**SECTION 00 73 00 – SUPPLEMENTAL CONDITIONS OF THE CONTRACT**

SUMMARY

The following supplements modify, change, delete from or add to the "General Conditions of the Contract for Construction", AIA Document A201 - 2007. Where a portion of the General Conditions is modified or deleted by these Supplementary Conditions, the unaltered portions of the General Conditions shall remain in effect. Where any Article of the General Conditions is modified or any Paragraph, Subparagraph or Clause thereof is modified or deleted by these supplements, the unaltered provisions of that Article, Paragraph, Subparagraph or clause shall remain in effect.

The “Conditions of the Contract” apply to all Contracts and Subcontracts and shall be referenced and included in both the Form of Agreement and A401-2007 Agreements.

ARTICLE 1 – GENERAL PROVISIONS

1.1 BASIC DEFINITIONS

1.1.1 Add the following to the first sentence:

“and including Performance Bond and Labor and Material Payment Bond”.

1.2 CORRELATION AND INTENT OF THE CONTRACT DOCUMENTS

Add the following Subparagraph 1.2.4 to 1.2:

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

1.2.4.1 The Agreement.

1.2.4.2 Addenda, with those of later date having precedence over those of earlier date.

1.2.4.3 The Supplementary Conditions.

1.2.4.4 The General Conditions of the Contract for Construction.

1.2.4.5 Drawings and Specifications.

In the case of an inconsistency between Drawings and Specifications or within either Document not clarified by addendum, the better quality or greater quantity of Work shall be provided in accordance with the Architect’s interpretation.

1.5 OWNERSHIP AND USE OF DRAWINGS, SPECIFICATIONS AND OTHER INSTRUMENTS OF SERVICE

Delete Subparagraph 1.5.1 and substitute the following:

1.5.1 Subject to any rights the Design Professionals may have, the Contract Documents, as well as any other documents, intellectual property, software, computer-assisted material or disks relating to or regarding the Work, shall be and remain the property of the Owner. This shall be the case even if prepared, created or provided by the Design Professional, Contractor, Subcontractor or others.

1.6 TRANSMISSION OF DATA IN DIGITAL FORM

Add Subparagraph 1.6.1, 1.6.2 and 1.6.3 to 1.6:

1.6.1 The Architect shall provide the Owner electronic copies of design and construction documents, in pdf. and/or CAD formatting, upon request, for the purpose of planning and review.

1.6.2 The Architect shall NOT provide any other entity design and construction documents without the written consent of the Owner.

1.6.3 The Owner assumes nor implies any responsibilities in design, equipment coordination or distribution of Construction Documents. The Owner warrants the use of Preliminary Documents for internal planning and review only.

ARTICLE 3; CONTRACTOR

3.2 REVIEW OF CONTRACT DOUCMENTS AND FIELD CONDITIONS BY CONTRACTOR

Add the following Subparagraphs 3.2.2.1 to 3.2

3.2.2.1 Prior to commencing any excavation or grading, the Contractor shall satisfy himself as to the accuracy of all survey data as indicated in these Drawings and Specifications and/or as provided by Owner. Should the contractor discover any inaccuracies, errors, or omissions in the survey data, the Contractor shall immediately notify the Architect in order that proper adjustments can be anticipated and ordered. Commencement by the Contractor of any excavation or grading shall be held as an acceptance of the survey data by the Contractor, after which time the Contractor has no claim against the Owner resulting from alleged errors, omissions or inaccuracies of the said survey data.

Delete Subparagraph 3.2.3 and replace with the following:

3.2.3 If, in Contractor’s opinion, any work is indicated on Drawings, or is specified in such a manner as will make it impossible to produce a generally acceptable piece of work, or should discrepancies appear between drawings and specifications, he shall refer it to Architect for decision before proceeding with Work.

Add the following Subparagraphs 3.2.5, 3.2.6, and 3.2.7, to 3.2

3.2.5 If Contractor fails to make such reference, no excuse will thereafter be entertained for failure to carry our work in satisfactory manner. Should a conflict occur in or between Drawings or Specifications, Contractor shall be deemed to have estimated on a more expensive way of doing work unless he shall have asked for and obtained a decision, in writing, from Architect before submission of proposal as to which method or materials will be required.

* + 1. Figures govern scale dimensions and large scale drawings govern those of smaller scale. If drawings and specifications conflict or require any clarification that was not obtained prior to bidding, the Contractor shall estimate and include in his bid the more expensive method or material. No deviation shall be made from plans and specifications except upon written order of the Architect.
    2. Before beginning work at the site, the Contractor shall attend a preconstruction conference scheduled by the Architect and he shall bring the superintendent employed for this project. At this time, all parties concerned will discuss the project under Contract and prepare a program of procedures in keeping with requirements of the Contract Documents. The superintendent shall henceforth make every effort to expeditiously coordinate all phases of the work, including the required reporting procedure, to obtain the end result within the full purpose and intent of the Contract Documents for the project.

3.3 SUPERVISION AND CONSTRUCTION PROCEDURES

Add the following Subparagraphs 3.3.4, 3.3.5, 3.3.6, and 3.3.7 to 3.3:

3.3.4 The Contractor shall furnish sufficient forces, construction plans and equipment, and shall work such hours, including night shifts and overtime operation, as may be necessary to insure the execution of the Work in accordance with the approved progress schedule. If the Contractor falls behind the progress schedule, the Contractor shall take such steps as may be necessary to improve the progress by increasing the number of shifts, overtime operations, days of work and the amount of construction plans, all without additional cost to the Owner.

* + 1. The Contractor shall not be relieved of obligations to perform the Work in accordance with the Contract Documents either by activities or duties of the Architect in the Architect’s administration of the Contract, or by tests, inspections or approvals required or performed by persons other than the Contractor.

3.3.6 Failure of the Contractor to comply with the requirements under this provision shall be grounds for determination by the Architect that the Contractor is not executing the Work with such diligence as will insure completion within the time specified and such failure may constitute a substantial violation of the conditions of the Agreement.

3.3.7 Upon such determination, the Owner may terminate the Contractor’s right to proceed with the Work, or any separable part thereof, in accordance with Article 14 of the General Conditions, or may withhold further payments as indicated in Article 9.5.1 also of the General Conditions.

3.4 LABOR AND MATERIALS

Add the following Subparagraphs 3.4.4, 3.4.5, 3.4.6, 3.4.7 and 3.4.8 to 3.4:

3.4.4 After the Contract has been executed, the Owner and the Architect will consider a formal request for the substitution of products in place of those specified only under the conditions set forth in the General Requirements (Division 1 of the Specifications), Section “Product Requirements.”

3.4.5 By making requests for substitutions based on Subparagraph 3.4.4 above, the Contractor:

3.4.5.1 Represents that the Contractor **has personally investigated the proposed substitute** product and determined that it is equal or superior in all respects to that specified;

3.4.5.2 Represents that the Contractor will **provide the same warranty** for the substitution that the Contractor would for that specified;

3.4.5.3 Certifies that **the cost data presented is complete and includes all related costs** under this Contract, including the Architect's or Engineer’s redesign costs, and waives all claims for additional costs related to the substitution which subsequently become apparent; and

3.4.5.4 **Will coordinate the installation** of the accepted substitute, making such changes as may be required for the Work to be complete in all respects.

3.4.6 The Contractor shall follow all specified and manufacturer’s standards for Delivery, Storage and Handling of all products. All products that require storage in a climate-controlled environment shall be so handled. In all cases the more stringent guidelines shall be followed.

3.4.7 The Contractor shall follow all specified and manufacturers’ instructions and conditions for installation of all products and finishes.

3.4.8 No substitution will be considered for metal roofing, metal fascia or door hardware.

3.5 WARRANTY

Add the following Subparagraphs 3.5.1 and 3.5.2 to 3.5

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

3.5.2 The Contractor shall provide the Owner with written warranties covering the work for the periods of time specified in the Contract Documents. As a minimum the work will be guaranteed against defects in materials and workmanship for one year from the date of Substantial Completion of the project by the Owner with all mechanical equipment compressors guaranteed for five years from the date of Substantial Completion. The date of Substantial Completion shall be the beginning date of all warranties (see Article 8).

3.6 TAXES

Add the following Subparagraph 3.6.1 and 3.6.1.1 to 3.6

3.6.1 Although the Owner is not subject to the Florida Sales and Use Tax, any Contractor who purchases materials which will be used in the construction of a publicly-owned building will not be exempt from the sales tax on those materials as evidenced by the following except from the Florida Statues:

3.6.1.1 “The State, any county, municipality or political subdivision of this state is exempt from the sales tax, except this exemption shall not include the sales of tangible personal property made to contractors employed either directly or as agents of such government or political subdivision thereof when such tangible personal property going into or becomes a part of public works owned by such government or political subdivision thereof.”

3.7 PERMITS, FEES AND NOTICES

Add the following to the end of Subparagraph 3.7.1:

The Owner is not subject to cost of Municipal Building Permits.

Add the following Subparagraphs 3.7.6 TO 3.7:

3.7.6 The Contractor shall meet the latest requirements of the United States Department of Labor Occupational Safety and Health Standards and comply with The Manual of Accident Prevention in Construction, all applicable safety and sanitary laws, regulations, and ordinances and any safety rules or procedures. The Contractor shall provide the Owner evidence of compliance at each Project Meeting.

3.9 SUPERINTENDENT

Delete Subparagraph 3.9.1 and substitute the following:

3.9.1 The Contractor shall employ and keep at the site of the work during its progress a competent and thoroughly experienced superintendent capable of handling all phases of the project. The Superintendent shall have any necessary assistants, foremen and timekeepers required by the scope of this project, and shall be acceptable to the Architect and Owner, and shall not be changed or transferred unless approved by the Owner, or ceases to be in the employ of the Contractor. If the Contractor must replace the Superintendent for any reason between “Notice-to-Proceed” and final Architect’s certification of completion of the work, then the Contractor shall notify Owner and Architect that the existing Superintendent will be leaving the job on a specific date and that all job work shall cease after said date until a satisfactory replacement Superintendent is found, acceptable to the Owner, Architect, and physically present on the site, properly authorized and briefed by Contractor.

Delete the first sentence in Subparagraph 3.9.2 and substitute the following:

3.9.2 The Contractor shall submit to the Owner and Architect the name and resume of the proposed Superintendent for the Contractor at the preconstruction conference to allow investigation by Owner and Architect.

Add the following Subparagraphs 3.9.4 to 3.9:

3.9.4 The Superintendent shall represent the Contractor in the Contractor’s absence and all directions given to the Superintendent shall be binding as if given to the Contractor. Major and important directions shall be confirmed in writing to the Contractor. Other directions shall be so confirmed on written request in each case. The superintendent shall attend the Pre-Construction Conference and all Progress Meetings.

3.10 CONTRACTORS CONSTRUCTION SCHEDULES

Delete Subparagraph 3.10.1 and substitute the following:

3.10.1 The contractor shall furnish, not later than 15 days after receipt of "Notice-to-Proceed", a Critical Path bar-chart schedule showing the expected times of completion of the various stages of work on this project. The work headings therein shall correspond generally with the headings listed in the Contractor's Schedule of Values. During progress of the work the Contractor shall enter on the schedule the actual progress at the end of each month, and shall deliver two (2) copies to the Architect along with the Contractor's pay request. Contractor's pay request will not be processed until receipt and review of monthly updated bar-chart schedule.

Add subparagraph 3.10.4, 3.10.5 and 3.10.5.1 to 3.10

3.10.4 The Contractor shall furnish sufficient forces, construction plans and equipment, and shall work such hours, including night shifts and overtime operation, as may be necessary to insure the execution of the Work in accordance with the approved progress schedule. If the Contractor falls behind the progress schedule, the Contractor shall take such steps as may be necessary to improve the progress by increasing the number of shifts, overtime operations, days of work and the amount of construction plans, all without additional cost to the Owner.

3.10.5 Failure of the contractor to comply with the requirements under this provision shall be grounds for determination by the Architect that the Contractor is not executing the Work with such diligence as will insure completion within the time specified and such failure constitutes a substantial violation of the conditions of the Agreement.

3.10.5.1 Upon such determination, the Owner may terminate the Contractor's right to proceed with the Work, or any separable part thereof, in accordance with Article 14 of the General Conditions, or may withhold further payments as indicated in Article 9.5.1.

3.11 DOCUMENTS AND SAMPLES AT THE SITE

Delete the last sentence of 3.11 and substitute the following:

These shall be available to the Owner and Architect and shall be delivered to the Architect for submittal to the Owner upon completion of the Work as the “Record Drawings” of the Work constructed or “As-built Drawings”.

Add the following Subparagraph 3.11.1 to 3.11:

3.11.1 Copy of Toxic Substance List submitted by both the Contractor and Subcontractors to the Owner, must be kept at the site during the duration of construction.

3.12 SHOP DRAWINGS, PRODUCT DATA AND SAMPLES

Add the following Paragraph to 3.12:

3.12 Within a reasonable amount of time, before the first pay application, the Contractor shall submit to the Architect and Owner a Submittal list of all Shop Drawings, Product Data and Samples. The Owner will notify the Architect which items they reserve the rights of review and approval on. Those items indicated will require Owner approval before acceptance.

Add the following Subparagraphs 3.12.11, 3.12.12 and 3.12.13 to 3.12:

3.12.11 Shop Drawings and samples shall be dated and contain the following: name of project; project number; description or names of equipment, materials and items; and complete identification of locations at which materials or equipment are to be installed. If the shop drawings do not conform completely to the requirements of the Contract Documents, such nonconformance shall be specifically noted on the face of the drawings. Refer to Division 1 Section “Submittal Procedures.”

3.12.12 Submission of Shop Drawings and samples shall be accompanied by transmittal letter, containing project name, Contractor’s name, number of drawings and samples, titles and other pertinent data.

3.12.13 Unless otherwise specified, the number of Shop Drawings and the number of Samples which the Contractor shall submit and, if necessary , resubmit, is the number that the Contractor requires to be retained for the Contractor’s use plus 3, which will be retained by the Architect/Engineer and Owner.

3.13 USE OF SITE

Add the following Subparagraphs 3.13.1 and 3.13.2 to 3.13:

3.13.1 Contractor shall access the Project site from roadways, right-of-ways, easements or temporary roadways as authorized by the Owner. Use of multiple project site access points shall be at the discretion of the Owner.

3.13.2 The Contractor shall present a plan, for approval by the Architect and Owner, showing all areas for safety fencing, staging, storage, job office, ingress and egress to the site. No work shall be done until this is approved.

3.15 CLEANING UP

Add the following to the end of Subparagraph 3.15.1:

3.15.1 Keep interior of the building and keep the area around the building free of stored or unattended combustible materials. This shall be done daily.

3.16 ACCESS TO WORK

Add Subparagraph 3.16.1 to 3.16:

3.16.1 The authorized representatives and agents of the Architect, the Owner and such other persons as the Owner may designate, shall have access to and be permitted to inspect all work, materials, payrolls, records of personnel, invoices of materials and other relevant data and records wherever they are in preparation and progress. The contractor shall provide proper facilities for such access, inspection and, when required, exact duplicate copies of the aforementioned data shall be furnished.

3.18 INDEMNIFICATION

Add to Paragraph 3.18

3.18 INDEMNIFICATION

Comply with the Florida Statues, 725.06 Construction Contracts; Limitation on Indemnification.

Delete Subparagraph 3.18.1 and substitute with the following:

3.18.1 To the fullest extent permitted by law, the Contractor shall, for the sum of ten dollars ($10.00) and other good and valuable consideration paid by the Owner and the Architect/Engineer individually, receipt hereby acknowledged by the Contractor, Indemnify and hold harmless the Owner and the Architect/Engineer and their agents and employees from and against all claims, damages, losses and expenses, including but not limited to attorneys’ fees arising out of or resulting from the performance of the Work provided that any such claim, damage, loss or expense: (1) is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property other than the Work itself, including the loss of use resulting therefrom and (2) is caused in whole or in part by any negligent act or omission of the Contractor, any subcontractor, anyone directly or indirectly employed by any of them, or anyone whose acts any of them may be liable, regardless of whether or not it is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any party or person described in this Paragraph 3.18.

Delete Subparagraph 3.18.2 and substitute the following:

3.18.2 The indemnification which the Contractor and Subcontractors are to provide under Paragraph 3.18 shall include, extend and insure to and be for the benefit of the Owner, Architect, their respective agents, and employees of any of them, and shall not be limited in any way by any limitation on the amount of type of damage, compensation or benefits payable by or for the Contractor or any Subcontractor under Worker’s Compensation or Employer’s Liability Acts, disability acts, employee benefit acts or other legislation or rule of law, whether legislative, judicial, administrative or common law.

ARTICLE 4; ARCHITECT

4.1 GENERAL

Add the following subparagraphs 4.1.4 to 4.1:

4.1.4 Nothing contained in the Contract Documents shall create any contractual relationship between the Architect and the Contractor.

Add the following subparagraph 4.1.5 to 4.1:

4.1.5 At the Contractor’s expense, the Architect will provide the Owner 2 paper copies, 2 pdf disc copies of all record drawings and specifications. In addition, the Architect will provide AutoCAD files of ALL record drawings, coordinated with the Owner’s record system.

4.2 ADMINISTRATION OF THE CONTRACT

Add the following to the end of the last Sentence of 4.2.13

4.2.13 …and not objected by the Owner.

ARTICLE 5; SUBCONTRACTORS

5.2 AWARD OF SUBCONTRACTS AND OTHER CONTRACTS FOR PORTIONS OF THE WORK

Delete Subparagraph 5.2.1 and replace with:

5.2.1 Unless otherwise stated in the Contract Documents or Bidding Requirements, within ten (10) days of award of Contract, the Contractor shall provide the Owner and Architect, completed Subcontractor Information Forms from each Subcontractor, including those who are to furnish materials or equipment fabrication, for review.

Add Subparagraph 5.2.5 to 5.2

5.2.5 No payment shall be made for any work provided though a Subcontract prior to the Owner receiving copy of the executed Subcontract. The Contractor, prior to submitting the first pay application, shall provide the Owner and Architect, copies of all executed Subcontracts.

ARTICLE 7; CHANGES IN THE WORK

7.1 GENERAL

Delete Subparagraph 7.1.2 and substitute the following:

7.1.2 Change Order shall be based upon agreement among the Owner, Contractor and Architect; a Construction Change Directive requires agreement be the Owner and Architect and may or may not be agreed to by the Contractor; an order for a Minor Change in the Work may be issued by the Architect and Owner alone.

7.2 CHANGES ORDERS

Add the following sentence to paragraph 7.2

7.2 CHANGES ORDERS

A Change Order can only be initiated by submission of a completed Owner’s Change Order Request Form.

Add the following Subparagraph 7.2.2, 7.2.3, 7.2.4 and 7.2.4.1.to 7.2:

7.2.2 The Contractor is responsible for all affected work that is a result of a Change Order. All changes required as a result of a Change Order should be reflected in the price of the Change Order. Any associated additional work that becomes evident after the Change Order has been signed will be made at the Contractor’s expense.

7.2.3 When any one change increases or decreases the scope of the original contract, the proposal to change shall be supported by accurate cost data establishing the fair and current market value of the labor, materials, equipment, and incidentals required to accomplish the change, plus a margin to represent the contractor’s profit and overhead. Cost data shall be in sufficient detail to enable the Architect or Engineer to confirm the accuracy of such proposal. Profit and overhead shall be added to additive change orders and shall be deducted on deductive change orders. No deduction shall be made for profit and overhead on deductive change orders in connection with Direct Material Purchases.

7.2.4 Cost shall be limited to the following: Cost of materials, including sales tax and cost of delivery, cost of labor, including Social Security, Old Age and Unemployment Insurance; Worker’s Compensation Insurance; rental value of power tools and equipment. Overhead shall include the following: Bond premiums, supervision, superintendence, wages of timekeepers, watchmen and clerks, small tools, incidentals, general office expense and all other expenses not included in “cost.” If the net value of a change results in a credit from the Contractor or Subcontractor, the credit given shall be the net cost plus overhead and profit except for Direct Material Purchase items. The cost as used herein shall include all items of labor, materials and equipment.

7.2.4.1 The allowance for overhead and profit combined, included in the total cost to the Owner shall be based upon the following schedule:

(a) For the Contractor, for any work performed by his own forces, 15% of the cost:

(b) For each subcontractor, for any work performed by his own forces, 15% of the cost:

(c) For the Contractor, for work performed by his subcontractor, 7 % of the amount due the subcontractor.

(d) Cost shall be limited to the following: Bond premiums, cost of materials, including sales tax (in effect at time of change order) and cost of delivery, cost of labor and fringe benefits, including Social Security, Old Age and Unemployment Insurance (labor cost may include a pro rate share of foreman's time only in case an extension of Contract Time is granted on account of the change); Workmen's Compensation Insurance; rental value of power tools and equipment.

(e) Overhead shall include the following: Supervision, superintendence, wage of time keepers, watchmen and clerks, small tools incidentals, general office expense and all other expenses not included in "cost".

(f) In order to facilitate checking of quotations for extras or credits, all proposals shall be accompanied by a complete itemization of costs including labor, materials and subcontracts. Labor and material shall be itemized in the manner prescribed above. Where major cost items are subcontracts, they shall be itemized also. In no case will any charge over $100.00 be approved without such itemization

7.3 CONSTRUCTION CHANGE DIRECTIVES

Delete first sentences of Subparagraph 7.3.7 and substitute the following:

7.3.7 If the Contractor does not respond promptly or disagrees with the method for adjustment in the Contract Sum, the method and the adjustment shall be determined by the Architect on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, including, in case of an increase in the Contract Sum, an allowance for overhead and profit in accordance with Clauses 7.3.10.1 through 7.3.10.6.

Delete Subparagraph 7.3.7.5 and substitute the following:

7.3.7.5 Cost of supervision and field personnel may be allowed when a contract time extension is allowed, which is directly attributed to the change.

Add the following Subparagraph 7.3.7.6 to 7.3.7:

7.3.7.6 Overhead shall include small tools, incidentals, general office and field office expenses, estimating, data entry and all other expenses not included in “cost”.

Add the following Sentence to the end of Subparagraph 7.3.10 and Subparagraphs 7.3.10.1 thru 7.3.10.6

* + 1. In Subparagraph 7.3.7, the allowance for the combined overhead and profit in the total cost to the Owner shall be based on the following schedule:

7.3.10.1 For the Contractor, for Work performed by the Contractor’s own forces, a maximum of fifteen percent (15%) of the cost.

7.3.10.2 For the Contractor, for Work performed by the Contractor’s Subcontractor, a maximum of seven percent (7%) of the amount due the Subcontractor.

7.3.10.3 For each Subcontractor or Sub-subcontractor involved, for Work performed by that

Subcontractors or Sub-subcontractor’s own forces, a maximum of fifteen percent (15%) of the cost.

7.3.10.4 For each Subcontract for work performed by the Subcontractor’s Sub-Subcontractor, a maximum of seven percent (7%) of the amount due the Sub-subcontractors.

7.3.10.5 Cost to which overhead and profit is to be applied shall be determined in accordance with Subparagraph 7.3.6.

7.3.10.6 In order to facilitate checking of quotations for extras or credits, all proposals, except those so minor that their propriety can be seen by inspection, shall be accompanied by a complete itemization of costs including labor, materials and subcontracts. Labor and materials shall be itemized in the manner prescribed above. Where major cost items are subcontracts, they shall be itemized also. In no case will a charge over $100.00 be approved without such itemization.

7.4 MINOR CHANGES IN THE WORK

Delete the first sentence of Paragraph 7.4 and Substitute the following:

7.4 The Architect and Owner have authority to order Minor Changes in the Work not involving adjustment in the Contract Sum or extension of the Contract Time and not inconsistent with the intent of the Contract.

ARTICLE 8; TIME

8.2 PROGRESS AND COMPLETION

Add the following Subparagraph 8.2.4 to 8.2:

8.2.4 Failure to complete the Project within the time fixed in this Agreement will result in substantial injury to the Owner, and as damages arising from such failure cannot be calculated with any degree of certainty, according to the definition of "Substantial Completion" in Subparagraph 9.8.1 of the General Conditions, within the time fixed or within such further time, if any, as may be authorized in accordance with the Contract Documents, the Contractor shall pay to the Owner as Liquidated Damages for such delay, and not as a penalty, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ ($\_\_\_\_\_\_\_\_) for each and every calendar day elapsing between the date fixed for Substantial Completion and the date such Substantial Completion shall have been fully accomplished. It is also hereby agreed that if after thirty (30) Calendar Days after Substantial Completion this Project is not fully and finally completed in accordance with the requirements of the Contract Documents, the Contractor shall pay to the Owner as Liquidated Damages, and not as a penalty, for such delay, one-fourth (1/4) of the rate previously indicated. These Liquidated Damages shall be payable in addition to any expenses or costs payable by the Contractor to the Owner under the provisions of the Contract Documents and shall not exclude the recovery of damages of the Owner under the Contract Documents.

Add the following Subparagraph 8.2.4.1 to 8.2:

8.2.4.1 This provision of Liquidated Damages for delay shall in no manner affect the Owner’s right to terminate the Contract. The Owner’s exercise of the right to terminate shall not release the Contactor from his obligation to pay Liquidated Damages. It is further agreed that the Owner may deduct from the balance of the Contract Sum held by the Owner the Liquidated Damages stipulated herein or such portions, as said balance will cover.

8.3 DELAYS AND EXTENSIONS OF TIME

Add the following Subparagraph 8.3.4 to 8.3:

8.3.4 Weather which hinders or prevents work is not a basis for a time extension unless it surpasses in severity the weather reasonably to be expected in the locality at that particular time of the year. If the contractor files notice that he was delayed by weather sufficiently severe as to entitle him to additional time, he must send notification within 24 hours of the end of the event to be followed by supporting data with their next pay application but no longer than 30 days. Requests for time extensions due to adverse weather shall be considered only for and equal to the number of rain days in excess of the mean average of 10 years or more for any given time period as shown on NOAA, National Weather service Forecast Office, Tallahassee, FL. If current rainfall is less than average, contract time will not be extended.

ARTICLE 9; PAYMENTS AND COMPLETION

9.2 SCHEDULE OF VALUES

Add Subparagraph 9.2.1 to 9.2

9.2.1 The Contractor shall submit to the Architect the Schedule of Values within fifteen (15) days after receipt of Notice-to-Proceed in accordance with the schedule shown at the end of this Section. The General Contractor's overhead and profit for each item and sub-contract shall be included in each item. Refer to Division 1 - General Requirements. This schedule will be re-submitted for approval by the Architect. No pay requests will be approved until contractor has submitted an acceptable schedule of values.

Delete second sentence of Subparagraph 9.8.5 and substitute the following:

9.8.5 Upon such acceptance and consent of surety, if any, the Owner shall make payment of 50 % retainage applying to such Work or designated portion thereof.

ARTICLE 10; PROTECTION OF PERSONS AND PROPERTY

10.2 SAFETY OF PERSON AND PROPERTY

Add the following Subparagraphs 10.2.1.4, 10.2.1.5 and 10.2.1.6 to 10.2:

10.2.1.4 Contractor shall at all times conduct, at its expense, all operations under the Construction Contract in a manner to avoid the risk of loss, theft or damage by vandalism, sabotage or other means to any property.

10.2.1.5 Contractor shall promptly take such reasonable precautions as are necessary and adequate against any conditions which involve risk of a loss, theft or damage to its property.

10.2.1.6 Contractor shall continuously inspect all of its Work, materials, equipment and facilities to discover and determine any such conditions and shall be solely responsible for discovery, determination and correction of any such condition.

Add the following Subparagraph 10.2.9 to 10.2:

10.2.9 Contractor shall cooperate with Owner on all security matters as set forth elsewhere in the Contract Documents and shall promptly comply with any project security requirements established by Owner. These security requirements may be more stringent in the event portions of the facilities or project are occupied or otherwise being used.

Add the following Subparagraph 10.2.10 to 10.2:

10.2.10 Contractor shall prepare and maintain accurate reports of incidents of loss, theft or vandalism and shall provide these reports to Owner in a timely manner.

10.4 EMERGENCIES

Add the following Subparagraph 10.4.1 to 10.4:

10.4.1 The Contractor shall provide at the site, and make available to all workers, medical supplies and equipment necessary to supply first aid service to all persons injured in connection with the work. The Contractor shall report any and all accidents in writing to Insurance Company, Owner and Architect within twenty-four (24) hours of the occurrence. The report shall contain the following information and it shall be the responsibility of the Contractor to have an accident report filled out in triplicate and submitted as required above with (1) Name of Person or Persons and Home Address, (2) Location of Occurrence, (3) Time of Day and Date, (4) Description of Occurrence, (5) Statements of Witnesses and (6) Signature of Contractor’s Superintendent. In addition, if death or serious injuries or serious damages are caused, the accident shall be reported immediately by telephone or messenger. If any claim is made by anyone against the Contractor or any Subcontractor on account of any accident, the Contractor shall promptly report the facts in writing to the Owner, giving full details of the Claims.

Add the following Subparagraph 10.4.2, 10.4.2.1, 10.4.2.2, 10.4.2.3 and 10.4.2.4 to 10.4:

10.4.2 **Mandatory Lockdown:** The Contractor shall familiarize itself, and all Subcontractors and all material providers with the Owners Mandatory Lockdown Procedure. It shall be the Contractor’s responsibility to assure job site compliance.

10.4.2.1 The Contractor shall enclose the complete project site using 6 foot chainlink fencing. There are to be limited access points that are capable of being locked from the inside rapidly. If fencing is not practical for project conditions, the Contractor shall work with the Owner on an acceptable lockdown solution.

10.4.2.2 During an “Active Shooter” notification, the Contractor’s Supervisor shall rapidly move all work activity to inside the fenced area and lock all entry points. During a “Lockdown” the Supervisor shall not let any individuals into the project site without personally recognizing them. All activity entering and leaving the project site will be suspended until the “All Clear” signal is given.

10.4.2.3 The Supervisor, immediately after locking down, shall discreetly verify all workers inside the project site are known to him and should be there. If an unknown individual is spotted, he’s to immediately notify the Owners Police Department, 850-201-6100, and report it. Under no circumstances should the individual be confronted by the Supervisor or any other on site.

10.4.2.4 During a lockdown, all normal activities shall continue inside the fenced project site. A “Lockdown” event is not justification for a time extension or award for additional costs.

Add the following Paragraph 10.5:

10.5 STATE OF FLORIDA TOXIC SUBSTANCE ACT:

10.5.1 (Worker’s Right to Know Law), Chapter 442, Florida Statutes; Contractors shall comply with all of the requirements of The Florida Toxic Substance Act, as amended (The “Act”), specifically, but not limited substance in construction, repair or maintenance of Public School Facilities.

A. All toxic substance enumerated in The Florida Substance List established pursuant to S. 442.103 Florida Statutes, that are to be used in the construction, repair of maintenance of Educational Facilities are restricted to usage according to the following provision:

1. Before any substance may be used, the Contractor shall notify the Superintendent, the Director of Maintenance and the Architect/Engineer in writing at least ten (10) working days prior to using the substance. The notification shall contain:

(1) The name of the substance to be used.

(2) Where the substance is to be used.

(3) When the substance is to be used.

2. There shall be attached to the notification a copy of a Material Safety Data Sheet as defined in S. 442.102, Florida Statutes, for each substance.

B. The Contractor shall comply with, the safety precautions and handling instructions set forth in the Material Safety Data Sheet for each substance used by the Contractor so that usage of the substance poses no threat to the health and safety of the students, school personnel and the general public.

ARTICLE 11; INSURANCE AND BONDS

11.1 CONTRACTOR'S LIABILITY INSURANCE

Delete Subparagraph 11.1.1 and substitute the following:

11.1.1 The Contractor shall purchase from and maintain in a company or companies lawfully authorized to do business in the State of Florida such insurance as will protect the Contractor from claims set forth below which may arise out of or result from the Contractor’s operations under the Contract and for which the Contractor may be legally liable, whether such operations be by the Contractor or by a Subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable. All insurance policies shall be issued and countersigned by representatives of such companies duly authorized for the State of Florida and shall be written on ISO standard forms or their equivalents. The Contractor shall provide the ISO Commercial General Liability policy for general liability coverage. All liability policies shall provide that the Owner is a named additional insured as to the operations of the Contractor under the Agreement and shall provide for the Severability of Insureds Provision. The Owner shall be exempt from, and in no way liable for, any sums of money, which may represent a deductible in any insurance policy. The payment of such deductible shall be the responsibility solely of the Contractor and/or Subcontractor providing such insurance. The insurance shall protect the Contractor from the following claims:

11.1.1.1 claims under workers’ or workmen compensation, disability benefit and other similar employee benefit acts, which are applicable to the Work to be performed;

11.1.1.2 claims for damages because of bodily injury, occupational sickness or disease, or death of the Contractor’s employees;

11.1.1.3 claims for damages because of bodily injury, sickness or disease, or death of any person other than the Contractor’s employees;

11.1.1.4 claims for damages insured by usual personal injury liability coverage including claims, which are sustained (1) by a person as a result of an offense directly or indirectly related to employment of such person by the Contractor, or (2) by another person;

11.1.1.5 claims for damages, other than to the Work itself, because of injury to or destruction of tangible property, including loss of use resulting therefrom;

11.1.1.6 claims for damages because of bodily injury, death of a person or property damages arising out of ownership, maintenance or use of a motor vehicle; and

11.1.1.7 claims involving contractual liability insurance applicable to the Contractor’s obligations under Paragraph 3.18.

Delete Subparagraph 11.1.3 and substitute the following:

* + 1. Certificates of Insurance acceptable to the Owner shall be filed with the Owner prior to commencement of the Work. These Certificates and the insurance policies required by this Paragraph 11.1 shall contain a provision that coverages afforded under the policies will not be cancelled or allowed to expire until at least 30 days’ prior written notice has been given to the Owner. If any of the foregoing insurance coverages are required to remain in force after final payment an additional certificate evidencing continuation of such coverage shall be submitted with the final Application for Payment as required by Subparagraph 9.10.2. The Contractor shall furnish one copy each of Certificates of Insurance for each copy of the Agreement which shall specifically set forth evidence of all insurance coverage required by the Contract Documents. The Certificate of Insurance shall be dated and show the name of the insured Contractor, the specific job by name and job number, the name of the insurer, the number of the policy, its effective date, and its termination date. The Contractor shall furnish a copy of the insurance policy to the Owner within 60 days following execution of the Agreement. If the Acord form certificate is used, the Supplemental Attachment form, AIA document G715, shall be completed, signed by Contractor’s insurance representative and attached to the Acord certificate.

Delete Subparagraph 11.1.4 and substitute the following:

11.1.4 The insurance required by Subparagraph 11.1.1 shall be written for not less than any limits of liability set forth below, required by Law or set forth in the Contract Documents, whichever is greater. Other types as may be required by the Project Specifications shall also be furnished.

11.1.4.1 Furnish to the owner a letter from the insurance company stating that all required insurance has been complied with as specified.

11.1.4.2 THE OWNER, AND THE ARCHITECT shall be named as an ADDITIONAL INSURED on the Contractor’s general liability policies. (Being named as Certificate Holder is not acceptable).

11.1.4.3 INSURANCE MUST BE MAINTAINED FOR ONE (1) YEAR AFTER FINAL PAYMENT if written on a claims-made basis.

11.1.4.4 All insurance shall contain provision that coverage afforded under the policies SHALL NOT BE CANCELED OR MODIFIED UNTIL A MINIMUM OF FIFTEEN (15) DAYS PRIOR WRITTEN NOTICE TO OWNER HAS BEEN GIVEN, AND THIS PROVISION SHALL BE NOTED ON CERTIFICATES OF INSURANCE.

11.1.4.5 Deliver to the Architect, before work commences, two (2) certificates evidencing compliance with all required insurance, using AIA Document G705, Certificate of Insurance.

11.1.4.6 Insurance required shall include Contractual Liability Insurance applicable to the Contractor’s obligations under Article 3.

11.1.4.7 Property Insurance coverage shall include coverage of perils of windstorms, fire, lightning vandalism, malicious mischief and those included in extended coverage in the amount of one hundred percent (100%) of the values at risk. Extended coverage, vandalism, and malicious mischief insurance may contain the standard deductibles.

11.1.4.8 Contractor shall maintain valid Worker’s Compensation Insurance as required by Chapter 440, Florida Statutes. All Subcontractors shall maintain valid Worker’s Compensation as required by Florida Statutes.

11.1.4.9 Contractor shall maintain Public Liability Insurance against bodily injury, personal ijury and property damage, in limits as specified. Coverage shall include Comprehensive General Liability and Products and Completed Operations Liability.

11.1.4.10 The amounts set forth herein and by Law shall apply equally or whether on or off the site of the Work.

11.1.4.11 Unless otherwise provided in the Contract Documents, property insurance shall cover portions of the Work stored off the site after written approval of the Owner at the value established in the approval, and also portions of the Work in transit.

11.3 PROPERTY INSURANCE

Delete subparagraph 11.3.1 and substitute the following subparagraph:

11.3.1 The Contractor shall purchase and maintain, in a company or companies lawfully authorized to do business in the State of Florida, property insurance, written on a Builder's Risk completed value form, in the amount of the initial Contract Sum as well as subsequent modifications thereto for the entire Work at the site, on a replacement cost basis. Such property insurance shall be maintained, unless otherwise provided in the Contract Documents or otherwise agreed in writing by all persons and entities who are beneficiaries of such insurance, until final payment has been made as provided in Paragraph 9. 1 0 or until no person or entity other than the Owner has an insurable interest in the property required by this Paragraph II. 3 to be covered, whichever is earlier. This insurance shall include interests of the Owner, the Contractor and Subcontractors in the Work.

Delete Subparagraph 11.3.1.1, 11.3.1.2, and 11.3.1.3 and substitute the following:

11.3.1.1 Property insurance shall be on a Special Causes of Loss form or its equivalent, including

reasonable compensation for the Architect/Engineer's services and expenses required as a result of such insured loss.

11.3.1.2 Any special insurance requirements will be addressed in the Special Conditions.

11.3.1.3 If the property insurance provides deductibles, the Contractor shall pay costs not covered

because of such deductibles.

Delete Subparagraph 11.3.2 and substitute the following:

11.3.2 Boiler and Machinery Insurance: The Contractor shall purchase and maintain an appropriate installation floater which shall specifically cover such insured objects which are subject to the boiler and machinery hazards during installation and until formal acceptance by the Owner.

Add the following subparagraphs 11.3.11 to 11.3:

11.3.11 Partial occupancy or use in accordance with Paragraph 9.9 shall not commence until the insurance company or companies providing property insurance have consented to such partial occupancy or use by endorsement or otherwise. The Owner and the Contractor shall take reasonable steps to obtain consent of the insurance company or companies and shall, without mutual written consent, take no action with respect to partial occupancy or use that would cause cancellation, lapse or deduction of insurance.

11.4 PERFORMANCE BOND AND PAYMENT BOND

Delete Subparagraph 11.4.1 and substitute the following:

11.4.1 The Contractor shall furnish bonds covering faithful performance of the Contract and payment of obligations arising thereunder as stipulated in bidding requirements or specifically required in the Contract Documents on the date of execution of the Contract.

Add Subparagraph 11.4.3 with the following:

11.4.3 BOND REQUIREMENTS

11.4.3.1 Prior to execution of the Contract, the Bidder shall furnish bonds covering the faithful performance of the Contract and the payment of all obligations arising there under in such form and amount as stated hereafter. Bonds may be secured through the Bidder’s usual sources.

11.4.3.2 To be acceptable to the Owner as Surety for Bid Bonds and Performance and Payment Bonds a Surety Company shall comply with the following provisions:

1. The surety company must be admitted to do business in the State of Florida.
2. The surety company shall have been in business and have record of successful continuous operations for at least five (5) years.
3. The surety company shall have at least the following minimum ratings:

POLICY HOLDER'S REQUIRED FINANCIAL

CONTRACT AMOUNT RATING RATING

0 to 100,000 B Class VII

100,000 to 500,000 A Class VIII

500,000 to 750,000 A Class IX

750,000 to 1,000,000 A Class X

1,000,000 to 1,250,000 A Class XI

1,250,000 to 1,500,000 A Class XI

1,500,000 to 2,000,000 A Class XII

2,000,000 to 2,500,000 A Class XII

2,500,000 or more A Class XII

\* From Best's Key Rating Guide.

1. Best’s Policyholder’s Rating of “A” and “B” (which signifies A = Excellent, and B = Good, based upon good underwriting, economic management, adequate reserves for undisclosed liabilities, net resources for unusual stock and sound investment) or an equivalent rating from the Insurance commissioner if not rated by Best’s.
2. The Surety Company shall not expose itself to any loss on any one risk in an amount exceeding ten percent (10%) of its surplus policy holders, provided:
   1. Any risk or portion of any risk shall have been reinsured (in which case these minimum requirements contained herein also apply to the reinsuring carrier) in assuming insurer authorized or approved by the Insurance Commissioner to do business in this State shall be deducted in determining the limitation of risk prescribed in this section.
   2. In the case of a surety insurance company, there shall be deducted in addition to the deduction for reinsurance, the amount assumed by any co-surety.

ADD THE FOLLOWING ARTICLES:

* 1. INSURANCE REQUIREMENTS (MINIMUM)
     1. WORKER’S COMPENSATION

11.5.1.1 Applicable Per Florida Statute – Chapter 440

11.5.1.2 Railroad Required NO

11.5.1.3 Maritime Required NO

11.5.1.4 Employer’s Liability 500,000

* + 1. CONTRACTOR’S LIABILITY INSURANCE including CONTRACTUAL LIABILITY

Form of Insurance shall be: Comprehensive General Liability, Premises and Completed Operations, Contractual Liability, Broad Form.

11.5.2.1 BODILY INJURY

Each Occurrence $1,000,000

Aggregate 2,000,000

11.5.2.2 PROPERTY DAMAGE

Including Complete Operations

Broad Form Yes

Each Occurrence 1,000,000

Aggregate 2,000,000

11.5.2.3 PERSONAL INJURY (WITH EMPLOYMENT EXCLUSION DELETED)

Each Occurrence 1,000,000

Aggregate 2,000,000

11.5.2.4 XCU COVERAGE included Yes

* + 1. MOTOR VEHICLE LIABILITY – Owned, Non-Owned and Hired

11.5.3.1 BODILY INJURY

Each Occurrence 1,000,000

Aggregate 2,000,000

11.5.3.2 PROPERTY DAMAGE

Each Occurrence 200,000

Aggregate 400,000

* + 1. OWNER’S AND CONTRACTOR’S PROTECTIVE LIABILITY INSURANCE

The Contractor shall provide an Owner’s and Contractor’s Protective Liability Policy with the following limits: (A separate policy in the name of the Owner must be provided.)

11.5.4.1 BODILY INJURY

Each Occurrence 1,000,000

Aggregate 2,000,000

11.5.4.2 PROPERTY DAMAGE

Each Occurrence 1,000,000

Aggregate 2,000,000

11.5.4.3 PROPERTY INJURY

Each Occurrence 1,000,000

Aggregate 2,000,000

11.5.4.4 Optionally, the Owner may purchase and maintain other insurance for self-protection against claims, which may arise from operations under the Contract.

* + 1. PROPERTY INSURANCE

11.5.5.1 To be purchased by Contractor: Builders Risk Insurance on completed value form in the names of the Owner, Architect, and Contractor as their interests may appear with limits in an amount equal to the Contract Sum for the work, including coverage for materials and equipment furnished by Owner to be incorporated or used in the project when stored off the site or when in transit. Coverage shall be provided on an all risk basis to include extended coverage for fire, lightning, wind storms, vandalism and malicious mischief.

ARTICLE 12; UNCOVERING AND CORRECTION OF WORK

12.1 UNCOVERING OF WORK

Delete Subparagraph 12.1.2 and substitute the following:

12.1.2 If a portion of the Work has been covered that the Architect has not specifically requested to examine prior to its being covered, the Architect must request authorization from the Owner to have the Contractor uncover the work for inspection. Authorization from the Owner shall be written response. If such work is in accordance with the Contract Documents, cost of uncovering and replacement shall, by appropriate Change Order, be the Owner’s expense. If such work is not in accordance with the Contract Documents, such costs and the cost of correction shall be at the Contractor’s expense unless the condition was caused by the Owner or a separate contractor in which event the Owner shall be responsible for payment of such cost.

Delete Subparagraph 12.2.1 and substitute the following:

12.2.1 The Contractor shall promptly correct Work rejected by the Architect or Owner or failing to conform to the requirements of the Contract Documents, whether discovered before or after Substantial Completion and whether or not fabricated, installed or completed. Cost of correcting such rejected Work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for the Architect’s services and expenses made necessary thereby, shall be at the Contractor’s expense.

ARTICLE 13; MISCELLANEOUS PROVISIONS

Add Subparagraph 13.5.1.1 and 13.5.1.2 to 13.5:

13.5.1.1 Inspection or testing performed exclusively for the Contractor's convenience shall be the sole responsibility of the Contractor.

13.5.1.2 Owner to notify Contractor of selected testing company. All tests, except those preformed exclusively for the Contractor's convenience, shall be paid by the Owner; however, the Contractor must notify and/or coordinate with the testing firms with proper notification to the Owner. Any retests made necessary by the Contractor's failure to perform to the specs in the specifications, these costs shall be paid by the Contractor.

Add Subparagraph 13.6.1 to 13.6

13.6.1 Notwithstanding the contractor’s compliance with the claim or dispute resolution terms of this contract, the contractor shall not be entitled to any interest on payments which may be due and unpaid by the owner; nor shall the contractor be entitled to any prejudgments interest on any damages awarded to the contractor in any civil action or on any arbitration award, even if the owner is found to have breached the contract.

ARTICLE 14; TERMINATION OR SUSPENSION OF THE CONTRACT

14.1 TERMINATION BY THE CONTRACTOR

Delete subparagraphs 14.1.1 in its Entirety

ARTICLE 15; CLAIMS AND DISPUTES

Add Subparagraph 15.2.9 to 15.2:

15.2.9 Except as provided in Article 3.18.1, the contractor shall not be entitled to recovery of any attorney's fees from the owner, and the owner shall not be liable for payment of attorney's fees to the contractor for any reason whatsoever. The contractor hereby waives any right to recovery of attorney's fees from the owner under the payment or performance bond, or the contract between the owner and the contractor, or any other cause of action (except as provided in Article 3.18.1), notwithstanding any provision in Section 57.105, Florida Statutes to the contrary.

END OF SECTON 00 73 00