STATE SYSTEM OF HIGHER EDUCATION
COMMONWEALTH OF PENNSYLVANIA

STANDARD FORM OF CONTRACT
FOR
CONSTRUCTION
BETWEEN THE SYSTEM AND THE CONTRACTOR

This Contract is made and entered into this ______ day of __________, 20_____,
in ______________ County, Pennsylvania, by and between

---University---
---address---
---address---
of the State System of Higher Education
Commonwealth of Pennsylvania
hereinafter called the "System"

and

---Contractor's Name---
---address---
---address---
a corporation/LLC/LLP/partnership/etc.
Federal I.D. No. __________,
hereinafter called the "Contractor."

CONTRACT SUM AND DESCRIPTION
The Contractor agrees to perform the scope of work described in the Contract Documents for the sum of
[---award amount, in both words and numbers---] and within the time specified in the section Contract Time below.

Contract No.   __________________________
Base Bid(s) Awarded __________________________
Prime Contractor  __________________________
Project Name   __________________________
Location    __________________________

UNIT PRICES
The following Unit Prices, submitted by the Contractor on the Bid Form for this Contract, are agreed upon:
[---contractual unit prices, if any---]

EFFECTIVE DATE OF CONTRACT
The parties hereto, intending to be legally bound, hereby do agree that this Contract shall not be effective
until executed by all necessary Commonwealth officials as provided by law.

The date for commencement of the Work is the date of the Notice to Proceed. On-site Work shall
commence no later than seven (7) days after the date of the Notice to Proceed. [---or otherwise appropriate for the contract/project---]
CONTRACT TIME
The Contractor shall prosecute the Work diligently and substantially complete the Work (Substantial Completion) not later than ______ calendar days after Notice to Proceed. [---or a required completion date, as appropriate for the contract/project---]
[---interim completion dates, interim milestones, or phasing requirements, if any---]

LIQUIDATED DAMAGES
[---if applicable---]
If the Contractor fails to complete the Work within the Contract Time specified in this Contract, including any and all approved extensions or adjustments thereto that are properly executed under the procedures outlined by the Contract, the Contractor shall pay liquidated damages, not as a penalty, to the System in the amount of _______ dollars for each calendar day of delay until the Work is substantially completed and accepted.

SYSTEM'S PROFESSIONAL
The Professional for this project is:
[---name and address and contact information for the Professional---]

SYSTEM'S CONSTRUCTION MANAGER
The Construction Manager for this project is:
[---name and address and contact information for the CM/PM, if any---]

OTHER SYSTEM REPRESENTATIVES
[---other contracted representatives of the University, such as a Commissioning Agent; if any---]

NOTICE
Unless otherwise specifically identified by any provision of this Contract, a notice shall be deemed sufficient if given in writing and delivered personally or sent by registered or certified mail, return receipt requested, postage prepaid, or delivered to a nationally-recognized express mail service, charges prepaid, receipt obtained, to the address shown below or to such other persons or addresses as are specified by similar notice.
[---name and address and contact information for the university for Notice---]
[---name and address and contact information for the Contractor's responsible individual for Notice---]

PREVAILING WAGE
This Project is/is not subject to the Pennsylvania Prevailing Wage Act, 43 P.S. § 165-1 et seq, as amended. The Prevailing Minimum Wage Determination for this Project is [---Prevailing Wage Determination serial number, date, classification, etc.---]
COMMITMENTS TO SMALL DIVERSE BUSINESSES (SDB)  

The Contractual obligations in the SDB Requirements Instructions, and the bid proposal of the Contractor, including the completed SDB Solicitation Form and accompanying documents regarding commitments to SDB, shall be considered as incorporated in and become contractual obligations under the terms and conditions of this Contract.

If requested by the System, the Contractor shall submit copies of any subcontracts and/or purchase orders which execute commitments made to SDB which support the Reasonable Effort Award Amount.

Subcontracts and/or purchase orders that are executed with SDB that support the REAA must continue throughout the life of the Contract and be completed at that level, or higher, unless agreed upon by the SDB. If the Contractor anticipates that the final subcontract and/or purchase order amounts will not be completed at the level of the commitment or higher, the Contractor shall notify the System.

The Contractor shall submit separately with each application for payment an accounting of how much each SDB supporting the REAA was paid as part of previous payments, and how much of the current payment is to go to each of those SDB.

LEADERSHIP IN ENERGY & ENVIRONMENTAL DESIGN (LEED)  

This Project is designed to meet Platinum/Gold/Silver Certification according to the U.S. Green Building Council's LEED Rating System. The Contractor may be responsible for taking actions required to achieve certain LEED points. Specific requirements relative to LEED are identified in the Technical Specifications. If the Contractor fails to complete those actions for which the Contractor is responsible, and if such failure results in the Project's failure to achieve Certification at the desired level, the System may back charge the Contractor for any administrative costs incurred by the System or its representatives to plan for, track information for, and/or prepare a LEED Certification submission which was subsequently not achieved.

CONTRACT DOCUMENTS

The terms, conditions, requirements, and considerations of this Contract are specified herein, and in all Contract Documents that are attached herein or incorporated by reference and made part of this Contract.

The Contract Documents incorporate and include this document plus the following:

- Contract Bond consisting of [ ] pages
- General Conditions consisting of 36 pages
- Insurance Rider consisting of 3 pages
- Any Change Orders and Amendments properly executed after the Effective Date of this Contract.

The following are incorporated as part of the Contract Documents:

- Technical Specifications and Drawings (per the attached Table of Contents)
- Contractor's completed Bid Form, dated [ ], and submitted for this Contract
- Contractor's completed SDB Solicitation Form and associated commitments to SDB subcontractors/suppliers and submitted with the Contractor's completed Bid Form for this Contract
- Addenda: [ ], dated [ ]
  [ ], dated [ ]
  [ ] ---as needed---
IN WITNESS WHEREOF, this Standard Form of Contract has been executed and delivered as of the date set forth in the caption hereof;

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<th>FOR THE COMMONWEALTH</th>
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<td>University of Pennsylvania, State System of Higher Education</td>
</tr>
<tr>
<td>Individual or Partner</td>
<td>---name--- Date</td>
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<tr>
<td></td>
<td>---title--- Date</td>
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<tr>
<td></td>
<td>Contracting Officer</td>
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<td></td>
<td>---name--- Date</td>
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<tr>
<td></td>
<td>---title--- Date</td>
</tr>
<tr>
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<td>Fiscal Officer</td>
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| **If Contractor is a CORPORATION or LLC/LLP** | APPROVED AS TO FORM AND LEGALITY |
| President or Vice President | University Legal Counsel |
| | State System of Higher Education |
| | Date |
| Secretary or Treasurer | Office of General Counsel |
| | Commonwealth of Pennsylvania |
| | Date |
| | Office of Attorney General |
| | Commonwealth of Pennsylvania |
| | Date |

- All signatures shall be dated.
- Names shall be typed, or clearly printed, below the signature lines. Titles of signers shall be noted.
- If the Contractor is an Individual or Partnership, one signature is required.
- If the Contractor is a Corporation or LLC/LLP, two signatures are required. One must be the President or Vice President. The second must be the Secretary or Treasurer.
- The Contractor can delegate signatory authority to other individuals by means of a certified Board Resolution presented with this Standard Form of Contract.
STATE SYSTEM OF HIGHER EDUCATION  
COMMONWEALTH OF PENNSYLVANIA  

CONTRACT BOND  

(Contract Bond must be submitted on this form; all blanks must be completed)  

Bond Number ________________________  

KNOW ALL PERSONS BY THESE PRESENTS, that we the undersigned  

______________________________  

(Contractor)  

______________________________  

(Address)  

as Principal, and  

______________________________  

(Surety)  

______________________________  

(Address)  

a corporation organized and existing under the laws of the Commonwealth of __________________ and  

authorized to transact business in Pennsylvania, as Surety, are held and firmly bound unto the State  

System of Higher Education as hereinafter set forth, in the full and just several sums of  

(A)        Dollars ($  ),  

for faithful performance of the Contract as designated below;  

(B)        Dollars ($  ),  

for payment for labor, material, equipment rental, and public utility services as designated below; and  

(C)        Dollars ($  ),  

for maintenance as designated below;  

lawful money of the United States of America, to be paid to the State System of Higher Education, its  

successors or assigns, to which payment well and truly to be made and done, we bind ourselves, our  

heirs, executors, administrators, and successors, jointly and severally, firmly by these presents.  

Sealed with our respective seals and dates this    day of     , 20 .  

WHEREAS, the above bounden Principal has entered into the Contract with ____________  

University of Pennsylvania of the State System of Higher Education  

for the Project known as ___________________________  

 (Contract Number and Name)  

upon certain terms and conditions in said Contract more particularly mentioned; and  

WHEREAS, it is one of the conditions of the award of the State System of Higher Education pursuant to  

which said Contract is about to be entered into, that these presents be executed;
NOW, THEREFORE, the joint and several conditions of this obligation are such:

A. That if the above bounden Principal as Contractor shall well and faithfully do and perform the things agreed by him to be done and performed according to the terms of said Contract and general provisions, including the plans and specifications therein referred to and made part thereof, and such alterations as may be made in said plans and specifications as therein provided, and which are hereby made part of this bond the same as though they were fully set forth herein, and shall indemnify and save harmless the State System of Higher Education and all of its officers, agents, and employees from any expense incurred through the failure of said Contractor to complete the work as specified and for any damages growing out of the manner of performance of said Contract by said Contractor or his subcontractors, or his or their agents or servants including but not limited to patent, trademark, and copyright infringements, then this part of this obligation shall be void; otherwise, it shall be and remain in full force and effect.

B. That if the above bounden Principal shall and will promptly pay or cause to be paid all sums of money which may be due by the Principal or any of his subcontractors to any person, co-partnership, association, or corporation for all material furnished and labor supplied or performed in the prosecution of the work, whether or not the said material or labor entered into and became component parts of the work or improvements contemplated, and for rental of equipment used, and services rendered by public utilities in, or in connection with, the prosecution of such work, then this part of this obligation shall be void; otherwise, it shall be and remain in full force and effect.

C. That, if the above bounden Principal shall remedy without cost to the State System of Higher Education any break of warranty and/or defects which may develop during a period of one (1) year from the date of final completion and acceptance of all the work performed under said Contract; provided, in the judgment of the State System of Higher Education or its successor having jurisdiction in the premises, such defects are caused by defective or inferior materials or workmanship, then this part of this obligation shall be void; otherwise, it shall be and remain in full force and effect. The duties and responsibilities incurred by the Principal pursuant to said Maintenance Bond shall in no way qualify or limit any right of the State System of Higher Education arising pursuant to the terms and conditions of the Performance Bond or absolve the Principal of any duty, responsibility, or obligations vested in the State System of Higher Education.

D. It is further agreed that any alterations which may be made in the terms of the Contract or in the work to be done, or materials to be furnished, or labor to be supplied or performed, or equipment to be rented, or public utility services to be rendered, or the giving by the State System of Higher Education of any extension of time for the performance of the Contract, or the reduction of the retained percentage as permitted by the Contract, or any other forbearance on the part of either the State System of Higher Education or the Principal to the other, shall not in any way release the Principal and the Surety or Sureties or either or any of them, their heirs, executors, administrators, successors, or assigns, from their liability hereunder; notice to the Surety or Sureties of any such alterations, extension, or forbearance being hereby waived.

E. The Principal and Surety hereby jointly and severally agree with the obligee herein that every person, co-partnership, association, or corporation who, whether as subcontractor or as a person otherwise entitled to the benefits of this Bond, has furnished material or supplied or performed labor or rented equipment used in the prosecution of the work as provided and any public utility who has rendered services, in, or in connection with, the prosecution of such work, and who has not been paid in full therefore, may sue in assumpsit on this bond in his, their, or its name and prosecute the same to final judgment for such sum or sums as may be justly due him, them, or its, and have execution thereon; provided, however, that the State System of Higher Education shall not be liable for the payment of any costs or expenses of such suit to a third party under any theory of law of equity.
F. Recovery by any persons, co-partnership, association, or corporation hereunder shall be subject to the provisions of the Act of December 20, 1967, P.L. 869, Act No. 385 (8 P.S. 191 et seq.), as amended, which Act is incorporated herein and made a part hereof, as fully and completely as though its provisions were fully and at length herein recited, except that where said Act refers to the Commonwealth of Pennsylvania or a Department thereof, it shall be deemed to refer to the State System of Higher Education.

G. In addition to the above, at the sole election of the State System of Higher Education, the State System of Higher Education may notify the Surety of the State System of Higher Education’s intent to declare a Principal in default and request and attempt to arrange a conference with the Principal and Surety to be held not later than 15 days after receipt of such notice to discuss methods of performing the Contract. If the State System of Higher Education, the Principal and the Surety agree, the Principal shall be allowed a reasonable time to perform the Contract, but such an agreement shall not waive the State System of Higher Education’s right, if any, subsequently to declare the Principal in default. If after such notification and conference, the Owner declares the Principal in default and formally terminates the Principal’s right to complete the Contract, the Surety shall promptly and at the Surety's expense, take one of the following actions:

a. Arrange for the Principal, with consent of the State System of Higher Education, to perform and complete the Contract; or

b. Undertake to perform and complete the Contract itself, through its agents or through independent contractors; or

c. Obtain bids or negotiate proposals from qualified contractors acceptable to the State System of Higher Education for contract for performance and completion of the Contract, arrange for a contract to be prepared for execution by the State System of Higher Education and the contractor selected with the State System of Higher Education’s concurrence, to be secured with performance and payment bonds executed by a qualified surety equivalent to the bonds issued on the Contract, and pay to the State System of Higher Education the amount of damages it incurs in excess of the balance of the Contract Price incurred by the State System of Higher Education resulting from the Principal’s default including the cost for correction of defective work and completion of the Contract, additional legal fees, design professional and delay costs resulting from the Principal's default and liquidated damages, or if no liquidated damages are specified in the Contract, actual damages caused by delay performance or non-performance of the Principal. If the Surety does not proceed as provided herein with reasonable promptness, the Surety shall be deemed to be in default on this bond 15 days after receipt of an additional written notice from the Owner to the Surety demanding that the Surety perform its obligations under this bond and the State System of Higher Education shall be entitled to enforce any remedy available to it.
IN WITNESS WHEREOF, the said Principal and Surety have duly executed this Bond under seal the day and year above written.

WITNESS:

______________  Principal (Individual)

______________  Surety

(SURETY SEAL)  BY _______________          Attorney-in-Fact

WITNESS:

______________  Principal (Partnership)

______________  Surety

(SURETY SEAL)  BY _______________          Attorney-in-Fact

(CORPORATE SEAL)

________________  Secretary or Treasurer

________________  President or Vice-President

________________  Surety

(SURETY SEAL)  BY _______________          Attorney-in-Fact
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ARTICLE 1 - DEFINITIONS

1.1 As used in these General Conditions, and in the Contract Documents, the following terms are defined herein, unless the context clearly dictates otherwise.

a. Contract means the Contract for construction, of which these General Conditions are made a part. The documents comprising the complete Contract Documents are defined in the Standard Form of Contract.

b. Contract Sum, or Contract Price, is the dollar amount stated in the Standard Form of Contract, including any changes authorized by fully-executed Change Orders, and is the total amount payable by the System to the Contractor for performance of the Work under the Contract.

c. Contract Time is the time allowed for substantial completion of the Work, including any changes authorized by fully-executed Change Orders.

d. Amendment is a written order to the Contractor, signed by the System and by all necessary Commonwealth officials as provided by law, and issued after the execution of the Contract, authorizing a change in the terms and conditions of the Standard Form of Contract and/or the General Conditions, and/or any other Contract Documents providing terms and conditions. The Contract terms and conditions may be changed only by Amendment.

e. Change Order is a written order to the Contractor, signed by the System, and issued after the execution of the Contract, authorizing a change in the Work or an adjustment in the Contract Sum and/or the Contract Time. The Contract Sum and the Contract Time may be changed only by Change Order.

f. Contractor shall be the entity with whom the System has entered into this Contract to construct the Project in accordance with the Contract Documents.

g. Separate Prime Contractors are the entities with whom the System enters into contracts to construct the Project in accordance with the Contract Documents, in accordance with Act 104/Public Law 155 of 1913. "Separate Prime Contractors" is typically differentiated from "Contractor" to indicate contractors other than the specific Contractor with whom the System has entered into the Contract at hand.

h. Subcontractor is a person or entity who has contracted to furnish labor or materials, or has contracted to furnish labor, for a contractor or another subcontractor in connection with the Project.

i. Supplier is a person or entity who is providing materials or equipment, or construction equipment or machinery, but not labor, for a contractor or a subcontractor in connection with the Project.

j. System means the State System of Higher Education, Commonwealth of Pennsylvania; the Office of the Chancellor of the State System of Higher Education; University or Universities of the State System of Higher Education; or any authorized representative of any of them, entering into the Contract.

k. Substantial Completion is when the Work is sufficiently completed in accordance with the Contract Documents, changed as authorized by fully-executed Change Orders, and certified by the System, so that the Project can be used, occupied, and/or operated for its intended use. In no event shall the project be certified as Substantially Complete until at least ninety percent (90%) of the Work on the Project is complete.

l. Project is the total effort of construction, renovation, improvement, addition to, and/or repair of a facility. The total effort is comprised of one or more construction contracts, one of which is the Contract, plus other necessary contracts, agreements, and purchases for design, management, and equipment, and possibly for furniture and furnishings.
m. Work means all labor, materials, and equipment, along with the necessary supervision, required and incorporated to complete the construction, renovation, improvement, addition to, and/or repair of a facility specified in, and according to, the Contract Documents.

**ARTICLE 2 - GENERAL PROVISIONS**

2.1 CONTRACT DOCUMENTS

2.1.1 The Contract Documents are defined in the Standard Form of Contract.

2.1.2 The Contract can be changed by either: (1) an Amendment, or (2) a Change Order. The Contract may be changed only after the Contract has been properly executed by all necessary Commonwealth officials as provided by law. Changes within the scope of the Contract may be ordered by the System. Changes not within the general scope of the Contract must be agreed upon by both parties.

2.1.3 The Contract Documents are complementary, and what is required by any one of the Contract Documents shall be binding as if required by all. Work not covered under any heading, section, branch, class, or trade of the specifications need not be supplied unless it is required elsewhere in the Contract Documents or is reasonably inferable therefrom as being necessary to produce the intended results. Work shown on the drawings is required even if not covered under a specification section. If there is a conflict between the drawings and the specifications, the specifications shall prevail. Words that have well-known technical or trade meaning are used herein in accordance with such recognized meanings. Where the Work is shown in complete detail on only half or a portion of a drawing or there is an indication of continuation, the remainder being shown in outline, the Work drawn out in detail shall be understood to apply to other like portions of the Project.

2.1.4 The intent of the Contract Documents is to describe a functionally complete Project composed of functionally completed systems. Any Work, materials or equipment that may reasonably be inferred from the Contract Documents or from prevailing custom or trade usage as being required to produce the intended result of a completed system shall be furnished and performed whether or not specifically called for.

2.1.5 No additions to the Contract Sum will be approved for any labor, equipment, and/or materials to perform Work hereunder unless it can be clearly shown to be beyond the scope and intent of the drawings and specifications and to be absolutely essential to the proper execution of the Work.

2.1.6 All drawings, specifications, and copies thereof furnished by the System are and shall remain the property of the System. They are not to be used on any other project, without permission of the System, and, with the exception of one Contract set for each party to the Contract, are to be returned to the System upon request at the completion of the Work.

**ARTICLE 3 - THE SYSTEM**

3.1 RIGHT TO STOP THE WORK

If the Contractor fails to correct Work that is not in accordance with the requirements of the Contract Documents, or repeatedly fails to carry out Work in accordance with the Contract Documents, the System may issue a written order to the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, the right of the System to stop the Work shall not give rise to a duty on the part of the System to exercise this right for the benefit of the Contractor or any other person or entity.
3.2 RIGHT TO CARRY OUT THE WORK

If the Contractor fails to satisfactorily carry out the Work in accordance with the Contract Documents or fails to perform any provision of the Contract, the System may, after three (3) working days written notice to the Contractor, and without prejudice to any other remedy the System may have, make good such failures. 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 failures, including the cost for the additional services by the Professional or any of the other representatives of the System made necessary by such failure. If the payments then or thereafter due the Contractor are not sufficient to cover such amount, the Contractor and/or the Contractor's Surety shall pay the difference to the System.

3.3 RIGHT TO AWARD CONTRACTS

The System reserves the right to award other contracts in connection with other portions of the Project under similar conditions of this Contract.

3.4 REPRESENTATIVES

3.4.1 Representatives designated by the System will have the authority to enforce the Contract, to include inspecting the Work and rejecting all Work not in accordance with the Contract Documents. The System's Representatives may be System staff, the Professional, a Construction Manager, and/or other individuals or parties retained for such purpose.

3.4.2 Only those representatives so designated have authority to change, modify, or alter the Work or incur or cause to be incurred additional obligations beyond the Contract provisions.

3.4.3 The System may retain and designate other representatives, to include but not limited to Inspection and Testing firms, Commissioning Agents, and special consultants, to act as representatives for the System in the administration of specific aspects of the Contract. They may perform functions as determined by their agreements with the System.

3.4.4 In the event the System retains and designates more than one representative, and that directions, instructions, or interpretations given by those representatives are in conflict, the Contractor shall, within three (3) days but before any Work addressed in the conflicting directions, instructions, or interpretations is performed, bring the conflict to the attention of those representatives for resolution. In the event those representatives do not resolve the conflict, the Contractor shall bring the conflict to the attention of the System for resolution.

3.5 THE PROFESSIONAL

3.5.1 If retained and so designated by the System, a Professional architect or engineer may act as representative for the System in the administration of the Contract and may perform any or all of the functions herein, as determined by the Professional's agreement with the System.

3.5.2 The Professional has the authority to visit the Project site to review progress in accordance with the Contract drawings and specifications, attend job conferences, make progress reports to the System, review and accept/reject the Contractor's Schedule of Values, approve the Contractor's applications for payment, interpret technical aspects of the Contract Documents, reject Work which does not conform to the Contract Documents, review and approve submittals, review and provide an evaluation of the Contractor's Quality Control program, prepare drawings and specifications for change orders, review and accept the Contractor's proposals for change orders, prepare punchlists, participate in punchlist and completion inspections, and review and approve operating and maintenance instructions, warranties, and related documents required by the Contract.

3.5.3 The Professional may have additional authorities and perform additional functions as determined by the System necessary to protect the System's interest.
3.6 THE CONSTRUCTION MANAGER

3.6.1 If retained and so designated by the System, a Construction Manager may act as a representative for the System in the administration of the Contract and may perform any or all of the functions stated herein, as determined by the Construction Manager’s agreement with the System.

3.6.2 The Construction Manager may perform any of the same actions the Professional has the authority to perform, either independent of or in conjunction with the Professional.

3.6.3 If given the responsibility by the System, the Construction Manager may perform any of the functions of System staff, except those functions expressed reserved for the Contracting Officer.

3.6.4 If given the responsibility by the System, the Construction Manager may assist in coordination of the activities of the various Separate Prime Contractors, as well as any other contractors, all of whom shall cooperate with him/her. Such coordination may include participation in the development, review, revision, and/or maintenance and updating of the Project construction schedule. Unless expressly provided for in Specification Section 013200, Construction Progress Documentation, the Construction Manager will not have control over or be responsible for the Project construction schedule itself, nor for the execution of the Work in accordance with the approved Project construction schedule, nor over construction means and methods.

ARTICLE 4 - THE CONTRACTOR

4.1 REVIEW OF CONTRACT DOCUMENTS AND FIELD CONDITIONS

4.1.1 The Contractor shall perform the Work according to good quality industry standards, practices, and procedures, and in accordance with the Contract Documents and approved submittals.

4.1.2 The Contractor shall accept all conditions as found upon examination of the site, and take field measurements and verify field conditions and compare carefully such measurements and conditions with the Contract Documents before commencing activities. If the Contractor, in the course of construction, finds any conflict, error, or discrepancy on or among the Contract Documents, such conflict, error, or discrepancy shall be immediately referred to the System in writing.

4.1.3 On all Work of a remodeling nature or installation within existing facilities, the actual situation at the site controls any information given which may affect the quantity, size, and quality of materials required for a satisfactorily completed Contract, whether or not such information is indicated on the drawings or within the specifications.

4.1.4 If subsurface exploration, drilling, and/or testing was performed at the Project site, and if information resulting from that exploration, drilling, and/or testing was available to the Contractor by its inclusion in the Technical Plans and Specifications, then the following applies. Notwithstanding anything to the contrary contained in the Contract Documents, and notwithstanding anything to the contrary contained in the subsurface exploration, drilling, and/or testing reports themselves, such subsurface exploration, drilling, and/or testing reports provided are for informational purposes only, and nothing contained in them shall be deemed to be a representation or warranty with respect to the condition of the Project site and/or any Work required to be performed in connection with the excavation thereof.
4.2 SUPERINTENDENCE AND MANAGEMENT

4.2.1 Superintendence. At all times during performance of the Work at the Project site, and until the Work is completed and accepted, the Contractor shall have on site a duly authorized and competent superintendent who shall directly supervise the Work. Direct supervision shall be required any time that the Contractor or any of its subcontractors are carrying out Work on the site. Communications given by the System at the Project site to the superintendent shall be as binding as if given to the Contractor. If the Contractor has more than one Separate Prime Contract, the Contractor shall provide a separate superintendent for each Separate Prime Contract. The superintendent shall be acceptable to the System. The System may require the submission of a resume or statement of qualifications for the proposed superintendent. The Contractor shall not change the assigned superintendent without approval of the System. Such approval shall not be unreasonably withheld.

4.2.2 Management. For the duration of the Contract, and until all Contract requirements are completed and final payment is made, the Contractor shall have a duly authorized and qualified project manager for the Contract. The project manager shall be the primary point of contact between the Contractor and the System, and between the Contractor and the design Professional. The project manager shall have the full authority to make decisions and approve Contract changes for the Contractor. If the Contractor has more than one Separate Prime Contract, the Contractor shall provide a separate project manager for each Separate Prime Contract. The project manager shall be acceptable to the System. The System may require the submission of a resume or statement of qualifications for the proposed project manager. The Contractor shall not change the assigned project manager without the approval of the System. Such approval shall not be unreasonably withheld.

4.3 SUPERVISION AND CONSTRUCTION PROCEDURES

4.3.1 The Contractor shall supervise and direct the Work using the Contractor's best skill and attention to complete the Work in an acceptable manner and in accordance with the Project Schedule (see Article 4.7 Project Schedule). The Contractor shall be solely responsible for the Work performed and have control over construction means, methods, techniques, sequences, and procedures, and for coordinating all portions of the Work, unless the Contract Documents give other instructions.

4.3.2 The Contractor shall be responsible for the acts and omissions of all of its employees, all subcontractors and their agents and employees, and all other persons performing portions of the Work under an agreement with the Contractor.

4.4 LABOR AND MATERIALS

4.4.1 The Contractor shall enforce strict discipline and good order and conduct among its employees and other persons carrying out the Work. Every employee shall be fit and skilled in the performance of tasks assigned to them.

4.4.2 This Contract may be subject to the provisions, duties, obligations, remedies, and penalties of the Pennsylvania Prevailing Wage Act (43 P.S. § 165-1, et seq.), as amended, which is incorporated herein by reference as if fully set forth herein.

4.4.3 The System anticipates the Contractor will provide products (i.e., products, materials, and equipment as defined in Specification Section 016100, Common Product Requirements) to be incorporated into the Work. Products shall meet or exceed the quality specified in the Contract Documents, and shall be new, undamaged, and unused at the time of installation, unless otherwise indicated in the Contract Documents or authorized by the System as a substitution after the Effective Date on this Contract. The Contractor shall produce, upon request, evidence supporting the source of materials used in the Work. The burden of proof of quality for all products provided rests with the Contractor. The costs incurred for
4.5  TAXES

Contractor shall pay all sales, consumer, use, and other similar taxes as required by law. Since the System is an instrumentality of the Commonwealth of Pennsylvania, the sale at retail to or use by a construction contractor of certain building machinery and equipment and services thereto that are transferred to the System may possibly be excluded from some or all of such taxes. Forms and directions on the manner of obtaining exclusions from sales taxes may be obtained from the Pennsylvania Department of Revenue.

4.6  UNIFORM CONSTRUCTION CODE; PERMITS, FEES, AND NOTICES

4.6.1 Under the Pennsylvania Uniform Construction Code (UCC), all System facilities fall under the jurisdiction of only the Pennsylvania Department of Labor and Industry (L&I) for plan review and inspection. Local authorities have no jurisdiction for building permits on System facilities. The System through its Professional is responsible for obtaining the Building Permit. A copy of the Building Permit, which includes a list of the required inspections, is available from the System or its Professional.

4.6.2 The Contractor shall become familiar, and is responsible for complying, with all aspects of the UCC. For purposes of UCC inspections, the Contractor shall be deemed the “owner” as described in the UCC. Each Separate Prime Contractor shall include in the Project Schedule the UCC inspections applicable to their Work. Each Contractor shall be responsible to contact L&I to schedule the required inspections in accordance with the inspection procedures outlined in the Building Permit. Each Contractor shall notify the System of all scheduled inspections and shall inform the System in writing of the results of all inspections.

4.6.3 The Contractor shall complete in a timely manner all Contract requirements necessary for the Project to receive a Certificate of Occupancy.

4.6.4 Unless otherwise called for by the Contract, the System will obtain any required zoning or land use permits from the local municipality having jurisdiction.

4.6.5 Unless otherwise called for by the Contract, the System will obtain any required storm water or other environmental permits from the governmental agency having jurisdiction. The Contractor shall comply with any and all requirements of those permits. And Contractor also maybe be required to be a Transferee/Co-Permittee on the NPDES permit.

4.6.6 The Contractor shall obtain and pay for all other permits, licenses, and certificates required by Law and/or any public authority for the proper execution and completion of its Work. The Contractor shall furnish proof of payment for all such permits, licenses, and certificates, or proof that no permits, licenses, or certificates are required.

4.6.7 The Contractor shall give all notices and comply with all applicable Laws, ordinances, regulations, rules, and orders of any public authority bearing on the performance of the Work. If the Contractor observes that any of the Contract Documents is at variance therewith in any respect, it shall promptly notify the System in writing. If the Contractor performs any Work knowing it to be contrary to such applicable laws, ordinances, regulations, rules, or orders, and without such written notice to the System, the Contractor assumes full responsibility therefor and shall bear all costs attributable thereto.
4.6.8 The Contractor shall pay all royalties and license fees. It shall defend all suits or claims for infringement of any patent rights and shall save the System harmless from loss on account thereof. The System shall be responsible for all such loss when a particular design, process, or the product of a particular manufacturer or manufacturers is specified. However, if the Contractor has reason to believe that the design, process, or product specified is an infringement on a patent, it shall be responsible for such loss unless it promptly gives such information to the System.

4.7 PROJECT SCHEDULE

4.7.1 The Contractor shall comply with the Project Schedule requirements specified in Specification Section 013200, Construction Progress Documentation. If a Section 013200 is not provided, the Contractor shall comply with the provisions below.

4.7.2 Within seven (7) days following receipt of Notice to Proceed, the Lead Prime Contractor (see Specification Section 011200, Multiple Contract Summary) shall furnish to the System and to any and all other Separate Prime Contractors a practicable schedule of the proposed prosecution of the Work, and the planned dates on which salient features of the Work will start and complete. The Project Schedule shall be coordinated with and accepted and signed by any and all other Separate Prime Contractors, and submitted to the System for review and approval not later than fourteen (14) days after Notice to Proceed.

4.7.3 The Contractor shall complete portions of the Work in such order of time as may be stated in the Contract Documents or as required in the approved Project Schedule. If the Contractor fails to process the Work according to the approved Project Schedule, the System may require the Contractor to take necessary steps to recover and maintain the Project Schedule, at no additional cost to the System. Necessary steps may include, but are not limited to, additional resources, additional shifts, or overtime operations. If the Contractor refuses or fails to proceed as directed by the System, the System has the right to carry out the Work, and may find the Contractor in breach of its Contract and/or declare the Contractor in default.

4.8 SUBMITTALS

4.8.1 The Contractor shall prepare and process submittals in accordance with Specification Section 013300, Submittal Procedures, consisting of the necessary shop drawings, coordination drawings, product data, samples, and other information required to identify the proposed equipment and materials, to support the proposed installation methods, and to establish standards by which the Work will be judged. The preparation and processing of submittals shall not delay the Project or require a time extension to the Contract Time, unless agreed to by the System.

4.8.2 The System's review and approval of a submittal is for conformance with the information given in the Contract Documents and with the design concept of the Project. Approval does not relieve the Contractor of the responsibility for compliance with Contract requirements or with statutory or regulatory requirements. Moreover, the Contractor is responsible for dimensions, quantities, details and connections, fabrication, construction methods, and coordination of trades required for satisfactory construction of all Work.

4.8.3 No portion of the Work requiring a submittal shall be commenced until the submittal has been approved by the System. Any Work commenced by the Contractor prior to approval of the submittal is performed by the Contractor at its own risk.

4.9 JOB CONDITIONS

4.9.1 The Contractor shall confine operations at the site to areas permitted by law, ordinances, permits, and the Contract Documents, and shall not unreasonably encumber the site with any
materials or equipment, unless otherwise permitted by the System. The Contractor shall at all times keep the work site free from accumulation of waste materials or rubbish created by its operations.

4.9.2 The site of the Work is defined by the Limit of Contract line shown on the drawings. The Contractor may only extend its Work beyond this line as may be necessary to satisfy requirements of all permits and to make utility and service connections. Before starting any Work beyond the Limit of Contract, the Contractor shall submit to the System a description of the proposed Work for their review and approval.

4.9.3 The Contractor shall cooperate in the arrangements of the Work, as necessary, to least affect the administration or operation of any present facility. Existing utility services roads and access ways shall not be interrupted without prior approval by the System. The Contractor shall comply with the System’s prescribed times for acceptable outage periods.

4.9.4 The Contractor shall at all times afford other contractors reasonable access to the site and material storage areas, and shall perform its Work so as not to interfere with the work of other contractors.

4.9.5 The Contractor shall be responsible for providing temporary heat, light, and water as necessary to execute and protect the Work, and shall maintain adequate ventilation of the work site to ensure proper air quality for human breathing and safe equipment operations. Specific requirements may be provided elsewhere in the Contract Documents, including, but not limited to, Specification Section 015000, Temporary Facilities and Controls.

4.9.6 The Contractor shall protect the Work and stored materials. Specific requirements may be provided elsewhere throughout the Contract Documents.

ARTICLE 5 - SUBCONTRACTORS

5.1 SUBCONTRACTS

5.1.1 Subcontractors employed by the Contractor are solely responsible to the Contractor, and shall have no contractual relationship with the System.

5.1.2 All Work performed for the Contractor by a subcontractor shall be pursuant to an appropriate agreement between the Contractor and the subcontractor. All agreements between Contractors and subcontractors shall contain provisions requiring all of the following rights and responsibilities:

a. Preserving and protecting the rights of the System under the Contract with respect to the Work to be performed under the subcontract, so that the subcontracting thereof will not prejudice such rights.

b. Requiring that the Work be performed in accordance with the terms, conditions, and requirements of the Contract Documents.

c. Requiring that all claims for additional costs, extensions of time, or otherwise, with respect to subcontracted portions of the Work, be submitted to the Contractor in the manner provided in the Contract Documents for like claims by the Contractor upon the System.

d. Requiring that each subcontractor and/or supplier fully warrant and guarantee for the benefit of the System as purchaser the effectiveness, quality, and merchantability of any item provided and/or installed by such subcontractor.

e. Requiring that the subcontractor is without privity of Contract to the System and that it agrees by signing the subcontract that it neither acquires nor intends to acquire any rights against the System on a third party beneficiary theory or any others.
5.1.3 The Contractor shall not sublet any part of this Contract without written approval of the System. Within seven (7) days following receipt of Notice to Proceed, the Contractor shall furnish to the System, for approval, a list of all subcontractors and suppliers it proposes to use under the Contract.

5.1.4 A Contractor may not, except with the consent of the System, have a financial interest in any other contractor, subcontractor, or supplier providing services, labor, or material on this Project. Failure to disclose the names of such subcontractors and/or suppliers shall be sufficient grounds for termination of this Contract. Such failure may also be grounds for the initiation of civil or criminal proceedings.

5.1.5 The System has the right to direct the Contractor to replace any subcontractor to which the System objects for any of the following reasons:

a. The subcontractor has failed to work in accordance with the Contract provisions, rules, and regulations regarding Contractor performance, Contract Compliance, or good order and conduct of its employees.

b. The subcontractor has defaulted or failed to perform on previous System projects.

c. The subcontractor has been suspended or debarred from doing business with the Commonwealth.

ARTICLE 6 - CHANGES IN THE WORK

6.1 CHANGE ORDERS

6.1.1 The System, without invalidating the Contract, and without notice to the Sureties, may, by written order, order changes in the Work within the general scope of the Contract, consisting of additions, deletions, or other revisions. All such changes shall be implemented by a Change Order.

6.1.2 Change Orders shall adjust the Contract Sum and Contract Time accordingly, as they relate to the cost of the Work and the cost of any impacts to the Work, and to the impact on timely completion of the Work. Costs and impacts shall include any and all costs associated with acceleration, stacking, and re-sequencing of the Work required to maintain the Project Schedule. If it is not possible to complete the Work in accordance with the Project Schedule and/or the Contract Time by the acceleration, stacking, or re-sequencing, the Contractor may request an extension of time. Adequate information and proper submission must be provided to validate such a request.

6.1.3 The Contractor agrees that payment under any method noted within this Contract shall be the exclusive compensation for such addition, deletion, or other revision to the original Contract, and that by signing a Change Order, the Contractor agrees to release and waive any and all claims related to that Change Order or the Work contained therein.

6.1.4 When the System and the Contractor are not in total agreement on the terms of a Change Order, or when the amount or extent of the Work related to the Change Order is not known, the System may issue a unilateral change order, or a Construction Change Directive, directing the Contractor to proceed with a change in the Work. In such cases, the Contractor must proceed with the Work but shall have the right to request an adjustment to the Contract Sum and Contract Time. In such cases, requests for adjustment to the Contract Sum and/or Contract Time must be accompanied by supporting documentation of incurred costs/time.

6.1.5 Minor changes in the Work not affecting the Contract Sum or Contract Time, consistent with the intent of the Contract Documents, may be directed by the System without additional compensation or time extension.
6.2 REQUESTS FOR ADDITIONAL COST OR TIME

6.2.1 If the Contractor desires an increase in the Contract Sum, written notice shall be given to the System before proceeding to execute any Work which is the subject of the desired increase. Such request shall be in accordance with Specification Section 012600, Contract Modification Procedures, or other similar formal System procedures.

6.2.2 If the Contractor desires an increase in Contract Time, written notice shall be given to the System, including an estimate of the probable impact on the timely completion of the Work and of any cost associated with that impact.

6.3 CONCEALED OR UNKNOWN CONDITIONS

6.3.1 If conditions are encountered which are: (1) subsurface or otherwise concealed physical conditions which differ materially from those indicated in the Contract Documents, or (2) unknown physical conditions of an unusual nature, which differ materially from those ordinarily found to exist and generally recognized as inherent in work of the character provided for in the Contract Documents, then the Contractor shall give written notice to the System promptly, and before conditions are disturbed, and in no event later than seven (7) days after first observance of the conditions.

6.3.2 The System will promptly investigate such conditions. If conditions differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, the System will recommend an equitable adjustment in the Contract Sum or Contract Time, or both. If the conditions at the site are not materially different from those indicated in the Contract Documents, no change in the terms of the Contract is justified. No adjustment shall be made to the Contract Sum and/or Contract Time, however, for concealed conditions encountered during cutting and patching of Work.

ARTICLE 7 - TIME

7.1 CONTRACT TIME

7.1.1 Time is of the essence. The Contractor shall prosecute the Work diligently and substantially complete the Work in accordance with the Contract Time specified in the Standard Form of Contract.

7.1.2 No on-site Work may take place until Notice to Proceed is issued by the System.

7.1.3 If the System issues a Binding Letter of Intent to Contract prior to Notice to Proceed, the Contractor may rely on the letter to prepare to start Work to the extent authorized by the letter and incur costs in preparation for performance of the Contract.

7.1.4 The Contract Time anticipates inclement and/or adverse weather, and the Contractor shall plan accordingly. Inclement or adverse weather, including but not limited to cold or freezing weather, shall not be considered an excuse for non-performance of Work under this Contract. The Contractor shall use such methods of protection as may be necessary to continue to work throughout the period of inclement or adverse weather.

7.2 ADJUSTMENTS TO THE CONTRACT TIME

7.2.1 A time extension for an ordered change in the Work will depend upon the extent, if any, by which the change causes delay in completion of the various elements of construction. Normally a time extension will be granted if the changed Work impacts a Work item on the critical path of the Project Schedule and the scheduled completion date is impacted. For an
ordered change in the Work that can reasonably be done concurrent with other Contract Work, without significant addition of labor or equipment, no time extension will be granted.

7.2.2 A change order granting a time extension may provide that the Contract Time will be extended only for those specific elements related to the changed Work and that the remaining Contract Time for all other portions of the Work will not be changed.

7.3 NO-FAULT TIME EXTENSIONS

7.3.1 If delays in completing the Work arise from unforeseen causes beyond the control and without the fault or negligence of either the Contractor or the System, the System may, in its sole discretion, grant a time extension for any such delays by extending the time for completion of the Work, which extension shall constitute the exclusive remedy between the parties. Examples of such causes include, but are not limited to, acts of God, acts of or protection against a public enemy, acts of the Commonwealth in its sovereign capacity, acts of another contractor in its performance of an agreement with the System, strikes, embargoes, and unusually severe weather. Any such time extension must meet the criteria under Article 7.2.

7.3.2 If unusually severe weather is the basis for Contractor's request for additional time, such request shall be documented by data from a recognized weather authority substantiating that weather conditions were abnormal for the period and could not have been reasonably anticipated. The Contractor shall also substantiate that the unusually severe conditions had an adverse impact on the scheduled completion date.

ARTICLE 8 - SUSPENSION OF THE WORK

8.1 SUSPENSION OF THE WORK

8.1.1 The System may order the Contractor in writing to suspend, delay, or interrupt all or any part of the Work for such period of time as it may determine to be appropriate for the convenience of the System.

8.1.2 If the performance of all or any part of the Work is, for an unreasonable period of time, suspended, delayed, or interrupted:

a. by an act of the System in the administration of this Contract, or

b. by the System's failure to act within the time specified in this Contract, or within a reasonable time if not specified,

an adjustment shall be made for any increase in the cost of performance of this Contract (excluding profit) necessarily caused by such unreasonable suspension. The Contract shall be modified in writing accordingly. No adjustment shall be made under this clause for any suspension to the extent that performance would have been so suspended by any other cause, including the fault or negligence of the Contractor, or for which an equitable adjustment is provided for or excluded under any other provision of this Contract.

8.1.3 No claim under this clause shall be allowed unless the claim, in an amount stated, is asserted in writing as soon as practicable after the termination of such suspension. The claim may not be asserted later than the date of final payment.

8.1.4 The provisions of this Article 8.1 do not apply under conditions enumerated in Article 8.2, Suspension of the Work Due to Unfavorable Conditions, or Article 8.3, Suspension of the Work for Fault of the Contractor.
8.2 SUSPENSION OF THE WORK DUE TO UNFAVORABLE CONDITIONS

8.2.1 If, in the judgment of the System, the Contractor is taking undue risk of damage to any part of a structure or installation by proceeding with the Work during unfavorable weather or other conditions, then the System may suspend the Work temporarily, either wholly or in part for such periods as are necessary. In case of such suspension, the System may, in its sole discretion, grant a time extension for any such delays by extending the time for completion of the Work, which extension shall constitute the exclusive remedy between the parties. The failure of the System to suspend the Work does not relieve the Contractor of its responsibility to perform the Work in accordance with the Contract Documents.

8.2.2 The System may require a suspension of the Work if, in its opinion, unforeseen conditions warrant such stoppage. When the System directs resumption of the Work, the Contractor shall resume full operations within a period of seven (7) days after the date of written notice to do so. The System is not liable for any damages, lost overhead, or anticipated profits on account of the Work being suspended.

8.2.3 Any Work done by the Contractor during the period of suspension is its own responsibility. The Contractor shall receive no payment for the Work unless the Work is subsequently resumed and Work done during the suspension can be utilized in the resumed Work.

8.2.4 Suspensions of Work as outlined above shall not in themselves operate to extend the Contract date of completion. Requests for extensions of time shall be submitted in writing by the Contractor, setting forth its reasons for the extension.

8.3 SUSPENSION OF THE WORK FOR FAULT OF THE CONTRACTOR

Should the Contractor fail to comply with the orders of the System relative to any particular parts of the Work, the System may suspend Work on any or all parts of the Work until its orders respecting the particular parts are complied with. In case of such suspension, which shall be considered due to the fault of the Contractor, no extension of time shall be given and no allowance will be made for the expenses incurred by the Contractor during the suspension period.

8.4 SUSPENSION OF THE WORK FOR FAULT OF OTHER SEPARATE PRIME CONTRACTORS

If the performance of all or any part of the Work is, for an unreasonable period of time, suspended, delayed, or interrupted by an act of another Separate Prime Contractor, or by another Separate Prime Contractor's failure to act within the time specified in this Contract, or within a reasonable time if not specified, the System may, in its sole discretion, grant a time extension for any such delays by extending the time for completion of the Work, which extension shall constitute the exclusive remedy between the parties. Otherwise, Disputes with other Separate Prime Contractors is addressed in Article 13.5.

ARTICLE 9 - PAYMENTS

9.1 PAYMENTS

9.1.1 Performance by the Contractor in accordance with the requirements of the Contract Documents shall entitle the Contractor to payment by the System. Normally, payment for the Work will be made upon substantial completion and acceptance of the Work. However, when a contract exceeds $25,000 and upon written request, partial payments may, at the discretion of the System, be made after completion of portions of the Work.
9.1.2 The System shall pay the Contractor according to the provisions of this Article for all items that appear on the application for payment and have been satisfactorily completed. Applications for payment will not be considered to be acceptable unless they meet all the requirements specified in Specification Section 012900, Payment Procedures, and as outlined elsewhere in the Contract Documents.

9.1.3 Before any application for payment can be submitted and/or approved, the Contractor shall submit to the System for its approval a detailed breakdown of the costs indicating a schedule of quantities and values for the items of Work included in the Contract, as required in Specification Section 012900, Payment Procedures.

9.1.4 The Contractor warrants and guarantees that title to all Work, materials, and equipment covered by an application for payment, whether incorporated in the Project or not, will pass to the System upon the receipt of such payment, free and clear of all terms, claims, security interests, or encumbrances. Such warrant and guarantee shall not relieve the Contractor from the sole responsibility for all material and Work upon which payments have been made, or the restoration of damaged Work, or waive the right of the System to require the fulfillment of the terms of the Contract.

9.1.5 The System may decline to approve any application for payment, or portion thereof, because of subsequently discovered evidence or subsequent inspections which may nullify the whole or part of any application for payment previously issued, to such extent as may be necessary to protect the System from loss because of:

(1) defective Work not remedied,

(2) failure of the Contractor to make payments properly to subcontractors or for labor, materials, and equipment,

(3) reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum,

(4) reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay, or

(5) unsatisfactory execution of the Work by the Contractor.

9.2 RETAINAGE

9.2.1 To ensure proper performance of the Contract, the System may retain from all partial payments an amount not to exceed ten percent (10%) of the amount due the Contractor until fifty percent (50%) of the Contract is completed. When the Contract is fifty percent (50%) completed, one half of the amount retained by the System shall be returned to the Contractor. However, the System or their representative must approve the reduction in retainage. The Contractor must be making satisfactory progress, and there must be no specific cause for greater withholding. The sum to be withheld from the Contractor after the Contract is fifty percent (50%) completed shall not exceed five percent (5%) of the value of the completed Work based on monthly progress payment requests. All money retained by the System may be withheld from the Contractor until substantial completion.

9.2.2 In the event a dispute arises between the System and any Separate Prime Contractor, which dispute is based upon increased costs claimed by one Separate Prime Contractor occasioned by delays or other actions of another Separate Prime Contractor, additional retainage in the sum of one and one-half times the amount of any possible liability may be withheld until such time as a final resolution is agreed to by all parties directly or indirectly involved, unless the Contractor causing the additional claim furnishes a bond satisfactory to the System to indemnify the System against the claim.
9.2.3 In absence of sufficient reason, within 20 days of receipt of payment of retainage, the Contractor shall pay all subcontractors with which it has contracted their earned share of the retainage payment the Contractor received.

9.3 WITHHOLDING OF PAYMENTS FOR DEFICIENCY ITEMS

9.3.1 A deficiency item is Work performed but which the System, one of the System's representatives, the Contractor, or another authorized inspector will not certify as being completed according to the Contract Documents.

9.3.2 The System may withhold from any and all partial payments, in addition to retainage identified in Article 9.2, a reasonable amount for a deficiency item. If the System withholds money for a deficiency item, the System shall notify the Contractor of the deficiency item within the timeframe specified in the Contract or 15 calendar days of the date that the application for payment is received.

9.3.3 The Contractor may similarly withhold money from any subcontractor who is responsible for any deficiency item, and must similarly notify the subcontractor, and the System, of the reason within 15 calendar days after receipt of the notice of the deficiency item from the System.

9.4 PROMPT PAYMENT

9.4.1 The System shall make payment, less any applicable retainage and withholdings, to the Contractor within 45 days of receipt of a proper application for payment. If payment is not made within 45 days, the System shall pay to the Contractor interest on the amount due in accordance with Commonwealth Code.

9.4.2 For the purposes of this Article, the contract between the Contractor and a subcontractor is presumed to incorporate the terms of the Contract between the Contractor and the System. When a subcontractor has performed in accordance with the provisions of the Contract, a Contractor shall pay to the subcontractor, and each subcontractor shall in turn pay to its subcontractors, the full or proportioned amount received for each such subcontractor's work and material, 14 days after receipt of a progress payment. Neither the System nor any of its representatives shall have any obligation to pay or to see the payment of any monies to any subcontractor except as may be otherwise required by law.

9.4.3 The System shall make a substantial completion inspection within 30 days of receipt of a request by the Contractor for such inspection. If the Work is substantially complete, the System shall issue a certificate of substantial completion and, upon receipt of a proper application for payment, make payment in full within 45 days except as provided for in Article 9.2, Retainage, less only one and one-half times the amount required to complete any then-remaining uncompleted minor items, which amount shall be certified by the System and, upon receipt by the System of any guarantee bonds which may be required, in accordance with the Contract, to ensure proper workmanship for a designated period of time. The certificate of substantial completion given by the System shall list in detail each uncompleted item and a reasonable cost of completion. Upon completion of the uncompleted items listed in the certificate of substantial completion, final payment of any amount withheld for the completion of the minor items shall be paid upon receipt of a proper application for payment.
ARTICLE 10 - COMPLETION AND ACCEPTANCE OF THE WORK

10.1 ACCEPTANCE OF THE WORK

10.1.1 An application for progress payment, a progress payment, or any partial or entire use or occupancy of the Project by the System shall not constitute an acceptance of any Work not in accordance with the Contract Documents.

10.1.2 The System may occupy or use any completed or partially-completed portion of the Work at any stage when such portion is so designated by separate agreement with the Contractor, provided such occupancy or use is consented to by the insurer, and authorized by public authorities having jurisdiction over the Work. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided the System and the Contractor have accepted in writing the responsibilities assigned to each of them for payments, security, maintenance, heat, insurance, etc. Immediately prior to such partial occupancy or use, the System and the Contractor shall jointly inspect the area in order to determine and record the condition of the Work, and agree to the period for correction of this Work and as to the commencement of warranties.

10.2 NO ESTOPPEL OR WAIVER OF LEGAL RIGHTS

10.2.1 Neither the System nor its representatives shall be precluded or estopped by the measurements or approved applications for payment made or given by any of them or by any of their agents or employees, at any time, either before or after the completion and acceptance of the Work and payment thereof, from showing the true and correct amount and character of the Work performed and materials and equipment furnished by the Contractor. The System and/or its representatives may show at any time, that any such measurements or approved applications for payment are untrue or incorrectly made in any particular; or that the Work or materials, equipment or any parts thereof do not conform to the Contract Documents.

10.2.2 The System shall have the right to reject the whole or any part of the aforesaid Work or materials and equipment should the said measurements or approved applications for payment be found or be known to be inconsistent with the terms of the Contract, or otherwise improperly given. The System shall not be precluded or estopped, notwithstanding any such measurements or approved applications for payment in accordance therewith, from demanding and recovering from the Contractor or its Surety, or both, such damages as it may sustain by reason of the Contractor's failure to comply with the terms of the Contract Documents, or on account of any over-payments made on any approved applications for payment.

10.2.3 Neither the acceptance by the System or by any of its representatives, nor any certificate approved for payment of money, nor any payments for, nor acceptance of the whole or any part of the Work by the System, nor any extension of time, nor any position taken by the System or its employees, shall operate as a waiver of any portion of the Contract or any power herein reserved by the System or any right to damages. A waiver of any breach of the Contract will not be held to be a waiver of any other or subsequent breach.

10.3 CORRECTION OF DEFECTIVE OR NON-CONFORMING WORK

10.3.1 Work performed under the Contract is subject to inspection by the System. The Contractor shall promptly correct all Work rejected by the System as defective or as failing to conform to the Contract Documents, whether observed before or after substantial completion and whether or not fabricated, installed, or completed. All defective or non-conforming Work shall be promptly removed from the site. The Contractor shall bear all costs of correcting such
rejected Work, including any additional costs incurred by the System or its representatives and there shall be no extension of the Contract Time for correcting such rejected Work.

10.3.2 The Contractor shall bear the cost of making good all Work of other Separate Prime Contractors destroyed or damaged by such removal or correction.

10.3.3 If the Contractor does not remove such defective or non-conforming Work within the time fixed by written notice from the System, the System may, in accordance with Article 3.2, The System's Right to Carry Out the Work, 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 (10) days thereafter, the System may, upon ten (10) additional days written notice, sell such Work at auction or at private sale and, after deducting all the costs that should have been borne by the Contractor pursuant to the provisions of this Article, shall account for the net proceeds of the sale. If such proceeds of sale do not cover all costs that 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 to Contractor are not sufficient to cover such amount, the Contractor and/or the Contractor's Surety shall pay the difference to the System.

10.3.4 The obligations of the Contractor under this Article are in addition to and not in limitation of any obligations imposed upon the Contractor by special guarantees required by the Contract Documents or otherwise prescribed by law. Correction of defective Work in no way reduces or eliminates the Contractor's responsibilities under the Warranty provisions of the Contract.

10.4 UNCOVERING OF WORK

10.4.1 If a portion of the Work is covered contrary to the request of the System, it must, if required by the System, be uncovered for its observation, and replaced at the Contractor's expense without change in Contract Time.

10.4.2 If a portion of the Work has been covered which the System has not specifically requested to observe prior to being covered, the System may request to see such Work, and it shall be uncovered by the Contractor. If such Work is found to be in accordance with the Contract Documents, the cost of uncovering and replacement shall be charged to the System. If the Work is not in accordance with the Contract Documents, the Work shall be removed and replaced by the Contractor, within the period specified by the System by written notice, at no additional cost to the System. The System may, upon failure by the Contractor to replace the nonconforming Work, have the Work removed and replaced at the Contractor's expense.

10.5 ACCEPTANCE OF NON-CONFORMING WORK

If the System elects to accept non-conforming Work, it may do so instead of requiring its correction or removal and replacement. If nonconforming Work is accepted, a change order shall be issued to reflect an appropriate reduction in the Contract Sum to reflect the actual cost reduction to the Contractor of the change in the Work, or, if the amount is determined after final payment, it shall be paid by the Contractor and/or its Surety. In any event, any costs of uncovering and recovering the Work shall be at the expense of the Contractor.

10.6 WARRANTY OF CONSTRUCTION

10.6.1 In addition to any other warranties in this Contract, the Contractor shall warrant, except as provided in Article 10.6.6, that Work performed under this Contract conforms to the Contract requirements and is free of any defect in equipment, material, design furnished, or workmanship performed by the Contractor or any of its subcontractors or suppliers at any tier.

10.6.2 This warranty shall be for a period of one (1) year starting at the date of substantial completion of the Work. If the System takes possession of any part of the Work prior to
substantial completion, this warranty shall be for a period of one (1) year starting at the date the System takes possession, unless the System and the Contractor agree to another one-year period, or different one-year periods for different portions of the Work.

10.6.3 The Contractor shall remedy at the Contractor's expense any defect in the Work or failure to conform to Contract requirements. In addition, the Contractor shall remedy at the Contractor's expense any damage to System-owned or -controlled real or personal property, when that damage is the result of any defect or failure. In fulfilling the terms and conditions of this Article, the Contractor shall restore any Work damaged. And in doing so, the Contractor's warranty with respect to Work repaired or replaced will run for one (1) year from the date of repair or replacement.

10.6.4 The System shall notify the Contractor, in writing, within a reasonable time afterward, of the discovery of any failure, defect, or damage. If the Contractor fails to remedy any failure, defect, or damage within a reasonable time after receipt of notice, the System shall have the right to replace, repair, or otherwise remedy the failure, defect, or damage at the Contractor's expense.

10.6.5 With respect to all warranties, express or implied, from subcontractors, manufacturers, or suppliers for Work performed and materials furnished under this Contract, the Contractor shall obtain all warranties that would be given in normal commercial practice, require all warranties to be executed in writing, and enforce all warranties for the benefit of the System, if directed by the System. In the event the Contractor's one-year warranty has expired, the System may bring suit at its expense to enforce a subcontractor's, manufacturer's, or supplier's warranty.

10.6.6 Unless a defect is caused by the negligence of the Contractor or any of its subcontractors or suppliers at any tier, the Contractor shall not be liable for the repair of any defect in System-furnished material or design, nor for the repair of any damage that results from any defect in System-furnished material or design.

10.6.7 This warranty shall not limit the System's rights with respect to latent defects, gross mistakes, or fraud.

ARTICLE 11 - PROTECTION OF PERSONS AND PROPERTY

11.1 SAFETY AND HEALTH

11.1.1 The Contractor shall be responsible for initiating, maintaining, and supervising all safety and health precautions and programs required under the Contract and relative to its portion of the Work. The Contractor shall take all reasonable precautions for the safety and health of, and shall provide all reasonable protection to prevent injury or illness to, all employees on the Work, and all other persons who may be affected thereby. The Contractor shall erect and maintain as required by existing conditions and progress of the Work, until the acceptance of the completion of its portion of the Project, all reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards, promulgating safety and health regulations, and notifying owners and users of adjacent utilities.

11.1.2 The Contractor shall comply with Federal OSHA regulations and other applicable safety and health regulations. The most stringent standard shall prevail.

11.1.3 The Contractor shall designate a qualified member of its organization at the site who shall be responsible for the safety and health program.

11.1.4 The Contractor shall comply with Specification Section 013500, Special Procedures, if that Section is included as a part of this Contract.
11.2 PROTECTION OF PROPERTY

The Contractor shall provide all reasonable protection to prevent the loss of or damage to property, including but not limited to:

(1) any completed Work,

(2) all the materials and equipment to be incorporated into the Work, whether in storage on or off the site, under the care, custody, or control of the Contractor or any of its subcontractors, and

(3) other property at the site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, buildings, parts of buildings, structures, and utilities not designated for removal, relocation, or replacement in the course of construction.

11.3 PROTECTIVE ACTION

In any emergency affecting the safety or health of persons or the damage to or loss of property, the Contractor shall act, at its discretion, to prevent threatened damage, injury, illness, or loss, and report immediately such incidences to the System. Any additional compensation or extension of time requested by the Contractor because of emergency work shall be determined as provided for elsewhere in these General Conditions.

ARTICLE 12 - TERMINATION OF THE CONTRACT

12.1 TERMINATION FOR CONVENIENCE

12.1.1 The System may, at any time and for any reason, terminate this Contract for the convenience of the System.

12.1.2 Such termination shall be effective in the manner and at the time specified in such notice and shall be without prejudice to any claims that the System may have against the Contractor. Upon receipt of such notice from the System, the Contractor shall immediately discontinue all Work and the placing of all orders for materials, equipment, facilities, and supplies in connection with the performance of this Contract. The Contractor shall cancel promptly all existing orders and terminate Work under all subcontracts so far as such orders and Work are chargeable to this Contract. The Contractor shall take such measures for the protection of the property of the System as may be directed by the System.

12.1.3 Upon termination of this Contract, as provided by this Article, full and complete adjustment and payment of all amounts due the Contractor arising out of this Contract, as determined by an audit conducted by or for the System, as soon as practicable after such termination, shall be made as follows.

a. The System shall reimburse the Contractor for all costs incurred to date of termination, including reasonable overhead and expenses incurred in the performance of this Contract, less amounts previously paid.

b. The System shall also reimburse the Contractor for all costs to which the Contractor has been subjected or is legally liable for by reason of the termination of this Contract, including reasonable costs related to cancellation of orders, termination of subcontracts, etc.

c. The System shall also reimburse the Contractor for the reasonable cost of providing protection of the property of the System as directed by the notice of termination.

d. The Contractor shall not be reimbursed for any loss of anticipated profits associated with the unfinished portion of the Contract.
e. The sum total of the payments made under Article 12.1.3 shall not exceed the total Contract Sum, less payments previously made.

f. Title to all property accruing to the System by reason of the termination of this Contract shall immediately vest in the System, and the Contractor shall execute and deliver to the System all papers necessary to transfer title.

g. The System or its representative shall be afforded full access to all books, correspondence, data, and papers of the Contractor relating to this Contract in order to determine the amount due.

h. Disputes as to the sum payable to the Contractor shall be settled in accordance with Article 13, Disputes.

12.2 TERMINATION FOR DEFAULT OF THE CONTRACTOR

12.2.1 If the Contractor persistently or repeatedly refuses or fails to supply enough properly-skilled workmen or proper materials, or persistently disregards laws, ordinances, rules, regulations, or orders of the System or of any public authority having jurisdiction, or fails to proceed as directed by the System, or performs the Work unsuitably, or neglects or refuses to remove materials or replace rejected Work, or fails to make satisfactory progress toward timely completion of the Work, or discontinues the prosecution of the Work without approval of the System, or otherwise is guilty of a substantial violation of a provision of the Contract, then the System may, without prejudice to any of its other rights or remedies, give the Contractor and its Surety written notice that the Contractor has seven (7) days from the date of the System’s notice to cure the default set forth in the notice.

12.2.2 The discretion to declare the Contractor in default is solely the System’s, and no party, whether bound by agreement to the System or attempting to raise a third party relationship, which this Contract specifically precludes, has standing to raise the failure of the System to exercise its discretion, if default is the basis of a claim against the System.

12.2.3 Should the Contractor fail to cure said default within the specified time, the System may terminate the Contract between the System and the Contractor and may take possession of the site and of all completed Work and any materials for which the System has already paid, and may finish the Work by whatever method it may deem expedient.

12.2.4 The Contractor is not entitled to receive any further payment until the Work is finished. In any case the Contractor shall be entitled to payment for Work satisfactorily completed by the date of termination, and for any materials already on site and for which the System has taken possession. However, if the unpaid balance of the Contract sum is less than the cost of finishing the Work, including compensation for the Professional’s additional services, reasonable and necessary costs of reprocurement, and any other damages which the System has incurred in accordance with the Contract, the Contractor or the Surety or both shall be liable to the System for the difference. Disputes as to the sum payable or due shall be settled in accordance with procedures in Article 13, Disputes.

12.2.5 In the event the System wrongfully terminates the Contract, as determined by procedures in Article 13, Disputes, such termination shall be considered a Termination for Convenience.

ARTICLE 13 - DISPUTES

13.1 DISPUTES BETWEEN THE CONTRACTOR AND THE SYSTEM

13.1.1 This Article applies to any dispute, disagreement, question, or other matter between the Contractor and the System arising under or by virtue of this Contract. Such matters shall be
initiated as a written claim, meaning a written demand or assertion seeking, as a matter of right, interpretation of the Contract terms, conditions, or requirements, or adjustment of the Contract Sum and/or Contract Time, or other relief with respect to the Contract.

13.1.2 Claims shall be processed as called for in this Article, until resolved or waived.

13.1.3 The Contractor shall diligently carry on the Work and maintain the progress schedule during the Disputes process, including Board of Claims proceedings, if any, unless otherwise agreed to in writing by the Contractor and the System.

13.1.4 At any step in the System’s process, the Contractor’s failure to submit a timely written request for the next step shall constitute the Contractor’s waiver of the claim.

13.1.5 The Disputes processes in the Article, and claims introduced under them, shall survive Contract termination.

13.2 PROCEDURES

13.2.1 Step 1, Project Manager’s Determination

Contractor’s Written Request. The Contractor shall submit, in writing to the University Project Manager, a request for a determination on a claim. The request must be submitted not later than 21 days after occurrence of the event giving rise to the claim, or not later than 21 days after the Contractor first recognizes the condition giving rise to the claim, whichever is later.

Project Manager’s Written Determination. The University Project Manager will render the University’s Initial Written Determination within 14 days. If this Determination is not acceptable to the Contractor, the Contractor may proceed with Step 2. If the University Project Manager fails to issue an Initial Written Determination within 14 days, the request for a determination on the claim shall be deemed denied and the Contractor may proceed with Step 2.

13.2.2 Step 2, Contracting Officer’s Pre-Claim Conference and University’s Final Written Determination

Contractor’s Written Request. The Contractor shall submit, in writing to the University Contracting Officer, a request for a University’s Final Written Determination on the claim. The request must be submitted not later than 7 days after receipt of the University’s Initial Written Determination, or deemed denial of the Initial Written Determination, whichever is later.

Pre-Claim Conference. The University Contracting Officer will hold a Pre-Claim Conference with the Contractor to discuss the claim within 21 days of receipt of the request for the University’s Final Written Determination. If the University Contracting Officer fails to hold a Pre-Claim Conference within the time frame set forth in this Article, the request shall be deemed denied and the Contractor may proceed with Step 3.

University Final Written Determination. The University Contracting Officer will render the University’s Final Written Determination within 14 days after the Pre-Claim Conference. If this Determination is not acceptable to the Contractor, the Contractor may proceed with Step 3. If the University Contracting Officer fails to issue a Final Written Determination within 14 days of the Pre-Claim Conference, the request shall be deemed denied and the Contractor may proceed with Step 3.

13.2.3 Step 3, Agency Claim Review and Hearing and Agency Final Decision

Contractor’s Written Request. The Contractor shall submit, in writing to the System’s Office of the Chancellor, Director of Construction Management, a request for an Agency Claim Review by the Office of the Chancellor. The request must be submitted not later than 7 days after receipt of the University’s Final Written Determination, or deemed denial of the request for the University’s Final Written Determination, whichever is later.
Agency Claim Review and Hearing. An Agency Claim Review Panel will conduct a review of the claim. The Panel will review the information and arguments and determine if a Hearing is warranted. If conducted, the Hearing will be administered by the Panel and will allow both parties to present their respective cases.

Mediation Option. At any time throughout the Step 3 process, the Agency Claim Review Panel may recommend to the Contractor and the University that the claim be submitted to mediation under the Commonwealth of Pennsylvania, Office of General Counsel, Disputes Resolution Program. Mediation must be mutually agreed upon by the parties.

Agency Final Decision. If the claim is not resolved by mutual agreement of the parties, the Office of the Chancellor will, within 120 days after receipt of the Contractor's request for an Agency Claim Review, issue a written Agency Final Decision formulated by the Agency Claim Review Panel. The Decision will state the basis for the decision and inform the Contractor of the right to administrative and judicial review. A copy of the Agency's Final Decision will be delivered to the Contractor by certified, return-receipt-requested mail. The Agency's Final Decision issued by the Office of the Chancellor represents the final order of the Purchasing Agency. If the Agency's Final Decision is not issued within 120 days after the request for the Agency Claim Review was submitted, then the Claim shall be deemed denied. The 120-day period may be extended with the written consent of both the Office of the Chancellor and the Contractor.

Contractor's Appeal. The Contractor shall have all appeal rights as set forth in the Commonwealth Procurement Code (62 P.S. § 101, et seq.).

13.3 ADMINISTRATIVE AND JUDICIAL REVIEW RIGHTS

13.3.1 Board of Claims. The Board of Claims has the exclusive jurisdiction for claims under this Contract, as provided in the Commonwealth Procurement Code (62 P.S. § 101, et seq.).

13.3.2 Commonwealth Court. If either the Contractor or the System is aggrieved by the decision of the Board of Claims, they may appeal to the Commonwealth Court under the Commonwealth Judicial Code (42 P.S. § 763(a)(1)) (relating to direct appeals from government agencies) within 30 days after certification of the Board's decision.

13.4 DISPUTES BY THE SYSTEM AGAINST THE CONTRACTOR

The System reserves its right to assert a claim against the Contractor in a court of proper jurisdiction.

13.5 DISPUTES BETWEEN CONTRACTORS

13.5.1 The System shall have no obligation to any third parties for any claim, nor be a party to any claims, disputes, or actions between Separate Prime Contractors, or between Separate Prime Contractors and subcontractors; nor shall such claims, disputes, or actions be subject to Board of Claims proceedings.

13.5.2 Should the Contractor, either directly or by the Contractor's subcontractors, or their respective agents, servants, or employees, cause damage or injury to the property or Work of any other Separate Prime Contractor, or their subcontractors, or by failing to perform the Contractor's Work (including the Work of the Contractor's subcontractors) hereunder with due diligence, delay any other Separate Prime Contractor, who shall suffer additional expense or damage thereby, the parties involved in such dispute shall settle by agreement or arbitrate said dispute by referring same to the American Arbitration Association. Said dispute shall be determined pursuant to the construction industry arbitration rules of the American Arbitration Association then in effect. Notice of the demand for arbitration shall be filed in writing with the other Separate Prime Contractors and with either the Northeast Regional Office of the
American Arbitration Association, and a copy shall be filed with the System. The demand for
arbitration shall be made within a reasonable time after the dispute has arisen.

13.5.3 Disputes between Separate Prime Contractors shall not delay completion of the Work, which
shall be continued by the parties, subject to the rights herein before provided. The intent of
this clause is to benefit the other Separate Prime Contractors on the Project or related
projects and to serve as an indication of the mutual intent of the System and the Contractor
that this clause raise such other Separate Prime Contractors to the status of third party
beneficiaries only as to the terms and conditions of this Article. These provisions are
provided as a benefit to the Contractor and they specifically exclude claims against the
System for delay or other damages.

ARTICLE 14 - MISCELLANEOUS PROVISIONS AND LEGAL MATTERS

14.1 INTEGRATION
This Contract contains all the terms and conditions agreed to by the parties hereto, and no
other agreements, oral or otherwise, regarding the subject matter of this Agreement exist.

14.2 JURISDICTION
Any legal action arising from the terms and conditions of this Contract shall be litigated
pursuant to the laws of the Commonwealth of Pennsylvania.

14.3 ASSIGNMENT
This Contract shall be binding on the parties hereto, their heirs, executors, administrators,
successors, and assigns, but it may not be assigned by the Contractor without the prior
written consent of the System.

14.4 ASSIGNMENT OF ANTITRUST CLAIMS
The Contractor and the System recognize that in actual economic practice, overcharges by
the Contractor’s suppliers, resulting from the violations of State or Federal anti-trust laws are,
in fact, borne by the System. As part of the consideration for the award of this Contract, and
intending to be legally bound, the Contractor assigns to the Commonwealth all rights, title and
interest in and to any claims the Contractor now has, or may hereafter acquire, under State or
Federal anti-trust laws relating to the goods or services which are the subject of this Contract.

14.5 LIENS
14.5.1 In accordance with applicable Pennsylvania Mechanics’ Lien Law of 1963, as amended, (49
P.S. § 1303), the parties hereto hereby specifically waive the right to file any mechanics or
other lien or claim for Work done or material furnished in or about the performance of this
Contract, and it is hereby expressly agreed that no such claim or claims shall be filed by
anyone and that the Contractor shall not file nor permit any subcontractor, material man,
mechanics or other person under him to file, nor shall any such contractor, subcontractor,
material man or other person file, any mechanics or other lien or claim for Work done or
material furnished in or about the performance of this Contract against the System, the
Commonwealth of Pennsylvania, and/or the ground upon which the structure or Work herein
provided for is erected or done, or against any structure thereon erected or to be erected, or
against any structure or property whatsoever covered by the Contract.
14.5.2. Any person, co-partnership, association, or corporation furnishing labor, material, equipment or renting equipment or rendering public utility services in connection with performance of this Contract shall have a right of action to recover the cost thereof from the Contractor and the Surety on the bond given to secure the payment for such labor, material, equipment or equipment rental and services rendered by public utility as though such person or corporation had been named as obligee in such bond; subject to the provisions of the Commonwealth Procurement Code, as amended.

14.6 NO THIRD PARTY RIGHTS

The Contractor shall indemnify and hold harmless the System and the Commonwealth of Pennsylvania against any costs incurred by the System or the Commonwealth of Pennsylvania (including without limitation amounts paid pursuant to judgments or settlements and as counsel fees) in consequence of any claim by a third party against the System or the Commonwealth of Pennsylvania, including without limitation any claim by an employee of the System, the Commonwealth of Pennsylvania, the Contractor, or a subcontractor, and any claim by a subcontractor or another contractor, whether filed before or after final payment, based on actual or alleged damage to or destruction of property or injury to persons allegedly caused by the Contractor, or any subcontractor, or by their respective employees, in connection with the Work. The System shall promptly notify the other party of the assertion of any claim against which the System or the Commonwealth is held harmless pursuant to this condition, shall give such other party the opportunity to defend any such claim, and shall not settle any such claim without the approval of the indemnifying party.

14.7 HOLD HARMLESS

14.7.1 The Contractor shall indemnify and hold harmless the System, and their agents and employees, from and against all claims, damages, losses, and expenses, including attorneys' fees, arising out of or resulting from the performance of the Work, including any and all design work performed by or for the Contractor, provided that any such claim, damage, loss or expense: (1) is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property including the loss of use resulting therefrom, and (2) is caused in whole or in part by any negligent act or omission of the Contractor, any subcontractor, any one directly or indirectly employed by any of them, or any one for whose acts any of them may be liable, regardless of whether or not it is caused in part by a party indemnified hereunder.

14.7.2 In any and all claims against the System, or against any of their agents or employees, by any employee or the Contractor, any subcontractor, any one directly or indirectly employed by any of them, or any one for whose acts any of them may be liable, the indemnification obligations shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for the Contractor or any subcontractor under workmen's compensation acts, disability benefit acts, or other employee benefit acts.

14.7.3 The obligations of the Contractor under this Article shall not extend to the liability of the Construction Manager, the Professional, or any other representative of the System, or any of their agents or employees, arising out of: (1) the preparation or approval of maps, drawings, opinions, reports, surveys, change orders, designs, or specifications, or (2) the giving of, or the failure to give, directions or instructions by the Construction Manager or the Professional, or their agents or employees, provided such giving, or failure to give, is the primary cause of the injury or damages.
14.8 TAX LIABILITY AND OFFSET

14.8.1 The Contractor, by execution of this Contract, certifies that it has no outstanding tax liability to the Commonwealth of Pennsylvania; authorizes the Department of Revenue to release information related to its tax liability to the System; and authorizes the Commonwealth to set off any State and local tax liabilities of the Contractor or any of its subsidiaries, as well as any other amount due to the Commonwealth from the Contractor, not being contested on appeal by the Contractor, against any payment due to the Contractor under an agreement with the Commonwealth.

14.8.2 The certification of no outstanding tax liability is a material representation of fact upon which reliance is placed by the System in entering the Contract. If it is later determined that the Contractor knowingly rendered an erroneous certification, the System may find the Contractor in default and terminate the Contract. Such erroneous certification may also be grounds for initiation of civil or criminal proceedings.

14.9 DEBARMENT OR SUSPENSION

The System shall recommend debarment or suspension action against the Contractor whenever there is substantial evidence that a cause for debarment or suspension under the provisions of the Commonwealth Procurement Code and the provisions of this Contract have occurred. The Contractor shall be notified of such action and given reasonable opportunity to be heard by the System. The System shall determine debarment or suspension actions appropriate for the offense in accordance with the provisions of the Commonwealth Procurement Code.

14.10 CONTRACTOR RESPONSIBILITY

14.10.1 The Contractor certifies that it is not currently under suspension or debarment by the Commonwealth, any other state, or the federal government, and if the Contractor cannot so certify, then it agrees to submit along with the bid proposal a written explanation of why such certification cannot be made.

14.10.2 If the Contractor enters into any subcontracts or employs under this Contract any subcontractors/individuals who are currently suspended or debarred by the Commonwealth or the federal government or who become suspended or debarred by the Commonwealth or the federal government during the term of this Contract or any extensions or renewals thereof, the Commonwealth shall have the right to require the Contractor to terminate such subcontracts or employment.

14.10.3 The Contractor agrees to reimburse the Commonwealth for the reasonable costs of investigation incurred by the Office of Inspector General for investigations of the Contractor’s compliance with the terms of this or any other agreement between the Contractor and the Commonwealth which results in the suspension or debarment of the Contractor. Such costs shall include, but not be limited to, salaries of investigators, including overtime; travel and lodging expenses; and expert witness and documentary fees. The Contractor shall not be responsible for investigative costs for investigations that do not result in the Contractor’s suspension or debarment.

14.10.4 The Contractor may obtain the current list of suspended and debarred contractors by contacting the Department of General Services, Office of General Counsel, North Office Building Room 603, Harrisburg, Pennsylvania 17125, Phone: 717-783-6472, fax: 717-787-9138.
14.11 NONDISCRIMINATION/SEXUAL HARASSMENT

14.11.1 In the hiring of any employees for the manufacture of supplies, performance of work, or any other activity required under the Contract or any subcontract, the Contractor, subcontractor, or any person acting on behalf of the Contractor or subcontractor shall not by reason of sex, race, religious creed, or color, discriminate against any citizen of this Commonwealth who is qualified and available to perform the work to which the employment relates.

14.11.2 Neither the Contractor nor any subcontractor nor any person on their behalf shall in any manner discriminate against or intimidate any employee involved in the manufacture of supplies, the performance of work, or any other activity required under the Contractor on account of sex, race, religious creed, or color.

14.11.3 The Contractor and subcontractors shall establish and maintain a written sexual harassment policy and shall inform its employees of the policy.

14.11.4 The Contractor and each subcontractor shall furnish all necessary employment documents and records to and permit access to its books, records, and accounts by the Contracting Officer and the Department of General Services’ Bureau of Small Business Opportunities for purposes of investigation to ascertain compliance with the provisions of this Nondiscrimination/Sexual Harassment clause. If the Contractor or any subcontractor does not possess documents or records reflecting the necessary information requested, it shall furnish such information on reporting forms supplied by the Contracting Officer or the Bureau of Small Business Opportunities.

14.11.5 The Contractor shall include the provisions of this Nondiscrimination/Sexual Harassment clause in every subcontract so that such provisions will be binding upon each subcontractor.

14.11.6 The System may cancel or terminate the Contract, and all money due or to become due under the Contract may be forfeited for a violation of the terms and conditions of this Nondiscrimination/Sexual Harassment clause.

14.12 CONTRACT COMPLIANCE

14.12.1 The Contractor shall comply with the provisions of 16 Pennsylvania Code Chapter 49 and all statutes and regulations regarding equal opportunity employment.

14.12.2 The Contractor shall take the following steps to assure equal opportunity in employment:

   a. Require that all advertisements for personnel contain the notation "An Equal Opportunity Employer," and that all advertisements be inserted in newspapers having a large general circulation, or other media reaching a large portion of the population in the area and among minority groups.

   b. Use direct and systematic recruitment of personnel through the applicable public (PA Job Service) and private employee referral sources likely to yield qualified minority group applicants, including but not limited to schools, colleges, and minority group organizations.

   c. Encourage minority group applicants through referral by current employees.

14.12.3 The Contractor, in order to assure nondiscriminatory hiring, shall take the following steps:

   a. All members of Contractor’s staff authorized to hire and discharge, or to recommend such actions, shall be fully cognizant of the Contractor’s Equal Employment Policy commitments as required by the Nondiscrimination/Sexual Harassment clause of this Contract.

   b. Cooperation shall be actively sought with unions, where applicable, to develop programs to assure qualified minority group persons of equal opportunity for employment and training.

14.12.4 The Contractor shall make use of apprenticeship and/or other training programs by:

   a. Assisting minority group members to enter pre-apprenticeship training programs.
b. Actively assisting minority group employees to increase skills to be eligible for upgrading.

c. Actively participating in programs for fair and equal consideration of all applicants, such programs having been approved by the Bureau of Apprenticeship and Training of the U.S. Department of Labor, and/or the Pennsylvania Apprenticeship and Training Council, where applicable.

14.12.5 When bids are being solicited, the Contractor shall actively solicit bids from minority subcontractors and suppliers.

14.12.6 The Contractor shall make efforts to obtain qualified minority group representation in all classes of employment on the job and in phases of work.

14.12.7 The Contractor shall submit reports (Form STD-21, Initial Contract Compliance Data, and Form STD-28, Monthly Contract Compliance Report) as required and as applicable throughout the duration of the Contract.

14.13 CONTRACTOR INTEGRITY

It is essential that those who seek to contract with the Commonwealth of Pennsylvania ("Commonwealth") observe high standards of honesty and integrity. They must conduct themselves in a manner that fosters public confidence in the integrity of the Commonwealth procurement process. In furtherance of this policy, Contractor agrees to the following:

14.13.1 Contractor shall maintain the highest standards of honesty and integrity during the performance of this contract and shall take no action in violation of state or federal laws or regulations or any other applicable laws or regulations, or other requirements applicable to Contractor or that govern contracting with the Commonwealth.

14.13.2 Contractor shall establish and implement a written business integrity policy, which includes, at a minimum, the requirements of these provisions as they relate to Contractor employee activity with the Commonwealth and Commonwealth employees, and which is distributed and made known to all Contractor employees.

14.13.3 Contractor, its affiliates, agents and employees shall not influence, or attempt to influence, any Commonwealth employee to breach the standards of ethical conduct for Commonwealth employees set forth in the Public Official and Employees Ethics Act, 65 Pa.C.S. §§1101 et seq.; the State Adverse Interest Act, 71 P.S. §776.1 et seq.; and the Governor's Code of Conduct, Executive Order 1980-18, 4 Pa. Code §7.151 et seq., or to breach any other state or federal law or regulation.

14.13.4 Contractor, its affiliates, agents and employees shall not offer, give, or agree or promise to give any gratuity to a Commonwealth official or employee or to any other person at the direction or request of any Commonwealth official or employee.

14.13.5 Contractor, its affiliates, agents and employees shall not offer, give, or agree or promise to give any gratuity to a Commonwealth official or employee or to any other person, the acceptance of which would violate the Governor's Code of Conduct, Executive Order 1980-18, 4 Pa. Code §7.151 et seq. or any statute, regulation, statement of policy, management directive or any other published standard of the Commonwealth.

14.13.6 Contractor, its affiliates, agents and employees shall not, directly or indirectly, offer, confer, or agree to confer any pecuniary benefit on anyone as consideration for the decision, opinion, recommendation, vote, other exercise of discretion, or violation of a known legal duty by any Commonwealth official or employee.
14.13.7 Contractor, its affiliates, agents, employees, or anyone in privity with him or her shall not accept or agree to accept from any person, any gratuity in connection with the performance of work under the contract, except as provided in the contract.

14.13.8 Contractor shall not have a financial interest in any other contractor, subcontractor, or supplier providing services, labor, or material on this project, unless the financial interest is disclosed to the Commonwealth in writing and the Commonwealth consents to Contractor’s financial interest prior to Commonwealth execution of the contract. Contractor shall disclose the financial interest to the Commonwealth at the time of bid or proposal submission, or if no bids or proposals are solicited, no later than Contractor’s submission of the contract signed by Contractor.

14.13.9 Contractor, its affiliates, agents and employees shall not disclose to others any information, documents, reports, data, or records provided to, or prepared by, Contractor under this contract without the prior written approval of the Commonwealth, except as required by the Pennsylvania Right-to-Know Law, 65 P.S. §§ 67.101-3104, or other applicable law or as otherwise provided in this contract. Any information, documents, reports, data, or records secured by Contractor from the Commonwealth or a third party in connection with the performance of this contract shall be kept confidential unless disclosure of such information is:

a. Approved in writing by the Commonwealth prior to its disclosure; or

b. Directed by a court or other tribunal of competent jurisdiction unless the contract requires prior Commonwealth approval; or

c. Required for compliance with federal or state securities laws or the requirements of national securities exchanges; or

d. Necessary for purposes of Contractor’s internal assessment and review; or

e. Deemed necessary by Contractor in any action to enforce the provisions of this contract or to defend or prosecute claims by or against parties other than the Commonwealth; or

f. Permitted by the valid authorization of a third party to whom the information, documents, reports, data, or records pertain; or

g. Otherwise required by law.

14.13.10 Contractor certifies that neither it nor any of its officers, directors, associates, partners, limited partners or individual owners has not been officially notified of, charged with, or convicted of any of the following and agrees to immediately notify the Commonwealth agency contracting officer in writing if and when it or any officer, director, associate, partner, limited partner or individual owner has been officially notified of, charged with, convicted of, or officially notified of a governmental determination of any of the following:

a. Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property.

b. Commission of fraud or a criminal offense or other improper conduct or knowledge of, approval of or acquiescence in such activities by Contractor or any affiliate, officer, director, associate, partner, limited partner, individual owner, or employee or other individual or entity associated with:

(1) obtaining;
(2) attempting to obtain; or

(3) performing a public contract or subcontract.

Contractor’s acceptance of the benefits derived from the conduct shall be deemed evidence of such knowledge, approval or acquiescence.

c. Violation of federal or state antitrust statutes.

d. Violation of any federal or state law regulating campaign contributions.

e. Violation of any federal or state environmental law.

f. Violation of any federal or state law regulating hours of labor, minimum wage standards or prevailing wage standards; discrimination in wages; or child labor violations.

g. Violation of the Act of June 2, 1915 (P.L.736, No. 338), known as the Workers’ Compensation Act, 77 P.S. 1 et seq.

h. Violation of any federal or state law prohibiting discrimination in employment.

i. Debarment by any agency or department of the federal government or by any other state.

j. Any other crime involving moral turpitude or business honesty or integrity.

Contractor acknowledges that the Commonwealth may, in its sole discretion, terminate the contract for cause upon such notification or when the Commonwealth otherwise learns that Contractor has been officially notified, charged, or convicted.

14.13.11. If this contract was awarded to Contractor on a non-bid basis, Contractor must, (as required by Section 1641 of the Pennsylvania Election Code) file a report of political contributions with the Secretary of the Commonwealth on or before February 15 of the next calendar year. The report must include an itemized list of all political contributions known to Contractor by virtue of the knowledge possessed by every officer, director, associate, partner, limited partner, or individual owner that has been made by:

a. Any officer, director, associate, partner, limited partner, individual owner or members of the immediate family when the contributions exceed an aggregate of one thousand dollars ($1,000) by any individual during the preceding year; or

b. Any employee or members of his immediate family whose political contribution exceeded one thousand dollars ($1,000) during the preceding year.

To obtain a copy of the reporting form, Contractor shall contact the Bureau of Commissions, Elections and Legislation, Division of Campaign Finance and Lobbying Disclosure, Room 210, North Office Building, Harrisburg, PA 17120.

14.13.12. Contractor shall comply with requirements of the Lobbying Disclosure Act, 65 Pa.C.S. § 13A01 et seq., and the regulations promulgated pursuant to that law. Contractor employee activities prior to or outside of formal Commonwealth procurement communication protocol are considered lobbying and subjects the Contractor employees to the registration and reporting requirements of the law. Actions by outside lobbyists on Contractor’s behalf, no matter the procurement stage, are not exempt and must be reported.

14.13.13. When Contractor has reason to believe that any breach of ethical standards as set forth in law, the Governor’s Code of Conduct, or in these provisions has occurred or may occur,
including but not limited to contact by a Commonwealth officer or employee which, if acted upon, would violate such ethical standards, Contractor shall immediately notify the Commonwealth contracting officer or Commonwealth Inspector General in writing.

14.13.14. Contractor, by submission of its bid or proposal and/or execution of this contract and by the submission of any bills, invoices or requests for payment pursuant to the contract, certifies and represents that it has not violated any of these contractor integrity provisions in connection with the submission of the bid or proposal, during any contract negotiations or during the term of the contract.

14.13.15. Contractor shall cooperate with the Office of Inspector General in its investigation of any alleged Commonwealth employee breach of ethical standards and any alleged Contractor non-compliance with these provisions. Contractor agrees to make identified Contractor employees available for interviews at reasonable times and places. Contractor, upon the inquiry or request of the Office of Inspector General, shall provide, or if appropriate, make promptly available for inspection or copying, any information of any type or form deemed relevant by the Inspector General to Contractor's integrity and compliance with these provisions. Such information may include, but shall not be limited to, Contractor's business or financial records, documents or files of any type or form that refers to or concern this contract.

14.13.16. For violation of any of these Contractor Integrity Provisions, the Commonwealth may terminate this and any other contract with Contractor, claim liquidated damages in an amount equal to the value of anything received in breach of these provisions, claim damages for all additional costs and expenses incurred in obtaining another contractor to complete performance under this contract, and debar and suspend Contractor from doing business with the Commonwealth. These rights and remedies are cumulative, and the use or non-use of any one shall not preclude the use of all or any other. These rights and remedies are in addition to those the Commonwealth may have under law, statute, regulation, or otherwise.

14.13.17. For purposes of these Contractor Integrity Provisions, the following terms shall have the meanings found in this paragraph.

a. Confidential Information means information that a) is not already in the public domain; b) is not available to the public upon request; c) is not or does not become generally known to Contractor from a third party without an obligation to maintain its confidentiality; d) has not become generally known to the public through an act or omission of Contractor; or e) has not been independently developed by Contractor without the use of confidential information of the Commonwealth.

b. Consent means written permission signed by a duly authorized officer or employee of the Commonwealth, provided that where the material facts have been disclosed, in writing, by pre-qualification, bid, proposal, or contractual terms, the Commonwealth shall be deemed to have consented by virtue of execution of this contract.

c. Contractor means the individual or entity that has entered into this contract with the Commonwealth, including those directors, officers, partners, managers, and owners having more than a five percent interest in Contractor.

d. Financial Interest means:

(1) Ownership of more than a five percent interest in any business; or

(2) Holding a position as an officer, director, trustee, partner, employee, or holding any position of management.
e. Gratuity means tendering, giving or providing anything of more than nominal monetary value including, but not limited to, cash, travel, entertainment, gifts, meals, lodging, loans, subscriptions, advances, deposits of money, services, employment, or contracts of any kind. The exceptions set forth in the Governor’s Code of Conduct, Executive Order 1980-18, the 4 Pa. Code §7.153(b), shall apply.

f. Immediate family means a spouse and any unemancipated child.

g. Non-bid basis means a contract awarded or executed by the Commonwealth with Contractor without seeking bids or proposals from any other potential bidder or offeror.

h. Political Contribution means any payment, gift, subscription, assessment, contract, payment for services, dues, loan, forbearance, advance or deposit of money or any valuable thing, to a candidate for public office or to a political committee, including but not limited to a political action committee, made for the purpose of influencing any election in the Commonwealth of Pennsylvania or for paying debts incurred by or for a candidate or committee before or after any election.

14.14 COVENANT AGAINST CONTINGENT FEES

The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure this Contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee (excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business). For breach or violation of this warranty, the System shall have the right to annul this Contract without liability or, in its discretion, to deduct from the Contract Price or consideration, or otherwise recover, the full amount of such commission, percentage, or contingent fee.

14.15 AMERICAN WITH DISABILITIES ACT

14.15.1 Pursuant to federal regulations promulgated under the authority of the Americans with Disabilities Act (28 C.F.R. 35.101 et seq.), no individual with a disability shall, on the basis of the disability, be excluded from participation in this Contract or from activities provided for under this Contract. As a condition of accepting and executing this Contract, the Contractor agrees to comply with the General Prohibitions Against Discrimination (28 C.F.R. 35.130), and all other regulations promulgated under Title II of the Americans with Disabilities Act which are applicable to the benefits, services, programs, and activities provided by the System through contracts with outside contractors.

14.15.2 The Contractor shall be responsible for and agrees to indemnify and hold harmless the Commonwealth of Pennsylvania and the System, and their respective officers and employees, from all losses, damages, expenses, claims, demands, suits, and actions brought by any party against any of the foregoing as a result of the Contractor’s failure to comply with the provisions of Article 14.15.1.

14.16 RECYCLED MATERIALS

14.16.1 In accordance with Section 108, Recycled Materials, of the Commonwealth Procurement Code (62 P.S. § 108), all insulation products incorporated into the Project shall contain the following minimum percentages, by weight, of postconsumer recovered paper or recovered material:

<table>
<thead>
<tr>
<th>Material</th>
<th>Minimum Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cellulose Loose-Fill Spray-On</td>
<td>5% Postconsumer Recovered Paper</td>
</tr>
<tr>
<td>Perlite Composite Board</td>
<td>23% Postconsumer Recovered Paper</td>
</tr>
</tbody>
</table>
Plastic Rigid Foam, Polyisocyanurate/Polyurethane:

- Rigid Foam 9% Recovered Material
- Foam In-Place 5% Recovered Material
- Glass Rigid Foam 6% Recovered Material
- Phenolic Rigid Foam 5% Recovered Material
- Rock Wool 50% Recovered Material

“Postconsumer Recovered Paper” is defined as “any paper, paperboard, and fibrous wastes from retail stores, office buildings, homes, and so forth, after they have passed through their end-usage as a consumer item including: used corrugated boxes; old newspapers; old magazines; mixed waste paper; tabulating cards and used cordage; as well as all paper, paperboard, and fibrous wastes that enter and are collected from municipal solid waste.”

“Recovered Materials” is defined as “waste material and byproducts which have been recovered or diverted from solid waste, but such term does not include those materials and byproducts generated from, and commonly reused within, an original manufacturing process.”

14.16.2 The Contractor may be required to provide to the System documentation of such content.

14.17 RECIPROCAL LIMITATIONS ACT

14.17.1 The Contractor shall comply with the requirements of the Reciprocal Limitations Act (62 P.S. § 107). The Act requires the System to not specify, use, or purchase supplies which are produced, manufactured, mined, grown, or performed in any state that prohibits the specification for, use of, or procurement of such supplies in or on its public buildings or other works when such supplies are not produced, manufactured, mined, or grown, or performed in that state.

14.17.2 The following is a list of the states which have been found by the Commonwealth of Pennsylvania to have prohibited the use of certain out-of-state supplies:

- Georgia (forest products only)
- New Jersey (various products, to include but not limited to: chain link fence, portable sanitation units, glass, glazier supplies, carpet and cushion, shades, upholstery materials and supplies, room air conditioning, electrical supplies, plumbing supplies, hardware supplies, fasteners, lumber, building supplies, audio/visual equipment, fire extinguishers, fire hose, motor oils, fuel oil, Venetian blinds, and drapes)
- New Mexico construction

The above preferences are those related to construction contracts only. The complete list of preferences for all contracts, supplies, and services is available from the Commonwealth of Pennsylvania Department of General Services.

14.18 TRADE PRACTICES ACT

14.18.1 The Contractor shall comply with the requirements of the Trade Practices Act (71 P.S. § 773.101, et seq.). The Act prohibits the System from specifying, purchasing, or permitting to be furnished or used, in any public works, aluminum or steel products made in a foreign country which has been determined as "discriminating" by the Commonwealth.

14.18.2 Aluminum or Steel Products means aluminum or steel products rolled, formed, shaped, drawn, extruded, forged cast, fabricated, or otherwise similarly processed, or processed by a combination of two or more of such operations, from aluminum or steel not made in the United States.
14.18.3 The countries of Brazil, South Korea, Spain, and Argentina have been found to discriminate against certain aluminum and steel products made in Pennsylvania. Therefore, the purchase or use of those countries' products, as listed below, is not permitted:

Brazil: Welded carbon steel pipes and tubes; carbon steel wire rod; tool steel; certain stainless steel bar; stainless steel wire rod and cold-form stainless steel bar; pre-stressed concrete steel wire strand; hot-rolled carbon steel plate in coil; hot-rolled carbon steel sheet, and cold-rolled carbon steel sheet.

Spain: Certain stainless steel products, including stainless steel wire rod, hot-rolled stainless steel bars and cold-formed stainless steel bars; pre-formed stainless steel bars; pre-stressed concrete steel wire strand; certain steel products including hot-rolled steel plate, cold-rolled carbon steel plate, carbon steel structural shapes, galvanized carbon steel sheet, hot-rolled carbon steel bars, and cold-formed carbon steel sheet.

South Korea: Welded carbon steel pipes and tubes hot-rolled carbon steel place; hot-rolled carbon steel sheet and galvanized carbon sheet.

Argentina: Carbon steel wire rod and cold-rolled carbon steel sheet.

14.19 STEEL PRODUCTS PROCUREMENT ACT

14.19.1 The Contractor shall comply with the requirements of the Steel Products Procurement Act (73 P.S. 1881, et seq.). The Steel Products Procurement Act requires that any steel products being used or supplied in the performance of the Contract must be "steel products" as defined in the Act.

14.19.2 Steel Products are considered to be products rolled, formed, shaped, drawn, extruded, forged, cast, fabricated, or otherwise similarly processed, or processed by a combination of two or more of such operations, from steel made in the United States by the open hearth, basic oxygen, electric furnace, Bessemer, or other steel making process.

a. Includes cast iron products.

b. Includes machinery and equipment listed in United States Department of Commerce Standard Industrial Classification 25 (furniture and fixture), 35 (machinery; except electrical), and 37 (transportation equipment) and made of, fabricated from, or containing steel components.

c. Does not include steel products which will not be incorporated into the Project (i.e., tools – hammers/wrenches); scaffolding used to construct the Project and removed after completion; and trailers used as offices by contractors and removed after completion of the Project.

d. Transportation equipment shall be determined to be a United States steel product only if it complies with Section 165 of Public Law §§ 97-424 (96 Stat. 2136).

e. System vs. Product. Each "product" in the system is identified as a separate and distinct steel product.

When the System’s design specifies trade names, catalog numbers, and manufacturers for materials and equipment, they are provided for the purpose of establishing a standard of quality, performance, and appearance, and for establishing a standard of competitive bidding. The use of such descriptive information will not relieve the Contractor with compliance with all respects of the Act.

14.19.3 Origin of Steel.

a. If the product contains 100 percent United States manufactured steel, it is a "steel product" under the Act, no matter where the non-steel components of the product are manufactured.
b. If the product contains 100 percent steel manufactured in a foreign country, its acquisition is prohibited.

c. If the product contains both foreign and United States manufactured steel (no matter how little or how much of each), the product shall be determined to be a United States steel product if at least 75 percent of the total cost of the articles, materials, and supplies have been mined, produced, or manufactured in the United States.

14.19.4 If 100 percent of the steel product is identifiable (i.e., stamped United States Steel), then the Contractor shall submit certification documentation. If the steel product is unidentified, the Contractor shall provide documentation including, but not limited to: invoices, bills of lading, and mill certification. The System is authorized to withholding payments until the documentation or certification has been provided. If payments have been made but should not have been made because of noncompliance, the System or the Commonwealth Attorney General may recover the payments directly from the Contractor, subcontractor, or manufacturer who did not comply. Additionally, any person who willfully violates the Act shall be prohibited from submitting bids or performing work for the Commonwealth for five years.

14.19.5 The Steel Products Procurement Act requirement may be waived by the System when the System determines that steel products are not produced in the United States in sufficient quantities to meet the requirements of the Contract and/or when the product appears on the Department of General Services' annual Final List of Exempt Machinery and Equipment Steel Products.

14.20 ENVIRONMENTAL QUALITY CONTROL

14.20.1 All Prime Contractors and their subcontractors shall perform the Work in a manner that shall minimize the possibility of air, water, land, and noise pollution.

14.20.2 Each Prime Contractor shall comply with all statutes and regulations, as amended, concerning environmental quality control administered by the Department of Environmental Protection, including but not limited to:

- Clean Streams Law
- Pennsylvania Sewage Facilities Act
- Air Pollution Control Act
- Surface Mining Conservation and Reclamation Act
- Bituminous Coal Open Pit Mining Conservation Act
- Dams and Encroachments Act
- Water Well Driller's Act
- Water Works Act and Atomic Energy Act

14.20.3 The Contractor shall be solely responsible for securing all required permits and for any violations.

14.20.4 Storage, collection, transportation, processing, and final disposal of solid waste shall be in accordance with regulations and standards of the Commonwealth Department of Environmental Protection (DEP). Immediately upon notice of award of the Contract the Contractor shall apply for the necessary permits from DEP. A copy of this permit must be submitted to the System before commencing waste disposal.

14.21 PA E-VERIFY

14.21.1 The Commonwealth of Pennsylvania enacted Act 127 of 2012, known as the Public Works Employment Verification Act (‘the Act’), which requires all public work contractors and subcontractors to utilize the Federal Government’s E-Verify system (EVP) to ensure that all employees performing work on public work projects are authorized to work in the United States. The Department of General Services’ (DGS) Public Works Employment Verification
Compliance Program is responsible for the administration, education, and enforcement of the Act. Information on the Act and DGS’ program are available on this DGS web site:

http://www.dgs.state.pa.us/portal/server.pt/community/construction_and_public_works/1235/public_works_employment_verification/1357211

14.21.2 This Contract falls under the Act and the associated DGS compliance program. Contractors shall comply with all requirements of the Act, and also require each of their subcontractors to comply.

14.21.3 Subcontracts between a public works contractor and its subcontractors shall contain notification of the applicability of the Act, information regarding the use of the EVP, and reference to DGS’ website at www.dgs.state.pa.us to obtain a copy of the required Commonwealth of Pennsylvania Public Works Employment Verification Form. Additionally, Contractors shall require each of their subcontractors to sign and submit to the System, prior to that subcontractor performing work at the project site, the Commonwealth of Pennsylvania Public Works Employment Verification Form.

14.21.4 The Commonwealth of Pennsylvania Public Works Employment Verification Form is available on DGS’ web site and/or through the university.

14.22 RIGHT TO KNOW LAW

14.22.1 Unless otherwise determined by a Pennsylvania appellate court subsequent to the execution of this Contract, the Pennsylvania Right-to-Know Law, 65 P.S. §§ 67.101-3104 (“RTKL”), applies to this Contract.

14.22.2 Unless the Contractor provides the System, in writing, with the name and contact information of another person, the System shall notify the Contractor if the System needs the Contractor’s assistance in connection with a request made under the RTKL. The Contractor shall notify the System in writing of any change in the name or the contact information within a reasonable time prior to the change.

14.22.3 Upon notification to the Contractor that the System has received a request for the Contractor’s records under the RTKL (the “Requested Information”), the Contractor agrees to assist the System in responding to the request. Such assistance shall include providing the System, within three (3) days, with copies of any Requested Information in the Contractor’s possession that the Contractor deems a Public Record, as that term is defined in the RTKL, or otherwise notify the System that the Requested Information is not a Public Record. If the Contractor is unable to provide the Requested Information within three (3) days for one of the reasons specified in the RTKL, the Contractor agrees to timely notify the System that it will need up to an additional twenty-five (25) days, and must provide in writing the reason the additional time is needed. If the Contractor makes a determination the Requested Information is within the scope of the RTKL but fails to provide the Requested Information to the System within the period specified in this provision, the failure shall be considered an event of default and the Contractor shall pay, indemnify, and hold the System harmless for any damages, penalties, detriment, or harm that the System may incur as a result of the Contractor’s failure.

14.22.4 The Contractor’s determination as to whether the Requested Information is a Public Record is dispositive of the question as between the parties. The Contractor agrees to provide information and/or to appear before the Office of Open Records or Pennsylvania Courts in support of the System’s denial of access to a record the Contractor determined was not a Public Record. The Contractor agrees to indemnify the System for any court costs, attorneys’ fees, or civil penalties awarded against the System under the RTKL in connection with the Contractor’s denial of access to Requested Information.

14.22.5 If in the course of this Contract, the System is provided with information the Contractor clearly identifies as a Trade Secret or Confidential Proprietary Information, as those terms are
defined by the RTKL, the System agrees to abide by the terms of Section 707 of the RTKL and timely provide the Contractor with notice of a request for this information and allow the Contractor the ability to respond, as provided by the RTKL. The Contractor reserves all rights and remedies as allowed by law relating to the System’s unauthorized disclosure of the Contractor’s Trade Secret or Confidential Proprietary Information. This provision shall not be construed to limit the sovereign immunity of the System.

14.22.6 The System will reimburse the Contractor for any costs associated with complying with this provision only to the extent allowed under the fee schedule established by the Office of Open Records or as otherwise provided by the RTKL if the fee schedule is inapplicable.

14.22.7 The Contractor agrees to abide by any decision to release a record to the public made by the Office of Open Records after timely appeal to the Pennsylvania Courts.
1.1 GENERAL
1.1.1 All policies shall be issued by insurance companies authorized to conduct such business under the laws of the Commonwealth of Pennsylvania, and which have been issued a Financial Strength Rating of A- or better by A.M. Best Company, Inc.
1.1.2 Coverage shall be in place prior to any Work taking place on site, and shall be maintained without interruption until the time specified for each type of insurance in the following paragraphs, or unless termination of coverage is approved by the System.
1.1.3 If the Contractor fails to maintain, at any time, the requirements of this Article, the System may terminate or suspend the Work of the Contractor, according to the provisions of Article 8, Suspension of the Work, and Article 12, Termination of the Contract.

1.2 REQUIRED DOCUMENTATION
1.2.1 Prior to Notice to Proceed, the Contractor shall furnish to the System a Certificate of Insurance indicating the existence of the insurance required under this Article, the amount of coverage of such insurance, and the amount of the deductible. The Certificate shall cite the applicable project, contract, or site location. The Certificate shall contain a provision stating that coverages will not be canceled or changed prior to the expiration date without giving 30-day prior written notice to the System. The System shall be expressly endorsed as a cancellation notice recipient.
1.2.2 The System shall be named as Additional Insured on the liability policies. Coverage shall be primary. A copy of the policy's Additional Insureds endorsement shall be provided with the Certificate.
1.2.3 Renewal Certificates shall be provided to the System prior to the expiration date shown on the Certificate.
1.2.4 Upon request, the Contractor shall submit a certified copy of the entire policy to the System.

1.3 CONTRACTOR'S LIABILITY INSURANCE
1.3.1 The Contractor shall purchase and maintain such insurance as will protect the Contractor from claims set forth below which may arise out of or result from the Contractor's operations under the Contract, whether such operations be by the Contractor or by a subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable. Coverage shall provide for:
   a. claims under Workers Compensation and other similar employee benefit laws;
   b. claims for damages because of bodily injury to, occupational sickness or disease of, or death of the Contractor's employees, and claims insured by usual personal injury coverage;
c. claims for damages because of bodily injury to, sickness or disease of, or death of any person other than the Contractor's employees, and claims insured by usual personal injury coverage;

d. and claims for damages because of injury to or destruction of tangible property including loss of use resulting therefrom.

1.3.2 The Contractor's general liability insurance and automobile liability insurance shall be written for not less than $1,000,000 for injuries including accidental death to any one person, and subject to the same limit for each person, in an amount not less than $3,000,000 for each occurrence. The Contractor's property damage liability insurance shall be in an amount not less than $3,000,000 for each occurrence.

1.3.3 The Contractor's liability insurances shall also provide for:

a. completed operations and products liability coverage;

b. contractual liability coverage as necessary to meet the Contractor's obligations under Article 14.6, No Third Party Rights, and Article 14.7, Hold Harmless;

c. and, if required by the Contract Special Conditions or Technical Specifications, special property damage liability coverage commonly referred to as XCU (explosion, collapse, and underground damage), and/or adequate protection against special hazards when required (i.e. blasting, etc.).

1.3.4 The Contractor's liability insurances shall remain in force until the completion of all Work or the end of the basic warranty period, whichever is later.

1.4 SUBCONTRACTORS' LIABILITY INSURANCE

1.4.1 The Contractor shall either require each of its subcontractors to procure and to maintain during the life of its subcontract Workers Compensation, general liability, automobile liability, and property damage liability insurance of the type and in the same amounts as specified in this Article, or insure the activity of its subcontractors in its own insurance policies.

1.4.2 The Contractor shall submit to the System, prior to any subcontractors or sub-subcontractors commencing any on site work, evidence that the subcontractors or sub-subcontractors are covered by insurance as required herein.

1.5 PROPERTY INSURANCE

1.5.1 The Contractor shall purchase and maintain property insurance for all insurable Work included in the Contract, in the amount of the original Contract Sum as well as subsequent changes thereto. The property insurance may be in the form of Builder's Risk insurance or an Installation Floater, as appropriate.

1.5.2 The property insurance shall be on an all-risk policy form, and shall include, without limitation, insurance against the perils of fire (with extended coverage) and physical loss or damage due to, without duplication of coverage, collapse, earthquake, flood, windstorm, and other weather, as well as due to theft, vandalism, malicious mischief, falsework, testing and startup, temporary facilities, and debris removal including demolition occasioned by enforcement of any applicable legal requirements, and shall cover reasonable compensation for the services and expenses required as a result of such insured loss and incurred by the System, the System's Professional, and any of the System's agents. The Contractor shall submit to the System for its approval all items deemed to be uninsurable.
1.5.3 The property insurance shall be in the names of the System and the Contractor as their respective interests may appear, in full 100% of the insurable value thereof, and shall fully protect the interests of the System, the Commonwealth of Pennsylvania, the Contractor, subcontractors, and sub-subcontractors.

1.5.4 The Contractor's property insurance shall remain in force until the acceptance of the completed Work by the System. The Contractor shall maintain adequate property insurance to cover any materials and temporary facilities remaining after acceptance of the completed Work.

1.5.5 Partial occupancy or use in accordance with Article 10.1.2 shall not commence until the insurance company or companies providing property insurance have consented to such partial occupancy or use by endorsement or otherwise.