



Exhibit A

MASTER SUBCONTRACT AGREEMENT

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MASTER SUBCONTRACT AGREEMENT

Contractor and Subcontractor agree as set forth below:

ARTICLE 1

THE WORK

Subcontractor and Contractor agree that the work (the "Work") to be done by Subcontractor is:

REFER TO SUBCONTRACT AGREEMENT, ARTICLE 1 THE WORK

ARTICLE 2

THE CONTRACT DOCUMENTS

- 2.1 Contract Documents Defined.** The Contract Documents for this Subcontract consist of the Subcontract Agreement, The Master Subcontract Agreement, the Exhibits, the Attachments, the Agreement between Owner and Contractor dated as shown In Attachment 1, the conditions of the Agreement between Owner and Contractor (General, Supplementary and other Conditions), Drawings, Plans, Specifications, all Addenda issued prior to execution of the Agreement between Owner and Contractor, and all Modifications issued subsequent thereto.
- 2.2 Incorporation Of The Contract Documents By Reference: Subcontractor's Obligations And Contractor's Remedies.** All of the above Contract Documents are a part of this Subcontract and Subcontractor acknowledges that the Contract Documents have been made available for Subcontractor's inspection and review either in-hand or electronically. By execution of the Subcontract, Subcontractor acknowledges that it has reviewed all of the Contract Documents or has knowingly waived its opportunity to do so. With respect to the Work the Subcontractor shall be bound to the Contractor to the same extent as the Contractor is bound to the Owner by the terms of the Contract Documents including any part of the Contract Documents that describes the work to be performed and/or determines whether compensation, including additional compensation, is due for any work, extra work, delay, disruption, impact or any other circumstance whatsoever. The Subcontractor shall be bound to the Contractor to the same extent that the Contractor is bound to the Owner by any decision by the Owner, Architect or other person or tribunal designated in the Contract Documents or established by law with respect to the scope and nature of the work required by the Contract Documents and whether compensation, including additional compensation, is due for any work, extra work, delay, disruption, impact or any other circumstance whatsoever. Subcontractor further agrees that Contractor shall have the same rights and remedies against Subcontractor that Owner has against Contractor under the Contract Documents. This Subcontract and Contract Documents are intended to supplement and complement each other and shall, where possible, be so interpreted. If, however, any provision of this Subcontract irreconcilably conflicts with a provision of the Contract Documents, the provision imposing the greater duty or obligation on the Subcontractor or affording the greater right or remedy to Contractor shall govern.
- 2.3 Plans. Specifications. Drawings and Addenda.** The Plans, Specifications, Drawings and Addenda which are included In the Contract Documents are listed in Attachment 2.
- 2.4 Inspection of Plans and Specifications Drawings, Addenda Contract Documents and Site Conditions.** Subcontractor represents and agrees that it has carefully examined and understands the Subcontract and the other Contract Documents, has investigated the nature,

locality and site of the Work and the conditions and difficulties under which it is to be performed and that it enters into this Subcontract on the basis of its own examination, investigation and evaluation of all such matters and not in reliance upon any opinions or representations of Contractor or Owner, or of any of their respective officers, agents, servants, or employees. Subcontractor acknowledges that it is obligated to perform all work necessary for a complete workmanlike installation whether or not such work is expressly displayed or directed in the Contract Documents and that it is obligated to perform all work shown on the plans but not mentioned in the specifications and all work called for in the specifications but not shown on the plans and that it has included the cost and the time for the performance of all such work in the price proposed and agreed for the Subcontract. Subcontractor acknowledges that in submitting its bid or proposal it has assumed the duty to notify Contractor of any discrepancy or omitted information from the plans and specifications or other Contract Documents and that it shall not seek additional compensation or time for any work caused by or related to any discrepancy or omission whether or not it has given such notice.

- 2.5 Schematic Plans and Descriptions of Work.** To the extent that any part of the Drawings, Specifications or other Contract Documents are designated “schematics”, “working drawings” or are otherwise in a state of partial or incomplete design, or to the extent that any part of the work to be performed is merely described in the Contract Documents, Subcontractor represents that it has included in its proposed price all costs for a complete installation based upon a completed design, including all elements of work that could reasonably be anticipated for a first class product. The Subcontractor acknowledges that the information provided in the Contract Documents is sufficient for the development of a price for a complete installation.

ARTICLE 3

THE SUBCONTRACT AMOUNT

- 3.1** As full consideration for complete performance of the Work and furnishing of all materials, equipment and supplies, Subcontractor shall be paid the amount specified in Attachment 1 (the “**Subcontract Amount**”).
- 3.2** The Subcontract Amount shall be the only amount paid to Subcontractor, except as may be amended by written Change Order as set forth in Article 8.
- 3.3** Payment shall be subject to the terms and conditions of this Subcontract.

ARTICLE 4

TIME FOR PERFORMANCE AND SCHEDULING

- 4.1 Commencement And Completion.** Subcontractor agrees to commence the Work when directed by Contractor and to diligently and continuously prosecute such Work and to coordinate the Work with other work being done on the Project by other trades, so that Contractor, any other subcontractor, Owner and Owner’s contractors shall not be delayed by any act or omission of Subcontractor in completion of the Project within the time specified in the Contract Documents.
- 4.2 Time Is Of The Essence.** The time for Subcontractor’s performance of the Work is of the essence of this Subcontract and any breach by Subcontractor of the time for performance of its Work shall go to the essence hereof. Subcontractor, in agreeing to complete the Work within the times and sequences herein mentioned, has taken into consideration and made allowances for all the hindrances and delay, interference or disruption incident to the Work.
- 4.3 Coordination And Scheduling Of The Work.**

- 4.3.1 Coordination Of The Work With Other Subcontractors.** Subcontractor acknowledges and agrees that the expeditious and efficient construction of this Project requires that many subcontractors work on the Project simultaneously, and that interference from other subcontractors should be anticipated. To foster the expeditious and efficient construction of the Project, Subcontractor shall coordinate its performance of the Work with Contractor and other subcontractors, and to the maximum extent practicable, avoid interference with the work of Contractor and other subcontractors. Subcontractor has included the cost of coordinating its work with the other subcontractors, including the cost of patching and replacement of its own Work and that of other subcontractors in the Subcontract Sum. Should the proper and accurate performance of the Work hereunder depend upon the proper and accurate performance of other work not covered by this Subcontract, Subcontractor shall carefully examine such other work, determine whether it is in fit, ready and suitable condition for the proper and accurate performance of the Work, use all means necessary to discover any defects in such other work, and before proceeding with the Work, report promptly any improper conditions and defects to Contractor in writing and allow Contractor a reasonable time to have such improper conditions and defects remedied. By proceeding with performance in the absence of such notice, Subcontractor shall be deemed to have accepted the condition of such other work.
- 4.3.2 Contractor's Project Schedule.** A Project Schedule may be developed by Contractor which shall schedule and coordinate the times required for each area of work on this Project. To the extent requested by Contractor, Subcontractor shall participate and cooperate in scheduling the times and sequences of the Work and any work of Contractor or other subcontractors that may affect or be affected by the Work. Contractor reserves the right to amend the Project Schedule and the sequence or duration of the Work or any portion thereof. Subcontractor agrees to perform the Work in accordance with the Project Schedule including all amendments thereto without additional cost to Contractor. Subcontractor shall continuously monitor the status of the Work and the Work of the Contractor and of other subcontractors that may affect or be affected by the Work and shall advise Contractor of the status of Subcontractor's progress on a regular basis (in writing if required by Contractor), including information on the status of shop drawings, samples, submittals and materials or equipment which may be in the course of preparation, manufacture or delivery and of any and all hindrances or anticipated hindrances to the Work or to the work of Contractor or other subcontractors. The preparation and/or publication by Contractor of a Project Schedule shall not relieve Subcontractor of its obligation to coordinate its Work with the Contractor and other subcontractors.
- 4.4 Notice From Subcontractor Of Changes Or Delay, interference or Disruption To Project Schedule.** Subcontractor shall immediately notify Contractor of any circumstance which may affect its cost of Work or the times and sequences in the Project Schedule, and shall make all requests for changes, amendments, additional compensation or extensions of time, in writing, immediately upon occurrence of such circumstances and, in any event, sufficiently in advance to allow Contractor to provide any notice to Owner in a timely manner and in compliance with the Contract Documents or to other subcontractors under the terms of their subcontracts. Any Notice from Subcontractor not made in strict accordance with the terms of Paragraph 4.4 shall be deemed null and void and any claim related thereto shall be deemed to have been waived by Subcontractor.
- 4.5 Authority To Authorize Modifications.**
- 4.5.1 Authority Of Contractor's Project Manager.** Contractor's Project Manager is the only representative of Contractor who has the authority on behalf of Contractor under this Subcontract to authorize extensions of the time for performance of the Work and to make other economic decisions affecting Subcontractor, to direct the actions of Subcontractor, to authorize changes in the Work and issue Change Orders, and to modify the terms of

this Subcontract. Only Contractor's Project Manager has authority on behalf of Contractor under this Subcontract to authorize overtime.

4.5.2 Subcontractor's Authorized Representative. Subcontractor shall designate in writing to Contractor Subcontractor's Authorized Representative who shall have the authority to bind Subcontractor. Subcontractor's Authorized Representative shall be on the job site or otherwise available during all Project working hours.

4.6 Reports And Meetings. Subcontractor's Project Superintendent or Foreman shall report to Contractor's Project Superintendent prior to commencing any Work on the Project and report again after any extended absence from the Project in order to advise Contractor's Project Superintendent of the particular phase of the Work Subcontractor is about to perform. During the time Subcontractor is performing the Work, Daily Work Report Forms shall be completed by Subcontractor at the Contractor's job site office at the end of each work day. Subcontractor's Authorized Representative (with authority to bind Subcontractor) shall attend meetings as scheduled by Contractor's Project Superintendent for the purpose of scheduling all activities on this Project.

4.7 Temporary Or Permanent Takeover Of Work: Termination. If Subcontractor at any time shall refuse or neglect to supply adequate and competent supervision, or a sufficiency of properly skilled workmen or of materials of the proper quality or quantity, or fail in any respect to prosecute the Work with promptness and diligence or otherwise in accordance with the Contract Documents, or fail in the performance of any agreement on its part herein contained, or otherwise delay the work of Contractor or other subcontractors, then in addition to Contractor's right to terminate this Subcontract, Contractor shall have the option, after 48 hours written notice to Subcontractor, without prejudice to any other remedy Contractor may have, to takeover all or any part of the Work on a temporary or permanent basis by (i) furnishing Subcontractor with the necessary materials and equipment and/or supplementing Subcontractor's work force to remedy the problem, (ii) completing part or all of the Work itself with its own forces, materials and equipment, (iii) requiring Subcontractor to sub-subcontract to a third-party designated by Contractor part or all of the Work and Subcontractor hereby consents to and agrees that it will immediately effect such subsubcontracting, (iv) itself subcontracting part or all the Work to a third party, or (v) any combination of the above. Contractor shall also be at liberty to terminate the employment of Subcontractor on the Project and to finish the Work or employ any other person or persons to finish the Work and to provide the materials and equipment therefor. In the event Contractor terminates the employment of Subcontractor on the Project or takes over any portion of the Work on a temporary or permanent basis, Contractor may enter upon the premises and take possession of any materials, tools, supplies, equipment, goods, permits, licenses, purchase orders, sub-subcontracts, engineering, designs, drawings, plans, specifications, or any other items related to the Work, and do whatever Contractor deems necessary to assure proper and timely completion of the Work. Upon Contractor's request, Subcontractor shall assign to Contractor any of the foregoing items. In case of such takeover or discontinuance of the employment of Subcontractor, Subcontractor shall not be entitled to receive any payment under this Subcontract which might otherwise be due it until the Work (or the portion of the Work taken over) shall be finished and payment in full therefore shall be made by Owner to Contractor, at which time, if the unpaid balance of the amount to be paid under this Subcontract shall exceed the expenses incurred by Contractor in finishing Subcontractor's Work (or the portion of the Work taken over), plus any costs and damages sustained by Contractor by reason of such failure or lack of performance by Subcontractor, including attorney's' fees and Contractor's overhead and profit, such excess shall be paid by Contractor to Subcontractor to the extent then due under the terms of this Subcontract, but if such expense plus costs and damages shall exceed such unpaid balance, Subcontractor shall pay the difference to Contractor within three (3) days of Contractor's demand for reimbursement of same. In no event shall Subcontractor be entitled to anticipated profits on work unperformed or materials or equipment unfurnished. Should Contractor take action by effectuating any of the provisions of this paragraph, and should it subsequently be determined that Subcontractor was not in default of its obligations or that a termination

effectuated by the terms of this Article was otherwise improper, such termination shall be treated as a termination for convenience pursuant to Article 15 below.

- 4.8 Delay, Interference or Disruption Caused By Subcontractor.** If Subcontractor is responsible for any delay, interference or disruption in the time and sequence of the Project Schedule, or for any delay, interference or disruption to the work of Contractor or to other subcontractors, Subcontractor shall pay Contractor for all costs and damages suffered by Contractor as a result of such delay, interference or disruption including any damages assessed against Contractor under the Contract Documents and any additional compensation paid by Contractor to other subcontractors or any person. To the extent permitted by law, Subcontractor shall defend, indemnify and hold harmless Contractor, Owner, other subcontractors and any employee of any of them against and from any cost, damage or claim arising from delay, interference or disruption caused or alleged to have been caused by the acts or omissions of Subcontractor, including its failure to perform the obligations of this provision. Subcontractor shall also be liable in damages to any other subcontractor whose work is delayed, interfered with or disrupted by Subcontractor.
- 4.9 Delay, Interference Or Disruption Caused By Owner.** In the event that Subcontractor's performance of the Work is unreasonably delayed, interfered with or disrupted, for any reason and for any period of time, by acts or omissions of Owner, or of the Owner's representatives, Subcontractor must request an extension of time for performance of the Work in sufficient time to allow Contractor to request an extension of time from the Owner in strict accordance with the Contract Documents. In no event shall Subcontractor be allowed an extension of time for performance of the Work unless and until a corresponding extension of time is granted by Owner to Contractor. Subcontractor shall submit any request for additional compensation on account of such delay, interference or disruption in sufficient time and with sufficient documentation to allow Contractor to request additional compensation from the Owner in strict accordance with the Contract Documents. Under no circumstances shall Subcontractor seek or be entitled to any increase in the Subcontract Amount or to damages or additional compensation as a consequence of such delay, interference or disruption, except to the extent that the Contract Documents entitle Contractor to compensation for such delay, interference or disruption, and then only to the extent of any amounts that Contractor actually recovers from Owner for such delay, interference or disruption, less any costs, including, without limitation, attorneys' fees, charges and expenses, incurred by Contractor in obtaining recovery from Owner or from other subcontractors. The receipt by Contractor of an extension of time from Owner and/or of compensation from Owner constitute conditions precedent to any right of Subcontractor to an extension of time or additional compensation. Any Request from Subcontractor not made in strict accordance with the terms of Paragraph 4.9 shall be deemed null and void and any related claim shall be deemed waived by Subcontractor.
- 4.10 Delay, Interference or Disruption Caused By Other Subcontractors Or Third Parties.** In the event that Subcontractor's performance of the Work is unreasonably delayed, interfered with or disrupted, for any reason and for any period of time, by acts or omissions of other subcontractors or third parties not under contract with Contractor, Subcontractor shall not be entitled to an extension of time for performance of the Work or to any increase in the Subcontract Amount or to damages or additional compensation as a consequence of such delay, interference or disruption. In its sole discretion, Contractor may seek compensation on Subcontractor's behalf from other subcontractors or third parties, in which event, Subcontractor shall be entitled solely to any amount that Contractor, on behalf of Subcontractor, actually recovers from other subcontractors or third parties on account of such delay, interference or disruption, less any costs, including, without limitation, attorneys' fees, charges and expenses, incurred by Contractor in obtaining such recovery. The receipt by Contractor of compensation from other subcontractors or third parties constitutes a condition precedent to any right of Subcontractor to an extension of time or additional compensation.
- 4.11 Delay, Interference or Disruption Caused By Contractor.** In the event that Subcontractor's performance of the Work is unreasonably delayed, interfered with or disrupted for any reason and

for any period of time, by acts or omissions of the Contractor, Subcontractor shall not be entitled to an extension of time for performance of the Work or to any increase in the Subcontract Amount or to damages or additional compensation as a consequence of such delay, interference or disruption. In its sole discretion, after notice of any such delay, interference or disruption, Contractor may attempt to reschedule or resequence the Work or the work of other subcontractors or may request an extension of time from the Owner to accommodate Subcontractor, but Contractor shall have no obligation to do so.

- 4.12 Directed Progress To Maintain Or Accelerate Project Schedule.** Any time Subcontractor is behind schedule in performance of the Work, Contractor may direct Subcontractor, at Subcontractor's own cost and expense, to perform overtime work, use extra labor, machinery and equipment, transfer its labor, machinery and equipment to other portions of the Work, expedite deliveries or use any other means necessary to bring the Work back on schedule. Contractor may, at any other time, direct Subcontractor to perform additional overtime work and Contractor shall pay, without overhead or profit, the cost of the premium time portion of wages only (including any additional amount Subcontractor is required to pay into a fringe benefit fund by reason of such premium time). In no event shall Contractor be liable for any other costs allegedly expended, damages or other expenses, including any alleged loss of productivity or inefficiency on account of directed or constructive acceleration.

ARTICLE 5

PROGRESS PAYMENTS

Contractor shall pay Subcontractor monthly Progress Payments (less a percent for retainage as specified in Attachment 1) as follows:

- 5.1 Progress Payment Amounts.** Progress Payments will be made to Subcontractor on or about the day of the month specified in Attachment 1, in an amount equal to the value of labor and materials incorporated by Subcontractor in the Work and where authorized by the Contract Documents, of materials stored in a manner acceptable to Owner, Architect and Contractor, less the specified retainage and less the aggregate of previous payments, but such Progress Payments shall not become due to Subcontractor unless and until Contractor receives payment for such Work from the Owner, and payment to Contractor from Owner for Work performed hereunder is expressly made a condition precedent to Contractor's obligation to pay Subcontractor. The amount of each Progress Payment to Subcontractor shall not exceed the percentage of completion allowed to Contractor by Owner or Architect for the Work of Subcontractor, less the specified retainage.
- 5.2 Schedule Of Values.** Subcontractor shall, within 30 days after execution of this Subcontract and before the first application for a Progress Payment, submit to Contractor a Schedule of Values of the various parts of the Work aggregating the total sum of this Subcontract made out in such detail as Contractor or the Contract Documents may require, and supported by such evidence as to its correctness as Contractor may direct. The Schedule of Values, when approved by Contractor and Architect, shall be used as a basis for Applications for Progress Payments, unless later found to be in error. In applying for each Progress Payment, Subcontractor shall submit a statement based upon this Schedule of Values.
- 5.3 Payment Conditioned On Receipt Of Licenses, Permits, Certificates and Endorsements.** Prior to receipt of the first monthly payment, and as a condition precedent thereto, Subcontractor shall furnish Contractor with Subcontractor's document numbers for applicable contractor's licenses, business licenses, sales and use tax permits, insurance certificates, endorsements and any other documents required under Exhibit B.
- 5.4 Applications For Progress Payments.** Subcontractor shall submit to Contractor Applications for Progress Payments in the form as Exhibit "C", complete with sufficient breakdown data to

permit checking and approval, and in a form acceptable to Contractor, sufficiently in advance to permit Contractor to forward each Application as required by the Contract Documents, but not later than the day of the month specified in Attachment 1. Applications for Progress Payments received by Contractor after such date will be processed by Contractor the following month.

- 5.5 Payment For Stored Materials And Equipment.** Payments for materials or equipment not incorporated into the Work, but delivered and suitably stored at the site or elsewhere, shall only be made where permitted by, and in accordance with, the terms and conditions of the Contract Documents. Where the Contract Documents permit payment for materials stored off the Job site, Subcontractor shall, in addition to the other requisites of the Contract Documents, make any provisions necessary, including insurance covering loss or damage to the material, to ensure and protect Contractor's or Owner's title and right of possession and access to such materials.
- 5.6 Proof Of Payment To Sub-subcontractors.** Subcontractor shall pay for all materials, equipment and labor used in, or in connection with, the performance of the Work and this Subcontract through the period covered by previous payments received from Contractor, and no Progress Payments shall become due until Subcontractor has furnished satisfactory evidence to verify compliance with this requirement, including execution by Subcontractor and any Sub-subcontractors (as defined in Section 13.1 hereof) of completed Progress or Interim Lien Waivers in the form as Attachment 3, and as required by the Contract Documents. For purposes of this Section 5.6, Section 5.7 and Section 6.3, the term "Sub-subcontractor" shall include (without limitation) a trustee of any applicable employee fringe benefit fund. All payments received by Subcontractor under this Subcontract in respect of payments due to Sub-subcontractors shall be received in trust for the purpose of paying Sub-subcontractors (as defined in Section 13.1 hereof).
- 5.7 Contractor's Right To Withhold Or Otherwise Apply Payments.** Payments otherwise due, either Progress Payments or Final Payment, may be withheld by Contractor on account of defective work not remedied, claims filed, reasonable evidence indicating probability of filing of claims, failure of Subcontractor to make payments properly to its Sub-subcontractors or for material or labor, or applicable taxes, fees and fringe benefits, or reasonable doubt that the Work can be completed for the balance then unpaid, damage to Contractor, other subcontractors, Owner or the public, reasonable belief that Subcontractor will be unable to maintain the Project schedule, evidence of financial difficulty or inability to fully perform this Subcontract, set-offs or back-charges for which, in Contractor's reasonable opinion, Subcontractor is or will be liable as a result of its performance of the Work, or for any other breach of this Subcontract. If these causes are not removed, on written notice, Contractor may (but shall not be obligated to) rectify the same at Subcontractor's cost and expense. Contractor may offset against any sums due Subcontractor hereunder the amount of any liquidated or unliquidated obligations of Subcontractor to Contractor, whether or not arising out of this Subcontract. In any of the foregoing events, Contractor may, but shall not be obligated to, make payments directly to Sub-subcontractors.
- 5.8 Payment Does Not Constitute Approval Or Acceptance Of The Work.** Notwithstanding the provisions of Section 6.3(a), no payment to Subcontractor, either Progress Payments or Final Payment, shall operate as an approval or acceptance of Subcontractor's work or material, or any part thereof, or to release Subcontractor from any of its obligations under this Subcontract.

ARTICLE 6

FINAL PAYMENT

Final Payment of the balance of the Subcontract Amount shall be made as follows:

- 6.1 Amount Of Final Payment.** Final Payment shall be the unpaid balance of the Subcontract Amount, and shall become due when the Work described in this Subcontract is fully completed

and performed in accordance with this Subcontract and the Contract Documents, and is satisfactory to and approved by Owner, Architect and Contractor, and payment for such Work has been received by Contractor.

- 6.2 Application For Final Payment.** Subcontractor's application for Final Payment shall be in the same form specified in Article 5 of this Subcontract.
- 6.3 Conditions Precedent To Final Payment.** In addition to any other requirements of this Subcontract and the Contract Documents, Final Payment shall not become due unless and until the following conditions precedent to Final Payment have been satisfied: (a) approval and acceptance of Subcontractor's Work by Owner, Architect and Contractor, (b) delivery to Contractor of all manuals, "as-built" drawings, guarantees, and warranties for material and equipment furnished by Subcontractor, and any other documents required by the Contract Documents, (c) receipt of Final Payment for Subcontractor's Work by Contractor from Owner, (d) furnishing to Contractor of satisfactory evidence by Subcontractor that all labor, applicable taxes, fees and fringe benefits, and material accounts incurred by Subcontractor in connection with the Work have been paid in full, (e) furnishing to Contractor completed Final Lien Waivers by Subcontractor and any Sub-subcontractors in the form as Attachment 4, and as required by the Contract Documents, (f) furnishing to Contractor a completed Waiver and Release Upon Final Payment by Subcontractor in the form as Attachment 5 and (g) compliance with any other requirement of the Contract Documents.
- 6.4 Waiver Of Claims.** Acceptance of final payment by Subcontractor shall constitute a waiver of claims by Subcontractor except those previously made in writing and identified by Subcontractor as unsettled at the time of final Application for Payment. Such waiver shall be in addition to any other waiver of claims provided in this Subcontract and the other Contract Documents.

ARTICLE 7

PAYMENT AND PERFORMANCE BONDS

- 7.1 Form And Amount Of Bonds.** Subcontractor shall provide Payment and Performance Bonds on forms and with surety acceptable to Contractor in the full amount of this Subcontract.
- 7.2 Responsibility For Premiums.** The premiums for these Bonds shall be paid by Subcontractor and the cost thereof is included in the Subcontract Amount.
- 7.3 Responsibility For Increases In Premiums.** Subcontractor shall include the cost of any increase in bond premiums in any Change Order Requests submitted to Contractor, and shall pay the increased premium applicable to an approved Change Order.
- 7.4 No Progress Payments Until Bonds Furnished To Contractor.** No Progress Payment will be paid to Subcontractor, regardless of the status of the Work or performance by Subcontractor, until payment and performance bonds as called for in Section 7.1 are properly executed and furnished to Contractor. Progress Payments made notwithstanding the previous sentence shall not waive Contractor's right to withhold future Progress Payments.

ARTICLE 8

CHANGES

- 8.1 Change Orders.** The Work to be performed under this Subcontract may be modified by changes required by Owner, Architect or Contractor, and the Subcontract Amount as set forth in Article 3 shall be adjusted by written Change Order in accordance with this Subcontract.

- 8.2 Written Order Of Contractor Required.** No alterations, increases or decreases shall be made in the Work as shown or described by the Contract Documents except on the prior written order of Contractor, and when so made, the value of the Work or materials added or omitted shall be computed and determined by Subcontractor, subject to the written approval and acceptance by Contractor, and the amount so determined shall be added to or deducted from the Subcontract Amount. Subcontractor shall have no claim for additional work or changed work unless such work has been done in pursuance of a written order from Contractor. Any extra work performed without such written order will be at Subcontractor's cost and expense.
- 8.3 Notices To Contractor Of Changes Or Other Occurrences That Affect The Cost Of The Work Or Time For Performance.** For changes in the Work that affect the cost of the Work or time for performance of the Work, Subcontractor shall notify Contractor of the scope of any change in cost or time within five (5) days after receipt of the proposed change and shall submit the actual Change Order Request within ten (10) days, or any claim Subcontractor may have shall be waived. If Subcontractor believes the occurrence of some act or event, other than changes ordered by Contractor, justifies a change in the Subcontract Amount or the time for performance of the Work, Subcontractor shall notify the Contractor in writing of the occurrence of such act or event and the scope of the change sufficiently in advance to allow Contractor to forward the notice in compliance with the Contract Documents, or any claim Subcontractor may have shall be waived. Subcontractor acknowledges that any failure to strictly observe such procedures would greatly prejudice Contractor, and waives all defenses to strict enforcement of this provision.
- 8.4 Change Order Request.** The Change Order Request shall consist of the detailed cost estimate outlining the changes in the Work and detailed documentation justifying proposed changes in time. This estimate shall be computed in accordance with accepted estimating procedures and in accordance with the terms of the Contract Documents, and the costs for labor and materials shall be at prevailing rates in the Project area. Subcontractor shall be allowed the percentage markup for Subcontractor's overhead and profit specified in Attachment 1, unless a lesser percentage is allowed to Contractor's subcontractors in the Agreement between Owner and Contractor.
- 8.5 Work To Proceed Notwithstanding Dispute.** If Owner, Architect or Contractor disputes the validity or amount of a Change Order Request submitted by Subcontractor but nevertheless directs Subcontractor to proceed pursuant to Section 8.2, Subcontractor shall promptly proceed with the work under the Change Order pending resolution of the dispute and expeditiously complete such work.

ARTICLE 9

TEMPORARY FACILITIES AND SERVICES

- 9.1 Use Of Contractor's Hoisting Facilities.** Subcontractor shall be responsible for unloading and hoisting all of its materials, supplies, tools and equipment in order to ensure the timely completion of the Work.
- 9.2 Use Of Contractor's Other Temporary Facilities.** After obtaining Contractor's approval, Subcontractor shall have use in common with Contractor and others of any temporary roadways, equipment pads and scaffolding provided by Contractor whenever these temporary facilities are available and adequate. Subcontractor shall, at its own cost and expense, provide other temporary facilities necessary for performance of the Work.

ARTICLE 10

INSURANCE

Subcontractor shall maintain at its own cost the insurance coverage described in Exhibit "B" and shall comply with all other terms set forth in Exhibit "B".

ARTICLE 11

SUBCONTRACTOR'S RESPONSIBILITIES

In addition to the other obligations required by this Subcontract and the Contract Documents, Subcontractor shall perform the following:

- 11.1 Protection Of The Work And Other Property.** Subcontractor agrees at its own cost and expense to (1) take all necessary precautions to protect the work of other trades from any damage caused by Subcontractor's operations, and (2) watch over, care for and protect from damage or injury by any cause whatsoever, all of Subcontractor's Work, complete or otherwise, and all materials, supplies, tools and equipment at or near the Project. Subcontractor agrees, without loss or damage to Contractor, to make good any loss or damage caused by Subcontractor to any and all such work, materials, supplies, tools and equipment up to the final acceptance of the entire Project by Owner.
- 11.2 Adequate Supervisory Personnel And Other Employees.** Subcontractor shall maintain at the job site at all times adequate supervisory personnel, including Subcontractor's Authorized Representative, acceptable and satisfactory to Contractor and shall not replace Subcontractor's supervisory personnel without Contractor's prior approval. Any employee of Subcontractor may be refused admittance to the job site or may be requested to leave the job site at any time by Contractor, and Contractor shall not be required to have or state any reason for such action. In the event any employee or employees of Subcontractor are so barred from the job site, Subcontractor shall immediately replace such employee or employees with employees satisfactory to Contractor.
- 11.3 Safety Precautions.** Subcontractor shall take all necessary safety precautions with respect to the Work, and shall comply with all applicable laws, ordinances, rules, regulations and orders of all public authority for the safety of persons or property in accordance with the requirements of the Contract Documents. Subcontractor shall comply with the safety measures and policies established by Contractor as provided in Contractor's Safety Program and with any modifications and changes to such Safety Program as may be posted by Contractor at the job site from time to time. Subcontractor understands that as part of Contractor's Safety Program, Contractor requires that the job site be maintained as a drug and alcohol-free work place. Subcontractor shall provide Contractor with a copy of its written safety program and substance abuse policy prior to commencement of the Work. Subcontractor shall enforce said policy among its employees, its own Sub-subcontractors and their employees for the duration of this Subcontract. If Subcontractor does not have its own substance abuse policy, Subcontractor may adopt Contractor's. However, enforcement of the policy among employees and Sub-subcontractors is the responsibility of Subcontractor. Subcontractor shall report immediately to Contractor any injury to any of Subcontractor's employees at the site. When and if so ordered, Subcontractor shall stop or correct any part of the Work which Contractor deems unsafe or otherwise improper. If Subcontractor neglects to take such corrective measures, Contractor may do so at the cost and expense of Subcontractor and may deduct the cost thereof from any payments due or to become due to Subcontractor, or, at its option, Contractor may make demand upon Subcontractor for reimbursement of such cost, and Subcontractor shall fully reimburse Contractor for the same within three (3) days of such demand. Failure on the part of Contractor to stop performance of the Work in violation of legal or safety requirements shall in no way relieve Subcontractor of its sole responsibility therefor.

- 11.4 **Assignment And Subcontracting.** Subcontractor shall not subcontract, assign or transfer this Subcontract or any part hereof or amounts due or to become due hereunder without the prior written consent of Contractor.
- 11.5 **Warranties.** Subcontractor warrants that all materials and equipment furnished and incorporated by Subcontractor in the Project shall be new unless otherwise specified, and that all Work under this Subcontract shall be and remain of good quality, free from faults, liens and defects and in conformance with the Contract Documents. All Work not conforming to these standards shall be considered defective. Subcontractor shall remove, replace and/or repair, at its own cost and expense and at the convenience of Contractor and Owner, any defective or non-conforming Work. The warranty provided in this Section 11.5 shall be in addition to and not in limitation of any other warranty or remedy required by law or by the Contract Documents.
- 11.6 **Compliance With Laws And Insurance Requirements: Responsibility For Non-Complying Contract Documents.** Subcontractor shall give all notices and comply with the requirements of all applicable insurance policies and all codes, laws, ordinances, rules, regulations and orders of any public authority bearing on the performance of the Work under this Subcontract. Subcontractor shall promptly review all of the Contract Documents and report in writing to Contractor any variance to such requirements, codes, laws, ordinances, rules and regulations. If Subcontractor performs any of the Work contrary to such requirements, codes, laws, ordinances, rules and regulations without having given such notice to Contractor, Subcontractor shall assume full responsibility therefor, and shall bear all costs and damages attributable thereto.
- 11.7 **Responsibility For Permits, Fees And Licenses.** Subcontractor shall secure and pay for all permits, fees and licenses necessary for the execution of the Work, and shall pay all local, state and federal taxes in connection with the Work, and agrees that all costs thereof are included in the Subcontract Amount. When required by Contractor, Subcontractor shall furnish satisfactory evidence showing that all such payments have been made.
- 11.8 **Employment Taxes And Contributions Required By Law.** Subcontractor shall comply with federal, state and local tax laws, social security acts, unemployment compensation acts and workmen's compensation acts, insofar as applicable to the performance of this Subcontract.
- 11.9 **Non-discrimination.** Subcontractor shall comply with all procedures, rules and regulations with regard to nondiscrimination issued or to be issued by any local, state or federal government or agency, including without limitation the Equal Employment Opportunity Commission, insofar as they may apply to the Work.
- 11.10 **Indemnification and Hold Harmless.** *TO THE FULLEST EXTENT PERMITTED BY LAW, SUBCONTRACTOR SHALL INDEMNIFY AND HOLD HARMLESS CONTRACTOR AND ITS AFFILIATED AND PARENT COMPANIES, OWNER, ARCHITECT, ARCHITECT'S CONSULTANTS, THE DIRECTORS, OFFICERS, AGENTS, EMPLOYEES, TENANTS AND LENDERS OF EACH OF THEM, AND ANY OTHER ENTITIES OR PERSONS WHOM CONTRACTOR MUST INDEMNIFY UNDER THE CONTRACT DOCUMENTS FROM AND AGAINST ALL LIABILITY, CLAIMS, DAMAGES, LOSSES OR EXPENSES (INCLUDING, WITHOUT LIMITATION, ATTORNEY'S FEES AND EXPENSES AND ANY OTHER LIABILITIES FOR WHICH CONTRACTOR IS OBLIGATED TO INDEMNIFY THE OWNER UNDER THE CONTRACT DOCUMENTS) ARISING OUT OF, CAUSED BY, RESULTING FROM OR OCCURRING IN CONNECTION WITH ACTS OR OMISSIONS OF SUBCONTRACTOR IN PERFORMANCE OF THE WORK OR FAILURE TO PERFORM REGARDING THIS PROJECT (INCLUDING, WITHOUT LIMITATION, ACTS, OMISSIONS, MISCONDUCT OR BREACHES OF SUBCONTRACTOR, ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY IT OR ANYONE FOR WHOSE ACTS THEY MAY BE LIABLE) INCLUDING, WITHOUT LIMITATION, ALL SUCH LIABILITY, CLAIM, DAMAGE, LOSS OR EXPENSE ATTRIBUTABLE TO BODILY INJURY (INCLUDING, WITHOUT LIMITATION, SICKNESS, DISEASE OR DEATH) OR TO*

INJURY TO TANGIBLE PROPERTY (INCLUDING, WITHOUT LIMITATION, DESTRUCTION AND LOSS OF USE).

- 11.11 Duty To Defend.** TO THE FULLEST EXTENT PERMITTED BY LAW, SUBCONTRACTOR SHALL DEFEND (WITH COUNSEL REASONABLY ACCEPTABLE TO CONTRACTOR) CONTRACTOR AND ITS AFFILIATED AND PARENT COMPANIES, OWNER, ARCHITECT, ARCHITECT'S CONSULTANTS, THE DIRECTORS, OFFICERS, AGENTS, EMPLOYEES, TENANTS AND LENDERS OF EACH OF THEM, AND ANY OTHER ENTITIES OR PERSONS WHOM CONTRACTOR MUST INDEMNIFY UNDER THE CONTRACT DOCUMENTS FROM AND AGAINST ALL LIABILITY, CLAIMS, DAMAGES, LOSSES OR EXPENSES (INCLUDING, WITHOUT LIMITATION, ATTORNEY'S FEES AND EXPENSES AND ANY OTHER LIABILITIES FOR WHICH CONTRACTOR IS OBLIGATED TO INDEMNIFY THE OWNER UNDER THE CONTRACT DOCUMENTS) ALLEGED TO ARISE OUT OF, HAVE BEEN CAUSED BY, RESULT FROM OR TO HAVE OCCURRED IN CONNECTION WITH ACTS OR OMISSIONS OF SUBCONTRACTOR IN PERFORMANCE OF THE WORK OR FAILURE TO PERFORM REGARDING THIS PROJECT (INCLUDING, WITHOUT LIMITATION, ACTS, OMISSIONS, MISCONDUCT OR BREACHES OF SUBCONTRACTOR, ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY IT OR ANYONE FOR WHOSE ACTS THEY MAY BE LIABLE) INCLUDING, WITHOUT LIMITATION, ALL SUCH LIABILITY, CLAIM, DAMAGE, LOSS OR EXPENSE ATTRIBUTABLE TO BODILY INJURY (INCLUDING, WITHOUT LIMITATION, SICKNESS, DISEASE OR DEATH) OR TO INJURY TO TANGIBLE PROPERTY (INCLUDING, WITHOUT LIMITATION, DESTRUCTION AND LOSS OF USE). UNLESS EXPRESSLY PROHIBITED BY LAW, SUBCONTRACTOR SHALL BE OBLIGATED TO UNDERTAKE THE DEFENSE OF CONTRACTOR AND ITS AFFILIATED AND PARENT COMPANIES, OWNER, ARCHITECT, ARCHITECT'S CONSULTANTS, THE DIRECTORS, OFFICERS, AGENTS, EMPLOYEES, TENANTS AND LENDERS OF EACH OF THEM, AND ANY OTHER ENTITIES OR PERSONS WHOM CONTRACTOR MUST INDEMNIFY UNDER THE CONTRACT DOCUMENTS REGARDLESS OF WHETHER SUCH BODILY INJURY, INJURY TO TANGIBLE PROPERTY OR OTHER DAMAGE OR LIABILITY IS ALLEGED TO BE CAUSED IN PART BY THE ACTIVE OR PASSIVE NEGLIGENCE OR WILLFUL MISCONDUCT OF THE PARTY TO BE INDEMNIFIED.
- 11.12 Negligence Or Fault Of Indemnitee.** EXCEPT TO THE EXTENT THAT SUBCONTRACTOR IS INSURED THEREFORE, NOTHING IN THIS ARTICLE SHALL REQUIRE SUBCONTRACTOR TO DEFEND AN INDEMNITEE WHOSE NEGLIGENCE OR WILLFUL MISCONDUCT HAS BEEN FOUND BY A COURT OR OTHER TRIBUNAL OF COMPETENT JURISDICTION TO HAVE SOLELY CAUSED THE BODILY INJURY, INJURY TO TANGIBLE PROPERTY OR OTHER DAMAGE OR LIABILITY. EXCEPT TO THE EXTENT THAT SUBCONTRACTOR IS INSURED THEREFORE, NOTHING IN THIS ARTICLE SHALL REQUIRE SUBCONTRACTOR TO INDEMNIFY AN INDEMNITEE TO THE EXTENT THAT SUCH PERSON'S OWN NEGLIGENCE OR WILLFUL MISCONDUCT WHICH HAS BEEN FOUND BY A COURT OR OTHER TRIBUNAL OF COMPETENT JURISDICTION TO HAVE CAUSED THE BODILY INJURY, TO TANGIBLE PROPERTY OR OTHER DAMAGE OR LIABILITY.
- 11.13 Continuing Obligation.** THE DEFENSE AND INDEMNITY OBLIGATIONS IN THIS PROVISION (A) APPLY DURING THE PERFORMANCE OR NON-PERFORMANCE OF ANY WORK (INCLUDING, WITHOUT LIMITATION, EXTRA WORK, WARRANTY WORK, CORRECTIVE WORK), (B) SURVIVE THE COMPLETION OF THE WORK OR TERMINATION OF THIS SUBCONTRACT, (C) SHALL NOT BE CONSTRUED TO NEGATE, ABRIDGE, OR REDUCE OTHER RIGHTS OR OBLIGATIONS OF INDEMNITY WHICH WOULD OTHERWISE EXIST AS TO A PARTY OR PERSON DESCRIBED IN THIS PROVISION AND (D) SHALL NOT BE REDUCED IN ANY WAY BY ANY LIMITATION ON THE AMOUNT OR TYPE OF DAMAGES, COMPENSATION OR BENEFITS PAYABLE BY OR FOR SUBCONTRACTOR UNDER WORKER'S COMPENSATION ACTS, DISABILITY BENEFIT ACTS OR ANY OTHER EMPLOYEE BENEFIT ACTS.

- 11.14 Construction Of Provisions.** *IT IS EXPRESSLY UNDERSTOOD THAT THE TERMS OF THIS ARTICLE SHALL BE CONSTRUED TO PROVIDE TO THE CONTRACTOR, AT A MINIMUM, THE MAXIMUM BENEFIT IN TERMS OF DEFENSE AND INDEMNITY THAT MAY BE AVAILABLE UNDER ANY POLICIES OF INSURANCE MAINTAINED BY SUBCONTRACTOR APPLICABLE TO THE PROJECT, BUT SHALL NOT BE CONSTRUED TO LIMIT SUBCONTRACTOR'S OBLIGATIONS TO ITS INSURANCE COVERAGE. IT IS FURTHER EXPRESSLY UNDERSTOOD THAT, TO THE EXTENT ANY PROVISION OF THIS ARTICLE COULD BE CONSTRUED TO CONFLICT WITH APPLICABLE LAW, IT SHALL NOT BE STRICKEN BUT SHALL BE CONSTRUED TO AFFORD THE CONTRACTOR THE MAXIMUM BENEFIT PERMITTED BY LAW AND SHALL BE ENFORCED IN A MANNER CONSISTENT WITH APPLICABLE LAW.*
- 11.15 Liability Of Contractor And Others.** *SUBCONTRACTOR AGREES THAT THE OFFICERS, PRINCIPALS, AGENTS, TRUSTEES, DIRECTORS, PARTNERS, SHAREHOLDERS, REPRESENTATIVES, JOINT VENTURERS, OR EMPLOYEES OF CONTRACTOR, OWNER, LENDER, TENANT AND ARCHITECT SHALL HAVE NO PERSONAL LIABILITY WITH RESPECT TO THE PROJECT OR ANY OF THE OBLIGATIONS SET FORTH IN THE CONTRACT DOCUMENTS.*
- 11.16 Subcontractor Responsible For All Costs Of The Work.** *Subcontractor shall at its own expense furnish and pay for all labor, material, equipment, sales and use taxes or other taxes, permit and license fees, labor fringe benefits, insurance and bond premiums and all other things and costs required to completely perform the Work in accordance with this Subcontract. TO THE FULLEST EXTENT PERMITTED BY LAW, SUBCONTRACTOR SHALL INDEMNIFY, HOLD HARMLESS AND DEFEND (WITH COUNSEL REASONABLY ACCEPTABLE TO CONTRACTOR) CONTRACTOR AND ITS AFFILIATED AND PARENT COMPANIES, OWNER, ARCHITECT, ARCHITECT'S CONSULTANTS AND THE DIRECTORS, OFFICERS, AGENTS AND EMPLOYEES OF EACH OF THEM FROM AND AGAINST LIABILITY, CLAIMS, DAMAGES, LOSSES OR EXPENSES (INCLUDING, WITHOUT LIMITATION, ATTORNEY'S FEES AND EXPENSES) ARISING OUT OF ANY ASSERTION BY ANY OF SUBCONTRACTOR'S SUBCONTRACTORS, SUB-SUBCONTRACTORS, SUPPLIERS OR OTHER PERSONS CLAIMING TO HAVE SUPPLIED ANYTHING OF VALUE INCLUDING BUT LIMITED TO MATERIALS, EQUIPMENT OR LABOR TO ANY PERSON IN CONNECTION WITH THE WORK WHETHER OR NOT SAME HAS BEEN INCORPORATED IN THE WORK.*
- 11.17 Liens: Contractor's Right To Remove Liens: Subcontractor's Right To File Own Lien.** *Subcontractor will save and keep the Project and the lands upon which it is situated free from all mechanic's and other liens by reason of the Work or any labor, materials or other things used therein. If Subcontractor fails to remove any Lien by bonding it or otherwise, Contractor may, without limiting its remedies, retain sufficient funds, out of any money due or thereafter to become due by Contractor to Subcontractor, to pay the same and all costs incurred by reason thereof, and may pay such costs or bond said lien or liens out of any funds at any time in the hands of Contractor owing to Subcontractor. Nothing herein shall prevent Subcontractor from filing its own lien if it is otherwise entitled to do so.*
- 11.18 Clean Up And Debris.** *Subcontractor will clean up and haul off the premises (or haul to a place on the premises specifically designated for debris disposal) all debris occasioned by the Work done hereunder, and will leave the Project and premises clean and free of equipment, materials, temporary facilities and other matters. Any trash, debris, or liquid that poses a possible threat of fire or safety shall be removed from the premises immediately. If, after 24 hours notice by Contractor to Subcontractor, Subcontractor has not diligently proceeded with the clean-up work as outlined in this section, then Contractor has the right to proceed with the clean-up work at Subcontractor's cost and expense.*
- 11.19 Coordination Drawings.** *Subcontractor shall cooperate with Contractor and other subcontractors whose work might interfere with Subcontractor's Work, and shall participate in the*

preparation of coordinated drawings in areas of congestion, specifically noting and advising Contractor of any such interference.

11.20 Quality Of The Work. All of Subcontractor's workmanship, materials, submissions, and samples shall be subject to the approval of Owner, Architect and Contractor.

11.21 Shop Drawings And Other Submittals. Responsibility For Matching And Fitting. Subcontractor shall submit to Contractor, within the time specified in Attachment 1, complete shop drawings, data, catalog cuts and samples as required by the Contract Documents. Approval of such shop drawings and other items listed herein by Contractor and/or Architect shall not relieve Subcontractor of its obligation to perform the Work in strict accordance with this Subcontract and the other Contract Documents, nor of its responsibility for the proper matching and fitting of the Work with contiguous work. Notwithstanding the dimensions given on the Plans, Specifications and other Contract Documents, it shall be the obligation and responsibility of Subcontractor to take such measurements as will insure the proper matching and fitting of the Work covered by the Subcontract with contiguous work. To the extent required by law or the Contract Documents, Subcontractor shall perform any design services as may be required for preparation of shop drawings or data and such services shall be performed or supervised and sealed by an appropriately licensed professional. The Subcontractor agrees and represents that it shall be responsible for the professional quality, technical accuracy, and the coordination of all shop drawings or data furnished by the Subcontractor under this Subcontract. The Subcontractor agrees and represents that the Subcontractor's shop drawings and data will be in compliance with all applicable federal, state and local rules, regulations or laws including all applicable building codes in full force and effect in the locality of the Project and the requirements of the Owner's insurance company. Subcontractor shall without additional compensation, and at its own expense, correct or revise any errors or deficiencies in its shop drawings or data and shall carry appropriate professional liability insurance. Subcontractor agrees and represents that in performing any required design services it will use the skill and care which would be exercised by qualified design professionals of the highest skills in the locality in which the Project is located and that the services rendered by the Subcontractor will result in a completed design for the Work which will conform to the use for which it is intended and comply with all requirements of this Subcontract.

11.22 Lay-out Protection and Preservation. Since Subcontractor is responsible for its own layout, it is understood and agreed that Subcontractor is responsible for the protection and preservation of all installed engineering data and layout points and shall take all necessary precautions to insure that said data are not damaged, destroyed, altered or changed. Re-engineering, if required, shall be performed at Subcontractor's cost and expense.

11.23 Cutting And Patching. Subcontractor shall be responsible for all cutting and patching required in the prosecution of the Work stipulated under this Subcontract including cutting and patching of the Work and the work of others..

11.24 Site Conditions. Subcontractor acknowledges that it has investigated and satisfied itself as to the conditions affecting the Work, including but not restricted to those bearing upon transportation, disposal, handling and storage of materials, availability of labor, water, electric power, roads, and uncertainties of weather, river stages, tides or similar physical conditions of the site, the conformation and conditions of the ground with the character and content of all other contracts related to the Project, and the character of equipment and facilities needed preliminary to and during prosecution of the Work. Subcontractor further acknowledges that Subcontractor has satisfied itself as to the character, quality and quantity of surface and subsurface materials or obstacles to be encountered insofar as this information is reasonably ascertainable from an inspection of the site including all exploratory work done by Owner and/or Contractor, as well as from information presented by the Drawings, Plans and Specifications made a part of this Subcontract. Any failure by Subcontractor to acquaint itself with the available information will not relieve Subcontractor from responsibility for estimating properly the difficulty or cost of

successfully performing the Work. Contractor assumes no responsibility for any conclusions or interpretations made by Subcontractor on the basis of the information made available by Owner and/or Contractor.

- 11.25 Tests And Inspections.** In addition to tests and inspections of the Work required and permitted by the Contract Documents, Subcontractor agrees that Contractor, Owner and Architect shall have the right to visit the Project site and test and inspect the Work during the course of construction. Subcontractor shall fully cooperate with Contractor, Owner and Architect in connection with all tests and inspections.
- 11.26 Subcontractor Not To Take Orders From Owner Or Architect.** Notwithstanding any other provision in this Subcontract to the contrary, Subcontractor shall take directions and orders regarding the performance of the Work and this Subcontract only from Contractor, and not from Owner or Architect, and shall be solely responsible to Contractor for all construction means, methods, techniques, sequences and procedures. Contractor shall have the right to withhold payment for work resulting from directions or orders from the Owner or Architect that are not communicated to Subcontractor directly by Contractor.
- 11.27 Infringement Of Patent Rights.** Subcontractor shall pay all royalties and defend all suits or claims for infringement of any patent rights, copyright, or other common law, statutory or other reserved rights, and shall indemnify, defend and hold Contractor and its affiliated and parent companies, Owner, Architect, Architect's consultants and the directors, officers, agents and employees of each of them and any other entities or persons whom Contractor must indemnify under the Contract Documents harmless from any and all loss, liability, demand, claim, cost and expense (including reasonable attorneys fees, charges and expenses) in connection therewith.
- 11.28 Use of Hazardous Materials.** Subcontractor shall give prior written notice to Contractor if any "hazardous substance," "hazardous material," "hazardous waste," "toxic substance," or words of similar import, as such terms may be now or hereafter defined by federal, state or local law (collectively, "**Hazardous Substance**") will be used on the site by Subcontractor, Subcontractor's Sub-subcontractors or anyone directly or indirectly employed by them. If any such Hazardous Substance is of a type which an employer is required by law to notify its employees, Subcontractor shall, prior to harmful exposure of any employees on the site to such substance, give written notice of the chemical composition thereof to Contractor in sufficient detail and time to permit compliance with such laws by Contractor, other subcontractors and other persons on the site. All Hazardous Substances shall be used, transported and stored by Subcontractor strictly in accordance with all applicable laws.

ARTICLE 12

DISPUTES

- 12.1 Decisions Of Owner Or Architect Related To The Work Are Binding.** Any decision or determination by Owner or Architect relating to Contractor's performance or compensation under the Agreement between Contractor and Owner that is binding upon Contractor shall also be binding upon Subcontractor insofar as it relates to or involves Subcontractor's performance under, or the terms of, this Subcontract. Any decision or determination resulting from litigation between Contractor and Owner which relates to Subcontractor's performance under, or the terms of, this Subcontract shall be binding upon Subcontractor. Insofar as a decision of Owner or Architect relating to Subcontractor's performance of the Work under the terms of this Subcontract is a condition precedent to Contractor's right to proceed to litigation under the Contract Documents, such decision is also a condition precedent to Subcontractor's right to proceed to litigation under this Subcontract.

12.2. Presentation and Pursuit of Subcontractor Claims for Additional Compensation.

- 12.2.1 Timely Presentation Of Claim.** In the event that the Subcontractor wishes to assert that it is entitled to receive compensation in addition to the Subcontract Sum as a result of any alleged changed or additional work, delay, disruption, impact, loss of efficiency, loss of productivity or other circumstance, the Subcontractor shall submit a written claim to the Contractor in the form designated in the Contract Documents for submission of claims for additional compensation to the Owner. The Subcontractor's claim shall be submitted at least 14 days in advance of any time period stated in the Contract Documents, with sufficient detail and documentation (including any certification) so as to allow the Contractor to comply with any provision in the Contract Documents for submission of claims against the Owner. If such Subcontractor's Claim exceeds fifty thousand dollars (\$50,000.00), or seeks an extension of time in excess of two (2) days, then Subcontractor shall, at the time of submission, Certify that the Claim is made in good faith, that the supporting data are accurate and complete to the best of Subcontractor's knowledge and belief, and that the amount requested accurately reflects the adjustment Subcontractor believes should be authorized. The certification shall be executed by a senior official of Subcontractor in charge of the Project or an officer or general partner of Subcontractor having overall responsibility for the conduct of Subcontractor's affairs. In the absence of such Certification, any such claim shall be null and void and Subcontractor shall be deemed to have waived any rights in such Claim.
- 12.2.2 Presentation Of Claim To Owner.** To the extent that the Subcontractor properly presents a claim to the Contractor consistent with the requirements of the Contract Documents and certifies such claim as above provided and to the extent that the Contractor reasonably believes that the Subcontractor has good-faith grounds for a claim, the Contractor shall present the Subcontractor's claim to the Owner. In the event that the Contractor does not believe that the Subcontractor has good-faith grounds for a claim, it shall notify the Subcontractor and the Subcontractor shall have the opportunity to submit additional information and documentation to the Contractor. In any event, the determination by the Contractor as to whether a good-faith basis exists for the Subcontractor's claim shall be final and binding on the Subcontractor.
- 12.2.3 Prosecution And Settlement Of Claim.** To the extent that the Subcontractor complies with its obligations under this provision to support the Contractor's effort by the provision of information, documents and other resources, the Contractor shall prosecute the Subcontractor's claim against the Owner and the Designers to the extent deemed reasonable by the Contractor in its sole discretion. The Contractor shall have sole and exclusive power to compromise, settle or discontinue any claim or proceeding and its decision in this regard shall be final and binding upon Subcontractor.
- 12.2.4 Subcontractor Recovery.** The Contractor agrees to pay to the Subcontractor, and the Subcontractor agrees to accept from the Contractor, in full and complete satisfaction and discharge of any right of the Subcontractor to assert against the Contractor and the Sureties the amount, if any, recovered and collected by the Contractor from the Owner and/or the Designers on account of the Subcontractor's Claims for Additional Compensation excluding mark-ups for overhead and profit claimed by the Contractor, reduced by a share of the costs and expenses incurred by the Contractor with respect to the prosecution of the Subcontractor's claim (as reasonably determined by the Contractor) including attorney's fees, consulting charges and the Contractor's own personnel, and reduced by the amount of any damages assessed against the Contractor in any action involving claims of any persons arising out of the Project, or the amount by which any recovery to the Contractor from the Owner or other parties is lost or diminished as a result of errors, omissions, delay, interference or disruption or other deficiencies of the Subcontractor in its performance of the Subcontract.

12.2.5 Subcontractor Support To Claim Prosecution. At no cost to the Contractor, the Subcontractor shall provide full cooperation and assistance to the Contractor, and its counsel, with respect to the prosecution of any and all claims the Owner and/or the Designers including, but not limited to, making all documents and witnesses available for discovery and/or trial, making all of its financial books and records available for discovery and/or trial and/or government audit, procuring necessary expert testimony and expert reports to support the Subcontractor's Claims for Additional Compensation for discovery and/or trial and making its own presentation with respect to the Subcontractor's Claims for Additional Compensation for settlement purposes and/or at trial, or assisting Contractor's counsel in making said presentations, all as and to the extent requested to do so by the Contractor or its counsel.

12.2.6 Subcontractor Not To Commence Suit. Except to the extent necessary to preserve the Subcontractor's rights granted by law to security for payment for work performed, such as a mechanic's lien law, or under any legally required bond, or as necessary to preserve any claim against the effect of any limitations statute, the Subcontractor shall not commence or pursue any action at law or other proceeding against the Contractor for additional compensation, for any work, extra work, delay, disruption, impact or any other circumstance whatsoever, or any other sum, including compensation for contractual work or any sum included in any Subcontract claim that is the subject of or related to any matter in dispute between the Contractor and the Owner. Subcontractor specifically agrees that it will dismiss any suit or proceeding that is not permitted by this provision and will agree to a stay of any action or proceeding commenced by the Subcontractor that involves, refers or relates to any facts or circumstances in dispute between the Contractor and Owner until the final resolution of such dispute.

12.2.7 Consent Of Subcontractor To Joinder. In its sole discretion, Contractor may join Subcontractor as a party to any proceeding with the Owner in which performance of any aspect of the Work, or of any alleged changed or extra work by subcontractor forms any part of any factual dispute therein, and Subcontractor hereby consents to the subject matter and personal jurisdiction of any court, arbitration panel or other tribunal in which such proceeding is pending over the Subcontractor and its claims. In the event of such joinder, Subcontractor agrees to be bound by the decision of such court, arbitration panel or other tribunal to the full extent to which Contractor is bound.

12.2.8 Subcontractor to Bear Cost To Defend Counterclaim. Subcontractor shall bear all costs of defending and shall indemnify the Contractor against any counterclaim arising in whole or in part out of the Subcontractor's conduct and, at the Contractor's request, shall undertake such defense utilizing counsel acceptable to the Contractor. *TO THE FULLEST EXTENT PERMITTED BY LAW, SUBCONTRACTOR SHALL INDEMNIFY, HOLD HARMLESS AND DEFEND (WITH COUNSEL REASONABLY ACCEPTABLE TO CONTRACTOR) CONTRACTOR AND ITS AFFILIATED AND PARENT COMPANIES AND THE DIRECTORS, OFFICERS, AGENTS AND EMPLOYEES OF EACH OF THEM FROM AND AGAINST LIABILITY, CLAIMS, DAMAGES, LOSSES OR EXPENSES (INCLUDING, WITHOUT LIMITATION, ATTORNEY'S FEES AND EXPENSES) ARISING OUT OF ANY ASSERTION THAT ANY SUBCONTRACTOR CLAIM IS FALSE OR FRAUDULENT OR HAS BEEN SUPPORTED BY ANY FALSE OR FRAUDULENT STATEMENT OR IS OTHERWISE CONTRARY TO LAW.*

12.3 Litigation Of Disputes Between Contractor And Subcontractor And Jury Trial Waiver. Except as otherwise provided in this Article, all claims, disputes and other matters in controversy arising out of or relating to this Subcontract, or the performance or breach hereof, shall be filed, and venue shall lay, exclusively in the county in which the Issuing Office of the Contractor, as set forth above, is located. The Subcontractor hereby submits itself to the jurisdiction of said Court as to any claim, dispute or matter in controversy arising out of or relating to this Subcontract or the performance or breach hereof. To the extent necessary to preserve any legally non-waivable

right to lien or legally non-waivable right to recovery upon a performance bond required or guaranteed by the law of the state where the Project is located, Subcontractor shall be permitted to commence an action in such jurisdiction solely to the extent necessary to preserve such rights and hereby consents to defer or stay such action until any suit commenced between the parties in the contractually agreed venue is completed and to be bound by the results thereof. To the extent the foregoing venue provision is deemed unenforceable as a matter of law, Subcontractor shall be permitted to commence suit in the State in which the Project is located, in the County in which the Managing Office of Contractor, as set forth above, is located. **IN ANY AND ALL ACTIONS SUBCONTRACTOR IRREVOCABLY WAIVES ANY RIGHT TO TRIAL BY JURY.**

12.4 Pre-Dispute Negotiation and Mediation. No action may be commenced by Subcontractor until after it has submitted its claim and participated in the pre-dispute Negotiation and Mediation procedures set forth in this sub-Article.

12.4.1 Certification of Claim. If a Claim by Subcontractor exceeds fifty thousand dollars (\$50,000.00), or seeks an extension of time in excess of two (2) days, then Subcontractor shall, at the time of submission, Certify that the Claim is made in good faith, that the supporting data are accurate and complete to the best of Subcontractor's knowledge and belief, and that the amount requested accurately reflects the adjustment Subcontractor believes should be authorized. The certification shall be executed by a senior official of Subcontractor in charge of the Project or an officer or general partner of Subcontractor having overall responsibility for the conduct of Subcontractor's affairs. In the absence of such Certification, any such claim shall be null and void and Subcontractor shall be deemed to have waived any rights in such Claim.

12.4.2 Negotiation of Claim. Duly appointed representatives of Subcontractor and Contractor shall meet at least once in person to attempt to resolve any Claim. If the Claim is not resolved promptly, Contractor shall give such instructions as are necessary for the proper performance by Subcontractor and to prevent delay, interference or disruption pending settlement of the dispute. Subcontractor shall act immediately according to such instructions, it being understood that by so doing neither party will jeopardize any rights the party may otherwise have under the Contract Documents.

12.4.3 Meeting by Senior Representatives. If the Claim is not resolved by the representatives of Contractor and Subcontractor within ten (10) days of a Notice by either requesting a meeting, then Subcontractor and Contractor shall each designate a senior executive (with similar or equivalent organizational stature) who shall not have been personally involved in the Project and who shall have no direct responsibility for the administration of the Subcontract. Each designated senior executive shall have the authority to settle or compromise the Claim conclusively. The senior executives shall meet at a mutually agreeable time and place within ten (10) days of the date of their appointment and thereafter as often as they deem reasonably necessary to exchange relevant information and to attempt to resolve the Claim.

12.4.4 Mediation. If the Claim has not been resolved within ten (10) days of the date the senior executives first meet, then either party may request non-binding mediation of the Claim by serving the other party with Notice of its desire to mediate the dispute. Notice shall be given within ten (10) days of the date of the last meeting of the senior executives or the date last stated above, whichever shall last occur. Once such a mediation Notice is issued by one or other of the parties, the mediation procedure shall be mandatory unless the parties agree in writing to waive mediation. A single mediator selected by the senior executives shall be appointed. In the event they are unable to agree upon an acceptable mediator within ten (10) days of the date the Notice of desire to mediate is received, either party may petition the American Arbitration Association (AAA) for the appointment of a mediator, and the mediation, including the selection of the mediator, shall proceed pursuant to the AAA's Construction Industry Mediation Rules.

- 12.4.5 Confidential Information.** Confidential information disclosed to a mediator by the parties or by witnesses in the course of any mediation shall not be divulged by the mediator except to the parties. All records, reports or other documents received by a mediator while serving in such capacity shall be confidential. The mediator shall not be compelled to divulge such records or to testify in regard to the mediation in any adversary proceeding or judicial forum. The parties shall maintain the confidentiality of the mediation and shall not rely on, or introduce as evidence in any arbitral, judicial or other proceeding: (1) views expressed or suggestions made by another party with respect to a possible settlement of the dispute; (2) admissions or statements of fact made by another party in the course of the mediation proceedings; (3) proposals made or views expressed by the mediator; and (4) the fact that another party had or had not indicated a willingness to accept a proposal for settlement made by the mediator.
- 12.4.6 Expense of Mediation.** The expense of witnesses for any party to a mediation shall be paid by the party producing such witnesses. All expenses of the mediator, including traveling, fees and other expenses of the mediator, or the cost of any proofs, witnesses or experts produced at the direct request of the mediator, shall be borne equally by the parties unless they agree otherwise.
- 12.5 Dispute Not To Interfere With Progress Of The Work.** No claim, dispute or other matter in controversy arising out of this Subcontract shall interfere with the progress of the Work, and Subcontractor shall proceed with the Work in accordance with this Subcontract despite the existence of, and without awaiting the resolution of, any such claim, dispute or matter.
- 12.6 Contractor's Costs: Interest And Attorney's Fees.** In any instance whereby Contractor is entitled, under the terms of this Subcontract, to be indemnified by or recover any monies from Subcontractor, Contractor shall be entitled to, in addition, recover from Subcontractor: (a) interest on any sums due at the lesser of (i) 12% or (ii) the maximum rate permitted by law, per annum from the date due until paid, (b) reasonable attorneys' fees, charges and expenses incurred for all investigation, negotiation, litigation, arbitration and other such services commonly performed by attorneys, including without limitation all court costs, fees paid to experts, arbitration fees and like expenses.
- 12.7 Governing Law.** Unless otherwise specified herein, this Subcontract shall be governed by the law of the State in which the Project is located.

ARTICLE 13

SUB-SUBCONTRACTORS

- 13.1 Sub-subcontractors Defined.** A Sub-subcontractor is a person or entity who has a direct or indirect contract with Subcontractor or any Sub-subcontractor of Subcontractor to perform or provide any labor, services, equipment, materials or supplies at the job site, or any other portion of the Work, and includes all vendors, suppliers and materialmen.
- 13.2 Incorporation By Reference Of This Subcontract.** By an appropriate agreement, Subcontractor shall require each Sub-subcontractor to assume toward Subcontractor all the obligations and responsibilities which Subcontractor, by this Subcontract, assumes toward Contractor. The Sub-subcontractor shall strictly comply with the requirements of applicable provisions of the Agreement between Owner and Contractor. Subcontractor shall expressly incorporate the terms of this Subcontract into its agreements with Sub-subcontractors, and shall make a copy of this Subcontract and the Contract Documents available to Sub-subcontractors for inspection.

- 13.3 **Assignment To Contractor Upon Termination.** Subcontractor hereby collaterally assigns to Contractor all sub-subcontracts, purchase orders and other agreements entered into by Subcontractor in connection with the Work (the “**Assigned Contracts**”) to be automatically effective, at Contractor’s option, in the event of termination of this Subcontract. Upon termination of this Subcontract, Contractor may elect to accept or reject any or all of the Assigned Contracts, and until ordered otherwise by Contractor each Sub-subcontractor shall continue to perform its work on the Project, provided that Contractor shall be obligated to pay Sub-subcontractor for work performed and deliveries made after the effective date of such termination pursuant to the payment terms of the sub-subcontract, purchase order or other agreement. In each of Subcontractor’s sub-subcontracts relating to the Work, Subcontractor shall provide that the applicable Sub-Subcontractor acknowledges that Subcontractor has collaterally assigned the sub-subcontract to Contractor and consents to such collateral assignment.
- 13.4 **List Of Sub-subcontractors For Contractor’s Approval.** Subcontractor shall submit to Contractor for approval a list of Sub-subcontractors whom Subcontractor intends to engage, including an estimate of the amount to be paid to each. Failure of the Contractor to object to a proposed Sub-subcontractor shall not constitute a waiver of any of the requirements of this Subcontract, including, in that limitation, the requirement that Contractor’s written consent be obtained for any assignment or subcontract pursuant to Section 11.4.
- 13.5 **Certified List Of Sub-subcontractors And Payment Status.** Together with each payment request, and as a condition precedent to payment, Subcontractor shall submit to Contractor a certified list of sub-subcontractors, suppliers or other persons who have furnished anything of value in connection with the Work, the agreed amount to be paid such persons, the amounts paid and the amounts outstanding to such persons. Failure of the Subcontractor to supply such certified list shall constitute a ground for non-payment or termination of Subcontractor.

ARTICLE 14

MISCELLANEOUS PROVISIONS

- 14.1 **Conflicts Between Subcontract And Contract Documents.** This Subcontract and the other Contract Documents shall, if possible, be read so as to supplement and complement each other. However, in the event of an irreconcilable conflict in the terms thereof, the provision imposing the greater duty or obligation on the Subcontractor or affording the greater right or remedy to Contractor shall govern.
- 14.2 **Owner And Architect’s Approval Of Subcontractor.** This Subcontract is subject to the approval of Subcontractor by Architect and Owner.
- 14.3 **Contractor’s Property.** All tools, equipment and materials purchased by Subcontractor for the Project or with funds paid by Contractor are and shall remain Contractor’s property. Subcontractor shall not remove any Plans, Specifications or Drawings from the job site without Contractor’s prior written consent.
- 14.4 **Titles And Headings.** The captions, titles, sections and paragraph headings used in this Subcontract are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope or intent of this Subcontract or any section, paragraph, article or provision herein.
- 14.5 **Entire Agreement: Modifications In Writing.** This Subcontract contains the entire agreement between the parties. Any executory agreement hereafter made shall be ineffective to change, modify or discharge this Subcontract in whole or in part, unless such executory agreement is in writing and signed by both Contractor and Subcontractor. All negotiations and agreements prior to the date of this Subcontract not included herein are hereby voided.

- 14.6 No Third Party Beneficiaries.** Nothing contained in this Subcontract shall create any contractual or third party beneficiary relationship between any parties other than the Contractor and Subcontractor.
- 14.7 Non-Waiver.** The failure by Contractor at any time to enforce or to require strict compliance or performance by Subcontractor of any of the provisions of this Subcontract shall not constitute a present or future waiver of such provisions and shall not affect or impair in any way Contractor's right at any time to enforce said provisions or to avail itself of such remedies as it may have for any breach thereof.
- 14.8 Severability.** Every provision of this Subcontract is intended to be severable. In the event any term or provision hereof is declared by a court of competent jurisdiction to be illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the balance of the terms and provisions hereof, which terms and provisions shall remain binding and enforceable. In particular, if any provision of this Subcontract related to conditions precedent for payment is deemed to be an unenforceable as a "pay-if-paid" clause or otherwise, such provision shall be construed to provide that the Subcontractor shall be bound to the same extent as the Contractor by the decisions of the Owner as to the value of work performed and other issues related to payments and to allow the Contractor a reasonable time for payment to the Subcontractor. In such event, a reasonable time for payment shall include the time reasonably required for Contractor to contest any decision of the Owner regarding payment or the approval of claims to conclusion in accordance with the Dispute provisions of the Contract between the Contractor and the Owner.
- 14.9 Notices.** Except as otherwise expressly set forth herein, all notices, requests, approvals, communications and demands to be made hereunder shall be in writing and shall be delivered by hand, by a nationally recognized overnight courier, telecopied, or sent by registered or certified mail through the United States Postal Service, postage prepaid, return receipt requested, to the addresses shown on page one hereof or such other addresses which the parties may provide to one another in the manner herein provided. A copy of materials delivered by telecopy shall also be sent by overnight courier or by registered or certified mail in the manner required by this Section 14.9, but delivery shall be deemed to have occurred upon receipt of the telecopy. Such notices, requests, approvals, communications and demands, if sent by mail, shall be deemed given five (5) days after deposited in the United States mail, if delivered by hand or nationally recognized overnight courier, shall be deemed given when delivered and if telecopied, shall be deemed given upon receipt thereof. Notices to Subcontractor may, at Contractor's option, be addressed to Subcontractor's Authorized Representative located at the job site.
- 14.10 Non-Discrimination Against Union Or Non-Union Members: Disputes As To Jurisdiction Of Trades.** It is understood that subcontracts will be awarded by Contractor and that labor will be employed by Contractor, on the Project herein described, without discrimination as to whether employees of any contractor (including Contractor), subcontractor or Owner, or by any persons or parties engaged by Owner, are members or non-members of any labor organization. Subcontractor shall not employ workers, materials or equipment which may cause strikes, work stoppages or any disturbances by workers employed by Subcontractor, Contractor, Owner or other subcontractors on or in connection with the Work or the Project or at the location thereof. Subcontractor agrees that all disputes as to jurisdiction of trades shall be adjusted in accordance with any plan for the settlement of jurisdiction disputes which may be in effect either nationally or in the locality in which the Work is being done and that Subcontractor shall be bound and abide by all such adjustments and settlements of jurisdiction disputes, provided that the provisions of this Section 14.10 shall not be in violation of or in conflict with any provisions of law applicable to the settlement of such disputes.
- 14.11 Entirety Of Subcontract.** The execution of this Subcontract by Subcontractor constitutes and shall be relied upon by Contractor as acceptance of the entirety of this Subcontract.

- 14.12 **WAIVER OF CONSEQUENTIAL DAMAGES.** EXCEPT FOR THE SUBCONTRACTOR'S OBLIGATION TO INDEMNIFY CONTRACTOR AGAINST CLAIMS OF THE OWNER AND OTHER PERSONS, THE CONTRACTOR AND SUBCONTRACTOR SHALL NOT SEEK, AND SHALL HAVE NO RIGHT TO RECOVER AND HEREBY WAIVE ANY AND ALL CLAIMS AGAINST EACH OTHER FOR CONSEQUENTIAL DAMAGES ARISING OUT OF OR RELATING TO THIS SUBCONTRACT, INCLUDING, WITHOUT LIMITATION, ANY CONSEQUENTIAL DAMAGES DUE TO EITHER PARTY.

ARTICLE 15

TERMINATION

- 15.1 **Termination Without Cause.** Contractor shall have the right at any time with 48 hours written notice to Subcontractor to terminate this Subcontract without cause and require Subcontractor to cease work hereunder; in which case, provided Subcontractor be not then in default, Contractor shall pay Subcontractor the value of the Work completed as measured by the Subcontract Amount. In no event shall Subcontractor be entitled to anticipated profits on work unperformed or materials or equipment unfurnished. The amount to be paid to Subcontractor shall be reduced by the amount Contractor may incur to replace or repair any defective or non-conforming Work done by Subcontractor. Any term or provision of this Subcontract which by its nature survives final payment, including, without limitation, any warranty, indemnification or insurance coverage provision, shall survive termination of this Subcontract.

ARTICLE 16

CODE OF CONDUCT

16.1 KAJIMA CODE OF CONDUCT

In conformance with Federal Contracting Law and Kajima's Code of Business Conduct employees of the company are prohibited from actions which are, or even appear to be, subject to interests, relationships or influences which conflict with the interests of their company, including the solicitation or acceptance of kickbacks from any supplier or subcontractor or the participation in any improper diversion of labor, materials or equipment from a construction project. By execution of this agreement the subcontractor agrees to report any violation of this policy to the Kajima Ethics Officer at 404-812-8600.