

RIDER TO AIA A101-2007 AND AIA A201-2007 STANDARD FORM OF AGREEMENT
BETWEEN OWNER AND CONTRACTOR WHERE THE BASIS OF PAYMENT IS A
STIPULATED SUM FOR

Ingersoll Commons

THIS RIDER (the "Rider") is attached to and made a part of that certain AIA A101-2007 and AIA A201-2007 STANDARD FORM OF AGREEMENT BETWEEN OWNER AND CONTRACTOR WHERE THE BASIS OF PAYMENT IS A STIPULATED SUM (the "Original Agreement") made by and between COMMUNITY VENTURES, a Pennsylvania nonprofit corporation ("Owner"), and _____ ("Contractor").

BACKGROUND

WHEREAS, the parties hereto entered into the Original Agreement in connection with Owner constructing ten (10) housing units on certain parcels of property in the City of Philadelphia, Pennsylvania; and

WHEREAS, the parties hereto desire to amend and supplement the Original Agreement as set forth herein.

NOW, THEREFORE, in consideration of the mutual promises and undertakings of the parties hereto and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound, the parties hereto agree as follows:

Article 1
General

The following provisions are added at the end of Article 1 of the General Conditions:

1.7 Basic Definitions.

1.7.1 "Agreement" refers to the executed Original Agreement between Owner and Contractor and the General Conditions, as modified by this Rider.

1.7.2 "Architect" means KSK Architects Planners Historians, Inc.

1.7.3 "Architect's Plans" means the drawings, plans and specifications for the Project prepared by the Architect which are identified on Exhibit "E" attached hereto and incorporated herein.

1.7.4 "Authority" shall mean the Philadelphia Redevelopment Authority.

1.7.5 "Authority Requirements" shall mean all those requirements of the Authority in connection with the Project Site and the Project including those set forth on Exhibit "D" ("PRA Documents") to this Rider.

1.7.6 "Building Code" shall mean the Philadelphia Construction and Occupancy Code and all other City legal codes applicable to the Work.

1.7.7 "City" shall mean the City of Philadelphia, Pennsylvania.

1.7.8 "Contract Documents" shall mean the Agreement, the Architect's Plans, the Project Manual and all other plans, specifications, drawings and other documents prepared by or for Contractor and relating to the Work.

1.7.9 "Contractor's Representative" shall mean initially _____ or such other person designated by Contractor.

1.7.10 "Contract Sum" shall mean _____ Dollars (\$ _____)

1.7.11 "Day" or "Days" shall mean calendar days unless otherwise specifically noted in the Contract Documents.

1.7.12 "Environmental Laws" shall mean any present or future federal or local law, ordinance, rule, regulation, permit, license or binding determination of any governmental authority relating to, imposing liability or standards concerning, or otherwise addressing the environment, health or safety, including, but not limited to: the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Section 9601 et seq. ("CERCLA"); the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 et seq. ("RCRA"); the Toxic Substances Control Act, 15 U.S.C. Section 2601 et seq. ("TOSCA"); the Clean Air Act, 42 U.S.C. Section 7401 et seq.; and the Clean Water Act, 33 U.S.C. Section 1251 et seq. and any so-called "Super-fund" or "Superlien" law; and the Occupational Safety and Health Act, 29 U.S.C. Section 651 et seq. ("OSHA"), as each is from time to time amended and hereafter in effect.

1.7.13 "Environmental Reports" shall mean the letter to Stephen Kaufman dated June 4, 2013 re the status of environmental remediation and the Geotechnical Engineering Report dated March 15, 2012 prepared by Hunt Engineering Company, both attached as appendices of the Project Manual.

1.7.14 "Final Completion" shall mean that all portions of the Work and the Project have been completed, including but not limited to (a) receipt of permanent Certificates of Occupancy for all ten (10) units constructed on the Project Site, (b) issuance of a Certificate of Substantial Completion by the Architect, (c) issuance of Final Approvals on the entire Project by the Lenders, (d) issuance of a title bring-down to the Owner evidencing that no mechanics' liens have been filed against the Project, (e) provision to the Owner of executed releases of liens in recordable form by all Contractors, all Subcontractors and materialmen who supplied labor or materials to the Project, and (f) fulfillment of the Contract Close-out Requirements as set forth in the Plan and Specs and any other contract documents.

1.7.15 "General Conditions" shall mean the A201-2007 General Conditions of the Contract for Construction, as modified by this Rider.

1.7.16 “Hazardous Materials” shall mean: (1) “hazardous substances” as defined by CERCLA; (2) “hazardous wastes” as defined by RCRA; (3) any hazardous, dangerous or toxic chemical, waste, pollutant, contaminant or substance (“pollutant”) within the meaning of any Environmental Law prohibiting, limited or otherwise regulating the use, exposure, release, emission, discharge, generation, manufacture, sale, transport, handling, storage, treatment, reuse, presence, disposal or recycling of such pollutant; (4) petroleum, crude oil or fraction thereof; (5) any radioactive material, including any source, special nuclear or byproduct material as defined in 42 U.S.C. Section 2011 et seq. and amendments thereto and reauthorizations thereof; (6) asbestos and asbestos-containing materials in any form or condition; or (7) polychlorinated biphenyls in any form or condition.

1.7.17 “Legal Requirements” shall mean all applicable laws, codes (including, without limitation, the Building Codes), ordinances, rules, regulations, orders and decrees of any government or quasi-government entity having jurisdiction over the Project or Project Site, the practices involved in the Project or Project Site, or any Work, including all Environmental Laws and including, but not limited to, the Americans with Disabilities Act of 1990 and all requirements of the Authority, including without limitation the Authority Requirements.

1.7.18 “Landscape Designer” shall mean Hunter Landscape Design.

1.7.19 “Lender” shall mean the Philadelphia Redevelopment Authority and The Reinvestment Fund.

1.7.20 “Owner’s Representative” shall initially be David La Fontaine or such other person designated by Owner.

1.7.21 “Project” shall mean the construction of ten (10) affordable housing units for sale at the Project Site, including the installation of a private street, an underground infiltration basin and site utilities as required by the Philadelphia Water Department.

1.7.22 “Project Manual” shall mean the *Project Manual for Ingersoll Commons* dated June 12, 2013, and addenda and memoranda thereto for the Project (known together with the Architect’s Plans as the “Plans and Specs”) as attached hereto as Exhibit “C” and made a part of the Agreement.

1.7.23 “Project Site” is the land or premises on which the Project is located as shown on Exhibit “B” attached hereto and incorporated herein.

1.7.24 “State” shall mean the Commonwealth of Pennsylvania.

1.7.25 “Subcontractor” is any person or entity retained by Contractor to perform a portion of the Work and shall include materialmen and suppliers.

1.7.26 “Sub-Subcontractor” is any person or entity retained by a Subcontractor to perform any portion of a Subcontractor’s Work and shall include materialmen and suppliers.

1.7.27 "Work" is comprised of all Contractor's design, construction and other services required by the Contract Documents to complete the Project, including procuring and furnishing all materials, equipment, services and labor necessarily implied by or reasonably inferable from the Contract Documents.

1.8 References. All references in this Rider or the Original Agreement to the "Agreement" shall constitute a reference to the Original Agreement and the General Conditions as modified by this Rider. All references herein to Subcontractors herein shall be deemed to also refer to Sub-Subcontractors, unless otherwise noted. Any references in the Contract Documents to "Planning Architect" shall constitute a reference to the Architect. Capitalized terms not defined herein shall have the same meaning provided in the General Conditions.

1.9 Conflicts. In the event of any conflict between the terms and conditions of this Rider and the terms and conditions of the Original Agreement, or a conflict between the terms and conditions of this Rider and the terms and conditions of the General Conditions, the terms and conditions of this Rider shall in all instances control.

1.10 Exhibits. Unless otherwise provided in this Rider, any reference in this Rider to an Exhibit is understood to be a reference to the Exhibits attached to this Rider. All Exhibits attached to this Rider shall be incorporated into this Rider as if fully set forth herein. All references to "Rider" as used herein shall be deemed to also refer to the Exhibits attached hereto.

Article 2

Owner

2.2.1 Section 2.2.1 of the General Conditions is hereby deleted in its entirety and replaced with the following: Upon written request prior to the commencement of the Work by the Contractor, the Owner shall provide evidence that the Owner has obtained financing commitments for the Project.

2.2.4 Section 2.2.4 of the General Conditions is hereby modified to provide that the Owner shall not be required to provide the Contractor with any information or services that has not been previously obtained and/or budgeted for by the Owner for the Project.

2.4 Section 2.4 of the General Conditions is hereby modified to change all references to the ten day period to five days and to provide that the Contractor shall complete correction of such default or neglect within seven days after Contractor's commencement of its cure.

2.5 The following is added as a new Section 2.5 to the General Conditions: Owner's Representative will endeavor to provide Contractor with reasonably prompt notice if it observes any failure on the part of Contractor to fulfill its contractual obligations, including any errors, omissions or defects in the performance of the Work, provided, however, in no event shall the failure by Owner's Representative to provide any such notice operate to waive or release Contractor from any of its contractual obligations.

Article 3
Contractor

3.1.1 The following is added at the end of Section 3.1.1 to the General Conditions: Contractor's Representative shall be reasonably available to Owner and shall have the necessary expertise and experience required to supervise the Work. Contractor's Representative shall communicate regularly with Owner and shall be vested with the authority to act on behalf of Contractor. Contractor's Representative may be replaced only with Owner's prior written consent.

3.1.4 The following is added as a new Section 3.1.4 to the General Conditions:

Contractor shall provide Owner with a monthly status report detailing the progress of the Work, including whether (i) the Work is proceeding according to schedule, (ii) any known discrepancies, conflicts, or ambiguities exist in the Contract Documents that require resolution, (iii) any health and safety issues exist in connection with the Work, (iv) any other items require resolution so as not to jeopardize Contractor's ability to complete the Work for the Contract Sum and within the Contract Times; and (v) any reports required under the Authority Requirements, including without limitation wage rate compliance, Economic Opportunity and Section 3 reports (i.e. WBE/MBE/DBE reports). Contractor's Representative shall attend job meetings held every other week until Final Completion.

3.1.5 The following is added as new Section 3.1.5 to the General Conditions: Contractor shall at all times exert its best efforts and judgment as an experienced contractor to adopt and implement policies and practices designed to avoid work stoppages, slowdowns, disputes or strikes and shall at all times maintain work-wide labor harmony and shall not employ any Subcontractors who may cause picketing or other delays in the Work.

3.2.1 Section 3.2.1 of the General Conditions is hereby modified to add at the end: Contractor represents that it has examined and inspected the Project Site and any existing improvements, and has satisfied itself as to the conditions thereof and reviewed all data and reports pertaining to the Project Site provided by Owner or the Architect, including the Environmental Reports and Geotechnical Reports included as a part of the Project Manual.

3.2.3 Section 3.2.3 is deleted in its entirety and replaced with the following: Contractor acknowledges that the Contract Documents, including the Architect's Plans, are adequate and sufficient to provide for the completion of the Work in accordance with all Legal Requirements, including all work and services, whether or not fully shown or described, which reasonably may be inferred for such completion. Contractor represents that it is familiar with the Project Site. The Contractor agrees to modify its Shop Drawings in the event Architect notifies Contractor that such Shop Drawings are not in conformity with the Architect's Plans. In the case of inconsistencies between the Contract Documents and the Building Codes, the Building Codes shall govern and no increases in the Contract Sum shall be made on account of said inconsistencies. In the absence of guidelines for interpretation by either the Architect or such Building Codes, then the International Code Council Model Code as most recently revised shall govern. No adjustment to the Contract Sum shall be made for any Work required to bring the Project into conformity with the Building Codes or for corrective work made necessary by the

failure of Contractor or any of its subcontractors to comply with any Legal Requirements bearing on the performance of the Work, or to comply with the terms and conditions of the Contract Documents, including, without limitation, the Architect's Plans. No adjustment to the Contract Sum shall be made by reason of any repairs or replacements to the Work made necessary by damages to the Work or any portion thereof caused by Contractor or any Subcontractors but any applicable builder's risk insurance proceeds received by Owner shall be made available to Contractor for those purposes.

Contractor shall perform the Work in accordance with all Legal Requirements bearing on the performance of the Work and the Contract Documents, and shall provide all notices applicable to the Work as required by the Legal Requirements and the Contract Documents.

3.2.5 The following is added as a new Section 3.2.5 to the General Conditions: Neither the review or approval by Owner of the Contract Documents shall be deemed (i) to transfer any liability from Contractor to Owner, (ii) to be an acceptance of any defects in the Contract Documents, or (iii) to waive any indemnity or other rights Owner has against Contractor for actual or alleged defects in the Contract Documents.

3.3.4 The following is added as new Section 3.3.4 of the General Conditions: Contractor shall perform all Work required or reasonably inferable from the Contract Documents whether or not such Work is fully shown or described. The Contractor accepts the relationship of trust and confidence established between the Contractor and the Owner by this Agreement. The Contractor covenants with the Owner to furnish its best skill and judgment in furthering the interests of the Owner, to furnish efficient business administration and superintendence, to furnish at all times an adequate supply of skilled workers and materials, and to perform the Work efficiently and in the most expeditious and economical manner consistent with the interests and expectations of the Owner. Contractor shall at all times exercise complete and exclusive control over the means, methods, sequences, and techniques of construction of the Work.

3.5 Section 3.5 of the General Conditions is modified to delete the second sentence and to provide that the Work will be free from defects and will conform to the requirements of the Contract Documents.

3.7.1 The following is added at the end of Section 3.7.1 of the General Conditions: Contractor hereby represents and warrants to Owner that it has obtained or will obtain in a timely manner all demolition, infrastructure, remediation, and construction related permits (except for the general building permits which have been obtained by Owner), approvals and licenses required for the prosecution of the Work by any government or quasi-government entity having jurisdiction over the Project, including, without limitation, approvals from the City, Philadelphia County and the State (the "Licenses"). Contractor shall obtain and keep in force during its performance of the Work, the Licenses and shall inform Owner immediately of any lapse in the Licenses or any communications Contractor receives from any governmental authority regarding the Licenses.

3.7.5 Section 3.7.5 of the General Conditions is modified to delete the last sentence.

3.9.1 Section 3.9.1 of the General Conditions is modified to provide that all important communications by the Contractor to the Owner shall be in writing.

3.18.1 Section 3.18.1 of the General Conditions is hereby deleted in its entirety and replaced by the following sections.

3.18.1 Indemnifications

3.18.1.1 Payment Claim Indemnification

Contractor shall indemnify, defend and hold harmless Owner and the Indemnitees (as defined hereinafter) from any claims (including attorney's fees and costs) or mechanic's liens brought against Owner or against the Project as a result of the (actual or alleged) failure of Contractor, or those for whose acts it is responsible, to pay for any services, materials, labor, equipment, taxes or other items or obligations furnished or incurred for or in connection with the Work, unless Owner is in breach of its obligations under the Contract Documents with respect to such unpaid amounts. In no event shall any other alleged breach on Owner's part act to waive or otherwise affect Owner's right under this section. Within three (3) days of receiving written notice from Owner that such a claim or mechanic's lien has been filed, Contractor shall commence to take the steps necessary to discharge said claim or lien, including, if necessary, the furnishing of a mechanic's lien bond.

If any claim of lien or stop-notice or any other demand for payment or security therefor, including claims or demands upon performance and payment bond sureties for this Agreement, is made or filed with Owner or the Project by any person claiming that Contractor or any Subcontractor or any other person claiming under any of them has failed to perform its contractual obligations or to make payment for any labor, services, trust fund contribution, material, equipment, taxes, or other item furnished or obligation incurred for, or in connection with, the Work, or if at any time there shall be evidence of such nonperformance or nonpayment of any claim of lien or stop-notice or other demand for which, if established, Owner or the Project might become liable, then Owner shall have the right to retain from any payment then or thereafter due under the Agreement or to be reimbursed to Contractor, an amount sufficient to (i) satisfy, discharge and defend against any such claim of lien or stop notice or other demand, or any action or proceeding thereon that may be brought to judgment or award; (ii) make good any such nonpayment, nonperformance, damage, failure or default; and (iii) compensate Owner for and indemnify it against any and all loss, liability, damage, cost, and expense (including attorneys' and consultants' fees and costs) sustained or incurred in connection therewith.

If any Subcontractor obtained by Contractor, or Contractor, makes, records, files, or maintains any action on or respecting a claim of mechanics' lien, stop notice, equitable lien, payment or performance bond, or a lis pendens relating to the Work, Contractor shall immediately and at its own expense, procure, furnish and record appropriate release bonds which will extinguish or expunge said claim, stop notice, or lis pendens.

3.18.1.2 Contractor's General Indemnification

Contractor, to the fullest extent permitted by law, shall indemnify, hold harmless and defend Owner and the Authority and any subsidiary, parent or affiliate corporations of the foregoing and their directors, shareholders, officers, partners, members, agents, employees and designees, and all of their successors and assigns (collectively, the "Indemnitees") from and against any and all losses, claims, liabilities, injuries, damages and expenses, including attorneys' fees and disbursements, that the Indemnitees may incur by reason of any injury or damage sustained to or by any person or property (including, but not limited to any one or more of the Indemnitees) arising out of or occurring in connection with the Work, or arising in whole or in part from alleged or actual acts or omissions of Contractor, Subcontractors, anyone employed directly or indirectly by any of them or anyone for whose acts any of them may be liable.

Contractor shall promptly advise Owner in writing of any action, administrative or legal proceeding or investigation as to which this indemnification may apply, and Contractor, at Contractor's expense, shall assume on behalf of the Indemnitees in question and conduct with due diligence and in good faith the defense thereof with counsel satisfactory to the Indemnitees; provided, that the Indemnitees shall have the right to be represented therein by advisory counsel of its own selection and at its own expense; and provided further, that if the defendants in any such action include both Contractor and the Indemnitees and the Indemnitees shall have reasonably concluded that there may be legal defenses available to it which are different from or additional to, or inconsistent with, those available to Contractor, the Indemnitees shall have the right to select separate counsel to participate in the defense of such action on its own behalf at Contractor's expense. In the event of failure by Contractor to fully perform in accordance with this indemnification paragraph, the Indemnitees, at its option, and without relieving Contractor of its obligations hereunder, may so perform, but all costs and expenses so incurred by the Indemnitees in that event shall be immediately reimbursed by Contractor to the Indemnitees. The obligations of Contractor under this Section 3.18.12 shall survive the expiration of the Agreement.

Article 4
Architect

4.2.1. Section 4.2.1 of the General Conditions is modified to provide that the Architect will provide administration of the Agreement for so long as any warranty period by the Contractor set forth in the Agreement or Contract Documents continues.

4.2.15 The following is added as a new Section 4.2.15 to the General Conditions: Although reference is made in the Contract Documents to various functions and duties of the Architect, Owner reserves the right to eliminate the role of Architect as to any one or more functions. Owner shall have the right to designate its own construction representative for the purpose of making inspections and verifying compliance with the terms of the Contract Documents, and

Contractor shall furnish its full cooperation to such representative. Unless otherwise agreed by Owner, the Architect shall have no right to interpret any matter which is in controversy, or to decide any controversy which may arise between the parties, except for interpretive matters of a purely aesthetic nature relating to the Architect's Plans prepared by the Architect. Communications between Owner and Contractor need not be made through the Architect and, if so directed by Owner, may be made directly between the authorized representatives of Owner and Contractor.

Article 5
Subcontractors

5.2.2 Sections 5.2.2 and 5.2.3 of the General Conditions is hereby deleted in its entirety and replaced with the following: Contractor shall employ only Subcontractors who are duly licensed and qualified to perform the Work consistent with the Contract Documents and who have not been debarred or are otherwise prohibited from working on the Project by the City, the Authority or the State. Contractor shall not employ any subcontractors that Owner or the Authority within a reasonable amount of time object to as incompetent, unfit or objectionable for any other reason. All work performed for Contractor by a Subcontractor shall be pursuant to an appropriate written agreement between Contractor and Subcontractor (and where appropriate, between Subcontractor and Sub-subcontractor). Owner and the Authority reserve the right to review and approve any such agreement. Contractor assumes responsibility to Owner for the proper performance of the Work by Subcontractors and Sub-Subcontractors and any acts and omissions in connection with such performance. Nothing in the Contract Documents is intended or deemed to create any legal or contractual relationship between Owner and any Subcontractor or Sub-Subcontractor.

5.4.1 Section 5.4.1 of the General Conditions is modified to provide that the Owner does not assume any obligations of the Contractor in the event of any assignment by the Contractor of a contract with a Subcontractor unless the Owner in writing expressly assumes such obligations.

5.4.2 Section 5.4.2 of the General Conditions is deleted in its entirety.

5.4.3 Section 5.4.3 of the General Conditions is modified to provide that if the Owner assigns a subcontract to another entity, then the Owner shall be released from all obligations upon such assignment.

Article 6
Separate Contractors

6.2.3 Section 6.2.3 of the General Conditions is modified to delete the second sentence.

Article 7
Changes in Work

7.3.7 Section 7.3.7 of the General Conditions is modified to provide that any determination by the Architect is subject to the Owner's approval.

7.4 Section 7.4 of the General Conditions is deleted and substituted with the following: Minor changes in the Work do not involve an adjustment in the Contract Sum or Contract Times

and do not materially and adversely affect the Work, including the design, quality, performance and workmanship required by the Contract Documents. Owner may direct Contractor to make minor changes in the Work consistent with the intent of the Contract Documents, in which event Contractor shall promptly implement and perform such minor changes without any adjustment in the Contract Sum or Contract Times. If Owner and Contractor disagree upon whether Contractor is entitled to be paid for any changes in the Work required by Owner, Contractor shall furnish Owner with a good faith estimate of the costs to perform the disputed changes in accordance with Owner's interpretations. If the parties are unable to agree and Owner expects Contractor to perform the changes in accordance with Owner's interpretations, Contractor shall proceed to perform the disputed changes, conditioned upon Owner issuing a written order to Contractor (i) directing Contractor to proceed, and (ii) specifying Owner's interpretation of the changes that are to be performed.

Article 8

Time

8.1.2 Section 8.1.2 of the General Conditions is modified to provide that Contractor shall not commence any of the Work until Contractor has received a "Notice to Proceed" from Owner. Contractor agrees that it will break ground and commence the Work within five (5) days of its receipt of the Notice to Proceed.

8.1.3 Section 8.1.3 of the General Conditions is modified to provide that Contractor shall achieve Substantial Completion of all of the Work within twelve (12) months from the date of the Notice to Proceed provided by Owner to Contractor (the "Required Completion Date").

8.1.5 Section 8.1.5 is added to the General Conditions as follows: Contractor shall complete the construction of the buildings within the Project pursuant to the Project Schedule attached hereto as Exhibit "G" and incorporated herein, and Contractor shall complete all other components of the Work constituting the Project within the time periods set forth in the Project Schedule. Contractor shall update the Project Schedule as necessary and copies of any revised construction schedule shall be submitted promptly to Owner and Architect together with a report of whether the Work is on schedule and, if not, the reasons therefor.

8.1.6 Section 8.1.6 is added to the General Conditions as follows: Owner and Contractor mutually agree that time is of the essence with respect to all of the dates and times set forth in the Contract Documents. It is hereby understood and agreed that Owner will suffer damages if Substantial Completion of the Work does not occur by the Required Completion Date for any reason. Due to the difficulty in establishing the exact amount of such damages, Owner and Contractor hereby agree in advance to liquidated damages of One Thousand Dollars (\$1,000.00) per Day. The liquidated damages agreed to are the result of a good faith effort by Owner and Contractor to estimate the amount of damages Owner will suffer and in no event are to be viewed as a penalty. Contractor shall be obligated to promptly pay Owner upon demand by Owner the sum of One Thousand Dollars (\$1,000.00) for each Day of delay until the actual date of Substantial Completion. In addition to its rights to maintain an action against Contractor for such liquidated damages, Owner shall have the right from time to time, by set-off, to an amount equal to the liquidated damages against any amount due on the Contract Sum provided herein by

an amount equal to the liquidated damages accumulated to the date of said demand by Owner and thereafter as may be subsequently accrued.

8.3.1 Section 8.3.1 of the General Conditions is modified to provide that if the Contractor is delayed in the performance of the Work due to fires, floods, acts of Owner, or any other cause beyond the reasonable control of Contractor, the Contract Times on the Project Schedule for performance shall be reasonably extended by Change Order. Notwithstanding the preceding sentence, Contractor expressly agrees that in undertaking to complete Work within the Contract Times, it has made allowances for certain foreseeable hindrances and delays and, therefore, extension of the Contract Times will not be granted for delays due to the fault or negligence of Contractor, Subcontractors, suppliers, consultants, or any other entity working on behalf of Contractor. The parties agree and Contractor acknowledges that these hindrances and delays are ordinarily encountered on projects similar to those of the Project. The parties specifically anticipate and contemplate such hindrances and delays, including but not limited to labor disputes affecting Contractor's, Subcontractors' and their suppliers' labor forces, those caused by adverse weather conditions that are not unusual for the time of year, the action or inaction of suppliers, Subcontractors, and other contractors, and have already factored same into the Contract Times. Contractor agrees that such delays of the type as set forth above are included in the Contract Sum and the Project Schedule and that they shall not constitute the basis of a time extension of the Required Completion Date or a claim for additional compensation of any type. To the extent that delays for which time and compensation are properly allowed elsewhere in the Contract Documents (if at all), Owner shall not be liable for time-related or delay damages in the following categories: (a) loss of anticipated profit, (b) indirect expenses, (c) impact costs, (d) loss of productivity, (e) inefficiency costs, (f) home-office overhead, (g) consequential damages, including, but not limited to, loss of bonding capacity, loss of bidding opportunities, and insolvency, (h) re-mobilization costs or (g) legal fees, claims preparation expenses, or costs of dispute resolution. Contractor hereby expressly waives its right to such delay or time-related costs or damages. All extensions of the Contract Time shall be subject to the approval of the Owner, determined in light of the Owner's contractual obligations to its Lenders.

Article 9

Payments and Completion

9.2 Section 9.2 of the General Conditions is modified to provide that prior to the execution of this Agreement Contractor shall submit for Owner's review and approval a Schedule of Values for all of the Work prepared in such form and contain such information as may be reasonably required by the Authority and any Lenders and shall include units and prices per unit for all items. The Schedule of Values will (i) subdivide the Work into its respective parts, (ii) include values for all items comprising the Work, and (iii) serve as the basis for monthly progress payments made to Contractor throughout the course of completing the Work.

9.3.1 Section 9.3.1 of the General Conditions is modified to provide that the Application for Payment shall be accompanied by all supporting documentation required by the Contract Documents. Applications for Payment shall be submitted on AIA Document G702 supported by AIA Document G703, Continuation Sheet. In addition to the substantiation required above, all Applications for Payment shall include releases of lien rights by Contractor and all Subcontractors as provided herein in the form attached at Exhibit "A". In each Application for

Payment, Contractor shall certify as follows: “There are no mechanics’ or materialmen’s liens outstanding as of the date of this Application; all due and payable bills with respect to the Work have been paid to date or are included in the amount requested in the current Application; and, except for such bills not paid but so included, there is no basis for the filing of any mechanics’ or materialmen’s liens on the Work.”

9.3.2 Section 9.3.2 of the General Conditions is deleted and replaced with the following: Unless otherwise agreed in writing, Owner will make payment only on account of materials and equipment purchased by Contractor for installation and incorporation into the Work when such materials have been installed. Payments will not be made on account of materials and equipment stored on Project Site or off Project Site.

9.3.3 Section 9.3.3. of the General Conditions is modified to provide that the Application for Payment shall constitute Contractor’s representation that the Work has been performed consistent with the Contract Documents, has progressed to the point indicated in the Application for Payment, and that title to all Work will pass to Owner free and clear of all claims, liens, encumbrances, and security interests upon the incorporation of the Work into the Project, or upon Contractor’s receipt of payment, whichever occurs earlier.

9.6.1 Section 9.6.1 of the General Conditions is modified to add at the end the following: Provided that the Application for Payment is received by Owner and the Architect and approved by Owner, Architect, Authority and Lenders no later than the first day of the month, and that all requirements set forth herein have been satisfied, Owner shall make payment to Contractor no later than the fifteenth day of the following month, provided that Owner shall use its best efforts to pay Contractor within 30 Days after the Application for Payment is received, all subject to the availability of funds to Owner from the Authority and all Lenders. Contractor waives any right to interest or penalties for late payments/nonpayments under the Pennsylvania Contractor and Subcontractor Payment Act and will require its Subcontractors to do the same in its agreements with its Subcontractors. If Owner determines that Contractor is not entitled to all or part of an Application for Payment, it will notify Contractor in writing within seven (7) days after the Application for Payment is received by the Owner. The notice shall indicate the specific amounts Owner intends to withhold, the reasons and contractual basis for the withholding, and the specific measures Contractor must take to rectify Owner’s concerns. Contractor and Owner will attempt to resolve Owner’s concerns prior to the date payment is due and Owner shall pay Contractor all undisputed amounts in an Application for Payment within the times set forth above. Contractor shall include in all of its agreements with Subcontractors a provision notifying the Subcontractors of the time periods in this Agreement for payment by Owner.

9.6.2 Section 9.6.2 of the General Conditions is deleted and replaced with the following: Contractor will pay Subcontractors in strict accordance with its contractual obligations to such parties but in no event more than fourteen (14) days after the Contractor’s receipt of each progress payment or fourteen (14) days after Contractor received Subcontractor’s invoice, whichever is later, unless any amount due the Subcontractor is being withheld by the Owner for a deficiency item. Contractor will impose similar requirements on Subcontractors to pay those parties with whom they have contracted. Following any default by Contractor under this Agreement, Owner shall have the right to make payment by issuance of checks made payable jointly to Contractor and any Subcontractor or supplier. Further, following receipt by Owner of

notice from any Subcontractor or supplier that Contractor has failed to pay such Subcontractor or supplier as required pursuant to its subcontract or supply agreement with Contractor, Owner, after three days notice, shall have the right to make payment by issuance of checks made payable jointly to Contractor and such Subcontractor or supplier, unless Contractor notifies Owner within such three day period that Contractor disputes such claim by the Subcontractor or supplier, and Contractor provides Owner with assurance against such claim to the reasonable satisfaction of Owner.

9.6.8 The following is added as a new Section 9.6.8 to the General Conditions:

Owner, upon notification in writing to Contractor, may withhold all or any portion of funds otherwise due Contractor to the extent reasonably necessary to protect Owner from loss, in the event that any of the following conditions exists: (1) Contractor fails to make proper Application for Payment; (2) the Agreement or any other agreement between Owner and Contractor is in material breach; (3) any insurance required of Contractor ceases to be effective or in force; or (4) Contractor fails to have submitted satisfactory evidence to Owner that all payrolls, material bills, and other indebtedness connected with the Work for which Contractor has been paid have in turn been paid in full to all who are owed any such monies. If a lien is filed by any subcontractor, laborers, or materialmen, Contractor shall be solely responsible for the amount of the lien plus any and all incidental costs and shall cause the lien to be extinguished and canceled, so that such lien shall not constitute a cloud, lien, or encumbrance against the Project. Further, Owner, upon receipt of notice that liens may be claimed by any third party pertaining to the Work, has the right to make payment jointly on behalf of Contractor or any of its Subcontractors to such third party. Owner agrees that if a dollar value to the deficiency in what is provided to Owner under this Section 9.6.8 can be ascertained, then Owner shall not withhold the entire payment covered by Contractor's application for payment but rather may withhold only 200% of the amount ascertained by Owner to be deficient.

9.6.9 The following is added as a new Section 9.6.9 to the General Conditions: From each Application for Payment, Owner will withhold ten percent (10%) of the amount set forth in the Application for Payment and approved by Owner and the Architect (the "Retainage"). Contractor may request release of all Retainage ("Final Application for Payment," as described below) upon Final Completion or upon release of the Retainage to Owner by its Lenders and/or the Authority, whichever is later, except that Owner may withhold 200% of the amount needed for the Contractor to complete any punch-list items after Final Completion as determined by the Architect (the "Punchlist Reserve").

9.7 Section 9.7 of the General Conditions is deleted in its entirety.

9.8.4 Section 9.8.4 of the General Conditions is modified to provide that the Contractor's warranties shall commence to run as of Final Completion.

9.10.1 – 9.10.2 Sections 9.10.1 and 9.10.2 of the General Conditions are replaced with the following:

9.10.1 Contractor shall notify Owner in writing when it believes the Work has reached Final Completion. Within five (5) days of Owner's receipt of Contractor's written notice,

Owner, Architect, Authority, Contractor and Lenders will jointly inspect such Work to verify that Final Completion has occurred in accordance with the requirements of the Contract Documents. After receipt of the final Application for Payment from Contractor (hereinafter, the "Final Application for Payment"), Owner shall make final payment to Contractor, excepting the Punchlist Reserve if punch-list items remain, within forty-five (45) days from the date the Final Application for Payment is received and approved by the Owner, Architect, Authority and Lenders, provided that Contractor has completed all of the Work in conformance with the Contract Documents and satisfied all conditions precedent to payment in the Agreement and elsewhere in the Contract Documents, subject to the availability of funds to Owner from the Authority and its Lenders. The Final Application for Payment may not be submitted by Contractor to Owner until Final Completion has occurred. The Final Application for Payment shall be submitted on AIA Document G702 supported by AIA Document G703, Continuation Sheet and shall include submission of AIA Document G704 (Certificate of Substantial Completion), G704 (Consent of Surety to Final Payment).

9.10.2 At the time of submission of its Final Application for Payment, Contractor shall provide the following information:

9.10.2.1 a final lien release in the form included at Exhibit "A" attached to this Rider that there are no claims, obligations or liens outstanding or unsatisfied for labor, services, material, equipment, taxes or other items performed, furnished or incurred for or in connection with the Work which will in any way affect Owner's interests;

9.10.2.2 consent of Contractor's surety, if any, to final payment;

9.10.2.3 all operating manuals, guarantees, warranties and other deliverables required by the Contract Documents, including all the guarantees and warranties on material furnished by all manufacturers and suppliers to Contractor and all of its Subcontractors for the Project;

9.10.2.4 certificates of insurance confirming that required coverages will remain in effect consistent with the requirements of the Contract Documents; and

9.10.2.5 any and all other information required of Contractor as a condition precedent to payment in the Agreement or elsewhere in the Contract Documents.

9.10.5 Section 9.10.5 of the General Conditions is modified to provide that Final Payment by Owner shall not constitute acceptance of any Work that is not performed in accordance with the Contract Documents, nor act as a waiver of any of Owner's indemnity or warranty rights, whether under the Contract Documents, at law or in equity.

Article 10

Protection of Persons and Property

10.2.1 Section 10.2.1 of the General Conditions is modified to add at the end the following: Contractor shall create and enforce appropriate safety programs and procedures and shall review

the safety programs of each of the Subcontractors and shall make appropriate recommendations. Contractor shall perform such inspections as are necessary for adequate review and recommendations. Contractor shall implement additional safety programs or procedures as may be recommended by Owner, the Authority, the Architect or any Lender for the purpose of reducing injuries, threat of theft of materials, or risks associated with the Work. Compliance with such recommended safety programs or procedures shall not be considered as an addition to the Contract Sum. Contractor agrees to take all reasonable steps to minimize the impact of the Work (including, without limitation, minimizing dust, fumes and noise) on the operations of neighboring property owners (or, in the case of leased premises, upon tenants).

10.2.3 Section 10.2.3 of the General Conditions is modified to add at the end the following: Contractor shall immediately report in writing any safety-related injury, loss, damage or accident arising from the Work to Owner's Representative and, to the extent mandated by Legal Requirements, to all government or quasi-government authorities having jurisdiction over safety-related matters involving the Project or the Work.

10.3.2 Section 10.3.2 of the General Conditions is modified to delete the last sentence.

Article 11 **Insurance**

11.1.1 Section 11.1.1 of the General Conditions is hereby modified to add the following provisions at the end of the section: Notwithstanding the general requirements set forth in this Section 11.1.1, Contractor shall obtain and maintain the insurance coverage specified in clauses (a) through (c) below. The insurance limits may be provided through a combination of primary and excess policies, including the umbrella form of policy. Each policy required under Subsection 11.1.1 shall name the Owner, the Authority, all Lenders and all other persons or entities as Owner may request, as their interests may appear (collectively the "Additional Insureds"). The additional insured endorsement, equivalent to Insurance Services Office ("ISO") form B 20 10 11/85 edition, shall state that the coverage provided to the Additional Insureds is primary and non-contributing with respect to any other insurance available to the Additional Insureds.

(a) Liability Insurance covering claims for personal injury, bodily injury and property damage arising out of the Work and in a form providing coverage not less than that of a standard Commercial General Liability Insurance policy. Such insurance shall provide coverage for all operations and include independent contractors, products liability (for any product manufactured, assembled or otherwise worked on away from the Project Site), completed operations for five (5) years after Final Completion of the Work and acceptance of the final payment for the Work, contractual liability specifically designating the indemnity provisions of this Agreement as an insured contract, and coverage for explosion, collapse and underground hazards. The limits of such insurance shall not be less than \$2,000,000 per occurrence, \$2,000,000 general aggregate limit and \$2,000,000 aggregate for products and completed operations, with umbrella (excess liability) insurance coverage for all of the above in an amount of no less than \$5,000,000 and a maximum \$10,000 deductible or retention. The policies must be endorsed to provide Broad Form Property Damage Coverage.

The Liability Insurance described in subsection (a) herein shall also contain the following coverages:

- .1 Premises and Operations coverage with X, C and U exclusions deleted, if applicable;
- .2 Owners and Contractors Protective coverage;
- .3 Products and Completed Operations coverage;
- .4 Broad Form Property Damage coverage, including completed operations;
- .5 Blanket Contractual coverage (including indemnification obligations);
- .6 Explosion, collapse and underground damage coverage; and
- .7 Personal injury coverage.

(b) Commercial Automobile Liability Insurance covering all owned, non-owned and hired automobiles, trucks and trailers. Such insurance shall provide coverage not less than the Standard Commercial Automobile Liability policy in limits not less than \$1,000,000 Combined Single Limit. In the event Contractor or a Subcontractor is hauling Hazardous Materials, appropriate coverages to meet requirements of Legal Requirements shall be included.

(c) Workers' Compensation Insurance with statutory limits as required in the State and Employers' Liability limits of not less than \$1,000,000 each accident/\$1,000,000 policy limit/\$1,000,000 each employee.

11.1.4 Section 11.1.4 of the General Conditions is hereby modified to add the following provisions:

11.1.4.1 All insurance required herein shall be issued by an insurance company acceptable to Owner and all Lenders and licensed or authorized to conduct business in the State, rated by Best's Insurance Reports (or any successor publication of comparable standing) as A-IX or better (or the then equivalent of such rating) and having a policyholder surplus of at least \$100,000,000.

11.1.4.2 Contractor shall cause the Subcontractors to obtain and maintain insurance of the same types and limits as the insurance that Contractor is required to provide under this Article 11, or as may otherwise be approved in writing by Owner, all Lenders, and the Authority. Contractor shall not commence Work under this Agreement and Contractor shall not be entitled to payments hereunder until it and its Subcontractors have obtained all insurance required hereunder. Contractor shall not allow any Subcontractor to commence Work until such Subcontractor has obtained the required insurance coverage.

11.1.4.3 Prior to execution of the Agreement, Contractor shall furnish to Owner insurance binders or certificates of insurance acceptable to Owner and all Lenders and the

Authority, evidencing the existence of the insurance coverage required to be maintained under this Article 11 by Contractor and, at Owner's request, any Subcontractor to whom Work shall have been awarded, and the inclusion of the Additional Insureds under said coverage, together with a certificate that all premiums due thereunder have been paid. Said insurance binders or certificates and the insurance policies required herein shall contain a provision that all coverages so provided shall not be canceled or non-renewed by any insurer, materially changed to reduce coverage or limits, or allowed to expire until at least thirty (30) days' prior written notice, by certified mail, return receipt requested, has been given to Owner and the Authority. Certifications of renewal coverage and premium payments shall be furnished to Owner not less than thirty (30) days before the expiration dates of the policies. All such insurance required to be obtained by Contractor hereunder shall provide that such insurance is primary insurance as respects Owner, and that any other insurance maintained by Owner is excess and non-contributing with the insurance required hereunder.

11.1.4.4 The Commercial General Liability policy shall provide that (a) notice of circumstances that may give rise to a claim, given by the insured or an Additional Insured to the insurer, shall be sufficient to invoke protection under the policy, and (b) violation of any of the terms of any other policy issued by the insurer shall not by itself invalidate the policy.

11.1.4.5 Contractor shall keep the Commercial General Liability, Automobile Liability, Worker's Compensation and Employer's Liability insurance policies required herein in force until the Project shall have been fully completed or replace them with similar policies, except as otherwise provided herein for such insurance to continue beyond Final Completion.

11.1.4.6 Contractor hereby agrees to maintain the insurance described in this Article 11 and if Contractor fails to furnish and maintain the insurance required by this Article 11, then Owner after providing written notice to Contractor and a fifteen (15) day period for Contractor to obtain such insurance, may purchase such insurance on behalf of Contractor, and Contractor shall pay the cost thereof to Owner upon demand, or Owner may offset such cost against the Contract Sum, and shall furnish to Owner any information needed to obtain such insurance.

11.3.1. Section 11.3.1 of the General Conditions is modified to provide that unless otherwise set forth in the Contract Documents, Owner shall carry Builder's Risk insurance for the full insurable value of all labor and materials incorporated into the Work, such insurance to be maintained until Substantial Completion and acceptance of the Work. Such insurance shall not cover property stored off of the Project Site or in transit unless otherwise agreed in writing by Owner. The insurance so maintained by Owner shall insure the interests of Owner and Contractor and not any other parties but shall be adjusted solely by Owner and any settlement payments shall be made solely to Owner for disposition to all insureds, as their interests may appear, subject to the requirements of any Lender. Owner's insurance shall not cover loss or damage to property, equipment and machinery owned, rented or leased by Contractor, Subcontractors or others performing the Work, each of whom shall carry their own insurance

with respect to such items. A copy of Owner's builder's risk insurance will be available for Contractor's inspection at Owner's offices or at the Project Site.

11.3.2 Section 11.3.2 of the General Conditions is modified to provide that any boiler and machinery insurance obtained by the Owner shall name the Contractor as an additional insured but not any Subcontractors.

11.3.3 Section 11.3.3 of the General Conditions is deleted in its entirety.

11.3.5 Section 11.3.5 of the General Conditions is deleted in its entirety.

11.3.9 and 11.3.10 Sections 11.3.9 and 11.3.10 of the General Conditions is modified to provide that the Owner may negotiate losses, adjustments and settlements of its insurance proceeds without the Contractor's consent.

11.4.3 The following is added as a new Section 11.4.3 to the General Conditions: Upon execution of this Agreement, Contractor shall secure and deliver to Owner a performance bond and a payment bond (which payment bond shall provide a direct right of action against the surety by a claimant). Each such bond shall be in the sum equal to one hundred percent (100%) of the Contract Sum, shall name Owner and the Authority, all Lenders and any other party designated by Owner, if any, as dual obligees, shall be in form and substance satisfactory to Owner and shall be underwritten by a surety company authorized to do and doing business in the State and otherwise reasonably satisfactory to Owner.

Article 12

Uncovering and Correction of Work

12.2. A new Section 12.2 is added to the General Conditions before Subsection 12.2.1 as follows:

12.2 Contractor warrants to Owner that (i) Contractor has or will have good legal title to all materials, equipment and supplies incorporated in the Work and that all materials, equipment and supplies are new, of first quality and suitable for the purposes for which they are used, (ii) the construction of the Work, including all materials and equipment furnished as part of the construction, shall be as specified in the Contract Documents, and shall be in conformance with the Contract Documents and free of defects in materials and workmanship, and (iii) the Work will conform to the requirements of the Contract Documents, including with respect to any materials or components specified as a sole source. As used in clauses (ii) and (iii) of the immediately preceding sentence, the term "defect" shall mean any condition in any material or constructed improvement, which, either from an aesthetic or functional standpoint, fails to perform, or is unlikely to perform, in a manner consistent with the material(s)' or constructed improvement(s)' intended uses. Nothing in this warranty is intended to limit any manufacturer's warranty which provides Owner with greater warranty rights than set forth in this Section 12.2 or the Contract Documents. All design warranties and all guarantees or warranties of materials furnished to Contractor or Subcontractor by any manufacturer or supplier shall be deemed to run for the benefit of Owner. Contractor shall and does hereby assign to Owner the benefits of all warranties and guarantees of all Subcontractors, but such

assignment shall not relieve Contractor of its own warranty obligations to Owner under this Agreement and the other Contract Documents.

12.2.2.1 Delete the first two sentences of Section 12.2.2.1 and replace with the following:

12.2.2.1 Notwithstanding anything to the contrary contained herein. Contractor agrees to correct any Work, including latent defects, that is found to be defective or not in conformance with the requirements of the Contract Documents within a period of eighteen (18) months after the date of Final Completion or twelve (12) months after the date of any sale of any of the new houses included in this project, whichever is sooner; provided however, that if a specific longer period of correction is required, by Legal Requirements of the City or Philadelphia County for any portion of the Work that involves public streets or other public property or is otherwise required by the City or County, then that specific period shall apply to the Work performed on such property (the preceding does not obligate Contractor to assume any obligation of the adjacent property owner to maintain public property indefinitely).

12.2.2.2 Delete Subsection 12.2.2.2 in its entirety and replace with the following:

12.2.2.2 Contractor shall, within seven (7) days of receipt of written notice from Owner that the Work is defective or not in conformance with the Contract Documents, take meaningful steps to commence correction of such defective or nonconforming Work, as the case may be, including without limitation the correction, removal or replacement of the defective or nonconforming Work and any damage caused to other parts of the Work affected by the defective or nonconforming Work. If Contractor fails to commence the necessary steps within such seven (7) day period or continue with such necessary steps in an expeditious manner, Owner, in addition to any other remedies provided under the Contract Documents, may provide Contractor with written notice that Owner will commence correction of such defective or nonconforming Work. If Owner does perform any such corrections, Contractor shall reimburse Owner, promptly upon demand, for all costs incurred by Owner in performing such correction plus fifteen percent (15%) for Owner's administrative expense, or Owner shall have the right to offset against the Contract Sum and any amounts due to Contractor under the Contract Documents for such costs and administrative expense incurred by Owner. If any defective or nonconforming Work creates an emergency requiring an immediate response, the seven (7) day period identified herein shall be deemed inapplicable.

12.2.2.4 Insert as new Subsection 12.2.2.4:

12.2.2.4 The eighteen (18) month period referenced in Section 12.2.2.1 above applies only to Contractor's obligation to correct defective or nonconforming Work and is not intended to constitute a period of limitations for any other rights or remedies Owner may have regarding Contractor's other obligations or liabilities under the Contract Documents.

12.2.2.5 Insert as new Subsection 12.2.2.5:

12.2.2.5 Contractor will exercise due care and diligence in promptly reporting to Owner any defects or deficiencies in the Work of Contractor or any of its Subcontractors, whether agents or employees, or any other person performing any of the Work in the construction of the Project of which Contractor becomes aware, or should have become aware following the customary standard of care in the industry. Any defective Contract Documents furnished by Contractor will be promptly corrected by Contractor at no cost to Owner and Contractor will promptly reimburse Owner for all damages, if any, resulting from the use of any such defective Contract Documents, but only to the extent Owner is not reimbursed for such damages by any applicable professional liability insurance maintained in connection with the Project. Owner's approval, acceptance, use or payment for all or any part of Contractor's services hereunder or the Project itself shall in no way alter Contractor's obligations or Owner's rights hereunder.

Comment [A1]: Is this right?

Article 13

Miscellaneous Provisions

13.2.1 Section 13.2.1 of the General Conditions is modified to provide that the Contractor shall not, without the prior written consent of Owner, assign, transfer or subcontract the Agreement except when assignment is a condition to a Lender's agreement to provide financing to Owner for the Project. Owner may freely assign the Agreement (in whole or in part) provided Owner furnishes Contractor reasonable notice of same.

13.2.2 Section 13.2.2 of the General Conditions is modified to add at the end the following: It is acknowledged that funds may be advanced for the payments owed to Contractor pursuant to loans from the Lender ("Loan"). Each Lender and its representatives and consultants shall be given access to the Work by Contractor at all reasonable times for purposes of inspection and for all other purposes reasonably required by Lender. Contractor shall enter into such customary agreements as Lender may require in connection with any such Loan to Owner, including without limitation, a consent to an assignment of the Agreement and the Contract Documents to Lender so that Lender may enforce the provisions of the Contract Documents. Contractor acknowledges that Owner has collaterally assigned the Agreement and the Contract Documents to the Authority as security for Owner's obligations to the Authority with respect to the Work. Additionally, Contractor agrees that it will make any such written changes or additions to the Contract Documents as the Lender may reasonably require in order to bring the Contract Documents into compliance with such Lender's requirements, provided that such changes or additions do not decrease the amount of the Contract Sum, materially change the scope of the Work or materially increase the liability of Contractor hereunder. Such permissible changes or additions may include additional reporting requirements, covenants against discrimination and the like. No such changes or additions shall entitle Contractor to an increase in the Contract Sum. Contractor acknowledges that a Lender may reserve the right to review and approve or reject Contractor's invoices for payment under the Contract Documents, and no rejection by a Lender of all or any portion of such invoice and no delay by such Lender in making reimbursement to Owner under such invoice shall be deemed a default or breach by Owner under the Contract

Documents, or give rise to a claim for interest by Contractor under the Agreement, provided that Contractor is paid for its Work as provided in the Contract Documents.

13.7 Section 13.7 of the General Conditions is deleted in its entirety and replaced with the following: Owner and Contractor shall file any claims against each other within the time period provided by applicable law.

13.8 The following is added as a new Section 13.8 to the General Conditions:

Severability. If any provision or any part of a provision of the Contract Documents shall be finally determined to be superseded, invalid, illegal, or otherwise unenforceable pursuant to any applicable Legal Requirements, such determination shall not impair or otherwise affect the validity, legality, or enforceability of the remaining provisions or the other parts of the unenforceable provision of the Contract Documents, which shall remain in full force and effect as if the unenforceable provision or part were deleted.

13.9 The following is added as a new Section 13.9 to the General Conditions:

No Waiver. The failure of Owner to insist, in any one or more instances, on the performance of any of the obligations required by Contractor under the Contract Documents shall not be construed as a waiver or relinquishment of such obligation or right with respect to future performance.

13.10 The following is added as a new Section 13.10 to the General Conditions:

Headings. The headings used in these General Conditions, or any other Contract Document, are for ease of reference only and shall not in any way be construed to limit or alter the meaning of any provision.

13.11 The following is added as a new Section 13.11 to the General Conditions:

Notice. All notices, notifications, requests, demands, consents, approvals and other communications to be delivered under the Contract Documents (“Notices”) shall, unless expressly provided otherwise in the Contract Documents, be in writing and delivered by hand, overnight courier, telecopier or registered or certified mail, return receipt requested. Notices to Owner shall be sent to Community Ventures, 1500 Cherry Street, Philadelphia, PA 19126 – Telecopier No. (215) 564-1865. Notices to Contractor shall be sent to: _____

_____. A Notice sent by overnight courier shall be deemed given on the next business day after the day said Notice is delivered to the overnight courier. A Notice sent by telecopier shall be deemed given on the day sent. A Notice sent by registered or certified mail shall be deemed given on the third business day after mailing. Either party may change its address for Notices by sending a Notice thereof to the other party in accordance with this Section 13.12. Attorneys for each party are hereby authorized to sign Notices on behalf of said party.

13.12 The following is added as a new Section 13.12 to the General Conditions:

Amendments. The Agreement may not be changed, altered or amended in any way except in writing signed by a duly authorized representative of Owner and Contractor.

13.13 The following is added as a new Section 13.13 to the General Conditions:

Records. Contractor shall keep accurate records of account of the Work and its Applications for Payments and other books and records relating to the Work and the Contract Document and shall, upon demand, make such records and invoices, receipts, subcontracts and other information pertaining to the construction of the Project available for inspection by Owner, all Lenders, and the Authority. Contractor shall include in all subcontracts, equipment leases and purchase orders a provision requiring the Subcontractor, equipment lessors and suppliers to certify its costs incurred in connection with the Project, in the event that the Authority or a Lender determines there is an identity of interest between either Owner or Contractor and any such Subcontractor, equipment lessor or supplier.

13.14 The following is added as a new Section 13.14 to the General Conditions:

Limitation of Liability. Owner and Contractor agree that, notwithstanding any other provision of the Agreement or the General Conditions or any rights which Contractor might otherwise have at law, equity, or by statute, whether based on contract or some other claim, any liability of Owner to Contractor shall be satisfied only from Owner's assets, including but not limited to its interest in the Project Site (and constructed improvements) upon which the Project is located and the proceeds thereof. Without limiting the generality of the foregoing, if Owner is or becomes a partnership or limited liability company, the general or limited partners, members, managers, officers, employees, agents, or affiliates of Owner shall not in any manner be personally or individually liable for the obligations of Owner hereunder or for any claims related to the Contract Documents or the Work or the Project. If Owner is or becomes a corporation, no shareholder, officer, employee, agents, or affiliates of Owner shall in any manner be personally or individually liable for the obligations of Owner hereunder or for any claim in any way related to the Contract Documents or the Work or the Project.

13.15 The following is added as a new Section 13.15 to the General Conditions:

13.15.1 Mechanic's Lien Releases. Contractor, for itself and the Subcontractors and anyone else acting through or under it, covenants and agrees that no mechanics' or materialmen's liens or claims shall be filed or maintained by it, them or any of them, for or on account of any work to be done or materials furnished under the Contract Documents. This Section 13.15.1 is a separate and independent covenant of Contractor and shall be operative and effective with respect to work or labor done and materials furnished under any supplemental contract or contracts for extra or different work, although the covenant might not be referred to therein, as well as to work and labor to be done or materials to be furnished under the Contract Documents. This undertaking shall be further implemented by the execution and delivery by Contractor to Owner of a Waiver of Liens, at the time of Contract execution, in the form attached hereto at Exhibit "A" to be filed with the public records.

13.15.2 All contracts and subcontracts entered into by Contractor shall, to the extent permissible by the applicable law of the State in which the Work is located, contain

provisions that will prohibit all Subcontractors and all materials suppliers from placing liens, charges or claims or any encumbrances on any portion of the Project Sites and will require that a Release of Lien be executed as and when required by this Agreement.

13.15.3 In connection with any Application for Payment, Contractor shall furnish to Owner such releases of mechanics' liens as required hereunder from Contractor and all Subcontractors who have performed portions of the Work reflected in the Application for Payment and Contractor shall provide to Owner an executed Release of Lien in the form attached hereto at Exhibit "A" by Contractors and all such Subcontractors.

13.15.4 At the time Contractor submits to Owner the Final Application for Payment, Contractor shall submit to Owner an executed Release of Lien in the form attached hereto as Exhibit "A" by Contractor and all Subcontractors who have performed any portion of the Work.

Article 14 **Termination or Suspension of Contractor**

14.1.1 Section 14.1.1. of the General Conditions is deleted in its entirety.

14.1.5 A new Section 14.1.5 of the General Conditions is added as follows: Pending the final resolution of any dispute or disagreement between Contractor and Owner, Contractor shall continue to perform the Work and Owner, unless provided to the contrary elsewhere in the Contract Documents, shall continue to satisfy its payment obligations to Contractor, unless the amount in dispute between Owner and Contractor is more than twenty-five percent (25%) of the total monthly progress payment requested by Contractor under the Contract Documents which gave rise to the dispute and Contractor and Owner each waive any statutory rights to the same.

14.1.6 A new section 14.1.6 of the General Conditions is added as follows: Notwithstanding anything herein to the contrary, neither Contractor nor Owner shall be liable to the other for any punitive damages, whether arising in contract, warranty, tort (including negligence), strict liability or otherwise.

14.2.1 Section 14.2.1 of the General Conditions is modified to add the following at the end:

If Contractor fails to (i) correct any defective Work, (ii) supply the materials required by the Contract Documents, (iii) comply with all Legal Requirements, (iv) timely pay all Subcontractors, (v) prosecute the Work with promptness and diligence to ensure that the Work is completed by the Contract Times, (vi) perform any material obligation under the Contract Documents, or (vii) provide insurance or proof of insurance, as required by the Contract Documents, or if Contractor is bankrupt or otherwise takes an action evidencing insolvency, then Owner, in addition to any other rights and remedies provided in the Contract Documents or by law, shall have the termination rights set forth in this Section.

Upon the occurrence of an event set forth in Section 14.2.1, Owner may, without prejudice to any other rights and remedies it may have and after giving Contractor seven (7) days written notice, declare the Agreement terminated for default.

Upon declaring the Agreement terminated pursuant to Section 14.2.1, Owner may enter upon the Project Site and take possession, for the purpose of completing the Work, of all materials, equipment, scaffolds, tools, appliances and other items therein which have been purchased or provided for the performance of the Work (and are not Contractor's property generally), all of which Contractor hereby transfers, assigns and sets over to Owner for such purpose, and to employ any person or persons to complete the Work and provide all of the required labor, services, materials, equipment and other items. In the event of such termination, Contractor shall not be entitled to receive any further payments under the Contract Documents until the Work is finally completed in accordance with the Contract Documents. At such time, if the unpaid balance of the Contract Sum exceeds the cost and expense incurred by Owner in completing the Work, Contractor will only be entitled to be paid for that portion of its Work which was performed prior to its default that was unpaid at the time of termination and Contractor will remain liable for the actual damages suffered by Owner but not for any punitive damages.

14.5 The following is added as a new Section 14.5 to the General Conditions:

Bankruptcy of Owner or Contractor. If either Owner or Contractor institutes or has instituted against it a case under the United States Bankruptcy Code (such party being referred to as the "Bankrupt Party"), such event may impair or frustrate the Bankrupt Party's ability to perform its obligations under the Contract Documents. Accordingly, should such event occur:

- (i) The Bankrupt Party, its trustee or other successor, shall furnish, upon request of the other party, adequate assurance of the ability of the Bankrupt Party to perform all future material obligations under the Contract Documents, which assurances shall be provided within ten (10) days after receiving notice of the request; and
- (ii) The Bankrupt Party shall file an appropriate action within the bankruptcy court to seek assumption or rejection of this Agreement within thirty (30) days of the institution of the bankruptcy filing and shall diligently prosecute such action. If the Bankrupt Party fails to comply with its foregoing obligations, the other party shall be entitled to request the bankruptcy court to reject this Agreement, declare this Agreement terminated and pursue any other recourse available to said other party under this Section 14.5.
- (iii) The rights and remedies under this Section 14.5 above shall not be deemed to limit the ability of said other party to seek any other rights and remedies provided by the Contract Documents or by law, including its ability to seek relief from any automatic stays under the United States Bankruptcy Code or the right of Owner to terminate for cause pursuant to Section 14.5(ii).

Article 15
Claims and Disputes

15.1.6 Section 15.1.6 of the General Conditions is deleted in its entirety.

15.4 Section 15.4 of the General Conditions is modified to provide that the Owner and Contractor shall not be required to utilize arbitration for any disputes but may do so only upon the mutual agreement of the Owner and Contractor. The Owner and Contractor have selected litigation as the method of resolving disputes in the event that mediation does not result in a resolution.

IN WITNESS WHEREOF, the parties, by duly authorized officers or agents, hereto have executed this Rider on _____, 2013.

CONTRACTOR:

By: _____
Name:
Title:

OWNER:
Community Ventures

By: _____
Stephen J. Kaufman, Executive Director

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