
ARPA SUPPLEMENTARY CONDITIONS

SECTION 00 7300

PART 1 – GENERAL

1.01 Description

A. Owner: These supplements are necessary because the Owner is an agency, or political subdivision, of the State of Mississippi and occupies a different position from that of the usual Owner.

B. Document: The following supplements modify, change, delete from, or add to the **General Conditions of the Contract**, AIA Document A201, Seventeenth Edition, 2017. When any Article of the **General Conditions** is modified, or deleted, by these *Supplementary Conditions*, the unaltered provisions of that Article, Paragraph, Subparagraph, or Clause will remain in effect.

Article 1

GENERAL PROVISIONS

1.1 Basic Definitions

1.1.1 The Contract Documents

Change this subparagraph to read as follows:

The Contract Documents are enumerated in the Agreement between the Owner and Contractor (hereinafter the Agreement) and consist of the Agreement, Conditions of the Contract (General, Supplementary and Special Conditions), Drawings, Specifications and Addenda issued prior to the execution of the Contract, other documents listed in the Agreement, and Modifications issued after execution of the Contract. A Modification is (1) a written amendment to the Contract signed by both parties, (2) a Change Order, (3) a Construction Change Directive, or (4) a written order for minor changes in the Work issued by the Prime Professional. The Contract Documents also include the advertisement or invitation for bids or proposals, Instructions to Bidders, and the Contractor's bid or proposal.

1.1.2 The Contract

Change each instance of the word “*Architect*” to “*Prime Professional*” and each instance of the word “*Architect's*” to “*Prime Professional's*”.

1.1.7 Instruments of Service

Change the word “*Architect*” to “*Prime Professional*” and change the word “*Architect's*” to “*Prime Professional's*”.

1.1.8 Initial Decision Maker

Change this Subparagraph to read as follows:

The Initial Decision Maker is the person identified as the Professional in Paragraph 5.3.1 of the Standard Form of Agreement Between the Owner and the Contractor and will render initial decisions on Claims in accordance with Section 15.2.

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- 1.1.9 Add a new Subparagraph as follows:

Commissioning Authority Professional

A professional independent of the Prime Professional retained by the owner who manages a quality-focused process for enhancing the delivery of the project. The process focuses upon verifying and documenting that the facility and all of its systems are planned, designed, installed, tested, operated, and maintained to meet the Owner's project requirements.

- 1.2.1 Change this Subparagraph to read as follows:

The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor and unless otherwise provided in the Contract Documents, this shall include all labor, materials, equipment, tools, machinery, water, heat, utilities, transportation, and other facilities and services, whether temporary or permanent and whether or not incorporated in the Work. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all; performance by the Contractor shall be required only to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the indicated results. In case of any direct conflict among the Contract Documents, the specifications shall take precedence over the drawings, supplemental or special conditions shall take precedence over more general conditions or requirements, details shall take precedence over plans, and larger scale drawings shall take precedence over smaller scale drawings.

1.5 Ownership and Use of Drawings, Specifications, and Other Instruments of Service

- 1.5.1 Change each instance of the word "Architect" to "Prime Professional" and each instance of the word "Architect's" to "Prime Professional's" and add a new sentence at the end of this Subparagraph:

This Paragraph in no way supersedes the Owner's document rights set forth in the separate Agreement Between the Owner and the Professional.

- 1.5.3 Add a new Subparagraph as follows:

Transparency

In accordance with the Mississippi Accountability and Transparency Act of 2008, §27-104-151, et seq., of the Mississippi Code of 1972, as Amended, the American Accountability and Transparency Act of 2009 (P.L. 111-5), where applicable, and §31-7-13 of the Mississippi Code of 1972, as amended, where applicable, a fully executed copy of this agreement shall be posted to the State of Mississippi's accountability website at: <https://www.transparency.mississippi.gov>

1.6 Notice

- 1.6.1 Change this Subparagraph to read as follows:

Except as otherwise provided in Section 1.6.2, where the Contract Documents require one party to notify or give notice to the other party, such notice shall be provided in writing to the designated representative of the party to whom the notice is address and shall be deemed to have been duly served if delivered in person, by mail, by courier, or by electronic transmission if transmitted to the government or business issued e-mail address of the respective party.

1.7 Digital Data Use and Transmission

Delete the last sentence of this Paragraph.

1.8 **Building Information Models Use and Reliance**

Change this Paragraph to read as follows:

Any use of, or reliance on, all or a portion of a building information model without agreement to protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set forth in a written documents shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

Article 2
OWNER

2.1 **General**

2.1.1 Change this Subparagraph to read as follows:

The Owner, as used in these Documents, refers to the Bureau of Building, Grounds and Real Property Management, acting for and on behalf of the State of Mississippi and for the benefit of the Institution, Agency, or Department for which the Work under this Contract is being performed. The Owner is the entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Owner's representative, who shall have express authority to bind the Owner with respect to all matters requiring the Owner's approval or authorization, is the individual who signed the Agreement Between the Owner and the Contractor, his successor in the case of that individual's retirement or termination, or his direct supervisor in the case of that individual's absence. Except as otherwise provided in Subparagraph 4.2.1, the Prime Professional does not have such authority. The term "Owner" means the Owner or the Owner's authorized representative.

2.1.2 Delete this Subparagraph in its entirety.

2.2 **Evidence of the Owner's Financial Arrangements**

2.2.1 Delete this Subparagraph in its entirety.

2.2.2 Delete this Subparagraph in its entirety.

2.3.1 Delete this Subparagraph in its entirety.

2.2.3 Delete this Subparagraph in its entirety.

2.2.4 Delete this Subparagraph in its entirety.

2.3 **Information and Services Required of the Owner**

2.3.2 Add the word "or Engineer" following each instance of the word "Architect" and add the words "or engineering respectively" following each instance of the word "architecture".

2.3.3 Add the word "or Engineer" following each instance of the word "Architect".

2.3.6 Change this Subparagraph to read as follows:

Unless otherwise provided in the Contract Documents, the Contractor will be furnished, free of charge, such copies of Drawings and Project Manuals as are reasonably necessary, but in no instance to exceed twenty-five (25) copies, for the execution of the Work.

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2.4 **Owner’s Right to Stop the Work**

Change this Subparagraph to read as follows:

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents as required by Section 12.2 or fails to carry out Work in accordance with the Contract Documents, the Owner may issue, or direct the Prime Professional to issue, a written order to the Contractor to stop the Work or any portion thereof, until the cause for such order has been eliminated; however, the right of the Owner to stop the Work shall not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity, except to the extent required by Section 6.1.3. The rights and remedies under this Subparagraph are in addition to and do not in any respect limit any other rights of the Owner, including the right to terminate in accordance with Article 14.

2.5 **Owner’s Right to Carry Out the Work**

Change this Paragraph read as follows:

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a ten-day period after receipt of notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, correct such default or neglect. The Prime Professional may, pursuant to Section 9.5.1, withhold or nullify a Certificate for Payment in whole or in part, to the extent reasonably necessary to reimburse the Owner for the reasonable cost of correcting such deficiencies, including Owner’s expenses and compensation for the Prime Professional’s additional services made necessary by such default, neglect, or failure. If current and future payments are not sufficient to cover such amounts, the Contractor shall pay the difference to the Owner. If the Contractor disagrees with the actions of the Owner or the Prime Professional, or the amounts claimed as costs to the Owner, the Contractor may file a Claim pursuant to Article 15.

Article 3
CONTRACTOR

3.1 **General**

3.1.3 Change the word “Architect” to “Prime Professional” and change the word “Architect’s” to “Prime Professional’s”.

3.2 **Review of Contract Documents and Field Conditions by Contractor**

3.2.2 Change each instance of the word “Architect” to “Prime Professional”.

3.2.3 Change each instance of the word “Architect” to “Prime Professional”.

3.2.4 Change the word “Architect” to “Prime Professional”.

3.3 **Supervision and Construction Procedures**

3.3.1 Change each instance of the word “Architect” to “Prime Professional”.

3.4 **Labor and Materials**

3.4.1 Add a new sentence to the end of this Subparagraph:

Where the Contract Sum is ten million dollars (\$10,000,000.00) or greater, the Contractor shall furnish a written Project Workforce Continuity Plan on or before the date of the Notice to Proceed that affirms that the Contractor has ready access to a sufficient supply of appropriately skilled and unskilled labor to ensure high-quality construction and enumerates steps that the Contractor will take to ensure an adequate workforce is available throughout the life of the project.

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3.4.2 Change each instance of the word “*Architect*” to “*Prime Professional*” and add the words “*where such substitution results in a modification of the Contract Sum or Contract Time*” to the end of this sentence.

3.4.4 Add a new Subparagraph as follows:

Employee Status Verification System *If applicable, the Contractor represents and warrants that it will ensure its compliance with the Mississippi Employment Protection Act, Section 71-11-1, et seq. of the Mississippi Code Annotated (Supp 2008), and will register and participate in the status verification system for all newly hired employees. The term “employee” as used herein means any person that is hired to perform work within the State of Mississippi. As used herein, “status verification system” means the Illegal Immigration Reform and Immigration Responsibility Act of 1996 that is operated by the United States Department of Homeland Security, also known as the E-Verify Program, or any other successor electronic verification system replacing the E-Verify Program. The Contractor agrees to maintain records of such compliance and, upon request of the State and approval of the Social Security Administration or Department of Homeland Security, where required, to provide a copy of each such verification to the State. The Contractor further represents and warrants that any person assigned to perform services hereunder meets the employment eligibility requirements of all immigration laws of the State of Mississippi. The Contractor understands and agrees that any breach of these warranties may subject the Contractor to the following: (a) termination of this Agreement and ineligibility for any state or public contract in Mississippi for up to three (3) years, with notice of such cancellation/termination being made public, or (b) the loss of any license, permit, certification or other document granted to the Contractor by an agency, department or governmental entity for the right to do business in Mississippi for up to one (1) year, or (c) both. In the event of such cancellation/termination, the Contractor would also be liable for any additional costs incurred by the State due to the contract cancellation or loss of license or permit.*

3.4.5 Add a new Subparagraph as follows:

In providing labor for the proper execution and completion of the Work, the Contractor shall comply with the provisions of Section 31-5-19 of the Mississippi Code of 1972, Annotated.

3.4.6 Add a new Subparagraph as follows:

In providing materials for the proper execution and completion of the Work, the Contractor shall comply with the provisions of Section 31-5-23 of the Mississippi Code of 1972, Annotated.

3.5 **Warranty**

3.5.1 Change each instance of the word “*Architect*” to “*Prime Professional*”.

3.7 **Permits, Fees, Notices and Compliance with Laws**

3.7.1 Change this Subparagraph to read as follows:

Unless otherwise provided in the Contract Documents, the Contractor shall secure and pay for any applicable permits, fees, licenses, and inspections by government agencies necessary for the proper execution and completion of the Work that are customarily secured after execution of the Contract and legally required at the time bids are received or negotiations concluded.

3.7.3 Delete the words “*knowing it to be*” from this Subparagraph.

3.7.4 Change each instance of the word “*Architect*” to “*Prime Professional*” and change the word “*Architect’s*” to “*Prime Professional’s*”.

3.7.5 Change the word “*Architect*” to “*Prime Professional*”.

3.9 Superintendent

3.9.2 Change this Subparagraph to read as follows:

The Contractor, as soon as practicable after award of the Contract, and prior to commencement of any on-site Work, shall notify the Owner and Prime Professional of the name, qualifications and references of the proposed superintendent and any assistant superintendents where provided for in the Contract Documents. Within 14 days of receipt of the information, the Prime Professional shall notify the Contractor stating whether the Owner or the Prime Professional (1) has reasonable objection to the proposed superintendent based upon information provided or other requirements provided for in the Contract Documents or (2) requires additional information or time for review. Failure of the Prime Professional to respond within the 14-day period shall constitute notice of no reasonable objection.

3.9.3 Change the word “Architect” to “Prime Professional”.

3.10 Contractor’s Construction and Submittal Schedules

3.10.1 Change this Subparagraph to read as follows:

The Contractor, promptly after being awarded the Contract, and no later than fifteen days after the date established in the Notice to Proceed, shall submit for the Owner’s and Prime Professional’s information a Contractor’s construction schedule for the Work. The schedule shall contain detail appropriate for the Project, including (1) the date of commencement of the Work, interim schedule milestone dates, and the date of Substantial Completion; (2) an apportionment of the Work by construction activity; and (3) the time required for completion of each portion of the Work. The schedule shall provide for the orderly progression of the Work to completion and shall not exceed the time limits current under the Contract Documents. Submission of a schedule that indicates or expresses an intent to complete Work prior to the time limits established by the Contract Documents shall not make the Owner liable to the Contractor for any failure to achieve early completion or obligate the Owner to take or prevent any actions to facilitate the Contractor’s completion prior to the expiration of the Contract Time. The schedule shall be revised monthly or at more frequent intervals as required by the conditions of the Work and Project.

3.10.2 Change each instance of the word “Architect’s” to “Prime Professional’s” and change the word “Architect” to “Prime Professional”.

3.10.3 Change the word “Architect” to “Prime Professional”.

3.11 Documents and Samples at the Site

Change each instance of the word “Architect” to “Prime Professional”.

3.12 Shop Drawings, Product Data and Samples

3.12.4 Change each instance of the word “Architect” to “Prime Professional”.

3.12.5 Change each instance of the word “Architect” to “Prime Professional”.

3.12.6 Change the word “Architect” to “Prime Professional”.

3.12.7 Change the word “Architect” to “Prime Professional”.

3.12.8 Change each instance of the word “Architect’s” to “Prime Professional’s” and change the word “Architect” to “Prime Professional”.

3.12.9 Change the word “*Architect*” to “*Prime Professional*” and change the word “*Architect’s*” to “*Prime Professional’s*”.

3.12.10.1 Change each instance of the word “*Architect*” to “*Prime Professional*”.

3.12.10.2 Change each instance of the word “*Architect*” to “*Prime Professional*”.

3.15 **Cleaning Up**

3.15.2 Change this Subparagraph to read as follows:

If the Contractor fails to clean up as provided in the Contract Documents, the Owner may do so and the cost thereof shall be assessed to the Contractor.

3.16 **Access to Work**

Change this Paragraph to read as follows:

The Contractor shall provide the Owner, Prime Professional, Commissioning Authority Professional, Separate Contractors and their authorized representatives with access to the Work in preparation and progress wherever located. This shall include the provision of lifts, ladders, scaffolding and/or equivalent for access to elevated work.

3.17 **Royalties, Patents and Copyrights**

Change each instance of the word “*Architect*” to “*Prime Professional*”.

3.18 **Indemnification**

3.18.1 Change this Subparagraph to read as follows:

To the fullest extent allowed by law, Contractor shall indemnify, defend, save and hold harmless, protect, and exonerate the Owner, Prime Professional, Prime Professional’s consultants, Commissioning Authority Professional, Commissioning Authority Professional’s consultants, as well as the State of Mississippi, its Commissioners, Board Members, officers, employees, agents, and representatives, from and against all claims, demands, liabilities, suits, actions, damages, losses, and costs of every kind and nature whatsoever, including, without limitation, court costs, investigative fees and expenses, and attorneys’ fees, arising out of or caused by Contractor’s and/or its partners, principals, agents, employees, and/or subcontractors in the performance of or failure to perform this Agreement. In the State’s sole discretion, Contractor may be allowed to control the defense of any such claim, suit, etc. In the event Contractor defends said claim, suit, etc., Contractor shall use legal counsel acceptable to the State; Contractor shall be solely liable for all reasonable costs and/or expenses associated with such defense and the State shall be entitled to participate in said defense. Contractor shall not settle any claim, suit, etc., without the State’s concurrence, which the State shall not unreasonably withhold.

Article 4 ARCHITECT

Change the title of this article from “*ARCHITECT*” to “*PRIME PROFESSIONAL*”.

4.1 **General**

4.1.1 Change this Subparagraph to read as follows:

The Prime Professional is the person identified as the Professional in the Agreement Between the Owner and the Contractor and retained by the Owner pursuant to Section 2.3.2.

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4.1.2 Change each instance of the word “*Architect*” to “*Prime Professional*”.

4.2 **Administration of the Contract**

4.2.1 Change the first line of this Subparagraph to read as follows:

The Prime Professional will provide administration of the Contract as described in the Contract Documents, and will be the Owner’s representative during construction until the end of the period for correction of Work as described in Section 12.2.

4.2.2 Change each instance of the word “*Architect*” to “*Prime Professional*”.

4.2.3 Change each instance of the word “*Architect*” to “*Prime Professional*”.

4.2.4 Change each instance of the word “*Architect*” to “*Prime Professional*” and each instance of the word “*Architect’s*” to “*Prime Professional’s*”.

4.2.5 Change the word “*Architect’s*” to “*Prime Professional’s*” and change the word “*Architect*” to “*Prime Professional*”.

4.2.6 Change each instance of the word “*Architect*” to “*Prime Professional*”.

4.2.7 Change each instance of the word “*Architect*” to “*Prime Professional*” and each instance of the word “*Architect’s*” to “*Prime Professional’s*”.

4.2.8 Change each instance of the word “*Architect*” to “*Prime Professional*”.

4.2.9 Change the word “*Architect*” to “*Prime Professional*”.

4.2.10 Change each instance of the word “*Architect*” to “*Prime Professional*” and the word “*Architect’s*” to “*Prime Professional’s*”.

4.2.11 Change the word “*Architect*” to “*Prime Professional*” and the word “*Architect’s*” to “*Prime Professional’s*”.

4.2.12 Change each instance of the word “*Architect*” to “*Prime Professional*”.

4.2.13 Change the word “*Architect’s*” to “*Prime Professional’s*”.

4.2.14 Change each instance of the word “*Architect*” to “*Prime Professional*”.

Article 5
SUBCONTRACTORS

5.2 **Award of Subcontracts and Other Contracts for Portions of the Work**

5.2.1 Change this Subparagraph to read as follows:

Unless otherwise stated in the Contract Documents or the bidding requirements, the Contractor, prior to award of the Contract by the Owner, shall furnish in writing to the Owner through the Prime Professional, the names, classifications, and COR #'s of Sub-Contractors over Fifty Thousand Dollars (\$50,000.00) (as well as entities who are to furnish materials or equipment fabricated to a special design) proposed for each principal portion of the Work. Such list shall also include any Mechanical, Plumbing, or Electrical Sub-Contractor as listed on Proposal Form regardless of amount. Within 7 days of receipt of the information, the Prime Professional shall notify the Contractor whether the Owner or the Prime Professional (1) has reasonable objection to any such proposed Sub-Contractor or entity based upon information provided or other

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requirements provided for in the Contract Documents or (2) requires additional information or time for review. Failure of the Prime Professional to respond within the 7-day period shall constitute notice of no reasonable objection. Where a Project involves a Mississippi Landmark or a building and/or site potentially eligible for such designation, the Contractor shall also furnish documentation that all Sub-Contractors, regardless of Sub-Contract amount, have at least the minimum number of years of successful experience specified by the Prime Professional in work on previous projects involving State or National Landmarks of similar type, scale and complexity and that all key personnel to be utilized to perform the Work are experienced craftsmen with not less than five (5) years of experience.

5.2.2 Change this Subparagraph to read as follows:

The Contractor shall not contract with a proposed Sub-Contractor or entity to whom the Owner or Prime Professional has made reasonable and timely objection. Other than the Mechanical, Plumbing, or Electrical Sub-Contractors as listed on the Proposal Form, the Contractor shall not be required to contract with anyone to whom the Contractor has made reasonable objection. Only where the listed Mechanical, Plumbing, or Electrical Sub-Contractor has (1) closed their business (2) entered into bankruptcy or (3) refuses to enter into a contract with the Contractor will substitution of such Sub-Contractor be permitted prior to the execution of the Agreement Between the Owner and Contractor. Substitution for refusal to enter into contract shall not be permitted if the reason for such refusal is due to unilateral reduction by Contractor of such Sub-Contractor's bid price.

5.2.3 Change this Subparagraph to read as follows:

If the Owner or Prime Professional has reasonable objection to a Sub-Contractor or entity proposed by the Contractor, other than the Mechanical, Plumbing, or Electrical Sub-Contractors as listed on the Proposal Form, the Contractor shall propose another to whom the Owner or Prime Professional has no reasonable objection. Neither the Contract Sum nor Contract Time may be increased or decreased due to any change in Sub-Contractor or entity. Failure of Contractor to identify Sub-Contractors or entities to whom the Owner and Prime Professional have no reasonable objections within 10 working days of initial submission shall result in the bid or proposal being deemed non-responsible at which time the Owner may elect to award to the next lowest responsive, responsible bidder or resolicit the project.

5.2.4 Change this Subparagraph to read as follows:

Following the execution of the Agreement Between the Owner and Contractor, the Contractor shall not substitute a Sub-Contractor or entity for one previously selected if the Owner or Prime Professional makes reasonable objection to such substitution. In no case shall substitution of Mechanical, Plumbing or Electrical Sub-Contractors be permitted except where such Sub-Contractor has (1) closed their business (2) entered into bankruptcy (3) becomes in arrears or (4) becomes involved in an ongoing dispute with the Contractor related to the Sub-Contractor's execution, workmanship, or timely performance of their portion of the Work.

Add new Subparagraphs as follows for ARPA:

5.3 CONTRACTING WITH SMALL AND MINORITY BUSINESSES, WOMEN'S BUSINESS ENTERPRISES, AND LABOR SURPLUS AREA FIRMS

5.3.1 The Contractor shall take all affirmative steps necessary to assure that minority business, women's business enterprises, and labor surplus area firms are used when possible, including those steps listed in 2 C.F.R. § 200.321(b).

5.4 DOMESTIC PREFERENCES FOR PROCUREMENTS

5.4.1 To the extent applicable, appropriate, and consistent with law, the Contractor certifies that, during the term of this Contract, it will comply with applicable requirements of 2 C.F.R. § 200.322 and will include these requirements in all agreements with sub-contractors utilized in the work of this agreement.

5.5 PROCUREMENT OF RECOVERED MATERIALS

5.5.1 The Contractor certifies that, during the term of this Contract, it will comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act in accordance with the guidelines and requirements of 2 C.F.R. § 200.323 and will include these requirements in all agreements with sub-contractors utilized in the work of this agreement.

5.6 ADDITIONAL FEDERAL REQUIREMENTS

5.6.1 This Contract shall be governed by the federal requirements contained in 2 C.F.R. Pt. 200, App. II, where applicable, or not otherwise addressed herein and will include these requirements in all agreements with sub-contractors utilized in the work of this agreement.

Article 6 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS

6.2.2 Change each instance of the word “*Architect*” to “*Prime Professional*”.

6.3 Change the word “*Architect*” to “*Prime Professional*”.

Article 7 CHANGES IN THE WORK

7.2 Change Orders

7.2.1 Change each instance of the word “*Architect*” to “*Prime Professional*”.

7.2.2 Add a new Subparagraph as follows:

The maximum mark-up included in a Change Order for profit and overhead is limited to twenty percent (20%) of the total of the actual cost for materials, labor and subcontracts. Profit and overhead include: all taxes, fees, permits, insurance, bond, job superintendent, job and home office expense. All Sub-Contractors and Sub-Sub-Contractors shall acquiesce to the same requirements when participating in a Change Order.

7.3 Construction Change Directives

7.3.4 Change the word “*Architect*” to “*Prime Professional*”.

7.3.4.1 Change the word “*Architect*” to “*Prime Professional*”.

7.3.6 Change this Subparagraph to read as follows:

Upon receipt of a Construction Change Directive signed by the Prime Professional and the Owner, the Contractor shall promptly proceed with the change in the Work and advise the Prime Professional of the Contractor’s agreement or disagreement with the method, if any, provided in the Construction Change Directive for determining the proposed adjustment in the Contract Sum or Contract Time.

7.3.7 Change this Subparagraph to read as follows:

A Construction Change Directive signed by the Contractor indicates the Contractor’s agreement therewith, including adjustment in Contract Sum and Contract Time or the method for determining them. Such agreement shall become effective once signed by the Prime Professional and the Owner and will subsequently be incorporated into a Change Order.

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7.3.8 Change the word “*Architect*” to “*Prime Professional*”.

7.3.9 Change this Subparagraph to read as follows:

Until such time that a Construction Change Directive is recorded as a Change Order, the Contractor may not request payment for Work completed under the Construction Change Directive in Applications for Payment.

7.3.10 Change each instance of the word “*Architect*” to “*Prime Professional*”.

7.4 Change each instance of the word “*Architect*” to “*Prime Professional*” and the word “*Architect’s*” to “*Prime Professional’s*”.

Article 8 **TIME**

8.1 Definitions

8.1.2 Change this Subparagraph to read as follows:

The date of commencement of the Work is the date established in the Notice to Proceed.

8.1.3 Change the word “*Architect*” to “*Prime Professional*”.

8.2 Progress and Completion

8.2.1 Change this Subparagraph to read as follows:

Time limits stated in the Contract Documents are of the essence of the Contract. By executing the Agreement, the Contractor confirms that the Contract Time is a reasonable period for performing the Work and acknowledges that such period includes time for all applicable submittals, selections, reviews, approvals, inspections, meetings, as well as discovery and investigation of any latent conditions.

8.2.2 Change this Subparagraph to read as follows:

The Contractor shall not knowingly commence the Work prior to the date established in the Notice to Proceed or the effective dates of bond and insurance required to be furnished by the Contractor.

8.3 Delays and Extensions of Time

8.3.1 Change this Subparagraph to read as follows:

If the Contractor is delayed at any time in the commencement or progress of the Work by (1) an act or neglect of the Owner or Prime Professional, of an employee of either, or of a Separate Contractor; (2) by labor disputes, pandemics, acts of terrorism, fire, unusual delay in deliveries, unavoidable casualties, adverse weather conditions in excess of any weather days otherwise provided for in the Contract Documents that are documented in accordance with Section 15.1.6.2, or other causes beyond the Contractor’s control; (3) by delay authorized by the Owner pending dispute resolution; or (4) by other causes that the Contractor asserts, and the Owner, in consultation with the Prime Professional determines justify delay, then the Contract Time shall be extended for such reasonable time as the Owner, in consultation with the Prime Professional, may determine. Such determination shall take into consideration the critical path of the Work and will be reduced by any

Float in the Contractor's Construction Schedule that does not affect the overall completion of the Work. Except where such delay is due to suspension by the Owner in accordance with Article 14 or such delay has the effect of stopping all progress of the Work for 14 calendar days or more, the Contract Sum will not be increased for additional general overhead expenses; however, it may be increased for direct expenses directly related to the delay of specific portions of the Work so delayed. Any claim for loss or any delay occasioned by any Sub-Contractor or entity under contract with the Contractor, shall be settled between the Contractor and such other Sub-Contractor or entity.

Article 9
PAYMENTS AND COMPLETION

9.2 Schedule of Values

Change this Paragraph to read as follows:

Where the Contract is based on a stipulated sum, the Contractor shall submit a schedule of values to the Prime Professional, at least 10 working days before the first Application for Payment, a schedule of values allocating the entire Sum to the various portions of the Work. The schedule of values shall be prepared in the form, and supported by the data to substantiate its accuracy, required by the Prime Professional. This schedule, unless objected to by the Prime Professional or Owner, shall be used as a basis for reviewing the Contractor's Applications for Payment. Any subsequent changes to the schedule of values shall be submitted to the Prime Professional and supported by such data to substantiate its accuracy as the Prime Professional may require, and unless object to by the Prime Professional or Owner, shall be used as a basis for reviewing the Contractor's subsequent Applications for Payment.

9.3 Applications for Payment

9.3.1 Add a new sentence to the end of this Subparagraph:

The form of Application for Payment will be AIA Document G702, Application and Certification for Payment, supported by AIA Document G703, Continuation Sheet, or a computer generated form containing similar data.

9.3.1.1 Delete this Subparagraph in its entirety.

9.3.1.3 Add a new Clause to Subparagraph 9.3.1 as follows:

On any contract as described herein, of which the total amount is Two Hundred Fifty Thousand Dollars (\$250,000.00) or greater, or on any contract with a subcontractor, regardless of amount, five percent (5%) shall be retained until the Work is at least fifty percent (50%) complete, on schedule and satisfactory in the Prime Professional's opinion, at which time fifty percent (50%) of the retainage held to date shall be returned, subject to consent of surety, to the prime contractor for distribution to the appropriate subcontractors and suppliers; provided, however, that future retainage shall be withheld at the rate of two and one-half percent (2 1/2%). When submitting request for reduction in retainage, the Contractor will include, with the application, a Consent of Surety to Reduction which is AIA Form G707A, and a Power of Attorney. (Code 31-5-33)

9.3.1.4 Add a new Clause to Subparagraph 9.3.1 as follows:

The Contractor must submit each month with this Application for Payment a separate letter stating that he is requesting an extension of time or that he had no need for an extension for that period of time. No payment on a monthly application will be considered due and payable until the letter is received. Complete justification such as weather reports or other pertinent correspondence must be included for each day's request for extension. A Contractor's letter, or statement, will not be considered as adequate justification. The receipt of this request and data by the Owner will not be considered as approval of the Owner or Prime Professional in any way.

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9.3.2.1 Add a new Clause to Subparagraph 9.3.2 as follows:

Payment in an amount not greater than the documented cost paid by the Contractor for ~~on~~ materials stored at some location other than the Project site, may be approved by the Prime Professional and the Owner after the Contractor has submitted the following items:

- .1 An acceptable Lease Agreement between the General Contractor and the owner of the land, or building, where the materials are stored covering the specific area where the materials are located.*
- .2 Consent of Surety, or other acceptable Bond, to cover the materials stored off-site.*
- .3 All Perils Insurance coverage for the full value of the materials stored off-site.*
- .4 A Bill of Sale from the Manufacturer to the General Contractor for the stored materials.*
- .5 A complete list and inventory of materials manufactured, stored and delivered to the storage site and of materials removed from the storage site and delivered to the job site.*
- .6 A review by the Prime Professional of the materials stored off-site prior to release of payment. Where the storage location is greater than 50 miles of the building site, the Contractor shall pay or reimburse reasonable travel costs of the Prime Professional and/or his Consultants for such review.*
- .7 Guarantee no storage costs, additional delivery fees, or subsequent costs to the Owner.*

9.4 Applications for Payment

9.4.1 Change each instance of the word “*Architect*” to “*Prime Professional*” and the word “*Architect’s*” to “*Prime Professional’s*”.

9.4.2 Change each instance of the word “*Architect*” to “*Prime Professional*” and each instance of the word “*Architect’s*” to “*Prime Professional’s*”.

9.5 Decisions to Withhold Certification

9.5.1 Change each instance of the word “*Architect*” to “*Prime Professional*” and the word “*Architect’s*” to “*Prime Professional’s*”.

9.5.1.7 Delete the word “*repeated*” from this Clause.

9.5.2 Change the word “*Architect*” to “*Prime Professional*”.

9.5.3 Delete this Subparagraph in its entirety.

9.5.4 Change each instance of the word “*Architect*” to “*Prime Professional*”.

9.6 Progress Payments

9.6.1 Change each instance of the word “*Architect*” to “*Prime Professional*”.

9.6.2 Change the first line of this Subparagraph to read as follows:

The Contractor shall pay each Sub-Contractor and material supplier, in accordance with Section 31-5-27 of the Mississippi Code 1972, Annotated, in proportion to the percentage of work completed by each less applicable retainage.

9.6.3 Change each instance of the word “*Architect*” to “*Prime Professional*”.

9.6.4 Change the word “*Architect*” to “*Prime Professional*”.

9.6.9 Add a new Subparagraph as follows:

The amount retained by the Contractor from each payment to each Sub-Contractor and material supplier shall not exceed the percentage retained by the Owner from the Contractor.

9.6.9.1 Add a new Clause to Subparagraph 9.6.9 as follows:

The Contractors shall submit monthly certification, in accordance with Section 31-5-25 of the Mississippi Code 1972, Annotated, on Owner's "Affidavit Certifying Payment to All Subcontractors" form, to the Prime Professional indicating payments to subcontractors on prior payment request.

9.6.10 Add a new Subparagraph as follows:

The Owner agrees to make payment in accordance with Mississippi Law on "Time for full and final payment to contractors; exemptions; monthly submission by contractors of proof of payment to subcontractors", Section 31-5-25 of the Mississippi Code of 1972, Annotated, which generally provides for payment of undisputed amounts within forty-five (45) days of when they are due and payable. Payments by state agencies using the statewide electronic payment and remittance vehicle shall be made and remittance information provided electronically as directed by the State. These payments shall be deposited into the bank account of the Contractor's choice. Contractor understands and agrees that the State is exempt from the payment of taxes. All payments shall be in United States currency. No payment, including final payment, shall be construed as acceptance of defective or incomplete work, and the Contractor shall remain responsible and liable for full performance.

9.7 **Failure of Payment**

Change this Paragraph to read as follows:

The Contractor and the Owner shall be subject to the remedies as prescribed in Section 31-5-25 of the Mississippi Code 1972, Annotated.

9.8 **Substantial Completion**

9.8.1 Add the following sentence to the end this Subparagraph to read as follows:

In order to be considered occupiable or utilizable by the Owner, all life safety systems must be operable and tested and the commissioning requirements for the Work or designated portion thereof must be complete except for thermographs of electrical systems, trend log monitoring, seasonal testing, near-warranty end activities and verification of training sessions.

9.8.3 Change this Subparagraph to read as follows:

Upon receipt of the Contractor's list, the Prime Professional will promptly visit the site to determine whether the Work or designated portion thereof is substantially complete. If, in the opinion of the Prime Professional, the Work or designated portion thereof is not substantially complete, the Prime Professional will not proceed with inspection and the Prime Professional will report the reasons for such determination to the Contractor. In such case, the Contractor shall then submit a revised list and request for inspection when these reasons have been resolved.

9.8.4 Change this Subparagraph to read as follows:

When the Work or designated portion thereof is substantially complete and affirmed by the Owner, the Prime Professional will prepare a Certificate of Substantial Completion that shall establish the date of Substantial Completion, shall establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance, and shall fix the time within which the Contractor shall finish all items on the punch list accompanying the Certificate. Unless otherwise provided in the Contract Documents, warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

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9.9 **Partial Occupancy or Use**

9.9.1 Change each instance of the word “*Architect*” to “*Prime Professional*”.

9.9.2 Change the word “*Architect*” to “*Prime Professional*”.

9.10 **Final Completion and Final Payment**

9.10.1 Change this Subparagraph and add the associated Clauses to read as follows:

When, in the opinion of the Contractor, the Work is ready for final inspection and acceptance by the Owner, the Contractor shall make such notice to the Prime Professional.

- 1. Upon receipt of the Contractor’s notice that the Work is ready for final inspection and acceptance by the Owner, the Prime Professional will promptly visit the site and assess the state of the Work to determine if it is ready for final inspection by the Owner. If, in the Prime Professional’s judgment, the Work is not ready for final inspection, the Prime Professional will report the reasons for such determination to the Contractor. In such case, the Contractor shall then submit a revised request for final inspection when these reasons have been resolved.*
- 2. Once the Prime determines the Work is ready for final inspection, the Prime Professional will call for final inspection of the with the Owner for the purpose of determining whether the Work is acceptable under the Contract Documents.*
- 3. The final inspection shall be conducted in the presence of the Owner and a list of defects or discrepancies, if any, will be compiled into a final punch list furnished to all parties.*
- 4. Once corrections of all final punch list items have been confirmed by the Prime Professional, the Prime Professional will provide a letter recommending final acceptance of the Work to the Owner.*

9.10.2 Change this Subparagraph to read as follows:

Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Prime Professional (1) final application for payment, (2) consent of surety to final payment, (3) power of attorney, (4) Contractor’s affidavit of release of liens, (5) Contractor’s affidavit of payment of debts and claims, (6) Contractor’s guarantee of work, (7) Project Record Documents and (8) certificates, warranties, guarantees, bonds or documents as called for in the individual sections of the Project Manual. The final payment will be reduced by the value of any amounts assessed to the Contractor per Section 2.5 Owner’s Right to Carry Out the Work, Section 6.3 Owners Right to Clean Up, or Section 9.11 Liquidated Damages where such amounts have not been reconciled by a Change Order per Section 7.2 prior to final acceptance unless such amounts have been resolved via separate agreement(s) between the Owner and the Contractor.

9.11 **Liquidated Damages**

9.11.1 Add a new Paragraph as follows:

Time being of the essence and a matter of material consideration thereof, a reasonable estimate in advance is established to cover losses incurred by the Owner if the project is not substantially complete on the date set forth in the Contract Documents. The Contractor and his Surety will be liable for and will be assessed by the Owner the sums stipulated in Paragraph 2.2 of the Standard Form of Agreement Between the Owner and the Contractor as fixed and agreed as liquidated damages for each calendar day of delay until the work is substantially complete unless circumstances dictate otherwise in the discretion of the Owner. The Contractor and his Surety acknowledge that losses to the Owner caused by the delay of the Contractor are not readily ascertainable and that the amount estimated per day and established as liquidated damages is reasonable and not a penalty.

Article 10
PROTECTION OF PERSONS AND PROPERTY

10.1 Add a new sentence to the end of this Paragraph:

Where the Contract Sum is ten million dollars (\$10,000,000.00) or greater, such precautions and programs shall include a requirement that all workers of the Contractor, Subcontractor and Sub-subcontractors have not less than OSHA 10 certification and that all supervisors and workers with safety roles have not less than OSHA 30 certification.

10.2 **Safety of Persons and Property**

10.2.5 Change this Subparagraph to read as follows:

The Contractor shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Contract Documents) to property referred to in Clauses 10.2.1.2 and 10.2.1.3 caused in whole or in part by the Contractor, a Sub-Contractor, a Sub-Sub-Contractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible for Clauses 10.2.1.2 and 10.2.1.3. The Contractor may make a Claim for the cost to remedy the damage or loss attributable to acts or omissions of the Owner or Prime Professional and not attributable to the fault or negligence of the Contractor. Where damage or loss is insured under property insurance required by the Contract Documents, the Contractor shall promptly report, file and facilitate the claim process so as to minimize any impacts on the timely completion of the Work. The foregoing obligations of the Contractor are in addition to the Contractor's obligations under Paragraph 3.18.

10.3 **HAZARDOUS MATERIALS**

10.3.2 Delete this Subparagraph in its entirety.

10.3.3 Delete this Subparagraph in its entirety.

10.3.4 Delete this Subparagraph in its entirety.

10.3.5 Delete this Subparagraph in its entirety.

10.3.6 Delete this Subparagraph in its entirety.

Article 11
INSURANCE AND BONDS

11.1 **Contractor's Insurance and Bonds**

11.1.1 Add a sentence to the end of this Subparagraph as follows:

Insurance shall be purchased to protect the Contractor from claims set forth below for not less than the limits of liability specified below or required by law, whichever coverage is greater, which may arise out of or result from the Contractor's operations and completed operations under the Contract and for which the Contractor may be legally liable, whether such operations be by the Contractor or by a Sub-Contractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable:

Add new Clauses as follows:

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.1 GENERAL LIABILITY:	
<i>Commercial General Liability (Including XCU)</i>	
<i>General Aggregate.....</i>	<i>\$ 1,000,000.00 Aggregate</i>
<i>Products & Completed Operations.....</i>	<i>\$ 1,000,000.00 Aggregate</i>
<i>Personal & Advertising Injury.....</i>	<i>\$ 500,000.00 Per Occurrence</i>
<i>Bodily Injury & Property Damage.....</i>	<i>\$ 1,000,000.00 Per Occurrence</i>
<i>Fire Damage Liability.....</i>	<i>\$ 50,000.00 Per Occurrence</i>
<i>Medical Expense.....</i>	<i>\$ 5,000.00 Per Person</i>
.2 OWNERS & CONTRACTORS PROTECTIVE LIABILITY:	
<i>Bodily Injury & Property Damage.....</i>	<i>\$ 1,000,000.00 Aggregate</i>
<i>Bodily Injury & Property Damage.....</i>	<i>\$ 500,000.00 Per Occurrence</i>
.3 AUTOMOBILE LIABILITY:	
<i>(Owned, Non-owned & Hired Vehicles)</i>	
<i>Contractor Insurance Option Number 1:</i>	
<i>Bodily Injury & Property Damage.....</i>	<i>\$ 500,000.00 Per Occurrence</i>
<i>(Combined Single Limit)</i>	
<i>Contractor Insurance Option Number 2:</i>	
<i>Bodily Injury.....</i>	<i>\$ 250,000.00 Per Person</i>
<i>Bodily Injury.....</i>	<i>\$ 500,000.00 Per Accident</i>
<i>Property Damage.....</i>	<i>\$ 100,000.00 Per Occurrence</i>
.4 EXCESS LIABILITY:	
<i>(Umbrella on projects over \$500,000)</i>	
<i>Bodily Injury & Property Damage.....</i>	<i>\$ 1,000,000.00 Aggregate</i>
<i>(Combined Single Limit)</i>	
.5 WORKERS' COMPENSATION:	
<i>(As required by Statute)</i>	
EMPLOYERS' LIABILITY:	
<i>Accident.....</i>	<i>\$ 100,000.00 Per Occurrence</i>
<i>Disease.....</i>	<i>\$ 500,000.00 Policy Limit</i>
<i>Disease.....</i>	<i>\$ 100,000.00 Per Employee</i>
.6 PROPERTY INSURANCE:	
<i>Builder's Risk.....</i>	<i>\$ Equal to Value of Work</i>
<i>or</i>	
<i>Installation Floater.....</i>	<i>\$ Equal to Value of Work</i>

11.1.5 Add a new Subparagraph to read as follows:

Insurance shall be maintained without interruption from the date of commencement of the Work until the date of final payment unless otherwise noted on the Certificate of Substantial Completion.

11.1.6 Add a new Subparagraph to read as follows:

Certificates of insurance acceptable to the Owner shall be filed with the Owner prior to final execution of the Contract and thereafter upon renewal or replacement of each required policy of insurance. These certificates and the insurance policies required by this Section 11.1 shall contain a provision that coverages afforded under the policies will not be canceled or allowed to expire until at least 30 days' prior written notice has been given to the Owner. Information concerning reduction of coverage on account of revised limits or claims paid under the General Aggregate, or both, shall be furnished by the Contractor with reasonable promptness.

11.1.7 Add a new Subparagraph as follows:

If the coverages are provided on a claims-made basis, the policy date or retroactive date shall predate the Contract; the termination date, or the policy, or applicable extended reporting period shall be no earlier than the termination date of coverages required to be maintained after final payment.

11.1.8 Add a new Subparagraph as follows:

If any insurance requires deductibles, the Contractor shall pay costs not covered because of such deductibles.

11.1.9 Add a new Subparagraph as follows:

The Owner as fiduciary shall have power to adjust and settle a loss with Insurers unless one of the parties in interest shall object in writing within five (5) days after occurrence of loss.

11.2 **Owner's Insurance**

Delete this Paragraph in its entirety and substitute the following:

The Contractor shall purchase and maintain such insurance as will protect the Owner from his contingent liability to others for damages because of bodily injury, including death, and property damage, which may arise from operations under this Contract and other liability for damages which the Contractor is required to insure under any provision of this Contract. Certificate of this insurance will be filed with the Owner and will be the same limits set forth in 11.1.5.

11.2.1 Delete this Subparagraph in its entirety.

11.2.2 Delete this Subparagraph in its entirety.

11.2.3 Delete this Subparagraph in its entirety.

11.3 **Waivers of Subrogation**

11.3.1 Delete this Subparagraph in its entirety.

11.3.2 Delete this Subparagraph in its entirety.

11.5 **Adjustment and Settlement of Insured Loss**

11.5.1 Delete this Subparagraph in its entirety.

11.5.2 Delete this Subparagraph in its entirety.

Article 12
UNCOVERING AND CORRECTION OF WORK

12.1 Uncovering of Work

- 12.1.1 Change each instance of the word “*Architect’s*” to “*Prime Professional’s*”, change the word “*Architect*” to “*Prime Professional*”, and add the words “*or Contract Sum*” at the end of this sentence.
- 12.1.2 Change each instance of the word “*Architect*” to “*Prime Professional*”.

12.2 Correction of Work

- 12.2.1 Change the word “*Architect*” to “*Prime Professional*” and the word “*Architect’s*” to “*Prime Professional’s*”.
- 12.2.2.1 Change the word “*Architect*” to “*Prime Professional*”.

Article 13
MISCELLANEOUS PROVISIONS

13.1 Governing Law

Change this Paragraph to read as follows:

The Contract shall be governed by the laws of the State of Mississippi.

13.3 Rights and Remedies

- 13.3.2 Change the word “*Architect*” to “*Prime Professional*”.

13.4 Tests and Inspections

- 13.4.1 Change each instance of the word “*Architect*” to “*Prime Professional and Commissioning Authority Professional*”.
- 13.4.2 Change the first two instances of the word “*Architect*” to “*Prime Professional*” and the second two instances of the word “*Architect*” to “*Prime Professional and Commissioning Authority Professional*”.
- 13.4.3 Change the word “*Architect*” to “*Prime Professional’s and Commissioning Authority Professional’s*”.
- 13.4.5 Change each instance of the word “*Architect*” to “*Prime Professional and/or the Commissioning Authority Professional*”.
- 13.5 Delete this Paragraph in its entirety.
- 13.6 Add a new Subparagraph as follows for ARPA:

Byrd Anti-Lobbying Certification

Upon construction award, the Contractor will complete and submit the attached Exhibit “B” being Certification Regarding Lobbying to the Owner within seven (7) days of award as a prerequisite to entering into the Contract and as evidence of compliance regarding the use of any Federal appropriated funds for the project stipulated in this Contract and any other stipulations in said Certification Regarding Lobbying; thereby also including said language in sub-contracts, agreements, etc.

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Article 14
TERMINATION OR SUSPENSION OF THE CONTRACT

14.1 Termination by the Contractor

14.1.1.3 Change the word “*Architect*” to “*Prime Professional*”.

14.1.1.4 Delete this Clause in its entirety.

14.1.3 Change the word “*Architect*” to “*Prime Professional*”.

14.1.4 Change the word “*Architect*” to “*Prime Professional*”.

14.2 Termination by the Owner for Cause

14.2.1.1 Delete the word “*repeatedly*” from this Clause.

14.2.1.3 Delete the word “*repeatedly*” from this Clause.

14.2.1.3 Delete the word “or” from this Clause.

14.2.1.4 Change the period to a semi-colon and add the word “*or*” to this Clause.

14.2.1.5 Add a new Clause as follows:

fails to achieve Substantial Completion of the Project within the time limits established by the Contract Documents.

14.2.2 Change the word “*Architect*” to “*Prime Professional*” and change the words “*certification by*” to “*advice of*”.

14.2.4 Change the word “*Architect’s*” to “*Prime Professional’s*”.

Article 15
CLAIMS AND DISPUTES

15.1 Claims

15.1.2 Change this Subparagraph to read as follows:

Commencement of Statutory Limitation Period

The Owner and Contractor shall commence all claims and causes of action within the time period specified by applicable state law.

15.1.3.1 Change each instance of the word “*Architect*” to “*Prime Professional*”.

15.1.4 Change this Subparagraph to read as follows:

Where both the Owner and the Contractor concur with the Initial Decision Maker’s decision, the Contract Sum and Contract Time shall be adjusted in accordance with Article 7 and the Prime Professional will issue Certificates for Payment in accordance with the decision of the Initial Decision Maker.

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15.1.7 Delete this Subparagraph in its entirety.

15.2 **Initial Decision**

15.2.1 Change this Subparagraph to read as follows:

Claims, excluding those where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2 or arising under Sections 10.3 and 10.4, shall be referred to the Initial Decision Maker for initial decision. The Prime Professional will serve as the Initial Decision Maker. An initial decision by the Initial Decision Maker shall be required as a condition precedent to arbitration or litigation of all Claims between the Contractor and Owner arising prior to the date final payment is due, unless 30 days have passed after the Claim has been referred to the Initial Decision Maker with no decision having been rendered by the Initial Decision Maker. The Initial Decision Maker will not decide disputes between the Contractor and persons or entities other than the Owner.

15.2.2 Change the words “approve the Claim” to “recommend approval of the Claim to the Owner”.

15.2.4 Change the words “reject or approve the Claim” to “recommend rejection or approval of the Claim to the Owner”.

15.2.5 Change the Subparagraph to read as follows:

The Initial Decision Maker will render an initial decision to recommend approving or rejecting the Claim, or indicating that the Initial Decision Maker is unable to resolve the Claim. This initial decision recommendation shall (1) be in writing; (2) state the reasons therefor; and (3) notify the parties and the Prime Professional, if the Prime Professional is not serving as the Initial Decision Maker, of any recommended change in the Contract Sum or Contract Time or both. Where the Owner concurs with the recommendation it is binding on the parties but subject to arbitration or litigation.

15.2.6 Delete this Subparagraph in its entirety.

15.2..6.1 Delete this Clause in its entirety.

15.3 **Mediation**

15.3.1 Delete this Subparagraph in its entirety.

15.3.2 Delete this Subparagraph in its entirety.

15.3.3 Delete this Subparagraph in its entirety.

15.3.4 Delete this Subparagraph in its entirety.

15.4 **Arbitration**

15.4.1 Delete this Subparagraph in its entirety.

15.4.1.1 Delete this Clause in its entirety.

15.4.2 Delete this Subparagraph in its entirety.

15.4.3 Delete this Subparagraph in its entirety.

15.4.4 Delete this Subparagraph in its entirety.

15.4.4.1 Delete this Clause in its entirety.

15.4.4.2 Delete this Clause in its entirety.

15.4.4.3 Delete this Clause in its entirety.

15.5 Add a new Paragraph as follows:

Arbitration Procedures for the Department of Finance and Administration's Bureau of Building, Grounds and Real Property Management

All matters of dispute arising out of any agreement with the Department of Finance and Administration for planning, design, engineering, construction, erection, repair, or alteration of any building, structure, fixture, road, highway, utility or any part thereof, or any agreement with the Department of Finance and Administration for architectural, engineering, surveying, planning, and related professional services which provides for mediation or arbitration, shall comply with the following course for resolution. No arbitration hearing shall be granted on any claim in excess of One Hundred Thousand Dollars (\$100,000.00).

15.5.1 Add a new Subparagraph and Clauses as follows:

Conditions Precedent to Arbitration

- .1 The aggrieved party must first notify opposing party in writing in detail of the matter(s) in dispute the amount involved and the remedy sought. Such writing shall include copies of any documents, writings, plans, or other matter pertinent to the resolution of the dispute. The Director of the Bureau of Building and a principal of the opposing party shall be the proper parties for such notice and shall be active parties in any subsequent dispute resolution.*
- .2 If the dispute cannot be satisfactorily resolved, within thirty (30) days of the complaint being rejected in writing by either party, notice by certified mail shall be given to the Deputy Director of the Department of Finance and Administration. A copy of the notice shall be sent by certified mail to the opposing party. Such notice shall be in writing setting forth in detail the matter(s) in dispute, the amount involved, the remedy sought and state that informal resolution between the parties cannot be reached. Such writing shall include copies of any documents, writings, plans, or other matter pertinent to the resolution of the dispute. Opposing party shall have the opportunity to set forth in writing a rebuttal with pertinent documents attached. At the sole discretion of the Deputy Director, oral testimony may be had on the matter.*

15.5.2 Add a new Subparagraph as follows:

Requests for Arbitration

Within thirty (30) days of a claim being rejected in writing by the Deputy Director of the Department of Finance and Administration, either party may request arbitration. Notices for requests for arbitration shall be made in writing to the Executive Director of the Department of Finance and Administration, P.O. Box 267, Jackson, MS 39201. Such notice shall set forth in detail the matter(s) in dispute, the amount involved, and the remedy sought. A copy of the request shall be mailed to the opposite party. The party requesting arbitration must deposit the sum of two hundred (\$200.00) with its request as a deposit against costs incurred by the arbitrators. Each party will be notified in writing in any manner provided by law of certified mail not less than twenty (20) days before the hearing of the date, time and place for the hearing. Appearance at the hearing waives a party's right to notice.

15.5.3 Add a new Subparagraph as follows:

Selection of Arbitrators

Upon request for arbitration, a panel of three (3) arbitrators shall be chosen. One (1) member shall be appointed by the Executive Director of the Department of Finance and Administration. One (1) member shall be appointed by the executive director of a professional or trade association which represents interests similar to that of the non-state party. The third member shall be appointed by the first two.

15.5.4 Add a new Subparagraph as follows:

Hearings

*All hearings shall be open to the public. All hearings will be held in Jackson, Mississippi, unless another location is mutually agreed to by the parties. The hearings shall be conducted as prescribed by **Mississippi Code 1972, Annotated**, Sections 11-15-113, 11-15-115, and 11-15-117. A full and complete record of all proceedings shall be taken by a certified court reporter. The scheduling and cost of retaining the court reporter shall be the responsibility of the party requesting arbitration. The costs of transcription of the record shall be the responsibility of the party requesting such transcript. No arbitration hearing shall be held without a certified court reporter. Deliberations of the arbitrators shall not be part of the record.*

15.5.5 Add a new Subparagraph as follows:

Awards

Awards shall be made in writing and signed by the arbitrators joining in the award. A copy of the award shall be delivered to the parties by certified mail.

15.5.6 Add a new Subparagraph as follows:

Fees and Expenses

Reasonable fees and expenses, excluding counsel fees, incurred in the conduct of the arbitration shall be at the discretion of the Arbitrator except each party shall bear its own attorney's fees and costs of expert witnesses.

15.5.7 Add a new Subparagraph as follows:

Modifications, Confirmations, and Appeals

*All modifications, confirmations and appeals shall be as prescribed by **Mississippi Code 1972, Annotated**, Section 11-15-123 et seq. All awards shall be reduced to judgment and satisfied in the same manner other judgments against the State are satisfied.*

15.5.8 Add a new Subparagraph as follows:

Secretary for the Arbitrators

All notices, requests, or other correspondence intended for the arbitrators shall be sent to Executive Director, Department of Finance and Administration, P.O. Box 267, Jackson, MS 39201.

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