

**INSTRUCTIONS TO BIDDERS
AND
GENERAL CONDITIONS OF THE CONTRACT**

STANDARD FORM FOR CONSTRUCTION PROJECTS

**STATE CONSTRUCTION OFFICE
NORTH CAROLINA
DEPARTMENT OF ADMINISTRATION**

Form OC-15

This document is intended for use on State capital construction projects and shall not be used on any project that is not reviewed and approved by the State Construction Office. Extensive modification to the General Conditions by means of “Supplementary General Conditions” is strongly discouraged. State agencies and institutions may include special requirements in “Division 1 – General Requirements” of the specifications, where they do not conflict with the General Conditions.

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INSTRUCTIONS TO BIDDERS

For a proposal to be considered it must be in accordance with the following instructions:

1. PROPOSALS

Proposals must be made in strict accordance with the Form of Proposal provided therefor, and all blank spaces for bids, alternates, and unit prices applicable to bidder's work shall be properly filled in. When requested alternates are not bid, the proposal may be considered incomplete. The bidder agrees that bid on Form of Proposal detached from specifications will be considered and will have the same force and effect as if attached thereto. Photocopied or faxed proposals will not be considered. Numbers shall be stated both in writing and in figures for the base bids and alternates.

Any modifications to the Form of Proposal (including alternates and/or unit prices) will disqualify the bid and may cause the bid to be rejected.

The bidder shall fill in the Form of Proposal as follows:

- a. If the documents are executed by a sole owner, that fact shall be evidenced by the word "Owner" appearing after the name of the person executing them.
- b. If the documents are executed by a partnership, that fact shall be evidenced by the word "Co-Partner" appearing after the name of the partner executing them.
- c. If the documents are executed on the part of a corporation, they shall be executed by either the president or the vice president and attested by the secretary or assistant secretary in either case, and the title of the office of such persons shall appear after their signatures. The seal of the corporation shall be impressed on each signature page of the documents.
- d. If the proposal is made by a joint venture, it shall be executed by each member of the joint venture in the above form for sole owner, partnership or corporation, whichever form is applicable.
- e. All signatures shall be properly witnessed.
- f. If the contractor's license of a bidder is held by a person other than an owner, partner or officer of a firm, then the licensee shall also sign and be a party to the proposal. The title "Licensee" shall appear under his/her signature.

Proposals shall be addressed as indicated in the Advertisement for Bids and shall be delivered, enclosed in an opaque sealed envelope, marked "Proposal" and bearing the title of the work, name of the bidder, and the contractor's license number of the bidder. Bidders shall clearly mark on the outside of the bid envelope which contract(s) they are bidding.

Bidder shall identify on the bid, the minority businesses that will be utilized on the project with corresponding total dollar value of the bid and affidavit listing good faith efforts or an affidavit indicating work under contract will be self-performed, as required by G.S. 143-128.2(c) and G.S. 143-128.2(f). Failure to comply with these requirements is grounds for rejection of the bid.

For projects bid in the single-prime alternative, the names and license numbers of major subcontractors shall be listed on the proposal form.

It shall be the specific responsibility of the bidder to deliver his bid to the proper official at the selected place and prior to the announced time for the opening of bids. Later delivery of a bid for any reason, including delivery by the United States Postal Service, shall disqualify the bid.

Modifications of previously deposited bids will be acceptable only if delivered in writing or by telegram or fax to the place of the bid opening prior to the time for opening bids. Telegraphic and fax modifications must be confirmed in writing within 72 hours of the opening of bids.

Unit prices quoted in the proposal shall include overhead and profit and shall be the full compensation for the contractor's cost involved in the work. See General Conditions, Article 19c-1.

2. EXAMINATION OF CONDITIONS

It is understood and mutually agreed that by submitting a bid the bidder acknowledges that he has carefully examined all documents pertaining to the work, the location, accessibility and general character of the site of the work and all existing buildings and structures within and adjacent to the site, and has satisfied himself as to the nature of the work, the condition of existing buildings and structures, the conformation of the ground, the character, quality and quantity of the material to be encountered, the character of the equipment, machinery, plant and any other facilities needed preliminary to and during prosecution of the work, the general and local conditions, the construction hazards, and all other matters, including, but not limited to, the labor situation which can in any way affect the work under the contract, and including all safety measures required by the Occupational Safety and Health Act of 1970 and all rules and regulations issued pursuant thereto. It is further mutually agreed that by submitting a proposal the bidder acknowledges that he has satisfied himself as to the feasibility and meaning of the plans, drawings, specifications and other contract documents for the construction of the work and that he accepts all the terms, conditions and stipulations contained therein; and that he is prepared to work in cooperation with other contractors performing work on the site.

Reference is made to contract documents for the identification of those surveys and investigation reports of subsurface or latent physical conditions at the site or otherwise affecting performance of the work which have been relied upon by the designer in preparing the documents. The owner will make copies of all such surveys and reports available to the bidder upon request.

Each bidder may, at his own expense, make such additional surveys and investigations as he may deem necessary to determine his bid price for the performance of the work. Any on-site investigation shall be done at the convenience of the owner. Any reasonable request for access to the site will be honored by the owner.

3. BULLETINS AND ADDENDA

Any addenda to specifications issued during the time of bidding are to be considered covered in the proposal and in closing a contract they will become a part thereof. It shall be the bidder's responsibility to ascertain prior to bid time the addenda issued and to see that his bid includes any changes thereby required.

Should the bidder find discrepancies in, or omission from, the drawings or documents or should he be in doubt as to their meaning, he shall at once notify the designer who will send written instructions in the form of addenda to all bidders. Notification should be no later than seven (7) days prior to the date set for receipt of bids. Neither the owner nor the designer will be responsible for any oral instructions.

All addenda shall be acknowledged by the bidder(s) on the Form of Proposal.

4. BID SECURITY

Each proposal shall be accompanied by a cash deposit or a certified check drawn on some bank or trust company insured by the Federal Deposit Insurance Corporation, or a bid bond in an amount equal to not less than five percent (5%) of the proposal, said deposit to be retained by the owner as liquidated damages in event of failure of the successful bidder to execute the contract within ten (10) days after the award or to give satisfactory surety as required by law (G.S. 143-129).

Bid bond shall be conditioned that the surety will, upon demand, forthwith make payment to the obligee upon said bond if the bidder fails to execute the contract. The owner may retain bid securities of any bidder(s) who may have a reasonable chance of award of contract for the full duration of time stated in the Notice to Bidders. Other bid securities may be released sooner, at the discretion of the owner. All bid securities (cash or certified checks) shall be returned to the bidders promptly after award of contracts, and no later than seven (7) days after expiration of the holding period stated in the Notice to Bidders. Standard Form of Bid Bond is included in these specifications (Section 304).

5. RECEIPT OF BIDS

Bids shall be received in strict accordance with requirements of the General Statutes of North Carolina. Bid security shall be required as prescribed by statute. Prior to opening of any bids on the project, the bidder will be permitted to change or withdraw his bid. Guidelines for opening of public construction bids are available from the State Construction Office.

6. OPENING OF BIDS

Upon opening, all bids shall be read aloud. Once any bid is opened, there shall not be any withdrawal of bids by any bidder and no bids may be returned by the designer to any bidder. After the bid opening, a bidder may request that his bid be withdrawn from consideration without forfeiture of his bid security in accordance with the provisions of the North Carolina General Statute 143-129.1. After the opening of bids, no bid may be withdrawn, except under the provisions of General Statute 143-129.1, for a period of thirty days unless otherwise specified. Should the successful bidder default and fail to execute a contract, the contract may be awarded to the next lowest and responsible bidder. The owner reserves the unqualified right to reject any and all bids. Reasons for rejection may include, but shall not be limited to, the following:

- a. If the Form of Proposal furnished to the bidder is not used or is altered.
- b. If the bidder fails to insert a price for all bid items, alternate and unit prices requested.
- c. If the bidder adds any provisions reserving the right to accept or reject any award.
- d. If there are unauthorized additions or conditional bids, or irregularities of any kind which tend to make the proposal incomplete, indefinite or ambiguous as to its meaning.
- e. If the bidder fails to complete the proposal form where information is requested so the bid may be properly evaluated by the owner.
- f. If the unit prices contained in the bid schedule are unacceptable to the owner and the State Construction Office.
- g. If the bidder fails to comply with other instructions stated herein.

7. BID EVALUATION

The award of the contract will be made to the lowest responsible bidder as soon as practical. The owner may award on the basis of the base bid and any alternates the owner chooses.

Before awarding a contract, the owner may require the apparent low bidder to qualify himself to be a responsible bidder by furnishing any or all of the following data:

- a. The latest financial statement showing assets and liabilities of the company or other information satisfactory to the owner.
- b. A listing of completed projects of similar size.
- c. Permanent name and address of place of business.
- d. The number of regular employees of the organization and length of time the organization has been in business under present name.
- e. The name and home office address of the surety proposed and the name and address of the responsible local claim agent.
- f. The names of members of the firms who hold appropriate trade licenses, together with license numbers.

Failure or refusal to furnish any of the above information, if requested, shall constitute a basis for disqualification of any bidder.

In determining the lowest responsible, responsive bidder, the owner shall take into consideration the bidder's compliance with the requirements of G.S. 143-128.2(c), the past performance of the bidder on construction contracts for the State with particular concern given to completion times, quality of work, cooperation with other contractors, and cooperation with the designer and owner. Failure of the low bidder to furnish affidavit and/or documentation as required by G.S. 143-128.2(c) may constitute a basis for disqualification of the bid.

Should the owner adjudge that the apparent low bidder is not the lowest responsible, responsive bidder by virtue of the above information, said apparent low bidder will be so notified and his bid security shall be returned to him.

8. PERFORMANCE BOND

The successful bidder, upon award of contract, shall furnish a performance bond in an amount equal to 100 percent of the contract price. See Article 35, General Conditions.

9. PAYMENT BOND

The successful bidder, upon award of contract, shall furnish a payment bond in an amount equal to 100 percent of the contract price. See Article 35, General Conditions.

10. PAYMENTS

Payments to the successful bidders (contractors) will be made on the basis of monthly estimates. See Article 31, General Conditions.

11. PRE-BID CONFERENCE

Prior to the date set for receiving bids, the Designer may arrange and conduct a Pre-Bid Conference for all prospective bidders. The purpose of this conference is to review project requirements and to respond to questions from prospective bidders and their subcontractors or material suppliers related to the intent of bid documents. Attendance by prospective bidders shall be as required by the "Notice to Bidders".

12. SUBSTITUTIONS

In accordance with the provisions of G.S. 133-3, material, product, or equipment substitutions proposed by the bidders to those specified herein can only be considered during the bidding phase until ten (10) days prior to the receipt of bids when submitted to the Designer with sufficient data to confirm material, product, or equipment equality. Proposed substitutions submitted after this time will be considered only as potential change order.

Submittals for proposed substitutions shall include the following information:

- a. Name, address, and telephone number of manufacturer and supplier as appropriate.
- b. Trade name, model or catalog designation.
- c. Product data including performance and test data, reference standards, and technical descriptions of material, product, or equipment. Include color samples and samples of available finishes as appropriate.
- d. Detailed comparison with specified products including performance capabilities, warranties, and test results.
- e. Other pertinent data including data requested by the Designer to confirm product equality.

If a proposed material, product, or equipment substitution is deemed equal by the Designer to those specified, all bidders of record will be notified by Addendum.

GENERAL CONDITIONS OF THE CONTRACT

The use or reproduction of this document or any part thereof is authorized for and limited to use on projects of the State of North Carolina, and is distributed by, through and at the discretion of the State Construction Office, Raleigh, North Carolina, for that distinct and sole purpose.

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ARTICLE 1 - DEFINITIONS

- a. The **contract documents** consist of the Notice to Bidders; Instructions to Bidders; General Conditions of the Contract; special conditions if applicable; Supplementary General Conditions; the drawing and specifications, including all bulletins, addenda or other modifications of the drawings and specifications incorporated into the documents prior to their execution; the proposal; the contract; the performance bond; the payment bond; insurance certificates; the approval of the attorney general; and the certificate of the Office of State Budget and Management. All of these items together form the contract. The Geotechnical Technical Report does not constitute a part of the Contract Documents, but is included for reference.
- b. The **Owner** is the State of North Carolina through University of North Carolina at Charlotte.
- c. The **designer(s)** are those referred to within this contract, or their authorized representatives. The designer(s), as referred to herein, shall mean architect and/or engineer. They will be referred to hereinafter as if each were of the singular number, masculine gender. The "Designer" referred to herein, shall mean the "Engineer" - United Engineering Group, Inc., 5624 Executive Center Drive, Suite 200, Charlotte, NC 28212.
- d. The **contractor**, as referred to hereinafter, shall be deemed to be either of the several contracting parties called the "Party of the First Part" in either of the several contracts in connection with the total project. Where, in special instances hereinafter, a particular contractor is intended, an adjective precedes the word "contractor," as "general," "heating," etc. For the purposes of a single prime contract, the term Contractor shall be deemed to be the single contracting entity identified as the "Party of the First Part" in the single Construction Contract. Any references or adjectives that name or infer multiple prime contractors shall be interpreted to mean the single prime Contractor.
- e. A **subcontractor**, as the term is used herein, shall be understood to be one who has entered into a direct contract with a contractor, and includes one who furnishes materials worked to a special design in accordance with plans and specifications covered by the contract, but does not include one who only sells or furnishes materials not requiring work so described or detailed.
- f. **Written notice** shall be defined as notice in writing delivered in person to the contractor, or to a partner of the firm in the case of a partnership, or to a member of the contracting organization, or to an officer of the organization in the case of a corporation, or sent to the last known business address of the contracting organization by registered mail.
- g. **Work**, as used herein as a noun, is intended to include materials, labor, and workmanship of the appropriate contractor.
- h. The **project** is the total construction work to be performed under the contract documents by the several contractors.
- i. **Project Expediter**, as used herein, is an entity stated in the contract documents, designated to effectively facilitate scheduling and coordination of work activities. See Article 14(f) for responsibilities of a Project Expediter. **For the purposes of a single prime contract, the single prime contractor shall be designated as the Project Expediter.**

- j. **Change order**, as used herein, shall mean a written order to the contractor subsequent to the signing of the contract authorizing a change in the contract. The change order shall be signed by the contractor, designer and the owner, and approved by the State Construction Office, in that order (Article 19).
- k. **Field Order**, as used herein, shall mean a written approval for the contractor to proceed with the work requested by owner prior to issuance of a formal Change Order. The field order shall be signed by the contractor, designer, owner, and State Construction Office.
- l. **Time of completion**, as stated in the contract documents, is to be interpreted as consecutive calendar days measured from the date established in the written Notice to Proceed, or such other date as may be established herein (Article 23).
- m. **Liquidated damages**, as stated in the contract documents, is an amount reasonably estimated in advance to cover the losses incurred by the owner by reason of failure of the contractor(s) to complete the work within the time specified.
- n. **Surety**, as used herein, shall mean the bonding company or corporate body which is bound with and for the contractor, and which engages to be responsible for the contractor and his acceptable performance of the work.
- o. **Routine written communications between the Designer and the Contractor** are any communication other than a “request for information” provided in letter, memo, or transmittal format, sent by mail, courier, electronic mail, or facsimile. Such communications can not be identified as “request for information”.
- p. **Clarification or Request for information (RFI)** is a request from the Contractor seeking an interpretation or clarification by the Designer relative to the contract documents. The RFI, which shall be labeled (RFI), shall clearly and concisely set forth the issue or item requiring clarification or interpretation and why the response is needed. The RFI must set forth the Contractor’s interpretation or understanding of the contract documents requirements in question, along with reasons for such an understanding.
- q. **Approval** means written or imprinted acknowledgement that materials, equipment or methods of construction are acceptable for use in the work.
- r. **Inspection** shall mean examination or observation of work completed or in progress to determine its compliance with contract documents.
- s. **“Equal to” or “approved equal”** shall mean materials, products, equipment, assemblies, or installation methods considered equal by the bidder in all characteristics (physical, functional, and aesthetic) to those specified in the contract documents. Substitute products by manufacturers other than those specified in the Project Manual, Addenda, and on the drawings and which may be incorporated in the Work after review and concurrence by the Architect and acceptance by the Owner. This review shall be in accordance with the General Requirements.
- t. **“Substitution” or “substitute”** shall mean materials, products, equipment, assemblies, or installation methods deviating in at least one characteristic (physical, functional, or aesthetic) from those specified, but which in the opinion of the bidder would improve competition and/or enhance the finished installation.
- u. **“Provide”** shall mean furnish and install complete in place, and ready for use.

- v. **"Indicated" and "Shown"** shall mean as detailed, scheduled, or called for in the Contract Documents.
- w. **"Latest Edition."** Shall mean the current printed document issued up to 30 calendar days prior to date of receipt of bids, unless specified otherwise.
- x. **"Quality."** Shall mean the meticulous attention to the detail of installation and workmanship necessary to the assemblage of products in the highest grade of excellence by skilled craftsmen of the trade.
- y. **"Drawings" or "Plans"** mean the drawings enumerated in the Contract (including all information in the Detail Manual).
- z. **"Specifications"** mean this Project Manual and Addenda thereto, and this term shall include such pages as are enumerated in the Contract as applicable to the work involved.
- aa. **"Supplementary Conditions"**, as referred to in other parts of the Project Manual, shall be the same as "Supplementary General Conditions."
- bb. Project Identification: All correspondence, reports, schedules, applications for payment, fax items, etc., shall contain formal title of project, code and item numbers, and SCO ID numbers.

ARTICLE 2 - INTENT AND EXECUTION OF DOCUMENTS

- a. The drawings and specifications are complementary, one to the other. That which is shown on the drawings or called for in the specifications shall be as binding as if it were both called for and shown. The intent of the drawings and specifications is to establish the scope of all labor, materials, transportation, equipment, and any and all other things necessary to provide a complete job. In case of discrepancy or disagreement in the contract documents, the order of precedence shall be: Form of Contract, specifications, large-scale detail drawings, small-scale drawings.
 - 1. All work shall be in accordance with the Contract Documents. No change therefrom shall be made without a review by the Designer. Where more detailed information is needed, or when an interpretation of the Contract Documents is needed, the Contractor, before proceeding with the work, shall refer the matter to the Designer who will furnish information or interpretation in the form of a Field Order or other written forms or drawings. If any errors, inconsistencies, or omissions in the Contract Documents are recognized by the Contractor or any member of his organization, the Contractor shall notify the Designer in writing of such error, inconsistency, or omission before proceeding with the work.
 - 2. Where compliance with two or more requirements, material or equipment, are specified and the requirements, materials or equipment, establish conflicting specifications or quality levels, the contractor is to comply with the most stringent or higher quality specification. The Designer shall be the authority for determining the highest quality specification.
 - 3. Should the specifications and drawings fail to particularly describe the material or kind of goods to be used in any place, then it shall be the duty of the Contractor to make inquiry of the Designer for what is best suited. The material that would normally be used in this place to produce first quality finished work shall be considered a part of the Contract.

4. Shop drawings shall be legible and suitable for producing legible reproductions.
- b. The wording of the specifications shall be interpreted in accordance with common usage of the language except that words having a commonly used technical or trade meaning shall be so interpreted in preference to other meanings.
- c. The contractor shall execute each copy of the proposal, contract, performance bond and payment bond as follows:
 1. If the documents are executed by a sole owner, that fact shall be evidenced by the word "Owner" appearing after the name of the person executing them.
 2. If the documents are executed by a partnership, that fact shall be evidenced by the word "Co-Partner" appearing after the name of the partner executing them.
 3. If the documents are executed on the part of a corporation, they shall be executed by either the president or the vice president and attested by the secretary or assistant secretary in either case, and the title of the office of such persons shall appear after their signatures. The seal of the corporation shall be impressed on each signature page of the documents.
 4. If the documents are made by a joint venture, they shall be executed by each member of the joint venture in the above form for sole owner, partnership or corporation, whichever form is applicable to each particular member.
 5. All signatures shall be properly witnessed.
 6. If the contractor's license is held by a person other than an owner, partner or officer of a firm, then the licensee shall also sign and be a party to the contract. The title "Licensee" shall appear under his/her signature.
 7. The bonds shall be executed by an attorney-in-fact. There shall be attached to each copy of the bond a certified copy of power of attorney properly executed and dated.
 8. Each copy of the bonds shall be countersigned by an authorized individual agent of the bonding company licensed to do business in North Carolina. The title "Licensed Resident Agent" shall appear after the signature.
 9. The seal of the bonding company shall be impressed on each signature page of the bonds.
 10. The contractor's signature on the performance bond and the payment bond shall correspond with that on the contract.
- d. Bids

Bids shall be based on conditions at the site, these Specifications, and the Drawings, numbered as follows:

SPECIFICATIONS

DRAWINGS

General Division 1 thru 14

See Drawing Index

Electrical Division 1 and 26

See Drawings Index

e. Forms

Prime Contractors shall review the entire set of Drawings and Specifications for related work and coordination between trades.

f. Drawings

A list of Drawings is provided within the first three sheets of the Drawings.

g. Alternates

Refer to Add Alternate descriptions in Section 010100

ARTICLE 3 - CLARIFICATIONS AND DETAIL DRAWINGS

- a. In such cases where the nature of the work requires clarification by the designer, such clarification shall be furnished by the designer with reasonable promptness by means of written instructions or detail drawings, or both. Clarifications and drawings shall be consistent with the intent of contract documents, and shall become a part thereof. If, in the opinion of the Contractor work is indicated or is specified in such manner as will make it impossible to produce a first-class piece of work, or should discrepancies appear within the Contract Documents, he shall refer same to the Designer for interpretation before proceeding with work. If the Contractor fails to make such reference, no excuse will thereafter be entertained for failure to carry out work in satisfactory manner. Where only part of the work is indicated, similar parts shall be considered repetition. Where any detail is shown and the components therefore are fully described, similar details shall be construed to require equal materials and construction.
- b. The contractor(s) and the designer shall prepare, if deemed necessary, a schedule fixing dates upon which foreseeable clarifications will be required. The schedule will be subject to addition or change in accordance with progress of the work. The designer shall furnish drawings or clarifications in accordance with that schedule. The contractor shall not proceed with the work without such detail drawings and/or written clarifications.

ARTICLE 4 - COPIES OF DRAWINGS AND SPECIFICATIONS

The designer shall furnish free of charge to the contractors copies of plans and specifications as follows:

- a. General contractor - Up to twelve (12) sets of general contractor drawings and specifications, up to six (6) sets of which shall include drawings and specifications of all other contracts, plus a clean set of black line prints on white paper of all appropriate drawings, upon which the contractor shall clearly and legibly record all work-in-place that is at variance with the contract documents.
- b. Each other contractor - Up to six (6) sets of the appropriate drawings and specifications, up to three (3) sets of which shall include drawings and specifications of all other contracts, plus a clean set of black line prints on white paper of all appropriate drawings, upon which the contractor shall clearly and legibly record all work-in-place that is at variance with the contract documents.
- c. Additional sets shall be furnished at cost, including mailing, to the contractor upon request by the contractor. This cost shall be stated in the bidding documents.

- d. For the purposes of a single-prime contract, the contractor shall receive up to 30 sets of drawings and specifications, plus a clean set of black line prints on white paper of all appropriate drawings, upon which the contractor shall clearly and legibly record all work-in-place that is at variance with the contract documents.
- e. Cost of additional drawings and specifications shall be as follows:
 - 1. Drawings: The Designer shall offer printing of additional copies of documents at direct material cost plus 25% for handling.

ARTICLE 5 - SHOP DRAWINGS, SUBMITTALS, SAMPLES, DATA

- a. Within 30 consecutive calendar days after the notice to proceed, each prime contractor shall submit a schedule for anticipated submission of all shop drawings, product data, samples, and similar submittals to the Project Expediter and the Designer. This schedule shall indicate the items, relevant specification sections, other related submittal, data, and the date when these items will be furnished to the designer. Shop drawings shall be sufficiently legible and suitable for producing legible reproductions. This schedule shall be an excerpt from the CPM schedule described by the Supplementary General Conditions. This Schedule shall indicate the items, relevant specification sections, other related submittals, the date when such item will be furnished to the Architect, and the date by which Architect's review is necessary to maintain Construction Schedule. This schedule shall take into consideration the resubmission of shop drawings required to achieve acceptance of the Designer and Owner.
- b. The Contractor shall review, approve and submit to the Designer all Shop or Setting Drawings, Product Data, Samples, Color Charts, and similar submittal data required or reasonably implied by the Contract Documents. Required Submittals shall bear the Contractor's stamp of approval, any exceptions to the Contract Documents shall be noted on the submittals, and copies of all submittals shall be of sufficient quantity for the Designer to retain up to three (3) copies of each submittal for his own use plus additional copies as may be required by the Contractor. Submittals shall be presented to the Designer with reasonable promptness and time so as to cause no delay in the activities of the Owner or of separate Contractors.
- c. The Designer shall review required submittals promptly, noting desired corrections if any, and retaining three (3) copies for his use. The remaining copies of each submittal shall be returned to the Contractor not later than fourteen (14) calendar days after receipt from the Contractor, for the Contractor's use or for corrections and resubmittal as noted by the Designer. When resubmittals are required, the submittal procedure shall be the same as for the original submittals. The following shop drawings will take longer than 20 calendar days for review and return to the Contractor:
 - 1. Structural Steel
 - 2. Mechanical Systems
- d. Approval of shop drawings by the Designer shall not be construed as relieving the Contractor from responsibility for compliance with the design or terms of the contract documents nor from responsibility of errors of any sort in the shop drawings, unless such lack of compliance or errors first have been called in writing to the attention of the Designer by the Contractor.

- e. Work shall not be fabricated or executed until shop drawings have been processed as specified. All shop drawings, submittals, samples, and data shall be submitted to the Designer for review according to accepted CPM schedule from Article 5 (a). After these items have been reviewed University of North Carolina at Charlotte Design and Construction Manual Section 2, Division 1B – Capital Projects Supplemental General Conditions by the Designer they will be returned to the Contractor or Project Expediter. Samples and shop drawings required for evaluation of a substitution shall be submitted with the request for substitution. Shop drawings, submittals, samples, and data will not be considered by the Designer unless the submission clearly indicates that they have been checked, coordinated between Prime Subcontractors, and stamped approved by the Contractor and Fabricator or Contractor, Subcontractor, and Fabricator as the case may be. All shop drawings and catalog cuts submitted shall each receive the following stamp completed and dated by the Contractor or submitting Prime Contractor. Samples shall have the stamp affixed to a tag attached to each sample.

Submitted in accordance with Section No. _____

and paragraph No. _____ of the specification

FOR SINGLE CONTRACT, AS FOLLOWS

We have checked and approved this submittal. We find it to be in accordance with the Contract Documents.

Subcontractor	Signature	Date
---------------	-----------	------

We have reviewed this submittal and find it is coordinated with the other parts of the Project.

Subcontractor	Signature	Date
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- f. No extension of construction time will be allowed for delay in checking shop drawings, submittals, samples or data because of the Contractor's, Subcontractor's, or Fabricator's failure to check shop drawings before submitting them to the Designer. All shop drawings shall be prepared to show how the material relates specifically to the conditions of the Project. Standard manufacturer's drawings that do not show how and where the material is to be used will not be considered. Shop drawings shall not be reproductions or portions of reproductions of the Contract documents. Coordinated shop drawings at the same scale indicating all mechanical, electrical, and plumbing shall be required between all trades. The Prime Subcontractor in a given area, as determined by the Contractor, shall submit their drawings to the other involved Subcontractors through the Prime Contractor.
- g. The Contractor will furnish and deliver to the Owner 1 copy of each shop drawing, submittal, sample, and data which has been reviewed by the Designer and which has received a "NO EXCEPTIONS TAKEN" or a "TO BE CORRECTED AS NOTED" evaluation. The Contractor or each Prime Contractor shall deliver these to the Owner within 14 calendar days of receiving each reviewed item from the Contractor following review by the Designer, or in the case where 1 copy of a sample was submitted, within 14 calendar days of receiving advice that the sample is "NO EXCEPTIONS TAKEN" or "TO BE CORRECTED AS NOTED." Coordinate delivery with the owner's project manager. The owner shall have the option of accepting submittal copies during construction or at closeout in which case the project expeditor shall neatly store all items by division in

“banker type” storage boxes or a separate file cabinet in the contractor’s office facility. All stored submittals and samples shall be accessible to owner at any time during normal working hours.

- h. After the Plumbing, HVAC, and Electrical shop drawing submittals have received a favorable review, the Contractor shall submit to the Designer for the Owner, complete operating and maintenance manuals as called for in Divisions 22, 23, and 26. These manuals shall be submitted not later than 14 calendar days before occupancy.
 - 1. Only Contract Documents, approved Change Orders, approved Contractor submittals to the extent they are in accordance with the Contract Documents, Designer bulletin drawings, and references specifically incorporated into Contract Documents constitute authoritative description of the Work. No other documents, including Contractor generated drawings, shall be considered authoritative.

ARTICLE 6 - WORKING DRAWINGS AND SPECIFICATIONS AT THE JOB SITE

- a. The contractor shall maintain, in readable condition at his job office, one complete set of working drawings and specifications for his work including all shop drawings. Such drawings and specifications shall be available for use by the Designer, State and Owner.
- b. The contractor shall maintain at the job office, a day-to-day record of work-in-place that is at variance with the contract documents. Such variations shall be fully noted on project drawings by the contractor and submitted to the designer upon project completion and no later than 30 days after acceptance of the project. The Contractor shall record, in contrasting colored ink, the location of underground utilities uncovered during excavation, and all changes or deviations from the shop drawings in the installation of equipment, routing of lines, etc. No work shall be permanently concealed until it has been checked off or recorded on these drawings.
- c. Final payment will not be made until these "Construction Record Drawings" are turned over to the Designer of record and reviewed and deemed complete in writing by the Designer, State and Owner.

ARTICLE 7 - OWNERSHIP OF DRAWINGS AND SPECIFICATIONS

All drawings and specifications are instruments of service and remain the property of the owner. The use of these instruments on work other than this contract without permission of the owner is prohibited. All copies of drawings and specifications other than contract copies shall be returned to the owner upon request after completion of the work.

Also see - GENERAL REQUIREMENTS.

ARTICLE 8 - MATERIALS, EQUIPMENT, EMPLOYEES

- a. The contractor shall, unless otherwise specified, supply and pay for all labor, transportation, materials, tools, apparatus, lights, power, heat, sanitary facilities, water, scaffolding and incidentals necessary for the completion of his work, and shall install, maintain and remove all equipment of the construction, other utensils or things, and be responsible for the safe, proper and lawful construction, maintenance and use of same, and shall construct in the best and most workmanlike manner, a complete job and everything incidental thereto, as shown

on the plans, stated in the specifications, or reasonably implied therefrom, all in accordance with the contract documents.

- b. All materials shall be new and of quality specified, except where reclaimed material is authorized herein and approved for use. Workmanship shall at all times be of a grade accepted as the best practice of the particular trade involved, and as stipulated in written standards of recognized organizations or institutes of the respective trades except as exceeded or qualified by the specifications.
- c. Upon notice, the contractor shall furnish evidence as to quality of materials.
- d. Products are generally specified by ASTM or other reference standard and/or by manufacturer's name and model number or trade name. When specified only by reference standard, the Contractor may select any product meeting this standard, by any manufacturer. When several products or manufacturers are specified as being equally acceptable, the Contractor has the option of using any product and manufacturer combination listed. However, the contractor shall be aware that the cited examples are used only to denote the quality standard of product desired and that they do not restrict bidders to a specific brand, make, manufacturer or specific name; that they are used only to set forth and convey to bidders the general style, type, character and quality of product desired; and that equivalent products will be acceptable. Request for substitution of materials, items, or equipment shall be submitted to the designer for approval or disapproval; such approval or disapproval shall be made by the designer prior to the opening of bids. These substitutions shall be made only by the Contractor and not by subcontractors or material suppliers. Necessary or required substitutions can be made after contract award per usual procedure, but only under unusual or extenuating circumstances.
- e. Each contractor shall obtain written approval from the designer for the use of products, materials, equipment, assemblies or installation methods claimed as equal to those specified. Such approvals must be obtained as soon after contract awards as possible and before any materials are ordered. Applications for approvals shall be made by the contractor and not by subcontractors or material suppliers within thirty (30) days following award of contract. When the submittal schedule provided under Article 5a is approved, no further substitutions will be permitted except in unusual or extenuating circumstances. If no list is submitted, the contractor shall supply materials specified.
- f. Substitutions must be approved by the Owner prior to implementation. The Designer shall provide the Owner with a recommendation for each substitution accompanied by a written letter from the Contractor explaining the reason for the substitution.
- g. If at any time during the construction and completion of the work covered by these contract documents, the conduct of any workman of the various crafts be adjudged a nuisance to the owner or designer, or if any workman be considered detrimental to the work, the contractor shall order such parties removed immediately from grounds and shall not be allowed to return to the project site.
- h. In making application for substitution, Contractor represents he has personally investigated the proposed product and manufacturer's installation guidelines, and determined that it is equal or superior in all respects to that specified by placing his/her proper stamp, date, item being substituted for, referenced section of project manual and drawing sheets applicable, and signature on each submittal item.

Bidder proposed substitutions of materials, items or equipment must be submitted not less than two (2) weeks prior to bid opening.

ARTICLE 9 - ROYALTIES, LICENSES AND PATENTS

It is the intention of the contract documents that the work covered herein will not constitute in any way infringement of any patent whatsoever unless the fact of such patent is clearly evidenced herein. The contractor shall protect and save harmless the owner against suit on account of alleged or actual infringement. The contractor shall pay all royalties and/or license fees required on account of patented articles or processes, whether the patent rights are evidenced hereinafter.

ARTICLE 10 - PERMITS, INSPECTIONS, FEES, REGULATIONS

- a. The contractor shall give all notices and comply with all laws, ordinances, codes, rules and regulations bearing on the conduct of the work under this contract. If the contractor observes that the drawings and specifications are at variance therewith, he shall promptly notify the designer in writing. See Instructions to Bidders, Paragraph 3, Bulletins and Addenda. Any necessary changes required after contract award shall be made by change order in accordance with Article 19. If the contractor performs any work knowing it to be contrary to such laws, ordinances, codes, rules and regulations, and without such notice to the designer, he shall bear all cost arising therefrom. Additional requirements implemented after bidding will be subject to equitable negotiations.
- b. All work under this contract shall conform to the North Carolina State Building Code and other State, local and national codes as are applicable. The cost of all required inspections and permits shall be the responsibility of the contractor.
- c. Projects constructed by the State of North Carolina or by any agency or institution of the State are not subject to inspection by any county or municipal authorities and are not subject to county or municipal building codes. The contractor shall, however, cooperate with the county or municipal authorities by obtaining building permits. Permits shall be obtained at no cost.
- d. Projects involving local funding (community colleges) are subject to county and municipal building codes and inspection by local authorities. The contractor shall pay the cost of these permits and inspections.
- e. The Contractor shall perform the Work in accordance with University North Carolina, Charlotte regulations and the Preconstruction Conference Checklist (if such checklist is furnished).

ARTICLE 11 - PROTECTION OF WORK, PROPERTY AND THE PUBLIC

- a. The contractors shall be jointly responsible for the entire site and the building or construction of the same and provide all the necessary protections, as required by the owner or designer, and by laws or ordinances governing such conditions. They shall be responsible for any damage to the owner's property, or of that of others on the job, by them, their personnel, or their subcontractors, and shall make good such damages. They shall be responsible for and pay for any damages caused to the owner. All contractors shall have access to the project at all times.

- b. The contractor shall provide cover and protect all portions of the structure when the work is not in progress, provide and set all temporary roofs, covers for doorways, sash and windows, and all other materials necessary to protect all the work on the building, whether set by him, or any of the subcontractors. Any work damaged through the lack of proper protection or from any other cause, shall be repaired or replaced without extra cost to the owner.
- c. No fires of any kind will be allowed inside or around the operations during the course of construction without special permission from the designer.
- d. The contractor shall protect all trees and shrubs designated to remain in the vicinity of the operations by building substantial boxes around same. He shall barricade all walks, roads, etc., as directed by the designer to keep the public away from the construction. All trenches, excavations or other hazards in the vicinity of the work shall be well barricaded and properly lighted at night. All material including excess fill, construction debris, etc., which is not to be used at the project site shall be disposed of off-site.
- e. The contractor shall provide all necessary safety measures for the protection of all persons on the job, including the requirements of the A.G.C. Accident Prevention Manual in Construction, as amended, and shall fully comply with all state laws or regulations and North Carolina State Building Code requirements to prevent accident or injury to persons on or about the location of the work. He shall clearly mark or post signs warning of hazards existing, and shall barricade excavations, elevator shafts, stairwells and similar hazards. He shall protect against damage or injury resulting from falling materials and he shall maintain all protective devices and signs throughout the progress of the work.
- f. The contractor shall adhere to the rules, regulations and interpretations of the North Carolina Department of Labor relating to Occupational Safety and Health Standards for the Construction Industry (Title 29, Code of Federal Regulations, Part 1926, published in Volume 39, Number 122, Part II, June 24, 1974, Federal Register), and revisions thereto as adopted by General Statutes of North Carolina 95-126 through 155.
- g. The contractor shall designate a responsible member of his organization as safety inspector, whose duties shall include accident prevention on the work project. The name of the safety inspector shall be made known to the Designer, State and Owner at the time the work is started.
- h. In the event of emergency affecting the safety of life, the protection of work, or the safety of adjoining properties, the contractor is hereby authorized to act at his own discretion, without further authorization from anyone, to prevent such threatened injury or damage. Any compensation claimed by the contractor on account of such action shall be determined as provided for under Article 19(b).
- i. Water Protection: Contractor at all times shall protect excavation, trenches, and building from damage from rain water, spring water, ground water, backing up of drains or sewers, and all other water. He shall provide all pumps and equipment and enclosures to provide this protection. It is imperative that all trenches and underground pipe work be completely dry before installing insulation. Cover trenches with polyvinyl covering as required. Any trench and/or associated piping that has become wet, must be completely dried, using mechanical means if necessary, to the complete satisfaction of the Engineer before installing piping, conduits, etc.

- j. Temporary Drainage: Contractor shall construct and maintain all necessary temporary drainage and do all pumping necessary to keep excavations and trenches free of water and completely dry. This provision shall include ground water and subsurface water.
- k. Snow and Ice: Contractor shall remove all snow and ice as may be required for proper protection and execution of work.
- l. Cold Weather: During cold weather, Contractor shall protect all work against damage. If low temperatures make it impossible to continue operations safely in spite of cold weather precautions, Contractor shall cease work, and shall so notify Engineer.
- m. Protection of Streets and Walks: Contractor shall be responsible for protecting the streets, walkways, etc. adjacent to and connecting to the project from deposits of mud, sand, stone, litter, or debris of any form. Since the construction project is inevitably carried on during the regular course of the campus activities, it is necessary that every effort be taken to minimize the interference caused by the construction with the regular program of activities. All mud collected on vehicle wheels must be cleaned off before leaving the construction area. Contractor will install a wash down station inside the construction limits. Should any mud or debris collect on the streets from the construction project, this shall be removed immediately by the Contractor before becoming a traffic hazard or being carried into the surrounding buildings.
- n. Protection of Drainage System: All catch basins and storm drain lines in the vicinity of the project site shall be protected at all times from the entry of construction debris. The residue from the cleaning of ready-mix trucks, wheelbarrows, concrete buggies, etc., shall be prevented from entering the drainage system; and if cleaning is done, it shall be contained, and the residue removed from the site with other refuse.
- o. Soil Erosion: Where topsoil is removed and grading is accomplished on the project site, or where the existing ground surface is otherwise disturbed, care shall be taken to prevent soil erosion. Where existing grassed areas are damaged or disturbed during construction which will remain grassed, Contractor shall reseed with matching grass to return area to original condition. Where other areas within the Construction Limits are disturbed, Contractor shall mulch as required in the Contract Documents. Areas used by the Contractor for storage, staging, etc., shall receive appropriate treatment to prevent erosion of soil. These areas shall be restored to original condition or otherwise finished in accordance with the Contract requirements.

Also see - GENERAL REQUIREMENTS.

ARTICLE 12 - SEDIMENTATION POLLUTION CONTROL ACT OF 1973

- a. Any land-disturbing activity performed by the contractor(s) in connection with the project shall comply with all erosion control measures set forth in the contract documents and any additional measures which may be required in order to ensure that the project is in full compliance with the Sedimentation Pollution Control Act of 1973, as implemented by Title 15, North Carolina Administrative Code, Chapter

4, Sedimentation Control, Subchapters 4A, 4B and 4C, as amended (15 N.C.A.C. 4A, 4B and 4C).

- b. Upon receipt of notice that a land-disturbing activity is in violation of said act, the contractor(s) shall be responsible for ensuring that all steps or actions necessary to bring the project in compliance with said act are promptly taken.
- c. The contractor(s) shall be responsible for defending any legal actions instituted pursuant to N.C.G.S. 113A-64 against any party or persons described in this article.
- d. To the fullest extent permitted by law, the contractor(s) shall indemnify and hold harmless the owner, the designer and the agents, consultants and employees of the owner and designer, from and against all claims, damages, civil penalties, losses and expenses, including, but not limited to, attorneys' fees, arising out of or resulting from the performance of work or failure of performance of work, provided that any such claim, damage, civil penalty, loss or expense is attributable to a violation of the Sedimentation Pollution Control Act. Such obligation shall not be construed to negate, abridge or otherwise reduced any other right or obligation of indemnity which would otherwise exist as to any party or persons described in this article.
- e. The Contractor shall comply with the following requirements:
 - 1) Equipment utilized during the construction activity on a site must be operated and maintained in such a manner as to prevent the potential or actual pollution of the surface or ground waters of the state. Fuels, lubricants, coolants, and the hydraulic fluids, or any other petroleum products, shall not be discharged on to the ground or into surface waters. Spent fluids shall be disposed of in a manner so as not to enter the waters, surface or ground, of the State and in accordance with applicable State and Federal disposal regulations. Any spilled fluids shall be cleaned up to the extent practicable and disposed of in a manner so as not to allow their entry into the waters, surface of ground, of the State.
 - 2) Herbicide, pesticide, and fertilizer usage during the construction activity shall be restricted to those materials approved by EPA and shall be in accordance with label restrictions.
 - 3) All wastes composed of building materials shall be disposed of in accordance with North Carolina General Statutes, Chapter 130A, Article 9 – Solid Waste Management, and rules governing the disposal of solid waste (North Carolina Administrative Code Section 15A NCAC 13B).
 - 4) Minimum Monitoring and Reporting Requirements (Unless otherwise approved in writing by the Division of Environmental Management). The Contractor installing any erosion control device shall comply with the following requirements:
 - a) All sedimentation and erosion control of facilities shall be inspected by the Contractor at least once every seven (7) calendar days and within twenty-four (24) hours after any storm event of greater than 0.5 inches of rain per twenty-four (24) hour period.
 - b) Storm water runoff discharges shall be inspected by visual observation for color, foam, outfall staining, visible sheens, dry

weather flows and muddy water at the above frequency to evaluate the effectiveness of the pollution control facilities or practices. If any visible off-site sedimentation is leaving the site, corrective action shall be taken to reduce the discharge of sediments.

- c) The Contractor shall submit to the Owner a written report of weekly inspections. Visible sedimentation found off the site shall be recorded with a brief explanation as to the measures taken to prevent future releases as well as any measures taken to clean up the sediment that has left the site. This record shall be made available to DEM or authorized agent upon request.

ARTICLE 13 - INSPECTION OF THE WORK

- a. It is a condition of this contract that the work shall be subject to inspection during normal working hours by the designer, designated official representatives of the owner, and those persons required by state law to test special work for official approval. The contractor shall therefore provide safe access to the work at all times for such inspections. The Contractor shall also serve the same notice to the Owner for all such inspections or testing.
- b. All instructions to the contractor will be made only by or through the designer or his designated project representative. Observations made by official representatives of the owner shall be conveyed to the designer for review and coordination prior to issuance to the contractor.
- c. Where special inspection or testing is required by virtue of any state laws, instructions of the designer, specifications or codes, the contractor shall give adequate notice to the designer of the time set for such inspection or test, if the inspection or test will be conducted by a party other than the designer. Such special tests or inspections will be made in the presence of the designer, or his authorized representative, and it shall be the contractor's responsibility to serve ample notice of such tests.
- d. All laboratory tests shall be paid by the owner unless provided otherwise in the contract documents except the general contractor shall pay for laboratory tests to establish design mix for concrete, and for additional tests to prove compliance with contract documents where materials have tested deficient except when the testing laboratory did not follow the appropriate ASTM testing procedures.
- e. Should any work be covered up or concealed prior to inspection and approval by the designer, such work shall be uncovered or exposed for inspection, if so requested by the designer in writing. Inspection of the work will be made promptly upon notice from the contractor. All cost involved in uncovering, repairing, replacing, recovering and restoring to design condition, the work that has been covered or concealed will be paid by the contractor involved.
- f. If any other portion of the work has been covered which the designer has not specifically requested to observe prior to being covered, the designer may request to see such work and it shall be uncovered by the contractor. If such work be found in accordance with the contract documents, the cost of uncovering and replacement shall, by appropriate change order, be charged to the owner. If such work be found not in accordance with the contract documents, the contractor shall pay such costs unless it be found that this condition was caused by the owner or a

separate contractor as provided in Article 15, in which event the owner or the separate contractor shall be responsible for the payment of such costs.

- g. The Owner intends to conduct the pre-final inspection, and final inspection, which shall be included in the construction schedule. Any of these inspections which are not completed satisfactorily, will be repeated at no cost to the Owner and without a time extension.

ARTICLE 14 - CONSTRUCTION SUPERVISION AND SCHEDULE

- a. Throughout the progress of the work, each contractor shall keep at the job site, a competent superintendent or supervisory staff satisfactory to the designer. The superintendent shall not be changed without the consent of the Designer, State and Owner unless said superintendent ceases to be employed by the contractor or ceases to be competent. The superintendent shall have authority to act on behalf of the contractor, and instructions, directions or notices given to him shall be as binding as if given to the contractor. However, directions, instructions, and notices shall be confirmed in writing. The Contractor and each of his Prime Subcontractors shall keep a Superintendent on the Project during the progress of the Work, for purposes of coordination with other Prime Subcontractors, and if required by the Owner, regardless of whether said Contractor or Prime Subcontractor has work currently in progress. Contractors are allowed to work any day of the year, except at times when the Owner may have special events which would be disrupted by Contractor's activities.
- b. The contractor shall examine and study the drawings and specifications and fully understand the project design, and shall provide constant and efficient supervision to the work. Should he discover any discrepancies of any sort in the drawings or specifications, he shall report them to the designer without delay. He will not be held responsible for discrepancies in the drawings and/or specifications, but shall be held responsible to report them should they become known to him. Where compliance with two or more requirements, material or equipment, are specified and the requirements, materials or equipment, establish conflicting specifications or quality levels, the contractor is to comply with the most stringent or higher quality specification. The Designer shall be the authority for determining the highest quality specification.
- c. All contractors shall be required to cooperate and consult with each other during the construction of this project. Prior to installation of work, all contractors shall jointly prepare coordination drawings, showing locations of various ductworks, piping, motors, pumps, and other mechanical or electrical equipment, in relation to the structure, walls and ceilings. These drawings shall be submitted to the designer through the Project Expediter for information only. Each contractor shall lay out and execute his work to cause the least delay to other contractors. Each contractor shall be financially responsible for any damage to other contractor's work and for undue delay caused to other contractors on the project. Each Contractor shall indemnify and save harmless the Owner and Designer for any delay caused to him/her by other Contractors
- d. The contractor is required to attend monthly job site progress conferences as called by the designer. The contractor shall be represented at these job progress conferences by both home office and project personnel. These representatives shall have authority to act on behalf of the contractor. These meetings shall be open to subcontractors, material suppliers and any others who can contribute toward maintaining required job progress. It shall be the principal purpose of these

meetings, or conferences, to effect coordination, cooperation and assistance in every practical way toward the end of maintaining progress of the project on schedule and to complete the project within the specified contract time. Each contractor shall be prepared to assess progress of the work as required in his particular contract and to recommend remedial measures for correction of progress as may be appropriate. The designer or his authorized representative shall be the coordinator of the conferences and shall preside as chairman.

- e. The contractor(s) shall, if required by the Supplementary General Conditions, employ an engineer or a land surveyor licensed in the State of North Carolina to lay out the work and to establish a bench mark nearby in a location where same will not be disturbed and where direct instruments sights may be taken.
- f. The designer shall designate a Project Expediter on projects involving two or more prime contracts. The Project Expediter shall be designated in the Supplementary General Conditions. The Project Expediter shall have the following responsibilities. Unless designated otherwise, the General Contractor shall be the Project Expediter.
 - 1) Prepare the project construction schedule and shall allow all prime contractors (multi-prime contract) and subcontractors (single-prime contract) performing general, plumbing, HVAC, and electrical work equal input into the preparation of the initial construction schedule.
 - 2) Maintain a project progress schedule for all contractors.
 - 3) Give adequate notice to all contractors to ensure efficient continuity of all phases of the work.
 - 4) Notify the designer of any changes in the project schedule.
 - 5) Recommend to the owner whether payment to a contractor shall be approved.
 - 6) The Project Expediter shall prepare daily and have available for inspection by the Designer, State, and Owner daily project reports. Project daily reports shall be prepared for every day of the project beginning with the date of the notice to proceed and terminating with project completion. Daily reports must also be completed for all weekends and holidays. The daily reports are to include the following items (at a minimum): Superintendents name and signature; day and date; morning and afternoon temperature; weather (clear, cloudy, rain and duration of rain); site conditions; other applicable weather conditions; crew sizes for all contractors and subcontractors on site; and major work accomplished for that day.
- g. It shall be the responsibility of the Project Expediter to cooperate with and obtain from several prime contractors and subcontractors on the job, their respective work activities and integrate these activities into a project construction schedule in form of a detailed bar chart or Critical Path Method (CPM), schedule. Each prime contractor shall provide work activities within fourteen (14) days of request by the Project Expediter. A "work activity", for scheduling purposes, shall be any component or contractual requirement of the project requiring at least one (1) day, but not more than fourteen (14) days, to complete or fulfill. The project construction schedule shall graphically show all salient features of the work

required to construct the project from start to finish and within the allotted time established in the contract. The time (in days) between the contractor's early completion and contractual completion dates is part of the project total float time; and shall be used as such, unless amended by a change order. On a multi-prime project, each prime contractor shall review the proposed construction schedule and approve same in writing. The Project Expediter shall submit the proposed construction schedule to the designer for comments. The complete Project construction schedule shall be of the type set forth in the Supplementary General Condition or subparagraph (1) or (2) below, as appropriate:

- 1) For a project with total contracts of \$1,000,000 or less, a bar chart schedule will satisfy the above requirement. The schedule shall indicate the estimated starting and completion dates for each major element of the work.
- 2) For a project with total contracts over \$1,000,000, a Critical Path Method (CPM) schedule shall be utilized to control the planning and scheduling of the Work. The CPM schedule shall be the responsibility of the Project Expediter and shall be paid for by the Project Expediter.

Bar Chart Schedule: Where a bar chart schedule is required, it shall be time-scaled in weekly increments, shall indicate the estimated starting and completion dates for each major element of the work by trade and by area, level, or zone, and shall schedule dates for all salient features, including but not limited to the placing of orders for materials, submission of shop drawings and other Submittals for approval, approval of shop drawings by designers, the manufacture and delivery of material, the testing and the installation of materials, supplies and equipment, and all Work activities to be performed by the Contractor. The Contractor shall allow sufficient time in his schedule for all required inspections. Each Work activity will be assigned a time estimate by the Contractor. One day shall be the smallest time unit used.

CPM Schedule: Where a CPM schedule is required, it shall be in time-scaled precedence format using the Project Expediter's logic and time estimates. The CPM schedule shall be drawn or plotted with activities grouped or zoned by Work area or subcontract as opposed to a random (or scattered) format. The CPM schedule shall be time-scaled on a weekly basis and shall be drawn or plotted at a level of detail and logic which will schedule all salient features of the work to be performed by the Contractor. The Contractor shall allow sufficient time in his schedule for all required inspections. Each Work activity will be assigned a time estimate by the Contractor. One day shall be the smallest time unit used.

The CPM schedule will identify and describe each activity, state the duration of each activity, the calendar dates for the early and late start and the early and late finish of each activity, and clearly highlight all activities on the critical path. "Total float" and "free float" shall be indicated for all activities. Float time shall not be considered for the exclusive use or benefit of either the Owner or the Contractor, but must be allocated in the best interest of completing the Work within the Contract time. Extensions to the Contract time, when granted by Change Order, will be granted only when equitable time adjustment exceeds the Total Float in the activity or path of activities affected by the

change. On contracts with a price over \$2,500,000, the CPM schedule shall also show what part of the Contract Price is attributable to each activity on the schedule, the sum of which for all activities shall equal the total Contract Price. Provide CPM CONSTRUCTION SCHEDULE as stated below:

- 1) 1. The Construction Schedule shall show the date when the work of each Specification Section is to begin and is to be completed, its total dollar value percent to be completed each month, and total dollar value to be completed each month. The initial schedule and subsequent updates shall be signed by the general contractor.
- 2) The Construction Schedule shall be a schedule in time scaled logic network in the Critical Path Method and shall depict sequence of operations mutually agreeable to the Owner, designer, and each of the Prime Sub-Contractors.
- 3) The dates of commencement and completion of each of the various stages of the work (including lead time activities, drawing and sample submissions, bidding, awarding subcontracts, manufacturing and shipping); delivery dates for material and equipment by separate contract in detail satisfactory to the Designer. Such Schedule shall show a complete itemized breakdown of the work, and shall include networks for all phases of the work including networks for all work to be performed by the Contractor or all Prime Sub- Contractors.
- 4) The schedule and all other constructions schedules shall include 1 and only 1 critical path and this critical path shall be clearly identified. The Construction Schedule shall include the early and late start dates and early and late finish dates of all activities.
- 5) The Contractor shall also submit a separate progress schedule listing all submittals required under the contract and when it is anticipated that each submittal will be submitted allowing 20 days for the designer's review. The separate progress schedule shall be an excerpt from the above described construction schedule.
- 6) The schedule shall not indicate any on-site construction activity longer than 21 consecutive calendar days or any other activity longer than 28 consecutive calendar days. Any activity with an anticipated longer duration must therefore be broken into component activities, each of which has duration of no longer than 28 calendar days. The initial schedule and subsequent updates shall be submitted in 24" X 36" color plots using a font size acceptable to the owner. Additionally, one 11" X 17" copy shall be submitted with each color plot.
- 7) The Construction Schedule shall anticipate all weather delays which may be predicted from analysis of weather reports for the last 5 years and allowances for rock and unsuitable soil removal. The schedule shall also include all major milestones and all anticipated inspection, shutdowns/outages for electrical, water, natural gas, and steam tie-ins if applicable.

As a separate document, the Contractor shall submit progress report, with each Application for Payment, which shall consist of a checklist showing the date of

commencement of each activity on the Construction Schedule then commenced the date of completion of those activities completed, and the approximate percentage of completion of each activity. The Contractor shall receive the permission of the Owner to make changes to the schedule. Notwithstanding any other provisions here of to the contrary, the time of completion may be extended only by a written change order.

Whenever the Schedule of Work changes, the Construction Schedule, which is a different document from the progress report, shall be revised by the Contractor to include the Schedule revisions of all the Prime Sub-Contractors and other sub-contractors and submitted with the next Application for Payment. This revised schedule shall include all information required of the schedule prior to revisions and shall provide for completion on the Contract Completion Date.

The Contractor shall advise in advance, at least 24 hours on a weekday and at least 48 hours on weekends and legal holidays, of all schedule changes, so that any Owner inspections can be arranged. If no revised Construction Schedule is included with an Application for Payment, this lack of inclusion shall constitute a certification by each and all the Contractors that no changes in the Construction Schedule have occurred.

Ownership of float and purpose of Schedule

- 1) All schedule float, slacktime, or contingency within the schedule jointly belongs to the Owner and Contractor. The Owner shall be entitled to require early completion and clean up of certain portions of the Work. (i.e. the difference in time between the projects early completion and the required completion date and total float within the overall schedule, is not the exclusive use of either the owner or the Contractor, but is jointly owned by each and is a resource available to and shared by each of the parties as needed to meet contract milestones and the contract completion dates with the owner receiving initial benefit. The Contractor shall not sequester shared float through such strategies as extending activity duration estimates to consume available float, using preferential logic or using extensive crew/resource sequencing etc. since float time within the schedule is jointly owned, no time extensions will be granted until a delay occurs which extends the work beyond the contract completion date. Since float time within the construction schedule is jointly owned, it is acknowledged that owner caused delays on the project may be offset by Owner caused time savings (i.e., critical path submittals returned in less time than allowed by the contract, approval of substitution requests which result in a savings of time to the Contractor. In such an event, the Contractor shall not be entitled to receive a time extension until all owner caused time savings are exceeded and the contract completion date is also exceeded.

The submittal of a fully revised and acceptable construction schedule shall be a condition precedent to the processing of the second monthly payment application. As such, each of the prime Sub-Contractors have a specific obligation to each of the other Prime-Sub Contractors and to the owner to provide all necessary information and to fully cooperate with the Contractor in the development of this and all other construction schedules, including monthly updated construction schedules. All updated construction schedules

shall include an updated submittal process schedule excerpted from the construction schedule.

Regardless of which submittal method the Contractor elects to use in formulating the construction schedule, an updated schedule shall be submitted to the owner 5 days prior to submittal of any monthly payment request. The submittal of the updated construction schedule, which satisfies the requirement of this article accurately reflects the status of the work, and incorporates all changes into the schedule, shall be a condition precedent to the processing of the monthly payment application. Updated schedules shall also be submitted at such other times as the Owner may direct. Upon approval of a change order or issuance of a directive to proceed with a change the approved change order shall be reflected in the next schedule update submitted by the Contractor or other update submittal approved by the Owner.

If completion of any part of the work, the delivery of equipment or materials, or submittal of any of the submittals is behind the updated construction schedule and will impact the end date of the work past the contract completion date, the Contractor, shall submit in writing, a plan acceptable to the owner for completing the work on or before the current completion date.

No extensions of time shall be granted unless the delay can be clearly demonstrated by the Contractor, on the basis of the updated construction schedule current as of the month the change is issued on the delay occurred and which delay cannot be mitigated, offset, or eliminated through such actions as revising the intended sequence of work or other means. It is recognized that any such delay which is the direct result of, and only the direct result of an owner directed change may entitle the Contractor to added compensation for efforts to maintain the schedule or for costs related to extending the schedule as a result of the owner directed change which cannot be accommodated by owner caused time savings.

As a precedent to the release of retained funds, the Contractor shall, after completion of the work has been achieved, submit a final construction schedule which accurately reflects the manner in which the project was constructed and includes actual start and completion dates for all work activities on the construction schedule.

Should the Contractor fail or refuse to complete any portion of the work in accordance with the Construction Schedule, the Owner may perform or cause to be performed the work necessary to cause such completion, and all costs incurred by Owner and Designer shall be deducted from any monies which otherwise may become due the Contractor. Should such costs exceed monies due, the Contractor shall reimburse the Owner within 30 days of the Owner documenting the costs to the Contractor. Schedule shall be prepared by a third party scheduling consultant.

The Contractor shall anticipate that the Owner may require various changes to the work. Only those changes which also change the duration of the critical path shall entitle the Contractor to present a claim for schedule impact, acceleration, or deceleration, only to

the extent of the change in the duration of the critical path. Beyond compensation given in resolution of such a claim for acceleration or deceleration.

The purpose of the Construction Schedule, and monthly updates as hereinbefore described, or as may be otherwise submitted and approved, shall be to furnish the Owner and Designer with information to indicate that the Contractor has planned the Project in sufficient detail for the Contractor to insure that its construction can be accomplished in an orderly manner and on the Contract completion date. The dollar value estimates to be included on the schedule are to assist the Owner in cash flow planning so that funds will be readily available to pay the Applications for Payment. Monthly progress reports and updates are to furnish the Owner with current status of any changes required in the original schedule which will assist the Owner in scheduling delivery and installation of any products, furnishings, etc., necessary for the operation of the facility for its intended purpose. The responsibility for construction planning and the effective efficient implementation of such, or the converse, to meet the Contract completion date, or authorized appropriate extensions therefore, are the total responsibility of the Contractor, and such responsibility shall not transfer to the Owner/Designer. Preview of the original Construction Schedule, and subsequent modifications thereto, by the Owner and/or the Designer shall be limited to the general purposes set out above. Such approval shall not operate to imply the agreement of the Owner/Designer to the Contractor's planned procedures, coordination, critical path scheduling, etc., as being appropriate or reasonable.

Contractor shall assign manpower loading for each activity of the schedule by applying the total man-hours required to complete each activity to a resource identified as "man-hours" on each activity.

If the Contractor submits an early completion baseline schedule that shows contract completion in less than 85 percent of the working days specified in these special provisions, the baseline schedule shall be supplemented with resource allocations for every task activity and include time-scaled resource histograms. The resource allocations shall be shown to a level of detail that facilitates report generation based on labor crafts and equipment classes for the Contractor and subcontractors. The Contractor shall use average composite crews to display the labor loading of on-site construction activities. The Contractor shall optimize and level labor to reflect a reasonable plan for accomplishing the work of the contract and to assure that resources are not duplicated in concurrent activities. The time-scaled resource histograms shall show labor crafts and equipment classes to be utilized on the contract. The Engineer may review the baseline schedule activity resource allocations using Means Productivity Standards or equivalent to determine if the schedule is practicable.

Early Completion of Project: The Contractor may attempt to complete the project prior to the Contract Completion Date. However, such planned early completion shall be for the Contractor's convenience only and shall not create any additional rights of the Contractor or obligations of the Owner under this Contract, nor shall it change the Time for Completion or the Contract Completion Date. The Contractor shall not be required to pay liquidated damages to the Owner because of its failure to complete by its planned

earlier date. Likewise, the Owner shall not pay the Contractor any additional compensation for early completion nor will the Owner owe the Contractor any compensation should the Owner, its officers, employees, or agents cause the Contractor not to complete earlier than the date required by the Contract Documents.

- h. The proposed project construction schedule shall be presented to the designer no later than thirty (30) days after written notice to proceed. No application for payment will be processed until this schedule is accepted by the owner.
- i. The approved project construction schedule shall be distributed to all contractors and displayed at the job site by the Project Expediter.
- j. The several contractors shall be responsible for their work activities and shall notify the Project Expediter of any necessary changes or adjustments to their work. The Project Expediter shall maintain the project construction schedule, making monthly adjustments, updates, corrections, etc., that are necessary to finish the project within the Contract time, keeping all contractors and the designer fully informed. Copy of a bar chart schedule annotated to show the current progress shall be submitted by the Contractor(s) to the designer, along with monthly request for payment. For project requiring CPM schedule, the Contractor shall submit a monthly report of the status of all activities. The bar chart schedule or monthly status report shall show the actual Work completed to date in comparison with the original Work scheduled for all activities. If any activities of the work of several contractors are behind schedule, the contractor must indicate in writing, what measures will be taken to bring each such activity back on schedule and to ensure that the Contract Completion Date is not exceeded. A plan of action and recovery schedule shall be developed and submitted to the designer by the Project Expediter, when (1) the contractor's monthly report indicates delays, that are in the opinion of the designer or the owner, of sufficient magnitude that the contractor's ability to complete the work by the scheduled completion is brought into question; (2) the updated construction schedule is thirty (30) days behind the planned or baseline schedule and no legitimate time extensions are in process; and (3) the contractor desires to make changes in the logic (sequencing of work) or the planned duration of future activities of the CPM schedule which, in the opinion of the designer or the owner, are of a major nature. The plan of action, when required shall be submitted to the Owner for review within two (2) business days of the Contractor receiving the Owner's written demand. The recovery schedule, when required, shall be submitted to the Owner within five (5) calendar days of the Contractor's receiving the Owner's written demand. Failure to provide an updated construction schedule or a recovery schedule may be grounds for rejection of payment applications or withholding of funds as set forth in Article 33.
- k. The Project Expediter shall notify each contractor of such events or time frames that are critical to the progress of the job. Such notice shall be timely and reasonable. Should the progress be delayed due to the work of any of the several contractors, it shall be the duty of the Project Expediter to immediately notify the contractor(s) responsible for such delay, the designer, the State Construction Office and other prime contractors. The designer shall determine the contractor(s) who caused the delays and notify the bonding company of the responsible contractor(s) of the delays; and shall make a recommendation to the owner regarding further action.

- l. Designation as Project Expediter entails an additional project control responsibility and does not alter in any way the responsibility of the contractor so designated, nor the responsibility of the other contractors involved in the project.
- m. Prior to and during the execution of the Work, the Contractor shall immediately report any error, discrepancies, conflicts, and omissions found therein to the Designer in writing and shall have the same explained or corrected by the Designer before proceeding with the Work. Any necessary changes shall be adjusted as required thereafter by Article 19 - Changes in the Work. Any work done by the Contractor or after these Conditions have been discovered, and before the Designer has either explained or made corrections, shall be corrected at the Contractor's expense. The Contractor shall coordinate all work of his Contract to produce the required finished Project in accordance with the Contract Documents. Special attention shall be given to the submission of shop drawings, samples, color charts, and requests for substitution within the specified time; furnishing the proper shop drawings to Subcontractors, and material suppliers, whose work and equipment is affected by and related thereto; and the furnishing of all information concerning location, type, and size of built-in equipment and materials and equipment utilities. This coordination is in addition to all other coordination requirements called for in the technical sections of the Project Manual.
- n. The Contractor shall post a sign indicating firearms are prohibited on the job site.

ARTICLE 15 - SEPARATE CONTRACTS AND CONTRACTOR RELATIONSHIPS

- a. Effective from January 1, 2002, Chapter 143, Article 8, was amended, to allow public contracts to be bid in single-prime, dual (single-prime and separate-prime), construction manager at risk, and alternative contracting method as approved by the State Building Commission. The owner reserves the right to prepare separate specifications, receive separate bids, and award separate contracts for such other major items of work as may be in the best interest of the State. For the purposes of a single prime contract, refer to Article 1 – Definitions.
- b. All contractors shall cooperate with each other in the execution of their work, and shall plan their work in such manner as to avoid conflicting schedules or delay of the work. See Article 14, Construction Supervision.
- c. If any part of contractor's work depends upon the work of another contractor, defects which may affect that work shall be reported to the designer in order that prompt inspection may be made and the defects corrected. Commencement of work by a contractor where such condition exists will constitute acceptance of the other contractor's work as being satisfactory in all respects to receive the work commenced, except as to defects which may later develop. The designer shall be the judge as to the quality of work and shall settle all disputes on the matter between contractors.
- d. Any mechanical or electrical work such as sleeves, inserts, chases, openings, penetrations, etc., which is located in the work of the general contractor shall be built in by the general contractor. The respective mechanical and electrical contractors shall set all sleeves, inserts and other devices that are to be incorporated into the structure in cooperation and under the supervision of the general contractor. The responsibility for the exact location of such items shall be that of the mechanical and/or electrical contractor.
- e. The designer and the owner shall have access to the work whenever it is in preparation and progress during normal working hours. The contractor shall

provide facilities for such access so the designer may perform his functions under the contract documents.

- f. Should a contractor cause damage to the work or property of another contractor, he shall be directly responsible, and upon notice, shall promptly settle the claim or otherwise resolve the dispute.
- g. The Contractor shall provide all required Site Utilities Work, including but not limited to: Site Storm Sewer, Site Sanitary Sewer, Water and Steam Lines, Natural Gas, and Electrical. Final connection from building to site utilities shall be by the Contractor.

Also see DIVISION 1 - GENERAL REQUIREMENTS.

ARTICLE 16 - SUBCONTRACTS AND SUBCONTRACTORS

- a. Within thirty (30) days after award of the contract, the contractor shall submit to the Designer and Owner and to the State Construction Office a list giving the names and addresses of subcontractors and equipment and material suppliers he proposes to use, together with the scope of their respective parts of the work. Should any subcontractor be disapproved by the designer, the designer shall submit his reasons for disapproval in writing to the State Construction Office for its consideration with a copy to the contractor. If the State Construction Office concurs with the designer's recommendation, the contractor shall submit a substitute for approval. The designer shall act promptly in the approval of subcontractors, and when approval of the list is given, no changes of subcontractors will be permitted except for cause or reason considered justifiable by the Designer and Owner.
- b. The designer will furnish to any subcontractor, upon request, evidence regarding amounts of money paid to the contractor on account of the subcontractor's work.
- c. The contractor is and remains fully responsible for his own acts or omissions as well as those of any subcontractor or of any employee of either. The contractor agrees that no contractual relationship exists between the subcontractor and the owner in regard to the contract, and that the subcontractor acts on this work as an agent or employee of the contractor.
- d. The owner reserves the right to limit the amount of portions of work to be subcontracted as hereinafter specified.

ARTICLE 17 - CONTRACTOR AND SUBCONTRACTOR RELATIONSHIPS

The contractor agrees that the terms of these contract documents shall apply equally to each subcontractor as to the contractor, and the contractor agrees to take such action as may be necessary to bind each subcontractor to these terms. The contractor further agrees to conform to the Code of Ethical Conduct as adopted by the Associated General Contractors of America, Inc., with respect to contractor-subcontractor relationships, and that payments to subcontractors shall be made in accordance with the provisions of G.S. 143-134.1 titled Interest on final payments due to prime contractors: payments to subcontractors.

- a. On all public construction contracts which are let by a board or governing body of the state government or any political subdivision thereof, except contracts let by

the Department of Transportation pursuant to G.S. 136-28.1, the balance due prime contractors shall be paid in full within 45 days after respective prime contracts of the project have been accepted by the owner, certified by the architect, engineer or designer to be completed in accordance with terms of the plans and specifications, or occupied by the owner and used for the purpose for which the project was constructed, whichever occurs first. Provided, however, that whenever the architect or consulting engineer in charge of the project determines that delay in completion of the project in accordance with terms of the plans and specifications is the fault of the contractor, the project may be occupied and used for the purposes for which it was constructed without payment of any interest on amounts withheld past the 45day limit. No payment shall be delayed because of the failure of another prime contractor on such project to complete his contract. Should final payment to any prime contractor beyond the date such contracts have been certified to be completed by the designer or architect, accepted by the owner, or occupied by the owner and used for the purposes for which the project was constructed, be delayed by more than 45 days, said prime contractor shall be paid interest, beginning on the 46th day, at the rate of one percent (1%) per month or fraction thereof unless a lower rate is agreed upon on such unpaid balance as may be due. In addition to the above final payment provisions, periodic payments due a prime contractor during construction shall be paid in accordance with the payment provisions of the contract documents or said prime contractor shall be paid interest on any such unpaid amount at the rate stipulated above for delayed final payments. Such interest shall begin on the date the payment is due and continue until the date on which payment is made. Such due date may be established by the terms of the contract. Funds for payment of such interest on state-owned projects shall be obtained from the current budget of the owning department, institution or agency. Where a conditional acceptance of a contract exists, and where the owner is retaining a reasonable sum pending correction of such conditions, interest on such reasonable sum shall not apply.

- b. Within seven days of receipt by the prime contractor of each periodic or final payment, the prime contractor shall pay the subcontractor based on work completed or service provided under the subcontract. Should any periodic or final payment to the subcontractor be delayed by more than seven days after receipt of periodic or final payment by the prime contractor, the prime contractor shall pay the subcontractor interest, beginning on the eighth day, at the rate of one percent (1%) per month or fraction thereof on such unpaid balance as may be due.
- c. The percentage of retainage on payments made by the prime contractor to the subcontractor shall not exceed the percentage of retainage on payments made by the owner to the prime contractor. Any percentage of retainage on payments made by the prime contractor to the subcontractor that exceeds the percentage of retainage on payments made by the owner to the prime contractor shall be subject to interest to be paid by the prime contractor to the subcontractor at the rate of one percent (1%) per month or fraction thereof.
- d. Nothing in this section shall prevent the prime contractor at the time of application and certification to the owner from withholding application and certification to the owner for payment to the subcontractor for unsatisfactory job progress; defective construction not remedied; disputed work; third-party claims filed or reasonable evidence that claim will be filed; failure of subcontractor to make timely payments for labor, equipment and materials; damage to prime contractor or another subcontractor; reasonable evidence that subcontract cannot be completed for the unpaid balance of the subcontract sum; or a reasonable amount for retainage not to exceed the initial percentage retained by owner.

The Contractor has the responsibility to insure that all product suppliers, and Prime Subcontractors, their agents and employees, adhere to the Contract Documents and that they provide all products on time.

ARTICLE 18 - DESIGNER'S STATUS

- a. The designer shall provide general administration of the performance of construction contracts, including liaison and necessary inspection of the work to ensure compliance with plans and specifications. He is the agent of the owner only for the purpose of constructing this work and to the extent stipulated in the contract documents. He has authority to stop work or to order work removed, or to order corrections of faulty work where such action may be necessary to assure successful completion of the work.
- b. The designer is the impartial interpreter of the contract documents, and, as such, he shall exercise his powers under the contract to enforce faithful performance by both the owner and the contractor, taking sides with neither.
- c. Should the designer cease to be employed on the work for any reason whatsoever, then the owner shall employ a competent replacement who shall assume the status of the former designer.
 - 1) Unit prices include all time, costs, and overhead of each unit.
- d. The Designer and Consultants will make a minimum of one (1) site visit per week and additional site visits as necessary. He/she will inspect the progress, compliance with construction documents, and the quality and the quantity of the work.
 - 1) Overhead shall include all Conditions of the Contract and all general requirements such as Project management, scheduling, home office expense, layout, reproduction of Drawings and Specifications, testing and inspection, shop drawings and sample coordination, shop drawing preparation, proposal request estimating, supervision (including general and nonworking foremen) small tools and expendable items, taxes, temporary facilities and services, including access and safety provisions, "as-built" drawings, estimating general and administrative overhead, and profit. Pricing of proposal requests need to be accomplished within 20 calendar days minimum following receipt by the contractor. Upon request, the contractor shall provide the designer with documentation to substantiate labor rates.
 - 2) In the event of additions and deletions of items of direct labor and/or material, the item quantities shall be algebraically summed prior to the incorporation of applicable prices, Unit Prices, and/or the overhead and profit percentage applicable.
- e. The Designer and Owner shall have access to all parts of the work at all times. The contractor shall provide facilities for such access so the designer may perform his functions under the contract documents.
- f. Based on the designer's inspections and evaluations of the project, the designer shall issue interpretations, directives and decisions as may be necessary to administer the project. His decisions relating to artistic effect and technical matters shall be final, provided such decisions are within the limitations of the contract.

ARTICLE 19 - CHANGES IN THE WORK

- a. The owner may have changes made in the work covered by the contract. These changes will not invalidate and will not relieve or release the contractor from any guarantee given by him pertinent to the contract provisions. These changes will not affect the validity of the guarantee bond and will not relieve the surety or sureties of said bond. All extra work shall be executed under conditions of the original contract.
- b. Except in an emergency endangering life or property, **NO CHANGE SHALL BE MADE BY THE CONTRACTOR EXCEPT UPON RECEIPT OF APPROVED CHANGE ORDER OR WRITTEN FIELD ORDER FROM THE DESIGNER, COUNTERSIGNED BY THE OWNER AND THE STATE CONSTRUCTION OFFICE AUTHORIZING SUCH CHANGE. NO CLAIM FOR ADJUSTMENTS OF THE CONTRACT PRICE SHALL BE VALID UNLESS THIS PROCEDURE IS FOLLOWED.**

A FIELD ORDER, TRANSMITTED BY FAX OR HAND DELIVERED, MAY BE USED WHERE THE CHANGE INVOLVED IMPACTS THE CRITICAL PATH OF THE WORK. A FORMAL CHANGE ORDER SHALL BE ISSUED WITHIN THE TIME STATED ON THE FIELD ORDER.

In the event of emergency endangering life or property, the contractor may be directed to proceed on a time and material basis whereupon the contractor shall proceed and keep accurately on such form as may be required, a correct account of costs together with all proper invoices, payrolls and supporting data. Upon completion of the work the change order will be prepared as outlined under either Method "c(1)" or Method "c(2)" or both.

- c. In determining the values of changes, either additive or deductive, contractors are restricted to the use of the following methods:
 - 1) Where the extra work involved is covered by unit prices quoted in the proposal, the value of the change shall be computed by application of unit prices based on quantities, estimated or actual as agreed of the items involved, except in such cases where a quantity exceeds the estimated quantity allowance in the contract by one hundred percent (100%) or more. In such cases, either party may elect to proceed under subparagraph c2 herein. If neither party elects to proceed under c2, then unit prices shall apply.
 - 2) The contracting parties shall negotiate and agree upon the equitable value of the change prior to issuance of the change order, and the change order shall stipulate the corresponding lump sum adjustment to the contract price.
- d. Under Paragraph "b" and Methods "c(2)" above, the allowances for overhead and profit combined shall not exceed twenty percent (20%) of net cost except where the change involves a subcontractor, allowance shall not exceed fifteen percent (15%) for the subcontractor, and ten percent (10%) for the prime contractor. Under Method "c(1)", no additional allowances shall be made for overhead and profit. In the case of deductible change orders, under Method "c(2)" and Paragraph (b) above, the contractor shall include no less than five percent (5%) profit, but no allowances for overhead.

- e. The term "net cost" as used herein shall mean the difference between all proper cost additions and deductions. The "cost" as used herein shall be limited to the following:
- 1) The actual costs of materials and supplies incorporated or consumed as part of the project;
 - 2) The actual costs of labor expended on the project site;
 - 3) The actual costs of labor burden, limited to the costs of social security (FICA) and Medicare/Medicaid taxes; unemployment insurance costs; health/dental/vision insurance premiums; paid employee leave for holidays, vacation, sick leave, and/or petty leave, not to exceed a total of 30 days per year; retirement contributions; worker's compensation insurance premiums; and the costs of general liability insurance when premiums are computed based on payroll amounts; the total of which shall not exceed forty percent (40%) of the actual costs of labor;
 - 4) The actual costs of rental for tools, excluding hand tools; equipment; machinery; and temporary facilities required for the project;
 - 5) The actual costs of premiums for bonds, insurance, permit fees, and sales or use taxes related to the project.

Overtime and extra pay for holidays and weekends may be a cost item only to the extent approved by the owner.

- f. Should concealed conditions be encountered in the performance of the work below grade, or should concealed or unknown conditions in an existing structure be at variance with the conditions indicated by the contract documents, the contract sum and time for completion may be equitably adjusted by change order upon claim by either party made within thirty (30) days after the condition has been identified. The cost of such change shall be arrived at by one of the foregoing methods. Change order breakdown shall include: Labor and materials quantities and unit prices for both work performed by subcontractors and for work performed by prime contractors. Subcontractor's quotes shall be represented in the subcontractor's letterhead. Failure by the Contractor to provide the breakdown information indicated in this paragraph shall result in rejection of the change order by the Designer and request re-submittal by the Contractor. Delay in the processing of the change order due to lack of proper submittal by the Contractor in accordance with this paragraph shall not constitute grounds for a time extension.

ALL CHANGE ORDERS SHALL BE SUPPORTED BY A BREAKDOWN SHOWING METHOD OF ARRIVING AT NET COST AS DEFINED ABOVE.

- g. In all change orders, the procedure will be for the designer to request proposals for the change order work in writing. The contractor will provide such proposal and supporting data in suitable format. The designer shall verify correctness. Within fourteen (14) days after receipt of the contractor's proposal, the designer shall prepare the change order and forward to the contractor for his signature or otherwise respond, in writing, to the contractor's proposal. Within seven (7) days after receipt of the change order executed by the contractor, the designer shall, certify the change order by his signature, and forward the change order and all supporting data to the owner for the owner's signature. The owner shall execute

the change order and forward to the State Construction Office for final approval, within seven (7) days of receipt. The State Construction Office shall act on the change order within seven (7) days. Upon approval by the State Construction Office, one copy remains with the State Construction Office, and the remaining copies are sent to the designer for distribution to the owner(s), contractor(s) and the surety. In case of emergency or extenuating circumstances, approval of changes may be obtained verbally by telephone or field orders approved by all parties, then shall be substantiated in writing as outlined under normal procedure.

- h. At the time of signing a change order, the contractor shall be required to certify as follows:

"I certify that my bonding company will be notified forthwith that my contract has been changed by the amount of this change order, and that a copy of the approved change order will be mailed upon receipt by me to my surety."

- i. A change order, when issued, shall be full compensation, or credit, for the work included, omitted or substituted. It shall show on its face the adjustment in time for completion of the project as a result of the change in the work.
- j. If, during the progress of the work, the owner requests a change order and the contractor's terms are unacceptable, the owner, with the approval of the State Construction Office, may require the contractor to perform such work on a time and material basis in accordance with paragraph "b" above. Without prejudice, nothing in this paragraph shall preclude the owner from performing or to have performed that portion of the work requested in the change order.

ARTICLE 20 - CLAIMS FOR EXTRA COST

- a. Should the contractor consider that as a result of any instructions given in any form by the designer, he is entitled to extra cost above that stated in the contract, he shall give written notice thereof to the designer within seven (7) days without delay, and shall not proceed with the work affected until further advised, except in emergency involving the safety of life or property, which condition is covered in Article 19(b) and Article 11(h). No claims for extra compensation will be considered unless the claim is so made. The designer shall render a written decision within seven (7) days of receipt of claim.
- b. **THE CONTRACTOR SHALL NOT ACT ON INSTRUCTIONS RECEIVED BY HIM FROM PERSONS OTHER THAN THE DESIGNER, AND ANY CLAIMS FOR EXTRA COMPENSATION OR EXTENSION OF TIME ON ACCOUNT OF SUCH INSTRUCTION WILL NOT BE HONORED.** The designer will not be responsible for misunderstandings claimed by the contractor of verbal instructions which have not been confirmed in writing, and in no case shall instructions be interpreted as permitting a departure from the contract documents unless such instruction is confirmed in writing and supported by a properly authorized change order.
- c. Should a claim for extra compensation by the contractor be denied by the designer or owner, and cannot be resolved by a representative of the State Construction Office, the contractor may request a mediation in connection with GS 143-128(f1) in the dispute resolution rules adopted by the State Building Commission. If the contractor is unable to resolve its claim as a result of mediation, the contractor

may pursue the claim in accordance with the provisions of G.S. 143-135.3 and the following:

- 1) A contractor who has not completed a contract with a board for construction or repair work and who has not received the amount he claims is due under the contract may submit a verified written claim to the director of the State Construction Office of the Department of Administration for the amount the contractor claims is due. The director may deny, allow or compromise the claim, in whole or in part. A claim under this subsection is not a contested case under Chapter 150B of the General Statutes.
 - a) A contractor who has completed a contract with a board for construction or repair work and who has not received the amount he claims is due under the contract may submit a verified written claim to the director of the State Construction Office of the Department of Administration for the amount the contractor claims is due. The claim shall be submitted within sixty (60) days after the contractor receives a final statement of the board's disposition of his claim and shall state the factual basis for the claim.
 - b) The director shall investigate a submitted claim within ninety (90) days of receiving the claim, or within any longer time period upon which the director and the contractor agree. The contractor may appear before the director, either in person or through counsel, to present facts and arguments in support of his claim. The director may allow, deny or compromise the claim, in whole or in part. The director shall give the contractor a written statement of the director's decision on the contractor's claim.
 - c) A contractor who is dissatisfied with the director's decision on a claim submitted under this subsection may commence a contested case on the claim under Chapter 150B of the General Statutes. The contested case shall be commenced within sixty (60) days of receiving the director's written statement of the decision.
 - d) As to any portion of a claim that is denied by the director, the contractor may, in lieu of the procedures set forth in the preceding subsection of this section, within six (6) months of receipt of the director's final decision, institute a civil action for the sum he claims to be entitled to under the contract by filing a verified complaint and the issuance of a summons in the Superior Court of Wake County or in the superior court of any county where the work under the contract was performed. The procedure shall be the same as in all civil actions except that all issues shall be tried by the judge, without a jury.

ARTICLE 21 - MINOR CHANGES IN THE WORK

The designer with consultation with the Owner will have the authority to order minor changes in the work not involving an adjustment in the contract sum or time for completion, and not inconsistent with the intent of the contract documents. Such changes shall be effected by written order, copied to the State Construction Office, and shall be binding on the owner and the contractor.

ARTICLE 22 - UNCORRECTED FAULTY WORK

Should the correction of faulty or damaged work be considered inadvisable or inexpedient by the owner and the designer, the owner shall be reimbursed by the contractor. A change order will be issued to reflect a reduction in the contract sum.

ARTICLE 23 - TIME OF COMPLETION, DELAYS, EXTENSION OF TIME

- a. The time of completion is stated in the Supplementary General Conditions and in the Form of Construction Contract. The Project Expediter, upon notice of award of contract, shall prepare a construction schedule to complete the project within the time of completion as required by Article 14.
- b. The contractors shall commence work to be performed under this agreement on a date to be specified in a written Notice to Proceed from the designer and shall fully complete all work hereunder within the time of completion stated. For each day in excess of the above number of days, the contractor(s) shall pay the owner the sum stated as liquidated damages reasonably estimated in advance to cover the losses to be incurred by the owner by reason of failure of said contractor(s) to complete the work within the time specified, such time being in the essence of this contract and a material consideration thereof.
- c. The designer shall be the judge as to the division of responsibility between the contractor(s), based on the construction schedule, weekly reports and job records, and shall apportion the amount of liquidated damages to be paid by each of them, according to delay caused by any or all of them. After the contract completion date, the Designer shall deduct from all contractor pay applications, the liquidated damages in the amount of the daily liquidated damage rate times the number of calendar days after the contract completion date minus any previously assessed liquidated damages. After the contract completion date, the Designer shall deduct from all contractor pay applications, the liquidated damages in the amount of the daily liquidated damage rate times the number of calendar days after the contract completion date minus any previously assessed liquidated damages.
- d. If the contractor is delayed at any time in the progress of his work by any act or negligence of the owner or the designer, or by any employee of either; by any separate contractor employed by the owner; by changes ordered in the work; by labor disputes at the project site; by abnormal weather conditions not reasonably anticipated for the locality where the work is performed; by unavoidable casualties; by any causes beyond the contractor's control; or by any other causes which the designer and owner determine may justify the delay, then the contract time may be extended by change order for the time which the designer and owner may determine is reasonable.

Time extensions will not be granted for rain, wind, snow or other natural phenomena of **normal intensity** for the locality where work is performed. For purpose of determining extent of delay attributable to unusual weather phenomena, a determination shall be made by comparing the weather for the contract period involved with the average of the preceding five (5) year climatic range during the same time interval based on the National Oceanic and Atmospheric Administration National Weather Service statistics for the locality where work is performed and on daily weather logs kept on the job site by the contractor reflecting the effect of the weather on progress of the work and initialed by the designer's representative. Time extensions for weather delays do not entitle the contractor to "extended overhead" recovery.

The “5-year average of precipitation” shall be determined only by applying daily amounts greater than one-tenth (0.10) of an inch. Only amounts exceeding 0.10 inch shall be applied in determining the actual number of “rain days” for a given month.

The Contractor shall maintain, on site, a hard bound log book to record daily precipitation data from the UNC Charlotte Weather Center alongside daily NOAA readings from the Charlotte Douglas International Airport. The Log shall also record any corresponding impacts to activities on the critical path. The Log shall be maintained on a daily basis and made available for inspection by the Designer or Owner at any time. If for some reason the UNC Charlotte Weather Center is out of service, NOAA data shall be applied for that time period, but only if the UNC Charlotte Weather data is not available.

Saturdays, Sundays, and holidays are available to recover lost time due to weather. Time extensions for weather related delays which affect the critical path and exceed the NOAA 5-year average for a particular month, will only be granted provided the contractor makes an effort to make-up work on weekends or holidays following the rain event. Exceptions to this requirement may be granted in cases where rain occurs on a make-up day.

The effect of “rain days” may impact Critical Path work activities for a period more than the average rain days for any period, such as dewatering, cleanup, etc. which would follow a rain event. The Contractor shall include in the Project Schedule, sufficient days to accommodate weather related delays which will result from the 5-year average precipitation for each month.

- e. Request for extension of time shall be made in writing within twenty (20) days following cause of delay. In case of continuing cause for delay, the Contractor shall notify the Designer of the delay within 20 days of the beginning of the delay and only one claim is necessary.
- f. The contractor shall notify his surety in writing of extension of time granted.
- g. No claim shall be allowed on account of failure of the designer to furnish drawings or instructions until twenty (20) days after demand for such drawings and/or instructions. See Article 5c.
- h. Time
 - 1) The Contractor shall commence work to be performed under this agreement on a date to be specified in a written order from the designer and shall fully complete all work within one hundred twenty (120) consecutive calendar days from, and including said date. For each day in excess of the above number of days, the Contractor shall pay to the Owner the sum of one thousand dollars (\$1,000.00) per day as liquidated damages reasonably estimated in advance to cover the losses to be incurred by the Owner by reason of failure of said Contractor to complete the work within the time specified, such time being in the essence of this contract and a material consideration thereof.
 - 2) The Contractor agrees that said work shall be prosecuted regularly, diligently, and uninterruptedly at such rate or progress as will insure full completion thereof within the time specified.

- i. Work and Site Parameters: The Contractor shall fully complete all work, with the following limitations.
 - 1) Access must be maintained into the campus buildings during the normal working hours on weekdays. Construction that affects the access must occur during weekend and night hours.
 - 2) Night, weekend and holiday work will be required for this project.
 - 3) The University shall be notified 14 days in advance of any work the will require closing roadways or parking lots. All closures shall be approved by the University.
 - 4) The University shall be notified 30 days in advance of any work the will require power outages to any facilities. All outages shall be approved by the University.
- j. Construction activities that would create objectionable noise in building or surrounding areas, or which require access to areas inside the building or that may be hazardous to campus personnel, shall be scheduled in advance so as to not interfere with or disturb University activities. No extra payment will be due to Contractor for this.
- k. University activities will take place on the campus, seven days per week. Construction activities that would create objectionable noise in surrounding areas, or that may be hazardous to campus personnel, shall be scheduled in advance so as to not interfere with or disturb University activities. Some work will be required to be done during off hours. The Contractor shall coordinate with the Owner the schedules of loading and unloading of the materials. No extra payment will be due to Contractor for this.
- l. Failure by the Owner or the Contractor to meet any schedule shall not automatically entitle the Contractor to an extension of time. Such extensions will be granted only when it is demonstrated that the Contractor was actually delayed.”

ARTICLE 24 - PARTIAL UTILIZATION/BENEFICIAL OCCUPANCY

- a. The owner may desire to occupy or utilize all or a portion of the project when the work is substantially complete.
- b. Prior to the final payment, the owner, with the approval of the State Construction Office, may request the contractor(s) in writing, through the designer if applicable, to permit him to use a specified part of the project which he believes he may use without significant interference with construction of the other parts of the project. If the contractor(s) agree, the designer will schedule a beneficial occupancy inspection, with the approval of the State Construction Office, after which the designer may issue a certificate of substantial completion. The certificate shall include the following documentation:
 - 1) Date of substantial completion.
 - 2) A tentative list of items to be completed or corrected before final payment.
 - 3) Establishing responsibility between contractor and owner for maintenance, heat, utilities and insurance.

- 4) Establishing the date for guarantees and warranties under terms of the contract.
 - 5) Consent of surety.
 - 6) Endorsement from insurance company permitting occupancy.
- c. The owner shall have the right to exclude the contractor from any part of the project which the designer has so certified to be substantially complete, but the owner will allow the contractor reasonable access to complete or correct work to bring it into compliance with the contract.
 - d. Occupancy by the owner under this article will in no way relieve the contractor from his contractual requirement to complete the project within the specified time. The contractor will not be relieved of liquidated damages because of beneficial occupancy. The designer may prorate liquidated damages based on the percentage of project occupied.
 - e. Unless training requirements are included in the specifications, prior to issuance of Date of Acceptance, the Contractor shall have his/her authorized representatives visit the Project and give full instructions to the Owner's designated operating and maintenance, care, and adjustment of all equipment and special construction elements.

Also see GENERAL REQUIREMENTS for construction time.

ARTICLE 25 - FINAL INSPECTION, ACCEPTANCE, AND PROJECT CLOSEOUT

- a. Upon notification from the contractor(s) that the project is complete and ready for inspection, the designer shall make a preliminary final inspection to verify that the project is complete and ready for final inspection. Prior to final inspection, the contractor(s) shall complete all items requiring corrective measures noted at the preliminary inspection. The designer shall schedule a final inspection at a time and date acceptable to the owner, contractor(s) and State Construction Office. The following items shall be completed prior to scheduling a final inspection:
 - 1) Owner's training conducted with approved operation and maintenance manuals.
- b. When contractors finish their work prior to completion by other contractors, these contracts shall be closed out through the final inspection, acceptance and final payment process on recommendation of the designer and approval of the State Construction Office.
- c. At the final inspection, the designer shall, if job conditions warrant, record a list of items that are found to be incomplete or not in accordance with the contract documents. At the conclusion of the final inspection, the designer and State Construction Office representative shall make the following determinations:
 - 1) That the project is completed and accepted.
 - 2) That the project is accepted subject to the list of discrepancies (punch list). All punch list items must be completed within thirty (30) days of acceptance or the owner may invoke Article 28, Owner's Right to Do Work.

- 3) That the project is not complete and another date for a final inspection will be established.
- d. Within fourteen (14) days of acceptance per Paragraph c1 or within fourteen (14) days after completion of punch list per Paragraph c2 above, the designer shall certify the work and issue applicable certificate(s) of compliance.
- e. Any discrepancies listed or discovered after the date of final inspection and acceptance under Paragraphs c1 or c2 above shall be handled in accordance with Article 42.
- f. The date of acceptance will establish the following:
 - 1) The beginning of guarantees and warranties period.
 - 2) The date on which the contractor's insurance coverage for public liability, property damage and builder's risk may be terminated.
 - 3) That no liquidated damages (if applicable) shall be assessed after this date.
 - 4) The termination date of utility cost to the contractor.

ARTICLE 26 - CORRECTION OF WORK BEFORE FINAL PAYMENT

- a. Any work, materials, fabricated items or other parts of the work which have been condemned or declared not in accordance with the contract by the designer shall be promptly removed from the work site by the contractor, and shall be immediately replaced by new work in accordance with the contract at no additional cost to the owner. Work or property of other contractors or the owner, damaged or destroyed by virtue of such faulty work, shall be made good at the expense of the contractor whose work is faulty.
- b. Correction of condemned work described above shall commence within twenty-four (24) hours after receipt of notice from the designer, and shall make satisfactory progress until completed.
- c. Should the contractor fail to proceed with the required corrections, then the owner may complete the work in accordance with the provisions of Article 28.

ARTICLE 27 - CORRECTION OF WORK AFTER FINAL PAYMENT

See Article 35, Performance Bond and Payment Bond, and Article 42, Guarantee. Neither the final certificate, final payment, occupancy of the premises by the owner, nor any provision of the contract, nor any other act or instrument of the owner, nor the designer, shall relieve the contractor from responsibility for negligence, or faulty material or workmanship, or failure to comply with the drawings and specifications. He shall correct or make good any defects due thereto and repair any damage resulting therefrom, which may appear during the guarantee period following final acceptance of the work except as stated otherwise under Article 42, Guarantee. The owner will report any defects as they may appear to the contractor and establish a time limit for completion of corrections by the contractor. The owner will be the judge as to the responsibility for correction of defects.

ARTICLE 28 - OWNER'S RIGHT TO DO WORK

If, during the progress of the work or during the period of guarantee, the contractor fails to prosecute the work properly or to perform any provision of the contract, the owner, after fifteen (15) days' written notice sent by certified mail, return receipt requested, to the contractor from the designer, may perform or have performed that portion of the work. The cost of the work may be deducted from any amounts due or to become due to the contractor, such action and cost of same having been first approved by the designer. Should the cost of such action of the owner exceed the amount due or to become due the contractor, then the contractor or his surety, or both, shall be liable for and shall pay to the owner the amount of said excess.

ARTICLE 29 - ANNULMENT OF CONTRACT

If the contractor fails to begin the work under the contract within the time specified, or the progress of the work is not maintained on schedule, or the work is not completed within the time above specified, or fails to perform the work with sufficient workmen and equipment or with sufficient materials to ensure the prompt completion of said work, or shall perform the work unsuitably or shall discontinue the prosecution of the work, or if the contractor shall become insolvent or be declared bankrupt or commit any act of bankruptcy or insolvency, or allow any final judgment to stand against him unsatisfied for a period of forty-eight (48) hours, or shall make an assignment for the benefit of creditors, or for any other cause whatsoever shall not carry on the work in an acceptable manner, the owner may give notice in writing, sent by certified mail, return receipt requested, to the contractor and his surety of such delay, neglect or default, specifying the same, and if the contractor within a period of fifteen (15) days after such notice shall not proceed in accordance therewith, then the owner shall, declare this contract in default, and, thereupon, the surety shall promptly take over the work and complete the performance of this contract in the manner and within the time frame specified. In the event the surety shall fail to take over the work to be done under this contract within fifteen (15) days after being so notified and notify the owner in writing, sent by certified mail, return receipt requested, that he is taking the same over and stating that he will diligently pursue and complete the same, the owner shall have full power and authority, without violating the contract, to take the prosecution of the work out of the hands of said contractor, to appropriate or use any or all contract materials and equipment on the grounds as may be suitable and acceptable and may enter into an agreement, either by public letting or negotiation, for the completion of said contract according to the terms and provisions thereof or use such other methods as in his opinion shall be required for the completion of said contract in an acceptable manner. All costs and charges incurred by the owner, together with the costs of completing the work under contract, shall be deducted from any monies due or which may become due said contractor and surety. In case the expense so incurred by the owner shall be less than the sum which would have been payable under the contract, if it had been completed by said contractor, then the said contractor and surety shall be entitled to receive the difference, but in case such expense shall exceed the sum which would have been payable under the contract, then the contractor and the surety shall be liable and shall pay to the owner the amount of said excess.

ARTICLE 30 - CONTRACTOR'S RIGHT TO STOP WORK OR TERMINATE THE CONTRACT

- a. Should the work be stopped by order of a court having jurisdiction, or by order of any other public authority for a period of three months, due to cause beyond the fault or control of the contractor, or if the owner should fail or refuse to make payment on account of a certificate issued by the designer within thirty (30) days after receipt of same, then the contractor, after fifteen (15) days' written notice sent by certified mail, return receipt requested, to the owner and the designer, may suspend operations on the work or terminate the contract.

- b. The owner shall be liable to the contractor for the cost of all materials delivered and work performed on this contract plus 20 percent overhead and profit and shall make such payment. The designer shall be the judge as to the correctness of such payment.

ARTICLE 31 - REQUEST FOR PAYMENT

- a. Not later than the fifth day of the month, the contractor shall submit to the designer a request for payment for work done during the previous month. The request shall be in the form agreed upon between the contractor and the designer, but shall show substantially the value of work done and materials delivered to the site during the period since the last payment, and shall sum up the financial status of the contract with the following information:
 - 1) Total of contract including change orders.
 - 2) Value of work completed to date.
 - 3) Less five percent (5%) retainage, provided however, that after fifty percent (50%) of the contractor's work has been satisfactorily completed on schedule, with approval of the owner and the State Construction Office and written consent of the surety, further requirements for retainage will be waived only so long as work continues to be completed satisfactorily and on schedule.
 - 4) Less previous payments.
 - 5) Current amount due.
- b. The contractor, upon request of the designer, shall substantiate the request with invoices of vouchers or payrolls or other evidence.
- c. Prior to submitting the first request, the contractor shall prepare for the designer a schedule showing a breakdown of the contract price into values of the various parts of the work, so arranged as to facilitate payments to subcontractors in accordance with Article 17, Contractor and Subcontractor Relationships. The contractor(s) shall list the value of each subcontractor and supplier, identifying each minority business subcontractor and supplier as listed in Affidavit C, if applicable. The Designer shall review the Schedule of Values and after he/she approves it, it shall be submitted to the Owner for approval
- d. When payment is made on account of stored materials and equipment, such materials must be stored on the owner's property, and the requests for payments shall be accompanied by invoices or bills of sale or other evidence to establish the owner's title to such materials and equipment. Responsibility for such stored materials and equipment shall remain with the contractor regardless of ownership title. Such stored materials and equipment shall not be removed from the owner's property. Should the space for storage on-site be limited, the contractor, at his option, shall be permitted to store such materials and/or equipment in a suitable space off-site. Should the contractor desire to include any such materials or equipment in his application for payment, they must be stored in the name of the owner in a commercial warehouse approved by the designer and the State Construction Office and located as close to the site as possible. The warehouse selected must be approved by the contractor's bonding and insurance companies; the material to be paid for shall be assigned to the owner and shall be inspected by the designer. Upon approval by the designer of the storage facilities and materials

and equipment, payment therefore will be certified. Responsibility for such stored materials and equipment shall remain with the contractor. Such stored materials and equipment shall not be moved except for transportation to the project site. Under certain conditions, the designer may approve storage of materials at the point of manufacture, which conditions shall be approved by the designer, the owner and the State Construction Office prior to approval for the storage and shall include an agreement by the storing party which unconditionally gives the State absolute right to possession of the materials at anytime. Bond, security and insurance protection shall continue to be the responsibility of the contractor(s).

- e. In the event of beneficial occupancy, retainage of funds due the contractor(s) may be reduced with the approval of the State Construction Office to an equitable amount to cover the list of items to be completed or corrected. Retainage may not be reduced to less than two and one-half (2 1/2) times the estimated value of the work to be completed or corrected. Reduction of retainage must be with the consent and approval of the contractor's bonding company.
- f. Contractor shall submit to the Designer a request for payment on a current version of AIA Document G702 unless otherwise approved by the Designer and the Owner.
- g. After the award of the Contract, the contractor shall promptly submit to the Designer for review and Owner approval a complete schedule of values of the various parts of the work listed in the numerical order of the specifications. The schedule shall be dated and signed by the Contractor and shall include a description of the work, quantities, labor, materials, and total Contract amount for each item. Upon Owner approval of this schedule of values, the schedule shall be used as the basis for determining monthly payments and, therefore, is needed in advance of the Contractor submitting the first application and certification for payment. Plumbing, Electrical, and HVAC Prime Sub-Contracts shall be broken down in accordance with the Table of Contents for each such work. Values shall generally be of the same order of magnitude and generally shall be between \$10,000.00 and \$100,000.00. Should the schedule of values include any value for mobilization, the schedule of values shall include an equal value for demobilization.
- h. The Request for Payment shall be on forms described by North Carolina State Construction Manual Section 323 and similar to AIA Document G703, latest edition. The Request for Payment shall list materials and labor separately for each Section of the Project Manual. When Request for Payment includes (1) materials stored other than on the Owner's property, or, (2) if allowed by the Owner, other than within the boundaries of the State of North Carolina, request for Payment will not be considered and another Request for Payment shall be made. Contractor or each Prime Contractor shall also attach to the application all receipts and vouchers required to verify the requested payments for stored materials. No payment made to the Contractor by the Owner shall constitute acceptance of any work or materials not in accordance with the true intent of the Contract.
- i. The Contractor shall additionally include on each monthly Application for Payment the following statement: "We certify that the Surety for this Project has been duly notified of the amount of this request." Unless exception to pay is made by the Surety to the Designer within 4 calendar days following the date of request, it will be assumed that the Surety concurs in the payment of this application.

- j. American Institute of Architects Document G703, if used, may generally be obtained at office supply firms or directly from the American Institute of Architects, 1735 New York Avenue, Washington, DC 20036.

ARTICLE 32 - CERTIFICATES OF PAYMENT AND FINAL PAYMENT

- a. Within five (5) days from receipt of request for payment from the contractor, the designer shall issue and forward to the owner a certificate for payment. This certificate shall indicate the amount requested or as approved by the designer. If the certificate is not approved by the designer, he shall state in writing to the contractor and the owner his reasons for withholding payment.
- b. No certificate issued or payment made shall constitute an acceptance of the work or any part thereof. The making and acceptance of final payment shall constitute a waiver of all claims by the owner except:
 - 1. Claims arising from unsettled liens or claims against the contractor.
 - 2. Faulty work or materials appearing after final payment.
 - 3. Failure of the contractor to perform the work in accordance with drawings and specifications, such failure appearing after payment.
 - 4. As conditioned in the performance bond and payment bond.
- c. The making and acceptance of final payment shall constitute a waiver of all claims by the contractor except those claims previously made and remaining unsettled (Article 20(c)).
- d. Prior to submitting request for final payment to the designer for approval, the contractor shall fully comply with all requirements specified in the "project closeout" section of the specifications. These requirements include but not limited to the following:
 - 1. Submittal of Product and Operating Manuals, Warranties and Bonds, Guarantees, Maintenance Agreements, As-Built Drawings, Certificates of Inspection or Approval from agencies having jurisdiction. (The designer must approve the Manuals prior to delivery to the owner).
 - 2. Transfer of Required attic stock material and all keys in an organized manner.
 - 3. Record of Owner's training.
 - 4. Resolution of any final inspection discrepancies.
- e. The contractor shall forward to the designer, the final application for payment along with the following documents:
 - 1. List of minority business subcontractors and material suppliers showing breakdown of contracts amount.
 - 2. Affidavit of Release of Liens.
 - 3. Affidavit of contractors of payment to material suppliers and subcontractors. (See Article 36).

4. Consent of Surety to Final Payment.
5. Certificates of state agencies required by state law.
- f. The designer will not authorize final payment until the work under contract has been certified by designer, certificates of compliance issued, and the contractor has complied with the closeout requirements. The designer shall forward the contractor's final application for payment to the owner along with respective certificate(s) of compliance required by law. THE FINAL PAYMENT of retained amount due to the Contractor on account of the Contract shall not become due until the Contractor has furnished to the Owner, through the Designer, Guarantees as set forth in the General and Supplementary General Conditions including other Guarantees required by specific Sections of the Project Manual. In addition to the above, all other submissions required by other Articles and Sections of the Project Manual must be in the hands of the Designer before approval of final payment.

ARTICLE 33 - PAYMENTS WITHHELD

- a. The designer with the approval of the State Construction Office may withhold payment for the following reasons:
 1. Faulty work not corrected.
 2. The unpaid balance on the contract is insufficient to complete the work in the judgment of the designer.
 3. To provide for sufficient contract balance to cover liquidated damages that will be assessed.
- b. The secretary of the Department of Administration may authorize the withholding of payment for the following reasons:
 1. Claims filed against the contractor or evidence that a claim will be filed.
 2. Evidence that subcontractors have not been paid.
- c. When grounds for withholding payments have been removed, payment will be released. Delay of payment due the contractor without cause will make owner liable for payment of interest to the contractor as provided in G.S. 143-134.1.

ARTICLE 34 - MINIMUM INSURANCE REQUIREMENTS

The work under this contract shall not commence until the contractor has obtained all required insurance and verifying certificates of insurance have been approved in writing by the owner. These certificates shall contain a provision that coverages afforded under the policies will not be cancelled, reduced in amount or coverages eliminated until at least thirty (30) days after mailing written notice, by certified mail, return receipt requested, to the insured and the owner of such alteration or cancellation.

a. Worker's Compensation and Employer's Liability

The contractor shall provide and maintain, during the life of the contract, workmen's compensation insurance, as required by law, as well as employer's liability coverage with minimum limits of \$100,000.

b. Public Liability and Property Damage

The contractor shall provide and maintain, during the life of the contract, comprehensive general liability insurance, including coverage for premises operations, independent contractors, completed operations, products and contractual exposures, as shall protect such contractors from claims arising out of any bodily injury, including accidental death, as well as from claims for property damages which may arise from operations under this contract, whether such operations be by the contractor or by any subcontractor, or by anyone directly or indirectly employed by either of them and the minimum limits of such insurance shall be as follows:

Bodily Injury:	\$500,000 per occurrence
Property Damage:	\$100,000 per occurrence / \$300,000 aggregate

In lieu of limits listed above, a \$500,000 combined single limit shall satisfy both conditions.

Such coverage for completed operations must be maintained for at least two (2) years following final acceptance of the work performed under the contract.

c. Property Insurance (Builder's Risk/Installation Floater)

The contractor shall purchase and maintain property insurance during the life of this contract, upon the entire work at the site to the full insurable value thereof. This insurance shall include the interests of the owner, the contractor, the subcontractors and subsubcontractors in the work and shall insure against the perils of fire, extended coverage, and vandalism and malicious mischief. If the owner is damaged by failure of the contractor to purchase or maintain such insurance, then the contractor shall bear all reasonable costs properly attributable thereto; the contractor shall effect and maintain similar property insurance on portions of the work stored off the site when request for payment per articles so includes such portions.

d. Deductible

Any deductible, if applicable to loss covered by insurance provided, is to be borne by the contractor.

e. Other Insurance

The contractor shall obtain such additional insurance as may be required by the owner or by the General Statutes of North Carolina including motor vehicle insurance, in amounts not less than the statutory limits.

f. Proof of Carriage

The contractor shall furnish the owner with satisfactory proof of carriage of the insurance required before written approval is granted by the owner.

- g.** The Designer shall be named as additional insured party on all insurance policies supplied by the Contractor. Final payment will not be made until these "As-Built Drawings" are turned over to the Designer of record and reviewed and deemed complete in writing by the Designer.

ARTICLE 35 - PERFORMANCE BOND AND PAYMENT BOND

- a. Each contractor shall furnish a performance bond and payment bond executed by a surety company authorized to do business in North Carolina. The bonds shall be in the full contract amount. Bonds shall be executed in the form bound with these specifications (Section 307 and Section 308).
- b. All bonds shall be countersigned by an authorized agent of the bonding company who is licensed to do business in North Carolina.

ARTICLE 36 - CONTRACTOR'S AFFIDAVIT

The final payment of retained amount due the contractor on account of the contract shall not become due until the contractor has furnished to the owner through the designer an affidavit signed, sworn and notarized to the effect that all payments for materials, services or subcontracted work in connection with his contract have been satisfied, and that no claims or liens exist against the contractor in connection with this contract. In the event that the contractor cannot obtain similar affidavits from subcontractors to protect the contractor and the owner from possible liens or claims against the subcontractor, the contractor shall state in his affidavit that no claims or liens exist against any subcontractor to the best of his (the contractor's) knowledge, and if any appear afterward, the contractor shall save the owner harmless.

ARTICLE 37 - ASSIGNMENTS

The contractor shall not assign any portion of this contract nor subcontract in its entirety. Except as may be required under terms of the performance bond or payment bond, no funds or sums of money due or become due the contractor under the contract may be assigned.

ARTICLE 38 - USE OF PREMISES

- a. The contractor(s) shall confine his apparatus, the storage of materials and the operations of his workmen to limits indicated by law, ordinances, permits or directions of the designer and shall not exceed those established limits in his operations.
- b. The contractor(s) shall not load or permit any part of the structure to be loaded with a weight that will endanger its safety.
- c. The contractor(s) shall enforce the designer's instructions regarding signs, advertisements, fires and smoking.
- d. No firearms, any type of alcoholic beverages, or drugs (other than those prescribed by a physician) will be permitted at the job site.
- e. Should the Owner allow material storage outside the construction limits, the following conditions shall apply:
 - 1. Staging of the Contractors: Site office trailer, equipment, materials, etc. shall be inside the construction fence or where there is no fence, inside the construction limits. No open trailers or flat beds are permitted, unless otherwise authorized. All material shall be stored in an enclosed and securable vehicle. Put name of project, company name, and company phone number on all storage vehicles stored off construction site.

2. As space is available, the Owner may allow parking of construction workers' vehicles on its property at no cost to the contractor. Vehicles found parked outside the designated area will be towed away at the contractor's expense.
3. Contractor personnel must wear ID badges at all times when they are working at UNC Charlotte. The ID badge shall be an individual picture ID with the company name.

ARTICLE 39 - CUTTING, PATCHING AND DIGGING

- a. The contractor shall do all cutting, fitting or patching of his work that may be required to make its several parts come together properly and fit it to receive or be received by work of other contractors shown upon or reasonably implied by the drawings and specifications for the completed structure, as the designer may direct.
- b. Any cost brought about by defective or ill-timed work shall be borne by the party responsible therefor.
- c. No contractor shall endanger any work of another contractor by cutting, digging or other means. No contractor shall cut or alter the work of any other contractor without the consent of the designer and the affected contractor(s).
- d. Street Paving: Where street paving is cut for placing new underground piping or other utility lines, or where repairing broken paving, the asphalt shall be cut neatly with an asphalt cutter. Breaking the asphalt out with a backhoe or by other means will not be allowed.
- e. Where a backhoe or other heavy equipment is operated from paved areas, board, or other suitable material shall be placed under the bearing or outriggers to prevent damage to the asphalt. If surrounding pavement is damaged by operation of construction equipment, cut out damaged spot and patch as required herein.
- f. Where earth is cut, backfill under pavement shall be placed in not more than 6" layers, and compacted to 95% density at optimum moisture content, as determined by the Standard Proctor Method, ASTM D 698.
- g. Place 6" thick stone base and 2" thick asphalt concrete surface course immediately after opening in pavement is backfilled. Thicknesses are compacted thicknesses.
- h. Patching shall consist of a minimum of 6" (compacted) run-of-crusher stone, and a minimum of 2" (compacted) of asphalt paving, regardless of adjacent existing conditions. Asphalt shall be Type I-2.
- i. Any settlement which occurs in the street at the location of cutting, patching, and at repairs during the 12 month warranty shall be repaired by stabilizing the subsurface and resurfacing the patch with asphalt at no further cost to the Owner.
- j. Sidewalk Patching - Concrete: Concrete sidewalk patching shall be of quality equal to adjacent existing walk, surface, texture, color, etc. Patches shall be cut out neatly to square up areas. In concrete walks, cut out to nearest score marks. Irregular, splotchy patching will not be allowed.
- k. Sidewalk Paving - Brick: Brick paving patching shall be of quality equal to adjacent existing walks. Bricks that are damaged during cutting and excavation shall be replaced to match the existing bricks.

1. Cutting and patching work shall be done by mechanics skilled in the various trades. Some work will disrupt handicap path ways. Extra precautions, assistance and accommodations will be necessary.

Also see DIVISION 1 - GENERAL REQUIREMENTS.

ARTICLE 40 - UTILITIES, STRUCTURES, SIGNS

- a. The Project Expediter shall provide necessary and adequate facilities for water, electricity, gas, oil, sewer, and other utility services, which may be necessary and required for completion of the project. Any permanent meters installed shall be listed in the Project Expediter's name until his work is fully accepted by the owner. As stipulated in the Supplementary General Conditions, the Owner may: (1) pay utilities cost directly, (2) the Project Expediter to pay all utilities cost, (3) or reimburse the Project Expediter for the actual cost of utilities. The Owner or Project Expediter, as applicable, may recover actual costs of metered utilities from the responsible party should delays occur in project completion.
 - 1) At the expense of the Project Expediter, the Project Expediter will:
 - a) Furnish and install watt-hour meter on Contractor's temporary electric service feed if public power utility company service is not available. (Wherever possible, Contractor shall obtain service from the local Utility Company.)
 - b) If connections are made to the Owners system (power wiring and piping), the Contractor is not responsible for monthly fees. If connections are made to the Public Utility Company system (power, water, sewer, etc.), the Contractor will be responsible for paying all monthly service fees associated with said project.
 - 2) The Project Expediter must:
 - a) Contract to and perform all necessary wiring on load side of meters including meter installation.
 - b) Provide water, fuel and electricity as required for testing, cleaning, balancing, and sterilization of designated plumbing, mechanical, and electrical systems.
- b. Meters, transformers, and piping installed by the Project Expediter will remain until the Project's completion and must be protected and maintained by the Project Expeditor during the life of the Project.
- c. Temporary telephone service for the Contractor's use may be obtained by the Contractor through the UNC Charlotte Information Technology Services (ITS) group if the distribution system exists to serve the site."
- d. Meters shall be relisted in the owner's name on the day following completion and acceptance of the Project Expediter's work, and the owner shall pay for services used after that date.
- e. The owner shall be reimbursed for all metered utility charges after the meter is relisted in the owner's name and prior to completion and acceptance of the work of

all contractors. Reimbursement shall be made by the contractor whose work has not been completed and accepted. If the work of two or more contractors has not been completed and accepted, reimbursement to the owner shall be paid by the contractors involved on the basis of assessments by the designer.

- f. Prior to the operation of permanent systems, the Project Expediter will provide temporary power, lighting, water, and heat to maintain space temperature above freezing, as required for construction operations.
- g. All contractors shall have the permanent building systems in sufficient readiness for furnishing temporary climatic control at the time a building is enclosed and secured. The HVAC systems shall maintain climatic control throughout the enclosed portion of the building sufficient to allow completion of the interior finishes of the building. A building shall be considered enclosed and secured when windows, doorways (exterior, mechanical, and electrical equipment rooms), and hardware are installed; and other openings have protection which will provide reasonable climatic control. The appropriate time to start the mechanical systems and climatic condition shall be jointly determined by the contractor(s) and the designer. Use of the equipment in this manner shall in no way affect the warranty requirements of the contractor(s).
- h. The electrical contractor shall have the building's permanent power wiring distribution system in sufficient readiness to provide power as required by the HVAC contractor for temporary climatic control.
- i. The electrical contractor shall have the building's permanent lighting system ready at the time the general contractor begins interior painting and shall provide adequate lighting in those areas where interior painting and finishing is being performed.
- j. Each prime contractor shall be responsible for his permanently fixed service facilities and systems in use during progress of the work. The following procedures shall be strictly adhered to:
 - 1) Prior to acceptance of work by the owner, each contractor shall remove and replace any parts of the permanent building systems damaged through use during construction.
 - 2) Temporary filters shall be installed in each of the heating and air conditioning units and at each return grille during construction. New filters shall be installed in each unit prior to the owner's acceptance of the work.
 - 3) Extra effort shall be maintained to keep the building and the site adjacent to the building clean and under no circumstances shall air systems be operated if finishing and site work operations are creating dust in excess of what would be considered normal if the building were occupied.
 - 4) It shall be understood that any warranty on equipment presented to the owner shall extend from the day of final acceptance by the owner. The cost of warranting the equipment during operation in the finishing stages of construction shall be borne by the contractor whose system is utilized.
 - 5) The electrical contractor shall have all lamps in proper working condition at the time of final project acceptance.

- 6) The University will provide the Contractor with access to electrical power for operating small tools, for construction lighting, for elevator testing, and for field office operations. The University will not charge the Contractor for power so consumed. The Contractor will bear all costs related to connecting to, transforming, and distributing power from the connection point. The Contractor will bear all costs related to connecting to, transforming, distributing and maintaining temporary power from the connection point.
 - 7) The Contractor shall allocate power equitably. Welding equipment and other high power users must have self-contained power sources. Power outages shall be coordinated by the Contractor with the University 30 days in advance.
- k. The Project Expediter shall provide, if required and where directed, a shed for toilet facilities and shall furnish and install in this shed all water closets required for a complete and adequate sanitary arrangement. These facilities will be available to other contractors on the job and shall be kept in a neat and sanitary condition at all times. Chemical toilets are acceptable. Portable toilets must be provided on site by the contractor. The Owner's toilet facilities shall not be used at any time during the project
- l. The Project Expediter shall, if required by the Supplementary General Conditions and where directed, erect a temporary field office, complete with lights, telephone, heat and air conditioning. A portion of this office shall be partitioned off, of sufficient size, for the use of a resident inspector, should the designer so direct. General Contractor shall provide his own office facility including telephone and facsimile machine as required at location on site approved by the Architect and Owner. The Office shall be weather-tight with lighting, electrical outlets, heating, cooling equipment and equipped with sturdy furniture, drawing rack and drawing display table. General Contractor's office shall be large enough for his/her own use and for use as a coordination office to include meeting space with table and chairs for 16 people.
- 1) A shop drawing of the project identification sign must be approved by the University prior to fabrication. No directional signs will be permitted without the University's permission. Contractors are not permitted to install any sign, anywhere on the site, off the site on University property, or on any equipment on the site, without explicit written approval of the Owner. See enclosed University project sign detail.
 - 2) Location of any sign shall be approved by the Owner. Should any sign be moved from its initial location, the new location shall be approved by the Owner. All signs shall be maintained by the project expeditor in first class condition throughout the Contract by repainting, repairing, and re-erecting as necessary and as required. Sign shall be fabricated as indicated on the Drawings.
- m. On multi-story construction projects, the Project Expediter shall provide temporary elevators, lifts, or other special equipment for the general use of all contractors. The cost for such elevators, lifts or other special equipment and the operation thereof shall be included in the Project Expediter's bid.
- n. The Project Expediter will erect one sign on the project if required. The sign shall be of sound construction, and shall be neatly lettered with black letters on white background. The sign shall bear the name of the project, and the names of prime contractors on the project, and the name of the designer and consultants.

Directional signs may be erected on the owner's property subject to approval of the owner with respect to size, style and location of such directional signs. Such signs may bear the name of the contractor and a directional symbol. No other signs will be permitted except by permission of the owner. A shop drawing of the project identification sign must be approved by the University prior to fabrication. No directional signs will be permitted without the University's permission. Contractors are not permitted to install any sign, anywhere on the site, off the site on University property, or on any equipment on the site, without explicit written approval of the Owner.

- o. The University will provide the Contractor with access to electrical power for operating small tools, for construction lighting, for elevator testing, and for field office operations. The University will not charge the Contractor for power so consumed. The Contractor will bear all costs related to connecting to, transforming, and distributing power from the connection point. The Contractor will bear all costs related to connecting to, transforming, distributing and maintaining temporary power from the connection point. The Contractor shall allocate power equitably. Welding equipment and other high power users must have self-contained power sources. Power outages shall be coordinated by the Contractor with the University 30 days in advance.

ARTICLE 41 - CLEANING UP

- a. The contractors shall keep the building and surrounding area reasonably free from rubbish at all times, and shall remove debris from the site on a timely basis or when directed to do so by the designer or Project Expediter. The Project Expediter shall provide an on site refuse container(s) for the use of all contractors. Each contractor shall remove their rubbish and debris from the building on a daily basis. The Project Expediter shall broom clean the building as required to minimize dust and dirt accumulation.
- b. The Project Expediter shall provide and maintain suitable all-weather access to the building.
- c. Before final inspection and acceptance of the building, each contractor shall clean his portion of the work, including glass, hardware, fixtures, masonry, tile and marble (using no acid), clean and wax all floors as specified, and completely prepare the building for use by the owner, with no cleaning required by the owner.

Also see DIVISION 1 - GENERAL REQUIREMENTS.

ARTICLE 42 - GUARANTEE

- a. The contractor shall unconditionally guarantee materials and workmanship against patent defects arising from faulty materials, faulty workmanship or negligence for a period of twelve (12) months following the date of final acceptance of the work or beneficial occupancy and shall replace such defective materials or workmanship without cost to the owner.
- b. Where items of equipment or material carry a manufacturer's warranty for any period in excess of twelve (12) months, then the manufacturer's warranty shall apply for that particular piece of equipment or material. The contractor shall replace such defective equipment or materials, without cost to the owner, within the manufacturer's warranty period.

- c. Additionally, the owner may bring an action for latent defects caused by the negligence of the contractor which is hidden or not readily apparent to the owner at the time of beneficial occupancy or final acceptance, whichever occurred first, in accordance with applicable law.
- d. Guarantees for roof, equipment, materials, and supplies shall be stipulated in the specifications sections governing such roof, equipment, materials, or supplies.
- e. ALL GUARANTEES SHALL INCLUDE LABOR AND PRODUCTS AND SHALL BE SIGNED BY THE MANUFACTURER OR SUBCONTRACTOR, AS THE CASE MAY BE, AND COUNTERSIGNED BY THE CONTRACTOR. ALL GUARANTEES SHALL BE IN ADDITION TO, AND NOT IN LIEU OF, ALL LEGISLATED GUARANTEES. ALL GUARANTEES SHALL BE ADDRESSED TO THE OWNER AND DELIVERED TO THE DESIGNER UPON COMPLETION OF THE PROJECT AND BEFORE OR WITH THE SUBMISSION OF REQUEST FOR FINAL PAYMENT.
- f. In the event that the Owner considers it impractical, because of unsuitable test conditions, or some other factors, to execute simultaneous final acceptance of all equipment, portions of the installation may be certified by the Designer for the Owner's final acceptance when that portion of the system is complete and ready for operation. The decision to accept only portions of the Project rests entirely with the Owner and may only be executed by the Owner.
- g. The Contractor shall also guarantee for a period of 24 months, unless a longer guarantee time is specifically called for in the Specification Sections, that the work covered by this Contract will be watertight and leak-proof at every point and in every area affected by this Contract, except where leaks can be attributed to damage by forces beyond his control. He shall, immediately upon notification by the Owner of water penetration, determine the source of water penetration and, at his own expense, do any work necessary to make the work covered by this Contract watertight. He shall also, at his own expense, repair or replace any other damaged material, finishes, equipment, and furnishings, damaged as a result of this water penetration to return the building to its original accepted condition.
- h. The Contractor signing a Contract with the Owner, shall obtain and forward to the Owner any and all guarantees issued by the manufacturers specifically for certain products and systems covered under his Contract. In the event the manufacturer does not have a suitable "preprinted" warranty form" to fully cover the guarantee requirements as set forth in the Specification Section, he shall produce a warranty form patterned after those contained hereinafter which shall fully document the guarantee as set forth in the Specification Section.
- i. In addition to the foregoing stipulations, the Contractor shall comply with all other guarantees referred to in any portion of the Contract Documents, the more stringent requirements governing.
- j. If for any reason the Contractor cannot guarantee any part of his work using materials or construction methods which have been specified or indicated he shall notify the Designer in typewritten form before Contracts are signed, giving reasons together with the names of products and data or substitution he can guarantee. Should the Contractor fail to so notify the Designer prior to the Signing of Contract, he will be held to have agreed to guarantee all work specified or indicated.

ARTICLE 43 - CODES AND STANDARDS

Wherever reference is given to codes, standard specifications or other data published by regulating agencies including, but not limited to, national electrical codes, North Carolina state building codes, federal specifications, ASTM specifications, various institute specifications, etc., it shall be understood that such reference is to the latest edition including addenda published prior to the date of the contract documents.

ARTICLE 44 - INDEMNIFICATION

To the fullest extent permitted by law, the contractor shall indemnify and hold harmless the owner, the designer and the agents, consultants and employees of the owner and designer, from and against all claims, damages, losses and expenses, including, but not limited to, attorneys' fees, arising out of or resulting from the performance or failure of performance of the work, provided that any such claim, damage, loss or expense (1) is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the work itself) including the loss of use resulting therefrom, and (2) is caused in whole or in part by any negligent act or omission of the contractor, the contractor's subcontractor, or the agents of either the contractor or the contractor's subcontractor. Such obligation shall not be construed to negate, abridge or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any party or person described in this article.

ARTICLE 45 - TAXES

- a. Federal excise taxes do not apply to materials entering into state work (Internal Revenue Code, Section 3442(3)).
- b. Federal transportation taxes do not apply to materials entering into state work (Internal Revenue Code, Section 3475(b) as amended).
- c. North Carolina sales tax and use tax, as required by law, do apply to materials entering into state work and such costs shall be included in the bid proposal and contract sum.
- d. Local option sales and use taxes, as required by law, do apply to materials entering into state work as applicable and such costs shall be included in the bid proposal and contract sum.
- e. **Accounting Procedures for Refund of County Sales & Use Tax**

Contractors shall submit monthly with their request for payment, a signed statement containing the amount of sales and use tax paid by the Contractor for that particular billing period.

Amount of county sales and use tax paid per contractor's statements:

Contractors performing contracts for state agencies shall give the state agency for whose project the property was purchased a signed statement containing the information listed in G.S. 105-164.14(e).

The Department of Revenue has agreed that in lieu of obtaining copies of sales receipts from contractors, an agency may obtain a certified statement as of April 1, 1991 from the contractor setting forth the date, the type of property and the cost of the property purchased from each vendor, the county in which the vendor made the sale and the amount of local sales and use taxes paid thereon. If the property was purchased out-of-

state, the county in which the property was delivered should be listed. The contractor should also be notified that the certified statement may be subject to audit.

In the event the contractors make several purchases from the same vendor, such certified statement must indicate the invoice numbers, the inclusive dates of the invoices, the total amount of the invoices, the counties, and the county sales and use taxes paid thereon.

Name of taxing county: The position of a sale is the retailer's place of business located within a taxing county where the vendor becomes contractually obligated to make the sale. Therefore, it is important that the county tax be reported for the county of sale rather than the county of use.

When property is purchased from out-of-state vendors and the county tax is charged, the county should be identified where delivery is made when reporting the county tax.

Such statement must also include the cost of any tangible personal property withdrawn from the contractor's warehouse stock and the amount of county sales or use tax paid thereon by the contractor.

Similar certified statements by his subcontractors must be obtained by the general contractor and furnished to the claimant.

Contractors are not to include any tax paid on supplies, tools and equipment which they use to perform their contracts and should include only those building materials, supplies, fixtures and equipment which actually become a part of or annexed to the building or structure.

Contractors shall submit monthly with their request for payment, a signed statement containing the amount of sales and use tax paid by the Contractor for that particular billing period.

ARTICLE 46 - EQUAL OPPORTUNITY CLAUSE

The non-discrimination clause contained in Section 202 (Federal) Executive Order 11246, as amended by Executive Order 11375, relative to equal employment opportunity for all persons without regard to race, color, religion, sex or national origin, and the implementing rules and regulations prescribed by the secretary of Labor, are incorporated herein.

ARTICLE 47 - EMPLOYMENT OF THE HANDICAPPED

The contractor(s) agree not to discriminate against any employee or applicant for employment because of physical or mental handicap in regard to any position for which the employee or applicant is qualified. The contractor agrees to take affirmative action to employ, advance in employment and otherwise treat qualified handicapped individuals without discrimination based upon their physical or mental handicap in all employment practices.

ARTICLE 48 - ASBESTOS-CONTAINING MATERIALS (ACM)

The State of North Carolina has attempted to address all asbestos-containing materials that are to be disturbed in the project. However, there may be other asbestos-containing materials in the work areas that are not to be disturbed and do not create an exposure hazard. Contractors are reminded of the requirements of instructions under Instructions to Bidders and General Conditions of the Contract, titled Examination of Conditions. Statute 130A, Article 19, amended August 3, 1989, established the Asbestos Hazard Management Program that controls asbestos abatement in North Carolina. The latest edition of *Guideline Criteria*

for Asbestos Abatement from the State Construction Office is to be incorporated in all asbestos abatement projects for the Capital Improvement Program. No asbestos containing material may be installed in this facility, including but not limited to, sprayed-on insulation, pipe insulation, floor tile, mastic adhesive, patch materials, wiring insulation, or acoustical treatment.

ARTICLE 49 - MINORITY BUSINESS PARTICIPATION

GS 143-128.2 establishes a ten percent (10%) goal for participation by minority businesses in total value of work for each State building project. The document, *Guidelines for Recruitment and Selection of Minority Businesses for Participation in University of North Carolina Construction Contracts* including Affidavits and Appendix E are hereby incorporated into and made a part of this contract.

ARTICLE 50 – CONTRACTOR EVALUATION

The contractor's overall work performance on the project shall be fairly evaluated in accordance with the State Building Commission policy and procedures, for determining qualifications to bid on future State capital improvement projects. In addition to final evaluation, interim evaluation may be prepared during the progress of project. The document, *Contractor Evaluation Procedures*, is hereby incorporated and made a part of this contract. The owner may request the contractor's comments to evaluate the designer.