnish a copy of the bonds or will permit copies to be made.

11.8.3 The Contractor will keep the surety informed of the progress of the Work, and, without limiting the requirements and effect of §11.8.1(f), where necessary, obtain the surety's consent to, or waiver of: (1) notice of changes in the Work; (2) request for reduction or release of retainage; (3) request for Final Payment; and (4) any other material required by the surety. The Contractor will promptly give the Owner copies of all communications with the surety requesting or pertaining to consents or waivers. The Owner may, in the Owner's sole discretion, inform the surety of the progress of the Work and obtain consents as necessary to protect the Owner's rights, interest, privileges and benefits under or pursuant to any bond issued in connection with the Work.

Article 12 UNCOVERING AND CORRECTION OF WORK

12.1 UNCOVERING OF WORK

12.1.1 If a portion of the Work is covered contrary to the Owner's or the Design Professional's written request or to the requirements of the Contract Documents, or prior to any required inspection, test or approval, it must, when required by the Owner, be uncovered for the Owner's inspection and replaced at Contractor's expense without change in the Contract Time.

12.1.2 If a portion of the Work has been covered as permitted by the Contract Documents and the Owner did not ask to inspect it prior to its being covered, the Owner may request to see such work, and it will be uncovered by the Contractor. If such work is in accordance with the Contract Documents, the cost of uncovering and replacement will, by appropriate Change Order, be charged to the Owner. If such Work is not in accordance with the Contract Documents, Contractor will take whatever action may be necessary to cause it to conform to the Contract Documents and will pay the cost of doing so, together with the cost of uncovering and replacement, all without a change in the Contract Time or the Construction Cost.

12.2 CORRECTION OF WORK

12.2.1 The Owner may reject Defective Work. During the course of the Work, the Contractor will cause all Work rejected by the Owner to be corrected without extension of the Contract Time and without increase in the Contract Sum whenever observed prior to Final Completion. If any additional Design Professional's fees are incurred because of corrective Work, the Contractor will pay them promptly upon demand.

12.2.2 In addition, if, within one (1) year after the date of (i) Substantial Completion and acceptance of the Work or any designated portion thereof or (ii) the completion of Work not finished at Substantial Completion, or within the terms of an applicable special warranty required by the Contract Documents, or (iii) in the case of defects that could not reasonably have been discovered within one (1) year, then within two (2) years of Substantial Completion (the "**Correction Period**"), any of the Work is found by the Owner to be Defective, and the Owner provides written notice thereof within ninety five (95) days of discovery, the Contractor will, without interfering materially with the Owner's facilities, personnel or

operations, promptly cause it to be corrected, unless the Owner has previously specifically accepted such defect in writing. The Contractor will bear all costs of correcting Defective Work, without increase in the Contract Sum, including any additional testing and inspections made necessary thereby. These obligations will apply regardless of whether such Work has been fabricated, installed, or completed and will survive acceptance of the Work and termination of the Agreement.

12.2.2.1 The obligations under §12.2.2 will cover all repairs and replacements necessary to correct any part of the Work or other property where damage has been caused by Defective Work.

12.2.2.2 Upon completion of any Work under or pursuant to §12.2.2, the one (1) year Correction Period specified by §12.2.2 will begin anew with respect to the Work requiring correction.

12.2.2.3 The Contractor will cause any Defects in the Work to be corrected promptly, and this corrective action will begin on site within thirty (30) days after being notified by the Owner of the Defect, unless the Defect is such that it poses an immediate danger to persons or property, in which case the corrective action will begin immediately. Concurrently, the Contractor will furnish a mutually agreed upon schedule for completion of the Work.

12.2.2.4 If the Contractor fails to correct any Work under or pursuant to §12.2.2, the Owner may carry out the Work in accordance with the §2.4.

12.2.2.5 The requirements of §12.2.2 are in addition to and not in limitation of any of the other requirements of the Contract Documents for warranties or conformance of the Work to the requirements of the Contract Documents.

12.2.2.6 Unless the Owner authorizes otherwise, Substantial Completion will not commence the Correction Period for any equipment or systems that:

(a) are not fully operational (equipment or systems will not be considered fully operational if they are intended to provide service to any portion of the building which the Owner has not accepted as substantially complete); or

(b) are not accepted by the Owner.

12.3 REMOVAL OF DEFECTIVE WORK

The Contractor will cause all portions of the Work which are not strictly (rather than substantially) in accordance with the requirements of the Contract Documents, and are neither corrected by the Contractor nor accepted by the Owner, to be promptly removed from the Project Site.

12.4 OWNER'S RIGHT TO CORRECT OR REMOVE

12.4.1 If the Contractor fails to cause Defective Work to be removed in accordance with §12.3, the Owner may (without being deemed a Bailee) remove the defective Work and store the salvable materials or equipment at the Contractor's expense. If the Contractor does not pay costs of such removal and storage within ten (10) days after written notice, the Owner may upon ten (10) additional days' written notice sell such materials and equipment at auction or at private sale and will account for the proceeds thereof, after deducting from the sale proceeds all costs, expenses and damages that should have been borne by the Contractor (including the value of the Owner's staff time and reasonable attorneys' fees). If the proceeds of sale do not cover costs which the Contractor should have borne, the Construction Cost will be reduced by the deficiency, plus Interest. If payments then or thereafter due the Contractor are not sufficient to cover the amount owed, the Contractor will pay the difference to the Owner upon demand.

12.4.1.1 The Owner's right to store and sell such Defective Work will not give rise to a duty to do so. Instead, the Owner may upon ten (10) day's prior written notice simply dispose of such Defective Work as it sees fit. All costs of disposal will be borne by the Contractor, without recovery from the Owner, under the Contract Sum.

12.5 PERIODS OF LIMITATION

Nothing contained in this Article 12 will be construed to establish a period of limitation with respect to other obligations which the Contractor might have under the Contract Documents or applicable law. Establishment of the Correction Period relates only to the specific obligation of the Contractor to correct the Work under this Article 12 and has no relationship to the time within which the obligation to comply with the Agreement may be sought to be enforced by the Owner, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to its obligations under the Agreement.

12.6 ACCEPTANCE OF NON-CONFORMING WORK

If the Owner prefers to accept Work which is not in accordance with the requirements of the Contract Documents or otherwise Defective, the Owner may do so instead of requiring its removal and correction, in which case the Contract Sum will be reduced by an equitable amount which reflects the loss of value to the Owner caused by the Defective Work. Such adjustment will be effected whether or not Final Payment has been made, and if it occurs after Final Payment is made, the Contractor will pay the Owner whatever sum is owed upon demand.

Article 13 STATUTORY REQUIREMENTS

13.1 NON-DISCRIMINATION PROVISION

The Contractor warrants that it is an equal opportunity employer and that, during the performance of this Agreement, it will comply with Federal Executive Order 11246, as amended, the Rehabilitation Act of 1973, as amended, and the respective regulations thereunder, and the Michigan Civil Rights Act of 1976.

13.2 [SECTION DELETED – MICHIGAN PREVAILING WAGE ACT REPEALED]

13.3 COMPLIANCE WITH "KICK-BACK" AND WAGE REGULATIONS STATUTES

The members of the Construction Team will comply with the following statutes, and with amendments issued pursuant thereto, which are incorporated herein by reference:

13.3.1 Title 18 U.S.C. §874: "874. Kick-Back from Public Work Employees - whoever, by force, intimidation or threat of procuring dismissal from employment, or by any other manner whatsoever induces any person employed in the construction, prosecution, completion or repair of any public building, public works, or building or work financed in whole or in part by loans or grants from the United States of America, to give up any part of the compensation to which they are entitled under their contract of employment, will be fined under this title, or imprisoned not more than five (5) years, or both."

13.3.2 Title 40 U.S.C. §276C: "276C. Regulations Governing Contractors and Subcontractors - The Secretary of Labor will make reasonable regulations for Contractors and Subcontractors engaged in the construction, completion or repair of public buildings, public works or buildings or works financed in whole or in part by loans or grants from the United States of America, including a provision that each Contractor and Subcontractor will furnish weekly a statement with respect to the wages paid each employee during the preceding week. §1001 of Title 18 will apply to such statements."

13.4 MEDICARE AND MEDICAID PROVISIONS

If it is determined that §952 of the Medicare and Medicaid provisions of the Omnibus Reconciliation Act of 1980 (§952 amends §1861(v)(1) of the Social Security Act) applies to the Work, then until the expiration of four years after the furnishings of services required by the Contract Documents, the Contractor will make available, upon written request, to the secretary of the Department of Health and Human Services or upon request to the Controller General of the United States or any of their duly authorized representatives, the Contract Documents, any books, documents, and records of such Contractor which are deemed necessary to certify the nature and extent of costs for services furnished under the Contract Documents, and if the

Contractor carries out any of the duties of the Contract Documents through a Trade Contract with a value or cost of Ten Thousand Dollars ($10,000) or more over a twelve (12) month period, with a related organization, such Trade Contract will also contain a clause binding the Subcontractor to the identical provisions contained in this Article 13.

Article 14 TERMINATION OF THE CONTRACT

14.1 TERMINATION BY OWNER FOR CAUSE

14.1.1 The Agreement may be terminated by Owner for cause without prejudice to any right or remedy available to Owner under the Contract Documents or at law or in equity after giving the Contractor and the surety, if any, seven (7) days' written notice provided that Contractor fails to take appropriate steps to cure the default within such seven-day period, if of a nature that it cannot be cured immediately, commence a cure of the cause for termination and diligently pursue it to completion. Reasons for termination for cause will include:

(a) the Contractor institutes proceedings or consents to proceedings requesting relief or arrangement under the Federal Bankruptcy Act or any similar or applicable federal or state law;

(b) a petition under any federal or state bankruptcy or insolvency law is filed against the Contractor and such petition is not dismissed within sixty (60) days from the date of said filing;

(c) the Contractor admits in writing its inability to pay its debts generally as they become due;

(d) the Contractor makes a general assignment for the benefit of its creditors;

(e) a receiver, liquidator, trustee or assignee is appointed because of the Contractor's bankruptcy or insolvency;

(f) a receiver is appointed for all or any substantial portion of the Contractor's properties;

(g) the Contractor abandons the Work;

(h) the Contractor fails to promptly and diligently perform the Services, or the Work is not prosecuted diligently in accordance with the requirements of the Contract Documents, or enough properly skilled workers or proper materials are not supplied for the Work;

(i) the Contractor submits an Application for Payment, sworn statement, waiver of lien, affidavit or document of any nature whatsoever which is untrue in any material respect;

(j) the Contractor fails to make prompt payment of amounts properly owing to Subcontractors, or otherwise breaches its obligations under any Subcontract or the Agreement;

(k) the Contractor disregards or violates any Applicable Laws;

(l) any representation made by the Contractor in the Agreement proves untrue, or the Contractor otherwise violates any provision of the Agreement; or

(m) the Contractor’s failure to perform any of its obligations under the Contract Documents.

14.1.2 Upon termination of the employment of the Contractor, the Owner may, subject to any prior rights of the surety:

(a) take possession of the Project Site and of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Contractor;

(b) accept assignment of Subcontracts; and

(c) finish the Work by whatever reasonable method Owner may deem expedient.

14.1.3 When the Owner terminates the Agreement for one of the reasons stated in §14.1.1, the Contractor will, at no cost to the Owner, perform those of the duties described in §14.2.2 ordered by the Owner, and will not be entitled to receive further payment until Final Completion and determination of the sums due pursuant to §14.1.5.

14.1.4 If requested by the Owner following a termination for cause, the Contractor will remove any part or all of its equipment, machinery and supplies from the Project Site within seven (7) days from the date of such request, and in the event of the Contractor's failure to do so, Owner will have the right to remove or store such equipment, machinery and supplies at the Contractor's expense.

14.1.5 If the costs to the Owner of completing the Work exceed the unpaid balance of the Contract Sum, the Contractor will pay the difference, plus Interest, to the Owner within thirty (30) days after the Owner's demand. The costs to Owner of completing the Work will include the cost of any additional architectural, legal, managerial and administrative services required, any costs incurred in retaining another contractor or other Subcontractors, any additional Interest or fees which the Owner incurs or must pay by reason of a delay in completion of the Work, attorneys' fees and expenses, and any other damages, costs and expenses Owner may incur by reason of completing the Work.

14.1.5.1 If the Agreement is terminated by the Owner, the Owner will also pay the Contractor fair compensation, either by purchase or rental at the election of Owner, for any equipment owned by the Contractor which Owner elects to retain and which is not otherwise included in the Construction Cost. To the extent that Owner elects to take legal assignment of Subcontracts (including rental agreements), the Contractor will, as a condition of receiving the payments referred to in this §14.1.5.1, execute and deliver all such papers and take all such steps, including the legal assignment of such Subcontracts, as Owner may require for the purpose of fully vesting in Owner the rights and benefits of the Contractor under such Subcontracts.

14.1.6 If the Owner erroneously or improperly terminates the employment of the Contractor for cause, then the Owner's action will be deemed to be a termination for convenience, subject to the provisions of §14.2.

14.2 TERMINATION BY OWNER FOR CONVENIENCE

14.2.1 The Owner may, at any time, terminate the Contract in whole or in part for the Owner's convenience and without cause. Termination by the Owner under this §14.2 will be by a notice of termination delivered to the Contractor specifying the extent of termination and the effective date.

14.2.2 Upon receipt of a notice of termination for convenience, the Contractor will immediately, in accordance with instructions from the Owner, proceed with performance of so many of the following duties as may be ordered by the Owner, regardless of delay in determining or adjusting amounts due under this §14.2:

(a) cease operations as specified in the notice and deliver to the Owner the originals or legible copies of all Drawings, Specifications, reports and other data, records and materials in the Contractor's custody and control pertaining to the portion of the Work for which the employment of the Contractor was terminated;

(b) enter into no additional Subcontracts, except as necessary to complete continuing portions of the Contract;

(c) terminate, on the most favorable terms possible, all Subcontracts to the extent they relate to the Work terminated;

(d) complete the performance of Work not terminated; and

(e) take actions that may be necessary or that the Owner may direct, for the protection and preservation of the terminated Work and of materials, plant and equipment in transit or stored.

14.2.3 Upon such termination, the Owner will pay, and the Contractor, as its sole remedy, may recover payment, including a reasonable allowance for overhead and profit, for Work properly performed in connection with the terminated portion of the Work prior to the effective date of termination, for items theretofore properly and timely fabricated off the Project Site, delivered and stored in accordance with the Owner's instructions, and for any actual out-of-pocket costs it incurs in complying with §14.2.2, such as reasonable demobilization costs. The Contractor hereby waives all other claims whatsoever against Owner based on a termination for convenience.

14.2.4 In any recovery by the Contractor, the Owner will be credited for (i) payments previously made to the Contractor for the terminated portion of the Work, (ii) claims which the Owner has against the Contractor under the Agreement and (iii) the value of the materials, supplies, equipment or other items that are to be disposed of by the Contractor.

14.3 TERMINATION BY THE CONTRACTOR

14.3.1 The Contractor will have the right to terminate the Contract only upon the occurrence of one of the following:

(a) The Work is stopped for one hundred twenty (120) consecutive days, through no act or fault of the Contractor or any of the Construction Team, due to an issuance of an order of a court or other public authority having jurisdiction or due to an act of government, such as a declaration of a national emergency making material unavailable.

(b) The Owner fails to perform any material obligation under the Contract and fails to cure such default within sixty (60) days after receipt of notice from the Contractor stating the nature of such default (thirty [30] days in the case of a payment default), or if the default cannot be immediately cured, then if the Owner begins to cure within the sixty (60) day period and diligently pursues it to completion.

(c) Repeated suspensions by the Owner, other than such suspensions as are agreed to by the Contractor, which constitute in the aggregate more than one hundred eighty (180) days, whichever is larger.

14.3.2 Upon the occurrence of one of the events listed in §14.3.1, the Contractor may, upon ten (10) days' additional notice to the Owner, and provided that the condition giving rise to the Contractor's right to terminate is continuing, terminate the Agreement.

14.3.3 Upon termination by the Contractor, the Owner will pay to the Contractor the sum determined by §14.2.3.

14.3.3.1 Such payment will be the sole and exclusive remedy to which the Contractor is entitled in the event of termination of the Agreement by the Contractor pursuant to §14.3; and the Contractor will be entitled to no other compensation or damages whatsoever as a result of the termination of the Agreement and expressly waives any right to claim them.

Article 15 CLAIMS

15.1 CLAIMS

A "**Claim**" is a demand or assertion by one of the parties seeking adjustment or interpretation of contract terms, payment of money, extension of time or other relief with respect to the terms of the Agreement or

any of the Contract Documents. The term "Claim" also includes all other disputes, controversies and matters in question between or among the Owner and the Contractor or any member of the Construction Team arising out of or in any way relating to the Agreement, the Project or the Work. Claims must be made by written notice to the other party containing as much detail as reasonably possible. The responsibility to substantiate claims will rest with the party making the Claim.

15.2 TIME LIMITS ON CLAIMS

Claims by the Contractor must be made promptly and strictly within twenty-one (21) days, unless a longer period is granted in writing, after the claimant first recognizes the condition giving rise to the Claim, whether or not any impact in money or time has been determined.

15.3 CONTINUING CONTRACT PERFORMANCE

Pending final resolution of a Claim, Work will continue unabated, the Contractor will proceed diligently with performance of the Services, and the Owner will continue to make payments in accordance with the Contract Documents, except as to amounts disputed in good faith.

15.4 CLAIMS FOR ADDITIONAL COST

15.4.1 Subject to the limitations contained in §8.6.3, if the Contractor wishes to make a Claim for an increase in the Contract Sum, to the extent the Claim is reasonably discoverable, written notice of it will be given to the Owner before the Contractor proceeds to execute the Work for which the Claim is made. Prior notice is not required for Claims relating to a bona fide emergency endangering life or property.

15.4.2 If the Contractor contends that it is entitled to an adjustment to the Contract Sum in accordance with the Contract Documents, the Contractor will be obligated to substantiate any such claim with complete detailed and accurate cost records as required by the Owner meeting the requirements of the Contract Documents, including Article 7. The Owner will be entitled to determine amounts, if any, due to the Contractor for claims made by the Contractor if the Contractor fails to submit complete, detailed and accurate cost records substantiating the amount claimed by the Contractor.

15.5 ASSERTION OF CLAIMS BY CONTRACTOR

15.5.1 The Design Professional, in consultation with the Owner's Representative, will be the initial interpreter of the requirements contained in the Contract Documents and the judge of the acceptability of the Work thereunder. Claims, disputes and other matters relating to the acceptability of the Work or the interpretation of the requirements of the Contract Documents or to the performance and furnishing of the Work and claims in respect to extras or changes in the Contract Sum or the Contract Time will be initially referred to the Design Professional and the Owner's Representative in writing with a request for a formal decision. The Design Professional will render a recommendation to the Owner's Representative, in writing, within a reasonable time. Written notice of each claim, dispute and other matter will be delivered by the claimant to the Design Professional, the Owner's Representative and to the other parties to such claim, dispute or other matter promptly and within the time frames established by the specific requirements of the Contract Documents.

15.5.2 [intentionally omitted]

15.5.3 [intentionally omitted]

15.6 [INTENTIONALLY OMMITTED]

15.7 WAIVER

Claims must be asserted and pursued strictly in accordance with the provisions of this Article 15 or will be deemed to have been waived and forever barred, regardless of whether the other party is prejudiced thereby. THE PARTIES WISH TO AVOID CLAIMS AND DISPUTES OF AN ATTENUATED NATURE AND THOSE WHICH ARE NOT PROMPTLY IDENTIFIED. ACCORDINGLY, THE AGREEMENT CONTAINS

A NUMBER OF SOMEWHAT UNUSUAL PROVISIONS STATING IN ONE WAY OR ANOTHER THAT POTENTIAL CLAIMS, REQUESTS, DEMANDS, DISPUTES AND THE LIKE WILL BE BARRED OR WAIVED IF THERE IS NOT STRICT COMPLIANCE OR IF A STATED PROCEDURE IS NOT STRICTLY FOLLOWED. THE PARTIES HAVE INCLUDED THESE PROVISIONS TO MAKE CLEAR THEIR ELECTION TO KNOWINGLY AND FREELY CREATE PARAMETERS THAT ARE ABSOLUTELY BINDING UNDER ALL CIRCUMSTANCES WHATSOEVER (UNLESS A WAIVER HAS BEEN REQUESTED IN WRITING AND GRANTED IN WRITING), EVEN IF THE RESULT WOULD SEEM TO A THIRD PARTY TO BE HARSH OR INEQUITABLE. IF EITHER PARTY ATTEMPTS TO RAISE A MATTER IN VIOLATION OF ONE OR MORE OF THESE PARAMETERS, THE OTHER WILL BE ENTITLED TO IMMEDIATE SUMMARY DISPOSITION AND WILL BE AWARDED ITS COSTS AND REASONABLE ATTORNEYS' FEES.

15.8 [INTENTIONALLY OMITTED]

15.9 [INTENTIONALLY OMITTED]

Article 16 MISCELLANEOUS PROVISIONS

16.1 CHOICE OF LAW

The Agreement will be governed by and construed in accordance with the laws of the State of Michigan that are applied to contracts made and to be performed in that state.

16.2 BINDING EFFECT

Subject to the limitations of §16.3, the Agreement will be binding upon the Owner and the Contractor, respectively, and their partners, successors, assigns and legal representatives.

16.3 ASSIGNMENT

Because of the unique and personal services offered by the Contractor and its ownership and staff, the Contractor will not assign, encumber, pledge, sublet or transfer any interest in the Agreement without the written consent of the Owner. The Contractor will notify the Owner immediately in writing of any significant changes in its ownership or organization or in the ownership or organization of any of its constituent entities. A change in a majority of the ownership of the Contractor will be deemed an assignment of the Agreement.

16.4 REMEDIES NOT EXCLUSIVE

Except to the extent they are designated as a party's "sole" or "exclusive" remedy, the remedies provided in the Agreement will be in addition to, and not in substitution for, the rights and remedies which would otherwise be vested in either party hereto, under law or at equity, all of which rights and remedies are specifically reserved by each party; and the failure to exercise any remedy provided for in the Agreement will not preclude the resort to any such remedy for future breaches by the other party, nor will the use of any special remedy hereby provided and not designated as a party's "sole" or "exclusive" remedy prevent the subsequent or concurrent resort to any other remedy which by law or equity would be vested in either party for the recovery of damages or otherwise in the event of a breach of any of the provisions of the Agreement to be performed by the other party.

16.5 [INTENTIONALLY OMITTED]

16.6 OWNER'S RIGHT TO AUDIT

16.6.1 The Owner will have the right to audit all relevant Contractor's books and records including the administrative and accounting policies, guidelines, practices and procedures of the Contractor for the Project as follows:

(a) The Owner reserves the right to audit and adjust the final Contract Sum for discrepancies for any compensation amount included in the original Contract which was based on methods other than lump sum or fixed price. Contractor must segregate its records in such a manner as to facilitate a complete audit of all charges included in the Contract and agrees that such audit may be used as the basis for settlement of charges against this Contract.

(b) The Owner reserves the right to audit and adjust the final price for any changed Work performed for the Project, whether authorized by CCD or Change Order, and whether determined under Method No.1, Method No.2 or Method No.3 under §7.6.

(c) The Owner reserves the right to audit the Contractor's books and records for the Project to insure compliance with the Owner's Policy including Gifts and Gratuities.

(d) The Owner reserves the right to audit the Contractor's books and records for the Project to verify, substantiate and investigate any Contractor or Subcontractor or Supplier claim regarding the Project.

(e) The Owner reserves the right to audit the Contractor's books and records for the Project to confirm Contractor's compliance with any and all laws, regulations or ordinances.

16.6.2 The Contractor further agrees, for the purpose of the Owner's right to audit under §16.6.1, to preserve all such documents for a period of six (6) years after Final Payment or Final Acceptance, or longer period if required by law, including documents of the Subcontractor(s) and Suppliers.

16.7 SUBMISSION TO PROCEEDINGS

If the Owner is a party to any litigation or arbitration with respect to the Project involving a common question of law or fact (whether as plaintiff, defendant or third-party defendant), the Contractor and all members of the Construction Team consent to being joined in such action and to the jurisdiction of the body in which the action is instituted (if the Contractor is named as a defendant or impleaded as a third-party defendant) and to service of process by or on behalf of that body; and the Contractor waives any right to contest its joinder in such action on the grounds of improper jurisdiction or venue.

16.8 NO PERSONAL LIABILITY

In carrying out any of the provisions of the Agreement, or in exercising any power or authority granted to them by or within the scope of the Agreement, there will be no personal liability upon the members of the Owner's Board of Regents or any officers, employees or representatives of the Owner, either personally or as public officials, it being understood that in all such matters they act solely as agents and representatives of the Owner.

16.9 INTEGRATION

The Contract Documents represent the entire and integrated agreement between the Owner and the Contractor and supersede all prior negotiations, representations, or agreements, either written or oral. The Agreement may be amended only by written instrument signed by both the Owner and the Contractor. The Agreement will, if possible, be construed to render each of their provisions valid and enforceable. However, if any part, term or provision of the Agreement is held by the final judgment of any court of competent jurisdiction to be illegal, invalid or unenforceable, the validity of the remaining portions or provisions will not be impaired or affected, and the rights and obligations of the parties will be construed as having been written to include terms that are the maximum protection enforceable under law, and will be enforced as if the Agreement did not contain the particular part, term or provision held to be illegal, invalid or unenforceable.

16.10 THIRD-PARTY BENEFICIARIES

Nothing contained in the Agreement will create a contractual relationship with or a cause of action in favor of a third party against either the Owner or the Contractor. There are no third-party beneficiaries to the Agreement. However, it is understood and agreed that the Owner is and will be designated an intended third-party beneficiary of all contracts for design or engineering services, Trade Contracts, and other agreements between Contractor and other members of the Construction Team.

16.11 NO WAIVER

No term or provision of the Agreement will be deemed waived and no breach excused unless either (i) waiver or bar is required by the terms of the Agreement or (ii) such waiver or consent will be in writing and signed by the party claimed to have waived or consented. Any consent by any party to, or waiver of, a breach by the other, whether expressed or implied, will not constitute a consent to, nor waiver of, or excuse for any other different or subsequent breach.

16.12 CONSTRUCTION

Both parties have had the opportunity to have the Agreement reviewed by knowledgeable counsel. Accordingly, no part of the Agreement will be strictly construed against either party, regardless of which party drafted it.

16.13 HEADINGS

The headings and captions of the Articles and Sections in the Agreement are for convenience only, and will not govern the construction, or alter, vary, or change any of the terms, conditions, or provisions of the Agreement or any Articles or Sections hereof, nor will they in any way limit the obligations of the Contractor to perform the Services.

16.14 PATENTS AND COPYRIGHTS

16.14.1 Whenever any invention or discovery is made or conceived by the Contractor in connection with the Project, the Contractor will furnish the Owner with complete information regarding the invention or discovery and the Owner will have the sole power to determine whether and where a patent application will be filed and to determine the disposition of title to and all rights under any application or patent that may result. The Contractor will, at the Owner's expense, execute all documents and do all things necessary or proper with respect to such patent application.

16.14.2 Whenever any copyright is secured in connection with the Project, title and all rights to such copyright will vest in the Owner.

16.14.3 The Contractor warrants that the Contractor's and/or the Owner's use of products, process, techniques and methodologies recommended by the Contractor or developed by the Contractor will not infringe upon the copyright, patent or other proprietary rights of others. The Contractor will at its expense, without recovery from the Owner, under the Contract Sum, defend all suits or claims for infringement of patent rights and will save the Owner harmless from loss on account thereof, except for such suits or claims which arise from a product or process required by the Contract Documents and where the Contractor had no knowledge of such infringement.

16.15 SURVIVAL

The provisions of the Contract and the obligations of the Contractor which by their nature survive termination of the Contract or Final Completion, including Article 15, all warranties, indemnities, payment obligations, and Owner's right to audit Contractor's books and records, will remain in full force and effect after Final Completion or any termination of the Contract.

16.16 NOT EXCLUDED

16.16.1 The Contractor warrants that neither the Contractor, nor, to the best of the Contractor's knowledge, Contractor personnel or any member of the Construction Team, is excluded from participating in the Medicare or Medicaid program nor currently debarred or suspended or listed on the General Services Administration's ("GSA") List of Parties Excluded from Federal Procurement or Non-procurement Programs in accordance with Executive Orders 12549 and 12689, "Debarment and Suspension." The Contractor will immediately notify the Owner if it becomes debarred or suspended during the term of this Agreement.

16.16.2 The Contractor further represents that no adverse action by the federal government that will or may result in exclusions from a federal health care program has occurred or is pending or threatened against the Contractor or any member of the Construction Team, or to the best of its knowledge, against any Contractor personnel. The Contractor agrees that neither it nor any member of the Construction Team will perform any act that will cause the Contractor to be excluded from a federal health care program or debarred, suspended or listed in the GSA's List of Parties Excluded from Federal Procurement or Non-procurement Programs during the term of this Agreement.

16.17 LIMITATION ON CONTRACTOR PERSONNEL

The Contractor agrees that unless otherwise approved by the Owner in writing in advance, neither the Contractor, nor any Contractor personnel, nor any member of the Construction Team will provide services if any of the following have occurred: (a) any *applicable* registration, certification, licensure (including where applicable, Medicare/Medicaid provider status) of Contractor personnel or any member of the Construction Team, in any state, is or has been threatened with limitation, suspension, revocation or exclusion; (b) any *applicable* registering, certifying, or licensing board reprimands, sanctions or otherwise disciplines Contractor personnel or any member of the Construction Team; or (c) a negligence or malpractice claim related to the provisions of the services or similar services has been asserted against Contractor personnel or any member of the Construction Team.

16.18 BUY DOMESTIC/BUY MICHIGAN PROVISION

16.18.1 The Owner will give preference to goods or services manufactured/offered by United States of America based firms provided that these services and materials meet the specifications of the Contract Documents and are obtained at the lowest total contract cost.

16.18.2 The Owner will give preference to services offered by Michigan based firms provided that these services and materials meet the specifications of the Contract Documents and are obtained at the lowest total contract cost. This provision is not intended to prohibit businesses in other states from competing for contracts, but to include Michigan firms in every possible contracting opportunity.