**SUPPLEMENTARY CONDITIONS of the CONTRACT FOR CONSTRUCTION**

**NOTICE:**

The following supplements modify and are to be used in conjunction with the General Conditions of the Contract for Construction, AIA Document A201 - 2017. These Supplementary Conditions supersede and take precedence over those portions of the General Conditions for the Contract for Construction which are added to, deleted from, or otherwise modified herein. Unaltered portions of AIA A201 - 2017, shall remain in effect.

**ARTICLE 1 GENERAL PROVISIONS**

**1.1 Basic Definitions**

Add the following Clause 1.1.4.1 to Subparagraph 1.1.4:

**1.1.4.1** The entire project shall be considered as one "portion" unless separate areas or phases are designated for separate completion times or separate areas of completion and occupancy. This definition is used in determining release of retainage.

**1.2 Correlation and Intent Of The Contract Documents**

Add the following Clause 1.2.1.2 to Subparagraph 1.2.1:

**1.2.1.2** Conflicts in the Construction Documents shall be brought to the attention of the Architect. In such instances, the following is the order of authority of the documents, the first taking highest precedence:

Agreement between Owner and Contractor

Addenda

Supplementary Conditions

General Conditions

Technical Specifications

Written notes, then schedules on the drawings shall be followed in preference to information furnished in the form of lines on drawings

Drawings

In the case of an inconsistency between drawings and specifications or within either document not clarified by addendum, the better quality or greater quantity of work shall be provided in accordance with the Architect's interpretation.

Add the following Clause 1.2.2.1 to Subparagraph 1.2.2:

**1.2.2.1** Such organization shall not operate to make the Architect an arbiter to establish subcontract limits between Contractor and Subcontractor.

Add the following Subparagraphs 1.2.4 through 1.2.6 to Paragraph 1.2:

**1.2.4** Conditions of the Contract shall be read by all prime contractors and by each subcontractor or sub-subcontractor and shall be considered a part of each section of the Technical Specifications. Provisions of Contract Documents are binding on the contractors, subcontractor, and sub-subcontractors for all work shown or indicated on the original Contract Documents plus any additional work authorized by change order, interpretation or field orders.

**1.2.5** The Contractor shall notify the Architect of any condition he finds where, in his judgment, it will be desirable to modify the requirements to produce the best results. If the Contractor fails to make such request, he is deemed to have accepted the specified and/or detailed method of installation as being adequate to produce first class, satisfactory work. Should conflict occur in or between drawings and specifications, the Contractor is deemed to have estimated on the more expensive way of doing the work unless he shall have asked for, and obtained, a written decision seven (7) days before submission of proposal as to which method or materials will be required. Manufacturer's equipment specifications are based on models and/or construction and installation methods prevailing at the date of invitation and/or advertisement to submit bid proposals. Equipment installations requiring modifications due to manufacturer's model and/or construction changes and other variations from the items specified shall be furnished and installed at no additional cost to Owner.

**1.2.6** Requests by the Contractor for written interpretations and/ or detail drawings shall be made to the Architect in a timely manner such as will allow ample time for their preparation and delivery without causing delays in the work. Failure of the Contractor to request needed clarifications and/or his proceeding with affected work prior to receiving same, shall indicate his acceptance of any and all costs and/or delays required on account of necessary corrections.

**ARTICLE 2 OWNER**

**2.1 General**

Add the following Clause 2.1.1.1 to Subparagraph 2.1.1:

**2.1.1.1** As used herein, Owner means The Regents of the University of Idaho, a public corporation, state educational institution, and a body politic and corporate and existing under the constitution and laws of the state of Idaho, whose address is Vice President for Finance and Administration, University of Idaho, Moscow, ID 83844-3168, who shall act on behalf of the Owner for legal and financial matters; The Senior Associate Vice President of Finance and Administration, or his/her designated representative, University of Idaho, Moscow, Idaho, 83844-2281, who shall act on behalf of the Owner on construction administration matters.

**2.3 Information And Services Required Of The Owner.**

Delete Subparagraph 2.3.4 and substitute the following:

**2.2.4** The Owner may furnish to the Architect for inclusion with the Contract Documents surveys describing physical characteristics and utility locations for the site of the project.

Delete Subparagraph 2.3.6 and substitute the following:

**2.3.6** The Contractor will be furnished free of charge five (5) copies of Drawings and Project Manuals. Additional sets will be furnished at the cost of reproduction, postage and handling.

Add the following Subparagraph 2.3.7 to Paragraph 2.3:

**2.3.7** An Owners Project Representative may be assigned to the project by the Owner. The Project Representative's duties, responsibilities and limitations of authority are set forth in accordance with agency guidelines.

**ARTICLE 3 CONTRACTOR**

**3.3 Supervision and Construction Procedures**

Add the following Subparagraph 3.3.4 to 3.3:

**3.3.4** All grades, levels, bench marks, locations and corners shall be correctly established by the Contractor.

**3.4 Labor and Materials**

Add the following Clauses 3.4.2.1 and 3.4.2.2 to Subparagraph 3.4.2:

**3.4.2.1** After the Contract has been executed, the Owner and the Architect will consider a formal request for the substitution of products in place of those specified only under the following conditions as set forth in the General Requirements (Division 1 of the Specifications).

**.1** Required product cannot be supplied in time for compliance with Contract time requirements.

**.2** Required product is not acceptable to governing authority, or determined to be non-compatible, or cannot be properly coordinated, warranted or insured, or has other recognized disability as certified by Contractor.

**.3** Substantial advantage is offered Owner after deducting offsetting disadvantages including delays, additional compensation to Architect/Engineer for redesign, investigation, evaluation and other necessary services, and similar considerations.

**3.4.2.2** By making requests for substitutions based on Subparagraph 3.4.3 above, the Contractor:

**.1** represents that the Contractor has personally investigated the proposed substitute product and determined that it is equal or superior in all respects to that specified;

**.2** represents that the Contractor will provide the same warranty for the substitution that the Contractor would for that specified;

**.3** certifies that the cost data presented is complete and includes all related costs under this contract, except the Architect's redesign costs, and waives all claims for additional costs related to the substitution which subsequently become apparent; and

**.4** will coordinate the installation of the accepted substitute, making such changes as may be required for the work to be complete in all respects.

**3.6 Taxes**

Number existing paragraph 3.6.1.

Add the following Subparagraphs 3.6.2 through 3.6.4 to Paragraph 3.6:

**3.6.2** The Contractor in consideration of securing the business of erecting or constructing public works in this state, recognizing that the business in which he is engaged is of a transitory character, and that in the pursuit thereof, his property used therein may be without the State when taxes, excises or license fees to which he is liable become payable, agrees:

**.1** To pay promptly when due all taxes (other than on real property), excises and license fees due to the State, its subdivisions, and municipal and quasi-municipal corporations therein, accrued or accruing during the term of this contract, whether or not the same shall be payable at the end of such term;

**.2** That if said taxes, excises, and license fees are not payable at the end of said term, but liability for the payment thereof exists even though the same constitute liens upon his property, to secure the same to the satisfaction of the respective officers charged with the collection thereof; and

**.3** That, in the event of his default in the payment of securing of such taxes, excises, and license fees, to consent that the department, officer, board, or taxing unit entering into this contract may withhold from any payment due him hereunder the estimated amount of such accrued and accruing taxes, excises, and license fees for the benefit of all taxing units to which said contractor is liable.

**3.6.3** Before entering into a contract, the Contractor shall be authorized to do business in the State and shall submit a properly executed Contractor's Affidavit concerning Taxes.

**3.6.4** Within seven (7) days of receipt of forms from Owner, Contractor shall complete and return to Owner, forms as required by tax collector, showing dates, names, addresses, contracting parties, including all subcontractors, and all other relevant information which may be required.

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

Add the following Clauses 3.7.1.1 and 3.7.1.2 to Subparagraph 3.7.1:

**3.7.1.1** The Owner shall obtain and pay for plan check fees required by the State of Idaho Division of Occupational and Professional Licenses (DOPL). The Contractor shall pay for the general building permit, HVAC, plumbing and electrical permits as required by the State of Idaho Division of Occupational and Professional Licenses (DOPL).

**3.7.1.2** The Contractor shall obtain and pay for all licenses and permits, including the main building permit as required by State of Idaho Division of Occupational and Professional Licenses (DOPL), and shall pay all fees and charges for connections to outside services and for the use of municipal or private property for storage of materials, parking, utility services, temporary obstructions, enclosures, opening and patching of streets, etc., off of the property of the State of Idaho arising from the construction and completion of the work. The contractor shall furnish to the Owner and the Architect no later than the preconstruction conference the permit numbers for electrical, plumbing, and any other required permits that must be obtained through the State of Idaho for the project. The Contractor is not responsible for and will not be required to pay impact fees, sewer capacity fees and similar forms of taxes imposed by local taxing bodies.

**3.11 Documents and Samples at the Site**

Number existing paragraph 3.11.1.

Add the following Clauses 3.11.1.1 and 3.11.1.2 to Subparagraph 3.11.1:

**3.11.1.1** Record drawings shall be kept clean, and notations shall be made using clear, concise drafting techniques acceptable to the Architect.

**3.11.1.2** The Contractor shall also maintain at the site for availability of the Owner and/or Architect, one copy of all inspection reports and other written communications from the Architect and/or subcontractors, other prime contractors, materials suppliers, etc.

**3.18 Indemnification**

Delete Subparagraph 3.18.1 and substitute the following:

**3.18.1** To the fullest extent permitted by law, the Contractor shall indemnify, defend and hold harmless the Owner, Architect, Architect’s consultants, and agents and employees of any of them, from and against claims, damages, losses and expenses, including, but not limited to, attorney’s fees arising out of or resulting from performance of the Work, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself) including loss of use resulting therefrom, but only to the extent caused, in whole or in part by negligent acts or omissions of the Contractor, or Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in Paragraph 3.18.

**ARTICLE 4 ARCHITECT**

**4.1 General**

After Subparagraph 4.1.1, add the following:

**4.1.1.1** Throughout the contract documents where the term Architect is used, it shall be interpreted to mean the (Enter name of Architect or Consultant here) as identified on the cover of the project manual.

**ARTICLE 5 SUBCONTRACTORS**

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

Add the following Clause 5.2.1.1 to Subparagraph 5.2.1:

**5.2.1.1** Not later than 7 days after the date of commencement, the Contractor shall furnish in writing to the Owner through the Architect the names of persons or entities proposed as manufacturers for each of the products identified in the General Requirements (Division 1 of the Specifications) and, where applicable, the name of the installing subcontractor.

**ARTICLE 7 CHANGES IN THE WORK**

**7.2 Change Orders**

Add the following subparagraphs 7.2.2, 7.2.3 and 7.2.4:

**7.2.2** The amount allowed for overhead and profit on any change order is limited to the amounts indicated in subparagraph 7.3.11 of these Supplementary Conditions.

**7.2.3** Any Change Order prepared, including but not limited to those arising by reason of the parties’ mutual agreement or by mediation, shall constitute a final and full settlement of all matters relating to or affected by the change in the work, including, but not limited to, all direct, indirect and consequential costs associated with such change and any and all adjustments to the Contract Sum and Contract Time. In the event a Change Order increases the Contract Sum, the Contractor shall include the work covered by such Change Order in the Application for Payment as if such work were originally part of the Project and Contract Documents.

**7.2.4** By the execution of a Change Order, the Contractor agrees and acknowledges that he has had sufficient time and opportunity to examine the change in work which is the subject of the Change Order and that he has undertaken all reasonable efforts to discover and disclose any concealed or unknown conditions which may to any extent affect the Contractor’s ability to perform in accordance with the Change Order. Aside from those matters specifically set forth in the Change Order, the Owner shall not be obligated to make any adjustments to either the Contract Sum or Contract Time by reason of any conditions affecting the change in work addressed by the Change Order, which could have reasonably been discovered or disclosed by the Contractor’s examination.

**7.3 Construction Change Directives**

After subparagraph 7.3.1 add the following:

**7.3.1.1** A Construction Change Directive, within limitations, may also be used to incorporate minor changes in the work agreed to by the Architect’s representative, the University of Idaho Project Manager, and the Contractor’s Superintendent. The limits of these representatives’ authority with regard to Construction Change Directives shall be documented in writing by the Architect, Owner and Contractor.

In Subparagraph 7.3.4, in the first sentence, delete the words “a reasonable amount” and substitute the words “an allowance for overhead and profit in accordance with subparagraph 7.3.11 of these Supplementary Conditions.” In the second sentence after the words “In such case,” add the words “of an increase in Contract Sum”.

In Subparagraph 7.3.6 after the word "Architect" insert the following words: "in writing within forty-eight hours ".... The balance of the subparagraph remains unchanged.

In Subparagraph 7.3.7, in the last sentence, delete “recorded as a” and substitute “incorporated into a future”.

Delete Subparagraph 7.3.9.

Add the following subparagraphs to Paragraph 7.3:

**7.3.11** For purposes of Clause 7.2.2 and Subparagraph 7.3.4 of these Supplementary Conditions, the allowance for combined overhead and profit shall be limited as follows, unless otherwise provided in the Contract Documents:

**.1** for total changes of $10,000 or less in direct cost, the amount allowed for overhead, profit, bonds and insurance for the Contractor and all subcontractors of any tier, combined shall not exceed fifteen percent (15%) of direct costs.

**.2** for total changes exceeding $10,000 in direct cost, the amount allowed for overhead, profit, bonds and insurance for the Contractor and all subcontractors of any tier, combined shall not exceed ten percent (10%) of direct costs.

**.3** the Contractor will determine the apportionment between the Contractor and its subcontractors of allowable amounts of overhead, profit, bonds and insurance.

**7.3.12** Each request for a Change Order for extra compensation under this paragraph shall be completed and delivered to the Owner and Architect within thirty (30) calendar days after such change or additional work is completed. To the extent the cost of impacts, delay or hindrance to unchanged work are known at the time of performing the Work, such Change Order shall fully compensate the Contractor. Any request or claim for impact costs, delay, or hindrance must be made within five (5) calendar days of the event from which the claim arises and will be processed in accordance with Article 4.3.

**7.3.13** The Contractor shall include equivalent provisions to Subparagraph 7.3.4 in each subcontract and purchase order the Contractor may issue with respect to the Work, and in such instance the cost of the Work to the extent such changed or additional Work has been subcontracted or is being furnished or performed by supplier of materials shall include such monies as may be due the subcontractor or supplier based upon the cost of the Work to such subcontractor or supplier, determined in accordance with the provisions of this Article.

**ARTICLE 8 TIME**

**8.1 Definitions**

**8.1.2** In the first sentence, delete the word "Agreement" and substitute "Notice to Proceed".

**8.2 Progress and Completion**

**8.2.3** Add the following sentence to Subparagraph 8.2.3:

"The Contractor shall substantially complete the work as defined by subparagraph 9.8.1 within (Enter in # of consecutive calendar days after NTP for work to be completed) consecutive calendar days after the Notice to Proceed as defined by Subparagraph 8.1.2."

**8.3 Delays and Extensions of Time**

In Subparagraph 8.3.1 delete the words "and binding dispute resolution".

Add the following Subparagraph 8.3.4 to Paragraph 8.3:

**8.3.4** If the Contractor submits a progress report or schedule indicating, or otherwise expressing an intention to achieve completion of the Work prior to any completion date required by the Contract Documents or expiration of the Contract Time, no liability of the Owner to the Contractor for any failure of the Contractor to so complete the Work shall be created or implied.

**ARTICLE 9 PAYMENTS AND COMPLETION**

**9.3 Applications for Payment**

**9.3.1** In the first sentence, delete "At least ten days" and substitute "On or before the date of the monthly construction progress meeting, but not less than thirty (30) days”.

Delete Clause 9.3.1.1.

Add the following Clauses 9.3.1.3, 9.3.1.4, and 9.3.1.5 to Subparagraph 9.3.1:

**9.3.1.3** "The form of Application for Payment shall be provided by University of Idaho, Architectural & Engineering Services. "

**9.3.1.4** Until conditions set forth in Paragraph 9.10 are met, the Owner will pay ninety-five (95) percent of the amount due the Contractor on account of progress payments.

**9.3.1.5** The Contractor shall not withhold from a Subcontractor or supplier more than the percentage withheld from a payment certificate for his portion of the Work.

**9.3.2** Add the following sentence to Subparagraph 9.3.2:

"Off site storage will not be approved at locations more than 10 miles from the project site, or outside the State of Idaho. Any materials stored off site and paid for by the Owner shall be physically marked as being the property of the State of Idaho, University of Idaho."

**9.6 PROGRESS PAYMENTS**

Add the following Clauses 9.6.1.1 and 9.6.1.2 to Subparagraph 9.6.1

**9.6.1.1** Until conditions set forth in paragraph 9.10 are met, the Owner shall pay ninety-five percent (95%) of the amount due the Contractor on account of progress payments. If the Architect determines that the Contractor has made or is making satisfactory progress on any uncompleted portions of the work, the Owner may, at its discretion, release a portion of the retainage to the Contractor prior to the actual final completion of the conditions set forth in Paragraph 9.10.

**9.6.1.2** Progress Payments shall fall due thirty (30) days after the Architect’s Certificate for Payment is received by the Owner.

**9.7 Failure of Payment**

In the first sentence, delete the words "binding dispute resolution" and substitute the word "litigation".

**9.8 Substantial Completion**

**9.8.5** In Subparagraph 9.8.5, delete the last two sentences and add the following:

Upon such acceptance and consent of surety, if any, the Owner shall make payment sufficient to increase the total payment to ninety-five (95) percent of the Contract sum less such amounts as the Architect shall determine for all incomplete work and unsettled claims.

**9.10 Final Completion and Final Payment**

In Subparagraph 9.10.1, delete the words “… and that the entire balance found to be due the Contractor and noted in the final Certificate is due and payable.” from the end of the second sentence.

Add the following Clause 9.10.1.1 to Subparagraph 9.10.1:

**9.10.1.1** The final retainage shall become due and payable to the Contractor in not more than thirty (30) days after issuance of the final Certificate for Payment by the Architect, provided that the conditions of subparagraph 9.10.2 are fully satisfied.

Add to Subparagraph 9.10.2 the following:

The following forms shall be used as noted for requirements of subparagraph 9.10.2 and must be submitted prior to or along with the submittal of the Contractor’s final request for payment, including release of any retainage.

**.1** For subparagraph 9.10.2 (2), submit a completed Contractor’s Affidavit of Debts and Claims (AIA form G706, 1994 ed.).

**.2** Forsubparagraph 9.10.2 (4), submit a completed Consent of Surety to Final Payment (AIA form G707, 1994 ed.).

**.3** Forsubparagraph 9.10.2 (6), submit a completed Release of Liens (AIA form G706A 1994 ed.).

Add the following Paragraph 9.11 and Subparagraph 9.11.1 to Article 9:

**9.11 Liquidated Damages**

**9.11.1** The Owner will suffer financial loss in an amount that is difficult to quantify if the Project is not Substantially Complete on the date set forth in the Contract Documents. The Contractor (and his Surety) shall be liable for and shall pay to the Owner the sums hereinafter stipulated as fixed, agreed and liquidated damages, and not as a penalty, for each calendar day of delay until the Work is substantially completed:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_DOLLARS ($\_\_\_\_\_\_\_\_\_\_\_\_)

**ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY**

**10.1 Safety Precautions and Programs**

Add the following Subparagraph 10.1.2 to Paragraph 10.1:

**10.1.2** The Contractor shall maintain, in compliance with Idaho Code, Title 72, Chapter 17, a drug-free workplace program throughout the duration of this contract and shall only subcontract work to subcontractors who have programs that comply with Idaho Code, Title 72, Chapter 17.

**10.2 Safety of Persons and Property**

Add the following Clause 10.2.4.1 to Subparagraph 10.2.4:

**10.2.4.1** When use or storage of explosives or other hazardous material or equipment or unusual method is necessary, the Contractor shall give the Owner reasonable advance written notice.

**10.3 Hazardous Materials**

Delete Subparagraph 10.3.1 and substitute the following:

**10.3.1** The Contractor is responsible for compliance with any requirements included in the Contract Documents regarding hazardous materials. In the event the Contractor encounters on the site, material reasonably believed to be hazardous material in any form, including, but not limited to asbestos, polychlorinated biphenyl (PCB), or other toxic substances which have not been rendered harmless, the Contractor shall immediately stop work in the area affected and report the condition to the Owner and Architect in writing. If in fact the material is asbestos, polychlorinated biphenyl (PCB), or other toxic substances, the work in the affected area shall not be resumed until all the asbestos, polychlorinated biphenyl (PCB), or other toxic substances have been removed or when it has been rendered harmless by written agreement of the Owner and Contractor, and in accordance with final determination by the Architect.

Add the following Clause 10.3.1.1 to Subparagraph 10.3.1:

**10.3.1.1** Reference to asbestos or polychlorinated biphenyl (PCB) in this Article does not negate the appropriate abatement of asbestos and PCB containing materials as specifically required by the Contract Documents.

In Subparagraph 10.3.2 in the first sentence after the word “notice”, insert the following:

“…if the hazardous materials or substances were not reasonably susceptible of being disclosed as indicated in Supplementary Condition subparagraph 4.3.4 or required to be abated by the Contract Documents,”

In Subparagraph 10.3.2 after the first sentence, delete the rest of the subparagraph.

Delete Subparagraph 10.3.3.

In paragraph 10.3.4 in first sentence, after the word “site”, delete the rest of the sentence.

Delete Subparagraph 10.3.6.

**10.4 Emergencies**

In Subparagraph 10.4 delete the last sentence.

**ARTICLE 11 INSURANCE AND BONDS**

Delete Article 11 “Insurance and Bonds” in its entirety, and replace with the following revised Article 11 “Insurance and Bonds”.

**11.1 Contractor's Liability Insurance**

**11.1.1** The Contractor shall purchase from and maintain, during the life of the contract and for no less than one year thereafter, in a company or companies lawfully authorized to do business in the jurisdiction in which the Project is located such insurance as will protect the contractor from claims set forth below 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 Subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable:

(a) Claims under workers’ compensation, disability benefit and other similar employee benefit acts that are applicable to the Work to be performed including private entities performing Work at the site and exempt from the coverage on account of number of employees or occupation, which entities shall maintain voluntary compensation coverage at the same limits specified for mandatory coverage for the duration of the Project;

(b) Claims for damages because of bodily injury, occupational sickness or disease, or death of the Contractor’s employees or persons or entities excluded by the statute from the requirements of Clause 11.1.1.1 but required by the Contract Documents to provide the insurance required by that Clause;

(c) Claims for damages because of bodily injury, sickness or disease, or death of any person other than the Contractor’s employees;

(d) Claims for damages insured by usual personal injury liability coverage;

(e) Claims for damages, other than to the Work itself, because of injury to or destruction of tangible property, including loss of use resulting therefrom;

(f) Claims for damages because of bodily injury, death of a person or property damage arising out of ownership, maintenance or use of a motor vehicle;

(g) Claims for bodily injury or property damage arising out of completed operations; and

(h) Claims involving contractual liability insurance applicable to the Contractor’s obligations under Section 3.18.

**11.1.1.1** The Contractor shall name the State of Idaho, the University of Idaho, the Architect, their consultants, and their officers, agents, and employees as additional insureds on the insurance policies, except on the workers' or workmen's compensation policy.

**11.1.1.2** Liability insurance shall include all major divisions of coverage and be on a comprehensive basis including:

**1.** Premises Operations (including X, C, and U coverages as applicable).

**2.** Independent Contractor's Protective.

**3.** Products and Completed Operations.

**4.** Personal Injury Liability with Employment Exclusion deleted.

**5.** Contractual, including specified provision for Contractor's obligation under Paragraph 3.18.

**6.** Owned, non-owned, and hired motor vehicles.

**7.** Broad Form Property Damage including Completed Operations.

**11.1.1.3** If the General Liability coverages are provided by a Commercial General Liability Policy on a claims-made basis, the policy date or Retroactive Date shall predate the Contract; the termination date of the policy or applicable extended reporting period shall be no earlier than two (2) years after the date of final payment, certified in accordance with Subparagraph 9.10.2.

**11.1.2** The insurance required by Section 11.1.1 shall be written for not less than limits of liability specified in the Contract Documents or required by law, whichever coverage is greater. Coverages, whether written on an occurrence or claims-made basis, shall be maintained without interruption from the date of commencement of the Work until the date of final payment and termination of any coverage required to be maintained after final payment, and, with respect to the Contractor’s completed operations coverage, until the expiration of the period for correction of Work or for such other period for maintenance of completed operations coverage as specified in the Contract Documents.

**11.1.2.1** The insurance required by Subparagraph 11.1.1 shall be written for not less than the following limits:

**.1** Worker's Compensation:

a) State: Statutory

b) Employer's Liability $100,000 per Accident

$500,000 Disease, Policy Limit

$100,000 Disease, Each Employee

**.2** Comprehensive or commercial general liability including premises operation; Owners and Contractors protective liability, products and liability (including employee acts), broad form property damage liability, completed operations liability, personal injury liability, and blanket contractual liability;

(a) For any claim for bodily injury, property damage or due to contractual liability, limits of not less than $1,000,000 per occurrence.

(b) For products and completed operations coverage, coverage is to be maintained for a period of two (2) years following final payment.

(c) For the hazards of explosion, collapse, and underground, commonly referred to as XCU, coverage shall be required if the exposures exist. This coverage may be provided by the subcontractor if the State and prime Contractor are named as additional insureds.

(d) For personal injury liability, limits of not less than $100,000 per occurrence.

**.3** Business auto liability (including owned, non-owned, and hired vehicles) in an amount of not less than $1,000,000 combined single limit.

**.4** If the General Liability coverages are provided by a Commercial Liability policy, the:

(a) General Aggregate shall be not less than $2 million.

(b) Fire legal liability shall be provided in an amount not less than $50,000 per occurrence.

**.5** Umbrella Excess Liability: An umbrella policy shall be used in combination with other policies to provide a minimum coverage of $1,000,000.

**11.1.2.2** The Owner (the University of Idaho and the State of Idaho) shall be named as an additional insured on the insurance required in Clause 11.1.2.1 Items 2, 3 and 5 above and the insurance shall contain the severability of interest Clause as follows:

"The insurance afforded herein applies separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the company's "liability"."

**11.1.2.3** The Contractor shall require all Subcontractors of any tier to provide comprehensive General Liability Insurance with combined single limits for bodily injury and property damage of at least $1,000,000 per occurrence, and Comprehensive Automobile Liability Insurance for all owned, non-owned, and hired vehicles with combined single limits for bodily injury and property damage of at least $1,000,000 per occurrence.

**11.1.3** Certificates of insurance acceptable to the Owner shall be filed with the Owner prior to commencement of the Work 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. An additional certificate evidencing continuation of liability coverage, including coverage for completed operations, shall be submitted with the final Application for Payment as required by Section 9.10.2 and thereafter upon renewal or replacement of such coverage until the expiration of the time required by Section 11.1.2. 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. If this insurance is written on the Comprehensive General Liability policy form, the Certificates shall be AIA Document G705, Certificate of Insurance or ACORD Form 25. If this insurance is written on a Commercial General Liability policy form, ACCORD Form 25S will be acceptable.

**11.1.3.1** The Owner shall issue to the Contractor a request for certificates of insurance with the agreement. Refer to sample “Request for Certificate of Insurance” form included in the “Contract Requirements” section of the Project Manual wherein these supplemental conditions are located.

**11.1.4** The Contractor shall cause the commercial liability coverage required by the Contract Documents to include (1) the Owner, the Architect and the Architect’s consultants as additional insureds for claims caused in whole or in part by the Contractor’s negligent acts or omissions during the Contractor’s operations; and (2) the Owner as an additional insured for claims caused in whole or in part by the Contractor’s negligent acts or omissions during the Contractor’s completed operations.

**11.2 Owner’s Liability Insurance**

The Owner shall be responsible for purchasing and maintaining the Owner’s usual liability insurance.

**11.3 Property Insurance**

**11.3.1** The Owner shall purchase and maintain throughout the duration of the Project, at Owner's expense, property insurance in the amount of the contract sum and all modifications which change the contract sum and with the coverages as Owner shall, in Owner's discretion, determine. This insurance shall include the interests of the Owner, Contractor, Subcontractors and Sub-subcontractors in the Work. If the Contractor, Architect, Subcontractors or Sub-subcontractors desire additional or different property insurance coverages, then the Contractor, Architect, Subcontractors or Sub-subcontractors shall first contact the Owner to determine if the Owner desires to add the additional or different property insurance coverages at the Owner's expense, and then, if the Owner declines to add the additional or different property insurance coverages, purchase and maintain their own property insurance coverages at their own expense, and the cost of the additional or different insurance coverages shall not be included in the Cost of the Work. To the extent that the property insurance obtained by the Owner covers the Contractor, Architect, Subcontractors or Sub-subcontractors, then the Contractor, Architect, Subcontractor or Sub-subcontractor shall pay from their own funds any cost not covered because of any deductibles. The cost not covered because of any deductibles shall be included in the Cost of the Work and paid by the Owner only if the Contractor, Architect, Subcontractor or Sub-subcontractor was not responsible or at fault in causing the loss that resulted in the cost.

**11.3.1.1** The Contractor shall provide insurance coverage for portions of the Work stored off the site after written approval of the Owner at the value established in the approval, and also for portions of the Work in transit and all materials stored at the site and incorporated into the Work until covered by the State's insurance program as described in paragraph 11.3.

**11.3.1.2** Partial occupancy or use in accordance with Section 9.9 shall not commence until the insurance company or companies providing property insurance have consented to such partial occupancy or use by endorsement or otherwise. The Owner and the Contractor shall take reasonable steps to obtain consent of the insurance company or companies and shall, without mutual written consent, take no action with respect to partial occupancy or use that would cause cancellation, lapse or reduction of insurance.

**11.3.2 Boiler and Machinery Insurance**

**11.3.2** The Contractor shall purchase and maintain boiler and machinery insurance required by the Contract Documents or by law, which shall specifically cover such insured objects during installation and until final acceptance by the Owner; this insurance shall include interests of the Owner, Contractor, Subcontractors and Sub-subcontractors in the Work, and the Owner and Contractor shall be named insureds.

**11.3.3 Loss of Use Insurance**

The Owner, at the Owner’s option, may purchase and maintain such insurance as will insure the Owner against loss of use of the Owner’s property due to fire or other hazards, however caused. The Owner waives all rights of action against the Contractor for loss of use of the Owner’s property, including consequential losses due to fire or other hazards however caused.

**11.3.4 Waivers of Subrogation**

The Owner and Contractor waive all rights against (1) each other and any of their subcontractors, sub-subcontractors, agents and employees, each of the other, and (2) the Architect, Architect’s consultants, separate contractors described in Article 6, if any, and any of their subcontractors, sub-subcontractors, agents and employees, for damages to the work caused by fire or other causes of loss to the extent covered by property insurance obtained pursuant to this Section 11.3 or other property insurance applicable to the Work, except such rights as they have to proceeds of such insurance held by the Owner as fiduciary. The Owner or Contractor, as appropriate, shall require of the Architect, Architect’s consultants, separate contractors described in Article 6, if any, and the subcontractors, sub-subcontractors, agents and employees of any of them, by appropriate agreements, written where legally required for validity, similar waivers each in favor of other parties enumerated herein. The policies shall provide such waivers of subrogation by endorsement or otherwise. A waiver of subrogation shall be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest in the property damaged.

**11.4 Performance Bond and Payment Bond**

**11.4.1** The Contractor shall furnish bonds covering faithful performance of the contract and payment of obligations arising thereunder. Bonds may be obtained through the Contractor's usual source and the cost thereof shall be included in the contract sum. The amount of each bond shall be equal to 100 percent (100%) of the contract sum.

**11.4.1.1** The Contractor shall deliver the required bonds to the Owner not later than three days following the date the Agreement is entered into, or if the work is to be commenced prior thereto in response to a letter of intent, the Contractor shall, prior to the commencement of the work, submit evidence satisfactory to the Owner that such bonds will be furnished.

**11.4.1.2** The Contractor shall require the attorney-in-fact who executes the required bonds on behalf of the surety to affix thereto a certified and current copy of the power of attorney.

**11.4.2** Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor shall promptly furnish a copy of the bonds or shall authorize a copy to be furnished.

**11.4.3** Bonds shall be issued by a bonding company licensed to transact business in the State of Idaho on the standard form of the American Institute of Architects, A.I.A. Doc. A312 Performance Bond and Labor and Material Payment Bond, current edition.

**11.4.4** If at any time the Owner for justifiable cause, shall be or become dissatisfied with any surety or sureties that insure the Performance and Payment Bonds, the Contractor shall within ten (10) days after notice from the Owner to do so, substitute an acceptable bond (or bonds) in such form and sum (not to exceed the Contract amount) and signed by such other surety or sureties as may be satisfactory to the Owner. The premiums on such bond(s) shall be paid by the Contractor. No further payments shall be deemed due nor shall be made until the new surety or sureties shall have furnished such an acceptable bond to the Owner.

# ARTICLE 12 UNCOVERING AND CORRECTION OF WORK

**12.2 Correction of Work**

**12.2.2 After Substantial Completion**

In Clause 12.2.2.1 delete the second sentence.

**ARTICLE 13 MISCELLANEOUS PROVISIONS**

**13.1 Governing Law**

Add the following Subparagraphs 13.1.2 and 13.1.3 to Paragraph 13.1:

**13.1.2** Each Contractor and his Subcontractors and Sub-subcontractors shall certify complete compliance with all Idaho Statutes with specific reference to Public Works Contractor's State License Law, Title 54, Chapter 19, Idaho Code, as amended.

**13.1.3** Pursuant to Sections 44-1001 and 44-1002, Idaho Code, it is provided that each Contractor must employ ninety-five percent (95%) bona fide Idaho residents as employees, except where under such contracts fifty or less persons are employed, the Contractor may employ ten percent (10%) non-residents, provided, however, in all cases employers must give preference to the employment of bona fide residents in the performance of said work, and no contract shall be let to any person, firm, association or corporation refusing to execute an agreement with the above-mentioned provisions in it. In contracts involving the expenditure of Federal Aid Funds, this act shall not be enforced in such a manner as to conflict with or be contrary to the federal statutes prescribing a labor preference to honorably discharged soldiers, sailors, or marines, prohibiting as unlawful any other preference or discrimination among citizens of the United States.

**13.2 Successors and Assigns**

In Subparagraph 13.2.1, in the second sentence, delete “Except as provided in Section 13.2.2,”.

Delete Subparagraph 13.2.2.

**13.5 Interest**

Delete Paragraph 13.5 and substitute the following:

**13.5** Payments due and unpaid under the Contract Documents (30 days from date received by the Architect) shall bear no interest until 30 days past due; thereafter, they shall bear interest at the rate of 5% per annum calculated from 30 days past due (60 days from date received by the Architect) until date of the check as posted by the State Auditor.

Add the following Paragraph 13.6:

**13.6 Equal Opportunity**

**13.8.1** The Contractor shall maintain policies of employment as follows:

**13.8.1.1** The Contractor and the Contractor's Subcontractors shall not discriminate against any employee or applicant for employment because of race, religion, color, sex or national origin. The Contractor shall take affirmative action to insure that applicants are employed, and that employees are treated during employment without regard to their race, religion, color, sex or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the policies of nondiscrimination.

**13.8.1.2** The Contractor and the Contractor's Subcontractors shall, in all solicitations or advertisements for employees placed by them or on their behalf, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex or national origin.

**ARTICLE 14 TERMINATION OR SUSPENSION OF THE CONTRACT**

**14.1 Termination by the Contractor**

In Subparagraph 14.1.1, in the first sentence, delete the number "30" and substitute the number "60".

Delete Clauses 14.1.1.3 and 14.1.1.4.

Delete Subparagraph 14.1.2.

In Subparagraph 14.1.3 delete “or 14.1.2”.

Delete Subparagraph 14.1.4.

**14.2 Termination by the Owner for Cause**

In Clause 14.2.2.3 delete the last sentence.

**14.4 Termination by the Owner for Convenience**

Delete Subparagraph 14.4.3 and substitute the following:

**14.4.3** In the case of such termination for the Owner convenience, the Contractor shall be entitled to receive payment from the Owner on the same basis provided in Subparagraph 14.1.3, as modified.

END OF SUPPLEMENTARY CONDITIONS of the CONTRACT for CONSTRUCTION