

CONTRACT DOCUMENTS
for
JOB ORDER CONTRACT – 2008



VOLUME II
GENERAL CONDITIONS

Purdue University
West Lafayette, Indiana

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GENERAL CONDITIONS OF THE CONTRACT

TABLE OF CONTENTS

1.1 DEFINITIONS GC-3

1.2 JOC SUPPLEMENTAL DEFINITIONS GC-4

2. INTENT OF THE CONTRACT DOCUMENTS GC-7

3. THE OWNER AND THE SUPERINTENDENT GC-8

4. CONSTRUCTION PROGRESS SCHEDULE GC-8

5. TIME OF COMPLETION GC-9

6. LIQUIDATED DAMAGES GC-11

7. MATERIALS, WORKMANSHIP AND EQUIPMENT GC-11

8. DELIVERY AND STORAGE OF MATERIALS GC-12

9. TESTS AND INSPECTION OF MATERIALS GC-12

10. TECHNICAL SPECIFICATIONS AND DRAWINGS GC-12

11. ELECTRONIC COPIES OF THE DRAWINGS AND "AS BUILT" DRAWINGS GC-15

12. OPERATIONAL MANUALS AND SPARE PARTS LISTS GC-16

13. BONDS, CERTIFICATES, GUARANTEES, LISTS AND INSTRUCTIONS GC-16

14. RIGHT TO OPERATE UNSATISFACTORY EQUIPMENT GC-17

15. CHANGES IN THE WORK GC-17

16. ACCESS TO WORK AND CORRECTION OF WORK GC-18

17. CORRECTION OF WORK GC-18

18. PAYMENT TO CONTRACTOR GC-19

19. INSURANCE GC-21

20. OWNER'S RIGHT TO LET OTHER CONTRACTS GC-24

21. OWNER'S USE OR OCCUPANCY GC-24

22. MANAGEMENT PLAN AND PERSONNEL GC-24

23. SUBCONTRACTORS AND MANUFACTURERS GC-28

24. PROTECTION OF WORK AND PROPERTY GC-29

25. ACCESS TO BUILDINGS AND SCHEDULING OF UTILITIES INTERRUPTIONS ... GC-29

26. CONTRACTOR'S GUARANTEES GC-29

27. THE OWNER'S RIGHT TO DO WORK GC-30

28. OWNER'S RIGHT TO TERMINATE CONTRACT GC-30

29. ASSIGNMENT GC-31

30. WAIVER GC-31

31. NOT USED (CASH ALLOWANCES) GC-31

32. PERMITS AND REGULATIONS GC-31

33. CODES AND ORDINANCES GC-31

34. ROYALTIES AND PATENTS GC-32

35. USE OF PREMISES GC-32

36. CLEANING UP GC-32

37. CUTTING, PATCHING AND DIGGING GC-32

38. GROSS INCOME TAX - NON-RESIDENT CORPORATE CONTRACTORS GC-33

39. INDIANA SALES AND USE TAX GC-33

40. NONDISCRIMINATION PROVISIONS GC-33

GENERAL CONDITIONS

41. COOPERATION OF CONTRACTORS GC-34

42. PARKING REGULATIONS GC-34

43. SPECIAL PROVISIONS REGARDING RETAINAGE, BONDS AND PAYMENT OF
CONTRACTORS AND SUBCONTRACTORS..... GC-35

44. OCCUPATIONAL SAFETY AND HEALTH ACT GC-36

45. PURCHASE OF AMERICAN STEEL GC-36

46. OPEN COMPETITION..... GC-37

47. ENVIRONMENTAL PERMITS AND REQUIREMENTS GC-37

48. HAZARD COMMUNICATION GC-37

49. HAZARDOUS MATERIALS GC-38

50. INDEMNITY GC-38

51. DISCOVERY OF ITEMS WHICH MAY BE ARCHAEOLOGICALLY SIGNIFICANT.. GC-39

52. LIMITATION OF ACTIONS GC-39

53. DISPUTE RESOLUTION GC-39

54. DRUG TESTING PROGRAM GC-40

55. SCOPE OF WORK AND PROCEDURE FOR ORDERING WORK..... GC-40

56. EXTENSION OF CONTRACT PERFORMANCE GC-50

57. PRICE ADJUSTMENT GC-57

58. REPORTS GC-52

59. OFFICE SPACE PROVIDED GC-53

General Conditions

1.1 DEFINITIONS

- A. The Contract consists of all the Contract Documents including the Agreement Between Owner and Contractor, the Legal Advertisement covering the opening of bids, the Contractor's Combination Bid Bond and Bond for Construction, all of the five volumes of this Contract; 1) Volume I, Instruction for Bidders and Proposal Documents; 2) Volume II General Conditions; 3) Volume III, Construction Task Catalog[®]; 4) Volume IV, Technical Specifications; 5) Volume V, Design Standards, all Job Orders, addenda, amendments, clarifications and modifications thereof incorporated in the documents before their execution, any plans or specifications by reference and these form the Contract.
- B. The Owner, the Contractor and the Architect/Engineer are those mentioned as such in the Agreement. They are treated throughout the Contract Documents as if each were of the singular number and of no gender.
- C. Owner or Owners shall mean The Trustees of Purdue University (sometimes referred to as "Purdue" or "Purdue University") or the designated representatives of the Owner, including consultants.
- D. Architect/Engineer shall mean a duly registered architect and/or engineer registered in the State of Indiana.
- E. The term Subcontractor, as employed herein, includes only those having a direct contract with the Contractor or a contract with a Subcontractor of the Contractor, or a contract with a Subcontractor of a Subcontractor of the Contractor, etc., and it includes one who furnishes material worked to a special design according to the Technical Specifications or Scope of Work, but does not include one who merely furnishes material not so worked.
- F. Written Notice from the Contractor means a document signed by the Contractor's Superintendent or by one of Contractor's officers, members, managers or partners, as the case may be. A Written Notice from the Owner shall be signed by the Owner's Superintendent or the Superintendent's designated representative. Written Notice shall be deemed to have been duly served if delivered in person to the individual or to a member of the firm or to an officer of the corporation for whom it is intended, or if delivered at or sent by registered or certified mail, return receipt requested, to the last known business address. Daily reports and meeting minutes do not constitute Written Notice of the information contained in such minutes.
- G. The term "Work" means the furnishing by the Contractor of all labor, materials, tools equipment and other incidentals necessary or convenient to the completion of an individual Job Order.
- H. All time limits stated in the Contract Documents are of the essence of the Contract.
- I. Governing Law: The Contract shall be construed in accordance with and governed by the laws of the place of building. Any action to enforce or determine the rights, duties and liabilities of the parties under the Contract, or concerning any dispute arising out of or relating thereto, shall be brought only in Tippecanoe County, Indiana.
- J. The date of Substantial Completion of the Job Order or a specified area of the Job Order is the date when construction is sufficiently completed, in accordance with Contract Documents, as modified by any change orders agreed to by the parties, so that the Owner can occupy the Job Order site or a specified area of the Job Order for the use it was intended. All punch list items

General Conditions

shall be coordinated with the Owner so as not to interfere with the Owner's use of the Job Order site. Punch list items shall be completed, and the Job Order finally complete, within 30 days of Substantial Completion.

- K. Where the word "similar" occurs in the Scope of Work or in the Technical Specifications it shall be used in its general sense and not as meaning identical, and all details shall be worked out in proper relation to their location and their connection to other parts of the work.
- L. Superintendent shall mean the designated Representative of the Owner, or Owner's duly authorized Representative, in charge of the supervision of the work.

1.2 JOC SUPPLEMENTAL DEFINITIONS

- A. "Accelerated Schedule" means Work done on Other than Normal Working hours between the hours of 5:00 PM to 6:00 AM on weekdays and any times during Saturday, Sunday, and Owner holidays in addition to Work during Normal Working hours utilizing multiple crews, double shifts, etc.
- B. "Adjustment Factor", is the Contractor's competitively bid price adjustment to the unit prices as published in the Construction Task catalog[®] (CTC[®]). Contractors must submit three Adjustment Factors. The first two Adjustment Factors are to be applied to the prices in the Construction Task Catalog[®] (CTC[®]) for work to be performed during Normal Working Hours and for work to be performed on an Accelerated Schedule. The third adjustment factor is a Non Pre-Priced factor be applied to work not included in the CTC[®]. All Adjustment Factors are expressed as an increase or decrease from the published prices. The Accelerated Schedule Adjustment Factor must be greater than the Normal Working Hours Adjustment Factor.
- C. "Design" means Drawings that are architectural/engineering in nature, that are certified by a registered architect or engineer duly licensed in the State of Indiana.
- D. "Award" means the final issuance of the award of the Contract to the Contractor following formal authorization by Owner, refer to IB1.09 of the Instruction for Bidders.
- E. "Award Date" means the date of the issuance of the Award, refer to IB1.09 of the Instructions for Bidders.
- F. "Change Order" means the written order to the Contractor directing changes in the Work or the Progress Schedule. Change Orders for changes in the Work will be accomplished by means of issuing an additional Job Order pursuant to Article 55.
- G. "Contract Award Figure" means the price as determined by the Bid Form 2: Basis of Contract Award Worksheet provided in Volume I.
- H. "Contractor's Project Manager" is the designated representative of the Contractor.
- I. "Contractor's Field Superintendent" is the designated representative of the Contractor in the field, who supervises the work.

General Conditions

- J. "Contractor's Design Professionals" are the designated representatives of the Contractor in matters relating to Contractor furnished A/E design and Drawings.
- K. "Contractor" refers to the person or entity who is awarded the Contract.
- L. "Construction Task Catalog[®]", Volume III of the Contract Documents, is a comprehensive listing of specific construction related tasks together with a specific unit of measurement and a unit price. (Also referred to as the "CTC[®]").
- M. "Days" means calendar days, unless otherwise stated.
- N. "Design Standards" is Volume V of the Contract Documents, a list of standard practices in the preparation of Scopes of Work and designs for the University.
- O. "Drawings" are illustrations ranging from hand-drawn sketches to electronic plans which may be furnished by the Owner or the Contractor that describe the Scope of Work for a Project. When Drawings are required, they are considered part of the Scope of Work.
- P. "Environmental Requirements" means all applicable Federal, State, and local laws, ordinances, rules, regulations, and executive orders pertaining to environmental matters.
- Q. "Final Completion of the Job Order" means the last date on which all of the following events have occurred: the Owner has determined that all Punch List Work and any other remaining Work has been completed in accordance with the Contract Documents; final inspections have been completed and all operations systems and equipment testing have been completed; the issuance final occupancy certifications (if any); all deliverables such as manufacturer's guarantees, operation manuals, and "As-Built" Drawings have been provided to the Owner and all contractual requirements for final payment have been completed.
- R. "Job Order" means the collection of documents associated with the Project to include: the Scope of Work; the Request for Proposal; a Price Proposal; the Job Order Proposal Package the Owner's Notice to Proceed; a time duration for the completion of the Scope of Work, and any special conditions that may apply to the Job Order as appropriate.
- S. "Job Order Contract (JOC)", is a competitively bid, firm-fixed-price, indefinite-quantity Contract. It includes a collection of detailed repair and construction tasks, and technical specifications, and design standards that have established unit prices. It is placed with a Contractor for the accomplishment of the design and repair, alteration, modernization, rehabilitation, construction, equipping, etc., of infrastructure, buildings, structures, or other real property. Ordering is accomplished by means of issuance of a Job Order against the Contract.
- T. "Job Order Proposal Package" as used herein refers to the Contractor prepared document after the Owner approves the Price Proposal. The Job Order Proposal Package includes a signed Price Proposal, Subcontractor List and M/WBE Plan, a Plumbing License as required for the Job Order, Construction Progress Schedule and any other documents required for the execution of the individual Job Order
- U. "Job Order Time" is the period of time from when the Owner authorizes the Contractor to begin the Work until the scheduled date for Substantial Completion, including approved time extensions.

General Conditions

- V. "JOC Program Manager" shall mean the designated Representative of the Owner, or Owner's duly authorized Representative, in charge of the supervision of the work.
- W. "Key Personnel" means those job titles and the persons assigned to those positions in accordance with the provisions of this Contract. Reference Article 22 C.
- X. "Maximum Contract Amount" means \$4,000,000.
- Y. "Minimum Contract Amount" means \$50,000.
- Z. "Non Pre-Priced Tasks" means those units of Work that are not included in the Construction Task Catalog[®] but within the general scope and intent of this Contract. The pricing of Non Pre-Priced tasks shall be in accordance with the appropriate formulas listed in Article 55. Such Work requirements shall be incorporated into and made a part of this Contract for the Job Order to which they pertain, and may be incorporated into the Construction Task Catalog[®] at a base price determined appropriate and agreed to by the Owner in accordance with the provisions of Article 55. Non Pre-Priced Work requirements shall be separately identified and submitted in Contractor's Proposal.
- AA. "Normal Working Hours" means between the hours of 6:00 AM to 5:00 PM except for Saturdays, Sundays, and Owner holidays.
- AB. "Notice to Proceed (NTP)" is the written authorization from the Owner for the Contractor to commence Work in accordance with the Job Order. The Owner will review the Contractor's Job Order Proposal Package and if acceptable and at the Owner's sole discretion, the Owner may issue a Notice to Proceed for the Work described in the Job Order. The Notice to Proceed will set forth a lump sum amount for the compensation for the Job Order.
- AC. "Owner's Inspector" shall mean the designated representative of the Superintendent on Job Orders from NTP through completion.
- AD. "Owner's JOC Program Manager" shall mean the designated representative of the Owner to manage the JOC Program.
- AE. "Owner's JOC Project Manager" shall mean the designated representative of the Owner on specific Job Orders up to NTP, representing the Owner's interests and Superintendent in the initiation of Work and supervision of the Project Manager's work on Job Orders and Design and Proposal reviews.
- AF. "Plans" means the Scope of Work, task descriptions in the Construction Task Catalog[®], Drawings, sketches, illustrations, Technical Specifications, A/E design, or other pertinent information included on or attached to the Job Order.
- AG. "Price Proposal", means the document prepared by the Contractor in response to the Owner's RFP requesting that a Price Proposal be prepared utilizing the Owner's CTC[®]. The priced quoted for the work represents a firm fixed lump sum price for the Project Scope of Work. Documentation such as drawings, material cut sheets, back up for Non Pre-Priced Work, Progress Schedule and other

General Conditions

documentation required by the Owner may accompany the Price Proposal.

- AH. "Project" means, collectively, the improvements to be constructed by the Contractor pursuant to a Job Order.
- AI. "Project Limit Lines" means the geographical boundaries of the Project, as more fully identified and described in the Job Order.
- AJ. "Project Record Documents" are all documents the Contract requires the Contractor to provide to the Owner including but not limited to shop drawings, "As-Built" Documents, parts manuals, operation and maintenance manuals, A/E design, Drawings, and Project manuals and/or Specifications.
- AK. "Progress Schedule" is the time shown on a Gantt or CPM chart of the major activities of a Project with Early Start, Late finish, and durations for each major activity. See Article 4.
- AL. "Punch List Work" means a compilation of minor items which have not been completed in accordance with an individual Job Order and the Contract Documents. Whether an item is punchlist Work or necessary for substantial completion shall be determined at the sole discretion of the Superintendent/Owner.
- AM. "Request for Design" (RFD) means the Owner's Request for Design for a specific Job Order requiring Contractor furnished A/E Design and/or Drawings prior to the RFP.
- AN. "Request for Proposal" (RFP) means the Owner's Request for Proposal for a specific Job Order after the receipt and approval of any Contractor furnished Drawings, if applicable.
- AO. "Scope of Work" means the documented description of services, agreed to by both the Contractor and the Owner, to be provided by the Contractor in connection with an individual Job Order. Documentation of the Scope of Work may include a narrative description of the Work, specifications, partial A/E design documents or Drawings, Any reference to Scope of Work in this document also includes any Drawings or A/E design as defined hereunder.
- AP. "Technical Specifications" is Volume IV of the Contract Documents, is a comprehensive performance and technical specification for construction and construction related tasks.
- AQ. "Unit Price", as used herein refers to the price published in the Construction Task Catalog[®] for a specific construction or construction related task. The Unit Prices are fixed for the duration of the Contract. Each Unit Price is comprised of the labor, equipment and material costs to accomplish that specific task.

2. INTENT OF THE CONTRACT DOCUMENTS

The Contract Documents are complementary, and what is called for by any one shall be as binding as if called for by all. The intention of the documents is to include all labor and materials, equipment and transportation necessary for the proper execution of the work.

General Conditions

In interpreting the Contract Documents, the pertinent provisions of the Advertisement for Bids and the Instructions to Bidders shall be considered. Words describing materials or work which have a well known technical or trade meaning, unless otherwise specifically defined in the Contract Documents, shall be construed in accordance with such well known meaning.

In the event of conflict between any of the documents comprising the Contract, the order of precedence shall be as follows:

- A. Agreement
- B. Volume II – General Conditions
- C. Addenda, if any
- D. The Job Order
- E. The Design, Drawings and Specifications
- F. Volume IV – Technical Specifications
- G. Volume V – Design Standards
- H. Volume III – Construction Task Catalog[®]
- I. Volume I – Instructions to Bidders and Proposal Documents

3. THE OWNER AND THE SUPERINTENDENT

The Owner or his designated representative shall be responsible during the construction period for interpreting the Contract Documents, for preparing additional drawings or schedules as necessary, and for reviewing drawings as submitted by the Contractor. The Owner or his designated representative shall make decisions on all claims on these matters upon the request of the Owner or Contractor within a reasonable time and such decisions shall be conclusive and binding upon the Owner, Contractor, and all other persons for all purposes.

The Superintendent shall be the Owner's Representative in charge of the supervision of the work. The Superintendent will make periodic visits to the site to become familiar generally with the progress and quality of the work and to determine in general if the work is proceeding in accordance with the Contract Documents. The Superintendent will not be required to make exhaustive or continuous on site inspections to check the quality or quantity of the work and will not be responsible for the Contractor's failure to carry out the construction work in accordance with the Contract Documents. During such visits and on the basis of observations while at the site, the Superintendent will keep the Owner informed of the progress of the work, will endeavor to guard the Owner against defects and deficiencies in the work of Contractors, and may condemn work as failing to conform to the Contract Documents. The Superintendent shall have authority to stop the work whenever such stoppage may be necessary in the Superintendent's reasonable opinion to insure the proper execution of the Contract. The Superintendent shall within a reasonable time, make decisions on all matters relating to the execution and progress of the work and such decisions shall be conclusive and binding upon the Owner, Contractor, and all other persons for all purposes.

4. CONSTRUCTION PROGRESS SCHEDULE

It is understood and agreed that TIME IS OF THE ESSENCE OF THIS CONTRACT, and the Contractor agrees to begin actual Work covered by Job Orders issued under this Contract in conformity with the provisions set forth herein and to prosecute the same with all due diligence, so as to complete each Job Order within the calendar days stipulated.

General Conditions

As requested by the Owner for the individual Job Orders, the Contractor shall submit to the Owner for approval, a Progress Schedule, in electronic and hard copy formats in Gantt chart or CPM form using Primavera Computer Software. The Construction Progress Schedule will insure the satisfactory completion of the Work within the time specified by the Owner. The schedule for each Job Order shall contain a separate activity for all significant construction activities, depicting predecessors, successors, float, durations and relationships. The schedule shall also include a legend, critical deliveries, and startups and shutdowns as activities. The schedule shall be submitted with the price proposal for approval by the Owner's Project Manager. The schedule's major tasks and milestones shall be kept up to date weekly as the work progresses and be available electronically for the Owner's review. When approved and accepted by the Owner, the Contractor shall prosecute the Work under each Job Order so that the actual Work completed shall not be less than required by such approved Progress Schedule.

If the overall rate of progress is less than the amount therein specified in the Progress Schedule then the Contractor shall use multiple crews, additional shifts, weekend and/or holiday work or any and all other steps necessary, at the Contractor's sole expense, to ensure Job Order is completed within the number of calendar days stipulated in the Job Order.

The Contractor is hereby notified and acknowledges that areas and buildings in which Job Orders are performed may be occupied or partially occupied and the scheduled use of some areas and buildings may change causing interruptions to the continuous flow of the Contractor's operation. If such occurrences happen, the Superintendent shall follow the procedures outlined in Article 5 of the General Conditions, but in no case will there be an increase in Job Order price.

5. TIME OF COMPLETION

The work to be performed under the Contract Documents shall be commenced immediately after delivery of the Notice to Proceed, or as directed by the Owner, and the Contractor shall prosecute the work without interruption at the rate stated in the approved Progress Schedule or the Job Order. As requested by the Owner for individual Job Orders, the Contractor shall submit the Progress Schedule in accordance with Article 4 of these General Conditions.

For any work identified prior to the issuance of the Notice to Proceed where the Contractor proposes to utilize multiple crews or double shifts, or for any work that is necessary to be performed after Normal Working Hours, on Sundays or Legal Holidays, the Contractor shall be compensated through the application of the Accelerated Schedule adjustment factor to the appropriate tasks in the Price Proposal.

The Job Order Time for completion of a given Scope of Work is as accepted on the Job Order or the Contractor's approved Progress Schedule. It is agreed that said time of completion is reasonable. The time for completion shall be extended for the period of any Excusable Delay, which term shall mean only delays directly caused by any of the following:

- A. Acts of God, floods, fires, tornadoes or other similar unforeseeable casualties (but adverse weather conditions not caused by the foregoing shall not constitute Excusable Delay).
- B. Governmental controls affecting the availability of materials.
- C. Strikes
- D. Acts of negligence by the Owner, Superintendent or their designated representatives.

General Conditions

- E. Changes or alterations directed by the Owner.
- F. The discovery of undisclosed hazardous materials pursuant to Article 49.
- G. Such other unforeseeable and unavoidable causes beyond the control of the Contractor as the Superintendent shall determine.

Unless the Contractor shall, within seven days from the commencement of any possible Excusable Delay or within seven days from the time when Contractor first learns of a possible Excusable Delay, give the Superintendent Written Notice of all facts, then available, relating to the nature and extent of the delay and its anticipated effect, if any, upon the time for completion of the entire project, and shall also request that a determination be made as to whether or not the delay is an Excusable Delay so as to extend the time for completion of the entire project or any part thereof, the act or occurrence in question shall not thereafter be an Excusable Delay for any purpose except upon the written consent of the Owner. The timely giving of such Written Notice shall be a condition precedent to the Contractor's entitlement to an extension of time pursuant to this Article 5.

The Superintendent shall promptly acknowledge any such request, but the Superintendent need not make a determination concerning the same until the nature and extent of the delay and its effect upon the time for completion and of the entire project can be determined with reasonable certainty.

If because of some act or occurrence constituting an Excusable Delay, only a part of the work is delayed beyond the time fixed for the completion of the entire project, and such delay does not effect the time for completion of the balance of the entire project, an extension of time may be granted for the performance of the work on that particular part. In such cases the Contractor shall not be liable for the payment of any liquidated damages, if any, because of the delay in completing that part of the work, however, such an extension shall not affect Contractor's liability for the payment of liquidated damages, if any, as hereinafter provided, for failure to complete and balance of the entire project on the date fixed for the completion of the entire project.

NO DAMAGES FOR DELAY:

An extension of time for Excusable Delay, as defined above, shall be the Contractor's exclusive remedy in the event of such a delay, no matter how or by whom caused. Contractor further specifically acknowledges that it shall have no claim for increase in the Job Order price or damages because of any delays whatsoever to all or any part of the work whether foreseen or unforeseen, and whether caused by any person's hindrance or active interference.

Any possible means of shortening the Progress Schedule at no additional cost shall be brought to the attention of the Owner.

The Contractor shall attend all progress meetings scheduled by the Owner to discuss progress, scheduling, coordination requirements, and problems. The Contractor shall furnish information in regard to his proposed effort to overcome any incurred delay. This information shall be in a form acceptable to the Owner. In the event that the Contractor falls behind schedule, the Owner shall receive written notice from the Contractor within five (5) days of the commencement of such delay, including a description of the reasons for the delay and the steps the Contractor is taking or will take to recover the effects of the delay.

The Contractor shall coordinate his letting of subcontracts, material purchases, shop drawing

General Conditions

submissions, delivery of materials and sequence of operations, to conform to the Progress Schedule and shall furnish proof of same as may be required by the Owner.

Normal Working Hours: Unless otherwise stated in the Job Order or Scope of Work, the Contractor shall accomplish the tasks required by any Job Order issued hereunder during Normal Working Hours. The Adjustment Factor for work performed on an "Accelerated Schedule" shall be applied only upon specific written authorization in the Request for Proposal or Scope of Work.

6. LIQUIDATED DAMAGES

It is hereby declared and agreed by and between the Contractor and the Owner that the date of commencement, rate of progress and the time of completion for each Job Order consisting of all the work to be performed by the Contractor are material and essential provisions, conditions and covenants of the Contract Documents and that it would be impracticable and impossible to determine and ascertain the actual damages the Owner would incur by reason of a delay in the completion of the work. It is therefore covenanted and agreed by and between the Contractor and the Owner that the Contractor shall, and the Contractor does hereby agree to pay to the Owner as agreed and liquidated damages (and not as a penalty) the amount listed in the schedule for liquidated damages listed below for each and every calendar day that the Contractor shall be in default hereunder for failing to complete the project on or before the completion date (time) indicated in the individual Job Orders except as such date (time) shall be extended for the period of any Excusable Delay. Any such payments due the Owner by the Contractor may be deducted by the Owner from any sums due the Contractor.

The Owner shall recover such liquidated damages by issuing a RFP for a negative Job Order. If the Contractor refuses to submit a Proposal for said damages, then the Contractor or the Surety shall pay promptly the amount due and the Owner may withhold any pending payments on any outstanding Job Order until such payment is received.

SCHEDULE FOR LIQUIDATED DAMAGES

<u>Job Order Amount</u>	<u>Calendar Day</u>
\$1.00 to \$25,000.00	\$ 300.00
\$25,001.00 to \$150,000.00	\$ 500.00
\$150,001.00 to \$750,000.00	\$ 750.00
\$750,001.00 or greater	\$ 1,000.00

7. MATERIALS, WORKMANSHIP AND EQUIPMENT

Unless otherwise stipulated, the Contractor shall provide and pay for all materials, labor, water, tools, equipment, light, power, transportation and other facilities necessary for the execution and completion of the work.

Unless otherwise stated in the Job Order, all materials, workmanship, equipment and articles incorporated in the work shall be new and of the best grade and quality of their respective kinds for the purpose intended, and the Contractor shall, on request, furnish satisfactory evidence of such kind and quality. No second-hand or salvaged materials will be permitted unless

General Conditions

specifically stated in the Technical Specifications or the Job Order. The Contractor shall furnish to the Owner for the Owner's approval the name of the manufacturer of machinery, mechanical and other equipment which Contractor contemplates installing, together with their performance capacities and other pertinent information.

The Contractor shall at all times enforce strict discipline and good order among its employees, and shall not employ on the work any unfit person or anyone not skilled in the work assigned to that person.

As required per the Job Order, *Samples* of all materials and specifications proposed to be used in the work shall be submitted to the Owner and Owner's approval of the same obtained in writing. All such samples will be turned over to the Superintendent as standards of quality and only materials conforming to samples shall be used in the work.

If not otherwise provided, material or work called for in this Contract shall be furnished and performed in accordance with well known established practice and standards recognized by architects, engineers, and the trade. Machinery, equipment, materials and articles installed or used without such approval shall be at the Contractor's risk of subsequent rejection by the Owner or Superintendent.

Materials Furnished by Owner: If the Job Order stipulates that the Owner is to furnish certain items of materials or appliances which the Contractor is to install, the Contractor will be required to check each shipment, sign a receipt for all parts thereof and be entirely responsible for breakage or loss after receipt.

8. DELIVERY AND STORAGE OF MATERIALS

The Contractor will be required to confine the delivery and storage of materials and all other operations to routes and areas as designated by the Superintendent.

9. TESTS AND INSPECTION OF MATERIALS

Unless specified otherwise, all tests or inspection of materials and construction shall be made at the expense of the Owner. Contractor shall not include in its estimate any allowance for defraying expense of tests and inspection of materials, except help needed by the Superintendent in sampling and delivering materials to the laboratory.

10. TECHNICAL SPECIFICATIONS AND DRAWINGS

Under this Contract it is expected that the level of A/E design will vary from Job Order to Job Order. On all projects, the Technical Specifications shall apply unless expressly written to the contrary in the Job Order. On some Projects, the Owner will provide all necessary Drawings and/or information as to the Scope of Work for the Contractor to prepare a Proposal and shop drawings. On other Projects, the Owner shall issue an RFD to the Contractor to require that all Drawings, A/E design, and a written Scope of Work, be provided by the Contractor and to the satisfaction of the Owner. All Drawings shall be prepared as directed by the Owner and comply with all applicable federal, state and local codes. All Drawings produced by the Contractor will be approved by the Owner's Project Manager prior to issuance of an RFP to the Contractor.

The Drawings produced by the Contractor shall comply with the Owner's Design Standards,

General Conditions

Volume V, and as directed by the Owner. Updates to these Design Standards during the Contract will not be inconsistent with these standards. Updates to Technical Specifications will also occur throughout the contract. These updates will not be inconsistent with the overall level of quality from the Contract Documents and shall be incorporated by the Contractor into the Contract Documents using the existing Construction Task Catalog[®]. If by determination of the Owner, a new or altered Technical Specification is not in the Construction Task Catalog[®], it may be Non Pre-Priced per the provisions in Article 55.

The work shall be executed in strict conformity with the Technical Specifications and the Scope of Work. As required by individual Job Orders, the Contractor shall do no work without proper drawings, instructions and approvals of shop drawings and submittals.

The Contractor shall keep at the job site at least one copy of the Scope of Work in good order, available to the Superintendent.

In addition to the Scope of Work, the Contractor shall keep evidence of changes to the Scope of Work that may have occurred during Construction at the job site and one copy of all addenda, change orders, approved shop drawings and manufacturer's specifications, instructions or directions, in good order, at the Contractor's Office.

Where in these Technical Specifications any materials or appliances are specified as being installed in accordance with the manufacturer's specifications, instructions, or directions, the Contractor shall file copies in detail of the same in the number and procedure as required for shop drawings as set forth hereinafter in this Article. No work shall be done with that part of the work until such specifications, instructions, or directions have been approved by the Owner or his designated representative. When such specifications, instructions, or directions have been approved by the Owner or his designated representative as complying with the intent of the Technical Specifications, they will be considered as a part of the Technical Specifications and shall be carefully followed in the execution of the work. Whenever any shop drawings and/or brochure for equipment or material containing the manufacturer's recommendations for installation is approved by the Owner or his designated representative, the Contractor shall be required to make the installation in strict accordance with those recommendations, regardless of whether the item was specifically noted. Any labor or materials required to comply with manufacturer's recommendations shall be provided at no additional expense to the Owner.

The Contractor shall use for data and dimensions, figures marked on the Drawings in preference to what the Drawings may measure to scale, but in the absence of figured dimensions, scale dimensions shall be accurately followed.

The Contractor shall verify all dimensions shown and check all measurements in connection with any present building or buildings, levels, grades, walks, driveways, or other existing conditions before executing any work.

It is understood that work not indicated on a part of the Drawings but reasonably implied to be similar to that shown at corresponding places on other Drawings, is to be repeated.

Interpretation: All disputes concerning the interpretation and meaning of the Technical Specifications, Drawings and the Job Order shall be referred to the Owner or his designated representative whose decision shall be conclusive on the Contractor and Owner.

General Conditions

Examination by Contractor - Discrepancies: The Contractor shall thoroughly examine the Technical Specifications and the Job Order, including Addenda and Drawings, if any, as each word will be held in full force. No failure on Contractor's part to understand the Technical Specifications and Job Order nor to discover any work noted on them or shown thereon or therein shall justify a claim for omission of said work from the Job Order, or for any extra charge therefore.

The Contractor shall visit the building site and become acquainted with all conditions and shall call the Owner's or his designated representative's attention to any discrepancy that may exist in the Technical Specifications, Drawings, or the Job Order, or between the Technical Specifications, the Drawings and the Job Order, or any conflicts, between existing conditions and requirements of the Technical Specifications, Drawings and the Job Order, before submitting a Proposal. The submission of the Job Order Proposal Package, will be considered as a conclusive evidence that the Contractor is thoroughly familiar with the true intent of the Technical Specifications, Drawings and the Job Order in all their parts, and no extra orders will be issued for any additional labor or material required to rectify any discrepancy discovered or reported to the Owner or his designated representative after the Notice to Proceed is signed.

Ownership of Drawings: All Technical Specifications, Drawings, Contract Documents and copies thereof furnished by the Owner, Contractor or Architect/Engineer are Owner's property. They are not to be used on other work, and, are to be returned to Owner on request, at the completion of the work.

Copies Furnished: The Contractor will be furnished, free of charge, all copies of Job Order specific Specifications as well as Owner provided Drawings reasonably necessary for the execution of the work.

Detail Drawings and Instructions: Unless part of the Contractor's duties under the Job Order, the Owner or his designated representative shall furnish with reasonable promptness, additional instructions by means of drawings or otherwise, necessary for the proper execution of the work. All such drawings and instructions shall be consistent with the Contract Documents, true developments thereof, and reasonably inferable therefrom. When the Drawings define the Scope of Work, the work shall be executed in conformity with the detail drawings and instructions and the Contractor shall do no work without proper drawings and instructions.

Shop and setting drawings, brochures and schedules: The Contractor shall submit to the Owner or his designated representative with such promptness as to cause no delay in Contractor's own work or the work of any other Contractor or Subcontractor, a minimum of seven (7) copies of all shop and setting drawings, brochures, and schedules required by the work of various trades.

The Contractor shall check and verify all field measurements in connection with shop and setting drawings, brochures and schedules, and shall check and approve the same for compliance with the Contract Documents.

Each drawing, brochure or schedule shall bear the following wording typed or stamped thereon: "APPROVED TO BE IN ACCORDANCE WITH THE CONTRACT DOCUMENTS EXCEPT AS NOTED".

SIGNED: _____ DATED: _____

General Conditions

The above approval shall be signed and dated by the Contractor. Each submittal shall bear the Technical Specification CSI number and sub number that it is requested to be reviewed for compliance with.

Mechanical and Electrical Subcontractors, and all other Subcontractors shall check all drawings, brochures and schedules, type or stamp, sign and date with the above approval wording before submitting them to the Contractor. The Contractor shall then check, type or stamp and sign them with the above approval wording before submitting them to the Owner or his designated representative.

Any drawings, brochures or schedules submitted without the approval typed wording, stamp or stamps shall be returned without review for resubmittal.

All brochures shall bear the name of the Project, and shall set forth the room or areas where items in the brochure are located. When a general catalog or a set of manufacturer's typical details are submitted all items relevant to the project shall be specifically marked and details not relevant to the project shall be deleted. All brochures or drawings submitted that do not clearly indicate which are applicable details shall be returned without review for resubmittal.

The Owner or his designated representative shall examine, with reasonable promptness, such drawings, brochures and schedules only for conformance with design concept of the Project and compliance with the information given in the Contract Documents. The Owner or his designated representative shall stamp all drawings, brochures and schedules, indicating review of information, date, and sign.

Reviewed copies will be distributed as follows:

Where applicable, one (1) copy will be retained by the Architect/Engineer, two (2) copies will be retained by the Owner, and the balance will be returned to the Contractor.

Shop drawings which do not comply with the design concept and Contract Documents shall be stamped "RESUBMIT".

The Contractor shall make any corrections required by the Owner or his designated representative and resubmit seven (7) corrected drawings for review.

The Owner's or his designated representative's examination of such drawings, brochures and schedules shall not relieve the Contractor from responsibility for deviations from the Technical Specifications, Drawings or Scope of Work unless Contractor has, in writing, called the Owner's or his designated representative's attention to such deviations at the time of submission, and secured the Owner's or his designated representative's written approval, nor shall it relieve Contractor from responsibility for errors in shop drawings, brochures or schedules.

The Contractor shall maintain a complete file of all review shop drawings, brochures and schedules at the Contractor's office.

11. ELECTRONIC COPIES OF THE DRAWINGS AND "AS BUILT" DRAWINGS

- A. Certain control points and benchmarks are shown on the plans, or will be available from the Owner. These points shall be used by the Contractor to provide as-built utility information for this project.

General Conditions

- B. The Contractor will submit to the Owner "As Built" drawings if required in the Job Order. The sheet size shall be the same as the original drawings unless otherwise authorized by the Owner. These drawings shall be prepared by a competent draftsman in a neat and acceptable manner to scale and fully dimensioned.
- C. Marking of the prints shall be pursued continuously during construction to keep them up to date. This information shall be maintained in a current condition at all times until the completion of the work. They shall be made available for inspection by the Superintendent or his authorized Representative whenever requested during construction and shall be jointly inspected for accuracy and completeness by the Contractor's representative and the Superintendent's Representative prior to submission of each monthly pay estimate. Contractor's failure to keep the As-Built drawings (including Equipment-in-Place lists) current shall be a material breach of contract and Owner may, at its option, and in addition to any other remedies it may have, withhold payments to Contractor pursuant to Article 18.
- D. It will be the responsibility of the Contractor to have the Superintendent or his authorized Representative verify all dimensions and entries on the drawings.
- E. The final As-Built drawings shall be submitted to the Superintendent for review and approval prior to the granting of final payment of the Job Order.
- F. If the Contractor performs the A/E design for a Job Order, the Contractor will be required to provide to the Owner a reproducible and an "electronic copy" of the Drawings, and the "As-Built" Drawings which reflect the Scope of Work of the Job Order. The Original construction Drawing shall be submitted to the Owner electronically for archiving prior to no later than 30 days after the start of the Work. These drawings shall not be inconsistent with Volume V, Design Standards, and may be returned for rework or rejected if deviations occur. The Owner will provide to the Contractor, when available, electronic copies of Drawings for the Contractor's use in preparing construction Drawings for the Scope of Work or "As-Built" Drawings. The Owner will provide access to the Contractor to archived Drawings for use in developing Owner requested A/E design and/or Proposals, but all information gathered must be verified by the Contractor in the field.

12. OPERATIONAL MANUALS AND SPARE PARTS LISTS

No later than 30 days prior to Substantial Completion, Contractor shall furnish to the Owner in duplicate, bound in binders, complete operating instructions for equipment and accessories, maintenance manuals together with material and spare parts lists for all equipment furnished.

13. BONDS, CERTIFICATES, GUARANTEES, LISTS AND INSTRUCTIONS

- A. Bonds, certificates, and guarantees shall be prepared in duplicate, bound in binders and submitted to the Superintendent at the Substantial Completion of the project.
- B. Should any piece of equipment fail to meet the guarantees or other requirements of the Contract within the time covered by the guarantees, the Owner may reject the equipment or may direct the Contractor to proceed at once to make alterations or furnish new parts as may be necessary to meet the requirements. All expense of furnishing and installing new parts or making alterations to existing parts, and of tests made necessary by failure of the apparatus to meet the guarantees and other requirements of the specifications shall be borne by the Contractor. Any material or

General Conditions

machinery not furnished by the Contractor which must be removed to give access to the apparatus furnished by the Contractor must be removed and replaced by the Contractor without cost to the Owner.

- C. If, after due notice, the Contractor should refuse or persistently neglect to correct any defects, errors, omissions or any other failure of the apparatus to meet the requirements of the Specifications which might develop during the guarantee period, the Owner may proceed at its own expense to correct such defects, errors, omissions or failure and deduct from any payment or moneys due to the Contractor an amount equal to the actual expense so incurred.
- D. Should tests of any equipment show that it fails to meet the guaranteed efficiencies, and should the Contractor fail within a reasonable time to modify the equipment so that it will meet the guarantees for efficiency, Contractor shall remove it at no cost to the Owner.

14. RIGHT TO OPERATE UNSATISFACTORY EQUIPMENT

The Owner shall have the right to operate any and all apparatus as soon as, and as long as, it is in operating condition whether or not such apparatus has been accepted as complete and satisfactory, except that this shall not be construed to permit operation of any apparatus which may be materially damaged by such operation before any required alterations or repairs have been made. All repairs or alterations required of the Contractor shall be made by the Contractor at such times as directed by the Owner. The repairs or alterations shall be made in such manner and at such a time as will cause the minimum interruption in the use of the apparatus by the Owner.

15. CHANGES IN THE WORK

The Owner reserves the right at any time and from time to time, without in any way invalidating the Job Order, to order extra work and/or to make changes in the work called for by the Job Order by altering, adding to, or deducting from such work. All such changes shall be evidenced by issuing an additional Job Order in accordance with the procedure for ordering work as described in Article 55; and no change in the time for completion of the work shall be made or allowed unless otherwise the Owner allows for a time extension.

In giving instructions, the Superintendent shall have authority to make minor changes in the work, not inconsistent with the purposes of the building, but otherwise, except in an emergency endangering life or property, no extra work or change shall be made unless in pursuance of a written order from the Owner signed or countersigned by the Superintendent, and no claim for an additional Job Order shall be valid unless so ordered.

The price of any such extra work or change shall be determined by the procedure for ordering work as described hereinafter in Article 55.

At the completion of the work, the Contractor shall furnish to the Owner a set of record prints of drawings showing those changes made during the construction process, if any, that were not covered by revised drawings.

In the event that the Owner and the Contractor are unable to agree upon a price for any extra work or change then the Owner may, at its option, issue a Written Notice directing the Contractor to perform the work. Upon receipt of such Written Notice, the Contractor shall proceed to promptly perform the disputed work. Contractor shall document its actual tasks completed in

General Conditions

connection with performing the disputed work and upon completion of the disputed work present the Owner with a detailed, itemized accounting together with appropriate supporting data as required by the Contract Documents. The Owner shall then make a final determination as to the extent of the Contractor's entitlement to compensation for the disputed extra work or change.

Except pursuant to Written Notice issued by the Owner, a change in the time for completion or additional payments shall be accomplished only by the issuance of an additional Job Order. No course of dealing, express or implied acceptance of alterations or additions to the Work, or claim that the Owner has been unjustly enriched by an alteration or addition to the Work shall entitle the Contractor to an increase in the time for completion or additional payment.

The execution of additional Work is considered to be an additional Job Order and all provisions of the Contract Documents shall apply thereto. In consideration of the Job Order as a complete equitable adjustment, the Contractor releases the Owner of and from any and all costs, expenses, damages or claims attributable in whole or in part to (1) the facts and circumstances giving rise to the additional Job Order and (2) the execution of the Job Order.

16. ACCESS TO WORK AND CORRECTION OF WORK

The Superintendent, Owner and their designated Representatives shall at all times have access to the work wherever it is in preparation or progress and the Contractor shall provide proper facilities for such access.

If the Technical Specifications, the Owner's or his designated representative's instructions, laws, ordinances or any public authority require any work to be specially tested or approved, the Contractor shall give the Superintendent timely notice of its readiness for observation by the Superintendent, or inspection by another authority, and if the inspection is by another authority, of the date fixed for such inspection, required certificates of inspection being secured by the Contractor. Observations by the Superintendent shall be promptly made, and where practicable at the source of supply. If any work should be covered up without approval or consent of the Superintendent, it must, if required by the Superintendent, be uncovered for examination at the Contractor's expense.

Re-examination of questioned work may be ordered by the Superintendent, and if so ordered the work must be uncovered by the Contractor. If such work be found in accordance with the Contract Documents the Owner shall pay the cost of re-examination and replacement by issuance of a Change Order pursuant to Article 55. If such work be found not in accordance with the Contract Documents the Contractor shall pay such cost.

17. CORRECTION OF WORK

Correction of Work Before Substantial Completion: The Contractor shall promptly remove from the premises all work condemned by the Superintendent as failing to conform to the Scope of Work, whether incorporated or not, and the Contractor shall promptly replace and re-execute its own work in accordance with the Scope of Work and without expense to the Owner and shall bear the expense of making good all work of other Contractors destroyed or damaged by such removal or replacement.

If the Contractor does not remove such condemned work within a reasonable time, fixed by written notice, the Owner may cause the condemned work to be removed at the expense of the Contractor. Such expense shall be deducted from the Job Order amount.

General Conditions

Deduction for Uncorrected Work: If the Owner deems it expedient to accept work injured or not done in accordance with the Scope of Work then the difference in value, together with a fair allowance for the damages, shall be deducted from the Job Order amount.

Correction of Work After Substantial Completion: The Contractor shall remedy any defects due to faulty materials or workmanship and pay for any damage to other work resulting therefrom, which shall appear within a period of one year from the date of Substantial Completion as defined in these General Conditions, and in accordance with the terms of any special guarantees provided in the Job Order. The Owner shall give notice of observed defects with reasonable promptness. All questions arising under this section shall be decided by the Superintendent notwithstanding final payment.

Punch List: When the work is near completion, the Contractor shall inspect the Work and shall prepare a list of all items remaining on the work prior to final completion. Said list shall be known as the Contractor's Punch List. The Contractor shall proceed to complete or correct all items listed on the Contractor's Punch List and verify that the items have been completed or corrected by signing said Punch List and transmitting it to the Superintendent with a request for Substantial Completion and Owner's punch list. Upon receipt of the Contractor's request, the Superintendent will verify the Work is ready for Owner's punch list and commence to develop the Owner's Punch List of any remaining uncorrected items. The Contractor is to acknowledge receipt of Owner's punch list by returning the list with items checked off as to the date completed to the Superintendent.

It is understood and agreed that TIME IS OF THE ESSENCE IN CLOSING OUT THE JOB ORDER WORK SITE IN THIS CONTRACT, and the Contractor agrees to begin Work immediately after receipt of a formal comprehensive list of minor miscellaneous or finishing Work known as "Punch List Work"

1. Failure of the Contractor or his Subcontractors to begin the "Owner's Punch List Work" on the job site prior to the expiration of three (3) working days after receipt of the "Owner's Punch List" shall be construed as failure to prosecute the Work of the Job Order.
2. It is further understood and agreed that the "Owner's Punch List Work" shall be continuously prosecuted once begun and completed within thirty (30) calendar days from the receipt of the formal "Owner's Punch List" from the Owner. Therefore, any gap of three (3) working days during which "Owner's Punch List Work" is not being performed on the job site shall also be construed as failure to prosecute the Work of the Job Order.
3. The failure to commence or continue the "Owner's Punch List Work" shall result in the charging of the liquidated damages per Work/calendar days, stated in Article 6 for late completion, whichever is applicable, for each day beyond the three (3) working days to begin or continue to complete the "Owner's Punch List".
4. The Owner shall be the sole judge as to whether days shall be charged. If liquidated damages are assessed, they shall be added to the previously determined liquidated damages at the time of Substantial Completion or beneficial occupancy of the Work to be completed on each Job Order.

In case of failure on the part of the Contractor to execute Work ordered in writing by the Owner, the Owner may, at the expiration of 48 hours, give Written Notice to the Contractor, and proceed

General Conditions

to execute such Work as may be deemed necessary, and the cost thereof shall be deducted from compensation due or which may become due to the Contractor under this Contract.

18. PAYMENT TO CONTRACTOR

Payments shall be made on inspected and approved Work only. If an individual Job Order requires 45 days or less for completion, the Owner will normally make one payment to the Contractor after Substantial Completion and retainage shall be paid after final acceptance of all Work contained under the Job Order and all Contract requirements for final payment have been satisfied. For Job Order requiring greater than 45 days for completion, the Owner will consider a request for partial payments to the Contractor. If submittal of partial payments is approved, the Owner and the Contractor will visit the Job Order site prior to the submittal of the partial payment request to agree on the amount due to the Contractor according to the Schedule of Values.

The Contractor and the Owner will agree at the Joint Scope Meeting on the categories of Work to represent the Schedule of Values to be billed against. The approved Price Proposal will be the basis for the Schedule of Values.

Title to the Work: The title of all work completed and in the course of construction and of all materials on account of which any payment has been made, shall be in the Owner.

Work Ready for Final Inspection and Acceptance: Upon receipt of written notice that the work is ready for final inspection and acceptance, the Superintendent shall promptly make such inspection, and when the Superintendent finds the work acceptable under the Job Order and the Scope of Work fully performed, the Superintendent shall promptly approve final payment, stating that the work provided for in this Contract has been fully completed and is accepted under the terms and conditions thereof, and that the entire balance found to be due the Contractor and noted in said final application for payment, is due and payable.

In submitting application for final payment the Contractor shall submit evidence satisfactory to the Superintendent that all payrolls, material bills, and other indebtedness connected with the work have been paid. If after the work has been substantially completed, full completion thereof is materially delayed through no fault of the Contractor, and the Superintendent so approved, the Owner shall, and without terminating the Job Order, make payment of the balance due for that portion of the work fully completed and accepted. Such payment shall be made under the terms and conditions governing final payment, except that it shall not constitute a waiver of claims.

Liens: Neither the final payment nor any part of the retained percentage shall become due until the Contractor shall deliver to the Owner a complete release of all liens arising out of the Job Order, and an affidavit that so far as Contractor has knowledge or information the release includes all the labor and material for which a lien could be filed. Upon written instruction from the Owner, Contractor shall promptly cause any mechanic's lien to be released, at its sole cost and expense.

The final application for payment shall be accompanied by Contractor's Affidavit, Waiver of Claims, and Guarantee (one copy) (in form included in the Specifications) properly filled out and executed by the Contractor, each of Contractor's Subcontractors, and by each of Contractor's major material suppliers.

Approval of Payments: If the Contractor has made application for payments above, the Superintendent shall, not later than the date when each payment falls due, approve Payment to the Contractor for such amount as Superintendent decides to be properly due, or state in writing

General Conditions

Superintendent's reasons for withholding such approval. No approval of payment by the Superintendent nor payment made to the Contractor, nor partial or entire occupancy of the work by the Owner, shall be an acceptance of any work or materials not in accordance with the Scope of Work. When advised by the Contractor that the work is substantially completed, the Superintendent and the Contractor shall within a reasonable time make a joint inspection of the work. If the Superintendent shall determine that the work is substantially completed, he shall then prepare a Notice of Substantial Completion which shall be submitted to the Contractor for execution. The making and acceptance of the final payment shall constitute a waiver of all claims by the Owner, other than those arising from unsettled claims or liens, from faulty work appearing after Substantial Completion or from failure to comply with the Scope of Work and the terms of any special guarantees specified in the Job Order. The making and acceptance of final payment shall also constitute a waiver by the Contractor of all claims against the Owner, except those previously made and still unsettled.

Payments Withheld: The Superintendent may withhold or, on account of subsequently discovered evidence, nullify the whole or a part of any application for payment to such extent as may be reasonably necessary to protect the Owner from loss on account of:

- A. Defective work not remedied.
- B. Claims or liens filed or reasonable evidence indicating probable filing of claims or liens.
- C. Failure of the Contractor to make payments when due to Subcontractors, or for material, equipment or labor.
- D. A reasonable doubt that the Job Order can be completed for the balance then unpaid.
- E. Damage to another Contractor.
- F. Failure or refusal of the Contractor to prosecute the work in strict compliance with the approved progress schedule.
- G. Unsatisfactory prosecution of the work by the Contractor.

When the above grounds are removed, payment shall be made for amounts withheld because of them.

Claims for Extras: If the Contractor claims that any instructions, by drawings or otherwise, involve extra cost under the Job Order, Contractor shall give the Superintendent Written Notice thereof before proceeding to execute the work, and the Superintendent shall make a decision, as adviser to the Owner whether the Contractor should proceed with the work. The timely giving of such Written Notice shall constitute a condition precedent to the Contractor's entitlement to compensation for such extra costs. Failure of the Contractor to give such Written Notice shall constitute a waiver of any such claim for extra compensation.

19. INSURANCE

GENERAL

Contractor shall procure and maintain during the life of this Contract and until final acceptance of the work the insurance specified in this Article (19. INSURANCE). Such insurance shall be subject to the following conditions:

General Conditions

- A. Contractor shall furnish to Owner its Certificate(s) of Insurance, submitted in the format of the standard ACCORD form, required coverage for Owner's approval prior to commencement of the work. Such certificate(s) shall clearly identify the project name and all coverages and special conditions as required by this article.
- B. Owner may, at his discretion, require Contractor to furnish the actual policies for inspection.
- C. All policies shall be underwritten by companies
 1. authorized to do business in the State of Indiana;
 2. acceptable to Owner.
 3. having an A.M. Best rating of "A": or better.
- D. Each insurance policy required by this article shall be endorsed to state that coverage shall not be suspended, voided, canceled or reduced in either coverage or limits until thirty (30) days prior written notice has been received by Owner via certified mail. Each policy shall be endorsed to include The Trustees of Purdue University and Purdue University as an additional insured (Additional Insured Endorsement CG 10 11 85 edition or equivalent required). Additional insured coverage shall be primary, and not contributory, to other available coverage.
- E. Owner shall not be liable to any person for the failure of Contractor or any Subcontractor to carry any insurance specified or to furnish proof of such coverage to Owner.

SCOPE OF COVERAGE

Coverage shall be at least as broad as:

- A. Comprehensive General Liability or Commercial General Liability policy insuring all operations by or on behalf of Contractor and including coverage for:
 1. Premises and operations
 2. Products and completed operations
 3. Contractual liability insuring the obligations assumed by Contractor under this Contract
 4. Personal injury liability
 5. Broad form property damage
 6. Explosion, collapse and underground (XCU)
- B. Automobile Liability insurance covering all owned, hired and non-owned vehicles.
- C. Worker's Compensation and Employer's Liability coverage as required by the laws of the State of Indiana. The policy shall be endorsed to provide coverage as follows: Voluntary Compensation Endorsement, and Other States Edorsement.

COVERAGE LIMITS

Contractor shall maintain liability limits of not less than the following:

- A. General Liability
 1. If insured under Comprehensive General Liability form: \$2,000,000 combined single limit, per occurrence, for bodily injury and property damage.
 2. If insured under Commercial General Liability form: \$2,000,000 each occurrence, bodily injury and property damage; \$2,000,000 personal and advertising injury; \$2,000,000 products and completed operations aggregate; \$2,000,000 general aggregate, with a 24 to 36 month tail.

General Conditions

- B. Automobile Liability
 - 1. \$2,000,000 combined single limit, per accident, for bodily injury and property damage.
- C. Worker's Compensation
 - 1. As required by law.
- D. Employer's Liability
 - 1. \$100,000 Bodily injury by accident, each accident \$100,000. Bodily injury by disease, each employee.
 - 2. \$500,000 Bodily injury by disease, aggregate.
- E. Professional Liability
 - 1. \$1,000,000

Contractor may substitute lower limits for any policy listed above, provided that Contractor maintains umbrella or excess liability coverage which provides a total minimum limit of \$2,000,000 each for auto liability and general liability and under which all other requirements of this insurance clause are satisfied.

OTHER INSURANCE PROVISIONS

- A. Deductibles and Self-Insured Retentions: Any deductibles or self-insured retentions must be declared to and approved by Owner. At the option of Owner,
 - 1. the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects Owner; or
 - 2. the Contractor shall procure a bond which guarantees payment of losses and defense costs.
- B. Per Occurrence Coverage: All coverages shall be written on a per occurrence coverage form.
- C. Contractor's Failure to Comply with Policy Provisions: General Liability and Automobile Liability policies shall stipulate that Contractor's failure to comply with reporting provisions of the policies shall not affect coverage provided to Owner.
- D. Worker's Compensation and Employer's Liability Coverage: Contractor's insurer shall agree to waive all rights of subrogation against Owner.

INSURANCE DURING CONSTRUCTION

The Owner shall maintain, during the course of construction, new construction coverage under a standard all-risk form in an amount not less than 100 percent of the insurable value of the completed building, including materials, equipment and supplies of all kinds, destined to become a permanent part of said structure, while on the job site or within 1,000 feet thereof. Loss which is covered under a new construction policy shall be subject to a deductible of \$10,000 per occurrence.

All-risk coverage shall include, but not necessarily be limited to, coverage for the perils of fire, lightning, windstorm, hail, explosion, smoke, vehicles, aircraft, riot, civil commotion, vandalism, malicious mischief, theft, water damage and collapse. Coverage for all perils

General Conditions

shall be subject to those limitations specified under the terms of the standard policy in effect.

The insurance purchased by the Owner shall include the interest of the Contractor and his Subcontractors and evidence of coverage shall be made available to the Contractor upon written request to the Owner. Contractor shall be responsible for satisfying the deductible for any loss for which such new construction coverage is provided by the owner. Satisfaction of the deductible by the Contractor shall be a condition precedent to Contractor's entitlement to any proceeds of such coverage furnished by the Owner. Loss, if any, is to be made adjustable with and payable to the Owner as Trustee for the insureds as their interests may appear, except in such cases as may require payment of all or a portion of said insurance to mortgages as their interest may appear.

Contractor shall separately insure or be wholly responsible for all materials destined to become a part of the completed structure when such materials are stored away from the site of the work. Such insurance shall include the interest of Owner and shall be subject to review and inspection by Owner.

Contractor shall separately insure or be wholly responsible for all Contractor's equipment, tools, scaffolding, staging, towers, forms and temporary buildings, owned, borrowed, or rented by Contractor and Subcontractors, and all materials and supplies which are not intended to become a part of the construction.

The following, or a similar, Subrogation Clause shall appear in all insurance policies purchased in accordance with the provisions of this subsection (Insurance During Construction):

"Subrogation Clause: It is hereby stipulated that this insurance shall not be invalidated should the insured waive in writing prior to a loss any or all right of recovery against any party for loss occurring to the property described herein."

Except to the extent of the Contractor's obligation to satisfy the deductible and such rights, if any, as they may have as to the proceeds of such insurance, the Owner and Contractor waive all rights, each against the other, for damages caused by perils covered by the insurance purchased in accordance with the provisions of this subsection (Insurance During Construction).

20. OWNER'S RIGHT TO LET OTHER CONTRACTS

The Owner reserves the right to let other contracts under similar General Conditions. The Contractor shall afford other Contractors reasonable opportunity for the introduction and storage of their materials and the execution of their work, and shall properly connect and coordinate its work with theirs. If any part of the Contractor's work depends for proper execution or results upon the work of any other Contractor, the Contractor shall inspect and promptly report to the Superintendent any defects in such work that render it unsuitable for such proper execution and results. Failure of the Contractor so to inspect or report shall constitute an acceptance of the other Contractor's work as fit and proper for the reception of its work, except as to defects which may develop in the other Contractor's work after the execution of Contractor's work.

To insure the proper execution of subsequent work the Contractor shall measure work already in place and shall at once report to the Superintendent any discrepancy between the executed work and the Drawings.

General Conditions

21. OWNER'S USE OR OCCUPANCY

The use or occupancy by the Owner with the consent or acquiescence of the Contractor of any part or all of the work to be performed hereunder, at any time or from time to time, prior to full and complete performance of all of the work or prior to the final acceptance by the Owner, thereof, shall not constitute or be deemed an acceptance by the Owner of the work so used or occupied, or an admission, acknowledgment or agreement by the Owner that such work has been performed in accordance with the Contract Documents or that such work was substantially completed on or before the commencement of such use or occupancy, or a waiver by the Owner of any provision of the Contract Documents or any of the Owner's right thereunder.

22. MANAGEMENT PLAN AND PERSONNEL

(To be submitted within fourteen (14) days after the date of the award) The Contractor shall submit a Management Plan detailing the Contractor's approach to construction and management of the JOC Contract in a form acceptable to the Owner. The Contractor is required to submit three (3) copies of the Management Plan. The title of the submittal shall be "MANAGEMENT PLAN FOR EXECUTION OF THE PURDUE UNIVERSITY JOB ORDER CONTRACT 2008". The Management Plan shall include, as a minimum, the following information and be organized as shown below:

Section 1 Construction and Operations Management Plan:

- 1.1. Management Team:
 - 1.1.1. Provide an organizational chart,
 - 1.1.2. Describe the responsibilities and duties of each position by indicating who will manage the overall contract, perform joint scopes, prepare proposals, prepare drawings, negotiate with subcontractors, supervise construction, and perform administrative tasks,
 - 1.1.3. Provide resumes for the key personnel,
 - 1.1.4. Describe on how you intend to meet the minimum level of staffing and your plan for adjusting staffing levels to changing work volumes.
- 1.2. Quality Control Plan (Article 58.A)
- 1.3. Provide sample report formats and methods for tracking progress, MBE performance, and payment status.
- 1.4. Safety Plan (Article 58.B)
- 1.5. Provide your approach to expedite the close out of projects and the correction of unacceptable work.
- 1.6. Identify how you intend to perform, or have performed, the architectural and engineering tasks as required by individual Requests for Design.
- 1.7. Describe how you intend to provide an immediate emergency response capability.

Upon acceptance by the Owner, the Contractor's Management Plan shall become a part of this Contract and deviations from the Plan shall not occur without the express written permission of the Owner. The Owner reserves the right to reject any and all portions of the proposed Management Plan, and if so rejected the Contractor shall resubmit those rejected portions within seven (7) days in a form acceptable to the Owner. The Owner reserves the right to perform Work under the Contract while the Contractor revises rejected portions of its Management Plan. Should the Contractor fail to resubmit an acceptable Management Plan, or acceptable portions

General Conditions

thereof, the Owner shall have cause for termination of the Contract without obligation to award the minimum contract amount.

The Contractor shall, immediately upon receiving a fully executed copy of this Contract, assign and maintain during the term of this Contract and any extension of it, an adequate staff of competent personnel who are fully equipped, licensed as appropriate, available as needed, qualified, and assigned exclusively to perform the Work. It is understood that as work volume fluctuates under this Contract the Contractor may desire to add or remove personnel from the Contract. Removal of personnel shall be done only with prior approval from the Owner. At no time shall the number of Personnel assigned to the Contract be less than that specified in Section C.

A. Personnel Assignments

1. If any Key Personnel furnished by the Contractor should be unable to continue in the performance of assigned duties for reasons due to death, disability, or termination, the Contractor shall promptly notify the Owner explaining the circumstances. Changes in assignment of Key Personnel due to commitments not related to this Contract are prohibited without prior Owner approval.
2. On request by the Owner, The Contractor shall furnish to the Owner within seven (7) working days the name of the person substituting for the individual unable to continue, together with any information the Owner may require to judge the experience and competence of the substitute person. Upon approval by the Owner, such substitute person shall be assigned to this Contract. If the Owner rejects the substitute, the Contractor shall have seven (7) days thereafter to submit a second substitute person. Such process shall be repeated for a reasonable period until a proposed replacement has been approved by the Owner.
3. In the event that, in the opinion of the Owner, the performance of personnel of the Contractor assigned to this Contract is at an unacceptable level, such personnel shall cease to be assigned to this Contract and shall return to the Contractor, and the Contractor shall furnish to the Owner, the name of a substitute person or persons in accordance with the previous paragraph. Absence of acceptable Key Personnel for the Work shall constitute an event of default.

B. Character of Workmen

The Contractor shall employ only competent and efficient laborers, mechanics, or artisans and whenever, in the opinion of the Owner, any employee is careless, incompetent, violates safety or security rules, obstructs the progress of the Work, acts contrary to instructions or conducts himself improperly, or fails to follow the safety requirements of this Contract, the Contractor shall, upon request of the Owner, discharge or otherwise remove him from the Work and shall not employ him again, except with the written consent of the Owner. The Contractor shall not permit any person to enter any part of the Work or any buildings connected therewith who is under the influence of alcohol or controlled substances.

The Contractor and the Contractor's employees shall be subjected to the same general rules of conduct while on the Owner's property that apply to the Owner's employees. The Owner reserves the right to refuse access to any Contractor's employee if the Owner determines it to be in the best interests of the Owner.

C. Key Personnel

General Conditions

Due to the variety of Work conducted, the Contractor's Key Personnel must be knowledgeable in their field and consistent for the duration of the Contract. Qualified personnel as detailed below must be staffed under the Contract as follows:

1. Contractor's Project Manager(s)

a. Senior Project Manager

The Contractor shall employ and assign exclusively to Work on this Contract, at all times, a qualified Senior Project Manager, and any necessary assistants or additional Project Managers satisfactory to the Owner, to act as contact personnel with the Owner's JOC Program Manager and JOC Project Managers. To ensure timely completion of Joint Scopes, Price Proposals, and Job Orders Proposal Packages, to ensure that the Job Orders are being constructed in accordance with the Technical Specifications. The Contractor's Senior Project Manager shall have a minimum of two (2) years experience as a JOC Project Manager or other qualifications and/or experience acceptable to the Owner.

b. Project Managers/Engineers

The Contractor's Project Manager shall represent the Contractor in the Contractor's absence. All directions given to the Contractor's Project Manager shall be as binding as if given to the Contractor. Important directions shall be confirmed in writing to the Contractor. Other directions shall be so confirmed on written request in each case. The Owner's JOC Program Manager or JOC Project Managers shall not be responsible for the acts or omissions of the Contractor's Senior Project Manager, assistants or other Project Managers.

The Contractor shall employ and assign exclusively to this Contract an adequate number of qualified and experienced Project Managers and Engineers to assure that each job Order is performed according to the Contract Documents. At a minimum the Contractor shall have at least one (1) Project Manager for every eight (8) Job Orders in planning/proposal stage. Once assigned to a particular Job Order, substitutions will only be allowed with Owner's approval. The Contractor's assistant Project Managers shall have demonstrated experience in the electrical and mechanical disciplines to ensure quality submissions of Price Proposals.

2. Contractor's Field Superintendent(s)

The Contractor shall employ full time, and at all times, for the entire length of the Contract, competent Field Superintendents, to properly and adequately superintend the Job Orders on a daily basis to facilitate the smooth progress of the projects and to ensure that construction is according to the Technical Specifications, Scope of Work, and the approved Progress Schedule. The Contractor shall have a full time experienced and qualified Field Superintendents assigned to each Job Order. At a minimum the Contractor shall have at least one (1) Field Superintendent for every eight (8) Job Orders in the field. Once assigned to a particular Job Order, substitutions will only be allowed with Owner's approval.

The Contractor's Field Superintendent and the Owner's Inspector shall coordinate Work activities and review project progress and quality.

The Contractor's Field Superintendent shall represent the Contractor in the Contractor's absence and all directions given to Contractor's Field Superintendent shall be as binding as if given to the Contractor. Important directions shall be confirmed in writing to the

General Conditions

Contractor. Other directions shall be so confirmed on written request in each case. The Owner's Inspector shall not be responsible for the acts or omissions of the Contractor's Field Superintendent or assistants.

The Contractor's Field Superintendents shall have a minimum of five (5) years experience as a Superintendent. The Contractor's Field Superintendents shall have demonstrated experience in the electrical and mechanical disciplines to ensure quality supervisions of project installations.

3. Design Professionals

Firms qualified as A/E design professionals in the areas of Architectural, Mechanical and Electrical construction are required for this Contract. Qualifications for All A/E firms shall be submitted to the Owner for review and approval within 7 days of receipt of the Owner's Request for Design. Once approved by the Owner, substitutions are prohibited without the Owner's prior written consent. The Contractor shall only employ competent firms experienced in all areas of Architectural and Engineering design. Full service firms are desired, but by no means is the Contractor to be the "lead" firm with assembled consultants for A/E design work.

4. Quality and Safety Control

A person on the Contractor's staff must be designated to oversee the Contractor's required Quality and Safety Control programs required to be submitted in Article 52.

No one individual above can hold more than two of the areas of responsibility described above. No separate payment will be made to the Contractor for the cost of any Key Personnel. Such cost will be deemed to be included in the Contractor's adjustment factor. The Design Professionals may be subcontracted by the Contractor, but all other Key Personnel must be employed directly by the Contractor and be on site for the contract.

D. Owner's Personnel

1. JOC Program Manager: The Owner will have a person to manage the JOC Program on behalf of the Owner. The JOC Program Manager will oversee the Owner's Project Managers and the initiation of Work under the Contract. Issues during Scope Development, design development, and Proposal reviews will be arbitrated by the JOC Manager, including interpretation of line item usage. The JOC Program Manager will control work flow for Projects in the design and proposal stage. The Superintendent shall maintain contractual authority over the entire Contract.
2. JOC Project Manager: The Owner will have JOC Project Managers assigned to each Job Order to act as representatives to the departmental customer for the Project. The JOC Project Managers will work with the Contractor's Project Managers to develop and evaluate the Scope, review Price Proposals, Drawings, and Progress Schedules prior to issuance of an NTP. The Project Manager will utilize electrical and mechanical resources to review drawings and Price Proposals submitted by the Contractor.
3. Inspector: The Superintendent will have construction Inspectors to oversee the construction work performed under Job Orders. Inspectors will work with the Contractor's Field Superintendents to verify compliance with the Scope of Work, Drawings, Technical Specifications, and Progress Schedule. The General Inspector for a project will have electrical and mechanical inspectors to oversee those portions of the work.

23. SUBCONTRACTORS AND MANUFACTURERS

As stated in Article 55, the Contractor shall submit a list of proposed Subcontractors for the Owner's review and approval with each Job Order prior to the issuance of the Notice to Proceed. The Owner reserves the right to reject and/or to permit substitutions of any Subcontractor or any manufacturer proposed by the Contractor deletion, and no such rejection or substitution by the Owner shall be cause for adjustment in the Job Order amount.

In addition to the liability otherwise imposed upon the Contractor, the Contractor shall assume full responsibility to the Owner for the acts or omissions of the Subcontractors, their agents and employees, and the acts or omissions of the Contractor's agents or employees.

The Contractor agrees to bind every Subcontractor (and every Subcontractor of a Subcontractor) and every Subcontractor, (and every Subcontractor of a Subcontractor) agrees and shall be deemed to be bound by the terms of the Contract Documents, unless specifically set forth to the contrary in a subcontract or other document approved in writing by the Owner.

The Superintendent shall, on request furnish to any Subcontractor, wherever practicable, evidence of the amounts approved on his account.

24. PROTECTION OF WORK AND PROPERTY

The Contractor shall continuously maintain adequate protection of all its work from damage and shall protect the Owner's property from injury or loss arising in connection with the Contract. Contractor shall make good any such damage, injury or loss, except such as may be directly due to errors in the Contract Documents or caused by agents or employees of the Owner. Contractor shall reimburse Owner for any costs reasonably incurred by the Owner as a result of damage to the Owner's property caused by the Contractor. Contractor shall adequately protect adjacent property as provided by law and the Contract Documents.

The Contractor shall take all necessary precautions for the safety of employees on the work, and shall comply with all applicable provisions of Federal, State, and Municipal safety laws and building codes to prevent accidents or injury to persons on, about or adjacent to the premises where the work is being performed. Contractor shall erect and properly maintain at all times, as required by the conditions and progress of the work, all necessary safeguards for the protection of workmen and the public and shall post danger signs warning against the hazards created by such features of construction as protruding nails, hoists, well holes, elevator hatchways, scaffolding, window openings, stairways and falling materials. Contractor shall designate a responsible member of its organization on the work, whose duty shall be the prevention of accidents. The name and position of any person so designated shall be reported to the Superintendent by the Contractor.

In an emergency affecting the safety of life or of the work or of adjoining property, the Contractor, without special instruction or authorization from the Superintendent or Owner, is hereby permitted to act, at Contractor's discretion, to prevent such threatened loss or injury; and shall so act, without appeal, if so authorized or instructed, and the Contractor shall be entitled to reimbursement for any costs and expenses incurred in taking such emergency action unless the emergency situation was caused by Contractor's negligence or the negligence of any Subcontractor.

General Conditions

25. ACCESS TO BUILDINGS AND SCHEDULING OF UTILITIES INTERRUPTIONS

The Contractor shall prohibit all workmen from blocking of roadway, illegal parking, blocking of loading docks and blocking of existing facilities or buildings. Blocking of access to buildings will not be permitted.

The Contractor's approved Progress Schedule shall show the proposed dates when areas occupied and in use by the Owner will be involved in the construction and when any services, including electrical, heat, water, and drainage will be interrupted. If the proposed dates on the Progress Schedule change, the Contractor shall provide the Superintendent with a revised schedule specifying the new dates. Work in these areas or interruption of services shall be scheduled by the Superintendent and in accordance with the requirements of the Specifications.

26. CONTRACTOR'S GUARANTEES

Specifications for certain parts of the work hereinafter described demand a guarantee covering definite periods of time.

The Contractor shall guarantee these parts for the periods specified and all other parts of the work for a period of one year from date of Substantial Completion against defects in workmanship, materials and construction, fair wear and tear excepted, and shall make good, at its own expense, any such defects that may appear within the period covered by the guarantee.

The Contractor shall further guarantee that all work is executed in strict accordance with the Technical Specifications and the Scope of Work, including any changes or alterations that may be authorized in writing.

27. THE OWNER'S RIGHT TO DO WORK

If the Contractor should neglect to prosecute the work properly or fail to perform any provision of the Contract, the Owner, after three days' Written Notice to the Contractor, may, without prejudice to any other remedy Owner may have, make good such deficiencies and may deduct the cost thereof from the payment then or thereafter due the Contractor.

28. OWNER'S RIGHT TO TERMINATE CONTRACT

If the Contractor:

- A. should generally fail to pay his debts as they become due;
- B. shall admit in writing his inability to pay such debts;
- C. should make a general assignment for the benefit of creditors;
- D. shall commence any case, proceeding or other action seeking to have an order for relief as debtor or to adjudicate Contractor as a bankrupt or insolvent, or seeking reorganization, arrangement, adjustment, liquidation, dissolution or composition of the Contractor or Contractor's debts under any law relating to bankruptcy, insolvency, reorganization or relief of debtors or seeking appointment of a receiver, trustee, custodian or other similar official for Contractor or for all or any substantial part of Contractor's property (or if any such case, proceeding or other action is commenced against the Contractor and such case, proceeding or other action
 1. results in the entry of an order for relief against the Contractor which is not fully stayed within seven business days after the entry thereof or
 2. shall remain undismitted for a period of forty-five [45] days);

General Conditions

- E. shall take any corporate action in contemplation of or to authorize any of the actions set forth above in this Article 28;
- F. should persistently or repeatedly refuse or should fail, except in cases for which extension of time is provided, to provide enough properly skilled workmen or proper materials;
- G. should fail to make prompt payment to Subcontractors, or for material or labor;
- H. should persistently disregard laws, ordinances or the instruction of the Owner or Superintendent; or
- I. should otherwise be guilty of a substantial violation of any provision of the Contract,
- J. should fail to provide accurate Price Proposals by selecting improper work tasks from the CTC[®] as related to the Scope of Work at the appropriate quantity
- K. should fail to submit Drawings, Price Proposals or Job Order Proposal Packages within the time frames indicated on the RFD, RFP or as stated in Article 55
- L. refuse to provide Design, Price Proposals or Job Order Proposal Packages as directed by the Owner
- M. should fail to provide high quality construction according to the Technical Specifications

then the Owner may, without prejudice to any other right or remedy, and after giving the Contractor, and Contractor's surety, if any, seven days' notice, terminate the employment of the Contractor and take possession of the premises and of all materials, tools and appliances thereon and finish the work by whatever method Owner may deem expedient. In such case the Contractor shall not be entitled to receive any further payment until the work is finished. If the unpaid balance of the Contract shall exceed the expense of finishing the work including compensation for additional architectural, managerial and administrative services, such excess shall be paid to the Contractor. If such expense shall exceed such unpaid balance, the Contractor shall pay the difference to the Owner. The expense incurred by the Owner as herein provided, and damage incurred through the Contractor's default, shall be certified by the Superintendent.

29. ASSIGNMENT

Neither party to the Contract shall assign the Contract or sublet it as a whole without the written consent of the other, nor shall the Contractor assign any moneys due or to become due hereunder, without the previous written consent of the Owner.

30. WAIVER

No waiver by the Owner of any breach of the provisions, conditions or covenants contained in the Contract Documents required to be performed by the Contractor shall be construed as a waiver of any succeeding breach of the same or any other provision, condition or covenants.

31. NOT USED (CASH ALLOWANCES)

General Conditions

THIS SECTION INTENTIONALLY DELETED

32. PERMITS AND REGULATIONS

To the extent not otherwise provided for in these General Conditions or any supplementary conditions, the Owner shall obtain and pay all permits, fees and licenses, and shall give all notices required by laws, ordinances, rules and regulations bearing on the work.

33. CODES AND ORDINANCES

All building construction work, alterations, repairs, or mechanical installations and appliances connected therewith shall comply with the Indiana Administrative Rules, Codes and Standards, local ordinances and such statutory provisions pertaining to this class of work are in effect at the time each Job Order is performed; such rules, regulations and local ordinances to be considered as a part of these Specifications.

If the Scope of Work is at variance therewith, the Contractor shall notify the Superintendent before proceeding with the work and the value of any necessary changes in materials or construction shall be adjusted under methods hereintofore stated. If any part of the Contractor's work shall be done contrary to such laws, ordinances, rules or regulations without such notice, Contractor shall bear all costs arising therefrom.

34. ROYALTIES AND PATENTS

The Contractor shall pay all royalties and license fees and shall defend all suits or claims whatsoever for infringement of any patent rights, which may arise on this work and shall save the Owner harmless from any claim, loss or liability on account thereof.

35. USE OF PREMISES

The Contractor shall confine its apparatus, storage of materials and operations of its workmen to limits indicated by law, ordinances, permits or directions of the Superintendent, and shall not unnecessarily encumber the premises with materials. The Contractor shall not load or permit any part of the structure to be loaded with a weight that will endanger its safety.

36. CLEANING UP

The Contractor shall at all times keep the premises free from the accumulation of waste materials or rubbish caused by Contractor's employees or work, and at the completion of its work Contractor shall remove all its rubbish from and about the building, and all tools, scaffold and surplus materials and shall leave its work "broom-clean" and ready for use. In case of dispute, the Owner may remove the rubbish and charge the cost to the several Contractors as the Superintendent shall determine to be just.

The Contractor shall enforce the Superintendent's instructions regarding signs, advertisements, fires and smoking.

The Contractor shall keep all public and all of the University's drives and streets, cleaned of spilled or tracked material from trucking operations. In case of dispute the Owner may remove the rubbish and charge the cost to the several Contractors as the Superintendent shall determine to be just.

General Conditions

- A. Burning of trash on site is prohibited.
- B. Debris, as defined by the Superintendent, shall become the property of the Contractor and shall be suitably disposed of away from the project site daily. No debris shall be allowed to accumulate in or around the building.

37. CUTTING, PATCHING AND DIGGING

The Contractor shall do all cutting, fitting or patching of its work which may be required to make its several parts come together properly and fit it to receive or be received by work of other contractors shown upon, or reasonably implied by the Scope of Work for the completed structure, and Contractor shall make good after them as the Superintendent may direct.

Any cost caused by defective or ill-timed work shall be borne by the party responsible therefor.

The Contractor shall not endanger any work by cutting, digging or otherwise, and shall not cut or alter the work of any other Contractor, save with the consent of the Superintendent.

38. GROSS INCOME TAX - NON-RESIDENT CORPORATE CONTRACTORS

The Indiana Gross Income Tax [I.C. 6-2.1-1-1 et seq] requires the Owner to withhold and pay directly to the Indiana Gross Income Division, from amounts payable to non-resident Contractors, the amount of Indiana Gross Income Tax required by I.C. 6-2.1-6-1 (presently 1.2% of all payments in excess of \$1,000.00 per calendar year). For purposes of this Article 37, "non-resident Contractors" shall not include foreign corporations qualified with the Secretary of State to do business in the State of Indiana.

39. INDIANA SALES AND USE TAX

The labor and materials furnished under this Contract will be used, when the Job Order is completed, by the Owner for its tax exempt purposes. Accordingly, the Indiana Gross Retail and Use Tax (sales and use tax) will not apply to the purchase of materials under this Contract by the Owner from the Contractor. The Owner will issue an appropriate exemption certificate to the Contractor to that effect.

40. NONDISCRIMINATION PROVISIONS

GENERAL.

The Contractor shall perform, observe and comply with all applicable State, Municipal and Federal laws, rules, regulations and Executive Orders pertaining to nondiscrimination against employees or applicants for employment because of race, color, religion, sex, handicap, disability, national origin or ancestry. During the performance of this Contract, the Contractor agrees to comply with all applicable requirements of the Americans with Disabilities Act of 1990 and the regulations promulgated thereunder. When required by such laws, rules, regulations and Executive Orders, the Contractor shall include nondiscrimination provisions in all contracts and purchase orders.

SPECIFICALLY THE CONTRACTOR AGREES:

General Conditions

- A. That in the hiring of employees for the performance of work under this Contract or any subcontract hereunder, neither the Contractor, any Subcontractor, nor any person acting on behalf of the Contractor or Subcontractor, shall, by reason of race, religion, color, sex, national origin or ancestry or handicap, discriminate against any citizen of the State of Indiana who is qualified and available to perform the work to which the employment relates;
- B. That neither the Contractor, Subcontractor, nor any person on their behalf shall, in any manner, discriminate against or intimidate any employee hired for the performance of work under this Contract on account of race, religion, color, sex, national origin or ancestry, or handicap;
- C. That there may be deducted from the amount payable to the Contractor by the Owner, under this Contract, a penalty of five dollars (\$5.00) for each person for each calendar day during which such person was discriminated against or intimidated in violation of these nondiscrimination provisions; and
- D. That this Contract may be canceled or terminated by the Owner, and all money due or to become due hereunder may be forfeited, for a second or any subsequent violation of the terms or conditions of these nondiscrimination provisions.

STATE REQUIREMENTS

By the act of submitting a Bid, each Bidder shall be deemed to have certified to the Owner that it has at all times complied with the nondiscrimination provisions of Senate Enrolled Act No. 484 - Section 4 enacted by the First Regular Session 99th General Assembly 1975, unless such Bidder states otherwise in a written statement submitted with the Bid. The Owner will refrain from entering into any contract with any Bidder who states that it has failed to comply with said nondiscrimination provisions of said Senate Enrolled Act. No. 484 - Section 4. The applicable portion of Senate Enrolled Act No. 484 - Section 4 is as follows:

"SECTION 4. IC1971, 22 0-10, as amended by Acts 1971, P.L. 347, SECTION 7, is amended to read as follows: Sec. 10. Every contract to which the state or any of its political or civil subdivisions is a party, including franchises granted to public utilities, shall contain a provision requiring the Contractor and his Subcontractors not to discriminate against any employee or applicant for employment, to be employed in the performance of such contract, with respect to his hire, tenure, terms, conditions or privileges of employment or any matter directly or indirectly related to employment, because of his race, religion, color, sex, handicap, national origin or ancestry. Breach of this covenant may be regarded as a material breach of the contract.

Each application for payment shall be accompanied by a nondiscrimination certificate.
COMPLIANCE AFFIDAVIT:

Each application for payment shall be accompanied by a certificate, dated and signed by the Contractor, substantially as follows:

"This is to certify that in the performance of this Contract, neither the undersigned Contractor nor (so far as the undersigned has knowledge) any of its Subcontractors has violated the provisions of 'Nondiscrimination Provisions' of these General Conditions".

41. COOPERATION OF CONTRACTORS

General Conditions

When work installed under this Contract is adjacent to the construction area of work under other contracts, this Contractor shall schedule and coordinate its work as directed by the Superintendent. All Contractors and Subcontractors under this Contract shall fully cooperate in all phases of the project so as not to impede the progress of the work on this project or adjacent projects.

42. PARKING REGULATIONS

The Contractor and its employees are to conform to the University's Motor Vehicle and Traffic Regulations, copies of which are available from the Manager of Parking Facilities.

Pertinent provisions of the regulations are as follows:

- A. Delivery vehicles may park free in loading zones while in the process of making deliveries providing the vehicle is identified so that the use of the vehicle is obvious to the officer and the public.
- B. Service vehicles readily and permanently identifiable ("Permanently identifiable" is defined to mean painted or other permanently attached lettering. Paper or card signs stuck on windows will not be considered acceptable identification) as such including those owned or operated by Contractors and their employees, may park free in loading zones for short (generally not to exceed 20 minutes) service calls or in designated areas for longer periods while the user of the vehicle is actually engaged in servicing University owned or operated equipment or property.
- C. Due to critical shortage of parking spaces for the personal cars and trucks of the construction employees, all vehicles not parked within the Contractor's construction fenced area, or actually making deliveries or loading, shall be parked as designated by the Superintendent.
 - 1. Construction worker parking permits as requested by the Contractor(s) subject to approval by the Superintendent will be issued each month as the project progresses. The permits will be valid only in designated areas as indicated on the permit and will be issued through the Superintendent.
- D. If extra parking spaces in addition to the above are required by the Contractor(s) and their employees who park on campus during restricted hours, they must park at meters and observe the time limits and pay meter fees.
- E. The Contractor will be eligible for "A" parking permits for all its office employees and "UV" parking permits for its Key Personnel for the fees normally incurred for the Owner's employees.

43. SPECIAL PROVISIONS REGARDING RETAINAGE, BONDS AND PAYMENT OF CONTRACTORS AND SUBCONTRACTORS

The laws of the State of Indiana (IC 5-16-5.5-3 as amended) contain certain special provisions regarding retainage, bonds and payment of Contractors and Subcontractors. The contracts and subcontracts entered into pursuant to the Instructions to Bidders will be governed by those provisions for all Job Orders entered into between a Contractor and the Trustees of Purdue University shall be subject to retainage. For purposes of this Contract, the Owner has determined to withhold as statutory retainage:

General Conditions

No more than 5 percent of the dollar value of the work satisfactorily completed on each Job Order until the work is substantially completed.

These provisions require, among other things, that the amounts retained by the Owner from the Contractor pursuant to retainage provisions be placed in an escrow account in accordance with a written escrow agreement to be executed by the Contractor. Pursuant to these provisions, the successful Bidder shall be required to execute a single escrow agreement for all Job Orders with a bank or savings and loan institution as escrow agent, selected by mutual agreement between the Bidder and the Owner. This escrow agreement shall have no application to payments withheld by the Owner pursuant to provisions of the Construction Contract intended to protect the Owner from loss on account of: Defective work not remedied; claims filed on reasonable evidence; failure of the Contractor to make payments when due to Subcontractors; or for material or labor; reasonable doubt that the Contract can be completed for the balance then unpaid; damage to another Contractor; failure or refusal of the Contractor to prosecute the work in strict compliance with the above progress schedule; or similar provisions. In addition, each successful Bidder will be required to comply with all applicable provisions of the statute referred to above with respect to each Bidder's Subcontractors (as the term "Subcontractor" is defined in the statute referred to above).

44. OCCUPATIONAL SAFETY AND HEALTH ACT

GENERAL:

The Contractor shall administer and comply with all the rules, standards, and regulations of the Construction Safety Act (40 U.S.C. 333) and the Williams-Stieger Occupational Safety and Health Act (OSHA) of 1970 (29 U.S.C. 650 et seq.) as administered and enforced by the Occupational Safety and Health Administration, Department of Labor. The Contractor shall further administer and comply with all the provisions, standards, rules and regulations of the Indiana Occupational Health and Safety Act (OSHA) of 1971 (I.C. ½ 22-8-1.1-1, et seq) including, but not limited to, 29 C.F.R. 1926, Subpart P (trench safety systems).

REGULATION:

The Contractor shall not require or permit any laborer or mechanic, including apprentices and trainees, employed in the performance of this Contract to work in surroundings or under conditions which are unsanitary, hazardous or dangerous to health as determined under construction safety and health standards promulgated by the Secretary of Labor by regulation (29 CFR Part 1926, 36 FR 7340, April 17, 1971) pursuant to Section 107 of the Contract Work Hours and Safety Standards Act.

COMPLIANCE AFFIDAVIT:

Each application for payment shall be accompanied by an affidavit, dated and signed by the Contractor, substantially as follows:

This is to certify that in the performance of this Contract, neither the undersigned Contractor nor (so far as the undersigned has knowledge) any of its Subcontractors, has violated the "Occupational Safety and Health Act" provisions of the General Conditions of the Contract.

45. PURCHASE OF AMERICAN STEEL

General Conditions

To the extent that the Contractor's performance of the Work entails the use of purchase of steel products (as defined in I.C. ½ 5-16-8-1, as amended from time to time), then Contractor warrants that only steel products made in the United States shall be used or supplied in the performance of the Contract and in the performance of any subcontracts. If the Contractor desires or intends to use or purchase steel products of foreign origin in performing the Work, then it shall first demonstrate, as required by I.C. ½ 5-16-8-2(b), that the cost of domestic steel is "unreasonable."

COMPLIANCE AFFIDAVIT:

Each application for payment shall be accompanied by an affidavit, dated and signed by the Contractor, substantially as follows:

This is to certify that in the performance of this Contract, neither the undersigned Contractor nor (so far as the undersigned has knowledge) any of its Subcontractors, has violated the "Purchase of American Steel" provisions of the General Conditions of the Contract.

46. OPEN COMPETITION

Where in these Technical Specifications one or more certain materials, trade names, or articles of certain manufacture are mentioned, it is done for the express purpose of establishing a basis of durability and efficiency and not for the purpose of limiting competition. Other names or materials can be used, if in the opinion of the Owner or his designated representative they are equal in durability and efficiency to those mentioned and of a design in harmony within the work as outlined and the Owner or his designated representative gives written approval of a substitution before the articles and material are ordered by the Contractor.

47. ENVIRONMENTAL PERMITS AND REQUIREMENTS

Contractor warrants that it is a competent Contractor, and has thoroughly familiarized itself with the work that it is to perform, the manner in which it has determined to perform the work and the materials and equipment it has determined to use in performing the work. Contractor further warrants that it has familiarized itself with the environmental and health laws (federal and state) and regulations (federal and state and including, but not limited to, regulations issued or promulgated by the Environmental Protection Agency and the Indiana Department of Environmental Management) applicable to the work to be performed on a given Job Order, the manner in which Contractor intends to perform it and the materials and equipment Contractor intends to use in performing the work.

To the extent that either the work which the Contractor is to perform, the manner in which Contractor determined to perform the work or the equipment or materials used (or to be used) by the Contractor in performing the work are the subject of laws (federal or state) or regulations (federal or state, and including, but not limited to, regulations promulgated or issued by the Environmental Protection Agency or the Indiana Department of Environmental Management) requiring compliance by the Contractor or its Subcontractors, Contractor agrees to administer and comply with the applicable laws and regulations.

COMPLIANCE AFFIDAVIT:

General Conditions

For every Job Order, each application for payment shall be accompanied by an affidavit, signed and dated by Contractor, substantially as follows:

This is to certify that in the performance of this Job Order, neither the undersigned Contractor, nor (so far as the undersigned has knowledge) any of its Subcontractors has violated any environmental or health laws, regulations or ordinances. This is to further certify that in the performance of this Job Order, neither the undersigned Contractor, nor (as far as the undersigned has knowledge) any of its Subcontractors has violated any environmental or health permit applicable to the work.

48. HAZARD COMMUNICATION

Contractor shall establish a program to coordinate the exchange of material safety data sheets or other hazard communication required to be made available to or exchanged between or among employers at the site in accordance with applicable laws or regulations. At all times during performance of the work, Contractor shall be responsible for administering the hazard communication program and coordinating the hazard communication. Contractor shall provide Superintendent with copies of all material safety data sheets or other hazard communication exchanged among or made available to employers at the site.

COMPLIANCE AFFIDAVIT

Each application for payment shall be accompanied by an affidavit, dated and signed by the Contractor, substantially as follows:

This is to certify that in the performance of this Contract, neither the undersigned Contractor, nor (so far as the undersigned has knowledge) any of its Subcontractors, has violated the "Hazard Communication" provision of the General Conditions of the Contract.

49. HAZARDOUS MATERIALS

Owner shall be responsible for any Hazardous Materials, including asbestos, polychlorinated biphenyl ("PCBs"), petroleum (for example, oil, petroleum, fuel oil, oil sludge, oil refuse, gasoline, kerosene and oil mixed with other non-Hazardous Materials), Hazardous Waste (as defined in Section 1004 of the Solid Waste Disposal Act [42 U.S.C. Section 6903] as amended from time to time) or Radioactive Material (including source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954 [52 U.S.C. Section 2011 et seq.] as amended from time to time) which are uncovered or revealed at the site and which were not shown or indicated in Drawings or Technical Specifications or identified in the Job Order to be within the Scope of the Work and which may present a substantial danger to persons or property exposed thereto in connection with the work at the site. To the extent that Hazardous Materials are shown or indicated in Drawings or Technical Specifications or identified in the Job Order, but are not made the subject of supplementary conditions, then Contractor shall be responsible for the Hazardous Materials so shown, identified or indicated. In no event shall Owner be responsible for any Hazardous Materials brought to the site by Contractor, Subcontractors, Suppliers or anyone else for whom Contractor is responsible.

To the extent that Contractor discovers Hazardous Materials (as described above) or that Contractor discovers materials which it either believes, or has reason to believe, may constitute

General Conditions

Hazardous Materials, and which were not shown or indicated in the Drawings or Technical Specifications or not identified in the Job Order then the Contractor shall:

- A. immediately report the same to the Superintendent by the most expedient means available and confirm the report in writing; and
- B. immediately cease all work in the vicinity of the materials believed to be hazardous.

The Superintendent shall then take measures, reasonable and appropriate under the circumstances, to ascertain the true character of the materials believed to be hazardous and the measures, if any, necessary to make the job site reasonably safe for the Contractor's completion of the work. Upon receiving notice from the Superintendent (which shall be confirmed in writing) to complete performance of the work, Contractor shall immediately resume performance of the work.

50. INDEMNITY

To the fullest extent permitted by law, the Contractor shall defend, indemnify and hold harmless the Owner, and Purdue University, individually or collectively, and their respective consultants, agents and employees from and against any and all claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the work, provided that such claim, damage loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the work itself) including loss of use resulting therefrom. Contractor's obligations to defend, indemnify and hold harmless shall apply regardless of whether it is alleged that Owner or Purdue, individually or collectively, or their respective consultants, agents or employees contributed in any way to the alleged wrongdoing or are otherwise liable on account of the alleged breach of a nondelegable duty.

Contractor shall have no obligation to defend, indemnify or hold harmless under the foregoing paragraph any person or entity, otherwise entitled to be indemnified thereunder, where the bodily injury, sickness, disease or death or injury to or destruction of property results from the sole negligence or willful misconduct of the person to be indemnified or the sole negligence or willful misconduct of that person or entity's agents, servants or independent contractors who are directly responsible to person or entity.

51. DISCOVERY OF ITEMS WHICH MAY BE ARCHAEOLOGICALLY SIGNIFICANT

In the case that any bones, remains, or artifacts are encountered during excavation, all work in the area of the discovery shall cease. The Owner shall be notified immediately so that appropriate authorities can be notified and an evaluation of the remains or artifacts arranged.

Direct costs associated with the evaluation or disposition of the discovered items shall be the responsibility of the Owner.

52. LIMITATION OF ACTIONS

Any litigation filed by the Contractor or its Subcontractors asserting any right, claim or cause of action against the Owner arising out of or related in any way to the Contract or Contractor's performance of the Work must be commenced within one year of the Job Order's Substantial Completion date. The Owner shall be entitled to the immediate dismissal of any such litigation

General Conditions

brought more than one year after Substantial Completion. Any such right, claim or cause of action asserted by the Contractor against the Owner more than one year after Substantial Completion is waived by the Contractor.

53. DISPUTE RESOLUTION

In all circumstances in which the Contractor is required by these General Conditions to give Written Notice to the Superintendent of Excusable Delay (Article 5), changes (Article 15) or extra costs (Article 18), the Contractor shall, in addition to the giving of the required notice, provide all of the additional information or supporting data required so that the Superintendent can render a decision as to the merit of Contractor's request(s) for additional time or compensation. Until such time as the Contractor has supplied all such information or data the Superintendent shall have no obligation to make a determination as to either the Contractor's entitlement to the requested relief or extent of any such entitlement. The Superintendent shall make all necessary decisions in good faith and with reasonable promptness. Until the Superintendent has rendered a decision as to the merits of the Contractor's request(s), the Contractor shall not file any litigation involving such rights, claims or causes of action. The Owner shall be entitled to the immediate dismissal of any such litigation brought prior to the Superintendent's decision pursuant to this Article 53.

54. DRUG TESTING PROGRAM

The laws of the State of Indiana (IC 4-13-18 as amended) contain certain special provisions regarding drug testing of employees of public works Contractors and Subcontractors. All Job Orders entered into between a Contractor and the Trustees of Purdue University will be governed by these provisions. These provisions require, among other things, that the Contractor submit with the bid a written plan for a program to test the Contractor's employees for drugs. In addition, each successful Bidder will be required to comply with all applicable provisions of the statute referred to above with respect to each Bidder's Subcontractors, as the term "Subcontractor" is defined in the statute referred to above.

COMPLIANCE AFFIDAVIT:

Each application for payment shall be accompanied by an affidavit, dated and signed by the Contractor, substantially as follows:

This is to certify that in the performance of this Job Order, neither the undersigned Contractor, nor (so far as the undersigned has knowledge) any of its Subcontractors, has violated the "Drug Testing Program" provision of the General Conditions of the Contract.

55. SCOPE OF WORK AND PROCEDURE FOR ORDERING WORK

A. SCOPE OF WORK

1. This is an indefinite-quantity Contract for the supplies or services specified, and effective for the period stated in these General Conditions.
2. This Contract may be used to perform any work on facilities under the jurisdiction of Purdue University on West Lafayette Campus. The Owner makes no commitment as to the award of

General Conditions

- individual Job Orders. All costs associated Price Proposals shall be the responsibility of the Contractor. The University reserves the right to award other Contracts for Work of the types, or similar to the types of Work described in the Contract Documents.
3. Work or performance shall be made only as authorized by Job Orders issued in accordance with Article 55.B of these General Conditions, the "Procedure for Ordering Work". The Contractor shall furnish to the Owner, the supplies or services specified in the Job Orders up to and including the maximum value of the Contract. The Owner shall order at least the minimum value of construction services designated in the Contract Documents.
 4. The Scope of Work of this Contract shall be determined by individual Job Orders issued hereunder. **The Contractor is not allowed to refuse to perform any work requested by the Owner.** The Contractor shall provide all pricing, management, A/E design, Drawings, shop drawings, documents, Work, materials, supplies, parts (to include system components), transportation, plant, supervision, labor, and equipment needed to complete the Job Order. The Contractor shall provide quality assurance as specified in strict accordance with the Contract. The Contractor shall also be responsible for site safety as well as site preparation and cleanup during and after construction. The Owner makes no commitment as to the award of individual Job Orders. All costs associated with the above Scope of Work and the preparation of Price Proposals and Job Order Proposal Packages shall be the responsibility of the Contractor,
 5. The Work shall be conducted by the Contractor in strict accordance with the Contract and all applicable laws, regulations, codes, or directives including Federal, State of Indiana and Purdue University.
 6. Contractor shall maintain accurate and complete records, files, and libraries of documents to include Federal, State, and local regulations, codes, applicable laws listed herein, and manufacturers' instructions and recommendations which are necessary and related to the Work to be performed.
 7. Contractor shall prepare and submit required reports, maintain current record Drawings, and submit required information. The Contractor shall provide: materials lists to include trade names and brand names, and model materials lists to include trade names, brand names, model number, and ratings (if appropriate) for all materials necessary for a complete job.
 8. In addition to the Work Tasks in the Construction Task Catalog[®], Volume III, and Technical Specifications, Volume IV, the Owner may, from time to time, require Non Pre-Priced Tasks. These Non Pre-Priced Work unit requirements will be incorporated in individual Job Orders and the Contractor shall accomplish those requirements with the same diligence as those Work-units incorporated in this Contract in the Construction Task Catalog[®] and Technical Specifications. The Owner may, from time to time, update and add Technical Specifications to the Contract. These Technical Specification updates will not be inconsistent with the scope and intent of Work required under the original Contract.
 9. All Work shall conform to and comply with any applicable standards, including those specified in the following documents, regardless of whether an individual Job Order makes reference thereto:

General Conditions

- a. Job Order Contract Technical Specifications (Volume IV)
 - (1) The Technical Specifications, Volume IV, are numbered and organized in the Construction Specification Institute's (CSI) 2004 master format.
 - (2) The intent of these Technical Specifications is to furnish Purdue University standards for construction, renovation, maintenance, or repair of Owner facilities.
 - b. Indiana Department of Highways, Standard Specifications, latest version.
 - c. Job Order Contract Design Standards (Volume V).
10. All Work will be controlled and monitored by the Superintendent.
 11. The design of architectural, structural, mechanical, electrical, civil, or other engineering features of the Work required by the Contract shall be accomplished or reviewed and approved by architects or engineers registered in the State of Indiana to practice in the particular professional field involved.
 12. To the extent that work under this Contract involves installation of plumbing, the Contractor shall submit, with each final Job Order Proposal Package, evidence that the Contractor is using only licensed plumbing Contractors as defined in I.C. 1/2 25-28.5-1. Such evidence shall be the license number on the subcontractor list.

B. Procedure for Ordering Work

1. Notification of Scope Meeting: The Owner will notify the Contractor if and when the Owner desires construction Work to be performed under the terms of the Contract. The Owner will notify the Contractor of the place and time of the Joint Scope Meeting. At such time that notification is given, the Owner may provide existing drawings, work descriptions or other information that may be beneficial to the Contractor.
2. Upon receipt of this notification, the Contractor shall respond within one working day by:
 - a. Establishing verbal contact with the Owner to further define the scope of the requirement, and
 - b. Confirming attendance at the Joint Scope Meeting. The Contractor must attend all Joint Scope Meetings.
3. **Joint Scope Meeting**: The Contractor's personnel responsible for preparing the Price Proposal and Job Order Proposal Package will in the company of the Owner participate in a Joint Scope Meeting which may include discussion and establishment of any or all of the following:
 - a. Job Order number and title
 - b. Existing site conditions

General Conditions

- c. Methods and alternatives for accomplishing Work
 - d. Definition and refinement of requirements
 - e. Detailed Scope of Work
 - f. Requirements for drawings, design work, sketches, shop drawings, etc.
 - g. Tentative construction Progress Schedule
 - h. Preliminary quantity estimates
 - i. Date for submittal of Drawings or Design, if required, and/or the date the Price Proposal is due
4. **Issuance of the Request for Design (RFD) / Request for Proposal (RFP):** Subsequent to the Joint Scope Meeting, the Owner will issue a Request for Design (RFD) or a Request for Proposal (RFP) depending on the nature of the Project. The RFD requires that the Contractor prepare a design for review prior to issuance of an RFP. The Contractor shall submit to the Owner a copy of the A/E invoice as the back up for payment of A/E services. The RFP requires that the Contractor prepare a Proposal for the Work under consideration and will include a Scope of Work. All Projects will have an RFP. It is the Contractor's responsibility to apply the appropriate adjustment factor to the work tasks contained in the Price Proposal.

When the Owner issues an RFD, the Contractor shall be compensated for the cost of the A/E through the Reimbursable Fee work task in the Construction Task Catalog[®]. The quantity for the Reimbursable Fee work task shall be equal to the amount on the A/E's invoice.

The cost for managing the A/E firm is considered to be incidental. Therefore, the Contractor shall apply a 1.0000 to the Reimbursable Fee work task rather than applying the Contractor's competitively bid Adjustment Factor.

C. Preparation of the Design

The Contractor shall prepare the Drawings in accordance with the following:

1. A Request for Design will be sent to the Contractor where the need exists for the Contractor to prepare Drawings prior to the issuance of the RFP. The Design requirements will be established in the RFD and the Contractor shall submit an A/E firm(s) for the Owner's approval prior to commencing the design. Preliminary drawings are due on the date indicated on the RFD and once final drawings are approved by the Owner, the issuance of an RFP shall be the Contractor's notification that final design drawings are to be approved and an initial Price Proposal developed.

For most Job Orders, the RFD due date shall be fourteen to twenty-one calendar days after receipt of the Owner's RFD. The Contractor must request an extension of the RFD due date in writing to the Owner 3 days prior to the due date, or it is expected that the due date will be

General Conditions

met. Failure to meet due dates, consistent rejection of inadequate design submissions, or continual tardiness on design delivery at any stage without advance notification may constitute default of the Contract. The design shall conform to the RFD and Volume V, Design Standards.

D. Preparation of the Price Proposal

The Contractor shall prepare the Price Proposal in accordance with the following:

1. **Pre-Priced Work Requirements:** Pre-Priced Work requirements will identify the type and number of work tasks required from the Construction Task Catalog[®], Volume III. The price per unit set forth in the Construction Task Catalog[®] shall serve as the base price for the purpose of the operation of this provision. If a Scope of Work calls for Owner furnished material to be installed by the Contractor, the Contractor shall, using PROGEN[®], remove the material component of a given work task item as authorized by the Owner to do so. At the discretion of the Owner, work tasks that are reasonably close in description and cost to the requirements of the Scope of Work and the Technical Specifications may be used as a substitute. Non Pre-Priced tasks may be submitted with the approval of the Owner (see note D.2 below). All items in a Price Proposal, where feasible, shall carry a user note, entered in PROGEN[®] by the Contractor, as to the intended use of the task as it relates to the Scope of Work. Work Breakdown Structures or Categories may also be required by the Owner to further clarify the Work, for the purpose of reducing the Scope of Work expediently or for the purpose of establishing a Schedule of Values for payment.
2. **Non Pre-Priced Work Requirements:** It may be necessary to include in the Contractor's Price Proposal work tasks that are not included in the CTC[®]. These tasks are considered to be Non Pre-Priced work tasks and the following applies:
 - a. It is the responsibility of the Contractor to identify Non Pre-Priced work tasks and include them into the Price Proposal. Non Pre-Priced work tasks shall be separately identified in the Proposal.
 - b. If the Contractor will perform the Work with its own forces, it shall submit a breakdown of the cost for labor, equipment and material/equipment installed.
 - 1). The number of hours for each labor classification up through the foreman level and hourly rates for each for each classification shall be shown.
 - 2). Equipment costs (for equipment other than small tools) according to the "CONTRACTORS' EQUIPMENT OWNERSHIP EXPENSE" of the Associated General Contractors of America will be shown.
 - 3). The Contractor shall submit three independent quotes for all material/equipment to be installed. If three independent quotes are not available, the Contractor

General Conditions

shall submit a justification letter stating why three quotes are not available. The justification letter is subject to review and approval by the Owner.

- c. If the Work is to be subcontracted, the Contractor must submit three independent quotes or bids from subcontractors. If three quotes or bids cannot be obtained, the Contractor shall submit a justification letter stating why three bids or quotes are not available.
- d. If, for any reason, the justification letter for self performed work or subcontracted work is rejected, the Contractor is required to submit a revised justification letter or additional quotes for the Owner's review.
- e. Additional information submitted in support of Non Pre-Priced work tasks may include, but not be limited to, the following:
 - 1. Complete specifications and technical data, support Drawings, calculation work sheet, quality control, and inspection requirements.
- f. **Pricing Non Pre-Priced Items:** The final price submitted for Non Pre-Priced work tasks shall be determined according to the following formula. Each Non Pre-Priced work task must be supported with the necessary calculation worksheet detailing the calculation below.

For Work Performed with the Contractor's Own Forces:

A = Direct Labor Cost (Up through the foreman level and Fringe Benefits per Common Wage Rates plus payroll taxes and insurance)

B = Direct Material Costs (supported by quotes)

C = Direct Equipment Costs

Total Cost for Self-perform work = (A+B+C) x NPP Adjustment Factor

For Work Performed with by Subcontractors:

D = Subcontractor Costs (supported by three quotes)

Total Cost of Non Pre-Priced Task = D x NPP Adjustment Factor

- g. At the discretion of the Owner, Non Pre-Priced tasks as well as other tasks may be added to the CTC[®] during the course of the Contract. Upon mutual agreement between the Owner and the Contractor, unit prices will be established and added as a permanent, Pre-Priced work task in the CTC[®].
- h. **Unlike the Contractor's other adjustment factors, the Non Pre-Priced adjustment factor will not be adjusted on an annual basis. The Contractor's Non Pre-Priced adjustment factor will remain constant for the duration of the Contract.**

General Conditions

3. **Documents to be submitted with the Price Proposal:** The Owner may require that the Contractor's Price Proposal shall include support documentation to indicate the Scope of Work, in its entirety, is understood by the Contractor, and that the work tasks proposed are reasonable for the Work to be performed. Documentation to be submitted with the initial Price Proposal may include, but not be limited to:
 - a). Design Drawings, if required by the Owner,
 - b). Calculations, specifications, and other technical data as required,
 - c). Catalog cuts,
 - d). Back-up for any Non Pre-Priced work tasks,
 - e). Tentative Construction Progress Schedule, and
 - f). Clarifications to the Scope of Work

4. **Time for Submittal:** The Contractor's Price Proposal shall be submitted in accordance with the date indicated on the RFP. Unless otherwise stated on the RFP, the due date for the Price Proposal will shall be seven to fourteen calendar days after the issuance of the RFP. The Owner may allow additional time for preparation of the Contractor's Price Proposal for complex Job Orders. In emergency work situations and minor maintenance and repair Job Orders requiring immediate completion, the Contractor's Price Proposal may be required quickly and the due date will be so indicated on the RFP. If the Contractor requires clarifications or additional information regarding the Scope of Work in order to prepare the Price Proposal, the request must be submitted so that the submittal of the Price Proposal is not delayed. Time extensions shall be granted at the sole discretion of the Owner. If the Contractor continually fails to meet the submittal deadline dates the Owner may declare the Contractor in default and initiate termination of the Contract according to Article 28 of these General Conditions.

E. Review of the Price Proposal

1. The Owner will evaluate the Contractor's Price Proposal by comparing the nature and number of work tasks used in the Price Proposal to the agreed upon Scope of Work. The Owner will determine the reasonableness of approach and will evaluate the work tasks used and the respective quantities. Furthermore, the Owner may compare the Contractor's Price Proposal to the Owner's cost estimate for the Scope of Work.
2. The Owner reserves the right to reject a Contractor's Price Proposal based on the selection of work tasks and unjustifiable quantities. The Owner also reserves the right to reject a Contractor's Price Proposal based on inadequate support documentation required by the RFP, Failure of the Contractor to consistently submit reasonable or complete Price Proposals may be grounds for termination. The Owner also reserves the right to not award a Job Order if that is determined to be in the best interests of the Owner or the proposed cost exceeds the Owner's estimate.
3. If the Owner rejects the Contractor's Price Proposal, the Owner may request the Contractor to re-submit the Price Proposal or cancel the Job Order. After the Owner has reviewed the Price Proposal and an agreement has been reached between the Owner and the Contractor as to the nature of the revisions, if any, the Contractor is not allowed to make any changes to the revised Price Proposal other than the agreed upon changes. If the Contractor is required to re-

General Conditions

submit the Price Proposal, the revised Price Proposal is due no later than 48 hours after the changes have been agreed upon.

4. The means and methods of construction shall be such as the Contractor may choose; subject however, to the Owner's right to reject means and methods proposed by the Contractor that:
 - a). Will constitute or create a work hazard to the work, or to persons or property; or
 - b). Will not produce finished Work in accordance with the terms of the Contract; or
 - c). Unnecessarily increases the price of the Job Order when alternative means and methods are available.
5. By submitting a Price Proposal to the Owner, the Contractor is agreeing to accomplish the Work outlined in the Scope of Work for that particular Job Order. It is the Contractor's responsibility to include the necessary scope items in the Price Proposal prior to delivering it to the Owner. Once accepted by the Owner, the Job Order becomes a firm fixed price, lump sum contract and the Proposal is filed. No adjustment in items or quantities is allowed. Inspection of the Contractor's Work shall be against the Technical Specifications, Drawings, and the Scope of Work, not the Proposal.

F. Preparation of the Job Order Proposal Package:

1. Upon acceptance of the Contractor's Price Proposal, technical submittals and tentative Construction Progress Schedule, the Contractor will be required to submit the Job Order Proposal Package within **five (5) working days** of said acceptance or earlier if directed by the Owner. If the Contractor fails to meet the deadline for submitting the Job Order Proposal Package, the Owner may declare the Contractor in default and initiate termination of the Contract according to Article 28 of these General Conditions.
2. A Final Job Order Proposal Package shall be submitted by the Contractor after the Price Proposal is agreed upon. The Job Order Proposal Package shall include the following information:
 - a. Signed Price Proposal
 - b. Subcontractor and MBE List
 - c. Evidence of License for Plumbing Contractors, as required by IC 5-16-1-8,
 - d. Revised and accepted Progress Schedule. And
 - e. Any other documentation required for the Job Order as indicated on the RFP

G. Review of the Job Order Proposal Package and Issuance of the Notice to Proceed:

1. The Owner will evaluate the entire Job Order Proposal Package
2. The Owner reserves the right to reject a Job Order Proposal Package based on unjustifiable

General Conditions

quantities and/or work tasks in the Price Proposal, performance periods, inadequate documentation, unacceptable subcontractors or other inconsistencies on the Contractor's part.

3. By submitting a signed Job Order Proposal Package to the Owner, the Contractor is agreeing to accomplish the Work outlined in the Job Order for the firm, fixed price lump sum amount.
4. Each Notice to Proceed issued to the Contractor shall state the agreed upon requirements and fixed price of performance, and shall cite the funds allotted for payment of the Job Order. All clauses of this Contract shall be applicable to any Job Orders issued under this clause. The Notice to Proceed, signed by the Owner constitutes the Owner's acceptance of the Contractor's Job Order Proposal Package. A signed copy of the Notice to Proceed will be provided to the Contractor.
6. In the hierarchy of a Scope of Work, the Drawings or written Scope of Work, or any addenda thereto, shall be followed first. Second, the Technical Specifications or Design Standards shall be followed. If the Scope of Work, written or drawn is silent, the Technical Specifications and/or Design Standards shall govern.

H. Emergency Job Orders:

1. In the event that an "immediate emergency response" is necessary, the Owner may elect to use an alternative procedure for emergency Job Orders as long as the alternative procedure is not substantially more burdensome to the Contractor than the procedure for ordering work as described in this section.
2. An emergency Job Order is defined by the need for immediate procurement of construction services to rectify a situation that poses a clear and imminent danger, The Owner may require the Contractor to begin Work immediately for an emergency Job Order in order to resolve any safety issues, prevent or mitigate the loss or impairment of life, health, property or essential service.

I. Measurements to be Verified

Before ordering any material or doing any Work, the Contractor shall verify all measurements and sizes at the site of a specific Job Order, and shall be responsible for the correctness of the same. No extra charge or compensation will be allowed based on the difference between actual dimensions and the measurements indicated in the Scope of Work. Any difference which may be found shall be submitted to the Owner for consideration before proceeding with the Work.

J. Incidental Work

Any Job Order awarded is for all services or Work, as necessary, to repair and construct the facilities covered by the Job Order in accordance with all Contract terms and conditions including all incidental material, equipment, and work to complete the Job Order although not specifically itemized in the Job Order itself. For example: A statement of Work may be - "Erect with Metal

General Conditions

Studs and Paint Gypsum Wallboard Wall." The anchoring of the wall to the floor and ceiling, proper installation of the vertical studs, attaching the wallboard, taping, and finishing with joint compound are standard construction procedures which are the responsibility of the Contractor although not specifically stated in the Job Order. Extra payment requested by the Contractor based on the contention that the Job Order failed to itemize items which are considered incidental to common construction practice will not be permitted.

K. Changes in the Work

The Owner, without invalidating the Job Order, may order changes in the Work by altering, adding to or deducting from the work, the Job Order sum being adjusted accordingly by issuing an additional Job Order. All such work shall be executed under the conditions of the original Job Order. Additional Job Orders, defined as being less than the value of work for the original Job Order and evidenced by an condensed process for scoping work and preparing proposals or design, shall be treated as individual Modification Job Orders ("MODS") with respect to issuance of the Job Order to the Contractor. The Proposal for the change shall be reviewed as outlined above and shall stand on its own merits as a separate Project from the original Proposal. No changes shall be made unless in pursuance of a Written Notice from the Owner stating that the Owner has authorized the extra work or change, and no claim for an addition to the Job Order amount shall be valid unless so ordered. The additional Work will be authorized by the issuance of another Job Order.

L. Pre-Construction Conference and Meetings

Before the issuance of the first Job Order under this Contract, a conference will be conducted by the Owner to acquaint the Contractor with Owner policies and procedures that are to be observed during the prosecution of the Work and to develop mutual understanding relative to the administration of the Contract. Before the commencement of each Job Order, the Owner's Representative may conduct a Pre-Construction meeting with the Contractor's Project Manager and Field Superintendent and the Owner's Project Manager to review the specific requirements for the Job Order. This meeting will be held prior to the start of any Work and at this meeting the Contractor is required to provide certified Schedules of Wages from each Subcontractor and the approved construction Progress Schedule. For some Job Orders, the Owner may require Progress Meetings periodically as the Work progresses. The Contractor shall be required to attend these meetings and bring up to date schedule and progress information.

M. Automated Data Processing Support Requirements

The Contractor is to provide and maintain on site in an operational condition one (1 including CPU, peripherals, and software, attached or networked) computer system for each of the Contractor's Project Managers. This computer system shall follow the minimum standard established and specified by the Owner and be upgraded by the Contractor as required throughout the contract. As the Owner upgrades it's software, the Contractor, at his cost, will upgrade at the same time and to

General Conditions

the same release as the Owner. The Contractor will purchase for his own use necessary and appropriate consumable supplies for use during the Contract.

The Contractor shall be responsible for providing a host computer in its office at all times for the transfer of electronic data. Due to the possibility of long lead times for the above systems the Contractor shall immediately order the computer equipment upon the award of the Contract. Substitutions for requirements to the above must be requested in writing for Owner approval.

N. Owner Furnished Software and Networking

Owner-furnished software, PROGEN[®], will be provided to the Contractor and is required to be used as a tool to assist with expedient preparation of cost proposals in response to the Owner's needs. This software will contain an electronic version (copy) of the Construction Task Catalog[®] (CTC[®]), which can be accessed on the equipment provided by the Contractor to locate and select desired work tasks from the CTC[®]. Once the desired items are selected, the software provides for selection of quantities and based on the selected quantities, will extend and total CTC[®] price for each Price Proposal. The software will also permit introduction of Non Pre-Priced items and the application of the multiplier. The Owner will provide training, in the use of this software. Upgrades to PROGEN[®] in release version, Contractor's Adjustment Factor, etc. shall be performed by the Owner.

At the present time, the Owner will provide computing services for the expedient communications and exchange and storage of data. The use of the Owner's Network for these activities is exclusively for the use by the Contractor for this Contract. No other uses are permitted. The use of the Owner's Network and connectivity to the Internet is not guaranteed. Should the Owner be unable to continue to provide this service, the Contractor shall obtain, at no cost to the Owner, an outside provider for computing services to fulfill the requirements of this section, as approved by the Owner.

While on the Owner's Network the Contractor shall abide by all of the rules and procedures set forth for the use and security of the space. The Owner shall have unhindered access to the Contractor's presence on the Network for upgrading systems, administration, (including but not limited to remote control) and enforcement of Owner rules and procedures.

The Contractor's space on the Owner's Network shall not be accessible remotely. Personnel are expected to be trained and versed in the software required for this Contract. For software provided by the Owner (PROGEN) the Owner shall provide training to the Contractor's personnel.

O. Proposal Auditing

The Owner reserves the right to audit proposals during the course of the Contract. This audit will primarily focus on validating the Contractor's Price Proposal with the scope of work and the use and pricing of Non Pre-Priced items. If the audit reveals that the Contractor's Price Proposal is inaccurate, the Contractor may be required to reimburse the Owner for the actual cost of the audit. The Owner reserves the right to audit as many Job Orders as it deems necessary to ensure compliance with the Contract Documents.

General Conditions

56. EXTENSION OF CONTRACT PERFORMANCE

- A.** The initial term of the Contract is twelve (12) months or when the maximum value of \$4,000,000 is achieved. At the conclusion of the initial term, the Contract shall expire or the Owner may choose to exercise an option term.
- B.** The Owner shall have the right and option to extend this Contract for a maximum of four additional one-year terms. Each option term shall be twelve (12) months from the expiration of the previous term or until the achievement of the maximum value of the term, whichever occurs first. The maximum value of each one-year option terms shall be \$4,000,000. The maximum value of the Contract is not to exceed \$20,000,000.
- C.** The first option term shall be exercised by written notice to the Contractor prior to the expiration of the initial term. The second and subsequent options shall only be available if the first option period is exercised by the Owner. Subsequent option terms shall be exercised by written notice to the Contractor prior to the expiration of the previous option period. If the Owner elects to extend the Contract, the Contractor's bid adjustment factors are increased according to the provision of Article 56 of these General Conditions.
- D.** The total duration of the Contract including option periods, shall not exceed five (5) years, however if at the end of the base year, or any option term, the Contract is not extended and there are Job Orders under construction which may require changes to complete the original Project, the Owner may issue Change Orders only to the extent that they do not exceed the remaining value for that term.

57. PRICE ADJUSTMENT

A. Economic Price Adjustment:

This clause provides a means to adjust the originally bid adjustment factors for escalation/de-escalation as measured by the Construction Cost Index (CCI) published in the Engineering News Record (ENR). The CCI for Cincinnati shall be applied in the operation of this clause. The Contractor's Adjustment Factors for Normal Working Hours and for Work on an Accelerated Schedule shall be adjusted on each annual anniversary date of the Contract according to the following:

1. A Base Year Index shall be calculated by averaging the 12 month Construction Cost Indices (CCI) published in the Engineering News Record (ENR) for the 12 months immediately prior to the month of the contract date.
2. A Current Year Index shall be calculated by averaging the 12 month Construction Cost Indices (CCI) published in the Engineering News Record (ENR) for the 12 months immediately prior to the month of the annual contract anniversary.
3. The Economic Price Adjustment shall be calculated by dividing the Current Year Index by the Base Year Index.
4. The Contractor's original Adjustment Factors shall be multiplied by the Economic Price Adjustment to obtain the Contractor's new Adjustment Factors effective for the next 12

General Conditions

months.

5. Averages shall be obtained by summing the 12 month indices and dividing by 12.
6. All calculations in this article shall be carried to the fifth decimal place and rounded to the fourth decimal place. The following rules shall be used for rounding:
 - a. The fourth decimal place shall be rounded up when the fifth decimal place is five (5) or greater.
 - b. The fourth decimal place shall remain unchanged when the fifth decimal place is less than five (5).
7. ENR occasionally revises indices. ENR CCIs used in the calculations described above shall be those currently published at the time the Economic Price Adjustment calculation is performed. No retroactive adjustments will be made as a result of an ENR revision. Revised CCI indices, if any, shall be used in subsequent calculations.
8. The updated adjustment factors will be applicable to those projects whose Price Proposal due date is after the anniversary date of the effective date of the Contract. For example: The first anniversary date for a Contract that was awarded on April 15, 2008 is April 15, 2009, the second anniversary date is April 15, 2010, etc. Therefore a project whose Price Proposal due date is April 20, 2009 the re-calculated adjustment factors would be used.
9. Furthermore, the wage rates to be paid shall be adjusted annually. It will be deemed that the prices in the CTC[®] remain fixed with the Contractor's adjustment factor change and the Contractor shall not pay less than the new common wages as determined by the Common Construction Wage Committee's findings for the next year. The updated wage rates will be applied to those Proposals whose due date is after the anniversary date of the effective date of the Contract.

58. REPORTS

A. Quality Control Plan

1. The Contractor shall submit a written quality control plan with it's management plan and notify the Owner, in writing, of any proposed change to the plan. No change shall be implemented prior to review and acceptance by the Owner. Once the Contractor's Quality Control Plan has been accepted by the Owner it shall become part of this Contract. Deviation from the Quality Control Plan without the expressed written approval of the Owner shall place the Contractor in default of this Contract.
2. The Contractor shall perform the quality control plan accepted by the Owner and shall insure that all Work and requirements of this Contract are met as specified.
3. The Contractor is required to maintain quality control over suppliers, manufacturers, products, services, site conditions, and workmanship, to produce Work of specified quality. In addition the Contractor shall:
 - a. Designate one of the Contractor's Key Personnel to be responsible for ensuring

General Conditions

quality.

- b. Comply with industry standards except where more restrictive tolerances or specified requirements indicate more rigid standards or more precise workmanship.
- c. Participate in inspections and verifications as required. Perform and validate corrective actions resulting from identified deficiencies.

B. Safety Plan

1. The Contractor shall submit a written safety plan with its management plan and notify the Owner, in writing, of any proposed change to the plan. No change shall be implemented prior to review and acceptance by the Owner. Once the Contractor's Safety Plan has been accepted by the Owner it shall become part of this Contract. Deviation from the Safety Plan without the expressed written approval of the Owner shall place the Contractor in default of this Contract.
2. The Contractor shall perform the safety plan accepted by the Owner and shall insure that all Work and requirements of this Contract are met as specified.
3. The Contractor is required to maintain safety control over subcontractors, site conditions, and workmanship to produce a safe work environment. In addition the Contractor shall:
 - a. Designate one of the Contractor's Key Personnel to be responsible for ensuring safety.
 - b. Comply with industry standards except where more restrictive tolerances or specified requirements indicate more rigid standards.
 - c. Participate in inspections and verifications as required. Perform and validate corrective actions resulting from identified deficiencies.
4. Prior to the commencement of Work on a Job Order, the Contractor shall provide evidence of distribution to subcontractors of the Owner's Multi-Employer site safety information provided by the Owner.

C. MBE Participation Report

1. On a quarterly basis, the Contractor shall submit to the Owner the MBE participation on a job by job basis based on the value of Job Orders issued reporting in accordance with section IB1.09 of Volume I of the Contract Documents.

D. Daily Progress Reports

1. Daily Progress Reports: As required by the individual Job Order, the Contractor shall prepare and have available for inspection by the Owner daily progress reports on the various parts of the Work, including in the report the number of men and the classification of the trades involved, equipment used and any pertinent information

General Conditions

regarding possible delays in the Work.

E. Regular Meetings

1. In addition to Pre-construction meetings in Article 55, the Contractor's Field Superintendent shall attend progress meetings for all Job Orders which have not been completed with the Owner's Inspector to discuss the various construction Progress Schedules. Further, monthly management meetings shall be attended by the Contractor's Senior Project Manager, and the JOC Program Manager to discuss work volume, Contract issues and project status. Notwithstanding the above, the Owner reserves the right to require the Contractor to submit to the Owner some or all of the Daily Progress Reports for each and/or all Job Orders, as deemed appropriate by the Owner.

59. OFFICE SPACE PROVIDED

Office space including heat, electric, water, toilet facilities, and data will be provided to the Contractor at no cost to the Contractor. The Contractor is required to utilize the Owner furnished space and shall be responsible for furnishings and telephone hook-up and all telephone costs.