

General Conditions of Contract for Construction
Supplementary General Conditions to the Owner-Trade Contractor Agreement

Article I. Definitions

Section 1.01 Definitions

- (a) Owner. The Owner is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The term "Owner" means the Owner or the Owner's authorized representative.
- (b) Architect/Construction Manager. The Architect/Construction Manager (A/CM) will provide general administration of the Contract and will be the Owner's representative during construction and until final payment. For the purposes of this Agreement, the A/CM shall be Faulk Architects + Construction Managers.
 - (i) The A/CM has the authority to act on behalf of the Owner to the extent provided for in the Contract Documents and will advise and consult with the Owner. The Owner's written instructions to the Trade Contractor will generally be issued through the A/CM.
 - (ii) The A/CM shall interpret the contract requirements, and have the authority to reject work performed by the Trade Contractor which in the opinion of the Owner or the A/CM does not meet the requirements of the Agreement and to order such work removed and replaced.
- (c) Trade Contractor. The Trade Contractor is the person or entity identified as such in the Agreement and is referred to throughout the Agreement as if singular in number. The term "Trade Contractor" means the Trade Contractor or the Trade Contractor's authorized representative.
 - (i) The Trade Contractor is directly responsible to the A/CM and Owner and their designated representatives (i.e., Project Manager and/or Superintendent). The A/CM is the only authorized representative of the Owner. All instructions, correspondence, change order requests, change orders, submittals and applications for payment shall be received and processed by the A/CM.
- (d) Project. The Project is the total construction of which the Work performed under the Contract may be the whole or a part and which may include construction by the Owner or by separate trade contractors.
- (e) Work. The term "Work" means the construction and services required by the Contract Documents, whether completed or partially completed, and includes all materials, equipment and services necessary to produce the completed construction.
- (f) Drawings. The Drawings are the graphic and pictorial portions of the Contract Documents, wherever located and whenever issued, showing the design, location and dimensions of the Work, generally including plans, elevations, sections, details, schedules and diagrams.
- (g) Specifications. The Specifications are that portion of the Contract Documents consisting of the written requirements for materials, equipment, construction systems, standards and workmanship for the Work, and performance of related services.
- (h) Change Order. A Change Order is a written order to the Trade Contractor signed by the Owner and the A/CM issued after execution of the Contract, authorizing change in the Work or an adjustment in the Contract Sum or the Contract Time. The Contract Sum and the Contract Time may be changed only by Change Order. A Change Order signed by the Contractor indicates Contractor's agreement therewith, including the adjustment in the Contract Sum or the Contract Time.
 - (i) The Owner, without invalidating the Contract, may order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions, the Contract Sum and the Contract Time being adjusted accordingly. All such changes in the Work shall be authorized by Change Order, and shall be performed under the applicable conditions of the Contract Documents.

Article II. Construction Management

Section 2.01 The Architect/Construction Manager

- (a) The Trade Contractor shall be directly responsible to *Faulk Architects + Construction Managers*, acting as the Architect/Construction Manager (A/CM) and the Owner, and their designated representatives (i.e., Project Manager and/or Superintendent).
- (b) The A/CM is the only authorized representative of the Owner. All instructions, correspondence, change order requests, change orders, submittals and applications for payment shall be received and processed by the A/CM.
- (c) The A/CM, with concurrence of the Owner, will have authority to order minor changes in the Work not involving an adjustment in the Contract Sum or an extension of the Contract Time. Such changes shall be effected by written order, which the Contractor shall carry out promptly.

Section 2.02 Superintendent

- (a) Unless otherwise indicated in the Agreement, the Owner shall employ a superintendent and necessary assistants who shall be in attendance at the Project site during performance of the Work. The superintendent shall represent the Owner and A/CM and communications given by the superintendent shall be as binding as if given by the Owner or A/CM.

Article III. Time of Commencement and Completion

Section 3.01 Project Schedule

- (a) The Work will be started and completed as indicated in the Agreement and the Trade Contractor is required to complete the Work as specified, together with any extensions thereof. By executing the Agreement, the Trade Contractor confirms that the specified Time is a reasonable period for performing the Work.

Section 3.02 Delays and Extension of Time

- (a) The Owner and/or A/CM may extend the Time by Change Order; to accommodate delays due to weather, change orders, or delays determined to be beyond the direct control of the Trade Contractor.
- (b) Claims for extension of time by the Trade Contractor must be made in writing within ten (10) calendar days after the occurrence of the delay. Claim must be supported by sufficient written evidence to justify the claim. Delinquent claims will only be considered at the Owner's and/or A/CM discretion.
- (c) The Trade Contractor shall have no claim for compensation or damages for delays or hindrances to the Work; by any act or omission of the Owner and shall be fully compensated for all delays solely by an extension of time.
- (d) If the Trade Contractor fails to commence within (2) two calendar days from the "START DATE" or complete the work within (2) calendar days of the "FINISH DATE", the Trade Contractor will be subject to Liquidated damages and/or may be replaced at the Owner and A/CM's discretion.
- (e) Liquidated damages also apply to Work Progress and Execution. The Owner may assess liquidated damages and/or may replace the Trade Contractor and/or supplement labor, at the Owner and A/CM's discretion.

Article IV. Trade Contractor Provisions

Section 4.01 Temporary Facilities And Services

- (a) The Owner shall furnish and make available at no cost to the Trade Contractor, the following temporary facilities and services during period of scheduled work: Portable Toilet, Temporary Electricity & Water and Dumpster.
- (b) The Owner and A/CM are not responsible for providing security of any equipment or tools left by the Trade Contractor on site.

Section 4.02 Review of Contract Documents and Field Conditions By Trade Contractor

- (a) The Owner makes no representations as to the accuracy or completeness of the site information furnished to the Trade Contractor by Owner or A/CM and does not expressly or impliedly warrant same and is not responsible for any interpretations or conclusions reached by the Trade Contractor with respect thereto. It is Trade Contractor's sole responsibility to verify to its own satisfaction all site

information, including but not restricted to topographical data, borings, subsurface information, utilities, and easements.

- (b) The Trade Contractor is responsible for having visited the site and ascertained pertinent local conditions such as location, accessibility, and character of the site or building, the character and extent of existing work within and adjacent to the site, and any other work being performed thereon at the time of the submission of his proposal. Any failure to do so will not relieve him from responsibility for successfully performing the work without additional expense to the Owner.
- (c) The Trade Contractor shall take field measurements and verify field conditions and shall carefully compare such field measurements and conditions and other information known to the Trade Contractor with the Contract Documents before commencing activities. Errors, inconsistencies or omissions discovered shall be reported to the A/CM at once.
- (d) If, in the performance of the Contract, subsurface, latent, or concealed conditions at the site are found to be materially different from the information included in the bid documents, or if unknown conditions of an unusual nature are disclosed differing materially from the conditions usually inherent in work of the character shown and specified, the A/CM shall be notified in writing of such conditions before they are disturbed. The A/CM, with the approval of the Owner, will promptly make such changes in the Drawings and Specifications as he deems necessary to conform to the different conditions, and any increase or decrease in the Work, or in the time within which the Work is to be completed, resulting from such changes will be adjusted by Change Order subject to the prior approval of the Owner.
- (e) It is recognized by the parties hereto and agreed by them that the Specifications and Drawings may or may not be complete or free from errors, omissions and imperfections or require changes or additions in order for the Work to be completed to the satisfaction of Owner and that, accordingly, it is the express intention of the parties notwithstanding any other provisions in this Contract, that any errors, omissions or imperfections in such Specifications and Drawings, or any changes or additions to same or to the work ordered by Owner and any resulting delays in the work or increases in Trade Contractor's costs and expenses shall not constitute or give rise to any claim, demand or cause of action of any nature whatsoever in favor of Trade Contractor, whether for breach of Contract, quantum meruit or otherwise; provided, however, that Owner shall be liable to Trade Contractor for the sum stated to be due Trade Contractor in any Change Order approved and signed by both parties, it being agreed hereby that such sum, together with any extension of time contained in said Change Order shall constitute full compensation to Trade Contractor for all costs, expenses and damages to Trade Contractor whether direct, consequential or otherwise in any way an incident to, arising out of or resulting directly or indirectly from the work performed by Trade Contractor under such Change Order.
- (f) Continuously after execution of the Contract, the Trade Contractor shall carefully study and compare the Contract Documents and shall at once report to the Owner-A/CM any error, inconsistency or omission he may discover, including any requirements which may be contrary to any law, ordinance, rule, regulation or order of any public authority bearing on the performance of the Work. By submitting its proposal or bid for the Contract and the Work under it, the Trade Contractor agrees that the Contract Documents appear accurate, consistent, and complete insofar as can reasonably be determined. If the Trade Contractor has reported in writing an error, inconsistency or omission, has promptly stopped the affected work until otherwise instructed, and has otherwise followed the instructions of the Owner-A/CM, the Trade Contractor shall not be liable to the Owner or the A/CM for any damage resulting from any such errors, inconsistencies or omissions in the Contract Documents. The Trade Contractor shall perform no portion of the Work at any time without Contract Documents and, where required,

approved Shop Drawings, Product Data or Samples for such portion of the Work.

Section 4.03 Working Conditions

- (a) The Trade Contractor shall be responsible for removing all debris and residue on a DAILY BASIS, produced by his work and staff's activities, to the dumpster provided by the Owner. The Trade Contractor shall keep the project site in a safe condition in accordance with OSHA regulations. All work and equipment shall be properly secured and stored. If the A/CM determines that the Trade Contractor is not complying with these requirements, a field order shall be given by the A/CM. If the order is not complied within 24 hours, the A/CM shall order cleanup and deduct the cost from the Trade Contractor's Lump Sum without recourse.

Section 4.04 Working Hours

- (a) Normal working hours: Monday – Friday 7:00 am to 6:00 pm, Saturday- 8:00 am – 5:00 pm & Sunday – no work unless authorized by the A/CM and Owner.

Section 4.05 Executions And Progress Of The Work

- (a) The Trade Contractor shall provide upon commencement of the work, the Name of the Trade Contractor's foreman or project representative. The designated person shall be the primary contact for direction and interaction with the Owner and A/CM. An alternate contact person shall also be named.
- (b) The Trade Contractor shall cooperate with the Owner-A/CM in scheduling and performing the work to avoid conflict or interference with the work of others.
- (c) The Owner's or A/CM equipment shall not be available for Trade Contractor's use.
- (d) The Trade Contractor shall not use the Owner, A/CM, Project Manager, or Superintendent for communication with his onsite staff.

Section 4.06 Supervision and Construction Procedures

- (a) The Trade Contractor shall supervise and direct the Work, using the Trade Contractor's best skill and attention. The Trade Contractor shall be solely responsible for and have control over construction means, methods, techniques, sequences and procedures and for coordinating all portions of the Work under the Contract, unless Contract Documents give other specific instructions concerning these matters.
- (b) The Trade Contractor shall be responsible to the Owner-A/CM for acts and omissions of the Trade Contractor's employees, Sub-Trade Contractors and their agents and employees, and other persons performing portions of the Work.
- (c) The Trade Contractor shall not be relieved of obligations to perform the Work in accordance with the Contract Documents either by activities or duties of the Architect in the Architect's administration of the Contract, or by tests, inspections or approvals required or performed by persons other than the Trade Contractor.
- (d) The Trade Contractor shall be responsible for inspection of portions of Work already performed under this Contract to determine that such portions are in proper condition to receive subsequent Work.
- (e) The Trade Contractor shall furnish all required information to ensure continuity between various sections of the Work and to avoid delay and obviate defects on any part of the whole Work.
- (f) The Trade Contractor shall verify all dimensions before ordering materials or equipment or before performing Work. If a discrepancy exists, the Trade Contractor shall take field measurements required for the proper fabrication or installation of the work. The Trade Contractor shall be responsible for dimensions related to any item of work and shall make any corrections necessary to make the work properly fit at no additional cost to Owner.
- (g) The Trade Contractor shall inform its personnel fully regarding any peculiarities and limitations of the space available for the installation of the material. It shall see that all equipment, such as valves, or other appliances necessary to be reached from time to time for operations and maintenance are made readily accessible.

- (h) The construction of the Work may develop conditions that render impracticable the location of equipment as shown or noted. In such cases, before installing its Work, the Trade Contractor shall call the condition to the attention of the Architect for resolution.
- (i) Dimensions shall be verified by the Trade Contractor's measurements of the buildings and the property, and the Trade Contractor shall be responsible for all of its Work fitting in place in a satisfactory and workmanlike manner.

Section 4.07 Labor and Materials

- (a) Unless otherwise provided in the Contract Documents, the Trade Contractor shall provide and pay for 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 Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work.
- (b) The Trade Contractor shall enforce strict discipline and good order among the Trade Contractor's employees and other persons carrying out the Contract. The Trade Contractor shall not permit employment of unfit persons or persons not skilled in tasks assigned to them.
- (c) The Trade Contractor shall be responsible for ensuring that the Work is completed in a skilled and workmanlike manner.

Section 4.08 Regulations, Laws, Permits, Fees, And Notices

- (a) The Trade Contractor shall issue notices and comply with all regulatory requirements, laws, ordinances and rules affecting the performance of the Work under this agreement.
- (b) The Trade Contractor shall pay for and secure all permits and Governing Authority fees, licenses and inspections for the proper and expeditious performance and completion of the Work not previously secured and paid for by the Owner and the A/CM.
- (c) The Trade Contractor shall be responsible for compliance with all Federal, State, Local Laws, Social Security and Workmen's Compensation acts insofar as applicable to the performance of this Agreement.

Section 4.09 Work By Others

- (a) Trade Contractor shall take precautions to protect the work of other trades from damage that might be caused by his operations. The Owner and the A/CM retain the authority to impose liquidated damages (\$350/day unless otherwise indicated in the Bid Invitation) for work that has been damaged if the Trade Contractor has not repaired or replaced the damaged work.

Section 4.10 Safety Precautions And Procedures

- (a) The Trade Contractor shall take all reasonable safety precautions during the performance of his work, shall comply with all applicable laws, ordinances, regulations and orders of public authority for the safety of persons and/or property.

Section 4.11 Changes In The Work

- (a) Trade Contractor shall make all claims in writing in the form of a Change Order, numbered sequentially and outlining specific reason for change, cost and time extension. All Change Orders shall be submitted to the A/CM. Owner shall review and approve Change Order work prior to commencement of the work. Night and weekend work shall not be compensated as an extra. Trade Contractor shall notify A/CM of intention to work at night or on weekends prior to commencing the work and receive approval.

Section 4.12 Trade & Subcontractor Claims and Remedies

- (a) All claims shall be made in writing within (5) days of the incident causing said claim or be null and void. Claims shall be in the form of a Request for Change Order, numbered sequentially, clearly stating reason for claim, cost and/or time extension.
- (b) The Owner shall pay approved claims within (60) sixty calendar days. If payment is not made within the specified period, then the Trade Contractor has the right to stop all work on the project upon 7-day written notice to the A/CM, until payment is received.

Section 4.13 Cleanup

- (a) Trade Contractor shall keep all areas of the work and adjacent lay down areas free from accumulation of debris

and material waste resulting from the operations of this agreement and dispose of in an appropriate container on a daily basis. Completion of the work will require a complete cleanup of the entire area by the Trade Contractor of work for other trades to commence their work.

Section 4.14 Warranty And As-Built Record Documents

- (a) Warranty for labor and materials shall be for a period of (1) one year from Final acceptance of the work except for manufacturer's extended warranties (i.e., air conditioning condensing unit-5 year). The Trade Contractor warrants to the Owner and the A/CM that all materials and equipment furnished and installed is new and free of defects. All work performed shall be of good quality, free from workmanship defects and installed in conformance with all applicable governing authority regulations and the requirements of the Contract Documents. Warranty shall be provided in writing. A written Service Maintenance Contract Proposal for equipment may be presented for Owner's approval at the end of the project.
- (b) Trade Contractor shall also present AS-BUILT drawings to the A/CM prior to final Application for Payment. A set of redlined drawings or clear & legible copy of documents used during construction will be acceptable as Record Drawings.

Article V. INSURANCE

Section 5.01 General Requirements

- (a) Prior to commencement of the Work, the Trade Contractor shall provide satisfactory proof of required insurance including Workmen's Compensation (or Joint agreement to Affirm Independent Relationship), Auto Liability and General Liability (1M/250K) with a certificate issued to the Owner and the A/CM.
- (b) The Owner shall provide Builder's Risk Insurance.
- (c) Trade Contractor and Trade Contractor's Insurers agree to waive rights of subrogation against the Owner and A/CM. The Owner and Trade Contractor shall waive all rights against each other and against the A/CM, and all other Trade Contractors for damages caused by fire or other perils to the extent covered by property insurance except such rights as they may have to the proceeds of such insurance.

Section 5.02 Workman's Compensation Insurance

- (a) Worker's Compensation must be carried at all times during the Work under the Agreement. Employer's Liability limits must be at least one million dollars (\$1,000,000.00) or if the excess is covered under general liability, the employer's liability limits must be at least five hundred thousand dollars (\$500,000.00). Waiver of subrogation endorsement is required waiving the insured's right of subrogation against the Owner and the A/CM.

Section 5.03 Auto Insurance

- (a) One hundred thousand dollars (\$100,000.00) combined single limit for bodily injury, two hundred thousand dollars (\$200,000.00) each occurrence, minimum of fifty thousand dollars (\$50,000.00) property damage liability each person/each occurrence for all hired and non-owned automobile coverage.

Section 5.04 Commercial General Liability

- (a) General Liability limits required are a minimum of five hundred thousand million dollars (\$500,000.00) per each occurrence, One million dollars (\$1,000,000.00) general aggregate, One million dollars (\$1,000,000.00) completed operations aggregate coverage must include an on "occurrence basis" for hazards of: Premises-Operations; Products and Completed Operations and Contractual Liability, which will respond to the insurance and indemnity obligations contained here for liability including completed operations for statutory.
- (b) Coverage must be written on an ISO Occurrence form or it's equivalent. Claims made or modified occurrence forms are not acceptable. Products/Completed Operations must be maintained in the limits specified for applicable Statute of Limitations where the work is performed.
- (c) Coverage must include an endorsement that applies the General Aggregate limit per project.

- (d) Owner and A/CM must be added to Trade Contractor's general liability policy by endorsement as "additional insured" per ISO form CG2010 11/85 or it's equivalent. The Trade Contractor shall further agree that coverage maintained by the Trade Contractor is primary and non-contributory to any coverage maintained by the Owner and A/CM.

Article VI. Miscellaneous Provisions

Section 6.01 Communications

- (a) Project communications and coordination shall be the sole responsibility of the A/CM (or his representative). The Owner shall not give directions to or instruct the Trade Contractors except through the A/CM. The A/CM shall promptly notify the Trade Contractor of all modifications to the Agreement, which affect the work. Written Field Orders hand delivered or faxed to the Trade Contractor or recorded in the Project Log or Minutes of the Meeting shall follow all verbal communications issued by the A/CM.
- (b) The Owner and the A/CM shall not issue orders to or instruct the Trade Contractor's employees or workmen, except for Trade Contractor's designated foreman or authorized representatives. An authorized representative of the Trade Contractor shall be available at all times during construction activities for coordination & communications. The Trade Contractor shall not use the A/CM's representative to communicate or coordinate with his own staff.

Section 6.02 Indemnification

- (a) Indemnification. The Trade Contractor agrees, to the fullest extent permitted by law, to indemnify and hold harmless the Owner, its officers, directors and employees, and the Architect/Construction Manager, its officers, directors, employees sub-Architect (collectively, Architect) against any damages, liabilities or costs, including reasonable attorney's fees and defense costs, arising from or allegedly arising from or in any way connected with the unauthorized use, reuse or modification of the Documents by the Owner or any person or entity that acquires or obtains the Documents from or through the Owner without written authorization of the Architect.

Section 6.03 Termination

- (a) If work is stopped for (30) thirty calendar days through no fault of the Trade Contractor because the Owner has not made payments thereon as provided in this agreement, then the Trade Contractor may, without prejudice to any remedy he may have, upon (15) calendar days written notice to the Owner and the A/CM, terminate this agreement and recover from the Owner payment for all work completed up to the day of termination approved by the A/CM.
- (b) If the Trade Contractor fails or neglects to carry out the Work referenced in the Agreement and outlined in all subsequent Field & Change Orders and in accordance with the Contract Documents or otherwise perform in accordance with this Agreement for a period of (24) work hours of written notification at the project site, the Owner and A/CM may, after (12) additional hours from initial written notice, without prejudice to any other remedy they may have, terminate the agreement in whole or in part, and complete the work by whatever means or method deemed expedient. If the unpaid balance of the Trade Contractor's Contract Sum exceeds the expense of the finished work, the balance of the Contract Sum will be paid to the Trade Contractor. If the inverse is true and the finished work cost exceeds the Trade Contractor's Contract Sum, the Owner will submit a written demand to the Trade Contractor, for payment of all sums owed for the subcontracted work plus any damages due to delay in the construction schedule equal to the liquidated damages stated in this Agreement.

Section 6.04 Rights and Remedies

- (a) Duties and obligations imposed by the Contract Documents and rights and remedies available thereunder shall be in addition to and not a limitation of duties, obligations, rights and remedies otherwise imposed or available by law.
- (b) No action or failure to act by the Owner or A/CM shall constitute a waiver of a right or duty afforded them under the Contract, nor shall such action or failure to act constitute

approval of or acquiescence in a breach thereunder, except as may be specifically agreed in writing.

Section 6.05 Correction of Work

- (a) The Trade Contractor shall promptly correct Work rejected by the Architect or failing to conform to the requirements of the Contract Documents, whether observed before or after Substantial Completion and whether or not fabricated, installed or completed. The Trade Contractor shall bear all costs of correcting such rejected Work, including additional testing and inspection, additional Owner legal expenses, and compensation for the Architect's additional services made necessary thereby.
- (b) If a portion of Work has been covered which the Architect has not specifically requested to observe prior to its being covered, the Architect may request to see such Work and it shall be uncovered by the Trade Contractor. If such Work is in accordance with the Contract Documents, costs of uncovering and replacement shall, by appropriate Change Order, be charged to the Owner. If such Work is not in accordance with the Contract Documents, the Trade Contractor shall pay such costs unless the condition was caused by the Owner or a separate Trade Contractor in which event the Owner shall be responsible for payment of such costs, or such costs shall be billed to the separate Trade Contractor causing the problem.
- (c) If the Owner prefers to accept Work, which is not in accordance with the requirements of the Contract Documents, the Owner may do so instead of requiring its removal and correction, in which case the Contract Sum will be reduced as appropriate and equitable. Such adjustment shall be effected whether or not final payment has been made.

Section 6.06 Tests and Inspections

- (a) Tests, inspections and approvals of portions of the Work required by the Contract Documents or by laws, ordinances, rules, regulations or orders of public authorities having jurisdiction shall be made at an appropriate time.

Section 6.07 Ownership Of Instruments Of Service And Architect's Seal

- (a) Rights and Ownership of Architect's Documents. The Architect's drawings, construction documents, and other Architect produced documents (Documents), including electronic files, are instruments developed as a professional service and therefore shall remain the property of the Architect. The Architect shall retain all common law, statutory and other reserved rights, including Copyright thereto. The Owner shall not reuse or make any modifications to the Documents without the prior written authorization of the Architect.

Section 6.08 Successors and Assigns

- (a) The Owner and Trade Contractor respectively bind themselves, their partners, successors, assigns and legal representatives to the other party hereto and to partners, successors, assigns and legal representatives of such other party in respect to covenants, agreements and obligations contained in the Contract Documents. Neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make such an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

Section 6.09 Written Notice

- (a) All notices, consents, waivers, or other communications that are required or permitted under the Agreement are sufficient if given in writing and delivered personally or by sending a copy thereof by first-class or express mail, postage prepaid; courier service, charges prepaid; or by facsimile transmission (followed by the original) to the address (or to the facsimile or telephone number) indicated in the Agreement (or to such other addressee or address as set forth in a notice given in the same manner).