

PROJECT SPECIFICATION  
FOR:

A RENOVATION TO THE  
**THOMASTON OPERA HOUSE**  
158 MAIN STREET, THOMASTON, CONNECTICUT

AREA OF WORK:  
**THEATER & STAGE ELECTRICAL**

March 4, 2013

**ARCHITECT:**  
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**OWNER REPRESENTATIVE:**  
Tracy Decker, Finance Director  
TOWN OF THOMASTON  
158 MAIN STREET  
THOMASTON, CT 06787  
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TOH 1/18

**THOMASTON OPERA HOUSE  
THEATER & STAGE ELECTRICAL**

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**TL-P3.0      Dated February 13, 2013**

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**THOMASTON OPERA HOUSE  
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**SECTION 00020  
INVITATION TO BIDDERS**

**OWNER:** **Town of Thomaston**  
158 Main Street  
Thomaston, CT 06787

**ARCHITECT:** **Twenty4D Architects**  
7 West Street, Litchfield, CT 067509  
24D Main Street, Bristol, VT 05443

**TO ALL BIDDERS:**

1. The Owner, Town of Thomaston, will accept bids on or before March 28, 2013 at 11:00 AM. Bids will be opened publicly and read aloud at that time in the First Selectman's Conference Room, Thomaston Town Hall, 158 Main Street, Thomaston, CT.
2. The bid will be for the furnishing all labor, materials, tools and equipment necessary to construct and complete the Project, which is located at 158 Main Street, Thomaston, CT 06787.
3. The Successful Bidder shall furnish the Owner with certificates of evidence of public liability insurance and worker's compensation as required by law.
4. All Bid Documents shall be fully completed when submitted, and shall be in accordance with the terms of this Invitation and the Instructions to Bidders. Bids shall be submitted, in duplicate, on the forms provided, and signed by appropriate individual(s)
5. All bids must include an executed Notification to Bidders Form and a completed State of Connecticut Employer Report of Compliance Staffing (copies attached)
6. Bidder must certify that all work complies with current State and local building codes.
7. The Owner reserves the right to reject any or all bids and accept the offer considered to be in their best interest.
8. A MANDATORY site visit and walk-through with the Architect and Owner Representative for review of existing conditions is scheduled for March 13, 2013 at 11:00 AM.
9. Partial funding for this project is provided by the Connecticut Historic Restoration Fund.
10. The Town of Thomaston is an Affirmative Action/Equal Opportunity Employer. Minority/Women's business enterprises are encouraged to apply.
11. All work must meet the Secretary of the Interior's Standards for the Treatment of Historic Properties and be approved by the Department of Economic and Community Development, State Historic Preservation Office.

END OF SECTION

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**THOMASTON OPERA HOUSE  
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**SECTION 00030**

**PROJECT COMPLETION DATE and THEATER SCHEDULE**

- 1.0 Completion date: All work must commence immediately upon contact signing and be must completed by May 01, 2013. Failure of Contractor to perform thusly, without unforeseen circumstances for which he is not responsible, shall result in a penalty of \$500 per day, or equal to loss of State funding due to failure to meet deadline, whichever is greater.
- 2.0 Scheduling: Scheduling of work shall be executed to minimize disruption to Opera House functions. Weekend shows are scheduled for March 16, 17, 23, and 24, and April 26 and 27. Contactor must work around the theater's needs for before and after these productions.

END OF SECTION

**SECTION 00040**

**SCOPE OF WORK and ALTERNATES**

- 1.0 Scope of Contract: Contactor shall supply and perform all work defined here and within the Documents.
- 2.0 General Scope: The existing on-stage 96 panel stage dimming system shall be replaced with a 48 module dimming rack. Lighting strip over the auditorium shall be attached to an electric hoist. New stage lighting circuit strips shall be installed over the stage as an alternate price. The Contactor shall provide all installation and equipment for project, including theatrical lighting equipment and hoist/rigging systems, which must be purchased from an approved authorized supplier.
- 3.0 Theatrical lighting equipment: All theatrical equipment shall be manufactured by "ETC", "STRAND" or Architect/Owner approved other. Owner is open to alternate manufacturers. Contractor shall purchase, supply, and include in bid price the lighting and hoist equipment defined in drawings and specifications, which shall be purchased from an authorized approved supplier referred to as the "Theatrical Lighting Supplier" or "Theatrical Lighting Contactor". The lighting supplier shall be responsible for supplying all lighting equipment, the hoist and rigging systems, including installation, as well as networking and commissioning the lighting system.
- 4.0 Rigging Systems: Rigging and hoists shall be considered "design/build". All submittals shall include a proposal defining all proposed rigging and hoist equipment. Contactors are allowed to provide options for the Owner consideration.
- 5.0 Submittals: All bid submittals shall include a detailed proposal(s) from a theatrical lighting supplier and/or rigging supplier. Contractors are encouraged to propose cost saving alternate systems that meet the Owners' needs.

**THOMASTON OPERA HOUSE  
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**Section 00040 continued**

- 6.0 Clean up and refuge:** The Contractor is solely responsible for any and all clean up associated with this scope of work. Contactor must remove all waste materials from building. Preventive measures shall be made to minimize dust and debris in affective areas. Contractor should err on the side of caution, when considering measures to contain dust and debris. Questions or comments can be directed to the Architect or Owners' Representative regarding these measures. Contactor may utilize the Town Hall's dumpster.
- 7.0 Alternate scopes:** The Town hopes and intends to construct the project at this time, however in the event that the base bid is beyond available funds, the Town retains the right to chose to reduce the scope of work for the Contract as is necessary. The bid proposal from Contractor shall include bid amounts following base bid and alternate additions.
- 7.1 Base Bid:** Contractor shall provide a stipulated sum for all labor and material for the rough wiring of proposed dimming equipment, DMX distribution, and installation of LCS 1, LCS 4, and LCS 5. LCS 1 shall have a MANUAL hoist/rigging system. A 54 circuit stage lighting outlet box shall be provided on one of the dimming panel to accommodate existing stage lighting. Contractor may include more than one price-proposal hoist option for the Owners.
- 7.2 Add Alternate A:** Contractor shall provide a stipulated sum for the inclusion of "dead hung" stage light strips LCS 6, LCS 7, LCS 8, and removal of 54 circuit stage lighting outlet box from the base bid. Rigging shall be by owners.
- 7.3 Add Alternate B:** Contractor shall provide a stipulated sum for the inclusion of an electric hoist system in lieu of manual hoist for LCS 1. Contractor may include more than one price-proposal hoist option for the Owners
- 7.4 Add Alternate C:** Contractor shall provide a stipulated sum for the inclusion of an additional ceiling mounted 12'-0" multi-circuit strip, "LCS 9", on an manual hoist located just forward of the mezzanine line. Contractor may include more than one price-proposal hoist option for the Owners.
- 8.0 Building Considerations:** The Thomaston Opera House is a Historic Building. The Architect MUST approve all penetrations and equipment attachments in the finished portions of the building. It is the Owners desire to limit all damage to the extent possible. Final patching and touch-up of approved affected areas shall NOT be the responsibility of the Contractor. While understanding the realities of performing work in a historic building, all damage resulting from accidents, misuse of equipment, unapproved penetrations or attachments, poor craftsmanship, or other acts that may result in unintended damage by the Contactors personnel or agents, shall be the Contactor's responsibility to repair to Owner approved standards. Contractors should take extreme care in moving and working in the attic above the house when the area of work requires wiring above the house ceiling. Architect must approve all methods and materials used for all equipment attachments visible from the auditorium.

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**Section 00040 continued**

9.0 Contractor shall not be responsible providing rough structural support for hoist systems. Once a system is selected, the best method of connection shall be decided upon for that system, and provided by the Owner. Contractor is responsible for all installation beyond rough structural support.

10.0 Contactor may utilize the use of the Towns "man-lift" for the project.

END OF SECTION

**SECTION 00060  
STAGE LIGHTING CONTROLS SPECIFICATION**

**1.0 GENERAL SYSTEM DESCRIPTION**

This specification further defines the Stage Lighting Controls system and makes reference to the products of Electronic Theatre Controls (ETC) to establish a level of quality and product support. CONTACTOR HAS THE OPTION TO PROPOSE ALTERNATES. The project ARCHITECT shall be the final authority for purposes of establishing product and service equivalence. Proposed substitutions may be submitted for approval in advance of bid. If not pre-submitted and approved, proposed substitutions are subject to rejection at time of submittal. If proposed substitutions are rejected, the contractor shall submit drawings and supply the specified product without further delay. Listing a manufacturer as acceptable does not specifically indicate that the manufacturer produces a product that meets approval for the specific conditions of this project. All products shall meet the requirements of the specification text and are subject to approval by the electrical engineer.

The system shall be designed for the control of architectural and theatrical lighting and shall consist of factory pre-wired dimming and processing rack enclosures containing dimmers, power supplies, breakers, terminals and/or control electronics.

These specifications shall supercede previous specifications in the event of conflicting information. Any conflicts between the drawings and these written specifications shall be brought to the attention to the architect and/or electrical engineer.

**2.0 SUBMITTALS**

- A. Six (6) sets of full system submittals shall be furnished for approval within fifteen (15) days of award of Contract. Prior to fabrication of equipment, two sets shall be returned appropriately marked as the approval document.
- B. Manufacturer shall provide any additional information, including equipment demonstration, as required by the engineer or specifier to verify compliance with specifications.

**Section 00060 continued**

3.0 PRODUCTS

DIMMER RACK

- A. The basis of specification shall be the Sensor-3 by ETC. The fully digital dimmer rack shall consist of up to 24 dimmer module spaces and contain all necessary dimmer modules, control modules and associated control cards to provide a complete dimming rack.
- B. The rack shall operate at up to 120/208V, three phase, four wire + ground, 47 to 63 Hz at 400 amps max. All load and neutral terminals shall accept up to a #2 AWG wire. Provisions shall be made for optional amp trap devices for fault current protection. Standard AIC fault current protection shall be 10,000, with up to 100,000 available optionally.
- C. The dimmer rack shall be constructed of 16 gauge, formed steel panels with a lockable door containing an integral electrostatic air filter. A single low-noise fan shall be located at the top of each rack. The fan shall draw all intake air through the integral electrostatic air filter, over the surfaces of the module housing and out the top of the rack.

DIMMER CONTROL ELECTRONICS MODULE

D. General

- 1. The dimmer rack electronics shall be contained in one plug-in Control Electronics Module (CEM). Each control module shall plug into a dimming cabinet, with no discrete wire connections. A simple user interface shall be provided for group configuration, testing and diagnostics. The control module shall be UL Listed
- 2. The control module shall be completely digital without employing any digital-to-analog de-multiplexing schemes or analog ramping circuits.

E. Control

- 1. The control module shall be provided with an Ethernet control signal input. This input shall be fully configurable with a range of patching and priority programming capabilities. The Ethernet signal shall supply seamless integration between the dimmer racks and both the entertainment and architectural lighting control systems. The Ethernet signal shall also enable remote configuration, playback, file storage and monitoring features on a personal computer on the network.
- 2. Two optically isolated DMX512 inputs shall also be provided, allowing overlapping or separation of any control level. 2,500V of optical isolation shall be provided between the DMX512 inputs and the electronics. Systems that do not have optical isolation on a prewired factory plug-in device shall not be acceptable.

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**Section 00060 continued**

3. A single DMX512 input may be configured as a DMX output. The DMX out shall be capable of outputting DMX from data obtained from the Ethernet.
4. The control module shall plug into an electronic backplane, with power, panic and station wiring connections available as screw terminals. DMX connections shall be available as either a screw terminal or a punch-down terminal. The Ethernet connection shall be a standard Cat5 RJ45 connection. The backplane shall also retain that specific rack's configuration and preset data in non-volatile memory. When any new control module is inserted, it shall automatically come on-line fully functional.
5. Complete group configuration containing rack setups, preset and dimmer information shall be stored in each control module. All data shall also be transferable to and from library storage on a personal computer on a group or per-rack basis. The system shall be capable of monitoring multiple racks on a single Ethernet connection.

**F. Network Interface**

6. The Ethernet network shall provide an integral link to connect all racks in the system for rack-to-rack, rack-to-console device communication.
7. The network interface to the control module shall provide a number of user-programmable control logic schemes regulating the logical relationship between control sources, including architectural control.
8. A technician shall be able to program all parameters onsite, via the facepanel or using a laptop personal computer. Systems that do not provide both types of user interface shall not be acceptable. These parameters shall include, but not be limited to, defining rack type, module type, scale voltage for each dimmer, firing mode, curve, dimmer numbering and DMX512 or network port assignments. Systems requiring factory programming shall not be acceptable.

**G. Web-based Interface**

9. The control module shall incorporate web server technologies for interaction with standard web browsers. The Web interface shall provide an easy-to-navigate, graphical user interface for monitoring and control of the dimming systems. This interface shall duplicate all the functions of the control module.
10. The web-based interface shall be self-contained, requiring no software installation on a user's computer. A user may use any laptop with a web browser to configure and exert basic control. A user shall be able to configure, monitor and control the dimming system using a web browser such as Internet Explorer 6.0 or higher. Use of standard web technologies shall also allow handheld computers, or PDA's, to access and control the system. Dimming systems that do not offer this facility shall not be acceptable.

**DIMMER MODULES**

- H. Each dimmer module shall contain one or two single-pole, fully rated (100% switch duty) magnetic circuit breakers, a solid state-switching module, associated toroidal filters, and power and control connectors. Dimmers employing triac power devices, pulse transformers, or other isolating devices not providing at least 2,500V RMS isolation, shall not be acceptable.

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**Section 00060 continued**

- I. Dimmer modules shall include toroidal filters to reduce the rate of current rise time resulting from switching the SCRs. The filter shall limit objectionable harmonics, reduce lamp filament sing and limit radio frequency interference on line and load conductors. Modules shall offer 350 or 500uS filter rise times. Rise time shall be measured at the worst-case slew rate (about 50 percent) from 10 to 90 percent of the output waveform with the dimmer operating at full load. All dimmers shall maintain their published rise time and/or fall time regardless of duty cycle or rack temperatures. Dimmers that derate due to increased dimmer temperature caused by full load operation or high phase angles shall not be acceptable.
- J. Power efficiency for standard dimmers shall be at least 97 percent at full load with a loss of 6V RMS.
- K. Dimmer modules shall consist of a heavy duty, die-cast aluminum chassis with integral face panel. No tools shall be required for module removal and insertion. Modules constructed of molded plastic for structural support are not equivalent and are not acceptable.
- L. The modules shall be available in types to work with their associated loads including: constant, incandescent, fluorescent and low wattage loads. Each module shall be UL Listed to control the lighting loads connected to it.

**DATA PLUG-IN STATIONS**

- M. The Plug-in Stations shall consist of the appropriate connectors required for functional intent of the system as shown on the project drawings including DMX, and others. Custom combinations and control connectors shall be available. Station faceplates shall be .80" aluminum, finished in fine texture, scratch-resistant black powder coat. Silk-screened graphics shall be white. The station panel shall mount into an industry standard back box, depending on size and quantity of connectors. A terminal block shall be supplied for contractor terminations.

**ARCHITECTURAL CONTROL STATIONS**

**N. Functional**

- 1. The Control System shall be designed to allow control of lighting and associated systems via LCD Touchscreen, Preset Button, Fader, or Astronomical Timeclock controls. System shall allow the programming of presets, macros and time clock events.
- 2. Station control components shall be designed to operate standard default or custom system functions. Components shall operate default functions unless re-assigned via a Windows-based configuration program.

**O. Electrical**

- 1. Control station wiring shall be an Echelon® Link power network.
- 2. Link power shall utilize low-voltage Class II unshielded twisted pair, type Belden 8471 or equivalent, and one #14 ESD drain wire (when not installed in grounded metal conduit).
- 3. LCD stations shall also require (2) #16 AWG stranded wires for 24Vdc operating power. 24Vdc wiring shall be topology free.
- 4. Network wiring may be bus, loop, home run or any combination of these.
- 5. Network insulation displacement connectors shall be provided with all stations.

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**Section 00060 continued**

**P. Preset Stations**

11. Preset stations shall operate using up to ten programmable buttons.
12. All Preset stations shall be available with white, ivory, gray or black faceplates, fader knobs, and buttons. All faceplates shall be designed for flush or surface mounting.
13. Station faceplates shall be constructed of ABS plastic and shall use no visible means of attachment.
14. The manufacturer shall supply backboxes for all surface mounted stations and metal locking covers as indicated on the project drawings.

**Q. Fader Control Stations**

1. Fader stations shall operate using up to twelve programmable buttons and sixteen programmable faders with integral LEDs.
2. Fader stations shall utilize standard 45-millimeter slide potentiometers.
3. All Fader stations shall be available with white, ivory, gray or black faceplates, fader knobs, and buttons. All faceplates shall be designed for flush or surface mounting.
4. Station faceplates shall be constructed of ABS plastic and shall use no visible means of attachment.

**MOUNTING HARDWARE**

- R.** All supporting pipe battens shall be connected to the building structure in a secure and approved manner using rated materials. The Systems Integrator shall coordinate between the installing subcontractor of the section and of the rigging section.
- S.** All pipes and suspension materials are to be new. Do not use cable clip/Crosby fittings on any wire ropes. Only Nicopress/swaged terminations are allowed. All receptacles and stage lighting fixtures on the stage shown on project drawings shall be supported from 1.5" ID (nominal) schedule 40 or 80 black iron pipe using sleeve splices and bolts or rivets for lengths longer than 21ft. Screw coupling is not acceptable. All connector strips and pipe battens shall be suspended from All-Thread rod drilled-through the pipe and securely bolted with locking nuts top and bottom or rated link chain and rated fasteners. Use rated beam clamps. The hangers shall be connected to the roof structural beams or suitable, rated material bridging structure such as UniStrut, B-Line, or Kindorf. Install pipes plumb, straight and level. Suspend empty pipes as noted above.

**POWER DISTRIBUTION EQUIPMENT**

**T. General**

1. Connectors shall be 20A 2P&G grounded stage pin for dimmed circuits and NEMA 5-15 U-Ground for switched circuits for LED fixtures. Pigtails shall be three-wire type "SOW" rubber jacketed cable sized for the circuit ampacity. Internal wiring shall be sized to circuit ampacity and shall be rated at 125°C.

Terminations shall be at one end using feed through terminals individually labeled with corresponding circuit numbers. 20 amp circuits shall use screwless tension clamp terminals listed for 20 – 8 gauge wire.

Power distribution equipment shall be UL Listed.

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**Section 00060 continued**

Connector Strips

6. Connector Strips shall be fabricated from 18 gauge galvanized steel or extruded aluminum 6.25"H x 3.3"D with length specified in increments of 6" and shipped fully wired in a minimum of 6'0" sections with all splicing hardware included. They shall be finished with fine-textured, scratch-resistant, black powder coat. Circuits shall be labeled on one side of the connector strip with 2" white lettering on black background labels. Pigtails and outlets shall be spaced as specified on the project drawings. 2P&G outlets shall be pigtails and NEMA 5-15 outlets shall be flush.

**EQUIPMENT LIST**

This list references the part numbers of Electronic Theatre Controls and other manufacturers to establish specific functionality of devices. Supply the specified product or an approved equal. In all cases devices must be fully compatible to function as a system. The System Integrator is responsible for ensuring complete compatibility and functionality of all devices. In case of discrepancy between this document and project drawings, consult project Electrical Engineer and Architect for clarification before proceeding. Please note the BSCP unit shown on drawing TL-3.0 is NIC.

**Dimming System:**

2	SR3-24	Sensor-3 Dimming Enclosures for 24 Modules
2	SR3-24 -DOOR	Dimming Enclosure Doors
2	CEM3	Control Electronics Modules
48	D20	Dual 20A Dimmer Modules-

**House Light System:**

1	ERn2-W-120	Wall-Mount Processor Enclosure
1	P-ACP	Paradigm Architectural Control Processor Module
1	P-SPM	Paradigm Station Power Module
3	UH10005	5-Button Preset Station
1	UH61307	Rack Mount 13-Fader Station
1	UH61307	Portable 13-Fader Station
1	UH1RS	Portable Plug-In Station

**DMX Control System:**

1	Equipment Rack Wall Mount 12 Space
1	Rack Mount Power Conditioner w/ Work Lights
1	Custom DMXIN1/DMXIN2 Rack Mount Control Plug In Station
1	Rack Mount 3 Space Storage Drawer w/ Lock
1	Pathway #4809 eDIN DMX Installation Repeater 12-way
1	ECPB DMXIN1/DMXIN2 Control Input Station

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**Section 00060 continued**

**Distribution:**

- (1) 40' Connector Strip w/ (18)-2P&G Pigtails, On (18)-20A Circuits, (1)-DMX Out, Pipe Mounting Brackets
- (2) 6' Connector Strips w/ (6)-2P&G Pigtails, On (6)-20A Circuits, (1)-DMX Out, Wall Mount Brackets
- (1) Custom Surface Mount (54)-20 Amp Circuit Plug Box w/ (108)-Flush Mount P&G Connectors
- (2) Custom Surface Mount (6)-20 Amp Circuit Plug Box w/ (1)-Multi-pin Connector & (6)-Flush Mount 2P&G Connectors

**Add/Alternate A/B**

Deduct – (1) - Custom Surface Mount (54)-20 Amp Circuit Plug Box w/ (108)-Flush Mount 2P&G

Add – (3) - 36' Connector Strip w/ (18)-2P&G Pigtails, On (18)-20A Circuits, (1)-DMX Output

**EXECUTION INSTALLATION**

U. It shall be the responsibility of the Systems Integrator to receive and store the necessary materials and equipment for installation of the control system. It is the intent of these specifications and plans to include everything required for proper and complete installation and operation of the system, even though every item may not be specifically mentioned. The Systems Integrator shall deliver on a timely basis to other trades any equipment that must be installed during construction.

The Systems Integrator shall be responsible for field measurements and coordinating physical size of all equipment with the architectural requirements of the spaces into which it is to be installed. The Systems Integrator shall install all lighting control and dimming equipment in accordance with manufacturer's approved shop drawings. All branch load circuits shall be live tested before connecting the loads to the dimmer system load terminals.

The Systems Integrator of this section shall be responsible for furnishing and installing all components specified in this section including all line and low voltage wiring, conduit and accessories to supply a turn-key system ready for owner to operate.

**MANUFACTURER'S SERVICES**

V. Upon completion of the installation, including testing of load circuits, the Systems Integrator shall notify the dimming system manufacturer that the system is available for formal checkout. Notification shall be provided in writing, two weeks prior to the time factory-trained personnel are needed on the job site. No power is to be applied to the dimming system unless specifically authorized by written instructions from the manufacturer.

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**Section 00060 continued**

The Systems Integrator shall be liable for any return visits by the factory engineer as a result of incomplete or incorrect wiring. Upon completion of the formal check-out, the factory engineer shall demonstrate operation and maintenance of the system to the owner's representatives. Training shall not exceed four working hours.

The Systems Integrator shall provide an additional 4-hour session of end-user training on specific programming and operation of the control system. This training shall be provided at a date after final completion of the site work and after the factory commissioning at a time to be arranged with the owner within the first six months of occupancy.

**WARRANTY**

W. Manufacturer shall warrant products under normal use and service to be free from defects in materials and workmanship for a period of two years from date of delivery. Warranty shall cover repair or replacement of such parts determined defective upon inspection.

**END OF SECTION**

**SECTION 00080**

**CONTRACTOR QUALIFICATIONS / CONTRACTOR QUALIFICATION  
STATEMENT**

**1.0 CONTRACTOR'S QUALIFICATIONS:**

- A. Only qualified contractors shall be bid on project.
- B. The work of this section will be contracted to a single firm, referred to as the Contractor.
- C. The Contractor shall be an electrical and lighting contractor who regularly engages in the furnishing, installation and servicing of systems of similar nature, size, scope and complexity to that contemplated by this specification. The Contractor shall have done so for a period of not less than five years preceding the bid date.
- D. The Contractor shall have maintained for the five years preceding the bid date, a suitably staffed and equipped service organization which has continuously offered maintenance and repair services for systems of the nature, size, scope and complexity to that contemplated by this specification.
- E. The Contractor shall have on staff a factory trained field service agent, capable of system testing, commissioning and troubleshooting systems of the nature, size, scope and complexity to that contemplated by this specification.
- F. The Contractor shall maintain for the duration of this contract all required business and professional licenses and insurance.

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**Section 00080 continued**

- G. The contractor shall demonstrate to the satisfaction of the owner, through submittals presented in accordance with the project timetable, that the contractor meets all the above qualifications. The minimum contractor qualification submittal shall include the following:
1. Statement of company history: Include a breakdown, by percentage of material and labor, of gross sales of all business activities the contractor is involved in for each of the last 5 years.
  2. Previous experience: Provide a list of any installations of the type and size contemplated by these specifications. Additionally, provide a list of all projects where a theatrical lighting design/consultant, or supplier was utilized. For each please include:
    - a) Name and address of each installation facility.
    - b) Name, address and phone number of the general contractor and Owner, along with the names of all key personal directly involved.
  3. Statement of current company work capabilities and ownership.
  4. Key Personal: For each of the key personnel listed in the below; Include individual's name, title, and number year experience.
    - a) Project Manager
    - b) Senior Technician
  5. Copies of all business and professional licenses and insurance certificates.

END OF SECTION

**SECTION 00100  
INSTRUCTIONS TO BIDDERS**

1. This document contains Instructions to Bidders for the Project: Thomaston Opera House, Theater & Stage Electrical.
2. Submit Bid Form, on or before March 28, 2013, 11:00 AM, at the First Selectman's Office, Thomaston Town Hall, 158 Main Street, Thomaston, Connecticut for the furnishing all labor, materials, tools and equipment necessary to construct and finish complete the Project.
3. Bids submitted after the time set for opening will be returned to the Bidder. Submit **two copies** of the executed offer on the Bid Forms provided (make copies of forms as required), signed and sealed in a closed opaque envelope, clearly identified with Bidder's name and Project name on the outside of the envelope. Amendments to the submitted offer will be permitted if received prior to Bid opening and if endorsed by the same party or parties who signed and sealed the initial offer.
4. All bids must include an executed Notification to Bidders Form and a completed State of Connecticut Employer Report of Compliance Staffing (copies attached).

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**Section 00100 continued**

5. The scheduling of work shall be executed to minimize disruption to Opera House functions. All work must commence immediately following the signing of the contract and be completed by May 1, 2013.

6. The Owner reserves the right to select or reject bids on the basis of price considered along with contractor's experience, location, reputation, subcontractors, status with contractor licensing regulators, and other qualifications. The Owner also reserves the right to modify the Contract Documents, adjust the scope of work, and/or restart the bid process as necessary to meet the construction budget.

**7. Performance Bond and Payment Bond Requirements**

The apparent low bidder will be required to furnish satisfactory Performance and Labor and Materials Payment Bonds in the amount of the contract, in a form satisfactory to the Owner.

7.1 The Bidder shall deliver the required bonds to the Owner prior to the execution of the Contract.

a. The bonds shall be dated on or before the date of the Contract.

b. The bidder shall require the attorney-in-fact who executes the required bonds on behalf of the surety to affix thereto a certified and current copy of the power of attorney.

8. The firm selected shall provide evidence of insurance coverage from a company or companies with an A.M. Best rating of A- (VII) or better. Such insurance will protect and indemnify the Town from claims which may arise out of or result from any obligation under this agreement, whether such obligations are the Contractor's or those of a subcontractor or any person or entity directly or indirectly employed by said Contractor. Minimum coverage is as follows:

a. **Workers Compensation:** Contractor shall provide workers compensation and employers' liability insurance that complies with the regulations of the State of Connecticut with limits no less than \$100,000 each accident by bodily injury; \$100,000 each accident by disease and a policy limit of \$500,000.

b. **Commercial General Liability Insurance:** Contractor shall provide commercial general liability insurance policy that includes products, operations and completed operations (with no exclusion for sexual abuse or molestation). Limits should be at least: Bodily injury & property damage with an occurrence limit of \$1,000,000; Personal & advertising injury limit of \$1,000,000 per occurrence; General aggregate limit of \$2,000,000 (other than products and completed operations); Products and completed operations aggregate limit of \$2,000,000. The policy shall name the Town of Thomaston as an additional insured. Such coverage will be provided on an occurrence basis and will be primary and shall not contribute in any way to any insurance or self-insured retention carried by the Town. Such coverage shall contain a broad form contractual liability endorsement or similar wording within the policy form.

c. **Commercial Automobile Insurance:** Contractor shall provide commercial automobile insurance for any owned autos (symbol 1 or equivalent) in the amount of \$1,000,000 each accident covering bodily injury and property damage on a combined single limit basis. Such coverage shall also include hired and non-owned automobile coverage.

**THOMASTON OPERA HOUSE  
THEATER & STAGE ELECTRICAL**

**Section 00100 continued**

- d. **Umbrella Liability Insurance:** Contractor shall provide an umbrella liability policy in excess (without restriction or limitation) of those limits described in items (1) through (3). Such policy shall contain limits of liability in the amount of \$1,000,000 each occurrence and \$1,000,000 in the aggregate which may be amended during the term of the contract if deemed reasonable and customary by the Town at the sole cost and expense of the Contractor
  - e. As to the insurance required, the insurer(s) and/or their authorized agents shall provide the Town with certificates of insurance prior to execution of the agreement by the Town, describing the coverage.
9. The bidder must review all documents and drawings with care to fully investigate and understand the extent and quality of the work required. The failure or omission of any bidder to examine any form, instrument, addendum or other document shall in no way relieve said bidder from any obligation with respect to his bid. Each bidder shall field check and verify total quantity of items required for this Project, regardless of the numerical count that may be called for on the Drawings and/or in the Project Manual.
10. A site visit for review of existing conditions is mandatory. The bidder will be assumed to have full knowledge of site conditions that might affect the bid and subsequent construction costs. Contact the Architect to arrange to visit the site. The failure or omission of any bidder to visit and/or examine the site and its conditions shall in no way relieve said bidder from any obligation with respect to his bid. The bidder will be deemed to have full knowledge of site conditions that might affect the bid and subsequent construction costs.
11. All questions shall be submitted to the Town Hall Building Committee, via the Finance Director, Tracy Decker, in writing, via fax at 860-283-1378, not less than fourteen (14) calendar days before date set for Bid opening. Answers will be issued in the form of an addendum. Addenda shall be issued during the Bidding period, as required. All Addenda become part of the Contract Documents. Include resultant costs in the Base Bid Price.
12. Requests for product substitutions shall be in writing, adequately documented, and received by the Architect no less than fourteen (14) calendar days before the bid opening date to enable the Architect and Owner to properly evaluate merits of the proposed substitute. If approved, Addenda incorporating said substitution will be issued. Lack of issuance of Addenda regarding a proposed substitution shall constitute denial of any such request. The Architect reserves the right to reject any proposed substitution.

**END OF SECTION**

**THOMASTON OPERA HOUSE  
THEATER & STAGE ELECTRICAL**

**SECTION 00300  
BID FORM  
(submit in duplicate)**

To: Office of First Selectman  
Town of Thomaston  
Thomaston Town Hall  
158 Main Street,  
Thomaston, Connecticut 06787

Project: Theater & Stage Electrical  
Thomaston Opera House Renovation

Date:

Submitted by: (full name and address)

1. Having examined the Place of the Work and all matters referred to in the Instructions to Bidders and the Contract Documents prepared by Thompson Architects and outlined in Specification for the above mentioned project, the undersigned, hereby offers to enter into a Contract to perform the Work for the stipulated sum of:

\_\_\_\_\_ Dollars (\$ \_\_\_\_\_).  
Base Bid (Written amount) (Numeric amount)

ALTERNATE A:

\_\_\_\_\_ Dollars (\$ \_\_\_\_\_).  
Alternate A, Add to base bid (Written amount) (Numeric amount)

ALTERNATE B:

\_\_\_\_\_ Dollars (\$ \_\_\_\_\_).  
Alternate B, Add to base bid (Written amount) (Numeric amount)

ALTERNATE C:

\_\_\_\_\_ Dollars (\$ \_\_\_\_\_).  
Alternate C, Add to base bid (Written amount) (Numeric amount)

2. The undersigned agrees that, if selected to perform the work, will execute the Owner – Contractor Agreement within fourteen (14) calendar days of notification of acceptance of this Bid and comply with the Instructions to Bidders. Additionally, the undersigned agrees to furnish the required insurance documentation within fourteen (14) calendar days of said notification of acceptance, and that the Date of Commencement of the Work shall be within three (3) calendar days after Agreement signing.
3. Executed copies of the Notification to Bidders Form and State of Connecticut Employer Compliance Staffing Form are attached.
4. Contract Time: Bidder further agrees to complete the Work by May 01, 2013.

**THOMASTON OPERA HOUSE  
THEATER & STAGE ELECTRICAL**

**Section 00300 continued**

Bid Form – (Page 2 of 2)

5. Executed copies of the Notification to Bidders Form and State of Connecticut Employer Compliance Staffing Form are attached.
6. The undersigned agrees to maintain and hold the Base Bid price stated in this proposal for a period of sixty (60) days from the date of this proposal.
7. The following Addenda have been received. The modifications to the Bid Documents noted therein have been considered and all costs thereto are included in the Bid Price.

Addendum #	Title	Dated
------------	-------	-------

Bid dated this \_\_\_\_\_ day of \_\_\_\_\_, 2013

Submitted by:

Corporate Seal:

(Bidder - please print the full name of your Proprietorship, Partnership, or Corporation)

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(Authorized signing officer)

(Title)

---

(Authorized signing officer)

(Title)

If the Bid is a joint venture or partnership, add additional forms of execution for each member of the joint venture in the appropriate form or forms as above.

END OF SECTION



## NOTIFICATION TO BIDDERS FORM

The contract to be awarded is subject to contract compliance requirements mandated by Section 4114a of the Connecticut General Statutes; and, when the awarding agency is the state, Section 46a71(d) of the Connecticut General Statutes. There are Contract Compliance Regulations codified at Section 4-114a-1 et seq. of the Regulations of Connecticut State Agencies which establish a procedure for the awarding of all contracts covered by Sections 4-114a and 46a-71(d) of the Connecticut General Statutes.

According to Section 4-114a-3(9) of the Contract Compliance Regulations, every agency awarding a contract subject to the contract compliance requirements has an obligation to "aggressively solicit the participation of legitimate minority business enterprises as bidders, contractors, subcontractors and suppliers of materials." "Minority business enterprise" is defined in Section 4-114a of the Connecticut General Statutes as a business wherein fifty-one percent or more of the capital stock, or assets belong to a person or persons: "(1) Who are active in the daily affairs of the enterprise; (2) who have the power to direct the management and policies of the enterprise; and (3) who are members of a minority, as such term is defined in subsection (a) of Section 32-9n." "Minority" groups are defined in Section 32-9n of the Connecticut General Statutes as "(1) Black Americans ..... (2) Hispanic Americans..... (3) Women..... (4) Asian Pacific Americans and Pacific Islanders; or (5) American Indians ....." The above definitions apply to the contract compliance requirements by virtue of Section 4-114a-1 (10) of the Contract Compliance Regulations.

The awarding agency will consider the following factors when reviewing the bidder's qualifications under the contract compliance requirements:

- (a) the bidder's success in implementing an affirmative action plan;
- (b) the bidder's success in developing an apprenticeship program complying with Sections 46a-681 to 46a-68-17 of the Connecticut General Statutes, inclusive;
- (c) the bidder's promise to develop and implement a successful affirmative action plan; the bidder's submission of EEO-1 data indicating that the composition of its work force is at or near parity when compared to the racial and sexual composition of the work force in the relevant labor market area; and the bidder's promise to set aside a portion of the contract for legitimate minority business enterprises. See Section 4-114a-3(10) of the Contract Compliance Regulations.

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### INSTRUCTION

Bidder must sign acknowledgement below, detach along dotted line and return acknowledgement to Awarding Agency along with bid proposal. The undersigned acknowledges receiving and reading a copy of the "Notification to Bidders" form.

On behalf of \_\_\_\_\_

*(Signature, Title)*

**COMMISSION ON HUMAN RIGHTS AND OPPORTUNITIES FORMS**

**STATE OF CONNECTICUT EMPLOYER REPORT OF COMPLIANCE STAFFING LABOR DEPARTMENT**

Department \_\_\_\_\_  Approved  Pending Investigation  
Compliance Officer \_\_\_\_\_  Disapproved  Investigation Requested  
Date \_\_\_\_\_

This form should reflect the number of permanent employees on your payroll on date of submission.

Name of Contracting Firm \_\_\_\_\_  
Type of Report \_\_\_\_\_  Prime Contractor  Subcontractor

**EMPLOYEE INFORMATION**

Total Employed:

White \_\_\_\_\_ African American \_\_\_\_\_ Spanish Surname \_\_\_\_\_ Other (specify) \_\_\_\_\_

Does your firm have a collective bargaining agreement or other contract or understanding with a labor organization or employment agency for the recruitment of labor?  Yes\*  No\*

\* If yes, list the name and address of the agency or organization.

Name \_\_\_\_\_  
Address/City/State/Zip \_\_\_\_\_

\* If no, indicate the usual methods of recruitment.

Connecticut State Employment Service  Private Employment Agency  Newspaper Advertisement  
 Walk-In  Other (specify) \_\_\_\_\_

**SIGNATURE**

The signer certifies that its practices and policies, including but not limited to matters concerning personnel, training, apprenticeship, membership, grievance and representation, and upgrading, do not discriminate on grounds of race, color, religious creed, age, sex, or national origin, or ancestry of any individual, and that the signer agrees it will affirmatively cooperate in the implementation of the policy and provisions of Executive order Number Three, and consent and agreement is made that recruitment, employment and the terms and conditions of employment under the contract shall be in accordance with the purpose and provisions of Executive Order Number Three.

Is firm in minority ownership? (51% of assets in control of minorities)  Yes  No

I certify that the above is correct to the best of my knowledge.

Employer \_\_\_\_\_  
Business Name \_\_\_\_\_ Date \_\_\_\_\_  
Signature \_\_\_\_\_  
Title \_\_\_\_\_



**AIA**<sup>®</sup>

# Document A107™ - 1997

## Abbreviated Standard Form of Agreement Between Owner and Contractor for Construction Projects of Limited Scope

where the basis of payment is a STIPULATED SUM

AGREEMENT made as of the  
in the year.  
*(In words, indicate day, month and year)*

day of

BETWEEN the Owner:  
*(Name, address and other information)*

and the Contractor:  
*(Name, address and other information)*

the Project is:  
*(Name and location)*

the Architect is:  
*(Name, address and other information)*

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

This Document includes abbreviated General Conditions and should not be used with other general conditions.

This document has been approved and endorsed by The Associated General Contractors of America.

## ARTICLE 1. THE WORK OF THIS CONTRACT

The Contractor shall fully execute the Work described in the Contract Documents, except to the extent specifically indicated in the Contract Documents to be the responsibility of others.

## ARTICLE 2. DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

§ 2.1 The date of commencement of the Work shall be the date of this Agreement unless a different date is stated below or provision is made for the date to be fixed in a notice to proceed issued by the Owner.  
*(Insert the date of commencement, if it differs from the date of this Agreement or, if applicable, state that the date will be fixed in a notice to proceed.)*

§ 2.2 The Contract Time shall be measured from the date of commencement.

§ 2.3 The Contractor shall achieve Substantial Completion of the entire Work not later than \_\_\_\_\_ days from the date of commencement, or as follows:  
*(Insert number of calendar days. Alternatively, a calendar date may be used when coordinated with the date of commencement. Unless stated elsewhere in the Contract Documents, insert any requirements for earlier Substantial Completion of certain portions of the Work.)*

subject to adjustments of this Contract Time as provided in the Contract Documents.  
*(Insert provisions, if any, for liquidated damages relating to failure to complete on time or for bonus payments for early completion of the Work.)*

## ARTICLE 3. CONTRACT SUM

§ 3.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the Contract. The Contract Sum shall be \_\_\_\_\_ Dollars  
( \$ \_\_\_\_\_ ), subject to additions and deletions as provided in the Contract Documents.

§ 3.2 The Contract Sum is based upon the following alternates, if any, which are described in the Contract Documents and are hereby accepted by the Owner:  
*(State the numbers or other identification of accepted alternates. If decisions on other alternates are to be made by the Owner subsequent to the execution of this Agreement, attach a schedule of such other alternates showing the amount for each and the date when that amount expires.)*

§ 3.3 Unit prices, if any, are as follows:

#### ARTICLE 4 PAYMENTS

##### § 4.1 PROGRESS PAYMENTS

§ 4.1.1 Based upon Applications for Payment submitted to the Architect by the Contractor and Certificates for Payment issued by the Architect, the Owner shall make progress payments on account of the Contract Sum to the Contractor as provided below and elsewhere in the Contract Documents. The period covered by each Application for Payment shall be one calendar month ending on the last day of the month, or as follows:

§ 4.1.2 Provided that an Application for Payment is received by the Architect not later than the \_\_\_\_\_ day of a month, the Owner shall make payment to the Contractor not later than the \_\_\_\_\_ month. If an Application for Payment is received by the Architect after the \_\_\_\_\_ day of the \_\_\_\_\_ date fixed above, payment shall be made by the Owner not later than \_\_\_\_\_ days after the Architect receives the Application for Payment.

§ 4.1.3 Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below, or in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.

*(Insert rate of interest agreed upon, if any.)*

*(Usury laws and requirements under the Federal Truth in Lending Act, similar state and local consumer credit laws and other regulations at the Owner's and Contractor's principal places of business, the location of the Project and elsewhere may affect the validity of this provision. Legal advice should be obtained with respect to deletions or modifications, and also regarding requirements such as written disclosures or waivers.)*

##### § 4.2 FINAL PAYMENT

§ 4.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor when:

- 1 the Contractor has fully performed the Contract except for the Contractor's responsibility to correct Work as provided in Section 17.2, and to satisfy other requirements, if any, which extend beyond final payment; and
- 2 a final Certificate for Payment has been issued by the Architect.

§ 4.2.2 The Owner's final payment to the Contractor shall be made no later than 30 days after the issuance of the Architect's final Certificate for Payment, or as follows:

**ARTICLE 5 ENUMERATION OF CONTRACT DOCUMENTS**

§ 5.1 The Contract Documents are listed in Article 6 and, except for Modifications issued after execution of this Agreement, are enumerated as follows:

§ 5.1.1 The Agreement is this executed 1997 edition of the Abbreviated Standard Form of Agreement Between Owner and Contractor, AIA Document A107-1997.

§ 5.1.2 The Supplementary and other Conditions of the Contract are those contained in the Project Manual dated \_\_\_\_\_, and are as follows:

Document	Title	Pages
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§ 5.1.3 The Specifications are those contained in the Project Manual dated as in Section 5.1.2, and are as follows:  
*(Either list the Specifications here or refer to an exhibit attached to this Agreement.)*

Section	Title	Pages
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§ 5.1.4 The Drawings are as follows, and are dated \_\_\_\_\_ unless a different date is shown below:

*(Either list the Drawings here or refer to an exhibit attached to this Agreement.)*

Number	Title	Pages
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§ 5.1.5 The Addenda, if any, are as follows:

Number

Date

Pages

Portions of Addenda relating to bidding requirements are not part of the Contract Documents unless the bidding requirements are also enumerated in this Article 5.

§ 5.1.6 Other documents, if any, forming part of the Contract Documents are as follows:  
(List any additional documents which are intended to form part of the Contract Documents.)

## GENERAL CONDITIONS

### ARTICLE 6 GENERAL PROVISIONS

#### § 6.1 THE CONTRACT DOCUMENTS

The Contract Documents consist of this Agreement with Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to the execution of this Agreement, other documents listed in this Agreement and Modifications issued after execution of this Agreement. A Modification is (1) a written amendment to the Contract signed by both parties, (2) a Change Order, (3) a Construction Change Directive or (4) a written order for a minor change in the Work issued by the Architect. The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all; performance by the Contractor shall be required to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the indicated results.

#### § 6.2 THE CONTRACT

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

#### § 6.3 THE WORK

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

#### § 6.4 EXECUTION OF THE CONTRACT

Execution of the Contract by the Contractor is a representation that the Contractor has visited the site, become generally familiar with local conditions under which the Work is to be performed and correlated personal observations with requirements of the Contract Documents.

#### § 6.5 OWNERSHIP AND USE OF ARCHITECT'S DRAWINGS, SPECIFICATIONS AND OTHER INSTRUMENTS OF SERVICE

The Drawings, Specifications and other documents, including those in electronic form, prepared by the Architect and the Architect's consultants are Instruments of Service through which the Work to be executed by the Contractor is described. The Contractor may retain one record set. Neither the Contractor nor any Subcontractor, sub-subcontractor or material or equipment supplier shall own or claim a copyright in the Drawings, Specifications and other documents prepared by the Architect or the Architect's consultants, and unless otherwise indicated the Architect and the Architect's consultants shall be deemed the authors of them and will retain all common law, statutory and other reserved rights, in addition to the copyrights. All copies of them, except the Contractor's record set, shall be returned or suitably accounted for to the Architect, on request, upon completion of the Work. The Drawings, Specifications and other documents prepared by the Architect and the Architect's consultants, and copies thereof furnished to the Contractor, are for use solely with respect to this Project. They are not to be used by the Contractor or any Subcontractor, sub-subcontractor or material or equipment supplier on other projects or for additions to this Project outside the scope of the Work without the specific written consent of the Owner, Architect and the Architect's consultants. The Contractor, Subcontractors, sub-subcontractors and material or equipment suppliers are authorized to use and reproduce applicable portions of the Drawings, Specifications and other documents prepared by the Architect and the Architect's consultants appropriate to and for use in the execution of their Work under the Contract Documents. All copies made under this authorization shall bear the statutory copyright notice, if any, shown on the Drawings, Specifications and other documents prepared by the Architect and the Architect's consultants. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with this Project is not to be construed as publication in derogation of the Architect's or Architect's consultants' copyrights or other reserved rights.

### ARTICLE 7 OWNER

#### § 7.1 INFORMATION AND SERVICES REQUIRED OF THE OWNER

§ 7.1.1 The Owner shall furnish and pay for surveys and a legal description of the site.

§ 7.1.2 The Contractor shall be entitled to rely on the accuracy of information furnished by the Owner but shall exercise proper precautions relating to the safe performance of the Work.

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

#### § 7.2 OWNER'S RIGHT TO STOP THE WORK

If the Contractor fails to correct Work which is not in accordance with the requirements of the Contract Documents, or persistently fails to carry out the Work in accordance with the Contract Documents, the Owner may issue a written order to the Contractor to stop the Work, or any portion thereof, until the cause for such order is eliminated; however, the right of the Owner to stop the Work shall not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity.

#### § 7.3 OWNER'S RIGHT TO CARRY OUT THE WORK

If the Contractor defaults or persistently fails or neglects to carry out the Work in accordance with the Contract Documents, or fails to perform a provision of the Contract, the Owner, after 10 days' written notice to the Contractor and without prejudice to any other remedy the Owner may have, may make good such deficiencies and may deduct the reasonable cost thereof, including Owner's expenses and compensation for the Architect's services made necessary thereby, from the payment then or thereafter due the Contractor.

### ARTICLE 8 CONTRACTOR

#### § 8.1 REVIEW OF CONTRACT DOCUMENTS AND FIELD CONDITIONS BY CONTRACTOR

§ 8.1.1 Since the Contract Documents are complementary, before starting each portion of the Work, the Contractor shall carefully study and compare the various Drawings and other Contract Documents relative to that portion of the Work, as well as the information furnished by the Owner pursuant to Section 7.1.1, shall take field measurements of any existing conditions related to that portion of the Work and shall observe any conditions at the site affecting it. These obligations are for the purpose of facilitating construction by the Contractor and are not for the purpose of discovering errors, omissions or inconsistencies in the Contract Documents; however, any errors, omissions or inconsistencies discovered by the Contractor shall be reported promptly to the Architect as a request for information in such form as the Architect may require.

§ 8.1.2 Any design errors or omissions noted by the Contractor during this review shall be reported promptly to the Architect, but it is recognized that the Contractor's review is made in the Contractor's capacity as a contractor and not as a licensed design professional unless otherwise specifically provided in the Contract Documents.

#### § 8.2 SUPERVISION AND CONSTRUCTION PROCEDURES

§ 8.2.1 The Contractor shall supervise and direct the Work, using the Contractor's best skill and attention. The Contractor shall be solely responsible for and have control over construction means, methods, techniques, sequences and procedures, and for coordinating all portions of the Work under the Contract, unless the Contract Documents give other specific instructions concerning these matters. If the Contract Documents give specific instructions concerning construction means, methods, techniques, sequences or procedures, the Contractor shall be fully and solely responsible for the jobsite safety thereof unless the Contractor gives timely written notice to the Owner and Architect that such means, methods, techniques, sequences or procedures may not be safe.

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

#### § 8.3 LABOR AND MATERIALS

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

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

§ 8.3.3 The Contractor shall deliver, handle, store and install materials in accordance with manufacturers' instructions.

§ 8.3.4 The Contractor may make substitutions only with the consent of the Owner, after evaluation by the Architect and in accordance with a Change Order.

#### § 8.4 WARRANTY

The Contractor warrants to the Owner and Architect that materials and equipment furnished under the Contract will be of good quality and new unless otherwise required or permitted by the Contract Documents, that the Work will be free from defects not inherent in the quality required or permitted, and that the Work will conform with the requirements of the Contract Documents. Work not conforming to these requirements, including substitutions not properly approved and authorized, may be considered defective. The Contractor's warranty excludes remedy for damage or defect caused by abuse, modifications not executed by the Contractor, improper or insufficient maintenance, improper operation or normal wear and tear and normal usage.

#### § 8.5 TAXES

The Contractor shall pay sales, consumer, use and other similar taxes which are legally enacted when bids are received or negotiations concluded.

#### § 8.6 PERMITS, FEES AND NOTICES

§ 8.6.1 Unless otherwise provided in the Contract Documents, the Contractor shall secure and pay for the building permit and other permits and governmental fees, licenses and inspections necessary for proper execution and completion of the Work.

§ 8.6.2 The Contractor shall comply with and give notices required by laws, ordinances, rules, regulations and lawful orders of public authorities applicable to performance of the Work. The Contractor shall promptly notify the Architect and Owner if the Drawings and Specifications are observed by the Contractor to be at variance therewith. If the Contractor performs Work knowing it to be contrary to laws, statutes, ordinances, building codes, and rules and regulations without such notice to the Architect and Owner, the Contractor shall assume appropriate responsibility for such Work and shall bear the costs attributable to correction.

#### § 8.7 SUBMITTALS

§ 8.7.1 The Contractor shall review for compliance with the Contract Documents, approve in writing and submit to the Architect Shop Drawings, Product Data, Samples and similar submittals required by the Contract Documents with reasonable promptness. The Work shall be in accordance with approved submittals.

§ 8.7.2 Shop Drawings, Product Data, Samples and similar submittals are not Contract Documents.

#### § 8.8 USE OF SITE

The Contractor shall confine operations at the site to areas permitted by law, ordinances, permits and the Contract Documents and shall not unreasonably encumber the site with materials or equipment.

#### § 8.9 CUTTING AND PATCHING

The Contractor shall be responsible for cutting, fitting or patching required to complete the Work or to make its parts fit together properly.

#### § 8.10 CLEANING UP

The Contractor shall keep the premises and surrounding area free from accumulation of waste materials or rubbish caused by operations under the Contract. At completion of the Work, the Contractor shall remove from and about the Project waste materials, rubbish, the Contractor's tools, construction equipment, machinery and surplus material.

#### § 8.11 ROYALTIES, PATENTS AND COPYRIGHTS

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

## § 8.12 ACCESS TO WORK

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

## § 8.13 INDEMNIFICATION

§ 8.13.1 To the fullest extent permitted by law and to the extent claims, damages, losses or expenses are not covered by Project Management Protective Liability insurance purchased by the Contractor in accordance with Section 16.3, the Contractor shall indemnify and hold harmless the Owner, Architect, Architect's consultants and agents and employees of any of them from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by the negligent acts or omissions of the Contractor, a Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this Section 8.13.

§ 8.13.2 In claims against any person or entity indemnified under this Section 8.13 by an employee of the Contractor, a Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, the indemnification obligation under Section 8.13.1 shall not be limited by a limitation on amount or type of damages, compensation or benefits payable by or for the Contractor or Subcontractor under workers' compensation acts, disability benefit acts or other employee benefit acts.

## ARTICLE 9 ARCHITECT'S ADMINISTRATION OF THE CONTRACT

§ 9.1 The Architect will provide administration of the Contract and will be an Owner's representative (1) during construction, (2) until final payment is due and (3) with the Owner's concurrence, from time to time during the one-year period for correction of Work described in Section 17.2.

§ 9.2 The Architect, as a representative of the Owner, will visit the site at intervals appropriate to the stage of the Contractor's operations (1) to become generally familiar with and to keep the Owner informed about the progress and quality of the portion of the Work completed, (2) to endeavor to guard the Owner against defects and deficiencies in the Work, and (3) to determine in general if the Work is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. The Architect will neither have control over or charge of, nor be responsible for, the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, since these are solely the Contractor's rights and responsibilities under the Contract Documents, except as provided in Section 8.2.1.

§ 9.3 The Architect will not be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect will not have control over or charge of and will not be responsible for acts or omissions of the Contractor, Subcontractors, or their agents or employees, or any other persons or entities performing portions of the Work.

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

§ 9.5 The Architect will have authority to reject Work that does not conform to the Contract Documents.

§ 9.6 The Architect will review and approve or take other appropriate action upon the Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents.

§ 9.7 The Architect will interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect will make initial decisions on all claims, disputes and other matters in question between the Owner and Contractor but will not be liable for results of any interpretations or decisions so rendered in good faith.

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

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

#### § 9.10 CLAIMS AND DISPUTES

§ 9.10.1 Claims, disputes and other matters in question arising out of or relating to this Contract, including those alleging an error or omission by the Architect but excluding those arising under Section 15.2, shall be referred initially to the Architect for decision. Such matters, except those relating to aesthetic effect and except those waived as provided for in Section 9.11 and Sections 14.5.3 and 14.5.4, shall, after initial decision by the Architect or 30 days after submission of the matter to the Architect, be subject to mediation as a condition precedent to arbitration or the institution of legal or equitable proceedings by either party.

§ 9.10.2 If a claim, dispute or other matter in question relates to or is the subject of a mechanic's lien, the party asserting such matter may proceed in accordance with applicable law to comply with the lien notice or filing deadlines prior to resolution of the matter by the Architect, by mediation or by arbitration.

§ 9.10.3 The parties shall endeavor to resolve their disputes by mediation which, unless the parties mutually agree otherwise, shall be in accordance with the Construction Industry Mediation Rules of the American Arbitration Association currently in effect. Request for mediation shall be filed in writing with the other party to this Agreement and with the American Arbitration Association. The request may be made concurrently with the filing of a demand for arbitration but, in such event, mediation shall proceed in advance of arbitration or legal or equitable proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order.

§ 9.10.4 Claims, disputes and other matters in question arising out of or relating to the Contract that are not resolved by mediation, except matters relating to aesthetic effect and except those waived as provided for in Section 9.11 and Sections 14.5.3 and 14.5.4, shall be decided by arbitration which, unless the parties mutually agree otherwise, shall be in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association currently in effect. The demand for arbitration shall be filed in writing with the other party to this Agreement and with the American Arbitration Association and shall be made within a reasonable time after the dispute has arisen. The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof. Except by written consent of the person or entity sought to be joined, no arbitration arising out of or relating to the Contract Documents shall include, by consolidation, joinder or in any other manner, any person or entity not a party to the Agreement under which such arbitration arises, unless it is shown at the time the demand for arbitration is filed that (1) such person or entity is substantially involved in a common question of fact or law, (2) the presence of such person or entity is required if complete relief is to be accorded in the arbitration, (3) the interest or responsibility of such person or entity in the matter is not insubstantial, and (4) such person or entity is not the Architect or any of the Architect's employees or consultants. The agreement herein among the parties to the Agreement and any other written agreement to arbitrate referred to herein shall be specifically enforceable under applicable law in any court having jurisdiction thereof.

#### § 9.11 CLAIMS FOR CONSEQUENTIAL DAMAGES

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

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

This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination in accordance with Article 19. Nothing contained in this Section 9.11 shall be deemed to preclude an award of liquidated direct damages, when applicable, in accordance with the requirements of the Contract Documents.

## ARTICLE 10 SUBCONTRACTORS

§ 10.1 A Subcontractor is a person or entity who has a direct contract with the Contractor to perform a portion of the Work at the site.

§ 10.2 Unless otherwise stated in the Contract Documents or the bidding requirements, the Contractor, as soon as practicable after award of the Contract, shall furnish in writing to the Owner through the Architect the names of the Subcontractors for each of the principal portions of the Work. The Contractor shall not contract with any Subcontractor to whom the Owner or Architect has made reasonable and timely objection. If the proposed but rejected Subcontractor was reasonably capable of performing the Work, the Contract Sum and Contract Time shall be increased or decreased by the difference, if any, occasioned by such change, and an appropriate Change Order shall be issued before commencement of the substitute Subcontractor's Work. The Contractor shall not be required to contract with anyone to whom the Contractor has made reasonable objection.

§ 10.3 Contracts between the Contractor and Subcontractors shall (1) require each Subcontractor, to the extent of the Work to be 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, including the responsibility for safety of the Subcontractor's Work, which the Contractor, by the Contract Documents, assumes toward the Owner and Architect, and (2) allow the Subcontractor the benefit of all rights, remedies and redress afforded to the Contractor by these Contract Documents.

## ARTICLE 11 OWNER'S RIGHT TO PERFORM CONSTRUCTION AND TO AWARD SEPARATE CONTRACTS

§ 11.1 The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and to award separate contracts in connection with other portions of the Project or other construction or operations on the site under conditions of the contract identical or substantially similar to these, including those portions related to insurance and waiver of subrogation. If the Contractor claims that delay or additional cost is involved because of such action by the Owner, the Contractor shall make such claim as provided in Section 9.10.

§ 11.2 The Contractor shall afford the Owner and separate contractors reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities, and shall connect and coordinate the Contractor's activities with theirs as required by the Contract Documents.

§ 11.3 The Owner shall be reimbursed by the Contractor for costs incurred by the Owner which are payable to a separate contractor because of delays, improperly timed activities or defective construction of the Contractor. The Owner shall be responsible to the Contractor for costs incurred by the Contractor because of delays, improperly timed activities, damage to the Work or defective construction of a separate contractor.

## ARTICLE 12 CHANGES IN THE WORK

§ 12.1 The Owner, without invalidating the Contract, may order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions, the Contract Sum and Contract Time being adjusted accordingly. Such changes in the Work shall be authorized by written Change Order signed by the Owner, Contractor and Architect, or by written Construction Change Directive signed by the Owner and Architect.

§ 12.2 The cost or credit to the Owner from a change in the Work shall be determined by mutual agreement of the parties or, in the case of a Construction Change Directive, by the Contractor's cost of labor, material, equipment, and reasonable overhead and profit.

§ 12.3 The Architect will have authority to order minor changes in the Work not involving adjustment in the Contract Sum or extension of the Contract Time and not inconsistent with the intent of the Contract Documents. Such changes shall be effected by written order and shall be binding on the Owner and Contractor. The Contractor shall carry out such written orders promptly.

§ 12.4 If concealed or unknown physical conditions are encountered at the site that differ materially from those indicated in the Contract Documents or from those conditions ordinarily found to exist, the Contract Sum and Contract Time shall be equitably adjusted.

## ARTICLE 13 TIME

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

§ 13.2 The date of Substantial Completion is the date certified by the Architect in accordance with Section 14.4.2.

§ 13.3 If the Contractor is delayed at any time in the commencement or progress of the Work by changes ordered in the Work, by labor disputes, fire, unusual delay in deliveries, abnormal adverse weather conditions not reasonably anticipatable, unavoidable casualties or any causes beyond the Contractor's control, or by other causes which the Architect determines may justify delay, then the Contract Time shall be extended by Change Order for such reasonable time as the Architect may determine, subject to the provisions of Section 9.10.

## ARTICLE 14 PAYMENTS AND COMPLETION

### § 14.1 APPLICATIONS FOR PAYMENT

§ 14.1.1 Payments shall be made as provided in Article 4 of this Agreement. Applications for Payment shall be in a form satisfactory to the Architect.

§ 14.1.2 The Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Contractor further warrants that upon submittal of an Application for Payment all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Contractor's knowledge, information and belief, be free and clear of liens, claims, security interests or other encumbrances adverse to the Owner's interests.

### § 14.2 CERTIFICATES FOR PAYMENT

§ 14.2.1 The Architect will, within seven days after receipt of the Contractor's Application for Payment, either issue to the Owner a Certificate for Payment, with a copy to the Contractor, for such amount as the Architect determines is properly due, or notify the Contractor and Owner in writing of the Architect's reasons for withholding certification in whole or in part as provided in Section 14.2.3.

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

§ 14.2.3 The Architect may withhold a Certificate for Payment in whole or in part, to the extent reasonably necessary to protect the Owner, if in the Architect's opinion the representations to the Owner required by Section 14.2.2 cannot be made. If the Architect is unable to certify payment in the amount of the Application, the Architect will notify the Contractor and Owner as provided in Section 14.2.1. The Architect may also withhold a Certificate for Payment or, because of subsequently discovered evidence, may nullify the whole or a part of a Certificate for Payment previously issued, to such extent as may be necessary in the Architect's opinion to protect the Owner from loss for which the Contractor is responsible, including loss resulting from acts and omissions described in Section 8.2.2, because of:

- 1 defective Work not remedied;
- 2 third party claims filed or reasonable evidence indicating probable filing of such claims unless security acceptable to the Owner is provided by the Contractor;
- 3 failure of the Contractor to make payments properly to Subcontractors or for labor, materials or equipment;
- 4 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
- 5 damage to the Owner or another contractor;
- 6 reasonable evidence that the Work will not be completed within the Contract Time and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay;  
or
- 7 persistent failure to carry out the Work in accordance with the Contract Documents.

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

#### § 14.3 PAYMENTS TO THE CONTRACTOR

§ 14.3.1 The Contractor shall promptly pay each Subcontractor, upon receipt of payment from the Owner, out of the amount paid to the Contractor on account of such Subcontractor's portion of the Work, the amount to which said Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of such Subcontractor's portion of the Work. The Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to sub-subcontractors in similar manner.

§ 14.3.2 Neither the Owner nor Architect shall have an obligation to pay or see to the payment of money to a Subcontractor except as may otherwise be required by law.

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

#### § 14.4 SUBSTANTIAL COMPLETION

§ 14.4.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work for its intended use.

§ 14.4.2 When the Architect determines that the Work or designated portion thereof is substantially complete, the Architect will issue a Certificate of Substantial Completion which shall establish the date of Substantial Completion, establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance, and fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion. Upon the issuance of the Certificate of Substantial Completion, the Architect will submit it to the Owner and Contractor for their written acceptance of responsibilities assigned to them in such Certificate.

#### § 14.5 FINAL COMPLETION AND FINAL PAYMENT

§ 14.5.1 Upon receipt of written notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Architect will promptly make such inspection and, when the Architect finds the Work acceptable under the Contract Documents and the Contract fully performed, the Architect will promptly issue a final Certificate for Payment stating that to the best of the Architect's knowledge, information and belief, and on the basis of the Architect's on-site visits and inspections, the Work has been completed in accordance with terms and conditions of the Contract Documents and that the entire balance found to be due the Contractor and noted in the final Certificate is due and payable. The Architect's final Certificate for Payment will constitute a further representation that conditions stated in Section 14.5.2 as precedent to the Contractor's being entitled to final payment have been fulfilled.

§ 14.5.2 Final payment shall not become due until the Contractor has delivered to the Owner a complete release of all liens arising out of this Contract or receipts in full covering all labor, materials and equipment for which a lien could be filed, or a bond satisfactory to the Owner to indemnify the Owner against such lien. If such lien remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging such lien, including costs and reasonable attorneys' fees.

§ 14.5.3 The making of final payment shall constitute a waiver of claims by the Owner except those arising from:

1. liens, claims, security interests or encumbrances arising out of the Contract and unsettled;
2. failure of the Work to comply with the requirements of the Contract Documents; or
3. terms of special warranties required by the Contract Documents.

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

## ARTICLE 15 PROTECTION OF PERSONS AND PROPERTY

### § 15.1 SAFETY PRECAUTIONS AND PROGRAMS

The Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the performance of the Contract. The Contractor shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury or loss to:

- 1 employees on the Work and other persons who may be affected thereby;
- 2 the Work and materials and equipment to be incorporated therein; and
- 3 other property at the site or adjacent thereto.

The Contractor shall give notices and comply with applicable laws, ordinances, rules, regulations and lawful orders of public authorities bearing on safety of persons and property and their protection from damage, injury or loss. The Contractor shall promptly remedy damage and loss to property caused in whole or in part by the Contractor, a Subcontractor, a sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible under Sections 15.1.2 and 15.1.3, except for damage or loss attributable to acts or omissions of the Owner or Architect 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 the Contractor's obligations under Section 8.13.

### § 15.2 HAZARDOUS MATERIALS

§ 15.2.1 If reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including but not limited to asbestos or polychlorinated biphenyl (PCB), encountered on the site by the Contractor, the Contractor shall, upon recognizing the condition, immediately stop Work in the affected area and report the condition to the Owner and Architect in writing. When the material or substance has been rendered harmless, Work in the affected area shall resume upon written agreement of the Owner and Contractor. The Contract Time shall be extended appropriately and the Contract Sum shall be increased in the amount of the Contractor's reasonable additional costs of shutdown, delay and start-up, which adjustments shall be accomplished as provided in Article 12 of this Agreement.

§ 15.2.2 To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Contractor, Subcontractors, Architect, Architect's consultants and agents and employees of any of them from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work in the affected area if in fact the material or substance presents the risk of bodily injury or death as described in Section 15.2.1 and has not been rendered harmless, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), and provided that such damage, loss or expense is not due to the sole negligence of a party seeking indemnity.

§ 15.2.3 If, without negligence on the part of the Contractor, the Contractor is held liable for the cost of remediation of a hazardous material or substance solely by reason of performing Work as required by the Contract Documents, the Owner shall indemnify the Contractor for all cost and expense thereby incurred.

## ARTICLE 16 INSURANCE

§ 16.1 The Contractor shall purchase from and maintain in a company or companies lawfully authorized to do business in the jurisdiction in which the Project is located insurance for protection from claims under workers' compensation acts and other employee benefit acts which are applicable, claims for damages because of bodily injury, including death, and claims for damages, other than to the Work itself, to property which may arise out of or result from the Contractor's operations under the Contract, whether such operations be by the Contractor or by a Subcontractor or anyone directly or indirectly employed by any of them. This insurance shall be written for not less than limits of liability specified in the Contract Documents or required by law, whichever coverage is greater, and shall include contractual liability insurance applicable to the Contractor's obligations. Certificates of Insurance acceptable to the Owner shall be filed with the Owner prior to commencement of the Work. Each policy shall contain a provision that the policy will not be canceled or allowed to expire until at least 30 days' prior written notice has been given to the Owner.

### § 16.2 OWNER'S LIABILITY INSURANCE

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

### § 16.3 PROJECT MANAGEMENT PROTECTIVE LIABILITY INSURANCE

§ 16.3.1 Optionally, the Owner may require the Contractor to purchase and maintain Project Management Protective Liability insurance from the Contractor's usual sources as primary coverage for the Owner's, Contractor's and Architect's vicarious liability for construction operations under the Contract. Unless otherwise required by the Contract Documents, the Owner shall reimburse the Contractor by increasing the Contract Sum to pay the cost of purchasing and maintaining such optional insurance coverage, and the Contractor shall not be responsible for purchasing any other liability insurance on behalf of the Owner. The minimum limits of liability purchased with such coverage shall be equal to the aggregate of the limits required for Contractor's Liability insurance under Section 16.1.

§ 16.3.2 To the extent damages are covered by Project Management Protective Liability insurance, the Owner, Contractor and Architect waive all rights against each other for damages, except such rights as they may have to the proceeds of such insurance. The policy shall provide for such waivers of subrogation by endorsement or otherwise.

§ 16.3.3 The Owner shall not require the Contractor to include the Owner, Architect or other persons or entities as additional insureds on the Contractor's Liability insurance under Section 16.1.

### § 16.4 PROPERTY INSURANCE

§ 16.4.1 Unless otherwise provided, the Owner shall purchase and maintain, in a company or companies lawfully authorized to do business in the jurisdiction in which the Project is located, property insurance on an "all-risk" policy form, including builder's risk, in the amount of the initial Contract Sum, plus the value of subsequent modifications and cost of materials supplied and installed by others, comprising total value for the entire Project at the site on a replacement cost basis without optional deductibles. Such property insurance shall be maintained, unless otherwise provided in the Contract Documents or otherwise agreed in writing by all persons and entities who are beneficiaries of such insurance, until final payment has been made as provided in Section 14.5 or until no person or entity other than the Owner has an insurable interest in the property required by this Section 16.4 to be covered, whichever is later. This insurance shall include interests of the Owner, the Contractor, Subcontractors and sub-subcontractors in the Project.

§ 16.4.2 The Owner shall file a copy of each policy with the Contractor before an exposure to loss may occur. Each policy shall contain a provision that the policy will not be canceled or allowed to expire, and that its limits will not be reduced, until at least 30 days' prior written notice has been given to the Contractor.

### § 16.5 WAIVERS OF SUBROGATION

§ 16.5.1 The Owner and Contractor waive all rights against (1) each other and any of their subcontractors, sub-subcontractors, agents and employees, each of the other, and (2) the Architect, Architect's consultants, separate contractors described in Article 11, if any, and any of their subcontractors, sub-subcontractors, agents and employees for damages caused by fire or other causes of loss to the extent covered by property insurance obtained pursuant to Section 16.4 or other property insurance applicable to the Work, except such rights as they have to proceeds of such insurance held by the Owner as fiduciary. The Owner or Contractor, as appropriate, shall require of the Architect, Architect's consultants, separate contractors described in Article 11, if any, and the subcontractors, sub-subcontractors, agents and employees of any of them, by appropriate agreements, written where legally required for validity, similar waivers each in favor of other parties enumerated herein. The policies shall provide such waivers of subrogation by endorsement or otherwise. A waiver of subrogation shall be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest in the property damaged.

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

### ARTICLE 17 CORRECTION OF WORK

§ 17.1 The Contractor shall promptly correct Work rejected by the Architect or failing to conform to the requirements of the Contract Documents, whether discovered before or after Substantial Completion and whether or not fabricated, installed or completed. Costs of correcting such rejected Work, including additional testing and

inspections and compensation for the Architect's services and expenses made necessary thereby, shall be at the Contractor's expense.

§ 17.2 In addition to the Contractor's obligations under Section 8.4, if, within one year after the date of Substantial Completion of the Work or designated portion thereof or after the date for commencement of warranties established under Section 14.4.2, or by terms of an applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly after receipt of written notice from the Owner to do so unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner shall give such notice promptly after discovery of the condition. During the one-year period for correction of Work, if the Owner fails to notify the Contractor and give the Contractor an opportunity to make the correction, the Owner waives the rights to require correction by the Contractor and to make a claim for breach of warranty.

§ 17.3 If the Contractor fails to correct nonconforming Work within a reasonable time, the Owner may correct it in accordance with Section 7.3.

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

§ 17.5 The one-year period for correction of Work shall not be extended by corrective Work performed by the Contractor pursuant to this Article 17.

#### ARTICLE 18 MISCELLANEOUS PROVISIONS

##### § 18.1 ASSIGNMENT OF CONTRACT

Neither party to the Contract shall assign the Contract without written consent of the other.

##### § 18.2 GOVERNING LAW

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

##### § 18.3 TESTS AND INSPECTIONS

Tests, inspections and approvals of portions of the Work required by the Contract Documents or by laws, ordinances, rules, regulations or orders of public authorities having jurisdiction shall be made at an appropriate time. Unless otherwise provided, the Contractor shall make arrangements for such tests, inspections and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority, and shall bear all related costs of tests, inspections and approvals. The Contractor shall give the Architect timely notice of when and where tests and inspections are to be made so that the Architect may be present for such procedures. The Owner shall bear costs of tests, inspections or approvals which do not become requirements until after bids are received or negotiations concluded.

##### § 18.4 COMMENCEMENT OF STATUTORY LIMITATION PERIOD

As between Owner and Contractor, any applicable statute of limitations shall commence to run and any alleged cause of action shall be deemed to have accrued:

1. not later than the date of Substantial Completion for acts or failures to act occurring prior to the relevant date of Substantial Completion;
2. not later than the date of issuance of the final Certificate for Payment for acts or failures to act occurring subsequent to the relevant date of Substantial Completion and prior to the issuance of the final Certificate for Payment; and
3. not later than the date of the relevant act or failure to act by the Contractor for acts or failures to act occurring after the date of the final Certificate for Payment.

#### ARTICLE 19 TERMINATION OF THE CONTRACT

##### § 19.1 TERMINATION BY THE CONTRACTOR

If the Architect fails to recommend payment for a period of 30 days through no fault of the Contractor, or if the Owner fails to make payment thereon for a period of 30 days, the Contractor may, upon seven additional days' written notice to the Owner and the Architect, terminate the Contract and recover from the Owner payment for Work executed and for proven loss with respect to materials, equipment, tools, and construction equipment and machinery, including reasonable overhead, profit and damages applicable to the Project.

§ 19.2 TERMINATION BY THE OWNER

§ 19.2.1 The Owner may terminate the Contract if the Contractor:

- 1 persistently or repeatedly refuses or fails to supply enough properly skilled workers or proper materials;
- 2 fails to make payment to Subcontractors for materials or labor in accordance with the respective agreements between the Contractor and the Subcontractors;
- 3 persistently disregards laws, ordinances, or rules, regulations or orders of a public authority having jurisdiction; or
- 4 otherwise is guilty of substantial breach of a provision of the Contract Documents.

§ 19.2.2 When any of the above reasons exists, the Owner, upon certification by the Architect that sufficient cause exists to justify such action, may, without prejudice to any other remedy the Owner may have and after giving the Contractor seven days' written notice, terminate the Contract and take possession of the site and of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Contractor and may finish the Work by whatever reasonable method the Owner may deem expedient. Upon request of the Contractor, the Owner shall furnish to the Contractor a detailed accounting of the costs incurred by the Owner in finishing the Work.

§ 19.2.3 When the Owner terminates the Contract for one of the reasons stated in Section 19.2.1, the Contractor shall not be entitled to receive further payment until the Work is finished.

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

ARTICLE 20 OTHER CONDITIONS OR PROVISIONS

This Agreement entered into as of the day and year first written above.

\_\_\_\_\_  
OWNER (Signature)

\_\_\_\_\_  
CONTRACTOR (Signature)

\_\_\_\_\_  
(Printed name and title)

\_\_\_\_\_  
(Printed name and title)

CAUTION: You should sign an original AIA Contract Document, on which this text appears in RED. An original assures that changes will not be obscured.