

SECTION 006230 – SUPPLEMENTARY CONDITIONS

STANDARD AIA FORM:

Work will be subject to provisions set forth by the American Institute of Architect's Standard AIA Document A201 "General Conditions of the Contract for Construction", *2017 Edition*, Articles 1 thru 15 inclusive, which are hereby made a part of this Specification.

MODIFICATION OF AIA FORM A201

Modify, supplement and/or add the following articles, paragraphs, etc. as noted below:

ARTICLE 1 – GENERAL PROVISIONS

1.1 BASIC DEFINITIONS add the following:

1.1.1 Delete the text of the paragraph and substitute the following:

The Contract Documents are enumerated in the agreement between the Owner and Contractor (hereinafter the Agreement) and consist of the Agreement, Conditions of the Contract (General, Supplementary and other conditions), Drawings, Specifications, Addenda issued prior to execution of the Contract, other documents listed in the Agreement and Modifications issued after execution of the Contract. A Modification is (1) a written amendment to the Contract signed by both parties, (2) a Change Order, (3) a Construction Change Directive or (4) a written order for minor change in the Work issued by the Architect. The Contract Documents include the advertisement or invitation to bid, Instruction to bidders, sample forms, other information furnished by the Owner in anticipation of receiving bids or proposal or the Contractor's bid or proposal and portions of Addenda relating to bidding or proposal requirements.

1.1.2.1 The Owner reserves the right to hire a Construction Manager for the project. In the event the Construction Manager is hired by the Owner, the Owner may substitute the CMA version of the AIA Documents A101 and A201 (2017), and the Contractor shall be bound thereby.

1.1.2.2 Assignment of the Work: Neither this Agreement nor any part thereof shall be assigned by a Contractor to any person, firm, or corporation, without prior written approval of the Owner to such assignment. This provision shall not preclude the Contractor from subletting parts of the work to Subcontractors in accordance with general practices of the trade.

1.1.6.1 THE PROJECT MANUAL

The Project Manual is a volume assembled for the Work which may include the bidding requirements, sample forms, Conditions of the Contract, and Specifications.

1.1.8 The term "Architect" shall include the Architect, its consultants and subconsultants, and the owners, principals and employees of each of them.

1.2 CORRELATION AND INTENT OF THE CONTRACT DOCUMENTS add the following:

1.2.1.2 In the event of any conflict among or within the Drawings, Specifications, or Schedules, the provisions specifying a better quality or greater quantity of work or materials or comply with more stringent requirements shall take precedence and shall be the provision used in estimating bids and performing the contract, unless otherwise directed in writing by the Architect. The Architect shall determine which of the conflicting items represents the work of better quality or greater quantity or more stringent requirements. Information not shown on the drawings but included in the specifications, and vice versa, is included and required in the base bid Contract and shall be furnished and installed by the Contractor at no additional cost.

1.2.1.3 During the course of the Work, should any ambiguities or discrepancies be found in the Drawings, Specifications, or Schedules to which the Contractor has failed to call attention before submitting his bid, then the Architect will interpret the intent of the Drawings, Specifications or Schedules and the Contractor hereby agrees to abide by the Architect's interpretation and to carry out the work in accordance with the decision of the Architect.

ARTICLE 2 - OWNER

2.1 GENERAL add the following:

2.1.1 Delete the text of the paragraph and substitute the following:

The Owner is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Owner shall designate in writing a representative who shall have the following authority as delegated by the Owner. The term "Owner" means the Owner or the Owner's authorized representative:

2.1.1.1 The Owner's Representative shall have the same access to the Work provided to the Architect. He shall be consulted by the Contractor's Superintendent on all matters pertaining to the Work and shall transmit all instructions of the Architect regarding the Work to the Contractor's Superintendent.

2.1.1.2 The Owner's Representative may, in addition to inspection by others required elsewhere in the Contract Documents, inspect all Work under this Contract. While he will assist the Contractor's Superintendent in obtaining additional information in explanation of the Contract Documents and will serve as liaison between the Contractor's Superintendent and the Architect, he is not empowered to authorize deviations from the Contract nor to enter into the Contractor's area of responsibility for supervision and construction means, methods, techniques, sequences, procedures or coordination or for safety of persons and property. The fact that he may have permitted faulty Work or Work not in accordance with the Contract Documents to be performed shall not relieve the Contractor from any responsibility to perform fully in accordance with the Contract.

- 2.1.2 Delete the text of the paragraph and substitute the following:

The Owner shall furnish to the Contractor within a reasonable time after receipt of a written request, information necessary and relevant for the Contractor to evaluate, give notice of or enforce mechanic's lien rights. Such information shall include a correct statement of the record legal title to the property on which the Project is located, usually referred to as the site, and the Owner's interest therein.

- 2.1.2.1 **Prohibited Interests:** No official of the Owner who is authorized in such capacity and on behalf of the Owner to negotiate, make, accept, or approve, or to take part in negotiating, making, accepting, or approving any architectural, engineering, inspection, construction, or material supply contract or any subcontract in connection with the construction of the Project shall become directly or indirectly interested personally in this Contract or in any part thereof. No officer, employee, architect, attorney, engineer, or inspector of or for the Owner who is authorized in such capacity and on behalf of the Owner to exercise any legislative, executive, supervisory, or other similar functions in connection with the construction of the Project, shall be directly or indirectly interested personally in this Contract or in any part thereof, any material supply contract, subcontract, insurance contract, or any other contract pertaining to the Project.

- 2.1.2.2 Owner's authorized representative is to mean Michelle Richardson Business Administrator/Board Secretary, Jackson Township School District.

2.2 EVIDENCE OF THE OWNER'S FINANCIAL ARRANGEMENTS

Delete Article 2.2 in its entirety.

2.3 INFORMATION AND SERVICES REQUIRED OF THE OWNER

- 2.3.3 Delete the text of paragraph 2.3.3 and substitute the following:

If the employment of the Architect terminates, the Owner shall employ a successor whose status under the Contract Documents shall be that of the Architect.

- 2.3.6 Delete the text of paragraph 2.3.6 and substitute the following:

Unless otherwise provided in the Contract Documents, the Owner shall furnish to the Contractor electronic documents for the purpose of making reproductions pursuant to Section 1.5.2

- 2.5 OWNER'S RIGHT TO CARRY OUT THE WORK delete the text of paragraph 2.5 and substitute the following:

- 2.5.1 If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a seven-day period after receipt of notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, correct such default or neglect. In such case an appropriate Change Order shall be issued deducting from payments then or thereafter due the Contractor the reasonable cost

of correcting such deficiencies, including Owner's expenses and compensation for the Architect's additional services made necessary by such default, neglect or failure included but not limited to reasonable attorney's fees. The Architect may, pursuant to section 9.5.1, withhold or nullify a Certificate for Payment in whole or in part, to the extent reasonably necessary to reimburse the Owner for the Change Order. If payments then or thereafter due the Contractor are not sufficient to cover such amounts, the Contractor and/or its surety shall pay the difference to the Owner. If the Contractor disagrees with the actions of the Owner or the Architect, or the amounts claimed as costs to the Owner, the Contractor may file a Claim pursuant to Article 15.

2.5.2 If, in the opinion of the Architect, work to be corrected by the Owner is judged to be critical or time critical, the Architect, will inform the Owner and Contractor of the crucial nature of the work. Upon notification, the seven day periods noted in Article 2.5.1 will each be reduced to three days.

2.6 INSPECTION, CONDEMNATION, AND REJECTION OF WORK AND MATERIALS (new section)

2.6.1 Pursuant to N.J.S.A. 18A:18A-44, the Owner reserves the right to inspect all goods and services provided or performed on the Project and condemn any goods or services which in its sole judgment do not conform to the specifications of the contract therefore.

ARTICLE 3 - CONTRACTOR

3.2 REVIEW OF CONTRACT DOCUMENTS AND FIELD CONDITIONS BY CONTRACTOR
add the following:

3.2.1 Delete the text of the paragraph and substitute the following:

Execution of the Contract by the Contractor is a representation that (1) the Contractor has visited the site, become familiar with local conditions under which the Work is to be performed, has submitted any discrepancy to the Architect prior thereto and correlated personal observations with requirements of the Contract Documents; (2) prior to the execution of the Agreement, the Contractor and each subcontractor evaluated and satisfied themselves as to the conditions and limitations under which the Work is to be performed, including without limitation, (i) the location, condition, layout, and nature of the Project site and surrounding areas, (ii) generally prevailing climatic conditions, (iii) anticipated labor supply and costs, (iv) availability and cost of materials, tools and equipment, and (v) other similar issues. The Owner assumes no responsibility or liability for the physical condition or safety of the Project site or any improvements located on the Project site. Except as set forth in Paragraph 10.3, the Contractor shall be solely responsible for providing a safe place for the performance of the work. The Owner shall not be required to make any adjustments in either the Contract Sum or the Contract Time in connection with any failure by the Contractor or any subcontractor to have complied with the requirements of this subparagraph 3.2.1.

3.2.2 Delete the text of the paragraph and substitute the following:

Because the Contract Documents are complementary, the Contractor shall, before starting each portion of the Work, carefully study and compare the various Contract Documents relative to that portion of the Work, as well as the information furnished by the Owner pursuant to Section 2.3.4, shall take field measurements of any existing conditions related to that portion of the Work, and shall observe any conditions at the site affecting it. Dimensions given at full-size or large-scale details shall take precedence over smaller scaled measurements. These obligations are for the purpose of facilitating coordination and construction by the Contractor, as well as for discovering errors, omissions, and inconsistencies in the Contract Documents; as such, discrepancies shall be referred to the Architect in writing for adjustments before any work affected thereby has been performed.

- 3.2.2.1 Where compliance with two or more industry standards or sets of requirements is indicated within Contract Documents, and overlapping of those different standards or requirements establishes different or conflicting minimums or levels of quality, the most stringent requirement (which is generally recognized to be the most costly) is intended and will be enforced. Refer apparently-equal-but-different requirements, and uncertainties as to which level of quality is more stringent, to Architect/Engineer in writing for a decision before proceeding. These may be shown on any plan, partial plan, in the Project Manual or in any Addenda.
- 3.2.2.2 The general character of the detail work is indicated on drawings and in specifications. The term "similar" shall be used on the drawings in its general sense and not as meaning identical, and all details shall be worked out in relation to their location and their connection to other parts of the work. Where on any drawings a portion of the work is drawn out and the remainder is indicated in outline, the parts drawn out shall apply also to other like portions of the work. When a detail is indicated by starting only, such detail shall be continued throughout the courses or parts in which it occurs and shall also apply to all other similar parts in the work unless otherwise indicated. In case of differences between small and large scale drawings, the larger scale drawings shall take precedence. Any discrepancies shall be referred to the Architect for adjustment before any work affected thereby has been performed.
- 3.2.2.3 Since the Contractor, as Bidder, was afforded the opportunity to visit the Project Site, Contractor shall be held responsible for cognizance and knowledge of existing features and conditions ascertainable by such site visit, and costs of the Work associated therewith.
- 3.2.2.4 The Contractor shall promptly report to the Architect any errors, inconsistencies or omissions discovered by or made known to the Contractor as a request for information in such form as the Architect may require. If any errors, inconsistencies or omissions appear in the Drawings, Specifications, or other Contract Documents, which should reasonably have been discovered and concerning which interpretation had not been obtained during the Bidding or Proposal Period, the Contractor shall within ten (10) days after receiving written "Notice to Proceed" notify the Architect in writing of such error, inconsistency or omission. In the event the Contractor fails to give such notice, he will be responsible for the results of any such errors, inconsistencies or omissions and the cost

of rectifying same. At the end of the ten (10) day period, Interpretations of this procedure shall be made by the Architect and its decision will be final.

3.2.4 Delete the text of the paragraph and substitute the following:

If the Contractor believes that additional cost or time is involved because of clarifications or instructions the Architect issues in response to the Contractor's notices or requests for information pursuant to Sections 3.2.2 or 3.2.3, the Contractor shall submit Claims as provided in Article 15. If the Contractor fails to perform the obligations of Sections 3.2.2 or 3.2.3, including a failure to recognize or should have reasonably recognized any error, inconsistency, omission or difference in the Contract Documents, then the Contractor shall pay such costs and damages to the Owner as would have been avoided if the Contractor had performed such obligations. If the Contractor performs those obligations, the Contractor shall not be liable to the Owner or Architect for damages resulting from errors, inconsistencies or omissions in the Contract Documents, for differences between field measurements or conditions and the Contract Documents, or for nonconformities of the Contract Documents to applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities. U The Contractor shall be liable to the Owner and/or Architect for any and all damage resulting from any error, inconsistency, omission or difference which he knew or reasonably should have known but failed to report to the Architect. If the Contractor performs any work when he knows or should have known that it involves any error, inconsistency, omission or difference, without notice to the Architect and the Owner, the Contractor shall assume full responsibility for such work and shall bear an appropriate amount of the attributable costs for correction.

3.2.5 The Contractor shall forward to the Architect a written request for supplementary drawings and data needed by him to carry on his work. Such request shall be timed so as to enable the Architect to properly act well in advance of need at the site.

3.2.6 If the Architect must prepare "responses to Contractor's Requests for Information" (RFI's) where such information is available to the Contractor from a careful study and comparison of the Contract Documents, field conditions, other Owner-provided information, Contractor-prepared coordination drawings, or Project correspondence or documentation the Owner will back-charge the Contractor for all costs associated with the additional Contract Administration Services provided by the Architect.

3.3 SUPERVISION AND CONSTRUCTION PROCEDURES add the following:

3.3.1.1 At the preconstruction meeting, Contractors shall identify those individuals who shall supervise and direct the Work including both office and field supervisors. The on-site supervisor shall be present at all times that the Contractor's forces are present to perform work, shall attend all progress meetings, shall attend all coordination and scheduling meetings and such other meetings as may be reasonably requested and scheduled by the Architect. Upon the Architect's request, where there is a concern as to the progress of quality of the Contractor's work, the Contractor shall cause the President or other similarly authorized representative of the Contractor with the power to make decisions of financial consequence to the Contractor, to attend meetings scheduled by the Architect.

- 3.3.1.2 The attendance at all meetings set forth above by a qualified representative of the Contractor is mandatory. Any Contractor who is not represented at these meetings without previously being excused by the Architect, or who is not present at the appointed starting time of the meeting, will be assessed a late fee in the amount of \$250.00 per occurrence. The amount of this fee will be deducted from the Contractor's account through the issuance of a Change Order.
- 3.3.2.1 All personnel or agents of the Contractor shall observe all rules and regulations in effect at the Owner's premises. Employees, agents and Subcontractors of the Contractor, while on the Owner's property, shall be subject to the control of the Owner, but under no circumstances shall such persons be deemed to be employees or agents of the Owner. The Contractor's personnel are required on a daily basis to report and sign in, at a location to be determined by the Owner, each time they report for service and sign out when leaving the premises. Nothing herein shall limit the Contractor's duty to provide onsite safety and to secure the site.
- 3.3.2.2 Contractor's personnel and agents are not to engage in any activities with the building occupants, owner's personnel or agents of the Owner unless duly authorized to do so in a prior writing by the Owner's authorized representative. All contractor's personnel and agents are required to wear identification badges identifying the individual and the firm for which they are employed. The Contractor shall assume full responsibility for the actions of all personnel and agents in its employ. The Contractor shall maintain proper supervision of the work in progress at all times.
- 3.3.2.3 Contractor is required to provide background checks with fingerprinting performed within the last six (6) months on all personnel who will be working on site on the project, for Owners review and acceptance. The Contractor is responsible to pay all costs associated with this process. Background and Fingerprint checks can be provided through Sagem Morpho, Inc. (877) 503-5981, or other agency acceptable to the Owner. The Contractor shall not assign any employee to work at this project site who has a record or conviction for any offenses of the first or second degree, and those enumerated in N.J.S.A. 18A:6-7.1.
- 3.3.2.4 All personnel and agents used by the Contractor for the performance of its work shall be properly trained and qualified for the type of work being performed and shall have the minimum ability and experience for its classification. The Owner reserves the right to reasonably refuse to accept services from any personnel. The Contractor shall provide evidence of qualifications for any personnel performing work under its contract upon request.
- 3.3.2.5 The Owner (and/or the Owner's Representatives) reserves the right to direct the removal from the site of any person, equipment and or entity which displays inappropriate behavior, including but not limited to, smoking, alcohol consumption, drugs, fighting, intimidating behavior, vandalism, theft, improper storage, improper or illegal acts, unfit persons etc.
- 3.3.2.6 Owner has the sole right to modify any and all security requirements at the Project Site.

3.3.4 The Contractor shall locate benchmarks and establish primary lines, level and plumb. The Contractor shall be responsible for layout, and elevations specifically relating to its work. It will verify all dimensions, elevations, levels, and plumb shown on the Drawings, and report any discrepancies or inconsistencies in the above in writing to the Architect before commencing work. The Contractor shall carefully protect benchmarks, from displacement or removal.

3.4 LABOR AND MATERIALS add the following:

3.4.4 Insofar as practical or required to obtain a full warranty, except as otherwise specified or shown, the material or product of one Manufacturer shall be used throughout the work for each specified purpose.

3.4.5 All manufactured articles, materials, and equipment shall be applied, installed, connected, erected, used, cleaned and conditioned in strict accordance with the Manufacturer's directions. Should such directions conflict with the Specifications, the Contractor shall request (in writing) clarification from the Architect before proceeding.

3.4.6 All workmanship, equipment, materials, and articles incorporated in the work are to be of the best grade of their respective kinds for the purpose. Where equipment, materials or articles are referred to in the Specification as "equal to" any particular standard, the Architect shall decide the question of equality. Contractor shall immediately furnish to the Architect for its approval the name of the Manufacturer of material, machinery, mechanical and other equipment which he contemplates installing, together with their respective performance capacities and other pertinent information to avoid delays. When required, Contractor shall furnish, for the Architect's approval, full information concerning materials, or articles which he contemplates incorporating in the work. Samples of materials shall be submitted for approval when and as directed. Material, machinery, equipment, and articles installed or used without such written approval shall be at the risk of subsequent rejection.

3.4.7 No previous inspection or certificate of payment shall be held as an acceptance of defective work or materials or to relieve Contractor from the obligation to furnish sound materials and to perform good satisfactory work. The Architect shall be the sole judge of the materials and work furnished.

3.4.8 If the Architect deems it inexpedient to correct defective work not otherwise performed or completed in strict accordance with the Contract Documents, the difference in value between such work and that of the work, materials and conditions as specified, together with a fair allowance for damage shall be deducted from the Contract price.

3.4.9 Materials and equipment stored on the site shall not be placed directly on the ground and shall be completely covered and suitably protected to the Architect's and Owner's satisfaction.

3.4.10 Only manufactured products of the United States, wherever available, shall be used on the Project.

- 3.4.11 No later than seven (7) days from the date of this Agreement, the Contractor shall provide a list showing the name(s) of the manufacturer(s) proposed to be used for the Project. The Architect will promptly reply in writing to the Contractor stating whether the Owner or the Architect, after due investigation, has reasonable objection to any such proposal. If adequate data on any proposed manufacturer is not available, the Architect may state that action will be deferred until the Contractor provides further data. The Owner's or Architect's failure to reply within fourteen (14) days shall constitute acceptance of the proposal. Failure to object to a manufacturer shall not constitute a waiver of any of the requirements of the Contract Documents, and all products furnished by the listed manufacturer must conform to such requirements.
- 3.4.12 Any request by the Contractor which is made after the completion of bidding, to substitute any labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, or other facilities or services which is contrary to the provisions of the Drawings, Specifications, or Schedules, shall be reviewed and approved or rejected by the Architect. The Contractor shall be solely responsible for any delay caused by the request, and for the costs and expenses of the Architect's review of the request. The Architect shall be entitled to reject the request for any reason, including the Architect's or the Owner's subjective determination of the relative quality, compatibility or desirability of the substitution.
- 3.5 WARRANTY Delete the text of the paragraphs 3.5.1 and 3.5.2 and substitute the following:
- 3.5.1 In addition to the warranties set forth in the Contract Documents, the Contractor warrants that:
- 3.5.2 All materials and equipment furnished under this contract shall be of good quality and new unless otherwise authorized by the Owner. Any applicable manufacturer's warranties shall be transferred to the Owner.
- 3.5.3 Title to all work, materials, and equipment will pass to the Owner free and clear of all liens, claims, security interests, or encumbrances.
- 3.5.4 The Work will be free from defects not inherent in the quality of the Work in the Contract Documents required or permitted, and that the Work will conform to the requirements of the Contract Documents. Work not conforming to these requirements, including substitutions not properly approved and authorized, may be considered defective. The Contractor's warranty excludes remedy for damage or defect caused by abuse, modifications not executed by the Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear under normal usage. If required by the Architect, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment. A two (2) year warranty of the materials, equipment, and work shall commence from the date established by the Owner as of the date of substantial completion for the entire project. This will apply to all materials and equipment (including but not limited to HVAC equipment) that the Owner may begin to use prior to the established date of substantial completion.
- 3.5.5 During the twenty-third month after the date of substantial completion of the work, the Owner, Architect, and the Contractor shall review the work to confirm the requirements

of the Contract have been satisfied. Any corrective work necessary will be addressed at that time, prior to expiration of the warranty. The requirement will not modify any of the Contractor's obligations relative to warranties that are in effect for a period greater than one year.

3.5.6 If within the warranty period, any portion of the materials, equipment, and work is found to be defective or not in accordance with the contract documents, the Contractor shall correct the problem at his own cost and expense. The payment of the contract sum shall not constitute an acceptance of the work not performed in conformance with the contract documents.

3.5.7 Any applicable warranties shall be transferred to the Owner by the Contractor at no additional cost or expense to the Owner.

3.6 TAXES renumber first paragraph to 3.6.1 and add the following:

3.6.2 In the event the Owner is exempt under the provisions of the New Jersey Sales and Use Tax Act. Bidders are expected to comply with the provisions of the Act and rules and regulations promulgated pursuant thereto to qualify for exemptions with reference to any and all labor, service and materials supplied to or furnished in connection with the work to be performed. New Jersey State Sales and Use Tax on labor, service and materials provided by the Contractor, its Subcontractors, and suppliers used in this Project shall not be included in its Bid.

3.7 PERMITS, FEES, NOTICES, AND COMPLIANCE WITH LAWS add the following:

3.7.1.1 Contractor shall secure and pay for those items and it shall be included in his base bid.

3.7.1.2 The General Contractor will be responsible to take out and pay for any Bonds and insurance certificates required by the local Building Official, the County, the Municipality and all governmental authorities with jurisdiction over this project. Each Prime Contractor shall be responsible for filling out permits for its work under contract.

3.7.1.3 The code reviews and costs associated with code reviews have been paid or will be paid by the Owner to the New Jersey Department of Community Affairs or to the Local Code Official. Approved sets will be provided to the Contractor to file with the Local Officials and fill out permit information. Permits will be issued based upon the previously reviewed and approved drawings.

3.7.3.1 The Contractor is responsible for the scheduling and coordination of any inspections covered by local Code enforcement officials or agencies. The Architect is to be notified of all scheduled inspections when they are ordered. The Contractor must further ensure that the work to be inspected is properly completed and ready for inspection and that all equipment necessary to conduct the inspection (i.e. gauges, meters, etc.) is in place and in proper working order.

3.7.3.2 The Contractor shall be solely responsible for the coordination and scheduling of the Utility Company. The Contractor must plan to allow a minimum of 60 days notice when the Utility Company is to furnish new poles or equipment. In the event the Owner is

required to enter into a formal agreement with the Utility Company, the Contractor agrees to be bound by the terms thereof and to assume full responsibility for all requirements and obligations imposed upon the Owner by the Utility Company, including but not limited to any indemnification provisions.

- 3.7.4 Concealed or Unknown Conditions: renumber the first paragraph to 3.7.4.1 and add the following

In condition (1) add the words “elevational, dimensional,” before the words at the beginning of the sentence.

- 3.7.4.2 No adjustment in Contract Time or Contract Sum shall be permitted, however, in connection with a concealed or unknown condition that does not differ materially from those conditions disclosed or that reasonably should have been disclosed by the Contractor’s (i) prior inspections, tests, reviews, and pre-construction services for the Project, or (ii) inspections, tests, reviews, and pre-construction services that the Contractor had the opportunity to make or should have performed in connection with the Project.

- 3.9 SUPERINTENDENT add the following:

- 3.9.1.1 The superintendent shall have a minimum of 15 years of experience in construction. The Contractor’s superintendent shall perform only supervisory work and shall not be an active tradesman or be assigned to do manual work on the Project. Communications which the Contractor intends to rely upon shall be confirmed in writing.

- 3.9.1.2 When the project involves multiple project sites the Contractor is to assign a separate superintendent to each site who will be responsible for that particular site only.

- 3.9.1.3 The number of necessary assistants to the superintendent shall be such that work in progress shall be adequately supervised by each Contractor’s superintendent or one of his assistants. If, in the Architect’s opinion, the quality or progress of work is adversely affected by lack of adequate supervision, the Contractor shall increase the number of supervisory personnel at no increase to the Contract sum.

- 3.9.2. Delete the text of the paragraph and substitute the following:

The Contractor, as soon as practicable after award of the Contract, shall submit the name and qualifications of the Superintendent to the Owner for its approval. The Owner may conduct an interview of the Superintendent. Once approved, the Superintendent shall not be changed without the prior written approval of the Owner.

- 3.9.3 Delete the text of the paragraph and substitute the following:

The Superintendent shall not be removed from the work until all corrective and punch list items are completed to the Owner’s satisfaction.

- 3.10 CONTRACTOR'S CONSTRUCTION AND SUBMITTAL SCHEDULES add the following:

- 3.10.1.1 Contractor shall, within fourteen (14) calendar days after issuance of a Notice of Award, submit a draft Construction Schedule detailing logic, tasks and durations along with a detailed submittal schedule to the Architect and Owner, for the Architect's and Owner's information prepared in accordance with Section 013200 Construction Progress Documentation or approved equal along with a coordinated, detailed submittal schedule in accordance with Article 3.12.12, for work of the entire Project.
- 3.10.1.2 Seven (7) calendar days after the Architect and Owner receive the Contractor's coordinated, detailed draft Construction Schedule, the President of the Company or Corporation shall meet to review, and sign off on the coordinated detailed Contractor's Construction Schedule in the presence of the Architect and Owner's designee. Failure of the Contractor to sign off on the Contractor's Construction Schedule shall result in the assessment of liquidated damages as outlined in article 8.4. The schedule shall not exceed time limits current under the Contract Documents for substantial completion of any phases and that of the entire Project. The Contractor's Construction Schedule shall be updated by the Contractor to reflect the status of its work in relation to the Contractor's Construction Schedule, and any recommended changes in the sequencing and scheduling. The Contractor's Construction Schedule shall be updated at least every 30 calendar days or updated as often as deemed necessary by the Architect. Upon 4 working days of such request by the Architect, the Contractor shall submit a revised draft Construction Schedule update to the Architect. The updated Contractor's Construction Schedule will be reviewed at each Job Meeting and the Contractor is required to have a representative present at the Job Meeting with written authorization from the President of the Company or Corporation to review, agree upon, and sign-off on any approved and agreed upon changes to the updated Contractor's Construction Schedule. Failure by Contractor to correct the scheduled update in the time required shall result in a reduction in the Contractor's Contract Amount of FIVE HUNDRED (\$500.00) per each occurrence as liquidated damages. In addition, payment to the Contractor may result in the withholding of payments to the Contractor, and in the liability of the Contractor for liquidated damages for the failure of the Project to be completed within the designated time. Any acceleration of the Contractor's Construction Schedule shall be agreed upon and approved by the Architect and Owner's designee.
- 3.10.1.3 Reference to procedures concerning Submittals shall be construed to incorporate all submittals including Contractor's Submittal Schedule of all products (to be received by the Architect within the time designated from the Notice to Proceed as indicated in article 3.10.1), Submittal Matrix (for substitute products and materials and included in Section 009000 Project Forms), Manufacturer's published literature, shop drawings, samples, design and other data. Each submittal is required to be accompanied by a fully completed submittal cover sheet, Section 009000 – Project Forms, Form 009310 – Submittal Cover Sheet, included in the Project Manual.
- 3.10.1.4 Submittal Schedules shall be prepared and incorporated into the Contractor's Construction Schedule as indicated in Section 013300 – Submittal Procedures. Contractor shall include the following considerations when preparing the submittal schedule so that approved products are at the project site ready for installation in accordance with the time established in the Contractors' Construction Schedule to avoid delays.

- 3.10.1.5 In the absence of a signed change order approving an extension of time, the Contractor Construction Schedule updates must show substantial completion date consistent with the date required in paragraph 8.1.5 of these Supplementary Conditions. Changes in logistics or duration shall not be made, except for good cause, and shall not result in an extension of the time for substantial completion. In the event certain aspects of the work fall behind the Contractor's Construction Schedule, the Contractor shall develop a recovery plan to revise logistics, add manpower resources to reduce durations, expedite procurement or advance start of activities, to get the project back on a schedule that will assure completion in accordance with the substantial completion date, which shall be agreed upon and approved by the Architect and Owner's designee.
- 3.10.1.6 When the schedule is complete and in compliance with 3.10.1.2, the schedule will become part of the construction documents, and shall be altered only in accordance with duly authorized change orders for extension of time in accordance with Article 8.3.
- 3.10.1.7 All work that may, as determined by the owner and/or Architect, be disruptive or interfere with sanitary conditions, plumbing, mechanical, electrical or the safety or activities of the building's occupants and/or may include noisy work, shall be performed after business hours, on weekends, and/or holidays so as not to interfere with scheduled activities and public safety, at no additional cost to the owner. In the event the Contractor does not meet the substantial completion date, the Contractor shall be responsible for fully cleaning all areas utilized by the owner's operations and where work is being performed at the end of each Contractor's work session, to the owner's satisfaction so the area can be used for scheduled activities the following day. In the event the areas are not cleaned to the owner's satisfaction, the owner will clean the said areas as deemed necessary prior to the next regularly scheduled opening of operations for the next business day and deduct all associated costs of cleaning from the contract amount.
- 3.10.2.1 The Contractor shall deliver written evidence to the Architect that materials and equipment necessary for the timely installation and completion of the Work will be available, provided that failure to deliver such written evidence shall not excuse Contractor's obligation to timely furnish and install materials and equipment and to complete the Work.
- 3.10.3 Delete this paragraph and replace with the following:
- The Contractor shall cooperate with the Owner in providing schedules updates and notification notices which may impact the Owner's operations. The Contractor will coordinate with the Owner to provide school bus companies, trash hauling companies, and others with the proposed construction schedules, anticipated detours and duration.
- 3.10.4 The Contractor shall work his forces overtime, at his expense, if required to maintain the Progress Schedule established.
- 3.10.5 The Contractor shall make proper assignments of employees in order to preclude labor, jurisdiction or like dispute, and if such disputes arise, do all things necessary to effect a prompt settlement thereof, including reference of such disputes to labor representatives or other established construction industry agencies for resolution, and be bound by their decisions.

3.10.6 The Contractor shall, within 24 hours after rejection of Work pursuant to Subparagraph 4.2.6 of the General Conditions, remove all materials and equipment so rejected and immediately replace said Work, at his cost, to the satisfaction of the Architect. Should the Work of the Owner or other contractors be damaged by such removal or replacement, the Contractor shall reimburse the Owner and other contractors and subcontractors for all costs incurred by them for correcting said damage.

3.10.7 The Contractor shall perform the work in accordance with the most recent schedule submitted to the Architect. In the event the Contractor fails to perform work in accordance with the schedule, at the Architect's request, the Contractor shall provide a recovery schedule, reflecting the Contractor's commitment to complete the work in accordance with the contract documents, including but not limited to double shifts, overtime, evening, and weekend work; at the Contractor's expense. Nothing contained herein shall be construed so as to prevent the Owner from resorting to its contractual remedies, including but not limited to liquidated damages, withholding of certification of payment, and termination due to Contractor's failure to perform work in accordance with the schedule.

3.12 SHOP DRAWINGS, PRODUCT DATA AND SAMPLES add the following:

3.12.1.1 Should Contractor wish to substitute a specified item, Contractor will submit a complete Submittal Matrix For Substitution Evaluation as Approved Equal form as provided in Section 009000 – PROJECT FORMS prior to the Architect/Engineer's consideration of a substitution.

3.12.4.1 Architect's review is for general conformance with the Design Concept and Contract Documents. Markings or comments shall not be construed as relieving the Contractor from compliance with all requirements of the Project Manual, Drawings, and Addenda. No departures there from, are to be considered as authorizing extra work or relieving the Contractor of work required within the contract. The Contractor remains responsible for materials, dimensions, details and accuracy for confirming and correlating all quantities and dimensions, and warranty/guarantee requirements and other conditions of the contract, etc. for selecting fabrication process and techniques of assembly, for performing this work in a safe and satisfactory manner, and of coordinating this work with that of all other trades.

3.12.5 Delete this paragraph and replace with the following:

The Contractor shall review for compliance with the Contract Documents, approve, and submit to the Architect Shop Drawings, Product Data, Samples and similar submittals required by the Contract Documents or otherwise required by the Owner or Architect in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of the Owner or of separate contractors. Submittals which are not marked as reviewed for compliance with the Contract Documents and approved by the Contractor may be returned by the Architect without action. The following submittal schedule will be mandatory; time is from the date of the

notice to proceed in consecutive calendar days: All contracts and trades - thirty (30) days.

3.12.7.1 Submittals that require coordination with other products, installation of other products, or owner operations, etc. shall be submitted together as a coordinated package or they will not be reviewed by the Architect. Coordination of all items is the responsibility of the Contractor. Contractor will replace non-compatible components to the Architect's satisfaction at no additional cost.

3.12.8.1 Work performed contrary to the procedures set forth in this Article 3.12 shall be at the risk and expense of the Contractor. All shop drawings used for fabrication and erection shall be those reviewed by the Architect, without change. If change is found to be necessary on any reviewed shop drawing, product data or sample, it shall be resubmitted for further review.

3.12.10 & 3.12.10.1 & 3.12.10.2 Delete these paragraphs and replace with the following:

3.12.10 The Contractor shall not be required to provide professional services that constitute the practice of architecture or engineering unless such services are specifically required by the Contract Documents for a portion of the Work or unless the Contractor needs to provide such services in order to carry out the Contractor's responsibilities for construction means, methods, techniques, sequences and procedures. The Contractor shall not be required to provide professional services in violation of applicable law. If professional design services or certifications by a design professional related to systems, materials or equipment are specifically required of the Contractor by the Contract Documents, the Owner and the Architect will specify all performance and design criteria that such services must satisfy. The Contractor shall cause such services or certifications to be provided by a properly licensed design professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, Shop Drawings and other submittals prepared by such professional. Shop Drawings and other submittals related to the Work designed or certified by such professional. The Owner and the Architect shall be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications and approvals performed or provided by such design professionals, provided the Owner and Architect have specified to the Contractor all performance and design criteria that such services must satisfy. Pursuant to this Section 3.12.10, the Architect will review, approve or take other appropriate action on submittals only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Contractor shall bear full responsibility for any and all costs incurred by the Owner, including architectural fees and reasonable attorneys' fees in connection with any and all deviations to the Contractor's submittals which were not approved by the Architect.

3.12.11 Submittals shall indicate materials, dimensions, seismic bracing in accordance with IBC International Building Code 2015, New Jersey Edition for Architectural, Mechanical and Electrical Component Seismic Design Requirements, and job conditions, including clearances required in relationship with the work of their trades. Contractor shall be responsible for verification of existing conditions and coordinating with the work of other

trades. Drawings shall be of sufficient size and drawn to sufficient scale to clearly show all details.

- 3.12.12 Submittals shall indicate compliance with seismic design requirements in accordance with IBC International Building Code 2015, New Jersey Edition for Architectural, Mechanical and Electrical Component Seismic Design Requirements. Provide seismic calculations signed and sealed by a Professional Engineer licensed in the state where the Project is located as required.
- 3.12.13 Submittals of Shop Drawings and other data, where possible, shall be submitted electronically in PDF Format.
- 3.12.14 Material Safety Data Sheets (MSDS): Submit Material Safety Data Sheets directly to the Owner; do not submit to the Architect/Engineer unless otherwise indicated. Architect/Engineer will not review submittals that include MSDS and will return entire submittal for resubmission.
- 3.12.15 In accordance with N.J.S.A. 18A:18A-20, “American goods and products to be used where possible”, only manufactured and farm products of the United States, wherever available, shall be used in this project.
- 3.12.16 Submittals shall contain a Contractor’s stamp of approval, signed and dated by the submitting Contractor, prior to submission to the Architect. Such stamp of approval by the Contractor shall be confirmation that he has determined and verified materials, field measurements, and field construction criteria related thereto, and has checked and coordinated the information contained within such submittals. The Contractor shall also note in writing to the Architect, all deviations to the Contract Documents. Submittals will not be reviewed by the Architect/Engineer unless they contain such a stamp containing the words “Reviewed and Approved” accompanied by the Contractor’s signature and date.
- 3.12.17 When brand, make, quality, etc., is not specified definitely, Contractor shall submit written documentation to the Architect for the particular kind of brand which he desires to use, altering or substituting others if not satisfactory.
- 3.12.18 If a substitution submittal differs from the design intent of the Contract documents, and all associated modifications to the design intent are not identified and included with the submission, all consequential additional costs associated with the substitution including, but not limited to, modifications to existing and new construction, building structure, plumbing, HVAC, electrical systems and all other modifications to not yet constructed work shall be borne by the contractor responsible for the submittal.
- 3.12.19 Consequential Substitution Impact Fees: If the Contractor makes, or causes to be made, due to impact from approval of substitutions of other than specified equipment and components, any substantial change in the form, type, system, and details of construction from those indicated in the Contract Documents, the Contractor shall be responsible for payment of all impact costs arising from such changes. Impact costs include, but are not limited to, any additional costs to the Owner inclusive of Architectural, Engineering, and

Attorney fees, Code Review and Permit fees as well as all documented impact costs borne by other Contractors resulting from such substitutions. Impact cost shall also include associated re-design, demolition and re-construction work, additional new construction work as may be required, and compliance with and maintenance of existing warranties, etc.

3.13 USE OF SITE add the following:

- 3.13.1 Add 3.13.1 prior to first paragraph.
- 3.13.2 Contractors shall use the site in a manner that will cause minimum interference and maximum safety to the occupants of the building and the general public. Contractor must have prior approval of the Architect and Owner for locations of stored materials, access, trailer locations, etc.
- 3.13.3 In addition to site utilization limitations and requirements shown on Drawings and indicated by the Contract Documents, the Contractor shall administer allocation of available space within Construction area so as to produce best overall efficiency in performance of total work of Project. The Contractor shall schedule deliveries so as to minimize time and space requirements for storage of materials and equipment on site.
- 3.13.4 Contractors may seek approval from the Owner to work weekdays, evenings, nights, weekends, and may be subject to reimburse/pay for all costs, i.e., custodial fees/OT, etc. Refer to the summary section 011000 for additional work restrictions. It is the Contractor's responsibility to ensure that his work is performed at times permitted by local ordinances and within such noise levels as may be mandated by the Township. The Contractor shall assume full responsibility for any violations committed in whole or in part by the Contractor or its subcontractors which may be charged to or assessed against the Owner and shall indemnify and hold harmless the Owner for any and all fines, costs and expenses of any kind, including reasonable attorney's fees, which may be charged to, assessed against, or incurred by the Owner in connection with such violations.

3.15 CLEANING UP add the following:

- 3.15.1.1 The Contractor shall maintain the Project construction area, streets, sidewalks and adjacent property clean, free of debris, dirt, unusable materials, garbage, etc. at all times until the Project is accepted by the Owner. The Contractor shall clean and provide maintenance on completed construction included in their scope of work, after installation, and as frequently as necessary through the remainder of the construction period. The Contractor shall be held responsible for removal of all their debris and excess material from the work area to dumpsters furnished by the Contractor.
- 3.15.1.2 The Contractor shall supervise its construction operations to assure that no part of the construction completed or in progress, is subject to harmful, dangerous, damaging, or otherwise deleterious exposure during the construction period.
- 3.15.2 Delete this paragraph and replace with the following:

The Contractor will be given 24 hours' notice to clean up as directed by the Architect and required by the contract, and if he does not comply, the Architect will arrange for other means to achieve the daily clean up and the Contractor will be back charged.

3.18 INDEMNIFICATION add the following:

3.18.1 Delete this paragraph and replace with the following:

To the fullest extent permitted by law the Contractor shall defend and indemnify and hold harmless the Owner, Architect, Architect's consultants, and agents and employees of any of them from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting directly or indirectly from performance of the Work, including but not limited to:

- (1) the acts or omissions of the Contractor, its agents, servants, officers, employees, subcontractors, subconsultants or any other person working at the Contractor's request, subject to its direction, or on its behalf;
- (2) the loss of life or property, or injury or damage to the person, body or property of any person or persons whatsoever, that arises or results directly or indirectly from performance of the work or delivery of deliverables by the Contractor, its agents, servants, officers, employees, subcontractors, subconsultants, or any other person acting at the Contractor's request, subject to its direction, or on its behalf;
- (3) any negligence, default, breach, or errors or omissions of the Contractor, its agents, servants, officers, employees, subcontractors, subconsultants, or any other person acting at the Contractor's request, subject to its direction, or on its behalf;
- (4) violation or non-compliance with federal, state, local, municipal laws and regulations, ordinances, building codes (including without limitation the Americans with Disabilities Act, OSHA, Environmental Protection Act) arising from the performance or non-performance of; or arising out of conditions created or caused to be created by, the Contractor, its agent, servants, officers, employees, subcontractors, subconsultants, or any other person acting at the Contractor's request, subject to its direction, or on its behalf; and
- (5) the use of copyrighted or uncopyrighted composition, secret process, patented or unpatented invention, article or appliance furnished or used in the 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), or willful acts or omissions of the Contractor, a Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, including whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this Section 3.18.

- 3.18.2.1 The Contractor's defense and indemnification obligation is not limited by, but is in addition to the insurance obligations contained in the contractual documents.
- 3.18.3 The Contractor agrees that any approval by the Owner of the work performed, and/or reports, plans, or specifications provided by the Contractor shall not operate to limit the obligations of the Contractor under the Contract Documents; and that the Owner assumes no obligations to indemnify or save harmless the Contractor, its agents, servants, officers, employees, subcontractors, subconsultant, against all claims that may arise out of its performance or nonperformance under the Contract Documents; and that the provisions of this defense and indemnification clause shall in no way limit the Contractor's obligations under the Contract Documents, nor shall they be construed to relieve the Contractor from any liability, nor preclude the Owner from taking any other actions available to it under any other provisions of the Contract Documents or otherwise at law or equity.
- 3.18.4 The provision of this section shall survive the termination of the Contract Documents.

ARTICLE 4 – ARCHITECT

4.2 ADMINISTRATION OF THE CONTRACT Add the following:

- 4.2.4.1 Any correspondence received after 4:00 PM prevailing time (the end of the business day) will be recognized as being received on the beginning of the next business day, Saturdays, Sundays, or holidays excepted and correspondence received on Saturdays, Sundays, and holidays will be recognized as received on the beginning of the next business day.
- 4.2.7.1 Whenever a material, article or piece of equipment is identified on the Plans or in the Specifications by reference to Manufacturers' or Vendors' names, trade names, catalogue numbers, etc., it is intended merely to establish a standard, and any material article, or equipment of other manufacturers and vendors which will perform adequately equal to or better than, the duties imposed by the general design, will be considered equally acceptable provided the material, article, or equipment so proposed is, in the opinion of the Architect of equal or better substance and function. The material, article or equipment so proposed shall not be purchased or installed by the Contractor without the Architect's written approval.
- 4.2.7.2 The acceptance of any material or method shall be understood as an acceptance only insofar as conforming to Specification requirements, and not as an absolute acceptance without respect to the requirements of the Specifications.
- 4.2.7.3 The typical time frame is three weeks for the Architect to review, and four weeks for the Architect and Engineer to review when an Engineer is also involved in the review.
- 4.2.10 Delete this paragraph and replace with the following:
- If the Owner and Architect agree, the Architect will provide one or more project representatives to assist in carrying out the Architect's responsibilities at the site. The

duties, responsibilities and limitations of authority of such project representatives shall be as set forth in the Agreement between the Owner and Architect.

4.2.11 Delete this paragraph and replace with the following:

The Architect will interpret and decide matters concerning performance under and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect's response to such requests will be made in writing within any time limit agreed upon or otherwise with reasonable promptness, but in no event more than fifteen (15) days after receipt of the request by the Architect.

- 4.2.14.1 All requests for information shall be submitted by the Contractor, in the Architect's discretion, on the Request for Information form provided by the Architect. The Contractor shall clearly and concisely set forth the issue for which the clarification or interpretation is sought and why a response is needed from the Architect. In the Request for Interpretation, the contractor shall set forth an interpretation or understanding of the requirement along with reasons why such an understanding was reached.
- 4.2.14.2 The Contractor shall bear all costs associated with the Request for Information including but not limited to architectural fees where such information is available to the Contractor from a careful study and comparison of the Contract Documents, field conditions, other Owner-provided information, Contractor prepared coordination drawings, or prior Project correspondence or documentation.
- 4.2.14.3 The Architect will review all Requests for Information to determine whether they are Requests for Information with the meaning of this term. If the Architect determines that the document is not a Request for Information, it will be returned to the Contractor, unreviewed as to content, for resubmittal on the proper form and in the proper manner.
- 4.2.14.4 Responses to Requests for Information shall be issued within five (5) working days of receipt of the request from the Contractor unless the Architect determines that a longer time is necessary to provide an adequate response. If a longer time is determined necessary by the Owner, the Architect will within five (5) working days of the receipt of the request, notify the Contractor of the anticipated response time. The Contractor shall not be entitled to any time extension due to the time it takes the Architect to respond to the Request for Information provided that the Architect responds within reasonable promptness.
- 4.2.14.5 Responses from the Architect will not change any requirement in the Contract Documents. In the event the Contractor believes that a response to a Request for Information will cause a change to the requirements of the Contract Documents, the Contractor shall immediately give written notice to the Owner stating that the Contractor considers the response to be a Change Order. Failure to give such written notice immediately shall waive the contractor's right to seek additional time or cost under these General Conditions.

ARTICLE 5 - SUBCONTRACTORS

5.2 AWARD OF SUBCONTRACTS AND OTHER CONTRACTS FOR PORTIONS OF THE WORK add the following:

5.2.1 Delete this paragraph and replace with the following:

Within twenty (20) days after the Notice to Proceed, the Contractor shall furnish to the Architect in writing, for review by the Owner and the Architect, a list of the names of all subcontractors, sub-subcontractors, fabricators, manufacturers, sources of supply, articles, devices, fixtures, pieces of equipment, materials and processes proposed for each item of work on List of Subcontractors, AIA Document G805. The Architect will promptly notify the Contractor, in writing, if either the Owner or the Architect, after due investigation, has any objection to any names on such list. Failure of the Owner or Architect to make objection promptly to any name on the list shall constitute acceptance of such name. In no event shall the Contractor substitute a subcontractor who is named by the Contractor in the bid documents. A Business Registration Certificate and a Public Works Contactor Registration Act Certificate must be furnished for each subcontractor as required by applicable law.

5.2.2.1 In submitting the names of subcontractors, the Contractor shall list 1) the extent of limitations of the trades or work included by specifications paragraph number, 2) the name and address of the subcontractor; 3) the name and address of all sub-subcontractors for each significant subdivision of the trade or work, and if required by the Architect, 4) reference in the form of a list of at least three (3) jobs similar in size and quality to this Project performed in the last five (5) years, with name and location of work, dollar value and names of the Owner and Architect.

5.2.2.2 In submitting sources in supply of materials, articles and pieces of equipment including those under subcontracts and sub-subcontracts, the Contractor shall list 1) the extent or limitations of the trades or work included by Specifications, paragraph number 2) the name and address of the source of supply 3) the name of the manufacturer of the items.

5.2.3 Delete this paragraph and replace with the following:

If the Owner or Architect has objection to a person or entity proposed by the Contractor, the Contractor shall propose another to whom the Owner or Architect has no objection.

5.2.4 Delete this paragraph and replace with the following:

The Contractor shall not substitute a Subcontractor, person or entity previously selected without the consent of the Owner.

5.2.5 Contractor shall defend, indemnify, and hold the Owner harmless against any claims brought by a subcontractor, supplier or any other entity, claiming a violation of N.J.S.A. 18A:18A-18 or the improper or illegal substitution of a subcontractor, supplier or other entity.

5.4 CONTINGENT ASSIGNMENT OF SUBCONTRACTS delete the following:

5.4.2 Delete this paragraph in its entirety.

- 5.4.3 Renumber paragraph to 5.4.2.

ARTICLE 6 - CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS

- 6.1 OWNER'S RIGHT TO PERFORM CONSTRUCTION AND AWARD SEPARATE CONTRACTS add the following:

- 6.1.4 Delete this paragraph and replace with the following:

Unless otherwise provided in the Contract Documents, when the Owner performs construction or operations related to the Project with the Owner's own forces, the Owner shall be deemed to be subject to the same obligations and to have the same rights that apply to the Contractor under the Conditions of the Contract, including, without excluding others, those stated in Article 3, this Article 6 and Articles 10, 11 and 12, provisions relating to Construction Schedules, and Supplemental Project Requirements relating to coordination and cooperation among Prime Contractors.

- 6.1.4.1 The Contractor shall coordinate all phases of the Work with the Architect and the Owner's representatives and own forces.

- 6.2 MUTUAL RESPONSIBILITY add the following:

- 6.2.3 Delete this paragraph and replace with the following:

The Contractor shall reimburse the Owner for costs the Owner incurs that are payable to a separate contractor because of the Contractor's delays, improperly timed activities, or defective construction of the contracts, or any other cause or reason within the Contractor's contract.

- 6.2.4 Delete this paragraph and replace with the following:

The Contractor shall promptly remedy damage the Contractor or any of the Contractor's Subcontractors wrongfully causes to completed or partially completed construction or to property of the Owner or separate contractors as provided in Section 10.2.5.

- 6.2.4.1 Should a Contractor cause damage to the work or property of any other Contractor or Vendor on the project, the Contractor shall, upon due notice, promptly settle with such other Contractor or Vendor by agreement or otherwise resolve the dispute. If such other Contractor or Vendor sues or institutes arbitration proceedings against the Owner on account of any damage alleged to have been sustained, the Contractor shall indemnify and hold harmless the Owner and Architect and defend them in such proceeding at its own expense, and if any judgment against the Owner or Architect arises therefrom, the Contractor shall pay or satisfy it, and shall also reimburse the Owner or Architect for any Architect's, Engineer's, and Attorney's fees and Court costs which the Owner or Architect has incurred.

- 6.2.6 The Contractor shall be responsible for proceeding with work in a manner that will not void any and all guarantees and warranties held by the Owner on the existing systems and

facility. Contractors shall include in their Bid sufficient cost to hire a representative of the Manufacturer or Contractor covering a warranty or guaranty on existing materials to advise on, and oversee work being done that affects the warranties and guaranties so as not to void existing warranties and/or guaranties. Contractor shall comply with the Manufacturer's/Contractor's representative's requirements to maintain guaranties and warranties intact.

6.3 OWNER'S RIGHT TO CLEAN UP add the following:

Add 6.3.1 before the first paragraph.

- 6.3.2 This obligation shall apply to clean-ups required not only during the course of construction, but also as of completion of work. In the event that the Owner is required to incur extra costs, by way of overtime charges or otherwise in the execution of its rights under this provision, those costs shall be chargeable to the Contractor.

ARTICLE 7 - CHANGES IN THE WORK

7.1 GENERAL add the following:

- 7.1.4 Wherever the estimated quantities of work to be done and materials to be furnished on a unit price basis under this Contract are shown in any of the Documents including the Proposal, they are given for use in comparing Bids, and the right is expressly reserved except as herein otherwise specifically limited, to increase or diminish them as may be deemed reasonably necessary or desirable by the Owner to complete the work contemplated by this Contract and such increase or diminution shall in no way invalidate this Contract, nor shall any such increase or diminution give cause for claims or liability for damages.

- 7.1.5 The allowance for overhead and profit combined may vary according to the nature, extent and complexity of the work, but shall in no event exceed the following schedule:

.1	For the Contractor, for Work performed by his own forces	10% of cost
.2	For each Subcontractor, for Work performed by his own forces	10% of cost
.3	For the Contractor, for Work performed by a Subcontractor	5% of cost

In no event shall the total allowance for overhead and profit exceed 15% of the net cost of the work, including all lower tiered sub-subcontractors.

- 7.1.6 If the net value of a change results in a credit from the Contractor or Subcontractor, the credit given shall be the net cost without overhead or profit. The cost as used herein shall include all items of labor, materials, and equipment together with the cost of all insurance, bonds, use of small tools, incidental job burdens, general office expenses, engineering, cleaning, transportation and all other conditions referenced in the Contract Documents. No percentages for overhead and profit will be allowed on employment taxes under FICA and FUTA that will be based on the Contractor's last quarterly 941 form. When both additions and credits are involved in any one change, the allowance for overhead and profit shall be figured on the basis of net increase, if any.

7.1.7 Where they apply, unit prices for additions or deductions as stated in the Contract Documents shall always be used as the basis for determining the cost or credit to the Owner for any changes made no matter what overall method is used for such determination.

7.1.8 Lump sum quotations for changes in the Work will not be accepted. Proposals shall be completely itemized and broken down. They shall be accompanied by such supporting data as the Architect may require such as copies of Subcontractors or Vendor's quotations quantity take-off sheets or other similar information. The Owner has the right to audit all changes and claims.

7.2 CHANGE ORDERS add the following:

7.2.2 Change orders shall be subject to the restrictions contained in N.J.A.C. 6A:26-4.9. Any provision of the General Conditions of the Contract for Construction which is inconsistent with N.J.A.C. 6A:26-4.9 shall be superseded by the State Board of Education regulation.

7.5 RIGHT TO AUDIT THE CONTRACTOR'S BOOKS AND RECORDS New Article:

7.5.1 The Owner shall have the right to appoint an auditor to audit and review the Contractor's financial books and records of account in connection with any claim by the Contractor, Change Order, or Construction Change Directive.

ARTICLE 8 - TIME

8.1 DEFINITIONS add the following:

8.1.5 All time limits set forth in the Agreement are of the essence. By executing the Agreement, the Contractor confirms that the contract time is a reasonable period for performing the Work. Work will commence within TEN (10) CALENDAR DAYS after issuance of written "Notice to Proceed" and be substantially completed in accordance with the Contract Documents and Contractors' Coordinated Construction Schedule for substantial completion of the entire Project in accordance with Section 011000 – Summary, Article 1.5 Work Phases. All time limits stated in the contract are of the essence.

8.2 PROGRESS AND COMPLETION add the following:

8.2.4 The Contractor shall furnish such manpower, materials, facilities, and equipment and shall work such hours, including night shifts, overtime operations and Sundays and holidays, as may be necessary to insure the performance and completion of the Work in accordance with the approved and currently updated and approved Schedule. Should it become apparent from the current Schedule that the Work will not be completed within the Contract Time, the Contractor agrees that he will, as necessary, take some or all of the following actions at no additional cost to the Owner or Architect and reimburse/pay for all costs, i.e., custodial fees/OT, etc. (Refer to the summary section 011000 for additional work restrictions) to improve the progress of the Project..

- 8.2.4.1 Increase manpower in such quantities and crafts as will substantially eliminate, in the judgment of the Architect, the backlog of Work;
- 8.2.4.2 Increase the number of working hours per shift, shifts per working day, working days per week, the amount of equipment, or any combination of the foregoing, sufficiently to substantially eliminate, in the judgment of the Architect, the backlog of Work; and,
- 8.2.4.3 Reschedule activities to achieve maximum practical concurrence of accomplishment of activities.
- 8.2.5 The Architect may require the Contractor to suggest revisions to the Schedule in writing demonstrating its program and proposed plan to make up the delay to ensure completion of the Work within the Contract Time. If the Architect finds the proposed plan not acceptable, the Architect may require the Contractor to take any of the actions set forth in this Article without additional cost to the Owner to make up the lag in scheduled progress.
- 8.2.6 Should the Contractor fail to achieve Substantial Completion in accordance with the date established in the Contract Documents, the Contractor shall reimburse the Owner for all professional fees plus expenses incurred by the Owner for additional services required of the Architect, Engineer, and Owner's Attorney resulting from the failed performance by the Contractor to meet the Contract Substantial Completion Date.

8.3 DELAYS AND EXTENSIONS OF TIME

- 8.3.1 Delete this paragraph and replace with the following:

If the Contractor is delayed at any time in the commencement or progress of the Work by (1) an act or neglect of the Owner or Architect, or of an employee of either, or of a separate contractor employed by the Owner; or (2) by changes ordered in the Work; or (3) by labor disputes, fire, unusual delay in deliveries, unavoidable casualties, adverse weather conditions documented in accordance with section 15.1.6.2, or other causes beyond the Contractor's control; or (4) by delay authorized by the Owner pending litigation or mediation; or (5) by other causes that the Contractor asserts, and the Architect determines justify delay, then the Contract Time shall be extended by Change Order for such reasonable time as the Architect may determine and the Owner approve.

- 8.3.3 Delete this paragraph and substitute the following:

In accordance with N.J.S.A. 18A:18A-41, in no event shall the Contractor be entitled to collect damages from the Owner or Architect as a result of any Project delay not solely caused by the Owner's negligence, bad faith, active interference, tortuous conduct, or unforeseen circumstances unanticipated by the parties, which were not otherwise foreseeable, as more particularly described in Article 8.4.4. The Contractor is aware that its ability to complete its portion of the Project could be hindered or delayed by the actions or inactions of other Contractors on the Project or other causes not attributable to the Owner's negligence, bad faith, active interference or tortuous conduct or unforeseen circumstances unanticipated by the parties, which were not otherwise foreseeable, as more particularly described in Article 8.4.4. The Contractor's sole remedy for delays by

the Owner's negligence, bad faith, active interference, tortuous conduct or unforeseen circumstances unanticipated by the parties, which were not otherwise foreseeable, as more particularly described in Article 8.4.4 shall be the actual out of pocket expenses incurred by the Contractor directly attributable to the delays caused solely by the Owner or unforeseen circumstances unanticipated by the parties, which were not otherwise foreseeable, as more particularly described in Article 8.4.4. The Contractor's sole remedy for delays caused by any reason other than the Owner's negligence, bad faith, active interference, tortuous conduct or unforeseen circumstances unanticipated by the parties, which were not otherwise foreseeable, as more particularly described in Article 8.4.4 shall be an extension of time to complete the Project.

- 8.3.4 To the fullest extent permitted by law, no payment, compensation or adjustment of any kind (other than the extensions of time provided for in Paragraph 8.3.1) shall be made to the Contractor by the Owner or Architect for direct, indirect, or impact damages, including but not limited to costs of acceleration or loss of revenue, overhead or profit, arising because of hindrances or delays being avoidable or unavoidable, reasonable or unreasonable, other than delays adjudicated as attributable to solely the Owner's negligence, bad faith, active interference, or tortuous conduct or unforeseen circumstances unanticipated by the parties, which were not otherwise foreseeable, as more particularly described in Article 8.4.4. The Contractor agrees that he will make no claim against the Owner or Architect for payment, compensation, damages, mitigation of liquidated damages, or adjustment of any kind for such hindrances or delays, and will accept such extensions of time in full satisfaction for any and all alleged claims against the Owner and Architect for any and all such hindrances or delays in all cases where the Owner's negligence, bad faith, active interference, or tortuous conduct or unforeseen circumstances unanticipated by the parties, which were not otherwise foreseeable, as more particularly described in Article 8.4.4, is not the sole cause of the delay. No additional payment will be made for reason of extension of time to any contractor in the completion of work. No claims for extra cost by any contractor will be granted by reason of the construction not being completed within the contract time.
- 8.3.5 The provisions of this Article shall not be so interpreted or construed as to preclude or prevent the Contractor from making and prosecuting any claim against any separate Contractor engaged by the Owner for damages alleged to have been caused or occasioned by any such separate Contractor. Any delay attributable to another contractor shall be brought by the contractor as a direct action against the delaying contractor.
- 8.3.6 Any delay attributable to lack of coordination or cooperation by and between the Contractor or his Subcontractors, if any, will not be recognized by the Owner as the basis for any claim for increase in any Contract Sum, but shall be settled as provided in the General and Supplementary Conditions.
- 8.3.7 An extension of time shall be allowed equal to the total period of any delay caused by injunction or other legal proceedings, insofar as such proceedings prevent the Contractor from proceeding with the work, but no extension shall be allowed unless such legal proceedings shall be diligently prosecuted by the Contractor and, provided further that, in no case shall such delay be deemed to begin until the Contractor shall have given written notice to the Owner of the injunction or other action of delay and shall have delivered to

the Owner a copy of the injunction or other orders and the papers upon which the time shall have been granted.

8.3.8 The Owner may suspend the whole or any part of the work, if it shall deem it for the best interest of the Owner to do so, without compensation to the Contractor for such suspension other than extending the time for completion of the work as much as it may have been delayed by such suspension. During such suspension, all materials delivered upon but not placed in the work, shall be neatly piled by the Contractor so as not to obstruct public travel or shall be removed from the line of work at the direction of the Owner and, unless the materials be moved by the Contractor upon such direction, the materials shall be removed by the Owner and expense thereof will be charged to the Contractor.

8.3.9 Nothing contained herein shall preclude the Owner from recovering damages for delays pursuant to the terms of the Contract Documents, except as specifically provided herein.

8.4 LIQUIDATED DAMAGES new article add the following:

8.4.1 The Contractor shall substantially complete all of his Work included in the Contract Documents ready for the Owner's occupancy as defined in the General Conditions, in accordance with the allotted time indicated in the Contract Documents, subject to extensions of contract time as provided in the General Conditions.

8.4.2 In the event of the failure of the Contractor to complete the said work within the time stated in its proposal, and in accordance with article 8.1.5, the Contractor shall be liable to the Owner in the sum of ONE THOUSAND (\$1,000.00) DOLLARS per day for each and every calendar day that the work remains incomplete in accordance with designated phased completions. This sum shall be treated as liquidated damages (and not a penalty) for the loss to the Owner of the use of premises in a completed state of construction, alteration or repair, and for added administration and inspection costs to the Owner on account of the delay; provided, however, that the said liquidated damages shall be in addition to other consequential losses or damages that the Owner may incur by reason of such delay, such as, but not limited to, reasonable attorney's fees, all additional consequential Architectural and Engineering fees incurred including, but not necessarily limited to, additional design work, submittal reviews, correspondence, inspections, job meetings, reviewing applications for payment, punchlists, and similar services, etc. by the Owner after the scheduled date of substantial completion as indicated in article 8.1.5, other added costs of the project and the cost of furnishing temporary services, if any. Any such sums for which the Contractor is liable may be deducted by the Owner from any monies due or to become due to the Contractor.

8.4.2.1 The Contractor agrees that said work shall be prosecuted regularly, diligently, and uninterruptedly at such rate of progress as will ensure full completion thereof within the time specified. It is expressly understood and agreed, by and between the Contractor and the Owner, that the time for the completion of the work herein is a reasonable time, taking into consideration the average climatic range and usual industrial conditions prevailing in this locality. If the said Contractor shall neglect, fail or refuse to complete the work within the time herein specified, or any proper extension thereof granted by the

Owner, then the Contractor does hereby agree, as a part consideration of the awarding of its contract, to pay the Owner the amount specified in the contract, not as a penalty but as liquidated damages for breach of contract as hereinafter set forth, for each and every calendar day that the contractor may be held in default after the stipulated date in the contract for completing the work.

- 8.4.2.2 The said amount is fixed and agreed upon by and between the Contractor and the Owner because of the impracticability and extreme difficulty of fixing and ascertaining the actual damages the Owner would in such event sustain, and said amount is agreed to be the amount of damages which the Owner would sustain, and said amounts shall be retained by the Owner as necessary to cover projected untimely completion of the contract work due to Contractor-caused delays.
- 8.4.2.3 It is further agreed that time is of the essence of each and every portion of this contract and of the specifications wherein a definite and certain length of time is fixed for the performance of any act whatsoever; and where under the contract an additional time is allowed for the completion of any work, the new time limit fixed by such extension shall be of the essence of this contract.
- 8.4.3 Inasmuch as certain of the expenses, inconvenience, and other damages the Owner will sustain in the event that the Contractor does not achieve Substantial Completion, within the Contract Time or extensions thereof approved by Change Order, will include all elements of loss attributable to the delay, including but not limited to amounts actually paid by the Owner for attorneys' fees, the Architect's additional services and expenses, and for other Contractor's claims for additional costs incurred as a result of the Contractor's failure to achieve Substantial Completion within the Contract Time. It will also include all other damages to the Owner for delay in completion of the Work by the Contractor, which shall be liquidated in the sum as stipulated above for each calendar day by which the Contractor shall fail to complete the Work within the Contract Time and any extensions thereof approved by Change Order. Such liquidated damages shall not be considered as a penalty. The Owner shall deduct and retain out of any money due, or become due hereunder, the amount of the liquidated damages.
- 8.4.4 The Contractor shall not be charged with liquidated damages, or any excess cost when the Owner determines that the contractor is without fault and the Contractor's reasons for the time extension are acceptable to the Owner; provided further, that the Contractor shall not be charged with liquidated damages or any excess cost when the delay in the completion of the work is due:
- (a) To any preference, priority or allocation order duly issued by the government;
 - (b) To unforeseen cause(s) beyond the control and without the fault or negligence of the Contractor including, but not restricted to, acts of God or of the public enemy, acts of the Owner, acts of another Contractor in the performance of a contract with the Owner which acts are contrary to the terms of such contract, fires, flood, epidemics, quarantine restrictions, strikes, freight embargoes and severe weather; and

- (c) To any delays of Subcontractors or Suppliers occasioned by any of the causes specified in the immediately preceding subsection (a) and (b).
- (d) Unforeseen circumstances shall not include situations which are reasonably foreseeable in construction projects of similar scope and type, such as delays in connection with responses to RFI's and change orders, delays in payment to the Contractor, withholding of payment to the contractor, emergency and scheduled tests, inspections and/or abatement activities, the discovery of hazardous materials and such other circumstances which are addressed in the Project Manual, the Project Specifications or this Agreement. To the extent provided in this Agreement, such circumstances, including but not limited to those specified in this Article 8.4.4, may entitle the Contractor to an extension of time, provided said delay is beyond the control of and without the fault or negligence of the Contractor, but in no event will such circumstances entitle Contractor to pursue a claim for delay as against the Owner as they are not considered "reasons not contemplated by the parties" as referenced in N.J.S.A. 18A:18A-41.

8.4.5 The Contractor shall, within five calendar days from the beginning of such delay, unless the Owner shall grant a further period of time prior to the date of final settlement of the contract, notify the Owner in writing of the causes of the delay. The Owner shall first ascertain the facts and the extent of the delay and shall notify the Contractor within a reasonable time that good cause has been shown to warrant the granting of such extension. The Owner's determination shall be final and binding upon all parties, providing that said discretion is done in good faith and consistent with all of the terms herein.

8.4.6 Estimated liquidated damages may, at the Owner's option, be withheld from any payments otherwise due the contractor if the Contractor has failed to timely complete a critical activity, which failure has a substantial likelihood of delaying substantial completion of the project beyond the date set forth in the Contract Documents. Estimated liquidated damages shall be based on a reasonable projection, in light of the Construction Schedule, of the number of days substantial completion will be delayed beyond the scheduled substantial completion date set forth in the Contract Documents. Failure of the Owner to withhold estimated liquidated damages from payments due the Contractor shall not be deemed a waiver of liquidated or estimated liquidated damages.

ARTICLE 9 - PAYMENTS AND COMPLETION

9.1 CONTRACT SUM append the following to section 9.1.1:

The Contract sum shall include the cost of all work, labor, materials, equipment, transportation and all other things necessary to perform and complete the Project in a manner acceptable to the Owner and within the required time; all incidental expenses in connection therewith; all costs on account of loss by damage or destruction of the Work, to the extent that the Owner and Contractor do not recover the cost of such loss from insurance carrier; and any additional expenses for unforeseen difficulties encountered, settlement of damages and replacement of defective work and materials.

9.2 SCHEDULE OF VALUES add the following:

Delete the paragraph and substitute the following:

9.2.1 Where the Contract is based on a stipulated sum or Guaranteed Maximum Price, the Contractor shall submit to the Architect, before the first Application for Payment, a schedule of values allocating the entire Contract Sum to the various portions of the Work and showing a complete breakdown of labor and materials of all components of Work, including that of all Subcontractors named on the Contractor's bid form with signed affidavits from each of the said Subcontractors, and prepared in such form and supported by such data to substantiate its accuracy as the Architect may require. This schedule, unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment. The Contractor shall amend the schedule of values as requested by the Architect. Any changes to the schedule of values and shall be submitted to the Architect and supported by such data to substantiate its accuracy as the Architect may require, and unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's subsequent Applications for Payment. The Architect's decision shall be final.

9.2.2 Claims for escalation from prices submitted at the time of bid for work included in the original scope of work at the time of bid, including alternate bid and unit prices, will be prohibited.

9.3 APPLICATION FOR PAYMENT add the following:

9.3.1.3 Applications for payment shall be made monthly based upon labor and materials completed and materials suitably stored on site. Two-Percent (2%) of the amount due on each partial payment shall be withheld by the Owner when the outstanding balance of the Contract exceeds \$500,000.00, and Five percent (5%) of the amount due on each partial payment shall be held by the Owner when the outstanding balance of the contract is \$500,000.00 or less in accordance with N.J.S.A.18A:18A-40.3. Requisitions for all payments will be made on AIA Document G702 Application and Certificate for Payment, in addition to the Owner's Invoice Forms as required. Contractor will be required to submit an itemized, detailed cost breakdown showing quantities, unit costs, and totals to the Architect within twenty (20) days after Notice to Proceed. Form to be in conformance with Architect's requirements.

9.3.2 Delete this paragraph and substitute the following:

Payments on account of materials or equipment not incorporated in the Work but delivered and suitably stored at the site, or at some other location agreed upon in writing, may be made electively and purely upon the discretion of the Owner with the advice of the Architect and subject to the following conditions:

- .1 Such materials or equipment shall have been fabricated or assembled specifically for the Project and delivered to storage no earlier than needed for the orderly progress of the Work as demonstrated by the Progress Schedule.
- .2 Title to such materials or equipment shall pass to the Owner pursuant to the Contractor's bill of sale which shall contain guarantee of replacement thereof in the

event of damage thereto or disappearance thereof due to any cause. The Contractor shall also affirm that he will pay for such materials or equipment immediately upon receipt of payment therefor from the Owner.

- .3 If approved in advance by the Owner, payment may similarly be made for materials and equipment suitably stored off the site at a location agreed upon in writing. Payment for materials and equipment stored on or off the site shall be conditioned upon compliance by the Contractor with procedures satisfactory to the Owner to establish the Owner's title to such materials and equipment or otherwise protect the Owner's interest, and shall include the costs of applicable insurance, storage and transportation to the site for such materials and equipment stored off the site.
- .4 Raw materials or other materials or equipment readily duplicated or usable on other projects will be paid only after the materials are incorporated in the construction.
- .5 The Owner reserves the right to deny a request, without explanation, for payment for stored materials or equipment. The failure of the Owner to respond to a request by a Contractor for payment for stored materials shall be deemed as a denial of that request.
- .6 Payments which are made for stored materials or equipment shall include only the net cost of the materials or equipment plus cost of delivery, if applicable to the point of storage. Payments for overhead, profit and other job costs shall be made only in accordance with Section 9.3.1.
- .7 Affidavits, in form acceptable to the Architect, shall be furnished with each application for payment in which payment is being requested for stored materials. Separate affidavits shall be furnished for each location where items are being stored.
- .8 With each affidavit the Contractor shall submit sufficient documentation to demonstrate that the stored materials have been received by the Contractor. The Architect shall be the sole judge as to the adequacy of this documentation and shall, at his option, be permitted access to all areas where these materials are to be stored to perform any inspections he deems necessary.
- .9 Payment will NOT be made for materials stored off-site.

9.3.4 Contractor further warrants that upon submittal of an Application for Payment, all Subcontractors and Sub-Subcontractors who performed work for which certificates of payment have been previously issued and payments received from the owner have in fact been paid for such work.

- .1 Contractor hereby waives any right which it may have to assert a mechanics' or other lien against the work, the project site, and any improvements thereon. Further, the Contractor shall cause a similar waiver to be included in all of its Subcontract and Sub-Subcontracts. Contractor shall also execute a separate waiver of liens if so requested by the Owner.
- .2 Contractor shall defend, indemnify, and hold Owner, and Architect harmless from and against any and all claims, actions and proceedings arising out of or related to any liens asserted against the work, the project site and any improvements thereon, or the payments due the Contractor under this agreement. As complete indemnification is intended, all costs and expenses, including

reasonable attorney's fees, incurred by the Owner, and Architect in enforcing this provision shall be reimbursed by the Contractor to the Owner.

9.4 CERTIFICATES FOR PAYMENT

9.4.1 Delete the entire paragraph and substitute the following:

Provided the Prime Contractor has performed work in accordance with the provisions of its Contract with the Owner, the Architect will, after receipt of the Contractor's Certified Application for Payment (not the preliminary pencil copy), either issue to the Owner a Certificate for Payment, with a copy to the Contractor, for such amount as the Architect determines is properly due, or notify the Owner and Contractor in writing of the Architect's reasons for withholding certification in whole or in part as provided in paragraph 9.5.1 of the General Conditions of the Contract for Construction. Provided the Contractor's Certified Application for Payment (not the preliminary pencil copy) is received no less than 20 days prior to the next scheduled public meeting of the public entity's governing body (the Board) the amount due may be approved and certified at the scheduled public meeting of the public entity's governing body (the Board) to be paid during the entity's (School District's) subsequent payment cycle, not to exceed 30 days. If an Application for Payment is received by the Owner and Architect after the 20 day period prior to the scheduled public meeting of the public entity's governing body (the Board), the amount due may be approved and certified at the next subsequent scheduled public meeting of the public entity's governing body (the Board) and subsequent payment cycle. A copy of the Board's published schedule of meetings is available at the Board Offices.

9.5 DECISIONS TO WITHHOLD CERTIFICATION add the following:

9.5.1.7 Delete the entire paragraph and substitute the following:

repeated failure to carry out the Work in accordance with the Contract Documents; or

9.5.1.8 failure to maintain the site in a safe and satisfactory manner in accordance with the Contract Documents and/or law as determined by the Architect.

9.5.2.1 If the Owner is entitled to any reimbursement or payment from the Contractor under or pursuant to the Contract Documents, such payment shall be made promptly upon demand by the Owner. Unless otherwise stated in the Contract Documents, if the Contractor fails to promptly make any payment due the Owner, or the Owner incurs any expenses due to the Contractor's acts and omissions, the Contractor, including but not limited to additional services of the Architect and reasonable attorneys fees, the Owner shall have an absolute right to offset such amount against the Contract Sum and may, in the Owner's sole discretion, elect either to: (1) deduct an amount equal to that which the Owner is entitled from any payment due the Contractor, or (2) issue a written notice to the Contractor reducing the Contract Sum by an amount equal to that which the Owner is entitled.

9.7 FAILURE OF PAYMENT Delete the entire paragraph and substitute the following::

9.7.1 If the Architect does not issue a Certificate for Payment, through no fault of the Contractor, within the time specified in 9.4.1, or if the Owner does not pay the Contractor by the date established in the Contract Documents the amount certified by the Architect or awarded by binding dispute resolution, then the Contractor may, upon seven (7) additional days' written notice to the Owner and Architect, suspend performance of the Construction Contract until payment of the amount owing has been received. The Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shut-down, delay and start-up which shall be accomplished as provided in Article 7.

9.7.1.1 This provision is a permissible exception to the requirements set forth in N.J.S.A. 2A:30A-2. All disputes regarding whether a party has failed to make payments pursuant to N.J.S.A. 2A:30A-1 et seq. may be submitted to a process of alternative dispute resolution.

9.8 SUBSTANTIAL COMPLETION add the following:

9.8.1.1 When the work, or designated portion thereof is determined by the Architect in conjunction with the Owner to be substantially complete and has received a temporary or permanent Certificate of Occupancy or Certificate of Approval, the Architect will prepare a Certificate of Substantial Completion which shall establish the date of Substantial Completion, shall establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to Work and insurance, and shall fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Documents shall commence on the day of the Substantial Completion of the Work or designated portion thereof unless provided in the Certificate of Substantial Completion. The Substantial Completion shall be submitted to the Owner and Contractor for their written acceptance of responsibilities assigned to them in such certificate.

9.8.2 Delete the entire paragraph and substitute the following:

When the Contractor considers that the work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Contractor shall prepare and submit to the Architect a comprehensive list of all items to be completed or corrected. Failure to include any item on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents. Together with this list, the Contractor shall provide a written request to the Architect to perform an inspection of the Work.

9.8.3 Delete the entire paragraph and substitute the following:

Upon receipt of the Contractor's request, the Architect will make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Architect's inspection discloses additional items, whether or not included on the Contractor's list, which are not sufficiently completed or corrected in accordance with the Contract Documents, the Contractor shall, before issuance of the Certificate of Substantial Completion, promptly complete or correct such items. All items must be corrected by the Contractor within fourteen (14) days after receipt of the list from the

Architect or within an acceptable time frame established by the Contractor and Architect and approved by the Architect. Upon completion of those items the Contractor shall request, in writing, a re-inspection of the Work. This re-inspection shall commence within fourteen (14) days after receipt of notice. If upon the re-inspection, the Architect finds that the previous items, or new items, do not conform to the Construction Documents, a revised list shall be provided to the Contractor within seven (7) days. This sequence of actions shall take place until all items conform to the Contract Documents. The Contractor shall be liable to reimburse the Owner, by means of a Change Order, for all costs and fees of the Architect, Engineers, and all professionals associated with re-inspections of Work beyond one (1) initial inspection and one (1) re-inspection of the Work.

- 9.8.3.1 If during the sequences of inspection and correction of Work, the Contractor defaults or neglects to carry out the correction of Work in accordance with the time frames established in 9.8.2 or in accordance the approved schedule of correction, the Contractor shall be considered in default and the Owner may exercise all rights under these Contract Documents. This shall also include Article 2.4 – Owner’s Right To Carry Out The Work.

9.9 PARTIAL OCCUPANCY OR USE add the following:

- 9.9.3 Delete the entire paragraph and substitute the following:

Unless otherwise agreed upon, partial occupancy or use of a portion or portions of the Work shall not constitute acceptance of Work not complying with the requirements of the Contract Documents, nor does it waive the Owner’s right to liquidated and actual damages described in Article 8.4.5 because Final Acceptance of the Work shall be for the entire work only and not in part.

9.10 FINAL COMPLETION AND FINAL PAYMENT add the following:

- 9.10.4 Delete these sub paragraphs and substitute the following:

- .2 failure of the Work to comply with the requirements of the Contract Documents;
- .3 terms of special warranties required by the Contract Documents; or
- .4 insufficiency of or failure to provide requisite close-out documents.

- 9.10.6 Prior to final payment, Contractor will submit, but not limited to the following:

- .1 Supplemental Attachment for Accord Certificate of Insurance - AIA Document G715.
- .2 Affidavit of Payment of Debts and Claims - AIA Document G706.
- .3 Affidavit of Release of Liens - AIA Document G706A.
- .4 Consent of Surety to Final Payment - AIA Document G707.
- .5 Certification of Paid Wages in accordance with New Jersey Prevailing Wage Act.
- .6 Maintenance Bond in form as bound herein.

- .7 Contractor's "As-Built" drawings on CD.
 - .8 Maintenance Manuals and Instructions.
 - .9 Special written guarantees and warranties in addition to the guarantee covered by Maintenance Bond. Guarantee shall be signed and sealed by Officer of the Contracting Firm and shall be notarized.
 - .10 Fully Executed AIA Substantial Completion Form G-704.
- 9.10.7 Upon completion of the punchlist and all other required scope of work have been completed in accordance with the Contract Documents, the Contractor shall submit a written request certifying that the project is ready for final inspection by the Architect. A copy of the "Ready For Closeout" form is included in 009000 – Project Forms.

ARTICLE 10 - PROTECTION OF PERSONS AND PROPERTY

10.1 SAFETY PRECAUTIONS AND PROGRAMS add the following:

- 10.1.1 The Contractor is required to establish, maintain, and implement effective programs to ensure compliance with all OSHA regulations, in addition to the Hazard Communication Standard, and advise the Architect regarding the location, on site, where the Contractor's MSDS sheets are kept. The Contractor will provide the Architect (for informational purposes only) with all information regarding any precautionary measures that the relative Contractor must employ to protect employees, any foreseeable emergency situations, and the relative Contractor's labeling system used at the work site. The Contractor is also required to provide this information to the Owner and other entities operating at the site, and to secure similar information from the other entities operating at the site, for the protection of all employees.
- 10.1.2 Neither the Owner, nor the Architect will be responsible for providing, maintaining or enforcing a safe working place for the Contractors, their Subcontractors or their employees, or any individual responsible to them for the work.
- 10.1.3 Neither the professional activities of the Architect, nor the presence of the Architect or the Architect's employees and sub-consultants at a construction site, shall relieve the Contractor and any other entity of their obligations, duties, and responsibilities including, but not limited to, construction means, methods, sequences, techniques, or procedures necessary for performing, superintending, or coordinating all portions of the work of construction in accordance with the contract documents and any health or safety precautions required by any regulatory agencies. The Architect and Architect's personnel have no authority to exercise any control over any construction contractor or other entity or their employees in connection with their work or any health or safety precautions. The Contractor is solely responsible for job site safety, and warrants that this intent shall be made evident in the Owner's agreement with the Contractor. The Owner, the Architect and the Architect's consultants shall be defendant and indemnified and shall be made additional insured under the Contractor's general liability insurance policy.
- 10.1.4 The Contractor shall enforce strict discipline and good order at all times among Contractor's employees and all subcontractors. Contractor's employees and subcontractors shall dress in clothing appropriate to the work they perform. Contractor

shall not engage any employee not skilled in a task assigned. All employees assigned to the Work by Contractor shall perform in the best manner and shall cooperate fully with the Owner and all other representatives of the Owner.

- 10.1.5 Smoking on the Owner's Property/Project Limits shall be prohibited. Contractor's employees shall avoid communications with students or teachers except to the extent necessary to implement safety measures.
- 10.1.6 At no time will the Contractor be permitted to work in any manner above occupied areas.
- 10.1.7 Contractor understands that the Project is an educational facility which may be fully or partially occupied and utilized by teachers and students. The Contractor shall take into consideration that the students utilizing or attending the educational facility are susceptible to the hazards of attractive nuisance or other hazards present on construction sites and shall take any and all necessary precautions.
- 10.1.8 It is absolutely prohibited for any worker to act in any manner which would be deemed injurious to the students or faculty or inappropriate within the school facility or setting. At the request of the Owner, which shall only be made for cause, the Contractor shall remove any employee from the Work, Project and site. No alcoholic beverages or other prohibited substances shall be permitted or consumed on school property.
- 10.1.9 **CRIMINAL BACKGROUND CHECKS** - The Contractor shall provide proof to the Owner that each worker assigned to a project involving contact with children has had a criminal history background check, and that said check indicates that no criminal history record information exists on file in either the Identification Division of the Federal Bureau of Investigation or the State Bureau of Identification which would disqualify said employee from employment pursuant to N.J.S.A. 18A:6-71 et.seq. Failure to provide proof of a criminal history background check for any employee at a contract school location will be deemed a breach of contract by the Contractor. If it is discovered during the course of the contract that either: (a) an employee with disqualifying criminal history record information on file or (b) any employee who has not had a criminal history background check is working at a contract school location, said employee is to be immediately removed by the Contractor. Failure to immediately remove said employee either upon notification by the District or discovery by the Contractor shall constitute a material breach of contract. Proof of clearance by the Department of Education or a temporary waiver pending receipt of qualification to work from the Department of Education shall provide proof to the Owner prior to assignment and commencement of work of each employee.
- 10.1.10 Pursuant to P.L. 2010, c.122, all contracted service providers, defined as any organization that is a party to a contract or agreement for services with the Board, and all employees of contracted service providers are required to comply with the provisions of the District's anti-bullying policy. Contracted service providers and their employees shall verbally report any act of harassment, intimidation or bullying of a student on the same day on which the act was witnessed, or on the same day on which reliable information that a student has been subject to harassment, intimidation or bullying was received, and shall report the same in writing within two (2) school days. All verbal and written reports of

harassment, intimidation or bullying of a student shall be made to the school principal or to any school administrator or safe schools resource officer.

Reports may be made anonymously in accordance with the reporting procedure as set forth in the anti-bullying policy. The District shall provide to all contracted service providers and their employees a copy of the District's anti-bullying policy and information regarding the policy.

10.2 SAFETY OF PERSONS AND PROPERTY add the following:

10.2.2 Delete the entire paragraph and substitute the following:

The Contractor shall comply with and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities, including, but not limited to, the Federal Occupational Safety and Health Act of 1970 and amendments thereto, bearing on safety of persons or property or their protection from damage, injury or loss. The Contractor shall conform to requirements of the Federal Occupational Safety and Health Act, and the Construction Safety Code. The requirements of the State, Local and Association Codes shall apply where they are equal to or more restrictive than the requirements of the Federal Act.

10.2.2.1 The Contractor will be responsible for providing general safeguarding as well as gaining compliance with the requirements of safety codes and ordinances and coordinating with all Contractors on the Project in accordance with N.J.S.A. 34:5-166 et seq. the State of New Jersey Construction Safety Code.

10.2.2.2 The Contractor shall comply with the requirements of the latest edition of the Manual of Accident Prevention in Construction, published by the Associated General Contractors of America, Inc., provided that if any such provisions disagrees with that of an applicable law, regulation or code, the Contractor shall comply with the safer or more stringent provisions.

10.2.2.3 The Contractor shall submit with its bid an OSHA Safety Certification on the form included in these specifications, certifying evidence that a full time representative shall be on site who shall have completed or be currently enrolled in an OSHA safety training program (30 hour OSHA certified program or equivalent program) which shall be acceptable to the Owner.

10.2.2.4 The Contractor shall obtain Material Safety Data Sheets (M.S.D.S.) for all material to be used on site and prior to material being brought on site. The Contractor shall maintain Material Safety Data Sheets and make them available for inspection to everyone as required by law.

10.2.2.5 The Contractor shall hold weekly safety meetings with its subcontractors to provide for the safeguarding of persons and property. The Contractor shall record minutes of the meetings and submit copies to the owner on a weekly basis for the record.

10.2.2.6 The Contractor shall provide the Owner, at the initial project meeting, a written safety program and hazard communication program as required by OSHA.

- 10.2.3.1 The General Contractor is responsible for maintaining the fenced construction area for the duration of the project including general trash removal and maintaining the grass if applicable.
- 10.2.4.1 If reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance encountered on the site by the Contractor, the Contractor shall, upon recognizing the condition, immediately stop Work in the affected area and report the condition to the Owner and Architect in writing. The work shall not be resumed except by written directive by the Owner.
- 10.2.5.1 The Contractor shall protect all materials and equipment for which he is responsible, which is stored at the Project Site for incorporation in the work, or which has been incorporated into the work. He shall replace all such materials and equipment which may be lost, stolen, or damaged at his expense, whether or not such materials or equipment have been entirely or partially paid for by the Owner.
- 10.2.6.1 In an effort to promote a safe and drug free workplace, contractor and its subcontractors shall be required to have a drug and alcohol testing program whereby employees will be required to submit to random drug and alcohol testing to the extent permitted by law. The contractor shall provide signs (12" x 24") at all pedestrian points of entry into the construction site which states, "All workers entering this site acknowledge that this is a drug and alcohol free environment and may be subject to random drug and alcohol testing". Drug and alcohol testing shall also be conducted by contractor or subcontractor at the Owner's request, where the Owner or its representative has a reasonable suspicion to believe that an employee of the contractor or subcontractor is under the influence of drugs or alcohol. All testing shall be done at the contractor or subcontractor's sole expense.
- 10.2.7 Delete the entire paragraph and substitute the following:
- The Contractor shall not permit any part of the construction or site to be loaded so as to cause damage or create an unsafe condition. Prior to bringing any fill material onto the Project, the Contractor shall have the material tested and provide certification that the material is clean and free from environmental contamination.
- 10.2.7.1 The Contractor shall conduct daily comprehensive safety inspections of the work site and submit to the Architect weekly reports indicating the results conclusions and actions taken as a result of the inspections and any findings of non conformance with current O.S.H.A. standards.
- 10.2.7.2 The Contractor shall stop work and immediately remedy any and all safety infractions brought to their attention by the Owner or Architect or governing authorities having jurisdiction over the project. Any time lost as a result of safety violations shall not be grounds for delay or time extensions to the contract.
- 10.2.7.3 The Contractor shall remove snow or ice from the site, as required to provide safe access to the work.

10.2.7.4 It is a requirement of this Contract that there is an absence of mold in the final product, and that best practices for prevention be followed. Actual remediation, if required, shall be performed by mold remediation experts hired by the responsible Contractor.

10.2.7.5 The General Contractor is responsible for maintaining the fenced construction area for the duration of the project including general trash removal and maintaining the grass if applicable.

10.2.8 Substitute "48 hours" in place of "21 days".

10.3 HAZARDOUS MATERIALS Add the following:

10.3.1.1 Add the following:

The Contractor will report the condition to the Owner and Architect in writing. The Work in the affected area shall not thereafter be resumed except by written directive of the Owner.

10.3.2 Delete the entire paragraph and substitute the following:

Upon receipt of the Contractor's written notice, the Owner shall obtain the services of a licensed laboratory to verify the presence or absence of the material or substance reported by the Contractor and, in the event such material or substance is found to be present, to cause it to be rendered harmless. When the material or substance has been rendered harmless, Work in the affected area shall resume upon written agreement of the Owner and Contractor. By Change Order, the Contract Time shall be extended appropriately.

10.3.3 Delete the entire paragraph and substitute the following:

To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Contractor, Subcontractors, Architect, Architect's consultants and agents and employees of any of them from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work in the affected area if in fact the material or substance presents the risk of bodily injury or death as described in Section 10.3.1 and has not been rendered harmless, 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), except to the extent that such damage, loss or expense is due to the fault or negligence of the party seeking indemnity, including, but not limited to, the Contractor, Architect, Architect's consultants and/or agents and employees of any of them.

10.3.4 Delete the last sentence of the paragraph.

10.3.6 Append the following:

Nothing contained herein shall be construed to require the Owner to indemnify the Contractor where the Contractor performs the work out of sequence or at a time other than that indicated in the Construction Schedule.

10.3.7 ASBESTOS

- 10.3.7.1 Any Contractor performing any type of renovation or construction in or around existing buildings must contact the environmental services department of the Owner to be informed of the district's asbestos procedures.
- 10.3.7.2 Each Contractor shall anticipate in his bid, extra time required to coordinate with the Owner for removal of any asbestos encountered during demolition work associated with this project.
- 10.3.7.3 Any Contractor disturbing or damaging any asbestos identified will be totally responsible for its repair and/or removal in accordance with applicable laws and regulations at no additional cost to the Owner and in conformance with N.J.A.C. 5:23-8.1 et seq. Asbestos Hazard Abatement Subcode. The Contractor shall be solely responsible for the payment of any and all fines and penalties which may be assessed against the Owner in connection with the disturbance or damaging of any asbestos containing materials.

10.3.8 VOLATILE ORGANIC COMPOUNDS (VOC)

- 10.3.8.1 All materials used on this Project shall comply with all applicable governmental and local VOC requirements.

10.4 EMERGENCIES add the following:

Prior to first paragraph add 10.4.1

- 10.4.2 The Contractor must provide, with their executed Contract Agreement, a list of home or mobile telephone numbers for those personnel who would be contacted in the event of any emergency at the project during non business working hours.

ARTICLE 11 – INSURANCE AND BONDS delete the entire contents of the Article and replace with the following paragraphs:

11.1 CONTRACTOR'S INSURANCE AND BONDS add the following:

- 11.1.1 The Contractor shall purchase from and maintain in a company or companies lawfully authorized to do business in the jurisdiction in which the Project is located and rated "A" or better by A.M. Best Company such insurance as will protect the Contractor from claims set forth below which may arise out of or result from the Contractor's operations and completed 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, including acts of joint negligence between the Owner and/or Architect and those entities previously mentioned:
- .1 Claims under workers' compensation, disability benefit and other similar employee benefit acts that are applicable to the Work to be performed, including private entities performing Work at the site and exempt from the coverage on account of number of employees or occupation, which entities shall maintain voluntary compensation

coverage at the same limits specified for mandatory coverage for the duration of the Project;

- .2 Claims for damages because of bodily injury, occupational sickness or disease, or death of the Contractor's employees;
- .3 Claims for damages because of bodily injury, sickness or disease, or death of any person other than the Contractor's employees, or persons or entities excluded by statute from the requirements of Clause 11.1.1.1 but required by the Contract Documents to provide the insurance required by the Clause;
- .4 Claims for damages insured by usual personal injury liability coverage;
- .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;
- .6 Claims for damages because of bodily injury, death of a person or property damage arising out of ownership, maintenance or use of a motor vehicle;
- .7 Claims for bodily injury or property damage arising out of completed operations;
- .8 Claims involving contractual liability insurance applicable to the Contractor's obligations under Section 3.18; and
- .9 claims for damage because of hazardous operations including but not limited to, explosion, collapse and underground property damage.

11.1.2 The insurance required by Section 11.1.1 shall be written for not less than limits of liability specified in the Contract Documents or required by law, whichever coverage is greater. Coverages shall be maintained without interruption from the date of commencement of the Work until the date of final payment and termination of any coverage required to be maintained after final payment and, with respect to the Contractor's completed operations coverage, until the expiration of the period for correction of Work or for such other period for maintenance of completed operations coverage as specified in the Contract Documents. The policy shall be written on an occurrence basis, not on a claims made basis.

11.1.3 Certificates of insurance and endorsements indicating that the coverage is primary, noncontributory (meaning the insurance provides primary coverage in connection with personal injury, death and/or property damage caused in whole or in part by the Contractor, its employees, agents, officers and/or subcontractors in connection with the project), which are acceptable to the Owner, within seven (7) days of the Agreement and shall be filed with the Owner (with copies to the Architect) prior to commencement of the Work and thereafter upon renewal or replacement of each required policy of insurance. These certificates and the insurance policies required by this Section 11.1 shall contain a provision that coverages afforded under the policies will not be canceled or allowed to expire and the limits will not be reduced until at least thirty (30) days' prior written notice has been given to the Owner via certified mail, return receipt requested. Additionally, these certificates and policies shall name the Owner, the Architect and the Engineer and their consultants, as additional named insureds and the certificate(s) of insurance or policy endorsements, as appropriate, shall indicate that coverage provided to the additional insureds is primary, non-contributory coverage. In the event of cancellation,

the Contractor shall obtain insurance in the same amount and for the same coverage from another carrier prior to the date of cancellation. An additional certificate evidencing continuation of liability coverage, including coverage for completed operations, shall be submitted with the final Application for Payment as required by Section 9.10.2 and thereafter upon renewal or replacement of such coverage until the expiration of the time required by Section 11.1.2. Information concerning change in coverage on account of revised limits or claims paid under the General Aggregate, or both, shall be furnished by the Contractor no later than the effective date of the change in coverage.

- 11.1.4 The Contractor shall ensure that each of his subcontractors, procures and maintains during the life of his subcontract the insurance coverages of the type and in the same amounts as specified in this Article or shall insure the activities of his subcontractors in his own policy. Proof of insurance by way of certificates to be supplied to the Owner and copies to the Architect as required by section 11.1.3.
- 11.1.4.1 The Contractor shall defend and indemnify the Owner, the Architect, and the Engineers and their consultants and respective officers, agents and employees, as provided in Article 3.18. The indemnified parties may defend themselves, at the Contractor's expense, from any claim or lawsuit which may arise out of the Contractor's performance or lack of performance under the terms of this contract or they may elect to have the Contractor provide them with legal representation at the Contractor's own expense.
- 11.1.5 The insurance required pursuant to this Article shall be written in the following minimum limits of liability and shall be in the names of the Contractor, the Owner, the Architect and the Engineers, as their interest may appear. The amounts set forth in this section may be increased, in which case a Supplementary Schedule of Minimum Insurance Limits of Liability shall be included in the Contract Documents setting forth such increased limits.

The minimum insurance coverage required by the Board to be maintained by the successful bidder through either insurance policies from insurance companies licensed to do business in the State and rated A or better by A.M. Best Company, or through formal fully funded self-insurance programs authorized by law as follows:

- .1 Workers Compensation: (in accordance with the laws of New Jersey and any other jurisdiction required to protect employees of the Board and any and all Contracted Parties who will be engaged in the performance of the work on this project)

<u>Applicable Federal, State:</u>	<u>Statutory</u>
Employers' Liability	\$1,000,000.00 (each accident)
Disease - Each Employee	\$1,000,000.00
Disease – Policy Limit	\$1,000,000.00

- .2 Contractor's Liability Insurance: covering any and all bodily injury and property damage arising out of or in connection with the work performed hereunder (including coverage for premises, operations, explosions, collapse and underground operations, independent contractor protection, sublet work, elevators, contractual liability, broad form property damage, products liability and completed operations) and personal injury (with employment exclusion deleted):

a. Comprehensive General Liability and Comprehensive Automobile Liability:

General Liability - Combined single limit as follows:

Each Occurrence	\$1,000,000.00
Aggregate	\$2,000,000.00

Automobile Liability (Owned, Non-Owned and Hired/ Combined Single Limit):

Each Occurrence	\$1,000,000.00
Each Person	\$1,000,000.00

.3 Excess Umbrella Liability: \$5,000,000.00

Excess liability shall have a drop down provision to cover over \$1,000,000 of Employers' Liability section of Workers' Compensation listed above.

.4 Contractual Liability Endorsement (Bodily Injury and Property Damage Combined):

Each Occurrence	\$2,000,000.00
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.5 Completed Operations & Products Liability*:

Aggregate	\$2,000,000.00
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*Maintain until one year after issuance of Final Certificate of Payment.

11.1.6 The above insurance policies shall:

- (a) include an indemnification provision as specified in Article 3.18,
- (b) include completed operation coverage, and
- (c) Not be subject to any of the special property damage liability exclusions: explosion, collapse, damage to underground wires, piping and conduits which are commonly referred to as the XCU exclusions, and Certificates of Insurance furnished by the Contractor shall show by specific reference that each of the foregoing items has been provided for.

11.1.7 The insurance required by paragraph 11.1 is not intended to cover machinery, tools or equipment owned or rented by the Contractor which are utilized in the performance of the Work but not incorporated into the permanent improvements. The Contractor shall, at the Contractor's expense, provide insurance coverage for owned or rented machinery, tools or equipment.

11.1.8 The above policies for Comprehensive General Liability must be so written as to include Contingent Contractor's Insurance to protect the Contractor against claims arising from the operations of Subcontractors.

- 11.1.9 The Certificates of Insurance furnished by the Contractor and Subcontractor shall include a clause obligating the insurer to give the Owner and each additional insured thirty (30) days prior to written notice of the cancellation of or any material change in the insurance coverage and endorsements to the policies. Policies expiring on a fixed date before Final Acceptance shall be renewed and filed with the Owner before the expiration date.
- 11.1.10 Nothing contained herein shall be interpreted to relieve the Contractor of his obligation to complete the work without additional cost to the Owner beyond the Contract Amount. Any loss or cost of repair not covered or not fully covered by insurance shall be borne by the Contractor without additional cost to the Owner beyond the Contract Amount. The Contractor will be responsible to cover all theft or vandalism costs to repair or replace materials including labor.
- 11.1.11 Contractor shall assume full responsibility and liability for any and all injuries to any person and any and all damages to any property resulting from or in connection with the project which are caused by any error, omission, or negligent act of the Contractor, its agents and employees, and any Subcontractor which he may employ.
- 11.1.12 To the extent that any of the foregoing provisions are inconsistent with the insurance requirements set forth in the Project Manual, the foregoing provisions shall govern. The insurance provided by the Contractor and its subcontractors shall comply with all requirements which may be imposed by the State of New Jersey or any of its agencies with jurisdiction over this Project. In the event the contractor is required by the Owner or the State of New Jersey or its agencies to provide additional insurance, said insurance shall be provided by contractor at contractor's expense.
- 11.1.13 Builders Risk Insurance: If required by the Owner, the Contractor must maintain Builder's Risk Insurance, providing coverage for (all risk) of physical loss or damage to the property described hereunder in an amount equal to 100% of the completed value of the work contracted herein and furnished under Construction Contracts for the School Facilities Project; excepting excavations, foundations and other structures customarily excluded by such insurance. The policy shall name the Owner, State of New Jersey, the Department of Education, as loss payee as their interests may appear.

11.2 OWNER'S LIABILITY INSURANCE

- 11.2.1 The Owner shall be responsible for purchasing and maintaining the Owner's usual liability insurance.

11.3 PROPERTY INSURANCE

- 11.3.1 Unless otherwise provided, the Owner shall purchase and maintain, in a company or companies lawfully authorized to do business in the jurisdiction in which the Project is located, property insurance written on a builder's risk "all-risk" or equivalent policy form in the amount of the initial Contract Sum, plus value of subsequent Contract Modifications and cost of materials supplied or installed by others, comprising total value for the entire Project at the site on a replacement cost basis without optional deductibles. 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 Section 9.10 or until no person or entity other than the Owner has an insurable interest in the property required by this Section 11.3 to be covered, whichever is later. This insurance shall include interests of the Owner, the Contractor, Subcontractors and Sub-subcontractors in the Project.

- 11.3.1.1 Property insurance shall be on an "all-risk" or equivalent policy form and shall include, without limitation, insurance against the perils of fire (with extended coverage) and physical loss or damage including, without duplication of coverage, theft, vandalism, malicious mischief, collapse, earthquake, flood, windstorm, falsework, testing and startup, temporary buildings and debris removal including demolition occasioned by enforcement of any applicable legal requirements, and shall cover reasonable compensation for Architect's and Contractor's services and expenses required as a result of such insured loss.
 - 11.3.1.1.1 The term "extended coverage" shall be deemed to include coverage against lightning, wind, hail, riots and civil commotion, vehicle damage, aircraft damage and smoke, exclusive of theft and vandalism. The "All Risk" Insurance coverage shall also include the interests of the Architect.
 - 11.3.1.2 If the Owner does not intend to purchase such property insurance required by the Contract and with all of the coverages in the amount described above, the Owner shall so inform the Contractor in writing prior to commencement of the Work. The Contractor may then effect insurance that will protect the interests of the Contractor, Subcontractors and Sub-subcontractors in the Work, and by appropriate Change Order the cost thereof shall be charged to the Owner. If the Contractor is damaged by the failure or neglect of the Owner to purchase or maintain insurance as described above, without so notifying the Contractor in writing, then the Owner shall bear all reasonable costs properly attributable thereto.
 - 11.3.1.3 If the property insurance requires deductibles, the Owner shall pay costs not covered because of such deductibles.
 - 11.3.1.4 This property insurance shall cover portions of the Work stored off the site, and also portions of the Work in transit.
 - 11.3.1.5 Partial occupancy or use in accordance with Section 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 reduction of insurance.
 - 11.3.1.6 The fact that the Owner is furnishing All Risk Insurance shall not be interpreted to relieve the Contractor of its obligation to complete the work without additional cost to the Owner beyond the Contract Amount. Any loss or cost of repair not covered or not fully covered by insurance shall be borne by the Contractor without additional cost to the Owner beyond the Contract Amount. The Contractor will be responsible to cover all theft or vandalism costs to repair or replace materials including labor.

11.3.1.7 The Contractor may carry whatever additional insurance he deems necessary to protect himself against hazards [not covered by the Owner's All Risk Insurance] and against loss of owned or rented capital equipment and tools owned by mechanics or any tools, equipment, scaffolding, staging, towers, and forms owned or rented by the Contractor, the capital value of which is not included in the cost of work.

11.3.2 BOILER AND MACHINERY INSURANCE

The Owner shall purchase and maintain boiler and machinery insurance required by the Contract Documents or by law, which shall specifically cover such insured objects during installation and until final acceptance by the Owner; this insurance shall include interests of the Owner, Contractor, Subcontractors and Sub-subcontractors in the Work, and the Owner and Contractor shall be named insureds.

11.3.3 LOSS OF USE INSURANCE

The Owner, at the Owner's option, may purchase and maintain such insurance as will insure the Owner against loss of use of the Owner's property due to fire or other hazards, however caused. The Owner waives all rights of action against the Contractor for loss of use of the Owner's property, including consequential losses due to fire or other hazards however caused.

11.3.4 If the Contractor requests in writing that insurance for risks other than those described herein or other special causes of loss be included in the property insurance policy, the Owner shall, if possible, include such insurance, and the cost thereof shall be charged to the Contractor by appropriate Change Order.

11.3.5 If during the Project construction period the Owner insures properties, real or personal or both, at or adjacent to the site by property insurance under policies separate from those insuring the Project, or if after final payment property insurance is to be provided on the completed Project through a policy or policies other than those insuring the Project during the construction period, the Owner shall waive all rights in accordance with the terms of Section 11.3.7 for damages caused by fire or other causes of loss covered by this separate property insurance. All separate policies shall provide this waiver of subrogation by endorsement or otherwise.

11.3.6 Before an exposure to loss may occur, the Owner shall file with the Contractor a copy of each policy that includes insurance coverages required by this Section 11.3. Each policy shall contain all generally applicable conditions, definitions, exclusions and endorsements related to this Project. Each policy shall contain a provision that the policy will not be canceled or allowed to expire, and that its limits will not be reduced, until at least 30 days' prior written notice has been given to the Contractor.

11.3.7 WAIVERS OF SUBROGATION

The Owner and Contractor waive all rights against (1) each other and any of their subcontractors, sub-subcontractors, agents and employees, each of the other, and (2) the Architect, Architect's consultants, separate contractors described in Article 6, if any, and any of their subcontractors, sub-subcontractors, agents and employees, for damages

caused by fire or other causes of loss to the extent covered by property insurance obtained pursuant to this Section 11.3 or other property insurance applicable to the Project, except such rights as they have to proceeds of such insurance held by the Owner as fiduciary. The Owner or Contractor, as appropriate, shall require of the Architect, Architect's consultants, separate contractors described in Article 6, if any, and the subcontractors, sub-subcontractors, agents and employees of any of them, by appropriate agreements, written where legally required for validity, similar waivers each in favor of other parties enumerated herein. The policies shall provide such waivers of subrogation by endorsement or otherwise. A waiver of subrogation shall be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest in the property damaged.

- 11.3.7.1 If during the Project construction. The Owner insures properties, real or personal or both, at or adjacent to the site by property insurance under policies separate from those insuring the Project, or if after final payment property insurance is to be provided on the completed Project three policy or policies other than those insuring the Project during the construction period, the Owner waives all rights in accordance with the terms of section 11.3.7 for damages caused by fire or other causes of loss covered by this separate property insurance.

11.4 PERFORMANCE BOND AND PAYMENT BOND

- 11.4.1 The Contractor shall furnish a Performance Bond and a Labor and Material Payment Bond each in the full amount of the Contract sum for faithful performance and payment obligations arising thereunder as stipulated in the bidding requirements, in a form satisfactory to the Owner and consistent with New Jersey Statutes.

- 11.4.2 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor shall promptly furnish a copy of the bonds or shall authorize a copy to be furnished.

The Contractor shall require the attorney in fact who executes the required bonds on behalf of the surety to affix thereto a certified and current copy of his Power of Attorney.

- 11.4.2.1 Each Contractor will be required to furnish the Owner with a two (2) year maintenance bond in the amount of 100% of the final adjusted Contract Sum commencing upon the date the Final Application for Payment is accepted by the Owner.

11.4.3 Additional or Substitute Bond

- 11.4.3.1 If at any given time the Owner, for justifiable cause, shall be or become dissatisfied with the Surety or Sureties for the Performance and/or Payment Bonds, the Contractor shall within five (5) days after notice from the Owner to do so, substitute an acceptable Bond (or Bonds) in such form and sum and signed by such other Surety or Sureties as may be satisfactory to the Owner. The premiums on such Bond shall be paid by the Contractor. No further sums shall be deemed due nor shall be made until the new Surety or Sureties shall have furnished such an acceptable Bond to the Owner.

ARTICLE 12 – UNCOVERING AND CORRECTION OF WORK

12.1 UNCOVERING OF WORK add the following:

12.1.1 Delete the entire paragraph and substitute the following:

If any portion of the Work should be covered contrary to the request of the Architect or to requirements specifically expressed in the Contract Documents, it shall, if required by public authority or the Architect, be uncovered for observation, inspection, testing or approval and the work shall be replaced at the Contractor's expense without change in the contract time.

12.2 CORRECTION OF WORK add the following:

12.2.1 Append the following to the end of the paragraph;

Nothing contained herein shall be construed so as to prohibit the Owner from withholding payment to the extent as may be necessary to protect against loss on account of defective work not remedied or any form of payment claims against the Contractor that may subsequently have accrued

12.2.2.1 Delete the entire paragraph and substitute the following:

In addition to the Contractor's obligations under Section 3.5, if, within two-year after the date of the Final Application for Payment is accepted by the Owner or designated portion thereof or after the date for commencement of warranties established under Section 9.9.1, or by terms of an applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly after receipt of written notice from the Owner to do so unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner shall give such notice promptly after discovery of the condition. During the two-year period for correction of Work, if the Owner fails to notify the Contractor and give the Contractor an opportunity to make the correction, the Owner waives the rights to require correction by the Contractor. If the Contractor fails to correct nonconforming Work within a reasonable time during that period after receipt of notice from the Owner or Architect, the Owner may correct it in accordance with Section 2.4.

12.2.2.2 Delete the entire paragraph and substitute the following:

The two-year period for correction of Work shall be extended with respect to portions of Work first performed after the date the Final Application for Payment is accepted by the Owner by the period of time between the date the Final Application for Payment is accepted by the Owner and the actual completion of that portion of the Work.

12.2.4.1 The Contractor shall protect all material and equipment for which he is responsible, stored at the site for incorporation or which has been incorporated in the work. The Contractor shall replace all material and equipment, which may be lost or stolen at his expense whether or not it has been entirely or partially paid for by the Owner.

ARTICLE 13 – MISCELLANEOUS PROVISIONS

13.1 GOVERNING LAW delete the text of the paragraph 13.1 and substitute and add the following:

- 13.1.1 The Contract shall be governed by the laws of the State of New Jersey.
- 13.1.2 The Contractor shall comply with all applicable federal, state and local laws, statutes, regulations and ordinances and any order issued by every governmental entity with jurisdiction over the Project.
- 13.1.3 Each and every provision of law and clause required by law to be inserted in this Contract shall be deemed to be inserted herein and, if through mistake or otherwise, and any provisions is not inserted, or is not correctly inserted, then upon the application of either party the Contract shall forthwith be physically amended to make such insertion or correction.

13.2 SUCCESSORS AND ASSIGNS

13.2.2 Delete the text of the paragraph and substitute the following:

The Owner may, without consent of the Contractor, assign the Contract to a lender providing construction financing for the Project or to the State of New Jersey or any subsidiary Department or Agency without consent of the Contractor. In such event, the assignee shall assume the Owner's rights and obligations under the Contract Documents. The Contractor shall execute all consents reasonably required to facilitate such assignment.

13.5 INTEREST

Delete the text of the paragraph and substitute the following:

- 13.5.1 No interest shall be paid on unpaid balances except to the extent required by and, in that event, in such amounts as specified in P.L. 2006, Ch. 96, codified as N.J.S.A. 2A:30A-1 to -2.

13.6 RIGHT TO EXAMINE, INSPECT AND AUDIT THE SCHOOL FACILITIES PROJECT (New Section).

- 13.6.1 Pursuant to N.J.A.C. 17.44-2.2, the Office of the State Comptroller (OSC), the New Jersey State Police, the New Jersey Department of Education (the Department), the New Jersey Department of Community Affairs (DCA) and the New Jersey Department of Labor (DOL) and their duly authorized agents may at their discretion and cost, investigate, audit, examine and inspect the activities, documents, work product arising from audits, records and accounts pertaining to the School Facilities Project and all other parties involved with the School Facilities Project as further set forth below:

- 13.6.1.1 (The contract partner) shall maintain all documentation related to products, transactions or services under this contract for a period of five years from the date of final payment. Such records shall be made available to the New Jersey Office of the State Comptroller

upon request.”

- 13.6.1.2 They shall have the right, at all reasonable times and upon prior notice, to enter upon and examine, inspect and audit the School Facilities Project but shall not be required to do so if in their sole judgment such notice and times cannot be provided and to make any copies or abstracts of any document, record or account.
- 13.6.1.3 They shall have the right to make any copies or abstracts of any document, record or account relating to the School Facilities Project.
- 13.6.1.4 They reserve the right to have access to all work product produced in connection with audits made by the District or its accountant or by the Contracted Parties or their accountants.

ARTICLE 14 - TERMINATION OR SUSPENSION OF THE CONTRACT.

14.1 TERMINATION BY THE CONTRACTOR

- 14.1.1.3 Delete the entire paragraph.
- 14.1.1.4 Delete the entire paragraph.
- 14.1.2 Delete the entire paragraph.
- 14.1.3 Delete the text of the paragraph and substitute the following:

If one of the reasons described in Section 14.1.1 exists, the Contractor may, upon seven days' written notice to the Owner and Architect, terminate the Contract and recover from the Owner payment for Work executed, but under no circumstances shall the Contractor entitled to recover any overhead and profit on Work not executed or costs incurred by reason of such termination.

- 14.1.4 Delete the entire paragraph.

14.2 TERMINATION BY THE OWNER FOR CAUSE

- 14.2.1 Add the following:
 - .5 If Contractor is adjudged bankrupt or insolvent, subject to the provision of the National Bankruptcy Act, specifically 11 U.S.C. 101 et seq.
 - .6 If Contractor makes a general assignment for the benefit of creditors.
 - .7 If a trustee or receiver is appointed for Contractor or for any of Contractor's property.
 - .8 If Contractor files a petition to take advantage of any debtor's act, or to reorganize under the bankruptcy or similar laws.
 - .9 If Contractor disregards the authority of the Architect or directives of the Architect.

- .10 If the Contractor interferes with the work of, or otherwise fails to cooperate with, any other contractor on the Project or the Owner's own forces.
- .11 If the Contractor fails to comply with the directives of the Owner or otherwise fails to perform its obligations in accordance with the Owner's concept of the Project.
- .12 If the Contractor fails to adhere to the Contract Schedule or otherwise disregards any provision of the Contract Documents which makes time of the essence.

14.2.3 Delete the text of the paragraph and substitute the following:

When the Owner terminates the Contract for one of the reasons stated in Section 14.2.1, the Contractor shall not be entitled to receive further payment until the Work is finished. In addition to the Owner's other legal remedies, in the event the Contractor otherwise violates any provisions of the Contract Documents, the Owner may, after giving Contractor and his Surety seven (7) days' written notice, terminate the services of Contractor, exclude Contractor from the site and take possession of the Work and of all Contractor's tools, appliances, construction equipment and machinery at the site and use the same to the full extent they could be used by Contractor (without liability to Contractor for trespass or conversion), incorporate in the Work, all materials and equipment stored elsewhere, and finish the Work as 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 Price exceeds the direct and indirect costs of completing the Work, including compensation for additional professional services, such excess shall be paid to Contractor. If such costs exceed such unpaid balance, Contractor shall pay the difference to Owner. Such costs incurred by Owner shall be verified by Architect and incorporated in a Change Order, but in finishing the Work, Owner shall not be required to obtain the lowest figure for the Work performed.

Where Contractor's services have been so terminated by Owner, the termination shall not affect any rights of Owner against Contractor then existing or which may thereafter accrue. Any retention or payment of moneys due Contractor by Owner will not release Contractor from liability.

14.3 SUSPENSION BY THE OWNER FOR CONVENIENCE add the following:

- 14.3.3 Should the Owner be prevented or enjoined from proceeding with work or from authorizing its performance either before or after its performance, by reason of any litigation, labor dispute, etc., the Contractor shall not be entitled to make or assert claim for damage by reason of said delay, but Time for completion of the Work will be extended to such reasonable time as the Architect may determine will compensate for time lost by such delay with such determination to be set forth in writing.

14.4 TERMINATION BY THE OWNER FOR CONVENIENCE

- 14.4.3 Append the following:

No other payment of any kind shall be due from Contractor.

ARTICLE 15 – CLAIMS AND DISPUTES.

15.1 CLAIMS add the following subparagraphs:

15.1.6.3 Any claim for an extension, or extensions, of time must be fully substantiated by incorporation of the impact from the changed condition into an update of the Contractor's project schedule. This update must also reflect any other impacts to the schedule resulting from delays, concurrent or non-concurrent, for which any Contractor is responsible. No claims will be evaluated or accepted without inclusion of the substantiation requirements set forth in this section.

15.1.7 Delete Waiver of Claims for Consequential Damages in its entirety and substitute the following:

The Contractor waives claims against Owner, Architect, Architect's consultants, and agents and employees of any of them for consequential damages arising out of or relating to this Contract or Agreement. This waiver includes damages incurred by the Contractor including but not limited to principal office expenses including the compensation of personnel stationed there, for losses of financing, business and reputation, and for loss of profit. This waiver is applicable, without limitation, to all consequential damages claims due to any termination of the Contractor in accordance with Article 14.

Nothing contained in this section shall be deemed to preclude assessment of liquidated damages, when applicable, in accordance with the requirements of the Contract Documents.

15.2 INITIAL DECISION add the following subparagraphs:

15.2.1 Delete the text of the paragraph and substitute the following:

Claims, excluding those arising under Sections 10.3, 10.4, and 11.5, shall be referred to the Initial Decision Maker for initial decision. The Architect will serve as the Initial Decision Maker, unless otherwise expressly indicated in the Agreement. Except for those Claims excluded by this Section 15.2.1, an initial decision shall be required as a condition precedent to mediation of any Claim. If an initial decision is not been rendered within 30 days after the Claim has been referred to the Initial Decision Maker, the party asserting the Claim may demand mediation without a decision having been rendered. Unless the Initial Decision Maker and all affected parties agree, the Initial Decision Maker will not decide disputes between the Contractor and persons or entities other than the Owner (and its consultants).

15.2.5 Delete the text of the paragraph and substitute the following:

The Initial Decision Maker will render an initial decision approving or rejecting the Claim, or indicating that the Initial Decision Maker is unable to resolve the Claim. This initial decision shall (1) be in writing; (2) state the reasons therefor; and (3) , notify the parties and the Architect, if the Architect is not serving as the Initial Decision Maker, of any change in the Contract Sum or Contract Time or both. The initial decision shall be

final and binding on the parties but subject to mediation and, if the parties fail to resolve their dispute through mediation, to litigation in a court of competent jurisdiction.

- 15.2.9 If the initial decision of the Architect is not satisfactory to the Contractor making the claim, the Contractor shall diligently perform the work as directed and shall keep an accurate accounting of all time and materials required to perform the contract.

15.3 MEDIATION add the following:

Substitute “litigation” for “finding dispute resolution” throughout

15.4 ARBITRATION

Delete this Article titled “Arbitration” and all references to Arbitration as set forth in A.I.A. Document A201, as this article is hereby deleted from the said document and this Agreement.

After the parties have complied with the previous sections of the agreement and they still have not resolved the issue, the exclusive and sole jurisdiction for all disputes shall be in the Superior Court of New Jersey and will not be subject to arbitration. Unless otherwise agreed in writing, the Contractor shall carry on the Work and maintain its progress during any mediation or legal proceedings. The prevailing party will be entitled to receive attorney fees and all costs associated with such dispute.

END SECTION 006230.

SECTION 007120 - PREVAILING WAGES

The State of New Jersey Prevailing Wage Act, Chapter 150 Laws of 1963 with applicable wage rates for Ocean County as published by the Department of Labor and Industry in conformance with N.J.S.A. 34:11-56:25 et seq. is hereby made a part of these Contract Documents. Copies of these wage rates may be obtained from the State Department of Labor and Industry, and is on file in the Office of the Michelle Richardson, Business Administrator/Board Secretary of the Jackson Township Board of Education, or can be examined in the Architect's Office.

Should workmen employed by the Contractor or any Subcontractor covered by this Contract be paid less than required wage rates, the Contractor or Subcontractor will be in violation of specifications and the JACKSON TOWNSHIP BOARD OF EDUCATION, Jackson, New Jersey, may terminate the Contractor's right to proceed with the work, or such part of the work as to which there has been a failure to pay required wages, and to prosecute the work to completion or otherwise. Contractor and his Sureties shall be liable to the JACKSON TOWNSHIP BOARD OF EDUCATION.

Contractor agrees to submit to the JACKSON TOWNSHIP BOARD OF EDUCATION, a certified payroll for each payroll period within ten (10) days of the payment of wages. Contractor further agrees that no payments will be made to the Contractor if certified payrolls are not received. It is the Contractor's responsibility to insure timely receipt by the district of certified payrolls.

Before final payment, furnish Owner with an affidavit stating that all workmen have been paid the prevailing rate of wages in accordance with State requirements.

Keep an accurate record showing the name, craft, or trade and actual hourly rate of wages paid to each workman employed by him in connection with this work. Each Contractor and Subcontractor shall submit Manning Reports showing all information noted above on a weekly basis to the Owner.

Upon request, the Contractor(s) and each Subcontractor shall file written statements certifying to the amounts then due and owing to any and all workmen for wages due on account of the work. The statements shall be verified by the oaths of the Contractor or Subcontractor, as the case may be.

Post the prevailing wage rates for each craft and classification involved in the work, including the effective date of any changes thereof, in prominent and easily accessible places at the Site of the work and in such place or places as used to pay workmen their wages.

Effective April 11, 2000, in accordance with "The Public Works Contractor Registration Act" (P.L. 1999, c.238), no contractor/subcontractor will be permitted to bid on or engage in any contract for public work, as defined in section 2 of P.L. 1963, c.150 (C.34:11-56.26) unless that contractor/subcontractor is registered with the Department of Labor.

END OF SECTION 007120.



NEW TRANSPORTATION BUILDING
JACKSON LIBERTY HIGH SCHOOL
JACKSON BOARD OF EDUCATION
COMMISSION NO. 18K040

SECTION 009000 – PROJECT FORMS

Project Forms included in this section are provided for Contractor's use when forwarding Requests for Information, Job Meeting Reports, Substitution Submittals, and request when Ready for Closeout form. Contractors shall use these forms exclusively. Contractors' personal forms are not acceptable.

END OF SECTION 009000



REQUEST FOR INFORMATION

RFI # _____

CONTRACT NO. _____

Information Needed:

Date Needed:

Requested By/Company: _____

Date: _____

Response:

Response Prepared By: _____

Date: _____



JOB MEETING REPORT

Project:		
Contractor:		
Job Meeting Report No.	Date:	Comm. No.
Contract No./Work		Page:

Work Accomplished Previous Period:

Work Scheduled Next Period:

Briefly State Main Points You Wish to Make a Matter of Record:

Signed: _____



SUBMITTAL COVER SHEET

The following information is required and shall accompany all project submittals. Submittals received without this cover sheet shall be deemed incomplete and will not be reviewed.

DATE:	
SUBMITTING CONTRACTOR:	
SUBCONTRACTOR / MANUFACTURER / VENDOR:	
ITEM(S) SUBMITTED:	
SPECIFICATION SECTION:	
SUBMITTAL NUMBER:	

YES	NO	
		Is submitted item in accordance with Contract Requirements?
		Is submittal a substitution?
		If yes, is submittal matrix with supporting documentation included?
		Is submittal complete?
		Does submittal meet Specified Standards?
		Does submittal meet all code requirements?

COMMENTS:

Submitted & Approved by:

 Signature Company Date

Prepared by: _____ Date: _____



READY FOR CLOSEOUT

Contractor shall submit a copy of this document with the completed punchlist, signed and sealed by the Contractor's authorized representative and Notarized, to the Architect indicating that the Work has been completed as required in accordance with the Contract Documents and after which the Contractor shall notify the Architect when re-inspection is requested.

The undersigned certifies that all items of work noted herein and all other required scope of Work have been completed in accordance with Contract Documents and is further certifying that the project is ready for final inspection by the Architect. The undersigned acknowledges providing all required close-out documents, including, but not limited to, all affidavits, warranties and a release of liens, to the Architect.

Items not completed shall be summarized by the Contractor in letter form and attached herewith.

The undersigned hereby certifies that he/she shall pay the Owner for any and all expenses incurred by the Architect due to the Contractor's misrepresentation of completion of punch list items.

Authorized Representative of the Contractor (Print/Type)

Title

Signature

Date

THE CONTRACTOR SHALL SEAL THIS PUNCHLIST AS NOTED BELOW:

Contractor's Corporate Seal

Notary Seal

Prepared by: _____

Date: _____