

## SECTION 007201 – GENERAL CONDITIONS OF THE CONTRACT

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## **1. CONTRACT DOCUMENTS:**

The contract consists of the following CONTRACT DOCUMENTS, including all additions, deletions and modifications incorporated therein before the execution of the Contract Agreement:

### **A. STATUTORY AND PROCEDURAL DOCUMENTS:**

1. Advertisement for Bids (Invitation for Bids)
2. Instructions to Bidders (Information for Bidders)
3. Bid Proposal (Bid Form)
4. Bid Guaranty (As required by Article 6 of Instructions to Bidders)
5. Contract Agreement for Construction Form
6. Contract Bonds (Performance and Material Bond Forms as required by Article 32 of General Conditions of Contract)
7. Evidence of Insurance
8. Vendor Disclosure Statement
9. E-Verify Proof of Enrollment- Awarded Bidder must show evidence of being enrolled in the U.S. Government E-Verify Program. Said evidence shall be submitted with the Contract for Construction. Failure to do so will be grounds for Contract not to be executed.

### **B. GENERAL CONDITIONS OF THE CONTRACT**

### **C. DETAILED SPECIFICATION REQUIREMENTS**

### **D. DRAWINGS**

## **2. DEFINITIONS, INTENT, CORRELATIONS, AND STREAMLINING:**

### **A. DEFINITIONS:**

Wherever the following abbreviations and terms, or pronouns in place of them, are used in the Contract Documents, the intent and meaning shall be as interpreted as follows:

1. AWARDING AUTHORITY OR OWNER: The Board of Trustees of The University of Alabama, a corporation, the Party of the First Part to the Contract Agreement, acting through its authorized representatives.
2. BID: The written offer for the Work contemplated, made out and submitted by the Bidder in the required manner, on the prescribed Bid Proposal Form, property signed, and guaranteed.
3. BIDDER: The person or persons, firm, partnership, association, corporation, or combination thereof, submitting a Bid for the Work, or any portion thereof, acting directly or through a duly authorized representative who has met the licensing requirements for general contracting as required by Title 34, chapter 8, Code of Alabama (1975), as amended.

4. COMMISSION: The Alabama Department of Finance – Division of Construction Management, or any agency that may be designated by the Legislature as its successor.
5. CONTRACT AGREEMENT: The written Contract Agreement for Construction executed between the Awarding Authority and the successful Bidder, covering the performance of the Work, by which the Contractor is bound to perform the Work and to furnish the labor, materials, and equipment under the terms of the Contract Documents, and by which the Awarding Authority is obligated to compensate the Contractor therefore at the mutually established and accepted rate or price, or as hereinafter provided.
6. CONTRACT BONDS: The approved bonds, required by Chapter 1, Title 39, Code of Alabama (1975), as amended, and furnished by the Contractor and its Surety to guarantee both completion of the Contract in accordance with the Contract Documents and prompt payment to all persons supplying labor, materials, supplies, etc.
7. CONTRACTOR: The person or persons, company, firm, partnership, association, corporation, limited liability company, cooperative or combination thereof, the Party of the Second Part to the Contract Agreement, acting directly or through its agents or employees.
8. DESIGNER: The professional person, firm, association, or corporation who, having met requirements of Title 34, Code of Alabama (1975), as amended, has indicated by seal or signature and license number that full responsibility has been accepted for the design, and who has been employed by the Awarding Authority, or in case of the termination of his employment, his successor designated by the Awarding Authority, to furnish the drawings and specifications in the Contract Documents.
9. DIRECTOR: The Director, Technical Staff, or the Alabama Department of Finance – Division of Construction Management, acting either upon his own initiative or through the Project Manager or other duly authorized Supervisors and Inspectors, acting severally within the scope of the particular duties entrusted to them or the authority given them.
10. MODIFICATIONS OF THE GENERAL CONDITIONS: Changes or modifications of the parts of these General Conditions.
11. NOTICE TO PROCEED: A proceed order issued by the Awarding Authority, within fifteen (15) days after final execution of the Contract Agreement, unless both parties agree in writing to a stipulated extension in time for the issuance of a proceed order, fixing the time within which the Contractor shall begin the prosecution of the Work.
12. SUPPLEMENTAL GENERAL CONDITIONS: Additional special or general requirements that are necessary and peculiar to the particular project and which are not included in the parts of these General Conditions.
13. SPECIFICATIONS: The general term comprising the Statutory and Procedural Documents, General Conditions of the Contract, the detailed Specification requirements, together with all modifications thereof and all Addenda thereto.
14. SUBCONTRACTOR: Any properly qualified individual, firm, association, or corporation undertaking the performance of any part of the Work under the terms of the Contract Documents by virtue of any agreement between the Subcontractor and the Contractor with the prior written approval of the Awarding Authority.
15. SURETY: The corporate body, licensed under the laws of Alabama, bound with and for the Contractor for the full and complete performance of the Contract and also for the payment of all claims recoverable under the Contract Bonds.

16. THE PROJECT: The total work described in the Contract Documents.

17. THE WORK: The work shall mean whatever is done or required of the Contractor to perform and complete its duties under the Contract Documents including, without limitation, the following: construction of the whole or designated part of the Project; furnishing of any required surety bonds and insurance; and the provision or furnishing of all labor, supervision, services, materials, supplies, equipment, fixtures, appliances, facilities, tools, transportation, storage, power, permits and licenses required of the Contractor, fuel, heat light cooling and all other utilities as required by the Contract Documents.

**B. INTENT:**

The intent of the Contract Documents is to include all labor, supplies, materials, water, fuel, tools, equipment, plants, utility and transportation services, and all other incidental services and expenses necessary or required for the complete, correct, proper and timely execution of the Work.

**C. CORRELATION:**

1. ORDER of PRECEDENCE Should any discrepancy arise between the various elements of the Contract Documents, precedence shall be given to them in the following order unless to do so would contravene the apparent Intent of the Contract Documents stated in preceding Paragraph A:

(a) The Construction Contract.

(b) Addenda, with those of later date having precedence over those of earlier date.

(c) Supplementary Conditions (or other Conditions which modify the General Conditions of the Contract).

(d) General Conditions of the Contract.

(e) The Specifications.

(f) Details appearing on the Drawings; large scale details shall take precedence over smaller scale details.

(g) The Drawings; large scale drawings shall take precedence over smaller scale drawings.

2. WORDS AND TERMS: Words used in the documents will be given their usual and common meaning unless, from the entire Contract, it is clear that some other meaning was intended. Words describing material and work which have a well-known technical meaning or trade meaning, unless specifically defined in the Contract Documents will be construed in accordance with such well-known meaning recognized by architects, engineers, and the trade. Technical terms will be construed in a technical sense, and a specifically widely adopted trade meaning afforded certain terminology will be considered in any interpretation containing such terminology.

3. GENERAL AND SUPPLEMENTAL GENERAL CONDITIONS: Where both General and Supplemental General Conditions relate to the same thing, the Supplemental General Conditions will prevail; that is, the specific language will take precedence over the more general wording; however, where both the General and Supplemental General Conditions may be given reasonable effect, both are to be retained.

4. PRINTING, TYPING, AND WRITING RECONCILING DISCREPANCIES:

If there is a discrepancy between figures and words, words will govern. Written specifications will take precedence over drawings. If a correction is made in specifications or on a drawing and the original conflicting statement is not crossed out, then the revision, written in or drawn in, will be considered what was meant.

Obvious clerical or drafting errors or omissions revealed by perusal of the Contract Documents as a whole will be discounted in determining the intent of the parties, insofar as this may be accomplished without contravention or legal principles or public policy.

5. **DRAWINGS AND SPECIFICATIONS:** The intent of the Specifications is to outline or indicate in items of work that cannot readily be shown of the Drawings and, further, to indicate types and qualities of materials and workmanship. Drawings and Specifications will be considered complementary, and items of work mentioned or indicated on one and not on the other shall be included as if mentioned in both, except items definitely noted "Not in Contract" or marked "N.I.C."
6. **CONTRACTOR'S CHECK:** Prior to the execution of the Work, the Contractor shall carefully read, examine, and study the Drawings and Specifications and shall immediately report all ambiguities, inconsistencies, conflict, errors, discrepancies, deviations from industry standards or from manufacturer's recommendations, and/or omissions discovered therein by letter to the Awarding Authority. All such ambiguities, inconsistencies, conflicts, errors, discrepancies, deviations from industry standards or from manufacturer's recommendations, and/or omissions will be adjusted by the Awarding Authority who will notify the Contractor. Any adjustments made by the Contractor without prior approval will be at Contractor's own risk, and the settlement of any complications arising from such adjustment will be at Contractor's own expense.
7. **EXPLANATIONS:** Any doubt as to the meaning of the Drawings or Specifications, or any obscurity as to the wording of them, will be explained by the Awarding Authority and all directions and explanations requisite or necessary to complete, explain or make definite any of the provisions of the Specifications and Drawings and give them due effect, will be given by the Awarding Authority in writing.

**D. STREAMLINING:**

1. **OMISSION OF WORDS AND PHRASES:** The detailed Specification requirements are of abbreviated or "Streamlined" type and include incomplete sentences in order to avoid cumbersome and confusing repetition of expression. Omissions of words or phrases such as "the Contractor shall," "in conformity therewith," "as noted," "as indicated on the Drawings," or "according to the Drawings," are intentional. Omitted words or phrases will be supplied by inference. Wherever in the Specifications or upon the Drawings, APPROVED, AUTHORIZED, CONTEMPLATED, CONSIDERED NECESSARY, DEEMED NECESSARY, DESIGNATED, DIRECTED, GIVEN, ORDERED, PERMITTED, PRESCRIBED, REQUIRED, or words of like import are used, they shall be construed to mean and intended "by the Awarding Authority," and similarly, the words ACCEPTABLE, SATISFACTORY, or words of the like import shall be construed to mean acceptable to or satisfactory "to the Awarding Authority", unless otherwise expressly stated or the Contract clearly indicates another meaning.

Words "furnish," "install," "perform," "provide," and "work" shall mean that the Contractor shall furnish, install, perform, provide, and connect up complete in operative condition and use all materials, equipment, apparatus, and required appurtenances of the particular item to which it has reference.

2. **APPLICABLE PUBLICATIONS:** References to standard specifications, associations, bureaus, organizations, or industries, and the like, shall mean the latest edition of such references adopted and published at date of the Advertisement for Bids.

### **3. ADDITIONAL DETAIL DRAWINGS AND INSTRUCTIONS:**

Further information and instructions may be issued and transmitted to the Contractor by the Awarding Authority during the progress of the Work by means of additional detail drawings, or otherwise as deemed necessary to make more clear or specific the Drawings and Specifications in the Contract Documents, when and as required by the Work. All such drawings and instructions shall be consistent with the Contract Documents, true developments thereof, and reasonably inferable therefrom.

Any ambiguities, inconsistencies, conflicts, errors, omissions, deviations from industry standards or from manufacturer's recommendations, and/or discrepancies found between the Drawings and Specifications and site conditions shall be immediately reported in writing to the Awarding Authority who will promptly correct the same in writing. Any work done by the Contractor after its discovery of such ambiguities, inconsistencies, conflicts, discrepancies, errors, or omissions, and prior to receipt of written clarification or correction, shall be done at Contractor's own risk.

In case of a difference between small and large scale drawings, the large scale drawings shall govern.

Where, on any of the drawings, a portion of the Work is drawn out and the remainder is indicated in outline, the parts drawn out shall apply also to all other portions of the Work.

Where the word "similar" occurs on the Drawings, it shall be interpreted in its general sense and not as meaning identical, and all details shall be worked out in relation to their location and their connection with other parts of the Work.

If the Contractor considers that any work is required in a manner to make it impossible to produce first-class work, or should ambiguities, inconsistencies, conflicts, errors, omissions, deviations from industry standards or from manufacturer's recommendations and/or discrepancies appear in or between any of the Contract Documents; the Contractor shall request interpretation, clarification, or correction before proceeding with such work. If Contractor fails to make such a request, no excuse will thereafter be entertained by the Awarding Authority for Contractor's failure to execute and complete the work in a correct and satisfactory manner.

Contractor shall have a continuing duty to read, carefully study, and compare each of the Contract Documents, the Shop Drawings, and Samples and product data and shall give written notice to the Awarding Authority of any inconsistency, ambiguity, conflict, discrepancy, error or omission, deviations from industry standards or from manufacturer's recommendations, which Contractor may discover with respect these documents before proceeding with the affected Work. The issuance or the express or implied approval by the Awarding Authority or Designer of the Contract Documents, Shop Drawings, or Samples and product data shall not relieve Contractor of the continuing duties imposed hereby, nor shall any such approval be evidence of Contractor's compliance with this Contract. The Awarding Authority has requested that Designer to only prepare documents for the Project, including Drawings and Specifications for the Project, which are accurate, adequate, consistent, coordinated and sufficient for construction. **HOWEVER, AWARDING AUTHORITY MAKES NO REPRESENTATION OR WARRANTY OF ANY NATURE WHATSOEVER TO CONTRACTOR CONCERNING SUCH DOCUMENTS.** By execution of the Contract Agreement, Contractor acknowledges and represents that it has received, reviewed and carefully examined such documents, has found them to be complete, accurate, adequate, consistent, coordinated, and sufficient for construction, and that Contractor has not, does not, and will not rely upon any representation or warranties by the Awarding Authority concerning such documents as no such representation or warranties have been or are hereby made.

### **4. COPIES FURNISHED CONTRACTOR:**

Except as otherwise provided, all required copies of Drawings and Specifications for the execution of the Work will be furnished to the Contractor by the Designer without charge. Other copies requested will be furnished at reproduction cost. "Maximum 20 sets".

## 5. SHOP DRAWINGS AND SUBMITTALS:

The Contractor shall check the Contract Drawings for accuracy and verify with field measurements as necessary. Contractor shall submit to the Awarding Authority with its criticism and/or approval, all layouts, detail schedules, shop drawings, and setting or erection drawings as required by the Specifications or requested by the Awarding Authority for proper installation of materials, without causing delay in the Work. The Contractor shall read, carefully study, and check Subcontractors' shop drawings for accuracy and see that work contiguous with and having bearing on work indicated on shop drawings shall be dated, numbered consecutively, show working and erection dimensions and necessary details, and include complete information for connecting to other work. Any work required by shop drawings that is fabricated by the Contractor prior to approval shall be at its own risk.

All shop drawings and schedules, accompanied by a letter of transmittal containing project number, number of drawings, titles, or other pertinent data, shall be submitted to the Awarding Authority by Awarding Authority's approved method (hard copy, email, software etc.) to be dictated at the pre-construction meeting (with Contractor's approval thereon) sufficiently in advance of construction requirements to allow checking, correcting, re-submitting, and re-checking. Whenever necessary, due to receipt of a high volume of simultaneous submittals, the Designer shall notify the Contractor that submittal review must be prioritized and request the Contractor to provide said prioritization, in writing, of those simultaneous submittals based on the contractor's approved project schedule. This shall have the effect of staying the 21 day (15 business days) review requirement specified in Section 013300 – Submittals for the lower priority submittals. If shop drawings show variations from the requirements of the Contract Documents because of standard shop practice or other reasons, specific mention of such variations shall be made in the letter of submittal.

Satisfactory drawings will be so identified, dated, approved, and returned to the Contractor by the Awarding Authority. Should shop drawings be disapproved and returned to the Contractor by the Awarding Authority indicating corrections and changes to be made such corrections, changes, including design and artistic effect, shall be submitted to the Awarding Authority until final approval is obtained. No corrections or changes indicated on shop drawings will be considered as Extra Work. Contractor shall not perform any portion of the Work requiring submittal and review of shop drawings, product data or samples unless and until such submittal shall have been approved by the Designer.

The approval of shop drawings, schedules, and setting or erection drawings will be general and shall not be construed

- A. as permitting any departure from contract requirements,
- B. as relieving the Contractor of the responsibility for any error in details, dimensions, coordination with other work, or otherwise that may exist in shop drawings and schedules, or
- C. as approving departures from drawings and specifications or from additional details or instructions previously furnished by the Awarding Authority unless Contractor has in writing called attention to such deviations at the time of submission and secured written approval.

Operation and Maintenance Manuals are considered submittals, and as such shall be submitted in the required format and in a timely manner for review and approval acceptance during the Project but no later than 30 days prior to contract completion date.

Shop drawings, product data and samples and other submittals from the Contractor do not constitute Contract Documents. Their purpose is merely to demonstrate the manner in which the Contractor intends to implement the Work in conformance with the information received from the Contract Documents.

**6. PROJECT AND RECORD DOCUMENTS:**

The Contractor shall keep on the site of the Work, and in good order, at least one set of its Contract Drawings including shop drawings, specifications, and all authorized change orders, and shall at all times give the Awarding Authority, and their representatives access thereto.

The Contractor shall also keep in his office on site of the Work one set of Contract Drawings and Specifications furnished by the Awarding Authority, herein referred to as RECORD DRAWINGS, on which shall be recorded all work as built or installed, and such other information as is specified or required. Contractor shall carefully draw and letter notes of explanation on the Record Drawings, as a fully dimensioned record of all work. The Record Drawings, supplemented by any detailed sketches deemed necessary, shall indicate the work "AS-BUILT" and shall clearly designate all notations by "clouding" around the notation. The Contractor will be required to prepare new drawings if the indications on the Record Drawings or the detailed sketches are illegible or otherwise unsatisfactory for future reference. Each record or correction made on such drawings will be initialed and dated by the Contractor's Supervisor or Awarding Authority's Inspector. At the conclusion of the project and prior to final inspection and as a condition of final payment, the Contractor shall upload in pdf and CAD the approved as-builts with all changes/ASI's etc. incorporated to the Awarding Authority's preferred project site and transfer all "As-Built" information from the Record Drawings to the CAD and pdf files. These need to be signed by General Contractor, dated and marked "As-Builts." The Contractors shall also furnish "As-Builts" in the most current version of Autocad. (See Article 01700)

**7. OWNERSHIP OF DRAWINGS:**

All originals or duplicated Contract Documents, including the Drawings and Specifications, and other data prepared by the Awarding Authority or Designer, and copies thereof prepared and furnished to the Contractor are the property of the Awarding Authority.

Upon completion of the Work, all copies of the Drawings and Specifications, with the exception of two sets retained by the Contractor, shall be returned by the Contractor to the Awarding Authority.

**8. SAMPLES:**

The Contractor shall, without undue delay, furnish and submit to the Awarding Authority any samples which require the Awarding Authority's or Designer's approval, and also any samples which may be requested by the Awarding Authority, of any and all materials or equipment Contractor proposes to use. All shipping charges on the samples shall be prepaid. Samples shall be furnished sufficiently in advance to allow the Awarding Authority reasonable time for examination, investigation, or consideration without delay to the Work.

The Contractor shall provide Subcontractors and prospective manufacturers, material dealers or suppliers with complete information of pertinent contract requirements and all transactions therewith shall be through the Contractor.

Contractor's use of materials or equipment in the Work prior to receiving any required sample approval of such materials or equipment shall be solely at the Contractor's risk and expense.

Each sample shall have a label indicating the material represented, its place of origin and the name of the producers, the Contractor, and the building or Work for which the material is intended. Where manufacturer's printed instructions for installation are required, duplicate copies of such directions shall be submitted with samples. Contractor's attention is directed to General conditions Article 50, USE OF FOREIGN MATERIALS.

A list of the samples, the name of the building or Work for which the materials are intended, and the brands of materials and names of the manufacturers shall accompany each sample transmission by the Contractor.

After a material has been approved by the Awarding Authority no additional samples of that material will be considered and no change in brand or make will be permitted.

Failure of any materials to pass required tests will be sufficient cause for refusal to consider any further samples of the same brand or make of that material for use in the Work.

Test samples, as the Awarding Authority may deem necessary, will be produced from the various materials delivered for use in the Work. If any of these test samples fail to meet the contract requirements, any previous approvals will be withdrawn and such materials shall be subject to removal and replacement by the Contractor with materials or equipment meeting the contract requirements. The Awarding Authority has the option to allow the defective materials to remain in place subject to proper credit or adjustment of the Contract Price as hereinafter set forth under General Conditions Article 21, DEDUCTIONS FOR UNCORRECTED WORK.

The costs of tests will be borne as specified in the Contract Documents.

#### **9. PROGRESS SCHEDULE AND CHARTS:**

The Contractor shall, within ten days after date of commencement and as directed in the earlier of either the Notice to Proceed, Letter of Intent, or other instrument, prepare and submit for the Designer and Awarding Authority's review and approval a Critical Path Method (CPM) type of schedule (in both electronic (not PDF) and hard format) showing the order in which the Contractor proposes to carry out the Work within the contract time. The CPM schedule shall include, among other detail, the date Contractor will start the salient features of the Work, including, but not limited to, procurement of material, plant and equipment, startup, testing and acceptance, critical milestones, activity relationships and constraints, float, and the contemplated date of completion for the Work and each activity there under. The schedule shall be of sufficient detail to reflect all major aspects and constraints of the Work including, but not limited to, coordination with other trade packages and any information or action required by Designer and/or the Awarding Authority. The Designer and Awarding Authority's review and approval of the Contractor's construction schedule shall be only for compliance with the specified format, Contract Time, and suitability for monitoring progress of the Work and shall not be construed as a representation that the Designer or Awarding Authority has analyzed the schedule to form opinions of sequences or durations of time represented in the schedule.

The CPM schedule shall be in the form of a computerized flow chart per requirements in Specification Section 01320 Schedule. No claims for time extensions will be granted prior to the submission and approval of a progress schedule compliant with this or any other applicable section. Contractor shall provide licensed copies of software used to develop the schedule at no additional cost to the Awarding Authority. The Contractor shall regularly update the CPM schedule. At two-week intervals, contractor shall enter the actual percentage of completion and the actual start and finish dates on the construction schedule and deliver to the Awarding Authority two current copies showing planned and actual progress of the Work with each Application for Partial Payment. The construction schedule shall be revised to reflect any agreed extensions of the Contract Time or as required by conditions of the Work once Change Order with time extension is approved and executed.

The Contractor's construction schedule shall be used by the Contractor, Designer, and Awarding Authority to determine the adequacy of the Contractor's progress. The Contractor shall be responsible for maintaining progress in accordance with the currently approved construction schedule and shall increase the number of shifts, and/or overtime operations, days of work, and/or amount of construction plant as may be necessary to do so. If the Contractor's progress falls materially behind the currently approved construction schedule and, in the opinion of the Designer or Awarding Authority, the Contractor is not taking sufficient steps to regain schedule, upon written request Contractor shall submit for review by Designer and Awarding Authority such supplementary or revised construction schedules as necessary to demonstrate the manner in which the original rate of progress will be regained, all without additional cost to the Awarding Authority.

Failure by the Contractor to comply with these progress requirements in order to ensure completion within the Contract Time will be sufficient reason for the Awarding Authority to terminate the Contract or supplement the Contractor as provided elsewhere in the contract.

The Contractor's construction schedule shall begin with the date of commencement stated in the Notice to Proceed or Letter of Intent and conclude with the date of Substantial completion of the Work. Float or slack time within the construction schedule is **not** for the exclusive use or benefit of the Awarding Authority or of the Contractor, but is a resource available to both parties as needed to meet contract milestones and the contract completion date.

Pursuant to these float sharing requirements, no time extensions will be granted until a delay occurs which will impact the Work's critical path, consumes all float or contingency time available, and extends the Work beyond the contract completion date.

Whenever necessary, due to receipt of a high volume of simultaneous submittals, the Designer shall notify the Contractor that submittal review must be prioritized and request the Contractor to provide said prioritization, in writing, of those simultaneous submittals based on the contractor's approved project schedule. This shall have the effect of staying the 21 day (15 business days) review requirement specified in Section 013300 – Submittals for the lower priority submittals.

No extension of contract time will be granted for Owner delays concurrent with delays by the Contractor.

The Awarding Authority reserves the right to reduce the Contract Time to the time of completion shown on the Contractor's early completion schedule at no additional cost to the Awarding Authority.

Under no circumstances shall the Owner's acceptance of an early completion schedule be basis for the Contractor to claim additional costs, general conditions, or other claims for delay.

Should the contractor fail to submit a progress schedule in compliance with this section, the Owner may suspend work with no time extension granted.

#### **10. MATERIALS, EQUIPMENT, AND EMPLOYEES:**

Unless otherwise stipulated, the Contractor shall furnish all material, equipment, tools, labor, water, light, power, transportation, other services or facilities, and incidentals for the proper execution and completion of the Work. Unless otherwise stipulated, Contractor warrants that all materials, products, systems and equipment, including those purchased under the Purchasing Agent Agreement, incorporated in the Work shall be new and without apparent damage, be of quality equal to or higher than that required by the Contract Documents, be merchantable, and free of defects.

Contractor warrants all labor and services shall be performed in the best and most workmanlike manner by persons skilled in their respective assignments or trades, shall comply with the Contract Documents, and shall be free of defects. Workmen whose work is unsatisfactory, or who are considered unfit or unskilled, or otherwise objectionable, shall be removed from the Work.

Sales Tax- Bidders are not to include Sales, Use, or Severance Taxes in their bids.

Sales Tax Exempt Certificate- Under Alabama Act 2013-205, Certificate of Exemption from Sales and Use Tax for Governmental Entities, the Contractor is responsible for obtaining a Certificate of Exemption from the Alabama Department of Revenue for purchases of materials and other tangible personal property made part of the Project. Any subcontractors purchasing materials or other tangible personal property made part of the Project will be responsible for obtaining a Certificate of Exemption. It is the General Contractor's responsibility to comply with the law and the Department of Revenue regulations throughout the duration of the Project. Any

delay in obtaining the Certificate(s) of Exemption due in whole or in part to the fault of the Contractor or subcontractor will not be cause for an extension of time for completion of the Project nor an increase in price.

#### **11. EQUIPMENT AND MATERIAL DEVIATIONS:**

Every part of the Work shall be executed in a workmanlike manner in accordance with the Contract Documents and approved Submittals. All materials used in the Work shall be furnished in sufficient quantities to facilitate the proper and expeditious execution of the Work and shall be new except such materials as may be expressly provided or allowed in the Contract Documents to be otherwise.

Whenever a product, material, system, item of equipment, or service is identified in the Contract Documents by reference to a trade name, manufacturer's name, model number, etc. and only one or two sources are listed, or three or more sources are listed and followed by "or approved equal" or similar wording, it is intended to establish a required standard of performance, design, and quality, and the Contractor may submit, for the Architect's approval, products, materials, systems, equipment, or services of other sources which the Contractor can prove to the Architect's satisfaction are equal to, or exceed, the standard of performance, design and quality specified, unless the provisions of the final paragraph below apply. Such proposed substitutions are not to be purchased or installed without the Architect's written approval of the substitution.

If the Contract Documents identify only one source and expressly provide that it is an approved sole source for the product, material, system, item of equipment, or service, the Contractor must furnish the identified sole source.

#### **12. ROYALTIES; PATENTS; AND COPYRIGHTS:**

The Contractor shall pay all royalties and license fees. The Contractor shall defend all suits or claims for infringement of any copyright or patent right and shall hold and save harmless the Awarding Authority and its agents and employees from any liability or loss of any nature or kind, including cost and expenses, for or on account of any copyright or any patented or unpatented invention, process, article, or appliance manufactured or used in the performance of the Contract, including its use by the Awarding Authority.

If the Contractor has information that any process, article or item specified or delineated by the Contract Documents is an infringement of a patent or copyright, it shall promptly give such information to the Awarding Authority.

#### **13. SURVEYS, PERMITS, LAWS AND REGULATIONS:**

A. SURVEYS- The Contractor shall provide competent professional services to execute the Work in accordance with contract requirements. Contractor shall verify the figures given for the contours, approaches and locations shown on the Drawings before undertaking any construction work and be responsible for the accuracy of the finished work. Without extra cost to Awarding Authority, Contractor shall engage a licensed surveyor if necessary to verify boundary lines, keep within property lines, and shall be responsible for encroachments outside the project site.

The Contractor shall establish all base lines for the location of the principal components of the Work and make all detail surveys necessary for construction, including slope stakes, batter boards and other working points, lines and elevations.

If the Contractor finds any errors or discrepancies, or that any previously established references have been destroyed or misplaced, Contractor shall promptly notify the Awarding Authority.

B. PERMITS- The Contractor shall obtain and pay for all licenses and permits and shall pay all fees charges for connection to outside service and the use of property, other than the site of the Work, required for the execution and completion of the Work.

- C. LAWS- The Contractor shall give all notices and comply with all laws, ordinances, rules, regulations, and building code requirements applicable to or bearing on the conduct of the Work unless in conflict with contract requirements. If the Contractor ascertains at any time that any requirement of the Contract Agreement is at variance with applicable laws, ordinances, regulations, or building code requirements, Contractor shall promptly notify the Awarding Authority and any necessary adjustments of the Contract Agreement will be made as hereinafter specified under General Conditions, Article 19, CHANGES IN THE WORK.

The Contractor shall have included in its bid price all Federal, State, and local taxes except taxes and assessments on the real property of the site of the Work and other taxes to be excluded under the terms of the bid documents. Wherever the law of the place of building requires a special tax not excluded by the terms of the bid documents, the Contractor shall have included in its bid price such taxes. (Refer to "Supplemental General Conditions" which may contain additional tax information).

- D. UA PERMITTING, INSPECTION & CERTIFICATE OF OCCUPANCY PROCEDURES- General Contractors shall follow the Permitting, Inspection & Certificate of Occupancy Procedure for University of Alabama Projects that is included in the Contract Requirements of the Front-End specifications.

#### 14. PROTECTION OF WORK AND PROPERTY AND NOISE CONTROL:

The Contractor shall at all times adequately maintain, guard and protect its own work from damage, and safely guard and protect the Awarding Authority's property from injury or loss arising in connection with the Project. All damaged property of Awarding Authority shall be repaired or replaced with new similar property at Contractor's expense, including installation costs, at replacement value without deduction or reduction for depreciation. All repairs and replacements shall be done only upon approval of Awarding Authority whose decision shall be final.

Contractor shall adequately protect adjacent property as provided by law and Contract Documents. Any damage to existing structures or the interruption of utility services shall be repaired or restored promptly at the expense of the Contractor.

The Contractor shall protect all existing vegetation such as trees, shrubs, and grass on or adjacent to the site which are not required to be removed or do not unreasonably interfere with construction, and shall be responsible for all unauthorized cutting or damage of trees and shrubs, including damage of grass areas, due to careless operation of equipment or stockpiling of materials.

Care shall be taken by the Contractor in felling trees that are to be removed to avoid any unnecessary damage to vegetation or other trees that are to remain in place. Any limbs or branches unavoidably broken during such operations shall be trimmed with a clean cut and painted with an approved tree pruning compound. The Contractor may be required to replace or restore at its own expense all vegetation not protected and preserved, as above required, that may be destroyed or damaged.

The Contractor shall provide and maintain all passageways, guard fences, lights, and other facilities required for protection by state or municipal laws and regulations or local conditions.

The Contractor shall take the following steps if historical items, artifacts, relics, and similar objects including, but not limited to, cornerstones and their contents, commemorative plaques and tablets, antiques, and other items of interest or value to the Owner, may be encountered during demolition or excavation operations. These items remain the Owner's property. The following steps should be taken should any items be encountered on-site:

1. Operation should stop immediately and UA Construction Administration Project Manager and or Field Coordinator should be notified.

2. The Office of Archaeological Research will be contacted (205-371-2266) to document and catalogue and to remove and store each item or object in an appropriate professional manner to prevent damage.
3. Cooperate with Owner's archaeologist or historical adviser as required until the area identified that might contain additional items has been cleared.
4. Once the area is cleared, the construction activities can proceed in the normal process.
5. Contractor and Project Manager should immediately note and document the impact on the schedule and specifically the critical path.

The Contractor shall take all necessary precautions for the safety of public and employees on the Work and shall comply with all applicable provisions of federal, state, and municipal safety laws and building codes to prevent accidents or injury to persons on or about or adjacent to the premises where the work is being performed.

The CONTRACTOR shall adequately provide protection to all surface and subsurface utilities including, but not limited to, existing valves, valve coverings, manholes, electrical equipment and other utility components within the Project site and adjacent property where work is being performed in relation to the Project. Protection should include, but is not limited to, locating, marking/flagging, barricading or other means necessary to avoid damage to all utility components. In the event a utility component is damaged due to negligence by the CONTRACTOR, the CONTRACTOR shall immediately notify the UA Project Manager and diligently cooperate with the Awarding Authority until repairs are complete. All repairs and replacements shall be performed only upon approval of Awarding Authority whose decision shall be final.

In order to protect infrastructure, telecommunication, and all utilities during excavation the University and Contractors shall adhere to these guidelines:

1. The CONTRACTOR shall review and fully abide by the Awarding Authority's "Underground Utilities Locate Procedures" found in the Front End Documents as listed in the Table of Contents.
2. In the event timely notice of such excavation or digging is not given or if such notice is given but a telephone cable or network fiber is cut or damaged due to the negligence of the general contractor or subcontractor, the University will charge the general contractor the following amounts and may withhold from any accrued payments the amounts due.

For Telecommunication Lines:

**Fiber:**

\$ 5000 Service Interruption Fee  
 \$100 per fiber splice (i.e. the fiber is 30 pair, then 60 splices will be required)  
 Plus cost of Material

**Copper:**

\$5000 Service Interruption Fee  
 Time – Rate is \$35.00/manhour and \$50.00/Overtime manhour  
 Plus Cost of Material

For All Other Utilities:

Time and Material for cost of the repair to the utility, any loss of business or operational use, any UA necessary support of the event, and any quantifiable utility cost.

**The minimum charge of the event will be \$1,000.**

## NOISE CONTROL

- A. The Owner shall conduct baseline noise level monitoring prior to construction and periodic monitoring of noise levels during the construction. The Owner shall also conduct base line testing of all equipment delivered to the site for compliance of the 86 DBA at 50 feet guideline prior to commencing work.
- B. The Contractor shall develop and maintain a noise-abatement program and enforce strict discipline over all personnel to keep noise to a minimum. The Owner will make final interpretation concerning whether nuisance noise conditions exist.
- C. The Contractor will schedule construction activities to avoid excessive noise during final exams, commencement, or other events. The Owner will identify the specified days in the bid documents.
- D. The Contractor shall execute construction work by methods and by use of equipment which will reduce excess noise.
- E. Equipment shall be equipped with silencers or mufflers designed to operate with the least possible noise in compliance with Federal and State regulations.
- F. The Contractor shall manage vehicular traffic and scheduling to reduce noise. This includes, but is not limited to, vehicles or other equipment with back up alarms.

### 15. CLIMATE CONDITIONS:

The Contractor shall suspend any work that may be subject to damage by climatic conditions outside of the material manufacturer's specifications and/or industry standards.

### 16. BUILDING ENVIRONMENTAL CONTROL:

The Contractor shall provide, at its expense, all necessary equipment, utilities, fuel, safeguards and other requirements to maintain temperature and humidity control within the specifications and material manufacturer's stated tolerances as necessary to protect all work and materials against damage and installation failures until final acceptance of all Work in the Contract, unless the building or buildings are fully occupied by the Awarding Authority prior to such acceptance, in which case the Awarding Authority will assume all expense of maintaining building environmental control from the date of occupancy. The Contractor shall provide building environmental control including, but not limited to, the following:

- A. at all times during the placing, setting, and curing period of concrete, sufficient temperature control to ensure the heating of spaces to not less than 50 F and not to exceed 90 F,
- B. for the placing of interior wood finish work and throughout the placing of wood finish and other interior finishing, varnishing, painting, etc., appropriate building environmental control shall be in place for a period of ten days previous and until final acceptance of the Work,
- C. provide temporary closures for windows, doors, and all temporary openings and take every reasonable precaution to prevent the escape of warm air from or entrance of cold air into the building in order to maintain appropriate building environmental control for the work taking place and commensurate with the final operating conditions,
- D. provides such other protection as required under the specific material specifications in Divisions 2-16 of the Specifications or the manufacturer's recommendations.

## 17. INSPECTION OF THE WORK:

The Awarding Authority or any agency having jurisdiction, and their representatives shall, for inspection purposes, have access at all times to the Work whenever it is in preparation or progress, and the Contractor shall provide proper facilities for such access and inspection.

All materials, workmanship, processes of manufacture, and methods of construction, if not otherwise stipulated, shall be subject to inspection, examination, and test by the Awarding Authority (or its duly authorized representatives) at any and all places where such manufacture and/or construction are being performed. The Awarding Authority shall have the right to reject defective material and workmanship or require its correction. Rejected workmanship shall be satisfactorily corrected, and rejected material shall be satisfactorily replaced with proper material, without charge therefor, and the Contractor shall promptly segregate and remove the rejected material from the premises.

The Awarding Authority may appoint or assign Inspectors, with designated duties and restricted authority, to inspect the work, or to make special inspections requested in advance by the Contractor, and to report the progress of the Work, and manner or procedure, quality of the material and workmanship, and compliance with the Contract Documents. Authorized inspectors shall have the authority to reject materials, workmanship, or equipment clearly defective or otherwise not in the accordance with the Drawings and Specifications, but neither the presence nor absence of such inspectors shall relieve the Contractor from fully complying with all of the contract requirements.

No inspector has authority to revoke, alter, relax, or waive any requirements of the Contract Documents; to finally approve or accept any portion of the Work or to issue instructions contrary to the Drawings and Specifications, nor shall any inspector supervise and direct work for the Contractor, nor unreasonably interfere with the Contractor's operations beyond the extent necessary to make certain that the Work is being carried out according to the contract requirements.

Any advice which an inspector may give to the Contractor shall not be, nor construed to be, as binding on the Awarding Authority in anyway, nor release the Contractor from its duty to comply with all of the contract requirements.

The Contractor shall furnish promptly, without extra compensation, all reasonable facilities, labor, services, equipment, and material necessary for safe and convenient access, inspection, and tests that may be required. All inspections and tests will be performed in such a manner as not to cause unnecessary delay of the Work. Special, full size and performance tests shall be as described in Sections of the Specifications. The Contractor may be charged any extra cost of inspection incurred by the Awarding Authority on account of material and workmanship not being ready at the time set by the Contractor for an inspection or test.

Should the Awarding Authority consider it necessary or advisable, at any time before final acceptance of the Work, to make an examination of work already completed by uncovering, or removing or tearing out same, the Contractor shall, on request, promptly furnish all necessary facilities, labor, services and material. If such work is found to be defective the Contractor shall defray all expense of such examination and of satisfactory reconstruction. If, however, such work is found to meet the requirements of the Contract Documents, the work of examination and replacement will be considered and compensated for as Extra Work ordered by the Awarding Authority and, in addition, if completion of the Work has been delayed thereby, an extension of time will be granted for such delay.

In order for this project to be "Substantially Complete" the following is required: Awarding Authority's receipt of the pre-final closeouts; a final inspection held and the project declared "Substantially Complete", in writing, signed by the Architect (if applicable) and the Awarding Authority. "Substantial Completion" means the designated work is sufficiently complete, in accordance with the contract documents, such that the Awarding Authority may occupy or utilize the work for the use intended in a safe and unencumbered manner, as

represented by the contract documents. The date of Substantial Completion is the date upon which the contract time stops and all warranties for the designated work commence. The attached form (Attachment B) will officially document the substantial completion date.

#### **18. SUPERINTENDENCE AND SUPERVISION:**

The Contractor shall continuously supervise, direct and coordinate the Work, using its best skill, effort, knowledge, and attention during performance of the work. Contractor shall employ and maintain at the Project only competent supervisory personnel. Contractor's superintendent(s), whose qualifications are acceptable to the Awarding Authority, shall be at the site at all times during construction activity, and shall be authorized to act for Contractor in its absence. If, for reasonable cause, the Owner refuses to approve the individual, or withdraws its approval after once giving it, the Contractor shall name a different superintendent for the Owner's review and approval. Any disapproved superintendent will not perform in that capacity thereafter at the Project site.

The Contractor shall provide a sufficient and appropriate level of superintendence to prosecute the work with diligence and to ensure adequate oversight, management, and supervision given the complexity, phasing, size, and/or affected area of the project. The Superintendent(s) should be on site at all times when work is being performed and should be solely dedicated to the supervision and oversight of the work. Contractor's Superintendents(s) shall not be the primary operator of equipment or perform other tasks apart from or in addition to project supervision.

Unless otherwise indicated in the bid documents, Contractor shall provide onsite representation to respond to any issues which may arise during initial Owner occupancy/move-in.

The Awarding Authority reserves the right to credit the contract for any unreasonable or uncustomary absence of the Superintendent(s) from the site. The Contractor shall not remove from the work a superintendent who is satisfactory to both Contractor and the Awarding Authority, unless his employment is terminated. At the Awarding Authority's discretion, work may be suspended, with no extension to the contract time, until such time that a qualified replacement acceptable to the Awarding Authority is provided. Contractor shall be responsible to the Awarding Authority for any acts or omissions of the Contractor, its employees and others engaged in the Work on behalf of the Contractor.

Owner / Architect / Contractor (OAC) meetings shall be held bi-weekly ON CAMPUS until the project is determined "closed out" by the Awarding Authority. Project Superintendent (Contractor) shall attend meetings until all punch list items are complete. Project Manager (Contractor) shall attend meetings until Awarding Authority has deemed project closed in accordance with 01700 Project Closeout.

In general, important verbal communications will be confirmed in writing to the Contractor, and these and other communications always upon written request of the Contractor.

The Contractor shall read, carefully study and compare all Drawings, Specifications, other instructions and related data, and promptly report in writing to the Awarding Authority, any ambiguity, conflict, inconsistency, discrepancy, error, omission, deviations from industry standards or from manufacturer's recommendations that it may discover. Contractor shall be liable for the performance and the cost of any necessary corrections resulting from adjustments or modifications of Contract Documents made without prior approval. If Contractor performs any of the Work knowing it involves a recognized error, conflict, inconsistency, discrepancy, or omission, deviations from industry standards or from manufacturer's recommendations, in the Contract Documents without notice to the Awarding Authority, the Contractors shall bear the responsibility for such performance and shall bear the cost of correction. If this condition is not observed, the Awarding Authority has the right to shut down the project immediately without any additional cost to the Awarding Authority.

## 19. CHANGES IN THE WORK:

### A. GENERAL

1. The Owner at any time may make changes in the Work by changes in the Drawings and the Specifications of the Contract and within the general scope thereof. Changes will be in the form of a Contract Change Order based upon a written request of the Owner and a written proposal of the Contractor.
2. If the Owner directs a change in the work, the change shall be incorporated into the Contract by a Change Order prepared by the Architect and signed by the Architect, Contractor and Owner, acknowledging their agreement to the change or changes in the Work and the adjustments, if any, in the Contract Sum and Contract Time.
3. In advance of delivery of a fully executed Contracted Change Order, the Architect shall furnish to the Contractor a written authorization to proceed with an agreed change. However, such an authorization shall be effective only if it:
  - (a) Identifies the Contractor's accepted or negotiated proposal for the change; and
  - (b) States the agreed adjustments, if any, in Contract Sum and Contract Time; and
  - (c) States that funds are available to pay for the change; and
  - (d) Is authorized by the Owner
4. Subject to compliance with Alabama's Public Works Laws, the Owner may, upon agreement by the Contractor, incorporate previously un-awarded bid alternates into the Contract.
5. Consent of Surety will be obtained for all Contract Change Orders involving an increase in the Contract Sum greater than ten percent of the contract amount (bonded amount is the original contract amount plus ten percent).
6. Credits to the Owner for additive and deductive changes shall be governed by Article 19.B.2 and 19.B.3.
7. Changes in the Work shall be performed under applicable provisions of the Contract Documents and the Contractor shall proceed promptly to perform changes in the Work, unless otherwise directed by the Owner, through the Architect. When time is of the essence, and performance of the work is integral to the completion of other adjacent work, the Contractor must proceed immediately as directed by the Architect.

### B. ADJUSTMENT OF CONTRACT SUM

1. METHODS: The adjustment of the Contract Sum resulting from a change in the Work shall be determined by one of the following methods, or a combination thereof, as selected by Owner.
  - a) Lump Sum – By mutual agreement to a lump sum based on, or negotiated from, an itemized cost proposal from the Contractor. This amount shall be all-inclusive, covering direct costs, as well as any fees. Contractor shall furnish to the Owner an itemized breakdown of the quantities and prices to be used in estimating the value of any changes that might be ordered. For the purposes of this method, Contractor and Subcontractors, shall furnish, at a minimum, the following on their own letterhead; all material or vendor quotes (with quantities and unit cost),

labor hours, labor rates, labor burdens (as defined in subparagraph 19.B.1.c.(vi), equipment, and any other relevant information necessary to analyze the quote. For the purpose of this method of determining and adjustment of the Contract Sum, "overhead" shall cover the Contractor's indirect costs of the change such as, but not limited to, the cost of bonds, insurance, superintendence and other job office personnel, watchman, job office, job office supplies and expenses, temporary facilities and utilities, and home office expenses.

- (i) For the Party performing the work, the cost of the work, less any credits, shall have a maximum markup for Overhead and Profit of 10%.
  - (ii) The prime contractor or upper-tier subcontractor's markup on work performed by lower-tier subcontractors will be based on the net increased cost to the prime contractor or upper-tier subcontractor, as applicable, and shall not exceed 10%. No more than 10% shall be added by each successive lower-tier subcontractor, if applicable, for a maximum of 20%.
  - (iii) 19.B.1.a)(i) and 19.B.1.a)(ii) shall also apply to Time and Materials changes.
- b) Unit Price – By estimating the number of unit quantities of each part of the Work which is changed and then multiplying the estimated number of such unit quantities by the applicable unit prices, if any, set forth in the Contract, or other mutually agreed unit prices. However, if the unit price originally agreed on is do materially changed that application of such unit price to quantities of Work proposed will cause substantial inequity to either party, the applicable unit price shall be equitably adjusted and agreed to in advance of performing the work.
- c) Time and Materials – If the contractor and Owner cannot agree on the amount of the adjustment in the Contract Sum for the change, the Owner, through the Architect may order the Contractor to proceed with the change on a Time and Materials basis, but the net cost to the Owner shall not exceed the amount quoted in the Contractor's proposal. Such order shall state that funds are available to pay for the change. When the Contractor proceeds with the change in the Work on a force account basis, the Contractor shall be reimbursed for reasonable expenditures incurred by the Contractor and its Subcontractors in performing added Work and the Owner shall receive reasonable credit for any deleted Work. The Contractor shall keep and present, in such form as the Owner may prescribe, and itemized accounting of the cost of the change together with sufficient supporting data. Unless otherwise stated in the directive, the adjustment of the Contract Sum for Time and Materials shall be limited to the following:
- (i) cost of labor and supervision – at a minimum all labor should be detailed as follows: name, classification, date, daily hours, total hours and extensions for such laborers, Contractor shall submit copies of actual payrolls if requested;
  - (ii) cost of materials, supplies and equipment, including cost of delivery, whether incorporated of consumed;
  - (iii) rental cost of machinery and equipment, not to exceed prevailing local rates if contractor owned;
  - (iv) changes to be governed by Article 19.B.2 and 19.B.3;
  - (v) costs of permits and fees related to the change in the Work;
  - (vi) job labor burden is defined as follows: workers compensation insurance, FICA, federal and state unemployment insurance, retirement plan, and health insurance (single coverage only; no dental or vision), unless mutually agreed upon in writing within ten (10) days of the start of work.

(vii) Contractor shall submit proof of payment for burdens if requested.

2. ADDITIONS TO THE CONTRACT AMOUNT: The contract sum under any of the three (3) methods shall include the Contractor's direct cost plus a reasonable markup for overhead (as defined in 19.B.4 below). Overhead and profit for all changes shall be calculated in accordance with 19.B.1.a). Where subcontract work is involved, the total markup for shall not exceed the amount defined in 19.B.1.a). When the contractor's or subcontractor's portion of a change order request involves credit items, such items must be deducted prior to adding overhead and profit for the party performing the work. The contractor's fee is limited to the net increase to contractor or subcontractors' portions cost computed in accordance herewith.
3. DEDUCTIONS TO CONTRACT AMOUNT: When a change order request involves credit items only, a proper measure of the amount of downward adjustment in the contract prices is the reasonable cost to the contractor or subcontractor if they had performed the delegated work. A reasonable allowance for overhead and profit are properly includable as part of the downward adjustment of a deductive change. The amount of such allowance is negotiable.
4. MARKUPS AND OVERHEADS: For the purpose of determining an adjustment of the Contract Sum, "overhead" shall cover all of the Contractor's indirect costs, such as, but not limited to: the cost of insurance and bonds, superintendence and other job office personnel, watchman, job office, job office supplies and expenses, temporary facilities and utilities, home office expenses; and all other indirect costs. No markups will be allowed on markups.

#### **C. ADJUSTMENT OF CONTRACT TIME**

1. If the Contractor determines that additional time is necessary resulting from the changes in the Work they shall notify the Owner and Architect in writing at the same time they give the Owner and Architect their cost proposal. Such notification shall explain in detail why they are requesting an extension in time. Such detail shall show at a minimum how the change affects the project's Critical Path. The Contractor shall utilize the most current CPM schedule to justify any extension of time. Should the Contractor fail to provide the Owner with an acceptable schedule within the time limits specified in the contract documents, the request will not be considered.
2. A cumulative extension of time will not be allowed for changes in the work that result in concurrent delays nor will time be allowed for changes concurrent with contractor delays.
3. Owner and Architect shall determine if an extension in time is necessary per the detail Contractor provides. They shall notify the Contractor in writing of their decision.

#### **D. CHANGE ORDER PROCEDURES**

1. OWNER PROPOSED:
  - (a) If the Owner proposes to make changes in the Work, the Architect or Owner will request that the Contractor provide a cost proposal for making the change to the Work. The request shall be in writing and shall describe the proposed change by drawings, specifications, narrative or a combination thereof.
  - (b) Within 10 days after receiving such a request, or such other time as may be stated in the request, the Contractor shall prepare and submit to the Architect a written proposal, properly itemized and supported by sufficient substantiating data to facilitate evaluation. The time may be

extended only if, within that time, the Contractor makes a written request with a reasonable justification thereof.

## 2. CONTRACTOR PROPOSED:

- (a) The Contractor may voluntarily offer a change proposal which, in the Contractor's opinion, will reduce the cost of the construction, maintenance or operation or will improve the cost-effective performance of an element of the Project.
- (b) The Owner, through the Architect, will accept, reject or respond otherwise within 21 days after receipt of the proposal, or such other reasonable time as the Contractor may state in the proposal.
- (c) If the Contractor's proposal is acceptable to the Owner, or is negotiated to the mutual agreement of the Contractors and Owner, the Architect will prepare an appropriate Contract Change Order for execution. The Contractor shall then proceed as described in 19.A.7 above.

## E. CONCEALED CONDITIONS

1. If the Contractor discovers conditions in the course of the work which are at a variance with the conditions indicated in the contract documents, notice must be given within 48 hours of the first observance of the condition in question.
2. If Contractor believes these conditions will add cost or time to the work it shall immediately begin to keep and maintain detailed, accurate and complete daily records concerning every detail of the potential claim.
3. The failure of the Contractor to keep such timely, detailed records shall be deemed to be a waiver by the Contractor of any claim based on concealed conditions.

## F. PERFORMANCE PENDING PAYMENT RESOLUTION

1. If disagreements arise between the parties concerning the Change Order and any increase or decrease in the Contract Amount or lengthening or shortening of the contract time, the Contractor shall not suspend performance of the change in the Work itself unless ordered to do so by the Owner in writing. However, the Owner shall pay the Contractor an amount that the Owner estimates to be reasonable value for the change in the Work, regardless of the disagreement, if the change in the Work results in any increase in the contract amount. The Owner shall also have the right to decrease the contract amount by an amount the Owner estimates to be a reasonable value for the change in the Work, regardless of the disagreement, if the change in the Work results in decrease in the contract amount.
2. Pending agreement of the parties of final resolution of any dispute of the total amount due the Contractor for a change in the Work, amounts not in dispute for such changes in the Work may be included in Applications for Payment accompanied by an interim Change Order indicating the parties' agreement with part of all of such cost or time extension. Once a dispute is resolved, it shall be implemented by preparation and execution of an appropriate Change Order.

## G. AUDIT RIGHTS

If any changes to the Work results in an increase in Contract Amount the Contractor shall provide, and shall require its subcontractors to provide, access to the Owner at all reasonable times to any books, correspondence, receipts, vouchers, instructions, memoranda and records of any kind relating thereof, all of which shall be maintained by the appropriate party for a period of two (2) years

commencing from the date Owner makes payment to Contractor for such Change in the Work. The Contractor authorized the Owners, and shall require its Subcontractors to authorize the Owner, to confirm balances due and/or paid for the change in the Work, and to obtain sworn statements and waivers of liens, all to be done if Owner so elects.

**20. CLAIMS FOR EXTRA COST OR EXTRA WORK:**

If the Contractor claims that any instructions, by drawings or otherwise, are not in accordance with the Contract Documents, and involve extra work under the Contract, Contractor shall give the Awarding Authority written notice thereof within seven (7) days after receipt of such instructions, and in any event before proceeding to execute the work, and the procedure for determining the cost of extra work shall be as provided above under General Conditions, Article 19, CHANGES IN THE WORK. The giving of written notice within seven (7) days after receipt of the instructions giving rise to such claim is a condition precedent to any liability of the Awarding Authority thereof. The failure by the Contractor to give such notice and to give such notice prior to executing the Work shall constitute a waiver of any claim for payment for extra work. In connection with any claim by the Contractor against the Awarding Authority for compensation for extra work, any liability of the Awarding Authority for the Contractor's cost shall be strictly limited to direct costs incurred by the Contractor and shall in no event include indirect costs or consequential damages of Contractor. The Awarding Authority shall not be liable to the Contractor for claims of third parties, including Subcontractors, unless and until liability of the Contractor has been established thereof in a court of competent jurisdiction.

Should concealed and unknown conditions encountered in the performance of the Work below the surface of the ground or in an existing structure be at variance with the conditions indicated by the Contract Documents, or should unknown conditions of an unusual nature differing materially from those ordinarily encountered in the area and generally recognized as inherent in the Work of the character provided for in the Contract Documents be encountered, the compensation to be paid for the Work shall be equitably adjusted by Change Order pursuant to Article 19 of the General Conditions upon written notice and claim by either party made within seven (7) days after the first observance of the condition. As a condition precedent to the Awarding Authority having any liability to the Contractor for concealed and unknown conditions, the Contractor must give Awarding Authority and Designer written notice of, and an opportunity to observe, the condition prior to disturbing it. The failure of Contractor to make the written notice and claim as provided in this paragraph shall constitute a waiver by the Contractor of any claim arising out of or relating to such concealed or unknown condition.

**21. DEDUCTIONS FOR UNCORRECTED WORK:**

If the Awarding Authority deems it expedient to correct work injured or installed at variance with the contract requirements, the Awarding Authority may, if it finds it to be in its interest, allow part or all of such work to remain in place, provided and equitable deduction from the contract price is offered by the Contractor.

**22. DELAYS; EXTENSION OF TIME:**

Delays: If the Contractor is delayed in progressing any task which at the time of the delay is then critical, as set forth in the Contractor's Critical Path Method schedule approved by the Awarding Authority and Designer under Article 9, or which during the delay became critical, as set forth in the Contractor's Critical Path Method schedule approved by the Awarding Authority and Designer under Article 9, as the sole result of an act or omission of the Awarding Authority or of any other contractor on the site employed by the Awarding Authority, by strikes, lockouts, fires, abnormal floods, tornadoes, or other cataclysmic phenomenon of nature, or by causes beyond the Contractor's control, then Contractor may be entitled to an extension of time, conditional that the Contractor does not experience a concurrent delay, in which to complete the Work, provided however, that the Contractor shall give written notice of such cause to the Awarding Authority not more than seven (7) days after the occurrence of the event or the first appearance of the condition giving rise to the claim and shall set forth in detail the Contractor's basis for requiring additional time in which to complete the Work. Such time extensions shall only be allowed upon approval of the Awarding Authority. The failure of the Contractor to

give such notice within seven (7) days shall constitute a waiver of any claim for an extension of time in which to complete the Work.

Extensions of time shall not be approved for delays due to rain, wind, flood, or other natural phenomenon of normal intensity for the locality, as defined by the NOAA 30-year average for the City of Tuscaloosa and as measured at the project site, nor for any delay occurring more than seven (7) days before written claim therefor is submitted by the Contractor. Extensions of time shall not be approved unless the timing of the event actually and adversely impacts the scheduled work. Additionally, no extension of time will be approved for any disruption to site accessibility for annually recurring events at the University of Alabama. Such events include but are not limited to home athletic events, graduation ceremonies, and residential move in/out days.

Extension of Time: In the event any material changes, alterations or additions are made to the Work which will require additional time for the execution of any work under the Contract Agreement, the time of completion of the work may be extended by such a period of time as may be approved by the Awarding Authority, provided that in such case the Contractor shall make a written request for a time extension to the Awarding Authority within seven (7) days after being notified in writing of such material changes, alterations or additions. No extensions of time shall be given for any minor changes, alterations or additions in the Work. The failure by Contractor to make such written request for a time extension within seven (7) days shall constitute a waiver of any claim for an extension of time in which to complete the Work. The Contractor shall not be entitled to any reparation or compensation on account of additional time or extensions of time required for the execution of the Work.

**23. CORRECTION OF WORK BEFORE FINAL PAYMENT:**

Any defective work, whether the result of poor workmanship, the use of defective materials, damage through carelessness of the Contractor or its employees, or any other cause, shall be removed from the premises within ten (10) days after written notice is given by the Awarding Authority, and promptly replaced and re-executed by the Contractor in accordance with the Contract requirements and without expense to the Awarding Authority. The Contractor shall also bear the expense of making good all work of the Awarding Authority or its other contractors destroyed or damaged by such removal and replacement.

**24. CORRECTION OF WORK AFTER FINAL PAYMENT:**

Verification and approval of the Final Application for Payment and the making of the Final Payment by the Awarding Authority shall not relieve the Contractor of responsibility for faulty materials or workmanship. The Awarding Authority shall promptly give notice of observed defects due to faulty materials or workmanship, and any damage to other work resulting therefrom. In accordance with the terms of any general or special guarantees provided in the Contract, the Contractor shall promptly replace any such defects discovered within one year from the date of written acceptance of the Work or Final Payment therefor, whichever is prior.

**25. AWARDING AUTHORITY'S RIGHT TO CORRECT DEFICIENCIES:**

Upon failure or neglect by the Contractor to properly prosecute or perform the Work in accordance with the Contract Documents, including any requirements with respect to the CPM schedule and/or progress charts, and after ten (10) days written notice to the Contractor by the Awarding Authority, the Awarding Authority, without prejudice to any other remedy it may have, may correct such deficiencies and may deduct the actual cost thereof from payment then or thereafter due to the Contractor.

In instances where the Contractor's failure to properly prosecute and perform the Work in accordance with the Contract Documents has an actual, or imminent potential, adverse effect on public health, safety, convenience, or property, the Awarding Authority may, after four (4) hours notice to the Contractor, and without prejudice to any other remedy it may have, correct such deficiencies and may deduct the actual cost thereof from payment then or thereafter due to the Contractor. This includes, but is not limited to, protection of existing facilities, furniture, HVAC systems, and existing or new equipment within or adjacent to a project, as well as

contractually-required rough cleaning of a project during active construction to prevent trash, debris, and dust from spreading into surrounding areas of a project or existing building. To the extent necessary to prevent damages to existing property, the Awarding Authority may issue a stop work order if the conditions specified in the notice are not addressed in a timely manner.

The Awarding Authority reserves the right to require the Contractor to provide, at Contractor's expense, a warranty bond for items not installed per the Contract Documents that may impair or reduce the reasonably expected service life of the building or related components or systems.

**26. AWARDING AUTHORITY'S RIGHT TO TERMINATE CONTRACT:**

**A. TERMINATION FOR CAUSE**

If the Contractor should be adjudged a bankrupt, or if Contractor should make a general assignment for the benefit of its creditors, or if a receiver should be appointed on account of Contractor's insolvency, or if Contractor should persistently or repeatedly refuse or fail, except in cases for which an extension of time is provided, to supply enough properly skilled workmen or proper materials, or if Contractor should fail to make prompt payment to Subcontractors for material or labor, or persistently disregard laws, ordinances, or the instructions of the Awarding Authority or Designer, or should otherwise be guilty of a substantial violation of any provision of the Contract, then the Awarding Authority, after giving the Contractor and its Surety, ten (10) days written notice, may, without prejudice to any other right or remedy, terminate the employment of the Contractor and take possession of the premises and of all material, tools, equipment, and appliances thereon and finish the Work by whatever method the Awarding Authority may deem expedient. In such cases the Contractor shall not be entitled to receive any further payment until the Work is finished. If the unpaid balance of the contract price shall exceed the expense of finishing the Work, including compensation for additional architectural, engineering, managerial, and administrative services, such excess shall be paid to the Contractor. If such expense shall exceed such unpaid balance, the Contractor shall pay the difference to the Awarding Authority upon demand.

**B. TERMINATION FOR CONVENIENCE**

1. The Awarding Authority may, without cause and at any time, terminate the performance of Work under the Contract in whole, or in part, upon determination by the Awarding Authority that such termination is in the Awarding Authority's best interest. Such termination is referred to herein as Termination for Convenience.
2. Upon receipt of a written notice of Termination for Convenience from the Awarding Authority, the Contractor shall:
  - a) stop Work as specified in the notice;
  - b) enter into no further subcontracts or purchase orders for items such as, but not limited to, materials, services, or facilities, except as may be necessary for Work directed to be performed prior to the effective date of the termination or to complete Work that is not terminated;
  - c) terminate all existing subcontracts and purchase orders to the extent they relate to the terminated Work;
  - d) take such actions as are necessary, or directed by the Architect or Awarding Authority, to protect, preserve, and make safe the terminated Work; and
  - e) complete performance of the Work that is not terminated.

3. In the event of Termination for Convenience, the Contractor shall be entitled to receive payment for the Work performed prior to its termination, including materials and equipment purchased and delivered for incorporation into the terminated Work, which are the property of the Owner. Contractor shall also be entitled to receive payment for any reasonable and customary costs directly related to the termination and calculated in a manner consistent with Article 19, Changes in the Work. The Contractor shall not be entitled to receive payment for any profits anticipated to have been gained from the terminated Work. A proposal for decreasing the Contract Sum shall be submitted to the Architect by the Contractor in such time and detail, and with such supporting documentation, as is reasonably directed by the Awarding Authority. Final modification of the Contract shall be by Contract Change Order pursuant to Article 19.

**27. CONTRACTOR'S RIGHT TO TERMINATE THE CONTRACT:**

If the Work should be stopped under an order of any court, or other public authority, for a period of ninety (90) days, through no act or fault of the Contractor or of anyone employed by it, then the Contractor may, after fourteen (14) days' written notice to the Awarding Authority, terminate this Contract and the Awarding Authority will reimburse the Contractor for all work properly executed and any loss sustained upon any plant or materials and any other proper item of damage.

**28. APPLICATIONS FOR PARTIAL AND FINAL PAYMENTS:**

- A. PAYMENT APPLICATIONS- Unless otherwise provided in the "Supplemental General Conditions" or the "Contract Agreement", the Awarding Authority will make partial payments to the Contractor within twenty (20) official UA business days from the date of a properly submitted and duly certified and approved estimate of work as prepared by the Contractor on an Application for Payment form approved by the Designer and the Awarding Authority and submitted to the Awarding Authority.

Contractors shall accept Electronic Funds Transfer (Direct Deposit) in lieu of paper checks unless otherwise indicated.

- B. SCHEDULE OF VALUES- The Contractor shall, within ten (10) days after the Notice to Proceed, submit to the Awarding Authority with the Application for Payment form, a complete breakdown or schedule of values of the contract price showing the value assigned to each of the various parts of the Work, including an allowance for overhead and profit, aggregating the total contract price, and divided to facilitate payments to Subcontractors. Where Labor and Materials are both involved with the prosecution of the Work they shall be listed separately on the Contractor's Schedule of Values to the approval of the Architect and UA Project Manager. Upon approval by the Awarding Authority, this breakdown of the contract price, unless later found to be in error, shall be used as a basis for all Applications for Payment. The Contractor shall supply with its schedule of values such data as the Designer and Awarding Authority may require to substantiate its accuracy. The Contractor shall not imbalance its schedule of values nor artificially inflate any element thereof.
- C. CASH FLOWS- Awarded Contract Projected Cash Flow must be completed as a foundational aspect of initial pay application within ePAYAPP. It will define the monthly projected cash flows for the project which will coordinate with the schedule and milestone dates. Aligning cash flow projections with the schedule of values is key to maintaining accuracy and consistency throughout the project's lifecycle. The awarded contract cash flows should be entered for every month in the project schedule.
- D. DRAFTS- The Contractor shall provide, no later than the last OAC of the month, a draft of the pay request for the period to be reviewed by the Architect/Engineer and Awarding Authority. This draft, and subsequently the approved pay application, shall have attached all items listed on the General Contractor's Pay Request Check List.

- E. **STORED MATERIAL** - An Application for Partial Payment shall include the Contractor's cost of materials not yet incorporated in the Work, but delivered and suitably stored with adequate and reasonable care and control to protect against loss or damage. This includes materials stored both on-site and off-site. For materials stored off-site the Contractor shall provide proof of property or other suitable insurance in an amount equal to or greater than the cost of said stored materials as well as photographs, invoices, or other documentation deemed appropriate by the Awarding Authority of said materials with their Application for Partial Payment. The Awarding Authority reserves the right to observe and monitor the off-site stored materials. During the fabrication/manufacturing process any loss of materials or damage would be the responsibility of the property insurance carrier at the off-site location where fabrication/manufacturing is taking place.
- F. **RETAINAGE**- In making partial payments, there shall be retained five percent on the estimated amounts complete plus stored material until completion of 50 percent of the contract, after which no additional retainage will be withheld. This retainage will be held by the Awarding Authority until final completion, advertisement, and acceptance of all work covered by the Contract, when Final Payment of the entire balance found to be due will be made.

The Contractor, immediately after being notified by the Awarding Authority that all other requirements of the Contract Documents have been completed, as evidenced by the Certificate of Substantial Completion, shall give notice of said completion by an advertisement for a period of three (3) consecutive weeks in a newspaper of general circulation published within the county where the Work was performed, on a website maintained by the newspaper of general circulation in the county in which work was performed, or on the Owner's website . Proof of publication of said Notice shall be made by affidavit of the publisher or website owner and provided by the Contractor to the Awarding Authority with a printed copy of the Notice published included in the closeout documents. Final Payment shall be due as noted by the Awarding Authority's verification of the Final Application for Payment, but not sooner than 30 days after the completion of the advertisement or notice .

#### **29. VERIFICATION, CERTIFICATION AND APPROVALS FOR PAYMENT:**

When the Contractor has made application for Partial or Final Payment, the Awarding Authority shall verify the Application for Payment and shall make payment to the Contractor for such amount as the Awarding Authority determines to be properly due, or state in writing to the Contractor the Awarding Authority's reasons for withholding verification and payment in whole or in part.

No such verification nor payment made to the Contractor, nor partial or entire use or occupancy of the work by the Awarding Authority shall be an acceptance of any work or materials not in accordance with the Contract.

All materials and work covered by partial payments made shall become the sole property of the Awarding Authority, but this provision shall not be construed as relieving the Contractor from the sole responsibility for the care and protection of materials and work upon which payments have been made or the restoration of any damaged work or as a waiver of the Awarding Authority's right to require the fulfillment of all the terms of the Contract Documents by the Contractor.

#### **30. PAYMENTS WITHHELD:**

A. The Awarding Authority may withhold payment of the whole, or any part, of a verified or approved Application for Payment to the extent necessary to protect it against loss on account of any of the following causes discovered subsequent to its verification or approvals:

1. Defective Work not remedied by the Contractor nor, in the opinion of the Awarding Authority, likely to be remedied by Contractor;
2. Evidence indicating probable filing of claims by other parties against the Contractor;

3. Failure of the Contractor to promptly make payments to Subcontractors, or for materials labors, foodstuffs, and supplies;
  4. Damage to another contractor under a separate contract with the Awarding Authority;
  5. Evidence indicating probable filing of claims by third parties against the Awarding Authority or the Awarding Authority's property;
  6. A dollar value will be assessed for final inspection punchlist items and held in addition to retainage until completed;
  7. Reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance is insufficient to cover applicable liquidated damages.
- B. When the above causes are removed, payments withheld will then be paid.
- C. The Awarding Authority shall have the right to withhold from payments due to the Contractor under this Contract an amount equal to any amount which the Contractor owes the Owner under another Contract.

**31. CONTRACTOR AND SUBCONTRACTOR INSURANCE:**

Before any work can be started, Contractor must have a Certificate of Insurance approved by UA with the proper limits, certificate holder(s), and additional insured language as found in the "Insurance Requirements" specification section and modified by any addenda issued during the bid process or as required by UA.

With each pay request, the General Contractor shall include or have on file a current Certificate of Liability Insurance which meets the requirements set out in the UA Insurance Requirements for Contractors.

**32. CONTRACT BONDS:**

In order to insure the faithful performance of each and every condition, stipulation, and requirement of the Contract, and to indemnify and save harmless the Awarding Authority from any and all damages, either directly or indirectly, the successful Bidder to whom the Contract is awarded shall, within fifteen (15) calendar days after the Contract Agreement has been presented to Contractor for signature, unless otherwise stipulated, furnish at its own expense, and file with the Awarding Authority, an acceptable Surety Bond in an amount equal to one hundred (100%) percent of the contract price of the Contract as awarded. Said Bond shall be made on the approved bond form, shall be furnished by a reputable surety company authorized to do business in the State of Alabama, shall be countersigned by an authorized agent resident to do business in the State of Alabama, shall be countersigned by an authorized agent resident in the State who is qualified for the execution of such instruments, and shall have attached thereto power of attorney of the signing official. In case of default on the part of the Contractor, all expenses incident to ascertaining and collecting losses suffered by the Awarding Authority under the Bond, including architectural, engineering, administrative, and legal services shall lie against the Contract Bond for Performance of the Work.

In addition thereto the successful Bidder to whom the Contract is awarded shall, within fifteen (15) days after the Contract Agreement has been presented to Contractor for signature unless otherwise stipulated, furnish at its expense, and file with the Awarding Authority, an acceptable surety bond for Payment of Labor, Materials, Feedstuffs, and Supplies payable to the Awarding Authority in amount not less than fifty (50%) percent of the contract price, with the obligation that the Contractor shall promptly make payment to all persons furnishing him or them with labor, materials, feedstuffs, or supplies for, or in, the prosecution of the Work, including the payment of reasonable attorneys fees incurred by successful claimants or plaintiffs in suits on said bond. The date of neither bond shall be earlier than the date of the Contract Agreement.

Bonds shall remain in force during the entire guarantee period stipulated in General Conditions, Article 24  
CORRECTION OF WORK AFTER FINAL PAYMENT.

**33. DAMAGES:**

Should either party to the Contract suffer damages because of any wrongful act or neglect of the other party, or of anyone employed by it, claim shall be made in writing to the other party within a reasonable time of the first observance of such damage, and not later than the date of the Application for Final Payment, excepts as expressly stipulated otherwise in the case of faulty work or materials.

**34. CLAIMS:**

Neither the Final Payment nor any part of the retained percentage shall become due until the Contractor, if required, shall deliver to the Awarding Authority a complete release of all claims arising out of the Contract, or receipts in lieu thereof and, if required in either case, an affidavit that so far as Contractor has knowledge or information the releases and receipts include all the labor and material for which a claim could be filed; but the Contractor may, if any Subcontractor refuses to furnish a release or receipt in full, furnish a bond satisfactory to the Awarding Authority, to indemnify him against any claims. If any claim remains unsatisfied after all payments are made, the Contractor shall refund to the Awarding Authority all monies that the latter may be compelled to pay in discharging such a claim including all costs and a reasonable attorney's fee.

**35. ASSIGNMENT:**

The Contractor shall not assign the Contract or sublet it as a whole without the written consent of the Awarding Authority, nor shall the Contractor assign any monies due or to become due to it hereunder without the previous written consent of the Awarding Authority.

**36. MUTUAL RESPONSIBILITY OF CONTRACTORS**

If the Contractor or any of its Subcontractors cause any loss or damage to any separate contractor with a prior, concurrent, or subsequent contract on the Work or on the site, or cause any undue delay to such separate contractor on the Work or on the site, and if such contractor makes claim against the Awarding Authority, on account of any loss so sustained, the Awarding Authority shall notify the Contractor who shall indemnify and save harmless the Awarding Authority against any expenses arising therefrom.

**37. SEPARATE CONTRACTS:**

The Awarding Authority may award other contracts for additional new construction, buildings or equipment, or for reconstruction, alteration, equipment, and improvements of existing buildings on the site, and the Contractor shall fully cooperate in the storage of materials and the detailed execution of work, coordinate and integrate its operations with such other contractors, and carefully fit its own work to that provided under other contracts. The Contractor shall not commit or permit any act which will interfere with the performance of work by any other contractor. The Contractor, including its Subcontractors, shall keep informed of the progress and the detail work of other contractors and shall notify the Awarding Authority immediately of lack of progress or defective workmanship on the part of other contractors, where such delay or such defective workmanship will interfere with its own operations of the Work.

**38. SUBCONTRACTS:**

The apparent low bidder shall submit in writing to the Awarding Authority Project Manager for approval the names of the Subcontractors proposed for the Work within 48 hours from bid date and time. Subcontractors that have been approved may not be changed thereafter except with the approval of the Awarding Authority.

With this same submittal, Contractor shall also submit said subcontractor's Labor Burden Rate (as defined in Article 19.B.1.c.vi) for approval by the Awarding Authority.

The Contractor shall not engage any subcontractor to whom the Awarding Authority may have a reasonable objection, but it will not be required to engage any subcontractor against whom Contractor itself has a reasonable objection.

The Contractor shall be as fully responsible to the Awarding Authority for the acts and omissions of Subcontractors, and of persons employed by them, as Contractor is for the acts and omissions of persons directly employed by it.

Nothing contained in the Contract Documents shall create, or be construed as creating, privity of contract or any contractual relationship or agreement between the Awarding Authority and any Subcontractor, person or entity other than the Contractor.

### **39. RELATIONS OF CONTRACTOR AND SUBCONTRACTORS AND VENDORS:**

The Contractor shall cause appropriate provisions to be inserted in all Subcontracts and Purchase Orders, including those items purchased under the Purchasing Agent Agreement, relative to the Work, to bind Subcontractors and Vendors to the Contractor by the terms of the Contract Documents insofar as applicable to the work of Subcontractors and Vendors, and which require the Subcontractor and Vendor to assume all obligations and responsibilities to the Contractor, including the safety of the Subcontractor's work, which the Contractor owes the Awarding Authority under the Contract Documents and giving the Contractor any rights against the Subcontractor and Vendor that correspond to the rights afforded the Awarding Authority against the Contractor under the Contract Documents, including the same power of terminating any Subcontractors or Vendors that the Awarding Authority may exercise over the Contractor under any provisions of the Contract Documents.

The Articles, Divisions, Sections, or Paragraphs of the Specifications are not intended to control the Contractor in dividing the work among Subcontractors or Vendors or to limit the work performed by any trade.

The Contractor shall be solely responsible for the coordination of Subcontractors, of the trades, and materialmen engaged upon the Work.

The Contractor, without additional expense to the Awarding Authority, shall utilize the services of specialty subcontractors on those parts of the Work which are specified to be performed by specialty subcontractors.

The Awarding Authority will not undertake to settle any differences between the Contractor and its Subcontractors or Vendors or between Subcontractors.

### **40. DESIGNER'S STATUS:**

Should a Designer's services be used the following describes its status. The Designer named in the Contract Documents, who prepared and furnished the Working Drawings and the Specifications contained therein, will prepare details and explanatory drawings, and provide instructions during the progress of the Work for transmittal by the Designer or Awarding Authority as above set forth under General Conditions, Article 3, ADDITIONAL DETAIL DRAWINGS AND INSTRUCTIONS. Designer will make its check of manufacturers' data and shop drawings submitted by the Contractor for the Work as set forth under General Conditions, Article 5, SHOP DRAWINGS.

The Designer, if employed by the Awarding Authority to do so, will endeavor to require the Contractor to strictly adhere to the plans and Specifications, to guard the Awarding Authority against defects and deficiencies in the work of the Contractor, and shall promptly notify the Awarding Authority in writing of any significant

departure in the quality of materials or workmanship from the requirements of the plans and Specifications, but Designer does not guarantee the performance of the Contract.

The Designer shall not be responsible for construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, unless spelled out in the Contract Documents, and Designer shall not be liable for results of the Contractor's failure to carry out the Work in accordance with the Contract Documents.

The Designer shall not be responsible for the acts or omissions of the Contractor, or any Subcontractors, or any of the Contractor's or Subcontractor's agents or employees, or any other persons performing any of the Work.

**41. DESIGNER'S CHOICE:**

The Designer's decisions in matter relating to the artistic effect of its work shall be final, if within the other terms of the Contract.

**42. AWARDING AUTHORITY'S DECISIONS:**

Except as hereinabove provided, any dispute, claim, or question concerning the interpretation or meaning of the Contract Documents, or concerning a breach of the Contract, shall be submitted in writing to the Awarding Authority and its decision shall be returned to the Contractor in writing.

**43. ALLOWANCES:**

A. CASH ALLOWANCES No cash allowances shall be included in the contract price, unless specifically set forth under SUPPLEMENTAL GENERAL CONDITIONS or MODIFICATIONS OF THE GENERAL CONDITIONS or ALLOWANCES in the Specifications. When so included, the Contractor shall include in the contract price all allowances named therein and shall procure any and all items or work covered by such allowances as directed by the Awarding Authority and Designer. The Contractor shall, in compliance with state and federal law, afford the Awarding Authority the economy of competitive pricing from responsible bidders for allowance items unless purchasing procedures are specified in the Contract Documents.

Unless otherwise provided in the Contract Documents:

- (1) allowances shall cover the cost to the Contractor of materials and equipment delivered to the Project site and all applicable taxes remaining after purchases are made under the Purchasing Agent Agreement, less applicable trade discounts;
- (2) the Contractor's costs for unloading, storing, protecting, and handling at the site, labor, installation, overhead, profit and other expenses related to materials or equipment covered by an allowance shall be included in the Contract Sum but not in the allowances;
- (3) if required, the Contract Sum shall be adjusted by Change Order to reflect the actual costs of an allowance.

Any procurement of materials or equipment required by the Architect or Owner under an allowance shall be made in sufficient time to avoid delay of the Work.

**B. LUMP SUM ALLOWANCES**

- (1) Allowance shall include the cost to the Contractor of specific products and materials ordered by Owner or selected by Designer under the allowance and shall include insurance, freight, equipment rental and delivery to project site.
- (2) Use the lump sum allowance only as directed by Designer for Owner's purposes and only by Change Orders that indicate amounts to be charged to the allowance.
- (3) Contractor's overhead and profit for work or products executed under the allowance are to be included in **the base or alternate bid and not in the allowance**.
- (4) At Project closeout, **credit** unused amounts remaining in the contingency allowance to Owner by Change Order **include reasonable amount of overhead and profit for unused allowance portions**.
- (5) Return unused materials purchased under the allowance to manufacturer or supplier for credit to owner. If requested, prepare unused material for attic stock storage by Owner when it is not economically practical to return the material for credit. Deliver unused material to Owner's storage space. Otherwise, disposal of unused material is Contractor's responsibility.

#### C. UNIT PRICE ALLOWANCES

- (1) Unit prices include all necessary material, cost for delivery, installation, insurance, overhead, profit, and applicable taxes.
- (2) Unless otherwise indicated, Contractor's overhead and profit, labor, handling, installation, demolition, preparation, installation, access and other cost associated with the unit price shall be included in unit price allowances.
- (3) Measurement and Payment: Where unit prices are for quantities that are more or less than what is provided for in the base contract, Contractor shall keep a record of amounts used as the work progresses. Such work shall be recorded daily on the as-built drawings or Owner approved log for verification. Contractor shall transmit unit quantity tracking information to Owner or Designer on a daily basis for verification. Designer or Owner shall verify the need for unit repairs prior to installation of repairs and track quantities. **No contract adjustments will be made on any unit price quantities not verified by the Designer or Owner. In the event that a discrepancy exist between the contractor's counted quantities and the designer's counted quantities, the designer's quantities shall prevail.**
- (4) Adjustments to final payments will be the quantity difference between the allowance and quantity applied times the unit price quoted in the bid.

#### 44. USE OF PREMISES:

The Contractor shall take every precaution against injuries to persons or damages to property.

The Contractor shall store its apparatus, materials, supplies, and equipment in such orderly fashion at the site of the Work as will not unduly interfere with the progress of its work or the work of any other contractors.

Unless otherwise provided, temporary storage sheds, shops, and office facilities may be erected on the premises with the approval of the Awarding Authority. Such temporary buildings and/or utilities shall remain the property of the Contractor and be removed at its expense upon completion of the Work, unless the Awarding Authority authorizes their abandonment without removal.

Necessary crossings of curbing, sidewalks, roadways and parkways shall be protected against damage, and any damage shall be repaired by or at the expense of the Contractor.

The Contractor shall not place upon the Work, or any part thereof, loads inconsistent with the safety of that portion of the Work.

The Contractor shall schedule work which will affect services or access to any building(s) or infrastructure on campus at a time convenient to the Awarding Authority and to minimize disruptions. The contractor shall perform any necessary work after regular working hours, at an accelerated rate, or on Sundays or legal holidays without extra compensation.

The Contractor shall provide and maintain such sanitary accommodations for the use of its employees and those of its Subcontractors as may be necessary to comply with the requirements and regulations of the local and State Department of Health and other regulatory agencies.

The Contractor shall be responsible for maintaining safe and unencumbered access and egress to and around the project site including all necessary temporary signage and pedestrian and vehicular protection.

#### **45. CUTTING AND PATCHING:**

The Contractor shall do all necessary cutting, fitting, and patching to properly receive the Work and to make its several parts join together as required by the Drawings and Specifications. After such cutting, Contractor shall replace or restore or repair all defective or patched work as required. Contractor shall not cut, excavate, or otherwise alter any work in a manner or by a method or methods that will endanger the Work, adjacent property, workers, the public, or the work of any other contractor.

The Contractor shall check the location of all sleeves, openings, slots, etc., for the piping, ducts, breeching, conduits, louvers, grilles, fans, etc., as they are laid out on the job.

Provision for openings, holes and clearances through walls, beams, floors, ceilings, and partitions shall be made and checked by the Contractor and/or its Subcontractor in advance for constructing such parts of the Work in order to avoid unnecessary, superfluous or dangerous cutting.

Unless otherwise specified, pipes passing through any parts of the Structure shall be provided with pipe sleeves two sizes larger than the pipe plus its insulation in order to provide independent movement.

Under no condition shall structural framing or other parts or members subjected to computed stress be cut or disturbed without the approval of the Designer. Any structural member which is cut must be restored by Contractor at its expense to its original strength by a method approved by the Designer.

In order to maintain design strengths, the Designer's approval shall also be obtained before cutting or drilling holes in concrete or masonry.

#### **46. PERIODIC AND FINAL CLEANUP:**

The Contractor shall periodically clean up, and remove from the premises, all refuse, rubbish, scrap materials and debris to the end that at all times the premises are sanitary, safe, reasonably clean, orderly, and workmanlike. Trash and combustible materials shall not be allowed to accumulate inside buildings or elsewhere on the premises. At no time shall any rubbish be thrown from an opening.

Should the Contractor fail to keep the premises in an orderly and workmanlike condition, the Awarding Authority may after 48 hours notice to the Contractor, and without prejudice to any other remedy it may have, correct such conditions and may deduct the actual cost thereof from payment then or thereafter due to the Contractor. If the premises are in a condition that poses an actual, or imminent potential, adverse effect on public health, safety or convenience, the Awarding Authority may reduce the required notice to four hours as provided in Article 25.

Before final completion and final acceptance the Contractor shall remove from the Awarding Authority's property, and from all public and private property, all tools, scaffolding, falsework, temporary structures and/or utilities including the foundations thereof (except such as the Awarding Authority permits in writing to remain); rubbish and waste materials; and all surplus materials, leaving the site clean and true to line and grade, and the Work in a safe and clean condition, ready for use and operation.

In addition to the above, the Contractor shall be responsible for the following special cleaning for all trades as the work shall have been completed:

- A. cleaning of all painted, enameled, stained, or baked enamel work: Removal of all stains, fingerprints, and splatters from such surfaces.
- B. cleaning of all glass: cleaning and removing of all stickers, labels, stains, and paint from all glass, and the washing and polishing of the interior and exterior of the same,
- C. cleaning or polishing of all hardware;
- D. cleaning all tile and floor finishes of all kinds: removal of all splatters, stains, paint, dirt and dust, and the washing and polishing of all floors as recommended by the manufacturer or as required by the Awarding Authority.
- E. cleaning of all manufactured articles, materials, fixtures, appliances, and equipment: removal of all stickers, rust stains, labels and temporary covers; cleaning and conditioning of all manufactured articles, material, fixtures, appliances and electrical, heating and air conditioning equipment as recommended or directed by the manufacturers, unless otherwise required by the Awarding Authority; blowing out or flushing out of all foreign matter from all dust pockets, piping, tanks, pumps, fans, motors, devices, switches, panels, fixtures, boilers or similar features; and freeing or cleaning identification plates on all equipment of excess paint and the polishing thereof.

#### **47. GUARANTEE OF THE WORK:**

Except as otherwise specified in the Modifications of the General Conditions or in the Supplemental General Conditions, all work, including those items purchased under the Purchasing Agent Agreement, shall be guaranteed by the Contractor against defects of materials, equipment, or workmanship for one year from the date of Substantial Completion of the Contract. If, within any guarantee period, repairs or changes which, in the opinion of the Awarding Authority, are required as the result of the use of such materials, equipment, or workmanship which are inferior, defective, or not in accordance with the terms of the Contract Documents, the Contractor, promptly upon receipt of notice from the Awarding Authority, and without expense to the Awarding Authority, shall:

- A. place in satisfactory condition in every particular all of such guaranteed work, correcting all defects therein; and
- B. make good all damage to the building or site, or equipment or contents thereof, which is the result of the use of materials, equipment, or workmanship which are inferior, defective, or not in accordance with the terms of the Contract; and
- C. make good any work or material, or the equipment and contents of said building or site disturbed in fulfilling any such guarantee.
- D. provide, at Contractor's expense, a warranty bond for items not installed per the Contract Documents but left in place that may impair or reduce the reasonably expected service life of the building or related components or systems.

In any case wherein fulfilling the requirements of the Contract or of any guarantee embraced in or required thereby, the Contractor disturbs any work guaranteed under another contract, Contractor shall restore such disturbed work to a condition satisfactory to the Awarding Authority and guarantee such restored work to same extent as it was guaranteed under such other contract.

If the Contractor, after notice, fails to proceed promptly to comply with the terms of the guarantee, the Awarding Authority may have the defects corrected and the Contractor and its Surety shall be liable for all expense incurred.

All special guarantees applicable to definite parts of the work that may be stipulated in the Contract Documents shall be subject to the terms of this paragraph during the first year of the life of such special guarantee.

**48. POSSESSION PRIOR TO COMPLETION:**

The Awarding Authority shall have the right use any completed or partially completed part of the Work. Such use shall not be deemed an acceptance of any Work not completed in accordance with the Contract Documents. If, however, such prior use by the Awarding Authority delays the progress of the Work or causes additional expenses to the Contractor, an equitable adjustment in the contract price and/or time of completion will be made and the Contract will be modified in writing accordingly. Use pursuant to Article 37 by the Awarding Authority's contractor shall not constitute possession or the Work.

**49. LIQUIDATED DAMAGES:**

Time is of the essence of the Contract. Any delay in the completion of the Work as provided for in the Contract Documents will cause inconvenience to the public and will cause loss and damage to the Awarding Authority in additional interest and administrative, architectural, inspection and supervision charges. It is important that this Work be completed within the contract time limits.

Therefore, unless specified otherwise under SUPPLEMENTAL GENERAL CONDITIONS or MODIFICATIONS OF THE GENERAL CONDITIONS, or through any addenda to the contract documents, a time charge equal to nine percent (9%) interest per annum of the total contract price will be made against the Contractor for the entire period that any part of the Work remains uncompleted after the time specified for the completion of the Work as provided in the Contract Documents. The amount of the time charge shall be deducted from the final estimate and shall be retained out of monies otherwise due the Contractor in Final Payment, not as a penalty, but as liquidated damages sustained, it being mutually understood and agreed between the contracting parties that such amount is reasonable as liquidated damages.

**50. USE OF FOREIGN MATERIALS:**

In accordance with the provisions of Article 39-3-1, Code of Alabama (1975) the Contractor shall use only materials, supplies, and products manufactured, mined, processed or otherwise produced in the United States or its territories, if same are available at reasonable and competitive prices and are not contrary to any sole source specification implemented under Article 39-2-2(f), Code of Alabama (1975).

In accordance with the provisions of Article 39-3-4, Code of Alabama (1975), the Contractor shall use only iron and steel produced in the United States or its territories when specifications in the Contract Documents require the use of steel. If, in the opinion of the Awarding Authority, the procurement of such domestically produced iron and steel products is impractical as a result of a national emergency, national strike, or other causes, it may waive this restriction for building construction.

If domestic iron, steel or other domestic materials, supplies, or products are not used in accordance with this article, the contract sum shall be reduced by an amount equal to any savings or benefits realized by the contractor.

**51. EQUAL OPPORTUNITY:**

Contractor shall comply with all applicable Federal and State laws and regulations regarding non-discrimination. Contractor further agrees that no person shall be excluded from participation in, be denied benefits of, or otherwise be subjected to discrimination in the performance of this Agreement on the basis of race, color, national origin, sex, disability, or age, or any other characteristic protected by Federal or State law ("Protected Characteristics"). Contractor shall not use Federal or State funds for programs that discriminate based on Protected Characteristics.

**52. SIGN:**

Unless deleted under SUPPLEMENTAL GENERAL CONDITIONS, MODIFICATIONS OF THE GENERAL CONDITIONS, OR DIRECTED BY THE AWARDING AUTHORITY the Contractor will erect a sign at the project site identifying the project and indicating those entities participating in the development of the project. Information to be lettered on the 4' x 8' exterior grade plywood sign will be furnished to the Contractor by the Awarding Authority. The sign is to be maintained in good condition until completion of the project at which time the Contractor shall remove it from the site. Details of construction of the sign shall be as Attachment A.

**53. NO SMOKING POLICY:**

Smoking, including the use of electronic cigarettes or similar devices, is prohibited at all times and at all locations on The University of Alabama campus, including University-owned and leased facilities, properties, and grounds. This includes but is not limited to the following:

- The interior of all University-owned buildings;
- All outside property or grounds of the campus, including sidewalks, parking lots, parking decks, and recreational areas;
- All partially enclosed areas such as walkways, breezeways, patios, porches, gazebos, tents, and bus shelters;
- Within any University-owned vehicles, including buses, vans, shuttles, golf carts, and all other University vehicles;
- All indoor and outdoor athletics venues and facilities; and
- All other real property, buildings, and facilities under the primary control of the University.

The Contractor shall strictly enforce this policy with its employees, subcontractors, vendors, and any other personnel during the course of the Work.

**54. PARKING & TRANSPORTATION REQUIREMENTS:**

No permits will be provided for construction vehicle parking in University designated parking areas. Contractors shall not use visitor spaces or pay-to-park spaces. No permit required within construction fenced areas; however, parking within the fenced areas shall be limited to marked contractor/vendor vehicles. Unless otherwise specified in the Bid Documents, no personal vehicles shall be allowed in the fenced areas.

Contractor shall establish and coordinate all construction-related parking arrangements through the architect and UA project manager. The contractor shall provide a minimum of three (3) spaces for University personnel on site. As a convenience and at the University's sole discretion, The University shall provide designated offsite parking for workers and transportation to the project site as required by the project schedule, but not outside the hours of 6:30 AM to 8:00AM and 3:30 PM to 5:00 PM.

**55. CONSTRUCTION DEBRIS REPORTING:**

The Contractor will be responsible for tracking and reporting the construction debris (in tons) for the project. Construction debris consists of debris generated during the construction, renovation, and demolition of

buildings or roads that is discarded in a permitted construction and materials landfill. Debris may include but not limited to: concrete, brick, stone, metals, glass, plastics, gypsum drywall, wood, and asphalt. Submission of this report will be required at project closeout. It is not our intention to obtain tonnage for dirt. A certified report will be turned in as a part of Closeout documents.

**56. COMMERCIAL USE OF IMAGES OF THE WORK:**

Contractor shall not use photographs, video, drawings or any other visual representation of the Work for the commercial promotion of the Contractor's business without the prior written permission of the Owner. This includes, but is not limited to, print and video advertisements, use at trade shows, submissions to professional organizations, and display on the Contractor's web site. This provision shall also be binding on any of the Contractor's subcontractors and Contractor shall require its subcontractors to agree to be bound by its terms.

**57. NOT USED**

**58. SAFETY:**

The Contractor shall be responsible for all project safety. Neither the Consultant nor the Owner will be responsible for the Contractor's safety precautions, means, methods, techniques, sequences, or procedures.

Contractor's personnel responsible for safety shall be OSHA certified

Weekly employee safety meetings will be required with minutes of each meeting kept current. Contractor shall be responsible for coordination, content, scheduling, etc., of safety meetings with employees. Safety meeting minutes with sign-in sheets must be current for the contractor's pay request to be approved.

The General Contractor shall be responsible for maintaining a comprehensive Hot Work Program (i.e., welding, cutting materials that generate sparks, operations generating sufficient heat to ignite combustible materials, etc.) that meets the requirements of OSHA 29 CFR 1926.352, NFPA 51B or other industry standard. This program shall include reliable methods to issue hot work permits, provide a fire watch when needed and to have fire extinguishers at the hot work location in the event of a fire. The General Contractor must extend this requirement to all subcontractors.

Fencing along the limits of construction, including equipment and storage areas, is the Contractor's responsibility unless otherwise directed by the Owner. The cost of any type fencing, barricades, etc. necessary shall be incidental to project. Fencing, barricades, etc., must be maintained according to the project specifications throughout the duration of the project.

**59. MISCELLANEOUS:**

**DRONES-** Use of unmanned aircraft systems a/k/a "drones": Any use of unmanned aircraft systems ("UAS") during the course of the work shall be in strict accordance with the University's Policy on Use of Unmanned Aircraft Systems which can be found at <http://policies.ua.edu>. The General Contractor shall be responsible for ensuring all subcontractors, suppliers, and any employees thereof comply with the policy. In addition to the required permissions set out in the policy, the General Contractor shall also obtain approval from the UA Executive Director for Construction Administration (or designated representative) before the use of any UAS.

**SOFTWARE-** Document management is required through Owner's preferred software(s).

**60. LEGAL:**

**INDEMNIFICATION**

To the fullest extent permitted by law, the Contractor shall defend, indemnify, and hold harmless the Owner, Architect, Architect's consultants, Alabama Division of Construction Management, State Department of Education (if applicable), and their agents, employees, and consultants (hereinafter collectively referred to as the "Indemnitees") from and against all claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of, related to, or resulting from performance of the Work, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property, including loss of use resulting therefrom, and is caused in whole or in part by negligent acts or omissions of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, regardless of whether such claim, damage, loss or expense is caused in part, or is alleged but not legally established to have been caused in whole or in part by the negligence or other fault of a party indemnified hereunder.

- A. This indemnification shall extend to all claims, damages, losses and expenses for injury or damage to adjacent or neighboring property, or persons injured thereon, that arise out of, relate to, or result from performance of the Work.
- B. This indemnification does not extend to the liability of the Architect, or the Architect's Consultants, agents, or employees, arising out of (1) the preparation or approval of maps, shop drawings, opinions, reports, surveys, field orders, Change Orders, drawings or specifications, or (2) the giving of or the failure to give directions or instructions, provided such giving or failure to give instructions is the primary cause of the injury or damage.
- C. This indemnification does not apply to the extent of the sole negligence of the Indemnitees.

**FORCE MAJUERE**

If Contractor is delayed in the performance or progress of the Work by fire, flooding of the site, epidemic, abnormal weather conditions, act of God . . . or other causes not the fault of and beyond the control of the Authority and Contractor, then Contractor shall be entitled to an equitable adjustment in Contract Times if proper notice is given and approved by Owner per article 19 Changes in Work.

**CAPTIONS**

The captions of document are for convenience and reference only, are not a part of this agreement, and in no way define, describe, extend, or limit the scope or intent of the General Conditions which follow.

**PLAIN MEANING**

The General Conditions shall be construed in its entirety according to its plain meaning and shall not be construed against the party who provided or drafted it.

**SEVERABILITY**

All of the terms, provisions, and conditions of this Agreement shall be deemed to be severable in nature. If for any reason the provisions hereof are held to be invalid, illegal, or unenforceable to any extent, then, to the extent that such provisions are valid and enforceable, a court of competent jurisdiction shall construe and interpret this Agreement to provide for maximum validity and enforceability of this Agreement.

END OF SECTION 007201