

TERMS AND CONDITIONS

1. The Contract.

(a) The Contract consists of (i) the Agreement, including these Terms and Conditions and all exhibits or documents identified or incorporated in the Agreement, (ii) any written change orders or other written modifications to the Contract issued after the execution of the Agreement, and (iii) the Prime Contract. The foregoing may also be referred to herein as the Contract Documents. The Contract Documents do not include Subcontractor's estimate, proposal or bid.

(b) The "Prime Contract" is the agreement between Contractor and Owner, including all the general, supplementary and special conditions, drawings, specifications and addendums, written change orders, amendments and other written modifications to the Prime Contract, and all other documents enumerated in or attached to the Prime Contract. Subcontractor, by signing this Contract, acknowledges that it has independently assured itself that the Prime Contract has been made available to it and confirms that it has had the opportunity to examine all documents comprising the Prime Contract. Contractor, in its sole discretion, may withhold any portion of the Prime Contract which contains proprietary and/or pricing information. Subcontractor shall report to Contractor, in writing, any errors, omissions or inconsistencies in the Prime Contract, including the drawings and specifications. Subcontractor shall not be entitled to any relief arising from any errors, omissions or inconsistencies in the Prime Contract to the extent it should have identified the error, omission or inconsistency prior to performing the Work.

(c) Subcontractor is bound to Contractor in the same manner and to the same extent as Contractor is bound to Owner and others under the Prime Contract with respect to the Work, unless a more stringent requirement is required under this Agreement, in which case the more stringent requirements shall control and Contractor may exercise against Subcontractor any rights that Owner may exercise against Contractor under the Prime Contract. In the event of any inconsistency among the Contract Documents, the manner of resolving such conflict shall be at Contractor's discretion.

2. The Work.

(a) The Work. Subcontractor shall perform the Work in strict accordance with the Contract Documents and to the satisfaction of Contractor, Owner, and Architect. However, no set of construction documents can include/convey in writing each and every aspect of a particular Subcontractor's responsibilities and duties pertaining to their scope of Work and/or expertise. It is assumed by Contractor that the Subcontractor has made every effort to include any/all Work items reasonably assumed to fall within Subcontractor's particular expertise/scope of Work, *even if those items are omitted or not expressly called out in the construction documents*. The Work includes all construction, labor, materials and services required by the Contract Documents or reasonably inferable therefrom and all supervision, winter conditions, heat, transportation, tools, equipment and other things necessary for the proper and timely performance of the Work. Subcontractor hereby assumes the entire responsibility and liability for all Work until completion and final acceptance of the Work by Owner. In the event of any loss, damage or destruction thereof from any cause, Subcontractor shall be liable thereof, and shall repair, rebuild and make good said loss, damage or destruction at Subcontractor's cost, except to the extent that such loss, damage or destruction is covered by insurance proceeds actually received by the applicable parties in interest under any applicable Builder's Risk policy. If Subcontractor's Work depends in any way on the proper, workmanlike or accurate performance of any work by Owner's own forces or by other subcontractors of Contractor, Subcontractor shall use all means necessary to discover any defects in the work of such other forces or subcontractors, shall report the same in writing to Contractor prior to proceeding with the relevant Work, and shall provide such other forces or subcontractors sufficient time to remedy such defects, which time will result in an extension of Subcontractor's time for performance. A failure to bring any such defect to Contractor's attention shall be a waiver of any claims Subcontractor may have for additional time or cost resulting from such defects. If Subcontractor fails, within 7 days of receipt of this Contract, to dispute the terms and conditions of this Contract, and Subcontractor is performing work on site, Subcontractor's silence and subsequent performance of work shall be deemed an acceptance of the terms and conditions of this Contract and Subcontractor's agreement to the same, regardless of whether Subcontractor returns a signed copy of the Contract. If the Project is designed to be LEED certified, Subcontractor's Work shall include all labor, materials and documentation required to achieve the required level of LEED certification. By signing the Contract, Subcontractor represents that it has made such investigation as it deems necessary for Subcontractor's Work to meet any and all applicable LEED certifications for the Project.

(b) Site Investigation. By executing this Contract, Subcontractor represents and warrants that it has made a thorough examination of the Project Site, it is aware of the physical conditions of the Project Site as well as local available labor, weather, transportation, utilities, and storage conditions, and it has located and allowed for all conditions, including concealed or subsurface conditions that may be encountered in the performance of the Work. Subcontractor further represents and warrants that it has not relied upon any representations made or implied by Contractor regarding conditions at or affecting the Project Site. Subcontractor has taken all such conditions into account in arriving at the Subcontract Price. No additional compensation or extension of time shall be allowed because of physical, subsurface, concealed, abnormal, unknown, unforeseen or other conditions at or affecting the Project Site. Subcontractor is solely responsible for the location and identification of all underground utilities. Subcontractor shall contact the local "One Call" system and any non-participating utilities for the location and marking of underground utilities prior to any excavation.

(c) Sub-subcontractors. Subcontractor is responsible for the acts, omissions and performance of any portion of the Work by any sub-subcontractor, material supplier, laborer or other consultant of Subcontractor of any tier ("Sub-subcontractor.") As such, and by way of example only, the failure of a Sub-subcontractor to perform or otherwise comply with this Contract shall also constitute Subcontractor's breach of this Contract. Subcontractor is further responsible to ensure that its Sub-subcontractors are bound by the terms and conditions of this Contract.

(d) Facilities; On-Site Representative. Subcontractor shall provide, both in the shops and at the Project, sufficient, safe and proper facilities at all times for the inspection of the Work by Owner, Architect, Contractor, inspectors, and/or the authorized representative of any of them. Subcontractor shall furnish a competent representative who is to be kept constantly on the Project Site while the Work is in progress to represent Subcontractor for the purpose of receiving notices, orders, and instructions.

(e) Quality of Materials and Progress. Upon request of Contractor, and as a condition precedent to any payment if so requested, Subcontractor shall produce evidence of the quality of materials used and proper performance of the Work in place and report the progress of the Work. If Subcontractor institutes a substitution, deviation or change in the Subcontractor's Work that is not permitted by the Subcontract and/or that causes expense to Contractor or other contractors or subcontractors, Subcontractor shall be liable for all costs and expenses arising from such substitution, deviation or change including overhead and profit markups of the parties impacted by Subcontractor's action. The foregoing applies regardless of whether Subcontractor identified any substitution, deviation, or change in Subcontractor's submittal, which is superseded by the plans and specifications. Contractor has the right to inspect, on site or off site, all Subcontractor materials to ensure the required materials are present in sufficient quantities for the Project. Nothing herein shall release Subcontractor of its obligations to provide materials in sufficient quantities. The Subcontractor in making or ordering shipments shall not consign or have consigned materials, equipment or any other items in the name of Contractor. Contractor is under no obligation to make payment for charges on shipments made by or to the Subcontractor but may, at its option, pay such charges, in which case the Subcontractor shall reimburse Contractor for the amount of such payments plus a service charge or twenty-five percent (25%) of the amount so paid. In the event Subcontractor requests or requires that Contractor make a down payment or a deposit in order for Subcontractor to secure materials, it is understood and agreed that Subcontractor will be required to provide confirmation to Contractor that such materials have been ordered and that Subcontractor is obligated to ensure that such materials are to be delivered directly to the Project site, unless agreed otherwise. In the event Subcontractor does not continue with the Work after receipt of a down payment, Subcontractor is still obligated to deliver all materials paid for by Contractor, with no offsets or deducts, to the Project site, and to return any funds not directly utilized to purchase materials.

(f) Design-Build Services. If the Subcontract Work includes design-build services, then Subcontractor shall coordinate its plans and specifications with those of Architect and shall advise the Contractor and Architect of any potential conflict. As requested by Contractor, Subcontractor shall provide final scope documents for review and/or approval by the Architect, which review and/or approval, as the case may be, must be obtained prior to the commencement of the applicable Work. Subcontractor hereby grants to Contractor a license and right to use and reproduce the Subcontractor's design-build plans and specifications for purposes of completing, constructing, using, maintaining, expanding and operating the Subcontract Work or Project. Contractor has the authority to grant or assign similar licenses to the Owner, Architect and/or other design professionals. Subcontractor's design-build plans and specifications shall comply with the Contract, Architect requirements and all applicable laws, codes, ordinances, permits, rules and regulations. The rights and license granted herein shall survive termination of the Subcontract. Subcontractor shall provide Contractor with copies of all partially complete and completed design-build plans and specifications upon demand and, when so demanded, the tendering of such documents to Contractor shall be a condition precedent to payment.

(g) Schedule of Values. Within seven (7) days of signing the Contract, Subcontractor shall submit a schedule of values identifying line items and quantities of the various portions of the Work, including a separate line item for cleanup. The total of the schedule of values shall be equal to the Subcontract Price and shall include a complete and accurate sworn statement listing the name, address, telephone number and contact person for each Sub-subcontractor, including any applicable building trade labor groups for self-performed work. No payments will be made to Subcontractor until a complete and accurate schedule of values is provided to Contractor.

3. Contract Time. Time is of the essence with respect to the commencement, progress and completion of the Work. Subcontractor will promptly begin the Work as soon as requested by Contractor and will carry forward and complete the Work as rapidly as Contractor may judge that the progress of the Project will permit in strict accordance with the latest Contractor-approved schedules and any modifications thereof. Contractor shall have complete control of the time, sequence and order in which the various portions of the Project shall be installed and the priority of Subcontractor's Work and the work of other subcontractors and all matters representing the timely and orderly conduct of the Subcontractor's Work. Subcontractor acknowledges and understands that Subcontractor does not control the order, sequence, or timing of the various portions of the Subcontractor's Work and that Subcontractor waives any claim, including, but not limited to, claims of reimbursement for travel time or "downtime", that the actual order, sequence or timing of the Subcontractor's Work was changed during the progress of the Project or is different than what the Subcontractor assumed or was told prior to commencement of the Subcontractor's Work. Subcontractor shall, at its own cost and expense, increase its labor or otherwise accelerate performance if directed by Contractor or required to maintain the scheduled progress of the Work or to achieve Project milestones/completion dates. Subcontractor shall cooperate with Contractor and all other contractors, subcontractors, and suppliers performing work on the Project and not cause any hindrance or delay in the work of other contractors, subcontractors, or suppliers on the Project, and shall be responsible for all increased costs and/or damages arising from any such hindrance or delay. Subcontractor's sole remedy for any non-Subcontractor caused delay, suspension, or interruption of the Work shall be an extension of time to complete the Work but only for a duration of time equal to that received by Contractor from Owner under the Prime Contract. If Subcontractor intends to claim an extension of time to perform as a result of a delay, Subcontractor must give Contractor written notice within seven (7) days after the event giving rise to the claim and follow the procedures in Section 4 for securing a Change Order; otherwise such a claim shall be deemed waived. Unless the Contract Documents provide otherwise, Subcontractor shall not be entitled to any winter conditions costs, whether incurred within the original schedule or a modification thereof, or any other damage for delay. If the Prime Contract provides for liquidated damages or other damages for delays, and such damages are assessed by Owner against Contractor,

then Subcontractor shall be liable to Contractor for those damages that may be assessed by Owner against Contractor that are attributed to or caused by Subcontractor.

4. Changes. Contractor may, at any time, without notice to Subcontractor's surety, if any, and by written order of Contractor's authorized representative, make changes in, additions to and omissions from the Work, and Subcontractor shall promptly proceed with such change, addition, and/or omission in accordance with the Contract Documents. Contractor's field personnel do not have the authority to approve changes to the Work. Changes hereunder that reduce the scope of Work or otherwise omit certain portions thereof shall decrease the Subcontract Price accordingly. For changes initiated by the Owner, Architect or their respective representatives, the Contract Price shall be adjusted only in the amount approved by Owner for the change less the amount of Contractor's markup on said work. In no event shall Contractor be liable to Subcontractor for an amount greater than the amount received by Contractor from Owner for such change, less the amount of Contractor's markup on said work, and nothing in this Contractor shall be construed in any way to reach any different determination. For all other change requests, Subcontractor shall provide Contractor with written notice of its intent to claim an adjustment to the Contract prior to performing work for which it claims is a change. Failure to provide such notice shall constitute a waiver of such claims by Subcontractor. Provided such notice is given, Subcontractor is not entitled to any additional compensation for changes unless: (a) the changed work was done in accordance with a written change order signed by Contractor prior to the commencement of the changed work or in accordance with a written directive from Contractor directing Subcontractor to proceed with the item alleged to be a change and, following completion of the work contained in the directive, Contractor issues a change order; and (b) Owner approves the same with a change order under the Prime Contract. Failure to submit final pricing of an approved change within 7 days of the completion of the changed work shall constitute a waiver of such claims by Subcontractor. If there is a dispute regarding the performance or scope of the Work, or the entitlement to or the amount of any directed or requested change, or any other claim, Subcontractor shall nonetheless diligently proceed with the performance of the Work, including that portion that may be in dispute, as directed by Contractor. Subcontractor shall not negotiate directly with Owner for any additional work or any modification thereof, and all requests for the same from Owner shall be forwarded to Contractor. In the event that the Prime Contract imposes any limitation on the material or labor rates that Contractor may charge Owner for work performed under a change order or change directive, Subcontractor agrees that the rates it may charge Contractor shall be limited in an identical manner. For approved change order work, Subcontractor's markup for overhead, profit and fee on the actual cost of materials or labor provided (including costs associated with Project management, administrative and estimating activities and home office costs, which costs will not be separately charged) shall be limited to the lesser of (a) 10%; or (b) the percentage specified in the Prime Contract. With respect to equipment used in connection with any approved change order work, the cost of equipment owned by Subcontractor and used on the Project will be charged at 85% of the rental rates listed in the latest edition of the Associated Equipment Distributors "green book" of nationally averaged rates, and the cost of equipment rented from third parties shall be the actual rental rates, but shall in no event exceed local market rates. Subcontractor shall keep records of the actual labor, material, equipment rental and other costs associated with any changed work performed by Subcontractor (even if the work is performed on a lump sum basis) and shall provide copies of this information to Contractor upon request. In the event Subcontractor fails to keep such records, any dispute as to the amount of the adjustment to the Contract Price shall be determined against the Subcontractor. Contractor reserves the right to audit Subcontractor's accounting, cost and all other records relating to the performance, change orders, and the cost of the Work.

5. Warranties. Subcontractor warrants the materials and equipment used will be of good quality and new and that the Work will be performed in a good and workmanlike manner and free from defects. All Work shall also be performed and warranted as called for in the Prime Contract. Subcontractor shall guarantee the Work for the longer of the warranty time period prescribed in the Prime Contract or one (1) year after final completion of the Project and acceptance of all work by the Owner. Subcontractor shall repair and/or replace, at Contractor's sole option, any defective Work and any damages caused thereby promptly upon notice from Contractor. Said warranty period shall be extended for one (1) year from the date of any repair or replacement of the Work within the warranty period. If, prior to the time final payment is due, Subcontractor refuses to perform warranty work, goes out of business, becomes insolvent, unable to pay its debts as they become due or otherwise appears to be having financial difficulties, then Contractor may, at its option and for the length of the warranty period, withhold from the balance of the Subcontract Price an amount that Contractor deems sufficient to cover the cost of correcting any defects or deficiencies in Subcontractor's Work that may arise during the warranty period. This amount, less the amounts to complete or correct the Subcontract Work, shall be released to Subcontractor upon expiration of the warranty period. Notwithstanding the withholding, Subcontractor is liable for all costs and damages incurred by Contractor in excess of the withholding.

6. Defaults; Corrective Action. If Subcontractor is in default, including failing to commence, prosecute or complete the Work in accordance with the Contract, including but not limited to, supplying enough sufficiently skilled workers to maintain the applicable schedule, failing to remedy any defective Work or damages caused thereby, failing to perform any provision of this Contract, or otherwise breaching any Contract term, then Contractor, after 48 hours' notice to Subcontractor and provided Subcontractor fails within the 48 hours to cure the default to Contractor's satisfaction, as evidenced by written acceptance of Subcontractor's corrective action by Contractor's designated representative, may, without prejudice to any other remedies it may have, cure the default and/or terminate this Contract for cause and finish the Work by such means as Contractor sees fit. Contractor's determination of Subcontractor's default or defaults, made by Contractor in good faith under the belief that a default or defaults existed under the terms of the Contract shall be conclusive as to Contractor's right to proceed as set forth in this Section 6. Contractor may use the balance of the Subcontract Price to

cure the default, complete the Work and offset damages caused thereby. Contractor shall be entitled to a 10% markup on all costs incurred to cure the default and/or complete the Work. The liability of Subcontractor hereunder shall extend to and include the full amount of any and all sums paid, expenses and losses incurred, damages sustained and obligations assumed by Contractor in good faith under the belief that such amounts were necessary or required to remedy such failure or refusal, and/or to complete Subcontractor's Work, including, but not limited to, providing the labor, materials, equipment, supplies and other items reasonably necessary to do so and/or awarding subcontracts and/or purchase orders to one or more third parties to complete all or a portion of the Subcontractor's Work; and to settle, discharge or compromise any claims, demands, suits and judgments pertaining to or arising out of the Subcontractor's Work. If the cost to cure the default, complete the Work and/or offset other damages caused thereby exceeds the unpaid balance, then Subcontractor shall immediately pay the difference to Contractor. If reasonable grounds exist that Subcontractor will be in breach of the Contract and Subcontractor fails to give Contractor evidence satisfactory to Contractor that Subcontractor will be able to perform and/or otherwise fulfill its obligations under the Contract within 48 hours' notice of Contractor's demand for such assurances, then failure to deliver such assurance shall constitute a default under this paragraph entitling Contractor to the remedies set forth herein. Notwithstanding the foregoing, in the event either Contractor or Owner deems an event of default to constitute an emergency, Contractor shall have the right to take whatever action it deems reasonably necessary to remedy said emergency at Subcontractor's cost and expense without advance notice to Subcontractor. All other terms and conditions contained in this Section 6 shall apply in the event of an emergency.

7. Suspension and Termination. Contractor may suspend the Work, in whole or in part, or terminate this Contract, in whole or in part, for cause (e.g., Subcontractor is in default or other breach of the Contract and fails to cure the same within 48 hours after receiving notice from Contractor), without cause and for Contractor's convenience, or if the Prime Contract is suspended or terminated. In the event of a suspension, Subcontractor shall, upon written order, discontinue Work and proceed again at such time as directed by Contractor. In the event of termination, and provided such termination was not due to the fault of Subcontractor, then Subcontractor shall, as its sole remedy, be entitled to be paid for so much of the Work properly performed, at such price as said Work is worth in proportion to the total work to be done under this Contract, with no further compensation or damages. Notwithstanding the foregoing, Subcontractor shall not be entitled to receive any greater amount than Contractor may, on behalf of Subcontractor, recover from Owner for such termination. Upon a determination by a court of competent jurisdiction or by an arbitrator that termination of this Contract by Contractor was wrongful, then such termination will be deemed converted to a termination for convenience and Subcontractor's remedies shall be limited to those set forth in this Section 7. Upon termination by Contractor under this Section 7, Contractor may, among other things, take over the Work and any materials, equipment and tools of Subcontractor and/or Sub-subcontractors with respect to the same and Subcontractor shall (a) cease operations as directed by Contractor; (b) take any actions necessary, or that Contractor directs, for the protection and preservation of the Work; and (c) except for Work directed to be performed prior to the effective date of the termination stated in the notice, terminate all existing subcontracts and material supply contracts that Contractor has not chosen to accept in accordance with this Contract. Termination of this Contract by Contractor shall not relieve Subcontractor from Subcontractor's obligations in connection with the Work performed prior to the termination nor will such termination abrogate any obligations of Subcontractor under, or rights or remedies afforded to Contractor by, this Contract or the Contract Documents including, without limitation, Subcontractor's insurance and indemnity obligations. Notwithstanding anything in this Section 7 or Section 6 to the contrary, in the event Owner demands Subcontractor's removal from the Project, Contractor has the absolute right to terminate Subcontractor's Contract with no advance notice and such termination shall be deemed a termination for cause.

8. Payments.

(a) **Progress Payments.** In exchange for the proper and timely performance of the Work, Contractor shall pay Subcontractor the Subcontract Price. Progress payments less ten percent (10%) retainage shall be made to Subcontractor in accordance with the terms listed on the cover of this Contract provided, however, that Contractor may delay payment to Subcontractor until Contractor receives payment from the Owner for the Work, and Subcontractor shall not be entitled to interest for any delay of payment, nor shall Subcontractor be entitled to claims under any prompt payment act or law, which Subcontractor expressly waives by signing this Contract. Notwithstanding anything in this Contract to the contrary, in the event a state statute mandates a different retainage amount, the statutory retainage amount shall be the amount withheld from each payment. Contractor may deduct from any payment due or to become due to Subcontractor under this Contract money owed by Subcontractor to Contractor under this or any other agreement. Contractor may withhold any payment in whole or in part under this Contract because of (i) Subcontractor's failure to comply with a term or condition of the Contract; (ii) defective Work; (iii) incomplete Work; (iv) untimely Work; (v) withholding of payments from Contractor by Owner due to an act, omission or breach of Subcontractor; (vi) actual, alleged or threatened third party claims, including, but not limited to, threatened or actual lien or bond claims, by a Sub-subcontractor; (vii) discrepancies in Subcontractor's sworn statements; or (viii) Subcontractor's failure upon demand to provide Contractor with evidence satisfactory to Contractor of Subcontractor's: (1) compliance with the insurance and bonding requirements of the Contract Documents or (2) compliance with its payment obligations under the Contract Documents, which evidence may include, if requested by Contractor, copies of any recorded lien satisfactions, lien waivers and formal withdrawal of lien notices. Contractor shall have the right to use any withheld money to cure the reason for the withholding and any damages caused thereby.

(b) **Lien Waivers and Sworn Statements.** As a condition precedent to payment of any payment requested by Subcontractor, Subcontractor shall provide all documents requested by Owner or Contractor with respect to such payment, releases and lien waivers from Subcontractor and its Sub-subcontractors for all Work through the date of the payment request, which shall be on the form required

by Owner or Contractor, proof of compliance with any and all applicable reporting requirements, and a sworn statement (which shall be notarized) on the form provided or approved by Contractor identifying all Sub-subcontractors, the contract amounts and balances under the subcontracts with each and which Sub-subcontractors are to be paid from the funds being requested for that pay period.

(c) Final Payment. Final payment shall not be due to Subcontractor until the Work is fully completed in accordance with the Contract and such time as Subcontractor has provided Contractor with (1) a final and accurate sworn statement on the form provided or approved by Contractor identifying all amounts originally owed and paid to Subcontractor and all Sub-subcontractors, as well as the alleged balances, which shall be zero or equal to the applicable portion of the final draw requested by Subcontractor and the retainage still being withheld; (2) marked-up drawings showing as-built conditions of the Work; (3) air balance (if applicable); (4) two (2) original full and final lien waivers from Subcontractor and all Sub-subcontractors on the form provided by Contractor (one each for Contractor and Owner); (5) final and official punchlist signed by an authorized representative of Contractor; (6) a final invoice with a separate invoice for change orders; (7) two (2) original warranties on a form acceptable to or provided by Contractor (one each for Contractor and Owner); and (8) any other cost, change order backup or other documentation requested by Contractor or Owner. Subcontractor shall have 45 days after the designated substantial completion date (as established by written notice received by Subcontractor from Contractor) to submit final invoices/billings for Subcontractor's Work, with all required documentation. Any billings or invoices received after the mandatory 45-day closeout period will not be honored. Upon complete, timely and proper performance of the Work, final approval and acceptance of the Work by Owner and Contractor, and satisfaction of all other conditions of the Contract Documents, Subcontractor is entitled to receive final payment. Final payment, less retainage, is not due until after the foregoing conditions are satisfied and Contractor receives payment from Owner for the Work for which final payment is sought. Should Contractor's close-out of the entire Project and receipt of final payment from Owner be delayed as a result of Subcontractor's delay or failure to submit all such Project close-out documents relating to Subcontractor's Work, Subcontractor will be responsible for any costs and expenses and damages sustained by Contractor as a result of such delay or failure. Further, Subcontractor's compliance with all other provisions of the Contract Documents is a condition precedent to Subcontractor's right to final payment. The acceptance of final payment shall constitute a waiver of all Subcontractor's claims. However, final payment by Contractor shall not be construed as acceptance of defective, faulty, or improper Work or materials nor shall it release Subcontractor from any of its obligations under this Agreement.

(d) Payment Disputes. In any dispute between Contractor and Owner with respect to the amount, classification, price, time or value of: (1) the Work, (2) any change order work performed by Subcontractor without prior written consent from the Owner and Contractor, (3) any delay in the prosecution of the Work caused by Subcontractor, or (4) any other matter whatsoever pertaining to the Work, Contractor may, in its sole discretion, compromise the same with Owner, and tender to Subcontractor the amount due Subcontractor according to that compromise which shall operate to release and discharge Contractor and Owner from all further liability to Subcontractor on that matter.

(e) Payment Obligations. Subcontractor shall promptly pay (1) its Sub-subcontractors and, with respect to lower tier Sub-subcontractors, ensure that such Sub-subcontractors are paid and (2) payroll taxes and union, trust and/or pension fund dues and fringes ("Union Dues"), which obligations are not conditioned on Subcontractor's receipt of payment from Contractor. Contractor has the right, but not the obligation, to issue joint checks to Subcontractor and any Sub-subcontractor, to pay Union Dues directly and to pay directly any Sub-subcontractor. Endorsement of a joint check shall constitute a lien waiver and/or waiver of bond rights by the payee(s) of such check up to the full amount of the check. Any such payments, and any costs or expenses Contractor incurs in connection with the same, shall be deducted from the Subcontract Price along with, where applicable (i) a joint check fee of \$100.00; and/or (ii) a cashier's check fee of \$100.00; and/or (iii) a wire transfer fee of \$100.00. Subcontractor shall pay Contractor those portions of Contractor payments under this section that are more than the Subcontract Price. Contractor has the right to make direct contact with a Sub-subcontractor, union or any other person or entity regarding claims/demands of that Sub-subcontractor, union or other person or entity or to otherwise confirm Subcontractor's sworn statement.

(f) Internet Payment Application System. Contractor may, at Contractor's sole discretion, utilize GCPay, an electronic payment application system to process payment applications and collect waivers and other documents that may be required for payment. If Contractor utilizes such a provider, then Contractor shall supply Subcontractor with instructions and any additional requirements of either Contractor or GCPay, and Subcontractor shall comply with such instructions and requirements in addition to the other conditions precedent to payment under the Contract. On Projects utilizing GCPay, only invoices submitted through GCPay will be accepted; invoices sent via mail or electronic mail will be marked rejected and returned to the Subcontractor.

9. Liens. Subcontractor shall keep the Project Site free from liens arising out of labor, material or other things contributed to the Project by a Sub-subcontractor. Subcontractor shall deliver the Work free from all liens, claims and encumbrances. Should a lien be placed on the Project by a Sub-subcontractor, then Subcontractor shall discharge the lien of record within seven (7) days of Contractor's demand. The scope of Subcontractor's indemnity obligations in Section 12(a) includes claims and/or liens arising from Subcontractor's failure to comply with this Section. If the Prime Contract requires Contractor to waive its right to place liens on the Project Site or any part thereof, Subcontractor hereby waives its right to place liens on the Project and agrees to cause its Sub-subcontractors to waive their respective rights to place liens on the Project.

10. Invoicing.

(a) Only complete invoices will be accepted for Work actually in place. Contractor reserves the right to adjust Subcontractor's billing to reflect actual Work completed. Subcontractor billings may also be adjusted for other causes (e.g., faulty/substandard Work by Subcontractor necessitating remedy by a Contractor) according to the sole discretion of Contractor and/or as directed by Owner. For

non-GCPay projects, all hard copy invoices must be submitted to Contractor's corporate headquarters located at 2625 Research Park Drive, Fitchburg, Wisconsin, 53711; and all e-mail invoices must be submitted to apsubs@tri-north.com. If this Project is utilizing GCPay, invoices must be submitted through GCPay; emailed or mailed invoices will not be accepted on GCPay projects. All invoices must contain the Project description and number as set forth on the Agreement or payment will not be processed. The terms of this Agreement shall supersede any terms attached to Subcontractor's invoice, which terms shall not be applicable to this Agreement and shall not be considered to be part of Subcontractor's exceptions to the provisions of this Agreement. Approved change orders must be invoiced separately.

(b) All items required by this Subcontract as conditions precedent to payment must be provided with Subcontractor's invoice. Invoices that do not include the required documentation or meet all conditions precedent will not be processed and will instead be returned to Subcontractor, and Subcontractor will be required to resubmit its invoice with the appropriate documentation. Invoices that do not clearly identify sales tax also will be returned to Subcontractor for correction and resubmittal. Contractor will backcharge Subcontractor for any clerical/accounting services necessary to fully complete Subcontractor's invoice at Contractor's standard billable rate. If a complete invoice is not received by the time a payment request is submitted to the Owner, that invoice will not be processed for payment until the next payment period after Subcontractor submits its completed invoice. Contractor has the right at anytime to require Subcontractor to submit certified payrolls for the Project.

(c) Time & Material invoices, including invoices for time & material change orders, must be itemized to include labor, material and work performed, and must include all backup requested by Contractor, including, but not limited to, daily time cards signed by Contractor's onsite representative and material invoices.

(d) In order to receive a response to any payment status inquiry, the following procedure must be followed when contacting Contractor: Subcontractor must fax (608-204-7284, Attn: Accounts Payable) or e-mail (apsubs@tri-north.com) the following information: (i) Subcontractor name and fax number; (ii) Invoice number and amount; (iii) Project name, location and number; and (iv) specific question. Contractor will respond to such inquiries as it is able.

11. Clean-Up. Subcontractor shall maintain that part of the Project upon which it is working clean at all times. In the event of a failure by Subcontractor to clean the Project Site after 48 hours' notice from Contractor, Contractor may conduct its own clean-up at Subcontractor's cost and expense plus a 10% markup. Subcontractor shall pay its share of waste disposal fees at common dumpster.

12. Indemnification.

(a) Subcontractor shall indemnify, defend and hold harmless Contractor, Owner, any other person or entity required to be indemnified by Contractor under the Prime Contract and the officers, directors, employees, agents, insurers, successors and assigns of each, from and against any and all actual, alleged or threatened claims, fines, penalties, liens, causes of actions, suits, demands, damages, liabilities, losses, costs and expenses, including, but not limited to, actual attorneys' fees (the "Claim") arising from, relating to, or incidental to the Work, but only to the extent caused in whole or in part by Subcontractor's breach of a term of the Contract Documents or a negligent or intentional act or omission of Subcontractor, a Sub-subcontractor or any person or entity for whose acts or omissions Subcontractor or Sub-subcontractor may be responsible. Subcontractor shall obtain, maintain and pay, from the beginning until the completion of the Work and acceptance of the same by Owner, policies of insurance satisfactory to Contractor covering the liabilities mentioned above.

(b) Contractor, in its sole discretion, reserves the right to retain, at Subcontractor's cost and expense, its own counsel to defend it, Owner and/or other indemnified parties, against a Claim covered by Section 12(a). Contractor's reservation of such election to defend with counsel of its own choice shall not limit Subcontractor's obligations under Section 12(a).

(c) In Claims against any person or entity indemnified under Section 12(a) by an employee of Subcontractor or a Sub-subcontractor, the obligations under Section 12(a) shall not be limited by a limitation on the amount or type of damages, compensation or other benefits payable by or for the Subcontractor or the Sub-subcontractor under worker's compensation, disability benefit or other employee benefit acts.

(d) All indemnification obligations under this Contract, including, but not limited to, the obligations set forth in this Section 12, shall survive the making of final payment, the termination of this Contract, and completion of Subcontractor's Work.

13. Insurance and Bonds.

(a) Subcontractor shall maintain, at its cost and expense, commercial general liability insurance (on an occurrence basis and including products completed/operations, which coverage shall be maintained for a period of three (3) years after completion of the Project; XCU coverage; contractual liability; and personal injury and advertising injury), worker's compensation insurance, and auto liability insurance and other coverage as may be required under the Contract Documents including professional liability insurance, if Subcontractor is providing design-build services, at limits specified by Contractor or in the Contract Documents. Certificates of insurance specifying the job name and location shall be filed with Contractor before commencement of the Work and Contractor, Owner and any other party required under the Prime Contract shall be named as additional insureds, on a primary and non-contributory basis, on all liability policies, and endorsements thereto, for both ongoing and completed operations. Any insurance maintained by Contractor or Owner will be in excess of and not contribute with additional insured coverage provided by Subcontractor regardless of any "other insurance" clause. "Vertical exhaustion" shall apply when determining responsibility for coverage. If Subcontractor has blanket additional insured coverage, that coverage shall be afforded to Contractor as required by this Contract. No payments under this Contract shall be made to Subcontractor by Contractor unless Contractor receives copies of the Certificate of insurance and the additional insured

endorsement. Notwithstanding the requirements of the Contract Documents, Subcontractor bears the sole responsibility for ensuring its insurance meets the requirements of the Contract Documents. Contractor shall have no obligation to examine any certificate(s) received or to advise the Subcontractor in the event its insurances are not in compliance with the Contract requirements. Acceptance of certificate(s) that are not compliant with the stipulated coverages shall in no way whatsoever imply that Contractor has waived its insurance requirements.

(b) Contractor utilizes myCOI Central to track and verify insurance coverage of all subcontractors. Upon Contractor's receipt of this executed Contract, Subcontractor will receive an email from tnbinsurance@tri-north.com. Subcontractor must follow the instructions contained in the email and complete the online registration. Upon completion of registration, MyCOI will then request proof of insurance directly from Subcontractor's insurance agent(s). In addition to other terms and conditions contained herein, registration on MyCOI Central and a compliant COI is a condition precedent to payment.

(c) Subcontractor shall ensure that general liability, excess (umbrella) liability policies and worker's compensation policies be endorsed waiving rights of subrogation against Contractor and Owner.

(d) Contractor shall have the right at any time to require Subcontractor to furnish a bond covering the faithful performance of this Contract. Subcontractor's costs associated with obtaining such bond will be reimbursed by Contractor. If a bond is required by Contractor subsequent to the signing of this Contract, and Subcontractor is then unable to procure such bond, this Contract may, at the option of the Contractor, be terminated for Contractor's convenience.

(e) Failure to obtain or maintain such insurance in force shall constitute a material breach of this Contract, permitting Contractor to, among other things, withhold payment until proper evidence of insurance is provided and/or procure the required insurance and offset the cost of the same against any balance due or to become due to Subcontractor under this Contract. If the remaining balance is insufficient to reimburse Contractor for all cost and expense that Contractor incurs in procuring the insurance Subcontractor failed to procure, then Subcontractor shall pay the overage to Contractor immediately upon demand. Contractor reserves the right to, among other things, stop Work until proper evidence of insurance is provided.

(f) If providing professional services, Subcontractor's insurance shall include professional liability insurance with limits not less than One Million Dollars (\$1,000,000.00) on a claims-made basis and One Million Dollars (\$1,000,000.00) in the aggregate with all such coverage retroactive to the earlier of the date of this Subcontract or the commencement of Subcontractor's services in relation to the Project. The Subcontractor's Professional Liability Insurance shall provide coverage for all errors and omissions of the Subcontractor and its employees, agents and designees, including without limitation, coverage for errors and omissions in the fulfillment of the Subcontractor's professional obligations under this Agreement.

(g) Subcontractor shall carry sufficient comprehensive insurance on its equipment, personal property (including tools and, if applicable, jobsite trailer), and material on and off the Project site and en route to and from the site that will not become a part of the Work. Subcontractor agrees that Owner and Contractor shall not be responsible for any loss or damage to any equipment, personal property or materials of Subcontractor and Subcontractor agrees to waive any and all subrogation rights against Owner and Contractor for any such loss or damage.

14. Workplace Safety; Smoking; Drugs and Alcohol.

(a) While performing Work onsite, Subcontractor is responsible to ensure that all of Subcontractor's employees have appropriate Personal Protective Equipment (PPE). Hard hats, safety glasses, high visibility vests or shirts, and work shoes are all mandatory. Long pants and sleeved shirts must be worn at all times. Tennis shoes, open-toed shoes, and sandals are prohibited. Hearing protection, face protection, and hand protection will conform to OSHA standards. Any employee or Sub-subcontractor or Subcontractor not conforming to these requirements will need to leave the jobsite until they are in compliance, with the costs of any delays resulting from such noncompliance being borne by Subcontractor. In the alternative, and only when available, employees or Sub-subcontractors of Subcontractor that are not in compliance will, if available, be provided with Tri-North issued PPE (hard hat, safety glasses, hi-vis vest) at a cost of \$200/employee or Sub-subcontractor employee, the cost of which will be deducted from Subcontractor's Contract balance.

(b) Subcontractor shall perform its Work in a safe manner, shall comply with all safety measures required by applicable laws and/or in the Contract Documents, and shall abide by any additional safety measures imposed by Contractor. Subcontractor shall be solely responsible for the protection, safety, and occupational health of its employees, Sub-subcontractors, and any others exposed to Subcontractor's operations. Subcontractor will be responsible for all costs, if any, incurred by Contractor to ensure Subcontractor's compliance with Contractor's safety program, the Contract Documents, and applicable laws. Such costs may include, but are not limited to, labor and material costs to oversee Subcontractor's safety program compliance, costs to provide training and costs incurred by Contractor for attendance at meetings by Contractor's safety staff. Neither the establishment of a safety program by Contractor, nor corrective actions taken by Contractor to ensure Subcontractor's compliance with all applicable safety requirements, shall relieve the Subcontractor or its Sub-subcontractors of their respective safety responsibilities.

(c) Subcontractor shall immediately, verbally report to the Contractor the occurrence of any accident. Subcontractor shall submit to Contractor, within two (2) business days of the occurrence of any accident, copies of all reports arising out of any injuries to its employees or those of any firm or individual to whom it may have subcontracted work, or any property damages arising or alleged to have arisen from any act or omission of Subcontractor.

(d) While on the Project Site and while conducting activities in connection with this Contract off the Project Site, no Subcontractor employee may use, possess, or be under the influence of alcohol or illegal drugs. The legal use of prescribed drugs is permitted only if it does not impair the employee's ability to perform the essential functions of this Contract effectively and safely.

(e) Smoking shall be prohibited on the Project Site unless Contractor designates a specific smoking area.

(f) Subcontractor is responsible for the control, containment, and cleanup of any dust it generates that may contain levels of respirable silica at or above the OSHA permissible exposure limit (PEL). In the event Subcontractor's Work includes tasks that may generate respirable silica dust, Subcontractor must provide Contractor with a copy of its exposure plan, which must, at a minimum, include the following: (i) containment management at the point of generation through the use of tools/equipment equipped with integral water delivery systems or integral HEPA vacuum systems, or, where the use of such tools is infeasible/impractical, temporary enclosures must be installed to adequately contain and prevent secondary exposures; and (ii) housekeeping measures used to clean up silica-containing dust must be completed using HEPA vacuuming or other effective controls and cleanup must be done immediately following completion of the task. Should Subcontractor have air-sampling documentation showing a particular task will not generate levels of respirable silica above OSHA PEL's or that control methods will adequately control the exposure, a copy of that documentation must be presented to Contractor's safety director prior to commencement of Subcontractor's Work and a copy of such documentation must be kept at the Project site for the duration of the Work.

15. Taxes; Utilities. Subcontractor is responsible for the reporting and payment of its own taxes. Contractor agrees to provide utilities to the Project that are necessary for the proper performance of the Work; said utilities must be extended by Subcontractor at its own expense for its use.

16. Equipment. It is assumed and understood by Contractor that Subcontractor's pricing includes all necessary scaffolding, staging, ladders, lifts, material handlers, and all other related general requirements to allow the Subcontractor to perform its Work in the most complete manner possible. Contractor's equipment will be available to Subcontractor only at the Contractor's discretion, and subject to the terms contained herein. In the event that Subcontractor or a Sub-subcontractor, by rental, loan, or otherwise, makes use of any of Owner's or Contractor's equipment, scaffolding or other appliances, standard Tri-North rental rates will apply (to be billed or deducted from this Contract), and Subcontractor shall be deemed to agree, by signing this Subcontract, that, prior to such use, it will ensure that the persons using such items are properly trained and, if necessary, licensed to use such items and that it (i) accepts such items in their "as is" condition; and (ii) will use such items at the sole risk of the person using such items. Subcontractor shall defend, hold harmless and indemnify Contractor and its officers, directors, employees, insurers, agents, successors and assigns from and against all claims, fines, penalties, damages, losses and expenses, including attorneys' fees, of every nature and of every kind arising from or incidental to Subcontractor's or its Sub-subcontractors' use thereof regardless of the cause of the claim, fine, penalty, damage or loss.

17. Permits; Licenses. Subcontractor represents and warrants that it is qualified/registered to do business in the state in which the Project is located, holds all licenses required to perform the Work, including municipal and state licenses, and has obtained all other necessary governmental approvals, including permits, to perform the Work. Upon Contractor's request, and as a condition precedent to any payment, Subcontractor shall furnish to Contractor a copy of Subcontractor's license for the state in which Subcontractor is performing the Work and other documents evidencing that all other necessary permits, approvals and licenses have been obtained.

18. Laws. Subcontractor shall strictly comply with all permits, codes, rules, regulations, laws and ordinances, including, but not limited to, those relating to safety and the environment, taxation, worker's compensation, and employment applicable to the Work or the Project ("Laws"), including those Laws of the municipality and state in which the Work is performed and the Project is located, and federal Laws and including those that take effect during the Project. Subcontractor's indemnification contained in Section 12 shall apply with respect to any and all liability and damages, fines, costs and attorney's fees incurred by Contractor or Owner on account of Subcontractor's failure to comply with any such Laws.

19. Disputes. Any dispute arising from this Contract shall, at Contractor's option, be resolved by litigation, binding arbitration in accordance with, at Contractor's sole option, Wisconsin Statutes Chapter 788 or the Construction Industry Arbitration Rules of the American Arbitration Association then currently in effect, or the dispute resolution clause of the Prime Contract. Subcontractor does not object to and consents to the joinder and participation of any person or entity in an arbitration with, among others, Contractor and Subcontractor. Pending a final determination of a dispute or claim, including those relating to a progress payment, Subcontractor shall proceed diligently and expeditiously with the Work in accordance with the Contract Documents. Except as specifically provided elsewhere in the Contract, all Subcontractor claims shall be presented to Contractor in writing within seven (7) days of the event or condition giving rise to the claim or else such claim shall be deemed time barred. The exclusive Forum and venue for any arbitration or litigation shall be Dane County, Wisconsin, and Subcontractor consents to the jurisdiction of the courts of Wisconsin. This Contract and any dispute arising under this Contract shall be governed and interpreted in accordance with the laws of the State of Wisconsin.

20. Attorneys' Fees. Subcontractor is responsible to Contractor for the actual attorneys' fees and costs Contractor may incur in enforcing any term or condition of this Contract, in connection with the defense or settlement of any claim or demand of Subcontractor or a Sub-subcontractor, or arising from Subcontractor's breach of the Contract.

21. Waiver of Damages. In no event shall Contractor be liable to Subcontractor for, and Subcontractor waives claims for, any consequential or incidental damages, including, but not limited to, lost profits on Work not executed, lost profits/opportunity costs and

inefficiencies in the performance of the Work, arising from, relating to or incidental to the performance, coordination or suspension of the Work, the Contract, including a breach or the termination thereof, or the Project.

22. Assignment and Severability. This Contract, or any monies due or to become due under this Contract, may not be assigned by Subcontractor without Contractor's prior written consent. Each subcontract with Sub-subcontractors shall provide for the contingent assignment of such subcontract to Contractor provided that the assignment is effective only after termination of the Contract and only for those subcontracts that Contractor accepts by notifying Subcontractor and the applicable Sub-subcontractor. The Contract represents the full and final agreement of the parties and supersedes all prior written and oral communication between the parties. The terms of this Contract are to be interpreted and applied to the fullest extent permitted by law (e.g., if unconditional lien waiver clause is unenforceable then the same is interpreted as conditional lien waiver clause, if retainage is more than permitted under applicable law then retainage is reduced to maximum amount permitted, etc.). The partial or complete invalidity of one or more provisions or portions of the Contract Documents shall not affect the validity or continuing force and effect of any other provision or portion thereof.

23. Failure to Enforce; Non-Waiver. No failure of Contractor at any time to enforce or require strict conformance with and performance of the terms and conditions of this Subcontract shall constitute a waiver of such terms and conditions and shall not affect or impair such terms or conditions in any way, or Contractor's right at any time to enforce such remedies for any breach of the Subcontract. The giving of a waiver by Contractor in any one instance shall not limit or waive the necessity to obtain Contractor's waiver in any future instance.

24. Submittals. Contractor's review of Subcontractor submittals is for general conformance with the design concept of the Project and the Contract Documents. Corrections, comments, notations, or Contractor's stamp upon submittals does not relieve Subcontractor from its obligation to comply with the Contract Documents. Approval of a submittal shall not be deemed acceptance of defective Work. Subcontractor is not entitled to a claim for additional time resulting from an alleged delay in Contractor's review of submittals unless Subcontractor's submittals expressly state a reasonable timeline within which a response is required from Contractor.

25. Independent Contractor. No employment, partnership, or joint venture relationship is created by this Agreement. Subcontractor is an independent contractor of Contractor and shall act at all times as an independent contractor of Contractor hereunder. Neither Subcontractor nor anyone employed by or acting for or on behalf of Subcontractor shall ever be construed as an employee of Contractor and Contractor shall not be liable for employment or withholding taxes respecting Subcontractor or any employee of Subcontractor. Subcontractor shall take all steps to ensure that Subcontractor and Subcontractor's employees are treated as independent contractors of Contractor. To the extent permitted by law, Subcontractor, for Subcontractor and for anyone claiming through Subcontractor, waives any and all rights to any consideration, compensation or benefits, except as expressly provided for herein. Subcontractor shall be responsible for the work, materials, acts and omissions of its employees, agents, consultants, contractors, and any other person or entity performing any portion of the Work on behalf of Subcontractor or for whose acts Subcontractor may be responsible.

26. Labor Compliance. Subcontractor agrees that while performing Work covered by Contractor's labor agreements, Subcontractor will also have in effect a written labor agreement with the union which is a party to Contractor's labor agreements and that has jurisdiction in the Project area over the pertinent classifications of the Work, and Subcontractor shall abide by the terms and conditions of such labor agreement. Upon Subcontractor's request, Contractor will provide a list of all pertinent labor agreements it holds that are applicable to the Project. Subcontractor shall work at all times in labor harmony with all other persons employed on the Project, including those employed by the Owner or the Owner's separate contractors and subcontractors, and shall endeavor to hire employees that will not directly or indirectly participate in, sanction or support any disruption, slowdown, stoppages or any other type of interference with performance of Work by other persons on the Project which may occur as a result of any labor dispute involving those persons. In the event of a labor dispute, including, but not limited to, strikes, Subcontractor shall take whatever action is required in order to remedy any actual or potential disruption, slowdown or stoppage of Work on the Project site at Subcontractor's sole cost and expense. Subcontractor is required to comply with all worker verification laws, and is required to ensure Form I-9 is completed in accordance with the same. All verification documents are required to be produced upon the request of Owner or Contractor. If the Owner has a Worker Verification Program, the requirements of the same are expressly included in the flow down obligations assigned to Subcontractor in Section 1 of this Contract.

27. Direct Purchases. In the event that Owner is a tax-exempt entity and chooses to save on the imposition of sales, use or similar taxes by making certain direct purchases of materials/equipment that will be incorporated into the Project, or otherwise elects to purchase materials directly, Subcontractor will be required to provide a detailed list of all materials and equipment necessary for the Work (sorted by supplier) and their costs, with applicable sales and use taxes separately calculated. Where Owner makes such direct purchases, Subcontractor will remain responsible for coordinating the acquisition and delivery of such direct purchases so as not to delay the progress of the Work. Such responsibility includes, but is not limited to, receiving, unloading and inspecting applicable direct purchases for damage and sufficiency for use, and installing the direct purchases into the Work. Subcontractor will also approve the monthly

invoice for each material or equipment supplier that furnishes the Owner with direct purchases for the Work. Should any directly-purchased material or equipment fail within the warranty period specified for it under the Contract Documents, Subcontractor shall correct, repair or replace them per Subcontractor's warranty provided herein and will defend, indemnify and hold Contractor harmless from any additional costs associated with such correction.

28. Estimates. If Subcontractor includes any estimates, budgets or allowances in a proposed Change Order, Subcontractor must clearly identify such amounts as being an estimate. Any amount not clearly identified as a budget, estimate or allowance will be treated as a lump sum price. Subcontractor is responsible to notify Contractor if an estimate, budget or allowance will be exceeded prior to performing any work that will cause the budget, estimate or allowance to be exceeded. A failure to so notify Contractor will be deemed a waiver of any claim Subcontractor may have with respect to any costs incurred in excess of Subcontractor's estimate, budget or allowance.

29. Quality of Workers. Subcontractor shall provide supervision and workers of a quality commensurate with the usual requirements for the type of work being done. Subcontractor shall also provide a sufficient number of qualified workers to maintain the schedule and not delay Contractor or other subcontractors, trades or suppliers. If, in the opinion of Contractor, Subcontractor has not provided a sufficient number of qualified workers to maintain the schedule, Contractor may, on 48 hours' notice to Subcontractor, supplement Subcontractor's workforce and deduct the cost of such supplemental workforce from any amounts due or to become due to Subcontractor, together with all cost and expenses incurred by Contractor to provide such supplemental workforce and any costs, expenses and fees (including attorneys' fees) incurred to enforce the rights under this Section 29. In addition, if, in the opinion of Contractor, Subcontractor's supervision of workers is not of a satisfactory quality, Contractor shall so notify Subcontractor, and Subcontractor shall, within 48 hours, initiate the necessary steps to remove the disapproved personnel and replace them with personnel of qualifications acceptable to Contractor.

30. Fluency. If all of Subcontractor's workers are not fluent in English, then Subcontractor shall provide a superintendent who is fluent in both English and the language(s) spoken by those workers.

31. Liability. Notwithstanding anything to the contrary contained in the Contract, no recourse under or upon any obligation, covenant or agreement contained herein shall be had against any member, officer, employee, trustee, director, manager, shareholder or agent of Contractor under this Contract and the Contract Documents, it expressly being agreed and understood that the obligations of the Contractor hereunder are solely corporate obligations of the Contractor and that no personal liability whatsoever shall attach to or shall be incurred by such members, officers, employees, trustees, directors, managers, shareholders or agents of Contractor, or any of them, because of this Agreement or by reason of any obligation, covenant or agreement contained herein or in the Contract Documents. Subcontractor hereby waives any rights that it may have, or hereafter acquire, to assert any claim, whether in law or in equity, against any such member, officer, employee, trustee, director, manager, shareholder or agent of Contractor, and Subcontractor hereby agrees to look only to Contractor to satisfy any claim which Subcontractor may have against Contractor.

32. Communication. All questions and communications from Subcontractor should be directed solely to Contractor. Subcontractor and its Sub-subcontractors and employees are to take no direction from, or initiate any contact with the Owner or any of its staff, visitors or guests. Subcontractor agrees to reimburse Contractor for all costs and expenses, including time spent by Contractor's or Owner's staff and attorneys' fees, incurred to enforce the obligations of this Section 31. Any provision in this Subcontract addressing notice from Contractor to Subcontractor is expressly understood to include verbal notice as well as electronic notice, including notices sent through Viewpoint Team, Procure, or any other collaborative project management program. Any notices sent from Contractor to Subcontractor electronically or through a project management program shall be considered received upon transmission. Notices from Subcontractor to Contractor as required hereunder shall be required to be submitted in writing via certified mail, return receipt requested.

33. Confidentiality. All drawings, designs, specifications, performance criteria, test results, product data sheets, software, manuals, and other documentation and information, including information related to this Contract and Subcontractor's performance under the same, shall remain the property of Contractor and/or Owner, as applicable. Copyright and other intellectual property rights in all such materials shall remain in Contractor and/or Owner at all times. Subcontractor shall hold all information and materials provided by Contractor and/or Owner ("**Confidential Information**") in the strictest confidence and protect it from disclosure to or use by third parties, including other subcontractors on the Project, through measures, and exercising a degree of care, that are at least as protective as those Contractor exercises in safeguarding the confidentiality of its own proprietary information and that constitute not less than a reasonable degree of care under the circumstances. Confidential Information may only be disclosed to Subcontractor's employees and agents who require access in the performance of their duties for Subcontractor and who are subject to written confidentiality obligations to Subcontractor that are not less restrictive than those set forth herein. Other than as provided in the preceding sentence, Subcontractor shall not disclose Confidential Information to any third parties without the prior written authorization of Contractor and, where applicable, Owner. Subcontractor recognizes and agrees that there is no adequate remedy at law for a breach of this Section 32, that such a breach would irreparably harm Contractor, and that Contractor is entitled to equitable relief (including, without limitation, injunctive relief) with respect to any such breach or potential breach in addition to any other remedies, and that Subcontractor will be responsible to reimburse Contractor for any and all costs and expenses, including attorneys' fees, incurred in enforcing the terms of this Section 33, which costs

and expenses, along with any damages suffered by Contractor, may be deducted from the Subcontract balance.

34. No Publicity. No publicity, advertising, marketing, or award submittal regarding this Project or Contract shall be released without prior written approval of Contractor, nor shall Subcontractor or its Sub-subcontractors of any tier use the Owner’s name, image, logo, or any Project photos for any marketing or publicity purpose without prior written approval of Contractor.

35. Anti-Harassment Policy. Discrimination or harassment of any kind will not be tolerated on the Project. Any employee of Subcontractor or any of its Sub-subcontractors that is found to have engaged in discriminatory, harassing, or otherwise offensive behavior will be immediately removed from the Project and will not be allowed to return. It will be the responsibility of Subcontractor to immediately provide a suitable, sufficiently skilled replacement for any personnel removed from the Project in accordance with this Section 35. In the event multiple instances of harassment, discrimination, or offensive behavior be reported against Subcontractor or its Sub-subcontractors, such action shall constitute a material breach of this Contract and Contractor shall have the right to immediately, and without formal notice, remove Subcontractor from the Project site. In such instance any and all costs of a replacement subcontractor shall be borne by Subcontractor in accordance with Contractor’s rights under Section 6. Should any employees of Subcontractor or its Sub-subcontractors experience discriminator, harassing, or offensive behavior from any other party on the Project, Subcontractor is required to immediately report the facts to Contractor so that Contractor may investigate and take appropriate action.

By signing below, Subcontractor acknowledges that it has read and understands this Contract, its terms and conditions and all exhibits, and all other Contract Documents, and accepts the same.

TRI-NORTH BUILDERS, INC.

DATED: _____

DATED: _____

SUBCONTRACTOR LICENSE NO. _____

CONTRACTOR LICENSE NUMBERS:

AL 25154	AK 33359	AZ 14576	AR 002779	CA 917621	CO 10594	CT 0901148
DE N/A	DC N/A	FL 044718	GA 1418	HI 29501	ID N/A	IL N/A
IN N/A	IA 097255	KS N/A	KY N/A	LA 40108	ME N/A	MD 08818506
MA N/A	MI N/A	MN N/A	MS 13963	MO 9642854	MT 41262	NE 032009397671
NV 0056901	NA N/A	NJ N/A	NM 359999	NY N/A	NC 50104	ND 34165
OH N/A	TN 26887	TX N/A	UT 1428863-5501	VT N/A	VA 270548878A	WA TRINOB101102
WV 001836	WI 6439	WY N/A				