

The MetroHealth System



PROJECT MANUAL

FOR

Glick Tower – Fire Alarm Modifications

CM NO. 17.06

AT

**THE METROHEALTH SYSTEM
PLANNING, DESIGN AND CONSTRUCTION
CLEVELAND, OHIO 44109**

May 14, 2024

TABLE OF CONTENTS

1. NOTICE TO BIDDERS
2. INSTRUCTIONS TO BIDDERS
3. REQUEST FOR BID CLARIFICATION
4. BID FORM
5. OWNER CONTRACTOR AGREEMENT
6. GENERAL CONDITIONS---AIA Document A201 – 2007 WITH MODIFICATIONS
7. SPECIAL CONDITIONS – CONTRACTOR SAFETY HANDBOOK
8. DIVERSITY PARTICIPATION AFFIDAVIT
9. NOTICE OF CLAIM FORM
10. CONTRACTOR EVALUATION FORM
11. BID GUARANTY BOND
12. PERFORMANCE BOND
13. CERTIFICATE TO ENSURE NON-DISCRIMINATION
14. CONFLICT OF INTEREST CERTIFICATION
15. PROHIBITION AGAINST CONTRACTING WITH
ANY INELIGIBLE PERSON OR ENTITY
16. CONTRACTOR/EMPLOYEE BACKGROUND CHECK
17. FEDERAL FALSE CLAIMS ACT
18. PERSONAL PROPERTY TAX AFFIDAVIT
19. SPECIFICATIONS AND DRAWING INDEX

LEGAL NOTICE

Sealed bids for General Contracting work on the Glick Towers – Fire Alarm Modifications (CM 17.06) will be received electronically by The MetroHealth System Planning, Design & Construction department via e-Builder Bid Portal, until 1:00 pm, local time, on Wednesday, June 5th, 2024, and promptly opened at the same location.

A pre-bid meeting will be held at 10:00 am Wednesday, May 29th, 2024, at the MetroHealth Center for Campus Transformation, 2500 MetroHealth Drive Suite SG-100, Cleveland OH 44109. The building entrance is located on Southpoint Drive and parking garage entrance is located on MetroHealth Drive.

Complete copies of the Contract Documents may be obtained by registering through E-Builder Bid Portal. The link for the Bid Portal and this Notice are posted under:

<https://www.metrohealth.org/planning-design-construction>.

Each bid submittal must include a Bid Guaranty in the form of a Bid Guaranty & Contract Bond for the full amount of the bid (including all add alternates) or a certified check, cashier's check or an irrevocable letter of credit in an amount equal to 10% of the bid (including all add alternates), as stated in the Instructions to Bidders. Local prevailing wage rates apply to this project.

No Bidder may withdraw its bid within 60 days after the bid opening. MetroHealth System reserves the right to waive irregularities in bids, to reject any or all bids at its discretion, for any reason or no reason stated, and to conduct such investigation as necessary to determine the best bidder.

INSTRUCTIONS TO BIDDERS

(for projects not utilizing a construction manager as agent)

A. BIDDER'S PLEDGE AND AGREEMENT

1. Each Bidder acknowledges that this is a public project involving public funds and that the Owner expects and requires each successful Bidder to adhere to the highest ethical and performance standards. Each Bidder by submitting a bid pledges and agrees that (a) it will act at all times with absolute integrity and truthfulness in its dealings with the Owner and Design Professional; (b) it will use its best efforts to cooperate with the Owner and Design Professional, and all other Contractors on the Project and at all times will act with professionalism and dignity in its dealings with the Owner and Design Professional, and other Contractors; (c) it will assign only competent supervisors and workers to the Project, each of whom is fully qualified to perform the tasks that are assigned to him/her; and (d) it has read, understands, and will comply with the terms of the Contract Documents.

B. DIVERSITY

1. *As a recognized leader in the health care industry, MetroHealth is committed to supplier diversity and will make every effort to ensure that diverse entities are provided the maximum practicable opportunity to participate as a supplier, vendor, contractor, or subcontractor on MetroHealth projects. The Bidder awarded the Contract shall share MetroHealth's commitment to diversity and shall work to meet and exceed the goals for the MetroHealth Community Business Enterprises outlined in the Contract.*
2. *The MetroHealth System wants to ensure that minority, women-owned, historically underutilized and other disadvantaged business enterprise, and their employees (together known as "Community Business Enterprises" or "CBEs") have a fair and reasonable opportunity to participate in MetroHealth's procurement activities. Contractors, suppliers and service providers are expected to make a Good Faith Effort (as defined in the Contract) to efficiently maximize the voluntary MBE, WBE, etc. participation.*
3. *Owner has established goals for the participation by Community Business Enterprises in the Project as follows:*
 - a. *MBE participation: 18%*
 - b. *WBE participation: 12%*
4. *MetroHealth is committed to facilitate and promote the participation of CBEs in all MetroHealth construction contracts, advance local economic revitalization, and achieve nondiscrimination in the award and administration of MetroHealth contracts.*
5. *MetroHealth recognizes diverse certifications by governmental certifying agencies such as but not limited to City of Cleveland; Cuyahoga County; Cuyahoga Metropolitan Housing Administration; State of Ohio MBE/EDGE; Department of Veterans Affairs; Economically Disadvantaged Women-Owned Small Business (EDWOSB); Federal Small Business Administration (SBA); Federal Small Disadvantaged Business (SDB); Federal Women-Owned Small Business (WOSB) concerns; as well as the National Gay and Lesbian Chamber of Commerce (NGLCC); National Minority Supplier Development Council; Northern Ohio Minority Supplier Development Council; and Women's Business Enterprises National Council (WBENC).*
6. *By submitting its bid, the bidder agrees to provide an expected "Diversity Participation Affidavit" as part of the post-bid, pre-award documentation.*

C. EXAMINATION OF CONTRACT DOCUMENTS AND SITE CONDITIONS AND RELIANCE UPON TECHNICAL DATA

1. Each Bidder shall have a competent person carefully and diligently review each part of the Contract Documents, including the Divisions of the Specifications and parts of the Drawings that are not directly applicable to the Work on which the Bidder is submitting its bid. By submitting its bid, each Bidder represents and agrees, based upon its careful and diligent review of the Contract Documents, that it is not aware of any conflicts, inconsistencies, errors or omissions in the Contract Documents for which it has not notified the Design Professional in writing at least seven (7) days prior to the bid opening. If there are any such conflicts, inconsistencies, errors or omissions in the Contract Documents, the Bidder (i) will provide the labor, equipment or materials of the better quality or greater quantity of Work; and/or (ii) will comply with the more stringent requirements. The Bidder will not be entitled to any additional compensation for any conflicts, inconsistencies, errors or omissions that would have been discovered by such careful and diligent review, unless it has given prior written notice to Design Professional.
2. Each Bidder shall have a competent person carefully and diligently inspect and examine the entire site and the surrounding area, including all parts of the site applicable to the Work for which it is submitting its bid, including location, condition and layout of the site and the location of utilities, and shall carefully correlate the results of the inspection with the requirements of the Contract Documents. The Bidder's bid shall include all costs attributable to site and surrounding area conditions that would have been discovered by such careful and diligent inspection and examination of the site and the surrounding area, and the Bidder shall not be entitled to any Change Order, additional compensation, or additional time on account of such conditions.
3. The Bidder may rely upon the general accuracy of any technical data included in the Project Manual (e.g., soils exploration reports, soil boring logs, site survey, or abatement reports) in preparing its bid, but such technical data are not part of the Contract Documents. Except for the limited reliance described in the preceding sentence, Bidder may not, if awarded a contract for the Work, rely upon or make any claim against the Owner or Design Professional, or any of their agents or employees, with respect to any of the following:
 - (a) the completeness of such reports and drawings for Bidder's purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences, and procedures of construction to be employed by the successful Bidder, and safety precautions and programs incident thereto;
 - (b) other data, interpretations, opinions, and information contained in such reports or shown or indicated in such drawings; or
 - (c) any interpretation by the successful Bidder of or conclusion drawn from any technical data or any such other data, interpretations, opinions, or information. For example, all interpolations and extrapolations of data performed by the Bidder to estimate locations or quantities of subsurface strata are independent factual assumptions, which Owner does not warrant.
4. No allowance will be made subsequently for any omission, error, or negligence of the Bidder.
5. All Bidders shall be familiar with the existing conditions in the material and labor market, as well as the conditions related to the Work, and the fact that a bid is submitted will be construed by the Owner as an agreement by the Bidder to carry out the Work in full conformance with the Specifications and other Contract Documents, notwithstanding the existing conditions.
6. Each Bidder shall be responsible for coordinating its Work with the Work of the other bid packages that require integration with the Bidder's Work.
7. Failure of a Bidder to attend the pre-bid meeting, which failure to attend results in the Bidder not fully being familiar with the existing conditions and Project requirements, shall not be considered a basis for additional compensation to the successful Bidder for the Work. Each

Bidder will be deemed to have actual knowledge of all information provided or discussed at the pre-bid meeting.

D. OWNER AND DESIGN PROFESSIONAL

1. The Owner is:

The MetroHealth System
2500 MetroHealth Drive
Cleveland, Ohio 44109

The Owner's Representative is as identified in the Instructions to Bidders Supplement.

2. The Design Professional and Design Professional's Representative are as identified in the Instructions to Bidders Supplement.

E. PROJECT

1. The Project is as identified in the Instructions to Bidders Supplement.
2. Wage rates based upon current Ohio Prevailing Wage Rates for Cuyahoga County are a contractual requirement for work performed on this Project. Applicable wage rates can be found on the State of Ohio, Department of Commerce, Bureau of Wage and Hour Administration web site located at <http://www.com.state.oh.us/>. The Owner is a county hospital exempt from the statutory prevailing wage law, and the payment of prevailing wage rates will not be enforced by the State of Ohio. Each contractor is responsible for payment of applicable wage rates, and all wage adjustments, for the duration of the project for work performed under its contract on the Project. The contractor will be responsible for the reporting of prevailing wages through E-builder.

F. WORK

1. The Work for which bids are being solicited at this time is as identified in the Instructions to Bidders Supplement.

G. ESTIMATE OF COST

1. The total estimated construction cost for the base bid Work is as identified in the Instructions to Bidders Supplement.

H. CONTRACT DOCUMENTS

The Contract Documents consist of the following documents:

1. Legal Notice
2. Instructions to Bidders
3. Instructions to Bidders Supplement
4. Bid Form
5. Bid Guaranty and Contract Bond Form
6. Contract Bond Form
7. Contractor's Personal Property Tax Affidavit
8. Supplement to AIA Document A305, Contractor Qualification Statement
9. Bidder's Certification to Ensure Non-Discrimination
10. Bidder's Conflict of Interest Certification
11. Diversity Participation Affidavit
12. Prohibition Against Contracting with Any Ineligible Person or Entity Form
13. Federal False Claims Act Form
14. Drug-Free Workplace Certificate
15. Owner-Contractor Agreement
16. General Conditions of the Contract for the Project, as included in the Project Manual
17. Ohio Prevailing Wage Rates for Cuyahoga County

18. Project Drawings
19. Project Specifications
20. Project Schedule (if included in the Project Manual for the Project)
21. Notice of Claim Form and Instructions
22. Contractor's Payment Application Checklist
23. Addenda issued during the bid period
24. Modifications issued after the execution of the contract, including:
 - i. A written amendment to the Agreement signed by both parties;
 - ii. A Change Order;
 - iii. A Work Change Directive; or,
 - iv. A written order for a minor change of the Work issued by the Design Professional in accordance with the General Conditions
25. Contractor Safety Handbook

Complete copies of the Contract Documents may be obtained from locations identified in the Instructions to Bidders Supplement.

The Contract Documents may be reviewed without charge during business hours at the locations identified in the Instructions to Bidders Supplement.

Bidders shall use complete sets of Contract Documents in preparing bids. Neither the Owner nor Design Professional assumes any responsibility for errors or misinterpretations resulting from the use of incomplete sets of Contract Documents.

The Owner and the Design Professional, in making the Contract Documents available on the above terms, do so only for the purpose of obtaining bids on the Work and do not confer a license or grant for any other use.

I. PRE-BID MEETING

A pre-bid meeting will be held at the time, date and location identified in the Instructions to Bidders Supplement. Bidders are strongly encouraged to attend this meeting.

J. PREPARATION OF BIDS

1. All bids must be submitted on the Bid Form furnished with the Contract Documents.
2. All blank spaces shall be filled in, in ink or typewritten, in words and figures, and in figures only where no space is provided for words, and signed by the Bidder. The wording on the Bid Form shall be used without change, alteration, or addition. Any change in the wording or omission of specified accompanying documents may cause the bid to be rejected. If both numbers and words are requested for any bid item, the amount in words shall prevail if there is an inconsistency between the numbers and words written.
3. Bidders shall note receipt of Addenda on the Bid Form. If the Bidder fails to acknowledge receipt of each Addendum, the Bid shall be deemed non-responsive, unless the Bid amount clearly and unambiguously reflects receipt of the Addendum or the Addendum involves only a matter of form and does not affect the price, quantity or quality of the Work to be performed in any material manner.
4. Each Bidder shall submit electronically one (1) PDF copy of its bid to the Owner through the online e-Builder Bidder Portal before the deadline and in accordance with e-Builder instructions provided by the Owner. The Bid Form shall be signed with the name of the person signing on behalf of the Bidder typed or printed below the signature. A Bidder that is a corporation shall sign its bid with the legal name of the corporation followed by the name of the state of incorporation and the legal signature of an officer authorized to bind the corporation to a contract.
5. Each Bid shall be submitted electronically as one PDF with the file name in the format required in the Instructions to Bidder Supplement. No paper copies or hand deliveries are to be made.

The Bidder shall be responsible for uploading its Bid to the online e-Builder Bidder Portal for the bid opening before the time identified in the Instructions to Bidders Supplement.

The e-Builder system will serve as the official date/time stamp relative to receipt of any Bid. The Owner shall not be held liable if a Bidder is unable to submit its complete Bid prior to the deadline due to technical issues or obstructions. Bids received after the submittal deadline will not be considered.

6. The completed Bid Form shall be accompanied by the following documents:
 - a. Bid Guaranty (see Paragraph J.8 below). Any Bidders must deliver the original of the Bid Guaranty included in its electronic Bid to the Owner within 3 business days of the Owner's request for it.
7. The Bidder shall take the following precautions in preparing its bid:
 - a. Sign the bid form and check to insure all blank spaces have been filled in with requested information and that the specified accompanying documents (listed in Paragraph I.6 above) have been included in a sealed opaque envelope addressed as described in item 5 above.
 - b. When the Bid Form requests pricing for one or more Alternates, indicate whether the sum stated for the Alternate is an addition or deduction. If no indication is given as to whether the amount stated is an addition to or a deduction from the Base Bid amount, the amount stated will be conclusively presumed to be an addition to the Base Bid amount, unless the wording for the Alternate indicates that it is a deduct item.
 - c. When the Bid Form provides for quoting a unit price, the Bidder should quote the unit price as set forth in the Contract Documents.
 - d. When applicable, make sure that the Bid Guaranty is properly executed and signed by:
 - 1) The Bidder
 - 2) The Surety or Sureties
 - e. Make sure that the amount of the Bid Guaranty (if the Bid Guaranty is in the form of a certified check, letter of credit, or cashier's check) is for a specific sum in an amount as instructed in Paragraph I.8.a below. If the Bid Guaranty is in the form of the Bid Guaranty and Contract Bond, the amount may be left blank; if an amount is inserted, it should equal the total of the base bid and all add alternates included. If an amount is inserted, then the failure to state an amount equal to or greater than the total of the base bid and all add alternates that are accepted shall make the bid non-responsive if the Owner selects alternates not included in the amount, in which case the Bid may not be considered for award of a contract.
 - f. Make sure that the appropriate bid package and scope of work is inserted in the correct space on the Bid Guaranty and Contract Bond Form. Failure to include work covered by the bid submitted may make the bid non-responsive, in which case it may not be considered for award of a contract for the Work.
 - g.
8. Bonds and Guarantees
 - a. Bidder shall furnish a Bid Guaranty, as prescribed in Sections 153.54, 153.57, and 153.571 of the Ohio Revised Code, in the form of either: (1) a bond for the full amount of the bid in the form of the Bid Guaranty and Contract Bond included in the Contract Documents; or (2) a certified check, cashier's check, or irrevocable letter of credit in a form satisfactory to the Owner in an amount equal to 10% of the bid. The Bid amount shall be the total of all sums bid, including all add alternates with no deduction for any deduct alternates. **NOTE: AIA Bid Bond forms are not acceptable.**
 - b. If the successful Bidder submitted a certified check, cashier's check, or irrevocable letter of credit in an amount equal to 10% of the bid (including all alternates) as its Bid Guaranty,

the successful Bidder shall furnish a Contract Bond using the Contract Bond form included in the Contract Documents in an amount equal to 100% of the Contract Sum. **NOTE: AIA Bond forms are not acceptable.**

- c. The bond must be issued by a surety company ("Surety") authorized by the Ohio Department of Insurance to transact business in the State of Ohio and acceptable to the Owner. The bond must be issued by a Surety capable of demonstrating a record of competent underwriting, efficient management, adequate reserves, and sound investments. These criteria will be deemed to be met if the Surety currently has an A.M. Best Company Policyholders Rating of "A-" or better and has or exceeds the Best Financial Size Category of Class VI. Other Sureties may be acceptable to the Owner, in its sole discretion.
- d. All bonds shall be signed by an authorized agent of an acceptable Surety and by the Bidder.
- e. Surety bonds shall be supported by credentials showing the Power of Attorney of the agent, a certificate showing the legal right of the Surety to do business in the State of Ohio, and a financial statement of the Surety.
- f. The Bid Guaranty or Contract Bond, as applicable, shall be in the name of or payable to the order of the Owner.
- g. The name, address and telephone and fax numbers of the Surety and the Surety's Agent should be typed or printed on each bond.

K. METHOD OF AWARD

- 1. All bids shall remain open for acceptance for sixty (60) days following the day of the bid opening, but the Owner may, in its sole discretion, release any bid and return the Bid Guaranty prior to that date. The Bid Guaranty shall be subject to forfeiture, as provided in the Ohio Revised Code, if a bid is withdrawn during the period when bids are being held.
- 2. The Owner reserves the right to reject any, part of any or all bids and to waive any informalities and irregularities. The Bidder expressly acknowledges this right of the Owner to reject any or all bids, or to reject any incomplete or irregular bid. The Owner will award a single contract for each of the bid packages listed above or one or more combined contracts for combinations of the Bid Packages. Bidders must furnish all information requested on or accompanying the Bid Form. Failure to do so may result in disqualification of the bid.
- 3. Determination of the Bidder Submitting the Lowest and Best Bid. Subject to the right of the Owner to reject any or all bids, the Owner will award the Contract for the Work to the Bidder submitting the lowest and best bid, taking into consideration accepted alternates. In evaluating bids, the Owner may consider the qualifications of the Bidders, whether or not the bids comply with the prescribed requirements, and alternates and unit prices, if requested, on the Bid Form. The Owner may also consider the qualifications and experience of subcontractors and suppliers. The Owner may conduct such investigations as are deemed necessary to establish the qualifications and financial ability of the Bidder and its subcontractors and suppliers. The factors the Owner may consider in determining which Bidder submitted the lowest and best bid for each bid package include the factors set forth below. The Owner, in its discretion, may consider and give such weight to these factors as it deems appropriate.
 - a. The Bidder's work history. The Bidder should have a record of consistent customer satisfaction and of consistent completion of projects, including projects that are comparable to or larger and more complex than the Owner's Project, on time and in accordance with the applicable Contract Documents and the Bidder's claims history. If the Bidder's management operates or has operated another construction company, the Owner may consider the work history of that company in determining whether the Bidder submitted the lowest and best bid.

The Owner may consider the Bidder's prior experience on other projects with the Owner, and Design Professional, including the Bidder's demonstrated ability to complete its work on these projects in accordance with the Contract Documents and on time, and will also

consider its ability to work with the Owner and Design Professional as a willing, cooperative and successful team member.

The Bidder authorizes the Owner and its representatives to contact the owners and design professionals (and construction managers, if applicable) on projects on which the Bidder has worked, and authorizes and requests such owners and design professionals (and construction managers) to provide the Owner with a candid evaluation of the Bidder's performance. By submitting its bid, the Bidder agrees that if it or any person, directly or indirectly, on its behalf or for its benefit brings an action against any of such owners or design professionals (or construction managers) or the employees of any of them as a result of or related to such candid evaluation, the Bidder will indemnify and hold such owners, design professionals (and construction managers) and the employees of any of them from any claims whether or not proven that are part of or are related to such action and from all legal fees and expenses incurred by any of them arising out of or related to such legal action. This obligation is expressly intended for the benefit of such owners, design professionals (and construction managers), and the employees of each of them.

- b. The Bidder's financial ability to complete the Contract successfully and on time without resort to its Surety;
 - c. The Bidder's prior experience with similar work on comparable or more complex projects;
 - d. The Bidder's prior history for the successful and timely completion of projects, including the Bidder's history of filing and having claims filed against it;
 - e. The Bidder's equipment and facilities;
 - f. The adequacy, in numbers and experience, of the Bidder's work force to complete the Contract successfully and on time;
 - g. The Bidder's compliance with federal, state, and local laws, rules, and regulations, including but not limited to the Occupational Safety and Health Act, the Ohio Prevailing Wage laws, and Ohio ethics laws;
 - h. Credentials and previous similar experience of Bidder and proposed management team, including but not limited to Project Manager, Superintendent, and Foreman.
 - i. Company safety record.
 - j. The foregoing information with respect to each of the Subcontractors and Suppliers that the Bidder intends to use on the Project;
 - k. The Bidder's participation in a drug-free workplace program acceptable to the Owner, and the Bidder's record for both resolved and unresolved findings of the Auditor of State for recovery as defined in Section 9.24 of the Ohio Revised Code;
 - l. The Owner's prior experience with the Bidder's surety;
 - m. Bidder's workforce including the use of small, minority and / or female owned subcontractors, suppliers and consultants;
 - n. The Bidder's interest in the Project as evidenced by its attendance at any pre-bid meetings or conferences for bidders; and/or
 - o. Depending upon the type of the work, other essential factors, as the Owner may determine and as are described in the specifications for the Work.
4. Within three (3) business days after the Owner's identification of the apparent low bidder, if requested, the apparent low bidder will complete and submit to the Design Professional a completed Contractor's Qualification Statement AIA 305, **completed Diversity Participation Affidavit** and thereafter will provide the Design Professional with such additional information as the Owner and/or Design Professional may request regarding the Bidder's qualifications. Additionally, upon request from the Owner and/or Design Professional, any other Bidder will promptly complete and submit to the Design Professional a completed Contractor's Qualification Statement and thereafter will provide the Design Professional with such additional information as the Owner and/or Design Professional may request regarding the Bidder's qualifications. A Bidder will submit any requested information within three (3) business days

of the date of the request or such other time period as the Design Professional provides the Bidder.

5. The failure to submit requested information on a timely basis may result in the determination that the Bidder is not the lowest and best bidder.
6. By submitting its bid, the Bidder agrees that the Owner's determination of which bidder is the lowest and best bidder shall be final and conclusive, and that if the Bidder or any person on its behalf challenges such determination in any legal proceeding, the Bidder will indemnify and hold the Owner and its employees and agents harmless from any claims included or related to such legal proceeding, whether or not proven, and from legal fees and expenses incurred by the Owner, its employees or agents that arise out of or are related to such challenge.
7. Within three (3) business days of receipt of the bids or such longer time as may be permitted in writing by the Design Professional, the apparent low Bidder will submit the following information and completed forms:
 - a. The list of all proposed Subcontractors and suppliers
 - b. The breakdown of Labor and Material for the Project, including the sum thereof
 - c. Certification to Ensure Non-Discrimination
 - d. Conflict of Interest Certification
 - e. Prohibition against Contracting with Any Ineligible Person or Entity
 - f. Federal False Claims Act Statement
 - g. Drug Free Workplace Certificate

After approval by the Owner and Design Professional, of the list of proposed Subcontractors, suppliers, and manufactures submitted by the successful Bidder, the list shall not be changed unless written approval of the change is authorized by the Owner and Design Professional.

8. Each successful Bidder shall submit, prior to the time of the entry into the Contract, an affidavit in the form required by Section 5719.042, Ohio Revised Code, regarding the status of the Bidder's personal property taxes. A copy of the affidavit form is included with the Contract Documents.
10. No Bidder may withdraw its bid within sixty (60) days after the date bids are opened. The Owner reserves the right to waive any formalities or irregularities or to reject any or all bids.
11. The Owner reserves the right to disqualify bids, before or after opening, upon evidence of collusion with intent to defraud or other illegal practices on the part of the Bidder.
12. The award of the Contract will only be made pursuant to authorization by the Owner and, where applicable, in writing by a duly authorized representative of the Owner.

L. EXECUTION OF CONTRACT

1. Within the time designated by the Design Professional after award of the Contract, the successful Bidder shall execute and deliver to the Design Professional the required number of copies of the Owner-Contractor Agreement, in the form included in the Contract Documents, and all accompanying documents requested, including, but not limited to, a Contract Bond (if applicable), insurance certificates, and a valid Workers' Compensation Certificate.

M. SUBSTITUTIONS/NON-SPECIFIED PRODUCTS

1. The Owner will not be accepting substitutions for the Project.

N. ALTERNATES and ALLOWANCES

1. The Owner may request bids on alternates. If the Owner requests bids on alternates, the Bidder should include the cost of the alternates requested on its Bid Form.
2. At the time of awarding the contract, the Owner will select or reject alternates as it determines is in its best interest. A Bidder's failure to include in its Bid Form the cost of an alternate selected by the Owner and applicable to the Bidder's work may render the bid non-responsive if that alternate is selected, in which case the Bid will not be considered. Otherwise, the failure to include the cost of an alternate will not be deemed material.

3. The Bidder acknowledges that although there is an estimate for the cost of the Project, the market conditions may and frequently do result in the estimate being different from the sum of the bids received, either higher or lower. The Bidder understands that the Owner may include alternates, which may include deduct alternates as well as add alternates, to give it flexibility to build the Project with the funds available. The Bidder further understands and acknowledges that use of add and deduct alternates is a long held customary practice in the construction industry in the State of Ohio. The Bidder also acknowledges that the Owner will not make a decision about the alternates on which to base the award of contracts until the bids are received, and the Owner can compare its available funds with the base bids and the cost or savings from selecting different alternates. The Bidder understands that the award to the Bidder submitting the lowest and best bid will be based on the lowest base bid plus selected alternates and may result in an award to a Bidder other than the Bidder that submitted the lowest base bid.
4. If, during the progress of the Work, the Owner desires to reinstate any alternate not included in the Contract, the Owner reserves the right to reinstate the alternate at the price bid by the Contractor provided that such action is taken in sufficient time so as not to delay the progress of the work or cause the Contractor additional expense.
5. **The Owner may direct the bidders to include allowances as part of the base bid or alternates. The bidder is to review the specifications for description and the amount of the allowances.**

O. UNIT PRICES

1. Where unit prices are requested in the Bid Form for a Prime Contract on which the Bidder submits a bid, the Bidder should quote a unit price. Unless otherwise expressly provided in the Bid Documents, such unit prices shall include all labor, materials, and services necessary for the timely and proper installation of the item for which the unit prices are requested. The unit prices quoted in the bid shall be the basis for any Change Orders entered into under the Owner-Contractor Agreement, unless the Design Professional determines that the use of such unit prices will cause substantial inequity to either the Contractor or the Owner.

P. ADDENDA

1. The Owner reserves the right to issue Addenda changing, altering, or supplementing the Contract Documents prior to the time set for receiving bids. The Design Professional will issue the Addenda to clarify bidders' questions and/or to change, alter, or supplement the Contract Documents.
2. Any explanation, interpretation, correction, or modification of the Contract Documents will be issued in writing in the form of an Addendum, which shall be the only means considered binding; explanations, interpretations, etc., made by any other means shall NOT be legally binding. All Addenda shall become a part of the Contract Documents.
3. Bidders shall submit written questions to the Design Professional in sufficient time in advance of the bid opening to allow sufficient time for the Design Professional to respond. All Addenda will be issued, except as hereafter provided, and mailed or otherwise furnished to persons who have obtained Contract Documents for the Project, at least seventy-two (72) hours prior to the published time for the opening of bids, excluding Saturdays, Sundays, and legal holidays. If any Addendum is issued within such seventy-two (72) hour period, then the time for opening of bids shall be extended one (1) week with no further advertising of bids required.
4. Copies of each Addendum will be sent only to the Bidders to whom Contract Documents have been issued and to e-Builder where copies of the Contract Documents are maintained. Receipt of Addenda shall be indicated by Bidders in the space provided on the Bid Form. Bidders are responsible for acquiring issued Addenda in time to incorporate them into their bid. Bidders should contact the Design Professional prior to the bid opening to verify the number of Addenda issued.

5. Each Bidder shall carefully read and review the Contract Documents and immediately bring to the attention of the Design Professional any error, omission, inconsistency, or ambiguity therein.
6. If a Bidder fails to indicate receipt of all Addenda through the last Addendum issued by the Design Professional on its Bid Form, the bid of such Bidder will be deemed to be responsive only if:
 - a. The bid received clearly indicates that the Bidder received the Addendum, such as where the Addendum added another item to be bid upon and the Bidder submitted a bid on that item; or
 - b. The Addendum involves only a matter of form or is one which has either no effect or has merely a trivial or negligible effect on price, quantity, quality, or delivery of the item bid upon.

Q. INTERPRETATION

1. If a Bidder contemplating submitting a bid for the proposed Project is in doubt as to the true meaning of any part of the Contract Documents, it may submit a written request for an interpretation thereof to the Design Professional's representative, using the Questions and Answers Board (Q&A) in the E-Builder Bidding Portal no later than 7 days prior to the bid due date. Any interpretation of the proposed documents will be made by Addendum only, duly signed by the Design Professional, and a copy of such Addendum will be uploaded to e-Builder where the Contract Documents are maintained. The Owner will not be responsible for any other explanation or interpretation of the proposed documents.
2. In interpreting the Contract Documents, words describing materials that have a well-known technical or trade meaning, unless otherwise specifically defined in the Contract Documents, shall be construed in accordance with the well-known meaning recognized by the trade.
3. Bidders are responsible for notifying the Design Professional in a timely manner of any ambiguities, inconsistencies, errors or omissions in the Contract Documents. The Bidder shall not, at any time after the execution of the Contract, be compensated for a claim alleging insufficient data, incomplete Contract Documents, or incorrectly assumed conditions regarding the nature or character of the Work, if no request was made by the Bidder prior to the bid opening.

R. STATE SALES AND USE TAXES

1. The Owner is a political subdivision of the State of Ohio and is exempt from taxation under the Ohio Sales Tax and Use Tax Laws. Building materials that the successful Bidder purchases for incorporation into the Project will be exempt from state sales and use taxes if the successful Bidder provides a properly completed Ohio Department of Taxation Construction Contract Exemption Certificate to the vendors or suppliers when the materials are acquired. The Owner will execute properly completed certificates on request.

S. DATE FOR SUBSTANTIAL COMPLETION/LIQUIDATED DAMAGES

1. Each successful Bidder shall have its Work on the Project Substantially Complete (as Substantial Completion is defined in the Contract Documents) by the following date(s) identified in the Instructions to Bidders Supplement.

The Date for Substantial Completion Date may be extended only by Change Order, by other Modification, or by a Claim that is finally resolved. By submitting its Bid, each Bidder agrees that the period for performing its Work is reasonable.

2. If the successful Bidder does not have its Work Substantially Complete by its Date for Substantial Completion and/or Finally Complete within forty-five (45) days of achieving Substantial Completion, whichever may be applicable, the successful Bidder shall pay the Owner and the Owner may set off from amounts otherwise due the successful Bidder Liquidated Damages. The daily amounts of Liquidated Damages are set forth in the

Owner/Contractor Agreement. The total amounts of Liquidated Damages will be calculated based on the total number of calendar days beyond the Date for Substantial Completion that the Bidder's Work is not Substantially Complete and/or to the extent that its Work is not Finally Complete more than forty-five (45) after the Substantial Completion of its Work, i.e., number of late days times the per diem rate(s) for Liquidated Damages in the tables. In addition to such Liquidated Damages, the Bidder shall indemnify, defend and hold the Owner and its employees and agents harmless from any and all claims, whether or not such claims are proven, and from all costs and expenses incurred as a result of such claims, including but not limited to attorneys' and consultants' fees and expenses, that arise out of or are related to the Bidder's failure to Substantially Complete its Work by its Date for Substantial Completion. The Bidder's obligations under this Paragraph are joint and several.

3. The Bidder acknowledges and agrees, by submitting its bid for the Work and entering into a Contract with the Owner, that such amounts of Liquidated Damages represent a reasonable estimate of the actual damages for loss of or interference with the intended use of the Project that the Owner would incur if the Bidder's Work is not Substantially Complete by its Date for Substantial Completion and/or not Finally Complete by forty-five (45) days of the Date of Substantial Completion. The Bidder further acknowledges, agrees and understands that it may seek an extension of the Contract Time (and its Date for Substantial Completion) to avoid or reduce Liquidated Damages by properly following the Claim procedures in the Contract Documents.

T. OWNER'S RIGHT TO WAIVE DEFECTS AND IRREGULARITIES

1. The Owner reserves the right to waive any and all irregularities provided that the defects and irregularities do not affect the amount of the bid in any material respect or otherwise give the Bidder a competitive advantage.

U. MODIFICATION/WITHDRAWAL OF BIDS

1. A Bidder may modify its bid by written communication to the Owner addressed to the Owner's Representative at any time prior to the scheduled closing time for receipt of bids, provided such written communication is received by Owner's Representative prior to the bid deadline. The written communication shall not reveal the bid price, but should provide the addition or subtraction or other modification so that the final prices or terms will not be known until the sealed bid is opened. If the Bidder's written instructions with the change in bid reveal the bid amount in any way prior to the bid opening, the bid may be rejected as non-responsive.
2. Withdrawal Prior to Bid Deadline. A Bidder may withdraw its bid at any time for any reason prior to the bid deadline for the opening of bids established in the Legal Notice. The request to withdraw shall be made in writing to and received by the Owner's Representative prior to the time of the bid opening.
3. Withdrawal after Bid Deadline.
 - a. All bids shall remain valid and open for acceptance for a period of at least 60 days after the bid opening; provided, however, that a Bidder may withdraw its bid from consideration after the bid deadline when all of the following apply:
 - (1) the price bid was substantially lower than the other bids; and
 - (2) the reason for the bid being substantially lower was a clerical mistake, rather than a mistake in judgment, and was due to an unintentional and substantial error in arithmetic or an unintentional omission of a substantial quantity of work, labor, or material; and
 - (3) the bid was submitted in good faith; and
 - (4) the Bidder provides written notice to the Owner, to the attention of the Owner's Representative, within two (2) business days after the bid opening for which the right to withdraw is claimed.

- b. No bid may be withdrawn under this provision if the result would be the awarding of the contract on another bid for the bid package from which the Bidder is withdrawing its bid to the same Bidder.
- c. If a bid is withdrawn under this provision, the Owner may award the Contract to another Bidder determined by the Owner to be the lowest and best bidder or the Owner may reject all bids and advertise for other bids. In the event the Owner advertises for other bids, the withdrawing Bidder shall pay the costs incurred in connection with the rebidding by the Owner, including the cost of printing new Contract Documents, required advertising, and printing and mailing notices to prospective bidders, if the Owner finds that such costs would not have been incurred but for such withdrawal.

V. COMPLIANCE WITH APPLICABLE LAWS

1. By submitting a bid for Work on the Project, the Bidder acknowledges that it is in compliance with applicable federal, state, and local laws and regulations, including, but not limited to, the following:
 - a. The Bidder agrees that if it is awarded a contract that in the hiring of employees for performance of work under the contract or any subcontract, neither it nor any subcontractor, or any person acting on its behalf or its subcontractor's behalf, by reason of race, creed, sex, disability as defined in section 4112.01 of the Ohio Revised Code, or color, shall discriminate against any citizen of the state in the employment of labor or workers who are qualified and available to perform work to which the employment relates. The Bidder further agrees that neither it nor any subcontractor or any person on its behalf or on behalf of any subcontractor, in any manner, shall discriminate against or intimidate any employees hired for the performance of the work under the contract on account of race, creed, sex, disability as defined in Section 4112.01 of the Ohio Revised Code, or color.
 - b. The Bidder represents that it is familiar with all applicable ethics law requirements, including without limitation Sections 102.04 and 3517.13 of the Ohio Revised Code, and certifies that it is in compliance with such requirements.
 - c. The Bidder acknowledges and agrees that Ohio prevailing wage rates will be paid for all work performed on the Project.

W. FINDINGS FOR RECOVERY

1. By submitting its bid, each Bidder certifies for reliance of the Owner that it has no unresolved finding for recovery against it issued by the Auditor of the State of Ohio on or after January 1, 2001, except as permitted by Section 9.24 (F) of the Ohio Revised Code.

X. E-Builder

1. **The contractor will be required to use E-Builder for this project. MetroHealth will provide access and necessary training for use during this project.**

END OF INSTRUCTIONS TO BIDDERS

INSTRUCTIONS TO BIDDERS SUPPLEMENT

1. The Project is: Glick Tower – Fire Alarm Modifications, CM NO. 17.06
2. The Owner's Designated Representative for the Project is:
Colin Rininger
Project Manager
Signet Real Estate Group
19 N High St. | Akron, OH 44308
C: 330.419.2364
crininger@signetre.com
3. The Work for which bids are being solicited at this time consists of modifications & additions to the fire alarm system at the Glick Tower
4. Bidder shall have its Work on the Project Completed in accordance with 3.2 of the Owner Contractor Agreement:
 - a. Substantial Completion to be determined based on contractor's best completion date.
5. The total estimated construction cost for the base bid Work is: \$600,000.
6. Complete copies of the Contract Documents may be viewed online at the e-Builder Bidder Portal for this Project.
7. A pre-bid meeting will take place on Wednesday, May 29th, 2024 at 10:00 AM at MetroHealth MetroHealth Center for Campus Transformation, 2500 MetroHealth Drive Suite SG-100, Cleveland OH 44109.
8. Sealed bids shall be delivered in accordance with the Instruction to Bidder: Each Bid shall be submitted electronically as one PDF with the file name in the following format: "[BIDDER NAME] – GLICK TOWER – FIRE ALARM MODIFICATIONS, CM NO. 17-06 PROJECT BID." No paper copies or hand deliveries are to be made. The e-Builder system will serve as the official date/time stamp relative to receipt of any Bid. The Owner shall not be held liable if a Bidder is unable to submit its complete Bid prior to the deadline due to technical issues or obstructions.
9. The Bidder shall be responsible for uploading its Bid to the online e-Builder Bidder Portal before 1:00 pm, local time on Wednesday, June 5th, 2024.
10. MetroHealth will utilizing E-Builder for this project.
11. The online e-Builder Bidder Portal for this Project is located at the following hyperlink:
<https://gateway.app.e-builder.net/app/bidders/landing?accountid=441ecee5-1661-403e-9fcd-ba78a8aac5a1&projectid=9912f650-1c66-42da-a386-2bb5fa25b16c&bidpackageid=dccc7e8c-b0a0-481c-bd73-7aad50c88e5b>
12. Instructions for the use of e-Builder, including how to upload a Bid, are included as part of the Contract Documents.
13. The Bids will be opened and publicly read via live video stream as follows: To be issued in an Addendum.

METROHEALTH
REQUEST FOR BID CLARIFICATION

Instructions: All questions that arise during the bidding of this project shall be documented on this form and forwarded to the Design Professional **no later than 7 calendar days prior to bid opening**. Please fill out this form completely.

Date: _____ **Project:** _____

Contractor: _____

Address: _____

Phone: (____) _____ - _____

Fax: (____) _____ - _____

Contact: _____

Drawing No. _____ **Specification Section:** _____

Question: _____

Signature: _____ **Date:** _____

Response: _____

Signature: _____ **Date:** _____

Fax to:

Design Professional and Design Professional's
Representative for the Project

BID FORM

1.01 BID SUBMITTED BY: _____
(Print Bidder's Name)

DATED: _____, 20_____

1.02 DELIVER TO: The address identified in the Instructions to Bidders Supplement.

1.03 Having carefully reviewed the Instructions to Bidders, Drawings, Specifications and other Contract Documents for the **Single Prime Contract for the Glick Tower – Fire Alarm Modifications, 2500 MetroHealth Dr Cleveland, OH 44109**, including having also received, read and taken into account the following Addenda:

Addendum No. _____, dated _____

Addendum No. _____, dated _____

Addendum No. _____, dated _____

Addendum No. _____, dated _____

Addendum No. _____, dated _____

and likewise having inspected the site and the conditions affecting and governing the Project and confirmed the location of the site utilities and all existing structures, the undersigned hereby proposes to furnish all materials and to perform all labor, as specified and described in the said Specifications and/or as shown on the said Drawings for all Work necessary to complete the Project on a timely basis and in accordance with the Contract Documents regardless of whether expressly provided for in such Specifications and Drawings.

1.04 Before completing the Bid Form, the undersigned represents that it has carefully reviewed the Legal Notice, Instructions to Bidders, this Bid Form, Form of Bid Guaranty and Contract Bond, Contractor's Affidavit (O.R.C. 5719.042), Owner-Contractor Agreement, General Conditions of the Contract (AIA Document A201, 2007 edition) (as modified), Plans, Project Specifications, and other Contract Documents. Failure to comply with provisions of the Contract Documents may be cause for disqualification of the bid.

1.05 BONDS AND CONTRACT: If the undersigned is notified of bid acceptance, it agrees to furnish required bonds as indicated in the Instructions to Bidders.

1.06 COMPLETION OF WORK: In submitting a bid, the undersigned agrees to execute the Owner-Contractor Agreement in the form included in the Contract Documents and to Substantially Complete its Work as required by the Contract Documents.

NOTE A: The wording of the Bid Form shall be used throughout, without change, alteration, or addition. Any change may cause it to be rejected.

2.01 BID:

Include the cost of all labor and material for the contract(s) listed below. Bidder is to fill in all blanks related to the Bid Package for which a bid is being submitted. If no bid is submitted for an item, insert "NO BID" in the blank. For alternate items, indicate whether the amount stated is in addition to or a deletion from the base bid amount (if there is no indication whether the amount for an alternate is an addition or a deletion, the amount shall be an addition unless the wording of the alternate item clearly states that it is a deduction).

A. BASE BID

Having examined the Contract Documents, and having inspected the site of/and the conditions affecting and governing the construction of said project, the undersigned Bidder hereby proposes to furnish all labor and materials, supervision, coordination, transportation, services and equipment required to construct and properly complete the Construction included in the Contract Documents for a lump sum of:

	Dollars (\$)	
(Words)		(Figures)

The above BASE BID total is the mathematical sum of the extended prices in the table below and is based on estimated quantities as listed therein for the restoration work and the cost of all other items required for the completion of the BASE BID. All items of material, labor, supplies, or equipment that are not specifically enumerated for payment as separate items, but which are reasonably required to complete the work as shown on the drawings or as described in the specifications, are considered as subsidiary obligations of the Contractor. No separate measurement or payment is made for them. Unit Prices shall include all charges for overhead and taxes, profit, insurance and shall be applied to net differences in the quantities. Should any mathematical errors be discovered in the preparation of these proposals, the correct extension of the bidder's unit price times the estimated quantity of work will be the basis for computing the true bid figure.

3.01 INSTRUCTIONS FOR SIGNING

- A. The person signing for a sole proprietorship must be the sole proprietor or his authorized representative. The name of the sole proprietor must be shown below.
- B. The person signing for a partnership must be a partner or his authorized representative.
- C. The person signing for a corporation must be the president, vice president or other authorized representative; or he must show authority, by affidavit, to bind the corporation.
- D. The person signing for some other legal entity must show his authority, by affidavit, to bind the legal entity.

4.01 BIDDER CERTIFICATIONS. The Bidder hereby acknowledges that the following representations in this bid are material and not mere recitals:

1. The Bidder acknowledges that this is a public project involving public funds, and that the Owner expects and requires that each successful Bidder adhere to the highest ethical and performance standards. The Bidder by submitting its bid pledges and agrees that (a) it will act at all times with absolute integrity and truthfulness in its dealings with the Owner, Construction Manager and the Design Professional, (b) it will use its best efforts to cooperate with the Owner, Construction Manager, and Design Professional and all other Contractors on the Project and at all times will act with professionalism and dignity in its dealings with the Owner, Construction Manager, Design Professional, and other Contractors, (c) it will assign only competent supervisors and workers to the Project, each of whom is fully qualified to perform the tasks that are assigned to him/her, and (d) it has read, understands and will comply with the terms of the Contract Documents.
2. The Bidder represents that it has had a competent person carefully and diligently review each part of the Contract Documents, including the Divisions of the Specifications and parts of the Drawings that are not directly applicable to the Work on which the Bidder is submitting its bid. By submitting its bid, each Bidder represents and agrees, based upon its careful and diligent

review of the Contract Documents, that it is not aware of any conflicts, inconsistencies, errors or omissions in the Contract Documents for which it has not notified the Design Professional, through the Construction Manager, in writing at least seven (7) days prior to the bid opening. If there are any such conflicts, inconsistencies, errors or omissions in the Contract Documents, the Bidder (i) will provide the labor, equipment or materials of the better quality or greater quantity of Work; and/or (ii) will comply with the more stringent requirements. The Bidder will not be entitled to any additional compensation for any conflicts, inconsistencies, errors or omissions that would have been discovered by such careful and diligent review, unless it has given such prior written notice to Design Professional, through the Construction Manager.

3. The Bidder represents that it has had a competent person carefully and diligently inspect and examine the entire site for the Project and the surrounding area, including all parts of the site applicable to the Work for which it is submitting its bid, including the location, condition and layout of the site and the location of utilities, and carefully correlate the results of the inspection with the requirements of the Contract Documents. The Bidder agrees that its bid shall include all costs attributable to site and surrounding area conditions that would have been discovered by such careful and diligent inspection and examination of the site and the surrounding area, and the Bidder shall not be entitled to any Change Order, additional compensation, or additional time on account of conditions that could not have been discovered by such an investigation.
4. The Bidder represents, understands and agrees that (a) the Claim procedures in the Modified General Conditions are material terms of the Contract Documents, (b) if it has a Claim, it will have its personnel provide complete and accurate information to complete and submit the Statement of Claim form ("Claim Form") on a timely basis, (c) the proper completion and timely submission of a Claim Form is a condition precedent to any change in the Contract Sum or the Contract Time(s), and (d) the proper and timely submission of the Claim Form provides the Owner, Construction Manager, and Design Professional with necessary information so that the Owner may investigate the Claim and mitigate its damages.
5. The Bidder represents that the Bid contains the name of every person interested therein and is based upon the Standards specified by the Contract Documents.
6. The Bidder and each person signing on behalf of the Bidder certifies, and in the case of a bid by joint venture, each member thereof certifies as to such member's entity, under penalty of perjury, that to the best of the undersigned's knowledge and belief: (a) the Base Bid, any Unit Prices and any Alternate bid in the Bid have been arrived at independently without collusion, consultation, communication or agreement, or for the purpose of restricting competition as to any matter relating to such Base Bid, Unit Prices or Alternate bid with any other Bidder; (b) unless otherwise required by law, the Base Bid, any Unit Prices and any Alternate bid in the Bid have not been knowingly disclosed by the Bidder and will not knowingly be disclosed by the Bidder prior to the bid opening, directly or indirectly, to any other Bidder who would have any interest in the Base Bid, Unit Prices or Alternate bid; (c) no attempt has been made or will be made by the Bidder to induce any other Person to submit or not to submit a Bid for the purpose of restricting competition; and (d) the statements made in this Bid Form are true and correct.
7. The Bidder will execute the form of Owner/Contractor Agreement in the form included with the Contract Documents, if a Contract is awarded on the basis of this Bid, and if the Bidder does not execute the Contract Form for any reason, other than as authorized by law, the Bidder and the Bidder's Surety are liable to the Owner.
8. The Bidder certifies that the upon the award of a Contract, the Contractor will ensure that all of the Contractor's employees, while working on the Project site, will not purchase, transfer, use or possess illegal drugs or alcohol or abuse prescription drugs in any way.

9. The Bidder agrees to furnish any information requested by the Construction Manager, Design Professional or the Owner's authorized representative to evaluate that the Bid is the lowest and best bid and that the bid is responsive to the specifications.
10. The Bidder certifies that it has no unresolved findings for recovery issued by the Auditor of State.
11. The Bidder certifies that it is aware of and in compliance with the requirements of Ohio Revised Code Section 3517.13 regarding campaign contributions.
12. The Bidder certifies that it has not been debarred from participation in any State or Federal program as a contractor for work on a project.
13. **If applicable, the Bidder certifies that it is currently certified under the MBE and/or EDGE programs of Ohio's Department of Administrative Services (or an equivalent state or federal designation) to perform work as a minority, women-owned, historically underutilized or other disadvantaged business enterprise. Check the appropriate certification:**

MBE _____

WBE _____

Other DBE _____

14. **The Bidder shall note whether or not its principal place of business is located in Cuyahoga County, Ohio.**

Yes _____

No _____

LEGAL NAME OF BIDDER: _____

BIDDER IS: _____
(sole proprietor, partnership, corporation or other legal entity)

NAME & TITLE OF PERSON LEGALLY AUTHORIZED TO BIND BIDDER TO A CONTRACT:

Name	Title
DATE SIGNED: _____	SIGNATURE: _____
	ADDRESS: _____
	TELEPHONE: _____ FAX: _____
	EMAIL: _____
	FEDERAL TAX I.D. # _____

Bid Form continued on next page....

When the Bidder is a partnership or a joint venture, state name and address of each partner in the partnership or participant in the joint venture below:

Signature

Printed name/Title

Date: _____

Address: _____

Signature

Printed name/Title

Date: _____

Address: _____

Signature

Printed name/Title

Date: _____

Address: _____

Signature

Printed name/Title

Date: _____

Address: _____

Signature

Printed name/Title

Date: _____

Address: _____

END OF SECTION

OWNER-CONTRACTOR AGREEMENT
(General Contractor Version)

OWNER: THE METROHEALTH SYSTEM
BOARD OF TRUSTEES
2500 MetroHealth Drive
Cleveland, Ohio 44109

CONTRACTOR:

DATE:

PROJECT:

This document is an agreement between the Owner and the Contractor for the Work described in the Contract Documents related to the Contract identified above for the Project and is effective as of the date set forth above ("Effective Date of this Agreement"), which if no date is entered shall be the date the Agreement was signed by the Owner, through its authorized representative.

The Owner and the Contractor agree as set forth in the following paragraphs:

1. CONTRACT DOCUMENTS. The Contract Documents consist of the following documents:

- A. Legal Notice;
- B. Instructions to Bidders;
- C. Instructions to Bidders Supplement;
- D. Bid Form;
- E. Bid Guaranty and Contract Bond Form
- F. Contract Bond Form
- G. Contractor's Personal Property Tax Affidavit (R.C. §5719.042)
- H. Owner-Contractor Agreement;
- I. General Conditions of the Contract for Construction (AIA Document A201-2007), as modified;
- J. Special Conditions of the Contract;
- K. Contractor's Payment Application Checklist
- L. Drawings;
- M. Specifications;
- N. Certification to Ensure Non-Discrimination;
- O. Conflict of Interest Certification;
- P. Diversity Participation Affidavit
- Q. Prohibition Against Contracting with Any Ineligible Person or Entity;
- R. Federal False Claims Act Form;
- S. Drug Free Workplace Certificate;
- T. Addenda issued after the bid period;
- U. Statement of Claim Form and Instructions; and
- V. Modifications issued after the execution of the contract, including:
 - i. A written amendment to the Agreement signed by both parties;
 - ii. A Change Order;
 - iii. A Work Change Directive; or,
 - iv. A written order for a minor change of the Work issued by the Design Professional in accordance with the General Conditions
- W. Contractor Safety Handbook

Note. Non-Contract Documents. The following are the reports and tests of subsurface conditions at or contiguous to the Site, if any, that the Design Professional has used in preparing the Contract Documents. These are not Contract Documents. The General Conditions, as modified, contain additional terms related to these reports and tests. (None, if none are listed).

Note. Non-Contract Documents. The following are those reports and drawings related to any Hazardous Conditions at the Site, if any. These are not Contract Documents. The General Conditions, as modified, contain additional terms related to these reports and drawings. (None if none are listed).

2. DESIGN PROFESSIONAL. The Contract Documents shall not be construed to create a contractual relationship of any kind between the Design Professional and the Contractor or any Subcontractor or Material Supplier to the Project. The Design Professional, however, shall be entitled to performance of the obligations of the Contractor intended for their benefit and to enforcement of such obligations, but nothing contained herein shall be deemed to give the Contractor or any third party any claim or right of action against the Design Professional which does not otherwise exist without regard to this Contract. The Contractor and its Subcontractors shall not be deemed to be beneficiaries of any of the acts or services of the Design Professional that are performed for the sole benefit of the Owner. The Contractor shall forward all communications to the Owner through the Design Professional.

2.1 The Design Professional (also called the "Architect") is:

The Design Professional's Representative is .

3. TIME FOR COMPLETION AND PROJECT COORDINATION.

3.1 DATE FOR COMMENCEMENT. The date for commencement of the Work shall be the date established in a written Notice to Proceed issued by the Owner to the Contractor. If no Notice to Proceed is issued, then the date for commencement shall be the Effective Date of the Agreement. The date for commencement of the Work shall be within sixty (60) days from the bid opening date, unless the Owner and the Contractor agree to a later date. If there is any other date for commencement of the Work in the bid documents, Contract Documents or elsewhere, it is agreed that such other date is a tentative date and may not be relied upon by the Contractor. If the date for commencement of the Work is later than sixty (60) days from the bid opening date or, if applicable, the later date agreed to by the Owner and the Contractor, the Contractor may submit a Claim in accordance with the Contract Documents.

3.2 DATE FOR SUBSTANTIAL COMPLETION. The Contractor shall have its Work on the Project Substantially Complete by the following date or within the following Contract Time (in calendar days) . The Date for Substantial Completion is the foregoing date or date calculated using the Contract Time. The Date for Substantial Completion shall only be changed or modified by Change Order, other Modification, or a Claim that is Finally Resolved regardless of any dates in any schedule created by any person. The Contract Time shall run from the date of the Notice to Proceed or if there is no Notice to Proceed from the Effective Date of this Agreement.

3.2.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work for its intended use. Final Completion shall mean that the Work is complete in accordance with the Contract Documents and the Contractor has submitted to the Design Professional all documents required to be submitted to the Design Professional for final payment. A Claim is "Finally Resolved" when the Initial Decision Maker has made a decision on a Claim under Section 15.2.6.1 of the General Conditions of the Contract for Construction (AIA Document A201- 2007), as modified, and that any litigation regarding the Claim has been concluded.

3.2.2 SHUTDOWN DATES. Due to events scheduled by the Owner and/or other Owner considerations, Contractor will not be able to perform Work on the Project on the following dates (None if none listed):

Date	Reason for Shutdown
------	---------------------

Contractor's Construction Schedule for performing the Work shall account for Contractor not being able to perform Work on these dates and the contractual dates for Substantial Completion and Final Completion will not be changed due to Contractor not being able to perform Work on these dates.

3.3 **CONSTRUCTION SCHEDULE.** The Construction Schedule shall be developed by the Contractor as stated in the Contract Documents.

3.4 **[Reserved].**

3.5 **LIQUIDATED DAMAGES.** If the Contractor does not have its Work on the Project Substantially Complete by its Date for Substantial Completion (including Interim Milestone Dates, if any) or Finally Complete within forty-five (45) days of achieving Substantial Completion, the Contractor shall pay the Owner (and the Owner may set off from sums coming due the Contractor) Liquidated Damages in the per diem amounts as set forth in the following tables, whichever may be applicable:

LIQUIDATED DAMAGES – INTERIM MILESTONE AND SUBSTANTIAL COMPLETION

<u>Contract Amount</u>	<u>Dollars Per Day</u>
\$1.00 to \$50,000.00	\$ 250.00
\$50,000.01 to \$150,000.00	\$ 500.00
\$150,000.01 to \$500,000.00	\$1,000.00
\$500,000.01 to \$2,000,000.00	\$1,500.00
\$2,000,000.01 to \$5,000,000.00	\$2,500.00
\$5,000,000.01 to \$10,000,000.00	\$3,000.00
Over \$10,000,000.00	\$3,500.00

LIQUIDATED DAMAGES – FINAL COMPLETION

<u>Contract Amount</u>	<u>Dollars Per Day</u>
\$1.00 to \$50,000.00	\$ 50.00
\$50,000.01 to \$150,000.00	\$ 100.00
\$150,000.01 to \$500,000.00	\$ 200.00
\$500,000.01 to \$2,000,000.00	\$ 300.00
\$2,000,000.01 to \$5,000,000.00	\$ 500.00
\$5,000,000.01 to \$10,000,000.00	\$ 600.00
Over \$10,000,000.00	\$ 700.00

In addition to such Liquidated Damages, the Contractor shall indemnify, defend, and hold the Owner and its employees and agents harmless from any and all Claims, whether or not such Claims are proven, and from all costs and expenses incurred, as a result of or related to such Claims, including but not limited to attorneys' and attorneys' consultants' fees and expenses, the Architect's fees and expenses, including any fees or expenses of the Architect's consultants, provided that such Claims arise out of or are related to the Contractor's failure to Substantially Complete its Work by its Date for Substantial Completion or its failure to Finally Complete its Work within forty-five (45) days of its Date for Substantial Completion. The Contractor's obligation to indemnify, defend and hold the Owner harmless under this Paragraph 3.5 shall be joint and several. These Liquidated Damages are in addition to any other remedies available to the Owner under the Contract Documents.

The Contractor acknowledges that such amounts of Liquidated Damages represent a reasonable estimate of the actual damages for loss of or interference with the intended use of the Project that the Owner would incur if the Contractor's Work is not Substantially Complete by its Date for Substantial Completion (including Interim Milestone Dates, if any) or Finally Complete by the required date for Final Completion.

4. CONTRACT SUM (also called Contract Price). The lump sum Contract Sum to be paid by the Owner to the Contractor, as provided herein, for the satisfactory performance and completion of the Work and all of the duties, obligations and responsibilities of the Contractor under this Agreement and the other Contract Documents is _____ Dollars (\$_____). The Contract Sum includes all federal, state, county, municipal, and other taxes imposed by law, including but not limited to any sales, use, commercial activity and personal property taxes payable by or levied against the Contractor on account of the Work or the materials incorporated into the Work. The Contractor will pay any such taxes. The Contract Sum includes the following:

Base Bid Amount:	\$ _____
Alternate No. _____	\$ _____
Alternate No. _____	\$ _____

If after Substantial Completion of its Work, the Contractor fails to submit its final payment application with all the documents required to be submitted with such application within ninety (90) days after written notice to do so from the Owner and without prejudice to any other rights and remedies the Owner may have available to it, the balance of the Contract Sum shall become the Owner's sole and exclusive property, and the Contractor shall have no further interest in or right to such balance.

5. RETAINAGE. Retainage applicable to the Agreement by Ohio Revised Code Sections 153.12, .13, and .14 will be withheld as defined in the General Conditions.

6. LIMITATION ON LIABILITY. The Owner's total liability under this Agreement will be limited to the amount of the Contract Sum. Under no circumstances will the officers, employees, or agents of the Owner be personally liable for any obligations or claims arising out of or related to this Agreement.

7. GENERAL.

7.1 **MODIFICATION.** No modification or waiver of any of the terms of this Agreement or of any other Contract Documents will be effective against a party unless set forth in writing and signed by or on behalf of a party. In the case of the Owner, the person executing the modification or waiver must have express authority to execute the Modification on behalf of the Owner. Under no circumstances will forbearance, including the failure or repeated failure to insist upon compliance with the terms of the Contract Documents, constitute the waiver or modification of any such terms. The parties acknowledge that no person has authority to modify this Agreement or the other Contract Documents or to waive any of its or their terms, except as expressly provided in this paragraph.

7.2 **ASSIGNMENT.** The Contractor may not assign this Agreement without the written consent of the Owner, which the Owner may withhold in its sole discretion.

7.3 **LAW AND JURISDICTION.** All questions regarding the validity, intention, or meaning of this Agreement or any modifications of it relating to the rights and obligation of the parties will be construed and resolved under the laws of the State of Ohio. Any suit, which may be brought to enforce any provision of this Agreement or any remedy with respect hereto, shall be brought in the Common Pleas Court of the county in Ohio in which the Owner's principal office is located, and each party hereby expressly consents to the exclusive jurisdiction of such court. The parties expressly waive the right to remove any litigation arising out of this Agreement to federal court.

7.4 **CONSTRUCTION.** The parties acknowledge that each party has reviewed this Agreement and the other Contract Documents and entered into this Agreement as a free and voluntary act. Accordingly, the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party will not be employed in the interpretation of this Agreement, the other Contract Documents, or any amendments or exhibits to it or them.

7.5 **APPROVALS.** Except as expressly provided herein, the approvals and determinations of the Owner and Design Professional will be subject to the sole discretion of the respective party and be valid and binding on the Contractor, provided only that they be made in good faith, i.e., honestly. If the

Contractor challenges any such approval or determination, the Contractor has the burden of proving that it was not made in good faith by clear and convincing evidence.

7.6 PARTIAL INVALIDITY. If any term or provision of this Agreement is found to be illegal, unenforceable, or in violation of any laws, statutes, ordinances, or regulations of any public authority having jurisdiction, then, notwithstanding such term or provision, this Agreement will remain in full force and effect and such term will be deemed stricken; provided this Agreement will be interpreted, when possible, so as to reflect the intentions of the parties as indicated by any such stricken term or provision.

7.7 COMPLIANCE WITH LAWS AND REGULATIONS. The Contractor, at its expense, will comply with all applicable federal, state, and local laws, rules, and regulations applicable to the Work which prohibit discrimination in the hiring and treatment of employees, with respect to which the Contractor agrees to comply and to require its subcontractors to comply.

7.7.1 NON-DISCRIMINATION. Contractor agrees:

- .1 That in the hiring of employees for the performance of Work under this Agreement or in any subcontract, neither the Contractor, subcontractor, or any person acting on behalf of either of them, shall by reason of race, creed, sex, disability as defined in Section 4112.01 of the Ohio Revised Code, or color, shall discriminate against any citizen of the state in the employment of labor or workers who are qualified and available to perform the Work to which the employment relates.
- .2 That neither the Contractor, subcontractor, nor any person acting on behalf of either of them, shall, in any manner, discriminate against or intimidate any employee hired for the performance of Work under this Agreement on account of race, creed, sex, disability as defined in Section 4112.01 of the Ohio Revised Code, or color.
- .3 That there shall be deducted from the amount payable to the Contractor by the Owner under this Agreement a forfeiture of twenty-five dollars (\$25.00) as required by Ohio Revised Code Section 153.60 for each person who is discriminated against or intimidated in violation of this Agreement.
- .4 That this Agreement may be canceled or terminated by the Owner and all money to become due hereunder may be forfeited for a second or subsequent violation of the terms of this section of this Agreement.

7.8 PREVAILING WAGE RATES. Wage rates based upon current Ohio Prevailing Wage Rates for Cuyahoga County are a contractual requirement for work performed on this Project. Applicable wage rates can be found on the State of Ohio, Department of Commerce, Bureau of Wage and Hour Administration web site located at <http://www.com.state.oh.us/>. The Owner is a county hospital exempt from the statutory prevailing wage law, and the payment of prevailing wage rates will not be enforced by the State of Ohio. Each contractor is responsible for payment of applicable wage rates, and all wage adjustments, for the duration of the project for work performed under its contract on the Project. Every Contractor and its Subcontractors working on a new construction project with a Contract Sum of more than \$50,000 or remodeling project with a Contract Sum of more than \$15,000, shall submit monthly a copy of its certified payroll report to the Owner. The contractor will be responsible for the reporting of prevailing wages through LCP Tracker.

7.9 ENTIRE AGREEMENT. This Agreement and the other Contract Documents constitute the entire agreement among the parties with respect to their subject matter and will supersede all prior and contemporaneous, oral or written, agreements, negotiations, communications, representations, and understandings with respect to such subject matter, and no person is justified in relying on such agreements, negotiations, communications, representations, or understandings.

7.10 COUNTERPARTS. This Agreement may be executed in any number of counterparts each of which when so executed and delivered will be an original hereof, and it will not be necessary in making proof of this Agreement to produce or account for more than one counterpart hereof. This Agreement may be executed and delivered by facsimile or via electronic mail.

7.11 The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all; performance by the Contractor shall be required only to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the indicated results. In the event of inconsistencies with or between parts of the Contract Documents, or between the Contract Documents and applicable standards, codes, and ordinances, the Contractor shall (i) provide the better quality or greater quantity of Work; or (ii) comply with the more stringent requirements; either or both in accordance with the Architect's interpretation.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their properly authorized representatives and agree that this Agreement is effective as of the date first set forth above.

OWNER: ON BEHALF OF THE METROHEALTH
SYSTEM

CONTRACTOR:

BY: _____

BY: _____

PRINT NAME: _____

PRINT NAME: _____

TITLE: _____

TITLE: _____

DATE: _____

DATE: _____

DRAFT AIA® Document A201™ – 2017

General Conditions of the Contract for Construction

THIS DOCUMENT HAS BEEN MODIFIED FROM ITS ORIGINAL VERSION.

for the following PROJECT:

(Name and location or address)

« Reference the Instructions to Bidders Supplement

THE OWNER:

(Name, legal status and address)

« The MetroHealth System Board of Trustees
MetroHealth Medical Center
2500 MetroHealth Drive
Cleveland, Ohio 44109-1998

»« »

« »

THE ARCHITECT:

(Name, legal status and address)

« Reference the Instructions to Bidders Supplement »« »

« »

TABLE OF ARTICLES

- | | |
|----|--|
| 1 | GENERAL PROVISIONS |
| 2 | OWNER |
| 3 | CONTRACTOR |
| 4 | ARCHITECT |
| 5 | SUBCONTRACTORS |
| 6 | CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS |
| 7 | CHANGES IN THE WORK |
| 8 | TIME |
| 9 | PAYMENTS AND COMPLETION |
| 10 | PROTECTION OF PERSONS AND PROPERTY |
| 11 | INSURANCE AND BONDS |
| 12 | UNCOVERING AND CORRECTION OF WORK |

ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

For guidance in modifying this document to include supplementary conditions, see AIA Document A503™, Guide for Supplementary Conditions.

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- 13 MISCELLANEOUS PROVISIONS
- 14 TERMINATION OR SUSPENSION OF THE CONTRACT
- 15 CLAIMS AND DISPUTES



INDEX

(Topics and numbers in bold are Section headings.)

Acceptance of Nonconforming Work

9.6.6, 9.9.3, **12.3**

Acceptance of Work

9.6.6, 9.8.2, 9.9.3, 9.10.1, 9.10.3, 12.3

Access to Work

3.16, 6.2.1, 12.1

Accident Prevention

10

Acts and Omissions

3.2, 3.3.2, 3.12.8, 3.18, 4.2.3, 8.3.1, 9.5.1, 10.2.5,
10.2.8, 13.3.2, 14.1, 15.1.2, 15.2

Addenda

1.1.1

Additional Costs, Claims for

3.7.4, 3.7.5, 10.3.2, 15.1.5

Additional Inspections and Testing

9.4.2, 9.8.3, 12.2.1, **13.4**

Additional Time, Claims for

3.2.4, 3.7.4, 3.7.5, 3.10.2, 8.3.2, **15.1.6**

Administration of the Contract

3.1.3, **4.2**, 9.4, 9.5

Advertisement or Invitation to Bid

1.1.1

Aesthetic Effect

4.2.13

Allowances

3.8

Applications for Payment

4.2.5, 7.3.9, 9.2, **9.3**, 9.4, 9.5.1, 9.5.4, 9.6.3, 9.7, 9.10

Approvals

2.1.1, 2.3.1, 2.5, 3.1.3, 3.10.2, 3.12.8, 3.12.9,
3.12.10.1, 4.2.7, 9.3.2, 13.4.1

Arbitration

8.3.1, 15.3.2, **15.4**

ARCHITECT

4

Architect, Definition of

4.1.1

Architect, Extent of Authority

2.5, 3.12.7, 4.1.2, 4.2, 5.2, 6.3, 7.1.2, 7.3.4, 7.4, 9.2,
9.3.1, 9.4, 9.5, 9.6.3, 9.8, 9.10.1, 9.10.3, 12.1, 12.2.1,
13.4.1, 13.4.2, 14.2.2, 14.2.4, 15.1.4, 15.2.1

Architect, Limitations of Authority and

Responsibility

2.1.1, 3.12.4, 3.12.8, 3.12.10, 4.1.2, 4.2.1, 4.2.2,
4.2.3, 4.2.6, 4.2.7, 4.2.10, 4.2.12, 4.2.13, 5.2.1, 7.4,
9.4.2, 9.5.4, 9.6.4, 15.1.4, 15.2

Architect's Additional Services and Expenses

2.5, 12.2.1, 13.4.2, 13.4.3, 14.2.4

Architect's Administration of the Contract

3.1.3, 3.7.4, 15.2, 9.4.1, 9.5

Architect's Approvals

2.5, 3.1.3, 3.5, 3.10.2, 4.2.7

Architect's Authority to Reject Work

3.5, 4.2.6, 12.1.2, 12.2.1

Architect's Copyright

1.1.7, 1.5

Architect's Decisions

3.7.4, 4.2.6, 4.2.7, 4.2.11, 4.2.12, 4.2.13, 4.2.14, 6.3,
7.3.4, 7.3.9, 8.1.3, 8.3.1, 9.2, 9.4.1, 9.5, 9.8.4, 9.9.1,
13.4.2, 15.2

Architect's Inspections

3.7.4, 4.2.2, 4.2.9, 9.4.2, 9.8.3, 9.9.2, 9.10.1, 13.4

Architect's Instructions

3.2.4, 3.3.1, 4.2.6, 4.2.7, 13.4.2

Architect's Interpretations

4.2.11, 4.2.12

Architect's Project Representative

4.2.10

Architect's Relationship with Contractor

1.1.2, 1.5, 2.3.3, 3.1.3, 3.2.2, 3.2.3, 3.2.4, 3.3.1, 3.4.2,
3.5, 3.7.4, 3.7.5, 3.9.2, 3.9.3, 3.10, 3.11, 3.12, 3.16,
3.18, 4.1.2, 4.2, 5.2, 6.2.2, 7, 8.3.1, 9.2, 9.3, 9.4, 9.5,
9.7, 9.8, 9.9, 10.2.6, 10.3, 11.3, 12, 13.3.2, 13.4, 15.2

Architect's Relationship with Subcontractors

1.1.2, 4.2.3, 4.2.4, 4.2.6, 9.6.3, 9.6.4, 11.3

Architect's Representations

9.4.2, 9.5.1, 9.10.1

Architect's Site Visits

3.7.4, 4.2.2, 4.2.9, 9.4.2, 9.5.1, 9.9.2, 9.10.1, 13.4

Asbestos

10.3.1

Attorneys' Fees

3.18.1, 9.6.8, 9.10.2, 10.3.3

Award of Separate Contracts

6.1.1, 6.1.2

Award of Subcontracts and Other Contracts for Portions of the Work

5.2

Basic Definitions

1.1

Bidding Requirements

1.1.1

Binding Dispute Resolution

8.3.1, 9.7, 11.5, 13.1, 15.1.2, 15.1.3, 15.2.1, 15.2.5,
15.2.6.1, 15.3.1, 15.3.2, 15.3.3, 15.4.1

Bonds, Lien

7.3.4.4, 9.6.8, 9.10.2, 9.10.3

Bonds, Performance, and Payment

7.3.4.4, 9.6.7, 9.10.3, **11.1.2**, 11.1.3, **11.5**

Building Information Models Use and Reliance

1.8

Building Permit

3.7.1

Capitalization

1.3

Certificate of Substantial Completion

9.8.3, 9.8.4, 9.8.5

Certificates for Payment

4.2.1, 4.2.5, 4.2.9, 9.3.3, **9.4**, 9.5, 9.6.1, 9.6.6, 9.7,
9.10.1, 9.10.3, 14.1.1.3, 14.2.4, 15.1.4

Certificates of Inspection, Testing or Approval
13.4.4
Certificates of Insurance
9.10.2
Change Orders
1.1.1, 3.4.2, 3.7.4, 3.8.2.3, 3.11, 3.12.8, 4.2.8, 5.2.3,
7.1.2, 7.1.3, **7.2**, 7.3.2, 7.3.7, 7.3.9, 7.3.10, 8.3.1,
9.3.1.1, 9.10.3, 10.3.2, 11.2, 11.5, 12.1.2
Change Orders, Definition of
7.2.1
CHANGES IN THE WORK
2.2.2, 3.11, 4.2.8, **7**, 7.2.1, 7.3.1, 7.4, 8.3.1, 9.3.1.1,
11.5
Claims, Definition of
15.1.1
Claims, Notice of
1.6.2, 15.1.3
CLAIMS AND DISPUTES
3.2.4, 6.1.1, 6.3, 7.3.9, 9.3.3, 9.10.4, 10.3.3, **15**, 15.4
Claims and Timely Assertion of Claims
15.4.1
Claims for Additional Cost
3.2.4, 3.3.1, 3.7.4, 7.3.9, 9.5.2, 10.2.5, 10.3.2, **15.1.5**
Claims for Additional Time
3.2.4, 3.3.1, 3.7.4, 6.1.1, 8.3.2, 9.5.2, 10.3.2, **15.1.6**
Concealed or Unknown Conditions, Claims for
3.7.4
Claims for Damages
3.2.4, 3.18, 8.3.3, 9.5.1, 9.6.7, 10.2.5, 10.3.3, 11.3,
11.3.2, 14.2.4, 15.1.7
Claims Subject to Arbitration
15.4.1
Cleaning Up
3.15, 6.3
Commencement of the Work, Conditions Relating to
2.2.1, 3.2.2, 3.4.1, 3.7.1, 3.10.1, 3.12.6, 5.2.1, 5.2.3,
6.2.2, 8.1.2, 8.2.2, 8.3.1, 11.1, 11.2, **15.1.5**
Commencement of the Work, Definition of
8.1.2
Communications
3.9.1, **4.2.4**
Completion, Conditions Relating to
3.4.1, 3.11, 3.15, 4.2.2, 4.2.9, 8.2, 9.4.2, 9.8, 9.9.1,
9.10, 12.2, 14.1.2, 15.1.2
COMPLETION, PAYMENTS AND
9
Completion, Substantial
3.10.1, 4.2.9, 8.1.1, 8.1.3, 8.2.3, 9.4.2, 9.8, 9.9.1,
9.10.3, 12.2, 15.1.2
Compliance with Laws
2.3.2, 3.2.3, 3.6, 3.7, 3.12.10, 3.13, 9.6.4, 10.2.2,
13.1, 13.3, 13.4.1, 13.4.2, 13.5, 14.1.1, 14.2.1.3,
15.2.8, 15.4.2, 15.4.3
Concealed or Unknown Conditions
3.7.4, 4.2.8, 8.3.1, 10.3
Conditions of the Contract
1.1.1, 6.1.1, 6.1.4

Consent, Written
3.4.2, 3.14.2, 4.1.2, 9.8.5, 9.9.1, 9.10.2, 9.10.3, 13.2,
15.4.4.2
Consolidation or Joinder
15.4.4
CONSTRUCTION BY OWNER OR BY
SEPARATE CONTRACTORS
1.1.4, **6**
Construction Change Directive, Definition of
7.3.1
Construction Change Directives
1.1.1, 3.4.2, 3.11, 3.12.8, 4.2.8, 7.1.1, 7.1.2, 7.1.3,
7.3, 9.3.1.1
Construction Schedules, Contractor's
3.10, 3.11, 3.12.1, 3.12.2, 6.1.3, 15.1.6.2
Contingent Assignment of Subcontracts
5.4, 14.2.2.2
Continuing Contract Performance
15.1.4
Contract, Definition of
1.1.2
CONTRACT, TERMINATION OR
SUSPENSION OF THE
5.4.1.1, 5.4.2, 11.5, **14**
Contract Administration
3.1.3, 4, 9.4, 9.5
Contract Award and Execution, Conditions Relating
to
3.7.1, 3.10, 5.2, 6.1
Contract Documents, Copies Furnished and Use of
1.5.2, 2.3.6, 5.3
Contract Documents, Definition of
1.1.1
Contract Sum
2.2.2, 2.2.4, 3.7.4, 3.7.5, 3.8, 3.10.2, 5.2.3, 7.3, 7.4,
9.1, 9.2, 9.4.2, 9.5.1.4, 9.6.7, 9.7, 10.3.2, 11.5, 12.1.2,
12.3, 14.2.4, 14.3.2, 15.1.4.2, **15.1.5**, **15.2.5**
Contract Sum, Definition of
9.1
Contract Time
1.1.4, 2.2.1, 2.2.2, 3.7.4, 3.7.5, 3.10.2, 5.2.3, 6.1.5,
7.2.1.3, 7.3.1, 7.3.5, 7.3.6, 7, 7.3.10, 7.4, 8.1.1,
8.2.1, 8.2.3, 8.3.1, 9.5.1, 9.7, 10.3.2, 12.1.1, 12.1.2,
14.3.2, 15.1.4.2, 15.1.6.1, 15.2.5
Contract Time, Definition of
8.1.1
CONTRACTOR
3
Contractor, Definition of
3.1, **6.1.2**
Contractor's Construction and Submittal
Schedules
3.10, 3.12.1, 3.12.2, 4.2.3, 6.1.3, 15.1.6.2
Contractor's Employees
2.2.4, 3.3.2, 3.4.3, 3.8.1, 3.9, 3.18.2, 4.2.3, 4.2.6,
10.2, 10.3, 11.3, 14.1, 14.2.1.1
Contractor's Liability Insurance
11.1

Contractor's Relationship with Separate Contractors and Owner's Forces
3.12.5, 3.14.2, 4.2.4, 6, 11.3, 12.2.4
Contractor's Relationship with Subcontractors
1.2.2, 2.2.4, 3.3.2, 3.18.1, 3.18.2, 4.2.4, 5, 9.6.2, 9.6.7, 9.10.2, 11.2, 11.3, 11.4
Contractor's Relationship with the Architect
1.1.2, 1.5, 2.3.3, 3.1.3, 3.2.2, 3.2.3, 3.2.4, 3.3.1, 3.4.2, 3.5.1, 3.7.4, 3.10, 3.11, 3.12, 3.16, 3.18, 4.2, 5.2, 6.2.2, 7, 8.3.1, 9.2, 9.3, 9.4, 9.5, 9.7, 9.8, 9.9, 10.2.6, 10.3, 11.3, 12, 13.4, 15.1.3, 15.2.1
Contractor's Representations
3.2.1, 3.2.2, 3.5, 3.12.6, 6.2.2, 8.2.1, 9.3.3, 9.8.2
Contractor's Responsibility for Those Performing the Work
3.3.2, 3.18, 5.3, 6.1.3, 6.2, 9.5.1, 10.2.8
Contractor's Review of Contract Documents
3.2
Contractor's Right to Stop the Work
2.2.2, 9.7
Contractor's Right to Terminate the Contract
14.1
Contractor's Submittals
3.10, 3.11, 3.12, 4.2.7, 5.2.1, 5.2.3, 9.2, 9.3, 9.8.2, 9.8.3, 9.9.1, 9.10.2, 9.10.3
Contractor's Superintendent
3.9, 10.2.6
Contractor's Supervision and Construction Procedures
1.2.2, 3.3, 3.4, 3.12.10, 4.2.2, 4.2.7, 6.1.3, 6.2.4, 7.1.3, 7.3.4, 7.3.6, 8.2, 10, 12, 14, 15.1.4
Coordination and Correlation
1.2, 3.2.1, 3.3.1, 3.10, 3.12.6, 6.1.3, 6.2.1
Copies Furnished of Drawings and Specifications
1.5, 2.3.6, 3.11
Copyrights
1.5, **3.17**
Correction of Work
2.5, 3.7.3, 9.4.2, 9.8.2, 9.8.3, 9.9.1, 12.1.2, **12.2**, 12.3, 15.1.3.1, 15.1.3.2, 15.2.1
Correlation and Intent of the Contract Documents
1.2
Cost, Definition of
7.3.4
Costs
2.5, 3.2.4, 3.7.3, 3.8.2, 3.15.2, 5.4.2, 6.1.1, 6.2.3, 7.3.3.3, 7.3.4, 7.3.8, 7.3.9, 9.10.2, 10.3.2, 10.3.6, 11.2, 12.1.2, 12.2.1, 12.2.4, 13.4, 14
Cutting and Patching
3.14, 6.2.5
Damage to Construction of Owner or Separate Contractors
3.14.2, 6.2.4, 10.2.1.2, 10.2.5, 10.4, 12.2.4
Damage to the Work
3.14.2, 9.9.1, 10.2.1.2, 10.2.5, 10.4, 12.2.4
Damages, Claims for
3.2.4, 3.18, 6.1.1, 8.3.3, 9.5.1, 9.6.7, 10.3.3, 11.3.2, 11.3, 14.2.4, 15.1.7

Damages for Delay
6.2.3, 8.3.3, 9.5.1.6, 9.7, 10.3.2, 14.3.2
Date of Commencement of the Work, Definition of
8.1.2
Date of Substantial Completion, Definition of
8.1.3
Day, Definition of
8.1.4
Decisions of the Architect
3.7.4, 4.2.6, 4.2.7, 4.2.11, 4.2.12, 4.2.13, 6.3, 7.3.4, 7.3.9, 8.1.3, 8.3.1, 9.2, 9.4, 9.5.1, 9.8.4, 9.9.1, 13.4.2, 14.2.2, 14.2.4, 15.1, 15.2
Decisions to Withhold Certification
9.4.1, **9.5**, 9.7, 14.1.1.3
Defective or Nonconforming Work, Acceptance, Rejection and Correction of
2.5, 3.5, 4.2.6, 6.2.3, 9.5.1, 9.5.3, 9.6.6, 9.8.2, 9.9.3, 9.10.4, 12.2.1
Definitions
1.1, 2.1.1, 3.1.1, 3.5, 3.12.1, 3.12.2, 3.12.3, 4.1.1, 5.1, 6.1.2, 7.2.1, 7.3.1, 8.1, 9.1, 9.8.1, 15.1.1
Delays and Extensions of Time
3.2, **3.7.4**, 5.2.3, 7.2.1, 7.3.1, **7.4**, **8.3**, 9.5.1, **9.7**, 10.3.2, **10.4**, 14.3.2, **15.1.6**, 15.2.5
Digital Data Use and Transmission
1.7
Disputes
6.3, 7.3.9, 15.1, 15.2
Documents and Samples at the Site
3.11
Drawings, Definition of
1.1.5
Drawings and Specifications, Use and Ownership of
3.11
Effective Date of Insurance
8.2.2
Emergencies
10.4, 14.1.1.2, **15.1.5**
Employees, Contractor's
3.3.2, 3.4.3, 3.8.1, 3.9, 3.18.2, 4.2.3, 4.2.6, 10.2, 10.3.3, 11.3, 14.1, 14.2.1.1
Equipment, Labor, or Materials
1.1.3, 1.1.6, 3.4, 3.5, 3.8.2, 3.8.3, 3.12, 3.13, 3.15.1, 4.2.6, 4.2.7, 5.2.1, 6.2.1, 7.3.4, 9.3.2, 9.3.3, 9.5.1.3, 9.10.2, 10.2.1, 10.2.4, 14.2.1.1, 14.2.1.2
Execution and Progress of the Work
1.1.3, 1.2.1, 1.2.2, 2.3.4, 2.3.6, 3.1, 3.3.1, 3.4.1, 3.7.1, 3.10.1, 3.12, 3.14, 4.2, 6.2.2, 7.1.3, 7.3.6, 8.2, 9.5.1, 9.9.1, 10.2, 10.3, 12.1, 12.2, 14.2, 14.3.1, 15.1.4
Extensions of Time
3.2.4, 3.7.4, 5.2.3, 7.2.1, 7.3, 7.4, 9.5.1, 9.7, 10.3.2, 10.4, 14.3, 15.1.6, **15.2.5**
Failure of Payment
9.5.1.3, **9.7**, 9.10.2, 13.5, 14.1.1.3, 14.2.1.2
Faulty Work
(See Defective or Nonconforming Work)
Final Completion and Final Payment
4.2.1, 4.2.9, 9.8.2, **9.10**, 12.3, 14.2.4, 14.4.3

Financial Arrangements, Owner's

2.2.1, 13.2.2, 14.1.1.4

GENERAL PROVISIONS

1

Governing Law

13.1

Guarantees (See Warranty)

Hazardous Materials and Substances

10.2.4, **10.3**

Identification of Subcontractors and Suppliers

5.2.1

Indemnification

3.17, **3.18**, 9.6.8, 9.10.2, 10.3.3, 11.3

Information and Services Required of the Owner

2.1.2, **2.2**, 2.3, 3.2.2, 3.12.10.1, 6.1.3, 6.1.4, 6.2.5,

9.6.1, 9.9.2, 9.10.3, 10.3.3, 11.2, 13.4.1, 13.4.2,

14.1.1.4, 14.1.4, 15.1.4

Initial Decision

15.2

Initial Decision Maker, Definition of

1.1.8

Initial Decision Maker, Decisions

14.2.4, 15.1.4.2, 15.2.1, 15.2.2, 15.2.3, 15.2.4, 15.2.5

Initial Decision Maker, Extent of Authority

14.2.4, 15.1.4.2, 15.2.1, 15.2.2, 15.2.3, 15.2.4, 15.2.5

Injury or Damage to Person or Property

10.2.8, 10.4

Inspections

3.1.3, 3.3.3, 3.7.1, 4.2.2, 4.2.6, 4.2.9, 9.4.2, 9.8.3,

9.9.2, 9.10.1, 12.2.1, 13.4

Instructions to Bidders

1.1.1

Instructions to the Contractor

3.2.4, 3.3.1, 3.8.1, 5.2.1, 7, 8.2.2, 12, 13.4.2

Instruments of Service, Definition of

1.1.7

Insurance

6.1.1, 7.3.4, 8.2.2, 9.3.2, 9.8.4, 9.9.1, 9.10.2, 10.2.5,

11

Insurance, Notice of Cancellation or Expiration

11.1.4, 11.2.3

Insurance, Contractor's Liability

11.1

Insurance, Effective Date of

8.2.2, 14.4.2

Insurance, Owner's Liability

11.2

Insurance, Property

10.2.5, 11.2, 11.4, 11.5

Insurance, Stored Materials

9.3.2

INSURANCE AND BONDS

11

Insurance Companies, Consent to Partial Occupancy

9.9.1

Insured loss, Adjustment and Settlement of

11.5

Intent of the Contract Documents

1.2.1, 4.2.7, 4.2.12, 4.2.13

Interest

13.5

Interpretation

1.1.8, 1.2.3, **1.4**, 4.1.1, 5.1, 6.1.2, 15.1.1

Interpretations, Written

4.2.11, 4.2.12

Judgment on Final Award

15.4.2

Labor and Materials, Equipment

1.1.3, 1.1.6, **3.4**, 3.5, 3.8.2, 3.8.3, 3.12, 3.13, 3.15.1,

5.2.1, 6.2.1, 7.3.4, 9.3.2, 9.3.3, 9.5.1.3, 9.10.2, 10.2.1,

10.2.4, 14.2.1.1, 14.2.1.2

Labor Disputes

8.3.1

Laws and Regulations

1.5, 2.3.2, 3.2.3, 3.2.4, 3.6, 3.7, 3.12.10, 3.13, 9.6.4,

9.9.1, 10.2.2, 13.1, 13.3.1, 13.4.2, 13.5, 14, 15.2.8,

15.4

Liens

2.1.2, 9.3.1, 9.3.3, 9.6.8, 9.10.2, 9.10.4, 15.2.8

Limitations, Statutes of

12.2.5, 15.1.2, 15.4.1.1

Limitations of Liability

3.2.2, 3.5, 3.12.10, 3.12.10.1, 3.17, 3.18.1, 4.2.6,

4.2.7, 6.2.2, 9.4.2, 9.6.4, 9.6.7, 9.6.8, 10.2.5, 10.3.3,

11.3, 12.2.5, 13.3.1

Limitations of Time

2.1.2, 2.2, 2.5, 3.2.2, 3.10, 3.11, 3.12.5, 3.15.1, 4.2.7,

5.2, 5.3, 5.4.1, 6.2.4, 7.3, 7.4, 8.2, 9.2, 9.3.1, 9.3.3,

9.4.1, 9.5, 9.6, 9.7, 9.8, 9.9, 9.10, 12.2, 13.4, 14, 15,

15.1.2, 15.1.3, 15.1.5

Materials, Hazardous

10.2.4, **10.3**

Materials, Labor, Equipment and

1.1.3, 1.1.6, 3.4.1, 3.5, 3.8.2, 3.8.3, 3.12, 3.13, 3.15.1,

5.2.1, 6.2.1, 7.3.4, 9.3.2, 9.3.3, 9.5.1.3, 9.10.2,

10.2.1.2, 10.2.4, 14.2.1.1, 14.2.1.2

Means, Methods, Techniques, Sequences and

Procedures of Construction

3.3.1, 3.12.10, 4.2.2, 4.2.7, 9.4.2

Mechanic's Lien

2.1.2, 9.3.1, 9.3.3, 9.6.8, 9.10.2, 9.10.4, 15.2.8

Mediation

8.3.1, 15.1.3.2, 15.2.1, 15.2.5, 15.2.6, **15.3**, 15.4.1,

15.4.1.1

Minor Changes in the Work

1.1.1, 3.4.2, 3.12.8, 4.2.8, 7.1, **7.4**

MISCELLANEOUS PROVISIONS

13

Modifications, Definition of

1.1.1

Modifications to the Contract

1.1.1, 1.1.2, 2.5, 3.11, 4.1.2, 4.2.1, 5.2.3, 7, 8.3.1, 9.7,

10.3.2

Mutual Responsibility

6.2

Nonconforming Work, Acceptance of

9.6.6, 9.9.3, **12.3**

Nonconforming Work, Rejection and Correction of
2.4, 2.5, 3.5, 4.2.6, 6.2.4, 9.5.1, 9.8.2, 9.9.3, 9.10.4,
12.2

Notice

1.6, 1.6.1, 1.6.2, 2.1.2, 2.2.2., 2.2.3, 2.2.4, 2.5, 3.2.4,
3.3.1, 3.7.4, 3.7.5, 3.9.2, 3.12.9, 3.12.10, 5.2.1, 7.4,
8.2.2 9.6.8, 9.7, 9.10.1, 10.2.8, 10.3.2, 11.5, 12.2.2.1,
13.4.1, 13.4.2, 14.1, 14.2.2, 14.4.2, 15.1.3, 15.1.5,
15.1.6, 15.4.1

Notice of Cancellation or Expiration of Insurance
11.1.4, 11.2.3

Notice of Claims

1.6.2, 2.1.2, 3.7.4, 9.6.8, 10.2.8, **15.1.3**, 15.1.5,
15.1.6, 15.2.8, 15.3.2, 15.4.1

Notice of Testing and Inspections
13.4.1, 13.4.2

Observations, Contractor's
3.2, 3.7.4

Occupancy

2.3.1, 9.6.6, 9.8

Orders, Written

1.1.1, 2.4, 3.9.2, 7, 8.2.2, 11.5, 12.1, 12.2.2.1, 13.4.2,
14.3.1

OWNER

2

Owner, Definition of

2.1.1

Owner, Evidence of Financial Arrangements

2.2, 13.2.2, 14.1.1.4

Owner, Information and Services Required of the

2.1.2, **2.2**, 2.3, 3.2.2, 3.12.10, 6.1.3, 6.1.4, 6.2.5,
9.3.2, 9.6.1, 9.6.4, 9.9.2, 9.10.3, 10.3.3, 11.2, 13.4.1,
13.4.2, 14.1.1.4, 14.1.4, 15.1.4

Owner's Authority

1.5, 2.1.1, 2.3.32.4, 2.5, 3.4.2, 3.8.1, 3.12.10, 3.14.2,
4.1.2, 4.2.4, 4.2.9, 5.2.1, 5.2.4, 5.4.1, 6.1, 6.3, 7.2.1,
7.3.1, 8.2.2, 8.3.1, 9.3.2, 9.5.1, 9.6.4, 9.9.1, 9.10.2,
10.3.2, 11.4, 11.5, 12.2.2, 12.3, 13.2.2, 14.3, 14.4,
15.2.7

Owner's Insurance

11.2

Owner's Relationship with Subcontractors

1.1.2, 5.2, 5.3, 5.4, 9.6.4, 9.10.2, 14.2.2

Owner's Right to Carry Out the Work

2.5, 14.2.2

Owner's Right to Clean Up

6.3

**Owner's Right to Perform Construction and to
Award Separate Contracts**

6.1

Owner's Right to Stop the Work

2.4

Owner's Right to Suspend the Work

14.3

Owner's Right to Terminate the Contract

14.2, 14.4

Ownership and Use of Drawings, Specifications and Other Instruments of Service

1.1.1, 1.1.6, 1.1.7, **1.5**, 2.3.6, 3.2.2, 3.11, 3.17, 4.2.12,
5.3

Partial Occupancy or Use

9.6.6, **9.9**

Patching, Cutting and

3.14, 6.2.5

Patents

3.17

Payment, Applications for

4.2.5, 7.3.9, 9.2, **9.3**, 9.4, 9.5, 9.6.3, 9.7, 9.8.5, 9.10.1,
14.2.3, 14.2.4, 14.4.3

Payment, Certificates for

4.2.5, 4.2.9, 9.3.3, **9.4**, 9.5, 9.6.1, 9.6.6, 9.7, 9.10.1,
9.10.3, 14.1.1.3, 14.2.4

Payment, Failure of

9.5.1.3, **9.7**, 9.10.2, 13.5, 14.1.1.3, 14.2.1.2

Payment, Final

4.2.1, 4.2.9, **9.10**, 12.3, 14.2.4, 14.4.3

Payment Bond, Performance Bond and

7.3.4.4, 9.6.7, 9.10.3, **11.1.2**

Payments, Progress

9.3, **9.6**, 9.8.5, 9.10.3, 14.2.3, 15.1.4

PAYMENTS AND COMPLETION

9

Payments to Subcontractors

5.4.2, 9.5.1.3, 9.6.2, 9.6.3, 9.6.4, 9.6.7, 14.2.1.2

PCB

10.3.1

Performance Bond and Payment Bond

7.3.4.4, 9.6.7, 9.10.3, **11.1.2**

Permits, Fees, Notices and Compliance with Laws

2.3.1, **3.7**, 3.13, 7.3.4.4, 10.2.2

PERSONS AND PROPERTY, PROTECTION OF

10

Polychlorinated Biphenyl

10.3.1

Product Data, Definition of

3.12.2

Product Data and Samples, Shop Drawings

3.11, **3.12**, 4.2.7

Progress and Completion

4.2.2, **8.2**, 9.8, 9.9.1, 14.1.4, 15.1.4

Progress Payments

9.3, **9.6**, 9.8.5, 9.10.3, 14.2.3, 15.1.4

Project, Definition of

1.1.4

Project Representatives

4.2.10

Property Insurance

10.2.5, **11.2**

Proposal Requirements

1.1.1

PROTECTION OF PERSONS AND PROPERTY 10

Regulations and Laws

1.5, 2.3.2, 3.2.3, 3.6, 3.7, 3.12.10, 3.13, 9.6.4, 9.9.1, 10.2.2, 13.1, 13.3, 13.4.1, 13.4.2, 13.5, 14, 15.2.8, 15.4

Rejection of Work

4.2.6, 12.2.1

Releases and Waivers of Liens

9.3.1, 9.10.2

Representations

3.2.1, 3.5, 3.12.6, 8.2.1, 9.3.3, 9.4.2, 9.5.1, 9.10.1

Representatives

2.1.1, 3.1.1, 3.9, 4.1.1, 4.2.10, 13.2.1

Responsibility for Those Performing the Work

3.3.2, 3.18, 4.2.2, 4.2.3, 5.3, 6.1.3, 6.2, 6.3, 9.5.1, 10

Retainage

9.3.1, 9.6.2, 9.8.5, 9.9.1, 9.10.2, 9.10.3

Review of Contract Documents and Field Conditions by Contractor

3.2, 3.12.7, 6.1.3

Review of Contractor's Submittals by Owner and Architect

3.10.1, 3.10.2, 3.11, 3.12, 4.2, 5.2, 6.1.3, 9.2, 9.8.2

Review of Shop Drawings, Product Data and Samples by Contractor

3.12

Rights and Remedies

1.1.2, 2.4, 2.5, 3.5, 3.7.4, 3.15.2, 4.2.6, 5.3, 5.4, 6.1, 6.3, 7.3.1, 8.3, 9.5.1, 9.7, 10.2.5, 10.3, 12.2.1, 12.2.2, 12.2.4, 13.3, 14, 15.4

Royalties, Patents and Copyrights

3.17

Rules and Notices for Arbitration

15.4.1

Safety of Persons and Property

10.2, 10.4

Safety Precautions and Programs

3.3.1, 4.2.2, 4.2.7, 5.3, 10.1, 10.2, 10.4

Samples, Definition of

3.12.3

Samples, Shop Drawings, Product Data and

3.11, 3.12, 4.2.7

Samples at the Site, Documents and

3.11

Schedule of Values

9.2, 9.3.1

Schedules, Construction

3.10, 3.12.1, 3.12.2, 6.1.3, 15.1.6.2

Separate Contracts and Contractors

1.1.4, 3.12.5, 3.14.2, 4.2.4, 4.2.7, 6, 8.3.1, 12.1.2

Separate Contractors, Definition of

6.1.1

Shop Drawings, Definition of

3.12.1

Shop Drawings, Product Data and Samples

3.11, 3.12, 4.2.7

Site, Use of

3.13, 6.1.1, 6.2.1

Site Inspections

3.2.2, 3.3.3, 3.7.1, 3.7.4, 4.2, 9.9.2, 9.4.2, 9.10.1, 13.4

Site Visits, Architect's

3.7.4, 4.2.2, 4.2.9, 9.4.2, 9.5.1, 9.9.2, 9.10.1, 13.4

Special Inspections and Testing

4.2.6, 12.2.1, 13.4

Specifications, Definition of

1.1.6

Specifications

1.1.1, 1.1.6, 1.2.2, 1.5, 3.12.10, 3.17, 4.2.14

Statute of Limitations

15.1.2, 15.4.1.1

Stopping the Work

2.2.2, 2.4, 9.7, 10.3, 14.1

Stored Materials

6.2.1, 9.3.2, 10.2.1.2, 10.2.4

Subcontractor, Definition of

5.1.1

SUBCONTRACTORS

5

Subcontractors, Work by

1.2.2, 3.3.2, 3.12.1, 3.18, 4.2.3, 5.2.3, 5.3, 5.4, 9.3.1.2, 9.6.7

Subcontractual Relations

5.3, 5.4, 9.3.1.2, 9.6, 9.10, 10.2.1, 14.1, 14.2.1

Submittals

3.10, 3.11, 3.12, 4.2.7, 5.2.1, 5.2.3, 7.3.4, 9.2, 9.3, 9.8, 9.9.1, 9.10.2, 9.10.3

Submittal Schedule

3.10.2, 3.12.5, 4.2.7

Subrogation, Waivers of

6.1.1, 11.3

Substances, Hazardous

10.3

Substantial Completion

4.2.9, 8.1.1, 8.1.3, 8.2.3, 9.4.2, 9.8, 9.9.1, 9.10.3, 12.2, 15.1.2

Substantial Completion, Definition of

9.8.1

Substitution of Subcontractors

5.2.3, 5.2.4

Substitution of Architect

2.3.3

Substitutions of Materials

3.4.2, 3.5, 7.3.8

Sub-subcontractor, Definition of

5.1.2

Subsurface Conditions

3.7.4

Successors and Assigns

13.2

Superintendent

3.9, 10.2.6

Supervision and Construction Procedures

1.2.2, 3.3, 3.4, 3.12.10, 4.2.2, 4.2.7, 6.1.3, 6.2.4, 7.1.3, 7.3.4, 8.2, 8.3.1, 9.4.2, 10, 12, 14, 15.1.4

Suppliers

1.5, 3.12.1, 4.2.4, 4.2.6, 5.2.1, 9.3, 9.4.2, 9.5.4, 9.6, 9.10.5, 14.2.1

Surety

5.4.1.2, 9.6.8, 9.8.5, 9.10.2, 9.10.3, 11.1.2, 14.2.2, 15.2.7

Surety, Consent of

9.8.5, 9.10.2, 9.10.3

Surveys

1.1.7, 2.3.4

Suspension by the Owner for Convenience

14.3

Suspension of the Work

3.7.5, 5.4.2, 14.3

Suspension or Termination of the Contract

5.4.1.1, 14

Taxes

3.6, 3.8.2.1, 7.3.4.4

Termination by the Contractor

14.1, 15.1.7

Termination by the Owner for Cause

5.4.1.1, 14.2, 15.1.7

Termination by the Owner for Convenience

14.4

Termination of the Architect

2.3.3

Termination of the Contractor Employment

14.2.2

TERMINATION OR SUSPENSION OF THE CONTRACT

14

Tests and Inspections

3.1.3, 3.3.3, 3.7.1, 4.2.2, 4.2.6, 4.2.9, 9.4.2, 9.8.3, 9.9.2, 9.10.1, 10.3.2, 12.2.1, 13.4

TIME

8

Time, Delays and Extensions of

3.2.4, 3.7.4, 5.2.3, 7.2.1, 7.3.1, 7.4, 8.3, 9.5.1, 9.7, 10.3.2, 10.4, 14.3.2, 15.1.6, 15.2.5

Time Limits

2.1.2, 2.2, 2.5, 3.2.2, 3.10, 3.11, 3.12.5, 3.15.1, 4.2, 5.2, 5.3, 5.4, 6.2.4, 7.3, 7.4, 8.2, 9.2, 9.3.1, 9.3.3, 9.4.1, 9.5, 9.6, 9.7, 9.8, 9.9, 9.10, 12.2, 13.4, 14, 15.1.2, 15.1.3, 15.4

Time Limits on Claims

3.7.4, 10.2.8, 15.1.2, 15.1.3

Title to Work

9.3.2, 9.3.3

UNCOVERING AND CORRECTION OF WORK

12

Uncovering of Work

12.1

Unforeseen Conditions, Concealed or Unknown

3.7.4, 8.3.1, 10.3

Unit Prices

7.3.3.2, 9.1.2

Use of Documents

1.1.1, 1.5, 2.3.6, 3.12.6, 5.3

Use of Site

3.13, 6.1.1, 6.2.1

Values, Schedule of

9.2, 9.3.1

Waiver of Claims by the Architect

13.3.2

Waiver of Claims by the Contractor

9.10.5, 13.3.2, 15.1.7

Waiver of Claims by the Owner

9.9.3, 9.10.3, 9.10.4, 12.2.2.1, 13.3.2, 14.2.4, 15.1.7

Waiver of Consequential Damages

14.2.4, 15.1.7

Waiver of Liens

9.3, 9.10.2, 9.10.4

Waivers of Subrogation

6.1.1, 11.3

Warranty

3.5, 4.2.9, 9.3.3, 9.8.4, 9.9.1, 9.10.2, 9.10.4, 12.2.2, 15.1.2

Weather Delays

8.3, 15.1.6.2

Work, Definition of

1.1.3

Written Consent

1.5.2, 3.4.2, 3.7.4, 3.12.8, 3.14.2, 4.1.2, 9.3.2, 9.10.3, 13.2, 13.3.2, 15.4.4.2

Written Interpretations

4.2.11, 4.2.12

Written Orders

1.1.1, 2.4, 3.9, 7, 8.2.2, 12.1, 12.2, 13.4.2, 14.3.1

ARTICLE 1 GENERAL PROVISIONS

§ 1.1 Basic Definitions

§ 1.1.1 The Contract Documents

The Contract Documents are enumerated in the Agreement between the Owner and Contractor (hereinafter the Agreement). 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 a minor change in the Work issued by the Architect.

§ 1.1.2 The Contract

The Contract Documents form the Contract for Construction. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. The Contract may be amended or modified only by a Modification. The Contract Documents shall not be construed to create a contractual relationship of any kind (1) between the Contractor and the Architect or the Architect's consultants, (2) between the Owner and a Subcontractor or a Sub-subcontractor, (3) between the Owner and the Architect or the Architect's consultants, or (4) between any persons or entities other than the Owner and the Contractor. The Architect shall, however, be entitled to performance and enforcement of obligations under the Contract intended to facilitate performance of the Architect's duties.

§ 1.1.3 The Work

The term "Work" means the construction and services required by the Contract Documents, whether completed or partially completed, and includes all other labor, materials, equipment, and services provided or to be provided by the Contractor to fulfill the Contractor's obligations. The Work may constitute the whole or a part of the Project.

§ 1.1.4 The Project

The Project is the total construction of which the Work performed under the Contract Documents may be the whole or a part and which may include construction by the Owner and by Separate Contractors.

§ 1.1.5 The Drawings

The Drawings are the graphic and pictorial portions of the Contract Documents showing the design, location and dimensions of the Work, generally including plans, elevations, sections, details, schedules, and diagrams.

§ 1.1.6 The Specifications

The Specifications are that portion of the Contract Documents consisting of the written requirements for materials, equipment, systems, standards and workmanship for the Work, and performance of related services.

§ 1.1.7 Instruments of Service

Instruments of Service are representations, in any medium of expression now known or later developed, of the tangible and intangible creative work performed by the Architect and the Architect's consultants under their respective professional services agreements. Instruments of Service may include, without limitation, studies, surveys, models, sketches, drawings, specifications, and other similar materials.

§ 1.1.8 Initial Decision Maker

The Initial Decision Maker is the Architect unless another person is identified in writing.

§ 1.1.9 Substantial Completion

Substantial Completion is the stage in the progress of the Work when the Work is sufficiently complete in accordance with the Contract Documents so that the Owner can occupy and utilize the Work for its intended use, including commissioning and Owner's transition and activation. Notwithstanding anything in the Contract Documents to the contrary, this shall include, but is not limited to, start up and successful testing of all systems and equipment. Contractor shall include Owner's transition and activation in the critical path schedule.

§ 1.1.10 Date for Substantial Completion

The Date for Substantial Completion is the Date for Substantial Completion as set forth in the Agreement. The Date for Substantial Completion shall only be changed or modified by Change Order, other Modification or a Claim that is Finally Resolved, regardless of any dates in the Construction Schedule.

§ 1.1.11 Finally Resolved

Finally Resolved means that the Initial Decision Maker has made a decision on a Claim under Section 15.2.6.1 of the General Conditions and that any litigation regarding the Claim has been concluded.

§ 1.1.12 Claim

Claim is defined in Section 15.1.1 of these General Conditions.

§ 1.1.13 Notice of Claim Form

Notice of Claim Form means the form included with the Project Manual and/or provided through the e-Builder program. Contractor must comply with the e-Builder process for such Notice of Claim.

§ 1.1.14 Final Completion

Final Completion shall mean that the Work is complete in accordance with the Contract Documents and the Contractor has submitted to the Architect all documents required to be submitted to the Architect for final payment.

§ 1.1.15 Community Business Enterprise

Construction Community Inclusion Program ("Program") means the Program implemented by The MetroHealth System, which establishes goals for participation by Community Business Enterprises, as defined in the Program, and local businesses and residents, as defined in the Program. The specific goals stated in the Program apply to the Project, unless otherwise modified in the Contract Documents. The Program is a contract requirement, and each Contractor is expected to use good faith efforts to achieve the goals established for the Project and to maintain or exceed those goals during the course of the Project.

Owner is committed to ensuring that qualified minority, women-owned, veteran-owned, historically underutilized and other disadvantaged business enterprises and their employees (together known as "Community Business Enterprises" or "CBEs") have a fair and reasonable opportunity to participate in the Project. Owner recognizes the following types of Community Business Enterprises and the following corresponding certificates as certifying that an enterprise is a Community Business Enterprise:

Minority Business Enterprise (MBE)	A minority business enterprise (MBE) is a for-profit enterprise, regardless of size, physically located in the United States or its trust territories, which is owned, operated and controlled by minority group members. "Minority group members" are United States citizens who are Black Americans, Hispanic Americans, Native Americans, Asian-Pacific Americans and Asian-Indian Americans. Ownership by minority individuals means the business is at least 51% owned by such individuals or, in the case of a publicly owned business, at least 51% of the stock is owned by one or more such individuals. Furthermore, those minority group members control the management and daily business operations.	Minority-owned businesses can become certified with the National Minority Supplier Development Council (NMSDC) , or local governmental certifying agencies.
Women Business Enterprise (WBE)	A woman-owned business is a for-profit enterprise, regardless of size, physically located in the United States or its trust territories, which is owned, operated and controlled by a woman or women members. Ownership by female's means the business is at least 51% owned by such individuals or, in the case of a publicly owned business, at least 51% of the stock is owned by one or more such individuals.	Women-owned businesses can become certified with the Women's Business Enterprise National Council (WBENC) , or local governmental certifying agencies.

	Furthermore, the management and daily operations are controlled by the woman or women members.	
Veteran-Owned Small Business (VOSB)/Service-Disabled Veteran's Business Enterprise (SDVBE)	Business must meet the requirements as a Small Business. It must be at least 51% owned by one or more eligible veterans; or in the case of any publicly owned business, at least 51% of the stock of which is owned by one or more veterans; and whose management and daily business operations are controlled by such veteran or veterans possessing a discharge other than dishonorable. For SDVBE, eligible veterans must have a service-connected disability.	Veteran-owned business can become certified with SBA Veteran's Program, Vetbiz or local governmental certifying agencies
Lesbian, Gay, Bisexual and Transgender Business Enterprise (LGBTBE)	A LGBT-owned business is a for-profit enterprise, regardless of size, physically located in the United States or its trust territories, which is owned, operated and controlled by a LGBT or LGBT members. Ownership by LGBT means the business is at least 51% owned by such individuals or, in the case of a publicly owned business, at least 51% of the stock is owned by one or more such individuals. Furthermore, the management and daily operations are controlled by the woman or women members.	LGBT business owners can become certified with National LGBT Chamber of Commerce

Owner has established goals for the participation of qualified Community Business Enterprises in the Project as follows:

MBE participation: __%

WBE participation: __%

Contractor is expected to make a good faith effort to provide qualified Community Business Enterprises a fair and reasonable opportunity to participate of the Project in furtherance of the goals.

Good faith efforts may include all or a combination of the following: (1) the Work was subdivided into practicable subparts to increase the likelihood that qualified Community Business Enterprises participate; (2) the Contractor searched recognized registries identifying Community Business Enterprises that could potentially fulfill the Work for the Project; (3) the Contractor conducted outreach and recruiting activities; (4) Contractor utilizes services or organizations that provided the Contractor with assistance in identifying and soliciting proposals from Community Business Enterprises; (5) the Contractor supplied adequate and timely information to such Community Business Enterprises to solicit a quote from such Community Business Enterprises to participate in the Work for the Project, and the Contractor provided to such Community Business Enterprises reasonable and meaningful time to respond; (6) the Contractor followed up initial solicitations of interest by contacting Community Business Enterprises to determine with certainty whether the Community Business Enterprises were interested; (7) Community Business Enterprises that provided quotes for the Project, but were not chosen to perform Work, were the result of good faith negotiations and

based on sound reasons following a thorough investigation of their capabilities; and (8) the Contractor assisted Community Business Enterprises in obtaining bonding, lines of credit or insurance as required by the Contractor and/or Owner.

Contractor shall track its tier 1 (Contractor) and tier 2 (sub-contractors, consultants, sub-consultants and suppliers) Community Business Enterprise participation. Community Business Enterprise participation will be measured by the expenditures made by Contractor to sub-contractors, consultants, sub-consultants and suppliers who are Community Business Enterprises.

In evaluating Contractor's good faith efforts, Owner will evaluate not only the different kinds of efforts made by Contractor, but also the quantity and intensity of those efforts. To demonstrate good faith efforts, Contractor shall keep detailed records of all correspondence and responses thereto, logs of all telephone calls made and received regarding the Project, receipts from registered or certified mail, copies of advertisements in publications and other media and other relevant papers evidencing good faith efforts.

Owner also wishes to track participation in the Project by local, regional and small business enterprises (collectively, "Local Businesses") for Owner's general reporting purposes. Owner recognizes the following types of Local Businesses and the following corresponding certificates as certifying that an enterprise is such a Local Business:

Community Contracting Market	Community Contracting Market" or "Community Market" means the geographic market area consisting of Cuyahoga County, Geauga County, Lake County, Lorain County, Medina County, Portage County, Stark county, Summit County and Wayne County, Ohio.	Local governmental certifying agencies, if applicable.
Regional Contracting Market	Regional Contracting Market" or "Regional Market" means the geographic market area consisting of the Community Contracting Market as well as Ashland County, Ashtabula County, Carroll County, Columbiana County, Mahoning County, Richland County and Trumbull County, Ohio.	Local governmental certifying agencies, if applicable.
Small Business Enterprise (SBE)	A Small Business Enterprise (SBE) is a small business that is at least 51% owned by one or more individuals who are both socially and economically disadvantaged. A publicly owned business may be considered an SBE if at least 51% of its stock is unconditionally owned by one or more such individuals and if the public company's management and daily business is controlled by one or more such individuals.	SBE owned businesses can become certified with US. Small Business Administration at SBA SDB home page or local governmental certifying agencies.
Local Business Enterprise (LBE)	A Business Enterprise that has its principal office (headquarters) located physically in the "Community Contracting Market" and whose highest executive officers and highest-level managers maintain their offices and perform their respective executive and managerial functions and	Local governmental certifying agencies, if applicable.

	duties in the “Community Contracting Market”.	
Regional Business Enterprise (RBE)	A Business Enterprise that has its principal office located physically within the territorial boundaries of the “Regional Contracting Market”.	Local certifying agencies, if applicable.

Contractor shall track its tier 1 (Contractor) and tier 2 (sub-contractors, consultants, sub-consultants and suppliers) Local Business participation. Local Business participation will be measured by the expenditures made by Contractor to sub-contractors, consultants, sub-consultants and suppliers who are Local Businesses.

§ 1.1.16 Standard of Care The Contractor shall perform its services consistent with the professional skill and care ordinarily provided by contractors experienced in the construction of health care facilities, and working in the same or similar locality under the same or similar circumstances. Contractor shall perform its services as expeditiously as is consistent with such professional skill and care and the orderly progress of the Project.

§ 1.2 Correlation and Intent of the Contract Documents

§ 1.2.1 The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all; performance by the Contractor shall be required only to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the indicated results.

§ 1.2.1.1 The invalidity of any provision of the Contract Documents shall not invalidate the Contract or its remaining provisions. If it is determined that any provision of the Contract Documents violates any law, or is otherwise invalid or unenforceable, then that provision shall be revised to the extent necessary to make that provision legal and enforceable. In such case the Contract Documents shall be construed, to the fullest extent permitted by law, to give effect to the parties’ intentions and purposes in executing the Contract.

§ 1.2.2 Organization of the Specifications into divisions, sections and articles, and arrangement of Drawings shall not control the Contractor in dividing the Work among Subcontractors or in establishing the extent of Work to be performed by any trade.

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

§ 1.3 Capitalization

Terms capitalized in these General Conditions include those that are (1) specifically defined, (2) the titles of numbered articles, or (3) the titles of other documents published by the American Institute of Architects.

§ 1.4 Interpretation

In the interest of brevity the Contract Documents frequently omit modifying words such as “all” and “any” and articles such as “the” and “an,” but the fact that a modifier or an article is absent from one statement and appears in another is not intended to affect the interpretation of either statement.

§ 1.5 Ownership and Use of Drawings, Specifications, and Other Instruments of Service

§ 1.5.1 The Architect and the Architect’s consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and retain all common law, statutory, and other

reserved rights in their Instruments of Service, including copyrights. The Contractor, Subcontractors, Sub-subcontractors, and suppliers shall not own or claim a copyright in the Instruments of Service. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with the Project is not to be construed as publication in derogation of the Architect's or Architect's consultants' reserved rights.

§ 1.5.2 The Contractor, Subcontractors, Sub-subcontractors, and suppliers are authorized to use and reproduce the Instruments of Service provided to them, subject to any protocols established pursuant to Sections 1.7 and 1.8, solely and exclusively for execution of the Work. All copies made under this authorization shall bear the copyright notice, if any, shown on the Instruments of Service. The Contractor, Subcontractors, Sub-subcontractors, and material or equipment suppliers may not use the Instruments of Service on other projects or for additions to the Project outside the scope of the Work without the specific written consent of the Owner, Architect, and the Architect's consultants.

§ 1.6 Notice

§ 1.6.1 Except as otherwise provided in Section 1.6.2, where the Contract Documents require one party to notify or give notice to the other party, such notice shall be provided in writing to the designated representative of the party to whom the notice is addressed and shall be deemed to have been duly served if delivered in person, to the individual, to a member of the firm or entity, or to an officer of the corporation for which it was intended; or if delivered when sent by registered mail, overnight delivery, or certified mail or by electronic mail with a read receipt requested or by courier service providing proof of delivery to, the last business or email address known to the party giving notice..

§ 1.6.2 Notice of Claims as provided in Section 15.1.3 shall be provided in writing and shall be deemed to have been duly served only if delivered to the designated representative of the party to whom the notice is addressed by certified or registered mail, or by courier providing proof of delivery.

§ 1.7 Digital Data Use and Transmission

The parties may agree upon protocols governing the transmission and use of Instruments of Service or any other information or documentation in digital form. The parties may use AIA Document E203™-2013, Building Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data.

§ 1.8 Building Information Models Use and Reliance

Any use of, or reliance on, all or a portion of a building information model without agreement to protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set forth in AIA Document E203™-2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document G202™-2013, Project Building Information Modeling Protocol Form, shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

§ 1.9 E-Builder Program The Contractor shall comply with both the requirements of the Agreement and the e-Builder requirements, including but not limited to use of applicable e-Builder forms and processes.

ARTICLE 2 OWNER

§ 2.1 General

§ 2.1.1 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. The Owner's representative shall only have such authority as is expressly authorized by the Owner's Board and as is permitted under the laws of the State of Ohio. Upon written request, the Owner will provide Contractor with a written statement of such representative's authority. Except as otherwise provided in Section 4.2.1, the Architect does not have such authority. The term "Owner" means the Owner or the Owner's authorized representative.

§ 2.1.2 The Owner shall prepare a Notice of Commencement for the Project, as required by the Ohio Revised Code, and furnish to the Contractor a copy of the Notice of Commencement for the Project within fifteen days after receipt of a written request. The Owner shall furnish a copy of the Notice of Commencement to the Contractor, after receipt of a written request.

§ 2.2 Evidence of the Owner's Financial Arrangements

§ 2.2.1 Prior to commencement of the Work and upon written request by the Contractor, the Owner shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's

obligations under the Contract. The Owner may attach the certification of available resources required by the Ohio Revised Code as such evidence, which will fulfill this obligation.

§ 2.2.2 [Not Used.]

§ 2.2.3 After the Owner furnishes evidence of financial arrangements under this Section 2.2, the Owner shall not materially vary such financial arrangements without prior notice to the Contractor.

§ 2.2.4 Where the Owner has designated information furnished under this Section 2.2 or any other information provided by the Owner as “confidential,” the Contractor shall keep the information confidential and shall not disclose it to any other person. However, the Contractor may disclose “confidential” information, after seven (7) days’ notice to the Owner, where disclosure is required by law, including a subpoena or other form of compulsory legal process issued by a court or governmental entity, or by court or arbitrator(s) order. The Contractor may also disclose “confidential” information with Owner’s prior written permission, to its employees, consultants, sureties, Subcontractors and their employees, Sub-subcontractors, and others who need to know the content of such information solely and exclusively for the Project and who agree to maintain the confidentiality of such information.

§ 2.3 Information and Services Required of the Owner

§ 2.3.1 Except for permits and fees that are the responsibility of the Contractor under the Contract Documents, including those required under Section 3.7.1, the Owner shall secure and pay for necessary approvals, easements, assessments and charges required for construction, use or occupancy of permanent structures or for permanent changes in existing facilities.

§ 2.3.2 To the extent necessary for the Project, the Owner shall retain an architect lawfully licensed to practice architecture, or an entity lawfully practicing architecture, in the jurisdiction where the Project is located. That person or entity is identified as the Architect in the Agreement and is referred to throughout the Contract Documents as if singular in number.

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

§ 2.3.4 To the extent necessary for the Work and as requested by the Contractor, the Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a legal description of the site. The Contractor shall be entitled to rely on the accuracy of information furnished by the Owner but shall exercise proper precautions relating to the safe performance of the Work. The Contractor may rely upon the general accuracy of the “technical data” contained in such reports and drawings listed below, and except for such reliance on “technical data,” the Contractor shall not rely upon or make any claim against the Owner or Architect with respect to: (1) the completeness of such reports and drawings for the Contractor’s purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences, and procedures of construction to be employed by the Contractor, and safety precautions and programs incident thereto; or (2) other data, interpretation, opinions, and information contained in such reports or shown or indicated in such drawings; or (3) any Contractor interpretation of or conclusion drawn from any “technical data” or any such other data, interpretations, opinions, or information. For example, all interpolations and extrapolations of data performed by the Contractor to estimate locations or quantities of subsurface strata are independent factual assumptions which the Owner does not warrant.

§ 2.3.5 The Owner shall furnish information or services required of the Owner by the Contract Documents with reasonable promptness. The Owner shall also furnish any other information or services under the Owner’s control and relevant to the Contractor’s performance of the Work with reasonable promptness after receiving the Contractor’s written request for such information or services.

§ 2.3.6 Unless otherwise provided in the Contract Documents, the Owner shall furnish to the Contractor one copy of the Contract Documents for purposes of making reproductions pursuant to Section 1.5.2.

§ 2.4 Owner’s Right to Stop the Work

If the Contractor fails to correct Work that is not in accordance with the requirements of the Contract Documents as required by Section 12.2 or fails to carry out Work in accordance with the Contract Documents, the Owner may issue a written order to the Contractor to stop the Work, or any portion thereof, until the cause for such order has

been eliminated; however, the right of the Owner to stop the Work shall not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity, except to the extent required by Section 6.1.3.

§ 2.5 Owner's Right to Carry Out the Work

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within five (5) business days after receipt of written notice from the Owner to commence or thereafter proceed without interruption to correct such default or neglect within fifteen (15) days of such notice, the Owner, without prejudice to its other remedies, may correct such deficiencies. If such default or neglect results in a threat to the safety of any person or property, the Contractor shall immediately commence to correct such default or neglect upon receipt of written or oral notice thereof. In all such cases of default or neglect, an appropriate Change Order shall be issued deducting from payments then or thereafter due the Contractor the costs arising out of or related to the investigation and correction of such deficiencies, including the Owner's attorneys' and consultants' fees and expenses and other expenses and compensation for the Architect's additional services made necessary by such default, neglect or failure. Such action by the Owner and amounts charged to the Contractor are both subject to prior approval of the Architect. If payments then or thereafter due the Contractor are not sufficient to cover such amounts, the Contractor 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 follow the Claims process pursuant to Article 15.

ARTICLE 3 CONTRACTOR

§ 3.1 General

§ 3.1.1 The Contractor 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 Contractor shall be lawfully licensed, if required in the jurisdiction where the Project is located. The Contractor shall designate in writing a representative who shall have express authority to bind the Contractor with respect to all matters under this Contract. The term "Contractor" means the Contractor or the Contractor's authorized representative.

§ 3.1.2 The Contractor shall perform the Work in accordance with the Contract Documents and shall comply with all rules, regulations and policies of the Owner and all applicable federal, State, and local codes, statutes, ordinances, and regulations applicable to the performance of its Work on the Project.

§ 3.1.3 The Contractor shall not be relieved of its obligations to perform the Work in accordance with the Contract Documents either by activities or duties of the Architect in the Architect's administration of the Contract, or by tests, inspections or approvals required or performed by persons or entities other than the Contractor.

§ 3.2 Review of Contract Documents and Field Conditions by Contractor

§ 3.2.1 Execution of the Contract by the Contractor is a representation that the Contractor has visited the site, investigated the entire site and the surrounding area, including location, condition and layout of the site and utility locations, become thoroughly familiar with local conditions under which the Work is to be performed, including the generally occurring climatic conditions and correlated personal observations and other information with requirements of the Contract Documents.

§ 3.2.2 Because the Contract Documents are complementary, the Contractor shall, before starting each portion of the Work and in addition to the reviews required by the Instructions to Bidders and by these General Conditions, 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. In addition, prior to performing each portion of its Work, the Contractor 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, including the Work of any other Contractors. These obligations of this Section 3.2 are for the purposes of facilitating construction by the Contractor, for determining that the Work is constructible, for determining if the work of the Contractor is coordinated in the Contract Documents with the work of any other Contractors, and for verifying that field conditions, including the Work of any other Contractors, are consistent with the information in the Contract Documents and ready for the Work. However, the Contractor shall promptly report to the Architect and Owner, in writing any errors, inconsistencies or omissions in the sizing, bearing capacity or other similar design information in the Contract Documents discovered by or made known to the Contractor as a request for information in such form as the Architect may require. It is recognized that the Contractor's review is made in the Contractor's capacity as a contractor and not as a licensed design professional, unless otherwise specifically provided in the Contract Documents.

§ 3.2.3 Additionally, prior to performing each portion of the Work, the Contractor shall have a competent person review the Contract Documents for compliance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, and to the extent that Contractor discovers any conflicts, the Contractor shall immediately report to the Architect and Owner any nonconformity discovered by or made known to the Contractor as a request for information in such form as the Architect may require.

§ 3.2.4 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 under the Contract Documents, including, but not limited to the obligations of Sections 3.2.2 or 3.2.3, constructability review, and other preconstruction services, the Contractor shall pay such costs and damages to the Owner, subject to Section 15.1.7, as would have been avoided if the Contractor had performed such obligations. If the Contractor performs those obligations in accordance with its Standard of Care, 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.

§ 3.3 Supervision and Construction Procedures

§ 3.3.1 The Contractor shall supervise and direct the Work, using the Contractor's best skill and attention and consistent with the skill of a competent contractor. The Contractor shall be solely responsible for, and have control over, construction means, methods, techniques, sequences, and procedures, and for coordinating all portions of the Work under the Contract. If the Contract Documents give specific instructions concerning construction means, methods, techniques, sequences, or procedures, the Contractor shall evaluate the jobsite safety thereof and shall be fully and solely responsible for the jobsite safety of such means, methods, techniques, sequences, or procedures. If the Contractor determines that such means, methods, techniques, sequences or procedures may not be safe, the Contractor shall give timely written notice to the Owner and Architect, and shall not proceed with that portion of the Work without further written instructions from the Architect. The Contractor shall immediately upon entering the Project for the purpose of beginning work, locate all general reference points and take such action as necessary to prevent their destruction. Contractor shall lay out his own work and be responsible for all lines, elevations and measurements of the building, demolition work, utilities, and any other work to be executed by him under the contract. The Contractor shall verify grades, lines, levels, and dimensions indicated on the drawings and shall notify the Architect of errors or inconsistencies before commencing work. The Contractor shall establish and maintain a permanent bench mark, batter boards, level and grades and shall layout the exact location of all walls, partitions, openings, etc. Contractor shall employ experienced and competent engineers and exercise proper precautions to verify the figures shown on the drawings for laying out work, and will be held responsible for any error resulting from his failure to exercise such precautions.

§ 3.3.2 The Contractor shall be responsible to the Owner for acts and omissions of the Contractor's employees, Subcontractors and their agents and employees, and other persons or entities performing portions of the Work for, or on behalf of, the Contractor or any of its Subcontractors.

§ 3.3.3 The Contractor shall be responsible for inspection of portions of Work already performed to determine that such portions are in proper condition to receive subsequent Work.

§ 3.3.4 The Contractor shall maintain readily accessible to the Architect and the Owner at the Project site, the following documents all of which shall be "public records" within the meaning of the Ohio Public Records Act:

- .1 A set of Drawings and Project Manuals, as approved by the appropriate Building Department.
- .2 Unless otherwise specifically provided in the Contract Documents, a neat and legible set of As-Built Drawings and Project Manuals on which the Contractor shall keep an accurate record of all approved changes made to the Drawings to show actual installation where installation varies from Work as originally shown, including the exact location and depth of underground utility lines. Any such changes shall be noted by Change Order Number and drawn neatly in a contrasting color; when Shop Drawings are used, the Contractor shall cross-reference the corresponding sheet numbers on the As-Built Drawings and sections of the Specifications;

- .3 A daily log at the Project site in which it has recorded Project-related information, including, but not limited to, the weather, number of workers on site for each Contractor, identification of equipment, Work accomplished, problems encountered, and other similar relevant Project data;
- .4 As applicable to its Work, all Bulletins, Addenda, approved Shop Drawings, Product Data, Samples, manufacturers' installation, operating and/or maintenance instructions or requirements, certificates, warranties, Change Orders, Change Directives, other Modifications and complete back up data for all Change Orders, Change Directives and other Modifications;
- .5 All the Contractor's communications, including but not limited to letters, memoranda, e-mail, invoices and bills of lading, arising out of or related to the Project with the Architect, Owner and/or its subcontractors, materialmen and/or employees;
- .6 The payroll reports for its employees and the employees of its Subcontractors working on the Project; and
- .7 Any other forms/processes required under the terms of the Agreement and pursuant to the e-Builder program; and
- .8 Project Information Board, including but not limited to, Owner approved Interim Life Safety Plan, Infection Control Risk Assessment, Building Permit, Daily Safety Checklist, and Emergency Contacts.

§ 3.3.5 Claims for the Contractor's failure to comply with the Ohio Public Records Act, if applicable, shall be claims under Section 3.18.1.

§ 3.4 Labor and Materials

§ 3.4.1 Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work.

§ 3.4.2 Except in the case of minor changes in the Work approved by the Architect in accordance with Section 3.12.8 or ordered by the Architect in accordance with Section 7.4, the Contractor may make substitutions only with the consent of the Owner, after evaluation by the Architect and in accordance with a Change Order or Construction Change Directive.

§ 3.4.3 The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Work. The Contractor shall not permit employment of unfit persons or persons not properly skilled in tasks assigned to them.

§ 3.5 Warranty

§ 3.5.1 The Contractor warrants to the Owner and Architect that materials and equipment furnished under the Contract will be of good quality and new unless the Contract Documents require or permit otherwise. The Contractor further warrants that the Work will conform to the requirements of the Contract Documents and will be free from defects. Work, materials, or equipment not conforming to these requirements may be considered defective. If required by the Architect, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment. If the Contractor breaches any of its obligations under Section 3.5.1, the Contractor will pay the Owner for its damages and expenses, including but not limited to attorneys' and consultants' fees and expenses, arising out of or related to such breach.

§ 3.5.2 All material, equipment, or other special warranties required by the Contract Documents shall be issued in the name of the Owner, or shall be transferable to the Owner, and shall commence in accordance with Section 9.8.4.

§ 3.5.3 Except to the extent that the Contractor has notified the Architect in writing at least ten (10) days prior to the bid opening of specific problems with specified equipment or materials, the Contractor warrants that any equipment or materials selected by it from among the equipment or materials specified will be fit for its intended purposes,

compatible with the design intent, and, if the other contractors construct their work in accordance with the Contract Documents, constructible all without additional cost to the Owner. Such notice shall be conspicuously labeled at the top of the first page in not less than twelve point type as follows: **“NOTICE OF PROBLEMS WITH SPECIFIED EQUIPMENT OR MATERIALS.”**

§ 3.6 Taxes

The Contractor shall pay sales, consumer, use, commercial activity and similar taxes for the Work provided by the Contractor that are legally enacted when bids are received or negotiations concluded, whether or not yet effective or merely scheduled to go into effect. The Contractor acknowledges that the Owner is a political subdivision of the State of Ohio or tax exempt organization and is exempt from state sales and use taxes. Upon written request, the Owner will provide the Contractor with any applicable certificates of exemption.

§ 3.7 Permits, Fees, Notices and Compliance with Laws

§ 3.7.1 Unless otherwise provided in the Contract Documents, the Contractor shall secure and pay for the building permit as well as for other permits, fees, licenses, and inspections by government agencies necessary for proper execution and completion of the Work that are customarily secured after execution of the Contract and legally required at the time bids are received or negotiations concluded.

§ 3.7.2 The Contractor shall comply with and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders and all other requirements of public authorities applicable to performance of the Work.

§ 3.7.3 In addition to its other obligations under the Contract Documents, if the Contractor or any of its Subcontractors or Sub-subcontractors, if the Contractor performs Work knowing it to be contrary to applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders and all other requirements of public authorities, the Contractor shall assume appropriate responsibility for such Work and shall bear the costs attributable to correction.

§ 3.7.4 Concealed or Unknown Conditions

Subject to Section 2.3.4 of these General Conditions, if the Contractor encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, the Contractor shall promptly provide notice to the Owner and the Architect before conditions are disturbed and in no event later than 14 days after first observance of the conditions. The Architect will promptly investigate such conditions and, if the Architect determines that they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, will recommend that an equitable adjustment be made in the Contract Sum and/or Contract Time. If the Architect determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Architect shall promptly notify the Owner and Contractor in writing, stating the reasons. If either party disputes the Architect's determination or recommendation, that party may proceed as provided in Article 15.

§ 3.7.5 If, in the course of the Work, the Contractor encounters human remains or recognizes the existence of burial markers, archaeological sites or wetlands not indicated in the Contract Documents, the Contractor shall immediately suspend any operations that would affect them and shall notify the Owner and Architect. Upon receipt of such notice, the Owner shall promptly take any action necessary to obtain governmental authorization required to resume the operations. The Contractor shall continue to suspend such operations until otherwise instructed by the Owner but shall continue with all other operations that do not affect those remains or features. Requests for adjustments in the Contract Sum and Contract Time arising from the existence of such remains or features may be made as provided in Article 15.

§ 3.8 Allowances

§ 3.8.1 The Contractor shall include in the Contract Sum all allowances stated in the Contract Documents. Items covered by allowances shall be supplied for such amounts and by such persons or entities as the Owner may direct, but the Contractor shall not be required to employ persons or entities to whom the Contractor has reasonable objection.

§ 3.8.2 Unless otherwise provided in the Contract Documents,

- .1 allowances shall cover the cost to the Contractor of materials and equipment delivered at the site and all required taxes, less applicable trade discounts;
- .2 Contractor's costs for unloading and handling at the site, labor, installation costs, overhead, profit, and other expenses contemplated for stated allowance amounts shall be included in the allowances, as applicable; and
- .3 allowances shall be administered in accordance with Section 5.2.1.3 of the Agreement; the Contractor shall timely seek and obtain a final Change Order before incurring any costs in excess of an allowance.

§ 3.8.3 Materials and equipment under an allowance shall be selected by the Owner with reasonable promptness.

§ 3.9 Superintendent

§ 3.9.1 The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project site during performance of the Work. The superintendent shall represent the Contractor, and communications given to the superintendent shall be as binding as if given to the Contractor.

§ 3.9.2 The Contractor, as soon as practicable after award of the Contract, shall notify the Owner and Architect in writing of the name and qualifications of a proposed superintendent. Within 14 days of receipt of the information, the Architect may notify the Contractor, stating whether the Owner or the Architect (1) has reasonable objection to the proposed superintendent or (2) requires additional time for review. Failure of the Architect to provide notice within the 14-day period shall constitute notice of no reasonable objection.

§ 3.9.3 The Contractor shall not employ a proposed superintendent to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not change the superintendent without the Owner's consent, which shall not unreasonably be withheld or delayed. If the Contractor proposes to change the Superintendent, the Contractor shall submit to the Architect a written request for the change, including the justification for the change, the name and qualifications for the proposed replacement, and the time frame within which the change is proposed to take place. The Contractor shall provide promptly any related additional information the Architect or Owner requests.

§ 3.10 Contractor's Construction and Submittal Schedules

§ 3.10.1 The Contractor shall prepare the Construction Schedule within ten (10) days of the date of the Effective Date of the Agreement. The Contractor, within five (5) days of the date of any request from the Architect or the Owner to submit scheduling information, shall submit the scheduling information for its Work to the Architect and to the Owner in such form and in such detail as requested. . The Construction Schedule shall include and be consistent with any applicable Milestone Dates in the Bidding Documents or otherwise provided by the Owner. The Contractor shall prepare all Construction Schedules in CPM format unless provided otherwise in the Contract Documents or otherwise agreed in writing by the Owner. Each major category of work shall be shown separately in the Construction Schedule with all the significant activities involved, showing durations of time, manpower requirements, and restraints. The Construction Schedule is for the purpose of coordinating the timing, phasing and sequence of the Work of the Contractor and to provide an instant evaluation of progress of the Work and manpower requirements. shall not change or modify the Date for Substantial Completion. The Date for Substantial Completion shall only be changed or modified by Change Order, other Modification or a Claim that is Finally Resolved, regardless of the dates in the Construction Schedule.

.1 The Contractor shall submit a Weekly Progress Report to the Owner during Weekly Job Meetings. This report shall consist of a simple checklist on which the Contractor shall indicate start and finish dates for all activities, as well as its percentage completion. The Contractor shall also report which activities it plans to start the following week. Included shall be shop drawings, procurement of material, Owner-approved shutdowns, other pertinent items as well as actual on-site construction activities. If requested, Contractor shall submit to the Owner a daily count of manpower and that of its subcontractors. This information shall then be compared with the Construction Schedule for an evaluation of the status of the job. The manpower count shall be discussed at the Weekly Job Meeting and documented in the minutes of the meeting;

.2 The Construction Schedule shall be manpower loaded and shall include a schedule of the submission of Shop Drawings, Product Data and Samples;

.3 The Contractor shall update the Construction Schedule each month;

.4 The float in the Construction Schedule and any updates to it shall belong to the Owner. Float shall mean the amount of time by which activities may be delayed without affecting the Contract Date for Substantial Completion; and

.5 The Contractor's obligation to furnish requested scheduling information is a material term of its Contract. If the Contractor fails to furnish requested scheduling information in writing within five (5) days of a request for such information from the Architect or Owner, the Contractor shall pay and the Owner may withhold from the Contractor Liquidated Damages at the rate of Fifty Dollars (\$50.00) a day for each calendar day thereafter that the Contractor fails to furnish the requested information.

§ 3.10.2 The Contractor, promptly after being awarded the Contract and thereafter as necessary to maintain a current submittal schedule (representative of all submittals noted in the Contract Documents,) shall submit a submittal schedule for the Architect's approval. The Architect's approval shall not be unreasonably delayed or withheld. The submittal schedule shall (1) be coordinated with the Contractor's construction schedule, and (2) allow the Architect reasonable time to review submittals, and (3) incorporate all submittals. If the Contractor fails to submit a submittal schedule, or fails to provide submittals in accordance with the approved submittal schedule, the Contractor shall not be entitled to any increase in Contract Sum extension of Contract Time based on the time required for review of submittals.

§ 3.10.3 The Contractor shall perform the Work in general accordance with the most recent Construction Schedule submitted to the Owner and Architect, provided that the Contractor shall comply with any orders under Section 3.10.4. However, preparation of such schedule shall not constitute a waiver of Owner's rights under the Contract to have the Work completed by the contractual dates of Substantial and Final Completion.

§ 3.10.4 If the Architect or the Owner determines that the performance of the Work has not progressed so that it is likely that the Contractor will not Substantially Complete its Work by its Date for Substantial Completion, the Owner shall have the right to order the Contractor to take corrective measures necessary to expedite the Work, including, without limitation: (i) working additional shifts or overtime; (ii) supplying additional manpower, equipment, and facilities; and (iii) other similar measures (collectively referred to as "Corrective Measures"). If the Owner orders the Contractor to take such corrective measures, the Contractor shall take and continue such Corrective Measures until the Owner is satisfied that the Contractor is likely to Substantially Complete its Work by its Date for Substantial Completion. The Contractor shall not be entitled to adjustment in the Contract Sum in connection with the Corrective Measures required by the Owner pursuant to this Section 3.10.4, unless the Contractor is able to establish that it is entitled to additional compensation under the terms of the Contract Documents.

§ 3.11 Documents and Samples at the Site

The Contractor shall make available, at the Project site, the Contract Documents, the documents required by Section 3.3.4, including, but not limited to, Change Orders, Construction Change Directives, and other Modifications, in good order and marked currently to indicate field changes and selections made during construction, and the approved Shop Drawings, Product Data, Samples, and similar required submittals. These shall be in electronic form or paper copy, available to the Architect and Owner, and delivered to the Architect for submittal to the Owner upon completion of the Work as a record of the Work as constructed or earlier when required by the Contract Documents.

§ 3.12 Shop Drawings, Product Data and Samples

§ 3.12.1 Shop Drawings are drawings, diagrams, schedules, and other data specially prepared for the Work by the Contractor or a Subcontractor, Sub-subcontractor, manufacturer, supplier, or distributor to illustrate some portion of the Work. Shop Drawings shall also include fabrication, erection and setting Drawings, scheduled Drawings, manufacturer's scale Drawings, wiring and control diagrams, cuts or entire catalogs, pamphlets, descriptive literature, performance and technical data.

§ 3.12.2 Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams, and other information furnished by the Contractor to illustrate materials or equipment for some portion of the Work.

§ 3.12.3 Samples are physical examples that illustrate materials, equipment, or workmanship, and establish standards by which the Work will be judged.

§ 3.12.4 Shop Drawings, Product Data, Samples, and similar submittals are not Contract Documents. Their purpose is to demonstrate how the Contractor proposes to conform to the information given and the design concept expressed in the Contract Documents for those portions of the Work for which the Contract Documents require submittals. Review by the Architect is subject to the limitations of Section 4.2.7. Informational submittals upon which the Architect is not expected to take responsive action may be so identified in the Contract Documents. Submittals that are not required by the Contract Documents may be returned by the Architect without action.

§ 3.12.5 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, 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.

- .1 If the Shop Drawings or other submittals show variations from the requirements of the Contract Documents, the Contractor shall specify such variations in the Contractor's letter of submittal to the Architect accompanying the submittal. Variations must be approved by Change Order.
- .2 If the Contractor's Shop Drawings or its submittals do not contain sufficient information, and the Architect must perform more than two reviews with respect to any submittal, the Contractor shall pay the additional costs and expenses incurred by the Owner as a result of such additional reviews by the Architect, and the Owner may withhold from sums due or coming due the Contractor amounts to cover such additional costs and expenses.

§ 3.12.6 By submitting Shop Drawings, Product Data, Samples, and similar submittals, the Contractor represents to the Owner and Architect that the Contractor has (1) reviewed and approved them, (2) determined and verified materials, field measurements and field construction criteria related thereto, or will do so, and (3) checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents.

§ 3.12.7 The Contractor shall perform no portion of the Work for which the Contract Documents require submittal and review of Shop Drawings, Product Data, Samples, or similar submittals, until the respective submittal has been approved by the Architect.

§ 3.12.8 The Work shall be in accordance with approved submittals except that the Contractor shall not be relieved of responsibility for deviations from the requirements of the Contract Documents by the Architect's approval of Shop Drawings, Product Data, Samples, or similar submittals, unless the Contractor has specifically notified the Architect in writing, of such deviation at the time of submittal and (1) the Architect has given written approval to the specific deviation as a minor change in the Work, or (2) a Change Order or Construction Change Directive has been issued authorizing the deviation. The Contractor shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples, or similar submittals, by the Architect's approval thereof.

§ 3.12.9 The Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data, Samples, or similar submittals, to revisions other than those requested by the Architect on previous submittals. In the absence of such written notice, the Architect's approval of a resubmission shall not apply to such revisions.

§ 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.

§ 3.12.10.1 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 be entitled to rely upon the adequacy and accuracy of the performance and design criteria provided in the Contract Documents. The Contractor shall cause such services or certifications to be provided by an appropriately licensed design professional, who shall comply with reasonable requirements of the Owner regarding qualifications and insurance

and 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, if prepared by others, shall bear such professional's written approval when submitted to the Architect. The Owner and the Architect shall be entitled to rely upon the adequacy and accuracy of the services, certifications, and approvals performed or provided by such design professionals, provided the Owner and Architect have specified to the Contractor the performance and design criteria that such services must satisfy. Pursuant to this Section 3.12.10, the Architect will review and 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.

§ 3.12.10.2 If the Contract Documents require the Contractor's design professional to certify that the Work has been performed in accordance with the design criteria, the Contractor shall furnish such certifications to the Architect at the time and in the form specified by the Architect.

§ 3.12.11 Instructions. Unless otherwise expressly provided in the Contract Documents, the Contractor shall provide typed or printed instructions covering the operation and maintenance of each item of equipment furnished in a notebook submitted to the Architect for review and transmittal to the Owner.

The Contractor shall provide two (2) copies of such instruction books on or before the Substantial Completion of its Work. The books shall describe the information to be covered clearly and in detail and shall be in form and content satisfactory to the Architect and the Owner.

§ 3.12.12 Testing Following Final Completion. The Contractor will participate in training sessions for the Owner's maintenance personnel. During the first twelve (12) months following Final Completion of each part of the Project, the Contractor (without additional compensation) will participate in tests scheduled by the Owner, which test the following building systems to the extent applicable to the Contractor's Work: air conditioning system (which shall be conducted during the first full summer following the completion of the Project or at such earlier time as scheduled by the Owner), heating system (which shall be conducted during the first full winter following the completion of the Project or at such earlier time as scheduled by the Owner), and such other systems, including the electrical system, plumbing system, fire protection system, communications systems, as reasonably requested by the Owner. The Owner will be advised when the testing will be conducted and may observe the testing. It is intended that the testing be a comprehensive series of operation tests designed to determine whether the systems are fully operational in accordance with the requirements of the Contract Documents. If it appears that any of the systems, including equipment and software, do not conform to the requirements of the Contract Documents, the Contractor will remedy the defective and/or non-conforming work as provided in Section 12.2.2.1 of these General Conditions.

§ 3.12.13 Manufacturer's Instructions or Requirements. Without waiving, modifying or relieving the Contractor from its other obligations under the Contract Documents, including its warranties and any performance specifications, the Contractor shall furnish and install its Work in accordance with any applicable manufacturer's instructions or requirements. Prior to installation, the Contractor shall review carefully the manufacturer's instructions and requirements, and if there is a conflict between such instructions or requirements and the Drawings and/or Specifications, the Contractor shall request clarification from the Architect prior to commencing the Work.

§ 3.12.14 The Contractor shall furnish for each submission of Shop Drawings, one (1) transparency reproduction and sufficient number of prints so the Architect can retain four (4) copies. Where the nature of the material being submitted is such that letter size sheets are a convenient method of presentation, such sheets shall be assembled in the form of booklets with covers showing the name of the job, the names of the Contractor and subcontractor or vendor, the location on the job and a list of the sheets contained. Such booklets need not be in the form of transparencies. Do not submit complete catalogues with items checked for use as shop drawings.

§ 3.12.15 After review of the submittal, the Architect will return the transparency to the Contractor marked "approved" or "not approved" and shall furnish promptly one copy in either case to the Owner for information and reference purposes on the job. If marked "not approved", Contractor shall resubmit showing corrections made. After the transparency has been stamped "approved", the Contractor shall distribute all necessary prints to trades involved. No Shop Drawings shall be used if not stamped "approved" by the Architect. All work shall be done in accordance with approved Shop Drawings.

§ 3.12.16 Schedules, diagrams, cuts, catalogs, data, etc., as mentioned in this Section 3.12, shall be furnished in sufficient numbers so the Architect can retain four (4) copies and the Contractor will have the necessary number for its distribution. One copy of each of these shall be furnished the Owner by the Architect for reference on the job and for his permanent records.

§ 3.12.17 All Contractors furnishing material or equipment where shop or setting drawings are required shall obtain measurements and observe conditions at the job and indicate on their drawings that such dimensions have been field measured. The Contractor shall affix its stamp of approval on the drawings as evidence they have been checked before submitting them to the Architect for approval. Where information from one Contractor is required by another before drawings can be made, that information shall be given in sufficient time to cause no delay on the part of either party.

§ 3.12.18 The Contractor shall maintain a separate complete clean set of all shop drawings, data and correspondence pertinent to maintenance requirement. This complete file shall be submitted to the Owner upon Substantial Completion. Drawings shall contain all changes made during construction.

§ 3.12.19 The Contractor shall keep a complete record of all drawings including dates of issuance, receipt and approval. A second set shall be maintained at the Project job site.

§ 3.12.20 When a Contractor requests a change in any item which will involve a change in related items or supports, the Contractor requesting the change shall be responsible for, and pay all costs in connection with such changes. Changes shall be recorded on shop drawings.

§ 3.13 Use of Site

§ 3.13.1 The Contractor shall confine operations at the site to areas permitted by applicable laws, statutes, ordinances, codes, rules and regulations, lawful orders and all other requirements of public authorities, and the Contract Documents and shall not unreasonably encumber the site with materials or equipment.

§ 3.13.1.1 Damage to road, features, or the grounds, resulting from hauling, storage of materials, or other activities connected with the Work, will be repaired by the Contractor at its expense to the satisfaction of the Architect.

§ 3.13.2 Signage. The Contractor and any entity for whom the Contractor is responsible shall not erect any sign on the Project site without the prior written consent of the Owner, which may be withheld in the sole discretion of the Owner.

§ 3.13.3 Restricted Activities. Unless expressly permitted by the Contract Documents or by the Owner in writing, the Contractor shall not interfere with the Owner's ongoing operations, shall not permit any of its employees or its Subcontractor's or materialmen's employees to use any existing facilities on the Project site, including, without limitation, lavatories, toilets, entrances, and parking areas, and shall not permit its employees or its Subcontractor's or materialmen's employees to bring any tobacco products, alcoholic beverages, controlled substances, or firearms onto the Project site or any other property owned or controlled by the Owner. Additionally, the Contractor shall not permit its employees or its Subcontractor's or materialmen's employees to use any radios, tape or compact disc players, or sound amplification equipment at or near the Project site.

§ 3.13.4 The Contractor shall conspicuously post notice of the prohibitions listed in the preceding subparagraphs at the Project site in the same locations as OSHA notices are required to be posted, and shall verbally inform all of the Contractor's employees, and the employees of the Contractor's Subcontractors and materialmen, regardless of tier, of such prohibitions.

§ 3.14 Cutting and Patching

§ 3.14.1 The Contractor shall be responsible for cutting, fitting, or patching required to complete the Work or to make its parts fit together properly. All areas requiring cutting, fitting, or patching shall be restored to the condition existing prior to the cutting, fitting, or patching, unless otherwise required by the Contract Documents.

§ 3.14.2 The Contractor shall not damage or endanger a portion of the Work or fully or partially completed construction of the Owner or Separate Contractors by cutting, patching, or otherwise altering such construction, or by excavation. The Contractor shall not cut or otherwise alter construction by the Owner or a Separate Contractor except with written consent of the Owner and of the Separate Contractor. Consent shall not be unreasonably

withheld. The Contractor shall not unreasonably withhold, from the Owner or a Separate Contractor, its consent to cutting or otherwise altering the Work.

§ 3.14.3 Patching resulting from operations of any Contractor shall be performed by workers skilled in the trade being patched, and paid for by Contractor causing such patching.

§ 3.15 Cleaning Up

§ 3.15.1 The Contractor shall keep the premises and surrounding area free from accumulation of waste materials and rubbish caused by operations under the Contract. At completion of the Work, the Contractor shall remove waste materials, rubbish, the Contractor's tools, construction equipment, machinery, and surplus materials from and about the Project. At weekly intervals and as directed by the Owner, the Contractor shall clean up the jobsite. Contractor shall remove all discarded materials, rubbish and debris from the premises in accordance with the Owner-approved Infection Control Risk Assessment and approved route from the jobsite to the dumpsters. The Contractor shall have a dumpster on the site so as to maintain clean and safe conditions throughout the duration of the Project.

§ 3.15.2 If the Contractor fails to clean up as provided in the Contract Documents, the Owner may do so and the Owner shall be entitled to reimbursement from the Contractor.

§ 3.16 Access to Work

The Contractor shall provide the Owner and Architect with access to the Work in preparation and progress wherever located.

§ 3.17 Royalties, Patents and Copyrights

The Contractor shall pay all royalties and license fees. The Contractor shall defend suits or claims for infringement of copyrights and patent rights and shall hold the Owner and Architect harmless from loss on account thereof, but shall not be responsible for defense or loss when a particular design, process, or product of a particular manufacturer or manufacturers is required by the Contract Documents, or where the copyright violations are contained in Drawings, Specifications, or other documents prepared by the Owner or Architect. However, if the Contractor has reason to believe that the required design, process or product is an infringement of a copyright or patent or such infringement is discovered by, or made known to, the Contractor, the Contractor shall be responsible for the loss unless the information is promptly furnished to the Architect.

§ 3.18 Indemnification

§ 3.18.1 To the fullest extent permitted by law, the Contractor shall 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 and charges, architects fees and charges, the fees and charges of other professionals, and all court, or other dispute resolution costs arising out of, relating to, or resulting from performance of the Work, or any breach of Contractor's obligations under the Contract Documents, including, but not limited to the breach of any warranty provided in the Contract Documents caused by the negligent acts or omissions of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, regardless of 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 that would otherwise exist as to a party or person described in this Section 3.18.

§ 3.18.2 In claims against any person or entity indemnified under this Section 3.18 by an employee of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, the indemnification obligation under Section 3.18.1 shall not be limited by a limitation on amount or type of damages, compensation, or benefits payable by or for the Contractor or a Subcontractor under workers' compensation acts, disability benefit acts, or other employee benefit acts.

§ 3.19 Compliance with Demolition Laws. The Contractor will, at the Contractor's expense, fully comply with all statutes and regulations regarding notification and disposal of construction and demolition debris, including, without limitation, Ohio Revised Code Chapter 3714 and the regulations enacted thereunder.

§ 3.20 Underground Utility Facilities.

§ 3.20.1 The Contractor, at least two (2) working days prior to commencing construction in an area that may involve underground utility facilities, shall give notice to the Architect and the Owner and to the registered underground utility protection services and the owners of underground utility facilities shown on the Drawings and

Specifications.

§ 3.20.2 The Contractor shall notify immediately the occupants of any premises near the Work and the Architect and the Owner as to any emergency that it may create or discover. The Contractor shall notify immediately the operator of any underground utilities and the Architect and Owner of any break or leak in the lines of such operator or any dent, gouge, groove, or other damage to such lines or to their rating or cathodic protection, made or discovered in the course of excavation.

§ 3.21 Waivers of Claims.

§ 3.21.1 Beginning with the second Application for Payment, the Contractor will submit a) a mutually agreeable form of release and/or waiver of claims, including a waiver of all lien rights, in the form included in the Project Manual or required by the Owner for itself and each of its Subcontractors and Suppliers, regardless of tier, and b) a complete list of its Subcontractors and Suppliers using the form included in the Project Manual or as required by the Owner. A final waiver of lien in the form included in the Project Manual or required by the Owner, for the total value of each subcontract shall be included with the final Application for Payment for each subcontract and with the Contractor's final pay application for the Project. The total of the lien waivers shall match the total amount paid to the Contractor, inclusive of all approved change orders.

§ 3.22 Records and Audits. The Contractor shall keep full and detailed accounts and exercise such controls as may be necessary for proper financial management under this Agreement; the accounting and control systems shall be satisfactory to the Owner. **The Owner and the Owner's accountants shall be afforded access to review and audit the Contractor's records, books, correspondence, instructions, drawings, receipts, subcontracts, purchase orders, vouchers, memoranda, timesheets, payroll, and other data relating to this Project, records of time spent by each person performing work on the Project and time spent on all other projects; such time and payroll records shall include the location of services, detailed description of time and work on this Project and any other projects (redacting the client name or description to the extent necessary) and the Contractor shall preserve these for a period of four years after final payment, or for such longer period as may be required by law,** including, without limitation as set forth in the Medicare records Act clause as follows: In accordance with requirements of the Omnibus Budget Reconciliation Act of 1980, until the expiration of four years after the furnishing of services pursuant to this Agreement, the Contractor will make available, upon written request to the Secretary of Health and Human Services or Comptroller General, or to any of their duly authorized representatives, this agreement, and books, documents, and records that are necessary to certify the extent of any costs arising from this agreement. Further if the Contractor carries out any of its duties arising from this agreement through a subcontract, with a value or a cost of ten thousand dollars (\$10,000) or more over a twelve month period with a related organization, such contract shall contain a clause to the effect that until the expiration of four years after the furnishing of services pursuant to such subcontract, the related organization will make available, upon written request, to the Secretary of Health and Human Services or Comptroller General, or to any of their duly authorized representatives, the subcontract, and books, documents, and reports of such organization that are necessary to certify the extent of any such costs. Contractor shall make all such records, books, correspondence, instructions, drawings, receipts, subcontracts, purchase orders, vouchers, memoranda, timesheets, payroll, and other data relating to this Project, available to the Owner and the Owner's accountants in Cleveland, Ohio or a location designated by Owner at the time of Owner's request. In the event that the Contractor's records are not available at the agreed upon time or place, or in the event that the Owner finds incomplete records or inaccurate accounting of paid expenses, the Contractor shall reimburse the Owner for its time, travel, related expenses and Contractor shall reimburse Owner the full amount of any discrepancies or overages.

ARTICLE 4 ARCHITECT

§ 4.1 General

§ 4.1.1 The Architect is the person or entity retained by the Owner pursuant to Section 2.3.2 and identified as such in the Agreement.

§ 4.1.2 Duties, responsibilities, and limitations of authority of the Architect as set forth in the Contract Documents shall not be restricted, modified, or extended without written consent of the Owner, Contractor, and Architect. Consent shall not be unreasonably withheld.

§ 4.2 Administration of the Contract

§ 4.2.1 The Architect will provide administration of the Contract as described in the Contract Documents and will be an Owner's representative (1) during construction, (2) until the date the Architect issues the final Certificate for

Payment, and (3) with the Owner's concurrence, from time to time during the one-year period for correction of Work described in Section 12.2 and for such additional periods as the Owner and Architect may agree. The Architect will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents and as authorized by the Owner's Board.

§ 4.2.2 The Architect will visit the site at intervals appropriate to the stage of construction, or as otherwise agreed with the Owner, (1) to become generally familiar with and to keep the Owner informed about the progress and quality of the portion of the Work completed, (2) to endeavor to guard the Owner against defects and deficiencies in the Work, and (3) to determine in general if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. The Architect will not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for the safety precautions and programs in connection with the Work, since these are solely the Contractor's rights and responsibilities under the Contract Documents, to the extent stated in Section 3.3.1.

§ 4.2.3 On the basis of the site visits, the Architect will keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner (1) known deviations from the Contract Documents, (2) known deviations from the most recent construction schedule submitted by the Contractor, and (3) defects and deficiencies observed in the Work. The Architect will not be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect will not have control over or charge of, and will not be responsible for acts or omissions of, the Contractor, Subcontractors, or their agents or employees, or any other persons or entities performing portions of the Work.

§ 4.2.4 Communications

Except as otherwise provided in the Contract Documents or when direct communications have been specially authorized, the Owner and Contractor shall endeavor to communicate with each other through the Architect about matters arising out of or relating to the Contract. Communications by and with the Architect's consultants shall be through the Architect. Communications by and with Subcontractors and suppliers shall be through the Contractor. Communications by and with Separate Contractors under contract directly with the Owner, if any shall be through the Architect. The Contract Documents may specify other communication protocols.

§ 4.2.5 Based on the Architect's evaluations of the Contractor's Applications for Payment, the Architect will review and certify the amounts due the Contractor and will issue Certificates for Payment in such amounts.

§ 4.2.6 The Architect has authority to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect will have authority to require inspection or testing of the Work in accordance with Sections 13.4.2 and 13.4.3, whether or not the Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons or entities performing portions of the Work.

§ 4.2.7 The Architect will review and approve, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data, and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect's action will be taken in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time in the Architect's professional judgment to permit adequate review. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of the Contractor as required by the Contract Documents. The Architect's review of the Contractor's submittals shall not relieve the Contractor of the obligations under Sections 3.3, 3.5, and 3.12. The Architect's review shall not constitute approval of safety precautions or, unless otherwise specifically stated by the Architect, of any construction means, methods, techniques, sequences, or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 4.2.8 The Architect will prepare Bulletins, Change Orders and Construction Change Directives, and may authorize minor changes in the Work as provided in Section 7.4. The Architect will investigate and make determinations and recommendations regarding concealed and unknown conditions as provided in Section 3.7.4.

§ 4.2.9 The Architect will conduct inspections to determine the date or dates of Substantial Completion and the Date of Final Completion; issue Certificates of Substantial Completion pursuant to Section 9.8; receive and forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract and assembled by the Contractor pursuant to Section 9.10; and issue a final Certificate for Payment pursuant to Section 9.10.

§ 4.2.10 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 the Project representatives shall be consistent with these General Conditions.

§ 4.2.11 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. All Requests for Information by the Contractor shall be submitted to the Architect via the RFI process in e-Builder. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

§ 4.2.12 Interpretations and decisions of the Architect will be consistent with the intent of, and reasonably inferable from, the Contract Documents and will be in writing or in the form of drawings. When making such interpretations and decisions, the Architect will endeavor to secure faithful performance by both Owner and Contractor, will not show partiality to either, and will not be liable for results of interpretations or decisions rendered in good faith.

§ 4.2.13 The Architect's decisions on matters relating to aesthetic effect will be final if consistent with the intent expressed in the Contract Documents.

§ 4.2.14 The Architect will review and respond to requests for information about the Contract Documents. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness. If appropriate, the Architect will prepare and issue supplemental Drawings and Specifications in response to the requests for information. In its requests for information, the Contractor shall clearly identify the number of business days for the Architect to review and respond without any potential impact to the critical path or potential delay, however, the Architect must have at least 5 business days to review and respond. Subject to the foregoing, the Owner will require the Architect to respond to requests for information within a timely manner so as to not delay the Project Schedule.

ARTICLE 5 SUBCONTRACTORS

§ 5.1 Definitions

§ 5.1.1 A Subcontractor is a person or entity who has a direct contract with the Contractor to perform a portion of the Work at the site. The term "Subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Subcontractor or an authorized representative of the Subcontractor. The term "Subcontractor" does not include a Separate Contractor or the subcontractors of a Separate Contractor.

§ 5.1.2 A Sub-subcontractor is a person or entity who has a direct or indirect contract with a Subcontractor to perform a portion of the Work at the site. The term "Sub-subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Sub-subcontractor or an authorized representative of the Sub-subcontractor.

§ 5.2 Award of Subcontracts and Other Contracts for Portions of the Work

§ 5.2.1 Unless otherwise stated in the Contract Documents or the bidding requirements, the Contractor, as soon as practicable after award of the Contract, shall notify the Owner and Architect in writing of the persons or entities proposed for each principal portion of the Work, including those who are to furnish materials or equipment fabricated to a special design. Within 14 days of receipt of the information, the Architect may notify the Contractor whether the Owner or the Architect (1) has reasonable objection to any such proposed person or entity or (2) requires additional time for review. Failure of the Architect or Owner to provide notice within the 14-day period shall constitute notice of no reasonable objection. Copies of all bids or other proposals from Subcontractors or Sub-subcontractors shall, upon the request of the Owner or Architect, be submitted to the Owner and the Architect.

§ 5.2.2 The Contractor shall not contract with a proposed person or entity to whom the Owner or Architect has made a timely objection. The Contractor shall not be required to contract with anyone to whom the Contractor has made reasonable objection.

§ 5.2.3 If the Owner or Architect has an objection to a person or entity proposed by the Contractor, the Contractor, within 10 days, shall propose another to whom the Owner or Architect has no objection. If the proposed but rejected Subcontractor was reasonably capable of performing the Work, the Contract Sum and Contract Time shall be increased or decreased by the difference, if any, occasioned by such change, and an appropriate Change Order shall be issued before commencement of the substitute Subcontractor's Work. However, no increase in the Contract Sum or Contract Time shall be allowed for such change unless the Contractor has acted promptly and responsively in submitting names as required.

§ 5.2.4 The Contractor shall not substitute a Subcontractor, person, or entity for one previously selected if the Owner or Architect makes an objection to such substitution. The Owner, through the Architect, may require the Contractor to change any Subcontractor previously approved and, except as provided hereafter, the Contract Sum shall be increased or decreased by the difference in cost resulting from such change. If the Contractor is in default because of the Subcontractor's performance, then the Contractor shall not be entitled to any adjustment in the Contract Sum and shall remain liable to the Owner for any damages or losses caused by such default.

§ 5.3 Subcontractual Relations

By appropriate written agreement, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities, including the responsibility for safety of the Subcontractor's Work that the Contractor, by these Contract Documents, assumes toward the Owner and Architect. Each subcontract agreement shall preserve and protect the rights of the Owner and Architect under the Contract Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the subcontract agreement, the benefit of all rights, remedies, and redress against the Contractor that the Contractor, by the Contract Documents, has against the Owner. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor, prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor will be bound, and, upon written request of the Subcontractor, identify to the Subcontractor terms and conditions of the proposed subcontract agreement that may be at variance with the Contract Documents. Subcontractors will similarly make copies of applicable portions of such documents available to their respective proposed Sub-subcontractors.

§ 5.4 Contingent Assignment of Subcontracts

§ 5.4.1 Each subcontract agreement for a portion of the Work is assigned by the Contractor to the Owner, provided that

- .1 assignment is effective only after termination of the Contract by the Owner for cause pursuant to Section 14.2 and only for those subcontract agreements that the Owner accepts by notifying the Subcontractor and Contractor in writing; and
- .2 assignment is subject to the prior rights of the surety, if any, obligated under bond relating to the Contract.

§ 5.4.2 Upon such assignment, if the Work has been suspended for more than 30 days, the Subcontractor's compensation shall be equitably adjusted for increases in direct costs incurred by the Subcontractor, resulting from the suspension.

§ 5.4.3 Upon assignment to the Owner under this Section 5.4, the Owner may further assign the subcontract to a successor contractor or other entity

ARTICLE 6 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS

§ 6.1 Owner's Right to Perform Construction and to Award Separate Contracts

§ 6.1.1 The term "Separate Contractor(s)" shall mean other contractors or vendors retained by the Owner under separate agreements. The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and with Separate Contractors retained under Conditions of the Contract substantially similar to those of this Contract, including those provisions of the Conditions of the Contract related to insurance

and waiver of subrogation. If the Contractor claims that delay or additional cost is involved because of such action by the Owner, the Contractor shall make such Claim as provided in Article 15.

§ 6.1.2 When separate contracts are awarded for different portions of the Project or other construction or operations on the site, the term “Contractor” in the Contract Documents in each case shall mean the Contractor who executes each separate Owner-Contractor Agreement.

§ 6.1.3 The Owner shall provide for coordination of the activities of the Owner’s own forces and of each Separate Contractor, if any, with the Work of the Contractor, unless the Owner has given such responsibilities to the Contractor, in writing. The Contractor shall coordinate its Work with the activities of any Separate Contractors and cooperate with them. The Contractor shall participate with any Separate Contractors and the Owner in reviewing their construction schedules. The Contractor shall make any revisions to its construction schedule deemed necessary and as authorized by the Owner, after a joint review and mutual agreement. The construction schedules shall then constitute the schedules to be used by the Contractor, Separate Contractors, and the Owner until subsequently revised.

§ 6.1.4 Unless otherwise provided in the Contract Documents, when the Owner performs construction or operations related to the Project with the Owner’s own forces or with Separate Contractors, the Owner or its Separate Contractors shall have the same obligations and rights that apply to the Contractor has under the Conditions of the Contract, including, without excluding others, those stated in Article 3, this Article 6, and Articles 10, 11, and 12.

§ 6.2 Mutual Responsibility

§ 6.2.1 The Contractor shall afford the Owner and Separate Contractors reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities, and shall connect and coordinate the Contractor’s construction and operations with theirs as required by the Contract Documents.

§ 6.2.2 If part of the Contractor’s Work depends for proper execution or results upon construction or operations by the Owner or a Separate Contractor, the Contractor shall, prior to proceeding with that portion of the Work, promptly notify the Architect and Owner in writing of apparent discrepancies or defects in the construction or operations by the Owner or Separate Contractor that would render it unsuitable for proper execution and results of the Contractor’s Work. Failure of the Contractor to notify the Architect and Owner in writing of apparent discrepancies or defects prior to proceeding with the Work shall constitute an acknowledgment that the Owner’s or Separate Contractor’s completed or partially completed construction is fit and proper to receive the Contractor’s Work. The Contractor shall not be responsible for discrepancies or defects in the construction or operations by the Owner or Separate Contractor that are not reasonably discoverable.

§ 6.2.3 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. Pursuant to the claims process set forth in the Contract Documents, the Owner may be responsible to the Contractor for costs the Contractor incurs because of a Separate Contractor’s delays, improperly timed activities, damage to the Work or defective construction.

§ 6.2.4 The Contractor shall promptly remedy damage that the Contractor wrongfully causes to completed or partially completed construction or to property of the Owner or Separate Contractor as provided in Section 10.2.5.

§ 6.2.5 The Owner and each Separate Contractor, if any, shall have the same responsibilities for cutting and patching as are described for the Contractor in Section 3.14.

§ 6.3 Owner’s Right to Clean Up

If a dispute arises among the Contractor, Separate Contractors, and the Owner as to the responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and rubbish, the Owner may clean up and the Architect will allocate the cost among those responsible. The Architect’s decision allocating the cost shall be final and binding on the Contractor and the Owner.

ARTICLE 7 CHANGES IN THE WORK

§ 7.1 General

§ 7.1.1 Changes in the Work may be accomplished after execution of the Contract, and without invalidating the Contract, by Change Order, Construction Change Directive or order for a minor change in the Work, subject to the limitations stated in this Article 7 and elsewhere in the Contract Documents.

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

§ 7.1.3 Changes in the Work shall be performed under applicable provisions of the Contract Documents. The Contractor shall proceed promptly with changes in the Work, unless otherwise provided in the Change Order, Construction Change Directive, or order for a minor change in the Work.

§ 7.2 Change Orders

§ 7.2.1 A Change Order is a written instrument signed by the Owner, Contractor, and Architect stating their agreement upon all of the following:

- .1 The change in the Work;
- .2 The amount of the adjustment, if any, in the Contract Sum; and
- .3 The extent of the adjustment, if any, in the Contract Time.

§ 7.2.2 Methods used in determining adjustments to the Contract Sum may include those listed in Section 7.3.3.

§ 7.2.3 The agreement on any Change Order shall constitute a final settlement of all matters relating to the change in the Work that is the subject of the Change Order, including but not limited to, all direct, indirect and cumulative costs associated with such change and any and all adjustments to the Contract Sum and the Contract Time. The Contractor shall not proceed with any change in the Work without a signed Change Order, Construction Change Directive or Minor Change in the Work notice. The Contractor's failure to timely seek and obtain such authorization as specified herein, shall constitute an irrevocable waiver by the Contractor of an adjustment to the Contract Sum or Contract Time for the related work.

§ 7.3 Construction Change Directives

§ 7.3.1 A Construction Change Directive is a written order prepared by the Architect and signed by the Owner and Architect, directing a change in the Work prior to agreement on adjustment, if any, in the Contract Sum or Contract Time. The Owner may by Construction Change Directive, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions, or other revisions, the Contract Sum or Contract Time being adjusted accordingly.

§ 7.3.2 A Construction Change Directive shall be used in the absence of total agreement on the terms of a Change Order.

§ 7.3.3 If the Construction Change Directive provides for an adjustment to the Contract Sum, the adjustment shall be based on one of the following methods. Except where unit prices are applicable, that Contractor agrees and represents to the Owner for the Owner's reliance that all Change Order or Change Directive pricing submitted by the Contractor shall be based on the Contractor's actual costs or the Contractor's reasonable estimate of what would be its actual costs plus permitted overhead and profit.

- .1 Mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;
- .2 Unit prices stated in the Contract Documents or subsequently agreed upon;
- .3 Subject to a not-to-exceed amount, a Cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or
- .4 As provided in Section 7.3.4.

§ 7.3.4 If the Contractor does not respond promptly or disagrees with the method for adjustment in the Contract Sum, the Architect shall determine the method and the adjustment on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, including, in case of an increase in the Contract Sum, an amount for overhead and profit as set forth in the Agreement, or if no such amount is set forth in the

Agreement, a reasonable amount. In such case, and also under Section 7.3.3.3, the Contractor shall keep and present, in such form as the Architect may prescribe, a true and accurate itemized accounting of all labor and material together with appropriate supporting data. Unless otherwise provided in the Contract Documents, costs for the purposes of this Section 7.3.4 shall be limited to the following:

- .1 Costs of labor, including social security, old age, and unemployment insurance, applicable payroll taxes, fringe benefits required by agreement or custom, workers' compensation insurance, and other employee costs approved by the Architect. All field labor shall be priced at the current base rate of the prevailing wage in the Project locality. Contractor pricing information shall include the number of hours and rate of pay for each classification of worker. If the Contractor pays an employee a base rate exceeding prevailing wage, the Contractor shall submit certified payroll records that substantiate that rate. Any Contractor performing time and material or cost-plus basis Work shall submit certified payroll records for all employees performing that Work; Fringes may include, without limitation, FICA, Federal and State Unemployment, Health and Welfare, Pension Funds, Workers' Compensation and Apprentice Fund. Each of the fringes shall be a separate line item. The Contractor shall submit documentation supporting the calculation of the amounts for each fringe for each worker classification. Notwithstanding anything in the Contract Documents to the contrary, where services are compensated on a time and materials basis, the hourly rates shall be fully burdened and include a pro-rated portion of all taxes and benefits;
- .2 Costs of materials (including any and all discounts, rebates or related credits), supplies, and equipment, including cost of transportation, whether incorporated or consumed (charges for use of a pick-up truck shall not be allowed);
- .3 Rental costs of machinery and equipment, excluding hand tools, minor equipment, simple scaffolds, etc. whether rented from the Contractor or others. Charges for certain non-owned heavy or specialized equipment may be invoiced at up to 100% of the documented rental cost. The Contractor shall submit copies of actual paid invoices to substantiate rental costs; Charges for certain Contractor-owned, heavy or specialized equipment may be invoiced at up to 100% of the cost listed by the current edition of the Associated Equipment Dealers Green Book rental rates and specifications for construction equipment. No recovery will be allowed for hand tools, minor equipment, simple scaffolds, etc. The longest period of time that the equipment is to be required for the Work shall be the basis for the pricing. Downtime due to repairs, maintenance and weather delays shall not be allowed;
- .4 Costs of premiums for all bonds and insurance, permit fees, and sales, use, or similar taxes, directly related to the Work/change;
- .5 Additional reasonable costs of supervision and field office personnel directly attributable to the change; and
- .6 Individual Subcontractor markup shall not exceed 5%, and the total cumulative overhead and profit for all Subcontractors and Contractor shall not exceed 15% on any add or deduct Change Order.

§ 7.3.5 If the Contractor disagrees with the adjustment in the Contract Time, the Contractor may make a Claim in accordance with applicable provisions of Article 15.

§ 7.3.6 Upon receipt of a Construction Change Directive, the Contractor shall promptly proceed with the change in the Work involved and advise the Architect of the Contractor's agreement or disagreement with the method, if any, provided in the Construction Change Directive for determining the proposed adjustment in the Contract Sum or Contract Time.

§ 7.3.7 A Construction Change Directive signed by the Contractor indicates the Contractor's agreement therewith, including adjustment in Contract Sum and Contract Time or the method for determining them. Such agreement shall be effective immediately and shall be recorded as a Change Order.

§ 7.3.8 The amount of credit to be allowed by the Contractor to the Owner for a deletion or change that results in a net decrease in the Contract Sum shall be actual net cost as confirmed by the Architect plus the credit for overhead and profit. When both additions and credits covering related Work or substitutions are involved in a change, the allowance for overhead and profit shall be figured on the basis of net increase or decrease, if any, with respect to that change.

§ 7.3.9 Pending final determination of the total cost of a Construction Change Directive to the Owner, the Contractor may request payment for Work completed under the Construction Change Directive in Applications for Payment.

The Architect will make an interim determination for purposes of monthly certification for payment for those costs and certify for payment the amount that the Architect determines, in the Architect's professional judgment, to be reasonably justified. The Architect's interim determination of cost shall adjust the Contract Sum on the same basis as a Change Order, subject to the right of either party to disagree and assert a Claim in accordance with Article 15.

§ 7.3.10 When the Owner and Contractor agree with a determination made by the Architect concerning the adjustments in the Contract Sum or Contract Time, or otherwise reach agreement upon the adjustments, such agreement shall be effective immediately and the Architect will prepare a Change Order. Change Orders may be issued for all or any part of a Construction Change Directive.

§ 7.3.11 The Contractor shall not assign any portion of the Work to another contractor whereby the Contractor would benefit directly or indirectly from the double application of charges for overhead and profit.

§ 7.3.12 The Contractor shall not be reimbursed for the following costs:

- .1 Employee Profit Sharing Plans - regardless of how defined or described, the Contractor will pay these charges from Contractor profit and will not be reimbursed
- .2 Voluntary Employee Deductions (e.g. United Way contributions, U.S. Savings Bonds, etc).

§ 7.4 Minor Changes in the Work

Unless stated otherwise in the Contract Documents, the Architect has authority to order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. The Architect's order for minor changes shall be in writing, conspicuously marked at the top of the order as a "**MINOR CHANGE IN THE WORK**" and signed by the Architect and shall be binding on the Owner and Contractor. The Contractor shall carry out such written orders promptly.

ARTICLE 8 TIME

§ 8.1 Definitions

§ 8.1.1 Unless otherwise provided, Contract Time is the period of time, including authorized adjustments, allotted in the Contract Documents for Substantial Completion of the Work.

§ 8.1.2 The Date of Commencement of the Work is the date established in the Agreement.

§ 8.1.3 The Date of Substantial Completion is the date certified by the Architect in accordance with Section 9.8.

§ 8.1.4 The term "day" as used in the Contract Documents shall mean calendar day unless otherwise specifically defined.

§ 8.2 Progress and Completion

§ 8.2.1 Time limits stated in the Contract Documents are of the essence of the Contract. By executing the Agreement, the Contractor confirms that the Contract Time is a reasonable period for performing the Work.

§ 8.2.2 The Contractor shall not knowingly, except by agreement or instruction of the Owner in writing, commence the Work on the Project site or elsewhere prior to the effective date of insurance required by Article 11 to be furnished by the Contractor and Owner. The Date of Commencement of the Work shall not be changed by the effective date of such insurance.

§ 8.2.3 The Contractor shall proceed expeditiously with adequate forces and shall achieve Substantial Completion within the Contract Time.

§ 8.3 Delays and Extensions of Time

§ 8.3.1 If the Contractor is delayed at any time in the commencement or progress of the Work by an Excusable Delay as provided in Section 15.1.6.3, then, subject to the agreement of the Owner, the Contract Time shall be extended by Change Order for such reasonable time as the Architect may determine.

§ 8.3.2 Claims relating to time shall be made in accordance with applicable provisions of Article 15.

§ 8.3.3 This Section 8.3 does not preclude recovery of damages for delay by either party under other provisions of the Contract Documents.

ARTICLE 9 PAYMENTS AND COMPLETION

§ 9.1 Contract Sum

§ 9.1.1 The Contract Sum is stated in the Agreement and, including authorized adjustments, is the total amount payable by the Owner to the Contractor for performance of the Work under the Contract Documents.

§ 9.1.2 [Not Used.]

§ 9.2 Schedule of Values

Within ten (10) days of the Effective Date, the Contractor shall submit a schedule of values to the Architect for the Architect's review and approval, allocating the entire Contract Sum to the various portions of the Work. The schedule of values shall be prepared in the form, and supported by the data to substantiate its accuracy, required by the Architect. By submitting such schedule of values, the Contractor represents for the reliance of the Architect and the Owner that the allocation of the values to the portions of the Work is a fair and reasonable estimate of such allocation. Once approved, the Contractor will not change the allocations in the Schedule of Values without the Architect's further approval. This schedule, unless objected to by the Architect and with any adjustments approved by the Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment. The Architect may from time to time require the Contractor to adjust such schedule if the Architect determines it to be in any way unreasonable or inaccurate. The Contractor then shall adjust the schedule of values as required by the Architect within ten (10) days. The Contractor shall include a separate line item in its schedule of values for its Project Superintendent. Any changes to the schedule of values 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.

§ 9.2.1 The Contractor will identify in its Schedule of Values a line item entitled "As-Built Drawings and Record Documents". The Scheduled Value for this item will be one and one-half percent (1.5%) of the Contract Sum for contracts with Contract Sum of \$1,000,000 or less, and one percent (1%) of the Contract Sum for contracts with a Contract Sum greater than \$1,000,000. When As-Built Drawings and Record Documents are received and reviewed by the Architect, and a letter is forwarded to the Owner affirming the completeness of these documents, these costs may be released. At the Owner's discretion, the costs dedicated to this Scheduled Value may be adjusted to reflect adjustments to the Contract Sum due to approved change orders. Unless specifically approved in writing by the Owner, retained funds will not be released until As-Built Drawings and Record Drawings are received, reviewed, and deemed complete by the Architect.

§ 9.3 Applications for Payment

§ 9.3.1 At least three days before the date established in Section 9.3.1.3 for each progress payment, the Contractor shall submit to the Architect and Owner an itemized draft Application for Payment prepared in accordance with the schedule of values, if required under Section 9.2, for completed portions of the Work. The draft Application for Payment shall be reviewed and adjusted, if necessary, by the Architect and returned to the Contractor. The application, as reviewed and / adjusted by the Architect, shall be notarized, if required, and submitted through the e-Builder program, supported by all data substantiating the Contractor's right to payment that the Owner or Architect require, such as copies of requisitions, and releases and waivers of liens from Subcontractors and suppliers, all documents required by the Owner, and shall reflect retainage if provided for in the Contract Documents. Information indicating the amounts paid to DBE and local businesses and residents, as defined in the Community Benefits Program and the Contract Documents, is to be included on each Application for Payment. The Contractor shall also provide its monthly report detailing the Project's progress to date, projected progress for the next thirty (30) days, and current project financial summary, including but not limited to:

- .1 The balance of any construction allowances and summary list of how the allowances have been expended to date.
- .2 A change order log showing any proposed, pending, and approved change order expenses to date.
- .3 Complete breakout showing the total completed and/or stored materials, labor, and equipment on the Project as of the date of the payment application, and anticipated schedule or payment applications detailing projections for the value of completed and/or stored materials, labor, and equipment, month by month, through the end of the Project.

§ 9.3.1.1 As provided in Section 7.3.9, such applications may include requests for payment on account of changes in the Work that have been properly authorized by Construction Change Directives, or by interim determinations of the Architect, but not yet included in Change Orders.

§ 9.3.1.2 Applications for Payment shall not include requests for payment for portions of the Work for which the Contractor does not intend to pay a Subcontractor or supplier, unless such Work has been performed by others whom the Contractor intends to pay.

§ 9.3.1.3 The Contractor shall submit its Application for Payment to the Owner and Architect on AIA Documents G-702 and G-703 and Contractor's Payment Application Checklist and Certification on or before the first day of each month for Work completed through the last day of the previous month. The Owner will issue payment to the Contractor within thirty (30) days from the date of its receipt of the complete Application for Payment, certified by the Architect and in compliance with all of Owner's policies, procedures, and documentation requirements.

§ 9.3.1.4 The Owner will withhold retainage from the amount set forth in the Application for Payment approved by the Architect, as provided in the Contract Documents.

§ 9.3.1.5 **Documentation.** Upon request, the Contractor immediately will supply the Owner and the Architect with such information as may be requested so as to verify the amounts due to the Contractor, including but not limited to original invoices for materials and equipment and documents showing that the Contractor has paid for such materials and equipment, and so as to verify that amounts due laborers, Subcontractors, and Material Suppliers have been paid to them. The failure to provide such information shall be justification for withholding payment to the Contractor.

§ 9.3.1.6 **Retainage or other Escrow Account.** Owner and Contractor acknowledge that R.C. 153.63 provides that retained and detained funds will be deposited in an escrow account governed by an escrow agreement with a third party escrow agent. If Contractor wishes to have funds so deposited, (1) Contractor must provide written notice to the Owner of the request for an escrow account prior to the submission of the first pay application, (2) Contractor will be responsible for all expenses associated with the escrow agent and escrow account beyond the interest income from the account which will be paid for out of the principal amount deposited into the escrow account, and (3) Contractor must enter into a mutually agreeable written escrow agreement with the Owner and the escrow agent. If the Contractor does not request an escrow account prior to submission of the first pay application, or, in the event Contractor does timely request an escrow account before submission of the Pay application, if Contractor cannot (or does not) agree to a mutually agreeable escrow agreement, the Contractor consents to the following: (a) Owner may deposit funds into a savings or checking account established by the Owner (which may also contain other funds); (b) Owner will not be serving in a fiduciary capacity while holding the funds; (c) Owner is not required to deposit the funds into a separate escrow account governed by an escrow agent; and (d) the foregoing satisfies the Owner's obligations under R.C. 153.63 as it pertains to both R.C. 153.12 (retained funds) and 1311.28 (detained funds).

§ 9.3.1.7 Subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as set forth in the Agreement at paragraph 7.1.7.

§ 9.3.1.8 Except with the Owner's prior approval, the Contractor shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.

§ 9.3.2 Unless otherwise provided in the Contract Documents, payments shall be made on account of materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. 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.

§ 9.3.3 The Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Contractor further warrants that upon submittal of an Application for Payment all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Contractor's knowledge, information, and belief, be free and clear of liens, claims, security interests, or encumbrances, in favor of the Contractor, Subcontractors, suppliers, or other persons or entities making a claim by reason of having provided labor, materials, and equipment relating to the Work. The Contractor agrees to bond off any lien filed on the Project by providing a bond meeting the requirements of the Ohio Revised Code. The Contractor shall do so within sixty (60) days of the filing of the lien.

§ 9.3.4 Prevailing Wage Rates. Wage rates based upon current Ohio Prevailing Wage rates for Cuyahoga County are a contractual requirement for work performed on this Project. Applicable wage rates can be found on the State of Ohio, Department of Commerce, Bureau of Wage and Hour Administration web site located at <http://www.com.state.oh.us>. The obligation to pay Prevailing Wage is a contractual obligation despite the fact that Owner is a county hospital exempt from the statutory prevailing wage law, and the payment of prevailing wage rates will not be enforced by the State of Ohio. The Contractor is responsible for payment of applicable wage rates, and all wage adjustments, for the duration of the Project for work performed under this Agreement. All field labor shall be priced at the current base rate, excluding fringe benefits, of the prevailing wage in the Project locality. Contractor pricing information shall include the number of hours and rate of pay for each classification of worker. If the Contractor pays an employee a base rate exceeding prevailing wage, the Contractor shall submit certified payroll records that substantiate that rate. The Contractor shall submit certified payroll records for all employees performing time and material or cost-plus basis Work; Fringes may include, without limitation, FICA, Federal and State Unemployment, Health and Welfare, Pension Funds, Workers' Compensation and Apprentice Fund. Each of the fringes shall be a separate line item. The Contractor shall submit documentation supporting the calculation of the amounts for each fringe for each worker classification.

Contractor shall use LCP Tracker for reporting prevailing wage and associated information requested by the Owner, unless a different method of reporting is requested by the Owner, in writing. Such "use" of LCP Tracker means that the Contractor will input the information requested by the Owner at the time intervals requested by the Owner, will produce reports of such information as requested by the Owner, and will perform any other duties relating to the tracking and reporting as requested by the Owner.

§ 9.4 Certificates for Payment

§ 9.4.1 The Architect will, within seven days after receipt of the Contractor's properly completed Application for Payment and Contractor's Payment Application Checklist and Certification, the documentation described in the Contractor's Payment Application Checklist and Certification and such other data substantiating the Contractor's right to payment as the Owner or Architect may require, either (1) issue to the Owner a Certificate for Payment in the full amount of the Application for Payment, with a copy to the Contractor; or (2) issue to the Owner a Certificate for Payment for such amount as the Architect determines is properly due, and notify the Contractor and Owner in writing, of the Architect's reasons for withholding certification in part as provided in Section 9.5.1; or (3) withhold certification of the entire Application for Payment, and notify the Contractor and Owner of the Architect's reason for withholding certification in whole as provided in Section 9.5.1.

§ 9.4.2 The issuance of a Certificate for Payment will constitute a representation by the Architect to the Owner, based on the Architect's evaluation of the Work and the data in the Application for Payment, that, to the best of the Architect's knowledge, information, and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is entitled to payment in the amount certified. The foregoing representations are subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to results of subsequent tests and inspections, to correction of minor deviations from the Contract Documents prior to completion, and to specific qualifications expressed by the Architect. However, the issuance of a Certificate for Payment will not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work; (2) reviewed construction means, methods, techniques, sequences, or procedures; (3) reviewed copies of requisitions received from Subcontractors and suppliers and other data requested by the Owner to substantiate the Contractor's right to payment; or (4) made examination to ascertain how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

§ 9.5 Decisions to Withhold Certification

§ 9.5.1 The Architect may withhold a Certificate for Payment in whole or in part, to the extent reasonably necessary to protect the Owner, if in the Architect's opinion the representations to the Owner required by Section 9.4.2 cannot be made. If the Architect is unable to certify payment in the amount of the Application, the Architect will notify the Contractor and Owner as provided in Section 9.4.1. If the Contractor and Architect cannot agree on a revised amount, the Architect will promptly issue a Certificate for Payment for the amount for which the Architect is able to make such representations to the Owner. The Architect may also withhold a Certificate for Payment or, because of subsequently discovered evidence, may nullify the whole or a part of a Certificate for Payment previously issued, to such extent as may be necessary in the Architect's opinion to protect the Owner from loss for which the Contractor is responsible, including loss resulting from acts and omissions described in Section 3.3.2, because of

- .1 defective Work not remedied or the Contractor is in default of the performance of any of its obligations under the Contract Documents including but not limited to: failure to provide sufficient skilled workers, failure to provide scheduling information as provided in Section 3.10.1, failure to prepare the Construction Schedule as provided in Section 3.10.1, failure to conform to the Project Construction Schedule and/or failure to coordinate its Work with the work of other contractors, if any;
- .2 third party claims filed or reasonable evidence indicating probable filing of such claims, unless security acceptable to the Owner is provided by the Contractor;
- .3 failure of the Contractor to make payments properly to Subcontractors or suppliers for labor, materials or equipment;
- .4 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
- .5 damage to the Owner or a Separate Contractor;
- .6 reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay;
- .7 failure to carry out the Work in accordance with the Contract Documents; or
- .8 the Contractor is in default of the performance of any of its obligations under another contract it has with the Owner.

§ 9.5.2 When either party disputes the Architect's decision regarding a Certificate for Payment under Section 9.5.1, in whole or in part, that party may follow the Claims process in accordance with Article 15.

§ 9.5.3 When the reasons for withholding certification are removed, certification will be made for amounts previously withheld.

§ 9.5.4 If the Architect withholds certification for payment under Section 9.5.1.3, the Owner may, at its sole option, issue joint checks to the Contractor and to any Subcontractor or supplier to whom the Contractor failed to make payment for Work properly performed or material or equipment suitably delivered. If the Owner makes payments by joint check, the Owner shall notify the Architect and the Contractor shall reflect such payment on its next Application for Payment.

§ 9.6 Progress Payments

§ 9.6.1 After the Architect has issued a Certificate for Payment, the Owner shall make payment to the Contractor within 30 days from the date of its receipt of the certified Application for Payment from the Architect, and shall so notify the Architect.

§ 9.6.2 The Contractor shall pay each Subcontractor, promptly, within the time period required by Ohio law upon receipt of payment from the Owner, the amount to which the Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of the Subcontractor's portion of the Work. The Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to Sub-subcontractors in a similar manner. Neither the Contractor nor its Subcontractors shall withhold retainage from its Subcontractors or their sub-subcontractors beyond the retainage withheld by the Owner from the Contractor.

§ 9.6.3 The Architect will, on request, furnish to a Subcontractor, if practicable, information regarding percentages of completion or amounts applied for by the Contractor and action taken thereon by the Architect and Owner on account of portions of the Work done by such Subcontractor.

§ 9.6.4 The Owner has the right to request written evidence from the Contractor that the Contractor has properly paid Subcontractors and suppliers amounts paid by the Owner to the Contractor for subcontracted Work. If the Contractor fails to furnish such evidence within seven days, the Owner shall have the right to contact Subcontractors and suppliers to ascertain whether they have been properly paid. Neither the Owner nor Architect shall have an obligation to pay, or to see to the payment of money to, a Subcontractor or supplier, except as may otherwise be required by law.

§ 9.6.5 The Contractor's payments to suppliers shall be treated in a manner similar to that provided in Sections 9.6.2, 9.6.3 and 9.6.4.

§ 9.6.6 A Certificate for Payment, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not in accordance with the Contract Documents.

§ 9.6.7 Unless the Contractor provides the Owner with a payment bond in the full penal sum of the Contract Sum, payments received by the Contractor for Work properly performed by Subcontractors or provided by suppliers shall be held by the Contractor for those Subcontractors or suppliers who performed Work or furnished materials, or both, under contract with the Contractor for which payment was made by the Owner. Nothing contained herein shall require money to be placed in a separate account and not commingled with money of the Contractor, create any fiduciary liability or tort liability on the part of the Contractor for breach of trust, or entitle any person or entity to an award of punitive damages against the Contractor for breach of the requirements of this provision.

§ 9.6.8 Provided the Owner has fulfilled its payment obligations under the Contract Documents subject to Ohio law, the Contractor shall defend and indemnify the Owner from all loss, liability, damage or expense, including reasonable attorney's fees and litigation expenses, arising out of any lien claim or other claim for payment by any Subcontractor or supplier of any tier. Upon receipt of notice of a lien claim or other claim for payment, the Owner shall notify the Contractor in accordance with Ohio law.

§ 9.7 Failure of Payment

If the Owner does not pay the Contractor the amount certified by the Architect or awarded by binding dispute resolution within the time period set forth in the Contract Documents and the Owner has no other basis to withhold payment pursuant to the Contract documents, then the Contractor may, upon seven additional days' written notice to the Owner and Architect, stop the Work 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 shutdown, delay and start-up, plus interest as provided for in the Contract Documents.

§ 9.8 Substantial Completion

§ 9.8.1 Substantial Completion is defined in Paragraph 1.1.9 herein.

§ 9.8.2 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 items to be completed or corrected prior to final payment together with all required documents neatly bound and indexed. Failure to include an item on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents. When a specific manufacturer's warranty is required by the Specifications, the Contractor shall state in writing to the Architect that all the manufacturer's requirements for the issuance of the warranty has been completed and that the Work is ready for the Architect's and Owner's inspection. All manufacturer's warranties required for the Work shall commence as of the Date of Substantial Completion stated on the certificate issued by the Architect.

§ 9.8.3 Upon receipt of the Contractor's list and the documents required by Section 3.12.11 neatly bound and indexed, the Architect will make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Architect's inspection discloses any item, whether or not included on the Contractor's list, which is not sufficiently complete in accordance with the Contract Documents so that the Work is Substantially Complete, the Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct such item upon notification by the Architect. In such case, the Contractor shall then submit a request for another inspection by the Architect to determine Substantial Completion.

§ 9.8.3.1 **Time for Completion of Items on List and Remedies.** The Contractor shall complete all items on the list accompanying the Architect's Certificate of Substantial Completion by the Date of Final Completion set forth in the Agreement for the Project or, if no Date of Final Completion is included in the Agreement, within 30 days of the Date of Substantial Completion shown in the Certificate. If the Contractor fails to do so, the Owner in its discretion may perform the Work by itself or others and the cost thereof shall be charged against the Contractor. If the balance of the Contract Sum is insufficient, the Contractor will pay the Owner the balance on demand. The Contractor's warranties and obligations under the Contract Documents shall remain in full force and effect and cover any remedial work even if performed by others. If more than one inspection by the Architect for purposes of evaluating corrected Work is required, the Contractor shall pay the additional costs and expenses incurred by the Owner as a result of more than one inspection by the Architect, and the Owner may withhold from sums due or coming due the Contractor amounts to cover such additional costs and expenses.

§ 9.8.4 When the Work or designated portion thereof is substantially complete, the Architect will prepare a Certificate of Substantial Completion that shall establish the date of Substantial Completion; establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance and consistent with Section 9.8.3.1 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 date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

§ 9.8.5 The Certificate of Substantial Completion shall be submitted to the Owner and Contractor for their written acceptance of responsibilities assigned to them in the Certificate. Upon receipt of the Certificate of Substantial Completion from the Architect and the consent of the Contractor's surety if any, the Owner shall make payment of retainage applying to the Work or designated portion thereof. Such payment shall be adjusted for Work that is incomplete or not in accordance with the requirements of the Contract Documents.

§ 9.9 Partial Occupancy or Use

§ 9.9.1 The Owner may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate agreement with the Contractor and/or with the Architect's approval, provided such occupancy or use is consented to by the insurer as required under Section 11.3.1.5 and authorized by public authorities having jurisdiction over the Project. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided the Owner and Contractor have accepted in writing the responsibilities assigned to each of them for payments, retainage, if any, security, maintenance, heat, utilities, damage to the Work and insurance, and have agreed in writing concerning the period for correction of the Work and commencement of warranties required by the Contract Documents. In the event of a disagreement about such responsibilities, correction period, or commencement of warranties, the Architect will resolve the disagreement, and the Architect's decision will be final and binding. When the Contractor considers a portion substantially complete, the Contractor shall prepare and submit a list to the Architect as provided under Section 9.8.2. Consent of the Contractor to partial occupancy or use shall not be unreasonably withheld. The stage of the progress of the Work shall be determined by written agreement between the Owner and Contractor or, if no agreement is reached, by decision of the Architect, which shall be final and binding.

§ 9.9.2 Immediately prior to such partial occupancy or use, the Owner, Contractor, and Architect shall jointly inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition of the Work.

§ 9.9.3 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.

§ 9.10 Final Completion and Final Payment

§ 9.10.1 Upon receipt of the Contractor's written notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment and a properly completed Contractor's Payment Application Checklist, all the documentation required to be submitted with such Checklist, and any other supporting documentation required by the Contract Documents or by the Architect, the Architect will promptly make such inspection. When the Architect finds the Work acceptable under the Contract Documents and the Contract fully performed, including all required documents submitted, the Architect will promptly issue a final Certificate for Payment stating that to the best of the Architect's knowledge, information and belief, and on the basis of the Architect's on-site visits and inspections, the Work has been completed in accordance with the Contract Documents and that the entire balance found to be due the Contractor and noted in the final Certificate is due and payable. The Architect's final Certificate for Payment will constitute a further representation that conditions listed in Section 9.10.2 as precedent to the Contractor's being entitled to final payment have been fulfilled. Final Completion is defined in Paragraph 1.1.14 herein.

§ 9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Architect (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect, and will not be canceled or allowed to expire until at least 30 days' prior written notice has been given to the Owner, (3) a written statement that the

Contractor knows of no substantial reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) consent of surety, if any, to final payment, (5) documentation of any special warranties, such as manufacturers' warranties or specific Subcontractor warranties, and (6) if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts and releases and waivers of liens, claims, security interests, or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien, claim, security interest, or encumbrance. If a lien, claim, security interest, or encumbrance remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging the lien, claim, security interest, or encumbrance, including all costs and reasonable attorneys' fees.

§ 9.10.2.1 Unless otherwise provided in the Contract Documents, the final Application for Payment shall be itemized, and the Contractor shall ensure that the final Application for Payment transmitted to the Architect also is accompanied by the following additional documents, if not previously delivered to the Architect:

- .1 Evidence that all Completion/Punch List items have been completed;
- .2 Where applicable, keys and keying schedule;
- .3 The documents, including as-built set of Drawings and Specifications, referred to in Section 3.3.4 «in both hard copy and electronic file (in the format requested by the Owner) »not otherwise required by the Contract Documents to be delivered earlier; and,
- .4 Other documents required by the Contract Documents

§ 9.10.3 If, after Substantial Completion of the Work, Final Completion thereof is materially delayed through no fault of the Contractor or by issuance of Change Orders affecting Final Completion, and the Architect so confirms, the Owner shall, upon application by the Contractor and certification by the Architect, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed, corrected, and accepted. If the remaining balance for Work not fully completed or corrected is less than retainage stipulated in the Contract Documents, and if bonds have been furnished, the written consent of the surety to payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the Contractor to the Architect prior to certification of such payment. Such payment shall be made under terms and conditions governing final payment, except that it shall not constitute a waiver of Claims.

§ 9.10.4 The making of final payment shall constitute a waiver of Claims by the Owner except those arising from

- .1 liens, Claims, security interests, or encumbrances arising out of the Contract and unsettled;
- .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 audits performed by the Owner, after final payment.
- .5 any claims, damages, losses or expenses for indemnification under Section 3.18.1.

§ 9.10.5 Acceptance of final payment by the Contractor, a Subcontractor, or a supplier, shall constitute a waiver of claims by that payee except those previously made in writing and identified by that payee as unsettled at the time of final Application for Payment.

ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY

§ 10.1 Safety Precautions and Programs

The Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the Contract including compliance with OSHA and other state and federal regulations applicable to the Work. The Contractor's safety program shall be written and a copy maintained at the Project site for inspection, upon request. Neither the Owner nor the Architect accept any responsibility or liability for the safety of the Contractor's employees or for enforcing the Contractor's safety program. Additionally, Contractor shall comply with the Owner's rules, regulations, and policies including, but not limited to, the Owner's safety, health, and infection control policies and programs.

§ 10.2 Safety of Persons and Property

§ 10.2.1 The Contractor shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury, or loss to

- .1 employees on the Work and other persons who may be affected thereby, including the Owner's employees, employees of other contractors, their subcontractors, material suppliers, and persons on the site or adjoining property;
- .2 the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody, or control of the Contractor, a Subcontractor, or a Sub-subcontractor and/or the Work of any other contractor and the materials and equipment to be incorporated in such Work; and
- .3 other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures, and utilities not designated for removal, relocation, or replacement in the course of construction.

§ 10.2.2 The Contractor shall comply with, and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities, bearing on safety of persons or property or their protection from damage, injury, or loss.

§ 10.2.3 The Contractor shall implement, erect, and maintain, as required by existing conditions and performance of the Contract, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards; promulgating safety regulations; and notifying the owners and users of adjacent sites and utilities of the safeguards. The Contractor shall be responsible, at the Contractor's sole cost and expense, for all measures necessary to protect any property adjacent to the Project and improvements therein.

§ 10.2.4 When use or storage of explosives or other hazardous materials or equipment, or unusual methods are necessary for execution of the Work, the Contractor shall exercise utmost care and carry on such activities under supervision of properly qualified personnel. The Contractor shall not bring any hazardous materials onto the Project site unless expressly required by the Contract Documents.

§ 10.2.5 The Contractor shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Contract Documents) to property referred to in Sections 10.2.1.2 and 10.2.1.3 caused in whole or in part by the Contractor, a Subcontractor, a Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible under Sections 10.2.1.2 and 10.2.1.3. The foregoing obligations of the Contractor are in addition to the Contractor's obligations under Section 3.18. In the event of a dispute about who is responsible for damage and loss to such property, the issue shall be submitted to the Architect and the Architect's decision shall be final and binding on the respective parties.

§ 10.2.6 The Contractor shall designate a responsible member of the Contractor's organization at the site whose duty shall be the prevention of accidents. This person shall be the Contractor's superintendent unless otherwise designated by the Contractor in writing to the Owner and Architect.

§ 10.2.7 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.

§ 10.2.8 Injury or Damage to Person or Property

If the Contractor suffers injury or damage to person or property because of an act or omission of the Owner, or of others for whose acts the Owner is legally responsible, the Contractor shall follow the claims process required pursuant to Article 15, for such injury or damage.. The notice shall provide sufficient detail to enable the other party to investigate the matter.

§ 10.3 Hazardous Materials and Substances

§ 10.3.1 The Contractor is responsible for compliance with any requirements included in the Contract Documents regarding hazardous materials or substances. If the Contractor encounters a hazardous material or substance not addressed in the Contract Documents and if reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including but not limited to asbestos or polychlorinated biphenyl (PCB), encountered on the site by the Contractor, the Contractor shall, upon recognizing the condition, immediately stop Work in the affected area and notify the Owner and Architect of the condition in writing.

§ 10.3.2 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. Unless otherwise required by the Contract Documents upon written request, the Owner shall furnish in writing to the Contractor and Architect the names and qualifications of persons or entities who are to perform tests verifying the presence or absence of the material or substance or who are to perform the task of removal or safe containment of the material or substance. Work in the affected area shall be resumed immediately following the occurrence of any one of the following events: (i) the Owner causes remedial work to be performed that results in the hazardous substance being rendered harmless; or (ii) the Owner and the Contractor, by written agreement, decide to resume performance of the Work; or (iii) the Work may safely and lawfully proceed using appropriate protective measures, as determined by a competent person employed by the Owner. The term "rendered harmless" shall be interpreted to mean that exposure levels of asbestos and polychlorinated biphenyl (PCB) are less than any applicable exposure standards set forth in OSHA regulations. By Change Order, the Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable additional costs of shutdown, delay, and start-up.

§ 10.3.3 [Not Used.]

§ 10.3.4 The Owner shall not be responsible for hazardous materials or substances the Contractor brings to the site unless such materials or substances are expressly required by the Contract Documents. Hazardous materials shall be identified by a Material Safety Data Sheet (MSDS). These MSDS's shall be submitted by the Contractor to the Owner prior to that material being used on the Project. The Owner shall be responsible for hazardous materials or substances required by the Contract Documents, except to the extent of the Contractor's fault or negligence in the use and handling of such materials or substances.

§ 10.3.5 In addition to the Contractor's obligations in Section 3.18 and elsewhere in the Contract Documents, the Contractor shall indemnify the Owner for the cost and expense the Owner incurs (1) for remediation of materials or substances the Contractor brings to the site and negligently handles, or (2) where the Contractor fails to perform its obligations under Section 10.3.1, except to the extent that the cost and expense are due to the Owner's fault or negligence.

§ 10.3.6 [Not Used.]

§ 10.4 Emergencies

In an emergency affecting safety of persons or property, the Contractor shall act, at the Contractor's discretion, to prevent threatened damage, injury, or loss. Additional compensation or extension of time claimed by the Contractor on account of an emergency shall be determined as provided in Article 15 and Article 7.

ARTICLE 11 INSURANCE AND BONDS

§ 11.1 Contractor's Insurance and Bonds

§ 11.1.1 The Contractor shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Contractor shall purchase and maintain the required insurance from an insurance company or insurance companies approved by the Owner, licensed to do business in the State of Ohio, and lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Owner, Architect, and Architect's consultants shall be named as additional insureds under the Contractor's commercial general liability policy or as otherwise described in the Contract Documents. 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:

- .1 Claims under workers' compensation, disability benefit and other similar employee benefit acts that are applicable to the Work to be performed;
- .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;
- .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, which coverage shall be maintained for no less than two (2) years following final payment; and
- .8 Claims involving contractual liability insurance applicable to the Contractor's obligations under Section 3.18.

§ 11.1.1.2 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, whether written on an occurrence or claims-made basis, shall be maintained without interruption from the date of commencement of the Work until the date of final payment and termination of any coverage required to be maintained after final payment, 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.

§ 11.1.1.3 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, whether written on an occurrence or claims-made basis, shall be maintained without interruption from the Date of Commencement of the Work until the date of final payment and termination of any coverage required to be maintained after final payment, 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.

§ 11.1.1.4 The minimum limits of liability for the required policies shall be not less than the following, unless a greater amount is required by law:

- .1 Commercial General Liability ("CGL"): Bodily injury (including death and emotional distress) and property damage with limits of \$2,000,000 each occurrence and \$2,000,000 aggregate. CGL shall include: (i) Premises-Operations, (ii) Explosion and Collapse Hazard, (iii) Underground Hazard, (iv) Broad Form Property Damage, including Completed Operations, (v) Contractual Liability, (vi) Products and Completed Operations, (viii) per project aggregate endorsement, and (ix) an endorsement redefining "occurrence" to include property damage arising from the faulty workmanship performed by the Contractor or on the Contractor's behalf by Subcontractors.
- .2 Automobile Liability, covering all owned, non-owned, and hired vehicles used in connection with the Work: Bodily injury (including death and emotional distress) and property damage with a combined single limit of \$1,000,000 each accident.
- .3 Workers' compensation with policy limits as established by Ohio law.
- .4 [Not Used.]
- .5 Pollution Liability insurance with a limit for any one incident of not less than \$1,000,000 and an aggregate limit of not less than \$2,000,000.

§ 11.1.1.5 Such policies shall be supplemented by an umbrella policy in the amount of \$1,000,000 each occurrence and \$1,000,000 aggregate for contracts with a Contract Sum of \$250,000 or less, \$2,000,000 each occurrence and \$2,000,000 aggregate for contracts with a Contract Sum greater than \$250,000 but less than or equal to \$500,000, \$3,000,000 each occurrence and \$3,000,000 aggregate for contracts with a Contract Sum greater than \$500,000 but less than or equal to \$1,000,000; and \$5,000,000 each occurrence and \$5,000,000 aggregate for contracts with a Contract Sum greater than \$1,000,000.

§ 11.1.1.6 Insurance policies shall be written on an occurrence basis. All liability policies required in Section 11.1 shall be primary and non-contributory.

§ 11.1.1.7 Products and completed operations coverage shall commence with the certification of the final Certificate for Payment to the Contractor and extend for not less than two years beyond that date.

§ 11.1.1.8 The Contractor shall require all Subcontractors to provide Workers' Compensation, CGL, and Automobile Liability insurance with the same minimum limits specified herein, unless the Owner agrees to a lesser amount.

§ 11.1.1.9 All liability policies required in Section 11.1 (other than professional liability) shall include an additional insured endorsement naming the Owner, the Owner's Board members and employees, and the Architect and its employees. The CGL additional insured endorsement shall be ISO 20 10 11 85 or its equivalent so that Completed Operations liability extends to the additional insureds.

§ 11.1.1.10 Certificates of insurance acceptable to the Owner shall be submitted to the Owner 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 until at least 30 days' prior written notice has been given to the Owner. 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. Information concerning reduction of coverage on account of revised limits or claims paid under the General Aggregate, or both, shall be furnished by the Contractor with reasonable promptness.

§ 11.1.1.11 The Contractor shall furnish to the Owner, through the Architect, one copy of each of the Certificates of Insurance required herein. The Certificate of Insurance shall specifically set forth evidence of all coverage required by Section 11.1. The form of certificate shall be the form prescribed by the Architect, which shall be the ACORD Form 25-S (7/90) with AIA Document G-715 "Supplemental Attachment" attached thereto. The Contractor shall furnish to the Owner copies of any endorsement that is subsequently issued amending coverage or limits.

§ 11.1.1.12 In no event shall any failure of the Owner to receive certified copies or certificates of policies required under Section 11.1 or to demand receipt of such certified copies or certificates prior to the Contractor's commencing the Work be construed as a waiver by the Owner or the Architect of the Contractor's obligations to obtain insurance pursuant to this Article 11. The obligation to procure and maintain any insurance required by this Article 11 is a separate responsibility of the Contractor and independent of the duty to furnish a certified copy or certificate of such insurance policies.

§ 11.1.1.13 If the Contractor fails to purchase and maintain, or require to be purchased and maintained, any insurance required under Section 11.1, the Owner may but shall not be obligated to, upon five (5) days written notice to the Contractor, purchase such insurance on behalf of the Contractor and shall be entitled to be reimbursed by the Contractor upon demand.

§ 11.1.1.14 Any aggregate limit under the Contractor's liability insurance shall, by endorsement, apply to the Project separately.

§ 11.1.1.15 The Contractor shall cause each of its Subcontractors to (i) procure insurance reasonably satisfactory to the Owner and (ii) name the Owner and Architect, and any of their employees and agents, as additional insureds under the Subcontractor's CGL policy. The additional insured endorsement included on the Subcontractor's CGL policy shall state that coverage is afforded the additional insureds with respect to claims arising out of operations performed by or on behalf of the Contractor. If the additional insureds have other insurance that is applicable to the loss, such other insurance shall be on an excess or contingent basis. The amount of the insurer's liability under this insurance policy shall not be reduced by the existence of such other insurance.

§ 11.1.1.16 Contractor shall comply with all requirements of the insurer, for insured claims under any insurance that is applicable to the Project.

§ 11.1.2 The Contractor shall provide a surety bond as required by the Contract Documents to guaranty payment and performance of the Work, in the form required by Ohio law, with a penal sum in the full amount of the Contract Sum, and shall deliver such bond to the Owner, with the executed Agreement for the Project. The Contractor shall purchase and maintain the required bonds from a company or companies lawfully authorized to issue surety bonds in the jurisdiction where the Project is located.

§ 11.1.2.1 If the surety on any bond furnished by the Contractor is declared bankrupt or becomes insolvent or its right to do business is terminated in any state where any part of the Project is located or it ceases to meet with the requirements of the Agreement or Ohio law, the Contractor shall promptly notify the Owner and the Architect and shall, within 20 days after the event giving rise to such notification, provide another bond and surety, both of which shall comply with the requirements of the Agreement and Ohio law.

§ 11.1.2.2 Material Default or Termination If the Owner notifies the Contractor's surety that the Contractor is in material default or terminates the Contract, the surety will promptly and within 21 days investigate the claimed material default or termination. If the Owner gives a notice of material default and then terminates the Contract, the surety shall complete its investigation within 21 days of the notice of material default. As part of such investigation, the surety shall visit the offices of the Contractor, Architect and Owner to review the available project records. If the surety proposes to take over the Work, the surety shall do so no later than the expiration of such 21 day period or 10 days after the date the Owner terminates the Contract, whichever is later. If the Owner terminates the Work, and the surety proposes to provide a replacement contractor, the replacement contractor shall be fully capable of performing the Work in accordance with the Contract Documents, including meeting all the requirements of the Contract Documents. If the Contractor is terminated, the replacement contractor shall not be the Contractor. The surety will provide the Owner with the results of its investigation, including any written report or documents. This Section 11.1.2.2 is in addition to the Owner's rights under Section 14.2.2 and is not intended to create any rights of the surety, including but not limited to the right to takeover the Contractor's obligations.

§ 11.1.3 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.

§ 11.1.4 Notice of Cancellation or Expiration of Contractor's Required Insurance. Within three (3) business days of the date the Contractor becomes aware of an impending or actual cancellation or expiration of any insurance required by the Contract Documents, the Contractor shall provide notice to the Owner of such impending or actual cancellation or expiration. Upon receipt of notice from the Contractor, the Owner shall, unless the lapse in coverage arises from an act or omission of the Owner, have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by the Contractor. The furnishing of notice by the Contractor shall not relieve the Contractor of any contractual obligation to provide any required coverage. When any required insurance, due to the attainment of a normal expiration date or renewal date expires, the Contractor shall supply the Owner with Certificates of Insurance and amendatory riders or endorsements that clearly evidence the continuation of all coverage in the same manner, limits of protection, and scope of coverage as was provided by the previous policy. In the event any renewal or replacement policy, for whatever reason obtained or required, is written by a carrier other than that with whom the coverage was previously placed, or the subsequent policy differs in any way from the previous policy, the Contractor shall also furnish the Owner with a certified copy of the renewal or replacement policy unless the Owner provides the Contractor with prior written consent to submit only a Certificate of Insurance for such policy. All renewal and replacement policies shall be in form and substance satisfactory to the Owner and written by carriers acceptable to the Owner.

§ 11.2 Owner's Insurance

§ 11.2.1 The Owner shall purchase and maintain a builder's risk "all-risk" or equivalent policy for the project the amount of the 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 builder's risk 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. The Owner shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located.

§ 11.2.1.1 The builder's risk insurance obtained by Owner 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.

§ 11.2.1.2 When it is available, Owner shall provide Contractor with written proof of the builder's risk insurance, upon Contractor's written request.

§ 11.2.1.3 If the cause of any loss payment under such insurance is the fault of the Contractor or any of its subcontractors, then the Contractor shall pay such deductible.

§ 11.2.1.4 The builder's risk insurance shall cover portions of the Work stored off the site, and also portions of the Work in transit.

§ 11.2.1.5 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.

§ 11.2.1.6 **Damages to Other Property.** The maintaining of such insurance as outlined in Section 11.1 shall in no way constitute a waiver of the Contractor's legal liability for damage to any adjoining buildings or existing buildings or their contents or the Work and property of others on the site beyond the limits of insurance thus maintained. The Contractor shall hold the Owner free and harmless from any injury and damage resulting from the negligent or faulty performance of the Contract by the Contractor or its Subcontractors or others under its control or direction.

§ 11.2.1.7 The Owner shall maintain copies of the policies of insurance it is required to purchase and maintain hereunder at its offices and shall permit the Architect or the Contractor to inspect the policies during normal business hours and upon reasonable advance written notice. The Contractor shall make its own arrangements for any insurance it may require in addition to the foregoing coverage. Any policy obtained by the Contractor under this Section and related sections shall include a waiver of subrogation in accordance with the requirements of Section 11.3.

§ 11.2.2 [Not Used.]

§ 11.2.3 **Notice of Cancellation or Expiration of Owner's Required Property Insurance.** If the Owner becomes aware of an impending or actual cancellation or expiration of any property insurance required by the Contract Documents, the Owner shall provide notice to the Contractor of such impending or actual cancellation or expiration.

§ 11.3 Waivers of Subrogation

§ 11.3.1 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; (2) the Architect and Architect's consultants; and (3) Separate Contractors, 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 of actual recovery of any insurance proceeds under any property insurance required by the Agreement or other property insurance applicable to the Work, except such rights as they have to proceeds of such insurance held by the Owner in good faith. The Owner or Contractor, as appropriate, shall require by appropriate agreements, written where legally required for validity, similar written waivers in favor of the individuals and entities identified above from the Architect, Architect's consultants, Separate Contractors, subcontractors, and sub-subcontractors. The policies shall provide such waivers of subrogation by endorsement or otherwise. The policies of insurance purchased and maintained by each person or entity agreeing to waive claims pursuant to this section 11.3.1 shall not prohibit this waiver of subrogation. This waiver of subrogation shall be effective as to a person or entity (1) even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, (2) even though that person or entity did not pay the insurance premium directly or indirectly, or (3) whether or not the person or entity had an insurable interest in the damaged property.

§ 11.3.2 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, to the extent permissible by such policies, the Owner waives all rights in

accordance with the terms of Section 11.3.1 for damages caused by fire or other causes of loss covered by this separate property insurance.

§ 11.4 Loss of Use, Business Interruption, and Delay in Completion Insurance

The Owner, at the Owner's option, may purchase and maintain insurance that will protect the Owner against loss of use of the Owner's property, or the inability to conduct normal operations, due to fire or other causes of loss.

§ 11.5 Adjustment and Settlement of Insured Loss

§ 11.5.1 A loss insured under the property insurance required by the Agreement shall be adjusted by the Owner in good faith and made payable to the Owner as in good faith for the insureds, as their interests may appear, subject to requirements of any applicable mortgagee clause and of Section 11.5.2. The Contractor shall pay the Subcontractors their just shares of insurance proceeds received by the Contractor, and by appropriate agreements, written where legally required for validity, shall require Subcontractors to make payments to their Sub-subcontractors in similar manner.

§ 11.5.2 The Owner in good faith shall have power to adjust and settle a loss with insurers unless one of the parties in interest shall object in writing within five days after occurrence of loss to the Owner's exercise of this power; if such objection is made, the dispute shall be resolved as provided in Sections 15.3 and 15.4. If the Owner and Contractor have selected arbitration as the method of binding dispute resolution, the Owner in good faith shall make settlement with insurers or, in the case of a dispute over distribution of insurance proceeds, in accordance with the directions of the arbitrators.

ARTICLE 12 UNCOVERING AND CORRECTION OF WORK

§ 12.1 Uncovering of Work

§ 12.1.1 If a portion of the Work is covered contrary to the Architect's request or to requirements specifically expressed in the Contract Documents, it must, if requested in writing by the Architect, be uncovered for the Architect's examination and be replaced at the Contractor's expense without change in the Contract Time.

§ 12.1.2 If a portion of the Work has been covered that the Architect has not specifically requested to examine prior to its being covered, the Architect may request to see such Work and it shall be uncovered by the Contractor. If such Work is in accordance with the Contract Documents, the Contractor shall be entitled to a Change Order for the costs of uncovering and replacement as may be appropriate. If such Work is not in accordance with the Contract Documents, the costs of uncovering the Work, and the cost of correction, shall be at the Contractor's expense.

§ 12.2 Correction of Work

§ 12.2.1 Before Substantial Completion

In addition to the rights and remedies under Section 2.5, the Contractor shall promptly correct Work rejected by the Architect or failing to conform to the requirements of the Contract Documents, whether discovered before or after Substantial Completion and whether or not fabricated, installed or completed. Costs of correcting such rejected Work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for the Architect's services and expenses made necessary thereby, shall be at the Contractor's expense.

§ 12.2.2 After Substantial Completion

§ 12.2.2.1 In addition to the Contractor's obligations under Section 3.5, if, within one year after the date of Substantial Completion of the Work or designated portion thereof or after the date for commencement of warranties established under Section 9.9.1, or by terms of any 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 begin to correct it within 2 business days after receipt of written notice from the Owner to do so, and complete such correction within 30 days after receipt of such notice, 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. If the Contractor fails to correct nonconforming Work within 30 days after receipt of notice from the Owner or Architect, the Owner may correct it in accordance with Section 2.5.

§ 12.2.2.2 The one-year period for correction of Work shall be extended with respect to portions of Work first performed after Substantial Completion by the period of time between Substantial Completion and the actual completion of that portion of the Work.

§ 12.2.2.3 The one-year period for correction of Work shall not be extended by corrective Work performed by the Contractor pursuant to this Section 12.2.

§ 12.2.3 The Contractor shall remove from the site portions of the Work that are not in accordance with the requirements of the Contract Documents and are neither corrected by the Contractor nor accepted by the Owner.

§ 12.2.4 The Contractor shall bear the cost of correcting destroyed or damaged construction of the Owner or Separate Contractors, whether completed or partially completed, caused by the Contractor's correction or removal of Work that is not in accordance with the requirements of the Contract Documents.

§ 12.2.5 Nothing contained in this Section 12.2 shall be construed to establish a period of limitation with respect to other obligations the Contractor has under the Contract Documents. Establishment of the one-year period for correction of Work as described in Section 12.2.2 relates only to the specific obligation of the Contractor to correct the Work, does not limit any warranty period under these Contract Documents, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.

§ 12.3 Acceptance of Nonconforming Work

If the Owner prefers to accept Work that is not in accordance with the requirements of the Contract Documents, the Owner may do so instead of requiring its removal and correction, in which case the Contract Sum will be reduced as appropriate and equitable. Such adjustment shall be effected whether or not final payment has been made. Any such acceptance shall be in writing and executed by a representative of the Owner who has been expressly authorized to do so.

ARTICLE 13 MISCELLANEOUS PROVISIONS

§ 13.1 Governing Law

The Contract shall be governed by the law of the place where the Project is located.

§ 13.2 Successors and Assigns

§ 13.2.1 The Owner and Contractor respectively bind themselves, their partners, successors, assigns, and legal representatives to covenants, agreements, and obligations contained in the Contract Documents. Except as provided in Section 13.2.2, neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

§ 13.2.2 The Owner may, without consent of the Contractor, assign the Contract to a lender providing construction financing for the Project, if the lender assumes the Owner's rights and obligations under the Contract Documents and the Owner shall be a third-party beneficiary of the Agreement. The Contractor shall execute the assignment and all consents reasonably required to facilitate the assignment and shall make such lender and the Owner co-obligees of the payment and performance bonds required by the Agreement.

§ 13.3 Rights and Remedies

§ 13.3.1 Duties and obligations imposed by the Contract Documents and rights and remedies available thereunder shall be in addition to and not a limitation of duties, obligations, rights, and remedies otherwise imposed or available by law.

§ 13.3.2 Except as otherwise provided in the Contract Documents, no action or failure to act by the Owner, Architect, or Contractor shall constitute a waiver of a right or duty afforded them under the Contract, nor shall such action or failure to act constitute approval of or acquiescence in a breach thereunder, except as may be specifically agreed upon in writing.

§ 13.4 Tests and Inspections

§ 13.4.1 Tests, inspections, and approvals of portions of the Work shall be made as required by the Contract Documents and by applicable laws, statutes, ordinances, codes, rules, and regulations or lawful orders of public authorities. Unless otherwise provided, the Contractor shall make arrangements for such tests, inspections, and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority, and shall bear all related costs of tests, inspections, and approvals. Contractor shall provide proper

facilities at all times for inspections and tests of work by the Owner and other authorities having jurisdiction over the Project. Contractor shall remove any water used in conducting such tests and inspections in a manner so as not to discharge the water on any portions of the Work or damage any portion of the Work. The Contractor shall give the Architect timely notice of when and where tests and inspections are to be made so that the Architect may be present for such procedures. The Owner shall bear costs of tests, inspections, or approvals that do not become requirements until after bids are received or negotiations concluded. The Owner shall directly arrange and pay for tests, inspections, or approvals where building codes or applicable laws or regulations prohibit the Owner from delegating their cost to the Contractor.

§ 13.4.2 If the Architect, Owner, or public authorities having jurisdiction determine that portions of the Work require additional testing, inspection, or approval not included under Section 13.4.1, the Architect will, upon written authorization from the Owner, instruct the Contractor to make arrangements for such additional testing, inspection, or approval, by an entity acceptable to the Owner, and the Contractor shall give timely notice to the Architect of when and where tests and inspections are to be made so that the Architect may be present for such procedures. Such costs, except as provided in Section 13.4.3, shall be at the Owner's expense.

§ 13.4.3 If procedures for testing, inspection, or approval under Sections 13.4.1 and 13.4.2 reveal failure of the portions of the Work to comply with requirements established by the Contract Documents, all costs made necessary by such failure, including those of repeated procedures and compensation for the Architect's services and expenses, shall be at the Contractor's expense. Neither the observations by the Owner or its designated representative, nor inspections, tests, or approvals by persons other than the Contractor, shall relieve the Contractor from its obligations to perform the Work in accordance with the Contract Documents.

§ 13.4.4 Required certificates of testing, inspection, or approval shall, unless otherwise required by the Contract Documents, be secured by the Contractor and promptly delivered in duplicate to the Architect and the Owner.

§ 13.4.5 If the Architect is to observe tests, inspections, or approvals required by the Contract Documents, the Architect will do so promptly and, where practicable, at the normal place of testing.

§ 13.4.6 Tests or inspections conducted pursuant to the Contract Documents shall be made promptly to avoid unreasonable delay in the Work.

§ 13.5 Interest

Payments due and unpaid under the Contract Documents shall bear interest from the date payment is due at the rate the parties agree upon in writing or, in the absence thereof, zero percent.

§ 13.6 Attorney-Client Confidential and Privileged Communications

The Contractor acknowledges and agrees that the Owner's legal counsel may from time to time provide legal services to the Project and that in doing so may communicate with the Architect. The Contractor agrees that such communications will be privileged communications and, if there is a Claim contemplated or pending, any written communications will be confidential work product.

§ 13.7 Confidentiality

The Contractor will not publish other information regarding the Project without the Owner's prior written consent and the Owner agrees not to unreasonably withhold such consent. The Contractor agrees to keep confidential and not to disclose to any third party (without the advance written consent of the Owner or as otherwise permitted under this Agreement) any confidential, proprietary or privileged information or documentation of financial or strategic planning or operational information or documentation or any patient records or information.

§ 13.8 Medicare Access to Records Clause

If required in accordance with requirements of the Omnibus Budget Reconciliation Act of 1980, then until the expiration of four years after the furnishing of services pursuant to this Agreement and any Proposal, Contractor will make available, upon request, to the Secretary of Health and Human Services or the Comptroller General, or to any of their duly authorized representatives, this Agreement, subcontracts, agreements, proposals, and books, documents, and records that are necessary to certify the extent of any costs arising from this Agreement. Further, if Contractor carries out any of its duties arising from this Agreement through a subcontract, with a value or a cost of \$10,000 or more over a twelve month period with a related organization, such contract shall contain a clause to the effect that until the expiration of four years after the furnishing of such services pursuant to such subcontract, the

related organization shall make available, upon written request, to the Secretary of Health and Human Services or the Comptroller General, or any of the duly authorized representatives, the subcontract, and books, documents and reports of such organization that are necessary to verify the nature and extent of such costs.

§ 13.9 No Excluded Persons

Contractor warrants and represents that at the time of entering into this Agreement and throughout its term, neither it nor any of its employees, officers, directors, contractors, subcontractors or agents are ineligible persons identified on the General Services Administrations' List of Parties Excluded from Federal Programs (available through the internet at <https://www.epls.gov/>) and the HHS/OIG List of Excluded Individuals/Entities available through the internet at http://oig.hhs.gov/fraud/exclusions/exclusions_list.asp) (or any successor internet sites). In the event Contractor or any of its employees, officers, directors, contractors, subcontractors or agents becomes an ineligible person after entering into this Agreement or otherwise fails to disclose its ineligible person status, Contractor shall (1) immediately notify Owner of such ineligible person status and (2) Owner may immediately terminate this Agreement.

ARTICLE 14 TERMINATION OR SUSPENSION OF THE CONTRACT

§ 14.1 Termination by the Contractor

§ 14.1.1 The Contractor may terminate the Contract if the Work is stopped for a period of 30 consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work under direct or indirect contract with the Contractor, for any of the following reasons:

- .1 Issuance of an order of a court or other public authority having jurisdiction that requires all Work to be stopped;
- .2 An act of government, such as a declaration of national emergency, that requires all Work to be stopped;
- .3 Because the Architect has not issued a Certificate for Payment and has not notified the Contractor of the reason for withholding certification as provided in Section 9.4.1, or because the Owner has not made payment on a Certificate for Payment within the time stated in the Contract Documents; or
- .4 [Not Used.]

§ 14.1.2 The Contractor may terminate the Contract if, through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work under direct or indirect contract with the Contractor, repeated suspensions, delays, or interruptions of the entire Work by the Owner as described in Section 14.3, constitute in the aggregate more than 100 percent of the total number of days scheduled for completion, or 120 days in any 365-day period, whichever is less.

§ 14.1.3 If one of the reasons described in Section 14.1.1 or 14.1.2 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, including reasonable overhead and profit on Work executed, and costs incurred by reason of such termination.

§ 14.1.4 If the Work is stopped for a period of 60 consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, or their agents or employees or any other persons or entities performing portions of the Work under contract with the Contractor because the Owner has repeatedly failed to fulfill the Owner's obligations under the Contract Documents with respect to matters important to the progress of the Work, the Contractor may, upon seven additional days' written notice to the Owner and the Architect, terminate the Contract and recover from the Owner as provided in Section 14.1.3.

§ 14.2 Termination by the Owner for Cause

§ 14.2.1 The Owner may terminate the Contract if the Contractor

- .1 refuses or fails to supply enough properly skilled workers or proper materials;
- .2 fails to make payment to Subcontractors or suppliers in accordance with the respective agreements between the Contractor and the Subcontractors or suppliers;
- .3 disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority; or
- .4 otherwise is guilty of substantial breach of a provision of the Contract Documents, including but not limited to failure to maintain the Construction Schedule or failure to correct defective and/or non-conforming Work.

§ 14.2.2 When any of the reasons described in Section 14.2.1 exist, the Owner may, without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractor's surety, if any, seven days' written notice, terminate employment of the Contractor and may, subject to any prior rights of the surety as expressly stated in the applicable surety bond:

- .1 Exclude the Contractor from the site and take possession of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Contractor;
- .2 Accept assignment of subcontracts pursuant to Section 5.4; and
- .3 Finish the Work by whatever reasonable method the Owner may deem expedient. Upon written request of the Contractor, the Owner shall furnish to the Contractor a detailed accounting of the costs incurred by the Owner in finishing the Work.

§ 14.2.3 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. And as set forth in in Section 14.2.1, the Owner's termination of the Contractor is without prejudice to any other rights and remedies of the Owner, including but not limited to the Owner's rights and remedies under the Contract Documents and at law, all of which shall survive termination.

§ 14.2.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work, including compensation for the Architect's services and expenses made necessary thereby, and other costs or damages incurred by the Owner and not expressly waived, including but not limited to the Owner's attorneys' and consultants' fees and expenses, arising out of or related to the termination, such excess shall be paid to the Contractor. If such costs, other costs, and damages exceed the unpaid balance, the Contractor shall pay the difference to the Owner. The amount to be paid to the Contractor or Owner, as the case may be, shall be certified by the Initial Decision Maker, upon application, and this obligation for payment shall survive termination of the Contract.

§ 14.3 Suspension by the Owner for Convenience

§ 14.3.1 The Owner may, without cause, order the Contractor in writing to suspend, delay or interrupt the Work, in whole or in part for such period of time as the Owner may determine.

§ 14.3.2 The Contract Sum and/or and Contract Time shall be adjusted for increases in the cost and time caused by suspension, delay, or interruption under Section 14.3.1. Adjustment of the Contract Sum shall include profit. No adjustment shall be made to the extent

- .1 that performance is, was, or would have been, so suspended, delayed, or interrupted, by another cause for which the Contractor is responsible; or
- .2 that an equitable adjustment is made or denied under another provision of the Contract.

§ 14.4 Termination by the Owner for Convenience

§ 14.4.1 The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause.

§ 14.4.2 Upon receipt of written notice from the Owner of such termination for the Owner's convenience, the Contractor shall

- .1 cease operations as directed by the Owner in the notice;
- .2 take actions necessary, or that the Owner may direct, for the protection and preservation of the Work; and
- .3 except for Work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing subcontracts and purchase orders and enter into no further subcontracts and purchase orders.

§ 14.4.3 In case of such termination for the Owner's convenience, the Owner shall pay the Contractor in accordance with Article 10 of the Agreement, for Work properly executed.

ARTICLE 15 CLAIMS AND DISPUTES

§ 15.1 Claims

§ 15.1.1 Definition

A Claim is a demand or assertion by one of the parties seeking, as a matter of right, payment of money, a change in the Contract Time, or other relief with respect to the terms of the Contract. The term "Claim" also includes other disputes and matters in question between the Owner and Contractor arising out of or relating to the Contract. The

Contractor's Claims must be submitted in accordance with the requirements of the Contract Documents. The responsibility to substantiate Claims shall rest with the party making the Claim. This Section 15.1.1 does not require the Owner to file a Claim in order to impose liquidated damages in accordance with the Contract Documents. Contractor shall not knowingly present or cause to be presented to the Owner a false or fraudulent Claim. Knowingly shall have the same meaning as in Section 3729(b) USC of the Federal False Claims Act. If the Contractor knowingly presents or causes to be presented a false or fraudulent Claim, then the Contractor shall be liable to the Owner for the same civil penalty and damages as the United States Government would be entitled to recover under such Section 3729(a) USC and shall also indemnify and hold the Owner harmless from all costs and expenses, including Owner's attorneys' and consultants' fees and expenses incurred in investigating and defending against such Claim and in pursuing the collection of such penalty, damages and fees and expenses. The Contractor acknowledges and agrees that the Owner and/or parties in privity of contract with the Owner may delay, interfere with and/or disrupt the Work of the Contractor, and such actions shall not constitute a breach of contract by the Owner, since the Contractor is entitled to additional compensation by properly submitting and pursuing a Claim as permitted by these General Conditions. Pending final resolution of the Claim, the Contractor shall continue performance of the Work as provided in Section 15.1.4.1.

§ 15.1.1.1 Prerequisite Process

Prior to submitting a Claim, the Contractor shall submit, as applicable, either a Change Order Request Form or Project Issue Form, to the Owner and the Initial Decision Maker, within 3 days of the beginning of the event giving rise to the potential need for an adjustment to the Contract Time or Contract Sum. "Event" shall mean the beginning of any occurrence, delay, or development on the Project that the Contractor believes may result in a Claim by the Contractor for an adjustment to the Contract Time or Contract Sum. If the Contractor believes that an adjustment to the Contract Time or Contract Sum *will* be needed, then the Contractor shall submit a Change Order Request Form; if the Contractor believes that there is a possibility that an adjustment to the Contract Time or Contract Sum *may* be needed, then the Contractor shall submit a Project Issue Form. The Change Order Request Form and Project Issue Form shall be used regardless of whether the Owner has decided to utilize the e-Builder Program for the Project, unless otherwise specified by the Owner.

- .1 If the Contractor submits a Change Order Request Form, such request shall be accompanied by all backup documentation.
- .2 If the Contractor submits a Project Issue Form, that the Contractor believes will entitle the Contractor to an adjustment to the Contract Time or Contract Sum, Contractor has 10 days from the date the Project Issue Form is submitted to submit a Change Order Request Form that is accompanied by all required backup documentation.
- .3 If any other entity participating in the Project submits a Project Issue Form, and the Contractor believes this will entitle the Contractor to an adjustment to the Contract Time or Contract Sum, Contractor has 10 days from the date the Project Issue Form is submitted to submit a Change Order Request Form that is accompanied by all required backup documentation.
- .4 The Owner has 10 days from receipt of a Change Order Request to (1) request additional information or documentation, (2) approve such request, (3) make a counter-offer with regard to such request, or (4) reject such request. If the Owner fails to respond within 10 days or there is no agreement between the parties regarding the amount of the adjustment within 15 days, such request will be deemed ~~denied~~ and the Contractor then must follow the Claims process as set forth in the Contract Documents, by filing a Notice of Claim within 10 days of the date such request was either denied or deemed denied, whichever is earlier. Such 10 day period is a contractual limitation of action. Such contractual limitation of action is a material term of the Contract Documents as it provides the Owner with timely notice and information so that the Owner can attempt to mitigate any damages, exercise remedies available to it, and investigate the Claim during a near contemporaneous time period.

§ 15.1.2 Time Limits on Claims

The Owner and Contractor shall commence all Claims and causes of action against the other and arising out of or related to the Contract, whether in contract, tort, breach of warranty or otherwise, in accordance with the requirements of the binding dispute resolution method selected in the Agreement and within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work, unless a

warranty is provided that specifies a warranty period in excess of 10 years. The Owner and Contractor waive all Claims and causes of action not commenced in accordance with this Section 15.1.2. As between the Owner and Contractor the statute of limitations shall commence as provided in current Ohio law.

§ 15.1.3 Notice of Claims

§ 15.1.3.1 The Contractor's Claims must be initiated by submitting the Notice of Claim Form ("Form") included with the Contract Documents to the Architect and the Owner, properly completed in accordance with the instructions accompanying the Form and submitted within the 10-day period under Section 15.1.1.1.4. Claims by the Contractor, shall be initiated by submitting the Notice of Claim Form ("Form") included with the Contract Documents, properly completed in accordance with the instructions accompanying the Form and submitted within the 10-day period under Section 15.1.1.1.4, to the Owner and to the Initial Decision Maker with a copy sent to the Architect, if the Architect is not serving as the Initial Decision Maker.

§ 15.1.3.2 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by notice to the other party. In such event, no decision by the Initial Decision Maker is required.

§ 15.1.4 Continuing Contract Performance

§ 15.1.4.1 Pending final resolution of a Claim, except as otherwise agreed in writing or as provided in Section 9.7 and Article 14, the Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Contract Documents.

§ 15.1.4.2 The Contract Sum and Contract Time shall be adjusted in accordance with the Initial Decision Maker's decision, subject to the right of either party to proceed in accordance with this Article 15. The Architect will prepare Change Orders and issue Certificates for Payment in accordance with the decision of the Initial Decision Maker.

§ 15.1.5 Claims for Additional Cost

If the Contractor wishes to make a Claim for an increase in the Contract Sum, the Contractor shall comply with Sections 15.1.1 and 15.1.1.1 before proceeding to execute the portion of the Work that is the subject of the Claim. Prior notice is not required for Claims relating to an emergency endangering life or property arising under Section 10.4.

§ 15.1.6 Claims for Additional Time

§ 15.1.6.1 If the Contractor wishes to make a Claim for an increase in the Contract Time, the Contractor shall comply with Sections 15.1.1 and 15.1.1.1. The Contractor's Claim shall include an estimate of cost and of probable effect of delay on progress of the Work. In the case of a continuing delay, only one Claim is necessary.

§ 15.1.6.2 If adverse weather conditions are the basis for a Claim for additional time, the Contractor shall initiate a Claim by submission of the Notice of Claim Form in accordance with Section 15.1.2. The Contractor's entitlement to additional time shall be evaluated and substantiated as provided in Section 15.1.6.2.1.

§ 15.1.6.2.1 Weather Delays

When the Contractor is prevented from completing any part of the Work on the critical path within the Contract Time due to weather conditions, provided the Contractor properly initiates a Claim, the Contract Time will be extended by one (1) day for each work day lost due to weather that delays Work on the critical path in excess of those in the following table:

Month	Number of Workdays Lost Due To Weather
January	8
February	8
March	7
April	6
May	5
June	4
July	4
August	4
September	5

October	6
November	6
December	6

§ 15.1.6.3 Excusable and Compensable Delays

The delays for which the Contractor is entitled to additional time are "Excusable Delays." The only Excusable Delays are delays which the Contractor establishes were: (a) caused by the Owner or those in privity of contract with the Owner, (b) physical damage to the Project over which the Contractor has no control, (c) labor disputes beyond the control of the Contractor, (d) work days lost due to weather conditions as provided under Section 15.1.6.2, and (e) concealed or unknown conditions under Section 3.7.4.

The delays for which the Contractor is entitled to additional time and money are "Compensable Delays." The only Compensable Delays are Excusable Delays which the Contractor establishes were proximately caused by an improper action or failure to act by the Owner.

§ 15.1.7 Waiver of Claims for Consequential Damages

The Contractor and Owner waive Claims against each other for consequential damages arising out of or relating to this Contract. This mutual waiver includes

- .1 damages incurred by the Owner for rental expenses, for losses of use, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons; and
- .2 damages incurred by the Contractor for principal office expenses including the compensation of personnel stationed there, for losses of financing, business and reputation, and for loss of profit, except anticipated profit arising directly from the Work.

This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination in accordance with Article 14. Nothing contained in this Section 15.1.7 shall be deemed to preclude an award of liquidated damages, when applicable, in accordance with the requirements of the Contract Documents.

§ 15.1.8 Settlement Offers

If the Contractor initiates a Claim, the Owner may make settlement offers to settle the Claim at any time up to the date of the trial. Such settlement offers shall be subject to Rule 408 (Compromise and Offers of Compromise) of the Ohio Rules of Evidence. If at any stage of the litigation, including any appeals, the Contractor's Claim is dismissed or found to be without merit, or if the damages awarded to the Contractor on its Claim do not exceed the Owner's last settlement offer, the Contractor shall be liable to the Owner and shall reimburse the Owner for all of the Owner's attorneys' fees and expenses, arising out of or related to such Claim since the date of such last settlement offer.

§ 15.2 Initial Decision

§ 15.2.1 Claims, excluding those where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2 or 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 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 any further proceeding permitted under these General Conditions of any Claim arising prior to the date final payment is due. If an initial decision has not been rendered within 30 days after the Claim has been referred to the Initial Decision Maker, the parties may agree in writing to mediation or binding dispute resolution in accordance with the Agreement, 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.

§ 15.2.2 The Initial Decision Maker will review Claims and within thirty days of the receipt of a Claim take one or more of the following actions: (1) request additional supporting data from the claimant or a response with supporting data from the other party, (2) reject the Claim in whole or in part, (3) approve the Claim, (4) suggest a compromise, or (5) advise the parties that the Initial Decision Maker is unable to resolve the Claim if the Initial Decision Maker lacks sufficient information to evaluate the merits of the Claim or if the Initial Decision Maker concludes that, in the Initial Decision Maker's sole discretion, it would be inappropriate for the Initial Decision Maker to resolve the Claim.

§ 15.2.2.1 Owner's Request for Documents

The Owner may request such documents and information from the Contractor as the Owner determines necessary to evaluate and comment upon the Claim. Upon receipt of such request from the Owner, the Contractor shall provide all requested documents and information within ten (10) days. Such documents and information may include but not be limited to the Contractor's Project accounting records, estimate for the Project, daily job logs, and other information from which the Contractor's Project costs may be derived. The Contractor shall provide the requested documents in the formats requested, which include both paper and electronic copies. If requested by the Owner, the electronic copies shall be provided in native computer language. To the extent permitted by law, the Owner shall keep the Project accounting records and estimate for the Project confidential. The Contractor's provision of the requested documents to the Owner in the format requested by the Owner shall be a condition precedent to any further proceeding under the Contract Documents.

Failure to provide the requested documents shall be a material breach of the Contract, and Contractor shall indemnify Owner for all of Owner's costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to Contractor's failure to comply with this provision. If the Contractor fails to provide the requested documents, the Contractor shall be precluded from presenting such documents in any subsequent dispute resolution proceedings, if the data was reasonably available at the time of the request.

§ 15.2.3 In evaluating Claims, the Initial Decision Maker may, but shall not be obligated to, consult with or seek information from either party or from persons with special knowledge or expertise who may assist the Initial Decision Maker in rendering a decision. The Initial Decision Maker may request the Owner to authorize retention of such persons at the Owner's expense.

§ 15.2.4 If the Initial Decision Maker requests a party to provide a response to a Claim or to furnish additional supporting data, such party shall respond, within ten days after receipt of the request, and shall either (1) provide a response on the requested supporting data, (2) advise the Initial Decision Maker when the response or supporting data will be furnished, or (3) advise the Initial Decision Maker that no supporting data will be furnished. Upon receipt of the response or supporting data, if any, the Initial Decision Maker will either reject or approve the Claim in whole or in part. If the Initial Decision Maker requests supporting data from a party and the party fails to provide it, the party thereafter shall be precluded from presenting such data in any subsequent dispute resolution proceedings, if the data was reasonably available to it at the time of the request.

§ 15.2.5 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 and/or Contract Time. The initial decision shall be final and binding on the parties but subject to mediation if both parties agree in writing to mediate and, if the parties fail to resolve their dispute through mediation or do not agree to mediate, to binding dispute resolution.

§ 15.2.6 Either party may request mediation of an initial decision at any time, in writing, subject to the terms of Section 15.2.6.1.

§ 15.2.6.1 If the Contractor does not request mediation of a written decision of the Initial Decision Maker, within 30 days from the date of receipt of an initial decision, then the Initial Decision Maker's decision becomes final and binding upon the Contractor. If the Initial Decision Maker renders a decision after litigation has been initiated, such decision may be entered as evidence, but shall not supersede the litigation proceedings unless the decision is acceptable to all parties concerned. Litigation shall be considered "initiated" upon either the service of the original complaint on the Owner or, if litigation relating to the project has already been filed, when a motion for leave to amend the complaint to add the claim has been filed.

§ 15.2.7 In the event of a Claim against the Contractor, the Owner may, but is not obligated to, notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a Contractor's default, the Owner may, but is not obligated to, notify the surety and request the surety's assistance in resolving the controversy.

§ 15.2.8 If a Claim relates to or is the subject of a mechanic's lien, the party asserting such Claim may proceed in accordance with applicable law to comply with the lien notice or filing deadlines.

§ 15.3 Mediation

§ 15.3.1 If both Parties agree to mediate, in writing, then Claims, disputes, or other matters in controversy arising out of or related to the Contract, except those waived as provided for in Sections 9.10.4, 9.10.5, and 15.1.7, may, after initial decision by the Initial Decision Maker or 30 days after submission of the Claim to the Initial Decision Maker, be subject to mediation pursuant to mediation procedures mutually agreed-upon by the Parties.

§ 15.3.2 [Not Used.]

§ 15.3.3 [Not Used.]

§ 15.3.4 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the county where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

§ 15.4 Litigation

§ 15.4.1 Any Claim subject to, but not resolved by, mediation or any Claim that is not subject to mediation, shall be subject to litigation unless both parties mutually agree in writing to arbitrate the Claims. Venue for such litigation shall be exclusive in the state court of competent jurisdiction in the county in which the Owner's principal office is located. The parties expressly waive the right to remove any litigation to federal court. There shall be no mandatory arbitration of Claims.

§ 15.4.1.1 [Not Used.]

§ 15.4.2 [Not Used.]

§ 15.4.3 [Not Used.]

§ 15.4.4 Consolidation or Joinder [This Section is deleted in its entirety.]

§ 15.4.4.1 [Not Used.]

§ 15.4.4.2 [Not Used.]

§ 15.4.4.3 [Not Used.]



CONTRACTOR SAFETY HANDBOOK

MetroHealth Construction Projects

Version 3.0

TABLE OF CONTENTS

PURPOSE	3
DEPARTMENT	3
CONSTRUCTION PERSONNEL RESPONSIBILITIES	3
PERSONNEL	3
CONTRACTOR RESPONSIBILITY	3
CONTRACTOR TRAINING	3
HANDBOOK COMPLIANCE	4
DRESS CODE/CONDUCT	4
HIPPA (HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996)	4
SECURITY	4
I.D. BADGES	4
VACCINATION REQUIREMENTS	5
PARKING	5
FACILITY KEYS	5
DAMAGE	5
FALSE FIRE ALARMS	5
SMOKING	5
IN CASE OF EMERGENCY	5
USE OF CAFETERIA	6
FACILITIES MANAGEMENT CONTRACTOR CHECK-IN DIRECTIVE	6
DOCUMENTATION	6
GENERAL	6
CONSTRUCTION DOCUMENTATION MEETING	6
PRIOR TO MOBILIZATION	6
PCRA (PRE-CONSTRUCTION RISK ASSESSMENT CHECKLIST)	6
ICRA (INFECTION CONTROL RISK ASSESSMENT)	6
ILSM (INTERIM LIFE SAFETY MEASURES) MATRIX	6
SAFETY PLAN	7
EMERGENCY CONTACT LIST	7
DOCUMENTS REQUIRED DURING CONSTRUCTION	7
DAILY SAFETY INSPECTION CHECK LIST	7
REQUEST FOR BUILDING SYSTEM SHUTDOWN	7
MOP (METHODS OF PROCEDURES - FOR NON BUILDING SYSTEM SHUTDOWN)	7
HOT WORK PERMIT	7
FIRE WATCH LOG	7
JOB BOARD	7
APPENDIX OF REFERENCED DOCUMENTS AND ATTACHMENT 1	8 TO 32

1. **PURPOSE** – To ensure the safety of our patients, staff, visitors and Contractors during construction projects. This Contractor Handbook has been developed to ensure that all Contractor's understand the procedures that the MetroHealth System (MHS) requires for all construction, renovation and other similar type activities. It has been developed based on the following:
 - a. All applicable MetroHealth policies and procedures,
 - b. Construction Documents
 - c. NFPA 101-2012 Life Safety Code
 - d. NFPA 99-2012 Health Care Facilities Code
 - e. Accrediting Agencies (including but not limited to):
 - i. The Joint Commission
 - ii. CMS – Centers for Medicare and Medicaid Services
 - iii. ODH – Ohio Department of Health
2. **DEPARTMENT** The content of this handbook is created and modified by Facilities Management. The guidance in this handbook should be verified with the appropriate representative at each site-specific location. MetroHealth reserves the right to change and/or modify this document at any time. Facilities Management Department Telephone: 216-778-5566.
3. **CONSTRUCTION PERSONNEL RESPONSIBILITIES**
 - a. **PERSONNEL** Whenever the term "personnel" is used in this Contractor Handbook it shall mean the Contractor's employees, agents, subcontractors, suppliers/vendors, and any other person providing services on behalf of the Contractor or any subcontractor.
 - b. **CONTRACTOR RESPONSIBILITY** - Contractor assumes total responsibility for its personnel while on any MetroHealth Property.
 - c. **CONTRACTOR TRAINING** - The Contractor is responsible for any specific job training with respect to work procedures in accordance with any State/Federal/Local laws (e.g., OSHA, as may be required for confined spaces, or hazards specific to a job). In addition:
 - i. The Contractor is responsible for all training specifically called out per construction documents.
 - ii. Documentation of ICRA certification is required prior to badging.
 1. Badging requests submitted after November 16th, 2020 will be required to provide proof of ICRA Certification in order to be badged.
 2. Below is a list of approved Certification courses:
 - a. Cost associated with the options above will not be reimbursed by MetroHealth
 - b. Responsibility for training registration is solely on the contractor/vendor.
 - c. Timing of the training and obtaining the certification such that it does not delay obtaining badging must be coordinated by the contractor/vendor.

	IKORCC	ASHE	Infection Control University
Certification	ICRA 8 Hour Awareness	Certified Health Care Physical Environment Worker	(Infection Control Risk Assessment) HAI Training & Certification
Who Can Register	Union Trade Members*, Union Contractor Management Staff that are not union members personally.	Available to anyone	Available to anyone
Registration thru	mbohan@ikorcc.com *Union Trade Members are to schedule training through their local hall or training center.	https://www.ashe.org/education/certified-worker	https://infectioncontroluniversity.com/purchase-training/
Frequency of Training	2 nd Tuesday of Each Month (Registration Deadline - by 1 st Tuesday (11:30 pm) of the Month)	Anytime	Anytime
Certification Valid	4 years from time of certification	3 years from time of certification	3 years from time of certification
Location of Training	Via Internet	Via Internet	Via Internet
Cost	NC	\$50	\$165 (includes one time \$100 setup fee)

- d. **HANDBOOK COMPLIANCE** It is the responsibility of the Contractor to communicate all information contained in this Contractor Handbook to its personnel. Personnel found not complying with this Handbook (e.g. non-compliant with approved ILSM) may be subject to fines or may be removed from the project if requested by MetroHealth Project Manager or Facilities Management.
- e. **DRESS CODE / CONDUCT** MetroHealth expects all companies, company employees, contract employees, and vendors who are working in any facility, building or property to present a professional image always. **NON-COMPLIANCE** (e.g. torn clothing) **MAY REQUIRE IMMEDIATE REMOVAL FROM THE SITE.**
- f. **HIPAA (THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996)** HIPAA protects patients right to privacy while obtaining medical care. The Contractor shall adhere to all HIPAA rules and regulations required to ensure patient Protected Health Information (PHI) is not made public.
- g. **SECURITY** -A security background check may be required for contractors that perform work in specific areas at MetroHealth locations. Including but not limited to:
 - i. Pediatric Intensive Care Unit (PICU)
 - ii. Neonatal Intensive Care Unit (NICU)
 - iii. Geriatric Care Unit
- h. **I.D. BADGES** - MetroHealth Contractor badges are required for all Contractors/subcontractors while on MetroHealth property. The Contractors must comply with the following process:
 - i. ALL Contractors must be trained in Infection Control Risk Assessment (ICRA) in order to work at any MetroHealth location prior to being badged (see Contractor Training section for acceptable courses).
 - ii. I.D. badges shall be requested using the Badging Request Approval Process in e-Builder.
 - iii. Contractor is to submit the request 24 hours prior to the requested date/time for badging.
 - iv. Public Safety Department Badging Available Hours Are: Tuesday thru Friday 8:30am - 2:30pm.

- v. Location of badging is on the 5th floor of the Towers in the Employee Health Clinic.
- vi. I.D. badges must be worn always (above the waist and photo visible).
- i. **VACCINATION REQUIREMENTS** - In accordance with MetroHealth Policy, all contractor's working on MetroHealth construction projects and are on the jobsite are required to maintain current vaccinations for influenza **and Covid-19**. Contractors who are directly contracted with MetroHealth will be responsible for maintaining proof of vaccination for their respective project(s) and subcontractors. Please advise workers to obtain the vaccination and provide proof of vaccination to you, the direct contractor MetroHealth may require contractors to provide proof of vaccination regarding their workers at any time
- j. **PARKING** - Contractors must **ONLY** park in areas designated by the MetroHealth Project Manager or Facilities Management. Contractors are responsible for payment of parking. Contractors will visit the parking office immediately after badging and make arrangements with the parking management office.
- k. **FACILITY KEYS** - Facility keys will be issued at the discretion of the Facilities Management Department. The Contractor and the Contractor's personnel who has been assigned keys must ensure that these keys are kept in their possession always. The loss of any facility key must be immediately brought to the attention of both the MetroHealth Project Manager and/or Facilities Management Department and may be subject to monetary penalty. Every issued key must be returned at the end of the day or Project completion (depending on prior arrangement).
- l. **DAMAGE** - Any damage caused by the Contractor must be immediately brought to the attention of the MetroHealth Project Manager or Facilities Management. Prior to construction starting, Contractor is to review the suppression system with Facilities to determine location of the sprinkler shutoff in the event there is a broken head during construction and review proper protocol in the event of a broken head.
- m. **FALSE FIRE ALARMS** – Any fines or penalties resulting from false alarms caused by the Contractor's personnel will be the responsibility of the Contractor.
- n. **SMOKING/VAPING** – Smoking/Vaping is prohibited at ALL MetroHealth locations, including buildings, equipment rooms, exterior grounds, vehicles, etc...
- o. **IN CASE OF AN EMERGENCY** - Call 216-778-1111 (or 8-1111 internal) for all emergencies.
- p. **USE OF CAFETERIA** - Contractors are permitted to use the Cafeteria as long as:
 - i. They do not track dirt or dust in hallways and food serving facilities
 - ii. Contractors must wear MetroHealth issued badges.
 - iii. Clothing is not dirty.
 - iv. Badges issued do not entitle contractors to cafeteria discounts
- q. **FACILITIES MANAGEMENT CONTRACTOR CHECK-IN DIRECTIVE** – Workers will be required to use Facilities Managements check in process **daily** per Attachment 1.
- 4. **DOCUMENTATION** - The Contractor and its subcontractors are required to maintain current up to date documentation and records as required by this Handbook, the contract documents, MetroHealth and the authority(s) having jurisdiction (AHJs). (See appendix for a sample of documents required.)

- a. CONSTRUCTION DOCUMENTATION MEETING - A meeting is scheduled EVERY Wednesday @10am in the Main Campus Facilities Management Conference Room to discuss and obtain signatures on required documentation. All Stakeholders who need to sign off on the paperwork will be in attendance. DRAWINGS OF BOTH THE PROPOSED WORK AND/OR INTERIM LIFE SAFETY MEASURES ARE TO BE PRESENTED ALONG WITH ALL OTHER APPLICABLE DOCUMENTATION.
- b. DOCUMENTS REQUIRED PRIOR TO MOBILIZATION – These documents are required to be filled out by the Contractor and approved prior to mobilization. Any changes to jobsite conditions that affect these plans, must be resubmitted for approval before any changes can be made at the site.
 - i. PCRA (PRE-CONSTRUCTION RISK ASSESSMENT CHECKLIST) Required for ALL construction projects. PCRA is used when planning demolition, construction or renovation work, MHS conducts a proactive risk assessment using risk criteria to identify hazards that could potentially compromise patient care in occupied areas of the organization’s buildings. The scope and nature of the activities should determine the extent of risk assessment required. The risk criteria should address the impact demolition, renovation or new construction activities have on air quality requirements, infection control, utility requirements, noise, vibration, and emergency procedures. As required, MHS selects and implements proper controls to reduce risk and minimize the impact of these activities. Process is initiated by the contractor through e-Builder.
 - ii. ICRA (INFECTION CONTROL RISK ASSESSMENT/PERMIT) - The intent of this assessment is to prevent hospital-acquired infections in patients that may arise because of exposure to organisms released into the environment during construction and renovation activities. All construction and renovation activities shall be defined and managed in such a way that occupants’ exposure to dust, moisture and their accompanying hazards is limited. Controlling construction dust and dirt will further serve to protect staff and visitors, as well as sensitive procedures and equipment, from possible ill effects.
 - iii. ILSM (INTERIM LIFE SAFETY MEASURES) MATRIX – An ILSM assessment is required to maintain a safe, functional, and effective environment for patients, staff, and visitors when Life Safety features are diminished because of construction activities. The ILSM Matrix outlines the procedures for implementing an ILSM, a series of administrative actions, to temporarily compensate for hazards posed by existing LSC deficiencies and/or construction activities.
 - iv. SAFETY PLAN – This document will show precautions that will be in place at the site as required by the PCRA, ICRA and ILSM. It will be used to identify egress paths, approved debris removal paths, site entrance, sticky mat, negative air machines, on site fire extinguisher, sprinkler, hvac returns, hvac supplies and detectors adjacent to the site that will remain active during construction.
 - 1. A walk-through of the site must be performed with MH Compliance prior to the start of demolition to confirm all precautions are in place.
 - 2. If the Contractor is not compliant with this plan at any time during the project, MHS will have the authority to shutdown the project until corrections are made.
 - 3. Modifications to the approved plan must be reviewed and approved during the Construction Document Review Meeting.
 - v. EMERGENCY CONTACT LIST – Document listing all Contractors Emergency contacts including subcontractors. List shall include emergency contacts for MH Facilities Management, Construction Management and MetroHealth Dispatch.
- c. DOCUMENTS REQUIRED DURING CONSTRUCTION

- i. DAILY SAFETY INSPECTION CHECKLIST - This form should be completed daily by Contractor Project Manager or designee through e-Builder. Completed forms will need to be submitted through E-builder before progress payments will be issued.
 - ii. REQUEST FOR BUILDING SYSTEM SHUTDOWN - Required to be submitted for MetroHealth Facilities Management to shut down ANY utility (i.e. Electrical, Plumbing, HVAC, Fire, MAGV, Water, etc...) affecting hospital operations. Request the latest Request for Building System Shutdown Form for information needed, timelines, coordination, Method of Procedures and system required notifications. Contractors are not permitted to shutdown any utility or system. Failure to follow these procedures will result in the removal of the Contractor from the premise.
 - iii. MOP (METHODS OF PROCEDURES – NON BUILDING SYSTEM SHUTDOWN) - Form used to show the step-by step sequence for performing activities that may affect operations or life safety NOT RELATED TO BUILDING SYSTEM SHUTDOWN. Such items would include, but not be limited to:
 - 1. Crane mobilization, demobilization and operation
 - 2. Work that may potentially impact LifeFlight
 - 3. Impacts to hospital access
 - 4. Large Equipment placement over occupied spaces
 - iv. HOT WORK PERMIT - Required for any work that involves burning, welding, cutting, brazing, soldering, grinding, using fire-or spark producing tools, or other work that produces a source of ignition.
 - v. FIRE WATCH LOG - The log is required to be completed whenever Fire and/or Sprinkler Systems will be off-line due to the construction project for extended periods of time (see ILSM Matrix for more details).
- d. JOB BOARD All projects require a job board posted at the job site at the time of mobilization. Job board should include the following approved documents
- i. ALL APPLICABLE PERMITS
 - ii. PCRA
 - iii. ICRA
 - iv. ILSM
 - v. DOCUMENTATION REQUIRED BY ILSM (e.g. Fire Watch Log, Fire Equipment Verification, etc...)
 - vi. SAFETY PLAN
 - vii. EMERGENCY CONTACT LIST
 - viii. DAILY SAFETY CHECK LIST
 - ix. ACTIVE MOP
 - x. ACTIVE HOT WORK PERMIT
 - xi. ACTIVE REQUEST FOR UTILITY SHUTDOWN
 - xii. ACTIVE FIRE WATCH LOG
 - xiii. Daily Check-In QR

APPENDIX
(SAMPLES OF REQUIRED DOCUMENTS)

PRECONSTRUCTION RISK ASSESSMENT

LOCATION OF CONSTRUCTION:	PROJECT NUMBER:
PROJECT COORDINATOR:	START DATE:
CONTRACTOR PERFORMING WORK:	ESTIMATED DURATION:
SUPERVISOR:	PHONE:

DESCRIPTION OF PROJECT
CONSTRUCTION ACTIVITIES

The following projects do not require completion of the preconstruction risk assessment form:

1. Paint and wallpaper in business offices and nonpatient areas
2. Paint in patient room if closed for painting
3. Installation of soap dispenser/needle box/paper towel holder in patient room
4. Repair of window blind
5. Ceiling tile replacement for areas less than 2 x 2 tile if not in business offices and nonpatient areas
6. Ceiling tile replacement for area less than 2 x 2 tiles in a patient area if patient is out of the immediate area and clean up can be accomplished before patient returns
7. Minimum repair of nurse call system/television/bed/telephone
8. Check or replace electric outlet
9. Replace light bulb
10. Unstop sink/commode with no water on floor
11. Unstop commode with water on floor requires maintenance to have housekeeping clean area immediately
12. Repair medical gas outlet (front only)
13. Air balance readings
14. Check air conditioning
15. Intermediate jobs that create a moderate amount of dust inside room and is made negative by use of HEPA-equipped unit with a minimum of 10 ACH, and all air discharged outside, HEPA unit must run 2 hours after completion of job, and housekeeping must clean room before unit is removed from room; all work and use of HEPA unit must be documented and copies forwarded to Infection Prevention Department and Safety Department

Note: All duct vents to be sealed off during work!

ENVIRONMENT

Yes	No	ARE ANY OF THE FOLLOWING ENVIRONMENTAL HAZARDS PRESENT?
<input type="checkbox"/>	<input type="checkbox"/>	Will hazardous chemicals be used on this project? How will fumes and odors be controlled? <i>SDS are required.</i>
<input type="checkbox"/>	<input type="checkbox"/>	Is asbestos abatement required on this job? <i>If so, notify Environmental Safety and Facilities Management at the activation.</i>
<input type="checkbox"/>	<input type="checkbox"/>	Will there be hot work done on this project? If there are, then a hot work permit must be posted on the job site. All hot work must have a fire watch assigned to each area while the hot work is being performed.

UTILITY FAILURES

Yes	No	WILL ANY OF THE FOLLOWING SYSTEMS BE OUT OF SERVICE AT ANY TIME DURING THE PROJECT?
<input type="checkbox"/>	<input type="checkbox"/>	Fire alarm <i>(if out for more than 4 hours, ILSM must be implemented)</i>
<input type="checkbox"/>	<input type="checkbox"/>	Sprinkler <i>(if out for more than 4 hours, ILSM must be implemented)</i>
<input type="checkbox"/>	<input type="checkbox"/>	Electrical
Yes	No	
<input type="checkbox"/>	<input type="checkbox"/>	<p>Will there be any work that will require activation of ILSM during this project? Some things that will require ILSM to be implemented include, but are not limited to, the following:</p> <ul style="list-style-type: none"> Any construction that affects an exit or stairs Any construction that affects major breaches in a fire or smoke wall Taking the main fire protection system out of service (sprinkler) Taking the main fire alarm system out of service Taking the "area" fire or fire alarm system out of service for more than 4 hours within a 24-hour period <p>Implementation of ILSM requires a fire watch and the ILSM forms to be completed.</p>

ADDITIONAL SAFETY CONCERNS

Yes	No	
<input type="checkbox"/>	<input type="checkbox"/>	Will construction affect exit routes from occupied areas adjacent to the construction site?
<input type="checkbox"/>	<input type="checkbox"/>	Will the project affect traffic patterns in the area? If yes, explain plan.

AIR QUALITY AND INFECTION CONTROL

The construction activity types are defined by the amount of dust that is generated, the duration of the activity, and the amount of shared HVAC systems. Contact Environmental Safety Department and Infection Prevention Department if any activity is questionable under these guidelines.

Yes	No	ARE ANY OF THE FOLLOWING ENVIRONMENTAL HAZARDS PRESENT?
<input type="checkbox"/>	<input type="checkbox"/>	Will dust be generated during this project? If yes, explain location of and plan for interim dust barriers or attach floor plan with barriers clearly marked.
<input type="checkbox"/>	<input type="checkbox"/>	Will debris removal be necessary? If yes, explain plan for debris removal and control.
<input type="checkbox"/>	<input type="checkbox"/>	Negative airflow ventilation and filtration in place and assessed for effectiveness

TYPE A		INSPECTIONS AND NONINVASIVE ACTIVITIES OR SMALL-SCALE, SHORT-DURATION ACTIVITIES
Yes	No	
<input type="checkbox"/>	<input type="checkbox"/>	Wall covering—Describe work to be done:
<input type="checkbox"/>	<input type="checkbox"/>	Electrical trim work—Describe work to be done:
<input type="checkbox"/>	<input type="checkbox"/>	Minor plumbing—Describe work to be done:

TYPE B		SMALL-SCALE, SHORT-DURATION ACTIVITIES THAT CREATE MINIMAL DUST
Yes	No	
<input type="checkbox"/>	<input type="checkbox"/>	Installation of telephone and computer cabling
<input type="checkbox"/>	<input type="checkbox"/>	Access to chase spaces
<input type="checkbox"/>	<input type="checkbox"/>	Sanding of walls for painting or wall covering (minor repairs—not sanding for drywall finishing)

TYPE C		ANY WORK THAT GENERATES A MODERATE TO HIGH LEVEL OF DUST OR REQUIRES DEMOLITION OR REMOVAL OF ANY FIXED-BUILDING COMPONENTS OR ASSEMBLIES (May require approval from State Fire Marshal)
Yes	No	
<input type="checkbox"/>	<input type="checkbox"/>	Sanding of walls—drywall finishing
<input type="checkbox"/>	<input type="checkbox"/>	Removal of <input type="checkbox"/> floor coverings <input type="checkbox"/> ceiling tiles <input type="checkbox"/> casework Describe:
<input type="checkbox"/>	<input type="checkbox"/>	Cutting of walls or ceiling Describe:

TYPE D		MAJOR DEMOLITION AND CONSTRUCTION PROJECTS (State Fire Marshal)
Yes	No	
<input type="checkbox"/>	<input type="checkbox"/>	Will require heavy demolition or removal of a complete ceiling system
<input type="checkbox"/>	<input type="checkbox"/>	New construction (may require risk assessment for each phase of work)
<input type="checkbox"/>	<input type="checkbox"/>	Has approval been obtained from State Fire Marshal and Health Department?

ADDITIONAL REQUIREMENTS OR CONCERNS

PERMIT REQUESTED BY:

DATE:

FACILITIES MANAGEMENT APPROVAL:

DATE:

ENVIRONMENTAL SAFETY APPROVAL:

DATE:

INFECTION PREVENTION APPROVAL:

DATE:

HEPA, high-efficiency particulate air; ACH, air changes per hour; ILSM, interim life safety measure; HVAC, heating, ventilating, and air conditioning; MRI, magnetic resonance imaging.

SAMPLE

Infection Control Risk-Assessment Matrix of Precautions for Construction and Renovation

Project Name: _____

Project Number: _____

Scope: _____

STEP 1.	Using the following table, identify the type of construction project activity (Types A–D).
TYPE A	<p>Inspection and noninvasive activities Includes, but is not limited to, the following:</p> <ul style="list-style-type: none"> • Removal of ceiling tiles for visual inspection only (e.g., limited to one tile per 50 square feet) • Painting (but not sanding) • Wall covering, electrical trim work, minor plumbing, and activities that do not generate dust or require cutting of walls or access to ceilings other than for visual inspection
TYPE B	<p>Small-scale, short-duration activities that create minimal dust Includes, but is not limited to, the following:</p> <ul style="list-style-type: none"> • Installation of telephone and computer cabling • Access to chase spaces • Cutting of walls or ceiling where dust migration can be controlled
TYPE C	<p>Work that generates a moderate to high level of dust or requires demolition or removal of any fixed building components or assemblies Includes, but is not limited to, the following:</p> <ul style="list-style-type: none"> • Sanding of walls for painting or wall covering • Removal of door coverings, ceiling tiles, and casework • New wall construction • Minor dust work or electrical work above ceilings • Major cabling activities • Any activity that cannot be completed within a single work shift
TYPE D	<p>Major demolition and construction projects Includes, but is not limited to, the following:</p> <ul style="list-style-type: none"> • Activities that require consecutive work shifts • Activities that require heavy demolition or removal of a complete cabling system • New construction

STEP 1. _____

STEP 2.	Using the following table, identify the patient risk groups (low-highest risk) that will be affected. If more than one risk group will be affected, select the higher risk group.			
	Group 1 - Low Risk	Group 2 - MEDIUM Risk	Group 3 - High Risk	Group 4 - HIGHEST Risk
	<ul style="list-style-type: none"> Office areas Non-patient / low risk areas not listed elsewhere 	<ul style="list-style-type: none"> Patient care & other areas not covered under group 3 or 4 	<ul style="list-style-type: none"> Admissions / Discharge Bronchoscopy Cafeteria Dental Dialysis Echocardiography Endoscopy Emergency department Labor and delivery room Laboratories (specimen) Medical units Newborn nurseries Nuclear Medicine Outpatient surgery Pediatrics Pharmacy Physical therapy Post anesthesia care unit PT - Link areas Radiology / MRI Respiratory therapy Surgical units 	<ul style="list-style-type: none"> Any area caring for immunocompromised patients Anesthesia and Pump areas Burn units Cardiology Cardiac catheterization labs Central sterile supply ICUs Intensive care units Labor & Delivery ORs Negative-pressure isolation rooms Oncology Operating rooms (including C-section rooms) Outpatient invasive procedure rooms

STEP 2.

STEP 3.	Match the following: <ul style="list-style-type: none"> Patient Risk group (Low, Medium, High, Highest) with the planned Construction Project Type (A, B, C, D) on the following matrix, to find the Class of Precautions (I, II, III or IV) or level of infection control activities required Class I-IV Precautions are delineated at the end of this matrix 			
PATIENT RISK GROUP	TYPE A	TYPE B	TYPE C	TYPE D
Group 1	I	II	II	III/IV
Group 2	I	II	III	IV
Group 3	I	III	III/IV	IV
Group 4	III	III/IV	III/IV	IV
Note: IC department approval will be required when the Construction Activity and Risk Level indicate that Class III or Class IV control procedures are necessary.				

STEP 3.

	DURING CONSTRUCTION PROJECT	UPON COMPLETION
Class I	<ol style="list-style-type: none"> 1. Execute work by methods to minimize raising dust from construction operations. 2. Immediately replace a ceiling tile displaced for visual inspection. 	<ol style="list-style-type: none"> 1. Clean work area upon completion of task.
Class II	<ol style="list-style-type: none"> 1. Provide active means to prevent airborne dust from dispersing into atmosphere. 2. Water mist work surfaces to control dust while cutting. 3. Seal unused doors with duct tape. 4. Block off and seal air vents. 5. Place dust mat at entrance and exit of work area. 6. Remove or isolate HVAC system in areas where work is being performed 	<ol style="list-style-type: none"> 1. Wipe work surfaces with cleaner/disinfectant. 2. Contain construction waste in tightly covered containers before transport. 3. Wet mop and/or vacuum with HEPA-filtered vacuum before leaving work area. 4. Upon completion, restore HVAC system where work was performed.
Class III	<ol style="list-style-type: none"> 1. Remove or isolate HVAC system in area where work is being done to prevent contamination of duct system. 2. Complete all critical barriers—i.e., sheetrock, plywood, plastic—to seal area from nonwork area or implement control cube method (cart with plastic covering and sealed connection to work site with HEPA vacuum for vacuuming prior to exit) before construction begins. 3. Maintain negative air pressure within work site utilizing HEPA-equipped air-filtration units. 4. Contain construction waste in tightly covered containers before transport. 5. Cover transport receptacles or carts. Tape covering unless solid lid. 	<ol style="list-style-type: none"> 1. Wipe work surfaces with cleaner/disinfectant. 2. Contain construction waste in tightly covered containers before transport. 3. Wet mop and/or vacuum with HEPA-filtered vacuum before leaving work area. 4. Upon completion, restore HVAC system where work was performed. 5. Return HVAC to prior condition / return to service.
Class IV	<ol style="list-style-type: none"> 1. Isolate HVAC system in area where work is being done to prevent contamination of duct system. 2. Complete all critical barriers—i.e., sheetrock, plywood, plastic—to seal area from nonwork area or implement control cube method (cart with plastic covering and sealed connection to work site with HEPA vacuum for vacuuming prior to exit) before construction begins. 3. Maintain negative air pressure within work site utilizing HEPA-equipped air-filtration units. 4. Seal holes, pipes, conduits, and punctures appropriately. 5. Construct anteroom and require all personnel to pass through this room so they can be vacuumed using a HEPA vacuum cleaner before leaving work site, or they can wear cloth or paper coveralls that are removed each time they leave the work site. 6. All personnel entering work site are required to wear shoe covers. Shoe covers must be changed each time the worker exits the work area. 	<ol style="list-style-type: none"> 1. Do not remove barriers from work area until completed project is inspected by the owner's Safety and IC department and is thoroughly cleaned by the owner's Environmental Services department. 2. Remove barrier material carefully to minimize spreading of dirt and debris associated with construction. 3. Contain construction waste in tightly covered containers before transport. 4. Cover transport receptacles or carts. Tape covering unless solid lid. 5. Vacuum work area with HEPA-filtered vacuums. 6. Wet mop area with cleaner/disinfectant. 7. Upon completion restore HVAC system where work was performed.

STEP 4.	Identify the areas surrounding the project area, assessing potential impact.				
UNIT BELOW	UNIT ABOVE	LATERAL	LATERAL	BEHIND	FRONT
RISK GROUP	RISK GROUP	RISK GROUP	RISK GROUP	RISK GROUP	RISK GROUP

STEP 5.	Identify specific site of activity (for example, patient rooms and medication room).

STEP 6.	Identify containment measures, using prior assessment. What types of barriers (for example, solids walls)? Will HEPA filtration be required? (Note: Renovation/construction area shall be isolated from the occupied areas during construction and shall be negative with respect to surrounding areas.)

STEP 7.	Consider potential risk of water damage. Is there a risk due to compromising structural integrity (for example, wall, ceiling, and roof)?

STEP 8.	Work hours: Can or will the work be done during non-patient care hours?

STEP 9.	Plan to discuss the following containment issues with the project team; for example, traffic flow, housekeeping, debris removal (how and when).

APPENDIX.	Identify and communicate the responsibility for project monitoring that includes IC concerns and risks. The ICRA may be modified throughout the project. Revisions must be communicated to the Project Manager.

ICRA, infection control risk assessment; MRI, magnetic resonance imaging; IC, infection prevention and control; HEPA, high-efficiency particulate air; HVAC, heating, ventilating, and air conditioning; FI, Facility Guidelines Institute.

Infection Control Risk-Assessment Matrix of Precautions for Construction and Renovation

LOCATION OF CONSTRUCTION:

Project No:

Scope:

PROJECT START DATE:

Project Coordinator:

ESTIMATED DURATION:

Contractor Performing Work:

Supervisor:

TELEPHONE:

YES	NO	CONSTRUCTION ACTIVITY		YES	NO	INFECTION CONTROL RISK GROUP	
<input type="checkbox"/>	<input type="checkbox"/>	TYPE A	Inspection, noninvasive activity	<input type="checkbox"/>	<input type="checkbox"/>	GROUP 1	Low Risk
<input type="checkbox"/>	<input type="checkbox"/>	TYPE B	Small scale, short duration, moderate to high levels	<input type="checkbox"/>	<input type="checkbox"/>	GROUP 2	Medium Risk
<input type="checkbox"/>	<input type="checkbox"/>	TYPE C	Activity generates moderate to high levels of dust, requires greater than 1 work shift for completion	<input type="checkbox"/>	<input type="checkbox"/>	GROUP 3	Medium/High Risk
<input type="checkbox"/>	<input type="checkbox"/>	TYPE D	Major duration and construction activities requiring consecutive work shifts	<input type="checkbox"/>	<input type="checkbox"/>	GROUP 4	Highest Risk
Class I		1. Execute work by methods to minimize raising dust from construction operations. 2. Immediately replace any ceiling tile displaced for visual inspection.				3. Minor demolition for remodeling.	
Class II		1. Provides active means to prevent airborne dust from dispersing into atmosphere. 2. Water mist work surfaces to control dust while cutting. 3. Seal unused doors with duct tape. 4. Block off and seal air vents. 5. Wipe surfaces with cleaner/disinfectant.				6. Contain construction waste before transport in tightly covered containers. 7. Wet mop and/or vacuum with HEPA-filtered vacuum before leaving work area. 8. Place mat at entrance and exit of work area. 9. Isolate HVAC system in areas where work is being performed; restore when work completed.	
Class III		1. Obtain infection control permit before construction begins. 2. Isolate HVAC system in area where work is being done to prevent contamination of the duct system. 3. Complete all critical barriers or implement control cube method before construction begins. 4. Maintain negative air pressure within work site using HEPA-equipped air filtration units. 5. Do not remove barriers from work area until complete project is checked by the IC department and thoroughly cleaned by Environmental Services.				6. Vacuum work with HEPA-filtered vacuums. 7. Wet mop with cleaner/disinfectant. 8. Remove barrier materials carefully to minimize spreading of dirt and debris associated with construction. 9. Contain construction waste before transport in tightly covered containers. 10. Cover transport receptacles or carts. Tape covering. 11. Upon completion, restore HVAC system where work was performed.	
Date							
Initial							
Class IV		1. Obtain infection control permit before construction begins. 2. Isolate HVAC system in area where work is being done to prevent contamination of duct system. 3. Complete all critical barriers or implement control cube method before construction begins. 4. Maintain negative air pressure within work site utilizing HEPA-equipped air filtration units. 5. Seal holes, pipes, conduits, and punctures appropriately. 6. Construct anteroom and require all personnel to pass through this room so they can be vacuumed using a HEPA vacuum cleaner before leaving work site or they can wear cloth or paper coveralls that are removed each time they leave the worksite.				7. All personnel entering work site are required to wear shoe covers. 8. Do not remove barriers from work area until completed project is checked by IC department and thoroughly cleaned by Environmental Services. 9. Vacuum work area with HEPA-filtered vacuums. 10. Wet mop with disinfectant. 11. Remove barrier materials carefully to minimize spreading of dirt and debris associated with construction. 12. Contain construction waste before transport in tightly covered containers. 13. Cover transport receptacles or carts. Tape covering. 14. Upon completion, restore HVAC system where work was performed.	
Date							
Initial							
ADDITIONAL REQUIREMENTS Exceptions/additions to the permit are noted by attached memoranda							

REQUESTED By:

DATE:

IP AUTHORIZED BY:

DATE:

The MetroHealth System
MOP
Method of Procedure

Site:

Address:

Area/staff affected:

Start-Date/Time:

Complete-Date/Time:

General Description of work:

Areas or systems that may be impacted by work:

Pre-construction Activities:

Construction Activities:

Post Construction Activities:

Service Impairment Hazards:

A: ICRA Required: YES / NO Date Completed: _____
 B: IUSM Required: YES / NO Date Completed: _____
 C: Hot Work Permit: YES / NO Date Completed: _____
 D: Fire Stop Permit: YES / NO Date Completed: _____
 E: Above the ceiling: YES / NO Date Completed: _____
 F: ILSM Required YES / NO Date Completed: _____

This MOP has been prepared and submitted by:

(Printed Name)

(Company)

The undersigned have reviewed this MOP and here-by release it for implementation. The undersigned Work Performer(s) agrees to abide by the terms of the MOP and prominently post a copy on the premises when the work is being performed. Performer(s) also agrees to keep a copy of the Project Emergency Call-Out List on the premises when the work is being performed. Changes not specifically allowed by the CNP/MOP shall not be made without the concurrence of the undersigned parties.

Project Manager	Date:
Facilities Admin.	Date:
Facilities Site Manager	Date:
Compliance Manager	Date:
	Date:
	Date:

The MetroHealth System

Interim Life Safety Measures Decision Matrix

Campus: _____ Start Date: _____ Est. End Date: _____
 Building: _____ Issue: _____
 Floor/Rooms: _____
 Department: _____
 Compliance Manager/Fire Marshal: _____ Project Manager: _____

Project/ ILSM Issue	YES**	NO	Interim Life Safety Measures												
			a	b	c	d	e	f	g	h	i	j	k	l	m
1. Will detection be impaired for >4hrs in a 24 hr period or suppression >10 hrs in a 24 hr period?			X				X								
2. Will exiting paths be impaired, or blocked?				X	X										
3. Will the integrity of the buildings fire alarm, detection, or fire suppression be impaired?							X			X					
4. Are temporary partitions required?							X	X							
5. Will large quantities of combustibles & debris be present?					X		X			X					
6. Will access to or by emergency services be impaired?				X											
7. Will compartmentalization be impaired?									X						
8. Other condition? _____															X

**** YES ANSWER REQUIRES IMPLEMENTATION OF ONE OR MORE OF THE FOLLOWING ILSM'S**

X are required measures; shaded boxes shall be implemented based on circumstances and duration.

- Initiate and document, fire watch and notify Local fire department when detection is impaired >4 hrs in a 24 hr period or suppression is impaired for >10 hrs in a 24 hr period.
- Post signage identifying the location of alternate exits to everyone affected. Verify and presence daily.
- Inspect exits in affected areas on a daily basis. Document.
- Provide temporary, but equivalent, fire alarm and detection systems for when a fire system is impaired, and document tests monthly.
- Provide additional firefighting equipment. Verify and document presence daily.
- Temporary construction partitions must be smoke-tight or made of noncombustible or limited-combustible material that will not add to the development or spread of fire. Verify and document daily.
- Inc. surveillance of buildings, grounds & equipment, giving special attention to construction areas & storage, evacuation & field offices. Verify and document daily.
- Enforce storage, housekeeping & debris removal practices that reduce the bldg.'s flammable & combustible fire load to the lowest feasible level. Verify and document daily.
- Provide additional training to those who work in the hospital on the use of firefighting equipment. Document on attendance record forms or equivalent.
- Conduct one additional fire drill per shift per quarter. Document.
- Conduct education to promote awareness of bldg. deficiencies, construction hazards & temp. measures implemented to maintain fire safety. Document on attendance record forms or equivalent.
- Train those who work in the hospital to compensate for impaired structural or compartmental fire safety features. Document on attendance record forms or equivalent.
- As described: _____

Comments: _____

Date Closed: _____ Comp Manager/Fire Marshal: _____ Project Manager: _____

*Review not valid if matrix is not signed; Document will be archived in the ILSM book in Facilities

Copies of this document shall be posted and maintained in a conspicuous location at the work area.

HOT WORK PERMIT

NAME OF COMPANY		
DATE	TIME ISSUED	PERMIT EXPIRES AM PM
LOCATION/BUILDING & FLOOR (Be Specific)		
NAME OF PERSON AUTHORIZING HOT WORK		
PERSON (S) PERFORMING HOT WORK		
DESCRIPTION OF WORK BEING PERFORMED		
PERSON (S) PERFORMING FIRE WATCH		
OTHER INFORMATION:		

PRECAUTIONS CHECKLIST

☐ ☐ Y N/A Security has been contacted to ensure that sprinkler systems are not impaired.

Requirements within 35 ft. (10m) of work

☐ ☐ Flammable liquids, combustible dust, and oily deposits removed.

☐ ☐ Explosives atmosphere area eliminated.

☐ ☐ Floor swept clean.

☐ ☐ Combustible building construction covered with fire-resistant coverings.

☐ ☐ Remove other combustible materials where possible. Otherwise protect them with fire-resistant coverings.

☐ ☐ Wall, floor, and machinery openings covered.

☐ ☐ Fire-resistant tarpaulins suspended beneath work.

☐ ☐ Electrical cable trays and switch gear protected with fire-resistant tarpaulins or metal shields.

☐ ☐ Ducts and conveyors, systems cleaned, protected and/or shut off.

Work on walls or ceilings

☐ ☐ Construction is noncombustible and without combustible covering or insulation.

☐ ☐ Combustibles on other side of walls moved away or a fire watch provided on the opposite side of the wall from the work.

Work on enclosed equipment

☐ ☐ Enclosed equipment cleaned of all combustibles.

☐ ☐ Container purged of flammable liquids/vapors.

☐ ☐ Pressurized vessels, piping and equipment removed from service, isolated and vented.

Fire Watch / Hot Work area monitoring

☐ ☐ Fire watch will be provided during and for 60 minutes after hot work is completed.

☐ ☐ The hot work area will be periodically inspected during the three hours after the fire watch leaves the high hazard area.

☐ ☐ Proper class of extinguisher must be within 10 feet.

☐ ☐ Fire watch is trained in their duties.

☐ ☐ Fire watch is required for adjoining areas above & below.

OTHER PRECAUTIONS TAKEN

0012



Daily Safety Inspection Checklist

Week Starting Date: _____ Project Name: _____

Building/ Floor: _____

MH Project Manager: _____

Responsible Contractor: _____ Superintendent: _____

1. Please survey the work area. Note any deficiencies in Section 2.

Section A								
Has the Safety Office been notified of all work processes that could?								
	M	T	W	TH	F	Sa	Su	
1. Compromise Life Safety?								
2. Cause harsh smells or generate large quantities of dust?								
3. Interfere with the operation of the fixed fire detection or suppression system?								
4. Other: (list)								

Section B								
Means of Egress								
	M	T	W	TH	F	Sa	Su	
1. Fire/Smoke Doors unlocked, free of obstruction?								
2. Sufficient Means of Egress free of obstructions and properly marked?								
3. Other: (list)								

Section C								
Fire Alarm, Fire Detection & Fire Suppression Systems								
	M	T	W	TH	F	Sa	Su	
1. Fire Alarm Pull Stations unobstructed								
2. Are smoke detector dusk caps in use (if required)?								
Contractor employee assigned to ensure caps are removed at close of day?								
3. Hot Work Permits in use?								
4. Are sprinkler heads unobstructed?								
5. Other: (list)								

Section D								
Housekeeping and Environmental Controls								
	M	T	W	TH	F	Sa	Su	
1. Trash and debris removed daily?								
2. Debris covered / dampened prior to being transported outside the construction area. Wheels wiped for dust?								
3. Floor mats and dust tack mats located at the entrance to the construction area and replaced as needed?								
4. Tool and material storage neat and orderly (18" below sprinkler heads)?								
5. Signs installed to restrict patient access								
6. Dust is controlled by using a shop vacuum or other dust reducing technique. (Dry sweeping is not performed)								
7. Doors closed, sheetrock or fire resistant plastic sheeting installed to enclose wall openings?								
8. Barriers are wiped down prior to being removed?								
9. Other: (list)								

FIRE WATCH LOG
Required for all outages/shutdowns

PROJECT NUMBER: _____

Building / Floor / Location: _____

*Inspector / Contact Phone Number: _____

[illegible]

Instructions for fire watch: Walk all areas impacted by outage/shutdown such as sprinkler or smoke detector locations. ODH regulated facilities require a fire watch round every 15 minutes. All other locations are hourly unless otherwise specified by MetroHealth Facilities Management. Note date, time, NAME PRINTED IN FULL, and condition as "OK" (or activate fire plan).

UPON COMPLETION PLEASE SUBMIT EITHER IN PERSON OR VIA EMAIL

Emergency Contact List for Project Name

Contractor Emergency Contact Information		
Superintendent	Name	Cell
Project Manager	Name	Cell
MetroHealth Emergency Contacts		
Project Manger	Name	Cell
Power House	216-778-3572	
MHPD	216-778-3000	
Electrical Supervisor	Name	Cell
Mechanical Supervisor	Name	Cell
Fire Marshall	Name	Cell

Request for Building System Shutdown

The following is required for all Contractors performing work on Building systems at The MetroHealth System. A **(5 business day) FM Verification of Operational Impact time period** MUST be given to the Facilities Management Department in writing regarding any system shutdown. A determination of Operational Impact will be provided within **five (5) business days** of Facilities Management receiving* this request. Submission of this document must be made via a scheduled meeting with an Assistant Director of Facilities Management.

(Section 1) – Completed by Contractor/Requestor

Project		CM #	
Reason for the Shutdown			
Proposed Date of Shutdown**	Time	Estimated Duration(hours)	
(Location of Shutdown) Building	Floor	Room #	
List and attach contract engineering drawing clearly detailing work being performed by Contractor			
Type of Shutdown:			
<input type="checkbox"/> Electrical	<input type="checkbox"/> Fire Sprinkler***	<input type="checkbox"/> FM200/Halon Systems***	
<input type="checkbox"/> HVAC	<input type="checkbox"/> Smoke/Duct Detector**	<input type="checkbox"/> Steam	
<input type="checkbox"/> Water (Hot/Cold)	<input type="checkbox"/> Vacuum/Oxygen/Mixed Gas/MAGV	<input type="checkbox"/> Other _____	
Company Name	Superintendent Name	Cell Phone #	Email Address
Signature of Requestor		Date of Submission to MH PM	

*Date Received by FM (See Section 3)

**The Proposed Date of Shutdown should take in account the complexity of the shutdown and areas impacted. it is recommended request be submitted to Facilities Management a minimum of 14 calendar days prior to the proposed date of Shutdown. This is to allow for Verification of Operation Impact and System Notification. More complex Shutdowns requiring more extensive coordination may require up to 4 weeks and will be determined at completion of Section 3.

***ILSM Decision matrix for this request must be attached for review.

End of Section 1

(Section 2) Construction Review - Completed by MH Project Manager

MH PM has reviewed for the completeness of information submitted above and attached. Meeting has been scheduled with MH FM, MH PM and the requesting Contractor.

MH Project Managers Name	Signature	Date of Submission Meeting**
<u>End of Section 2</u>		

(SECTION 3) – FM Verification of Operational Impact (VOI) - Completed by Facilities Management (FM)

FM VOI Lead Received by (Print Name) _____ Signature _____ Date received from MH PM* _____

Notes from submission meeting: _____

Follow up meeting scheduled no more than 5 business days after submission: Date: _____)

Review of As-Builts by (Print Name) _____ Signature _____ Date of Review _____

Review of in field conditions (Print Name) _____ Signature _____ Date of Review _____

SELECT ONLY ONE THAT APPLIES:

☐ **No Shutdown Required** (Work was determined to not to require a shutdown)

OR

☐ **Approved** (No Impact to Operations - Date FM can perform shutdown: _____)

OR

☐ **Impacts Operations** (Requires Further Review by Identified Stakeholders – MH PM to proceed to Section 4 to schedule kick off meeting) (Recommended Shut Down Date: _____) Maximum of 3 weeks from date below.

For Impacts to Operations - Select All Shutdown Stakeholders that Apply:

☐ Cath Lab ☐ CE ☐ CSPD ☐ Communications ☐ EED ☐ Emergency Management ☐ Endo ☐ EVS ☐ Food Services ☐ IS
☐ MHPD ☐ ORs ☐ Radiology ☐ Labs/Pathology ☐ Nursing/Ambulatory ☐ Nursing/In Patient ☐ Pharmacy
☐ Other _____ ☐ Other _____ ☐ Other _____ ☐ Other _____

FM VOI Lead (Print Name) _____ Signature _____ Date _____

FM Compliance (Print Name) _____ Signature _____ Date _____

***** SCAN AND E-MAIL THIS DOCUMENT TO MH PM AND CONTRACTOR ONCE IT IS SIGNED *****

--- IF THERE ARE IMPACTS TO OPERATIONS (PER SECTION 3), PROCEED WITH SECTIONS 4 THRU 6 ---

End of Section 3

(SECTION 4) Coordination Meeting - To be completed by MH PM

Coordination Meeting Held with Shutdown Stakeholders on: _____

Date Time

Minimum Agenda Items include:

- Goal of meeting is intended to answer Who, What, Where, Why and When.
- Planned shutdown Date
- Sign in sheet with Name, Department, email address and direct phone number.
- Impact to Operations and Stakeholders
- Roles and Responsibilities of: Contractor, MH PM, Facilities Management, Stakeholders
- Method of Procedures (MOP) Development - Activities during Pre-Shutdown, Construction, Utility Activation and Post Shutdown (Contractor to use this information in development of Method of Procedures in next section. (Section 5)
- Review of areas impacted on drawings/floor plans/As-built
- Methods of visually or electronically identifying closed/impacted rooms
- Review of Huddles: Day Prior, 1- Hour Prior and Follow up
- Postponement in case of emergency. (What events may cancel the Shutdown? i.e., Weather Event, Clinical Emergency, etc...)
 - Fall Back Date if postponed?
- IUSM Development - Additional Equipment Required? Back Up Procedures Required? Emergency Procedures? DSH/MIV Agreements? MH FM to use this information to develop the IUSM (Section 6)
- Impact to clinical procedures, operations, exams, patient visit in event work does not complete in time?
- Additional Stakeholders identified but not at meeting?
- Additional notes to hand?
- Available suppliers in line with day and time of work.
- At time of Utility Activation, what are expectations regarding controls, certification, balancing

Post Meeting Follow up:

- ☐ MH PM to distribute meeting minutes and sign in sheet to attendees
- ☐ MH PM to attach minutes and sign in sheet to request
- ☐ All Stakeholders confirmed during meeting? _____
 - If no, schedule second meeting for final determination.
 - ☐ Second meeting held on: _____. Attach minutes and amended Stakeholder list.

Date Time

End of Section 4

(SECTION 5) Method of Procedures (MOP) – To be Completed by Contractor.

(Template Document)

In filling out this document, include all activities for the Contractor, MH PM, FM and the Stakeholders.

Pre-Construction Activities:				
Step	BIC	Time	Duration	Activity
On site walk-through				Walk-through of areas impact with Stakeholders
Prior Day Huddle				Review of shutdown to confirm go ahead
Huddle				Roll Call – Confirm all Participants are on site
Time Out				
Clinical Approval to Start				Confirm with Clinical Staff prior to starting shutdown
Construction Activities:				
Shut Down				FM deactivates building system
Pause			15min	Assess shutdown for unexpected events
Commence or backout?				Gain feedback and make decision to move forward or backout.
Recertification (if req'd)				
Reactive Utility				Develop complete sequence of work coordination meeting
Pause				Assess reactivation
Post Construction Activities:				
Post Huddle				Confirm issues with impacted operations or follow up on issues
Recertification (if req'd)				
Lessons Learned				Review comments to as-builts or FM information. Room for improvement, etc...

Attach the following to this request:

- ☐ MOP outlining activities specific to the request
- ☐ List of subcontractors and contact information

The Contractor agrees to: 1.) Abide by the activities of the MOP 2.) Review the approved MOP with (and obtain signoff from) all subcontractors prior to performing the work. Sign offs are to be provide to MH after approval of the MOP 3.) Ensure their subcontractors follow the activities of the MOP without deviation 4.) Post a copy of the approved MOP on the premises when the work is being performed. 5.) Inform the On-Site Project Lead of any unforeseen conditions once work is underway.

This MOP has been prepared by:

Contractor Performing the Work (Print <u>Name</u>)	Signature	Date
The undersigned have reviewed this MOP and agree with all activities:		
MH Project Manager - On Site Project Lead (Print Name)	Signature	Date
FM Site Manager (Print <u>Name</u>)	Signature	Date
FM Compliance (Print <u>Name</u>)	Signature	Date
Sign off Key Stakeholder (Print Name)	Signature	Date

End of Section 5

(SECTION 6) Interim Utility Safety Measures – To be completed by Facilities Management (FM)

Additional Equipment Required? ☐ If yes, please provide the following:

Who is supplying?

Why is it needed?

Included in MOP?

Back-up Procedures Required? ☐ If yes, please provide the following:

Provide description of procedures:

Included in MOP?

Emergency Procedures Required? ☐ If yes, please provide the following:

Provide description of procedures:

System Notification Required? If so, Activities need to be identified and included in the MOP.

Incident Command to be active?

Included in MOP?

Emergency Procedures Approved by: _____ Date: _____

Affected staff notified on the following date _____ (Attach copy of notification)

Key Stakeholders name & cell phones for emergencies and text updates

MH PM Lead: cell:

Contractor Lead: cell:

FM Lead: (Responsible for IUSM) cell:

Administrator on Call (AOC): 216-957-2912 (will not receive texts)

Cath Labs/Cardiology: cell:

CE Lead: cell:

CSPD: cell:

Communication: cell:

Emergency Mgt. cell:

Endoscopy cell:

EVS & Logistics: cell:

Food Services: cell:

IS Call Center: 216-957-2125

IS Lead: cell:

MHPD Dispatch: 216-778-3000

MHPD: cell:
 ORs: cell:
 Radiology: cell:
 Pathology/Lab: cell:
 Nursing/Amb.: cell:
 Nursing/In-pt.: cell:
 Pharmacy: cell:
 Other: cell:
 Other: cell:

Emergency WebEx number in case of emergency: Phone: 1-415-655-0002 access code: _____

MIV Announcement (Minimum 1 week Prior to Shutdown) _____
 Date _____ Time _____

Announcement:

DSH Announcement (Minimum 1 week Prior to Shutdown) _____
 Date _____ Time _____

Announcement:

Authorization to Proceed with Shutdown

(By signing below, you agree with the information provided in this document)

Date & Time of Shutdown _____ Date of MIV _____ Date of DSH _____

FM Compliance (Print Name) _____ Signature _____ Date _____

FM Assistant Director (Print Name) _____ Signature _____ Date _____

Environmental Safety Officer (Print Name) _____ Signature _____ Date _____

Emergency Management (Print Name) _____ Signature _____ Date _____

FM Director (Print Name) _____ Signature _____ Date _____

End of Document

Facilities Management Contractor Check-In Directive

Effective 9/1/2021

Purpose: The purpose of this Directive is to establish clear expectations related to the MetroHealth System (MH) *Facilities Management (FM)* and *Planning, Design, and Construction (PDC)* contractor and vendor check in requirements.

Scope: This directive applies to all individuals working at the direction of, or on behalf of FM and/ or PDC that are on-site for any business reason at any MH property that is not an isolated or standalone, unoccupied construction site. If for any reason contractors working at a standalone, unoccupied construction site must enter an occupied MH site, they must check-in.

Contractors working at standalone, non-occupied construction sites must follow direction provided in the Construction Contractor Handbook.

This directive does not supersede or replace any existing badging, communication, other directives, protocols, or expectations other than and specifically, existing FM "Check-in/sign-in/logbook" expectations.

Further this directive does not supersede the need for good collaboration and communication between contractors and their MH point of contact prior to, during, and after onsite MH visits.

Contractor Check-In requirements:

1. Contractors and Vendors must check-in *each day* that they are on site at any MetroHealth property in a business capacity.
2. One representative from a contractor team or crew may check in for the team but only for a single contractor that they work for and, the crew size should be indicated at check-in.
3. Contractors and Vendors are only permitted on site at MetroHealth to accomplish MetroHealth business.
4. Check-in must be completed digitally, or if unable to complete check in digitally, individuals must report to the FM office and have designated FM personnel check them in each day they are on-site.

Digital Check-In:

1. Digital Check-in is accomplished via web-based survey which is available via link or by scanning the Check-In Barcode on a capable device. *See appendix A*
2. Barcodes are available for scanning at each FM office and at designated facility entrance locations.
3. Check-in links can also be acquired from FM Leadership or by emailing FMoffice@metrohealth.org.
4. Once a link is acquired, it may be saved or added to a smartphone home screen if desired for future use.
5. All survey questions are required and should be answered clearly and completely.
6. Once a survey is submitted, responses will be captured on the FM Check-In Log and the digital check-in process is complete.



*MetroHealth Contractor
Daily Check In*



[CheckInLink](#)

(End of MetroHealth Contractor Safety Handbook)

Diversity Participation Affidavit

idder shall bring signed and notarized Affidavit to the Post-Bid Evaluation Meeting

The MetroHealth System ("MHS") is committed to minority supplier participation. Each Bidder, considered to have submitted the lowest and best bid or price proposal for award of a contract is required to submit documentation that a.) the Bidder is committed to achieving the participation goals established for the Project or b.) substantiates the Bidder's Good Faith Effort to meet the identified participation goals.

_____ ("Bidder") submits the following information regarding the levels of Diversity Participation for the Bidder.

1. Is the Bidder a Certified MBE/FBE?

Yes / No (circle one)

2. List all MBE/FBE subcontractors and suppliers, with contract amounts, Bidder will use on the Project.

3. If the Bidder is a Certified MBE/FBE, write "Bidder" on line 1 below and indicate amount of work to be self-performed.

Name of Diversity Subcontractor / Supplier	DIVERSITY Status (circle ALL Certifications that apply)	Subcontract Amount
1.	MBE /FBE	\$
2.	MBE /FBE	\$
3.	MBE /FBE	\$
4.	MBE /FBE	\$
5.	MBE /FBE	\$
A. TOTAL DIVERSITY SUBCONTRACTS		\$
B. TOTAL BASE BID (FROM BID FORM)		
C. % PARTICIPATION - A/B x 100		

(continue list on additional sheets of paper if necessary)

4. Will Bidder self-perform ALL of the work on the Project with labor directly employed by the Bidder?

Yes / No (circle one)

Diversity Participation Affidavit

5. Will Bidder purchase or rent any equipment, materials or supplies for its work on the Project?

Yes / No (circle one)

If yes, will the purchases or rental of the equipment, materials or supplies for the Work be from subcontractors and suppliers that are either MBE/FBE or Local businesses?

Yes: _____; Value: _____

No: _____

The undersigned certifies that if it is awarded the contract by MHS, it will continue to work to fulfill the Diversity participation objectives, and that it will enter into formal agreements with the Diversity Subcontractor and/or Suppliers identified above as being able and willing to perform work or provide supplies required for the contract, and further agrees to provide MHS with proof of subcontracts, payments or other agreements with MBE/FBE 's upon request. The undersigned will immediately notify MHS in the event that any of the information provided in this Diversity Participation Affidavit changes in any material way.

BIDDER

By: _____

Print Name and Title: _____ Date: _____

State of Ohio, County of _____, ss:

Subscribed and sworn before me this _____ day of _____, 20__.

Notary Public

My Commission Expires: _____

A SIGNED COPY OF THIS AFFIDAVIT MUST BE BROUGHT TO THE POST-BID PRE-AWARD MEETING.

NOTICE OF CLAIM FORM
Claim No. ____ for Contractor

1. Name of Contractor: _____.

2. Date written claim given: _____.

3. Contractor's representative to contact regarding the claim:

Name: _____ Title: _____
Telephone No. _____ (office) FAX No. _____
E-mail: _____

4. General description of claim:

5. Contract Documents. If the claim is based upon any part or provision in the Contract Documents, including but not limited to pages in the Drawings and/or paragraphs in the Specifications, Owner-Contractor Agreement, General Conditions or Supplementary General Conditions, state upon which parts or provisions the claim is based:

6. Delay claims:

- 6.1 Date delay commenced: _____
6.2 Duration or expected duration of the delay, if known: _____
6.3 Apparent cause of the delay and part of critical path affected:

6.4 Expected impact of the delay and recommendations for minimizing such impact:

7. Additional compensation. Set forth in detail all additional compensation to which the Contractor believes it is entitled with respect to this claim:

8. Truth of Claim. By submitting this claim, the Contractor and its representative certify that after conscientious and thorough review and to the best of his or her knowledge and belief a) the information in this State of Claim is accurate, b) the Contractor is entitled to recover the compensation in paragraph 7, and c) the Contractor has not knowingly presented a false or fraudulent claim. The Contractor by its authorized representative must acknowledge this Notice of Claim before a notary public.

CONTRACTOR: _____

By: _____

Name and Title: _____

Date: _____

CONTRACTOR'S ACKNOWLEDGMENT

State of _____,

County of _____, ss:

_____ first being sworn, states that after conscientious and thorough review the statements made in attached Notice of Claim Form are true to the best of his or her knowledge and belief.

Sworn to before me a notary public by _____ on _____, 200____.

Notary Public

WHEN COMPLETED, FORWARD A COPY OF THIS NOTICE OF CLAIM FORM TO THE OWNER, CONSTRUCTION MANAGER (if applicable) , AND ARCHITECT AS DESCRIBED IN THE INSTRUCTIONS FOR COMPLETING THE NOTICE OF CLAIM FORM.

INSTRUCTIONS FOR COMPLETING THE NOTICE OF CLAIM FORM

1. Completing the Notice of Claim Form ("Claim Form") is a material term of the Contract. The Claim Form tells the Owner, Construction Manager (if applicable), and Architect that the Contractor is making a Claim and that they need to act promptly to mitigate the effects of the occurrence giving rise to the Claim. The Claim Form also provides them with information so that they can mitigate such effects. The Contractor acknowledges that constructive knowledge of the conditions giving rise to the Claim through job meetings, correspondence, site observations, etc. is inadequate notice, because knowledge of these conditions does not tell the Owner, Construction Manager (if applicable), and Architect that the Contractor will be making a Claim and most often is incomplete.
2. The Contractor must provide preliminary information in all blanks in the Claim Form, except for paragraph 7, within the period required in the General Conditions (Article 15) of the Contract Documents. After providing the preliminary information, the Contractor must supplement the Claim Form with complete and detailed information within thirty (30) days of submitting the Claim Form. If the space provided in the Claim Form is insufficient, the Contractor, as necessary to provide complete and detailed information, must attach pages with the required information to the Claim Form.
3. Paragraph 4. The Contractor must state what it wants, *i.e.*, time and/or compensation, and the reason why it is entitled to time and/or compensation.
4. Paragraph 5. The Contractor must identify the exact provisions of the Contract Documents it is relying on in making its Claim. For example, if the Claim is for a change in the scope of the Contractor's Work, the Contractor must identify the specific provisions of the Specifications, and the Plan sheets and details that provide the basis for the scope change.
5. Paragraph 6. This paragraph applies to delay claims, including delays that the Contractor believes result in constructive acceleration. The Contractor must identify the cause of the delay, party or parties responsible, and what the party did or did not do that caused the delay, *i.e.*, specific work activities. The Contractor acknowledges that general statements are not sufficient, and do not provide the Owner with sufficient information to exercise the remedies available to the Owner or to mitigate the effects of the delay.

For example, if the Contractor claims a slow response time on submittals caused a delay, the Contractor must identify the specific submittals, all relevant dates, and then show on the applicable schedule, by circling or highlighting, the activities immediately affected by the delays. Also for example, if the Contractor claims it was delayed by another Contractor, the Contractor must identify the delaying Contractor, specifically what the delaying Contractor did or did not do that caused the delay, and then show on the applicable schedule, by circling or highlighting, the activities immediately affected by the delays. Further by example, if the Contractor seeks an extension of time for unusually severe weather, the Contractor must submit comparative weather data along with a record of the actual weather at the job site and job site conditions.

6. Paragraph 6.4. Time is of the essence under the Contract Documents. If there is a delay, it is important to know what can be done to minimize the impact of the delay. It therefore is important that the Contractor provide specific recommendations on how to do so.
7. Paragraph 7. The Contractor must provide a specific and detailed breakdown of the additional compensation it seeks to recover. For future compensation, the Contractor shall provide its best estimate of such compensation.
8. Paragraph 8 and Acknowledgment. In completing the Claim Form, the Contractor and its representative certify that after conscientious and thorough review and to the best of its knowledge and belief (a) the information in this Claim Form is accurate, (b) the Contractor is entitled to recover the compensation in Paragraph 7, and (c) the Contractor has not knowingly presented a false or fraudulent claim. The Contractor by its authorized representative must acknowledge this Notice of Claim before a notary public at the time of the preliminary submission and also when making the supplemental submission.

End of Instructions

CONTRACTOR EVALUATION FORM

Contractor _____

Key Personnel/Roles _____

Project Name _____

CM Project No. _____ Project Location _____

Trade Performed: _____ Site _____ Gen ☐ Elect ☐ HVAC ☐ Plbg. ☐ Fire ☐
(Check all that Apply)

Contract Type: _____ Prime Contractor ☐ Subcontractor ☐
(Check all that Apply)

Rating (Excellent = 3, Good = 2, Fair = 1, Poor = 0) Reviewer (O = Owner) (A = Architect)

	Contract/Schedule	Rating	Max Value	Reviewer	Comment (as needed)
1	Were all of the contract forms submitted on time?		3	O	
2	Did the contractor attend all safety video and badging on time?		3	O	
	(For questions 2 to 5, If a schedule was submitted but not a CPM, mark no.)				
3	Did the Contractor Submit a CPM Schedule.		3	A	
4	CPM Schedule submitted within 10 days of the notice to proceed?		3	O	
5	Did the CPM Schedule show all submittals and long lead items accurately?		3	A	
6	Did the CPM schedule show all interim milestones, Substantial Completion and Final Completion dates?		3	A	
7	Did the Owner and Architect accept the schedule?		3	A	

Subtotal 21

CONTRACTOR EVALUATION FORM

Superintendent/Supervision

8	Did the Superintendent use good means and method?		3	O	
9	Was the Superintendent on site full time?		3	O	
10	Did the contractor follow all of the architects direction and recommendations as a result of RFI's, meetings, etc...		3	A	
11	Did Superintendent coordinate all utility impairments per MHFM guidelines?		3	O	
12	Did the contractor respond promptly to urgent matters?		3	O	

Subtotal

15

RFI/Submittal/CCD/CO

13	Did the contractor bring all issues to the Architect in a timely manner?		3	A	
14	Did the Contractor utilize all of the contract documents in an effort to minimize RFI's?		3	A	
15	Were all RFI's written clearly and with enough detail?		3	A	
16	Were all of the submittals into the architect per the submittal schedule?		3	A	
17	Were all of the submittals successfully submitted without the need for resubmission?		3	A	
18	Did the Contractor promptly respond to bulletins?		3	A	
19	Did the Contractor submit all backup for additional work per the contract documents without prompting by the Architect or Owner?		3	A	
20	Did the contractor have a complete scope of work.		3	A	
21	Did the contractor submit legitimate claims.		3	A	

Subtotal

27

CONTRACTOR EVALUATION FORM

Housekeeping/Infection Control/ILSM

22	Did the contractor leave the project clean at the end of every work day?		3	O	
23	Were critical barriers sealed every day?		3	O	
24	Were sticky matts changed frequently to adequately reduce particulates?		3	O	
25	Did the contractor go the entire project without being put on notice for infection control violations?		3	O	
26	Did the Superintendent complete all safety checklists in a timely manner?		3	O	
27	Did the contractor have an acceptable method to track pressurization within the project site?		3	O	
28	Did the Contractor keep a log of HEPA filter changes?		3	O	
29	Did the Contractor have all of the MSDS sheets on site.		3	O	
30	Did the work go without complaint of odor or other inconvenience of staff or patient?		3	O	
Subtotal			27		

Quality Control

31	Did the contractor have all contract documents at the job site?		3	A	
32	Did the contractor construct mock-ups as required by the contract documents?		3	A	
33	Did the contractor perform all work in a workmanlike manner?		3	A	
34	Did the contractor provide updated schedules at the project meetings?		3	A	
35	Did the contractor perform its own punch list before the Architect perform theirs?		3	A	
Subtotal			15		

CONTRACTOR EVALUATION FORM

Project Closeout

36	Did the project meet all interim milestones?		3	O	
37	Did the project meet substantial completion?		3	A	
38	Did the contractor schedule the punch list inspection with the Architect and Owner?		3	A	
39	Did the Contractor complete the punch work in a professional manner.		3	A	
40	Did the Contractor provide project closeout documentation per the specifications?		3	A	
Subtotal			15		

Professionalism

41	Did the project manager work well with the team?		3	O	
42	Did the superintendent work well with the team?		3	O	
43	Did the contractors home office work well with the team?		3	O	
Subtotal			9		

E-Builder

44	Did the Contractor use e-builder Submittal Process effectively?		3	O	
45	Did the Contractor use e-builder RFI Forms effectively?		3	O	
46	Did the Contractor use the Contractor Pay Application process efficeintly ?		3	O	
47	Did the Contractor use the Close-out Process effectively?		3	O	
48	Did the Contractor promptly respond to Action Items?		3	O	
49	Did the Contractor request assistance if they had issues working in e-builder?		3	O	
Subtotal			18		

Misc Items

Subtotal					

CONTRACTOR EVALUATION FORM

Owner Signature: _____

Architect Signature: _____

~~BID GUARANTY BOND~~
~~BID GUARANTY BOND~~

FOR

**The MetroHealth System
2500 MetroHealth Drive
Cleveland, Ohio 44109-1998**

FOR

The MetroHealth System BOARD OF TRUSTEES

KNOW ALL MEN BY THESE PRESENTS, that we, the undersigned, _____

_____ as principal and _____

as sureties, are hereby held and firmly bound unto the Board of Trustees, The MetroHealth System, 2500 MetroHealth Drive, hereinafter called the Board, to undertake the project known as (Project) _____ The penal sum referred to herein shall be the dollar amount of the principal's bid to the obligee, incorporating any additive or deductive alternate proposals made by the principal on the date referred to above to the obligee, which are accepted by the obligee. In no case shall the penal sum exceed the amount of \$ _____ (\$ _____).

(If the foregoing blank is not filled in, the penal sum will be considered to be the full amount or 100% of the principal's bid, including alternates. Alternatively, if the blank is filled in, the amount stated must not be less than the full amount or 100% of the bid including alternates, in dollars and cents. A percentage is not acceptable.) For the payment of the penal sum well and truly to be made, we hereby jointly and severally bind ourselves, our heirs, executors, administrators, successors, and assigns.

Signed this _____ day of _____, 20____ THE CONDITION OF THE ABOVE OBLIGATION IS SUCH, that whereas the above named principal has submitted a bid for _____

Now, therefore, if the obligee accepts the bid of the principal and the principal fails to enter into a proper contract in accordance with the bid, plans, details, specifications, and bills of material; and in the event the principal pays to the obligee the difference not to exceed ten percent of the penalty hereof between the

The MetroHealth System

BID GUARANTY BOND (continued)

amount specified in the bid and such larger amount for which the obligee may in good faith contract with the next lowest bidder to perform the work covered by the bid; or in the event the obligee does not award the contract to the next lowest bidder and re-submits the project for bidding, the principal pays to the obligee the difference not to exceed ten percent of the penalty hereof between the amount specified in the bid, or the cost, in connection with the resubmission, of printing new contract documents, required advertising, and printing and mailing notices to prospective bidders, whichever is less, then this obligation shall be null and void otherwise to remain in full force and effect; if the obligee accepts the bid of the principal and the principal within ten days after the awarding of the contract enters into a proper contract in accordance with the bid, plans, details, specifications, and bills of material, which said contract is made a part of this bond the same as though set forth herein.

Now also, if the said _____ shall well and faithfully do and perform the things agreed by _____ to be done and performed according to the terms of said contract; and shall pay all lawful claims of subcontractors, material men, and laborers, for labor performed and materials furnished in the carrying forward, performing, or completing of said contract; we agreeing and assenting that this undertaking shall be for the benefit of any material man or laborer having a just claim, as well as for the obligee herein; then this obligation shall be void; otherwise the same shall remain in full force and effect; it being expressly understood and agreed that the liability of the surety for any and all claims thereunder shall in no event exceed the penal amount of this obligation as herein stated.

The said surety hereby stipulates and agrees that no modifications, omissions, or additions, in or to the terms of the said contract or in or to the plans or specifications therefore shall in any wise affect the obligations of said surety on its bond.

IT IS AGREED, that, in case the OWNER shall desire to give any written notice or communication to the Surety the deposit in the Post Office of any such writing, enclosed in a registered envelope properly stamped and addressed to the Surety, or its agents, at the address of the Surety's Cleveland, Ohio Agency given above, shall constitute the delivery of such notice or communication to the surety.

The MetroHealth System

BID GUARANTY BOND (concluded)

IN WITNESS WHEREOF, the above bonded parties have executed this instrument under their several seals, this _____ day of _____, 2098~~12~~. The name and Corporate Seal of each Corporate Party being hereto affixed and these presents duly signed by its undersigned representative, pursuant to authority of its governing body.

IN PRESENCE OF:

_____	_____ (Seal)
	(Individual Principal)
_____	_____
(Address)	(Business Address)
_____	_____ (Seal)
	(Individual Principal)
_____	_____
	(Business Address)

ATTEST:

	(Corporate Principal)
_____	_____
	(Business Address)

By _____
(Affix Corporate Seal)

ATTEST:

	(Corporate Surety)
_____	_____
	(Business Address)
	By _____
	(Affix Corporate Seal)

The rate or premium on this Bond is _____ per thousand. Total amount or premium _____ Dollars.
(The above must be filled in by Corporate Surety)

PERFORMANCE BOND

FOR

The MetroHealth System
2500 MetroHealth Drive
Cleveland, Ohio 44109-1998

FOR

The MetroHealth System BOARD OF TRUSTEES

NOW ALL MEN BY THESE PRESENTS, that we, the undersigned _____

_____ hereinafter called the Principal of and _____

_____, a corporation organized and existing under, and by virtue of the laws of the State of Ohio, having its Cleveland Agency at _____, hereinafter called the Surety, are held bound unto the hereinafter called the Board in the penal sum of _____ Dollars (\$ _____), for payment of which well and truly to be made, we hereby jointly and severally bind ourselves, our heirs, executors, administrators, successors, and assigns.

THE CONDITIONS OF THIS OBLIGATION ARE SUCH, that, Whereas the Principal did on the _____ day of _____, 20____, duly enter with the Board into an Agreement hereto attached and agreed to do the work covered thereby in accordance therewith and in accordance with the Drawings and Specifications therein referred to, signed by the parties and marked with their respective titles, as covering the work required to furnish all labor, material and equipment for this Contractor's work in the (Project) _____ all of which documents are hereby made part of this Bond, by reference, the same as if fully set forth herein:

Now if said Principal shall well and faithfully do and perform the things agreed by it to be done and performed according to the terms of said contract; and shall pay all lawful claims of sub- contractors, materialmen, and laborers, for materials furnished and labor performed in the carrying forward, performing and completing of said contract; we agreeing and assenting that this undertaking shall be for the benefit of any materialman or laborer having a just claim, as well as for the obligee herein; then this obligation shall be void; otherwise the same shall remain in full force and effect; it being expressly understood and agreed that the liability of the surety for any and all claims thereunder shall in no event exceed the penal amount of this obligation as herein stated.

The surety hereby stipulates and agrees that no modifications, omissions, or additions, in or to the terms of the said contract, or in or to the Drawings or

PERFORMANCE BOND (concluded)

Specifications therefore shall in any wise affect the obligations of said surety on the bond.

IT IS AGREED, That, in case the OWNER shall desire to give any written notice or communication to the Surety, the deposit in the Post Office of any such writing, enclosed in a registered envelope properly stamped and addressed to the Surety, or its agents, at the address of the Surety's Cleveland, Ohio Agency given above, shall constitute the delivery of such notice or communication to the surety.

IN WITNESS WHEREOF, the above bonded parties have executed this instrument under their several seals, this _____ day of _____, 20____. The name and Corporate Seal of each Corporate Party being hereto affixed and these presents duly signed by its undersigned representative, pursuant to authority of its governing body.

IN PRESENCE OF:

(Individual Principal) _____ (Seal)

(Address) _____ (Business Address)

(Individual Principal) _____ (Seal)

(Business Address)

ATTEST: _____
(Corporate Principal)

(Business Address)

By _____
(Affix Corporate Seal)

ATTEST: _____
(Corporate Surety)

(Business Address)

By _____
(Affix Corporate Seal)

The rate or premium on this Bond is _____ per thousand. Total amount of premium
_____ Dollars.

(The above must be filled in by Corporate Surety)

CERTIFICATION TO ENSURE NON-DISCRIMINATION

We _____ certify to The MetroHealth System Board of Trustees
(Contractor's Name)
that we do not engage in discriminatory practices. We further agree that we will ask our suppliers and subcontractors to abide by this certification.

A. The Contractor and all Subcontractors shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, or national origin. The Contractor shall take affirmative action to ensure that applicants are employed, and the employees are treated during employment without regard to their race, religion, color, sex, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the policies of non-discrimination.

B. The Contractor and all Subcontractors shall, in all solicitations or advertisements for employees placed by them or on their behalf, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, or national origin.

_____, an authorized official of
(Name and Title)

_____ is responsible for the implementation of this
(Company Name)
contractual obligation and this assurance is not contingent upon the actions of an agent or second party.

Officer's Signature _____

Date _____

This certification becomes part of the resultant contract.

CONFLICT OF INTEREST CERTIFICATION

Bidder hereby certifies that there are no persons, firms, associations or corporations who are known to have any material, financial or other interest in any contract that may be awarded pursuant to this bid, who are in any way affiliated with or related to The MetroHealth System, their Trustees, Cuyahoga County Commissioners, agencies of Cuyahoga County, or any of their employees, agents or representatives, except as noted below. "Material interest" as used above shall not include holdings of securities of publicly traded corporations.

BIDDER: _____

Date: _____

(Signed) : _____

PROHIBITION AGAINST CONTRACTING WITH ANY INELIGIBLE PERSON OR ENTITY

“The MetroHealth System complies with all Federal and state laws and regulations including the requirement not to contract with sanctioned individuals or companies. Has your company or any individual employed by your company been listed by a Federal Agency as debarred, excluded or otherwise ineligible for participation in federally funded health care programs?”

_____ **YES**

_____ **NO**

Bidder: _____

Date: _____

(Signed): _____

CONTRACTOR/EMPLOYEE BACKGROUND CHECK

As per The MetroHealth System policy, if the successful bidder is required to perform work in a Pediatrics, Geriatrics or Surgical Unit, the contractors' employees or agents may be subject to a background investigation prior to performing any work in patient occupied units. This background check, if required, will be provided by The MetroHealth System at a cost of \$15.00 per individual. This cost will be invoiced to the contractor and payment will be made by the contractor to The MetroHealth System.

FEDERAL FALSE CLAIMS ACT

Dear MetroHealth Contractor/Student/Agent:

Pursuant to requirements delineated by the Deficit Reduction Act of 2005, MetroHealth System (MHS) is to provide agents and contractors educational information concerning the False Claim Act (FCA) and MHS policies as they pertain to false claims and fraud and abuse. MetroHealth System (MHS), it's contractors and/or agents are prohibited under the guidance of the Federal False Claims Act, from submitting false claims for reimbursement to the federal government.

The MetroHealth System has several policies and procedures in place for detecting fraud, waste and abuse in its preparation and submission of claims including (a) mandatory employee training, (b) claims software system edits, (c) dedicated compliance/risk officer, (d) dedicated compliance monitors, (e) anonymous compliance telephone number. These policies require that MetroHealth employees, agents and/or contractors contact their immediate supervisor if they are aware of or are directed to prepare, alter, destroy and/or submit any claim in a manner inconsistent with proper claims submission guidelines and/or payor contractual requirements. Other reporting options include: contacting the MetroHealth Compliance/Risk Officer, MHS on-call legal staff or using the confidential reporting line (216) 778-1660.

The MetroHealth anonymous compliance message hotline is available 24 hours per day, 7 days per week. Calls are confidential and callers who make a report in good faith are protected from any form of retaliation or retribution.

The MetroHealth System's history of financial integrity and stability is in large part dependant upon the veracity of the claims we submit to our government and managed care partners. Thank you in advance for your diligence in ensuring that The MetroHealth System is compliant with the Federal False Claims Act. If you would like further information on False Claim Act or MHS policies and procedures for detecting fraud and abuse or reporting options, please contact Mary Legerski Compliance/Risk Officer at (216) 778-5728.

By signing below, I acknowledge that I have read and understand the above information.

Company or School Name: _____
Driver's License Number: _____
Start Date: _____
Expiration/Term Date: _____
Print Name: _____
Signature: _____
Date: _____

THE METROHEALTH SYSTEM
CONTRACTOR'S PERSONAL PROPERTY TAX AFFIDAVIT
(O.R.C. § 5719.042)

State of Ohio
County of _____, ss:

_____, being first duly sworn, deposes and says that he is the
(Name)

_____ of _____ with offices located at
(Title) (Contractor)

_____, and as its duly
(Address of Contractor)

authorized representative, states that effective this ____ day of _____, 20____,

(Name of Contractor)

() is charged with delinquent personal property taxes on the general list of personal property as set forth below:

<u>County</u>	<u>Amount</u> (includes total amount due, plus penalties and interest thereon)
Cuyahoga	\$ _____

() is not charged with delinquent personal property taxes on the general list of personal property in Cuyahoga County.

(Affiant)

Sworn to and subscribed before me by the above-named affiant this ____ day of _____, 20____.

(Notary Public)

My commission expires

_____, 20____