CONTRACT

State of Vermont

Buildings and General Services
Office of Purchasing & Contracting
109 State St
Montpelier VT 05609-3001
USA

Vendor ID 0000110565
Brown Electric Inc
440 Shunpike Rd
Williston VT 05495
USA

Phone #: 802-863-2060

Contract ID		Page
00000000000000000000032688		1 of 2
Contract Dates	**Origin**	
12/01/2016 to 11/30/2017	CPS	
Description:	**Contract Maximum**	
STATEWIDE ELECTRICAL SERVICES	$250,000.00	
Buyer Name **Buyer Phone**	**Contract Status**	
Natalie Ann Dowling	Approved	

Line #	Item ID	Item Desc	UOM	Unit Price	Max Qty	Max Amt
1		Contractor shall provide all labor, materials and equipment necessary to satisfactorily complete Electrical services as identified in Attachment A of this agreement.	JOB	0.01000	0.00	250,000.00

CONTRACT TERMS AND ADDITIONAL INFORMATION

1. Parties. This is a contract for services between the State of Vermont, Department of Buildings and General Services (hereinafter called "State"), and Brown Electric Company Inc., with a principal place of business in Williston, Vermont, (hereinafter called "Contractor"). Contractor's form of business organization is corporation. It is Contractor's responsibility to contact the Vermont Department of Taxes to determine if, by law, Contractor is required to have a Vermont Department of Taxes Business Account Number.

2. Subject Matter. The subject matter of this contract is services generally on the subject of Electrical Services. Detailed services to be provided by Contractor are described in Attachment A.

3. Maximum Amount. In consideration of the services to be performed by Contractor, the State agrees to pay Contractor, in accordance with the payment provisions specified in Attachment B, a sum not to exceed $250,000.00.

4. Contract Term. The period of contractor' performance shall begin on December 1, 2016, and end on November 30, 2017. Upon mutual agreement of both parties this contract may be extended for two (2) additional 12 month periods.

5. Prior Approvals. This Contract shall not be binding unless and until all requisite prior approvals have been obtained in accordance with current State law, bulletins, and interpretations.

6. Amendment. No changes, modifications, or amendments in the terms and conditions of this contract shall be effective unless reduced to writing, numbered and signed by the duly authorized representative of the State and Contractor.

7. Cancellation. This contract may be canceled by either party by giving written notice at least thirty (30) days in advance.

8. Attachments. This contract consists of 44 pages including the following attachments which are incorporated herein:
Attachment A - Statement of Work
Attachment B - Payment Provisions
Attachment C -"Standard State Provisions for Contracts and Grants" a preprinted form (revision date 07/01/2016)
Attachment D - Additional Terms and Conditions for Construction Renovation
Attachment E - General Conditions
9. Order of Precedence. Any ambiguity, conflict or inconsistency between the documents comprising this contract shall be resolved according to the following order of precedence:
(1) Standard Contract
(2) Attachment C (Standard Contract Provisions for Contracts and Grants)
(3) Attachment D Additional Terms and Conditions Construction Renovation
(4) Attachment E General Conditions
(5) Attachment A
(6) Attachment B

MASTER COPY DISTRIBUTED: _____
Contractor, Accounting, Kevin Henderson, Teigh Southworth.

DEPT ID: VARIOUS

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Contract Dates 12/01/2016 to 11/30/2017		**Origin** CPS
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Brown Electric Inc
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Line #	Item ID	Item Desc	UOM	Unit Price	Max Qty	Max Amt

WE THE UNDERSIGNED PARTIES AGREE TO BE BOUND BY THIS CONTRACT

By the STATE of VERMONT

Date:_____

Signature:_____

Name:_____

Title:_____

Email:_____

By the CONTRACTOR

Date:_____

Signature:_____

Name:_____

Title:_____

Email:_____

ATTACHMENT A – SCOPE OF WORK OVERVIEW

Contractor shall provide all labor, materials and equipment necessary to satisfactorily provide Electrical Services for Projects located throughout the State of Vermont.

Services shall be in accordance with the specifications prepared Department of Buildings and General Services listed below. The following represents a summary description of the Project.

DESCRIPTION OF WORK:

A. The work consists of, but not limited to, providing electrical services. Including, but not limited to, the following major components:

1.1.1. All work performed under this contract will be planned and scheduled by the contract coordinator. The contract coordinator will work closely with both the contractor and the department requiring services. Normally all work shall be performed Monday through Friday during normal working hours but an occasion may arise which would require work to be performed after normal working hours or on Saturday, Sunday or Holidays.

1.1.2. Projects are not to exceed $25,000 which includes any and all costs associated with the individual project, such as labor, material, equipment etc.

1.1.3. All materials, equipment, sizes, capacities and installation of electrical work shall conform to the latest requirements of the National Electrical Code, National Electrical Safety Code, the National Electrical Manufacturers Association, the board of Fire Underwriters, the Underwriter's Laboratories, Inc., the Institute of Electrical and Electronics Engineers, the prevailing State and Local Electrical Codes and EIA/TIA Telecommunications standard.

1.1.4. Contractor shall secure and pay for all permits and inspections required by any of the foregoing authorities. The electrical inspection shall be made and approved by the State and/or Local authority having jurisdiction.

1.1.5. All electrical work shall be performed by duly licensed electricians who are qualified to do such work, and who are normally engaged in this type of work and of sufficient number to perform the required services efficiently and in a manner satisfactory to the Contract Coordinator. Because of the complexity of the electrical work, unskilled labor is not permitted.

1.1.6. Contractor shall obtain prior written approval from the contract coordinator for Subcontractors before Subcontractors can perform duties as part of the contract.

1.1.7. The contractor shall furnish supplies and equipment for all work performed. Contractor's equipment shall be of the size and type suitable for accomplishing the various phases of work described herein. Equipment considered by the contract coordinator to be improper or inadequate for this purpose shall be removed from the job and replaced with satisfactory equipment.

1.1.8. All unclaimed articles found in or about the work areas by the contractor shall be turned in immediately to the State of Vermont Contract Coordinator, giving location where article was found.

1.1.9. The contractor shall, at no additional cost to the State, repair furnishings, equipment, facilities or other property of the State damaged by the contractor. Determination of the need

for and extent of any repair work is at the sole discretion of the State of Vermont Contract Coordinator.

1.1.10. The contractor shall at all times provide adequate supervision of his employees to ensure complete and satisfactory performance of all work in accordance with the terms of the contract. The contractor shall have a responsible and properly licensed supervisor on the job at all times when the work of the contract is being carried out.

1.1.11. The contractor and his employees shall be subject to all applicable State and Federal regulations for the conduct of personnel.

1.1.12. All supplies, equipment and machines shall be kept free of traffic lanes or other areas, which might be hazardous. All dirt and debris resulting from the work under this contract shall be disposed of at the end of each day or at the completion of work in each building.

1.1.13. Security checks are required to work at locations under this contract. Some personnel background information shall be required to perform these services.

1.2. WORKMANSHIP AND MATERIALS:

1.2.1. Contractor shall furnish all supervision, labor, transportation, materials, tools and equipment necessary to complete the service.

1.2.2. The Contractor guarantees, even though not specifically described in this Contract or otherwise, that materials shall be of the best quality, that work shall be installed in a first class manner, and that all aspects of the project will be delivered in good working order complete and perfect in every respect and that all systems and materials necessary to make the project a complete operating utility as contemplated by the above description of the project shall be included in the contract price.

1.3. SITE SUPERVISION:

1.3.1. The Contractor's site supervisor is responsible for communication with the State's representatives and agrees to meet with the State at the site on a weekly basis to discuss any mutual problems, ideas, or concerns related to the project.

1.3.2. Contractor may be required at certain sites to make notification for weather related events as dictated by the District Facility Manager at the site location.

1.3.3. Contractor is required to notify the Building Maintenance personnel of any maintenance related issues that are discovered during the course of performing work.

1.3.4. Upon receiving any written or oral notice of concern, the Contractor shall respond immediately to address the concern and take any remedial action, if warranted. The Contractor shall provide the contract administrator with a written response identifying the problem and corrective action taken to the satisfaction of the State. Such response shall be immediate, but in no case longer than 10 working days.

Attachment B - Payment Provisions

The State shall pay the Contractor a not-to-exceed amount of $250,000.00 upon satisfactory completion of a project and acceptance thereof by the state for all work identified in Attachment A, as follows:

1. Contractor shall be paid based on documentation and itemization of work performed and included in invoicing. Invoicing must contain a detail of services including location, project manager, dates, hours of work performed and rates of pay. Invoicing must also contain a detail of items and all cost for any allowable expenses.

2. The State shall not be responsible for any unauthorized expenses or services incurred and/or performed by Contractor.

3. In consideration of the worked performed by Contractor, the State shall pay Contractor in accordance with the following schedule of rates. Hourly rates are inclusive of all fees and expenses, including mileage.

	Hourly Rate
A. Master Electrician	$54.50
B. Journeyman Electrician	$54.50
C. Apprentice (3 – 5 Yrs.)	$50.00
D. Apprentice (1 – 2 Yrs.)	$46.00
E. Electrician Helper	$42.00

Contractor will be paid for actual hours worked (no overtime). Hourly schedules as outlined in this contract may be altered at the sole discretion of the State. Requirements may change in occupancy of the building, or operations of departments. Such change in requirements may be in the form of expansion or contraction of hourly work schedules

Upon mutual agreement of both parties this contract may be extended up to 2 additional 12-month periods.

Option Year 1 price if necessary, not to exceed 1.5 % increase
Option Year 2 price if necessary, not to exceed 1.5 % increase

Service shall be provided in the following counties:
Addison, Caledonia, Chittenden, Franklin, Grand Isle, Lamoille, Orange, Rutland, and Washington counties.

4. Unless otherwise stated, this contract was issued on a time and materials basis, as such the following documentation is required in support of invoices. Contractor shall submit invoicing at completion of project to the Project Manager and shall include:

    - A numbered invoice.
    - Description of work, # of hours worked if applicable, including copies of time sheets and a certified payroll following the USDOL form (or comparable);
    - Copies of original receipts for all materials purchased or costs incurred as a result of the scope of work;
    - Time frame indicated of when work was performed;
    - Contract number that the invoice is to be paid from;
    - Certification that the contractor has no ownership (majority or minority) in any subcontractor they claim for profit and overhead;
    - Supporting documentation of material costs, in accordance with the percentage specified in the contract. This supporting documentation is required for verification.

5. Contractor's markup shall not exceed 15 % for material.

6. This agreement represents the entire agreement between the parties; No changes, modifications, or amendments in the terms and conditions of this contract shall be effective unless reduced to writing, numbered and signed by the duly authorized representative of the State and Contractor.

7. The State shall not pay for any unauthorized labor, materials, equipment or expenses of Contractor.

8. Any services outside of agreement shall not be allowed.

9. Contractor shall provide a detailed description of all work completed with each invoice.

10. Payment Terms: Net 30. The State has 30 days from the date the state receives an invoice **with full and complete supporting documentation** to exercise its right to bill or credit adjustments made necessary by internal audits and quality assurance checks.

11. All invoices are to be rendered by the Contractor on the vendor's standard billhead and forwarded directly to the institution or agency ordering materials or services and shall specify the address to which payments will be sent.

ATTACHMENT C: STANDARD STATE PROVISIONS FOR CONTRACTS AND GRANTS
REVISED JULY 1, 2016

1. Definitions: For purposes of this Attachment, "Party" shall mean the Contractor, Grantee or Subrecipient, with whom the State of Vermont is executing this Agreement and consistent with the form of the Agreement. "Agreement" shall mean the specific contract or grant to which this form is attached.

2. Entire Agreement: This Agreement, whether in the form of a Contract, State Funded Grant, or Federally Funded Grant, represents the entire agreement between the parties on the subject matter. All prior agreements, representations, statements, negotiations, and understandings shall have no effect.

3. Governing Law, Jurisdiction and Venue; No Waiver of Jury Trial: This Agreement will be governed by the laws of the State of Vermont. Any action or proceeding brought by either the State or the Party in connection with this Agreement shall be brought and enforced in the Superior Court of the State of Vermont, Civil Division, Washington Unit. The Party irrevocably submits to the jurisdiction of this court for any action or proceeding regarding this Agreement. The Party agrees that it must first exhaust any applicable administrative remedies with respect to any cause of action that it may have against the State with regard to its performance under the Agreement.

Party agrees that the State shall not be required to submit to binding arbitration or waive its right to a jury trial.

4. Sovereign Immunity: The State reserves all immunities, defenses, rights or actions arising out of the State's sovereign status or under the Eleventh Amendment to the United States Constitution. No waiver of the State's immunities, defenses, rights or actions shall be implied or otherwise deemed to exist by reason of the State's entry into this Agreement.

5. No Employee Benefits For Party: The Party understands that the State will not provide any individual retirement benefits, group life insurance, group health and dental insurance, vacation or sick leave, workers compensation or other benefits or services available to State employees, nor will the state withhold any state or federal taxes except as required under applicable tax laws, which shall be determined in advance of execution of the Agreement. The Party understands that all tax returns required by the Internal Revenue Code and the State of Vermont, including but not limited to income, withholding, sales and use, and rooms and meals, must be filed by the Party, and information as to Agreement income will be provided by the State of Vermont to the Internal Revenue Service and the Vermont Department of Taxes.

6. Independence: The Party will act in an independent capacity and not as officers or employees of the State.

7. Defense and Indemnity: The Party shall defend the State and its officers and employees against all third party claims or suits arising in whole or in part from any act or omission of the Party or of any agent of the Party in connection with the performance of this Agreement. The State shall notify the Party in the event of any such claim or suit, and the Party shall immediately retain counsel and otherwise provide a complete defense against the entire claim or suit. The State retains the right to participate at its own expense in the defense of any claim. The State shall have the right to approve all proposed settlements of such claims or suits. In the event the State withholds approval to settle any such claim, then the Party shall proceed with the defense of the claim but under those circumstances, the Party's indemnification obligations shall be limited to the amount of the proposed settlement initially rejected by the State.

After a final judgment or settlement the Party may request recoupment of specific defense costs and may file suit in Washington Superior Court requesting recoupment. The Party shall be entitled to recoup costs only upon a showing that such costs were entirely unrelated to the defense of any claim arising from an act or omission of the Party in connection with the performance of this Agreement.

The Party shall indemnify the State and its officers and employees in the event that the State, its officers or employees become legally obligated to pay any damages or losses arising from any act or omission of the Party or an agent of the Party in connection with the performance of this Agreement.

The Party agrees that in no event shall the terms of this Agreement nor any document required by the Party in connection with its performance under this Agreement obligate the State to defend or indemnify the Party or otherwise be liable for the expenses or reimbursement, including attorneys' fees, collection costs or other costs of the Party except to the extent awarded by a court of competent jurisdiction.

8. Insurance: Before commencing work on this Agreement the Party must provide certificates of insurance to show that the following minimum coverages are in effect. It is the responsibility of the Party to maintain current certificates of insurance on file with the State through the term of the Agreement. No warranty is made that the coverages and limits listed herein are adequate to cover and protect the interests of the Party for the Party's operations. These are solely minimums that have been established to protect the interests of the State.

Workers Compensation: With respect to all operations performed, the Party shall carry workers' compensation insurance in accordance with the laws of the State of Vermont. Vermont will accept an out-of-state employer's workers' compensation coverage while operating in Vermont provided that the insurance carrier is licensed to write insurance in Vermont and an amendatory endorsement is added to the policy adding Vermont for coverage purposes. Otherwise, the party shall secure a Vermont workers' compensation policy, if necessary to comply with Vermont law.

General Liability and Property Damage: With respect to all operations performed under this Agreement, the Party shall carry general liability insurance having all major divisions of coverage including, but not limited to:

Premises - Operations

Products and Completed Operations

Personal Injury Liability

Contractual Liability

The policy shall be on an occurrence form and limits shall not be less than:

$1,000,000 Each Occurrence

$2,000,000 General Aggregate

$1,000,000 Products/Completed Operations Aggregate

$1,000,000 Personal & Advertising Injury

Automotive Liability: The Party shall carry automotive liability insurance covering all motor vehicles, including hired and non-owned coverage, used in connection with the Agreement. Limits of coverage shall not be less than $500,000 combined single limit. If performance of this Agreement involves construction, or the transport of persons or hazardous materials, limits of coverage shall not be less than $1,000,000 combined single limit.

Additional Insured. The General Liability and Property Damage coverages required for performance of this Agreement shall include the State of Vermont and its agencies, departments, officers and employees as Additional Insureds. If performance of this Agreement involves construction, or the transport of persons or hazardous materials, then the required Automotive Liability coverage shall include the State of Vermont and its agencies, departments, officers and employees as Additional Insureds. Coverage shall be primary and non-contributory with any other insurance and self-insurance.

Notice of Cancellation or Change. There shall be no cancellation, change, potential exhaustion of aggregate limits or non-renewal of insurance coverage(s) without thirty (30) days written prior written notice to the State.

9. Reliance by the State on Representations: All payments by the State under this Agreement will be made in reliance upon the accuracy of all representations made by the Party in accordance with the Contract, including but not limited to bills, invoices, progress reports and other proofs of work.

10. False Claims Act: The Party acknowledges that it is subject to the Vermont False Claims Act as set forth in 32 V.S.A. § 630 *et seq.* If the Party violates the Vermont False Claims Act it shall be liable to the State for civil penalties, treble damages and the costs of the investigation and prosecution of such violation, including attorney's fees, except as the same may be reduced by a court of competent jurisdiction. The Party's liability to the State under the False Claims Act shall not be limited notwithstanding any agreement of the State to otherwise limit Party's liability.

11. Whistleblower Protections: The Party shall not discriminate or retaliate against one of its employees or agents for disclosing information concerning a violation of law, fraud, waste, abuse of authority or acts threatening health or safety, including but not limited to allegations concerning the False Claims Act. Further, the Party shall not require such employees or agents to forego monetary awards as a result of such disclosures, nor should they be required to report misconduct to the Party or its agents prior to reporting to any governmental entity and/or the public.

12. Federal Requirements Pertaining to Grants and Subrecipient Agreements:

A. Requirement to Have a Single Audit: In the case that this Agreement is a Grant that is funded in whole or in part by federal funds, the Subrecipient will complete the Subrecipient Annual Report annually within 45 days after its fiscal year end, informing the State of Vermont whether or not a Single Audit is required for the prior fiscal year. If a Single Audit is required, the Subrecipient will submit a copy of the audit report to the granting Party within 9 months. If a single audit is not required, only the Subrecipient Annual Report is required.

For fiscal years ending before December 25, 2015, a Single Audit is required if the subrecipient expends $500,000 or more in federal assistance during its fiscal year and must be conducted in accordance with OMB Circular A-133. For fiscal years ending on or after December 25, 2015, a Single Audit is required if the subrecipient expends $750,000 or more in federal assistance during its fiscal year and must be conducted in accordance with 2 CFR Chapter I, Chapter II, Part 200, Subpart F. The Subrecipient Annual Report is required to be submitted within 45 days, whether or not a Single Audit is required.

B. Internal Controls: In the case that this Agreement is a Grant that is funded in whole or in part by Federal funds, in accordance with 2 CFR Part II, §200.303, the Party must establish and maintain effective internal control over the Federal award to provide reasonable assurance that the Party is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the award. These internal controls should be in compliance with guidance in "Standards for Internal Control in the Federal Government" issued by the Comptroller General of the United States and the "Internal Control Integrated Framework", issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).

C. Mandatory Disclosures: In the case that this Agreement is a Grant funded in whole or in part by Federal funds, in accordance with 2CFR Part II, §200.113, Party must disclose, in a timely manner, in writing to the State, all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award. Failure to make required disclosures may result in the imposition of sanctions which may include disallowance of costs incurred, withholding of payments, termination of the Agreement, suspension/debarment, etc.

13. Records Available for Audit: The Party shall maintain all records pertaining to performance under this agreement. "Records" means any written or recorded information, regardless of physical form or characteristics, which is produced or acquired by the Party in the performance of this agreement. Records produced or acquired

in a machine readable electronic format shall be maintained in that format. The records described shall be made available at reasonable times during the period of the Agreement and for three years thereafter or for any period required by law for inspection by any authorized representatives of the State or Federal Government. If any litigation, claim, or audit is started before the expiration of the three-year period, the records shall be retained until all litigation, claims or audit findings involving the records have been resolved.

14. Fair Employment Practices and Americans with Disabilities Act: Party agrees to comply with the requirement of 21 V.S.A. Chapter 5, Subchapter 6, relating to fair employment practices, to the full extent applicable. Party shall also ensure, to the full extent required by the Americans with Disabilities Act of 1990, as amended, that qualified individuals with disabilities receive equitable access to the services, programs, and activities provided by the Party under this Agreement.

15. Set Off: The State may set off any sums which the Party owes the State against any sums due the Party under this Agreement; provided, however, that any set off of amounts due the State of Vermont as taxes shall be in accordance with the procedures more specifically provided hereinafter.

16. Taxes Due to the State:

- **A.** Party understands and acknowledges responsibility, if applicable, for compliance with State tax laws, including income tax withholding for employees performing services within the State, payment of use tax on property used within the State, corporate and/or personal income tax on income earned within the State.
- **B.** Party certifies under the pains and penalties of perjury that, as of the date the Agreement is signed, the Party is in good standing with respect to, or in full compliance with, a plan to pay any and all taxes due the State of Vermont.
- **C.** Party understands that final payment under this Agreement may be withheld if the Commissioner of Taxes determines that the Party is not in good standing with respect to or in full compliance with a plan to pay any and all taxes due to the State of Vermont.
- **D.** Party also understands the State may set off taxes (and related penalties, interest and fees) due to the State of Vermont, but only if the Party has failed to make an appeal within the time allowed by law, or an appeal has been taken and finally determined and the Party has no further legal recourse to contest the amounts due.

17. Taxation of Purchases: All State purchases must be invoiced tax free. An exemption certificate will be furnished upon request with respect to otherwise taxable items.

18. Child Support: (Only applicable if the Party is a natural person, not a corporation or partnership.) Party states that, as of the date the Agreement is signed, he/she:

- **A.** is not under any obligation to pay child support; or
- **B.** is under such an obligation and is in good standing with respect to that obligation; or
- **C.** has agreed to a payment plan with the Vermont Office of Child Support Services and is in full compliance with that plan.

Party makes this statement with regard to support owed to any and all children residing in Vermont. In addition, if the Party is a resident of Vermont, Party makes this statement with regard to support owed to any and all children residing in any other state or territory of the United States.

19. Sub-Agreements: Party shall not assign, subcontract or subgrant the performance of this Agreement or any portion thereof to any other Party without the prior written approval of the State. Party shall be responsible and

liable to the State for all acts or omissions of subcontractors and any other person performing work under this Agreement pursuant to an agreement with Party or any subcontractor.

In the case this Agreement is a contract with a total cost in excess of $250,000, the Party shall provide to the State a list of all proposed subcontractors and subcontractors' subcontractors, together with the identity of those subcontractors' workers compensation insurance providers, and additional required or requested information, as applicable, in accordance with Section 32 of The Vermont Recovery and Reinvestment Act of 2009 (Act No. 54).

Party shall include the following provisions of this Attachment C in all subcontracts for work performed solely for the State of Vermont and subcontracts for work performed in the State of Vermont: Section 10 ("False Claims Act"); Section 11 ("Whistleblower Protections"); Section 14 ("Fair Employment Practices and Americans with Disabilities Act"); Section 16 ("Taxes Due the State"); Section 18 ("Child Support"); Section 20 ("No Gifts or Gratuities"); Section 22 ("Certification Regarding Debarment"); Section 23 ("Certification Regarding Use of State Funds"); Section 31 ("State Facilities"); and Section 32 ("Location of State Data").

20. No Gifts or Gratuities: Party shall not give title or possession of anything of substantial value (including property, currency, travel and/or education programs) to any officer or employee of the State during the term of this Agreement.

21. Copies: Party shall use reasonable best efforts to ensure that all written reports prepared under this Agreement are printed using both sides of the paper.

22. Certification Regarding Debarment: Party certifies under pains and penalties of perjury that, as of the date that this Agreement is signed, neither Party nor Party's principals (officers, directors, owners, or partners) are presently debarred, suspended, proposed for debarment, declared ineligible or excluded from participation in federal programs, or programs supported in whole or in part by federal funds.

Party further certifies under pains and penalties of perjury that, as of the date that this Agreement is signed, Party is not presently debarred, suspended, nor named on the State's debarment list at: http://bgs.vermont.gov/purchasing/debarment

23. Certification Regarding Use of State Funds: In the case that Party is an employer and this Agreement is a State Funded Grant in excess of $1,001, Party certifies that none of these State funds will be used to interfere with or restrain the exercise of Party's employee's rights with respect to unionization.

24. Conflict of Interest: Party shall fully disclose, in writing, any conflicts of interest or potential conflicts of interest.

25. Confidentiality: Party acknowledges and agrees that this Agreement and any and all information obtained by the State from the Party in connection with this Agreement are subject to the State of Vermont Access to Public Records Act, 1 V.S.A. § 315 et seq.

26. Force Majeure: Neither the State nor the Party shall be liable to the other for any failure or delay of performance of any obligations under this Agreement to the extent such failure or delay shall have been wholly or principally caused by acts or events beyond its reasonable control rendering performance illegal or impossible (excluding strikes or lock-outs) ("Force Majeure"). Where Force Majeure is asserted, the nonperforming party must prove that it made all reasonable efforts to remove, eliminate or minimize such cause of delay or damages, diligently pursued performance of its obligations under this Agreement, substantially fulfilled all non-excused obligations, and timely notified the other party of the likelihood or actual occurrence of an event described in this paragraph.

27. Marketing: Party shall not refer to the State in any publicity materials, information pamphlets, press releases, research reports, advertising, sales promotions, trade shows, or marketing materials or similar communications to third parties except with the prior written consent of the State.

28. Termination: In addition to any right of the State to terminate for convenience, the State may terminate this Agreement as follows:

A. Non-Appropriation: If this Agreement extends into more than one fiscal year of the State (July 1 to June 30), and if appropriations are insufficient to support this Agreement, the State may cancel at the end of the fiscal year, or otherwise upon the expiration of existing appropriation authority. In the case that this Agreement is a Grant that is funded in whole or in part by federal funds, and in the event federal funds become unavailable or reduced, the State may suspend or cancel this Grant immediately, and the State shall have no obligation to pay Subrecipient from State revenues.

B. Termination for Cause: Either party may terminate this Agreement if a party materially breaches its obligations under this Agreement, and such breach is not cured within thirty (30) days after delivery of the non-breaching party's notice or such longer time as the non-breaching party may specify in the notice.

C. No Implied Waiver of Remedies: A party's delay or failure to exercise any right, power or remedy under this Agreement shall not impair any such right, power or remedy, or be construed as a waiver of any such right, power or remedy. All waivers must be in writing.

29. Continuity of Performance: In the event of a dispute between the Party and the State, each party will continue to perform its obligations under this Agreement during the resolution of the dispute until this Agreement is terminated in accordance with its terms.

30. Termination Assistance: Upon nearing the end of the final term or termination of this Agreement, without respect to cause, the Party shall take all reasonable and prudent measures to facilitate any transition required by the State. All State property, tangible and intangible, shall be returned to the State upon demand at no additional cost to the State in a format acceptable to the State.

31. State Facilities: If the State makes space available to the Party in any State facility during the term of this Agreement for purposes of the Party's performance under this Agreement, the Party shall only use the space in accordance with all policies and procedures governing access to and use of State facilities which shall be made available upon request. State facilities will be made available to Party on an "AS IS, WHERE IS" basis, with no warranties whatsoever.

32. Location of State Data: No State data received, obtained, or generated by the Party in connection with performance under this Agreement shall be processed, transmitted, stored, or transferred by any means outside continental United States, except with the express written permission of the State.

(End of Standard Provisions)

Attachment D: Additional Terms and Conditions for Construction Renovation

1. **Plan Security Certification:** Contractor acknowledges that the plans pertaining to this project have been declared exempt from public record inspection for security reasons and have been disclosed to Contractor as per 1 V.S.A. §317(c)(32) for the performance of the Work specified herein. Contractor hereby expressly acknowledges and agrees to disclose plans ***only to a licensed architect, engineer, or Contractor who is bidding on or performing work on or related to buildings, facilities, infrastructures, systems, or other structures owned, operated, or leased by the state.***

   Furthermore, Contractor agrees to abide by BGS Administrative Policy # 35 and any existing or future directives set forth by the State concerning the copying or distribution of the plans. Fraud, misrepresentation, falsification, or concealing or covering up material facts relating to compliance with these directives may result in one or more of the following actions: termination of the contract(s), suspension of bidding privileges, withholding, deducts, forfeiture of security bonds, and criminal prosecution punishable by imprisonment of up to five years and/or up to a $10,000 fine as per 13 V.S.A. §3016.

2. **Workmanship and Materials:** Contractor agrees to furnish all supervision, labor, transportation, materials, tools, and equipment necessary to complete the project.

   a. The Contractor guarantees, even though not specifically described in this Contract or otherwise, that materials shall be of the best quality, that work shall be completed in a neat and workmanlike manner, that equipment shall be installed in a first class manner, and that all aspects of the project will be delivered in good working order complete and perfect in every respect and that all systems and materials necessary to make the project a complete operating utility as contemplated by the above description of the project shall be included in the Contract price.

   b. All aspects of the project shall be subject to the inspection and approval of the State. Contractor guarantees satisfactorily to repair, replace, re-execute or otherwise correct any defect in workmanship, materials, or the like that fails to conform to the requirements of this Contract or that appears during the progress of the work and shall remedy any defects due to faulty materials or workmanship which appears within one year of final acceptance by the State.

   c. The Contractor shall adequately protect the project, adjacent property and the public, and shall be responsible for any damage or injury due to the Contractor's act or neglect, and shall save the State harmless in respect thereto. The Contractor shall keep the premises free from accumulation of waste material and rubbish and upon completion of the work the Contractor shall remove all tools, implements, scaffolds, excess material and rubbish which have accumulated on the premises and shall leave same in a clean and satisfactory condition.

3. **Payments:** All invoices shall be submitted directly to the Department of Buildings and General Services, State of Vermont, Montpelier, Vermont, and shall indicate the Contract number. Upon mutual agreement a single invoice may be submitted after completion of all the work or progress invoices may be submitted on or about the first of each month for all work completed during the preceding month. Progress invoices shall certify that payments for all materials and labor are on a current basis. Payments on progress invoices shall be subject to a withholding of the percentage indicated in paragraph 5 of the BGS Contract Form for Construction Renovation, which shall become payable when all of the work has been completed to the State's satisfaction. At the sole discretion of the State, payments on invoices may be withheld in whole or part if in the opinion of the State the total balance due pursuant to this Contract is insufficient to complete the project. For work done on a time and material basis, all invoices paid by the Contractor and payroll and other cost records shall be subject to inspection by the State. Supporting documentation may be required with all invoices.

   a. Payment of progress and final invoices shall be due from the State 30 days after delivery of an invoice free of errors in documentation and approved by the state's project representative. Retainage withheld, if any, is due from the State within 30 days after receipt of the final invoice which may be submitted after final acceptance of the work or issuance of a Certificate of Substantial Completion less an amount, as determined by the state, to complete unfinished work.

4. **Taxes**: The State is exempt from all sales and federal excise taxes. Contractors will be responsible for the payment of any sales, consumer, use and other similar taxes for the Work or portions thereof provided by the Contractor which are legally enacted at the time bids are received, whether or not yet effective.

5. **Liens:** Contractor shall keep State property free from liens arising hereunder. Prior to any progress or final payment, the State may require Contractor to furnish waivers of liens or such other evidence of compliance herewith.

6. **Insurance:** Attachment "C", numbered paragraph 7 has been deleted in its entirety and replaced with the following: Insurance obtained by the Contractor to cover the below-listed requirements shall be procured from an insurance company registered and licensed to do business in the State of Vermont. Before the Contract is executed, the Contractor shall file with the State a certificate of insurance, executed by an insurance company or its licensed agent(s), on form(s) satisfactory to the State, stating that with respect to the Contract awarded, the Contractor carries insurance in accordance with the following requirements:

(a) Workers' Compensation Insurance: With respect to all operations performed, the Contractor shall carry Workers' Compensation Insurance in accordance with the laws of the State of Vermont. Employers' Liability Insurance must be carried in amounts of not less than $100,000/$100,000/$500,000.

(b) Commercial General Liability (CGL) Insurance: With respect to all operations performed by the Contractor and any Subcontractors, the Contractor shall carry Commercial General Liability (CGL) Insurance affording all major divisions of coverage including, but not limited to:

Premises Operations
Independent Contractors' Protective
Products and Completed Operations
Personal Injury Liability
Contractual Liability
Broad Form Property Damage
Explosion, Collapse and Underground (XCU) Coverage
Fire Legal Liability

State may require additional specific liability coverage(s) when applicable

Limits of Coverage shall be not less than:

$1,000,000	Each Occurrence
$1,000,000	General Aggregate Applying, In Total To This Project Only
$1,000,000	Products/Completed Operations Aggregate
$1,000,000	Personal Injury and Advertising Liability
$ 50,000	Fire Legal Liability
$ 5,000	Medical Expense

Aggregate Limits of Insurance (Per Project) Form must be included (or as excepted in 6f) with the Commercial General Liability Policy.

Contractor shall name the State of Vermont and its officers and employees as additional insureds for liability arising out of this contract.

(c) Automobile Liability Insurance: Contractor shall carry Automobile Liability Insurance covering all motor vehicles, including owned, hired, borrowed and non-owned vehicles, used in connection with the project. Limits of Coverage shall be not less than:

$1,000,000 Combined Single Limit

(d) The Contractor shall require each Subcontractor, if any, to maintain the same Workers' Compensation, Commercial General Liability, and Automobile Liability coverage as specified in paragraphs (a), (b), and (c) above.

(e) Scope of Insurance & Special Hazards: The insurance required under subparagraphs (b), (c), and (d) above shall provide protection for the Contractor and the Subcontractors, if any, against damage claims which may arise from work being performed, including any special hazards which may be encountered by the insured or by any person directly or indirectly employed by the Contractor or a Subcontractor.

(f) If Contractor is unable to provide Aggregate Limits of Insurance (Per Project) as required in 7(b) above, Contractor shall purchase an Owner's Protective Liability Insurance Policy in the name of the State of Vermont to cover all exposures, including bodily injury and death, arising out of and in the course of this Contract. Limits of liability shall be the same as those required of the Contractor under paragraph (b) above.

(g) Builder's Risk Insurance:

(1) The State will maintain property insurance upon the construction site and will not require Contractor to purchase and maintain Builder's Risk Insurance upon the entire work at the site. The decision of the State to waive the requirement that the Contractor maintain builder's risk coverage does not waive Contractor's liability for damage to the State's real and personal property. Contractor's liability for loss to the State's real and personal property will be limited to the first $100,000 of each and every property loss at the work site provided such loss is covered under the State's property insurance coverage. If the Contractor elects to meet this obligation by purchase of commercial insurance, this insurance shall name the Contractor and the State of Vermont as Named Insureds and shall include the interests of the Contractor and Subcontractors. Other parties shall be insured as the State may reasonably require.

Contractor shall effect and maintain insurance on portions of the work stored off-site, on site and in transit. Boiler & Machinery Insurance may be used in conjunction with this coverage if it is required to meet the testing requirement.

(2) The cost of any deductible applicable to loss covered by insurance provided hereunder shall be borne by the Contractor.

(3) Except as provided for in (g) (1) above the State and Contractor waive all rights against each other and the Subcontractor, Sub-subcontractors, agents and employees of the other.

(h) General Insurance Conditions: The insurance specified shall be maintained in force until acceptance of the project by the State except Builder's risk as specified under (g) above.

Umbrella Excess Liability Policies may be used in conjunction with primary policies to comply with any of the limit requirements specified above.

"Claims-made" coverage forms are not acceptable without the express written prior consent of the State.

Each policy furnished shall contain a rider or non-cancellation clause reading in substance as follows:

Anything herein to the contrary notwithstanding, notice of any cancellation, termination or alteration to the insurance contracts must be delivered by registered mail to the Commissioner, Department of Buildings and General Services, State of Vermont, Montpelier, Vermont, at least 60 days before effective cancellation, termination or alteration date unless all work required to be performed under the terms of the Contract is satisfactorily completed as evidenced by the formal acceptance by the State of Vermont.

No warranty is made that the coverages and limits listed herein are adequate to cover and protect the interests of the Contractor for the Contractor's operations. These are solely minimums that have been set to protect the interests of the State.

7. **Amendments**: The State may increase, decrease, or alter the work or materials, or it may otherwise modify the specifications or conditions of the project to be furnished hereunder, and any changes occasioned thereby, including any changes in amounts to be paid hereunder, shall be in the form of an Amendment which shall be agreed to and approved in writing by the Commissioner of the Department of Buildings and General Services, and which shall become a part of this Contract. Verbal instructions, from any source, shall not be valid. No claim or defense may be made under the Contract with respect to such changes unless agreed to in writing.

8. **Site Examination:** Contractor has examined the site and is fully informed as to the extent and character of the project. No consideration will be given for any alleged misunderstanding of same.

9. **Maintenance:** Prior to final payment the Contractor shall provide the State with written maintenance and service instructions for all mechanical and electrical equipment to the extent that such instructions are available for such equipment.

10. **Laws:** Contractor shall comply with all public laws, ordinances, and requirements respecting the work, obtain and pay for all required permits and comply with regulations of any insurance company which issues a policy on any part of the work or site. The Contractor agrees to comply with all of the requirements of Title 21 V.S.A., Chapter 5, Subchapter 6 relating to fair employment practices, to the extent applicable, and agrees further to include a similar provision in any and all subcontracts. Contractor shall acquaint himself with limits of the property or right-of-way of the State and shall not trespass on other property. All work shall be done in such a manner as not to interfere with the State's operating functions. Contractor and his employees shall familiarize themselves and comply with all posted rules.

11. **Non-Collusion:** The State of Vermont is conscious of and concerned about collusion. It should therefore be understood by all that in signing bid and contract documents they agree that the prices quoted have been arrived at without collusion and that no prior information concerning these prices has been received from or given to a competitive company. If there is sufficient evidence to warrant investigation of the bid/contract process by the Office of the Attorney General, all bidders should understand that this paragraph might be used as a basis for litigation. We reserve the right to cancel the contract if we suspect collusion.

12. **Assignment:** Contractor shall not have the right to transfer, or assign this Contract or any part thereof, without the prior written consent of the State and such consent shall not relieve the Contractor of any liability or responsibility hereunder. The failure of the State to assert any of its rights hereunder shall not be construed as a waiver thereof.

13. **Progress:** If in the sole opinion of the State, the Contractor fails to commence work on the project or to complete the work of said project within the time specified above, or to prosecute the work in such a manner that it appears that the completion date can be assured, the State shall have the right to notify the Contractor by Certified Mail that the terms of the Contract have been violated, and that effective immediately the Contract is terminated and the State has the right to and in fact is taking over and attending to completion of the project without prejudice to the State's remedies for any losses sustained.

14. **Employment of Women and Minorities:** The State of Vermont encourages an increase in work force participation rates for women and minorities in all aspects of publicly funded capital construction projects. The contractor is encouraged to seek out and employ qualified women and minorities for work covered under this contract. The following provisions and requirements shall apply when the total contract exceeds $50,000, and the general contractor shall require all first-tier subcontractors to comply with these requirements when their contract exceeds $50,000.

    a. At the conclusion of the project, the affected contractors must complete the Construction Employment Report and submit it to the Department of Buildings and General Services for recording. A complete description and dollar value of the work or supplies provided, and percentage value of the overall construction contract for each such M/WBE transaction must be included. Final payment will not be made until this requirement has been satisfied.

15. **Minority and Women Business Enterprises (M/WBE)**: It is the policy of the State of Vermont that M/WBE's shall have the maximum opportunity to participate in the performance of contracts financed with state funds. All Bidders are encouraged to contact M/WBE's in an effort to recruit them to submit proposals for the work or portions thereof. The contractor shall not discriminate on the basis of race, color, national origin or sexual orientation in the award and performance of subcontracts. The Department of Buildings and General Services shall, in accordance with Executive Order #15-91, and for publicly funded capital construction projects exceeding $50,000.00, comply with the following provisions and requirements. Upon receipt of letter of intent to award contract, the successful bidder shall submit an M/WBE Reporting Form along with certificates of insurance and other pre-contract information. The form includes space to report the name, address and phone number of the M/WBE's contacted, the trade, if their price was included in the bid proposal, and if not, the reason for rejection of their bid. The contract will not be executed until the M/WBE Form is received. Failure to contact M/WBE's on or when projects require sub-contract work may constitute non-compliance and may result in forfeiture of future bidding privileges until resolved.

16. **Waste Reduction Planning:** It is the intent of the State of Vermont to significantly reduce the amount of construction debris going into the total waste stream. Therefore, upon receipt of letter of intent to award contract, the contractor shall submit, along with certificates of insurance and other pre-contract information, a Construction Site Waste Reduction Plan. A sample plan is available at: http://www.anr.state.vt.us/dec/wastediv/recycling/CandD.htm. Failure to comply with the approved waste reduction plan will result in withholding of general conditions' money from the contractor's monthly requisition and imposition of daily fine.

17. **Prevailing Wage Rate Requirements (29 V.S.A. §161 (2) (b) (c) (d)):** Requires compliance for contracts awarded for any state project with a construction cost exceeding $100,000.00 and which is authorized or funded in whole or in part by a capital construction act pursuant to 32 V.S.A. § 701a. The full text of **(29 V.S.A. §161 (2) (b) (c) (d))** reads as follows:

    (b) Each contract awarded under this section for any state project with a construction cost exceeding $100,000.00 and which is authorized or funded in whole or in part by a capital construction act pursuant to 32 V.S.A. § 701a, including such a project of the University of Vermont and State Agricultural College and of the Vermont State Colleges, shall provide that all construction employees working on the project shall be paid no less than the mean prevailing wage published periodically by the department of labor in its occupational employment and wage survey.

    (c) In the construction of any state project, local capable labor shall be utilized whenever practicable, but this section shall not be construed to compel any person to discharge or lay off any regular employee.

    (d) Subsections (a) through (c) of this section shall not apply to maintenance or construction projects carried out by the agency of transportation and by the department of forests, parks and recreation.

    When the original construction contract value exceeds $100,000.00 and which is authorized or funded in whole or in part by a capital construction act pursuant to 32 V.S.A. § 701a, the general contractor and all subcontractors to the general contractor working on the site shall:

    a. Pay wages at or above the Mean Prevailing Wage Rate detemined by the Department of Labor. A complete list of occupations and associated wage rates are available on the internet at: http://www.vtlmi.info/lmipub.htm#pw

b. The Mean Prevailing Wage Rates provided shall be posted in a prominent location or locations where they may be viewed by all employees affected by these provisions.

c. The BGS Facility Director's title and telephone number shall be affixed to the Mean Prevailing Wage Rate Notice posted at the site for purposes of reporting complaints regarding these provisions.

The complete text of 29 V.S.A. § 161. Requirements on state construction projects is available at: http://www.leg.state.vt.us/statutes/fullsection.cfm?Title=29&Chapter=005&Section=00161

18. **General:**

a. Paragraphs 1, 2, 4, 5, 10, 11, 17, 18, and 19 of this Contract shall apply to subcontractors of the Contract as well as to the Contractor. The Contractor has complied with and shall continue to comply with all requirements with respect to qualification to do business in Vermont and registration with the office of the Secretary of State. In the event that all or a portion of the project is to be subject to a subcontract, it shall be the responsibility of the Contractor to determine that the subcontractor has complied with the above requirements of registration and qualification.

b. Paragraph headings are inserted for convenience only and are not to be relied upon for content.

19. **Fall Protection**: Contractors involved in the placement or replacement of roofing systems of all types, on State- owned buildings, including flat, low-pitched and steep roofs, must comply with all requirements of the latest edition of VOSHA Safety and Health Standards for Construction (29 CFR 1926) including, but not limited to, Subpart M – Fall Protection. Prior to execution of a contract by BGS, contractors engaged in placement or replacement of roofing systems of all types must submit a signed certification statement attesting to their intention to comply with VOSHA Fall Protection Regulations. Such certification shall be submitted on a State-provided form along with proof of insurance.

20. **Worker's Compensation; State Contracts Compliance Requirements**: The Department of Buildings and General Services in accordance with Act 54, Section 32 of the Acts of 2009 and for total projects costs exceeding $250,000.00 requires bidders comply with the following provisions and requirements.

((a) (3) For construction and transportation projects over $250,000.00, a payroll process by which during every pay period the contractor collects from the subcontractors or independent contractors a list of all workers who were on the jobsite during the pay period, the work performed by those workers on the jobsite, and a daily census of the jobsite. This information, including confirmation that contractors, subcontractors, and independent contractors have the appropriate workers' compensation coverage for all workers at the jobsite, and similar information for the subcontractors regarding their subcontractors shall also be provided to the department of labor and to the department of banking, insurance, securities; and health care administration, upon request, and shall be available to the public.

21. **Compliance with Davis-Bacon**: The Department of Buildings and General Services in accordance with Act 54, Section 32 of the Acts of 2009, requires bidders comply with the following provisions and requirements.

c) The agencies shall assure that any state contract funded in whole or in part with American Recovery and Reinvestment Act of 2009 (ARRA) monies or any project for which the state granted, allocated, or awarded ARRA monies shall comply with the payment of Davis-Bacon wages when required by ARRA. However, in the event the applicable Davis-Bacon wages in any county have not been updated in the previous three years, the minimum state required wage for a state contract subject to Davis-Bacon wages under ARRA shall be that of the Vermont county that has most recently updated its applicable Davis-Bacon wages, provided this provision does not result in the loss of ARRA funds and is not otherwise contrary to federal law. In the event that the most recently updated Davis-Bacon wages cannot be determined due to the simultaneous updating by two or more counties, the agencies may select the minimum state-required wage for a state contract subject to Davis-Bacon wages under ARRA from among those counties.

22. **Debarment by the Department of Labor (DOL) or the Department of Financial Regulation (formerly BISHCA)**: The State of Vermont reserves the right to terminate this contract with fifteen (15) days notice to contractor, upon determination that the contractor or a subcontractor to the contractor has been debarred by the Department of Labor (DOL) or the Department of Financial Regulation. Additionally, the State of Vermont reserves the right to withhold payment and / or terminate this contract if contractor fails to provide payroll records requested by the DOL and the Department of Financial Regulation within thirty (30) days of receipt of the request from DOL or the Department of Financial Regulation.

STATE OF VERMONT
STANDARD FORM

GENERAL CONDITIONS FOR CONSTRUCTION CONTRACTS

The following general conditions are for use with all construction contracts with the State of Vermont, administered through the Department of Buildings and General Services.

These general conditions will be attached to, and become part of, the Contract Documents.

If there is a conflict between the terms and conditions stated in these general conditions and the terms and conditions contained in the State-Contractor Agreement; the terms of the State-Contractor Agreement control.

ARTICLE 1

CONTRACT DOCUMENTS

1.1 DEFINITIONS

The term "State-Contractor Agreement" refers to the specific agreement between the State of Vermont and a particular contractor whereby the State and the contractor identify, explain and agree to the specific contractual obligations of each party and identify the nature and scope of a particular project.

1.1.1 THE CONTRACT DOCUMENTS

The Contract Documents consist of the State-Contractor Agreement, the Conditions of the Contract (General, Supplementary and other Conditions), the Drawings, the Specifications, and all Addenda issued prior to bid opening and any change orders after execution of the Contract. The Contract Documents include the Request for Proposals (RFP) and the selected contractor's response to the State's RFP.

1.1.2 THE CONTRACT

The Contract Documents form the contract for construction. This contract represents the entire and integrated agreement between the parties and supersedes all prior negotiations, representations, or agreements, either written or oral. The contract may only be amended by

change order. The Contract Documents shall not be construed to create any contractual relationship of any kind between the Architect and the Contractor, but the Architect shall be entitled to performance of obligations intended for his benefit, and to enforcement thereof. Nothing contained in the Contract Documents shall create any contractual relationship between the State or the Architect and any Subcontractor or Sub-subcontractor.

1.1.3 THE WORK

The Work comprises the completed construction required by the Contract Documents and includes all labor necessary to produce such construction, and all materials and equipment incorporated or to be incorporated in such construction.

1.1.4 THE PROJECT

The Project is the total construction of which the Work performed under the Contract Documents may be the whole or a part.

1.1.5 Project Manager

The term "Project Manager" refers to the employee of the State who has been assigned responsibility for overseeing and managing the proper and timely implementation of the project.

1.2 EXECUTION & INTENT

1.2.1 The State-Contractor Agreement will be signed in duplicate by the State and Contractor.

1.2.2 By executing the Contract, the Contractor represents that he or she has visited the site, familiarized himself or herself with the local conditions under which the Work is to be performed, and correlated his / her observations with the requirements of the Contract Documents.

1.2.3 The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work. The Contract Documents are complementary, and what is required by any one shall be as binding as, if required by all. Work not covered in the Contract Documents will not be required unless it is consistent with the Contract Documents and is reasonably inferable from the Contract Documents as being necessary to produce the intended results. Words and abbreviations which have well-known technical or trade meanings are used in the Contract Documents in accordance with such recognized meanings.

1.2.4 The organization of the Specifications into divisions, sections and articles, and the arrangement of Drawings shall not control the Contractor in dividing the Work among Subcontractors or in establishing the extent of Work to be performed by any trade.

1.3 OWNERSHIP AND USE OF DOCUMENTS

1.3.1 All drawings, specifications, estimates, and all other documents, including shop drawings and calculations, prepared at any time in connection with the Project, shall, upon payment for services in connection therewith, become the sole property of the State.

ARTICLE 2

ARCHITECT

2.1 DEFINITION

The term Architect, as used in this document, means a person, or entity, lawfully licensed to practice architecture or a person or entity lawfully licensed to provide professional engineering services and has been identified as such in the State-Contractor Agreement. The term Architect means the Architect or his / her authorized representative. These General Conditions are applicable whether or not an Architect is utilized for a particular project. In the event that an Architect has not been utilized for the project, the Project Manager will be responsible for administration of the contract as specifically enumerated in paragraph 2.2. All other functions, duties, or obligations of the Architect, under these General Conditions, in the absence of an Architect, will be performed by the Project Manager.

2.2 ADMINISTRATION OF THE CONTRACT

2.2.1 The Architect will provide administration of the Contract as hereinafter described.

2.2.2 The Architect will be the State's representative during construction and until final payment is due. The Architect will advise and consult with the State. The State's instructions to the Contractor shall be forwarded through the Architect. The Architect will have authority to act on behalf of the State only to the extent provided in the Contract Documents, unless otherwise modified by written instrument in accordance with Subparagraph 2.2.10.

2.2.3 The Architect will visit the site at intervals appropriate to the stage of construction to familiarize himself or herself generally with the progress and quality of the Work and to determine in general if the Work is proceeding in accordance with the Contract Documents. However, the Architect will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of his or her on-site observations as an architect, he or she will keep the State informed of the progress of the Work, and will endeavor to guard the State against defects and deficiencies in the Work of the Contractor.

2.2.4 The Architect will not be responsible for and will not have control or charge of construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, and he or she will not be responsible for the Contractor's failure to carry out the Work in accordance with the Contract Documents. The Architect will not be responsible for or have control or charge over the acts or omissions of the Contractor, Subcontractors, or any of their agents or employees, or any other persons performing any of the Work.

2.2.5 The Architect shall at all times have access to the Work wherever it is in preparation and progress. The Contractor shall provide facilities for such access so the Architect may perform his or her functions under the Contract Documents.

2.2.6 Based on the Architect's observations of the Work and an evaluation of the Contractor's Applications for Payment, the Architect will determine the amounts owing to the Contractor and will issue Certificates for Payment in such amounts, as provided in Paragraph 9.4 of these General Conditions.

2.2.7 The Architect will review and approve or take other appropriate action upon Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for conformance with the design concept of the Work and with the information given in the Contract Documents. Such action shall be taken with reasonable promptness so as to cause no delay.

2.2.8 The Architect will prepare Change Orders in accordance with Article 12. The Architect has authority to order minor changes in the Work with the consent of the owner.

2.2.9 The Architect will conduct inspections to determine the dates of Substantial Completion and final completion, will receive and forward to the State for the State's review written warranties and related documents required by the Contract and assembled by the Contractor, and will issue a final Certificate for Payment upon compliance with the requirements of Paragraph 9.9.

2.2.10 The duties, responsibilities and limitations of authority of the Architect as the State's representative during construction as set forth in the Contract Documents will not be modified or extended without written consent of the State and the Architect. In the event that the duties, responsibilities and limitations of authority of the Architect as State's representative during construction as set forth in the Contract Documents is modified or extended, the State will immediately notify the Contractor, in writing, of the modification or extension and the date that the modified or extended authority is effective. If the change of duties, responsibilities, or limitations of authority of the Architect, causes the Contractor to incur new, additional, and unexpected expenses completing the Work, then the State and the Contractor shall agree to an equitable adjustment to be implemented by Change Order to the State-Contractor Agreement.

2.2.11 In case of the termination of the employment of Architect, the State may appoint a subsequent architect in which case, the subsequent architect will have the same status under the Contract Documents as that of the former architect. In the event of termination of the Architect, the State will immediately notify the Contractor, in writing, of the termination and the appointment of a replacement architect, if any.

2.2.12 The Architect will be the interpreter of the requirements of the Contract Documents and will make recommendations to the State regarding the progress and quality of the Work and whether the Work is proceeding in accordance with the Contract Documents.

2.2.13 The Architect will render interpretations necessary for the proper execution and progress of the Work, with reasonable promptness and in accordance with any time limit agreed

upon, in writing, by the Architect, Contractor, and the State.

2.2.14 Claims, disputes and other matters in question between the Contractor and the State relating to the execution or progress of the Work or the interpretation of the Contract Documents shall be referred initially to the Architect for review. The Architect will review the nature of the claim, dispute or other matter, along with any documentation provided by the Contractor or the State, and within a reasonable time, the Architect will provide a written recommendation to the State.

ARTICLE 3

STATE

3.1 DEFINITION

The State of Vermont, by and through the Department of Buildings and General Services is the entity identified as "State" in the State-Contractor Agreement and is referred to throughout the Contract Documents as the "State".

3.2 RESPONSIBILITIES OF THE STATE

3.2.1 The State will identify a Project Manager for the Project. The Project Manager will be the sole point of contact between the Contractor and the State. The Project Manager is the State's representative who has authority to bind the State with respect to all matters requiring the State's approval or authorization.

3.2.2 The State shall furnish all surveys describing the physical characteristics, legal limitations and utility locations for the site of the Project, and a legal description of the site.

3.2.3 Except as provided in Subparagraph 4.7.1, the State shall secure and pay for necessary approvals, easements, assessments and charges required for the construction, use or occupancy of permanent structures or for permanent changes in existing facilities.

3.2.4 Information or services under the State's control shall be furnished by the State with reasonable promptness to avoid delay in the orderly progress of the Work.

3.2.5 Unless otherwise provided in the Contract Documents, the Contractor will be furnished, free of charge, all copies of Drawings and Specifications reasonably necessary for the execution of the Work.

3.2.6 The State shall forward instructions to the Contractor through the Architect.

3.2.7 The foregoing are in addition to any other duties and responsibilities of the State enumerated in the Contract Documents including those responsibilities described in Articles 6, 9 and 11 of this agreement.

3.2.8 The State may utilize a Clerk-of-the-Works to provide inspection and monitoring work on behalf of the State. If a Clerk-of-the-Works is utilized, the Clerk's duties, responsibilities and limitations of authority shall be set forth in an exhibit to be incorporated in the Contract Documents.

3.3 STATE'S RIGHT TO STOP THE WORK

3.3.1 If the Contractor fails to correct defective Work as required by Paragraph 13.2 or persistently fails to carry out the Work in accordance with the Contract Documents, the State, by a written order signed personally or by an agent specifically so empowered by the State in writing, may order the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, this right of the State to the stop the Work shall not give rise to any duty on the part the State to exercise this right for the benefit of the Contractor or any other person or entity, except to the extent required by Subparagraph 6.1.3.

3.4 STATE'S RIGHT TO CARRY OUT THE WORK

3.4.1 If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within seven days after receipt of written notice from the State to commence and continue correction of such default or neglect with diligence and promptness, the State may, after seven days following receipt by the Contractor of an additional written notice and without prejudice to any other remedy he may have, make good such deficiencies. In such case an appropriate Change Order shall be issued deducting from the payments then or thereafter due the Contractor the cost of correcting such deficiencies, including compensation for the Architect's and the State's additional services made necessary by such default, neglect or failure. Such action by the State and the amount charged to the Contractor are both subject to review by the Architect under Paragraph 2.2.14 of these General Conditions. If the payments then or thereafter due the Contractor are not sufficient to cover the amounts paid by the State to make good such deficiencies, then the Contractor shall pay the difference to the Owner.

ARTICLE 4

CONTRACTOR

4.1 DEFINITION

The Contractor is the person or entity identified as such in the State Contractor Agreement and is referred to throughout the Contract Documents as Contractor. The term Contractor means the Contractor or his authorized representative.

4.2 REVIEW OF CONTRACT DOCUMENTS

4.2.1 The Contractor shall carefully study and compare the Contract Documents and shall immediately report in writing to the Architect and the State any error, inconsistency or omission he may discover. The Contractor shall not be liable to the State or the Architect for any damage resulting from any such errors, inconsistencies or omissions in the Contract Documents. The

Contractor shall perform no portion of the Work at any time without Contract Documents or, where required, approved Shop Drawings, Product Data or Samples for such portion of the Work.

4.3 SUPERVISION AND CONSTRUCTION PROCEDURES

4.3.1 The Contractor shall supervise and direct the Work, using his / her best skill and attention. The Contractor shall be solely responsible for all construction means, methods, techniques, sequences and procedures and for coordinating all portions of the Work under the Contract.

4.3.2 The Contractor shall be responsible to the State for the acts and omissions of his / her employees, Subcontractors and their agents and employees, and other persons performing any of the Work under a contract with the Contractor.

4.3.3 The Contractor shall not be relieved from his / her obligations to perform the Work in accordance with the Contract Documents either by the activities or duties of the Architect in his / her administration of the Contract, or by inspections, tests or approvals required or performed under Paragraph 7.7 by persons other than the Contractor.

4.4 LABOR AND MATERIALS

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

4.4.2 The Contractor shall at all times enforce strict discipline and good order among his employees and shall not employ on the Work any unfit person or anyone not skilled in the task assigned to him.

4.5 WARRANTY

4.5.1 The Contractor warrants to the State and the Architect that all materials and equipment furnished under this Contract will be new unless otherwise specified, and that all Work will be of good quality, free from faults and defects and in conformance with the Contract Documents. All Work not conforming to these requirements, including substitutions not properly approved and authorized, may be considered defective. If requested by the Architect or the State, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment. This warranty is not limited by the provisions of Paragraph 13.2 of these General Conditions.

4.6 TAXES

The State is exempt from all sales and federal excise taxes. Contractors will be responsible for the payment of any sales, consumer, use and other similar taxes for the Work or portions thereof provided by the Contractor which are legally enacted at the time bids are received, whether or not yet effective.

4.7 PERMITS, FEES AND NOTICES

4.7.1 Unless otherwise provided in the Contract Documents, the Contractor shall secure and pay for all permits and governmental fees, licenses and inspections necessary for the proper execution and completion of the Work which are customarily secured after execution of the Contract and which are legally required at the time the bids are received.

4.7.2 The Contractor shall give all notices and comply with all laws, ordinances, rules, regulations and lawful orders of any public authority bearing on the performance of the Work.

4.7.3 It is not the responsibility of the Contractor to make certain that the Contract Documents are in accordance with applicable laws, statutes, building codes and regulations. However, if the Contractor observes that any of the Contract Documents are at variance therewith in any respect, he / she shall promptly notify the Architect in writing, and any necessary changes shall be accomplished by appropriate modification.

4.7.4 If the Contractor performs any Work knowing it to be contrary to such laws, ordinances, rules and regulations, and without such notice to the Architect, he / she shall assume full responsibility therefor and shall bear all costs attributable thereto.

4.8 ALLOWANCES

4.8.1 The Contractor shall include in the Contract Sum all allowances stated in the Contract Documents. Items covered by these allowances shall be supplied for such amounts and by such persons as dictated by the process contained in the Contract Documents.

4.8.2 Unless otherwise provided in the Contract Documents:

(a) these allowances shall cover the cost to the Contractor, less any applicable trade discount, of the materials and equipment required by the allowance delivered at the site, and all applicable taxes;

(b) the Contractor's costs for unloading and handling on the site, labor, installation costs, overhead, profit and other expenses contemplated for the original allowance shall be included in the Contract Sum and not in the allowance;

(c) whenever the cost is more than or less than the allowance, the Contract Sum

shall be adjusted accordingly by Change Order, the amount of which will recognize changes,. if any, in handling costs on site, labor, installation costs, overhead, profit and other expenses.

4.9 SUPERINTENDENT

The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project site during the progress of the Work. The superintendent shall represent the Contractor and all communications given to the superintendent shall be as binding as if given to the Contractor. All Communications shall be in writing when made or shall be confirmed in writing, by the Contractor, within twenty-four (24) hours of the communication.

4.10 PROGRESS SCHEDULE

The Contractor, immediately after being awarded the contract, shall prepare and submit for the State's and Architect's information an estimated progress schedule for the Work. The progress schedule shall be related to the entire Project to the extent required by the Contract Documents, and shall provide for expeditious and practicable execution of the Work.

4.11 DOCUMENTS AND SAMPLES AT THE SITE

4.11.1 The Contractor shall maintain at the site for the State one record copy of all Drawings, Specifications, Addenda, Change Orders and other modifications, in good order and marked currently to record all changes made during construction, and approved Shop Drawings, Product Data and Samples. These shall be available to the Architect and the State for monthly review prior to approval of Contractor's monthly application for payment. Prior to substantial completion of the Work, the Contractor shall ensure that one record copy of all Drawings, Specifications, Addenda, Change Orders and other Modifications, in good order and marked currently to record all changes made during construction, and approved Shop Drawings, Product Data and Samples are delivered to the Architect for the State and a duplicate copy shall be delivered to the State for the State's use..

4.12 SHOP DRAWINGS, PRODUCT DATA AND SAMPLES

4.12.1 Shop Drawings are drawings, diagrams, schedules and other data specially prepared for the Work by the Contractor or any Subcontractor, manufacturer, supplier or distributor to illustrate some portion of the Work.

4.12.2 Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams and other information furnished by the Contractor to illustrate a material, product or system for some portion of the Work.

4.12.3 Samples are physical examples which illustrate materials, equipment or workmanship and establish standards by which the Work will be judged.

4.12.4 The Contractor shall review, approve and submit, with reasonable promptness and in such sequence as to cause no delay in the Work or in the work of the State or any separate contractor, all Shop Drawings, Product Data and Samples required by the Contract Documents.

4.12.5 By approving and submitting Shop Drawings, Product Data and Samples, the Contractor represents that he / she has determined and verified all materials, field measurements, and field construction criteria related thereto, or will do so, and that he / she has checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents.

4.12.6 The Contractor shall not be relieved of responsibility for any deviation from the requirements of the Contract Documents by the Architect's approval of Shop Drawings, Product Data or Samples under Subparagraph 2.2.7 of these General Conditions unless the Contractor has specifically informed the Architect and the State in writing of such deviation at the time of submission and the Architect and the State has given written approval to the specific deviation. The Contractor shall not be relieved from responsibility for errors or omissions in the Shop Drawings, Product Data or Samples by the Architect's approval thereof.

4.12.7 The Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data or Samples, to revisions other than those requested by the Architect on previous submittals.

4.12.8 No portion of the Work requiring submission of a Shop Drawing, Product Data or Sample shall be commenced until the submittal has been approved by the Architect as provided in Subparagraph 2.2.7 of these General Conditions. All such portions of the Work shall be in accordance with approved submittals.

4.13 USE OF SITE

4.13.1 The Contractor shall confine operations at the site to areas permitted by law, including areas designated for operations or prohibited from operations by any applicable permit and or regulation, ordinances, permits and the Contract Documents and shall not unreasonably encumber the site with any materials or equipment.

4.14 CUTTING AND PATCHING OF WORK

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

4.14.2 The Contractor shall not damage or endanger any portion of the Work or the work of the State or any separate contractors by cutting, patching or otherwise altering any work, or by excavation. The Contractor shall not cut or otherwise alter the work of the State or any separate contractor except with the written consent of the State and of such separate contractor. The Contractor shall not unreasonably withhold from the State or any separate contractor his consent to cutting or otherwise altering the Work.

4.15 CLEANING UP

4.15.1 The Contractor at all times shall keep the premises free from accumulation of waste materials or rubbish caused by his operations. At the completion of the Work he shall remove all his waste materials and rubbish from and about the Project as well as all his tools, construction equipment, machinery and surplus materials.

4.15.2 If the Contractor fails to clean up at the completion of the Work, the State may do so as provided in Paragraph 3.4 and the cost thereof shall be charged to the Contractor.

4.16 COMMUNICATIONS

4.16.1 The Contractor shall forward all communications to the State through the Architect.

4.17 ROYALTIES AND PATENTS

The Contractor shall pay all royalties and license fees. The Contractor shall defend all suits or claims for infringement of any patent rights and shall save the State harmless from loss on account thereof, except that the State shall be responsible for all such loss when a particular design, process or the product of a particular manufacturer or manufacturers is specified, but if the Contractor has reason to believe that the design, process or product specified is an infringement of a patent, The Contractor shall be responsible for such loss unless he promptly gives such information to the Architect.

4.18 INDEMNIFICATION

The Contractor hereby agrees and consents to indemnify and hold harmless the State under the terms and conditions specified in "Attachment C".

ARTICLE 5

SUBCONTRACTORS

5.1 DEFINITION

5.1.1 A Subcontractor is a person or entity who has a direct contract with the Contractor to perform any of the Work at the site. The term Subcontractor means a Subcontractor or his / her authorized representative. The term Subcontractor does not include any separate contractor or his / her subcontractors.

5.1.2 A Sub-subcontractor is a person or entity who has a direct or indirect contract with a Subcontractor to perform any of the Work at the site. The term Sub-subcontractor means a Sub-subcontractor or an authorized representative thereof.

5.2 AWARD OF SUBCONTRACTS AND OTHER CONTRACTS FOR PORTIONS OF

THE WORK

Unless other procedures are specified or required by the Contract Documents or the Bidding Documents, then the following provisions are applicable:

5.2.1 The Contractor, as soon as practicable after the award of the Contract, shall furnish to the State and the Architect in writing the names of the persons or entities (including those who are to furnish materials or equipment fabricated to a special design) proposed for each of the principal portions of the Work. The State will promptly reply to the Contractor in writing stating whether or not the State, after due investigation, has reasonable objection to any such proposed person or entity.

5.2.2 The Contractor shall not contract with any such proposed person or entity to whom the State has made reasonable objection under the provisions of Subparagraph 5.2.1 of these General Conditions. The Contractor shall not be required to contract with anyone to whom he has a reasonable objection.

5.2.3 If the State has reasonable objection to any such proposed person or entity, the Contractor shall submit a substitute to whom the State has no reasonable objection, and the Contract Sum shall be increased or decreased by the difference in cost occasioned by such substitution and an appropriate Change Order shall be issued; however, no increase in the Contract Sum shall be allowed for any such substitution unless the Contractor has acted promptly and responsively in submitting names as required by Subparagraph 5.2.1. of these General Conditions.

5.2.4 The Contractor shall make no substitution for any Subcontractor, person or entity previously selected if the State makes a reasonable objection to such substitution.

5.3 SUBCONTRACTUAL RELATIONS

5.3.1 By written agreement, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by the terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities which the Contractor, by these Documents, assumes toward the State and the Architect. Said agreement shall preserve and protect the rights of the State and the Architect under the Contract Documents with respect to the Work to be performed by the Subcontractor so that the subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the Contractor Subcontractor agreement, the benefit of all rights, remedies and redress against the Contractor that the Contractor, by these Documents, has against the State. The Contractor shall require each Subcontractor to enter into similar agreements with his Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor, prior to the execution of the Subcontract, copies of the Contract Documents to which the Subcontractor will be bound by this Paragraph 5.3, and identify to the Subcontractor any terms and conditions of the proposed Subcontract which may be at variance with the Contract Documents. Each Subcontractor shall similarly make copies of such Documents available to his / her Sub-subcontractors.

ARTICLE 6

WORK BY STATE OR BY SEPARATE CONTRACTORS

6.1 STATE'S RIGHT TO PERFORM WORK AND TO AWARD SEPARATE CONTRACTS

6.1.1 The State reserves the right to perform work related to the Project with its own forces, and to award separate contracts in connection with other portions of the Project or other work on the site under these or similar Conditions of the Contract. If the Contractor claims that delay or additional cost is involved because of such action by the State, he / she shall make such claim as provided elsewhere in the Contract Documents.

6.1.2 When separate Contracts are awarded for different portions of the Project or other work on the site, the term Contractor in the Contract Documents in each case shall mean the Contractor who executes each separate State Contractor Agreement.

6.1.3 The State will provide for the coordination of the work of its own forces and of each separate contractor with the Work of the Contractor, who shall cooperate therewith as provided in Paragraph 6.2.

6.2 MUTUAL RESPONSIBILITY

6.2.1 The Contractor shall afford the State and separate contractors reasonable opportunity for the introduction and storage of their materials and equipment and the execution of their work, and shall connect and coordinate his / her Work with the work of the State and separate contractors as required by the Contract Documents.

6.2.2 If any part of the Contractor's Work depends for proper execution or results upon the work of the State or any separate contractor, the Contractor shall, prior to proceeding with the Work, promptly report to the Architect any apparent discrepancies or defects in such other work that render it unsuitable for such proper execution and results. Failure of the Contractor so to report shall constitute an acceptance of the State's or separate contractors work as fit and proper to receive his Work, except as to defects which may subsequently become apparent in such work by others.

6.2.3 Any costs caused by defective or ill-timed work shall be borne by the party responsible therefor.

6.2.4 Should the Contractor wrongfully cause damage to the work or property of the State, or to other work on the site, the Contractor shall promptly remedy such damage as provided in Subparagraph 10.2.5 of these General Conditions.

6.3 STATE'S RIGHT TO CLEAN UP

6.3.1 If a dispute arises between the Contractor and separate contractors as to their responsibility for cleaning up as required by Paragraph 4.15 of these General Conditions, the State may clean up and charge the cost thereof to the Contractor .

ARTICLE 7

MISCELLANEOUS PROVISIONS

7.1 GOVERNING LAW

7.1.1 The Contract shall be governed by the laws of the State of Vermont.

7.2 SUCCESSORS AND ASSIGNS

7.2.1 The State and the Contractor each bind themselves, their partners, successors, assigns and legal representatives to the other party hereto and to the partners, successors, assigns and legal representatives of such other party in respect to all covenants, agreements and obligations contained in the Contract Documents. Neither party to the Contract shall assign the Contract or sublet it as a whole without the written consent of the other, nor shall the Contractor assign any moneys due or to become due to him or her hereunder, without the previous written consent of the State.

7.3 WRITTEN NOTICE

7.3.1 Written notice shall be deemed to have been duly served if delivered in person to the individual or member of the firm or entity or to an officer of the corporation for whom it was intended, or if delivered at or sent by registered or certified mail to the last business address known to him who gives the notice.

7.4 CLAIMS FOR DAMAGES

7.4.1 Should either party to the Contract suffer injury or damage to person or property because of any act or omission of the other party or of any of his / her employees, agents or others for whose acts he / she is legally liable, claim shall be made in writing to such other party within a reasonable time after the first observance of such injury or damage.

7.5 BOND REQUIREMENTS

The Contractor hereby agrees to comply with the State's bonding requirements as identified in the Instructions to Bidders which are included in the RFP and are attached and incorporated into the Contract Documents.

7.6 RIGHTS AND REMEDIES

7.6.1 The duties and obligations imposed by the Contract Documents and the rights and remedies available there under shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law.

7.6.2 No action or failure to act by the State, Architect or Contractor shall constitute a waiver of any right or duty afforded any of them under the Contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

7.7 TESTS

7.7.1 If the Contract Documents, laws, ordinances, rules, regulations or orders of any public authority having jurisdiction require any portion of the Work to be inspected, tested or approved, the Contractor shall give the Architect timely notice of its readiness so the Architect may observe such inspection, testing or approval. The Contractor shall bear all costs of such inspections, tests or approvals conducted by public authorities.

7.7.2 If the Architect determines that any Work requires special inspection, testing, or approval which Subparagraph 7.7.1 does not include, he or she will, upon written authorization from the State, instruct the Contractor to order such special inspection, testing or approval, and the Contractor shall give notice as provided in Subparagraph 7.7.1. If such special inspection or testing reveals a failure of the Work to comply with the requirements of the Contract Documents, the Contractor shall bear all costs thereof, including compensation for the Architect's additional services made necessary by such failure; otherwise the State shall bear such costs, and an appropriate Change Order shall be issued.

7.7.3 Required certificates of inspection, testing or approval shall be secured by the Contractor and promptly delivered by him to the Architect.

7.7.4 If the Architect is to observe inspections, tests or approvals required by the Contract Documents, he will do so promptly.

7.8 INTEREST

Payments due and unpaid under the Contract Documents shall bear interest from the date payment is due at such rate as the parties may agree upon in writing or, in the absence thereof, at a rate of twelve percent (12 %) per annum.

7.9 DISPUTE RESOLUTION PROCESS

Any claim, dispute or other matter in question not resolved by the process identified in Paragraph 2.2.14 of these General Conditions shall be subject to the following dispute resolution process:

Contractor may seek review by the Commissioner of Buildings and General Services of the

Architect's recommendation. Contractor must seek review by the Commissioner within ten (10) days of the Architect's written recommendation otherwise the recommendation shall be deemed accepted by the Contractor. Failing resolution by the Commissioner, the Contractor then may

Request that the State mediate the claim, dispute or other matter with a mutually agreed upon mediator under the most current Construction Industry Mediation Rules of the American Arbitration Association.

ARTICLE 8

TIME

8.1 DEFINITIONS

8.1.1 Unless otherwise provided, the Contract Time is the period of time allotted in the Contract Documents for Substantial Completion of the Work as defined in Subparagraph 8.1.3 of these General Conditions, including authorized adjustments thereto.

8.1.2 The date of commencement of the Work is the date established in a notice to proceed. If there is no notice to proceed, it shall be the date indicated in State Contractor Agreement. In the absence of a notice to proceed and an express commencement date in the State Contractor Agreement, then the date of execution of the State Contractor Agreement shall be the commencement date.

8.1.3 The Date of Substantial Completion of the Work or designated portion thereof is the Date certified by the Architect when construction is sufficiently complete, in accordance with the Contract Documents, so the State can occupy or utilize the Work or designated portion thereof for the use for which it is intended. The Work shall not be considered substantially complete prior to the receipt of approved O & M manuals and record drawings as required by paragraph 4.11 and as required elsewhere in the Contract Documents.

8.1.3.1 Contract completion date shall be defined as: The contract work shall not be considered complete prior to the receipt of approved O & M manuals and record drawings as required by paragraph 4.11 and as required elsewhere in the contract documents.

8.1.4 The term day as used in the Contract Documents shall mean calendar day unless otherwise specifically designated.

8.2 PROGRESS AND COMPLETION

8.2.1 All time limits stated in the Contract Documents are material terms and time is the essence of the Contract. A failure by Contractor to do what is required by the time specified in the Contract Documents is a breach of the contract.

8.2.2 The Contractor shall begin the Work on the date of commencement as defined in

Subparagraph 8.1.2 of these General Conditions. He shall carry the Work forward expeditiously with adequate forces and shall achieve Substantial Completion within the Contract Time.

8.3 DELAYS AND EXTENSIONS OF TIME

8.3.1 If the Contractor is delayed at any time in the progress of the Work by any act or failure to act by the State or the Architect, or by any employee of either, or by any separate contractor employed by the State, or by changes ordered in the Work, fire, unusual delay in transportation, adverse weather conditions not reasonably anticipatable, unavoidable casualties, or any causes beyond the Contractor's control, or by delay authorized by the State pending alternative dispute resolution proceedings, or by any other cause which may justify the delay, then the Contract Time shall be extended by Change Order for such reasonable time as recommended by the Architect and approved by the State.

8.3.2 Any claim for extension of time shall be made in writing to the Architect not more than twenty days after the commencement of the delay; otherwise it shall be waived. In the case of a continuing delay only one claim is necessary. The Contractor shall provide an estimate of the probable effect of such delay on the progress of the Work.

8.3.3 This Paragraph 8.3 does not exclude the recovery of damages for delay by either party under other provisions of the Contract Documents.

ARTICLE 9

PAYMENTS AND COMPLETION

9.1 CONTRACT SUM

9.1.1 The Contract Sum is stated in the State-Contractor Agreement and, including authorized adjustments thereto, is the total amount payable by the State to the Contractor for the performance of the Work under the Contract Documents.

9.2 SCHEDULE OF VALUES

9.2.1 Before the first Application for Payment, the Contractor shall submit to the Architect a schedule of values allocated to the various portions of the Work, prepared in such form and supported by such data to substantiate its accuracy as the Architect may require. This schedule, unless objected to by the Architect, shall be used only as a basis for the Contractor's Applications for Payment.

9.3 APPLICATIONS FOR PAYMENT

9.3.1 At least ten days before the date for each progress payment established in the State-Contractor Agreement, the Contractor shall submit to the Architect an itemized Application for Payment, notarized if required, supported by such data substantiating the Contractor's right to

payment as the State or the Architect may require, and reflecting retainage, if any, as provided elsewhere in the Contract Documents.

9.3.2 Unless otherwise provided in the Contract Documents, payments will be made on account of materials or equipment not incorporated in the Work but delivered and suitably stored at the site and, if approved in advance by the State, payments may similarly be made for materials or equipment suitably stored at some other location agreed upon in writing. Payments for materials or equipment stored on or off the site shall be conditioned upon submission by the Contractor of bills of sale or such other procedures satisfactory to the State to establish the State's title to such materials or equipment or otherwise protect the State's interest, including applicable insurance and transportation to the site for those materials and equipment stored off the site.

9.3.3 The Contractor warrants that title to all Work, materials and equipment covered by an Application for Payment will pass to the State either by incorporation in the construction or upon the receipt of payment by the Contractor, whichever occurs first, free and clear of all liens, claims, security interests or encumbrances, hereinafter referred to in this Article 9 as "liens"; and that no Work, materials or equipment covered by an Application for Payment will have been acquired by the Contractor, or by any other person performing Work at the site or furnishing materials and equipment for the Project, subject to an agreement under which an interest therein or an encumbrance thereon is retained by the seller or otherwise imposed by the Contractor or such other person.

9.4 CERTIFICATES FOR PAYMENT

9.4.1 The Architect will, within seven days after the receipt of the Contractor's completed Application for Payment, either issue a Certificate for Payment to the State, with a copy to the Contractor, for such amount as the Architect determines is properly due, or notify the Contractor in writing his or her reasons for withholding a Certificate as provided in Subparagraph 9.6.1 of these General Conditions. In case of conflict between any time requirements in this paragraph and any time requirements for action by the Architect on Contractor's Application for Payment contained in the State-Contractor Agreement, the time requirements contained in the State-Contractor Agreement shall control.

9.4.2 The issuance of a Certificate for Payment will constitute a representation by the Architect to the State, based on his observations at the site as provided in Subparagraph 2.2.3 of these General Conditions and the data comprising the Application for Payment, that the Work has progressed to the point indicated; that, to the best of his or her knowledge, information and belief, the quality of the Work is in accordance with the Contract Documents (subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to the results of any subsequent tests required by or performed under the Contract Documents, to minor deviations from the Contract Documents correctable prior to completion, and to any specific qualifications stated in his Certificate); and that the Contractor is entitled to payment in the amount certified.

9.5 PROGRESS PAYMENTS

9.5.1 After the Architect has issued a Certificate for Payment, the State shall make payment in the manner and within the time provided in the Contract Documents.

9.5.2 The Contractor shall promptly pay each Subcontractor, upon receipt of payment from the State, out of the amount paid to the Contractor on account of such Subcontractor's Work, the amount to which said Subcontractor is entitled, reflecting the percentage actually retained, if any, from payments to the Contractor on account of such Subcontractor's Work. The Contractor shall, by an appropriate agreement with each Subcontractor, require each Subcontractor to make payments to his or her Sub-subcontractors in similar manner.

9.5.3 The Architect may, on request and at his discretion, furnish to any Subcontractor, if practicable, information regarding the percentages of completion or the amounts applied for by the Contractor and the action taken thereon by the Architect on account of Work done by such Subcontractor.

9.5.4 Neither the State nor the Architect shall have any obligation to pay or to see to the payment of any moneys to any Subcontractor.

9.5.5 No Certificate for a progress payment, nor any progress payment, nor any partial or entire use or occupancy of the Project by the State, shall constitute an acceptance of any Work not in accordance with the Contract Documents.

9.6 PAYMENTS WITHHELD

9.6.1 The Architect may decline to certify payment and may withhold his or her Certificate in whole or in part, to the extent necessary reasonably to protect the State, if in the Architect's opinion he or she is unable to make representations to the State as provided in Subparagraph 9.4.2 of these General Conditions. If the Architect is unable to make representations to the State as provided in the aforementioned Subparagraph 9.4.2 and to certify payment in the amount of the Application, he or she will notify the Contractor as provided in Subparagraph 9.4.1 of these General Conditions. If the Contractor and the Architect cannot agree on a revised amount, the Architect will promptly issue a Certificate for Payment for the amount for which he or she is able to make such representations to the State. The Architect may also decline to certify payment or, because of subsequently discovered evidence or subsequent observations, he or she may nullify the whole or any part of any Certificate for Payment previously issued, to such extent as may be necessary in his or her opinion to protect the State from loss because of:

(a) Defective Work not remedied,
(b) Third party claims filed or reasonable evidence indicating probable filing of such claims,
(c) Failure of the Contractor to make payments properly to Subcontractors or for labor, materials or equipment,
(d) Reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum,
(e) Damage to the State or another contractor,
(f) Reasonable evidence that the Work will not be completed within the Contract Time, or
(g) Persistent failure to carry out the Work in accordance with the Contract Documents.

9.6.2 When the above grounds in Subparagraph 9.6.1 are removed, payment shall be made for amounts withheld because of them.

9.7 FAILURE OF PAYMENT

9.7.1 If the Architect does not issue a Certificate for Payment, through no fault of the Contractor, within seven days after receipt of the Contractor's Application for Payment, or if the State does not pay the Contractor within seven days after the date established in the Contract Documents any amount certified by the Architect or awarded by alternative dispute resolution proceedings, then the Contractor may, upon seven additional days written notice to the State and the Architect, stop the Work until payment of the amount owing has been received. The Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shut-down, delay and start-up, which shall be effected by appropriate Change Order in accordance with Paragraph 12.3.

9.8 SUBSTANTIAL COMPLETION

9.8.1 When the Contractor considers that the Work, or a designated portion thereof which has been accepted in writing to by the State, is substantially complete as defined in Subparagraph 8.1.3 of these General Conditions, the Contractor shall prepare for submission to the Architect a list of items to be completed or corrected. The failure to include any items on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents. When the Architect on the basis of an inspection determines that the Work or designated portion thereof is substantially complete, he will then prepare a Certificate of Substantial Completion which shall establish the Date of Substantial Completion, shall state the responsibilities of the State and the Contractor for security, maintenance, heat, utilities, damage to the Work, and insurance, and shall fix the time, which shall not exceed thirty (30) days, within which the Contractor shall complete the items listed therein. Warranties required by the Contract Documents shall commence on the Date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion. The Certificate of Substantial Completion shall be submitted to the State and the Contractor for their written acceptance of the responsibilities assigned to them in such Certificate. The Work shall not be considered substantially complete prior to the receipt of approved O & M manuals and record drawings as required by paragraph 4.11 and as required elsewhere in the Contract Documents.

9.8.2 Upon Substantial Completion of the Work or designated portion thereof and upon application by the Contractor and certification by the Architect, the State shall make payment, reflecting adjustment in retainage, if any, for such Work or portion thereof, as provided in the Contract Documents.

9.9 FINAL COMPLETION AND FINAL PAYMENT

9.9.1 Upon receipt of written notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Architect will promptly make such

inspection and, when he or she finds the Work acceptable under the Contract Documents and the Contract fully performed, he or she will promptly issue a final Certificate for Payment stating that to the best of his / her knowledge, information and belief, and on the basis of his or her observations and inspections, the Work has been completed in accordance with the terms and conditions of the Contract Documents and that the entire balance found to be due the Contractor, and noted in said final Certificate, is due and payable. The Architect's final Certificate for Payment will constitute a further representation that the Contractor has fulfilled the conditions entitling him or her to final payment as set forth in Subparagraph 9.9.2 of these General Conditions.

9.9.2 Neither the final payment nor the remaining retained percentage shall become due until the Contractor submits to the Architect (1) an affidavit that all payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the State or its property might in any way be responsible, have been paid or otherwise satisfied, (2) consent of surety, if any, to final payment and (3), if required by the State, other data establishing payment or satisfaction of all such obligations, such as receipts, releases and waivers of liens arising out of the Contract, to the extent and in such form as may be designated by the State. If any Subcontractor refuses to furnish a release or waiver required by the State, the Contractor may furnish a bond satisfactory to the State to indemnify him against any such lien. If any such lien remains unsatisfied after all payments are made, the Contractor shall refund to the State all moneys that the latter may be compelled to pay in discharging such lien, including all costs and reasonable attorneys' fees.

9.9.3 If, after Substantial Completion of the Work, final completion thereof is materially delayed through no fault of the Contractor or by the issuance of Change Orders affecting final completion, and the Architect so confirms, the State shall, upon application by the Contractor and certification by the Architect, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed and accepted. If the remaining balance for Work not fully completed or corrected is less than the retainage stipulated in the Contract Documents, and if bonds have been furnished as required by the Contract Documents, the written consent of the surety to the payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the Contractor to the Architect prior to certification of such payment. Such payment shall be made under the terms and conditions governing final payment, except that it shall not constitute a waiver of claims.

9.9.4 The making of final payment shall constitute a waiver of all claims by the State except those arising from:

(a) unsettled liens,
(b) faulty or defective Work appearing after Substantial Completion,
(c) failure of the Work to comply with the requirements of the Contract Documents, or
(d) terms of any special warranties required by the Contract Documents.

9.9.5 The acceptance of final payment shall constitute a waiver of all claims by the Contractor except those previously made in writing and identified by the Contractor as unsettled at the time of the final Application for Payment.

ARTICLE 10

PROTECTION OF PERSONS AND PROPERTY

10.1 SAFETY PRECAUTIONS AND PROGRAMS

The Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work.

10.2 SAFETY OF PERSONS AND PROPERTY

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

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

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

10.2.3 The Contractor shall erect and maintain, as required by existing conditions and progress of the Work, all reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards, promulgating safety regulations and notifying owners and users of adjacent utilities.

10.2.4 When the use or storage of explosives or other hazardous materials or equipment is necessary for the execution of the Work, the Contractor shall: (1) exercise the utmost care and shall carry on such activities under the supervision of properly qualified personnel; and (2) give the State notice, in writing, seven (7) days in advance of the planned activity of the Contractor's intent to store and/ or use explosives or other hazardous materials or equipment on the project site.

10.2.5 The Contractor shall promptly remedy all damage or loss (consistent with Contractor's obligations described in Attachment C) to any property referred to in Clauses 10.2.1(b) and 10.2.1(c) of these General Conditions caused in whole or in part by the Contractor, any Subcontractor, any Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable and for which the Contractor is responsible under Clauses 10.2.1(b) and 10.2.1(c), except damage or loss attributable to the acts

or omissions of the State or Architect or anyone directly or indirectly employed by either of them, or by anyone for whose acts either of them may be liable, and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to his obligations referenced under Paragraph 4.18.

10.2.6 The Contractor shall designate a responsible member of his organization at the site whose duty shall be the prevention of accidents. This person shall be the Contractor's superintendent unless otherwise designated by the Contractor in writing to the State and the Architect.

10.2.7 The Contractor shall not load or permit any part of the Work to be loaded so as to endanger its safety.

10.3 EMERGENCIES

10.3.1 In any emergency affecting the safety of persons or property, the Contractor shall act to prevent threatened damage, injury or loss. Any additional compensation or extension of time claimed by the Contractor on account of emergency work shall be determined as provided in Article 12 for Changes in the Work.

ARTICLE 11

INSURANCE

Insurance obligations of the parties to this agreement are fully set forth in Attachment C.

11.1 The State shall have power to adjust and settle any loss with the insurers.

ARTICLE 12

CHANGES IN THE WORK

12.1 CHANGE ORDERS

12.1.1 A Change Order is a written order to the Contractor signed by the State and the Architect, issued after execution of the Contract, authorizing a change in the Work or an adjustment in the Contract Sum or the Contract Time. The Contract Sum and the Contract Time may be changed only by Change Order. A Change Order signed by the Contractor indicates his agreement therewith, including the adjustment in the Contract Sum or the Contract Time.

12.1.2 The State, without invalidating the Contract, may order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions, the Contract Sum and the Contract Time being adjusted accordingly. All such changes in the Work shall be authorized by Change Order, and shall be performed under the applicable conditions of the

Contract Documents.

12.1.3 The cost or credit to the State resulting from a change in the Work shall be determined in one or more of the following ways:

(a) by mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;
(b) by unit prices stated in the Contract Documents or subsequently agreed upon;
(c) by cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or
(d) by the method provided in Subparagraph 12.1.4.

12.1.4 If none of the methods set forth in Clauses 12.1.3(a) –(d) is agreed upon, the Contractor, provided he receives a written order signed by the State, shall promptly proceed with the Work involved. The cost of such Work shall then be recommended by the Architect on the basis of the reasonable expenditures and savings of those performing the Work attributable to the change, including, in the case of an increase in the Contract Sum, a reasonable allowance for overhead and profit. In such case, and also under Clauses 12.1.3(c) and 12.1.3(d) above, the Contractor shall keep and present, in such form as the Architect may prescribe, an itemized accounting together with appropriate supporting data for inclusion in a Change Order. Unless otherwise provided in the Contract Documents, cost shall be limited to the following: cost of materials, cost of delivery; cost of labor, including social security, old age and unemployment insurance, and fringe benefits required by agreement or custom; workers' or workmen's compensation insurance; bond premiums; rental value of equipment and machinery; and the additional costs of supervision and field office personnel directly attributable to the change. Pending final determination of cost to the State, payments on account shall be made on the Architect's Certificate for Payment. The amount of credit to be allowed by the Contractor to the State for any deletion or change which results in a net decrease in the Contract Sum will be the amount of the actual net cost as confirmed by the Architect. When both additions and credits covering related Work or substitutions are involved in any one change, the allowance for Overhead and profit shall be figured on the basis of the net increase, if any, with respect to that change.

12.1.5 If unit prices are stated in the Contract Documents or subsequently agreed upon, and if the quantities originally contemplated are so changed in a proposed Change Order that application of the agreed unit prices to the quantities of Work proposed will cause substantial inequity to the State or the Contractor, the applicable unit prices shall be equitably adjusted.

12.2 CONCEALED CONDITIONS

12.2.1 Should concealed conditions encountered in the performance of the Work below the surface of the ground, or should concealed or unknown conditions in an existing structure be at variance with the conditions indicated by the Contract Documents or should unknown physical conditions below the surface of the ground or should concealed or unknown conditions in an existing structure of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in this Contract, be encountered, the Contract Sum shall be equitably adjusted by Change Order upon claim by either

party made within twenty days after the first observance of the conditions.

12.3 CLAIMS FOR ADDITIONAL COST

12.3.1 If the Contractor wishes to make a claim for an increase in the Contract Sum, he shall give the Architect written notice thereof within twenty days after the occurrence of the event giving rise to such claim. This notice shall be given by the Contractor before proceeding to execute the Work, except in an emergency endangering life or property in which case the Contractor shall proceed in accordance with Paragraph 10.3 of these General Conditions. No such claim shall be valid unless so made. If the State and the Contractor cannot agree on the amount of the adjustment in the Contract Sum, it shall be determined by the Architect. Any change in the Contract Sum resulting from such claim shall be authorized by Change Order.

12.3.2 If the Contractor claims that additional cost is involved because of, but not limited to, (1) any order by the State to stop the Work pursuant to Paragraph 3.3 of these General Conditions where the Contractor was not at fault, or (2) failure of payment by the, State pursuant to Paragraph 9.7(of these General Conditions), the Contractor shall make such claim as provided in Subparagraph 12.3.1 of this agreement.

12.3.3 The Architect will have authority to order minor changes in the Work not involving an adjustment in the Contract Sum or an extension of the Contract Time and not inconsistent with the intent of the Contract Documents. Such changes shall be effected by written order and shall be binding on the State and Contractor within 10 days unless the Contractor or the State objects to the change in writing.

ARTICLE 13

UNCOVERING AND CORRECTION OF WORK

13.1 UNCOVERING OF WORK

13.1.1 If any portion of the Work should be covered contrary to the request of the Architect or to requirements specifically expressed in the Contract Documents, it must, if required in writing by the Architect, be uncovered for his or her observation and shall be replaced at the Contractor's expense.

13.1.2 If any other portion of the Work has been covered which the Architect has not specifically requested to observe prior to being covered, the Architect may request to see such Work and it shall be uncovered by the Contractor. If such Work is found in accordance with the Contract Documents, the cost of uncovering and replacement shall, by appropriate Change Order, be charged to the State. If such Work is found not to be in accordance with the Contract Documents, the Contractor shall pay such costs unless it is found that this condition was caused by the State or a separate contractor as provided in Article 6 of these General Conditions, in which event the State shall be responsible for the payment of such costs.

13.2 CORRECTION OF WORK

13.2.1 The Contractor shall be responsible for correcting all Work which the Architect has found to be defective or which fails to conform to the Contract Documents whether observed before or after Substantial Completion and whether or not fabricated, installed or completed. The Contractor shall bear all costs of correcting such rejected Work, including compensation for the Architect's and the State's additional services made necessary thereby.

The Architect, upon a finding of defect or failure to conform, shall immediately notify the State and Contractor, in writing, of the defect. The Contractor shall begin correcting the defective or non-conforming Work within ten (10) days unless the State agrees to a Change Order which reflects the reduction in Contract Sum due to the value of diminishment of the defective or nonconforming Work.

13.2.2 If, within one year after the Date of Substantial Completion of the Work or designated portion thereof or within one year after acceptance by the State of designated equipment or within such longer period of time as may be prescribed by law or by the terms of any applicable special warranty required by the Contract Documents, any of the Work is found to be defective or not in accordance with the Contract Documents, the Contractor shall correct it promptly after receipt of a written notice from the State to do so unless the State has previously given the Contractor a written acceptance of such condition. This obligation shall survive termination of the Contract. The State shall give such notice promptly after discovery of the condition.

13.2.3 The Contractor shall remove from the site all portions of the Work which are defective or non-conforming and which have not been corrected under Subparagraphs 4.5.1, 13.2.1 and 13.2.2 of these General Conditions, unless removal is waived by the State.

13.2.4 If the Contractor fails to correct defective or nonconforming Work as provided in Subparagraphs 4.5.1, 13.2.1 and 13.2.2, the State may correct it in accordance with Paragraph 3.4 of these General Conditions.

13.2.5 If the Contractor does not proceed with the correction of such defective or non-conforming Work within a reasonable time fixed by written notice from the Architect, the State may remove it and may store the materials or equipment at the expense of the Contractor. If the Contractor does not pay the cost of such removal and storage within ten days thereafter, the State may upon ten additional days written notice sell such Work at auction or at private sale and shall account for the net proceeds thereof, after deducting all the costs that should have been borne by the Contractor, including compensation for the Architect's and the State's additional services and expenses made necessary thereby. If such proceeds of sale do not cover all costs which the Contractor should have borne, the difference shall be charged to the Contractor and an appropriate Change Order shall be issued. If the payments then or thereafter due the Contractor are not sufficient to cover such amount, the Contractor shall pay the difference to the State.

13.2.6 The Contractor shall bear the cost of making good all work of the State or separate contractors destroyed or damaged by such correction or removal.

13.2.7 Nothing contained in this Paragraph 13.2 shall be construed to establish a period of limitation with respect to any other obligation which the Contractor might have under the Contract Documents, including Paragraph 4.5 of these General Conditions. The establishment of the time period of one year after the Date of Substantial Completion or such longer period of time as may be prescribed by law or by the terms of any warranty required by the Contract Documents relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which his obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to his obligations other than specifically to correct the Work.

13.3 ACCEPTANCE OF DEFECTIVE OR NON-CONFORMING WORK

13.3.1 The State may accept defective or nonconforming Work pursuant to Paragraph 13.2.1 of this agreement. If the State elects to accept the defective or nonconforming Work, a Change Order will be issued to reflect a reduction in the Contract Sum. The Architect will recommend to the State the value of diminishment of the defective or nonconforming Work Such adjustment shall be effected whether or not final payment has been made.

ARTICLE 14

TERMINATION AND SUSPENSION OF THE CONTRACT

14.1 TERMINATION BY THE CONTRACTOR

If the Work is stopped for a period of thirty days under an order of any court or other public authority having jurisdiction, or as a result of an act of government, such as a declaration of a national emergency making materials unavailable, through no act or fault of the Contractor or a Subcontractor or their agents or employees or any other persons performing any of the Work under a contract with the Contractor, or if the Work should be stopped for a period of thirty days by the Contractor because the Architect has not issued a Certificate for Payment as provided in Paragraph 9.7 of these General Conditions or because the State has not made payment thereon as provided in Paragraph 9.7, then the Contractor may, upon seven additional days written notice to the State and the Architect, terminate the Contract and recover from the State payment for all Work executed and for any proven loss sustained upon any materials, equipment, tools, construction equipment and machinery, including reasonable profit and damages.

14.2 TERMINATION BY THE STATE FOR CAUSE

14.2.1 If the Contractor is adjudged a bankrupt, or if he or she makes a general assignment for the benefit of his/ her creditors, or if a receiver is appointed on account of his/ her insolvency, or if he or she persistently or repeatedly refuses or fails, except in cases for which extension of time is provided, to supply enough properly skilled workmen or proper materials, or if he or she fails to make prompt payment to Subcontractors or for materials or labor, or persistently disregards laws, ordinances, rules, regulations or orders of any public authority having jurisdiction, or otherwise is guilty of a substantial violation of a provision of the Contract Documents, then the

State, upon certification by the Architect that sufficient cause exists to justify such action, may, without prejudice to any right or remedy and after giving the Contractor and his surety, if any, seven days written notice, terminate the employment of the Contractor and take possession of the site and of all materials, equipment, tools, construction equipment and machinery thereon owned by the Contractor and may finish the Work by whatever method he may deem expedient. In such case the Contractor shall not be entitled to receive any further payment until the Work is finished.

14.2.2 If the costs of finishing the Work, including compensation for the Architect's and State's additional services and expenses made necessary thereby, exceed the unpaid balance of the Contract Sum, the Contractor shall pay the difference to the State.

If the unpaid balance of the Contract Sum exceeds the costs of finishing the Work, including compensation for the Architect's and the State's additional services and expenses made necessary thereby, such excess shall be paid to the Contractor.

The amount owed by Contractor to the State shall be certified by the Architect, upon application, in the manner provided in section 9.4 of these General Conditions, and this obligation for payment shall survive the termination of the Contract.

14.3 TERMINATION BY STATE FOR CONVENIENCE

14.3.1 The State may, at any time, terminate this agreement for the State's convenience and without cause.

14.3.2 Upon receipt of written notice from the State of such termination for the State's convenience, the Contractor shall:

(a) cease operations as directed by the State in the notice;
(b) take actions necessary, or that the State may direct, for the protection and preservation of the Work; and
(c) except for Work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing subcontracts and purchase orders and enter into no further subcontracts and purchase orders.

14.3.3 In case of such termination for the State's convenience, the Contractor shall be entitled to receive payment for Work executed, and costs incurred by reason of such termination, along with reasonable overhead and profit on the Work not executed.

14.4 SUSPENSION BY STATE FOR CONVEVIENCE

14.4.1 The State may, without cause, order the Contractor in writing to suspend, delay or interrupt the Work in whole or in part for such period of time as the State may determine.

14.4.2 The Contract Sum and Contract Time shall be adjusted for increases in the cost and time caused by suspension, delay or interruption as described in section 14.4.1. Adjustment of the Contract Sum shall include profit. No adjustment shall be made to the extent:

(a) that performance is, was or would have been so suspended, delayed or interrupted by another cause for which the Contractor is responsible; or

(b) that an equitable adjustment is made or denied under another provision of this Contract.