

STOCKTON UNIVERSITY



**GENERAL CONDITIONS
FOR CONSTRUCTION**

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GENERAL CONDITIONS

1. ARTICLE 1 -- CONTRACT DOCUMENTS

1.1 Definitions for the purpose of this Contract:

- 1.1.2 A/E: The Architectural or the Engineering (A/E) consultant engaged by SU to act as the authorized representative of the contracting officer.
- 1.1.3 Where "as shown," "as indicated," "as detailed," or words of similar import are used, it shall be understood that the reference is made to the Drawings accompanying this Contract unless stated otherwise.
The word "provided" as used herein shall be understood to mean "provided complete in place," that is, "furnished and installed."
- 1.1.4 Addendum: A document, issued by SU prior to opening of bids, which supplements, revises or modifies the solicitation document(s) furnished for bidding purposes.
- 1.1.5 Claims: Differences between SU and a Contractor concerning extra Work, alleged errors or omissions in the Specifications or Drawings, unreasonable delays, damages to Work, informal suspensions or interference by SU personnel, and like matters.
- 1.1.6 Change Order Request: A request for equitable adjustment made by the Contractor in response to written direction by the Associate Vice President for Operations or his authorized representative(s) pursuant to Article 14 entitled "Changes to Contract."
- 1.1.7 Change In Work: Changes to the original design, Specifications, or Scope of Work as required by the SU, prior to agreement on adjustment, if any, in the Contract Sum or Contract time, or both.
- 1.1.8 Contract Documents: Consists of the Contract between SU and Contractor; General and Supplementary Conditions to the Contract, Plans, Drawings, Specifications, Addenda issued prior to execution of the Contract, or other documents listed in the Contract which are attached hereto or incorporated herein by reference, and Modifications to the Contract issued after execution of the Contract. A Modification is: (i) a written amendment to the Contract signed by both parties, (ii) a Change Order, (iii) a Construction Change directive or (iv) a written order for minor change to the Work issued by the A/E, together with any such plans, drawings, specifications, schedules, or other documents which may be

produced pursuant to or derived from this Contract and which are intended to bind the Contractor hereunder.

1.1.19 Contract Limit Lines: Refers to those lines shown on the contract drawings which limit the boundaries of the project, and beyond which no construction Work or activities shall be performed by the Contractor unless otherwise noted on the drawings or specifications.

1.1.10 Contractor: The person or persons, partnership or corporation named as Contractor in this Contract, operating as an independent Contractor and not as an agent of the SU in the performance of its functions. Whether referred to as "Contractor," "prime Contractor," "prime," "separate Contractor," or "single Contractor," it shall be understood to mean Contractor. It does not include suppliers or material men.

1.1.11 Costs: Costs shall mean: (i) the cost of labor for construction workers directly employed by the Contractor to perform construction of the Work; (ii) costs of materials, supplies and equipment, including cost of transportation, whether incorporated or consumed; (iii) rental costs of machinery and equipment, exclusive of hand tools, whether rented from Contractor or others; and (iv) payment made to subcontractors in accordance with the requirements of the subcontract. The costs of supervision and field office personnel, specifically including superintendents and labor foreman, are **only** considered to be part of the Overhead calculation for the purpose of computing an equitable adjustment under Article 14.

1.1.12 Department: As used in this Contract shall mean the Facilities Planning and Construction Department of SU.

1.1.13 Associate Vice President for Facilities & Construction: means the Associate Vice President for Facilities & Construction or his designated representative(s) who is authorized to administer the design, engineering and construction of all SU buildings and facilities. The Associate Vice President for Facilities & Construction is the delegated officer representing SU personally or through authorized representatives in all relationships with Contractors, consultants and A/E's. This includes a duly appointed successor or an authorized administrative contracting officer acting within the limits of his or her authority.

The Associate Vice President for Facilities & Construction is the interpreter of the conditions of the Contract and the judge of its performance. The Associate Vice President for Facilities & Construction shall not take arbitrary positions benefiting either

SU or the Contractor, but shall use the powers specified under the contract to enforce its faithful performance by both.

- 1.1.14** Drawings: Shall mean the graphic and pictorial portions of the Contract Documents, showing design, location and dimensions of the Work, generally including any plans, elevations, sections, details, schedules and contemplated by this Contract.
- 1.1.15** Final Completion: The point in time when SU determines the Work is complete.
- 1.1.16** Notice: A written directive or communication served on the Contractor to act or perform Work or carry out some other contractual obligation. It shall be deemed to have been duly served if delivered to an individual or member of the firm or entity or to an officer of the corporation for whom it was intended. This includes delivery by courier or registered or certified mail to the business address cited in the Contract Documents.
- 1.1.17** Owner means Stockton University.
- 1.1.18** Project: A general term for identification of the total construction of the Work performed under the Contract. It includes the Work and all administrative aspects required to fully satisfy the contract requirements.
- 1.1.19** Public Contract: Any contract or agreement entered into by Stockton University or any instrumentality of SU to purchase goods, services, or both.
- 1.1.20** SU: The abbreviation for Stockton University.
- 1.1.21** Site, Construction Site or Project Site refers to the geographical area of the entire SU facility or property at which the Work under the contract is to be performed.
- 1.1.22** Specifications: All written requirements for materials, equipment, systems, standards and Workmanship of the Work, and instructions or other documents in or pursuant to this Contract pertaining to the method of performing the Work and the results to be obtained.
- 1.1.23** Wherever in the Specifications or upon the Drawings the words "directed," "required," "ordered," "designated," "prescribed," or words of like import are used, it shall be understood that the

"direction," "requirement," "order," "designation," or "prescription" of the Associate Vice President for Operations is intended. Similarly, the words "approved," "acceptable," "satisfactory," or words of like import shall mean "approved by," or "acceptable to," or "satisfactory to" the Associate Vice President for Operations unless otherwise expressly stated.

- 1.1.24** Subcontractor: The person or persons, partnership, or corporation that enters into a contract with the Contractor for the performance of Work under this Contract, or the subcontractors of any tier of such individual or corporation.
- 1.1.25** Substantial Completion: The date the building or facility is operational or capable of serving its intended use even though all permanent installations are not in place. The determination as to the date of substantial completion shall be made pursuant to Article 8.3 of these General Conditions.
- 1.1.26** Summary of Work: a description of the scope of work to be performed by the Contractor and included in the project Specifications as part of the Contract Documents.
- 1.1.27** Systems Assurance: The totality of all quality control and assurance requirements specified in the Contract Documents.
- 1.1.28** Unit Schedule Breakdown: A detailed list of the Work activities required for project construction, other elements associated with fulfilling the requirements of the contract (bonds, insurance, etc.), major items of material or equipment, and the prices associated with them.
- 1.1.29** Work: All efforts as are required by the Contractor as they relate to the Contract Documents, including but not limited to, management, supervision, labor, material and equipment as are necessary to fulfill the Contractor's obligations under this agreement.

1.2 Intent of the Contract

- 1.2.1** The Drawings and Specifications of the Contract are intended to require the Contractor to provide for everything reasonably necessary to accomplish the proper and complete finishing of the Work. All Work and materials included in the Specifications and not shown on the Drawings, or shown on the Drawings and not in the Specifications, shall be performed and/or furnished by the Contractor as if described in both. Any incidental materials and/or Work not specified in the Drawings and/or the Specifications which is, nevertheless, necessary for the true

development thereof and reasonably inferable there from, the Contractor shall understand the same to be implied and required, and shall perform all such Work and furnish all such materials as if particularly delineated or described therein. Should there be an obvious error or omission in the Drawings or Specifications, it shall be the Contractor's responsibility to complete the Work as reasonably required, consistent with the intent of such Drawings and Specifications as may be interpreted by SU.

- 1.2.2** Each Contractor shall abide by and comply with the true intent and meaning of the Drawings, the Specifications and other Contract Documents taken as a whole, and shall not avail itself of any omission or discrepancy appear or should any doubt exist, or any dispute arise as to the true intent and meaning of the Drawings, Specifications or other Contract Documents, or should any portion thereof be obscure, or capable of more than one interpretation, the Contractor shall immediately notify the A/E and seek correction or interpretation thereof prior to commencement of affected Work. The A/E shall issue a written interpretation with reasonable promptness. However, the Contractor shall make no claim against SU for expenses incurred or damages sustained on account of any error, discrepancy, omission, or conflict in the Contract Documents unless and only to the extent that the Contractor has submitted a written request for interpretation, clarification, or correction to the A/E and SU, and such written request has been received by the A/E and SU at least seven (7) working days prior to the date fixed for the opening of bids.

In addition, such claim shall only be recognized by SU if the matter raised by the written request has not been addressed by SU through the issuance of an addendum interpreting, clarifying, and/or correcting such error, discrepancy, omission or conflict. In case of dispute, the matter shall be referred to SU for a decision.

- 1.2.3** Each and every provision required by law to be inserted in the Contract Documents shall be deemed to have been inserted therein. If any such provision has been omitted or has not been correctly inserted, then upon application of either party, the contract shall be physically amended to provide for such insertion or correction.
- 1.2.4** The organization of the specifications into divisions, sections and articles, and the arrangement of Drawings shall not be construed by the Contractor as being intended to divide or allocate the Work among subcontractors in any manner or to establish the extent of the Work to be performed by any trade.

- 1.2.5** Unless otherwise provided in the Contract Documents, SU will furnish to the Contractor Drawings and Specifications, and additional instructions by means of supplemental Drawings as otherwise necessary for the proper execution of the Work at the Contractor's expense.
- 1.2.6** The Contractor shall do no Work without proper drawings and instructions, unless written authorization to proceed from the Associate Vice President for Operations is received by the Contractor. In giving such additional instructions, SU may make minor changes in the Work, not involving extra cost.
- 1.2.7** All drawings referred to, and any supplementary details as may be furnished and approved from time to time as the Work progresses, are understood as being included as part of the Contract.
- 1.2.8** The sequence of precedence pertaining to interpretation of Contract Documents is as follows:
- a. Executed Contract
 - b. Addenda/Bulletins/Instructions/Proposal Form
 - c. Supplemental General Conditions
 - d. Specifications, including General Conditions
 - e. Drawings, in the following order of precedence:
 - (1) Notes on Drawings
 - (2) Large scale details
 - (3) Figured dimensions
 - (4) Scaled dimensions

Where there may be a conflict in the Specifications or Drawings not resolvable by application of the provisions of this paragraph, then the more expensive labor, materials, or equipment shall be assumed to be required and shall be provided by the Contractor.

- 1.2.9** On all Work involving alterations, remodeling, repairs or installation within existing buildings, it shall be the responsibility of the Contractor, by personal inspection of the existing building, facility, plant or utility system, to ascertain the accuracy of any information given which may affect the quantity, size and/or quality of materials required for a satisfactorily completed contract, whether or not such information is indicated on the Drawings or included in the Specifications. The Contractor shall include the costs of all material and labor required to complete the Work based on reasonably observable conditions.

2. ARTICLE 2 – OWNER

2.1 SU's Right to Stop Work

2.1.1 If the Contractor fails to correct defective Work or persistently fails to carry out the Work in accordance with the Contract Documents, SU's authorized representative may order the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated. Stoppage of the Work of one or more Contractors, however, shall not render SU liable for claims of any kind, including delays sustained by one Contractor as the result of the stoppage of the Work of another Contractor.

2.2 SU's Right to Terminate

2.2.1 If the Contractor persistently or repeatedly refuses or fails, except in cases for which extension of time is provided, to supply enough properly the orderly progress of the Work in accordance with the approved schedule; if the Contractor fails to make prompt payment to subcontractors or for materials or labor; or persistently disregards laws, ordinances, rules, regulations or orders of any public authority having jurisdiction; or if the Contractor or any of its subcontractors is guilty of a substantial violation of a provision of the Contract Documents or otherwise defaults or neglects to carry out the Work in accordance with the Contract Documents or directives from SU, then SU may, without prejudice to any right or remedy, and after giving the Contractor and its surety three Working days written notice to forthwith commence and continue correction of such default or neglect with diligence and promptness, terminate the employment of the Contractor by the issuance of a written notice to that effect to the Contractor and its surety should both or either of them fail to comply with the demands of the original above mentioned three day notice.

2.2.2 Upon such termination, SU may take possession of the site and of all the materials, equipment, and tools on the site, and may finish the Work by whatever method SU may deem expedient. In such case, the Contractor shall not be entitled to receive any further payment until the Work is finished. The person or firm designated to carry out such Work will be paid as authorized by SU, without entailing any personal liability upon the officers of SU issuing certificates or making such payments.

2.2.3 If the unpaid balance of the contract sum exceeds the cost of finishing the Work (including liquidated damages for delays and all consequential damages sustained by SU originating from such breach of contract), such excess shall be paid to the Contractor. If such costs exceed the unpaid balance, the Contractor and/or its surety shall pay the difference to SU, and this obligation shall survive the termination of the contract.

2.2.4 If, within three (3) Working days following receipt of Notice of Termination by the Contractor's surety (the issuer of the performance and payment bonds), the said surety exercises its right to take over the Work and expeditiously commences to prosecute the same to completion, SU shall permit the surety to do so under the following terms and conditions:

- a. Evidence of the surety's intention to take over and complete the Contract shall be in writing over the signature of an authorized representative and served upon SU within three (3) Working days after receipt by the surety of the Notice of Termination.
- b. The execution of a written agreement between SU and the surety, whereby the latter undertakes and assumes the obligation to complete the balance of the Work of its defaulting Contractor in accordance with the terms and conditions of the Contract between SU and Contractor agreement, is to be performed by a substituted Contractor satisfactory to SU at the surety's sole cost and expense. Provision for payments to the surety or to the substituted Contractor of unpaid contract balances, if any, then in the hands of SU.
- c. The agreement between SU and the surety shall also expressly provide that the surety shall not be relieved from any of its obligations under the performance and payment bonds.
- d. All current obligations for labor and materials incurred and outstanding by the defaulting Contractor on this Project shall be paid without delay, subject to allowance of reasonable time to verify such claims by the surety.
- e. The parties expressly understand and agree that this agreement is without prejudice and is subject to such rights and remedies as either party (including the Contractor) may elect to assert after final completion and acceptance of the Work.

2.3 Owner's Representation

2.3.1 SU will be represented on the construction site by architects, engineers and project inspectors or other designated representatives. This technical staff may conduct on-site inspections, maintain logs of construction progress and problems encountered, review and process Contractor's invoices including stored materials on site, attend job meetings, serve as liaison between the A/E and Contractors, prepare and submit reports on special problems associated with the job, evaluate and process Change Orders, and

generally remain fully cognizant and informed by the Contractor of every aspect of ongoing construction. The Owner's representatives have only those duties which are required of an owner; responsibility for completion of this Project, pursuant to the Contract Documents, remains that of the Contractor(s).

2.4 Review of Contractor Claims and Disputes

2.4.1 Upon presentation by the Contractor of a request in writing, the Owner may review any decision or determination of SU representative or the A/E as to any claim, dispute or any other matter in question relating to the execution or progress of the Work or the interpretation of the Contract Documents.

Consistent with the intent of this Contract, the Owner may schedule a conference for the purpose of settling or resolving such claims, disputes or other matters. Where such a conference is conducted, the Contractor shall be afforded the opportunity to be heard on the matter in question.

Following review of the Contractor's request, SU and the Contractor may settle or resolve the disputed matter, provided however that any such settlement or resolution shall be subject to all requirements imposed by law, including where applicable, the New Jersey Contractual Liability Act (NJSA 59:13-1 *et seq.*).

2.4.2 The following is the Claim and Dispute process. This process assumes continued disagreement at each step. Agreement can be reached at any point in this process.

1. Contractor issues a Request for Change Order to the designated SU representative & A/E in accordance with the terms and timing stated in Article 14 - CHANGES IN THE WORK
2. SU authorized representative issues preliminary response rejecting the claim in whole or in part within 10 days
3. Contractor notifies SU representative & A/E that the initial claim still stands within 10 days
4. A/E issues the Architect's final determination within 10 days
5. Contractor notifies the authorized SU representative & A/E that the initial claim still stands within 10 days
6. SU issues the final determination which is binding but subject to appeal in Appellate Court venue in Atlantic County, State of New Jersey.

2.5 Termination By The Owner For Convenience

2.5.1 The Owner may, at any time, terminate the Contract in whole or in any part for SU's convenience and without cause when the Owner in his/her sole discretion views termination is in the public interest.

2.5.2 Upon receipt of an order of Termination for Convenience, the Contractor shall not proceed with any item of Work, which is not specified in the Order of Termination. The Contractor shall complete all items of Work specified in the Termination order. Such Work shall include punch list items and all Work necessary to ensure the safety of the public, to properly secure existing Work already constructed or partially constructed and to secure the Project site.

This Work so ordered shall be performed in accordance with the Contract Documents, and may include items of Work not in the original Contract. The Contract shall be considered substantially complete upon completion and acceptance of all items of Work specified in the Order, except punch list items. After completion of the punch list items and all documents required by the Contract, the Contract shall terminate upon issuance of a Final Certificate and Payment. The Owner reserves the right to declare in default a Contractor whom fails to carry out the conditions set forth in an Order of Termination for Convenience.

When SU orders termination of the Contract for Convenience, all completed items of Work as of that date will be paid for at the Contract price. Payment for partially completed Work will be paid for at agreed prices. Items which are eliminated in their entirety by such termination will be paid for only to the extent provided in Paragraph 2.5.3. Payment for new items, if any, will be made either at agreed prices or in accordance with Article 14.

Materials obtained by the Contractor for the Work but which have not been incorporated therein may, at the option of SU, be purchased from the Contractor at actual cost delivered to a prescribed location, or otherwise disposed of as mutually agreed.

Within 60 days of the effective termination date, the Contractor shall submit claims for additional costs actually incurred, not covered above or elsewhere in the Contract. Such claims may include such cost items as reasonable mobilization efforts, overhead expenses attributable to the Work performed, and subcontractor costs not otherwise paid for, actual idle labor cost if Work is stopped in advance of the termination date. Costs, which are prohibited under

provisions of the Contract and anticipated profits on Work not performed, are not allowed.

- 2.5.3** If acceptable material is ordered by the Contractor for the eliminated item prior to the date of notification of such elimination and if orders for such material cannot be canceled, it will be paid for at the actual cost to the Contractor. In such case, the material paid for becomes the property of SU and the actual cost of any further handling will be paid for. If the material is returnable to the vendor and if SU so directs the material shall be returned and the Contractor will be paid for the actual cost or charges made by the vendor for returning the material. The actual costs of handling returned material will be paid.

The actual costs or charges will be computed in the same manner as if the Work were to be paid for as provided in the Contract. However, no profit will be allowed.

2.5.4 Post Termination Obligations

1. Cancel, or if so directed by the SU, transfer to SU all or any of the commitments and agreements made by Contractor relating to the Project, to the extent same are cancelable or transferable by Contractor.
2. Transfer to SU the manner, to the extent, and at the time directed by SU, all supplies, materials, and other property produced as a part of, or acquired in the performance of, Contractor's services in connection with the Project; and
3. Take such other actions as SU may reasonably direct.

2.5.5 Ownership of Documents

All reports, analyses, data, Drawings, opinions and other material (collectively the "Documents") prepared and furnished by the Contractor under or for the Project shall be the property of SU whether the Project is completed or not, and shall be delivered to the SU on the earlier of (1) the Substantial Completion Date, or (2) the date of termination of this Agreement for any reason prior to Final Completion of the Project. If the Agreement is terminated for any reason prior to Final Completion of the Project, the Documents may be used by SU and its agents, employees, representatives and assigns, in whole or in part, or in modified form, for all purposes the SU may deem advisable in connection with completion and maintenance of and additions to the Project, without further employment of, or payment of any compensation to the Contractor.

3. ARTICLE 3 -- A/E

3.1 The A/E

3.1.1 When SU provides full supervision and management of a project, the A/E's role is that of consultant to SU.

3.2 Administration of the Contract

3.2.1 The A/E will provide a certain portion of the administration of the contract as hereinafter described.

3.2.2 The A/E will monitor the execution and progress of the Work and will immediately notify the Owner of any related problems. The A/E will at all times be provided access to the Work. The Contractor shall provide facilities for such access so as to enable the A/E to perform its functions under the Contract Documents.

3.2.3 The A/E will not be responsible for, nor has control or charge of, construction means, methods, techniques, sequences of procedures, or safety precautions and programs in connection with the Work. The A/E will not be responsible for, nor has control or charge of, the acts or omissions of the Contractors, subcontractors, or any of their agents or employees, or any other person performing any of the Work, but shall have the obligation to immediately inform the Owner of any inadequate performance of the project.

3.2.4 The A/E has the authority to recommend rejection of Work which it believes does not conform to the Contract Documents. Whenever the A/E considers it necessary or advisable, it may request the Owner to provide special inspection or testing of the Work, whether or not such Work has been fabricated, installed or completed.

3.2.5 The A/E will review, approve or take other appropriate action relating to Contractors' submittals, such as shop Drawings, product data and samples, to assure conformance with the design requirements and the Drawings and Specifications of the Work. Such actions shall be taken with reasonable promptness. Approval of a specific item shall not indicate approval of an assembly of which the item is a component.

3.2.6 The A/E will periodically review the Contractors' as-built Drawings to ensure that they are up to date.

3.3 Inspections - Substantial and Final Completion

3.3.1 The A/E, accompanied by the Contractor and the Owner's authorized representative, will conduct site inspections to determine the dates of Substantial and Final Completion and will receive and

compile written warranties and all other requisite documents assembled and supplied by the Contractor. The A/E will forward these documents to the Owner for review and certify final contract acceptance.

3.4 Punch List Coordination

3.4.1 The Owner's authorized representative shall coordinate and conduct a project inspection for the development of a comprehensive punch list. The punch list participants will include the Contractor, A/E and the Owner's authorized representative.

4. ARTICLE 4 – THE CONTRACTOR

The Contractor shall perform the Work in accordance with the Contract Documents. This shall include, but not be limited to, the following requirements:

4.1 Review of Contract

4.1.1 The Contractor has the duty to do the following: to thoroughly examine and become familiar with all the Contract Documents, including but not limited to the complete set of Drawings and Specifications of the entire Project; to note cases where it is specified that certain work or materials or both are to be omitted by one Contractor and to be furnished or installed by another; to carefully examine the site; to investigate and accurately determine the nature and location of the Work, the current equipment, labor and material conditions, and all matters which may in any way affect the Work or its performance. The Contractor is responsible to check and verify reasonably observable conditions outside the Contract Limit Lines to determine whether any conflict exists with the Work the Contractor is required to perform under the Contract. This includes a check on elevations, utility connections and other site data. As a result of such examination and investigation, the Contractor warrants and represents the full understanding of the intent and purposes of the Contract Documents and the Contractor's obligation thereunder and that the Contractor accepts responsibility for, and is prepared to execute and fulfill completely, by its construction work, the intent of the Contract, without exception and without reservation, at the price specified in the Contract.

4.1.2 The Contractor shall carefully study and compare the Contract Documents during the progress of the Work and shall immediately report any error, inconsistency or omission to SU upon discovery. The Contractor shall immediately report any error, inconsistency or ambiguity detected during the course of the project to SU, and shall not continue with any Work which may be affected by such error until SU has had the opportunity to respond to and clarify the Work it wants performed in view of this information. Wherever any error, inconsistency or omission appears, it shall be disposed of pursuant to appropriate procedures set forth elsewhere herein.

- 4.1.3** Unless otherwise ordered in writing by the Owner, the Contractor shall perform no portion of the Work without approved Change Orders, approved shop Drawings, samples, or other approvals as may be applicable and required by the Contract Documents.
- 4.1.4** Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for all labor, equipment, materials, tools, construction equipment and machinery, water, heat, utilities, transportation and other facilities and services necessary for the proper execution and completion of the Work, whether or not incorporated or to be incorporated in the Work.
- 4.1.5** The Contractor shall, at all times, enforce strict discipline and good order among its employees and shall not employ on the site any unfit person or anyone not skilled in the task assigned to him.
- 4.1.6** The Contractor shall be obligated to pay the prevailing wage rates as posted on the New Jersey Department of Labor's website and shall abide by the requirements of the State's Affirmative Action Program. The Contractor also shall be responsible to ensure that all principles of safety are carried out, as detailed in Article 12 of this document.

4.2 New Jersey Prevailing Wage Act

- 4.2.1** Each Contractor and subcontractor shall comply with the New Jersey Prevailing Wage Act Laws of 1963, Chapter 150, (N.J.S.A. 34:11-56.25 *et seq.*) and all amendments thereto, and this act is hereby made a part of every contract entered into on behalf of SU, except those contracts which are not within the contemplation of the act. Provisions of the act include the following stipulations and requirements:
- a. All Workers employed in the performance of every contract in which the contract sum is in excess of \$2,000 and to which SU is a party shall be paid not less than the prevailing wage rate as designated by the Commissioner, Department of Labor or his or her duly authorized representative.
- (1) Each Contractor and subcontractor performing public work for SU and which is subject to the provisions of the Prevailing Wage Act, shall post the prevailing wage rates for each craft and classification involved as determined by the Commissioner, Department of Labor. This posting shall include the effective date of any changes thereof, and shall be

displayed in prominent and easily accessible places at the site of the work or at such place or places as are used by the Contractor/subcontractor to pay workers' wages.

- (2) At the time of the bid due date, the bidder and the subcontractors must be registered in accordance with "The Public Works Contractor Registration Act" (N.J.S.A.34:11-56.48 et seq.). All questions regarding registration should be addressed to:

Contractor Registration Unit
New Jersey Department of Labor and Workforce Development
Division of Wage and Hour Compliance P O Box 389
Trenton, New Jersey 08625-0389

Telephone: 609-292-9464
Fax: 609-633-8591

- b. In the event it is found that any worker, employed by any Contractor or subcontractor covered by any contract in excess of \$2,000 for any public work to which SU is a party, has been paid a rate of wages less than the prevailing wage required by such contract, SU may terminate the Contractor's or subcontractor's right to proceed with the Work, or such part of the Work as to which there has been failure to pay required wages, and may otherwise prosecute the Work to completion.
- c. Nothing contained in the Prevailing Wage Act shall prohibit the payment of more than the prevailing wage rate to any worker employed on a public work.

4.3 Supervision and Construction Procedures

4.3.1 The Contractor shall supervise and direct the Work as skillfully and attentively as possible. The Contractor shall be solely responsible for all construction means, methods, techniques, sequences and procedures and for coordinating all portions of the Work under the Contract.

4.3.2 The Contractor shall employ a full-time competent person and necessary assistants, who shall be in attendance on the project site during the progress of the Work. The competent person shall represent the Contractor or Contractor's designated representative and all communications given to the competent person shall be as binding as if given to the Contractor. Important communications shall be

confirmed in writing. SU reserves the right to require a change in competent person if the competent person's performance, as judged by SU, is deemed to be inadequate. . -

The Contractor shall maintain email communication at the project site as well as at their home office.

4.3.3 Each Contractor shall employ qualified competent craftsmen in their respective lines of Work.

4.3.4 The various subcontractors shall likewise have competent project managers, superintendents and/or foremen in charge of their respective portions of the Work at all times. They shall not employ a person unfit or unskilled in the assigned area of Work. If it should become apparent that a subcontractor does not have its portion of the Work under control of a competent foreman, the responsible prime Contractor shall have the obligation to take appropriate steps to immediately provide proper supervision.

If, due to a trade agreement, standby personnel are required to supervise equipment installation or for any other purpose during the normal working hours of other trades, the Contractor normally required to provide the standby services shall evaluate and include the costs thereof in its bid price and shall provide said services without additional charge.

4.4 Responsibility for the Work

4.4.1 The Contractor shall be responsible to SU and to any separate Contractors having a contract with SU on this Project, for the acts employees which injure, damage or delay such other Contractors in the performance of their work. This responsibility is not limited by the applicable provisions stated elsewhere in this document, but is in conjunction with and related to these provisions.

4.4.2 Each Contractor shall be responsible for all damage or destruction caused directly or indirectly by its operations to all parts of the Work, both temporary and permanent, and to all adjoining property.

4.4.3 Each Contractor shall, at its own expense, protect all finished Work liable to damage and keep the same protected until the project is completed and accepted. In the case of substantial completion accompanied by beneficial occupancy by SU, the Contractor's obligation to protect its finished work shall cease simultaneously with the occupancy of the portion or portions of the structure.

4.4.4 Each Contractor shall defend, protect, indemnify and save harmless-SU and the A/E from all claims, suits, actions, damages

and costs of every name and description arising out of or resulting from the performance of the Contractor's Work and every tier of subcontractor working on the project under this Contract. This responsibility is not limited by the provisions of other indemnification provisions included elsewhere in this document.

4.4.5 In order to protect the lives and health of its employees, the Contractor shall comply with all applicable statutes and pertinent provisions of the RSC Safety Manual and shall maintain accurate records of all cases of death, occupational disease, and injury requiring medical attention or causing loss of time from work arising out of and in the course of employment on work under the contract. The Contractor alone shall be responsible for the safety, efficiency, and adequacy of its plant, appliances and methods, and for any damage or injury which may result from the Contractor's failure or improper construction, maintenance or operation.

4.5 Permits - Laws – Regulations

4.5.1 Unless otherwise provided in the Contract Documents, SU will pay for DCA Construction Permit(s) and Special inspection(s) as may be required by the Department of Community Affairs (DCA). The Contractor shall provide in writing to SU all names, addresses, telephone numbers, email addresses, license numbers, and contact persons for all subcontractors who will be used on the project and are required to be listed on the DCA Construction Permit documents within three (3) days after issuance of the Notice of Award. accordance with the New Jersey Uniform Construction Code. No work requiring inspections and approval of construction code officials is to be covered or enclosed prior to inspection and approval by appropriate code enforcement officials.

4.5.3 Soil conservation measures are to be in accordance with County Soil Conservation District requirements.

4.5.4 All sewage disposal work shall conform to the regulations of the State's Department of Environmental Protection.

4.5.5 SU will pay for all code inspections; however, it is each Contractor's responsibility to request inspections in a timely manner as to not delay the Work of the Project.

4.5.6 Consistent with Section 4.4.4 of this document, each Contractor and every tier of subcontractor working on the project shall be responsible for and save harmless SU and A/E from all fines, penalties or loss incurred for, or by reason of, the violation of any municipal ordinance or regulation or law of the State while the said work is in progress.

- 4.5.7** All Contractors shall comply with the Federal Occupational Safety and Health Act of 1970 and all of the rules and regulations promulgated there under.
- 4.5.8** As a result of a finding by an appropriate finder of fact that a Contractor caused a substantial violation of a State, local or federal statute or regulation on said project, SU may declare the Contractor to be in default.
- 4.5.9** Prior to the start of any crane equipment operations, each Contractor shall make all necessary applications and obtain all required permits from the Federal Aviation Administration (F.A.A.). The sequence of operations, timing and methods of conducting the work shall be approved by the F.A.A. to the extent that it relates to its jurisdiction.
- 4.6 Storage, Cleaning and Final Clean Up**
- 4.6.1** Each Contractor shall confine its apparatus, the storage of its equipment, tools and materials, and its operations and workers to areas permitted by law, ordinances, permits, and contract limit as established in the Contract Documents, the rules and regulations of SU. The Contractor shall not unreasonably encumber the site or the premises with materials, tools and equipment premises and the job site free from the accumulation of all refuse, rubbish, scrap materials and debris caused by its operations, to ensure that at all times the premises and site shall present a neat, orderly, safe, and workmanlike appearance. This is to be accomplished as frequently as is necessary by the removal of such material, debris, etc. from the site and SU's premises. Loading, cartage, hauling and dumping will be at the Contractor's expense.
- 4.6.3** At the completion of the Work, the Contractor shall remove all of its tools, construction equipment, machinery, temporary staging, false work, formwork, shoring, bracing, protective enclosures, scaffolding, stairs, chutes, ramps, runways, hoisting equipment, elevators, derricks, cranes, etc. from the project site.
- 4.6.4** Should the Contractor not promptly and properly discharge its obligation relating to progress cleaning and final clean up, SU shall have the right to employ others and to charge the resulting cost to the Contractor, after first having given the Contractor a three Working day written notice of such intent.
- 4.6.5** The Contractor's responsibilities in final clean up refer to Closeout Section.

4.6.6 All construction equipment, materials or supplies of any kind, character or description of value belonging to the Contractor and which remain on the job site for more than 30 calendar days from the date of the Final Completion issued through SU to the Contractor, shall become the absolute property of SU. It will be disposed of in any manner SU shall deem reasonable and proper.

4.7 Cut-Overs, Interruptions to Existing Buildings

4.7.1 All cut-overs of mechanical and electrical services to existing buildings shall be scheduled and coordinated in advance with SU's representative and performed at a time convenient to SU so as not to unreasonably interfere with its operations.

4.8 Non-Regular Workdays

4.8.1 Regular working hours shall be 7:00 a.m. to 3:30 p.m., Monday through Friday. Changes thereto may be granted with written approval from SU's representative. Any Work required to be performed after regular working hours or on Saturdays, Sundays, or legal holidays as may be reasonably required and consistent with contractual obligations, shall be performed without additional expense to SU.

The Contractor shall obtain approval from SU's representative for performance of work after regular working hours or on non-regular work days at least 24 hours prior to the commencement of overtime, unless such overtime work is caused by an emergency.

4.9 Drawings, Specifications, Shop and As-Built Drawings

4.9.1 SU will furnish, after becoming aware of such need, additional instructions for the proper execution of the Work. All Drawings and instructions issued by SU shall be consistent with the Contract Documents and reasonably inferable from and executed in conformity with the Contract Documents. The Contractor shall do no work without proper Drawings and instructions. In giving such additional instructions, SU will have the authority to make minor changes in the Work, not involving extra cost. Drawings and instructions with such supplementary details furnished or approved are understood to be included and a part of the contract.

4.9.2 Where certain of the work is shown in complete detail, but not repeated in similar detail in other areas of the Drawings, or if there is an indication of continuation with the remainder being shown only in outlines, the work shown in detail shall be understood to be required in other like portions of the project.

4.9.3 The Contractor is responsible to review the Drawings and Specifications, and information describing the physical

characteristics of the site, including surveys, legal descriptions, data and drawings depicting existing conditions, subsurface conditions, environmental studies, reports or investigations provided by SU or the Architect. The Contractor shall not, at any time after the execution of its Contract, make any claims based upon insufficient data, or the Contractor's incorrect assumption of conditions, or any misunderstandings with regard to the nature, conditions or character of the Work to be performed under the Contract. The Contractor shall assume all risks resulting from any changes in conditions not under the control of SU, which may occur during the progress of the Work.

4.9.4 The Contractor shall, together with SU's representative, prepare a schedule of the proposed progress of the Work, fixing the dates when the various details and supplemental Drawings, if any, may be required. Within two weeks of the first field meeting, the Contractor shall submit to the A/E a shop drawing sample submission schedule which shall be used as a basis for complying with the overall progress schedule. Contractor shall also promptly submit, a reproducible transparent copy of all shop or setting drawings, details and schedules required for the Work of the various trades. The A/E will review the sample schedule with reasonable promptness. The Contractor shall promptly make any corrections, if required by the A/E, and resubmit a reproducible transparent copy for approval.

4.9.5 The Contractor shall not use the Contract Drawings for submission of shop Drawings. All shop drawing sizes shall be in multiples of 9" x 12" (e.g., 18" x 24", 24" x 27", 24" x 36", etc.) as approved by the A/E.

4.9.6 Attached to the Contractor's initial submission of such shop drawings or catalog data shall be an itemized schedule listing dates by which all other submissions will be forwarded to the A/E.

The Contractor also has the responsibility to submit coordination drawings whenever two or more trades are occupying common space. Any list of Drawings prepared by the A/E is for SU's convenience only, and shall not be construed as limiting the number of drawings the Contractor shall furnish.

4.9.7 If the Contractor desires to make any deviations or changes from the requirements of the Contract Documents the Contractor shall obtain the consent of the SU to such changes before submitting drawings showing such proposed changes. All drawings submitted by the Contractor shall have been checked and approved by the Contractor before submission. SU project number and the

Drawings and Specification references shall be noted on all submissions. Failure to comply with these instructions will be sufficient reason to return such drawings to the Contractor without any action being taken.

- 4.9.8** The Contractor shall keep on the project site at all times one set of Drawings to be marked "AS-BUILT." During the course of the Project, the Contractor shall mark these As-Built Drawings with colored pencils to reflect any changes, as well as dimension the location of all pipe runs, conduits, traps, footing depths or any other information not already shown on the Drawings or differing there from. All buried utilities outside the building shall be located by a metes and bounds survey performed by a licensed surveyor who shall certify as to its accuracy. These marked-up As-Built Drawings and surveys shall be made available to SU upon request at any time during the progress of the Work. These shall include the As-Built Drawings of principal sub-Contractors as well.
- 4.9.9** In instances where sepias, shop Drawings and/or erection drawings, of a scale larger than the Contract Drawings, are prepared by a Contractor, such drawings and sepias will be acceptable in lieu of marked-up Contract Drawings, provided they are updated as per section 4.9.8 above. A master sheet of the same dimensions as the Contract Drawings shall be prepared by the Contractor on a tracing which shall indicate, sheet by sheet, a cross-reference to all Shop Drawings pertaining to that drawing. All drawings and sepias as required in section 4.9.8 and this section shall be labeled "AS-BUILT" above the title block and dated.
- 4.9.10** The Contractor shall submit the "as-built" documents to the A/E, whether altered or not, with a certification as to the accuracy of the information thereon at the time of contract completion and before final payment will be made to the Contractor. After acceptance by the A/E, the Contractor will furnish two sets of all shop and/or erection drawings used for "as-built" documentation.
- 4.9.11** All "as-built" drawings as submitted by Contractors shall be labeled "AS- BUILT" above the title block and dated. This information shall be checked, edited and certified by the A/E, which shall then transpose such information from the Contractor's "as-built" drawings to the original tracings, certify that such tracings reflect as-built status, and deliver said tracings to SU. Where shop drawings have been used by the Contractor for "as-built" documentation, the tracing providing cross reference information, as described in section 4.9.9 of this document, shall be included in the set of "as-built" drawings furnished to SU.

4.10 Samples

The Contractor shall furnish, for approval, all samples as directed. The Work shall be in accordance with approved samples. Such samples shall be submitted promptly to SU, through the A/E, at the beginning of the Work, so as to give SU time to examine them. Any list of samples prepared by the A/E is for SU's convenience only, and shall not be construed as limiting the number of samples the Contractor shall furnish upon request of the A/E.

4.11 Miscellaneous Drawings, Charts and Manuals

4.11.1 Sleeve and Opening drawings: Prior to installing service utilities or other piping, etc. through structural elements of the building, the Contractor shall prepare and submit, for approval of the architect and structural engineer, accurate dimensional drawings indicating the positions and sizes of all sleeves and openings required to accommodate the Work and installation of the Contractor's piping, equipment, etc. All such drawings must contain reference to the established dimensional grid of the building. Such drawings must be submitted in sufficient time to allow proper coordination with reinforcing steel shop drawings and proper placing in the field.

4.11.2 Control Valve and Circuit Location Charts and Diagrams: Plumbing, HVAC and electrical Subcontractors shall prepare a complete set of inked or typewritten control valve and circuit location diagrams, charts and lists identifying and locating all such items, and shall place the charts, diagrams and lists under frame glass in appropriately designated equipment rooms, as directed. These Subcontractors shall also furnish one-line diagrams, as well as such color coding of piping and wiring and identifying charges as specified or required. This information is to be framed under glass and displayed where directed.

4.12 Openings - Channels - Cutting and Patching

The Contractor shall be responsible for furnishing and setting of sleeves, built-in items, anchors, inserts, etc. for its Work and for all cutting, fitting, closing in, patching, finishing, or adjusting of its Work in new and/or existing construction, as required for the completed installation. Where applicable, the Contractor shall build these items into the construction.

4.12.1 The Contractor for general construction shall build recesses, channels, chases, openings and flues and shall leave or create holes where indicated on Drawings, or where directed, for steam, water or other piping, electrical conduits, switch boxes, panel boards, flues and ducts, or any other feature of the heating and ventilating Work. At least three copies shall be furnished to SU.

4.12.2 The Contractor for general construction shall close, build-in, and

finish around or over all openings, chases, channels, pockets, etc., after installation has been completed.

- 4.12.3** Approval in writing from the Architect must first be obtained by the Contractor before cutting or boring through any floor beams, floor construction or supporting members.

4.13 Tests

- 4.13.1** The Contractor shall notify SU's authorized representative in writing of all work required to be inspected, tested or approved. The notice shall be provided no later than five (5) working days prior to the scheduled inspection, test or request for approval. The Contractor shall bear all costs of such inspections, tests or approvals, except for code inspections as stated in section 4.5.6 of this document. Additionally, Contractor shall be responsible to monitor the progress of all such inspections, tests or requests or approvals and notify SU's authorized representative immediately about any delays, failure to obtain any approval, or requirement for re-inspection or re-testing.
- 4.13.2** When mechanical, electrical or other equipment is installed, it shall be the responsibility of the installing Contractor to maintain, warrant and operate it for such period of time as required by the Contract Documents or as necessary for the proper inspecting and testing of the equipment and for adequately instructing SU's operating personnel. All costs associated with the maintenance, warranty, operations, inspection and testing of equipment, as well as instructing SU personnel, shall be borne by the Contractor. All tests shall be conducted in the presence of, and upon timely notice to, SU prior to acceptance of the equipment.
- 4.13.3** When SU requires special or additional inspections, testing or approvals, SU will direct the Contractor in writing to secure the service for such special or additional inspections, testing or approvals, and the Contractor shall give notice as detailed in section 4.13.1 of this document. In the event such special or additional inspections or testing reveal a failure of the Work to comply with the terms and conditions of the contract, the Contractor shall bear all costs thereof, including all costs incurred by SU made necessary by such failures.
- 4.13.4** The Contractor shall acquire inspection or testing services and manage the process using only those firms/entities provided by SU as may be required by the Contract Specifications.
- 4.13.5** All submittals of inspections and test reports or requests for approval shall be accompanied by a certification signed by the Contractor, attesting to the Contractor's knowledge of the submittal, acceptance of

its findings, acknowledgment that material testing meets the required standards, and certification of the report's representation of the facts. Failure to provide the written certification shall be grounds for rejection of the submittal.

4.13.6 In addition to the above, the Contractor agrees to insert in all contracts/purchase orders for inspection and testing the requirement for the inspection or testing firm/entity to submit, in conjunction with the report to the Contractor, a copy of the report directly to SU. The copy shall be held pending receipt of the Contractor's certification of the report. Further, the Contractor agrees to require all reports to be submitted within 14 calendar days of the test or inspection. Failure to provide reports within the required time shall be addressed pursuant to section 10.3.9 of these General Conditions.

4.14 Equipment – Materials

4.14.1 The Contractor warrants to SU and the A/E that all materials and equipment furnished under the Contract will be new, unless otherwise specified, and that all Work will be of good quality, free from faults, defects, and in conformance with Contract Documents. All Work not conforming to these requirements, including substitutions not properly approved and authorized, may be considered defective and rejected by SU or the A/E. If required by the A/E or SU, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment. This warranty is not limited by the provisions of the other paragraphs contained in this document.

4.14.2 The original and two (2) copies of the request for approval of materials shall be forwarded to the A/E for approval. Each item of material listed shall be marked "As Specified" or "Unspecified" as the case may be.

4.14.3 The Contractor shall furnish and deliver the necessary equipment and materials in ample quantities and as frequently as required to avoid delay in the progress of the Work and shall store them so as not to cause interference with the orderly progress of the project.

4.14.4 The Contractor shall furnish and pay for all necessary transportation, storage, scaffolding, centering, forms, water, labor, tools, light and power and mechanical appliances and all other means, materials and supplies for properly prosecuting the Work under this Contract, unless expressly specified otherwise.

The Contractor shall make arrangements to have its representatives at

the site to accept delivered materials. SU will not accept materials, nor will they be held responsible for damage, theft, or disappearance of Contractor's materials, equipment, tools, etc.

4.14.5 No materials, equipment, or supplies for the Work shall be purchased by the Contractor or any subcontractor subject to any lien or encumbrance or other agreement by which an interest is retained by the seller. The Contractor warrants, by signing its invoice, that it has good and sufficient title to all such material, equipment and supplies used by it in the Work, free from all liens, claims or encumbrances.

4.15 Substitutions

4.15.1 In the event the Contractor should propose a substitution of the specified equipment or materials, it shall be its responsibility to submit proof of equality and to provide and pay for any tests which may be required by SU in order to evaluate such proposed substitution.

4.15.2 Where any particular brand or manufactured article is specified, it shall be regarded as a standard. Similar products of other manufacturers, capable of equal performance and quality, in the opinion of SU, will be accepted if approved.

4.15.3 Application for approval of a substitution by the Contractor shall include or conform to the following requirements:

- a. Furnish full and complete identification information including whether the item is included in the Specifications; in which case, identify the specification paragraph and section.
- b. Attach data indicating in detail whether and how the substitution differs, if at all, from the article specified. Submit documents which demonstrate proof of equality, along with an agreement to have such tests performed at the Contractor's own expense as may be required for approval by SU Representative or the A/E.
- c. If a credit is to be offered for the substitution, provide a detailed itemization of the amount of credit.
- d. If the proposed substitution involves a change in Scope of the Work of the Contractor or any subcontractor or trade under the Contract Documents, then the Contractor agrees to be responsible for any and all resulting added costs including any redesign.

4.15.4 Substitution requests will not be considered until after the receipt of bids. After the award, in the event the lowest bid contractor proposes a substitution of the specified equipment or materials, it shall be their responsibility to submit proof of equality in accordance with the procedure outlined in Section 4.15 of the General Conditions. If the proposed substitution is rejected as an equivalent or better, the contractor shall be required to provide the specified equipment or materials.

4.16 Subcontractor Approvals

4.16.1 Approval of a subcontractor or material supplier by the SU Representative and A/E shall not relieve the Contractor of the responsibility of complying with all provisions of the Contract Documents. The approval of a subcontractor does not imply approval of any material, equipment or supplies.

4.17 Soil Borings

4.17.1 Soil borings or test pits or other subsurface information may be secured by an independent Contractor for SU prior to design and construction of a project and may be included in the Contract Documents for the Contractor's use.

The Contractor assumes full responsibility for interpretation of said borings, and SU shall have no responsibility or liability should the data provided prove to be incorrect or not representative. Other soil boring results and interpretations taken and made by the Contractor shall be provided to SU.

4.18 Protection of Contractor's Property

4.18.1 The Contractor shall adequately secure and protect its own tools, equipment, materials and supplies. SU assumes no liability for any damage, theft or negligent injury to the Contractor's property.

4.19 Patents

4.19.1 The Contractor shall hold and save the SU and its officers, agents, servants, and employees harmless from liability of any nature or kind, including cost and expenses for or on account of any patented or non-patented invention, process, article or appliance manufactured or used in the performance of the contract, including its use by SU, unless otherwise specifically stipulated in the Contract Documents.

4.19.2 License and/or royalty fees for the use of a process which is authorized by SU must be reasonable, and paid to the holder of the patent or his or her authorized licensee directly by SU and not by or through the Contractor.

4.19.3 If the Contractor uses any design, device or materials covered by letters, patent or copyright, it shall provide for such use by suitable agreement with SU or such patented or copyrighted design, device or material. It is mutually agreed and understood that, without exception, the contract prices shall include all royalties or costs arising from the use of such design, device or material in any way involved in the Work. The Contractor and/or its sureties shall indemnify and save harmless SU from any and all claims for infringement by reason of the use of such patented or copyrighted design, device or material, or any trademark or copyright in connection with Work agreed to be performed under this Contract and shall indemnify SU for any cost, expense or damage which it may be obliged to pay by reason of such infringement at any time during the prosecution of the Work or after the completion of the Work.

4.20 Right to Audit

4.20.1 SU reserves the right to audit the records of the Contractor in connection with all matters related to its contract. The Contractor agrees to maintain its records in accordance with generally accepted accounting principles, for a period of not less than three (3) years after receipt of final payment.

"Generally accepted accounting principles" is defined as follows: Accounting records must identify all labor and material costs and expenses, whether they are direct or indirect. The identity must include at least the project number for direct expenses and/or account number for indirect expenses. All charges must be supported by appropriate documentation including, but not limited to, canceled checks and other supporting documentation.

4.20.2 The Contractor shall develop, maintain and make available to SU on request such schedule of quantities and costs, progress schedules, payrolls, reports, estimates, change orders, all original estimates, takeoffs and other bidding documents, all subcontractors and supplier contracts and changes, all records showing all costs and liabilities incurred or to be incurred in connection with the project (including all subcontractor and supplier costs), all payment records and all records showing all costs incurred in labor and personnel of any kind, records and other data as SU may request concerning Work performed or to be performed under this Contract.

4.20.3 The Contractor acknowledges and agrees that no claim for payment which is premised to any degree upon actual costs of the Contractor shall be recognized by SU except and to the extent that such actual costs are substantiated by records required to be maintained

under these provisions.

- 4.20.4** The Contractor shall require each subcontractor, to the extent of the Work to be performed by the subcontractor, to be bound to the Contractor to the terms of SU's Contract Documents, and to assume toward the Contractor all the obligations and responsibilities which the Contractor assumes, by these documents, to SU and its contractual parties.
- 4.20.5** The Contractor shall not grant to any subcontractor terms more favorable than those extended to the Contractor by SU.
- 4.20.6** The Contractor acknowledges and agrees that its obligation to establish, maintain and make available records and SU's right to audit as delineated herein shall extend to actual costs incurred by subcontractor in performing Work required under the contract or any supplemental agreement thereto. The Contractor shall require in each subcontract that the subcontractor establish, maintain and make available to SU all records as defined and delineated herein, relating to all Work performed under the subcontractor including Work performed by a sub- subcontractor.

4.21 Contract Closeout

- 4.21.1** Contract Closeout is described as certain collective Contract requirements indicating completion of the Work that are to be fulfilled near the end of the Contract time in preparation for final completion of the Work as well as final payment to the Contractor.
- 4.21.2** Contract Closeout is directly related to Substantial Completion therefore, the time of closeout may be either a single time period for the entire Work or a series of time periods for individual elements of the Work that have been certified as Substantially Complete at different dates.
- 4.21.3** Contract Closeout submittal includes but may not be limited to:
 - 1) Record Documents described throughout Contract Documents.
 - 2) As Built Drawings; disk and hard copy of both PDF & AutoCAD v. 2009 drawing files
 - 3) Warranties as required by Specifications.
 - 4) Copy of Final Change Order, if applicable.
 - 5) Copy of Final Application for Payment.
 - 6) Consent of Surety to Final Payment.
 - 7) Copy of Certificate Approval or Certificate of Compliance.
 - 8) Contractor's Confirmation of General Warranty.
 - 9) Letter from A/E that all Punch List items have been completed

to their satisfaction.

- 10) Operating, Instruction and Maintenance Manuals for Equipment (Mechanical, Plumbing, Electrical, etc.) all in accordance with the Specifications.
- 11) Contractor's Affidavit of training to SU in proper operation and maintenance of systems, equipment and similar items which were provided as part of the Work.
- 12) Attic stock in accordance with the specifications.

4.21.4 Substantial Completion - The Contractor shall complete the following before requesting the A/E and/or SU representative inspection for Certification of Substantial Completion either for the entire Work or portions of the Work.

- 1) Contractor shall apply for, and SU have in its possession, DCA's Certificate granting occupancy or use.
- 2) The Contractor is to complete the work as is outlined within the Punch List as has been developed and issued by the A/E.
- 3) After completion of the punch list, A/E and/or SU representative will inspect to determine status of completion.
- 4) Should the A/E or SU representative determine that the Work is not Substantially Complete, the A/E or SU representative will promptly notify the Contractor, in writing, giving the reasons therefore
- 5) The Contractor shall remedy the deficiencies and notify the A/E and/or SU representative when ready for re-inspection
- 6) The A/E and SU representative will re-inspect the Work. When the A/E and SU representative concur that the Work is Substantially Complete, the Contractor will be notified in writing of any outstanding Punch List items to be completed or corrected as verified by the A/E and SU representative.
- 7) Contractor shall certify that:
 - a. Work has been inspected for compliance with the Contract Documents.
 - b. Work has been completed in accordance with the Contract Documents.
 - c. Equipment and systems have been tested, as required, and are operational.
 - d. Work is completed and ready for final inspection.

4.21.5 Final Completion – The Contractor shall complete the following before requesting the A/E and/or SU representative final inspection for Certification of Final Completion of the Work and final payment.

- 1) Contractor shall apply for and SU shall have in its possession DCA's Final Certificate granting occupancy or use.
- 2) A/E and SU representative will conduct an inspection to verify status of completion.

- 3) Should the A/E and/or SU representative determine that the Work is incomplete or defective:
 - a. The Contractor will promptly be notified, in writing, listing the incomplete or defective Work.
 - b. The Contractor shall remedy the deficiencies promptly and notify the A/E and SU representative when ready for re-inspection.
 - c. When the A/E and SU representative determine that the Work is acceptable under the Contract Documents and that all required submittals have been made, SU representative will request the Contractor to submit a final application for payment.

4.21.6 Final Cleaning – The Contractor’s responsibilities in final cleaning include but, may not be limited to the following:

- 1) Remove grease, dust, dirt, stains, labels, fingerprints, and other foreign materials from interior and exterior surfaces. Materials and rubbish shall not be thrown from building openings above the ground floor unless contained within chutes.
- 2) Repair, patch and touch-up marred surfaces to match adjacent finishes.
- 3) Clean ducts, blowers, and coils if air conditioning or heating units were operated during construction and replace all filters accordingly.
- 4) Sweep, mop, and buff resilient floors and base.
- 5) Dust walls, metal, wood, and similar finished materials.
- 6) Clean all cabinet and casework.
- 7) Dust and wash all plumbing and electrical fixtures. Remove stickers from all fixtures and devices accordingly.
- 8) Wash and buff or polish all non-resilient materials.
- 9) Vacuum carpet floors; clean as necessary.
- 10) Vacuum all floor areas if scheduled to receive floor finish by others.
- 11) Wash and polish all glass, inside and out; remove stickers and labels accordingly.
- 12) Replace broken or scratched glass with new glass.
- 13) Restore all landscaping, roadways and walkways to preexisting conditions. Damage to trees and plantings shall be repaired in the current or next planting season and such shall be guaranteed for one year from the date of repair and/or replanting.

5. ARTICLE 5 – CONTRACTOR FOR GENERAL CONSTRUCTION: SPECIAL RESPONSIBILITIES

5.1 Unique Role of Responsibility – Staffing

5.1.1 The Contractor for general construction (hereinafter referred to as the Contractor) has the responsibility for being the supervisor, manager, overseer, coordinator and expeditor of all of the Contractors and of the total construction process and all of its parts, in accordance with the Contract Documents.

5.2 Control and Coordination of Construction

5.2.1 SU relies upon the organization, management, skill, cooperation and efficiency of the Contractor to supervise, direct, control and manage the general construction work and the efforts of the other Contractors, so as to deliver the completed Project in conformance with the Contract Documents and within the scheduled time. The Contractor shall not be relieved of obligations to perform the Work in accordance with the Contract Documents either by activities or duties of the A/E in the A/E's administration of the Contract, or by tests, inspections or approvals required or performed by other persons other than the Contractor, or other Contractors engaged by SU to perform specific work.

5.2.2 The Contractor shall include in its bid an amount sufficient to cover the cost of furnishing necessary administrative and supervisory forces to coordinate its Work and that of its Subcontractors.

5.2.3 All Subcontractors shall be responsible to the Contractor for performance of their contract work and for meeting those dates within the final project progress schedule.

5.3 Layout and Dimensional Control – Surveying

5.3.1 The Contractor shall be responsible for locating and laying out the building and all of its parts on the site, in strict accordance with the Drawings, and shall accurately establish and maintain dimensional control. The Contractor shall employ and pay for the services of a competent and licensed New Jersey engineer or land surveyor (who shall be approved by DPMC) to perform all layout work, and to test the level of excavations, footing base plates, columns, walls and floor and roof lines, and furnish to the A/E, as the Work progresses, certifications that each of such levels is as required by the Drawings. The plumb lines of walls, etc., shall be tested and certified by the surveyor as the Work progresses.

5.3.2 The engineer/surveyor, in the course of layout work both on the site and within the building, shall establish all points, lines, elevations, grades and bench marks for proper control and execution of the Work. The engineer/surveyor shall establish a single permanent bench mark

as directed, to which all three coordinates of dimensional control shall be topographical and utility survey data and all points, lines, elevations, grades and bench marks. Should any discrepancies be found between information given on Drawings and the actual site or field conditions, the Contractor shall notify the A/E of such discrepancy, and shall not proceed with any Work affected until receipt of written instructions from the A/E.

5.4 Construction Access Routes

5.4.1 The Contractor shall be responsible for providing and maintaining unobstructed traffic lanes on the designated construction access routes either shown on the Contract Drawings or reasonably required so as to perform the Work, and shall provide and maintain all reasonably required safety devices. The Contractor shall provide any necessary additional materials, their grading and compaction, and shall remove snow and debris as necessary to provide and maintain the general serviceable condition of the access roadbed, as well as pedestrian ways.

5.5 Project Sign

5.5.1 The Contractor shall erect and maintain one sign at the project site, as shown on the Drawings and located as directed by the A/E.

5.5.2 Painting shall be done by a professional sign painter, with two coats of exterior paint, colors, letter face and layout as shown. No other sign will be permitted at the site.

5.5.3 Upon completion of the Project, and when directed by the A/E or SU representative, the Contractor shall remove the sign. Should there be a change in the listed State officials; the Contractor shall make appropriate changes to the sign at its expense.

5.6 Dust Control

5.6.1 The Contractor, at its expense, shall provide and maintain necessary temporary dust-proof partitions around areas of work in any existing building or in new building areas as directed by the A/E or SU representative.

5.7 Repair of Finished Surfaces, Applied Finishes, Glass

5.7.1 The Contractor accepts sole responsibility for repair of uncontrolled dislodging, cracking, delaminating or peeling of finished surfaces such as concrete, pre-cast concrete, cast and natural stone, unit masonry, millwork, plaster, glass and applied finishes such as paint, and special coatings, within the contract scope and the limits of specified guarantee periods, regardless of the cause.

5.7.2 The Contractor shall be responsible for replacement of all broken glass installed by it or by its subcontractors, after same has been installed, no matter by whom or what caused. The Contractor shall replace all broken, scratched or otherwise damaged glass before the completion and acceptance of the Work. The Contractor shall wash all glass on both sides at completion, or when directed, removing all paint spots, stains, plaster, etc.

5.7.3 Nothing herein is intended to limit the right of the Contractor to seek payment from the party responsible for damages.

5.8 Photographs

5.8.1 With each application for payment until the exterior is completed, the Contractor shall submit progress photographs of the building, in duplicate to SU's representative, giving two views of each building as selected by the A/E, taken from the same points each month. This requirement shall apply to the creation of the new space only.

5.8.2 The photographs shall be 8" by 10", shall bear the date of the exposure, SU project number and title and the names of the Contractor and the A/E. Fifty (50) digital images shall be submitted along with the traditional photographs indicated in section 5.8.1 above at the Contractor's option.

5.9 Warranty

5.9.1 Neither the final certificate of payment, nor any provision in the Contract Documents, nor partial or entire occupancy of the premises by SU shall constitute an acceptance of Work not done in accordance with the Contract Documents, nor shall it relieve the Contractor of liability with respect to any expressed or implied warranties or responsibility for faulty materials or workmanship. SU will give notice of observed defects with reasonable promptness.

5.9.2 In addition to warranties otherwise specified in other sections of the Specifications, the Contractor and each individual subcontractor shall guarantee and warrant, in writing, the Work to be performed and all materials to be furnished under this Contract against defects in materials or workmanship, and shall pay for the value or repair of any damage to other work resulting there from for a period of one year or as specified from the date of Substantial Completion. All warranties, bonds, etc. required by the Specifications shall be in writing in requisite legal form and delivered to SU no later than time of submission of the invoice for final payment.

- 5.9.3** All subcontractors' warranties, bonds, etc. shall be underwritten by the Contractor, which shall obtain and deliver same to SU before the Work shall be deemed finished and accepted.
- 5.9.4** The Contractor shall, at its own expense and without cost to SU, within a reasonable time after receipt of written notice thereof, and without negatively impacting SU operations related to the Work, make good any defects in material or workmanship which may develop during stipulated guarantee periods, as well as any damage to other work caused by such defects or by their repairs. Any other defects in materials or workmanship not reasonably observable or discovered during the warranty period shall be repaired and/or replaced at the Contractor's expense, and such shall be completed within a reasonable time after written notice is given to the Contractor.
- 5.9.5** It is anticipated that certain permanent equipment will have to be activated during construction of the project to support construction operations. This would particularly be the case with respect to service elevators and those portions of the permanent heating system which might be required to provide temporary heat for interior finish operations. Regardless of when equipment is activated for use during construction, all equipment warranties must extend for the time periods required in these Specifications, starting as of the date of Substantial Completion or Final Completion of the Project by SU. All Contractors shall include in their base bids all costs necessary to provide extended warranties as necessary for any equipment which may be activated prior to final building acceptance by SU.

5.10 Security Services

- 5.10.1** The Contractor shall provide security services throughout the period of construction to adequately protect the Work, stored materials and temporary structures located on the premises, and to prevent unauthorized persons from entering the construction site. The period of time and the hours of the day or night required for such services shall be established by the Contractor for general construction and must be sufficient to insure all Contractors' equipment and materials are adequately protected. If SU determines that adequate protection is not being provided and directs the Contractor for general construction to increase the service, such protection shall be provided at no extra cost to SU.

6. ARTICLE 6 -- TEMPORARY FACILITIES, UTILITIES AND SERVICES

6.1 Field Offices

- 6.1.1** The Contractor will provide onsite and maintain during the project construction a suitable weather-tight insulated field office conveniently located for reception and continuous use, and shall maintain therein a complete set of Contract Documents including Drawings, Specifications,

CPM network diagrams, Change Orders, logs, other details and correspondence. The field office shall contain approved and safe heating facilities and lighting, convenience outlets, a fire extinguisher, a minimum of two operating windows of 15 square feet each and an outside door with a handle, hasp and padlock.

6.1.2 The field office may be removed upon enclosure of the building at a time directed by SU representative or the A/E; contents and operations will be transferred to the interior of the project building by the Contractor, and said offices shall be maintained by the Contractor until Final Completion of the Project, unless otherwise directed by SU.

6.1.3 The Contractor shall be responsible for the maintenance of all temporary offices, janitorial service and other incidentals.

6.1.4 Each Contractor shall provide its own telephone, data lines and equipment at no cost to the University.

6.2 Temporary Storage, Staging and Shelter Structures

6.2.1 Each Contractor will provide and maintain, for its own use and as each deems necessary, suitable and safe temporary storage, tool shops, and employees' sheds for proper protection, storage work and shelter, respectively. Each Contractor shall maintain these structures properly and remove them at the completion of Work. Locations shall be directed by the Contractor. The Contractor making use of these areas shall be responsible for correcting defects and damage caused by such use and for keeping these areas clear and clean.

6.3 Temporary Construction Operations/Services Facilities

6.3.1 Each Contractor shall be responsible for providing for its own requirements relative to storage areas, employee vehicular parking, equipment marshaling areas, excavation borrow/spoils designated areas, commercial canteen areas, etc. The Contractor shall locate these areas to suit project requirements, with SU's concurrence.

6.4 Temporary Toilet Facilities

6.4.1 The Contractor shall provide and pay for suitable temporary toilets at an approved location on the site and prior to the start of any field Work. They shall comply with SU, State, local laws, and regulations. The Contractor will be responsible for maintenance, removal and relocation as described hereinafter.

6.4.2 Toilets shall be serviced by a firm qualified and experienced in such functions.

- 6.4.3** Toilets shall be of the portable chemical type, mounted on skids, with screened enclosures with doors, each having a urinal and water closet.
- 6.4.4** Each unit shall be serviced at least twice a week, including the removing of waste matter, sterilizing, recharging tank, refilling tissue holders, and thoroughly cleaning and scrubbing of entire interior, which shall be maintained in a neat and clean condition.
- 6.4.5** When toilets are connected to water and sewer lines, precautions shall be taken to prevent freezing.
- 6.4.6** The temporary toilet units shall be removed from the Work site at the completion of the Work, or when so directed by SU or the A/E.
- 6.4.7** Workers are not to use existing SU facilities.

6.5 Temporary Drives and Walks

- 6.5.1** The Contractor shall be responsible for keeping all roadways, drives and parking areas within or proximate to the site free and clear of debris, gravel, mud or any other site materials by ensuring that all reasonably necessary measures are taken to prevent such materials from being deposited on such surfaces. This includes, as may be appropriate, the cleaning of vehicle wheels, etc., prior to exit from the construction site. Should such surface require cleaning, the Contractor will clean these surfaces without additional cost to SU. The Contractor will be held accountable for any citations, fines or penalties imposed on SU for failing to comply with local rules and regulations.
- 6.5.2** Should the Contractor elect to commence construction of permanent driveways, parking areas or walks (other than general grading of temporary shop areas), the Contractor shall not do so without the approval of SU's representative. The Contractor shall not do so without having prepared the subgrade, as may be elsewhere required by the Specifications, nor will the Contractor be relieved from any responsibility for providing additional materials or for reworking the subgrade prior to completion of the Work, if so required to make the improvements conform fully with the Specifications.
- 6.5.3** The Contractor shall obtain permission in writing from SU before using any existing driveways or parking areas not specifically designated for such use in the Contract Documents for construction purposes.

The Contractor shall maintain such driveways and areas in good condition during the construction period, and at completion of the project shall leave them in the same condition as at the start of the

Work. Conditions before use should be carefully photographed or documented by the Contractor.

6.6 Temporary Water

- 6.6.1** The Contractor shall provide, protect and maintain an adequate valved water supply to a convenient location for the use of all Contractors on the project during the period of construction, either by means of the permanent water supply line, or by the installation of a temporary water supply line. If the source of water supply is a well, provisions covering the supply water will include the installation of necessary power-driven pumping facilities by the plumbing Contractor. The well shall also be protected against contamination. The water supply shall be tested periodically by the Contractor, and if necessary, shall be chlorinated and filtered. All costs in providing water, other than the cost of the water itself, will be borne by the Contractor. Electrical services and hookups will be provided by the Contractor, which will pay all costs for this electrical Work. Should pumps be installed in connection with this water supply, electrical connections will be provided and paid for by the Contractor.
- 6.6.2** Temporary water may or may not be provided by SU at no charge to the Contractor, provided and to the extent it may be existing and available at the site immediately prior to and during construction. It is the obligation of Contractor requiring temporary facilities to investigate and make specific arrangements with the using agency for such facilities and to include in its proposal the cost of any additional facilities the Contractor may require for proper conduct of its Work.
- 6.6.3** The Contractor shall install its temporary and/or permanent water lines to the boiler room and heating equipment in sufficient time to be available for supplying water for testing and operation of the heating system, when such are needed to supply heat for the project.
- 6.6.4** The Contractor is responsible to protect all water lines from damage or freezing, be they permanent or temporary. Should water connections be made to an existing line, the plumbing Contractor shall provide a positive shut-off valve at its own cost and expense.
- 6.6.5** If the Contractor fails to carry out its responsibility in supplying water as set forth herein, the Contractor shall be held responsible for such failure, and SU shall have the right to take such action as is deemed proper for the protection and conduct of the Work and may deduct the cost involved in so doing from any sums due the Contractor.
- 6.6.6** The unauthorized use of campus fire hydrants as a source of temporary water is strictly prohibited. Unauthorized use of a campus fire hydrant may result in the immediate shut-down of the Project.

6.7 Temporary Light and Power

- 6.7.1** The Contractor shall extend electrical service to the building or buildings at locations approved by SU; temporary electrical service shall be independent of the existing permanent service.
- 6.7.2** The Contractor shall pay for the cost of all electric energy used on distribution lines installed by the Contractor until the project is accepted by SU. The Contractor shall provide and pay for all maintenance, servicing, operation and supervision of the service and distribution facilities. The Contractor shall also connect, maintain and service any electrical equipment installed by the HVAC Contractor which may be necessary for maintaining heat whenever heat is required in the building, whether from the temporary or permanent system.
- 6.7.3** If the Contractor fails to carry out its responsibility in the supplying of uninterrupted light and power or other utility as set forth herein shall be held responsible for such failure and SU shall have the right to take such action as is deemed proper for the protection and conduct of the Work and shall deduct the costs involved from the amount due the Contractor.
- 6.7.4** There shall be no additional cost to SU because of standby requirements due to conflict in the normal working hours of the various trades. The Contractor shall provide temporary light and power to all trades during normal working hours of such trades. Where overtime work by the Contractor necessitates standby electricians or other trades, the Contractor shall be responsible for making appropriate arrangements, financial and otherwise, for such service at no cost to SU.
- 6.7.5** The Contractor shall observe the requirements of the Federal Occupational Safety and Health Act of 1970 with regard to temporary light and power.

6.8 Temporary Heat

- 6.8.1** Prior to the building being enclosed by walls and roof, if the outside temperatures shall fall below 40 degrees F. at any time during the day or night, and heat is required for Work in progress or for its protection, the Contractor shall furnish, at their expense, acceptable means to provide sufficient temporary heat to maintain a temperature of not less than 45 degrees F.
- 6.8.2** Heating of field offices, storage spaces, concrete and masonry materials and working area, as required, shall be provided by the responsible Contractors.

- 6.8.3** As soon as the Contractor determines that the building, or a major unit thereof, is "generally enclosed" by walls and roof, the responsibility of supplying working area heat shall rest with the Contractor. When the outside temperature falls below 40 degrees F. at any time during the day or night, the Contractor shall furnish sufficient heat by the use and maintenance of LP gas heaters or other acceptable means to maintain a temperature of not less than 45 degrees F. within the enclosed area of the building at all times, and shall remove such heaters when no longer required.
- 6.8.4** The Contractor will be held responsible for providing temporary heat for all damages resulting from freeze-ups as a result of its Work.
- 6.8.5** The Contractor shall not assume that the permanent heating system or any part thereof will be available for furnishing of temporary heat during the period for which temporary heat is the responsibility of the Contractor. The Contractor's base bid price shall therefore include the cost of all equipment necessary for providing temporary heat as required under these Specifications.
- 6.8.6** All heating equipment at a minimum shall be OSHA-approved and connected to approved flues to the atmosphere.
- 6.8.7** Storage of cylinders within the building will not be permitted at any time. Fire extinguishers shall be provided by the Contractor on each floor where heaters are used and the areas must be adequately ventilated.
- 6.8.8** Contractors responsible for providing temporary heat shall train at least two dependable persons to oversee temporary heat operations.
- 6.8.9** For the purposes of establishing the beginning of the Contractor's obligation to provide temporary heat, a building or major unit thereof shall be considered generally enclosed when (a) the exterior walls have been erected, (b) a temporary roof or permanent roof is installed and in watertight condition, and (c) temporary or permanent doors are hung and window openings are closed with either permanent or temporary weather-tight enclosures (cardboard or woven materials are not to be used; however, any impervious transparent material reasonably intended for such purpose is acceptable).
- 6.8.10** SU reserves the right to permit the substitution of limited temporary enclosures in lieu of permanent construction for the attainment of a permanently tight building if such action is deemed by SU to be in the best interest of the project. This action will not be such as to create a future jeopardy to the environment integrity of the building as construction proceeds.

6.8.11 When the permanent heating system provided by the Contractor is the source of the heat, the Contractor shall be responsible for paying for all water, electricity and fuel required for the operation of the permanent heating system until SU assumes beneficial occupancy/use of the project.

6.8.12 Should electricians be required to supervise and maintain electrical equipment required for the provision of heat, the payment for the services of the supervisors and/or maintenance personnel shall be the responsibility of the Contractor.

Should the proper type of electric service not be available to supply electrical energy for the operation of the heating system in supplying temporary heat, it shall be the responsibility of the Contractor to provide a motor-driven generator unit of sufficient capacity, voltage and phasing to provide uninterrupted service for the operation of the heating system.

The Contractor shall pay the cost of all fuel consumed in the operation of the generating unit for supplying temporary heat. The Contractor shall provide uninterrupted electrical service to the heating, water and pumping equipment.

6.8.13 If additional heat is required beyond that specified herein, the Contractor requiring such additional heat shall arrange and pay the additional costs thereof, at no expense to SU.

7. ARTICLE 7 – SUBCONTRACTORS

7.1 Contractor - Subcontractor Relationship

7.1.1 Within 14 calendar days after award of the Contract, the Contractor shall provide written notification to SU of the names of subcontractors, other than those required to be listed in the bid proposed or as required for DCA Construction Permit to perform the principal parts of the Work and of such others as SU may direct. Contractor shall not employ any subcontractor without prior acceptance by SU, or any subcontractor that SU may reject within a reasonable time. The Contractor shall not employ any subcontractor that has been debarred, suspended or proposed for debarment by the State of New Jersey. The Contractor shall be responsible to review the debarment list each week, and notify SU of any change of status of any subcontractors. The Contractor shall certify in writing to SU all subcontractors used for the project have not been debarred, suspended or proposed for debarment by the State of New Jersey.

The list of proposed Subcontractors may be considered approved by SU if no reply is forwarded to the Contractor within 15 calendar days following receipt of the list by SU.

- 7.1.2** If SU has reasonable objection to any such proposed subcontractor, the Contractor shall substitute another subcontractor to which SU has no reasonable objection. Under no circumstances shall SU be obligated for additional cost due to such substitution.
- 7.1.3** The Contractor shall make no substitution for any subcontractor, person or firm previously selected and approved, without written notification to SU and receipt of SU's written approval for such substitution.
- 7.1.4** The Contractor acknowledges its full responsibility to SU for the acts and omissions of its subcontractors, and of persons and firms either directly or indirectly employed by them, equally to the extent that the Contractor is responsible for the acts and omissions of persons and firms directly or indirectly employed by it. Contractor acknowledges that it remains fully responsible for the proper performance of its contract irrespective of whether work is performed by the Contractor's own forces or by subcontractors engaged by the Contractor.
- 7.1.5** Nothing contained in the Contract Documents shall create any contractual relationship between any subcontractor and SU.
- 7.1.6** By an appropriate agreement, written where legally required for validity, the Contractor shall require each subcontractor, to the extent of the Work performed by the subcontractor, to be bound to the Contractor by the terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities which the Contractor, by these documents, assumes toward SU, the A/E and the other separate prime Contractors.
- Where appropriate, the Contractor shall require each subcontractor to enter into similar agreements with its sub-subcontractors.
- 7.1.7** The Contractor and all subcontractors agree that, in the employment of both skilled and unskilled labor, preference shall be given to residents of the State of New Jersey and eligible "Commerce-registered" small businesses, if such labor force is available.
- 7.1.8** The subcontractor or material supplier shall not relieve the Contractor, of the responsibility of complying with all provisions of the Contract Documents.

8. ARTICLE 8 - RELATIONSHIP BETWEEN OWNER & CONTRACTOR

8.1 Owner's Right to Perform Work

8.1.1 SU may, and reserves the right to, enter upon the premises at any and all times during the progress of the Work, or cause others to do so, for the purpose of installing any apparatus or carrying on any construction not included in these Specifications or for any other reasonable purpose.

8.2. Mutual Responsibility

8.2.1 The Contractor shall afford SU reasonable opportunity introduction and storage of their materials and equipment and the execution of their Work. The Contractor shall coordinate its Work with adjacent work and with other trades, so that no portion of the Work is delayed or not properly undertaken due to such lack or failure of cooperation.

8.2.2 The Contractor shall lay out and install its Work at such time or times and in such manner as to facilitate the general progress of the Project.

8.2.3 Before the completion of the Work contemplated herein, should it be deemed necessary by SU to do any work whatsoever in or about the structure, other than as provided for in the Contract Documents, the Contractor shall fully cooperate with such other individual or firm as SU may employ to do such work, so that such additional work may be performed without unreasonable interference. The Contractor shall afford said other individual or firm all reasonable facilities for doing such work. Other than for an extension of time, the Contractor shall make no claim to SU as a result of such work as is contemplated herein.

SU shall at all times have access to the Work whether it is in preparation or in progress, and the Contractor shall provide proper facilities for such access and for inspection. SU reserves the option to employ the services of a professional consultant to evaluate any phase of the Work deemed to be in the best interest of SU, but no evaluation performed shall in any way relieve the Contractor of its responsibilities under the Contract. The Contractor shall cooperate with the consultants and provide access to the Work and facilities for inspection. Should any portion of the Work or materials be found deficient or defective, the Contractor will pay the applicable fees of such consultant and be responsible for replacing the deficient or defective Work as required by the provisions stated elsewhere herein.

8.2.4 Any costs caused by defective or ill-timed Work shall be borne by the responsible party.

8.2.5 If the Contractor should destroy, damage or disturb the work of any other Contractor in or about the building or premises, the Contractor shall

immediately either replace the destroyed work and make good the damaged and disturbed work to the satisfaction of the A/E and SU, or shall reimburse the Contractor whose work has been destroyed, damaged or disturbed for the expense of replacing such work.

- 8.2.6** Should a Contractor sustain any damage through any act or omission of any other Contractor having a contract with SU, or through any act or omission of a subcontractor of any such Contractor, or through any act or omission of the A/E, the Contractor shall have no claims against SU for such damage, but shall have a right of action to recover such damages from the causing party or parties, in accordance with Section 8.4.2, which is included in SU's contract with all other such Contractors and the A/E.

8.3 Substantial Completion

- 8.3.1** At the request of SU, and/or the A/E, the Contractor shall make a joint inspection of the Work, and if all determine that the Work is substantially completed, SU may give Notice of Substantial Completion for Beneficial Use. Such certification shall in no way relieve the Contractor of any contractual obligation or in any way relieve the Contractor from responsibility to promptly complete punch list Work.
- 8.3.2** Standard warranty period for equipment, workmanship and materials shall commence on the date of acknowledgment of substantial completion of the project or portions thereof so certified, or from the time of completion and acceptance of equipment, work or materials in question, whichever is later, unless specified to the contrary as a condition of partial acceptance.
- 8.3.3** Use and possession prior to completion: SU shall have the right to take possession of or use any completed or partially completed part of the Work. Prior to such possession or use, SU shall furnish the Contractor with an itemized list of Work remaining to be performed or corrected on such portions of the project as are to be possessed or used by SU, provided that failure to list any item of Work shall not be deemed an acceptance of any Work under the Contract. While SU has such possession or use, the Contractor, notwithstanding the provisions of Section 4.5 of this Contract entitled "Permits - Laws - Regulations," shall be relieved of the responsibility for the loss or damage to the Work resulting from SU possession or use. If such prior possession or use by SU delays the progress of the Work or causes additional expense to the Contractor, an equitable adjustment in the contract time of completion will be made and the Contract shall be modified in writing accordingly.

8.4 Contractor's Claims for Damages

8.4.1 Any claims made by a Contractor against SU for damages or extra costs are governed by and subject to the New Jersey Contractual Liability Act, N.J.S.A. 59:13-1 et seq., as well as all the provisions in this Contract.

8.4.2 Any Contractor or A/E having, or which shall hereafter have, a contract with SU, which by its own acts, errors or omissions, damages or unnecessarily delays the Work of the Owner or other Contractors by not properly cooperating with them or by not affording them reasonably sufficient opportunity or facility to perform work as may be specified, by reason of which act, error or omission of the said Contractor, the A/E or any other Contractor shall sustain damages, including delay damages, during the progress of the Work hereunder, then and in the event, the culpable party agrees to pay all costs and expenses incurred by the damaged Contractor(s) or A/E due to any such delays and/or damages whether by settlement, compromise or arbitration and the injured Contractor or A/E shall have a right to redress enforcement in court directly against the culpable party.

In addition, the culpable party agrees to defend, indemnify and save harmless the State from all such claims and damages. Nothing contained in this paragraph shall be construed to relieve the culpable Contractor or A/E from any liability or damage sustained on account of such acts, errors or omissions caused by any acts or omissions as specified in the above paragraph, and the Contractor's exclusive remedy shall be against the culpable party.

8.5 SU's Right to Accelerate

8.5.1 SU may order and direct the Contractor responsible for delay as described in Section 8.2.3 of this document or as may be apparent as a result of observation of the work, to accelerate that Contractor's Work at any particular place or places by increasing its forces, Working overtime and/or on Saturdays, Sundays, and holidays as may be required to enable others to carry on with their own work in accordance with the project progress schedule. The cost of such acceleration efforts shall be borne entirely by the responsible Contractor and shall not be billed to SU.

8.6 Time of Completion - Delay - Liquidated Damages

8.6.1 In the event the Contractor fails to complete the Work within the time stated in the Contract Documents, the Contractor may be liable to SU for Liquidated Damages as provided for in N.J.S.A. 18A:64-73 refer to Supplementary General Conditions for specific details.

8.6.2 It is hereby understood and mutually agreed by and between the Contractor and SU that the date of the initiation, the dates of required intermediate milestones, and the time for completion, as

specified in the Contract of the Work to be done hereunder are essential conditions of this Contract.

- 8.6.3** The Contractor agrees that the Work shall be prosecuted regularly, diligently, and uninterruptedly at such rate of progress as will ensure full completion thereof within the time specified. It is expressly understood and agreed, by and between the Contractor and SU, that the time for the completion of the Work herein is a reasonable time.

If the Contractor shall neglect, fail or refuse to complete the Work within the time herein specified, or any proper extension thereof granted by SU, then the Contractor does hereby agree, as a part consideration for the awarding of its Contract, to pay SU the amount specified in Section 8.6.1 above, not as a penalty but as liquidated damages for such breach of contract as hereinafter set forth, for each and every calendar day that the Contractor may be held in default after the stipulated date in the Contract for completing the Work.

- 8.6.4** The amount of liquidated damages is fixed and agreed upon by and between the Contractor and SU because of the impracticability and extreme difficulty of fixing and ascertaining the actual damages SU would in such event sustain, and said amount is agreed to be the amount of damages which SU would sustain, and said amounts shall be retained by SU as necessary to cover projected untimely completion of the contract work due to Contractor-caused delays.
- 8.6.5** It is further agreed that time is of the essence of each and every portion of this Contract and of the Specifications wherein a definite and certain length of time is fixed for the performance of any act whatsoever; and where under the contract an additional time is allowed for the completion of any Work, the new time limit fixed by such extension should be of the essence of this Contract.
- 8.6.6** The Contractor shall not be charged with liquidated damages, or any excess cost when SU determines that the Contractor is without fault and the Contractor's reasons for the time extension are acceptable to SU.
- 8.6.7** The Contractor shall, within five (5) calendar days from the beginning of such delay, unless SU shall grant a further period of time prior to the date of final settlement of the contract, notify SU in writing of the causes of the delay. SU shall first ascertain the facts and the extent of the delay and shall notify the Contractor within a reasonable time that good cause has been shown to warrant the granting of such extension.

8.7 No Damage for Delay-Limitation on Claims Against the University

8.7.1 SU shall have the right to defer the beginning or to suspend the whole or any part of the Work herein contracted to be done whenever, in the opinion of SU, it may be necessary or expedient for SU to do so.

If the Contractor is delayed in the completion of the Work by act, neglect or default of SU, of the A/E or of any of the Contractors employed by SU upon the Work; by changes ordered in the Work; by strikes, lockouts, fire, unusual delay by common carriers, unavoidable casualties or any cause beyond the Contractor's control; or by any cause which SU shall decide to justify the delay; then for all such delays and suspensions, the Contractor shall be allowed one calendar day addition to the time herein stated for each and every calendar day of such delay so caused in the completion of the Work as specified in Section 8.6 above, the same to be determined by SU, and a similar allowance of extra time will be made for such other delays as SU may find to have been caused by SU. No such extension shall be made for any one or more of such delays unless, within ten (10) calendar days after the beginning of such delay, a written request for additional time shall be filed with SU. Apart from extension of time, no payment or allowance of any kind shall be made to the Contractor as compensation for damages on account of hindrance or delay from any cause in the progress of the Work, whether such delay is avoidable or unavoidable.

8.7.2 The Contractor shall not be entitled to any damages or extra compensation against SU by reason of any delays in its works resulting from acts or omissions of any third parties irrespective of extension granted under the contract, including but not limited to delays caused by third parties such as the A/E, other contractors, utilities and governmental authorities.

8.7.3 SU shall only be required to pay claims for additional compensation for delays caused by SU itself and only to the extent required by N.J.S.A. 2A:58B-3 for delayed performance caused by SU's own negligence, bad faith, active interference or other tortious conduct, but not for delays resulting from the negligence of others including others under the contract with SU. SU shall not be liable to the Contractor for extra compensation for any period of delay when there is a concurrent delay for which SU is not responsible.

8.8 Indemnification

8.8.1 The Contractor shall assume all risk of and responsibility for, and agrees to indemnify, defend and save harmless SU, the State of New Jersey, and its employees from and against, any and all claims, demands, suits, actions, recoveries, judgment and costs of expenses in

connection therewith on account of the loss of life, property, injury or damage to the person, body or property sustained by Stockton University or third parties, resulting from the performance of the project or through the negligence of the Contractor, or through any improper or defective machinery, implements or appliances used by the Contractor or Subcontractors in the Project, or through any act or omission on the part of the Contractor or its agents, employees or servants, or Subcontractors which shall arise from or result directly or indirectly from the Work and/or materials supplied under this Contract. This indemnification obligation is not limited by, but is in addition to, the insurance obligations contained in this agreement.

8.8.2 In any and all claims against SU or the A/E or any of their agents or employees by any employees of the Contractor or subcontractor or anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, the indemnification obligation under this Section 8.8 shall not be limited in any way as to the amount or type of damages compensation or benefits payable by or for the Contractor or any subcontractor under worker's or workmen's compensation acts, disability benefit acts, or other employee benefit acts.

8.9 Contract Time - Notice to Proceed

8.9.1 Contract time shall commence on the date of the Contractor's receipt of a written Notice to Proceed issued by SU. The Notice to Proceed will be issued by SU after SU's receipt and acceptance of properly executed Contract Documents, including performance and payment bonds. Unless otherwise ordered by SU in writing, the Contractor shall initiate its Contract Work at the site no later than 14 calendar days after its receipt of the Notice to Proceed.

8.9.2 Provided the contract is not terminated pursuant to Section 2.2 of the Instructions to Bidders if, in the opinion of SU, the Contractor's delay in furnishing financial responsibility and performance or payment bonds causes a delay in the issuance of the Notice to Proceed, the time to complete the Work as specified in the contract may be reduced to reflect such delay.

8.9.3 The Contractor shall perform no Work under this Contract until the required evidence of financial responsibility and bonds has been furnished. Thereafter, Work at other than the contract site may be undertaken. The Contractor shall perform no Work at the contract site except pursuant to a Notice to Proceed given by SU.

8.9.4 A Notice to Proceed may be issued by SU at its convenience. Any right of the Contractor to any adjustment because of a delay in issuing a Notice to Proceed shall be determined in accordance with Section 2.1

entitled "SU's Right to Stop Work.

9. ARTICLE 9 - PROJECT SCHEDULE

9.1 GENERAL REQUIREMENTS

9.1.1 The Work under this Contract will be planned, scheduled, executed, and reported pursuant to provisions of the General Conditions, Supplemental General Conditions (if any) and the specified dates in the Summary of Work.

9.1.2 The Contractor shall in no way be relieved of its responsibility of complying with all of the requirements of the Contract Documents, including, but not limited to, the responsibility of completing the Work within the Contract time and the responsibility of planning, scheduling, and coordinating the Work. The Contractor is required to comply with all control procedures specified herein and with any reasonable changes that may be necessary in the opinion of SU during the Contract duration.

9.1.3 All milestones or specific completion dates listed in these Specifications or elsewhere in the Contract Documents are considered essential to the satisfactory performance of the Contract and to the coordination of all Work on the project.

The specific completion dates listed represent the latest allowable completion dates. Earlier completion dates may be established as agreed by the Contractor and SU.

9.1.4 Should the Contractor plan to complete the Work earlier than any required Milestone or Completion date, SU shall not be liable to the Contractor for any costs or damages if the Contractor is unable to complete the Work before such Milestone or Completion date.

9.1.5 The Contractor shall provide all information and input required for the development of the schedule for the Work according to the requirements of this Article. The purpose of the project schedule shall be to:

- a. Assure adequate planning, scheduling and reporting during execution of the Contract.
- b. Assure coordination of the Work of the Contractor, subcontractors and suppliers.
- c. Assist the Contractor and SU in monitoring the progress of Work and evaluating proposed changes to the Contract and project schedule.
- d. Assist the Contractor and SU in the preparation and evaluation of the Contractor's monthly progress payments

9.1.6 The Contractor shall involve all applicable Subcontractors in the schedule development, updating, and revisions as required.

9.2 BREACH

9.2.1 Failure of the Contractor to comply with the requirements of this Article shall constitute reason that the Contractor is failing to prosecute the Work with such diligence as will insure its completion within the Contract items shall be considered a breach of the Contract.

9.3 PROJECTS WITH CONSTRUCTION VALUES LESS THAN \$3,000,000.00 (PROGRESS SCHEDULE)

9.3.1 The Work under this Contract will be planned, scheduled, executed and reported using a bar chart schedule as described below unless otherwise noted in the Supplementary General Conditions.

9.3.2 Schedule Requirements

1. Within ten (10) calendar days of the Notice to Proceed, the Contractor shall submit to A/E and SU representative for review and comment, a Progress Schedule for the construction work scope. The schedule shall provide a complete and detailed sequence of operations of the Work within the limits specified in the Contract.

a. The Progress Schedule diagram shall include:

1. The order of the Contractor's activities including dates for start and completion.
2. Conformance with and identification of the specific dates specified in the Contract Documents.
3. The description of Work by activity.
4. Offsite activities: The Contractor shall include in the Progress Schedule all procurement activities which lead to the delivery of long-lead materials to the site, (long-lead items are defined as those requiring more than one month between ordering and delivery to the site).

Offsite activities shall include the following:

- a. Dates of submittals, ordering, manufacturing or fabricating, and delivery of equipment and materials.
- b. All significant Contractor activities during the fabrication and erection/installation in a Contractor's plant or on a job site, including materials/equipment purchasing, and delivery.
- c. Contractor's Drawings and submittals to be prepared and submitted to the A/E. The Contractor shall be solely responsible for expediting the delivery of all material to be furnished by him so that construction progress is maintained according to the current

schedule for this Work.

Submittals, equipment orders and similar items are to be treated as schedule activities and shall be given appropriate activity numbers.

5. Delivery of SU furnished material and equipment.
 6. Shop fabrication and delivery.
 7. Testing of equipment and materials.
 8. All code compliance inspections.
- b. The identity and duration of activities comprising the Progress Schedule shall meet the following criteria:
1. Activity boundaries shall be easily measurable and descriptions shall be clear and concise. The beginning and end of each activity shall be readily verifiable, and progress should be quantifiable.
 2. Responsibility for each activity shall be identified with a single performing organization.
 3. Seasonal weather conditions, utility coordination, no-Work periods, expected job learning curves, and other foreseeable delays to activities shall be considered and included in the planning and scheduling of all Work.
2. The level of detail of the Progress Schedule shall be such that activity durations over twenty-one (21) working days shall be kept to a minimum except for non-construction activities such as shop drawing and sample submittals, fabrication and delivery of materials and equipment, delivery of equipment, concrete curing and General Conditions activities.
 3. The Progress Schedule shall show a completion date for the project that is not later than the project's required completion date. All activity durations shall be given in calendar days. The Schedule also shall show the following for each activity:
 - a. Work of outside contractors, e.g., utilities, power, and with any separate contractor.
 - b. Description.
 - c. Estimated duration.
 - d. Planned start (by calendar date).
 - e. Planned finish (by calendar date).
 - f. Activity codes.
 4. The schedule shall be prepared with notations to show how sequence of Work is affected by requirements for phased

completion, Work by SU, pre-purchased materials, coordination with existing Work, limitations of continued occupancies, site restrictions, provisions for future Work, seasonal variations, environment control, and similar provisions of total project.

5. It is to be expressly understood and agreed by the Contractor that the Progress Schedule is an estimate to be revised from time to time as progress proceeds, and that SU does not guarantee that the Contractor can start Work activities on the start dates or complete Work activities on the finish dates shown in the initial schedule, or in an updated or revised schedule; nor does SU guarantee that the Contractor can always proceed in the sequence established by said schedule.

9.3.3 REVIEW AND ACCEPTANCE PROCESS

1. SU representative will review and comment in writing those issues and/or concerns regarding the Contractor's Progress Schedule. The Contractor shall comply with all of the submission requirements of the Specifications as set forth above.
2. The Contractor shall revise and resubmit the Progress Schedule within seven (7) calendar days. SU representative will review and comment on the revised schedule.
3. If approved, the Progress Schedule will become the official Project Schedule and will be used to monitor progress of the Work, subject to such revisions made to the schedule as provided for herein or in the Contract Documents and to support requests for payment.
4. Acceptance by SU representative of the Contractor's Progress Schedule shall not relieve the Contractor of the responsibility for accomplishing the Work within every Contract required Milestone and completion date. SU representative disclaims any obligation or liability due to acceptance of the Progress Schedule.

9.3.4 SCHEDULE UPDATES

1. The Contractor understands and agrees that their Progress Schedule is intended to accurately reflect at all times the status of the construction project. The Contractor also understands and agrees that updating the schedule is a key component of this requirement and will make every reasonable effort to provide current information.
2. Separate update meetings will be held to report schedule progress and to review the Contractor's application for progress payment.

3. SU representative will not be obligated to review or to process an application for progress payment until the Contractor has submitted an updated Progress Schedule and percentages of completion are agreed to by SU representative, A/E and Contractor.
4. Specific dates for updates shall be agreed and established by SU representative, A/E, and Contractor but, shall be at a minimum, monthly. These updates shall be coordinated with the Contractor's application for payment date.

9.3.5 SCHEDULE REVISIONS

1. The Contractor understands and agrees that their Progress Schedule is intended to accurately reflect at all times the status of the construction project. The Contractor also understands and agrees that updating the schedule is a key component of this requirement and will make every reasonable effort so that the schedule accurately reflects current conditions.
2. Should the Contractor after approval of the initial Progress Schedule want to change the plan of construction, he shall submit the requested revisions to SU representative including a description of the logic for rescheduling the Work, methods of maintaining adherence to intermediate Milestones and specific dates and the reasons for the revisions. If the requested changes are accepted by SU, they will be incorporated by the Contractor into the Progress Schedule in the next reporting period.
3. If SU representative orders changes by Change Order that impact the Contract Milestones or specific dates stipulated, a Network showing the impact will be prepared by the Contractor and provided to SU. After SU accepts the Network, it will be incorporated into the Progress Schedule by the Contractor. No time extension for such changes shall be granted unless the change extends the project beyond the Contract Substantial Completion date.
4. If at any time during construction it appears to SU representative that the Contractor's schedule no longer represents the actual progress of the Work, SU representative will request in writing a revision to the schedule. Any out of sequence progress will be considered evidence that the schedule needs revising. The Contractor will have three (3) Working days to respond to that written request.

5. Failure to furnish any required submittal or information specified herein shall constitute a cause for withholding any part of progress payments pursuant to the General Conditions.

9.3.6 RECOVERY SCHEDULE

1. Should any of the conditions exist, such that certain activities shown on the Contractor's Progress Schedule fall behind schedule to the extent that any of the specific dates are in jeopardy, the Contractor shall be required at no extra cost to SU to prepare and submit to SU representative a supplementary Recovery Schedule, in a form and detail to regain compliance with the current accepted Progress Schedule. The preparation of a recovery schedule shall not be grounds for a Change Order or a Time Extension.
2. The Contractor shall perform the following after determination of the requirement for a Recovery Schedule:
 - a. Within three (3) calendar days, the Contractor shall submit a Recovery Schedule for review and acceptance to SU representative. The Recovery Schedule shall be prepared to similar level of detail as the Progress Schedule.
 - b. Any revisions necessary because of this review shall be resubmitted by the Contractor for acceptance within two (2) calendar days receipt of SU comments. SU accepted Recovery Schedule shall be the Schedule that the Contractor shall use in planning, organizing, directing, coordinating, performing, and executing the Work (including all activities of subcontractors, equipment vendors and suppliers) for the duration of the recovery schedule to regain compliance with the Progress Schedule.

9.4 PROJECTS WITH CONSTRUCTION VALUE GREATER THAN OR EQUAL TO \$3,000,000.00 (CPM SCHEDULE)

9.4.1 The Work under this Contract will be planned, scheduled, executed and reported using the Critical Path Method (CPM).

9.4.2 CPM REQUIREMENTS

1. Within fifteen (15) calendar days of the Notice to Proceed the Contractor shall submit to A/E and SU representative for review and comment, a CPM Schedule for the construction/erection Work scope. The schedule shall provide a complete and detailed sequence of operations of the Work within the limits specified in the Contract.

- a. The CPM Schedule shall include:
 1. The order and interdependencies of the Contractor's activities and the major points of the interface or interrelation with the activities of others, including specific dates for completion. The following criteria shall form the basis for assembly of the logic:
 - a. What activity must be completed before a subsequent activity can be started?
 - b. What activities can be done concurrently? This includes activities with Start-To-Finish and Finish-To-Finish relationships with or without leads and lags.
 - c. What activities must be started immediately following a completed activity?
 2. Activities should be linked between major area separations of the project so that the individual areas do not imply complete independence. The critical path should run through all major areas, since the entire project must be completed.
 3. Conformance with and identification of the specific dates specified in the Contract Documents.
 4. The description of Work activity
 5. Off site activities:

Off site activities shall include the following:

 - a. Dates of submittals, ordering, manufacturing or fabricating, and delivery of equipment and materials.
 - b. All significant Contractor activities during the fabrication and erection/installation in a Contractor's plant or on a job site, including materials/equipment purchasing and delivery.
 - c. Contractor's drawings and submittals to be prepared and submitted to the A/E. The Contractor shall be solely responsible for expediting the delivery of all material to be furnished by him so that construction progress is maintained according to the current schedule for this Work.

Submittals, equipment orders and similar items are to be treated as schedule activities and shall be given appropriate activity numbers

6. Delivery of SU furnished material and equipment.
 7. Shop fabrication and delivery.
 8. Testing of equipment and materials.
 9. All code compliance inspections.
- b. The identity and duration of activities comprising the CPM Schedule shall meet the following criteria:
1. Activity boundaries shall be easily measurable and descriptions shall be clear and concise. The beginning and end of each activity shall be readily verifiable, and progress should be quantifiable.
 2. Responsibility for each activity shall be identified with a single performing organization.
 3. Seasonal weather conditions, utility coordination, no-work periods, expected job learning curves, and other foreseeable delays to activities shall be considered and included in the planning and scheduling of all Work.
2. The level of detail of the CPM Schedule shall be such that activity durations over twenty-one (21) working days shall be kept to a minimum except for non-construction activities such as shop drawing and sample submittals, fabrication and delivery of materials and equipment, delivery of equipment, concrete curing and General Conditions activities.
3. The CPM Schedule shall show an early completion date for the project that is not later than the project's required completion date. All activity durations shall be given in calendar days. The CPM Schedule also shall show the following for each activity:
- a. Interface with the work of outside contractors, e.g., utilities, power, and with any separate contractor
 - b. Description
 - c. Estimated duration
 - d. Early start (by calendar date)
 - e. Late start (by calendar date)
 - f. Early start (by calendar date)
 - g. Late finish date (by calendar date)
 - h. Total float available in Work days
 - i. Activity codes
 - j. The Critical Path for the project, with said path of activities being clearly and easily recognizable on the time-scaled CPM Schedule Diagram. The relationship between all non-critical activities and activities on the Critical Path shall also be clearly shown on the CPM Schedule Diagram.
 - k. The dollar value of each activity (Schedule of Values).

4. It is to be expressly understood and agreed by the Contractor that the CPM Schedule is an estimate to be revised from time to time as progress proceeds, and that SU does not guarantee that the Contractor can start work activities on the “early start” or “late start” dates or complete work activities on the “early finish” or the “late finish” dates shown in the initial schedule, or in an updated or revised schedule; nor does SU guarantee that the Contractor can always proceed in the sequence established by said schedule.

9.4.3 REQUIRED SUBMITTALS

The submittal of the contract scheduling documents shall include:

1. A plotter-generated time-scaled network diagram showing activity descriptions, durations and relationships between activities. The critical path should be easily identifiable.
2. The following reports:
 - a. Three (3) sorts of the standard CPM report, including as a minimum, activity numbers, descriptions, early and late start and finish dates, and total float; the report shall be sorted by Activity Number, Early Start, and Total Float.
 - b. Predecessors/successor report showing the above information plus predecessors and successors for each activity.
3. A computer disk containing the schedule data files. The Contractor shall develop the schedule using the Primavera scheduling system or an equivalent system. The Primavera system is preferred. SU has the right to accept or reject requests by the Contractor to use a scheduling system other than Primavera.

9.4.4 REVIEW AND ACCEPTANCE

1. SU will review the Contractor’s Schedule, including logic diagrams and computer-generated analysis. The Contractor shall comply with all of the submission requirements of the scheduling specification as set forth above entitled “Submittal.” If the Contractor submits a complete package that complies with the requirements, SU will review and comment in writing.
2. The Contractor shall revise and resubmit the CPM Schedule within seven (7) calendar days. SU will review and comment on the revised schedule.
3. Within seven (7) calendar days following acceptance of the revised schedule, the Contractor shall provide two (2) originals of the CPM Schedule with Computer Reports to SU for final

review and acceptance.

4. Upon acceptance, the CPM Schedule will become the official Project Schedule and will be used to monitor progress of the Work, subject to such revisions made to the schedule as provided for herein or in the Contract Documents and to support requests for payment.
5. Acceptance by SU representative of the Contractor's CPM Schedule shall not relieve the Contractor of the responsibility for accomplishing the Work within every Contract required Milestone and Completion date. SU representative disclaims any obligation or liability due to acceptance of the CPM Schedule.
6. If the Contractor fails to provide the schedules within the time prescribed or revisions to the schedule within the requested time, SU representative may withhold approval of payment until the Contractor submits the required information.

9.4.5 SCHEDULE UPDATES

1. The Contractor understands and agrees that their Progress Schedule is intended to accurately reflect at all times the status of the construction project. The Contractor also understands and agrees that updating the schedule is a key component of this requirement and will make every reasonable effort to provide current information.
2. Separate update meetings will be held to report schedule progress and to review the Contractor's application for progress payment. The application for progress payment is produced by the Contractor based on the Schedule of Values of the cost-loaded CPM.
3. SU representative will not be obligated to review or to process any application for progress payment until the Contractor has submitted an updated CPM Schedule and percentages of completion are agreed to by SU representative, A/E and Contractor.
4. When updating the computerized schedule, the Contractor must use the option that retains the original logic. Primavera calls this option "Retained Logic." Any option that overrides the original logic and allows activities that have started out of sequence to float to the project end date is not permitted.
5. Specific dates for updates shall be agreed and established by the

SU representative, A/E, and Contractor but, shall be at a minimum, monthly.

9.4.6 SCHEDULE REVISIONS

1. The Contractor understands and agrees that their schedule is intended to accurately reflect at all times the status of the construction project. The Contractor also understands and agrees that changes or revisions to the schedule are key components of this requirement and will make every reasonable effort to provide information as quickly as possible so that the CPM Schedule accurately reflects current conditions.
2. Should the Contractor after approval of the initial CPM Schedule want to change the plan of construction, he shall submit the requested revisions to SU representative including a description of the logic for rescheduling the work, methods of maintaining adherence to intermediate Milestones and specific dates and the reasons for the revisions. If the requested changes are accepted by SU, they will be incorporated by the Contractor into the CPM Schedule in the next reporting period.
3. The Contractor shall revise the schedule to include the effect of changes, acts of God or other conditions or events that have affected the CPM Schedule. SU representative will review and either approve or reject the changes in writing to the Contractor. If the requested changes are approved, the Contractor shall incorporate the changes into the CPM Schedule in the next reporting period.
4. If SU representative orders changes by Change Order that impact the Contract Milestones or specific dates stipulated, a schedule showing the impact will be prepared by the Contractor and provided to SU. After SU accepts the Network, it will be incorporated into the CPM Schedule by the Contractor. No time extension for such changes shall be granted unless the change extends the project beyond the Contract Substantial Completion date.
5. Neither the updating or revision of the Contractor's CPM Schedule nor the submission, updating, change or revision of any report or schedule for SU's review or non-objection of any such report or schedule shall have the effect of amending or modifying in any way, the Contract Time, any Contract Completion Date, or Contract Milestone Dates or of modifying or limiting in any way Contractor's obligations under this Contract.
6. If at any time during construction it appears to SU representative that the Contractor's schedule no longer

represents the actual progress of the Work, SU representative will request in writing a revision to the schedule. Any out of sequence progress will be considered evidence that the schedule needs revising. The Contractor will have three (3) working days to respond to that written request.

7. Failure to furnish any required submittal or information specified herein shall constitute a cause for withholding any part of progress payments pursuant to the General Conditions.

9.4.7 RECOVERY SCHEDULE

1. Should any of the conditions exist, such that certain activities shown on the Contractor's CPM Schedule fall behind schedule to the extent that any of the specific dates are in jeopardy, the Contractor shall be required at no extra cost to SU to prepare and submit to SU representative in addition to the Project Schedule a supplementary Recovery Schedule, in a form and detail appropriate to the need to regain compliance with the current accepted CPM Schedule during the immediate subsequent pay period. The preparation of a recovery schedule shall not be grounds for a Change Order or a Time Extension.
2. The Contractor shall perform the following after determination of the requirement for a Recovery Schedule:
 - a. Within three (3) calendar days, the Contractor shall submit a Recovery Schedule for review and acceptance to SU representative. The Recovery Schedule shall be prepared to similar level of detail as the CPM Schedule and shall have a maximum duration of one (1) month.
 - b. Any revisions necessary because of this review shall be resubmitted by the Contractor for acceptance within two (2) calendar days receipt of SU comments. SU accepted Recovery Schedule shall then be the Schedule that the Contractor shall use in planning, organizing, directing, coordinating, performing, and executing the Work (including all activities of subcontractors, equipment vendors and suppliers) for its one (1) month duration to regain compliance with the CPM Schedule.

10. ARTICLE 10 – PAYMENTS

10.1. Contractor Payment Process

- 10.1.1** Application for Payments shall be based on the approved Schedule of Values. The submission and approval of progress updates calculating the value of Work done for any given pay period for any

activity based on the percentage complete for that activity less the amount previously paid for past percentages complete and percent of retainage shall be an element of the evaluation of progress payments pursuant to the provisions of the General Conditions. An initial application for payment for expenditures not directly related to the Work accomplished at the project will be allowed before the acceptance of the Contractor's Progress Schedule. Requests for payment for Work items not included above may be denied without an approved schedule.

10.1.2 SU may make progress payments monthly as the Work proceeds, or at more frequent intervals as determined by SU, on estimates approved by of amounts for contract payments of the total contract price, showing the amount included therein for each principal category of the Work, in such detail as requested, to provide a basis for determining progress payments.

The schedule, as approved, shall be used only as a basis for the Contractor's estimates for progress payments, and approval by SU does not constitute acceptance of the allowability of costs to a specific element of Work. The Contractor is cautioned that no payment requests shall be approved until the Schedule of Values, (SOV) has been approved in writing by SU's authorized representative.

10.1.3 If a contractor has performed in accordance with the provisions of a contract with SU and the billing for the Work has been approved and certified by SU's authorized representative SU shall pay the amount due to the contractor for each periodic payment, final payment or retainage monies not more than 30 calendar days after the billing date, which for a periodic billing, shall be the periodic billing date specified in the contract. The billing shall be deemed approved and certified 20 days after the appropriate SU construction accounting office receives it unless SU's authorized representative provides, before the end of the 20-day period, a written statement of the amount withheld and the reason for withholding payment. If a subcontractor or sub subcontractor has performed in accordance with the provisions of its contract with the contractor or subcontractor and the Work has been accepted by SU's authorized representative, as applicable, and the parties have not otherwise agreed in writing, the contractor shall pay to its subcontractor and the subcontractor shall pay to its sub subcontractor within 10 calendar days of the receipt of each periodic payment, final payment or receipt of retainage monies, the full amount received for the Work of the subcontractor or sub subcontractor based on the Work completed or the services rendered under the applicable contract. In the case of ongoing Work on the same project

for which partial payments are made, the amount of money owed for Work already completed shall only be payable if the subcontractor or sub subcontractor is performing to the satisfaction of the contractor or subcontractor, as applicable.

- 10.1.4** In the preparation of estimates, SU has the discretion to authorize material delivered on the site and preparatory Work done to be taken into consideration. Material delivered to the Contractor at locations other than the site may also be taken into consideration if (a) such consideration is specifically authorized by the contract and (b) the Contractor furnishes the properly completed forms provided by SU related to the storage of materials.
- 10.1.5** In making such progress payments for contract Work completed, SU will retain 2% of the invoice amount as cash retainage unless the Contractor provides a Retainage Bond or “eligible collateral” as provided by Section 10.5 below.
- 10.1.6** All material and work covered by progress payments made shall thereupon become the sole property of the University, but this provision shall not be construed as relieving the Contractor from the sole responsibility for the care and protection of all materials and work upon which payments have been made or the restoration of any damaged work, or as waiving the right of the University to require the fulfillment of all of the terms and conditions of the Contract.
- 10.1.7** If performance and payment bonds are required under this contract, the University shall pay to the Contractor the total premiums paid by the Contractor to obtain the bonds. This payment shall be paid at one time to the Contractor together with the first progress payment otherwise due after the Contractor has (1) furnished the bonds (including coinsurance and reinsurance agreements, when applicable), (2) furnished evidence of full payment to the surety company, and (3) submitted a request for such payment. The payment by the University of the bond premiums to the Contractor shall not be made as increments of the individual progress payments and shall not be in addition to the contract price.
- 10.1.8** In addition to other warranties required by provisions of the contract and Specifications, the Contractor warrants that title to all Work, materials and equipment covered by an application for payment will pass to SU, either upon incorporation into the construction or upon receipt of payment by the Contractor, whichever occurs first, free and clear of all liens, claims, security interests or encumbrances. This provision shall not be construed as relieving the Contractor from sole responsibility for the care and protection of materials and Work upon which payments have been made, or for the restoration of any damaged Work,

or as a waiver by SU of its rights to require fulfillment of all terms of the contract.

10.1.9 Recommendation for approval of an invoice will constitute a representation by the A/E to SU, based on inspections at the site and data contained in the invoice, that the Work has progressed to the point indicated; that, to the best of the A/E's knowledge, information and belief, the quality of the Work is in accordance with the Contract Documents; and that the Contractor is entitled to payment in the amount certified.

By recommending approval of the invoice, however, the A/E shall not thereby be deemed to represent that it has made exhaustive or continuous on-site inspections to check the quality or quantity of the Work, or that it has reviewed the construction means, methods, techniques, sequences or procedures, or that it has made any examination to ascertain how and for what purpose the Contractor has used the moneys previously paid on account of the contract sum.

10.1.10 No payment for Work will be approved until the Contractor has complied with the provisions of this Article.

10.1.11 If any corporation licensed to do business in New Jersey shall be of delinquent in the payment of taxes due the State, unless under an active appeal process, SU may withhold moneys due the said corporation for the purpose of assuring the payment to the State of such taxes.

10.2 Invoices

10.2.1 Requests for payment under the contract for materials delivered or services rendered require the proper completion and submittal of specific forms to be provided by SU.

10.2.2 The Contractor shall submit the completed request for payment packet to SU project representative once monthly. The Contractor shall submit a pencil copy for review by SU by the 20th of each month. The Contractor is to complete the payment application based on the projected completed work for the end of the pay period. Receipt of a properly completed request for payment packet will start the prompt payment clock, upon receipt at the Office of Facilities Planning and Construction, unless it is subsequently discovered to be incomplete or otherwise unacceptable and returned to the Contractor within 20 calendar days for correction. A properly completed request for payment shall be paid not more than 30 calendar days from date time-stamped by the Office of Facilities Planning & Construction.

10.2.3 Request for payment packets shall be prepared and submitted in original plus two copies unless otherwise specified.

10.2.4 For purpose of determining if interest begins to accrue under the State's Prompt Construction Payment Act, (NJSA 2A:30A-1 et seq.)

- a. A proper invoice will be deemed to have been received when it is time- stamped by the Office of Facilities Planning & Construction and acceptance of the materials delivered or services rendered has occurred;
- b. Payment shall be considered made on the date on which a check for such payment is dated;
- c. Payment terms offered by the Contractor will not be recognized by SU as a "required payment date.

10.3 Interest

10.3.1 Interest shall be paid on the amount due the Contractor pursuant to a properly executed SU invoice (see preceding Section 10.2) if the required payment is not made on or before the required payment date.

10.3.2 The required payment date shall be 30 calendar days from the receipt of a properly executed SU invoice or 30 calendar days from receipt of supplies or services, whichever is later from the Contractor.

10.3.3 Interest on amounts due shall be paid to the Contractor in accordance with the Prompt Construction Payment Act (NJSA 2A:30A-2).

10.4 Allowances

10.4.1 The Contractor shall include in its bid all allowances as may be set forth in the Contract Documents. The Contractor shall purchase the "allowed materials" as directed by SU on the basis of the lowest acceptable quote from at least three competitive offers. If the actual cost of the "allowed materials" is more or less than the stipulated allowance, the contract price shall be adjusted accordingly. The adjustment in contract price shall be made on the basis of the actual purchase cost without additional charges for overhead, profit, bond premium or any other incidental expenses. The cost of installation of the "allowed materials," unless otherwise specified, is to be included as the responsibility of the Contractor in whose contract the allowance is included, and the Contractor installing such "allowed materials shall not be entitled to additional payment for such installation.

Unless otherwise provided in the Contract Documents:

- a. These allowances shall cover the Contractor's true costs, including credit for any trade discount, of the materials and equipment required by the allowance, delivered at the site,

including all applicable taxes;

- b. The Contractor's costs for unloading and handling, labor, installation costs, overhead, profit and other expenses reasonably required in connection with such allowance items shall be included in the contract sum and not as part of the allowances; and
- c. Should the actual cost vary from the allowance, the contract sum shall be adjusted accordingly by change order, the amount of which will recognize changes, if any, of handling costs on the site, labor, installation costs, overhead, profit and other expenses resulting to the Contractor from any change in quantity only (not price) beyond that contemplated by the allowance.

10.5 Retainage, Retainage Bond or Other Security for Retainage Amount.

10.5.1 SU shall withhold retainage from each progress payment in the amount of 2% of the approved billing, unless the Contractor posts a retainage bond with SU or deposits bonds or notes (“Eligible Collateral”) as provided below, in an amount equal to 2% of the total contract value. The cash retainage, retainage bond or eligible collateral will be held by SU until final completion and acceptance of the Work by the University.

10.5.2 Retainage Bond: If the Contractor decides to submit a Retainage Bond in lieu of having retainage withheld from each progress payment, the Contractor shall submit the original bond to SU in the amount of 2% of the contract upon signing the contract and before starting the Work. SU shall approve the bond form and shall be named as the insured on the bond. If any change order results in an increase in the contract price, the contractor shall increase the face amount of the retainage bond by 2% of the amount of the Change Order.

10.5.3 Deposit of Eligible Collateral in lieu of Retainage:

If the contractor seeks to have the retainage amount secured by eligible collateral, the contractor shall notify the University of that intention in its bid, and shall submit a detailed list, description and valuation of the bonds or notes proposed as collateral to SU within 5 days of the Contractor’s receipt of notice of SU’s intent to award the contract to the Contractor. The eligible collateral proposed by the Contractor must meet the definition of “eligible collateral” in N.J.A.C. 3:34-1.2, and must be valued in an amount not less than 2% of the total contract amount. The acceptance of any eligible collateral in lieu of retainage or a retainage bond shall be approved by the University at the time the contract is executed. The Contractor will be required to execute a Custodial Account Control Agreement (“CAC Agreement”) in a form satisfactory to SU with a

financial institution located within this State which has been approved as a “public depository” by the N.J. Department of Banking. Within five business days of execution of the Contract and the CAC Agreement, the Contractor shall deposit the approved eligible collateral into the Custodial Account bearing interest at the rate currently paid by such institutions or associations on time or savings accounts. If any change order results in an increase in the total contract price, or in the event of a reduction in the value of the collateral as provided in the CAC Agreement, the contractor shall deposit into the Custodial Account additional eligible collateral to assure that the total value of the eligible collateral in the Custodial Account is maintained at not less than 2% of the total contract amount, including all approved change orders.

10.6 Release of Retainage after Final Acceptance of the Work.

- 10.6.1** Upon final completion and acceptance of the Work by SU, satisfactory completion, by the Contractor, of all contract close-out requirements, completion of a University audit on all contract values and payments, and after the Contractor shall have furnished the University with a release of claims against the University, arising by virtue of this contract, other than claims in stated amounts as may be specifically excepted by the Contractor from the release, the Contractor shall submit a properly executed invoice for final payment to SU project representative who will initiate the process of final payment review and approval. It is agreed by SU and the Contractor that the final acceptance date shall be the date the final payment application is received and time-stamped by the Office of Facilities Planning & Construction unless the final payment application is subsequently discovered to be incomplete or otherwise unacceptable and returned to the Contractor within 20 calendar days for correction.
- 10.6.2** All amounts of retainage withheld by SU under Section 10.5, less deductions or credits authorized by the final payment application or as provided by Section 10.6.5 below, shall be disbursed to the Contractor within 30 days of the final acceptance date.
- 10.6.3** If the Contractor has posted a retainage bond under Section 10.5, the bond, less deductions or credits authorized by the final payment application or as provided by Section 10.6.5 below, shall be released by SU within 30 days of the final acceptance date.
- 10.6.4** If the Contractor has entered into a CAC Agreement with SU under Section 10.5, the collateral deposited therein, and any interest accrued on such collateral or on the account, less deductions or credits authorized by the final payment application or as provided by Section 10.6.5 below, shall be returned to the

contractor within 30 days of the final acceptance date, unless otherwise specified in the CAC Agreement.

10.6.5 If any Contractor licensed to do business in New Jersey shall be or become delinquent in the payment of taxes due the State, unless under an active appeal process, SU may withhold moneys due the Contractor for the purpose of assuring the payment to the State of such taxes.

10.6.6 If for any reason the Contractor refuses final payment, the project shall be closed out by SU by the processing of a Final Invoice. All residual funds will be held in escrow by SU until all claims of SU and all Contractors are satisfied.

11. ARTICLE 11 -- UNCOVERING AND CORRECTION OF WORK

11.1 Uncovering of Work

11.1.1 If any portion of the Work is covered prior to inspection by SU or the A/E, especially Work specifically required by the Contract Documents to be inspected, it shall be uncovered for observation.

Uncovering the replacement of covering shall be at the installation Contractor's expense. The Contractor is obligated to advise SU or the A/E of all Work scheduled to be covered which is reasonably subject to prior inspection before actual covering.

11.1.2 If any other portion of the Work not specifically required to be inspected has been covered, which SU or the A/E did not request to observe prior to being covered, a request may subsequently be made to inspect such Work, and it shall be uncovered by the installation Contractor. If such

Work is found to be in accordance with the Contract Documents, the cost of uncovering and replacement shall, by appropriate change order, be reimbursed by SU. If such Work is found not to be in accordance with the Contract Documents, the Contractor shall pay all associated costs, unless it is found that this condition was caused by SU, in which event SU shall be responsible for the payment of such costs.

11.2 Correction of Work

11.2.1 The Contractor shall promptly correct all Work rejected by SU or the A/E as defective or failing to conform to the Contract Documents, whether observed before or after final acceptance and whether or not fabricated, installed or completed. The Contractor shall bear all costs of correcting such rejected Work, including the A/E's additional services, if any.

11.2.2 The Contractor shall remove from the site all portions of the Work which are defective or non-conforming and which have not been corrected, unless removal is waived by SU.

11.2.3 If the Contractor fails to correct defective or non-conforming Work in a

timely manner, SU may make arrangements for such correction by others and charge the cost of so doing to the responsible Contractor and/or its sureties.

- 11.2.4** If the Contractor does not proceed with the correction of such defective or non-conforming Work within 72 hours, fixed by written notice from SU or the A/E, SU may cause the removal and correction of the Work and may store the materials or equipment at the expense of the Contractor. If the Contractor does not pay for the cost of such removal and storage within 14 calendar days thereafter, SU may, upon 14 calendar days additional written notice, sell such material and equipment at auction or at private sale and shall account for the net proceeds thereof, after deducting all of the costs which are the responsibility of the Contractor, including compensation for the A/E's additional services, if any.

If such proceeds of sale do not cover all costs which the Contractor should have borne, the difference shall be charged to the Contractor and an appropriate credit change order shall be issued. If the payments then or thereafter due the Contractor are not sufficient to cover such amount, the Contractor and/or its surety shall pay the difference to SU.

- 11.2.5** The Contractor shall be responsible for the cost of making good all Work destroyed or damaged by such correction or removal.

- 11.2.6** Nothing contained herein shall be construed to establish a period of limitation, with respect to any other obligation which the Contractor might have under the Contract Documents.

11.3 Acceptance of Defective or Non-Conforming Work

- 11.3.1** SU may determine that the best interests of SU will be served by accepting defective or non-conforming Work instead of requiring its removal and correction. In such instance a change order will be issued to reflect an appropriate and equitable and reduction in the contract sum. Such adjustment shall be effected regardless of final payment having previously been made, and the Contractor and/or its surety shall be responsible for promptly providing any funds due SU as a result thereof.

12. ARTICLE 12 -- PROTECTION OF PERSONS AND PROPERTY

12.1 Safety Precautions and Programs

- 12.1.1** The Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work. It is the responsibility of the Contractor to maintain total control of safety to ensure that its employees, its subcontractors, occupants, and the general public will be provided an environment free of recognized hazards during construction and renovation activities. Prior to

the start of the work, the Contractor shall provide a Site Specific Safety Plan to SU within 14 calendar days after issuance of Notice to Proceed so the plan can be reviewed. The Contractor shall require that all subcontractors of any tier comply with the Site Specific Safety Plan provided by the Contractor. The Contractor shall assume all costs related to, but not limited to, personal protective equipment, training, or compliance requirements. Failure to include the cost of complying with all applicable laws, ordinances, rules, or regulations by authorities having jurisdiction will not relieve the Contractor from the obligation to implement these requirements.

Contractor shall designate a responsible member of its 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 SU and the A/E.

12.2 Safety of Persons and Property

12.2.1 Contractor shall take all reasonable precautions for the safety and security of, and shall provide all reasonable protection to prevent damage, injury or loss to:

- a. Every employee on the Work and all other persons who may be affected thereby;
- b. All the Work and all materials and equipment to be incorporated therein, whether in storage on or off the site, under the care, custody or control of the Contractor, or any of its subcontractors or sub-subcontractors; and
- c. Other property at the site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction.

12.2.2 The Contractor shall give all notices and comply with all applicable laws, ordinances, rules, regulations and lawful orders of any public authority bearing on the safety of persons or property or their protection from damage, injury or loss.

12.2.3 The Contractor shall erect and maintain, as required by existing conditions and progress of the Work, all reasonable safeguards for safety and protection, including, but not limited to, rails, night-lights, the posting of danger signs and other warnings against hazards, promulgating safety regulations, notifying owners and users of adjacent utilities and other means of protection against accidental injury or damage to persons and property.

12.2.4 When the use of hazardous materials or equipment is necessary for the execution of the Work, the Contractor shall exercise the utmost care and shall carry on such activities under the supervision of properly qualified

personnel. Storage of hazardous materials shall be placed in storage of approved containers for that specific material and Contractor shall provide to SU the M.S.D.S. for all hazardous materials.

12.2.5 No Contractor shall load or permit any part of the Work to be loaded so as to endanger its safety.

12.2.6 The Contractor shall promptly remedy all damage or loss to any property caused in whole or in part by the Contractor, any of its subcontractors, sub-subcontractors, or anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable and for which the Contractor is responsible, except damage or loss attributable to the acts or omissions of SU or A/E, or anyone directly or indirectly employed by either of them or by anyone for whose acts either of them may be liable, and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to its obligations stated elsewhere herein.

The Contractor shall provide all necessary means to make weather-tight any opening, access or any area that will cause or have the potential to cause any type of weather from entering into the building.

The Contractor shall provide weather-tight materials to protect all interior equipment, devices, or contents. The Contractor shall be responsible for any damages to the building, equipment, devices, or contents of the Owner as a result of weather entering into the building.

For those conditions where life and health safety warrants an immediate response and/or repairs, the contractor shall address the matter(s) accordingly with due diligence.

12.3 Construction Safety Act

In order to protect the lives and health of the employees working under the Contract, the Contractor shall comply with all pertinent provisions of the "Contract Work Hours and Safety Standards Act" (N.J.S.A. 34:5-166, *et seq.*), as amended, commonly known as the "Construction Safety Act", as it pertains to health and safety standards; and shall maintain an accurate record of all cases of death, occupational disease and injury requiring medical attention or causing loss of time from work arising out of or in the course of employment on the work under the Contract.

In addition, Contractor and all its subcontractors shall comply with O.S.H.A, SU Safety Manual and any applicable local codes and ordinances.

12.4 Emergencies

12.4.1 In any emergency affecting the safety of persons or property, the Contractor shall act with diligence, at its discretion, to prevent threatening injury, damage or loss.

In such case, the Contractor shall immediately notify SU Campus Police, SU representative, and Office of Facilities Planning & Construction of the action taken and shall forthwith prepare and submit a detailed report of said action.

12.4.2 Wherever the Contractor has taken no action, but has notified SU or wherever SU has otherwise been made aware of any emergency threatening injury to persons, or loss or damage to Work or adjacent property, the Contractor shall act only as instructed or authorized by SU.

12.4.3 Prior to commencement of the Work, Contractor shall provide SU with the names and contact information for Contractor's employees and subcontractors who are available 24 hours, seven days a week, in case of emergency.

13. ARTICLE 13 -- INSURANCE AND INDEMNITY AND BOND REQUIREMENTS

13.1 Contractor Insurance Requirements

13.1.1 The Contractor shall secure and maintain in force for the term of the Contract, insurance coverage provided herein. All insurance coverage is subject to the approval of SU and shall be issued by an insurance company authorized to do business in the State of New Jersey and which maintains an A.M. Best rating of A- (VII) or better. The Contractor shall provide SU with current Certificates of Insurance for all coverage and renewals thereof which must contain the provision that the insurance provided in the certificate shall not be canceled for any reason except after thirty (30) days written notice to SU.

All insurance required herein shall contain a waiver of subrogation in favor of SU. Commercial General Liability insurance, Comprehensive Automobile Liability and Excess Liability umbrella form insurance, required herein, shall name SU, the State of New Jersey, the New Jersey Educational Facilities Authority, the Architect/Engineer and Construction Manager as additional insured's.

13.1.2 Commercial General Liability insurance written on an occurrence form including independent contractor liability, product/completed operations liability, contractual liability, covering but not limited to the liability assumed under the indemnification provisions of this Contract. Coverage for bodily injury and property damage claims arising out of the professional acts of the general contractor and subcontractors shall also be included. The policy shall not include any endorsement that restricts or reduces coverage as provide by the ISO CG0001 form without the approval of SU.

The minimum limits of liability shall not be less than a combined single limit of one million dollars (\$1,000,000) per occurrence, three million dollars (\$3,000,000) general aggregate, three million dollars (\$3,000,000)

product/completed operations aggregate. A “per project endorsement” shall be included, so that the general aggregate limit applies separately to the project that is the subject of this Contract.

13.1.3 Comprehensive Automobile Liability covering owned, non- owned, and hired vehicles. The limits of liability shall not be less than a combined single limit of one million dollars (\$1,000,000) per occurrence.

13.1.4 Worker's Compensation Insurance applicable to the laws of the State of New Jersey and other State or Federal jurisdiction required to protect the employees of the Contractor and any Subcontractor who will be engaged in the performance of this Contract. The certificate must also indicate that no proprietor, partner, executive officer or member is excluded.

This insurance shall include Employers' Liability Protection with a limit of liability not less than one million dollars (\$1,000,000) bodily injury, each occurrence, one million dollars (\$1,000,000) disease, each employer, and one million dollars (\$1,000,000) disease, aggregate limit. Including the employer's liability insurance under the umbrella insurance can satisfy the limit requirements.

13.1.5 **5** The Contractor shall obtain and maintain a separate Owners and Contractor's Protective Liability Insurance Policy for the same limits of liability as specified for the Commercial General Liability Insurance in the name of SU, the State of New Jersey and the New Jersey Educational Facilities Authority. The Architect/Engineer, and the Construction Manager are to be the named as additional insured. The policy shall be maintained in force for the term of the Project or one year, whichever is longer.

13.1.6 Excess Liability, umbrella insurance form, applying excess of primary to the commercial general liability, commercial automobile liability and employer's liability insurance shall be provided with minimum limits of ten million dollars (\$10,000,000) per occurrence, ten million dollars (\$10,000,000) general aggregate, and ten million dollars (\$10,000,000) products/completed operations.

13.1.7 The contractor shall be responsible for obtaining Certificates of Insurance for all coverages described in 13.1.2 and 13.1.4 and renewals thereof for each subcontractor and their sub-tier subcontractors prior to the subcontractor's beginning Work on the Project. The contractor shall not require subcontractors or their sub-tier subcontractors to comply with paragraph 13.1.5, Owners and Contractors Protective Liability Policy or paragraph 13.1.6, Excess Liability, umbrella form.

The contractor shall provide copies of all subcontractor and their sub-tier subcontractors' certificates of insurance to the University upon request.

13.2 Insurance To Be Carried By Stockton University

13.2.1 SU shall provide; insurance protection in the form of a Builders Risk Insurance or similar Policy upon the structure for which the Work on this Contract is to be done. The structure will be insured for 100% of the insurable replacement value thereof including materials, owned by SU, in place or to be used as part of the permanent construction including surplus materials.

13.2.2 This insurance shall not protect against damage or loss to any of the Contractor's or Subcontractor's tools, equipment, scaffolding, staging towers or forms, Contractor's materials and sheds or other temporary structures erected for used by the Contractor or Subcontractors. It is understood that the Contractor will, at their own expense, carry all insurance which may be required to provide the necessary protection against such loss or damage herein described which insurance shall contain a waiver of any right of subrogation against SU.

13.2.3 The insurance procured by SU under this paragraph may provide for a deductible. SU shall be responsible for payment of any deductible for any builder's risk loss it may make claim for under this policy.

13.2.4 The Contractor shall immediately notify SU in writing and take any other appropriate steps as may be required under the standard Builder's Risk Insurance Policy in effect in the event of any loss. Prior to the acceptance of the building by SU, the Contractor shall, at SU 's option, replace and repair the damaged Work as originally provided in the Drawings and Specifications at no additional compensation to that provided in the original contract.

13.2.5 All losses will be adjusted with, and payable to, SU.

13.2.6 Builders Risk insurance protection as described herein shall not relieve the Contractor from its obligation to complete, according to Plans and Specifications, the project covered by the contract, and the Contractor and their Surety shall be obligated to full performance of the Contractor's undertaking.

13.3 Performance and Payment Bond

13.3.1 The successful bidder shall furnish, within ten (10) calendar days after the intent to award letter, both a performance bond substantially in the statutory form NJSA 2A:44-147 in an amount equal to one hundred percent (100%) of the total contract price as security for the faithful performance of this contract and a payment bond in statutory form in amount equal to one hundred percent (100%) of the contract price as security for the payment of all persons and firms performing labor and furnishing materials in connection with this contract. The performance bond and the payment bond may be combined or in separate instruments in accordance with law. No contract shall be executed unless and until each bond is submitted to

and approved by SU. The surety must be presently authorized to do business in the State of New Jersey.

- 13.3.2** The cost of bonds shall be paid for by the Contractor.
- 13.3.3** If at any time SU, for justifiable cause, is dissatisfied with any surety which has issued or proposes to issue a performance or payment bond, the contractor shall, within ten (10) calendar days after notice from SU to do so, substitute an acceptance bond (or bonds). The substituted bond(s) shall be in such form and sum and executed by such other surety or sureties as may be satisfactory to SU. The premiums on such bond(s) shall be paid by the contractor.
- 13.3.4** No contract shall be executed and/or no payment made under a contract until the new surety or sureties shall have furnished such an acceptable bond to SU.
- 13.3.5** Bonds must be legally effective as of the date the contract is signed. Each must indicate the contractor's name exactly as it appears on the contract.

Current attorney-in-fact instruments and financial statement of the surety must be included with the bonds. Bonds must be executed by an authorized officer of the surety. Bonds furnished under this section shall be issued by a surety that meets the standards set forth in NJSA 18A: 64-68 et seq. including the requirement that the surety shall hold a current certificate of authority issued by the United States Secretary of Treasury, pursuant to 31 U.S.C. section 9305, that is valid in the State of New Jersey as listed annually in the United States Treasury Circular 570.

- 13.3.6** The Payment and Performance Bond shall be accompanied by a completed "Surety Disclosure Statement and Certification" substantially in the form prescribed in N.J.S.A. 18A:64-68 (e) and executed by the authorized representative for the Surety.

(The "Surety Disclosure Statement and Certification" form is attached as an exhibit to the Instruction to Bidders).

14. ARTICLE 14 -- CHANGES IN THE WORK

14.1 Changes to Contract

- 14.1.1** SU may at any time, by written order designated or indicated to be a change order, make any change in the Work within the general scope of the contract, including, but not limited to, changes:
- a. In the Specifications (including Drawings and designs);
 - b. In the method or manner of performance of the Work;
 - c. In SU-furnished facilities, equipment, materials, services, or site;
or
 - d. Directing acceleration in the performance of the Work.

14.2 Requests for Equitable Adjustment

14.2.1 The Contractor agrees to prepare and submit, within 20 calendar days of encountering any conditions it considers a change, or upon receiving official notice of a proposed change or written direction to proceed with a change, a current SU form entitled "Contractor Change Order Request" to SU's designated project representative. An original and two (2) copies shall be submitted.

14.2.2 All requests for contract time extensions must be in writing accompanied by copies of the current (approved) progress schedule and copies of the revised (proposed) progress schedule detailing the incorporation of the changed Work and the effects of such incorporation on progress. Failure to provide the schedule data shall be grounds for rejection of the request.

14.2.3 Notwithstanding any other portion of this Contract, any time extensions for changes in the Work depend upon the extent, if any, by which the changes cause delay in the completion of the various elements of construction. The contract modification making such time extension will provide for an extension of contract completion date only for those specific elements so delayed, and will not alter the contract completion dates for other portions of the Work. This Contract modification may further provide for an equitable readjustment of liquidated damages pursuant to the new completion schedule.

14.2.4 The Contractor, in connection with any request it makes for an equitable adjustment, shall furnish a price breakdown, itemized as required by SU. Unless otherwise directed, the breakdown shall cover all Work involved in the change whether such Work was deleted, added or changed. Further, the breakdown shall be in sufficient detail to permit an analysis of all costs, as well as overhead and profit.

Any amount proposed for subcontracts shall be supported by a similar price breakdown. In addition, if the request includes a time extension, a justification (see Section 14.2.2) shall also be furnished. The request,

together with the price breakdown and time extension justification, shall be furnished by the date specified.

14.2.5 If any change under this article causes an increase or decrease in the Contractor's cost of, or the time required for, the performance of any part of the Work under this Contract, whether or not changed by any such order, an equitable adjustment may be made in the contract price or delivery schedule or both, and the contract modified in writing accordingly.

14.2.6 When the contract time is increased as a result of a change, the resulting change in contract amount will include the cost of extended performance, computed in accordance with the terms of this article.

14.2.7 The following guidelines shall apply in computing overhead and profit for the negotiation of equitable adjustments; under all provisions of this Contract the guidelines shall be applicable for deleted Work as well as additional Work. When a change consists of both added and deleted Work, the applicable guideline shall be applied to the net cost or credit. In any event, the following guidelines shall apply to all requests for an equitable adjustment:

- a. Overhead will be the sum of:
 - 10 percent (10%) of costs as defined in Section 1.1.11. Note: Costs for supervision and field office personnel (including superintendents and labor foreman) are only paid as part of the Overhead calculation. The calculation of Overhead for the Contractor for Work performed by subcontractors shall be based on their actual costs, before overhead and profit
- b. For rented equipment, the standard rates listed in the current edition of the Rental Rate Blue Book for Construction Equipment shall be used to determine the rental rate. Rentals will be paid on a daily, weekly or the monthly rate stated, depending on which rate is most economical for SU. The Contractor will be allowed only 65 percent (65%) of the rental rate on Contractor-owned equipment.
- c. Bond premiums & insurance, if applicable, will be allowed at actual cost for the equitable adjustment allowed and no overhead or profit permitted.

14.2.8 Contractor's Profit

- a. The prime Contractor's profit on work performed with its own forces will be five Percent (5%) of costs, bond premiums and insurance excluded.
- b. The prime Contractor's profit on the subcontractor's Work will be five percent (5%) of the subcontractor's costs. The

Contractor agrees to incorporate this article in each of its subcontracts.

14.2.9 The SU, in order to avoid delays in the progress of Work or when in the best interests of SU, has the discretion to direct the Contractor, in writing, to proceed with a change without a prior agreement on costs. Such direction shall be in the form of an un-priced change order or letter of direction.

If the Contractor intends to assert a request for an equitable adjustment under this article, the Contractor must submit to SU's designated project representative an SU supplied form completed in sufficient detail and in accordance with this article within 20 calendar days after receipt of an un-priced change order or letter of direction.

14.2.10 Where the cost of property made obsolete or excess as a result of a change is included in the Contractor's request for adjustment, SU shall have the right to prescribe the manner of disposition of such property.

14.2.11 Failure to agree to any adjustment shall be a dispute concerning a question of fact within the meaning of section 2.4 of this document. However, nothing in this article shall excuse the Contractor from proceeding with the contract as changed.

15. ARTICLE 15 -- ASSIGNMENT OF ANTITRUST CLAIM(S)

15.1 Assignment of Antitrust Claim(s)

15.1.1 The Contractor recognizes that in actual economic practice, overcharges resulting from antitrust violations are in fact usually borne by the ultimate purchaser. Therefore, and as consideration for executing this Contract, the Contractor, acting herein by and through its duly authorized agent, hereby conveys, sells, assigns, and transfers to SU of New Jersey, for itself and on behalf of its political subdivisions and public agencies, all right, title and interest to all claims and causes of action it may now or hereafter acquire under the antitrust laws of the United States or the State of New Jersey, relating to the particular goods or services purchased or acquired by the State of New Jersey or any of its political subdivisions or public agencies pursuant to this Contract.

In connection with this assignment, the following are the express obligations of the Contractor:

- a. It will take no action which will in any way diminish the value of the rights conveyed or assigned hereunder.
- b. It will advise the Attorney General of New Jersey:
 - a. In advance of its intention to commence any action on its

own behalf regarding any such claim or cause(s) of action;

- b. Immediately upon becoming aware of the fact that an action has been commenced on its behalf by some other person(s) of the tendency of such action.
- c. It will notify the defendants in any antitrust suit of the fact of the within assignment at the earliest practicable opportunity after the Contractor has initiated an action on its own behalf or becomes aware that such an action has been filed on its behalf by another person. A copy of such notice will be sent to the Attorney General of New Jersey.

Furthermore, it is understood and agreed that in the event any payment under any such claim or cause of action is made to the Contractor, it shall promptly pay over to the State of New Jersey the allotted share thereof, if any, assigned to the State hereunder.

16. ARTICLE 16 -- AFFIRMATIVE ACTION REQUIREMENTS

16.1 Policy Statement

The laws of New Jersey (N.J.S.A. 10:5-31 et seq.) provide that no public Works Contractor can be awarded nor any moneys paid until the prospective Contractor has agreed to contract performance which complies with the approved Affirmative Action Plan. The law applies to each political subdivision and agency of the State and includes procurement and service contracts, as well as construction contracts. This section was prepared to explain the affirmative action requirements and procedures for public agencies awarding contracts and for Contractors bidding on contracts.

To assure effective application of the affirmative action law while allowing the business operations of government to proceed efficiently, these regulations (see N.J.A.C. 17:27) are designed to minimize administrative paperwork and delays.

16.2 Mandatory Language

During the performance of this contract, the contractor agrees as follows:

The contractor or subcontractor, where applicable, will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Except with respect to affectional or sexual orientation and gender identity or expression, the contractor will ensure that equal employment opportunity is afforded to such applicants in recruitment and employment, and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Such equal employment opportunity 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 to be provided by the Public Agency Compliance Officer setting forth provisions of this nondiscrimination clause.

The contractor or subcontractor, where applicable will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex.

The contractor or subcontractor will send to each labor union, with which it has a collective bargaining agreement, a notice, to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under this act and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

The contractor or subcontractor, where applicable, agrees to comply with any regulations promulgated by the Treasurer, pursuant to N.J.S.A. 10:5-31 et seq., as amended and supplemented from time to time and the Americans with Disabilities Act.

When hiring or scheduling workers in each construction trade, the contractor or subcontractor agrees to make good faith efforts to employ minority and women workers in each construction trade consistent with the targeted employment goal prescribed by N.J.A.C. 17:27-7.2; provided, however, that the Dept. of LWD, Construction EEO Monitoring Program, may, in its discretion, exempt a contractor or subcontractor from compliance with the good faith procedures prescribed by the following provisions, A, B, and C, as long as the Dept. of LWD, Construction EEO Monitoring Program is satisfied that the contractor or subcontractor is employing workers provided by a union which provides evidence, in accordance with standards prescribed by the Dept. of LWD, Construction EEO Monitoring Program, that its percentage of active "card carrying" members who are minority and women workers is equal to or greater than the targeted employment goal established in accordance with N.J.A.C. 17:27-7.2. The contractor or subcontractor agrees that a good faith effort shall include compliance with the following procedures:

- (A) If the contractor or subcontractor has a referral agreement or arrangement with a union for a construction trade, the contractor or subcontractor shall, within three business days of the contract award, seek assurances from the union that it will cooperate with the contractor or subcontractor as it fulfills its affirmative action obligations under this contract and in

accordance with the rules promulgated by the Treasurer pursuant to N.J.S.A. 10:5-31 et. seq., as supplemented and amended from time to time and the Americans with Disabilities Act. If the contractor or subcontractor is unable to obtain said assurances from the construction trade union at least five business days prior to the commencement of construction work, the contractor or sub- contractor agrees to afford equal employment opportunities minority and women workers directly, consistent with this chapter. If the contractor's or subcontractor's prior experience with a construction trade union, regardless of whether the union has provided said assurances, indicates a significant possibility that the trade union will not refer sufficient minority and women workers consistent with affording equal employment opportunities as specified in this chapter, the contractor or subcontractor agrees to be prepared to provide such opportunities to minority and women workers directly, consistent with this chapter, by complying with the hiring or scheduling procedures prescribed under (B) below; and the contractor or subcontractor further agrees to take said action immediately if it determines that the union is not referring minority and women workers consistent with the equal employment opportunity goals set forth in this chapter.

- (B) If good faith efforts to meet targeted employment goals have not or cannot be met for each construction trade by adhering to the procedures of (A) above, or if the contractor does not have a referral agreement or arrangement with a union for a construction trade, the contractor or subcontractor agrees to take the following actions:
- (1) To notify the public agency compliance officer, the Dept. of LWD, Construction EEO Monitoring Program, and minority and women referral organizations listed by the Division pursuant to N.J.A.C. 17:27- 5.3, of its workforce needs, and request referral of minority and women workers;
 - (2) To notify any minority and women workers who have been listed with it as awaiting available vacancies;
 - (3) Prior to commencement of work, to request that the local construction trade union refer minority and women workers to fill job openings, provided the contractor or subcontractor has a referral agreement or arrangement with a union for the construction trade;
 - (4) To leave standing requests for additional referral to minority and women workers with the local construction trade union, provided the contractor or subcontractor has a referral agreement or arrangement with a union for the construction trade, the State Training and Employment Service and other approved referral sources in the area;
 - (5) If it is necessary to lay off some of the workers in a given trade on the construction site, layoffs shall be conducted in compliance with the equal employment opportunity and non-discrimination standards

set forth in this regulation, as well as with applicable Federal and State court decisions;

- (6) To adhere to the following procedure when minority and women workers apply or are referred to the contractor or subcontractor:
 - (i) The contractor or subcontractor shall interview the referred minority or women worker.
 - (ii) If said individuals have never previously received any document or certification signifying a level of qualification lower than that required in order to perform the work of the construction trade, the contractor or subcontractor shall in good faith determine the qualifications of such individuals. The contractor or subcontractor shall hire or schedule those individuals who satisfy appropriate qualification standards in conformity with the equal employment opportunity and non-discrimination principles set forth in this chapter. However, a contractor or subcontractor shall determine that the individual at least possesses the requisite skills, and experience recognized by a union, apprentice program or a referral agency, provided the referral agency is acceptable to the Dept. of LWD, Construction EEO Monitoring Program. If necessary, the contractor or subcontractor shall hire or schedule minority and women workers who qualify as trainees pursuant to these rules. All of the requirements, however, are limited by the provisions of (C) below.
 - (iii) The name of any interested women or minority individual shall be maintained on a waiting list, and shall be considered for employment as described in (i) above, whenever vacancies occur. At the request of the Dept. of LWD, Construction EEO Monitoring Program, the contractor or subcontractor shall provide evidence of its good faith efforts to employ women and minorities from the list to fill vacancies.
 - (iv) If, for any reason, said contractor or subcontractor determines that a minority individual or a woman is not qualified or if the individual qualifies as an advanced trainee or apprentice, the contractor or subcontractor shall inform the individual in writing of the reasons for the determination, maintain a copy of the determination in its files, and send a copy to the public agency compliance officer and to the Dept. of LWD, Construction EEO Monitoring Program.
- (7) To keep a complete and accurate record of all requests made for the referral of workers in any trade covered by the contract, on forms made available by the Dept. of LWD, Construction EEO Monitoring

Program and submitted promptly to the Dept. of LWD, Construction EEO Monitoring Program upon request.

- (C) The contractor or subcontractor agrees that nothing contained in (B) above shall preclude the contractor or subcontractor from complying with the union hiring hall or apprenticeship policies in any applicable collective bargaining agreement or union hiring hall arrangement, and, where required by custom or agreement, it shall send journeymen and trainees to the union for referral, or to the apprenticeship program for admission, pursuant to such agreement or arrangement. However, where the practices of a union or apprenticeship program will result in the exclusion of minorities and women or the failure to refer minorities and women consistent with the targeted county employment goal, the contractor or subcontractor shall consider for employment persons referred pursuant to (B) above without regard to such agreement or arrangement; provided further, however, that the contractor or subcontractor shall not be required to employ women and minority advanced trainees and trainees in numbers which result in the employment of advanced trainees and trainees as a percentage of the total workforce for the construction trade, which percentage significantly exceeds the apprentice to journey worker ratio specified in the applicable collective bargaining agreement, or in the absence of a collective bargaining agreement, exceeds the ratio established by practice in the area for said construction trade. Also, the contractor or subcontractor agrees that, in implementing the procedures of (B) above, it shall, where applicable, employ minority and women workers residing within the geographical jurisdiction of the union.

After notification of award, but prior to signing a construction contract, the contractor shall submit to the public agency compliance officer and the Dept. of LWD, Construction EEO Monitoring Program an initial project workforce report (Form AA-201) electronically provided to the public agency by the Dept. of LWD, Construction EEO Monitoring Program, through its web-site, for distribution to and completion by the contractor, in accordance with N.J.A.C. 17:27-7. The contractor also agrees to submit a copy of the Monthly Project Workforce Report once a month thereafter for the duration of this contract to the Dept. of LWD, Construction EEO Monitoring Program, and to the public agency compliance officer.

The contractor agrees to cooperate with the public agency in the payment of budgeted funds, as is necessary, for on-the-job and/or off-the-job programs for outreach and training of minorities and women.

- (D) The contractor and its subcontractors shall furnish such reports or other documents to the Dept. of LWD, Construction EEO Monitoring Program as may be requested by the Dept. of LWD, Construction EEO Monitoring Program from time to time in order to carry out the purposes of these regulations, and public agencies shall furnish such information as may be requested by the Dept. of LWD, Construction EEO Monitoring Program

for conducting a compliance investigation pursuant to N.J.A.C. 17:27-1.1 et seq.

17. ARTICLE 17 -- OTHER STATUTORY/MANDATORY REQUIREMENTS BEFORE CONTRACT AWARD

17.1 Political Contributions Disclosure

Compliance with the requirements of Public Law 2005, Chapter 51 (N.J.S.A.19:44A-20.13-20.25) and any derivative statutes or regulations resulting thereof and Executive Order 117, effective November 15, 2008 (Political Contributions Disclosure) and throughout the contract term. The firm understands that failure to abide by the requirements of this statute and to continue to do so, constitutes a material breach of contract in the award or performance of this Contract such that the firm may be disqualified or payments made pursuant to this Contract may be withheld until compliance is perfected.

Prior to contract award the firm shall provide proof that it is compliant with the Requirements of Chapter 51, "Political Activity Disclosure", dated September 22, 2004 and any statutes or regulations which result thereof and Executive Order 117 effective November 15, 2008 ensure that during the course of this Contract that it remains compliant. The firm agrees to notify the University if at any time it is no longer compliant.

The firm understands the University is prohibited from awarding this Contract or issuing payments until the State Treasurer or his designee gives approval that the requirements of the Public Law have been met.

17.2 Business Registration

Compliance with the requirements of P.L. 2004, c. 57 et seq. (Business Registration) and throughout the contract term. The firm understands that failure to abide by the requirements of this statute and to continue to do so, constitutes a material breach of contract in the award or performance of this Contract such that the firm may be disqualified or payments pursuant to the contract may be withheld until compliance is perfected.

Further the firm agrees to advise in writing any subcontractors of the need to comply with this requirement. The firm shall maintain a current list of such subcontractors and their addresses and shall submit the list as needed by the University during the course of performance of this Contract. Prior to contract award, the firm shall provide a copy of its valid Business registration certificate, pursuant to P.L. 2004, c.57 and ensure that such registration remains in effect throughout the period of this Contract. The firm agrees to notify the University if at any time its Business Registration becomes invalid.

Further, the Contractor agrees to procure from any subcontractor's proof of compliance with the Act prior to performing any services pursuant to this Contract. Should firm or any subcontractors fail to maintain a valid registration they understand that the University is prohibited from issuing payments under this

Contract until a valid registration is obtained.

17.3 Conflict of Interest

At no time during the term of the Contract to be awarded hereunder shall the Contractor or any officer, director, general or limited partner or employee of the Contractor: (1) hold an equity or other economic interest in; (2) have a contractual or other business relationship with; or (3) be an officer, director, general or limited partner or employee of any business entity, including but not limited to, corporations, partnerships, limited liability companies and joint ventures, having a business relationship with Stockton University.

The Contractor shall have a continuing affirmative obligation to advise the University of any potential or actual conflict of interest that may arise with respect to its obligations under the Contract.

END OF GENERAL CONDITIONS