This document has important legal consequences. Prior to its completion or modification, consultation with an attorney is encouraged. This document, unmodified, may not be appropriate in all circumstances.

THIS AGREEMENT WAS PREPARED TO FAIRLY ALLOCATE RESPONSIBILITIES, RISKS AND EXPENSES ARISING OUT OF THE PERFORMANCE OF THIS WORK, AND IS MADE AND ENTERED INTO BY AND BETWEEN:

Contractor:
Address:
Telephone:

Subcontractor:
Address:
Telephone:

Contractor, for full, complete, and faithful performance of this Subcontract, agrees to pay Subcontractor:

(a) Lump Sum in the amount of:

___________________________________________________________________________________________________________________________________________________________________________________________________________________________Dollars ($_____________________), or

(b) Unit Prices as set forth on the attached Unit Price Addendum which on the basis of Owner's estimated quantities will yield a gross contract price of approximately:

___________________________________________________________________________________________________________________________________________________________________________________________________________________________Dollars ($______________________).
In consideration therefore, Subcontractor agrees as follows:

1. To furnish and perform all work as described in Paragraph 3 hereof, for the construction of (Project Title and Location):

________________________________________________________________________________________

________________________________________________________________________________________

________________________________________________________________________________________

for ____________________________________________________________________________________

hereinafter called Owner, in accordance with the contract dated the ______ day of ______, 20____, between Owner and Contractor, and the general and special conditions of that contract, and in accordance with the drawings, dated as of _____________, and specifications and addenda for the construction prepared by _____________, Engineers and Architects, all of which documents in their entirety are hereinafter referred to as the Main Contract and have been and remain available to the Subcontractor.

2. To be bound by all laws, government regulations, and orders and all terms and conditions of the Main Contract, to the extent of the work herein subcontracted, which provisions are hereby incorporated by reference, and all of the terms and conditions of this Subcontract.

3. To provide all supervision, materials, labor, supplies, and equipment for (list Work Description, Specification Numbers, Addenda, etc.):

________________________________________________________________________________________

________________________________________________________________________________________

________________________________________________________________________________________

________________________________________________________________________________________

________________________________________________________________________________________

________________________________________________________________________________________

________________________________________________________________________________________
4. Under provisions of Article (P) herein, a bond (is) (is not) required in this Subcontract.

5. Under provisions of Article (R) herein, the amount of insurance required for this Subcontract is:

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<tr>
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<th>General Liability</th>
<th>Automobile Liability</th>
<th>Property Coverage</th>
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6. Regarding the terms of Article (V INDEMNIFICATION), the parties by their initials here acknowledge that those terms have been separately negotiated and agreed to as part of this Subcontract:

_____ (Contractor)  _____ (Subcontractor)

7. As defined in Article (D) herein, Subcontractor’s right to any and all payments for performance under this Subcontract is subject to the following (SELECT ONE):

_____ Payment Contingent on Owner Payment

OR

_____ Payment Not Contingent on Owner Payment

In the absence of any recorded selection by the parties in the spaces above, the “Payment Not Contingent on Owner Payment” terms set forth in Article D are agreed to apply to this Subcontract.

IN WITNESS WHEREOF, CONTRACTOR and SUBCONTRACTOR have executed this agreement, effective the date of the last authorized signature unless otherwise agreed.

In addition, THE UNDERSIGNED CERTIFY that the provision at Article (V) was reviewed and mutually negotiated.

By ________________________________  By ________________________________
CONTRACTOR (Company Name)          SUBCONTRACTOR (Company Name)

By ________________________________  By ________________________________
CONTRACTOR (Authorized Signature)    SUBCONTRACTOR (Authorized Signature)

Registration Number

_______________________________  ________________________________
Date                              Federal Tax I.D. Number

_______________________________  ________________________________
Workers’ Compensation Account I.D. Number

_______________________________  ________________________________
Unemployment Insurance Reference Number

_______________________________
Date
Subcontract General Conditions

A. OBLIGATIONS, RESPONSIBILITIES, AND NOTICE

It is agreed that Subcontractor will assume toward Contractor all obligations and responsibilities which Contractor has assumed toward Owner under the Main Contract to the extent of the work herein subcontracted, and Subcontractor shall be entitled to all privileges and protections granted Contractor by Owner under the Main Contract. In case of conflict between the terms of this Subcontract and the Main Contract, this Subcontract shall control. Subcontractor agrees not to assign or subcontract a substantial portion of the performance of this Subcontract without the prior written consent of Contractor. Subcontractor shall designate in writing all lower-tier subcontractors to Contractor and shall not subsequently change lower-tier subcontractors without Contractor's approval. Contractor shall furnish to Subcontractor, upon Subcontractor's request, the legal description of the premises covered by the Main Contract. A copy of the Main Contract will be made available upon request.

Subcontractor shall provide written notice to Contractor within 5 days or within sufficient time to allow Contractor to give notice to Owner pursuant to the Main Contract (whichever is sooner), after occurrence of any instances of interruption, extra work, additional work, delay, hindrance and/or efficiency loss of any nature whatsoever in Subcontractor's work, believed by Subcontractor to be caused by the acts or omissions of Contractor, other subcontractors, Owner, Architect/Engineer or the employees or agents of any of them. In the event Subcontractor believes it is entitled to receive compensation due to damages from such an occurrence(s) and/or is entitled to an extension of time, Subcontractor’s statement of claim (setting forth in detail the entitlement and quantum basis for Subcontractor’s claim with supporting data and/or the entitlement basis to support an extension of time) shall be delivered to Contractor within an additional 15 days or within sufficient time to allow Contractor to forward Subcontractor’s statement of claim to Owner (whichever is sooner), to meet any applicable Main Contract requirements.

B. DRAWINGS

Subcontractor agrees to furnish drawings, specifications, final selections of materials and other specified items in the quantity required by the Main Contract for approval by Owner or Owner's agent so as not to delay progress of the work.

C. SCHEDULING

Contractor shall give Subcontractor advance notice of anticipated starting date for Subcontract work. Contractor shall consult with Subcontractor on development and update of a construction schedule at Subcontractor's request and shall make such schedule available to Subcontractor at Subcontractor's request. Subcontractor shall start work on the date named by Contractor and shall complete the several portions and the whole of the work herein described at such times as will enable Contractor to timely comply with the Main Contract. Subcontractor shall cooperate with Contractor and other subcontractors. Subcontractor will be bound by any provisions in the Main Contract for liquidated damages and, if liquidated damages are assessed against Contractor by Owner, shall pay such damages for any delay to the extent caused by Subcontractor. The preceding language shall not be construed to deprive Contractor of any right to recover separate or additional damages for delay to the extent caused by Subcontractor.

D. PAYMENTS

As determined by the parties’ selection in Paragraph 7, Subcontractor’s right to any and all payments for performance under this Subcontract is subject to the following:
Payment Contingent on Owner Payment. It is agreed that as a condition precedent to any payment by Contractor to Subcontractor hereunder the Contractor must first receive payment from the Owner for the work of Subcontractor for which payment is sought. Subcontractor specifically agrees that it is relying upon the Owner’s credit (not the Contractor’s) for payment, and Subcontractor specifically accepts the risk of nonpayment by the Owner. At the reasonable request of Subcontractor, Contractor agrees to furnish such information as is reasonably available to Contractor from Owner regarding Owner’s financial ability to pay for performance under the Main Contract. The parties agree Contractor does not warrant the accuracy or completeness of information provided by Owner.

Payment Not Contingent on Owner Payment. It is agreed that payment by Contractor to Subcontractor hereunder is not due until 10 days after payment has been received by Contractor from Owner, or until after the passage of a reasonable time from when payment from Owner is due, whichever is sooner. “Reasonable time” as used herein shall not exceed 90 days.

Subcontractor shall submit to Contractor applications for payment at such times as will enable Contractor to timely apply for payment from Owner. Unless otherwise mutually agreed, Contractor shall withhold retainage from Subcontractor in the amount of 10% or as required by law. Contractor's obligation to release retainage to Subcontractor shall be subject to proof that there are no unpaid claims which would provide the basis of a lien against the premises, retainage or payment bond, or subject to (1) withholding of sufficient funds or (2) furnishing an adequate and sufficient payment and performance bond. Subcontractor shall be paid for work to date of Contractor's last progress billing date, as approved by the Architect or Engineer, within ten days after Contractor has received payment for such progress billing. Final payment for work under this Subcontract shall be made within ten days after Contractor has received final or complete payment provided Subcontractor has completed its work and fulfilled each of its obligations under this Subcontract. When required by Contractor, and as a prerequisite for any payment, Subcontract shall provide in a form satisfactory to Contractor partial lien releases, claim waivers and affidavits of payment from Subcontractor, and its lower-tier subcontractors and suppliers of any tier, for the completed portion of Subcontractor's work.

If the Main Contract permits payment for materials delivered to the jobsite or to satisfactory storage facilities, Subcontractor may invoice for materials so delivered and receive payment as outlined above; provided, however, that such stored materials shall be at the risk of Subcontractor until acceptance of the Subcontract work. Subcontractor shall notify Contractor of the assignment of the proceeds of this Subcontract prior to such assignment and shall require the acceptance by Assignee of the terms of this Subcontract including the obligation for adjustments and return to Contractor of overpayments. Subcontractor acknowledges that all payments accepted by him or which are otherwise due under this Subcontract shall constitute a trust fund in favor of laborers, materialmen, governmental authorities, and all others who are legally entitled to claim a lien on the premises covered by this Subcontract or otherwise file a claim against any retainage or payment bond. Subcontractor shall pay its own subcontractors and suppliers all sums owed them within ten days of receipt of payment from or on behalf of Contractor. Subcontractor agrees that no assignment of any payment otherwise due under this Subcontract shall be effective without first securing the express approval of any assignee to the limitations contained in this subsection.

Progress payments shall be deemed advances and are subject to adjustment at any time prior to final payment for errors, overpayment or Contractor's good faith determination that the remaining balance of payment may be insufficient to insure completion of work covered by this Subcontract or to pay lien, retainage, or bond claims. If Contractor determines in good faith that Subcontractor is obligated to Contractor or anyone else for labor, fringe benefits, taxes, supplies, materials, equipment rental or other proper charges against the work covered by this Subcontract, the amount of such obligation may be deducted by Contractor from any payment or payments, including retainage, made under this provision. Provided further that Contractor may from time to time require, and Subcontractor shall promptly provide, a statement in writing setting forth what amounts, if any, are due or payable by Subcontractor to third parties for labor, fringe benefits, taxes, supplies, materials, equipment, or other proper charges against the work in connection with, or arising out of the performance of, this Subcontract. If retainage is held in an interest bearing account, then proportionate interest will be paid to Subcontractor.
E. CHANGE ORDERS

Contractor may, without invalidating this Subcontract, order in writing extra work or make changes by altering, adding to, or deducting from the work and the Subcontract price shall be adjusted accordingly. All such work shall be executed under the conditions hereof and of the Main Contract, except that any claims for extension of time caused thereby must be agreed upon at the time of ordering such change. Subcontractor shall make no claims for extras unless the same shall be agreed upon in writing by Contractor prior to the performance of any such extra work. If additional work has been fully accepted by Owner, payment shall be made to Subcontractor within 10 days after payment to Contractor unless the request for additional work originated with Contractor, rather than with Owner, in which case payment will be made in a reasonable amount of time following acceptance of the work by Contractor. In case of any dispute over adjustment of the Subcontract price or time, Subcontractor shall proceed with the work and the dispute shall be resolved in accordance with the procedures set forth in the Main Contract, to the extent that Contractor is bound by such procedures, otherwise by the procedures set forth in Article (U). Subcontractor shall not be entitled to any additional compensation or extension of time unless Subcontractor shall have made written request to Contractor for such within sufficient time to permit Contractor to give timely notice to Owner. Subcontractor acknowledges that, unless expressly stated otherwise within a written change order, any change in the contract price and time effected through a written change order shall constitute full payment and accord and satisfaction for all cost incurred, labor performed, material and equipment furnished, and any delay, acceleration, or loss of efficiency associated with the change in the work.

F. NATURE OF WORK

Subcontractor has satisfied itself as to the nature and location of the work, the character, kind and quantity of material to be encountered, the character, kind and quantity of equipment needed, the location, conditions and other matters which can in any manner affect the work under this Subcontract agreement, and acknowledges that Subcontractor has had a reasonable opportunity to examine the site, all of the Main Contract documents and this Subcontract. Prior to commencing work, Subcontractor shall examine the site and any surfaces upon which work is to be performed, and shall notify Contractor in writing of any conditions which might adversely effect its work; failure to do so will constitute a waiver of entitlement to any additional compensation or contract time arising out of such conditions. This clause shall not be understood to relieve Subcontractor of any additional notice requirements under this Subcontract or the Main Contract.

G. SUBCONTRACTOR EMPLOYER

Subcontractor has the status of "employer" as defined by the Industrial Insurance, Workers' Compensation, Unemployment Compensation, Social Security, and other similar acts of the federal, state, and local government. Subcontractor shall withhold from its payroll applicable Social Security taxes, Workers' Compensation and Unemployment Compensation contributions, and withholding taxes and pay the same; Contractor shall be in no way liable as an employer of, or on account of, any employees of Subcontractor. Before final payment is made under this Subcontract, Subcontractor shall furnish Contractor affidavits certifying that it has complied with these laws, rules and regulations. Subcontractor hereby agrees to indemnify Contractor for any and all liability under such laws arising from the work performed under this Subcontract.

H. PERMITS, TAXES

Subcontractor shall obtain and pay for all permits, fees, and licenses necessary for the performance of this Subcontract and shall pay any and all federal, state, and local taxes, applicable to the work to be performed under this Subcontract. Owner or Contractor shall obtain and pay for the initial building permit applicable to the Main Contract and unless stated otherwise herein shall be responsible, as between Contractor and Subcontractor, for payment of state sales/use taxes applicable to the project.
I. MATERIALS

Materials delivered by or for Subcontractor and intended to be incorporated into the construction hereunder shall remain on the jobsite and shall become property of Owner upon payment, but Subcontractor may repossess any surplus materials remaining at the completion of the contract. All scaffolding, apparatus, ways, works, machinery, and plants brought upon the premises by Subcontractor shall remain his property. It shall be Subcontractor's responsibility to unload, store, and protect its materials, to bear the risk of loss thereof and to protect such material against loss until actually incorporated into the work, and until the work is accepted, even though title thereto may previously have passed to the Owner under the preceding provisions, except that Subcontractor shall not bear that portion of such loss to the extent it arose out of the fault of Contractor or its employees.

J. TAKEOVER

In the event Contractor's work under the Main Contract is terminated, other than for Contractor's default, prior to project completion, an equitable adjustment to the contract price for work performed under this Subcontract prior to such termination will be made as provided for in the Main Contract; if no such provision exists, then by mutual agreement; or, failing either of these methods, by arbitration as provided for in the Disputes clause of this Subcontract. Subcontractor shall be entitled to prospective profits on unperformed work only to the extent Contractor is able to recover such profits.

In the event Owner, for any cause other than Contractor's default, temporarily suspends work under the Main Contract, Contractor may order Subcontractor to suspend work under this Subcontract. Subcontractor shall not be entitled to any additional compensation or damage for such suspensions, except, and only to the same extent, Contractor receives additional compensation from Owner under the provisions of the Main Contract for work covered by this Subcontract.

If Subcontractor refuses or fails to supply enough properly-skilled workers or materials to maintain the schedule of work, refuses or fails to make prompt payment to lower-tier subcontractors or suppliers of labor, materials or services, fails to correct, replace, or re-execute faulty or defective work done or materials furnished, disregards the law, ordinances, rules, regulations or orders of any public authority having jurisdiction, files for bankruptcy, or is guilty of a material breach of this Subcontract, and fails to correct the default and maintain the corrected condition within not less than three (3) working days of receipt of written notice of the default, then Contractor, without prejudice to any rights or remedies otherwise available to it, shall have the right to any or all of the following remedies:

1. Supply such numbers of workers and quantity of materials, equipment, and other facilities as Contractor deems necessary for the completion of Subcontractor's work, or any part thereof, which Subcontractor has failed to complete or perform after the above notice, and to charge the cost thereof to Subcontractor who shall be liable for the payment of same including reasonable overhead and profit.

2. Contract with one or more additional subcontractors to perform such part of Subcontractor's work as Contractor shall determine to provide prompt completion of the project and charge the cost thereof to Subcontractor.

3. Withhold payment of any monies due or to become due Subcontractor pending corrective action to the extent required and to the satisfaction of Contractor.

4. Terminate this Subcontract, use any materials, implements, equipment, appliances, or tools furnished or belonging to Subcontractor to complete Subcontractor's work and furnish those materials, equipment, and/or employ such workers as Contractor deems necessary to maintain the orderly progress of the work: Subcontractor's equipment shall only be utilized when equivalent equipment is not locally available to lease and will not be supplied by a substitute subcontractor and when procurement of substitute equipment will not delay completion of the Main Contract. All of the costs, including reasonable overhead, profit and attorneys' fees, incurred by Contractor in arranging to and performing Subcontractor's work shall be charged to Subcontractor and Contractor shall have the right to deduct such
expenses from monies due or to become due Subcontractor. Subcontractor shall be liable for the payment of any expenses incurred in excess of the unpaid balance of the Subcontract Price.

(5) In the event of any emergency, Contractor may proceed as above without notice.

K. **UNIT PRICE**

In the event this Subcontract contains unit price items it is understood and agreed that any quantities mentioned are approximations only and subject to change as required by the Main Contract or as ordered and directed by Contractor.

L. **MATERIAL QUALITY**

Materials condemned by Contractor, Architect/Engineer, or Owner as failing to conform to the Main Contract, worked or not, shall upon notice from Contractor be immediately removed by Subcontractor. Failure of Contractor to immediately condemn any work or materials as installed shall not in any way waive Contractor's right to object thereto at any subsequent time.

M. **JOB DAMAGE**

Job damage caused by Subcontractor, its lower-tier subcontractor or supplier of any tier, to work other than its own shall be reported immediately to Contractor and Subcontractor shall be responsible for its repair. Job damage caused by Contractor to work of a Subcontractor shall be reported immediately to Subcontractor and Contractor shall be responsible for its repair.

N. **SAFETY**

Subcontractor and its lower-tier subcontractors shall take all reasonably necessary safety precautions pertaining to its work and its work performance, including compliance with applicable laws, ordinances, regulations and orders issued by a public authority, whether federal, state, local or other, OSHA/WISHA, and any safety measures requested by Contractor. Subcontractor shall at all times be responsible for providing a safe jobsite and be responsible for the work performance and safety of all employees, personnel, equipment and materials within Subcontractor's or its lower-tier subcontractors' care, custody or control. Subcontractor and its lower-tier subcontractors shall furnish all required safety equipment for its work and ensure all of their employees and lower-tier subcontractors' employees have and wear personal protective equipment in compliance with applicable OSHA/WISHA requirements and Contractor's safety rules, as provided in writing to Subcontractor.

Subcontractor certifies that it and its lower-tier subcontractors are registered contractors. Subcontractor certifies that it and its lower-tier subcontractors maintain a written Accident Prevention Plan and a jobsite-specific safety plan in compliance with applicable OSHA/WISHA regulations. Subcontractor's Accident Prevention Plan should address subcontractor's role and responsibilities pertaining to safety on the jobsite, training and corrective action and be tailored to safety and health requirements for the work involved. Subcontractor shall have and enforce a disciplinary action schedule in the event safety violations are discovered. When and as requested by Contractor, Subcontractor shall provide information regarding safety matters.

Subcontractor shall promptly provide Contractor with written notice of safety hazard(s) or violation(s) found on the jobsite or of any injury to its or its lower-tier subcontractors' workers incurred on the jobsite.

Contractor's supervisor may direct Subcontractor's superintendent to remove employees not in compliance with the requirements of this Agreement. In the event Subcontractor does not promptly correct its safety violation, Contractor may order Subcontractor to stop work until the violation is corrected, and may correct the violation and charge all costs of compliance to the Subcontractor.
Subcontractor agrees to defend, indemnify and hold Contractor harmless from all WISHA and/or OSHA claims, demands, proceedings, violations, penalties, assessments or fines that arise out of or relate to Subcontractor's failure to comply with any safety-related laws, ordinances, rules, regulations, orders or its obligations hereunder. Contractor may charge against the sums otherwise owing to Subcontractor the Amount of the fine and the fees, costs and expenses incurred by Contractor in the defense of the claims, citation and/or fine arising from or relating to the Subcontractor's above-referenced failure.

O. **HOUSEKEEPING AND CLEAN UP**

Subcontractor shall regularly remove all refuse, waste and debris produced by its operation. Refuse shall not be permitted to accumulate to the extent that it interferes with free access to the jobsite or creates a safety hazard. Avoidance of safety hazards through good housekeeping is an important part of Subcontractor's obligations. In the event Subcontractor or its lower-tier subcontractor fails or refuses to meet these requirements, Contractor may remove refuse and charge all costs to the Subcontractor, provided that Subcontractor has received 24 hours or one full working day, whichever is greater, prior written notice. In the event contractor determines emergency conditions exist, Contractor may proceed as above without prior notice.

P. **BOND**

If line number four on page three of this Subcontract requires Subcontractor to supply bonds for this project, then Subcontractor shall at its own expense furnish contractor, within ten (10) days of receipt of this Subcontract, performance and payment surety bonds, acceptable to Contractor, in an amount equal to the Subcontract price. The bonds shall be conditioned upon the full and faithful performance of all terms, provisions, and conditions of this Subcontract and upon payment for all labor, materials, equipment and supplies used in the prosecution of the work described herein.

Q. **WORKERS’ COMPENSATION**

Subcontractor shall furnish to Contractor evidence that it has in force Workers' Compensation Insurance including Employer's Liability, as may be required by the jurisdiction or jurisdictions in which the work is being performed. Where applicable, this shall include United States Longshoremen's and Harbor Workers' Insurance including Coverage B - Employer's Liability (Maritime) with limits not less than the Bodily Injury limits required of the Contractor by the Main Contract, but in no event less than $500,000. Such evidence of insurance shall be in the form of an Insurance Certificate issued by an insurer satisfactory to Contractor and shall provide for not less than 30 days prior written notice to Contractor of cancellation or reduction in coverage. In the event Subcontractor fails to maintain any and all insurance required by this Subcontract during the entire life of this Subcontract, Contractor may at its option, and without waiver of other available remedies, purchase such insurance in the name of Subcontractor and deduct the cost of same from payments due Subcontractor.

R. **INSURANCE**

Subcontractor shall obtain and keep in force during the term of this Subcontract comprehensive general liability insurance with dollar limits and coverage equal to, or greater than, the minimum specified in the Main Contract for Contractor and not less than the types and amounts of coverage noted at the front of this Subcontract. Subcontractor shall furnish to Contractor evidence of this insurance in the same form as described in Article (Q) including the provision regarding notice of cancellation or reduction in coverage. Such insurance shall include contractual liability coverage applicable to the indemnity provisions of this Subcontract.

Subcontractor shall provide insurance and a certificate of insurance which provides that Subcontractor’s insurance: (1) names Contractor and Owner as additional insureds without qualification, limitation or reservation; (2) is endorsed to be primary and non-contributory with any insurance maintained by Contractor.
or Owner; (3) contains a waiver of subrogation against Contractor and Owner; and (4) contains a severability of interest provision in favor of Contractor and Owner.

S. LOWER-TIER SUBCONTRACTORS

Any lower-tier subcontractor shall be bound to Subcontractor to the same extent Subcontractor is bound to Contractor and to the same extent Contractor is bound to Owner. This form may be used for lower-tier subcontracts and when so used, the term Contractor shall mean Subcontractor and the term Subcontractor shall mean lower-tier Subcontractor.

T. MODIFICATIONS

No modification to, or waiver of any rights under, this agreement shall be valid or binding on the parties to this Subcontract unless the same be in writing. Failure of Contractor to insist upon strict performance of any term or condition of this Subcontract, or to exercise any option herein conferred on one or more instances, shall not be construed to be a waiver of such performance or option, or of any other covenants or agreements, on subsequent occasions, but the same shall be and remain in full force and effect.

U. DISPUTES

1. Pass-through Claims: In the event of any dispute or claim between Contractor and Owner which directly or indirectly involves the work performed or to be performed by Subcontractor, or in the event of any dispute or claim between Contractor and Subcontractor caused by or arising out of conduct for which Owner may be responsible, Subcontractor agrees to be bound to Contractor and Contractor agrees to be bound to Subcontractor to the same extent that Contractor is bound to Owner by the terms of the Main Contract and by any and all procedures and resulting decisions, findings, determinations, or awards made thereunder by the person so authorized in the Main Contract, or by an administrative agency, board, court of competent jurisdiction or arbitration. If any dispute or claim of Subcontractor is prosecuted or defended by Contractor together with disputes or claims of Contractor's own, and Subcontractor is not directly a party, Subcontractor agrees to cooperate fully with Contractor and to furnish all documents, statements, witnesses, and other information required by Contractor for such purpose and shall pay or reimburse Contractor for all expenses and costs, including reasonable attorneys' fees incurred in connection therewith, to the extent of Subcontractor's interest in such claim or dispute.

Subcontractor agrees to be bound by the procedure and final determinations as specified in the Main Contract and agrees that it will not take, or will suspend, any other action or actions (including but not limited to any arbitration(s) or action(s) commenced pursuant to the Federal Miller Act, state lien statutes, Bond or Retainage Act(s)) with respect to any such claims and will pursue no independent litigation with respect thereto, pending final determination of any dispute resolution procedure between Owner and Contractor. It is expressly understood and agreed that as to any and all claims asserted by Subcontractor in connection with this project arising from the actions or fault of Owner, Contractor shall not be liable to Subcontractor for any greater amount than Owner is liable to Contractor, less any markups or costs incurred by Contractor. As to any claims asserted by Subcontractor for or on account of acts or omissions of Owner or its agents or design professionals, at the sole option of Contractor, Subcontractor agrees to prosecute such claims in Contractor's name. For any amount recovered or collected (whether through proceedings or settlement) by Subcontractor, Contractor shall be entitled to 10% of such amount received or collected as its mark-up for such claims. Subcontractor shall have full responsibility for preparation and presentation of such claims and shall bear expenses thereof including attorneys' fees.

2. Arbitration: All other claims, disputes, and other matters in question between Contractor and Subcontractor arising out of, or relating to, the Main Contract or this Subcontract, the breach thereof, or work thereunder (for which a dispute resolution procedure is not otherwise provided in the Main Contract), shall be decided by arbitration in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association then obtaining, unless the parties mutually agree otherwise. Contractor and
Subcontractor agree to be bound by the findings and award of such arbitration finally and without recourse to any court of law other than for the enforcement of the arbitrator's decision.

3. **Mediation:** As a condition precedent to the hearing of any trial or arbitration, the parties to this Subcontract shall submit any and all disputes between them to non-binding mediation with the assistance of an experienced mediator. The parties shall each designate a representative with full settlement authority who will participate for at least four hours in the mediation. The parties shall bear equally all expenses, exclusive of attorneys' fees, associated with the mediation.

V. **INDEMNIFICATION**

Subcontractor shall defend, indemnify and save harmless Contractor, its officers, employees and agents from every claim, risk, loss, damage, demand, suit, judgment and attorney’s fee, and any other kind of expense arising out of injury to or death of any and all persons, or arising out of property damage of any kind, whether tangible or intangible, or loss of use resulting therefrom, arising out of or in any manner connected with the Work performed under this Subcontract.

Subcontractor’s indemnity obligations hereunder do not extend to liability resulting from the sole negligence of the Contractor, its agents or employees.

If the claim, suit, or action for injuries, death, or property damage is caused by or results from the concurrent negligence of (a) the Subcontractor, its officers, employees or agents and (b) the Contractor, its officers, employees or agents, this indemnity provision shall be enforceable only to the extent of the negligence of the Subcontractor, its officers, employees, or agents.

**FOR PURPOSES OF THE FOREGOING INDEMNIFICATION PROVISION ONLY, AND ONLY TO THE EXTENT OF CLAIMS AGAINST SUBCONTRACTOR BY CONTRACTOR UNDER SUCH INDEMNIFICATION PROVISION, SUBCONTRACTOR SPECIFICALLY WAIVES ANY IMMUNITY IT MAY BE GRANTED UNDER THE WASHINGTON STATE INDUSTRIAL INSURANCE ACT, TITLE 51 RCW.** **THE INDEMNIFICATION OBLIGATION UNDER THIS SUBCONTRACT SHALL NOT BE LIMITED IN ANY WAY BY ANY LIMITATION ON THE AMOUNT OR TYPE OF DAMAGES, COMPENSATION OR BENEFITS PAYABLE TO OR FOR ANY THIRD PARTY UNDER WORKERS’ COMPENSATION ACTS, DISABILITY BENEFIT ACTS, OR OTHER EMPLOYEE BENEFIT ACTS.**

Defense cost recovery shall include all fees (of attorneys and experts), and costs and expenses incurred in good faith. In addition, Contractor shall be entitled to recover compensation for all of its in-house expenses (including materials and labor) consumed in its defense.

W. **MISCELLANEOUS**

This Subcontract shall be considered to have been made in and shall be interpreted under the laws of the State of Washington. The site of any arbitration or venue of any lawsuit arising out of this Subcontract or the work hereunder shall be at ________________ County, Washington.

Any written notice required to be given to a party shall be hand-delivered or delivered to the address of that party indicated above. Subcontractor shall comply with all federal, state and local laws, regulations and orders prohibiting discrimination on the basis of race, religion, sex or national origin. This Subcontract represents the final understanding of the parties and Contractor assumes no responsibility for any different understanding or any representations made by any of its officers, agents, or others prior to the execution of this Subcontract unless expressly stated herein.

Time is of the essence in this Subcontract.
X. SPECIAL PROVISIONS

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