

ADDENDUM to Trade Agreement and General Conditions for the EXTERIOR SCAFFOLDING in connection with the deconstruction of 130 Liberty Street, New York, NY issued by LOWER MANHATTAN DEVELOPMENT CORPORATION (this "Addendum"):

This Addendum modifies and amends certain provisions of the form of Trade Agreement and General Conditions included with the Invitation to Bid for the above project dated May 31, 2005. Such modifications and amendments are now (and shall be deemed) incorporated in and part of such Trade Contract and General Conditions.

MODIFICATIONS AND AMENDMENTS TO TRADE AGREEMENT

The Trade Agreement is hereby modified as follows:

In the eighth full paragraph of the Introductory Statement, the phrase "Unforeseeable Conditions" is changed in all places to "unforeseeable conditions."

The last two lines of the "NOW, THEREFORE" clause of the Trade Agreement are amended to read in their entirety as follows:

"terms, covenants, conditions, and provisions of the "Contract" and/or "Contract Documents" as defined below."

Article 1: in the definition of "Contract" or "Contract Documents", add a new (e) as follows:

"(e) all addenda issued in writing by LMDC before the date of this Contract."

Article 1: the definition of "Specifications" is amended in its entirety to read as follows:

"Specifications" means the Specifications for this Contract, which form part of, and are incorporated in this Agreement, and all schedules, exhibits, annexes, attachments and other documents specified in any of the foregoing as being part of, or incorporated in, the Specifications.

Article 1: in the last sentence change "6" to "7" (*i.e.*, "Annexes "1" through "7").

Article 8: the following text is inserted after "Contractor to Provide]:"

"C. If to Interim Arbitrator at the following address:

[to be inserted]".

Article 10: a new Article 10 is added as follows (and the caption "Annex '7' APPROVED BID FORM" inserted in the Table of Contents):

"10. BID FORM; ALLOWANCES; UNIT PRICES

"The bid form attached hereto as Annex "7" sets forth all pricing information relating to Contractor's Work under this Contract, including the Lump Sum, all Allowances, and all unit prices."

Annex "5": in paragraph number "5", the reference to "Unforeseeable Conditions" is changed to "unforeseeable conditions."

Annex "7": a new Annex "7" is added in the form attached hereto.

MODIFICATIONS AND AMENDMENTS TO GENERAL CONDITIONS

The General Conditions are hereby modified as follows:

Article 1: the definition of "ACM" is amended by inserting the word "solid" before "items" in lines 4 and 5.

Article 1: the definition of "Characterization" is amended by changing "TRC Environmental Corp." to "TRC Environmental Corporation".

Article 1: the definition of "Deconstruction Contract" is amended in its entirety to read as follows:

"Deconstruction Contract" shall mean the agreement for the deconstruction of the Building between LMDC and the contractor or construction manager undertaking such deconstruction and identified as the "Deconstruction Contract" in a Notice given by LMDC to Contractor. The term "Deconstruction Contractor" shall mean the contractor or construction manager pursuant to the Deconstruction Contract.

Article 1: the definitions of "Excusable Delay" and "Extra Work" are amended in their entirety to read as follows:

"'Excusable Delay' means any delay in the Work caused by: (a) fire, earthquake, explosion, landslide, lightning or flood; or other acts of God; (b) adverse weather not reasonably anticipated; (c) riots or civil disturbance; (d) epidemic; (e) strikes (other than a strike caused by, or within the control of, Contractor or any subcontractor); (f) lockouts by persons other than Contractor or any subcontractor; (g) acts of terrorism; enemy action, or war; (h) blockades; (i) acts or omissions of LMDC; (j) the delay of any Governmental Authority in issuing any permits necessary to perform any Work (provided that Contractor uses commercially reasonable efforts to secure all such permits and does not contribute to the failure of the Governmental Authority to timely issue any such permits); (k) changes in Legal Requirements after the signing of this Contract; and/or (l) any other cause beyond Contractor's control. For the avoidance of doubt, "Excusable Delay" shall not include any delay resulting from (i) uncovering, removal, replacement or repair of defective or incorrect Work

previously performed by or under the direction of Contractor; (ii) Work required by reason of Contractor's fault; (iii) any delay occurring during any period when any policy of insurance or Bonds required by the Contract to be secured and maintained by Contractor are not in effect; (iv) Contractor's failure to place timely orders for delivery of labor, materials, equipment or services; (v) Contractor's failure to perform or to take any action with reference to the Work which by industry practice is an obligation of the Contractor or its subcontractors; (vi) Contractor's failure to employ an adequate construction force (number and quality); and (vii) Contractor's failure to appropriately supervise or coordinate the Work of subcontractors; and/or (viii) any other loss of time resulting from Contractor's error, mismanagement, fault, or neglect. References to "Contractor" in this definition specifically also mean and include all "subcontractors" and "Materialmen" (and without limiting similar treatment elsewhere in the Contract). (Article 12 sets forth the conditions for extensions of time for Excusable Delays.)

"Extra Work' means (a) Work required by a written Change Order issued by LMDC pursuant to Article 22 hereof which adds substantial scope or program to the Scope of Work," or (b) Work required to handle, remediate, remove, and/or dispose of Non-ACM Building Component HazMat if and to the extent that the same will impact Contractor's Work under this Contract (on the terms set forth in Article 2). For the avoidance of doubt, "Extra Work" does not include (without limitation): (a) development of details reasonably inferable from or implied by, but not explicit in, the Contract Documents (and taking into account Contractor's prior review of the same); (b) the inclusion or exclusion of any item which should be included or excluded in accordance with good construction practice, whether or not shown or set forth in a drawing or specification; (c) any matters resulting from, or attributable to, mistake, error, omission, delay, failure to adequately coordinate, or negligence of Contractor or any of its subcontractors; (d) any Work required by reason of any conditions of any kind on the interior or exterior of the Building, whether or not foreseeable (except that Extra Work may involve Work relating to Non-ACM Building Component HazMat as stated above); (e) any changes in sequencing or site logistics required to maintain Contractor's schedule; (f) any Work required by reason of any change in Legal Requirements (except that Extra Work may include Work required by a Statutory Change); and/or (g) Work required by reason of any risk or obligation assumed by Contractor in any part of the Contract Documents."

Article 1: the definition of "Interim Arbitrator" is moved to follow the definition of Integrity Monitor and is amended in its entirety to read as follows:

"'Interim Arbitrator' means the present Executive Director of the Lower Manhattan Construction Command Center and any successor in that office. If the Executive Director of the Lower Manhattan Construction Command Center is unable to act as Interim Arbitrator, the Interim Arbitrator shall be an officer or employee of another Governmental Authority designated by LMDC."

Article 1: in the definition of "Legal Requirement" in (e), the words "final approved" are deleted.

Article 1: in the last sentence of the definition of "Legal Requirement", the phrase "required by changes in Legal Requirement after the execution..." is changed to "required by Statutory Changes after the execution...".

Article 1: a new definition of "Non-ACM Building Component HazMat" is added in alphabetical order after the definition of Materialman as follows:

"Non-ACM Building Component HazMat" means Hazardous Materials other than and not including any and all of the following (irrespective of quantity or location): (i) any and all ACM and/or COPCs located in or on the structure, interior, exterior, and/or components of the Building; (ii) any and all Hazardous Materials identified or referenced in the most recent Waste Sampling and Management Plan section of the Deconstruction Plan; (iii) any and all Hazardous Materials identified in the Characterization, LMDC studies, as-built drawings of the Building or any other drawings of the Building, or any other written reports or written information included as reference materials in the Contract Documents or otherwise given to or made available to Contractor before the date of this Contract; (iv) any and all Hazardous Materials brought onto or released on or about the Site by or on behalf of the Contractor or by any other person or entity on or after the date of this Contract; (v) any and all Hazardous Materials owned, used, leased, caused, created, or released by the Contractor or anyone working on its behalf or otherwise on or about the Site on the Contractor's behalf; and (vi) any and all WTC Dust or any other Hazardous Materials deposited in or on the Building or any portion thereof as a result of the attacks of September 11, 2001.

Article 1: the definition of "Specifications" is deleted*.

* This term is defined in the Trade Agreement.

Article 1: a new definition of "Statutory Change" is added in alphabetical order after the definition of Specifications as follows:

"'Statutory Change' means a change in statute enacted after the date of this Contract by the Congress of the United States, the New York State Legislature, or the New York City Council, or a change in rule or regulation formally promulgated by a Governmental Authority. For the avoidance of doubt, Statutory Change does not include any change in interpretations of existing statutes, rules or regulations."

Article 1: in the definition of "Subcontractor", the following phrase is deleted: "or who performs Work which consists only of the operation of construction equipment of which they are the lessor".

Article 1: the definition of "Unforeseeable Conditions" is deleted in its entirety. NOTE: In addition, the phrase "Unforeseeable Conditions" is changed to "unforeseeable conditions" in every place where such phrase appears in the Contract Documents.

Article 1: the definition of "Work Day" is amended in its entirety to read as follows:

"'Work Day' or 'Work day' means a day other than a Saturday, a Sunday, a New York State or Federal legal holiday, or September 11th. Work Day also includes any other day or period of time when Work must be performed pursuant to Legal Requirements or the Contract Documents."

Article 1: add the following new definition before "Building":

"'Allowance' means a specific amount included within the Lump Sum for the costs of certain Extra Work specified in such allowance. If LMDC issues a Change order for Extra Work to be charged to an Allowance, Contractor's compensation for such Extra Work shall be priced in accordance with Article 7 and charged to the Lump Sum to the extent of such Allowance. If Contractor is entitled to compensation for Extra Work beyond that which is provided in the Allowance, then extra payment will be made for the difference between such amounts, upon the terms and conditions for payment of Extra Work. In every other respect, the provisions of this Contract with respect to Change Orders and Extra Work apply to Work performed on an Allowance basis."

Article 1: Add the following after "Subcontractor": "Variance" or "Variances" means the May 11, 2005 New York State Department of Labor ("NYSDOL") Ruling on the Request for Variance, attached hereto as Exhibit 5, as well as any and all variances issued, and/or decisions or variances rendered, after May 11, 2005 by NYSDOL.

Article 2: add the following new paragraph after the sixth paragraph:

NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THESE CONTRACT DOCUMENTS, if Contractor discovers any Non-ACM Building Component HazMat which will impact Contractor's Work under this Contract, Contractor will notify LMDC immediately and will then prepare and submit to LMDC and all necessary Governmental Authorities a plan for handling, remediation, removal, and disposal of the same in accordance with all Legal Requirements. Upon obtaining approval of such plan by LMDC and the necessary Governmental Authorities, Contractor will handle, remediate, remove, and dispose of such Non-ACM Building Component HazMat in accordance with such approved plan and all Legal Requirements; and the foregoing Work shall be Extra Work for which LMDC will issue a Change Order pursuant to Article 7 of these General Conditions.

Article 2: the last paragraph of Article 2 is revised in part as follows:

"(i) change (c) to read 'will not result in performance of the Work in accordance with the schedule and other requirements of the Contract Documents'; and

"(ii) change the last two lines of the last sentence to read: 'or (c) above shall not relieve Contractor of any obligations under the Contract or entitle Contractor to any Extra Payment or other additional compensation.'"

Article 3: the second paragraph commencing "The Books and records shall be open..." in line 4 after "requirements of the Contract" insert the following new text: "and compliance with the provisions for pricing and submitting Change Orders, invoices or" before "claims submitted."

Article 3: in the fourth from last paragraph, the first line is revised to begin: "As a condition to the issuance of the Certificate of Final Completion (or upon..."

Article 3: the following new paragraph is added at the end:

"In the event that any audit pursuant to this Article discloses overcharges by Contractor or any Subcontractor greater than 5% of the total amount requisitioned by Contractor for any particular month and paid by LMDC, Contractor shall reimburse LMDC upon demand for LMDC's reasonable costs of conducting the audit that disclosed such overcharges; and Contractor shall also repay to LMDC upon demand the full amount of any such overcharge, whether more or less than such 5%. (Alternatively, LMDC may, in its sole discretion, take a credit against amounts next becoming due

and payable to Contractor for the amount of any such overcharge and for the reasonable expenses of conducting such audit.)"

Article 5: in the first sentence, substitute "LMDC" for the word "Owner".

Article 7: change the last line of the second paragraph (including revised footnote) to read as follows: "general conditions¹ costs plus actual incremental costs for bond and insurance costs of Contractor, and the first tier subcontractors only, for such Extra Work." [Footnote: "¹As used herein, 'general conditions' means all labor, materials, expenses and costs incurred by the Contractor (or the subcontractors, as applicable) other than incremental increases in bond and insurance costs for Contractor for Extra Work, to execute the Work which is not covered (or intended to be covered) by a subcontract and which has been approved by LMDC in a Change Order."]

Article 7: change the beginning of the last paragraph to read as follows: "Whenever any Extra Work is performed (unless LMDC has approved in writing a lump sum for such Extra Work), Contractor shall..."

Article 7: add the following new paragraph:

"Contractor shall maintain a register of change Orders in a form approved by LMDC and a cumulative record of changes in the Project schedule and scheduled dates for completion which shows the cumulative costs of Change Orders, the reasons/causes for each Change Order, and the compensation by reason of each Change Order. Contractor shall give LMDC a monthly report showing all Change Orders claimed or pending as of the date of such report and all unresolved claims for extra payment by subcontractors. This report shall reflect any and all pending claims, whether written or otherwise presented to Contractor and/or LMDC, as of the date of such report. All pending claims shall be annotated by Contractor to include Contractor's assessment of the claim and the potential impact of the claim on the Project schedule."

Article 8: revise the second full paragraph in its entirety as follows:

"Five (5) Work Days before submitting the requisition as described above, Contractor shall submit to LMDC a "pencil draft" of such requisition with as much detail as possible and LMDC shall provide Contractor with LMDC's comments to the "pencil draft". Within ten (10) Work Days after submission of the final requisition, LMDC will either approve or disapprove (in whole or in part) or request additional information with respect to such requisition. LMDC shall pay Contractor the undisputed sums determined by LMDC to be properly due and payable to Contractor, minus, however, retainage in the amount of five percent (5%) of such sum and minus all prior advances and

payments to Contractor or for Contractor's account, within thirty days after LMDC has approved the respective requisition covering such sums. LMDC shall pay Contractor the undisputed amount of the foregoing retainage pursuant to Article 9 after Final Completion has been achieved."

Article 9: revise the first paragraph to read as follows:

"After the delivery of the Certificate of Final Completion and upon receipt of such information as may be required, LMDC shall determine and certify in writing to Contractor the total compensation earned by Contractor and also the amount of retainage then held by LMDC."

Article 9: second paragraph, add the following at the end: "and (iv) deliver the Books and Records to LMDC as required under Article 3."

Article 9: third paragraph, sixth line, change "the amount stated in such certificate" to "the amount of the retainage specified in the foregoing certificate and any other amount due and payable to Contractor as specified in such certificate."

Article 9: in the third paragraph, eighth line, insert after "or for the account of Contractor" the following: "(including a credit to LMDC for the amount of any unspent Allowance),..."

Article 12: the first paragraph is revised in its entirety as follows:

"The Erection Completion Date shall be extended (subject, however, to the conditions of this Article 12) if Contractor is necessarily delayed in completing Contractor's Work solely and directly by an Excusable Delay (or Excusable Delays) and upon Contractor's compliance with the requirements of this Article."

Article 12: fifth paragraph, the following text is added at the end of the first sentence:

"and for this purpose, but without limitation, Contractor shall submit a time impact analysis showing the impact of the subject delay on the CPM schedule, if any)."

Article 12: the following new paragraph is added at the end:

"For the avoidance of doubt, and without limitation, the provisions of this Article override and supersede any provision of the Specifications dealing with delays and extensions of time."

Article 14: the first paragraph is revised in its entirety to read as follows:

"Except for extensions of time for Excusable Delays granted Contractor in accordance with Article 12, Contractor assumes the risk of all suspensions of or delays in performance of the Contract of every kind whatsoever, regardless of the length thereof, arising from all causes whatsoever, whether or not relating to this Contract, including acts or omissions of LMDC, and its officers, agents, employees and contractors; and Contractor shall bear the burden of all costs, loss, damage, expenses and liabilities which Contractor may incur or pay out (or which may be asserted against Contractor) in connection with all delays of any nature whatsoever, whether or not provided for in this Contract; and all such delays, costs, expenses and liabilities shall conclusively be deemed to have been foreseeable within the contemplation of the parties.

Article 14: the first sentence of the second paragraph is revised by deleting the phrase "Except and unless otherwise specifically provided elsewhere in the Contract...".

Article 14: last paragraph, delete the following clause at the end: "subject to Contractor's right to terminate under Article 36."

Article 14: add the following as a new last paragraph:

"For the avoidance of doubt, and without limitation, the provisions of this Article override and supersede any provision of the Specifications dealing with delays and extensions of time."

Article 16: at the end of "(a)" in line 13, insert after "the cancellation date", the following: ", less the amount of any credit for unspent Allowances;".

Article 18: In the last paragraph, after the first sentence, insert the following:

"Unless and until LMDC gives Contractor notice to the contrary, throughout the Work Contractor shall work with and take direction and instruction from the Owner's Representative (except that all written approvals and Change Orders must be signed by LMDC's authorized representative). Contractor shall submit to LMDC and the Owner's Representative copies of all submissions and deliveries of documents and other materials which Contractor is required to submit to either LMDC or the Owner's Representative under this Contract. Such submissions shall be made to LMDC at the address set forth in Article 8 of the Deconstruction Contract."

Article 30: in clause "I", change "Project Documents" to "Contract Documents". Also, any other reference in the Contract to "Project Documents" shall be deemed to mean "Contract Documents."

Article 30: in clause "K(2)", insert "quantity," between "existence" and "or location."

Article 31: in the last paragraph, after the word "Owner's Representative", insert "Deconstruction Contractor;".

Schedule A: Section A3.2: revise this sentence to read as follows: "Except as otherwise instructed in writing by LMDC, Contractor shall obtain and comply with all legally required licenses, consents, approvals, orders, authorizations, permits, restrictions, declarations and filings required to be obtained by LMDC or Contractor in connection with the Work."

Schedule "I": Contractor Insurance Requirements

- a. Item 1 should be revised to read as follows: "The required insurance under this Contract means and includes, for Contractor, all coverages described below (the 'Required Contractor Insurance')."
- b. In the "NOTE" following Item 9, the last sentence should be revised to read as follows: "It is a requirement of this Contract, however, that Contractor obtain contractor pollution liability coverage for itself and its subcontractors of at least \$5,000,000 in dedicated limits of liability specific to Contractor's work under this Contract at or related to the Site with an aggregate deductible of no more than \$100,000, which insurance shall be primary for all claims covered thereby."

APPROVED BID FORM

To be inserted upon approval by LMDC at signing of Trade Agreement