



SUBCONTRACT AGREEMENT

THIS AGREEMENT made this day, , by and between **D Square Construction, LLC, 530 E 27TH STREET TUCSON, Arizona 85713, Phone +15207489371, Fax +18885438500**, license #, hereinafter referred to as "Contractor", and:

Subcontractor Name:

Phone:

Fax:

Contact:

hereinafter called the "Subcontractor", for the following Project:

PROJECT NUMBER:

PROJECT NAME:

PROJECT LOCATION:

PRIME CONTRACT#:

DATED:

NOW, THEREFORE, in consideration of the mutual promises and conditions herein contained, the parties hereto agree as follows:

The Subcontract Documents shall consist of this Subcontract, all Exhibits to this Subcontract, the Prime Contract and Task Order Award (if applicable), dated June 26, 2024 between **D Square Construction, LLC** and, hereinafter referred to as the "Owner", all addenda issued prior to and all modifications issued after execution of the Contract and/or the Subcontract, General Conditions, Special and Supplementary Conditions, all technical terms and conditions and all other documents, if any, listed, or referred to, if any, in the Subcontract Documents and all Exhibits hereto. These form the Agreement and are as fully a part of the Agreement as if attached to or repeated herein. The contract documents may be reviewed by Subcontractor in Contractor's field office during normal business hours.

The intent of the Subcontract Documents is to include all items necessary for the proper execution and completion of the Work (as such term is defined in Exhibit A hereof). The Subcontract Documents are complementary, and what is required by any one shall be as binding as if required by all with respect to the Work. Work not explicitly covered in the Subcontract Documents shall be performed by Subcontractor so long as it is consistent therewith and is reasonably inferable there from as being necessary to produce the intended results.

Contractor agrees to pay the Subcontractor for the strict and satisfactory performance of the Work called for herein in conformance with the terms and conditions of this Agreement the total sum of: **(\$0.00)**. Payment will be made monthly on approved pay requests, for all work completed to date, as defined in the Prime Contract (less payments previously made); provided, however: (i) the Contractor reserves the right to retain from each such payment the same percentage as is provided in the Prime Contract and/or Task Order Award (if applicable) or that amount retained by the Owner from Contractor's payment application for Subcontractor's work; (ii) each payment, including final payment, will not become due until the Subcontractor's work has been completed to the full satisfaction of the Architect, Engineer, Owner and the Contractor.

IN WITNESS WHEREOF: By their authorized signatures below, the Contractor and Subcontractor; for themselves and their successors, executors, administrators and assigns; hereby agree to the full performance of the covenants of this Agreement, which shall become binding when executed by duly authorized persons on behalf of the Contractor and the Subcontractor, respectively.

Subcontractor:

Signed:

Printed Name and Title

Date:

Contractor:

D Square Construction, LLC

Signed:

Date:

Exhibit A -- Scope of Work

The Scope of Work of this Agreement includes all work generally defined as:

in accordance with plans and specifications more specifically, but not limited to, the following:

Time is of the essence of this Agreement. Timely performance of the duties of the Subcontractor is critical to the success of the project. All notice periods and times for performance shall be strictly observed and may occur concurrently.

This work is to be completed in accordance with the mutually agreed upon Contractor's Construction Schedule.

No communications, written or oral, prior to or concurrent with the execution of this Agreement, shall be allowed to modify or vary the terms of this Agreement. This Scope of Work will supersede all other written or verbal agreements, Subcontractor bid documents and/or exclusions.

All contract documents (plans, specifications and amendments) were made available to the subcontractor during the bidding process and are always available to the subcontractor at the project plan room within the Procore project portal.

Subcontractor will furnish all necessary labor, material, equipment and supervision necessary to perform work as directed by the Contract Documents.

INCLUSIONS:

This subcontract is further clarified to include the following:

1. Furnish all labor, equipment and materials necessary to complete the ABATEMENT Scope of Work as shown and/or specified within the Contract Documents to include all amendments and referenced specifications and standards for a complete installation. Below is a clickable link that will take you directly to the Specifications, Plans, and Amendments for this project.
2. The subcontractor understands and acknowledges the work is in an occupied hospital environment and that attention be given to the patient and staff safety and infection control measures while completing work.
3. The subcontractor understands and acknowledges the work is phased and that multiple move-ins will be required to complete the work.
4. Subcontractor shall remove and dispose of hazardous materials such as asbestos pipe insulation materials identified in the project. Scope includes removal of ACM insulation from the job site to provide access for plumbing piping repair. All such materials shall be handled, removed, and disposed of in a proper and legal manner.
5. The subcontractor shall remove drywall, AC units, flooring, light fixtures, ceiling tiles, and other for access to the ACM scheduled for removal per the SOW dated 2/14/24.
6. Subcontractor shall encapsulate remaining ACM as noted in the SOW dated 2/14/24.
7. Subcontractor is responsible for all applicable permits, personal air monitoring, environmental monitoring and final air clearance.
8. The subcontractor shall provide hazardous waste manifests as part of the close out documentation.
9. Subcontractor to set up temporary environmental containment barriers, negative air, and ICRA controls in the job site.

10. If the subcontractor elects to submit an alternate or "equal" product or system to the product or system shown in the plans or specifications, the subcontractor is responsible for the cost of any modification to the contract plans resulting in the use of the alternate or equal product or system that may be incurred by the general contractor or any other subcontractor working on the contract. The subcontractor is also responsible for any engineering fees that may be necessary as a result of the use of an alternate or equal product.

11. In regard to Arizona Transaction Privilege Tax and how it is applied to this contract. Per AZ TPN 15-1 dated 6/22/2015, this project has been classified as an MRRA project, specifically an "Alteration with a contract value under \$750.000", being performed at a "Qualifying Hospital". Attached to this contract are four documents (VA's Qualifying Hospital Certificate, AZ5000HC, TPN 15-1, and AZ Publication for Health Care Organization). These documents will assist you and your tax preparer in your responsibility to properly file the required documents with your vendors and the state of AZ. While we can assist you in understanding your company's responsibilities, we strongly suggest that you consult with your tax professional for further guidance in how to properly submit your documents to ensure the materials being incorporated into this project take full advantage of the tax deductions offered by the Qualifying Hospital exemption.

EXCLUSIONS:

1. Bond
2. Moving furniture
3. Hazardous material assessment
4. Piping repair
5. Drywall repair

Exhibit B - Plan and Specification Logs

***Please see final pages of this Subcontract for plan and specification logs,
which are part of your Subcontract Agreement.***

Exhibit C - Insurance Requirements

Prior to the commencement of any work, Subcontractor shall furnish evidence of insurance to Contractor for at least the coverage and limits of liability required by law or by those set forth within the Prime Contract, Task Order Award and below, whichever is greater. Contractor reserves the right to require higher limits for specific exposures.

<u>Description:</u>	<u>Limits</u>	
A. General Liability	\$1,000,000	Per Occurrence
for personal injury and property damage	\$2,000,000	Aggregate
B. Automotive Liability	\$1,000,000	Combined Single Limit
for bodily injury and property damage		per occurrence
C. Worker's Compensation and Employer's Liability	Statutory Limits	
	\$500,000	Each accident
	\$500,000	Each employee
	\$500,000	Policy limit
D. Professional Liability (if applicable)	\$1,000,000	Per occurrence

Prior to commencing the Work, Subcontractor shall procure, and thereafter maintain, at its own expense, until final acceptance of the Work or later as required by the terms of the Subcontract or any individual Work Order, insurance coverage required by the Contract Documents and this Subcontract. At a minimum the types of insurance and minimum policy limits specified shall be maintained in a form and from insurers acceptable to Contractor. All insurers shall have at least an A- (excellent) rating by A.M. Best and be qualified to do business in the state where the project is located.

Insurance certificates shall name Contractor and Owner as Additional Insured, with the exception of Workmen's Compensation coverage and Employer's Liability coverage. Endorsement CG 20 10 07 04 & CG 20 37 07 04 or equivalent wording is required. Any insurance provided to Contractor and Owner shall be Primary and Non-contributory and shall be noted on the insurance certificate. All certificates are to be Project specific and current.

Subcontractor hereby assumes the responsibility and liability for all their work, supervision, labor and materials provided under this Subcontract or any Work Order issued pursuant to this Subcontract, whether or not erected in place, and for all plant, scaffolding, tools, equipment, supplies and other things provided by Subcontractor until final acceptance of the entirety of the Work by Owner. In the event of any loss, damage, or destruction thereof from any cause, Subcontractor shall be liable therefor, and shall repair, rebuild and make good said loss, damage or destruction at Subcontractor's cost, subject only to the extent that any net proceeds are payable under any builder's risk property insurance that may be maintained by Owner or Contractor, if any. Subcontractor shall be liable to Contractor for all costs Contractor incurs as a result of any failure of Subcontractor, or any of its suppliers or subcontractors of any tier, to perform.

To the fullest extent permitted by law, the Subcontractor shall indemnify, defend, and hold harmless the Contractor, Owner and their respective officers, directors, employees and agents ("Indemnified Parties") from and against all claims, damages, demands, losses, expenses, fines, causes of action, suits or other liabilities, (including all costs reasonable attorneys' fees, consequential damages, and punitive damages), arising out of or resulting from, or alleged to arise out of or arise from, the performance of Subcontractor's Work under the Subcontract, and any Work Order whether such claim, damage, demand, loss or expense is attributable to bodily injury, personal injury, sickness, disease or death, or to injury to or destruction of tangible property, including the loss of use resulting therefrom; but only to the extent attributable to the negligence of the Subcontractor or any entity for which it is legally responsible or vicariously liable; regardless whether the claim is presented by an employee of Subcontractor. Such indemnity obligation shall not be in derogation or limitation of any other obligation or liability of the Subcontractor, or the rights of the Contractor contained in this Subcontract or otherwise. This indemnification shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the Subcontractor under any workers' compensation acts, disability benefits

acts or other employee benefits acts. This indemnification shall be in addition to any indemnity liability imposed by the Contract Documents and shall survive the completion of the Work or the termination of the Subcontract.

Subcontractor's assumption of liability is independent from, and not limited in any manner by, the Subcontractor's insurance coverage obtained pursuant to this Subcontract, Prime Contract, or otherwise.

Exhibit D -- General Project Provisions

1.0 Project Team

All project correspondence, including invoices, are directed to the General Contractor's Project Manager

Mobile: (

Office: (520) 748-9371 ext. 100

Fax:

All contract documents are directed to the Contract Administrator:

Kim Pettit

D Square Construction LLC

530 E 27th ST

Tucson, Arizona 85713

Phone (520) 748-9371 Email: kimp@dsquarellc.com

Fax

2.0 Workmanship and Quality Control

1. All work shall be performed and installed at a level of quality as described in this Agreement, per industry standards, or per the manufacturer's recommendations, whichever is more stringent; and performed in compliance with all applicable city, state or federal codes, standards, regulations and laws affecting the Work and the safety of its workers. All materials and equipment furnished by Subcontractor for incorporation into the Project shall be new and of the best description and quality of their respective kinds, unless otherwise specified and ordered by Contractor in writing. Subcontractor warrants that the materials and equipment furnished, and the Work performed will strictly comply with the Contract and this Agreement and shall be satisfactory to Owner and Contractor.
2. The Subcontractor agrees to observe all OSHA, and applicable Contracting Agency Safety Regulations upon entering jobsite and provide all OSHA and COE required safety equipment and devices to insure compliance with all OSHA and COE Safety Regulations. The Subcontractor is to submit to Project Manager, prior to beginning work on jobsite, all Safety Programs and SDS for proper OSHA and/or COE compliance per COE EM 385-1-1 Safety & Health Requirements Manual. The Subcontractor is to provide Contractor with a current Certificate of Insurance prior to commencement of work.
3. This subcontractor shall abide by all EEO minority hiring requirements of 41 CFR 60-1.4(a), 60-250.5(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans, prohibit discrimination against qualified individuals with disabilities, and prohibit discrimination against individuals based on their race, color, religion, sex, sexual orientation, gender identity, national origin, or for inquiring about, discussing, or disclosing information about compensation. Moreover, these regulations require that covered prime subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, disability, or veteran status. "During the performance of this contract, the subcontractor agrees as follows:
 - a. The subcontractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. The subcontractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The subcontractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
 - b. The subcontractor will, in all solicitations or advertisements for employees placed by or on behalf of the subcontractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.
 - c. The subcontractor will not discriminate against any employee or applicant for employment because of physical or mental handicap in regard to any position for which the employee or applicant is qualified. The subcontractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to any physical or mental handicap. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer; recruitment or advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The subcontractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
 - d. The subcontractor will, in all solicitations or advertisements for employees placed by or on behalf of the subcontractor, state that all qualified applicants will receive consideration for employment without regard to physical or mental handicap.
 - e. As applicable, the subcontractor will send to each labor union or representative of workers with which they have a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the subcontractor's commitments under Executive Order 11246 & 13076, as amended, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
 - f. The subcontractor will comply with all provisions of Executive Order 11246 & 13076, as amended, and the rules and relevant orders of the Secretary of Labor created thereby.
 - g. The subcontractor will furnish all information and reports required by Executive Order 11246 & 13076, as amended, and by the rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to books, records and accounts by SBA (See SBA Form 793) and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders. (The information

- collection requirements contained in Executive Order 11246 & 13076, as amended, are approved under OMB No. 1215-0072.)
- h. In the event of the subcontractor's noncompliance with the nondiscrimination clause or with any of the said rules, regulations or orders, this contract may be cancelled, terminated or suspended in whole or in part and the subcontractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 & 13076, as amended, and such other sanctions may be imposed and remedies invoked as provided in the said Executive Order or by rule, regulation or order of the Secretary of Labor, or as otherwise provided by law.
 - i. Subcontractor shall comply with Executive Order 13706 (JAN 2022), establishing Paid Sick Leave for all Federal contractors, subcontractors, and their employees.
 - j. Subcontractor shall comply with 52.204-21, Basic Safeguarding of Covered Contractor Information Systems (NOV 2021), other than subcontracts for commercially available off-the-shelf items.
 - k. Subcontractor shall comply with 52.222-40, Notification of Employee Rights Under the National Labor Relations Act (DEC 2010) (E.O.13496)
 - l. Subcontractor shall comply with 52.222-55, Minimum Wages for Contractor Workers under Executive Order 14026 (JAN 2022)
 4. If required by the Prime Contract and/or Task Order, subcontracts shall comply with 252.204-7020 NIST SP 800-171 DOD ASSESSMENT REQUIREMENTS (MAR 2022). If a subcontractor does not have summary level scores of a current NIST SP 800-171 DoD Assessment (i.e., not more than 3 years old unless a lesser time is specified in the solicitation) posted in SPRS, the subcontractor may:
 - a. conduct and submit a Basic Assessment, in accordance with the NIST SP 800-171 DoD Assessment Methodology, to webpstmh@navy.mil for posting to SPRS along with the information required by paragraph (d) of this clause.
 - b. Applicability. This clause applies to covered contractor information systems that are required to comply with the National Institute of Standards and Technology (NIST) Special Publication (SP) 800-171, in accordance with Defense Federal Acquisition Regulation System (DFARS) clause at 252.204-7012, Safeguarding Covered Defense Information and Cyber Incident Reporting, of this contract. Requirements. The Contractor shall provide access to its facilities, systems, and personnel necessary for the Government to conduct a Medium or High NIST SP 800-171 DoD Assessment, as described in NIST SP 800-171 DoD Assessment Methodology at <https://www.acq.osd.mil/asda/dpc/cp/cyber/safeguarding.html#nistSP800171>, if necessary.
 - c. Procedures. Summary level scores for all assessments will be posted in the Supplier Performance Risk System (SPRS) (<https://www.sprs.csd.disa.mil/>) to provide DoD Components visibility into the summary level scores of strategic assessments.
 5. Subcontractor shall work in a timely manner to complete all phases of the Work. Any discrepancies in plans or specifications as to their meaning or clarification of material shall be directed to the Contractor in written form for review and resolution. Subcontractor shall submit any request for written clarification in accordance with the Contract and in a timely manner so as to not delay the Progress Schedule. Subcontractor shall be responsible for all delays associated with their failure to submit timely requests of any meaning or clarification in accordance with Contractor's right to withhold payment.
 6. Subcontractor shall be responsible for and shall bear any loss of or damage to the Work and all materials, supplies and equipment until final approval and acceptance thereof by Owner, except where such loss or damage results from the direct and sole negligence of Contractor or its agents or employees. Subcontractor shall be responsible to Contractor for any damage to the Work or property of Owner, Contractor or others caused by any act or omission of Subcontractor or anyone acting for or on its behalf.
 7. Subcontractor shall provide adequate number of qualified and skilled tradesperson to perform the technical phase of its Work, with a designated supervisor trained in all safety and first aid procedures to specifically respond to those needs of the Subcontractor's work force. The designated competent supervisor shall also be present at all site meetings when related activities are ongoing and is capable of authorizing actions and making decisions regarding Subcontractor's Work. The designated qualified individual shall be the Subcontractor's single point of contact that has the authority to act on the behalf of Subcontractor and shall be on site or available at all times when work is taking place.
 8. Subcontractor shall designate a qualified quality control representative who shall be the Subcontractor's single point of contact for all quality control related issues and who shall fully participate in the contractor quality control processes outlined in the Construction Documents to include attending all preparatory meetings, initial inspections and follow up inspection, preliminary inspections, start up, testing and commissioning.
 9. Subcontractor shall maintain all Work in a neat, clean and orderly manner on a daily basis. At the end of each workday, Subcontractor shall be responsible to leave their own Work area clean and free of debris. Subcontractor

shall be responsible to remove their construction related debris to the GC furnished trash dumpster.

Subcontractor is responsible for providing their own means to remove their debris to the carts to haul debris to GC furnished trash dumpster. Within two working days of a written notice by Contractor of an area that requires cleanup (for which the Subcontractor is responsible in the Contractor's reasonable opinion), Subcontractor shall cause the area to be cleaned. If Subcontractor fails to respond to such notice, then Contractor may cause the area to be cleaned and be reimbursed by the Subcontractor for any costs associated therewith plus a reasonable amount for overhead and profit.

10. As applicable, subcontractor shall not use any class of workmen, materials, or methods, which may cause strikes or labor disturbances and Subcontractor shall comply with all federal, state and local labor laws and regulations applicable to the Work hereunder as are now or may hereafter be in force and effect. Subcontractor shall, to the extent permissible under federal and any applicable state laws, comply with and be bound by such terms and conditions of the labor agreements to which Contractor is signatory as are applicable to the Work to be done hereunder, including, without limitation, any arbitrary provision (or other dispute resolution provisions contained therein) or the terms and provisions providing for the assignment of Work or the settlement of jurisdictional disputes or the payment of contributions to union trust funds or the posting of all surety bonds required by such labor agreements. Subcontractor shall be required to man its Work so as to maintain the Work Progress Schedule regardless of any labor activity including strikes, picketing or other labor disturbances.
11. Immediately upon the request of Contractor, Subcontractor shall remove from the Project any employee whom Contractor determines to be incompetent, undesirable or presents a threat of risk or harm to others. Subcontractor agrees that if any portion of the Work covered hereby is further subcontracted, such further Subcontractor shall be bound by and observe the provisions of this article to the same extent as herein required of Subcontractor, and that a copy of this article imposing such obligations upon the further Subcontractor shall be included in any further Subcontract.
12. If Subcontractor fails to furnish or supply sufficient skilled workmen, suitable materials, supplies, or adequate equipment to meet Contractor schedule, Contractor shall have the right, in addition and without prejudice to the exercise by Contractor of any or all of the remedies afforded to Contractor or any other remedies allowed by law or in equity for the same default, to expedite deliveries of and to procure and furnish such labor, materials, supplies or equipment and charge the entire cost of expediting, procuring or furnishing the same, including Contractor's overhead, profit and all legal and court fees and expenses incurred in connection therewith, to Subcontractor and deduct such amounts from any amount payable to Subcontractor, and Subcontractor agrees to immediately pay Contractor all such costs and expenses. In addition, if Subcontractor's lack of progress causes Contractor to incur liquidated damages or additional expenses relative to general conditions, then Subcontractor is fully responsible for reimbursement of both liquidated damages and general condition expenses.
13. The Subcontractor and its sub tier contractors as applicable agree to comply with the applicable Davis Bacon Wage rate and any applicable executive orders that are included with the prime contract in accordance with Davis Bacon Compliance "U.S. Code Title 40 Subchapter 4":
 - a) The contractor or subcontractor shall pay all mechanics and laborers employed directly on the site of the work, unconditionally and at least once a week, and without subsequent deduction or rebate on any account, the full amounts accrued at time of payment, computed at wage rates not less than those stated in the advertised specifications, regardless of any contractual relationship which may be alleged to exist between the contractor or subcontractor and the laborers and mechanics;
 - b) The contractor will post the scale of wages to be paid in a prominent and easily accessible place at the site of the work; and there may be withheld from the contractor so much of accrued payments as the contracting officer considers necessary to pay to laborers and mechanics employed by the contractor or any subcontractor on the work the difference between the rates of wages required by the contract to be paid laborers and mechanics on the work and the rates of wages received by the laborers and mechanics and not refunded to the contractor or subcontractors or their agents.
 - c) Discharge of Obligation. — The obligation of a contractor or subcontractor to make payment in accordance with the prevailing wage determinations of the Secretary of Labor, under this subchapter and other laws incorporating this subchapter by reference, may be discharged by making payments in cash, by making contributions described in section of this title, by assuming an enforceable commitment to bear the costs of a plan or program referred to in section of this title, or by any combination of payment, contribution, and assumption, where the aggregate of the payments, contributions, and costs is not less than the basic hourly rate of pay plus the amount referred to in section 3141(2)(B) of this title.
 - d) Overtime Pay. — In determining the overtime pay to which a laborer or mechanic is entitled under any federal law, the regular or basic hourly rate of pay (or other alternative rate on which premium rate of overtime compensation is computed) of the laborer or mechanic is deemed to be the rate computed under section 3141 (2)(A) of this title, except that where the amount of payments, contributions, or costs incurred with

respect to the laborer or mechanic exceeds the applicable prevailing wage, the regular or basic hourly rate of pay (or other alternative rate) is the amount of payments, contributions, or costs actually incurred with respect to the laborer or mechanic minus the greater of the amount of contributions or costs of the types described in section 3141(2)(B) of this title actually incurred with respect to the laborer or mechanic or the amount determined under section 3141 of this title but not actually paid.

- e) The subcontractor shall submit weekly for any week in which any contract work is performed a copy of all certified payrolls" 29CFR5.5(a)(3\$(is)(B) and "each weekly payroll submitted must be accompanied by a statement of compliance 29CFR5.5(a)(3\$(is)(B). If no work is performed during the work week, then an acceptable Department of Labor Non-Performance report will need to be submitted. All weekly certified Payroll reports and/or Non-Performance reports must be submitted within seven calendar days of the end of the work week.
 - f) Subcontractors must produce and maintain "properly executed" payroll reports for all labor performed on project and are required to furnish original payroll reports upon request. Record keeping of original payroll reports should be kept by your Company (3) years after project completion.
14. Subcontractor shall have the obligation of providing a safe place for Subcontractor's employees to work as required by OSHA. Subcontractor shall take all necessary steps to protect Subcontractor's employees from risk of harm or injury. Subcontractor shall continuously inspect its Work and materials to discover and determine any conditions, which pose a risk of bodily harm to its employees or others or a risk of damage to property, including the property of Owner and Contractor. Subcontractor shall promptly take all precautions, which are necessary and adequate to protect against and/or correct any such conditions upon their discovery.

3.0 Payment Articles

- a. Subcontractor shall, **prior to Subcontractor's first application for payment**, submit to Contractor a detailed Schedule of Values allocated to the various portions of the Work, prepared in such form and supported by such data as Contractor may require. The Schedule of Values shall be subject to the approval of Contractor and Owner and shall be in such form as Contractor may require. Subject to subsection hereof, the Schedule of Values shall be used for the evaluation of Subcontractor's application for payment. The Schedule of Values shall break down each phase of work into labor, materials, and equipment as required by Contractor. Subcontractor shall include cost line item for "Close Out" with scheduled value equal to 5% of the total subcontract amount. The line item for Close Out includes but is not limited to As Built Drawings, Test Reports, Certifications, Warranty Letter, and any other document required by the contract.
- b. Monthly payment applications are to be submitted by the Subcontractor online using the GCPay website at www.gcpay.com. When the payment application is submitted an email notification will automatically be sent to the Contractor. The Contractor will then review, approve, or reject payment applications from the GCPay website and send an email notification to the Subcontractor of the revised status. Contractor will provide Subcontractor with training for use of the GCPay website. All fees associated with this service are payable to GCPay, by this subcontractor.
- c. **Subcontractor shall submit, via the GCPay website, to Contractor prior to the 25TH day of the billing month, projected through the end of the month, in form and content acceptable to Contractor, an itemized application for payment supported by such data substantiating Subcontractor's right to payment as Owner and Contractor may require. If Subcontractor fails to timely submit its application for payment in form and content satisfactory to Owner and Contractor, a progress payment will not be included in Contractor's application for payment for that pay period. Subcontractors payments are not approved until the percentage completed is approved by the Owner/Agency representative.**
- d. **PAYMENT USE RESTRICTION: No payment received by Subcontractor pursuant to this Agreement shall be used to satisfy or secure any other indebtedness owed by Subcontractor until and unless all payment obligations of the Subcontractor incurred in the performance of the Subcontractor's Work for this project has been fully satisfied.**
- e. Subcontractor shall submit along with the application for payment the following: Conditional Waiver and Release upon Progress Payment for the current month's request; Unconditional Waiver and Release upon Progress Payment for the previous month's request; In addition Subcontractor shall provide any Sub-tier Suppliers/Subcontractors Unconditional Waiver and Release upon Progress Payment or Unconditional Final Waiver for the previous month's request and Conditional Waiver and Release upon Progress Payment for sub-tiers that have not provided a Final Unconditional Waiver or started supplying materials or services during the current application for payment period. If Subcontractor's pay request includes Stored Materials and the Owner has agreed to pay for Stored Materials, then the supplier invoice for stored materials will need to be given to the Project Manager on or before the pay request is submitted. If the supplier invoices are not submitted by the due date, then the Stored Materials will not be included in the current application for payment. Stored Materials must

be delivered on or before the due date of the application for payment and may not be projected through the end of the billing period. The Stored Materials must be secured in a climate-controlled storage container provided and paid for by the Subcontractor. If these materials are lost, stolen, damaged or otherwise missing or unusable then it is the responsibility of the Subcontractor to replace those materials at no cost to the Owner or Contractor.

- f. After the Contractor receives payment from the Owner covering Work performed by Subcontractor and all required documentation has been submitted and approved, Contractor will release to Subcontractor the amount which the Owner or Contractor agrees Subcontractor has earned during the period covered by the application for payment, less such amounts as Contractor shall determine as being properly withheld as allowed in this Agreement. The Contractor reserves the right to retain from each such payment the same percentage as is provided in the Prime Contract, and/or Task Order Award or that amount retained by the Owner from Contractor's payment application for Subcontractor's Work. The estimates of Owner as to the amount of Work done by Subcontractor (or Contractor if Owner makes no separate estimate of such Work) shall be binding upon Contractor and Subcontractor and shall conclusively establish the amount of Work performed by Subcontractor. As a condition precedent to receiving partial payments from Contractor for Work performed, Subcontractor shall execute and deliver to Contractor, with its application for payment, a full and complete release of all claims and causes of action Subcontractor may have against Contractor and Owner through the date of the execution of said release, save and except those claims specifically listed on said release and described in a manner sufficient for Contractor to identify such claim or claims with certainty. The release shall conform to the requirements of statute, if any.
- g. Upon complete and satisfactory performance of this Agreement by Subcontractor and final approval and acceptance of the Work by Owner, Architect and Contractor, Contractor will make final payment to Subcontractor of the balance due under this Agreement within ten (10) days after receipt by Contractor of final payment from Owner for such Work provided Subcontractor, upon the request of Contractor, has provided to Contractor (1) an affidavit that all payrolls, bills for material and equipment and other indebtedness connected with the Work for which the Owner or his property might in any way be responsible, have been paid or otherwise satisfied; (2) consent of surety, if any, to final payment; (3) other data establishing payment or satisfaction of all such obligations to the extent and in such form as may be required by Owner; (4) in form satisfactory to Contractor, a general release in favor of Contractor and the Owner; (5) waivers and/or release of liens, notices to withhold or other claims against the land, improvements, or funds involved in the Project in form satisfactory to Contractor or required by statute, as appropriate and (6) all other documents required by the Subcontract Documents as a condition to final payment. If any sub-tiered subcontractor, supplier or other person refuses to furnish a release or waiver required by the Owner or Contractor, the Subcontractor shall, upon the request of Contractor, furnish a bond satisfactory to the Owner and Contractor to indemnify them against any such claim or lien. Should the existence of any unsatisfied or un-discharged claim, obligation or lien arising in conjunction with Subcontractor's Work become known after final payment is received from Contractor, Subcontractor shall promptly pay on demand all actual amounts Contractor and/or Owner pay in bonding around, satisfying, discharging or defending any such claim, obligation or lien, including all costs and attorney's fees incurred in connection therewith.
- h. Contractor may withhold from Subcontractor payments otherwise due, in whole or in part, or may nullify, in whole or in part, any approval previously made by Contractor on account of defective materials or defective Work not remedied; claims filed or reasonable evidence indicating probability of filing of claims (including, without limitation, a claim of lien or stop notice); failure of Subcontractor to timely make the required payments to its sub-tiered subcontractors or for material, supplies or labor; a reasonable doubt that the Agreement can be completed for the balance then unpaid; a reasonable belief that the Work will not be completed in accordance with the Work Progress Schedule (as defined hereof), incomplete or non-conforming application for payment (if required), Subcontractor's failure to carry out the Work in accordance with the Subcontract Documents, or any other reason set forth in the Subcontract Documents pertaining to the Owner's withholding of payments to Contractor. If the foregoing causes are promptly removed or corrected to Contractor's satisfaction, the withheld payments shall be made. If such causes are not promptly removed or corrected, Contractor may rectify the same at Subcontractor's expense including, without limitation, attorney fees and costs incurred and the cost of procuring a release bond necessary to remove the effect of a claim of lien or stop notice. No certificates issued or payment made to Subcontractor shall be considered an acceptance of any Work, whether or not defective or improper. Should any claim against Contractor arise after final payment is made, all provisions hereof shall apply and be binding on Contractor and Subcontractor.
- i. Contractor's payment to Subcontractor shall be conditioned upon Contractor's receipt of payment from Owner for Work performed by Subcontractor. Contractor shall make payments to Subcontractor after receipt by Contractor of payment from Owner for the Work of Subcontractor for which payment has been made and all required documentation has been submitted and approved. If, however, Owner has not timely paid Contractor all or any portion of amounts due Contractor for Work performed by Subcontractor, and Contractor has initiated efforts to

obtain payment from Owner (including, but not limited to, litigation, arbitration or other form of alternate dispute resolution), then Contractor's obligation to pay Subcontractor shall be deferred until receipt of payment by Contractor from Owner.

- j. Subcontractor warrants that title to all Work, materials and equipment covered by an application for payment will pass to the Owner upon the first to occur of either incorporation in the construction or upon the receipt of payment therefore by Subcontractor, free and clear of all liens, claims, security interests or encumbrances and that no Work, materials or equipment covered by an application for payment will have been acquired by the Subcontractor, or by any other person performing the Work at the site or furnishing materials and equipment for the project, subject to an agreement under which an interest therein or an encumbrance thereon is retained by the seller or otherwise imposed by the Subcontractor or such other person.
- k. Payments may be made in the form of checks payable jointly to Subcontractor and any sub-tiered subcontractor, supplier or person providing labor, material or services for Subcontractor or any person who has a right of action (or claims to have a right of action) under law against Contractor or its surety. If Subcontractor does not provide an Unconditional Progress Waiver or Final Unconditional Waiver for any sub-tier prior to the payment date from the Contractor to the Subcontractor then Contractor will pay the amount of such labor, services and materials via joint check to the sub-tier subcontractor, supplier or person performing the labor, material or service and deduct the amount paid from payments due, or to become due, the Subcontractor. If Subcontractor shall fail to timely pay for any materials, labor and/or services furnished in connection to the performance of the work when due, Contractor may pay the amount of such labor, service and/or material and deduct the amount thereof from payment due, due or to become due to the Subcontractor. Subcontractor shall have no recourse against Contractor for payments made by Contractor hereunder.

4.0 Work and Jobsite Conditions

- a Subcontractor warrants and represents that it has inspected the site of its Work and the conditions affecting the Work including, without limitation, those bearing on transportation, disposal, handling and storage of materials, availability of labor, utilities, roads and uncertainties of weather, river stages, tides or other physical conditions of the site and the type of equipment and facilities needed preliminary to and during the performance of the Work. Subcontractor has satisfied itself as to the surface and subsurface conditions of the site from an inspection including all exploratory work done by Owner and/or Contractor, as well as from information presented by the Subcontract Documents. Any failure by Subcontractor to acquaint itself with the available information will not relieve it from responsibility for any conclusions or interpretations made by Subcontractor on the basis of any information made available by Owner and/or Contractor. Subcontractor shall be entitled to an equitable proportionate share of any compensation Contractor receives from Owner for changed or differing site conditions which impact Subcontractor's performance of the Work but only to the extent received by Contractor.
- b Subcontractor's employees shall not remove, relocate, or install any temporary fencing or barriers relative to the Project site without prior approval from Contractor. Subcontractor shall make aware to their employees on this project, the sensitive nature of this site and care given not to disrupt or enter adjacent areas of this project. Parking, entering and exiting will occur only within the designated area of this Project as directed by Contractor.
- c Subcontractor shall set up and coordinate all equipment and material staging areas and routes of access with Project Superintendent in order to minimize damage to adjacent existing site conditions and to ensure other trades' accessibility. Subcontractor shall coordinate delivery of any material with their scheduled installation or make secure storage arrangements with Project Superintendent. Subcontractor shall make all necessary provisions for the offloading and secure storing of any materials brought to the site and coordinate same with Project Superintendent.
- d This project requires that all workers and visitors wear Hard Hat, Safety Vest and Safety Glasses at all times. Subcontractor to provide all OSHA required safety equipment, signage and barricades required to complete their Scope of Work. Subcontractor must comply with all OSHA, COE and Contractor safety regulations. Subcontractor must provide and maintain, at a minimum, one (1) copy of its Safety and Accident Prevention Plan, to include Safety Data Sheets (SDS) to the site office and on-site at all times. The Subcontractor shall institute and maintain a safety program for the duration of the job, which will conform to the requirements of OSHA Regulations (Standard – 29 CFR), the National Construction Safety Act, the COE EM 385-1-1 Safety & Health Requirements Manual and to the applicable State safety regulations. Any and all accidents and/or near misses, inclusive of site-administered first aid, will be immediately reported to the Project Superintendent and subsequently documented. Subcontractor safety tool box meetings must be held weekly and documented. Supervisors to attend Contractor's weekly subcontractors/safety meetings.
- e This subcontract may include multiple move-ins as required to complete this Scope of Work, and some critical activities will have to be completed during hours other than normal working hours so as to accommodate the facilities need to perform its primary functions.

- f This project is in an operational facility and all workers must meet the facility access requirements. A listing of all employees that will be working onsite should be submitted as soon as possible in order to not delay your work. All subcontractors will have to obtain and wear the facilities badges as required by contract documents.
- g Subcontractor shall perform all field layout required to complete their Scope of Work.
- h As required by specifications, high noise and vibration activities may be required to be completed during hours other than the normal work hours.
- i Subcontractor shall obtain all field measurements required to complete their Scope of Work.
- j Subcontractor shall provide all hoisting and/or means of material conveyance necessary to complete their Scope of Work.
- k Subcontractor shall provide all scaffolding, lifts, and other working platforms required to complete their Scope of Work.
- l Subcontractor shall provide protect adjacent surfaces from damage resulting from Subcontractor's work.
- m Subcontractor shall provide stockpile materials only in places designated by Contractor. Subcontractor acknowledges and understands that laydown and temporary storage space is limited, must be shared with other subcontractors, and that the allocation of laydown and temporary storage areas shall be determined by Contractor. It is understood that laydown and temporary storage areas may change frequently at the sole discretion of Contractor during the duration of the work.
- n General Contractor will provide temporary electrical power (distributed throughout the building) for small tools. Subcontractor shall provide all other temporary power required for the performance of the work, in particular, all power for welding or other equipment that requires more than 110 volt power.
- o Provide all specific task lighting required to perform the work. Temporary general lighting will be provided by the Contractor, but only to the extent necessary to comply with OSHA requirements.
- p Subcontractor shall take measures needed during the performance of the work to provide for the safety and reasonable accommodation of the general public and the Owner.
- q Provide all warranties required by the Contract Documents. All warranties shall not commence until Substantial Completion of the Project.
- r Provide Operation and Maintenance Manuals and instruct the Owner's personnel in the proper care and maintenance of the equipment.
- s Subcontractor shall take whatever steps, procedures, or means necessary to comply with applicable laws and ordinances related to control of dust and noise.
- t Subcontractor shall provide a daily report to the Project Superintendent. At a minimum this report is to contain the names of all personnel on site, their Davis Bacon Wage Rate Classification, the number of hours worked and a description of the work that was performed that day, materials delivered to the jobsite, materials incorporated into the project, equipment used on the jobsite, and a statement as to if any injuries occurred on the jobsite.
- u As required by the Prime Contract, all workers shall be OSHA 10 certified. The Subcontractor shall designate a competent safety person who shall have the authority to act on the Subcontractor's behalf for all matters related to safety.
- v Prior to starting of any onsite activities, the Subcontractor shall submit for approval company safety and accident prevention plans and all SDS sheets. The Subcontractor shall always maintain onsite an updated accident prevention plan and SDS book. The Subcontractor shall perform an Activity Hazard Analysis for each definable feature of work and conduct a safety briefing as part of the preparatory meeting. Subcontractor's foreman & competent person shall participate and attend Contractor's weekly tail gate safety meetings and weekly foreman's meeting/coordination meeting.
- w Lock-out/tag-out is mandatory. No one shall work on any service live without written authorization from facility safety manager. This is to include, but is not limited to, electrical, plumbing, HVAC, fire suppression, fire alarm, and medical gas systems.
- x Hot work permits are required for all flame or spark generating work. Subcontractor shall coordinate with Contractor and the facility Safety Department as required by Contract Documents sufficiently in advance of work so as to avoid delays. Subcontractor shall provide their own fire extinguishers and smoke eaters as required to ensure a safe work area. Subcontractor shall monitor their work space after the conclusion of hot work to ensure no embers or sparks cause a fire.
- y Utility interruptions, power shutdowns and tie-ins may be required to be performed after normal working hours to accommodate facility needs and operations. All of these activities must be planned and scheduled 2 weeks in advance of requested utility interruption, power shutdown or tie-in. A written plan for all such activities must be included with request.

5.0 Submittals

- a. Subcontractor is to prepare and provide 1ea editable copy of all submittals, shop drawings, design, engineering data, instructions, schedules, statements, reports, certifications, samples, records, operations and maintenance manuals, test reports and warranties for Contractor review and Owner approval to the Project Manager and any additional copies in the quantity and format indicated in the Prime Contract. If Subcontractor requires more than one (1) copy returned with approval action, Subcontractor shall submit additional copies beyond the original amount requested. Samples are to be submitted in duplicate. Failure by Subcontractor to make timely submittals of required data or to maintain as-built drawings may delay the progress of the Work and delay processing and payment of Subcontractor's pay request. If required by contract subcontractor shall provide and/or participate in the construction of any mock-ups.
- b. Operation and Maintenance Manuals are due 60 days after submittal approval or as indicted on contract documents.
- c. Subcontractor is required to keep as-builts up to date on daily basis. As-builts must record any deviation from the original contract drawings and should note routing, depths, distances (from walls, corners, etc.). A master, located in the contractor trailer, must be updated prior to each monthly application for payment.
- d. Subcontractor shall warrant and guarantee its Work for a period of not less than one (1) year from the date of acceptance of the Project by the Owner, unless the Agreement documents provide for a longer period, to be free from defects in materials and workmanship. Subcontractor shall execute and provide to Contractor two (2) original written "Warranty" letters as provided in the Agreement documents prior to receiving final payment.
- e. Prior to completion and as requested by Contractor, Subcontractor shall provide all as-builts, owner's manuals, labor and material warranties, and any other such close-out documents required by the contractor or contract documents. Failure by Subcontractor to submit to Contractor all close-out documents may delay any and all remaining payments due subcontractor including final payment.

6.0 Schedule

- a. Subcontractor shall initiate the Work as directed by Contractor and shall thereafter proceed and complete performance of the Work promptly, diligently and in such a manner and sequence as to assure the timely completion of other Work dependent thereon and to permit completion of the Work within the time provided by the Contract and within the mutually agreed upon Progress Schedule formulated by Contractor for the Project. Any time specified for completion of the Contract, or time requirement for Subcontractor's Work under the Progress Schedule, is a material provision of the Agreement; time being of the essence of the Agreement.
- b. Subcontractor shall coordinate its Work with that of Contractor and other subcontractors. Subcontractor shall at all times furnish and have available such sufficient and satisfactory equipment, materials, supplies and work force to perform the Work to meet the Progress Schedule. In the event Subcontractor fails to perform the Work in accordance with the Progress Schedule or, in order to avoid falling behind the Progress Schedule, to the extent such failure is not the result of a delay for which Subcontractor is entitled to an extension of time. All reasonable expenses and damages incurred by the Contractor resulting from the failure of the Subcontractor to meet the Progress Schedule or abide by the Contractor's instructions with regard to said schedule, will be paid by Subcontractor to Contractor.
- c. If Subcontractor shall be delayed in the performance of the Work by any act or neglect of the Owner or Architect, or by agents or representatives of either, or by changes ordered in the Work, or by fire, unavoidable casualties, national emergency, or by any cause other than the intentional interference of Contractor or for reasons beyond Subcontractor's control and without Subcontractor's fault or negligence, Subcontractor shall be entitled, as Subcontractor's exclusive remedy, to an extension of time reasonably necessary to compensate for the time lost due to the delay, but only if Subcontractor shall have notified Contractor in writing of the existence of the delay within three business days of the occurrence of the event giving rise to the delay, and, only to the extent that an equivalent extension of time is granted to Contractor by Owner. Subcontractor shall have the burden of proving the impact of the delay and justifying the time extension requested. If Subcontractor's performance of its Work is unaffected by a delay incurred by Contractor or another Subcontractor and for which relief is granted to Contractor or another subcontractor, Subcontractor shall not be entitled to claim an extension of time for such delay in order to perform its Work.
- d. Time is of the essence in the performance by Subcontractor of its obligation hereunder. In the event any acts or omissions by or of Subcontractor delay Contractor in the performance of the Contract and result in Contractor being subjected to any penalties or liabilities, Subcontractor agrees to indemnify and save and hold Contractor harmless against any liability for and to promptly pay to Contractor any penalties or liabilities so incurred and such other or additional damages, including Contractor's overhead, any general conditions, profit and attorneys' fees, as Contractor may sustain by reason of Subcontractor's delay or failure to perform. Performance under this Subcontract shall be subject to such extensions of time as are deemed justifiable for delays or failures to perform due to strikes, lockouts, acts of God or war, to the extent allowed by Owner in accordance with the Contract.

7.0 Changes in Work

- a. Without invalidating this Agreement and without notice to any surety, Contractor may, at any time or from time to time, order additions, deletions or revisions in the Work to be performed by Subcontractor. In the event Owner shall order changes in the Work or order additional Work, adjustment in compensation due under this Subcontract and/or extensions of time in which Subcontractor will be required to perform its Work, will be made only and to the extent a commensurate adjustment in compensation or time is made by Owner to Contractor for the account of Subcontractor. The adjustment in compensation to Subcontractor shall, in such circumstances, be limited in the same manner and to the appropriate proportionate extent as Contractor's compensation under the Contract is adjusted by Owner for the account of Subcontractor.
- b. In the event any condition beyond the control of either party hereto shall arise and, by reason thereof, claims shall be made by the Subcontractor for adjustment in compensation due under this Agreement or an extension of time in which to perform its Work, then in any such event, compensation and/or the time in which Subcontractor is required to perform its Work, shall be considered for adjustment only if Subcontractor has given written notice of its claim to Contractor sufficiently in advance of the time Contractor is required to submit such a claim to the Owner (but in no event greater than three business days from the occurrence of the event giving rise to the claim) so as to allow Contractor adequate time to prepare and submit to the Owner the claim on behalf of Subcontractor. In the event Contractor is allowed an adjustment by Owner by reason of such event, the adjustment in the compensation to Subcontractor shall be limited in the same manner and to the appropriate proportionate extent as Contractor's compensation under the Contract as adjusted by Owner for the account of Subcontractor. Any extension of time in which Subcontractor shall be required to perform its Work granted by Owner shall be commensurate with the time extension granted to Contractor by Owner for the Subcontractor's Work.
- c. In addition to changes made or additional Work ordered by Owner under the Contract, Contractor reserves the right to make any change, including additions or omissions, in the Work to be performed by Subcontractor under this Agreement. If any such change by Contractor's written order materially affects the cost or time of performance of the Work and notice of a claim for additional compensation therefore is given to Contractor by Subcontractor within six (6) days of receipt by Subcontractor of Contractor's written change order, an equitable adjustment therefore shall be agreed upon in writing by the parties hereto. No claim by Subcontractor for additional compensation, either on account of extra labor or materials furnished, changes or otherwise shall be made or paid unless the same are furnished under a written order signed by Contractor prior to the furnishing of same and unless within six (6) days after receipt of such written order Subcontractor has given written notice of its claim for additional compensation.
- d. Subcontractor shall promptly submit to Contractor a detailed cost estimate of the cost or value of such change. Subcontractor's change order request must include the following: Contractor's Project Number; with an itemized breakdown that will include material, quantities, unit prices, labor costs (separated into trades with labor burden broken out separately), construction equipment, etc. (Labor costs are to be identified with specific material placed or operation performed.) The contractor must obtain and furnish with a proposal an itemized breakdown as described above, signed by each sub tier contractor, supplier and/or vendor participating in the change regardless of tier. ; schedule impact (understood to be none if not specifically addressed in proposal); all impacts related to the scope of Work; time and material documentation where applicable; compliance with Owner change order pricing requirements and restrictions; complete breakdown of labor will include hourly rate of pay, burden and per diem, if applicable.
- e. If Project Manager and Subcontractor agree to a "time and materials" valuation to keep track of the actual costs of changed Work as the Work progresses, the cost of Work is to be documented by T & M tickets that are to be signed on the day the Work is performed by Contractor Project Superintendent and the Project Superintendent is to keep one copy of the signed slip. Information on the daily ticket is to include the following: Contractor's Project Number; date Work was performed; Subcontractor Company Name; Complete description of Work including type, location, extent, quantities, etc; number of men involved, broken down by employee name, trade, classification (apprentice, journeyman, foreman) and the number of hours worked by each; detailed list of materials used; equipment used; description of Work left to complete and/or notification of Work completion. Daily T & M tickets that do not have the proper Contractor information, Project Superintendent signature and other required information will be returned for proper documentation. Quotations for time and material Work are to be submitted within five (5) working days of the completion of the Work. Copies of the signed daily tickets are to be submitted as backup. Change orders will not be processed unless signed time and material slips are submitted daily. Subcontractor is to notify Contractor Project Superintendent prior to starting or resuming T & M Work. Failure to do so may result in a dispute over time and material amounts. Even though the Contractor Project Superintendent is signing daily tickets, etc., he does not have the authority to approve a "time and materials" arrangement, only the Contractor Project Manager can approve this.

- f. Subcontractor shall not be entitled to any extensions of time for performance of the Work, or extra, changed or additional Work, save and except only to the same extent that Contractor shall be entitled to and shall be allowed an extension of time on account thereof by Owner.
- g. Contractor and Subcontractor agree that any extra, changed or additional Work performed by Subcontractor shall be performed pursuant to and in accordance with all of the terms and conditions of this Subcontract.
- h. Subject to the limitations stated in this article, if, pursuant to this article, there is an addition, deletion, revision or other modification to the Work and Contractor and Subcontractor are unable to agree on an adjustment to the Subcontract Price or method for revising the Contract Price (including, but not limited to, unit price or force account rates) and/or the time impact; or if a dispute arises between Contractor and Subcontractor as to whether Work performed by Subcontractor is included as part of its scope of Work or constitutes extra or additional Work, then Subcontractor shall timely perform such Work so as not to delay the Progress Schedule and the dispute shall be resolved pursuant to this Subcontract.
- i. If Owner for any reason (including, but not limited to, Owner's convenience) terminates or suspends or substantially changes the scope of the Work, or any portion of it under the Contract, Contractor may order Subcontractor to terminate or suspend its performance of the Work, or any portion of it and Contractor shall not be liable in any way for any such termination or suspension provided, however, that in the event that Contractor is compensated by Owner by reason of such termination or suspension, then in such event Contractor shall pay to Subcontractor an equitable portion of said sum based upon the Work performed.
- j. The Contractor, at any time before completion and final acceptance of the Work, may order any changes or alterations in the Work required to be performed by the Subcontractor, but no such changes or alteration shall be made unless the same is ordered by the Contractor in writing before the commencement thereof. The Subcontractor shall disclose ONLY to the Contractor any price or quotation on the cost of contemplated changes or alterations in the Work.

8.0 General Terms

- a. The Subcontractor shall not assign the proceeds of this Agreement, nor this Agreement or the Work required hereunder, nor sublet any portion of said Work without prior written consent of the Contractor. Any such assignment shall be subject to all of the terms and conditions thereof.
- b. Subcontractor shall not place any signage, temporary office or other building unless approval in writing is first received from the Contractor.
- c. If a dispute arises under the Contract, the parties shall endeavor to resolve the dispute first by mediation which, unless the parties mutually agree otherwise, shall be in accordance with the Construction Industry Mediation Rules of the American Arbitration Association currently in effect. Request for mediation shall be filed in writing with the other party to the Contract. The parties shall endeavor to agree on a private mediator. If the parties cannot agree on a mediator, then the parties agree to submit the dispute to the American Arbitration Association for mediation. The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in county where the work is performed. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.
- d. All disputes between the parties to this Contract that are not resolved by mediation shall be decided exclusively by arbitration in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association. Notice for demand for arbitration shall be filed in writing with the other party to this Contract. Prior to arbitration, the parties shall endeavor to resolve disputes by mediation as set forth above.
- e. A demand for arbitration shall be made within a reasonable time after the dispute has arisen, and in no event shall it be made after the date when institution of legal or equitable proceedings based on such dispute would be barred by the applicable statute of limitations.
- f. The parties shall endeavor to agree on a private arbitrator with knowledge of construction law. If the parties cannot agree on an arbitrator, then the parties agree to submit the dispute to the American Arbitration Association for arbitration.
- g. No demand for arbitration shall be made by either party more than one year after substantial completion of the Project, or in the case of warranty claims, more than one year after the basis for the claim is discovered or should have reasonably been discovered. A party who fails to demand arbitration within one year is also prohibited from filing an action at law against the other party to dispose of a dispute that would have been subject to arbitration. Any award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof. The arbitration shall be held in the county where the work is performed.
- h. Subcontractor shall carry on the Work and maintain the Work Progress Schedule pending arbitration.
- i. The construction, validity and effect of this Agreement shall be governed by the laws of the State of where work is performed.

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- j. Subcontractor shall not communicate directly with Owner or design professionals not under contract to Subcontractor. All communications to be addressed to Owner or design professionals not under contract to Subcontractor shall be through Contractor only.
- k. If the Contract required that the Owner or its representative approve the Agreement and/or Subcontractors, this Agreement shall not be binding on Contractor until such approval is given and if such approval is not given Contractor may cancel this Agreement without liability.
- l. Subcontractor, its employees and representatives shall at all times comply with all applicable laws, ordinances, statutes, rules and regulations, federal, state, county and municipal, and rulings or directives of any agencies having jurisdiction including, without limitation, those relating to wages (including, if required, the payment of prevailing wages and/or the timely submission of certified payrolls), hours, safety, equal employment opportunity and working conditions or which pertain in any way to the scope of work to be performed by Subcontractor.
- m. Subcontractor shall be bound and obligated to Contractor by the terms of the Agreement and of the Subcontract Documents and Subcontractor assumes toward Contractor all obligations, liabilities and responsibilities that Contractor, by the Contract, has assumed toward the Owner. Contractor shall further have the benefit of all rights, remedies, redress and limitations in respect to Subcontractor and all things done and used by Subcontractor in performance of its Work, which the Owner and its agents have against Contractor under the Contract or by law. Any and all decisions by the Owner or its agents relative to interpretation of the Contract or any ambiguity or discrepancy therein shall be binding on the Subcontractor to the same extent such are binding on Contractor.
- n. Subcontractor warrants that it is an independent contractor and shall operate as an independent contractor and not as an agent of Contractor and shall not represent or hold itself out to be an agent of Contractor. This Subcontract does not create, nor does any course of conduct between Contractor and Subcontractor pursuant to this Subcontract create, any contractual relationship between any parties other than Contractor and Subcontractor. Subcontractor represents that it is fully experienced and properly qualified as an expert to perform the class of Work provided for herein, shall finance its own operations required for the performance of the Work and is properly equipped and organized to handle the Work. Subcontractor by its execution of this Agreement represents that its entry into this Agreement has not been induced either wholly or in part by any promises, representations or statements by Contractor or its agents or representatives other than those representations set forth in this Agreement.
- o. In addition to Contractor's right to terminate or suspend the Work hereof, Contractor may, at any time and for any reason, or no reason, terminate or suspend performance of the Work by Subcontractor at Contractor's convenience by service of written notice upon Subcontractor. Upon receipt of such notice, Subcontractor shall, unless the notice directs otherwise, immediately discontinue the Work and placing of orders for materials, facilities and supplies in connection with the performance of this Subcontract, and shall, unless otherwise directed, make every effort to procure cancellation of all existing orders or contracts upon terms satisfactory to Contractor, or at the option of Contractor, give Contractor the right to assume those obligations directly, including all benefits to be derived there from. Subcontractor shall thereafter do only such Work as may be necessary to preserve and protect the Work already in progress and to protect material and equipment on the job site or in transit thereto. Upon such termination, Subcontractor shall be entitled to payment in accordance with payment articles hereof, only as follows: (1) the actual cost of the Work completed in strict conformity with the Subcontract Documents but not paid for as of the termination date; (2) plus overhead and profit as stipulated in the Prime Contract and/or Task Order Award. Termination costs to be paid to Subcontractor shall be subject to Contractor's right to withhold as set forth hereof.
- p. E-Verify Clause: Subcontractor represents and warrants that it will ensure its compliance with Federal Acquisition Regulation 52.222-54 and will register and participate in the status verification system for all newly hired employees. The term "employee" as used herein means any person that is hired to perform work before, during and throughout the duration of the project. As used herein, "status verification system" means the Illegal Immigration Reform and Immigration Responsibility Act of 1996 that is operated by the United States Department of Homeland Security, also known as the E-Verify Program, or any other successor electronic verification system that may supersede the E-Verify Program. Subcontractor agrees to maintain records of such compliance and, upon request by the Contractor, the Social Security Administration or the Department of Homeland Security provide a copy of each such verification to the Contractor. Subcontractor further represents and warrants that any person assigned to perform services hereunder meets the employment eligibility requirements of all immigration laws required by the federal government. Subcontractor understands and agrees that any breach of these warranties may subject Subcontractor to termination of this Agreement and ineligibility to be awarded any contract with Contractor for up to three (3) years.