

**STATE SYSTEM OF HIGHER EDUCATION
COMMONWEALTH OF PENNSYLVANIA**

**STANDARD FORM OF AGREEMENT
FOR DONATED
DESIGN/BUILD PROJECTS**

AGREEMENT made as of _____, _____, by and between (University) of Pennsylvania of the State SYSTEM of Higher Education of the Commonwealth of Pennsylvania (hereinafter called the "SYSTEM") and _____ Federal Identification No. _____ (hereinafter called the "Design/Builder"), as the donor of a capital facilities project to the State System of Higher Education.

The DESIGN/BUILDER shall act as the designer and general contractor for constructing the facilities prescribed in this Agreement within the duration specified for a project for _____ (hereinafter called the "Project") designated as Project No. _____, and as more particularly described in the Rider A, which is made a part hereof.

The DESIGN/BUILDER, agrees to furnish professional architectural and engineering services, all qualified facilities, materials and/or other services and, in consultation with the SYSTEM, perform the work and services described in Rider A, and in accordance with the provisions specified in all Riders B, C, D, E, F, G and of _____. The DESIGN/BUILDER further agrees that additional services required to satisfy the intent of the scope of work, not specifically included in Riders A, C, D, E, G and attachments thereto, will be negotiated in accordance with the provisions of Rider B.

The Construction Manager (CM) for the project is _____. The SYSTEM Project Manager (SPM) for the project is _____.

The completion date for finishing all work specified in this Agreement is _____ days from the start of on-site work.

The terms, requirements, conditions, design and construction criteria, quality standards and specifications, and considerations of this Agreement are contained in Riders A, B, C, D, E, F and G, and all documents which are attached thereto, and made a part of the Agreement.

The DESIGN/BUILDER understands and agrees in writing that work on-site, including mobilization, may not occur until the conceptual and preliminary design requirements are submitted and accepted by the SYSTEM. After acceptance of the conceptual and preliminary design documents the DESIGN/BUILDER may proceed with on-site construction, but work shall not be installed prior to the System's acceptance in writing of the design documents specifying the work.

This Agreement requires the personal services of the DESIGN/BUILDER and performance hereunder may not be assigned or transferred by DESIGN/BUILDER without written consent of the SYSTEM.

The DESIGN/BUILDER hereby acknowledge receipt of notice that no person has any authority to amend or modify this Agreement or waive any term or provision hereof except by written amendment hereto signed by the SYSTEM representative, or appointed designee.

Wherever the term “notice” is used, such notices to be effective shall be in writing and if to the SYSTEM shall be mailed certified mail, postage and fees prepaid, or delivered to the SYSTEM, and if to the DESIGN/BUILDER shall be similarly mailed or delivered to him at this address set forth in the caption of this Agreement, unless and until notice of another address shall be given hereunder, in which case notices shall be so given hereunder, in which case notices shall be so delivered or mailed to the address last so given.

This Agreement 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.

Nothing in this Agreement or in the General or Special Conditions or in any other document incorporated herein by reference or issued hereunder, expressed or implied, is intended to or shall be construed to confer upon, or give to, any person, firm or corporation or any Governmental Agency other than the SYSTEM, its successors and assigns, and the DESIGN/BUILDER, any right, remedy or claim, legal or equitable, whether as third party beneficiary or otherwise; this Agreement and all provisions applicable hereto or incorporated herein being intended to be, and being for the sole and exclusive benefit of the SYSTEM, its successors and assigns and the DESIGN/BUILDER.

Rider A, entitled Specifications of the Work to be Performed and attachments thereto, contain the design submissions that must be made, the specifications which establish the scope of work, quantity, quality, and estimated time periods for delivery of the work to be performed by the DESIGN/BUILDER this Agreement. Rider A contains ___ pages.

This Agreement is made subject to and is governed by the SYSTEM’s General Conditions of Design/Build Agreements (Rider B) and all Plans and Specifications shall be prepared in conformity with the SYSTEM’s Engineering/Architecture Instructions in effect at the time of execution of the Agreement which are hereto referenced and made a part hereof as if attached. Rider B also specifies the regulatory compliance requirements that must be satisfied by the DESIGN/BUILDER during performance of this Agreement. Rider B contains ___ pages.

Rider C, entitled Instructions to Bidders, stipulates the provisions for submission and acceptance of any bids solicited for the project. Rider C contains ___ pages. The Agreement is also subject to and governed by any Special Conditions hereto attached (Rider D) and made a part thereof. Rider D contains ___ pages.

Rider E, entitled Warranty, contains the warranty provision to be provided as part of this Agreement. Ride E contains ___ pages.

Rider F, entitled Performance Payment Bond and Maintenance Bond, contains the performance and payment bonds that must be provided before this Agreement is consummated. The actual bonds are included in this rider as pages _____. Rider F contains ___ pages.

Rider G, entitled DESIGN/BUILDER Integrity Provisions, contains two pages.

For the DESIGN/BUILDER:

For _____ University of Pennsylvania
State SYSTEM of Higher Education

(Title) Partner

Office of the Chancellor

Approved as to Form and Legality:

University Legal Counsel, State
SYSTEM of Higher Education

Deputy Attorney General
Commonwealth of Pennsylvania

Corp. Vice President

Corp. Treasurer

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RIDER A
SPECIFICATIONS OF WORK TO BE PERFORMED*

*This Rider shall contain the special requirements and technical specifications of the work to be performed. The drawings to be prepared by the DESIGN/BUILDER as shall be listed in this Rider and reference made to attachment two where the provided drawings are incorporated in the contract documents. This Rider shall be prepared individually for each contract and tailor to the work to be performed.

Special requirements may include such items as special notes to contractors, amendments to general conditions, modifications, special instructions for any demolition work, special scheduling techniques to be used, such as CPM Consultant etc., changes in contractors liability insurance, project sign, product discrimination, guidelines to the steel products procurement act, miscellaneous items, such as regulations governing asbestos, Minority Business and Women Enterprise, affirmative action, roof top storage, office of the contractor, utility connections, storage areas, scaffolding, safety requirements, subsurface information, temporary utility services, temporary heat, temporary sanitation facilities, work hours, noise restrictions, sequence of operations on alterations work, site fence, environmental quality controls, required tests, notification to public utilities prior to excavation or demolition work when using powered equipment or blasting, and other provisions which will affect the SYSTEM during accomplishment of the work.

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**RIDER B
GENERAL PROVISIONS**

ARTICLE 1

THE AGREEMENT, THE CONTRACT PARTIES, AND LAWS GOVERNING THE WORK

- 1.1 Agreement Documents. The agreement documents consist of the agreement, the bonds (if specified), all riders, drawings and specifications, bulletins and addenda issued to the contract. The SYSTEM's ENGINEERING/ARCHITECTURAL INSTRUCTIONS, in effect when this Agreement is executed, shall govern the design work required in this Agreement and shall be deemed a part of this DESIGN/BUILD Agreement. A modification is (1) a written amendment to the contract signed by both parties or (2) a change order. A modification may be made only after execution of the contract. The work specified in the contract includes all labor, equipment, and materials required and incorporated to complete the work specified in the scope of work of Riders A, D, and Attachment 2. The work shall be performed according to all contract documents.

The agreement documents are complementary, and what is required by any one of the documents shall be binding as if required by all. The intention of the documents is to include all labor, materials, equipment, and other items necessary for the proper execution and completion of the work. If there is a conflict between the drawings and the specifications, the specifications shall prevail. In case of any irreconcilable inconsistency between any documents, the General Provisions shall govern. Words which 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 structure. On all work of a remodeling nature or installation within present buildings, 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.

Written interpretations necessary for the proper execution or progress of the work, in the form of drawings or otherwise, will be prepared by the Construction Manager and reviewed for approval by the SYSTEM. If approved, such interpretation shall be issued by the Construction Manager within ten (10) days after receipt of the written request for an interpretation.

Unless otherwise agreed, the DESIGN/BUILDER will be furnished, the Construction Manager or the SYSTEM, three (3) complete sets of drawings and specifications.

All drawings, specifications, and copies thereof furnished by the Construction Manager and the DESIGN/BUILDER 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 on request at the completion of the work.

- 1.2 The SYSTEM. Representatives designated by the SYSTEM or SYSTEM university will have the authority to inspect the work and to reject all work not performed in accordance with the agreement. In addition 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 agreement. Only those so designated by the SYSTEM or SYSTEM University will hold such authority, and no other person, SYSTEM employee, group or representative is authorized or should be recognized as having authority to change the scope, quality or quantity of work included in the provisions of the agreement.
- 1.3 Construction Manager (CM). If retained and so designated by the SYSTEM, the Construction Manager (CM) will act as the agent for the SYSTEM in the administration of the agreement and may perform any or all of the functions stated herein. The Construction Manager shall interpret the documents, review and accept/reject the DESIGN/BUILDER's design documents, and determine if the documents satisfy the project intent. The Construction Manager may, as determined by agreement with the SYSTEM, visit the site to review progress and determine if the work is performed according to the drawings and specifications. He may reject work which does not conform to the contract documents and safe working practices. As, and on behalf of the owner, the CM shall have authority to accept materials/workmanship, and equipment incorporated, or submitted for incorporation in the work. He shall review and provide an evaluation of the, inspection, quality assurance, and certification programs. He shall review the DESIGN/BUILDER construction practices working conditions during execution of the work.
- 1.4 DESIGN/BUILDER. The DESIGN/BUILDER agrees to perform the work specified according to professional architectural and engineering standards and good quality construction industry standards, practices, and procedures. He agrees to inform the Construction Manager in writing of any discrepancy or errors between the contract documents and with actual on-site conditions. The DESIGN/BUILDER is solely responsible for all work performed under the contract. Continuous on-site qualified supervision agrees to be provided during the performance of work. Work shall be performed according to the dimensions, and site location described on the approved drawings. The DESIGN/BUILDER agrees to provide all labor, materials, and equipment necessary for performance of the work, unless otherwise specified in the contract. Work shall be performed in a safe manner, using equipment that shall not endanger the lives of the operators or any person or property in the vicinity of the equipment. The equipment and/or materials provided shall be such as to ensure proper prosecution of the work in an acceptable manner and at a satisfactory rate of progress. The DESIGN/BUILDER agrees to enforce good order and conduct among his employees. Every employee shall be fitted or skilled in the performance of work assigned to him. The DESIGN/BUILDER agrees to warrant to the SYSTEM and the Construction Manager that all materials and equipment furnished under this contract shall be new, unless otherwise specified, and that all work, materials, and equipment provided shall be of good quality, free from faults and defects, and in conformance with the agreement. All work not so conforming to these standards may be considered defective or nonconforming. If required by the Construction Manager, or the SYSTEM, the DESIGN/BUILDER agrees furnish satisfactory evidence as to the kind and quality of materials and equipment. The DESIGN/BUILDER warrants that such installation, construction, materials,

or equipment will perform to the standard of the item originally specified. The DESIGN/BUILDER explicitly warrants the merchantability, and the fitness for use and quality of all substituted items provided for or by him. The DESIGN/BUILDER shall agree to, deliver, and transfer to the Construction Manager all warranties for review, who then will transfer same to the SYSTEM.

The warranty provided in this section shall be in addition to and not in limitation of any other warranty or remedy provided by law or by the contract documents. Work not conforming to these requirements shall be corrected in accordance with article 2.2.27.

- 1.5 Observance of Laws and Regulations. The DESIGN/BUILDER agrees to observe all laws and regulations, pertaining to his work including regulations of the Department of Labor and Industry, the Department of Health, and any other local laws or ordinances. Any permits, licenses and certificates required will be obtained by mutual agreement.

The DESIGN/BUILDER agrees comply with all applicable tax laws. The DESIGN/BUILDER agrees to 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. The DESIGN/BUILDER agrees to be responsible for the acts and/or omissions of all his employees and all subcontractors, their agents and employees and all other persons performing any of the work under a contract with the DESIGN/BUILDER.

- 1.6 Contractual Relationships. Nothing contained in the DESIGN/BUILDER Agreement shall create a contractual relationship between the SYSTEM and any third party; however, it is understood and agreed that the SYSTEM is an intended third-party beneficiary of all contracts for design or engineering services, all subcontracts, purchase orders and other agreements between the DESIGN/BUILDER and third parties for this project. The DESIGN/BUILDER shall incorporate the obligations of this contract into its respective subcontracts, supply agreements and purchase orders.

The DESIGN/BUILDER accepts the relationship of trust and confidence established between it and the System by this agreement. The DESIGN/BUILDER agrees to furnish the architectural, engineering and construction services set forth herein and agrees to furnish efficient business administration and superintendence, and to use its best efforts to complete the Project in the best and soundest way and in the most expeditious and economical manner consistent with the interest of the SYSTEM.

ARTICLE 2

THE DESIGN/BUILDER RESPONSIBILITIES AND SERVICES

2.1 General

- 2.1.1 The DESIGN/BUILDER agrees that all services provided be performed by qualified personnel suited to the task performed. Design services shall be performed by qualified architects, engineers and/or other professionals selected by the DESIGN/BUILDER. All plans and specifications submitted for the project shall be signed and sealed by a registered professional authorized to do so in the Commonwealth of Pennsylvania. The professional obligations of such persons shall be undertaken and performed in accordance with the statutes, codes and regulations and professional standards of the Commonwealth, “with intent to best meet the project requirements,” and serve the interest of the DESIGN/BUILDER. Construction services shall be performed by qualified construction contractors and suppliers, selected and paid by the DESIGN/BUILDER and acting in the interest of the DESIGN/BUILDER. The SYSTEM reserves the right to remove consultants, subcontractor, supplies, or other personnel employed by the DESIGN/BUILDER for failure to work in accordance with the agreement, rules and regulations regarding DESIGN/BUILDER performance and good order and conduct. Consultants, subcontractors, suppliers and others employed by the DESIGN/BUILDER are solely responsible to the DESIGN/BUILDER, and shall have no contractual relationship with the SYSTEM. The DESIGN/BUILDER agrees not to assign any part of this Agreement without written approval of the SYSTEM. The DESIGN/BUILDER agrees to submit for a list of all consultants, subcontractors, materials and equivalent he proposes to use, if required or directed to do so. Nothing contained in this section shall create a contractual relationship between such persons and the SYSTEM except as noted in Article 1. The DESIGN/BUILDER shall also be responsible to the SYSTEM for acts and omissions of consultants, the subcontractors, suppliers, agents and employees of those in priority with the DESIGN/BUILDER.
- 2.1.2 Professional Client Relationship. The DESIGN/BUILDER agrees to be directly responsible to the SYSTEM, and only the SYSTEM may give instructions binding the SYSTEM. Neither the SYSTEM, nor the DESIGN/BUILDER may change the scope of work without amendment to this agreement. The SYSTEM may demand, with written justification to the DESIGN/BUILDER, the withdrawal from the project of any person employed by the DESIGN/BUILDER who the SYSTEM deems to be insufficiently qualified for that portion of the work or who is incompetent or guilty of misconduct.

2.2 Basic Services

- 2.2.1 The DESIGN/BUILDER’s Basic Services consist of the work hereinafter described, and include design responsibilities for all architectural, structural, plumbing, mechanical, geo-technical, heating, ventilation, air conditioning and electrical engineering, and landscape architectural design and all other Professional services required to construct the project within pertinent and applicable building codes, statistics and regulations, as well as to act as and perform the work of the General Contractor for the project, including coordination of the work of separate prime contractors if employed for the electrical, heating ventilation and air conditioning, plumbing, mechanical, elevators, and other specialty work.
- 2.2.2 Based on the DESIGN/BUILDER’s Proposal, as contained in Rider D, the DESIGN/BUILDER agrees to submit Construction Documents as specified as determined required by the Construction

Manager, for review and acceptance by the SYSTEM before construction of the work prescribed on those documents may begin. Construction Documents shall include technical drawings, schedules, diagrams and specifications, setting forth in detail the requirements for construction of the work, and shall:

1. incorporate the specifications and the intent of the DESIGN/BUILDER's proposals in greater detail,
 2. provide sufficient design details of the work customarily necessary for acceptance by the SYSTEM and subsequently installed by building tradesmen working on the project,
 3. provide documents required for and obtain approvals from regulatory agencies having jurisdiction over the project,
 4. The DESIGN/BUILDER must bid the electrical, plumbing, heating, ventilation and air conditioning, and any other so specified.
- 2.2.3 Unless otherwise provided in the agreement, the DESIGN/BUILDER agrees to provide or cause to be provided and shall pay for the design services for the entire project and labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for proper execution and completion of the General Contractor work, whether temporary or permanent, and whether or not incorporated or to be incorporated in the work.
- 2.2.4 The DESIGN/BUILDER agrees to be responsible for and shall coordinate the work of all prime contractors selected for the project unless specifically delegated to the System's construction manager.
- 2.2.5 The DESIGN/BUILDER shall provide a project schedule showing the major elements of work, estimated start and completion dates for the project. The Construction Manager at least monthly will update the project schedule and provide a progress report of the quality and quantity of work performed on the project.
- 2.2.6 Attendance at and Minutes of Conferences and Meetings. The DESIGN/BUILDER or his authorized representative, and the DESIGN/BUILDER's consultants when appropriate, agrees to attend all meetings and conferences regularly scheduled by the SYSTEM, including conferences during each phase of the work and the one-year maintenance period. Construction manager shall within one week after each conference and meeting, submit to the SYSTEM detailed minutes of all such meetings and conferences.
- 2.2.7 Attendance and Testimony as Witness. In the event of a dispute between the SYSTEM and any person concerning or involving the DESIGN/BUILDER's failure to design or construct the project in accordance with this agreement, the DESIGN/BUILDER or the appropriate Consultant, or their qualified and authorized representative or representatives shall attend all conferences, hearing and/or court proceedings, and, if requested by the SYSTEM shall, with reasonable promptness and in accordance within agreed time limits, prepare testimony and shall testify, both as to facts and as to expert opinion, in all such proceedings without any additional charge to the SYSTEM. In circumstances other than those concerning or involving the DESIGN/BUILDER's failure to design or construct in accordance with this agreement, should the SYSTEM ask the DESIGN/BUILDER to serve as an expert witness, the DESIGN/BUILDER shall provide the requested expert witness services for the actual cost of said services, and the DESIGN/BUILDER

shall enter into an “expert Witness Agreement” upon receiving a request for expert witness services from the SYSTEM.

- 2.2.8 Coordination With Existing Facilities and Utilities. The DESIGN/BUILDER agrees to consult with the SYSTEM to obtain all necessary data for coordinating the Project with existing structures and all support utilities, future plans of the SYSTEM and all like services provided by public or private companies. When utility systems are impacted a determination shall be obtained from the various public services and utility companies, such as gas, electric, water, steam, waste water treatment/disposal, surface water disposal, telephone and communication, a written commitment of their capability to service this Project. Any reservations to this commitment by the utility companies, such as in-house engineering and project costs, shall be brought to the immediate attention of the SYSTEM. If utility services are not available at the site, the DESIGN/BUILDER consult with the SYSTEM as to the location of the nearest available utility service.

When involved, the DESIGN/BUILDER agrees that his design shall include provisions for adequate water and sewage disposal services. Where water or sewage disposal are not readily available from the public services, the DESIGN/BUILDER shall, consult SYSTEM for the preparation of necessary plans and specifications for well drilling or for the sewage disposal systems.

- 2.2.9 During the design of the Project, the DESIGN/BUILDER agrees to visit the Project Site as required and obtain and study available record drawings, visual topographic data, and the SYSTEM’s available future plans for the purpose of obtaining any and all pertinent or necessary information as to local conditions not required to be shown on the Plat of Survey and Report of Surveyor furnished to him by the SYSTEM, as may effect the design of the Project and the necessity for special provisions or working in the specifications.
- 2.2.10 The DESIGN/BUILDER agrees to coordinate his work so that the SYSTEM has adequate time in which to make its review and an opportunity to review the documents for the submission and all phases.
- 2.2.11 The DESIGN/BUILDER agrees to coordinate the plans and specifications for any separate prime contracts employed in the work to ensure against omissions, overlaps or duplications of any items of work or materials on the Project.
- 2.2.12 The DESIGN/BUILDER specifically represents to and covenants with the SYSTEM that he and his consultants, agents, servants, employees, officers and subcontractors possess and shall possess the experience, knowledge, and skills necessary to qualify them individually for the particular duties they perform.
- 2.2.13 The Minimum Design submissions that must be made, format, content and criteria to be included, and the expected submission dates are as specified in the DESIGN/BUILDER’s proposal attached in Rider D and/or Article 1.
- 2.2.14 After acceptance of the design concepts the DESIGN/BUILDER may proceed with on-site construction.
- 2.2.15 The DESIGN/BUILDER agrees to provide on-site supervision of the work to ensure the work is placed in accordance with the accepted quality standards, plans and specifications, safety standards, and applicable building codes, laws and regulations governing the work.

- 2.2.16 The DESIGN/BUILDER's Professional Architect and/or engineers agrees to attend any and all project site conferences that may be necessary to clarify the contract documents as determined by the SYSTEM.
- 2.2.17 Shop Drawings. The DESIGN/BUILDER agrees to provide the shop drawings that may be necessary as determined by the Construction Manager, to construct the project as portions of the DESIGN/BUILDER's plans and specifications are accepted.
- 2.2.18 Construction and Maintenance. At the time of substantial completion of the project, the DESIGN/BUILDER agrees to collect from the prime contractors, all shop drawings, catalog data, manufacturer's operating instructions, manufacturer's or supplier's maintenance instructions, certificates, warranties, guaranties and other pertinent operating and maintenance data. The DESIGN/BUILDER agrees to assemble and correlate such materials and submit two (2) copies thereof to the SYSTEM.
- 2.2.19 Construction by State. Should the SYSTEM by subsequent mutual agreement perform any the actual construction using its own personnel, or other State employees, or inmates, the DESIGN/BUILDER agrees to furnish to the SYSTEM.
- 2.2.20 Project Drawings ("As-Built" Tracings). Upon completion of the project, the DESIGN/BUILDER agrees to revise the contract tracings ("mylar"-type) reflecting all changes recorded during the course of construction and shall deliver one (1) set of the tracings of each contract to the SYSTEM. Corrective information shall be obtained from the files of the contractors and project offices of the SYSTEM. When completed, the tracings shall reflect the project according to records of maintenance and shall be delivered to the SYSTEM. The tracings shall be identified as "As-Built" tracings and shall become the property of the SYSTEM. Acceptable computer aided drawings (CAD) may be submitted in addition to the mylar tracing.
- 2.2.21 Life Cycle Maintenance. The DESIGN/BUILDER agrees to provide available a life cycle maintenance information for all projects for new construction and/or renovation of existing facilities. The DESIGN/BUILDER agrees to also provide a preventive any maintenance date obtained for all equipment incorporated in the work.
- 2.2.22 Progress Schedule. The DESIGN/BUILDER agrees to submit a planned progress schedule. The DESIGN/BUILDER agrees to attempt to complete portions of the work in such order of time as may be stated in the specifications or as planned in the progress charts as approved by all prime contractors and the SYSTEM.
- The SYSTEM may use any completed portion or partially completed portion of work without deeming the work completed should the contractor fail to complete the work as scheduled.
- 2.2.23 Area of Work. The DESIGN/BUILDER agrees to confine operations at the site to areas permitted by law, ordinances, permits, and contract documents and shall not unreasonably encumber the site with any materials or equipment.
- 2.2.24 Clear Work Site. The DESIGN/BUILDER agrees to at all times keep the work site free from accumulation of waste materials or rubbish caused by his operations.

- 2.2.25 Start of Work. The date work commences on-site shall be considered the actual start date of the agreement. The completion date shall be established by adding the number of days specified for the performance.
- 2.2.26 Job Conferences. Any parties agree to hold an initial project (job) conference within thirty (30) days from the start of work. Biweekly job conferences will be scheduled at mutually acceptable times after on-site work begins for the project.
- 2.2.27 Correction of Defective Work. The DESIGN/BUILDER agrees to correct work that does not conform to the authorized construction documents.
- 2.2.28 Infringement of Patent Right. The DESIGN/BUILDER agrees not to incorporate patented material in his work without payment of the royalties, license fees and/or shall defend suits or clauses for infringement of patent rights, and shall hold the SYSTEM harmless from loss or expense therefrom, unless the process or product, or use of patented materials are directed by the SYSTEM to be incorporated in the work, except that if the DESIGN/BUILDER has knowledge or reason to believe the use of a directed/or required design, process or product is an infringement of a patent, in which case, the DESIGN/BUILDER agrees to be responsible for such loss unless such information is promptly given to the SYSTEM.
- 2.2.29 Change Orders. The DESIGN/BUILDER agrees a promptly inform the SYSTEM, in writing, of changes in the design and construction that would materially effect the project.
- 2.2.30 Certificates of Completion. The DESIGN/BUILDER agrees to notify the SYSTEM and Construction Manager, in writing, when he believes the work is substantially complete. The Construction Manager and the SYSTEM shall determine the degree of completion and issue the Certificate of Substantial Completions.
- 2.2.31 Final Inspection. A final inspection shall be established after a request by the DESIGN/BUILDER. Work not completed shall be corrected as soon as possible after the inspection. At the completion of the work, the DESIGN/BUILDER agrees to remove from and about the project and area of work, the DESIGN/BUILDER's tools, construction equipment, machinery, surplus materials not paid for by the SYSTEM, waste materials and rubbish.

ARTICLE 3

THE SYSTEM'S RESPONSIBILITIES AND DUTIES

- 3.1 Basic Information. The SYSTEM agrees to provide the DESIGN/BUILDER with the project scope and all available information as to the requirements of the project.
- 3.1.2 Plat or Survey and Surveyor's Report. The SYSTEM will furnish to the DESIGN/BUILDER, when and to the extent required by the project, a plat or survey of the site and sufficient adjacent lands, certified by a qualified licensed surveyor, and a report of survey, giving, as applicable, grades and lines of streets, encroachments, boundaries and contours of the site; location, dimensions and other complete data as to the exterior of existing buildings, other improvements and trees; and full information concerning all services and all known utility lines crossing the site, which information must be included, by the Professional, in the contract drawings. The SYSTEM, at its option, may authorize the Professional to obtain the aforementioned services.
- 3.1.3 Title Report. The SYSTEM agrees to furnish to the licensed surveyor a report of title to the site issued by a reputable title insurance company or by a qualified attorney at law specializing in real estate titles, where the site has not been owned by the Commonwealth for more than twenty (20) years.
- 3.1.4 Interpretation of Instructions. The SYSTEM agrees to act as interpreter of any printed instructions, including the Engineering/Architectural Instructions furnished the DESIGN/BUILDER, and shall have the right to require conformance with same at all times during the development and construction of the Project.
- 3.1.5 SYSTEM to Act Promptly. The SYSTEM agrees to act with reasonable promptness upon all submissions.
- 3.1.6 Effect of SYSTEM's Failure to Disapprove Design or Construction Work. Any approval of, or failure of, the SYSTEM to disapprove or reject design work submitted by the DESIGN/BUILDER shall not constitute such an acceptance of the work as to relieve the DESIGN/BUILDER of his full responsibility to the SYSTEM for the proper and professional performance of all design and construction work on the project.
- 3.1.7 Copies of Certain Documents. The SYSTEM shall supply the DESIGN/BUILDER with sufficient copies of the required documents required by the DESIGN/BUILDER for performance of the work.
- 3.1.8 Advertisement of Notice to Bidders. If requested, the SYSTEM shall arrange for the necessary publication by advertisement of any notice to bidders, and shall notify the DESIGN/BUILDER when the advertisements are released for publication. Until so notified, the DESIGN/BUILDER shall not release contract documents to any proposed bidder.
- 3.1.9 Subsurface Soil Exploration. The SYSTEM shall provide the results of a sub-surface exploration of a licensed professional for information.
- 3.1.10 Contract Documents. The SYSTEM agrees to prescribe any required contracts, bid forms, contract format, and engineering and architectural instructions for separately bid contracts. The SYSTEM will bid the work and award the contracts for all work to be separately bid.

- 3.1.11 Approvals. The System agrees to obtain all approvals of governmental authorities having jurisdiction over the project all binding prints, licenses and inspections as required.

ARTICLE 4

TIMELINESS OF COMPLETION

- 4.1 The DESIGN/BUILDER agrees to complete the work specified with reasonable skill and care within the time limits stated in the Agreement, or agreed extensions thereof.
- 4.2 Time limits specified in the Agreement are for planning purpose.
- 4.3 Not more than thirty (30) days after the execution of this Agreement, the DESIGN/BUILDER agrees to submit the specified progress schedule indicating each major category or unit of general work to be performed at site, properly sequenced and intermeshed and showing completion of the work consistent with the time period established in the Agreement. The DESIGN/BUILDER agrees that the SYSTEM Construction Manager shall make monthly updates of the progress schedule indicating completed activities and any changes in sequencing or activity duration.
- 4.4 Substantial Completions. The Date of Substantial Completion of the work or an agreed upon portion thereof is the date when construction or an agreed upon portion thereof is sufficiently complete so the SYSTEM can occupy and utilize the work or agreed upon portion thereof for its intended use.

ARTICLE 5

DELETED FOR THIS AGREEMENT

ARTICLE 6

SAFETY PRECAUTIONS AND PROGRAMS

- 6.1 The DESIGN/BUILDER agrees to initiate, maintain, and supervise all safety precautions and programs required under his portion of the work and maintained during the term of the contract.
1. All employees on the work, and all other persons who may be affected thereby;
 2. All the work materials and equipment to be incorporated therein, whether in storage on or off the site, under the care, custody or control of the DESIGN/BUILDER or any of his contractors or subcontractors; and
 3. Other property at the site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction.
- 6.2 The DESIGN/BUILDER agrees to comply with all applicable, laws, ordinances, rules, regulations and orders of any public authority having jurisdiction of the safety of persons or property or to protect them from damage, injury or loss. He shall erect and maintain as required

by existing conditions and progress of the work, until the acceptance of the completion of his portion of the project, all reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards, promulgating safety regulations and notifying owners and users of adjacent utilities.

- 6.3 The DESIGN/BUILDER agrees to restore all damages or loss to any property referred to above caused in whole or in part by the DESIGN/BUILDER, any subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable, shall be remedied by the DESIGN/BUILDER, except the acts or omissions of the SYSTEM or Construction Manager, or anyone employed by either of them or for whose acts either of them may be liable, and not attributable to the fault or negligence of the DESIGN/BUILDER.
- 6.4 The DESIGN/BUILDER agrees to designate a responsible member of his organization at the site whose duty shall be the prevention of accidents. This person shall be the DESIGN/BUILDER's superintendent unless otherwise designated in writing by the DESIGN/BUILDER to the SYSTEM and the professional.
- 6.5 The DESIGN/BUILDER agrees not to load or permit any part of the work to be loaded so as to endanger its safety.
- 6.6 Explosives shall not be used in the work without specific written approval of the contracts plan for storage, and use of them for accomplishing the work.
- 6.7 Emergencies. In any emergency affecting the safety of persons or property, the DESIGN/BUILDER agrees to act, at his discretion, to prevent threatened damage, injury or loss. Any compensation or extension of time claimed by the DESIGN/BUILDER on account of emergency work shall be determined as provided for changes in the work.
- 6.8 Temporary Service and Job Conditions. The System agrees to be responsible for providing temporary heat, light and water as necessary to execute and protect his work.

The DESIGN/BUILDER agrees to advise the System of all unacceptable conditions as found by him upon examination of the site. He agrees to cooperate in the arrangements of his work as necessary to least affect the administration or operation of present building, and shall erect sheds for the protection of his material. He agrees to keep the site clean at all times.

ARTICLE 7

- 7.1 Insurance and Bonds DESIGN/BUILDER's liability insurance. The System agrees to secure and maintain project insurance for all insurable liabilities for the project, except the negligence and willful acts of the DESIGN/BUILDER or his employees.

ARTICLE 8

CHANGES IN THE WORK

8.1 Change Orders

- 8.1.1 A Change Order is a written order signed by the SYSTEM and DESIGN/BUILDER to modify the Agreement, which authorizes a change in the work or adjustment in the contract time. All changes shall be made by mutual agreement by the SYSTEM and DESIGN/BUILDER.

ARTICLE 9

WARRANTY AND CORRECTION OF DEFECTIVE WORK

- 9.1 General Project Warranty. The DESIGN/BUILDER agrees to warrant to the SYSTEM that all materials and equipment furnished under this contract shall be new, unless otherwise specified, and that all work shall be of good quality, free from faults and defects and in conformance with the contract documents. All work not so conforming to these standards may be considered defective or nonconforming. If required by the Construction Manager, or the SYSTEM the DESIGN/BUILDER agrees to furnish satisfactory evidence as to the kind and quality of materials and equipment. The DESIGN/BUILDER warrants that such installation, construction, materials or equipment will perform to the standard originally specified. The DESIGN/BUILDER explicitly warrants the merchantability, and the fitness for use and quality of all approved substituted items. The DESIGN/BUILDER agrees to assign, deliver, and transfer to the Construction Manager all warranties for review, who then will transfer same to the SYSTEM.
- 9.2 Correction of Defective Work. The DESIGN/BUILDER agrees to promptly correct work rejected by the Construction Manager or known by the DESIGN/BUILDER to be defective or failing to conform to the construction documents, whether observed before or after substantial completion, and whether or not fabricated, installed or completed.
- 9.3 Latent Defects. The DESIGN/BUILDER agrees to correct work which are found to be defective subsequent to installation or after completion of the work which can or could not reasonable be determined to be in compliance with the plans and specification at the time of installation. Inspection of the work at the time of installation by the SYSTEM does not relieve the DESIGN/BUILDER agreement to correct such deficiencies or defects.

ARTICLE 10

DISPUTES

- 10.1 Submission in Writing. In the event of a dispute with the Construction Manager's or SYSTEM's interpretations or in the event of any other dispute, claim, question or other matter, the DESIGN/BUILDER agrees to immediately refer the disputed item in writing to the SYSTEM representatives for a determination, which determination shall be rendered in writing within a reasonable time. During the determination period the DESIGN/BUILDER may proceed with the work. All disputes will be settled by mutual agreement.

10.2 Arbitration

- 10.2.1 Between the DESIGN/BUILDER, his subs, and the Prime Contractor or Their Subs. Should the DESIGN/BUILDER, either himself or by his subcontractor or subcontractors or their respective agents, servants, or employees, cause damage or injury to the property or work of any prime contractor or contractors, or by failing to perform his work (including the work of his subcontractor or subcontractors) hereunder with due diligence, delay any prime contractor or contractors who shall suffer additional expense or damage thereby, the parties involved in such dispute shall settle by agreement or arbitrate said claim, dispute or disputes by referring same to the American Arbitration Association. Said dispute or disputes shall be determined pursuant to the construction industry arbitration rules of the American Arbitration Association then in effect. The SYSTEM shall not be a party to disputes or actions between the DESIGN/BUILDER, prime contractors or subcontractors concerning such additional expense or damage, and such disputes shall not be subject to the Board of Claims proceedings specified above. It is agreed by all parties that disputes or actions between contractors concerning the additional expense or damage herein before mentioned shall not delay completion of the work which shall be continued by the parties, subject to the rights herein before provided. It is agreed by the parties to the contract (the SYSTEM as promisee and the DESIGN/BUILDER as promisor) that the intent of this clause is to benefit the other prime contractors on the project or related projects and to serve as an indication of the mutual intent of the SYSTEM and the DESIGN/BUILDER that this clause raise such other prime contractors to the status of third party beneficiaries only as to the terms and conditions of sections entitled subcontractor and Disputes. The DESIGN/BUILDER agrees that these sections are provided as a benefit to the DESIGN/BUILDER and that they specifically exclude claims against the SYSTEM for delay or other damages.
- 10.2.2 Requirement to Arbitrate. The DESIGN/BUILDER agrees that all claims, disputes and other matters in question between prime contractors, which arise out of, or are related to this contract or the breach thereof shall be settled by agreement or resolved by arbitration in accordance with the construction industry arbitration rules of the American Arbitration Association then in effect, unless the parties mutually agree otherwise. This agreement to arbitrate shall be in consideration of the fact that all prime contractors agree to this same arbitration provision as provided in each separate prime contract and that arbitration of all claims, disputes and other matters in question shall be held within a reasonable time after the claim, dispute or other matter in question has arisen. The SYSTEM shall not be a party to this arbitration nor shall such claims or disputes be subject to Board of Claims proceedings.
- 10.2.3 Notice for Arbitration. Notice of the demand for arbitration shall be filed in writing with the other prime contractors and with either the Philadelphia or Pittsburgh Regional Office of the American Arbitration Association, and a copy shall be filed with the Construction Manager and the SYSTEM. The demand for arbitration shall be made within a reasonable time after the claim, dispute or other matter in question has arisen. The SYSTEM shall not be a party to the claim, dispute or other matter in question, but shall be a witness in any arbitration at the request of any party to the arbitration.

ARTICLE 11

PROVISIONS REQUIRED BY PENNSYLVANIA OR FEDERAL LAW OR REGULATIONS

- 11.1 Basic Responsibility. The DESIGN/BUILDER agrees to be responsible for the compliance of the drawings and specifications with all applicable laws, regulations and ordinances of all agencies and governments, federal, state and local, insofar as they are applicable to, pay all required fees and have jurisdiction over, the project. The SYSTEM shall make all required submittals to, and shall obtain all required approvals from, the applicable agency in a timely manner so as not to cause delays to the projects.
- 11.2 Cooperation with Local Bodies. During the design of the project, the DESIGN/BUILDER agrees to keep informed and comply with the requirements of all local zoning, planning and supervisory bodies. Should these requirements require amendment to the Agreement, or should the local bodies withhold any required approvals, the DESIGN/BUILDER shall immediately notify the SYSTEM.
- 11.3 Proprietary Items, Copyrights, Patents. The DESIGN/BUILDER agrees to not include in the design of the project any equipment, material or mode of construction which is proprietary or which contains a copyright or patent right relating to designs, plans, drawings or specifications, unless the equipment, material or mode of construction is different and fairly considered superior in quality and performance. If the DESIGN/BUILDER includes in the design of the project any equipment, material or mode of construction which is proprietary, it shall only be because the item is different and fairly considered superior in quality and performance, and not for the purpose of preventing or restricting competitive bidding.
- 11.4 Provisions Deemed Inserted. Each and every provision required to be inserted in Professional Agreements by the law of Pennsylvania, or the lawful regulations of any agency of the Commonwealth, and, if the project involves the use of federal funds, by any law of the United States of America or the lawful regulations of any agency thereof applicable to the Agreement, shall be deemed to be inserted herein, and the Agreement shall be read, interpreted and enforced as if such provisions were set forth therein in full.
- 11.5 Physical Amendment of Agreement. If desired by the SYSTEM or by any state or federal officer having power to require the inclusion of provisions and terms in DESIGN/BUILD Agreements, the Agreement shall be forthwith physically amended to include such provisions with the signature of the DESIGN/BUILDER.
- 11.6 Nondiscrimination. So long as this Agreement is in effect, the DESIGN/BUILDER agrees to the terms of the Nondiscrimination Clause attached hereto as Exhibit A.
- 11.7 DESIGN/BUILDER Integrity Provisions and Disclosure of Financial Interest. So long as this Agreement is in effect, the DESIGN/BUILDER agrees to the Contractor Integrity Provisions attached hereto as Rider G.
- 11.8 Commonwealth Tax Liabilities. The DESIGN/BUILDER agrees that the Commonwealth may set off the amount of any state tax liability or other debt of the contractor or its subsidiaries that is owed to the Commonwealth and not being contested on appeal against any payments due the DESIGN/BUILDER under this or any other contract with the Commonwealth.

- 11.9 Reciprocal Limitations Upon Use of Supplies and Materials. In accordance with the requirements of the Reciprocal Limitations Act of 1986, the DESIGN/BUILDER agrees not to use any supplies, equipment or materials manufactured in any state which prohibits the specifications for, or use in or on its public buildings or other works, of supplies, equipment or materials not manufactured in such state.
- 11.10 Labor Requirements. All laws of the Commonwealth pertaining to regulations and conditions of employment shall be observed, including Labor Discrimination Act 382, approved July 18, 1935, Act No. 414, approved July 19, 1935 (requiring ninety [90] days residence of labor within the State), applicable to building construction.
- 11.11 Wages. All required provisions and regulations of the Federal and State Wages Acts, shall be adhered to in the performance of this work.
- 11.12 Prevailing Minimum Wage Predetermination. The DESIGN/BUILDER is hereby notified that this contract may be is subject to the provisions, duties, obligations, remedies and penalties of the Pennsylvania Prevailing Wage Act, 43 P.S. §165-1 ET Seq., which is incorporated herein by reference as if fully set forth herein.
- 11.13 Taxes. It is understood that the SYSTEM is exempt from all Excise Taxes. This also applied with reference to Pennsylvania Sales Taxes. However, the Contractor remains liable for the payment of Sales and Use Tax on all materials and fixtures which he purchases or uses for the purpose of fulfilling a construction contract, irrespective of the fact that the construction work is being performed for a governmental instrumentality.
- 11.14 Hold Harmless. The DESIGN/BUILDER agrees to 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 or the Commonwealth of Pennsylvania, the DESIGN/BUILDER 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 DESIGN/BUILDER, 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 part.
- 11.15 Interests of Members of the SYSTEM and Others. No officer, member or employee of the SYSTEM, shall participate in any decision relating to this contract which effects his personal interest or the interest of any corporation, partnership, or association in which he is, directly or indirectly interested; nor shall any such officer, member or employee of the SYSTEM, have any interest, direct or indirect, in this contract or the proceeds thereof.
- 11.16 Interest of Contractor. The DESIGN/BUILDER covenants that he presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of its services hereunder. The DESIGN/BUILDER further covenants that in the performance of this contract, it shall not knowingly employ any person having such

interest. DESIGN/BUILDER further certifies that no member of the board of the DESIGN/BUILDER of any of its officers or directors have such an adverse interest.

- 11.17 Covenant Against Contingent Fees. The DESIGN/BUILDER 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 DESIGN/BUILDER 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, brokerage, or contingent fee.
- 11.18 Environmental Protection. In carrying out this contract, the DESIGN/BUILDER agrees to minimize pollution and shall strictly comply with all applicable environmental laws and regulations. (Clean Streams Law, Act of June 22, 1937, P.L. 1987, as amended; the Pennsylvania Solid Waste Management Act, Act of July 31, 1968, P.L. 788; and the Water Obstructions Act, Act of June 25, 1913, P.L. 555 as amended.)
- 11.19 No Estoppel or Waiver of Legal Rights. Neither the System nor the Construction Manager, 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, under any provision or provisions of the contract and subject thereto, at any time, either before or after the completion and acceptance of the work and payment thereof pursuant to any measurements or approved applications for payment, from showing the true and correct amount and character of the work performed and materials and equipment furnished by the DESIGN/BUILDER; nor from showing 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 specifications and the contract. 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; and 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 DESIGN/BUILDER or his surety or both such damages as it may sustain by reason of his failure to comply with the terms of the specifications and the contract, or on account of any over-payments made on any approved applications for payment. Neither the acceptance by the SYSTEM or Construction Manager, or any of their agents or employees, 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; nor shall any waiver of any breach of the contract be held to be a waiver of any other or subsequent breach.
- 11.20 Use of Steel Products
- 11.20.1 If any steel products are to be used or supplied in the performance of this contract, the DESIGN/BUILDER, subcontractors, material men, or suppliers agree to use only steel products, rolled, formed, shaped, drawn, extruded, forged, cast, fabricated or otherwise similarly 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, all as provided in Act 3 of March 3, 1978, commonly referred to as the “Steel Products Procurement Act.”

- 11.20.2 The DESIGN/BUILDER agrees to certify that all steel products to be used or supplied in the performance of the contract comply with this Act.
 - 11.20.3 The SYSTEM may not accept any work that has not complied with this provision.
 - 11.20.4 The DESIGN/BUILDER agrees to include the provisions of this “Steel Products Procurement Act” in every subcontract or material supplier, so that such provisions shall be binding upon each subcontractor and/or materials suppliers.
 - 1.20.5 Exception to this provision may be inserted in the contract, but only where the Chancellor or his designee, in writing determines that steel products as herein defined are not produced in the United States in sufficient quantities to meet the requirements of the contract.
- 11.21 Indemnification
- 11.21.1 The DESIGN/BUILDER agrees to indemnify and hold harmless the System and, Construction Manager 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, 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 DESIGN/BUILDER, 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.
 - 11.21.2 In any and all claims against the SYSTEM, Construction Manager or any of their agents or employees or by any employee or the DESIGN/BUILDER, 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 under this Section 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 DESIGN/BUILDER or any subcontractor under worker’s compensation acts, disability benefit acts or other employee benefit acts.
 - 11.21.3 The obligations of the DESIGN/BUILDER under this Section shall not extend to the liability of the Construction Manager, 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, professional, their agents or employees provided such giving, or failure to give, is the primary cause of the injury or damages.

ARTICLE 12

DEFINITIONS

- 12.1 Definitions as used in these general conditions and in the Agreement and any special conditions, unless the context clearly otherwise requires:
- a. Estimated Construction Cost shall mean the most recent estimate approved as such, or, in the absence of any other approved Agreed Estimated Construction Cost, the amount approved by the SYSTEM as the allowance.
 - b. Agreement means the Agreement for DESIGN/BUILD services of which these general conditions are made a part.
 - c. Agreement refers to the contents of this agreement, which consist of the DESIGN/BUILD or construction agreement, the bid proposal, the contract bonds, if any the conditions of the contract (general, special, supplementary and other conditions), the drawings of all contracts, the specifications of all contracts, and all bulletins and addenda issued prior to execution of the construction agreement and all modifications thereto, and the administrative procedures of the SYSTEM for contract procurement.
 - d. Project Scope means the authorized and approved work to be included in the project that defines the allocation, the property site and a description of the construction required, as outlined in Rider A.
 - e. SYSTEM shall mean the SYSTEM or universities of the State System of Higher Education or the Office of the Chancellor authorizing the contract or any authorized representative thereof.
 - f. Error or Omission Change Order means a change order required to correct the DESIGN/BUILDER's error in the contract documents or an omission of information, material and construction necessary to complete the project.
- 12.2 Approval of Shop Drawings. Based on the priorities of the construction schedule, and the list of shop drawings required, each prime contractor shall submit to the DESIGN/BUILDER a shop drawing submittal schedule within fifteen (15) calendar days of receipt from the contractor. The DESIGN/BUILDER shall submit a consolidated shop drawing schedule including those he is required to submit to the Construction Manager for review and concurrence. The DESIGN/BUILDER agrees that time is of the essence of this provision and shall return the approved shop drawings or detailed notation for resubmission if required, within twenty-five (25) days after receipt from the contractor.
- 12.4 Sanitary Facilities. The DESIGN/BUILDER agrees to provide adequate and acceptable, as determined by the SYSTEM representative, sanitary facilities at the site for personnel processing the work under the contract.
- 12.5 Operation and Maintenance Instructions and Manuals

The DESIGN/BUILDER agrees his or its scope of work to carefully compile, during the progress of the work, operation and maintenance manuals to include methods of care and cleaning for all types of visible surface materials, both interior and exterior, and descriptions of all systems and

equipment and methods of operations thereof. Descriptions shall give pertinent diagrams, identifying charts, color coding, connections, lubricating instructions, and single line and detailed wiring diagrams, using manufacturers' printed information where possible; otherwise, the DESIGN/BUILDER agrees to obtain written instructions prepared by subcontractors and sub-subcontractors. All material collected shall be given to the Construction Manager at or before the final completion date established for the work. The DESIGN/BUILDER agrees to instruct designated SYSTEM personnel in the operations, care and maintenance of the equipment and, surfaces included in the completed facility.

12.6 Ventilation

The DESIGN/BUILDER agrees to maintain adequate ventilation of the work site so as to ensure proper air quality for human breathing, material protection, and safe equipment operations.

12.7 Interruption of Services

Existing utility services, roads and access ways will not be interrupted without prior approval by the SYSTEM. The DESIGN/BUILDER agrees to coordinate with the SYSTEM's for acceptable outage periods for interruptions to utility services.

12.8 Source of Materials

The DESIGN/BUILDER agrees to produce, upon request, evidence supporting the use of materials used on the work. The cost of testing materials used, or proposed for use on this work, except where required by the contract documents, will be borne by the SYSTEM. In the event that materials tested do not comply with contract requirements, the cost of initial and subsequent testing will be borne by the DESIGN/BUILDER.

12.9 Subcontractors

Subcontractors employed by the DESIGN/BUILDERS or other prime contractors are solely responsible to the prime contractor who employed them, and shall have no contractual relationship with the SYSTEM. The subcontractor is required to comply with all provisions of his employer when working on the contract. The subcontractor may be removed from the work for failure to work in accordance with the contract provision, rules, and regulations regarding performance and good order and conduct of his employees. The DESIGN/BUILDER agrees to not assign any part of this contract without written approval of the SYSTEM. The Contractor shall submit for written approval a list of all materials and equipment he proposes to use, if required or directed to do so. The DESIGN/BUILDER agrees to include names, addresses, and phone numbers of all subcontractors and sub-subcontractors, and of service firms of each mechanical item, for the requesting agency's use after expiration of guarantee period. Before completion of the work, the DESIGN/BUILDER agree to submit a rough draft of the manual in a loose-leaf binder for approval by the Construction Manager and the SYSTEM; after approval and before final payment, the DESIGN/BUILDER shall furnish two (2) corrected bound copies to the Construction Manager to be turned over to the SYSTEM.

12.10 Site Limits. The DESIGN/BUILDER agrees to confine his work to the defined limits of the contract work, unless otherwise permitted by the SYSTEM.

- 12.11 SYSTEM Performance of the Work. The SYSTEM reserves the right to perform any provision of the contract after three (3) days' notice when the DESIGN/BUILDER defaults or neglects to carry out the work in accordance with the contract documents.
- 12.12 Inclement Weather Protection. Inclement weather, including but not limited to cold or freezing weather, does not routinely execute non-performing work under this contract. The DESIGN/BUILDER agrees to use such methods of protecting as may be necessary to continue to work throughout the period of inclement weather changes in estimated completion time due to unforeseen delays will be jointly determined by the DESIGN/BUILDER and the SYSTEM.
- 12.13 Job Conferences. Job conferences shall be mutually scheduled by the SYSTEM and DESIGN/BUILDER representatives authorized to make all decisions and representations affecting the contract and its progress in the project.
- 12.14 Quality of Materials. The material provided under the contract shall meet or exceed the quality specified in the contract.
- 12.15 Separate Contracts. The SYSTEM agrees to advise the DESIGN/BUILDER when it contends to award other contracts in connection with other portions of the project under these or similar conditions of the contract. The DESIGN/BUILDER agrees to afford other contractors reasonable access to the site, material storage space, and shall perform their work so as not to interfere with the work of other contractors.
- 12.16 Ownership of Documents. All preliminary studies, working drawings, specifications, special requirements and costs estimates and all other data compiled by the DESIGN/BUILDER under this Agreement, shall become property of the SYSTEM, upon completion of the project and may be used with approval of the DESIGN/BUILDER by it for any purpose desired by the SYSTEM. The DESIGN/BUILDER shall not be liable for any reuse of these documents by the SYSTEM.

ARTICLE 13

TERMINATION OF AGREEMENT AND SUSPENSION OF WORK THEREUNDER

- 13.1 Termination
- 13.1.1 Termination for Convenience. The SYSTEM shall have the right to terminate the Agreement by written notice, which termination shall be effective as provided in said notice whenever the DESIGN/BUILDER fails to perform the work in a timely fashion or fails to satisfy the provisions of the Agreement. The DESIGN/BUILDER shall comply with all reasonable instructions of the SYSTEM then or subsequently given, relating to such termination, including but not limited to: instructions concerning delivery of drawings, sketches, and other architectural/engineering data to the SYSTEM, discontinuance of the work on outstanding contracts, and furnishing to the SYSTEM information concerning all action to be taken respecting outstanding agreements with consultants, contracts, awards, orders or other matters.
- 13.1.2 Termination upon Disability of DESIGNER. In the event of death or mental or physical disability of the DESIGN/BUILDER's chief engineer, or his inability to complete the contract for any other reason over which the DESIGN/BUILDER has no control, including military mobilization or dissolution of the firm, the SYSTEM shall have the right to terminate the Agreement.

13.1.3 Termination for Default. The SYSTEM may terminate this Agreement for any material default of the DESIGN/BUILDER, including default in making submissions or taking action within the time limits specified in the Agreement, upon written notice to the DESIGN/BUILDER and the DESIGN/BUILDER's failure to cure the default within a period of not less than ten (10) days as specified in such notice.

13.1.3.1 The DESIGN/BUILDER agrees he will also be determined in default if he fails to perform the work according to the contract provisions, or fails to process the work in a timely fashion, or fails to meet appropriate financial requirements associated with the contract, or disregards laws, ordinances, rules, regulations, orders or safety procedures, or is otherwise guilty of a substantial violation of a provision of the contract documents.

13.1.3.2 The SYSTEM agrees that the surety will, by written notification, be given at least seven (7) days to cure the default set forth in the notice. Should the DESIGN/BUILDER and/or his surety fail to cure said default within the specified time, the SYSTEM may terminate the contract and may take possession of the site and of all work or materials placed or stored on the site.

13.1.3.3 DESIGN/BUILDER Termination. The DESIGN/BUILDER agrees that he may terminate work on the contract when the work is delayed beyond his control or through no fault or negligence on his part for a period in excess of thirty days. The DESIGN/BUILDER shall provide written notice, at least seven (7) days, in advance of his intent to terminate. Such notice shall state the reason for termination. The SYSTEM shall be given seven (7) days, after receipt of the notice of intent to terminate, to remedy the situation or to present its position regarding the DESIGN/BUILDER's right to terminate.

13.2 SUSPENSIONS

13.2.1 Suspension of Work. The DESIGN/BUILDER agrees that the SYSTEM may, at any time, direct the DESIGN/BUILDER to suspend all work on the Project, or any part thereof, pending receipt of further notice from the SYSTEM. In all such cases the SYSTEM and the DESIGN/BUILDER shall agree upon an appropriate phasing out of the work, or any part thereof, in such a manner that the work may be resumed with a minimum of added cost to the project. The DESIGN/BUILDER agrees that the SYSTEM reserves the right to suspend work when, in its judgement, conditions of unsuitable work, weather or unforeseen work or methods warrant such stoppage.

EXHIBIT A

NONDISCRIMINATION CLAUSE

During the term of this contract, contractor agrees as follows:

- A. DESIGN/BUILDER shall not discriminate against any employee, applicant for employment, independent contractor or any other person because of race, color, religious creed, ancestry, national origin, age or sex.

DESIGN/BUILDER shall take affirmative action to ensure that applicants are employed, and that employees or agents are treated during employment, without regard to their race, color, religious creed, ancestry, national origin, age or sex. Such affirmative actions shall include, but is not limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training.

DESIGN/BUILDER shall post in conspicuous places, available to employees, agents, applicants for employment and other persons, a notice to be provided by the contracting agency setting forth the provisions of this nondiscrimination clause.

- B. DESIGN/BUILDER shall in advertisements or requests for employment placed by it or on its behalf state all qualified applicants will receive consideration for employment without regarding to race, color, religious creed, ancestry, national origin, age, or sex.
- C. DESIGN/BUILDER shall send each labor union or worker's representative with which it has a collective bargaining agreement or other contract or understanding, a notice advising said labor union or worker's representative of its commitment to this nondiscrimination clause. Similar notice shall be sent to every other source of recruitment regularly utilized by the contractor.
- D. It shall be no defense to a finding of noncompliance with Commonwealth Contract Compliance Regulations or this nondiscrimination clause that the DESIGN/BUILDER had delegated some of its employment practices to any union, training program or other source of recruitment which prevents it from meeting its obligations. However, if the evidence indicates that the DESIGN/BUILDER was not on notice of the third-party discrimination or made a good faith effort to correct it, such factor shall be considered in mitigation in determining appropriate sanctions.
- E. Where the practices of a union or of any training program or other source of recruitment will result in the exclusion of minority group persons, so that the DESIGN/BUILDER will be unable to meet its obligations under SYSTEM Contract Compliance Regulations or this nondiscrimination clause, DESIGN/BUILDER shall then employ and fill vacancies through other nondiscriminatory employment procedures.
- F. DESIGN/BUILDER shall comply with Commonwealth Contract Compliance Regulations 16 Pa. Code Chapter 49 and with all laws prohibiting discrimination in hiring or employment opportunities. In the event of the DESIGN/BUILDER's noncompliance with the nondiscrimination clause of this contract or with any such laws, this contract may, after hearing and adjudication, be terminated or suspended, in whole or in part, and contractor may be declared temporarily ineligible for further SYSTEM contracts, and such other sanctions may be imposed and remedies invoked as provided by the Contract Compliance Regulations.

- G. DESIGN/BUILDER shall furnish all necessary employment documents and records to, and permit access to its books, records and accounts by, the SYSTEM for purposes of investigation to ascertain compliance with the provisions of the Contract Compliance Regulations. If the DESIGN/BUILDER does not possess documents or records reflecting the necessary information requested, it shall furnish such information on reporting forms supplied by the SYSTEM.
- H. DESIGN/BUILDER shall actively recruit minority contractors or subcontractors with substantial minority representation among their employees.
- I. The terms used in this nondiscrimination clause shall have the same meaning as in the Contract Compliance Regulations Commonwealth.
- J. DESIGN/BUILDER obligations under this clause are limited to the DESIGN/BUILDER's facilities within Pennsylvania, or, where the contract is for purchase of goods manufactured outside Pennsylvania, the facilities at which such goods are actually produced.

**STATE SYSTEM OF HIGHER EDUCATION
COMMONWEALTH OF PENNSYLVANIA**

**STANDARD FORM OF AGREEMENT
FOR DONATED DESIGN/BUILD PROJECTS**

RIDER C

INSTRUCTION TO BIDDERS

Firms responding to this notice must have some degree of ownership by architects registered and licensed to practice in the Commonwealth of Pennsylvania or be bound in a joint venture relationship which includes a firm with Commonwealth registered and licensed architects having some degree of ownership in one of the firms.

The work to be performed under this contract is described in the contract documents for the project as identified in the notice to contractors. Copies may be obtained upon application to the SYSTEM or to the professional according to the procedures specified in the “notice to contractors.”

It is the responsibility of the bidder by careful personal examination of the site and contract documents to satisfy himself as to the nature and location of the work, as well as all environmental conditions that may effect performance of the work. Requests for interpretation of the work to be performed shall be submitted in writing to the SYSTEM.

All bids must be submitted in the specified format, properly signed, authenticated as to registered or not to do so in Pennsylvania and delivered within the time specified for bid opening to be considered as conforming to the bid specifications. If bid bonds are specified, the bond must be submitted with the proposal as specified. Bids may be withdrawn up to the time of bid opening provided a written request is received prior to the time specified for bid opening.

All proposals will be submitted in sealed envelopes at the location and prior to the time stated in the notice to contractors. Each proposal shall be marked plainly on the outside with the contract number, bid opening date and time. Proposal shall remain sealed until publicly opened, read and tabulated. Where clearly demonstrated, bids may be rejected for error upon satisfactory demonstration of the error. The SYSTEM reserves the right to reject any or all bids or parts thereof for any reason.

On request, or if specifically required by the terms of the proposal, bidders shall file an experience questionnaire and financial statement with the SYSTEM. The questionnaire and statement shall be certified to be true and correct by an affidavit sworn to or affirmed before a notary public, or other officer empowered to administer oaths or affirmations. Falsification of any information as requested may result in rejection of bid, forfeiture of bid bond, and/or cancellation of the contract award.

The foregoing will guide the SYSTEM in determining the responsibility of the bidder, but additional information may be requested by the SYSTEM whenever in its judgement such information is necessary to determine the responsibility of the bidder.

In the event the bidder fails, refuses or neglects to submit any required information within the time stated in any request therefore, or fails to qualify as a responsible bidder, his proposal guaranty may be forfeited to the use of the SYSTEM, NOT as a penalty, but as liquidated damages.

The proposals of any bidder or bidders who engage in collusive bidding shall be rejected. Any bidder who submits more than one proposal in such manner as to make it appear that the proposals submitted are on a competitive basis from different parties shall be considered a collusive bidder. The SYSTEM may reject the bid proposals of any collusive bidder upon bid openings of future projects. Nothing in this section shall prevent a bidder from superseding a bid proposal by a subsequent proposal delivered prior to bid opening which expressly revokes the previous bid.

The SYSTEM may, solely at its own discretion award the contract to the lowest conforming responsible bidder within thirty (30) days from the date of bid opening, and shall have the right to waive technical defects if in the best interest of the SYSTEM. Time extension may be made by written consent of the lowest responsible bidder. Award will be made by letter mailed to the contractor and shall be effective the date of the mailing. If the lowest bidder withdraws his bid or refuses award of contract, the SYSTEM shall have the right to award the contract to the next lowest responsible bidder, and to pay the difference in bids from the lowest bidders bid bond, or to reject all bids and re-bid the contract. The SYSTEM reserves the right to reject all bids at its sole discretion for any reason.

The individual, firm, joint venture, or corporation to whom or to which the contract has been awarded, must, within ten (10) days (or as amended by the SYSTEM) after receipt of the documents, sign and return them to the SYSTEM. Failure of the contractor awarded the contract to execute the required documents (contract, bond, etc.) within the time specified shall result in payment to the SYSTEM the proposal guarantee (if specified), or the difference between the contract amount and the next lowest responsible bidder, if the SYSTEM chooses to enter into a contract with that proposer.

When bid bonds are specified, the contractor's surety company shall successfully demonstrate in writing prior to award that the amount of bond or reinsurance or other security has been obtained in conformance with Section 661 of the Pennsylvania Insurance Company law of 1921, 40 P.S. 832.

Any person, co-partnership, association, joint venture, 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 act of December 20, 1967, P.L. 869, Act No. 385 (8 P.S. 191 et seq.). It is hereby agreed that no third party rights arise against the SYSTEM for any reason under this section and contractor hereby agrees to so inform all subcontractors in writing.

**STATE SYSTEM OF HIGHER EDUCATION
COMMONWEALTH OF PENNSYLVANIA**

**STANDARD FORM OF AGREEMENT
FOR DONATED DESIGN/BUILD PROJECTS**

RIDER D

This rider shall contain any special or supplemental conditions that should be incorporated in the project bidding documents, or that must be incorporated in the design.

**STATE SYSTEM OF HIGHER EDUCATION
COMMONWEALTH OF PENNSYLVANIA**

**STANDARD FORM OF AGREEMENT
FOR DONATED DESIGN/BUILD PROJECTS**

RIDER E

WARRANTIES

GENERAL PROJECT WARRANTY

The DESIGN/BUILDER agrees to warrant to the SYSTEM and the Construction Manager that all professional design services are performed with reasonableness and due care such that the plans and specifications furnished are adequate and sufficient to accomplish the purposes of the project, and that materials and equipment furnished under this contract shall be new, unless otherwise specified, and that all work shall be of good quality, free from faults and defects and in conformance with the contract documents. All work not so conforming to these standards may be considered defective or nonconforming. If required by the professional, construction manager, or the SYSTEM, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment. The Contractor warrants that such installation, construction, materials, or equipment will perform to the standard of the item originally specified. The Contractor explicitly warrants the merchantability, and the fitness for use and quality of all approved substituted items. The Contractor shall assign, deliver, and transfer to the professional all warranties for review, who then will transfer same to the SYSTEM.

The warranty shall not be diminished or invalidated by review or approval of the plans and specifications or inspection of the work by the SYSTEM or Construction Manager. The DESIGN/BUILDER further warrants that the firm has adequate insurance coverage for errors or omissions and that the provisions of this warranty do not exclude reasonable protection for the DESIGN/BUILDER or the SYSTEM under the coverage provision afforded by the policy.

The warranty provided in this section shall be in addition to and not in limitation of any other warranty or remedy provided by law or by the contract documents.

ADDITIONAL SPECIFIC WARRANTIES

*In this section the design professional should prepare the warranty provisions of the roof, building systems, and equipment included in the project, such as those provided by the manufacture of the materials incorporated in the work.

LATENT DEFECTS

The DESIGN/BUILDER agrees to correct at his expense all items of work which are found to be defective subsequent to installation or after completion of the work which can or could not reasonable be determined to be in compliance with the plans and specification at the time of installation. Inspection of the work at the time of installation by the Systems does not relieve the contractor from the responsibility to correct such deficiencies or defects.

**STATE SYSTEM OF HIGHER EDUCATION
COMMONWEALTH OF PENNSYLVANIA**

**STANDARD FORM OF AGREEMENT
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RIDER F

BONDS

* Include all bonds specified in the contract in this section, in performance and payment bonds, maintenance and material bonds, etc.

CONTRACT BOND

KNOW ALL PERSONS BY THESE PRESENTS, That we the undersigned

as Principal and _____

(Surety Company)

(Address)

a corporation organized and existing under the laws of the State 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) _____ (100% of contract amount) _____

_____ Dollars (\$ _____),
for faithful performance of the contract as designated below;

(B) _____ (100% of contract amount) _____

_____ Dollars (\$ _____),
for payment for labor, material, equipment rental and public utility services as designated below; and

(C) _____ (10% of contract amount) _____

_____ 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 _____, _____.

WHEREAS, the above bounden Principal has entered into a contract with _____
University of the State System of Higher Education dated the _____ day of _____, _____,
for _____

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 conditions, including the plans and specifications created or included 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.

IN WITNESS WHEREOF, the said Principal and Surety have duly executed this Bond under seal the day and year above written.

WITNESS:

Principal-Individual (SEAL)

(CORPORATE SEAL)

Surety

By: _____
Attorney-in-Fact

WITNESS:

Principal-Partnership

(SEAL)

(SEAL)

(SEAL)

(SEAL)

Surety

(CORPORATE SEAL)

By: _____
Attorney-in-Fact

(CORPORATE SEAL)

Principal-Corporation

Secretary or Treasurer

By: _____
President or Vice President

(CORPORATE SEAL)

Surety

By: _____
Attorney-in-Fact

RIDER G

DESIGN/BUILDER INTEGRITY PROVISIONS

1. Definitions
 - a. Confidential information means information that is not public knowledge, or available to the public or request, disclosure of which would give an unfair, unethical, or illegal advantage to another desiring to contract with the State System of Higher Education.
 - b. Consent means written permission signed by a duly authorized officer or employee of the State System of Higher Education, provided that where the material facts have been disclosed, in writing, by pre-qualification, bid, proposal, or contractual terms, the State System of Higher Education shall be deemed to have consented by virtue of execution of this agreement.
 - c. DESIGN/BUILDER means the individual or entity that has entered into this agreement with the State System of Higher Education, including directors, officers, partners, managers, key employees, and owners of more than a 5% interest.
 - 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 the like, or holding any position of management.
 - e. Gratuity means any payment of more than nominal monetary value in the form of cash, travel, entertainment, gifts, meals, lodging, loans, subscriptions, advances, deposits of money, services, employment, or contracts of any kind.
2. The DESIGN/BUILDER shall maintain the highest standards of integrity in the performance of this agreement and shall take no action in violation of state or federal laws, regulations, or other requirements that govern contracting with the State System of Higher Education.
3. The contract shall not disclose to others any confidential information gained by virtue of this agreement.
4. The DESIGN/BUILDER shall not, in connection with this or any other agreement with the State System of Higher Education, directly or indirectly, offer, confer, or agree to confer any pecuniary benefit on anyone as consideration for the decision, opinion, recommendations, vote, other exercise of discretion, or violation of a known legal duty by any officer or employee of the State System of Higher Education.
5. The DESIGN/BUILDER shall not, in connection with this or any other agreement with the State System of Higher Education directly or indirectly, offer, give, or agree or promise to give to anyone any gratuity for the benefit of or at the direction or request of any officer or employee of the State System of Higher Education.

6. Except with the consent of the State System of Higher Education, neither the DESIGN/BUILDER nor anyone in privity with him shall accept or agree to accept from, or give or agree to give to, any person, any gratuity from any person in connection with the performance of work under this agreement except as provided therein.
7. Except with the consent of the State System of Higher Education, the DESIGN/BUILDER shall not have a financial interest in any other contractor, subcontractor, or supplier providing services, labor, or material on this project.
8. The DESIGN/BUILDER, upon being informed that any violation of these provisions has occurred or may occur, shall immediately notify the State System of Higher Education in writing.
9. The DESIGN/BUILDER, by execution of this agreement and by the submission of any bills or invoices for payment pursuant thereto, certifies and represents that he has not violated any of these provisions.
10. The DESIGN/BUILDER shall, upon request of the Office of the Chancellor of the State System of Higher Education, reasonably and promptly make available to that office and its representatives, for inspection and copying, all business and financial records of the Professional of, concerning, and referring to this agreement with the State System of Higher Education or which are otherwise relevant to the enforcement of these provisions.
11. For violation of any of the above provisions, the State System of Higher Education may terminate this and any other agreement with the DESIGN/BUILDER, claim liquidated damages in an amount equal to the value of anything received in breach of these provisions, claim damages for all expenses incurred in obtaining another DESIGN/BUILDER to complete performance hereunder, and debar and suspend the DESIGN/BUILDER from doing business with the State System of Higher Education. These rights and remedies are cumulative, and the use or nonuse of any one shall not preclude the use of all or any other. These rights and remedies are in addition to those the State System of Higher Education may have under law, statute, regulation, or otherwise.