SUPPLEMENTARY CONDITIONS
TO AIA DOCUMENT A201-2007,
GENERAL CONDITIONS OF THE CONTRACT FOR CONSTRUCTION

The following supplements shall modify, change, delete from or add to “General Conditions of the Contract for Construction,” AIA Document A201, 2007 Edition (“General Conditions”). To the extent that these Supplementary Conditions are inconsistent with the provisions of the General Conditions, these Supplementary Conditions will be controlling. All references to Articles, Sections and clauses are to the applicable Articles, Sections and clauses of the General Conditions.

GENERAL AMENDMENT

If the design and administration services for the Project are supplied by a licensed civil engineer, rather than a licensed architect, all references to Architect in the General Conditions and these Supplementary Conditions shall be deemed to refer to the Engineer.

SPECIFIC AMENDMENTS

ARTICLE 1

Add the following Sections:

§1.1.9 OWNER DISCLAIMER OF WARRANTY
The Owner has requested that the Architect prepare documents for the Project, including the Drawings and the Specifications for the Project, which are to be complete, accurate, coordinated, and adequate for bidding, negotiating and constructing the Work. However, the Owner makes no representation or warranty of any nature whatsoever to the Contractor concerning such documents. The Contractor hereby acknowledges and represents that it has not relied, and does not and will not rely, upon any representations or warranties by the Owner concerning such documents, as no such representations or warranties have been or are hereby made.

§1.1.10 INCONSISTENCIES IN CONTRACT DOCUMENTS
In the event of any conflict, inconsistency or other discrepancy between any of the Contract Documents, the Contract Documents shall be given priority in the following order: (1) executed Change Orders; (2) addenda issued by the Architect; (3) the Agreement; (4) the Conditions of the Contract; (5) the Drawings; (6) the Specifications.

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Add the following Section:

§1.2.3.1 Where reference is made to the Standard Specifications of the American Society for Testing and Materials (A.S.T.M.) of other standard specifications in connection with the required quality of materials, methods, etc., then the applicable specifications shall be of the latest revised edition effective as of the date bids are opened by the Owner, unless otherwise expressly provided in the technical specifications.

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Add the following Section:
§1.2.4 In the event of any conflict, discrepancy, or inconsistency among any of the Contract Documents, the following shall control: as between figures given on plans and scaled measurements, the figures shall govern; as between large-scale plans and small-scale plans, the large-scale plans shall govern; and as between plans and specifications, the requirements of the specifications shall govern.

Delete the first sentence of Section 1.5.1 and replace it with the following:

“The Owner is the owner of all right, title and interest, including all rights under federal and state copyright and intellectual property laws, in the Instruments of Service and the electronic methods of reproducing them. The Architectural Works of the Project, as defined by the federal Architectural Works Copyright Protection Act, are owned by Owner.”

Delete the last sentence of Section 1.5.1 and replace it with the following:

“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 Owner’s ownership interest.”

Delete the second sentence of Section 1.5.2 and replace it with the following:

“All copies made under this authorization shall bear the following notice: “Copyrighted [Date]. The University of North Florida Board of Trustees. All rights reserved. No portion of these materials may be reproduced by electronic or mechanical means without permission in writing from The University of North Florida Board of Trustees.” 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 2

Delete Section 2.1.2

Delete the last two (2) sentences of Section 2.2.1

Add the following sentence at the end of Section 2.2.3:

“Owner shall furnish required surveys and may supply them through the Architect. Prior to commencing any excavation or grading the Contractor shall become satisfied as to the accuracy of all survey data as indicated in the Contract Documents and as provided by the Owner. Should the Contractor discover any inaccuracies, errors, or omissions in the survey data, the Contractor shall immediately notify the Architect in writing in order that proper adjustments can be made. Commencement by the Contractor of any excavation or grading shall be held as an acceptance of the survey data by the Contractor after which time the Contractor has no claims against the Owner resulting from alleged errors, omissions, or inaccuracies of the said survey data except for conditions as described in Section 4.3.4.”

Delete Section 2.2.5 and replace it with the following:
“Unless otherwise provided in the Contract Documents, the Contractor will be furnished, free of charge, up to ten (10) copies of Drawings for execution of the Work.”

Add the following Section:

§2.2.6 If the Work involves the renovation or modification of existing construction, it is the obligation of the Contractor to avoid disposal of any and all equipment, fixtures, furnishings, appurtenances and other items the Owner desires to keep. The Drawings or Specifications may identify items the Owner desires to keep, but the Contractor shall not rely exclusively upon the Drawings and Specifications for its determination. Accordingly, the Owner, at the request of the Contractor, shall provide to the Contractor a list of any and all such items.

ARTICLE 3

Add the following Sections:

§3.4.2.1 All requests for substitutions must be submitted within 30 days following the award of subcontracts. Substitutions requested after that date will receive no consideration. Substitutions are changes in materials, equipment, methods or sequences of construction, design, structural systems, mechanical, electrical, air conditioning controls, or other requirements of the Drawings or the Specifications.

§3.4.2.2 In substituting materials or equipment, the Contractor assumes responsibility for any changes in systems or for modifications required in adjacent or related work to accommodate such substitution, despite the Architect's approval, and all costs arising from the approval shall be the responsibility of the Contractor. None of the extra costs resulting from such approval shall devolve upon the Owner, the Architect or other Subcontractors. The Contractor shall be responsible for obtaining from the Architect the amount of any redesign or review cost so that the entire value of the change can be evaluated prior to acceptance of the substitution. The Architect will be responsible for all architectural or engineering revisions to the Drawings and shall be reimbursed by the Contractor for the costs of effecting such revisions.

§3.4.2.3 In making requests for substitutions, the Contractor shall list the particular system, product, or material for which a substitution is requested and the justification for such a request. Requests submitted shall include any and all adjustments required by the substitution and any other Work affected thereby. The Architect may reject a substitution for material reasons or the rejections may be based on aesthetics for which the Architect and the Owner shall be the sole judges.

Add the following to Section 3.5:

The Contractor shall secure and deliver to the Owner written warranties in substantially the same format as the warranties from the Contractor to the Owner from all Subcontractors bearing the date of Substantial Completion, together with assignments thereof, if necessary. Such written warranties shall extend for the benefit of and be available to be asserted in the name of the Owner. Delivery of such written warranties is a condition precedent to final payment. The Owner may require the contractor to enforce Subcontractors’ warranties on behalf of the Owner.

After the words "other permits" in Section 3.7.1, add: “(including, without limitation, connection permits)”
Add the following subsection to Section 3.8.2:

.4 the Contractor shall solicit from information provided by the Architect at least three bids or acceptable pricing from existing subcontractor for all allowance items from Subcontractors or material suppliers acceptable to the Owner, the Contractor and the Architect. The Architect shall review the bids/pricing and recommend to the Owner the acceptance or rejection of the lowest bid/pricing. If accepted the Architect shall issue a Change Order to the Contractor as provided in Section 3.8.2.3.

Add the following to the end of Section 3.9.1:

“The Contractor’s superintendent and necessary assistants shall be acceptable to Owner.”

Delete Section 3.10.1 and replace it with the following:

§3.10.1 Within thirty (30) days after the date of the Owner’s issuance of a notice to proceed with performance of the Work, the Contractor shall prepare and submit to the Architect a construction schedule that does not exceed time limits current under the Contract Documents. This schedule shall graphically depict the contemplated activities which are necessary incidents to performance of the Work, showing the sequence the Contractor proposes for each activity to occur and the duration (dates of commencement and completion, respectively) of each such activity. Following development and submittal of the construction schedule, the Contractor shall, at the end of each calendar month occurring thereafter during the period of the time required to finally complete the Work or at such earlier intervals as circumstances may require, update and/or revise the construction schedule to show the actual progress of the Work performed and the occurrence of all events which have affected the progress of performance of the Work already performed or which will affect the progress of performance of the Work yet to be performed. Failure of the Contractor to update, revise and submit the construction schedule as aforesaid shall be sufficient grounds for the Architect to find the Contractor in substantial default and certify to the Owner that sufficient cause exists to terminate the Contract or to withhold payment to the Contractor until a schedule or schedule update acceptable to the Architect is submitted.

Add the following Section:

§3.10.4 The Contractor shall have the option of scheduling a date of Substantial Completion which is earlier than the date established by the Contract Documents for the date of Substantial Completion; provided, however, in such event, such earlier date of Substantial Completion will be recognized by the Owner only as a matter of convenience to the Contractor and shall not change the date for Substantial Completion established by the Contract Documents or be otherwise binding on the Owner or anyone under the Owner’s control; and provided further, however, in such event, should events occur during performance of the Work which would justify the granting to the Contractor of an extension of the Contract Time pursuant to the provisions of Article 8 of these General Conditions of the Contract for Construction, the Contractor shall be entitled to receive only such an extension of Contract Time as is determined by the Architect to be due to Contractor as follows:

.1 In the event the current Contractor’s construction schedule indicates completion ahead of the contractually established date for Substantial Completion, the revised date of Substantial Completion shall be determined by adding the total time directly affecting the critical path of the schedule to the end date of the
current schedule. No extension of time beyond the contractually established date shall be granted until the aggregate of the current Contractor’s construction schedule plus approved extension exceeds the date established by the Contract Documents, at which time the time extension granted will be the net difference between the contractually established date and the aggregate of the current Contractor’s construction schedule plus approved extensions thereto.

.2 In the event the current Contractor’s construction schedule indicates completion at or after the contractually established date for Substantial Completion, the time extension shall only be added to the contractually established date for Substantial Completion.

.3 The Owner will not grant time extensions based on improper scheduling of the Work.

Add the following after the second sentence of 3.12.4:
“Information submitted shall show the capacity, operating conditions and all engineering data and descriptive information necessary for comparison and to enable the Architect to determine compliance with the Specifications.”

The first paragraph of Section 3.12.5 is renumbered 3.12.5.1.

Add the following Sections:

§3.12.5.2 Shop Drawings shall be fully identified by Project name, location, supplier’s name, date, drawing number and specifications section reference. The Contractor shall make no deviation from the approved drawings, and the changes made by the Architect, if any.

§3.12.5.3 Contractor shall properly schedule the submission of Shop Drawings for approval to allow adequate time for checking of drawing, manufacture and shipment of items to job site in sufficient time to prevent delay in the construction schedule.

§3.12.5.4 Contractor shall coordinate the preparation of Shop Drawings of items which will be furnished by more than one manufacturer, but are designed to interface when installed.

§3.12.5.5 If and when required by the Architect, the Contractor shall prepare and submit to the Architect a completely itemized schedule of Shop Drawings, brochures and other descriptive literature, listing each and all such items as required under these specifications, which schedule shall indicate for each required item:

.1 Identification as to pertinent Specification Division
.2 Item(s) involved.
.3 Name of pertinent Subcontractor or supplier and the name of pertinent manufacturer.
.4 Scheduled date of delivery of pertinent item to the Project.

§3.12.5.6 The Contractor shall require all Subcontractors to submit to the Architect through the Contractor complete brochures covering all materials and/or equipment proposed for use in the execution of the Work as required by their respective Divisions of the Specifications. These
brochures shall be indexed and properly cross-referenced to the plans and specifications for easy identification.

§3.12.5.7 A list of all materials and equipment, together with manufacturers’ drawings and catalog information shall be submitted to the Architect for approval prior to ordering material or equipment, but not later than 90 days after the date of the award of the applicable subcontracts. Information submitted shall show the capacity, operating conditions and all engineering data and descriptive information. The Architect’s approval will not relieve the Contractor of the responsibility for performance of any terms of the Contract Documents.

§3.12.5.8 Nothing in Section 3.12 shall be construed to require the Contractor to assume any responsibility or duty of a consultant hired by Owner so long as such responsibility or duty is not the express responsibility or duty of the Contractor under the Contract Documents.

The first paragraph of Section 3.12.6 is renumbered 3.12.6.1.

Add the following Sections:

§3.12.6.2 Shop Drawings submitted to the Architect for approval shall first be checked and approved by the Contractor, the evidence of which shall be a “checked” stamp marked “Approved”, or “Approved as Noted” on each copy of each Shop Drawing, placed thereon by the Contractor. Submitting a Shop Drawing without the Contractor’s “checked” stamp will be cause for immediate return without further action. Each drawing correctly submitted will be checked by the Architect and marked “Reviewed,” “Reviewed as Noted” or “Not Approved”.

§3.12.6.3 Resubmittals necessitated by required corrections due to Contractor’s errors or omissions shall not constitute cause for an extension of Contract Time, provided the submittals or Shop Drawings are timely reviewed and returned by the Owner.

§3.12.6.4 All Shop Drawings and submittals will be maintained on site for record purposes, but at no time shall Shop Drawings which have not been approved by the Architect be allowed in the field.

The first paragraph of Section 3.13 is renumbered 3.13.1.

Add the following Section:

§3.13.2 The Contractor shall perform the Work so as not to interrupt any operations of the Owner on the Site.

Delete Section 3.14.1 and replace it with the following:

§3.14.1 Existing structures and facilities, including but not limited to buildings, utilities, topography, streets, curbs, walks, landscape materials, and other improvements that are damaged or removed due to required excavations or Contractor’s Work, shall be patched, repaired, or replaced by the Contractor to the satisfaction of the Architect, the owner of such structures and facilities, and authorities having jurisdiction as required by the Plans and
Specifications. In the event that a local authority having jurisdiction requires that such repairing and patching be done with its own labor and/or materials, the Contractor shall abide by such regulations and pay for such work.

Delete Section 3.16 and replace it with the following:

§3.16.1 The Owner may need access to or use of certain areas of the site or Work prior to the Contractor's achievement of Substantial Completion, and that such occupancy, access or use shall not constitute the Owner's acceptance of any Work.

§3.16.2 The Contractor shall not enter any Owner-occupied area of the site or Project unless first approved and scheduled by the Owner. The Owner may incur damages if the Owner's operations on the Site are interrupted or impaired as a result of the Work.

§3.16.3 The Contractor shall afford the Architect and Owner's own forces, and the Architect's or Owner's other consultants, trade contractors, subcontractors and suppliers, access to the site for performance of their activities, and shall connect and coordinate its construction and operations with theirs as required by the Construction Documents.

Following the word “Owner” in Section 3.18.1, add the following:

“, State of Florida, Florida Board of Governors,”

Add the following Section:

§3.18.3 The Contractor acknowledges that the Cost of the Work includes the cost to the Owner for the provision of the indemnification required in accordance with this Section 3.18, which indemnification commences as of the date of the notice to proceed.

ARTICLE 4

Delete the word „Contractor“ from Section 4.1.2

Delete Section 4.2.1 and replace it with the following:

4.2.1 The Architect will provide administration of the Contract as described in the Contract Documents and will be an Owner’s representative during construction until the date the Architect issues the final Certificate for Payment, provided that with Owner’s concurrence, the Architect will be Owner’s representative from time to time during the one-year period for correction of Work described in Section 12.2.”

The first paragraph of Section 4.2.5 is renumbered Section 4.2.5.1.
Add the following Section:

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

ARTICLE 5

The following language in Section 5.2.1 is deleted:

“Unless otherwise stated in the Contract Documents or the bidding requirements, the Contractor, as soon as practicable after award of the Contract,”

and is replaced with the following:

“Within thirty (30) days after the date of the notice to proceed, the Contractor, in compliance with the requirements of the Contract Documents,”

The following language in Section 5.2.1 is deleted:

“Failure of the Owner or Architect to reply within the 14 day period shall constitute notice of no reasonable objection.”

and is replaced with the following:

“The receipt of such list shall neither require the Owner or Architect to investigate the qualifications of such persons or entities nor waive the right of Owner or Architect later to object to or reject any such person or entity.”

The following sentence is added to the end of Section 5.2.1:

“To the extent that the Work consists of phased construction, more than one notice to proceed may be issued by Owner, and the foregoing thirty (30) day furnishing requirement shall apply only to persons or entities proposed for the phase to which a particular notice to proceed applies.”

Add the following Sections:

§5.2.5 The Contractor and the Subcontractors shall, within 45 days of the date of the notice to proceed, provide the names of all major Sub-subcontractors and/or material and equipment manufacturers. The following list is suggested, but can be reduced or expanded at the discretion of the Architect or as directed by the Owner.

1 landscaping
2 paving contractor (concrete, asphaltic concrete)
3 concrete supplier
.4 masonry-concrete/brick
.5 structural and miscellaneous iron
.6 millwork (architectural)
.7 thermal and moisture protection below and above including roof
.8 windows, curtainwall, hollow metal doors and frames, hardware
.9 floor, wall and ceiling finishes and system
.10 major specialties
.11 major equipment
.12 furniture, movable screens, fixed seating
.13 special construction
.14 elevators, escalators
.15 plumbing fixtures, special piping, traps, sumps, etc., mechanical equipment,
monitoring and automation controls, etc.
.16 electrical fixtures, controllers, switchgears, devices, transformers, etc.

§5.2.6 The Contractor understands and agrees that the Contractor alone is responsible to
the Owner for all of the Work under the Contract and that any review of Subcontractors
or Sub-subcontractors by the Owner or Architect will not in any way make the
Owner responsible to any Subcontractor or Sub-subcontractor or make the
Owner responsible for the actions or omissions of any Subcontractor or Sub-
subcontractor.

Section 5.4.2 and Section 5.4.3 are deleted.

ARTICLE 6

Section 6.1.4 is deleted.

ARTICLE 7

Delete the word “alone” from Section 7.1.2 and replace it with “as provided in Section 7.4”

Add the following Sections:

§7.2.2 All Change Orders must be on the form designated by Owner.

§7.2.3 Unless otherwise expressly stated in the Change Order, Contractor waives and releases
any and all rights to claim additional time or money for Work to be performed under the Change
Order. The Change Order constitutes compensation in full to the Contractor for all costs and
markups directly or indirectly attributable to the changes ordered and for all delays and impacts
related to it.

Add the following to the end of Section 7.3.1:

“All Construction Change Directives must be on the form designated by Owner.”

Delete Subsections 7.3.3.2 and 7.3.3.3 and replace them with the following:

.2 a not-to-exceed amount based on unit prices stated in the Contract Documents
or subsequently agreed upon;
.3 cost to be determined in a manner agreed upon by the parties and a percentage fee as provided in Section 7.3.13; or

Delete the first sentence of Section 7.3.7 and replace it with the following:

"If the Contractor does not respond promptly or disagrees with the method for adjustment in the Contract Sum, the method and the adjustment shall be determined by the Architect on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, including, in case of an increase in the Contract Sum, the stipulated allowance for overhead and profit as stated in Section 7.3.13."

Add the words ", and including sales tax" to the end of Section 7.3.7.2.

Add the following Sections:

§7.3.11 The cost of the change in the Work shall not include any cost not to be reimbursed as provided in the Agreement.

§7.3.12 The Contractor shall check all materials, equipment and labor entering into the Work as a result of changes in the Work and shall keep such full and detailed accounts as may be necessary for proper financial management under the Contract for Construction, and the system shall be satisfactory to the Owner. The Owner shall be afforded access to all the Contractor's records, books, correspondence, instructions, drawings, receipts, vouchers, memoranda and similar data relating to changes in the Contract.

§7.3.13 The percentage fee for overhead and profit combined, to be added to the cost of the change in the Work in determining the total cost to the Owner, shall be based upon the following schedule:

.1 For any Work performed by the Contractor's own forces, 15% of the cost of the change;

.2 For any Work performed by a Subcontractor or forces under the Subcontractor including any Sub-subcontractors or other persons not in the direct employ of the Subcontractor, a total of 22-1/2% of the cost of the change, with 15% to be assigned to the Subcontractor and any forces under him and 7-1/2% to be assigned to the Contractor.

§7.3.14 If a change in the Work results in a credit to the Owner, the credit shall be the net cost of the change as defined in Sections 7.3.7 and 7.3.11 and shall not include any allowance for the Contractor's or Subcontractors' overhead and profit.

Add the following at the end of Section 7.4:

"Such authority may be executed only after receiving the Owner's approval."

ARTICLE 8

Delete the word "Agreement" in Section 8.1.2 and replace it with the words "notice to proceed."
Delete the words “mediation and arbitration” in Section 8.3.1 and replace it with the words “dispute resolution as provided in Section 15.3”

Add the following to the end of Section 8.3.1:

“The Contractor hereby waives any claims for damages by reason of delay in the commencement, prosecution or completion of the Work, and agrees that an equitable extension of the date for Substantial Completion shall be the contractor’s sole remedy for any delays. Such adjustment to the Contract Time shall be made by Change Order. The Contractor shall assure that all of Subcontractors and suppliers are bound to a contractual provision providing that they are entitled to no additional compensation or damages on account of delays arising from any cause and shall indemnify Owner from any claims arising from its failure to do so.”

To the end of Section 8.3.3, add the words “, except that in instances of delays due to adverse weather conditions and labor disputes, Claims for extended overhead costs will not be allowed.”

ARTICLE 9

Add the following to the end of Section 9.2:

“The schedule of value shall be in the form designated by Owner, and in addition to other components, the schedule of values will set forth in detail all labor rates for the Work.

Except as provided below, all labor rates for the Work will be based strictly on actual cost to the Contractor. All costs included in each component of the labor rate, including taxes and insurance, will be supported by documentary evidence. Tax and insurance components will not exceed: the lesser of Contractor’s effective rates or statutory rates. Architect may refuse to approve labor costs set forth in any Application for Payment in excess of labor rates as calculated under this paragraph. Architect, Owner, or Owner’s Agent may, at any time, evaluate or audit labor rates.”

Sections 9.3.1, 9.3.1.1 and 9.3.1.2 are deleted and replaced with the following:

§9.3.1 At least five days before the date established for each progress payment, the Contractor shall submit to the Architect an itemized preliminary draft of the Application for Payment with complete supporting data on the form prescribed by Owner. Upon approval of the preliminary draft, the Contractor shall submit to the Architect the Applications for Payment for operations completed in accordance with the schedule of values. Each Application for Payment shall be notarized, and supported by such data substantiating the Contractor’s right to payment as the Owner or Architect may require, such as copies of requisitions from Subcontractors and materials suppliers, and reflecting retainage. Applications for Payments shall be made monthly beginning within 30 days after the notice to proceed.

§9.3.1.1 With the exception of Work which may be exempted from this requirement by a provision in the Project Manual, retainage shall be withheld from each Application for Payment in the amount of 10% of the approved payment until 50% of construction payments are made. Thereafter, retainage may be reduced as may be required by law.
§9.3.1.2 If securities are substituted in lieu of retainage as permitted by Florida Statutes Section 255.052, the securities must be free of all encumbrances, and the Contractor must assign all its rights to the securities to the Owner, enabling the Owner to use those securities as it would use retainage.

Add the following to the end of Section 9.3.2:

"The Contractor shall notify the Owner in writing of the location of any off site storage. The Owner and the Architect shall have the right to visit the off site storage location and to inspect the items stored there. The Contractor’s insurance policies required hereunder shall include all equipment and materials stored off site. The Contractor shall provide the Owner with written proof, reasonably satisfactory to the Owner, that title to the materials and equipment stored off site are vested in the Owner, that the materials are properly labeled as belonging to the Project, and the materials are segregated from other materials at the storage location."

Add the following to the end of Section 9.5.2:

"The Owner shall not be deemed in default by reason of withholding payment to the extent necessary in the Owner’s reasonable opinion to protect the Owner while any of the conditions described in 9.5.1.1 through 9.5.1.7 remain."

Add the following to the end of Section 9.6.4:

"The Owner may elect to make payments jointly to the Contractor and to the Subcontractor identified on the Contractor’s Application for Payment. Payment by the Owner to the Contractor and Subcontractor jointly shall not create a contractual relationship between the Owner and the Subcontractor, obligate the Owner to pay the Subcontractor directly in the future, or create contractual rights under the Contract for Construction in the Subcontractor against the Owner."

Delete Section 9.6.2 and replace it with the following:

§9.6.2 “Subcontractors, forty-five (45) days after satisfactory completion of their work on the Work required by the Contract Documents, can invoice the Contractor for the remainder of unpaid work, including the full value of the retainage related to their work, less the value of any item contested in accordance with the terms and conditions of the Contract Documents. The Subcontractor shall include a conditional release of lien and all appropriate warranties and closeout documentation with this final payment invoice to the Contractor. The Contractor must include this Subcontractor payment request in the next Application for Payment in the pay application cycle to the Architect following the receipt of the Subcontractor payment request, if deemed to be complete and in compliance with this section. The Owner shall process the payment request within 20 days of receipt of the Certificate for Payment from the Architect, and shall include payment of the retainage, less the value of any contested item, in its next payment to the Contractor. When a Contractor receives payment from the Owner for labor, services, or materials furnished by Subcontractors and suppliers hired by the Contractor, the Contractor shall remit payment due to those Subcontractors and suppliers, less the value of any item contested in accordance with the terms and conditions of the Contract Documents within ten (10) days after the Contractor's receipt of payment.
The foregoing section shall in no way be interpreted to require Owner to use monies being reasonably withheld as project retainage necessary to insure final completion of the building or to require Owner to use monies assessed against Contractor as liquidated damages.

The Contractor is required to include the following provision in all construction contracts to promote timely payments to subcontractors for services properly completed to the Owner:

“When the Contractor receives payment from the Owner for labor, services, or materials furnished by subcontractors and suppliers hired by the Contractor for the project, the Contractor shall remit payment due to those subcontractors and suppliers, less the value of any item contested in accordance with the Contract, within 10 days after the Contractor's receipt of payment from the Owner. When the payment due the subcontractor is for final payment, including retainage, the subcontractor must include with the invoice for final payment a conditional release of lien and all appropriate warranties and closeout documentation. When the subcontractor receives payment from the Contractor for labor, services, or materials furnished by subcontractors and suppliers hired by the subcontractor, the subcontractor shall remit payment due to those subcontractors and suppliers, less the value of any item contested in accordance with the Contract, within ten (10) days after the subcontractor's receipt of payment.”

Such provision 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 (et al.), (3) between the Owner and Architect or (4) between any persons or entities other than the Owner and Contractor.

Add the following Sections:

§9.8.6 The acceptance of Substantial Completion shall constitute a waiver of all claims by the Contractor except those previously made in writing and identified by the Contractor as unsettled at the time of the Application for Payment for Substantial Completion, and except for the retainage sums due at final acceptance.

§9.8.7 The Contractor shall be responsible for collecting, identifying, indexing and collating the following materials from the Subcontractors, and will deliver the finished document to the Architect to verify completeness. The Architect will deliver three copies of the following to the Owner:

§9.8.7.1 Complete equipment diagrams, operating instructions, maintenance manuals, parts lists, wiring diagrams, pneumatic and/or electrical control diagrams, test and balance reports, inspection reports, guarantees and warranties, as applicable, for each and every piece of fixed equipment furnished under this Contract to be supplied in a ring binder, hard-cover book, properly indexed for ready reference. Also, specific information regarding manufacturer's name and address, nearest distributor and service representative's names, addresses, office and home phone numbers, make and model numbers, operating design and characteristics, etc., will be required. All information submitted shall be current as of the time of submission.

§9.8.8 Subsequent to the time of Substantial Completion and receipt of contract record sets and operations and maintenance books, but prior to the date of final acceptance, the Contractor and/or Subcontractor shall provide a competent and experienced person (or persons) thoroughly familiar with the Work for a reasonable period of time but not less than 40 hours to instruct the Owner's personnel in operation and maintenance of equipment and control systems. This instruction will include normal start-up, run, stop, and emergency operations, location and operation of all controls, alarms and alarm systems, etc. The instruction will include tracing the
system in the field and on the diagrams in the instruction booklets so that operation personnel will be thoroughly familiar with both the system and the data supplied.

The word “Claim” shall be substituted for the word “lien” in Section 9.10.2.

The following is added to the end of Section 9.10.1:

“Liquidated damages to the date of Substantial Completion shall be deducted by Construction Change Directive from the Contract Sum and from the Substantial Completion payment. The Contractor’s final Application for Payment shall be accompanied by a completed and notarized Certificate of Contract Completion in the form prescribed by the Owner. Any items required by the Contract Documents not previously submitted shall accompany the final Application for Payment.”

Add the following Subsection:

§9.10.4.4 damages including attorneys fees and costs incurred by the Owner resulting from lawsuits brought against the Owner, the Architect or their agents, employees or representatives because of acts or omissions on the part of the Contractor, any Subcontractor, or any of their employees, agents or representatives.

Add the following Section:

ARTICLE 10

Add the following to the end of Section 10.1.1:

“The Contactor shall require all of its employees and the employees of Subcontractors to conduct themselves in a safe and professional manner and in conformity with all work procedures, either endorsed or prohibited, and utilizing all personal protection devices included, within OSHA and MIOSHA Construction Safety Regulations. The Contractor shall take all necessary precautions for the safety of the persons on or near the site of the Work, and shall comply with all applicable laws, rules, regulations and orders to prevent accidents or injuries to persons on or in the proximity of the Project site. The Contractor shall put into place a meaningful and effective safety program comprised of regular safety training of its employees on site, focusing upon various topics which, from time to time, its employees are likely to encounter in performing the Work. The Owner will cooperated with all safety audits and recommendations with regard to improving worker’s safety, but the Contractor hereby acknowledges and agrees that the Owner is not responsible, in whole or in part, for the Work, execution of the Work or initiating, maintaining and supervising any safety precautions and programs in connection with the Work or the Project.

Section 10.2.8 is deleted and replaced with the following:

“If either party suffers injury or damage to person or property because of an act or omission of the other party, or of others for whose acts such party is legally responsible, whether or not insured, or if any other incident occurs that may adversely affect the quality or progress of the Work, verbal and written notice shall be given to the other party immediately upon discovery. The notice shall provide sufficient detail to enable the other party to investigate the matter.”
ARTICLE 11

Section 11.1.1 is deleted and replaced with the following:

§11.1.1 Commercial General Liability Insurance. The Contractor shall provide and maintain throughout its performance of the Work a commercial general liability insurance policy which has liability limits of at least $2,000,000 per occurrence for bodily injury, death and property damage, with a deductible no greater than $50,000. Such insurance shall be provided by a bona fide insurer licensed to provide insurance coverage within the State of Florida maintaining an “A” rating. The University of North Florida Board of Trustees, State of Florida, their employees, directors, officers, and agents shall be additional insureds on such policy by written policy endorsement, and the policy shall provide cross liability coverage. Such insurance policy shall protect the Contractor from Claims which may arise out of or result from the Contractor’s operations under the Contract Documents and for which the Contractor may be legally liable, whether such operations be by the Contractor or by a Subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable. In addition, the policy shall contain the following endorsements: (i) “XCU” (explosion, collapse, underground damage) for those classifications excluded under the policy and (ii) contractual liability. If the Contractor is performing asbestos-related work, the policy shall also contain a pollution liability endorsement.

Automobile Liability Insurance. The Contractor shall carry automobile liability insurance which has liability limits of at least $500,000.00. Worker’s Compensation Insurance. The Contractor shall maintain worker’s compensation insurance which complies with the requirements of Chapter 440, Florida Statutes.

The first sentence of Section 11.1.2 is deleted.

The first two sentences of Section 11.1.3 are deleted and replaced with the following:

“Certificates of insurance and/or evidence of insurance for all insurance required to carried under this Article, together with certified copies of the insurance policies (including required endorsements), shall be filed with, and approved by, the Owner prior to commencement of the Work. The Certificates of insurance shall be dated and show the name of the insurer, the number of the policy, its effective date, and its termination date. Owner will not issue a notice to proceed for the Work until Contractor has complied with this Article. Contractor shall not be entitled to an extension of time or to compensation which may result from delays in the issuance of a notice to proceed caused by its failure to provide the foregoing certificates and policies in a timely manner. Certificates of insurance evidencing the renewal of all insurance required to be carried under this Article shall be provided to Owner at least thirty (30) days prior to the date each applicable insurance policy is scheduled to expire. Owner’s review, inspection, or approval of Contractor’s insurance shall not relieve Contractor of its responsibility for providing the insurance required hereby nor constitute a waiver of any such requirements.”

Delete Section 11.1.4.

Add the following Section:

§11.1.5 The Owner is exempt from and in no way liable for any sums of money which may represent a deductible in any insurance policy. The payment of any deductible shall be the sole responsibility of the Contractor or Subcontractor providing the insurance.
Delete Section 11.2.

Delete Section 11.3.1 and replace it with the following:

§11.3.1 Builder’s Risk Insurance. The Contractor shall maintain builder's risk insurance, at replacement cost covering the full value of the construction being performed, including, when agreed by the parties in writing, the existing structure. This insurance shall insure the interests of the Contractor, Subcontractors and Sub-subcontractors in the Work. Property covered by the insurance shall include temporary building(s) or structure(s) at the Project site, other than any of Contractor’s office trailer(s). In addition, such insurance shall cover portions of the Work stored off the site, after written approval of the Owner, at the value established in the approval, and portions of the Work in transit. This insurance shall be maintained until Final Payment has been made as provided in Section 9.10 or until no person or entity other than the Owner has an insurable interest in the property required by this Section 11.4 to be covered, whichever is later, provided that such coverage shall not be required as to any portion of the Project which Owner has actually occupied prior to final completion. This insurance shall be provided by a bona fide insurer licensed to provide insurance coverage within the State of Florida maintaining an “A” rating. The University of North Florida Board of Trustees and the State of Florida, their employees, directors, officers and agents shall be additional insureds on such policy by written policy endorsement. The policy shall include a waiver of subrogation endorsement and a severability of interests endorsement.

Delete Section 11.3.1.1 and replace it with the following:

§11.3.1.1 Such policy shall be written on a causes of loss special form policy, and shall include coverage for reasonable compensation for the Architect’s services and expenses required as a result of such insured loss.

Delete Section 11.3.1.2

Delete Section 11.3.1.3 and replace it with the following:

The standard policy deductible shall not exceed $5,000, and, in the event of loss, any such deductible shall be paid by the Contractor. Any separate policy deductible for named storms and flooding shall not exceed three percent (3%) of replacement value and, in the event of loss, such deductible be paid by the Owner to the extent of one percent (1%) of replacement value. Any separate policy deductible for named storms and flooding in excess of one percent (1%) of replacement value shall be paid by the Contractor.

Delete Sections 11.3.1.4 and 11.3.1.5

Delete Section 11.3.2 and replace it with the following:

§11.3.2 When the Work includes the repair, removal, installation and/or testing of live steam boilers, valves, pipes or lines, then such insurance shall include boiler and machine coverage, written on an ISO form or its equivalent.
Delete Sections 11.3.3, 11.3.4, 11.3.5 and 11.3.6.

Delete Section 11.3.7 and replace it with the following:

§11.3.7 Waiver Of Subrogation. The Contractor hereby releases and discharges the Owner, State of Florida and Florida Board of Governors from all liability to the Contractor, and to anyone claiming by, through or under the Contractor, by subrogation or otherwise, on account of any loss or damage to tools, machinery, equipment or other property, however caused. The Contractor shall cause its Contractor’s risk property insurance company to issue a waiver of subrogation consistent with this provision.

Delete Section 11.3.8 and replace it with the following:

§11.3.8 A loss or losses insured under this insurance policy shall be adjusted by the Contractor and its insurance company. The Contractor shall repair or replace the damaged property with the proceeds from the Contractor’s risk policy. The Contractor shall be responsible for all damages and necessary repairs whether or not the loss is covered by the Contractor’s risk policy.

Delete Sections 11.3.9 and 11.3.10.

Add the following Section:

§11.3.11 Compliance with insurance requirements shall not relieve the Contractor of any responsibility to indemnify the Owner for any liability to the Owner as specified in any other provision of the Contract for Construction, and the Owner shall be entitled to pursue any remedy in law or equity if the Contractor fails to comply with the provisions of this Contract for Construction. Indemnity obligations specified elsewhere in this Contract for Construction shall not be negated or reduced by virtue of any insurance carrier’s (i) denial of insurance coverage for the occurrence or event which is the subject matter of the claim; or (ii) refusal to defend any named insured.

Delete Section 11.4.1 and replace it with the following:

“The Contractor shall furnish bonds in the form prescribed by Owner covering faithful performance of the Contract and payment of obligations arising thereunder in the full sum of the Contract and otherwise in compliance with the requirements of Florida Statutes Section 255.05.”

Add the following Section:

§11.4.3 The Contractor shall deliver the required bonds to the Owner prior to commencement of the Work.

**ARTICLE 12**

Add the following sentence after the first sentence of Section 12.2.2.1:
“For purposes of the preceding sentence, Contractor shall correct such Work promptly if Contractor commences such correction within seven days following the date of written notice from the Architect and thereafter diligently prosecutes such correction to completion.”

**ARTICLE 13**

Delete Section 13.1 and replace it with the following:

“The Contract shall be governed by the law of the State of Florida.”

Delete the last sentence of Section 13.2.1 and replace it with the following:

“In case the Contractor, on written consent of the Owner, assigns all or any part of any money due or to become due under this Contract, the instrument of assignment shall contain a clause substantially to the effect that it is agreed that the right of the assignee to any money due or to become due to the Contractor shall be subject to prior claims of all persons, firms and corporations for services rendered or materials supplied for the performance of the Work called for in the Contract Documents.”

Add the following Sections:

§13.5.7 Where tests are required by the technical specifications for materials, methods or equipment, the Contractor shall pay the cost of initial tests to prove qualities and determine conformance with specification requirements, e.g., mill tests on cement and steel; load testing or piling; sieve analysis and colorimetric tests on sand; strength tests for determining proportions of materials for concrete, moisture content and sound transmission tests of concrete blocks, etc.

§13.5.8 If substitute materials or equipment are proposed by the Contractor, he shall pay the cost of all tests which may be necessary to satisfy the Architect that specification requirements are met.

§13.5.9 The Contractor shall pay for all testing costs, including but not limited to, power, fuel, and equipment costs which may be required for complete testing of all equipment and systems for proper operation such as plumbing, heating, ventilation, air conditioning, electrical, elevator, dumbwaiters and conveyors, etc.

Delete Section 13.6 and replace it with the following:

§13.6 If a check in payment of a Certificate for Payment is not issued within forty (40) days after Owner’s receipt thereof, Owner will pay to Contractor, in addition to the amount in such Certificate of Payment, an interest penalty at the rate established pursuant to Section 55.03(1), Florida Statutes. Such interest will be calculated on the unpaid balance from the expiration of such 40-day period until such time as the payment is issued to Contractor. Any interest penalty in excess of $1.00 will be processed within 15 days after issuing the payment unless there are exigent circumstances. The provisions of this Section apply only to undisputed amounts for which payment has been authorized. A Vendor Ombudsman in the Department of Banking and Finance acts as an advocate for vendors who experience problems in obtaining timely payment. The Vendor Ombudsman may be contacted at 904-488-2924 or by calling the State Comptroller’s Hotline 800-848-3792.
The Contractor shall be required to pay interest to Subcontractors and suppliers in certain cases where payments are not within the time constraints of Section 287.0585, Florida Statutes.

Delete Section 13.7 COMMENCEMENT OF STATUTORY LIMITATION PERIOD and replace it with the following:

§13.7 The commencement of the applicable statutory limitation period shall be in accordance with the laws of the State of Florida.

Add the following Sections 13.8, 13.9, and 13.10:

§13.8 HARMONY

§13.8.1 The Contractor shall exert every reasonable and diligent effort to assure that all labor employed by the Contractor and the Subcontractors for Work on the Project shall work in harmony with and be compatible with all other labor being used on the site of the Project, and representative of the Architect and the Owner.

§13.8.2 The Contractor shall include this provision in all contracts with Subcontractors, and the Contractor shall require that such a provision be included in the contracts between the Subcontractors and the Sub-subcontractors; provided, however, that this provision shall not be interpreted or enforced so as to deny or abridge, on account of membership or non-membership in any labor union or labor organization, the right of any person to work as guaranteed by Article 1, Section 6 of the Florida Constitution.

§13.9 CHANGE OF ADDRESS

§13.9.1 If the address of the Contractor changes, the Contractor shall provide written notice to that effect to both the Owner and the Architect.

§13.10 DISCOVERY OF ITEMS OF VALUE

§13.10.1 If in the execution of the Work any items of historical significance or any valuable items or materials of any kind are discovered buried or hidden within the Work, such items or material shall be the property of the Owner. The Contractor shall immediately upon discovery of such items or materials, and before removal thereof, advise the Architect of such discovery and carry out by Change Order, at the expense of the Owner, the Architect’s orders as to the disposal of the items or materials, subject to the provisions of the laws of the State of Florida.

§13.11 BRIBES AND KICK-BACKS

§13.11.1 The Contractor shall not by any means induce any person or entity employed in the construction of the Project to give up any part of the compensation to which that person or entity is entitled.

§13.11.2 The Contractor shall not by any means confer on any governmental, public or quasi-public official having any authority or influence over the Project, any payment, loan, subscription, advance, deposit of money, services or anything of value, present or promised;

§13.11.3 The Contractor shall not by any means offer nor accept any bribes or kick-backs in connection with the Project from or to any individual or entity, including any of its trade contractors, subcontractors, consultants, suppliers or manufacturers of Project goods and materials.

§13.11.4 The Contractor shall not by any means, without the express written permission of the Owner in accordance with Owner’s policy, call for or by exclusion require or recommend the
use of any Subcontractor, Sub-subcontractor, consultant, product, material, equipment, system, process or procedure in which the Contractor has a direct or indirect proprietary or other pecuniary interest.

§13.12 Integration. The Contract For Construction represents the entire and integrated agreement between the Owner and the Contractor, and supersedes all prior negotiations, representations or agreements, either written or oral, for the Project. The Contract For Construction may be amended only by written instruments signed by both the Owner and the Contractor.

§13.13 Severability. If any provision of the Contract For Construction, or the application thereof, is determined to be invalid or unenforceable, the remainder of that provision and all other provisions shall remain valid and enforceable.

§13.14 Waiver. No provision of the Contract For Construction may be waived except by written agreement of the parties. A waiver of any provision on one occasion shall not be deemed a waiver of that provision on any subsequent occasion, unless specifically stated in writing. A waiver of any provision shall not affect or alter the remaining provisions of the Contract for Construction.

§13.15 Strict Compliance. No failure of the Owner to insist upon strict compliance by the Contractor with any provision of this Contract For Construction shall operate to release, discharge, modify, change or affect any of the Contractor's obligations.

§13.16 Third-Party Beneficiaries. The Contract for Construction shall inure solely to the benefit of the parties hereto and their successors and assigns, and, except as otherwise specifically provided in the Contract for Construction, nothing contained in the Contract for Construction is intended to or shall create a contractual relationship with, or any rights or cause of action in favor of, any third party against either the Owner or the Contractor.

§13.17 Drug Free Workplace. If required pursuant to 440.102(15), Florida Statutes, Contractor shall implement, and cause its applicable subcontractors to implement, a drug-free workplace program.

§13.18 Survival. All provisions of the Contract for Construction which contain continuing obligations shall survive its expiration or termination.

§13.19 Independent Contractor. Contractor is an independent contractor to Owner.

§13.20 Assignment of Anti-Trust Claims. In consideration for the Contract for Construction, the Contractor hereby conveys, sells, assigns and transfers to the Owner all of its right, title and interest in and to any and all causes of action it may now have or may hereafter acquire under the antitrust laws of the United States and the State of Florida for price fixing, relating to the goods or services purchased or acquired by the Owner under the Contract for Construction. The Contractor will execute and deliver to the Owner and Assignment of Antitrust Claims in a form acceptable to the Owner. Prior to Final Payment, the Contractor will deliver to the Owner Assignments of Antitrust Claims in the same form as specified above executed by all Subcontractors, Sub-subcontractors and suppliers who have furnished services, goods or materials in connection with the performance of the Work.

§13.21 Owner’s performance and obligation to pay hereunder is contingent upon an annual appropriation by the Legislature.

§13.22 The Contractor warrants that it is not on the State of Florida’s convicted vendor list for a public entity crime committed within the past thirty six (36) months. The Contractor further warrants that it will neither utilize the services of, nor contract with, any supplier, Subcontractor, or
consultant for an amount in excess of $15,000.00 in connection with this Project if the supplier, Subcontractor or consultant has been placed on the State of Florida’s convicted vendor list within the past thirty six (36) months.

§13.23 The University of North Florida is a constituent member of the Florida state university system existing pursuant to Section 7, Article IX of the Constitution of the State of Florida and is administered by Owner, a public body corporate, pursuant to said Section 7 and Section 1001.72, Florida Statutes.

§13.24 Nothing contained in Contract for Construction shall be construed or interpreted as (1) denying to either party any remedy or defense available to such party under the laws of the State of Florida; (2) the consent of the State of Florida or its agencies and public bodies corporate to be sued; or (3) a waiver of sovereign immunity of the State of Florida beyond the waiver provided in Section 768.28, Florida Statutes.

§13.25 Contractor will comply with all applicable federal, state, and municipal laws, regulations and ordinances, in performance of this Contract. Such laws and regulations include, without limitation, laws and regulations governing the employment or use of undocumented workers to perform the Work. Contractor will comply with all applicable University policies and regulations identified at www.unf.edu/unfinfo/policies-regs/A-Zindex.html. Contractor will not discriminate in any manner on the basis of sex, race, creed, sexual orientation, age, color, national origin, religious belief, disability, status as a disabled veteran, or veteran of the Vietnam era, and will comply with all applicable laws and policies prohibiting discrimination and sexual harassment.

§13.26 Owner is exempt from the payment of all sales, use or excise taxes.

§13.27 The Contract for Construction may be unilaterally canceled by the Owner for refusal by the Contractor to allow public access to all documents, papers, letters, or other material subject to the provisions of Chapter 119, Florida Statutes, and made or received by the Contractor in conjunction herewith.

IF THE CONTRACTING PARTY HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTING PARTY’S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT UNF’S OFFICE OF THE GENERAL COUNSEL, 904-620-2828, generalcounsel@unf.edu, 1 UNF Dr. 1/2100, Jacksonville FL  32224. To the extent applicable, (i) the party contracting with UNF will comply with all obligations imposed on contractors set forth in Florida Statutes Section 119.0701(2)(b), relating to public records, and (ii) the parties will be governed by and comply with the protocol established in Florida Statutes Section 119.0701(3) for public records requests.

§13.28 To the extent, but only to the extent, that travel or subsistence expenses are allowed to Contractor under the Agreement, Owner shall pay such expenses, provided that Owner’s obligation to pay such expenses is limited by the constraints imposed by Florida Statutes Section 112.061.
Section 14.1.4 is deleted.

The following phrase in Section 14.2.2 is deleted:

“, subject to any prior rights of the surety:”

and is replaced with the following phrase:

“direct the surety to:”

Delete Section 14.2.4 and replace it with the following:

§14.2.4 If the Contractor’s surety is directed to complete the Work, then all payments made after termination shall be made to the surety until the Work is finished and the Contract Sum has been expended. The surety shall then be responsible for all of the obligations and duties of the Contractor under the Contract and shall be bound by the conditions of the Contract to fulfill all obligations of the Contract for the Contract Sum therein. The surety may not assign those obligations without the written consent of the Owner. The surety shall be responsible for the payment of all costs related to the termination of the employment of the Contractor, including compensation for the Architect’s services and expenses made necessary. The amount to be paid to the surety 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 employment of the Contractor.

Add the following Sections:

§14.2.5 When the Owner terminates the Contract for one of the reasons state in Section 14.2.1, the Contractor shall be liable to the Owner for the expenses for additional managerial and administrative services provided in Article 14 hereof and also for the per diem liquidated damages, if any, agreed upon in the Agreement:

.1 for each day the Contractor is in arrears in the Work at the time of said termination as determined by the Architect, and

.2 for each day of thirty (30) additional calendar days hereby stipulated and agreed to be the time it will require the Surety to effect another contract for completion of the Work, including resumption of Work thereon,

.3 provided, however, that the sum of Subparagraphs 14.2.5.1 and 14.2.5.2 shall not exceed the number of days beyond the original agreed completion date, or any extension thereof as herein provided, reasonably required for completion of the Work.

§14.2.6 If the Owner terminates the Contract for Construction for cause, and it is subsequently determined by a court of competent jurisdiction that such termination was without cause, then in such event, said termination shall be deemed a termination for convenience as set forth in Section 14.4.

ARTICLE 15

In the final sentence of Section 15.1.6, add the words “or delay damages” following the words “liquidated direct damages.”
The last sentence of Section 15.2.5 is deleted and replaced with the following:

“The initial decision shall be final unless the Owner or the Architect requests non-binding, facilitative mediation within twenty (20) days following issuance of the initial decision. Upon such request, mediation shall proceed as described in Section 15.3.”

Section 15.3 MEDIATION is deleted and replaced with the following:

§15.3 DISPUTE RESOLUTION

15.3.1 Any reference in the General Conditions to mediation or litigation shall be deemed to refer to the dispute resolution process set forth in Section 15.3.

§15.3.1 Any Claim arising from or relating to the Project or arising out of this Contract For Construction or the breach thereof, except Claims relating to aesthetic effect and except those waived as provided in Sections 4.3.10, 9.10.4 and 9.10.5, as to which the Owner has requested mediation following an initial decision, shall be subject to private, non-binding facilitative mediation seeking a just and equitable solution satisfactory to all parties.

§15.3.1.1 All parties to a mediation shall promptly provide all other parties to the mediation with copies of essential documentation relevant to the support or defense of the matter being mediated.

§15.3.1.2 The parties shall not be required to mediate for a period greater than 60 calendar days unless otherwise agreed to in writing by the parties. The parties shall share equally any administrative costs and fees of such proceedings, but shall each be responsible for their own expenses otherwise incurred.

§15.3.1.3 In the event that the statute of limitations would run during the mediation period, either party may institute litigation so as to avoid the running of such statute upon the condition that such party immediately seek a stay of such litigation pending the conclusion of the mediation period.

§15.3.1.4 During the course of mediation, any party to the mediation may apply for injunctive relief from any court of competent jurisdiction until the mediation period expires or the dispute is otherwise resolved.

§15.3.1.5 The Owner, the Architect, the Contractor, and any other parties involved in any way in the design or construction of the Project are bound, each to each other, by this requirement to mediate prior to commencement of any litigation or administrative action, provided that they have signed the Contract for Construction or an agreement that incorporates the Contract for Construction by reference or signed any other agreement which binds them to mediate. Each such party agrees that it may be joined as an additional party to a mediation involving other parties under any such agreement. In the case where more than one mediation is begun under any such agreement and any party contends that the mediations are substantially related, the mediations may be conducted by the mediator selected in the mediation first commenced.

§15.3.1.6 The mediation shall be conducted in Duval County, Florida, unless agreed otherwise by the parties.
§15.3.2 Conflicting Dispute Resolution Provisions. Neither party to the Agreement shall enter into any contract with regard to the Project which directly or indirectly gives the right to resolve any dispute with, involving, or affecting the other to any other person or legal entity which is in conflict with the dispute resolution procedures required by this Section 15.3.

§15.3.3 Performance During Dispute Resolution. Pending the resolution of any dispute, controversy, or question, the Owner and the Contractor shall each continue to perform their respective obligations without interruption or delay, and the Contractor shall not stop or delay the performance of the Work.

§15.3.4 Litigation/Administrative Action. Upon the expiration of the mediation period or the decision of the mediator that mediation efforts have reached an impasse, whichever is earlier, either party may proceed with litigation to resolve the dispute. Disputes, claims, questions or disagreements involving monetary claims of $200,000.00 or less shall be conducted pursuant to, and under, the Administrative Procedures Act, Chapter 120 Florida Statutes. All other claims, disputes and other matters shall be determined in the circuit courts in and for Duval County, Florida.

Section 15.4 ARBITRATION is deleted and replaced with the following:

§15.4 Arbitration Preclusion. In case of a dispute relating to the Project, or arising out of the Contract Documents, no party to the Contract for Construction shall be required to participate in or be bound by any arbitration proceedings. Any references in the General Conditions to arbitration or to arbitration as an approved dispute resolution mechanism are deleted. Dispute resolution is addressed as provided in Section 15.3.