

such property shall include an endorsement waiving the right of subrogation against the Owner for any loss or damage to such property.

I. The Owner in good faith may adjust and settle a loss with the Contractor's insurance carrier.

J. The Owner and the Contractor waive all rights against each other and any of their Subcontractors, Sub-subcontractors, agents and employees for damages caused by fire or other perils to the extent of actual recovery of any insurance proceeds under any property insurance policy procured, pursuant to paragraph A of this Article 10, or other property insurance applicable to the Contractor's work.

K. Before commencement of its work, the Contractor shall obtain and pay for such insurance as may be required to comply with the indemnification and hold harmless provisions outlined under Article 12 of these General Conditions of the Contract for Construction.

L. Review and acknowledgment of the Certificate of Insurance by the Owner or the Architect shall not relieve or decrease the liability of the Contractor hereunder.

M. If the terms of policies expire, or the lives of the insurance companies terminate, before the Contract is completed or during the period of completed operations coverage, and the Contractor fails to maintain continuance of such insurance, the Owner is entitled to provide protection for itself, to pay premiums, and to charge the cost to the Contractor.

ARTICLE 11 REQUIRED BONDS FOR THE PROJECT

A. Within ten (10) days of the award of the bid, the Contractor shall furnish a Performance Bond and Labor and Material Payment Bond meeting all statutory requirements of the State of New York.

B. All Surety companies are subject to the approval of the Owner and may be rejected by the Owner without cause.

C. Except as otherwise required by statute, the form and substance of such bonds shall be satisfactory to the Owner in the Owner's sole judgment.

D. Bonds shall be executed by a responsible surety licensed to do business in New York with an A.M. Best Rating of "A-" or better as to Policy Holder Ratings, and "VII" or better as to "Financial Size Category." Such bonds shall remain in effect for a period not less than two (2) years following final completion of the work by the Contractor.

E. Bonds shall further be executed by a surety that is currently listed on the U.S. Treasury Department Circular 570 entitled "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies," as amended.

F. The Performance Bond and the Labor and Material Payment Bond shall each be in an amount equal to 100% of the Contract Sum. The value of each bond shall be adjusted during the Project construction period to reflect changes in the Contract Sum.

G. Every Bond must display the Surety's Bond Number.

H. Each bond must be accompanied by an original Power of Attorney, giving the names of Attorneys-in-fact, and the extent of their bonding capacity.

I. A rider including the following provisions shall be attached to each Bond:

1. Surety hereby agrees that it consents to and waives notice of any addition, alteration, omission, change, or other modification of the Contract Documents. Such addition, alteration, change, extension of time, or other modification of the Contract Documents, or a forbearance on the part of either the Owner or the Contractor to the other, shall not release the Surety of its obligations hereunder and notice to the Surety of such matters is hereby waived.
2. Surety further agrees that in event of any default by the Owner in the performance of the Owner's obligations to the Contractor under the Contract, the Contractor or Surety shall cause written notice of such default (specifying said default in detail) to be given to the Owner, and the Owner shall have thirty (30) days from time after receipt of such notice within which to cure such default, or such additional reasonable period of time as may be required if the nature of such default is such that it cannot be cured within thirty (30) days. Such Notice of Default shall be sent by certified or registered U.S. Mail, return receipt requested, first class postage prepaid, to Lender and the Owner.
3. Any proceeding, legal or equitable, under this Bond may be instituted in any court of competent jurisdiction in the location in which the work or part of the work is located and shall be instituted within three years after termination by the Owner of the Contractor's contract or within three years after final completion by the Contractor. In the event the Contractor files for bankruptcy, the commencement of the three year period shall not start to run until the bankruptcy proceeding is finalized or the Owner obtains relief from an automatic stay, whichever is later.

J. The Contractor shall deliver the required bonds to the Owner prior to beginning construction activity at the site, but no later than 10 days of issue date of Notice of Award of Contract. Said bonds shall be in the form set forth in the Project Manual. No work shall be performed by the Contractor until such bonds have been reviewed and approved.

K. The Owner may, in the Owner's sole discretion and without prior notice to the Contractor, inform surety of the progress of the Contractor's work and obtain consents as necessary to protect

the Owner's rights, interest, privileges and benefits under and pursuant to any bond issued in connection with the Contractor's work.

L. If the surety on any Bond furnished by Contractor is declared a bankrupt or becomes insolvent or its right to do business is terminated in any state where any part of the Project is located or it ceases to meet the requirements of this Article, the Contractor shall within ten (10) days thereafter substitute another Performance and Payment Bond and surety, both of which must be acceptable to the Owner.

ARTICLE 12 INDEMNIFICATION

A. The Contractor and its subcontractors shall indemnify and hold harmless (1) the Owner, its consultants, employees, officers and agents, (2) the Architect and its consultants, employees, officers and agents, and (3) the Construction Manager, its consultants, employees, officers and agents, and any of their respective employees, or agents from and against any and all claims, damages, losses, suits, obligations, fines, penalties, costs, charges and expenses, including but not limited to attorneys' fees, which may be imposed upon or incurred by or asserted against any of them by reason of any act or omission of such Contractor or any of its subcontractors or any person or firm directly or indirectly employed by such Contractor, for the act(s) and/or omission(s) of any Contractor or Subcontractor in connection with the work of the Project.

B. To the fullest extent permitted by law, the Contractor and its subcontractors shall indemnify and hold harmless (1) the Owner, its consultants, employees, officers and agents, (2) the Architect and its consultants, employees, officers and agents, and (3) the Construction Manager, its consultants, employees, officers and agents, and any of their respective employees, or agents from and against claims, damages, losses and expenses including but not limited to attorneys' fees, arising out of or resulting from performance of its 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 including loss of use resulting therefrom, but only to the extent caused in whole or in part by negligent acts or omissions of the Contractor, 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 Paragraph B. The Contractor's indemnity obligations under this Paragraph B shall, but not by way of limitation, specifically include all claims and judgments which may be made against the Owner, the Architect, the Architect's consultants and agents and employees of any of them under any applicable statute, rule or regulation including the New York Statute, Occupational Safety and Hazardous Act, and the Federal Occupational Safety and Hazardous Act. In claims against any person or entity indemnified under this Paragraph B by an employee of the Contractor, a Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, the indemnification obligation under this Paragraph B shall not be limited by a limitation on amount or type of damages, compensation or benefits payable by or