

Addendum to Standard Abbreviated Form Agreement
Between Owner and Contractor

(Rev. 11/15/2019)

This Addendum is made this _____ day of _____, 20____, by and between Gregory L. Parkes, as Bishop of the Diocese of St. Petersburg, a corporation sole (hereinafter referred to as "Owner") and _____ (hereinafter referred to as "Contractor" pertaining to that certain Agreement of even date for the project known as _____ "_____") (hereinafter referred to as the "Project") located in _____, Florida.

WHEREAS, the parties have entered into an Agreement for construction of the Project; and

WHEREAS, the parties have negotiated several changes, additions and modifications to said Agreement, and desire to evidence the same in writing under Article _____;

NOW, THEREFORE, for the considerations contemplated with the original Agreement for the construction of the Project, it is therefore agreed:

1. Article 3.1 is revised to add the following language at the end of that Article:

The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the Contract. The Contract Sum shall be « » (\$ « »), subject to additions and deductions as provided in the Contract Documents. If the scope of work includes construction management services, the parties agree that the sum of \$ _____ is hereby assigned as consideration for Contractor's preconstruction services or design phase fees. In the event Owner elects not to proceed with the Project for any reason (including budgetary reasons) with Contractor, then such sums shall be paid to Contractor in full satisfaction of preconstruction or design phase services.

2. Article 3.5 is revised to read as follows:

TIME IS OF THE ESSENCE. The parties acknowledge that the Owner is a non-profit religious organization and that damages for Contractor's failure to complete the project on time cannot be adequately calculated, and present constitutional complications for which a court cannot adequately measure the damage to the members of Owner's religious association who will be negatively impacted in the ability to worship, perform ministry, or provide education as a result of contractor's failure to complete the project on time. Therefore, the parties do hereby establish a daily amount of liquidated damages for Contractor's failure to complete the project on time. The amount of liquidated damages shall be equal to either an amount calculated based upon seven (7%) percent of the contract price, divided by 365 days –OR– the sum of one hundred dollars (\$100.00), whichever is greater, for each day the Contractor is late. The parties do agree that the net result establishes and fixes the amount of liquidated damages per calendar day that shall

be due for Contractor's failure to complete the project on time, both parties mutually agreeing that such amount is a reasonable measure of damages.

3. Article 7.1 is revised to add the following language at the end of that Article:

In the event of any conflict between any of the Contract Documents, the Contract Documents shall be interpreted in such a manner as to give priority to the following documents in descending order, with the first document given the highest priority:

- (1) Modifications (Addenda, Change Orders, supplemental instructions);
- (2) Owner-Contractor Agreement, as amended;
- (3) Supplementary Conditions and Special Conditions;
- (4) General Conditions, as amended;
- (5) Enlarged plans or details;
- (6) Drawings;
- (7) Specifications;
- (8) Shop Drawings (engineered drawings and special drawings shall take precedence over architectural drawings and general notes provided that the shop drawing has been reviewed and approved by Architect).

4. A new Article 7.1.1 is added to the Agreement, reading as follows:

Unless otherwise stated in the Contract Documents, words that have well-known technical or construction industry meanings are used in the Contract Documents in accordance with such recognized meanings.

5. A new Article 7.1.1.1 is added to the Agreement, reading as follows:

APPROVED. When the words "approved," "satisfactory," "proper," or "as directed" are used, approval by the Architect shall be understood.

6. A new Article 7.1.1.2 is added to the Agreement, reading as follows:
PROVIDE. When the term "provide," including derivatives thereof is used, it shall mean to properly fabricate, complete, transport, deliver, install, erect, construct, and furnish all labor, materials, equipment, apparatus, appurtenances, and all items and expenses necessary to properly complete in place, tested and approved by all parties, ready for operation or use the terms of the Specification. Contractor shall be required to pay for all failing tests.

7. A new Article 7.1.1.3 is added to the Agreement, reading as follows:

BUILDING CODE. The term "building code" and the term "code" refer to regulations of all governmental agencies having jurisdiction.

8. A new Article 7.1.1.4 is added to the Agreement, reading as follows:

KNOWLEDGE. The terms "knowledge," "knowing," "recognize," and "discover," their respective derivatives and similar terms in the Contract Documents, as used in reference to the Contractor, shall be interpreted to mean that which the Contractor knows (or should know), recognizes (or should recognize) and

discovers (or should discover) in exercising the care, skill, and diligence required by the Contract Documents. Analogously, the expression “reasonably inferable” and similar terms in the Contract Documents should be interpreted to mean reasonably inferable by a contractor familiar with the Project and exercising the care, skill and diligence required of the Contractor by the Contract Documents.

9. A new Article 7.1.1.5 is added to the Agreement, reading as follows:

PERSISTENTLY. The phrase “persistently fails” and other similar expressions, as used in reference to the Contractor, shall be interpreted to mean any combination of acts or omissions, which causes the Owner or the Architect to reasonably conclude that the Contractor will not complete the Work within the Contract Time, for the Contract Sum or in substantial compliance with the requirements of the Contract Documents.

10. A new Article 7.1.1.6 is added to the Agreement, reading as follows:

DAYS. The phrase “days” shall mean calendar days unless otherwise specified.

11. A new Article 7.1.1.7 is added to the Agreement, reading as follows:

Whenever a product is specified in accordance with a Federal Specification, a State Specification, an ASTM Standard, an American National Standards Institute Specification, or other Association Standard, the Contractor shall present an affidavit from the manufacturer when requested by the Architect or required in the Specifications, certifying that the product complies with the particular Standard or specification. When requested by the Architect or specified, support test data shall be submitted to substantiate compliance.

12. A new Article 7.1.1.8 is added to the Agreement, reading as follows:

Whenever a product is specified or shown by describing proprietary items, model numbers, catalog numbers, manufacturer, trade names, or similar reference, any substitution shall require the Architect’s approval prior to execution. When two or more products are shown or specified, the Contractor has the option to use either of those shown.

13. A new Article 7.1.1.9 is added to the Agreement, reading as follows:

The Contractor shall carefully review and inspect any bid documents, which are available at the office of the Architect. The Contractor shall be held responsible for coordination between trades. No adjustment to the Contract Sum or the Contract Time will subsequently be made on account of Contractor’s failure to reasonably acquaint itself with other bid packages, data or information.

14. A new Article 7.1.1.10 is added to the Agreement, reading as follows:

The Contractor shall carefully review and inspect all record (as-built) drawings kept on file at the office of the Architect for the project. No adjustment to the

Contract Sum or the Contract Time will subsequently be made on account of Contractor's failure to reasonably acquaint itself with as-built drawings.

15. A new Article 7.1.1.11 is added to the Agreement, reading as follows:

The Owner has no obligation to organize the documents in a manner which facilitates subcontracting among various trades within the scope of the Contractor's bid package. The Contractor is responsible for performance of the entire scope of Work based upon a complete reading of the Contract Documents.

16. A new Article 7.1.1.11.1 is added to the Agreement, reading as follows:

An item of work contained anywhere in the Contract Documents is the Contractor's ultimate responsibility. A Subcontractor's misunderstanding of the work requirements, relied upon by the Contractor when pricing its bid, will not excuse the Contractor's failure to comply with the Contract, nor will it be grounds for an adjustment in the Contract Sum.

17. A new Article 7.1.1.11.2 is added to the Agreement, reading as follows:

If the Contract Documents do not specifically allow the Contractor a choice as to quality or cost of items to be furnished, but could be interpreted to permit such choice, subject to confirmation by the Owner, they shall be construed to require the Contractor furnish the best quality.

18. A new Article 7.1.1.11.3 is added to the Agreement, reading as follows:

Before ordering any materials or doing any Work, the Contractor and each Subcontractor shall verify measurements at the Project site and shall be responsible for the correctness of such measurements. No additional compensation will be allowed on account of minor differences between actual dimensions and the dimensions on the Drawings. Any difference which may be found shall be submitted to the Architect for resolution before proceeding with the Work.

19. A new Article 7.1.1.11.4 is added to the Agreement, reading as follows:

If a minor change in the Work is found necessary due to actual field conditions, the Contractor shall notify Owner and Architect by way of a Request for Information of such departure for the approval by the Architect before making the change.

20. A new Article 7.1.1.12 is added to the Agreement, reading as follows:

In the event that there are words or items that need clarification within Contract Documents, reference and authority will be "Glossary of Construction Industry Terms," latest edition, published by The American Institute of Architects.

21. A new Article 7.1.1.13 is added to the Agreement, reading as follows:

It is recognized that locations of the Work indicated on the Drawings are diagrammatic, except for figures and dimensions, and that field conditions may

arise that will prevent their being installed, as noted on drawings, within limits established by figures on drawings. Therefore, it shall be the duty of Contractor and each Subcontractor to consult with each other, verifying existing conditions or location of Work, etc., and to submit workable solutions to the Architect for approval before installing any Work which is questionable.

22. Article 7.5.1 is revised to read as follows:

All Drawings, Specifications, other Instruments of Service and copies thereof furnished by the Architect or the Owner are and shall remain the property of the Owner.. The Contractor, Subcontractors, Sub-subcontractors, and suppliers shall not own or claim a copyright in the Instruments of Service. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with the Project is not to be construed as publication in derogation of the Architect's or Architect's consultants' reserved rights.

23. A new Article 8.4 is added to the Agreement, reading as follows:

The rights stated in this Article and elsewhere in the Contract Documents are cumulative and not in limitation of any rights of Owner (1) granted in the Contract Documents, (2) by law or (3) in equity.

24. A new Article 8.5 is added to the Agreement, reading as follows:

In no event shall the Owner have control over, charge of, or any responsibility for construction means, methods, techniques, sequences or procedures or for safety precautions and programs in connection with the Work, notwithstanding any of the rights and authority granted the Owner in the Contract Documents

25. Article 9.1.1 is revised to read as follows:

By executing the Contract, the Contractor represents that it and each of its Subcontractors have examined and thoroughly familiarized themselves with all existing conditions including all applicable laws, codes, ordinances, rules and regulations that will affect the Work. The Contractor further represents that it has visited the site and surrounding areas, examined the grounds and all existing buildings, the Owner's operations, utilities and roads; that it has investigated and satisfied itself as to conditions affecting the work, including but not limited to those bearing upon transportation, disposal, handling and storage of materials, the character of equipment and facilities needed preliminary to and during prosecution of the Work, the scheduling of the Work and providing the facilities to maintain the Owner's operations, generally prevailing climatic conditions, anticipated labor supply and costs, availability and cost of materials, tools and equipment and other similar issues; and has correlated its observations with requirements of the Contract Documents. Neither the Owner, nor the Architect assume responsibility or liability for the physical condition or safety of the Project site or any improvements located on the Project site. The presence of the Owner or Owner's Representative, Architect's subconsultants at the construction site, shall not relieve the Contractor or Construction Manager

of its obligations, duties and responsibilities for the construction means, methods, sequence, techniques, or procedures necessary for performing, superintending, or coordinating all portions of the Work in accordance with the contract documents and any health or safety precautions required by any regulatory agencies. The Contractor shall be solely responsible for providing a safe place for the performance of the Work. The Owner shall not be required to make any adjustment in either the Contract Sum or Contract Time in connection with any failure by the Contractor or any Subcontractor to comply with the requirements of this Subparagraph.

26. Article 9.1.2 is revised to read as follows:

Because the Contract Documents are complementary, the Contractor shall, before starting each portion of the Work, carefully study and compare the various Contract Documents relative to that portion of the Work, as well as the information furnished by the Owner pursuant to Section 8.1.2, shall take field measurements of any existing conditions related to that portion of the Work and shall observe any conditions at the site affecting it. The exactness of grades, elevations, dimensions, or locations given on any Drawings issued by the Architect or the work installed by other contractors is not guaranteed by the Architect nor the Owner. These obligations are for the purpose of facilitating coordination and construction by the Contractor and are not for the purpose of discovering errors, omissions, or inconsistencies in the Contract Documents; however, the Contractor shall promptly report to the Architect any errors, inconsistencies, or omissions discovered by or made known to the Contractor as a request for information in such form as the Architect may require. It is recognized that the Contractor's review is made in the Contractor's capacity as a contractor and not as a licensed design professional unless otherwise specifically provided in the Contract Documents. Except as to any reported errors, inconsistencies or omissions and as to concealed or unknown conditions defined in Subparagraph 13.4, by executing the Contract, the Contractor represents the following:

.1 The Contract Documents are sufficiently completed and detailed for the Contractor to (1) determine the cost of the Work; (2) perform the Work required to produce the results intended by the Contract Documents and (3) comply with all the requirements of the Contract Documents.

2. The Work required by the Contract Documents, including, without limitation, all construction details, construction means, methods, procedures and techniques necessary to perform the Work, use of materials, selection of equipment and requirements of product manufacturers are consistent with (1) good and sound practices within the construction industry; (2) generally prevailing and accepted industry standards applicable to Work; (3) requirements of any warranties applicable to the Work; and (4) to the extent of Contractor's knowledge, all laws, ordinances, regulations, rules and orders which bear upon the Contractor's performance of the Work.

27. A new Article 9.2.3 is added to the Agreement, reading as follows:

The project manager and superintendent shall be approved by the Owner and shall not be changed except with the consent of the Owner.

28. A new Article 9.4.1 is added to the Agreement, reading as follows:

At the time of final completion for the project, the Contractor agrees to assign to the Owner all contractor warranties and all Subcontractor manufacturer's warranties relating to materials and labor used in the Work and agrees to perform the Work in such manner so as to preserve any and all such manufacturer's and subcontractor's warranties. Owner shall not be obligated to waive any expressed or implied warranties Owner may have as a condition to accepting any warranty from Contractor, Subcontractor, Supplier or Manufacturer. In the event Contractor has not assigned its warranties as required in this paragraph, then this instrument shall be considered an assignment and this provision shall survive completion of the contract.

29. A new Article 9.4.2 is added to the Agreement, reading as follows:

The Contractor shall furnish maintenance and call back service for emergencies and non-emergencies alike no later than forty-eight (48) hours after notification by Owner for a period of twelve (12) months after completion and acceptance of the Work.

30. Article 9.7 is revised to read as follows:

The Contractor shall include in the Contract Sum all allowances stated in the Contract Documents. The Owner shall select materials and equipment under allowances with reasonable promptness.

Unless otherwise provided in the Contract Documents,

- .1 allowances shall cover the cost to the Contractor of materials and equipment delivered at the site and all required taxes, less applicable trade discounts;
- .2 Contractor's costs for unloading and handling at the site, labor, installation costs, overhead, profit, and other expenses contemplated for stated allowance amounts shall be included in the Contract Sum but not in the allowances; and
- .3 whenever costs are more than or less than allowances, the Contract Sum shall be adjusted accordingly by Change Order. The amount of the Change Order shall reflect (1) the difference between actual costs and the allowances under Section 9.7.1 and (2) changes in Contractor's costs under Section 9.7.2.
- .4 Overhead and profit will neither be increased or decreased when the Contract Sum is adjusted by Change Order related to allowances, unless Owner agrees in writing or included in the Change Order.
- .5 If the allowances are to be expended by Subcontractors, Sub-subcontractors, and/or suppliers, they shall be required to comply with all

applicable requirements of Article 7.3, and all shall provide backup data supporting allowances and adjustments including invoices, purchase orders, unit prices, quantity surveys, overhead, profit, taxes, etc.

31. Article 9.9.1 is revised to add the following language at the end of that Article:

All submittals shall be submitted no later than 45 days from the Notice to Proceed, unless additional time is granted by the architect.

32. A new Article 9.9.2.1 is added to the Agreement, reading as follows:

All shop drawings for any architectural, structural, mechanical, or electrical work must be submitted to, and approved by, the Architect. The Contractor represents and warrants that all shop drawings shall be prepared by persons and entities possessing expertise and experience in the trade for which the shop drawing is prepared and, if required by the Architect or applicable law, by a licensed professional engineer.

33. A new Article 9.9.2.2 is added to the Agreement, reading as follows:

The Contractor shall submit a detailed plan demonstrating use of the site, including but not limited to: storage areas, traffic patterns, fabrication areas, parking areas, temporary facilities and offices, fencing, scaffolding, etc. Such plan is subject to Owner approval.

34. A new Article 9.12.1 is added to the Agreement, reading as follows:

If the Contractor fails to clean up as provided in the Contract Documents, the Owner may do so and the Owner shall be entitled to reimbursement from the Contractor.

35. A new Article 9.12.2 is added to the Agreement, reading as follows:

Contractor clean-up duties shall be performed on a daily basis and shall include but not be limited to: removal of all waste materials or rubbish, neatly stacking all stored materials, broom sweeping floors and other hard surfaces, and removal of droppings from concrete, mortar, grout, drywall mud, and other similar droppings before hardening.

36. A new Article 9.14 is added to the Agreement, reading as follows:

§ 9.15 Documents and Samples at the Site

The Contractor shall make available, at the Project site, the Contract Documents, including Change Orders, Construction Change Directives, and other Modifications, in good order and marked currently to indicate field changes and selections made during construction, and the approved Shop Drawings, Product Data, Samples, and similar required submittals. These shall

be in electronic form or paper copy, available to the Architect and Owner, and delivered to the Architect for submittal to the Owner upon completion of the Work as a record of the Work as constructed. Monthly maintenance of such record shall be a condition precedent to progress payments.

37. Article 9.15.1 is revised to read as follows:

Indemnification: To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the Owner, Owner's Consultants, 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 attorneys' 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), but only to the extent caused by the negligent acts or omissions of the Contractor, a 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 this Section 9.15.1.

38. A new Article 9.15.3 is added to the Agreement, reading as follows:

\$1,000.00 of the Contract Sum is specific consideration for the indemnification obligations of Contractor under this Agreement.

39. A new Article 9.15.4 is added to the Agreement, reading as follows:

Contractor shall indemnify and hold the Owner harmless from any claims or damages brought by a Subcontractor arising out of actions or omissions of the Contractor in performing its work under the Contract Documents, other than those involving non-payment by Owner.

40. A new Article 9.16 is added to the Agreement, reading as follows:

If known to the Contractor, the Contractor must exclude any individual from the construction site if, within five years from the date of commencement, he/she has ever been convicted of the types of crimes set forth below. If the conviction is older than five years from the commencement date, then Contractor shall disclose such individual and the conviction to Owner and Owner shall have the right to exclude such individual from the Project.

Any type of Murder	Robbery
Voluntary Manslaughter	Trafficking in Drugs
Aggravated Assault	Theft
Assault with a Deadly Weapon	Rape
Kidnapping	Embezzlement
Sexual Battery	Breaking and Entering

Owner prohibits the use, possession, or distribution of any controlled substance or alcoholic beverage by a Contractor, Subcontractor or an employee of the Contractor or Subcontractor on the construction site.

41. Article 10.1 is revised to add the following language at the end of that Article:

The term "Architect" means the Architect or the Engineer, when the nature of the work is within the authority granted engineers by the State licensure law, or an authorized representative.

Any reference in the Contract Document to the Architect taking action or rendering a decision within a "reasonable time" is understood to mean no more than 10 days. If the action or decision impacts the critical path duration of the Work, the Architect will exercise best efforts to respond earlier than 10 days.

42. Article 10.7 is revised to add the following language at the end of that Article:

All submittals shall be processed by the Architect within 21 days of receipt. The Contractor remains responsible for details and accuracy, for confirming and correlating quantities, job conditions, dimensions or gauges, for fabrication processes, for coordination of the work of other trades, for techniques of assembly and construction, and for performing its work in a safe manner.

43. Article 10.9 is deleted in its entirety.

44. Article 11.2 is revised to read as follows:

Except in a Guaranteed Maximum Price contract where subcontractors will be jointly selected with Owner as part of the construction management process, then at the time of Contractor's bid, or at the time Contractor submits the Contract Offer to Owner, if not previously supplied, the Contractor shall furnish the Owner and the Architect, in writing, with (1) the name, trade and Subcontractor amount for each Subcontractor for each line item on the Schedule of Values, in the form included in the Project Manual, and (2) the names of all persons or entities proposed as manufacturers of the products identified in the Specifications (including those who are to furnish materials or equipment fabricated to a special design)and, where applicable, the name of the installing Subcontractor. The Architect will promptly reply to the Contractor in writing if the Owner or the Architect has reasonable objection to the Subcontractors or Suppliers listed. Contractor further agrees to give notice to Owner of any changes to said list of subcontractors and materialmen, and the reason for any such change. In the event the Owner for any reason disapproves the lowest-bid Subcontractor, the Contract Sum shall be adjusted for the difference in the quoted amount. The contractor's mark-up will be unchanged.

45. A new Article 11.4 is added to the Agreement, reading as follows:

All Subcontracts shall be in writing and executed on the Contractor's standard form of Subcontract (which shall be in form and substance acceptable to Owner) and shall specifically provide that the Owner is an intended third party beneficiary of such Subcontract, and shall (1) require that such Work be performed in accordance with the requirements of the Contract Documents; (2) require the Subcontractor to carry and maintain liability insurance in the amount mutually agreed by and between the Owner and Contractor; (3) require the Subcontractor to furnish lien waivers/releases for all sums to be paid to Contractor, and shall cover the period to the date of the requested payment period.

46. A new Article 11.5 is added to the Agreement, reading as follows:

It shall be the responsibility of the General Contractor on construction management projects to maintain all of the documentation for authorized subcontractors, and affirm to Owner the subcontractors that will be working on the Project.

47. A new Article 11.6 is added to the Agreement, reading as follows:

11.6 Payments to Subcontractors by the Owner

11.6.1 If the Owner fails to approve an application for payment for a cause which the Owner determines is the fault of the Contractor and not the fault of a particular Subcontractor, or if the Contractor fails to make a payment which is properly due to a particular Subcontract, the Owner may pay such Subcontractor directly, less the amount to be retained under its Subcontract. Any amount so paid by the Owner shall be repaid to the Owner by the Contractor in manner set forth in Paragraph 2.4.

11.6.2 The Owner shall have no obligation to pay, or to see the payment of, any monies to any Subcontractor. Nothing contained in Paragraph 5.5 shall be deemed to create any contractual relationship between the Owner and any Subcontractor, except for lien rights against the Property.

11.6.3 The Contractor shall promptly advise the Owner of any claim or demand by a Subcontractor claiming that any amount is due to such Subcontractor or claiming any default by the Contractor in any of its obligations to such Subcontractor.

48. Article 12.1 is revised to add the following language at the end of that Article:

In addition, the Owner reserves the right to purchase certain mechanical, electrical, and plumbing items directly. If so, a duly signed Change Order shall be executed, reflecting that Owner shall be responsible for obtaining said equipment directly. Contractor shall be entitled to Contractor fees under the Contract on deductive change orders, less any sales tax savings, except where Owner has assumed responsibility for the supervision and coordination of the installation of any such items, in which case, Contractor shall not be entitled to any Contractor fees for the deduction or increase. In such event, Contractor

shall not be responsible for any liability associated with said items that are delivered to said job site, the same being the sole responsibility of Owner.

49. Article 12.3 is revised to add the following language at the end of that Article:

Contractor shall indemnify and hold the Owner harmless from any claims or damages brought by a Subcontractor arising out of the actions or omissions of the Contractor under the Contract Documents.

50. Article 13.1 is revised to add the following language at the end of that Article:

Except as permitted in Subparagraph 9.7.2 , a change in the Contract Sum or the Contract Time shall be accomplished only by Change Order. Accordingly, no course of conduct or dealings between the parties, nor express or implied acceptance of alternations or additions to the Work, whether or not there is, in fact, any unjust enrichment to the Work, shall be the basis of any claim to an increase in amounts due under the Contract Documents or a change in any time period provided for in the Contract Documents. Upon the request of the Owner, the Contractor will obtain 3 quotes for any change orders resulting in more than \$5,000.00 or for a 5-day extension.

51. A new Article 13.1.2 is added to the Agreement, reading as follows:

Change Order is a written order to the Contractor utilizing Form AIA G701 unless a different form is specified in the Contract. "Contract Change Order," signed by the Owner, Architect and Contractor representative. It is issued after the execution of the Contract, authorizing a 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. The Contractor's signing of a Change Order indicates complete agreement therein. When the Contract Sum is based on unit price, a unit bid quantity may be increased or decreased by a maximum of twenty percent (20%) without invalidating the unit price.

52. A new Article 13.1.3 is added to the Agreement, reading as follows:

Any cost savings must be reflected in a Change Order signed by the Owner and the Contractor. Contractor will provide Owner all relevant data reasonably requested by Owner affecting costs for a Change order, including Subcontractors and suppliers billings.

53. A new Article 13.1.4 is added to the Agreement, reading as follows:

Agreement on any Change Order shall constitute a final settlement of all matters relating to the change in the Work which is the subject of the Change Order, including, but not limited to, all direct and indirect 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, Contract shall include the Work covered by such Change Orders in Applications for Payment as if such Work were originally part of the Contract Documents

54. A new Article 13.1.5 is added to the Agreement, reading as follows:

In order to facilitate checking of quotations for extras or credits, all proposals, except those so minor that their propriety can be seen by inspection, shall be accompanied by a complete itemization of costs, including labor, materials, Subcontractor costs, taxes, insurance costs, overhead, and profit. Labor and materials shall be itemized in the manner prescribed above. Costs shall be indicated on a spreadsheet showing quantities and applicable unit prices. Subcontract costs shall be itemized also. Contractors and Subcontractors agree to provide complete copies of estimates relating to changes and provide copies of the base bid for verification of reasonable unit prices. The Contract and Subcontractors agree to provide certified payroll to verify labor rates.

55. Article 13.3 is revised to add the following language at the end of that Article:

All such written orders must be approved and executed by the Owner.

56. A new Article 13.5 is added to the Agreement, reading as follows:

The Architect shall maintain a contingency log and any adjustments to the Cost of the Work shall be reflected therein.

57. Article 14.5 is revised to read as follows:

Notwithstanding anything to the contrary in the Contract Documents, an extension in the Contract Time, to the extent permitted under Subparagraph 8.3.1, shall be the sole remedy of the Contractor for any (1) delay in the commencement of the Work, unless caused by Owner's non-payment, (2) delay in the prosecution or completion of the Work, (3) loss of productivity, or (4) other similar claims (collectively referred to in this Subparagraph 8.3.3 as "Delays") whether or not such Delays are foreseeable, except for any additional mutually agreed upon costs for extension of general conditions. In no event shall the Contractor be entitled to any compensation or recovery of any damages, in connect with any Delay, including, without limitation, consequential damages, estimated job site costs, supervision, general conditions, salaries, lost opportunity costs, loss of bond capacity, home office overhead, impact damages or other similar remuneration. The Owner's exercise of any of its rights or remedies under the Contract Documents (including, without limitation, ordering changes in Work or rescheduling or correction of the Work, regardless of the extent or frequency of the Owner's exercise of such rights or remedies), shall not be construed as active interference with the Contractor's performance of the Work.

58. Article 15.1.1 is revised to read as follows:

Where the Contract is based on the Cost of the Work with a Guaranteed Maximum Price pursuant to Section 3.2 or 3.4, the Contractor shall submit a schedule of values for all subcontractor and material suppliers to the Architect and Owner not later than execution of the Contract before the first Application for Payment, allocating the entire Stipulated Sum or Guaranteed Maximum Price 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 Architect. This schedule of values shall be used as a basis for reviewing the Contractor's Applications for Payment.

59. Article 15.3.1 is revised to add the following language at the end of that Article:

Each Application shall list the Contract Sum, amount previously funded, retainage, and amount for this application for each Subcontractor or Supplier. The amounts on the Contractor's Application shall include all amounts for which lien releases are required under the Owner-Contractor Agreement. The Owner shall not be required to make any payments unless and until Contractor submits with each Application for Payment, a duly signed and notarized waiver of lien and an affidavit that Contractor has paid every worker employed by it, and has received partial waivers of lien from all subcontractors, materialmen, and laborers supplying services and/or materials on the Project, who have given a Notice to Owner, and said application has been Approved by the Architect. On all partial lien waivers or lien releases, the amount paid to the subcontractor, materialmen and/or laborers from the previous draw shall be clearly set forth. In the event, the amount of required lien releases is less than the amount of previous affidavit, the Owner may deduct such difference from the current application as an adjustment. The Contractor's general conditions, and overhead and profit shall be listed separately.

60. A new Article 15.3.1.1 is added to the Agreement, reading as follows:

Work performed and materials supplied under a Change Order may be included for payment only after the Change Order has been approved by all appropriate parties.

61. Article 15.3.3 is revised to read as follows:

Unless otherwise provided in the Contract Documents, payments shall be made on account of materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. Payment shall be conditioned upon compliance by the Contractor with procedures satisfactory to the Owner to establish the Owner's title to such material and equipment or otherwise protect the Owner's interest.

62. A new Article 15.3.3.1 is added to the Agreement, reading as follows:

If off-site stored material payment has been approved in writing, in advance, the amount of payment will be based upon the manufacturer's invoice to the Contractor, Subcontractor or Supplier. Payment application shall include photos, require insurance certificates, proper title, access for inspection and pickup unconditionally guaranteed to the Owner by the property owner where the equipment or material is stored.

63. A new Article 15.3.3.2 is added to the Agreement, reading as follows:

The Contractor shall, as required by the Contract Documents or applicable law, assist the Owner in making "proper payments" as required by Chapter 713, Florida Statutes. Moreover, to the extent that there are any construction liens recorded against the Project by lienors who provided work or materials through Contractor's contract, the Owner shall be entitled to withhold from any payments due to the Contractor any sums sufficient to satisfy the construction lien in full.

64. A new Article 15.3.3.3 is added to the Agreement, reading as follows:

The Contractor further expressly undertakes to defend the Owner, at the Contractor's sole expense, against any actions, lawsuits or proceedings brought against Owner as a result of liens filed against the Work, the site of any of the Work, the Project site and any improvements thereon, any portion of the property of Owner or payments due the Contractor (referred to collectively as "liens" in this Subparagraph 9.3.3). The Contractor hereby agrees to indemnify, defend and hold Owner harmless from any and all damages, costs and attorney's fees incurred as a consequence of the recording or foreclosure of any such construction liens and agrees to pay any judgment or lien resulting from any such actions, lawsuits or proceedings.

65. A new Article 15.3.3.4 is added to the Agreement, reading as follows:

The Owner shall release any payments withheld due to a lien or claim of lien if the Contractor obtains security acceptable to the Owner or a lien bond which is (1) issued by a surety acceptable to Owner; and is (2) pursuant to § 713.24, Fla. Stat.; and is (3) in form and substance satisfactory to the Owner; and (4) in an amount not less than that required by § 713.24, Fla. Stat. However, the Contractor shall not be relieved of any responsibilities or obligations under this Paragraph 9.3, including, without limitation, the duty to defend and indemnify the Owner. The cost of any premiums incurred in connection with such bonds and security shall be the responsibility of the Contractor and shall not be part of, or cause an adjustment to, the Contract Sum.

66. A new Article 15.3.3.5 is added to the Agreement, reading as follows:

Where the basis for payment is the cost of the work plus a fee, the Application for payment for materials, equipment and Subcontracts will be based on the actual invoices submitted by the Suppliers or Subcontractors at the time of Application for payment.

67. A new Article 15.3.3.6 is added to the Agreement, reading as follows:

The Contractor shall not withhold retainage from its Subcontractors or Suppliers in a ratio greater than the ratio of the retainage the Owner withholds from the Contractor.

68. A new Article 15.5.5 is added to the Agreement, reading as follows:

No progress payments will be made that deplete the retainage, nor place in escrow any funds that are required for retainage, nor invest the retainage for the benefit of the Contractor. Retainage will not be adjusted until after construction is substantially complete unless Owner specifically agrees in writing.

69. A new Article 15.5.6 is added to the Agreement, reading as follows:

If the Owner is entitled to reimbursement or payment from the Contractor under or pursuant to the Contract Documents, such payment shall be made promptly upon demand by the Owner. Notwithstanding anything contained in the Contract documents to the contrary, if the Contractor fails to promptly make any payment due to the Owner, or the Owner incurs any costs and expenses to cure any default of the Contractor or to correct defective Work, the Owner shall have an absolute right to offset such amount against the Contract Sum and may, in the Owner's sole discretion, elect either to (1) deduct amount equal to that which the Owner is entitled from any payment then or thereafter due to the Contractor from the Owner, or (2) issue a written notice to the Contractor reducing the Contract Sum by an amount equal to that which the Owner is entitled.

70. Article 15.6.3 is revised to read as follows:

Upon receipt of the Contractor's list, the Architect will make an inspection to determine whether the Work or designated portion thereof is substantially complete. When the Architect determines that the Work or designated portion thereof is substantially complete, the Architect will issue a Certificate of Substantial Completion which shall establish the date of Substantial Completion; establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance; and fix the time within which the Contractor shall finish all items on the list accompanying the Certificate and which shall identify all non-conforming, defective and incomplete Work and establish the date of commencement of warranties in connection with any such Work. 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.

71. Article 15.7.1 is revised to add the following language at the end of that Article:

All of the above inspections may be performed by the Architect or the Owner or the Owner's Representative. If the final certificate of occupancy has not previously been obtained by Contractor and delivered to Owner, the Contractor shall obtain the final certificate of occupancy and all other necessary permits

required by public authorities having jurisdiction over the Work for use and occupancy of the Project. The final Certificate for payment will not be issued by the Architect until the final certificate of occupancy for the Project has been received by the Owner and all warranties and guarantees have been received and accepted by the Owner. **Owner shall not be obligated to waive any express or implied warranty as a condition to accepting any warranties and guarantees from Contractor.**

72. A new Article 15.7.1.1 is added to the Agreement, reading as follows:

Contractor shall obtain and submit to Owner an independent final test and balance report of the HVAC system, to be coordinated with the Architect. Contractor shall also submit a complete set of final 'as-built' drawings. Failure to do so shall entitle Owner to withhold payment until such documentation has been submitted.

73. Article 15.7.2 is revised to read as follows:

Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Architect (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect, (3) a written statement that the Contractor knows of no reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) consent of surety, if any, to final payment, (5) documentation of any special warranties, such as manufacturers' warranties or specific Subcontractor warranties, and (6) if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts and releases and waivers of liens, claims, security interests, or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner.

74. A new Article 15.7.2.1 is added to the Agreement, reading as follows:

The affidavit required by Subparagraph 9.10.2 of the General conditions shall be a Contractor's final affidavit as required by Fla. Stat. 713.06. Moreover, at the time of applying for final payment, the Contractor shall provide final releases of lien from all Subcontractors, Sub-subcontractors, materialmen, and other persons or entities who have provided labor or materials under the Owner-Contractor Agreement. If Contractor is unable to provide such final releases of lien, the Owner shall be entitled to pay all potential lien claimants by joint check. The Owner may pay potential lien claimants in full or pro rata as allowed by Fla. Stat. 713.06, as appropriate. Upon receipt of final payment, whether by a single check made payable to the Contractor or in conjunction with joint checks payable jointly to Contractor and potential lien claimants, Contractor shall provide the Owner with its final release of lien releasing the Project from any and all claims based on construction or equitable liens.

75. Article 16.2.1 is revised to read as follows:

The Contractor is responsible for compliance with the requirements of the Contract Documents regarding hazardous materials or substances. If the Contractor encounters a hazardous material or substance not addressed in the Contract Documents, and if reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including but not limited to asbestos or polychlorinated biphenyl (PCB), encountered on the site by the Contractor, the Contractor shall, upon recognizing the condition, immediately stop Work in the affected area and notify the Owner and Architect of the condition. When the material or substance has been rendered harmless, Work in the affected area shall resume upon written agreement of the Owner and Contractor. By Change Order, the Contract Time shall be extended appropriately. The term "rendered harmless" shall be interpreted to mean that levels of hazardous materials or hazardous substances encountered on the site are less than any applicable exposure standards set forth in OSHA regulations. In no event, however, shall the Owner have any responsibility for any substance or material that is brought to the Project site by the Contractor, any Subcontractor, any materialmen or Supplier or any entity for whom any of them is responsible. The Contractor agrees not to use or incorporate any materials into the Work which are hazardous, toxic or comprised of any items that are hazardous or toxic.

76. A new Article 16.2.1.1 is added to the Agreement, reading as follows:

When use or storage of explosives or other hazardous materials or equipment, or unusual methods are necessary for execution of the Work, the Contractor shall exercise utmost care and carry on such activities under supervision of properly qualified personnel. The Contractor shall give the Owner and Architect reasonable notice of such use.

77. A new Article 16.2.4 is added to the Agreement, reading as follows:

Injury or Damage to Person or Property

The Contractor shall promptly report in writing to the Owner and Architect all accidents arising out of or in connection with the Work which cause death, personal injury, or property damage, giving full details and statements of any witnesses. In addition, if death, serious personal injuries, or serious property damages are caused, the accident shall be reported by telephone or messenger to the Owner and the Architect, and to all authorities having jurisdiction including, but not limited to OSHA.

78. Article 17 is revised to read as follows:

INSURANCE AND BONDS

17.1 Contractor's Insurance and Bonds

79. Articles 17.1.1 is revised to read as follows:

Contractor shall provide the following minimum insurance coverage:

(A) Commercial General Liability- A minimum combined Single Limit of \$5,000,000 per occurrence and annual aggregate per location. Such insurance shall be broad form and include but not be limited to contractual liability, independent contractor's liability, products and completed operations liability for 2 years following Substantial Completion, and personal injury liability. A combination of primary and excess policies may be utilized. Policies shall be primary and non-contributory. That on Projects which exceed \$5,000,000, then this limit shall be increased to 1.2 times the size of the Project, unless different limits are established by the parties.

(B) Worker's Compensation- Statutory limits

(C) Employer's Liability- Minimum liability limits of \$1,000,000 bodily injury by accident each accident, \$1,000,000 bodily injury by disease policy limit; \$1,000,000 bodily injury each employee.

(D) Commercial Automobile Liability- Combined Single Limit- \$1,000,000 per accident. Such insurance shall cover injury (or death) and property damage arising out of the ownership, maintenance, or use of any private passenger or commercial vehicles and of any other equipment required to be licensed for road use.

(E) Property Insurance- All-risk, replacement cost property insurance to protect against loss of owned or rented equipment and tools brought onto and/or used on any Property by the Contractor.

(F) XCU Coverage- the coverage will not be subject to any of the special property damage liability exclusions, commonly referred to as XCU (explosions, collapse, and underground damage) if the Work shall involve the use of explosives, structural alterations to the Building, or underground work.

80. Articles 17.1.2 through 17.1.13 are deleted in their entirety. New Articles 17.1.1.2 through 17.1.1.14 are added to the Agreement reading as follows:

17.1.1.2 Policies described in Subparagraph 11.1.1(A) and 11.1.1(D) above shall include the following as additional insureds, including their officer, directors, and employees. A GL-2010 Endorsement shall be utilized for the policy(ies) described in Section 11.1.1(A) above.

.1 The Bishop of the Diocese of St. Petersburg, individually and as the Corporation Sole, his successors in office, including any Administrator *sede vacante*, Diocese Staff, any pastors, priests, religious and employees and agents.

.2 Architect, Architect's employees, subcontractors, agents and other Owner's consultants

17.1.1.3 Contractor waives any and all rights of subrogation against the parties identified above in Clause 11.1.1 above as additional insureds as relates to Subparagraph 11.1.1(B) Workers Compensation and 11.1.1(E) Property Insurance.

17.1.1.4 All insurance policies required of the Contractor shall be written by companies licensed to do business in Florida as an admitted carrier and rated A- or better as to management and no less than "Class XII" as to financial strength according to the latest edition of Best's Key Rating Guide, published by A.M. Best Company, Oldwick, New Jersey, in form satisfactory to the Owner.

17.1.1.5 Certificate(s) of Insurance relating to policies required under the Contract shall contain the following words verbatim:

"It is agreed that this insurance will not be canceled, not renewed, or the limits of coverage in any way reduced without at least thirty (30) day's advance written notice and at least ten (10) days for non-payment of premium. All notices shall be sent by certified mail, return receipt requested to Owner and Owner's Architect."

In addition, the language set forth in this Clause 11.1.1.5 shall also be added to each policy in the form of an endorsement.

17.1.1.6 The Contractor shall require each Subcontractor and each Sub-subcontractor to provide coverage adequate to protect the Subcontractor or Sub-subcontractor and its employees for:

- .1 Commercial General Liability
- .2 Workers' Compensation
- .3 General Liability
- .4 Automotive Liability
- .5 Excess/Umbrella Liability

Each Subcontractor and each Sub-subcontractor shall make arrangements for any insurance it may require to cover any tools, apparatus, machinery, scaffolding, joists, forms, staging, shoring and other similar items commonly referred to as construction equipment, which may be on the site and the capital value of which is not included in the Work.

17.1.1.7 In no event shall any failure of the Owner to receive certified copies of certificates of policies or to demand receipt of such certified copies or certificates prior to the Contractor commencing the Work be construed as a waiver by the Owner or the Architect of the Contractor's obligations to obtain insurance pursuant to this Article 11. The obligation to procure and maintain any insurance required by this Article 11 is a separate responsibility of the Contractor and independent of the duty to furnish a certified copy or certificate of such insurance policies.

17.1.1.8 If the Contractor fails to purchase and maintain, or require to be purchased and maintained, any insurance required under Paragraph 11.1, Owner

may, but shall not be obligated to, upon five (5) days' written notice to the Contractor, purchase such insurance on behalf of the Contractor and shall be entitled to be reimbursed by the Contractor upon demand.

17.1.1.9 When any required insurance shall be scheduled to expire due to the attainment of a normal expiration date or renewal date, the Contractor shall supply the Owner with Certificates of Insurance and amendatory riders or endorsements that clearly evidence the continuation of all coverage in the same manner, limits of protection, and scope of coverage as was provided by the previous policy not less than fifteen (15) days prior to its expiration.

17.1.1.10 The Contractor shall provide surety bonds of the types, for such penal sums, and subject to such terms and conditions as required by the Contract Documents. The Contractor shall purchase and maintain the required bonds from a company or companies lawfully authorized to issue surety bonds in the jurisdiction where the Project is located.

17.1.1.11 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.

17.1.1.12 **Notice of Cancellation or Expiration of Contractor's Required Insurance.** Within three (3) business days of the date the Contractor becomes aware of an impending or actual cancellation or expiration of any insurance required by the Contract Documents, the Contractor shall provide notice to the Owner of such impending or actual cancellation or expiration. Upon receipt of notice from the Contractor, the Owner shall, unless the lapse in coverage arises from an act or omission of the Owner, have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by the Contractor. The furnishing of notice by the Contractor shall not relieve the Contractor of any contractual obligation to provide any required coverage.

17.1.1.13 **Subcontractors:** Contractor shall be required to verify that all subcontractors maintain public liability insurance, workers' compensation insurance and automobile liability insurance. Furthermore, Contractor agrees to indemnify and defend the Owner for any claim or cause of action, whatsoever which was caused by the negligence, or other actionable fault of an uninsured subcontractor.

17.1.1.14 **No Waiver of Subrogation:** Owner does not waive any rights of recovery against the Contractor, subcontractor, or sub-subcontractor for any damages. Owner and Contractor, subcontractor and sub-subcontractor do waive the right of recovery against each other for any damages covered under Property, Builders Risk or Boiler and Machinery coverage for which either party is responsible if that party does not have liability insurance to cover such damages and liability insurance has been maintained as required by this document. Contractor and Owner agree that this addendum overrides any and all portions of previous agreements between contractor and Owner that contain language in contradiction with this contract

81. Article 17.2 is revised to read as follows:

Owner's and Contractor's Property Insurance

82. Article 17.2.1 is revised to read as follows:

17.2.1 The Owner shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Owner shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located.

17.2.2 Contractor shall purchase, maintain and pay for all-risk Contractor's equipment floater in amounts sufficient to cover any tools, apparatus, machinery, scaffolding, hoists, forms, staging, shoring and other similar items commonly referred to as construction equipment, which may be on the site and the capital value of which is not included in the Work. Any deductible shall be for the account of the Contractor. The Contractor shall be responsible for any damage or loss not covered under the Owner's policy to any and all materials, supplies, or equipment after delivery to the site by the Contractor or its Suppliers, whether paid for by the Owner or not, whether prior to or after installation into the building structure. (Examples: theft, damage while handling). Contractor shall be named as additional loss payee on the All Risk Policy; provided, however, that Contractor's interest shall be limited to materials, supplies, or equipment paid for by the Contractor for which payment by Owner has not been made.

83. Articles 17.2.2.1, 17.2.2.2, 17.2.2.3, 17.2.2.4, 17.2.2.5, 17.2.2.6, 17.2.2.7, 17.2.2.7.1, 17.2.2.7.2, 17.2.2.8 are deleted in their entirety.

84. Article 17.2.3 is revised to read as follows:

The Contractor shall pay deductibles on the Owner's All Risk Policy.

85. A new Article 17.2.4 is added to the Agreement, reading as follows:

Notice of Cancellation or Expiration of Owner's Required Property Insurance. Within three (3) business days of the date the Owner becomes aware of an impending or actual cancellation or expiration of any property insurance required by the Contract Documents, the Owner shall provide notice to the Contractor of such impending or actual cancellation or expiration. Unless the lapse in coverage arises from an act or omission of the Contractor: (1) the Contractor, upon receipt of notice from the Owner, shall have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by either the Owner or the Contractor; (2) the Contract Time and Contract Sum shall be equitably adjusted; and (3) the Owner waives all rights against the Contractor, Subcontractors, and Sub-subcontractors to the extent any

loss to the Owner would have been covered by the insurance had it not expired or been cancelled. If the Contractor purchases replacement coverage, the cost of the insurance shall be charged to the Owner by an appropriate Change Order. The furnishing of notice by the Owner shall not relieve the Owner of any contractual obligation to provide required insurance.

86. Article 17.3 is revised to read as follows:

Loss of Use, Business Interruption, and Delay in Completion Insurance

The Owner, at the Owner's option, may purchase and maintain insurance that will protect the Owner against loss of use of the Owner's property, or the inability to conduct normal operations, due to fire or other causes of loss.

87. Articles 17.3.1 and 17.3.2 are deleted in their entirety.

88. A new Article 17.4 is added to the Agreement, reading as follows:

Adjustment and Settlement of Insured Loss

17.4.1 A loss insured under the property insurance required by the Agreement shall be adjusted by the Owner as fiduciary and made payable to the Owner, subject to requirements of any applicable mortgagee clause and of Section **17.4.2**. The Owner shall pay the Architect and Contractor their just shares of insurance proceeds received by the Owner, and by appropriate agreements the Architect and Contractor shall make payments to their consultants and Subcontractors in similar manner.

17.4.3 Prior to settlement of an insured loss, the Owner shall notify the Contractor of the terms of the proposed settlement as well as the proposed allocation of the insurance proceeds. The Contractor shall have 14 days from receipt of notice to object to the proposed settlement or allocation of the proceeds. If the Contractor does not object, the Owner shall settle the loss and the Contractor shall be bound by the settlement and allocation. Upon receipt, the Owner shall deposit the insurance proceeds in a separate account and make the appropriate distributions. Thereafter, if no other agreement is made or the Owner does not terminate the Contract for convenience, the Owner and Contractor shall execute a Change Order for reconstruction of the damaged or destroyed Work in the amount allocated for that purpose. If the Contractor timely objects to either the terms of the proposed settlement or the allocation of the proceeds, the Owner may proceed to settle the insured loss, and any dispute between the Owner and Contractor arising out of the settlement or allocation of the proceeds shall be resolved pursuant to Article 15. Pending resolution of any dispute, the Owner may issue a Construction Change Directive for the reconstruction of the damaged or destroyed Work.

89. A new Article 17.5.1 is added to the Agreement, reading as follows:

The Owner shall have the right to require the Contractor to furnish bonds covering faithful performance of the Contract and payment of obligations arising thereunder as stipulated in the Contract Documents on the date of execution of the Contract.

90. A new Article 17.5.2 is added to the Agreement, reading as follows:
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.

91. Article 18.1 is revised to read as follows:

The Contractor shall promptly correct Work rejected by the Architect or failing to conform to the requirements of the Contract Documents, whether discovered before or after Substantial Completion and whether or not fabricated, installed, or completed. Costs of correcting such rejected Work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for the Architect's services and expenses made necessary thereby, shall be at the Contractor's expense

92. Article 18.3 is revised to read as follows:

If the Contractor fails to correct nonconforming Work within a reasonable time, the Owner may correct it in accordance with Section 8.3. If prior to the date of Substantial Completion, the Contractor, a Subcontractor or anyone for whom either is responsible uses or damages any portion of the Work, including, without limitation, mechanical, electrical, plumbing and other systems, machinery, equipment or other mechanical device, the Contractor shall cause such item to be restored to "like new" condition at no expense to the Owner.

93. Article 18.5 is revised to read as follows:

The one-year period for correction of Work shall be extended by corrective Work performed by the Contractor pursuant to this Article 18.

94. Article 20.3 is deleted in its entirety, and replaced with the following new Articles 20.3.1, 20.3.2, 20.3.3, and 20.3.4:

20.3.1 The Owner may, at any time, terminate the Contract in whole or in part for the Owner's convenience and without cause. Termination by the Owner under this Paragraph shall be by a notice of termination delivered to the Contractor specifying the extent of termination and the effective date.

20.3.2 Upon receipt of a notice of termination for convenience, the Contractor shall immediately, in accordance with instructions from the Owner, proceed with performance of the following duties regardless of delay in determining or adjusting amounts due under this Paragraph:

- .1 cease operation as specified in the notice;

.2 place no further orders and enter into no further Subcontracts for materials, labor, services or facilities except as necessary to complete continued portions of the Contract;

.3 terminate all Subcontracts and orders to the extent they relate to the Work terminated;

.4 proceed to complete the performance of Work not terminated; and

.5 take actions that may be necessary, or that the Owner may direct, for the protection and preservation of the terminated work.

20.3.3 Upon such termination, the Contractor shall recover as its sole remedy, payment for Work properly performed in connection with the terminated portion of the Work prior to the effective date of termination and for items properly and timely fabricated off the Project Site, delivered and stored in accordance with the Owner's instructions. The value of such Work shall be calculated as follows: (a) actual cost of labor performing work on the Project; and (b) actual cost of materials incorporated into the Project, (c) direct job costs that have not been incorporated into the Project (e.g. cancellation or restocking charges for materials already ordered). There shall be no inclusion of home office expense or site expense other than as stated in (a) (b) and (c). The contractor shall be entitled to overhead and profit for that portion of the Work completed and acceptable to Owner, up through the date of termination, but shall not be entitled to overhead and profit for the terminated portion of the work. The Owner shall be entitled to set off any back-charges for defective work or costs to complete the Contractor's Work. Additionally, should the actual costs of labor and materials, as indicated in (a) and (b), be greater than the amount Contractor would otherwise be entitled to pursuant to the Schedule of Values, as amended from time to time, for Work in place, the lesser amount shall be the Value of the Work. The Contractor hereby waives and forfeits all other claims for payment and damages, including, without limitation, anticipated profits.

20.3.4 The Owner shall be credited for (1) payments previously made to the Contractor for the terminated portion of the Work, (2) claims which the Owner has against the Contractor under the Contract and (3) the value of the materials, supplies, equipment or other items that are to be disposed of by the Contractor that are part of the Contract Sum.

95. Article 21.1 is revised to read as follows:

Claims, disputes, and other matters in question arising out of or relating to this Contract, including those alleging an error or omission by the Architect but excluding those arising under Section 16.2, shall be referred initially to the Owner for decision. Such matters, except those waived as provided for in Section 21.11 and Sections 15.7.3 and 15.7.4, shall, after initial decision by the Owner or 30 days after submission of the matter to the Owner, be subject to mediation as a condition precedent to binding dispute resolution.

96. Article 21.2.1 is revised to read as follows:

Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered prior to expiration of the period for correction of the Work set forth in Section 18.2, shall be initiated by notice to the Architect within 10 days after occurrence of the event giving rise to such Claim or within 10 days after the claimant first recognizes the condition giving rise to the Claim, whichever is later. Claims may also be reserved in writing within the time limits set forth in this Subparagraph 21.2.1. If a Claim is reserved, the Resolution of Claims and Disputes procedures described in Paragraph 4.4 shall not commence until a written notice from the claimant is received by the Architect. Any notice of Claim or reservation of Claim must clearly identify the alleged cause and nature of the Claim and include data and information then available to the claimant that will facilitate prompt verification and evaluation of the Claim.

97. A new Article 21.6.1 is added to the Agreement, reading as follows:

21.6.1 The arbitration provisions of this Paragraph may be initiated by either party to the Contract by filing with the other party and the Architect a written request for arbitration together with the statement described in Clause 4.6.2.4(1) below. The other party may accept or reject the request by filing a written answering statement with the requesting party and the Architect within fourteen (14) days of receipt of such request. If the request is rejected or an answering statement is not filed within the fourteen (14) day period, the provisions of this Paragraph will not apply.

98. A new Article 21.6.2 is added to the Agreement, reading as follows:

21.6.2 Within fourteen (14) days of any mutually agreeable time period thereafter, each party to the Contract will appoint one arbitrator. Within fourteen (14) days or any mutually agreeable time period thereafter, the two arbitrators will select a third arbitrator. Failure to appoint the arbitrator(s) within the mutually agreeable time period will terminate further actions under this Paragraph.

99. A new Article 21.6.3 is added to the Agreement, reading as follows:

21.6.3 The arbitrators will select a hearing location as close to the Owner's main office as possible.

100. A new Article 21.6.4 is added to the Agreement, reading as follows:

21.6.4 The Procedure for conducting the hearings will follow the Construction Industry Arbitration Rules of the American Arbitration Association.

101. A new Article 21.6.5 is added to the Agreement, reading as follows:

21.6.5 Notwithstanding any rules of the American Arbitration Association to the contrary, the parties shall be entitled to conduct discovery relating to the claim, dispute or other matter in question which is the subject of the arbitration in accordance with the terms of the Contract. In any arbitration proceeding arising

out of the contract, (1) the party initiating the arbitration shall submit a detailed claim setting forth (a) the complete basis of the claim; (b) a detailed list of all documents supporting the claim, and (c) the names of all witnesses that have knowledge of the claim; (2) the parties shall exchange all documents and information reasonably necessary for a full understanding of any legitimate issue raised in the arbitration; and the parties will be permitted to take the deposition of one representative of each party to the Contract having the most knowledge of the claim. Additionally, all expert reports to be used in arbitration must be exchanged. The party initiating the arbitration must submit an expert report first, setting forth the claim and the expert's opinion in such detail as to enable the other party to prepare, analyze, review and defend the claim. The other party will then have thirty (30) days to have its expert(s), if any, prepare a response. The discovery set forth herein shall be completed at least forty-five days prior to the date set for final hearing. There shall be no further discovery permitted.

102. A new Article 21.11.1 is added to the Agreement, reading as follows:

Claims for Additional Time

21.11..1 If Contractor is delayed in the performance of the Work by the neglect of Owner or Architect, or by an employee, agent or representative of either, or by changes ordered in the Work, or by strikes, lockouts, embargoes, fire, unavoidable casualties, unusual delays in transportation, unusually severe weather conditions not reasonably anticipatable, national emergency or by any other causes which Contractor could not reasonably control or circumvent, then the Contract Time shall be extended for a period equal in the length of such delay if (i) within three (3) days after the commencement of the delay, Contractor delivers to Owner a written notice of such delay stating the nature and cause of the delay and (ii) within five (5) days following the expiration of any such delay Contractor provides a written request for extension of the Contract Time by reason of such delay and (iii) such request is approved by Owner, which approval shall not be unreasonably withheld. Failure to deliver any such notice or request within the required period shall constitute an irrevocable waiver of any extension of the Contract Time by reason of the cause with respect to which such notice was required. In the case the continuing cause of delay of a particular nature, Contractor shall be required to make only one such request with respect thereto.

Extension of time shall be Contractor's sole remedy for any such delay (except for Contractor's right to terminate the Contract pursuant to the provisions of Paragraph 20.1 --or-- any additional mutually agreed upon costs for extension of general conditions), unless the same shall have been caused by acts constituting intentional interference by Owner or Architect with Contractor's performance of the Work and where to the extent that such acts continue after Contractor's notice to Owner of such interference. Owner's exercise of any of its rights under Article 7 (Changes), regardless of the extent or number of such changes, or Owner's exercise of any of its remedies of suspension of the Work, or requirement of correction or re-execution of any defective Work, shall not under any circumstances be construed as intentional interference with Contractor's performance of the Work.

103. A new Article 21.12 is added to the Agreement, reading as follows:

Attorneys' Fees and Costs. In the event of any dispute arising under this Agreement, whether or not a lawsuit, arbitration, or other proceeding is filed, the prevailing party shall be entitled to recover its reasonable attorneys' fees and costs (including those incurred in any related appeals), including attorneys' fees and costs incurred in litigating entitlement to attorneys' fees and costs, as well as in determining or quantifying the amount of the recoverable attorneys' fees and costs. The reasonable costs to which the prevailing party is entitled shall include costs that are taxable under any applicable statute, rule, or guideline, as well as non-taxable costs, including but not limited to, costs of investigation, copying costs, electronic discovery costs, telephone charges, mailing and delivery charges, information technology support charges, consultant and expert witness fees, travel expenses, court reporter fees, and mediator fees, regardless of whether such costs are otherwise taxable.

104. A new Article 22 is added to the Agreement, reading as follows:

Article 22

22.1 All personal pronouns used in the Contract, whether used in the masculine, feminine, or neuter gender, shall include all other genders; and the singular shall include the plural and vice versa. Titles of articles, paragraphs, and subparagraphs are for convenience only, and neither limit nor amplify the provisions of the Contract itself. The use herein of the word "including," when following any general statement, term or matter shall not be construed to limit such statement, term or matter to the specific items or matters, set forth immediately following such word or to similar items or matters, whether or not non-limited language (such words as "without limitation," or "but not limited to," or words of similar import) is used with reference thereto, but rather shall be deemed to refer to all other items or matters that could reasonably fall within the broadest possible scope of such general statement, term or matter.

22.2 Whenever possible, each provision of the Contract shall be interpreted in a manner as to be effective and valid under applicable law. If, however, any provision of the Contract, or portion thereof, is prohibited by law or found invalid under the law, only such provision or portion thereof shall be ineffective, without any manner invalidating or affecting the remaining provisions of the Contract or valid portions of such provision, which are hereby deemed severable.

22.3 Each party hereto agrees to do all acts and things and to make, execute and deliver such written instruments, as shall from time to time be reasonably required to carry out the terms and provisions of the Contract Documents.

22.4 Any specific requirement in the Contract that the responsibilities or obligations of the Contractor also apply to a Subcontractor is added for emphasis and are also hereby deemed to include a Subcontractor of any tier. The omission of a reference to a Subcontractor in connection with any of the

Contractor's responsibilities or obligations shall not be construed to diminish, abrogate or limit any responsibilities or obligations of a Subcontractor of any tier under the Contract Documents or the applicable Subcontract.

22.5 The Contract shall be deemed to have been made in the State of Florida, and shall be construed in accordance with the laws of that State. All actions or proceedings relating directly or indirectly, to the Contract shall be instituted and conducted only in Pinellas County, Florida. The Contractor hereby submits to the jurisdiction of any state or federal court located in such county.

22.6 Contractor will, upon request of Owner, provide the Owner a written assertion that it has an accounting system suitably designed to provide for a line-item basis comparison of the actual cost with the estimated cost and will, prior to receipt of any payment, provide the Owner with a detailed breakdown of the estimated cost amount for evaluation.

22.7 Contractor will deduct any discounts or rebates from invoices provided to the Owner for payment. Any discounts or rebates received on invoices already paid by the Owner will be refunded to the Owner or subtracted from any payment retainage.

22.8 Contractor will, prior to receipt of final payment, provide the Owner with a detailed breakdown of the actual cost compared to the estimated cost. When requested by Owner, the actual cost may be audited.

22.9 Environmental Requirements

22.9.1 Mitigation Measures- The Contractor shall comply with applicable mitigation measures established in any environmental assessment for the Property that Owner has provided.

22.9.2 Endangered Species- The Contractor shall comply with the Endangered Species Act. Should any evidence of the presence of endangered or threatened species or their critical habitat be brought to the attention of the Contractor, the Contractor will immediately report this evidence to the Architect and the Owner Representative. Construction shall be halted pending the notification process and further directions issued by the Architect and Owner.

22.9.3 The Contractor, when constructing a Project involving trenching, excavating, or other earth moving activity, shall comply with the following environmental constraints:

22.9.3.1 Historic Preservation- Any excavation or other earth moving activity by the Contractor that uncovers a historical or archaeological artifact shall be immediately reported to the Architect and the Owner Representative. Construction shall be halted pending the notification process and further directions issued by the Architect and Owner.

22.9.3.2 Human Remains and Cultural Items- Any excavation or other earth moving activity by the Contractor that uncovers human remains or cultural items shall be immediately reported to the Architect and the Owner Representative. Construction shall be halted pending the notification process and further directions issued by the Architect and Owner.

22.9.3.3 Paleontology- Any excavation or other earth moving activity by the Contractor that uncovers a fossil or other paleontological materials that may have scientific significance shall be immediately reported to the Architect and the Owner Representative. Construction shall be halted pending the notification process and further directions issued by the Architect and Owner.

22.9.3.4 Wetlands- The Contractor, when disposing of excess, spoil, or other construction materials on public or private property, will not fill in wetlands, unless specified in Contract documents and the proper permit has been issued by the government agency having jurisdiction.

22.9.3.5 Floodplains- The Contractor, when disposing of excess, spoil, or other construction materials on public or private property, will not fill in 100-year floodplain areas delineated on the latest Federal Emergency Management Administration floodplain maps.

105. A new Article 23 is added to the Agreement, reading as follows:

Article 23 SPECIAL PROJECT CONSIDERATIONS FOR THE CONTRACTOR

The Contractor shall take note of, and pay particular attention to the following special Project considerations:

23.1 Project Meetings:

23.1.1 The Contractor shall hold weekly Project meetings (or more or less frequently as determined by the Owner) with all Subcontractors and shall advise the Owner who may attend at its option. Each Subcontractor, if requested by Owner or Contract, shall have present a competent representative to report the condition of its work and receive information and instructions. The Contractor shall generate comprehensive meeting minutes and distribute them to all parties attending and the Owner within 48 hours of each meeting.

23.1.2 The Contractor shall hold weekly Project meetings with the Owner, Owner's Representative, and other consultants as deemed necessary by the Owner at the Project site or at such other times and places approved by Owner. The Contractor shall generate comprehensive minutes and distribute them to all parties attending and the Owner within 48 hours of each meeting.

23.1.3 Prior to moving onto the site and the start of construction, Contractor shall call a meeting at the job site with Owner's Representative, the Architect and Owner's property management staff to review construction, use of site, construction parking, and any other necessary items that need to be reviewed prior to construction set-up.

23.2 Construction Reports

23.2.1 The Contractor shall prepare a monthly construction report, generally recording the following information concerning events at the site; and submit copies to the Owner's Representative at a regularly scheduled monthly meeting or if a monthly meeting does not occur, then a copy shall be mailed to Owner's Representative.

- List of Subcontractors on the site
- Count of personnel on the site by Subcontractor, category and trade
- List of major equipment on the site
- List of materials delivered to the site
- List of materials delivered and stored off-site
- High and low temperatures, general weather conditions
- Accidents and unusual events
- Meeting and significant decisions
- Stoppages, delays, shortages, losses
- Orders and requests of governing authorities
- Change Orders received and implemented
- Services connected or disconnected
- Equipment or systems tests and start up
- Partial completion, occupancies

23.3 Special Instructions

23.3.1 Manufacturer's recommendations: Any manufacturer's recommendations, or optional instructions if provided in the Plans and/or Specifications, to improve the performance of the product shall be construed as mandatory.

23.3.2 Industry Standards: Standard's, recommendations, any optional instructions provided in the Plans and/or Specifications for product improvement, means and/or methods published by recognized professional organizations acknowledged in such industry, shall be utilized. In the event the Project specifications address similar issues, the more stringent or those most beneficial to the Owner shall apply. In the event of conflict between industry standards and the Project specifications, the Contractor shall submit the conflict to the Owner and for resolution. The Contractor will not be allowed for additional compensation for performing industry standards or Project specifications.

23.3.3 The Contractor shall obtain copies of published industry standards and manufacturer's recommendations and keep such standards on file at the site and shall allow the Owner's Representative access to same.

23.3.4 The Contractor shall notify the Owner's Representative a minimum of 24 hours in advance of any action, which results in covering up components. The Owner's Representative shall have the option to inspect the components to be covered up for compliance with the Contract Documents, including surface preparation and substrate conditions. Examples of cover up operations include but are not limited to: backfilling, placing concrete, applying paint or coatings, hanging drywall, applying stucco, applying flooring, applying wall or ceiling coverings, applying roofing, or applying any components which permanently cover substrates. The Contractor shall not be required to delay the progress of work for

inspections by the Owner's Representative unless there has been previous non-compliance.

23.3.5 The Contractor shall keep a complete record of all submittals at the Project site and shall allow the Owner's Representative access to such submittals.

23.3.6 Whenever a product is first being applied or installed that requires specific knowledge to properly apply or install, a manufacturer's representative shall be required to inspect the application or installation and approve compliance with the manufacturer's recommendations. The Contractor shall submit to the Owner's Representative a list of products or components requiring such inspection for approval prior to commencing work, and in no event later than submitting its first payment application. Submission of such a list is a condition precedent to the Owner making any payments.

23.3.7 In the event the Contractor fails to comply with the Contract Documents, industry standards, specifications, or manufacturer's recommendations, in addition to any remedies indicated elsewhere in the Contract Documents, the Owner shall have the option to require inspections by independent third party qualified consultants or technicians during subsequent operations. At the Owner's option, the inspections shall be periodical or full time and shall be for a portion of or all of the remaining operations. The costs for such inspections shall be born solely by the Contractor. The selection of the inspectors shall be by the Owner or be made with the Owner's approval. Such inspections shall not be grounds for an extension of the Contract Time.

23.3.8 In the event a representative of the Contractor, or its Subcontractors, or vendors, intentionally misrepresents issue(s) or intentionally misleads the Owner or any person representing the Owner or the Architect, in addition to other remedies by law or by contract, the Owner shall have the right to demand such representative who misrepresents or misleads, be removed from participation from the Project. Such removal shall not be grounds for any adjustment to the Contract Sum or the Contract Time.

23.4 Cleaning Up

23.4.1 The Contractor shall at all times keep the Project site and adjacent areas free from accumulation of waste materials or rubbish caused by the Contractor's operations. All materials, tools, and equipment shall be neatly stacked or contained in a manner and location acceptable to the Owner's Representative. Clean up efforts by the Contractor shall be continuous throughout the course of each work day. Furthermore, materials, trash, etc., shall be removed daily, in accordance with all federal, state, local and environmental laws and regulations. In the event the Contractor fails to keep the job site clean and free from such waste or rubbish, the Owner may take such action and offset any and all costs or expenses of whatever nature paid or incurred by the Owner in undertaking such action against any sums then or thereafter due to the Contractor plus a multiplier of 1.25 times all costs. The owner will give the Contractor twenty-four (24) hours notice prior to taking such action.

23.5 Testing

23.5.1 The Owner shall pay the cost of all inspections, tests, or approvals conducted by public authorities. The Owner shall also bear the cost of inspections, tests, or approvals in connection with quality control and assurance of the Work; however, the Contractor shall bear all costs related to reinspections or retesting. The Contractor also agrees that the cost of testing services required for the convenience of the Contractor in its scheduling and performance of the Work, and the cost of testing services related to remedial operations performed to correct deficiencies in the Work shall be borne by the Contractor.

23.5.2 In the event the Owner contracts directly with other Prime Contractors, Specialty Contractors, or utility providers the Contractor shall:

.1 coordinate and schedule the installation of the work in a similar manner to that of the General Contractor's Subcontractor;

.2 advise the Owner's Representative immediately upon discovery of any failure by other prime contractors to comply with the Project schedule or adequately coordinate their work;

.3 advise the Owner's Representative immediately upon discovery of any issues, conflicts, actions, or problems related to other prime contractors which may adversely effect the work or the progress of the work;

.4 provide layout and control points in a similar manner and degree which the General Contractor provides to its Subcontractors;

.5 provide temporary facilities, temporary toilets, temporary power, temporary water (excluding drinking water), temporary phones, similar to those provided to its own Subcontractors, including incidental use of dumpsters (excluding significant trash hauling);

.6 advise and invite the other Prime and Specialty Contractors to attend Project coordination and scheduling meetings.

23.5.3 Other Prime Contractors employed or engaged directly by the Owner may include, but not be limited to: landscaping, irrigation and utility providers.

23.6 Special Site Considerations

If the Work is not being constructed on vacant land then Contractor shall use best efforts to assure that the construction shall not be allowed to disrupt or interfere with each Owner's quiet enjoyment of the Property. Contractor shall consult with the pastor (or principal if a school project) in addition to the Owner's representative when scheduling the Work to minimize any interference with the Owner's existing use of the Property. Nothing contained herein shall prevent the Contractor from working on weekends provided Contractor complies with all local laws regarding the day and time of day construction is permitted.

23.7 Clerk of the Works

23.7.1 Owner may have a Clerk of the Works (or equivalent) on site to monitor the progress of the Work on behalf of Owner. Contractor agrees to cooperate fully with the Clerk of the Works and provide full access to the Clerk of the Works to the Contractor's office, personnel on the job site and to all of the Work and materials. The Clerk of the Works shall have no decision-making authority. The Contractor shall not consult with the Clerk of the Works to resolve matters pertaining to the Work. All such communications shall be with Owner or Owner's Representative.

