

DRAFT AIA[®] Document A401[™] - 2007

Standard Form of Agreement Between Contractor and Subcontractor

AGREEMENT made as of the [redacted] day of [redacted] in the year Two Thousand Nine

(In words, indicate day, month and year)

BETWEEN the Contractor:

(Name, address and other information)

Straub Construction Company, Inc.
7775 Meadow View Drive
Shawnee, Kansas 66227

and the Subcontractor:

(Name, address and other information)

[redacted]

The Contractor has made a contract for construction (hereinafter, the Prime Contract) dated: [redacted]

with the Owner:

(Name, address and other information)

[redacted]

for the following Project:

(Name, location and detailed description)

Miscellaneous Projects

[redacted]

The Prime Contract provides for the furnishing of labor, materials, equipment and services in connection with the construction of the Project. A copy of the Prime Contract, consisting of the Agreement Between Owner and Contractor (from which compensation amounts may be deleted) and the other Contract Documents enumerated therein, has been made available to the Subcontractor.

The Architect for the Project:

(Name, address and other information)

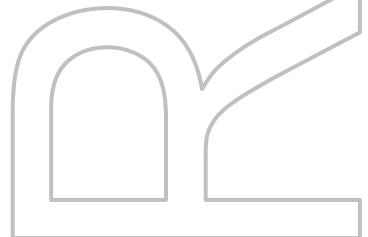
[redacted]

ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

AIA Document A201[™]-2007, General Conditions of the Contract for Construction, is adopted in this document by reference.



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The Contractor and the Subcontractor agree as follows.



TABLE OF ARTICLES

1	THE SUBCONTRACT DOCUMENTS
2	MUTUAL RIGHTS AND RESPONSIBILITIES
3	CONTRACTOR
4	SUBCONTRACTOR
5	CHANGES IN THE WORK
6	MEDIATION AND BINDING DISPUTE RESOLUTION
7	TERMINATION, SUSPENSION OR ASSIGNMENT OF THE SUBCONTRACT
8	THE WORK OF THIS SUBCONTRACT
9	DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION
10	SUBCONTRACT SUM
11	PROGRESS PAYMENTS
12	FINAL PAYMENT
13	INSURANCE AND BONDS
14	TEMPORARY FACILITIES AND WORKING CONDITIONS
15	MISCELLANEOUS PROVISIONS
16	ENUMERATION OF SUBCONTRACT DOCUMENTS

ARTICLE 1 THE SUBCONTRACT DOCUMENTS

§ 1.1 The Subcontract Documents consist of (1) this Agreement; (2) the Prime Contract, consisting of the Agreement between the Owner and Contractor and the other Contract Documents enumerated therein; (3) Modifications issued subsequent to the execution of the Agreement between the Owner and Contractor, whether before or after the execution of this Agreement; (4) other documents listed in Article 16 of this Agreement; and (5) Modifications to this Subcontract issued after execution of this Agreement. These form the Subcontract, and are as fully a part of the Subcontract as if attached to this Agreement or repeated herein. The Subcontract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. An enumeration of the Subcontract Documents, other than Modifications issued subsequent to the execution of this Agreement, appears in Article 16.

§ 1.2 Except to the extent of a conflict with a specific term or condition contained in the Subcontract Documents, the General Conditions governing this Subcontract shall be the AIA Document A201™-2007, General Conditions of the Contract for Construction.

§ 1.3 The Subcontract may be amended or modified only by a Modification. The Subcontract Documents shall not be construed to create a contractual relationship of any kind (1) between the Architect and the Subcontractor, (2) between the Owner and the Subcontractor, or (3) between any persons or entities other than the Contractor and Subcontractor.

§ 1.4 The Contractor shall make available the Subcontract Documents to the Subcontractor prior to execution of this Agreement, and thereafter, upon request, but the Contractor may charge the Subcontractor for the reasonable cost of reproduction.

ARTICLE 2 MUTUAL RIGHTS AND RESPONSIBILITIES

The Contractor and Subcontractor shall be mutually bound by the terms of this Agreement and, to the extent that the provisions of AIA Document A201–2007 apply to this Agreement pursuant to Section 1.2 and provisions of the Prime Contract apply to the Work of the Subcontractor, the Contractor shall assume toward the Subcontractor all obligations and responsibilities that the Owner, under such documents, assumes toward the Contractor, and the Subcontractor shall assume toward the Contractor all obligations and responsibilities which the Contractor, under such documents, assumes toward the Owner and the Architect. The Contractor shall have the benefit of all rights, remedies and redress against the Subcontractor that the Owner, under such documents, has against the Contractor, and the Subcontractor shall have the benefit of all rights, remedies and redress against the Contractor that the Contractor, under such documents, has against the Owner, insofar as applicable to this Subcontract. Where a provision of such documents is inconsistent with a provision of this Agreement, this Agreement shall govern.

ARTICLE 3 CONTRACTOR

§ 3.1 SERVICES PROVIDED BY THE CONTRACTOR

§ 3.1.1 The Contractor shall cooperate with the Subcontractor in scheduling and performing the Contractor's Work to avoid conflicts or interference in the Subcontractor's Work and shall expedite written responses to submittals made by the Subcontractor in accordance with Section 4.1 and Article 5. Promptly after execution of this Agreement, the Contractor shall provide the Subcontractor copies of the Contractor's construction schedule and schedule of submittals, together with such additional scheduling details as will enable the Subcontractor to plan and perform the Subcontractor's Work properly. Contractor shall have the right to amend or modify schedules for the Work or to suspend, delay or accelerate the Work, in whole or in part, or delay the commencement or execution of the Work or to vary the sequence thereof. The Contractor shall promptly notify the Subcontractor of subsequent changes in the construction and submittal schedules and additional scheduling details. Subcontractor shall not be entitled to extra compensation for reasonable adjustments to the schedule. Subcontractor shall timely perform the Work of this Subcontract, as scheduled by the Contractor, with no delay to the progress of the Work. If Subcontractor fails to timely perform the Work, Contractor, without waiver of any other rights contained in this Agreement, may, with 24 hours written notice to the Subcontractor, employ sufficient workmen and supply sufficient materials to complete the Work, all at Subcontractor's cost.

§ 3.1.2 The Subcontractor shall provide suitable areas for storage of the Subcontractor's materials and equipment during the course of the Work. Additional costs to the Subcontractor resulting from relocation of such storage areas at the direction of the Contractor, except as previously agreed upon, shall be reimbursed by the Contractor.

§ 3.1.3 Except as provided in Article 14, the Contractor's equipment will be available to the Subcontractor only at the Contractor's discretion and on mutually satisfactory terms.

§ 3.1.4 Contractor makes no representations to Subcontractor, express or implied, regarding site conditions. Any information regarding the site provided by Contractor to Subcontractor is for information purposes only.

§ 3.2 COMMUNICATIONS

§ 3.2.1 The Contractor shall promptly make available to the Subcontractor information, including information received from the Owner, that affects this Subcontract and that becomes available to the Contractor subsequent to execution of this Subcontract.

§ 3.2.2 The Contractor shall not give instructions or orders directly to the Subcontractor's employees or to the Subcontractor's Sub-subcontractors or material suppliers unless such persons are designated as authorized representatives of the Subcontractor.

§ 3.2.3 The Contractor shall permit the Subcontractor to request directly from the Architect information regarding the percentages of completion and the amount certified on account of Work done by the Subcontractor.

§ 3.2.4 If hazardous substances of a type of which an employer is required by law to notify its employees are being used on the site by the Contractor, a subcontractor or anyone directly or indirectly employed by them (other than the

Subcontractor), the Contractor shall, prior to harmful exposure of the Subcontractor's employees to such substance, give written notice of the chemical composition thereof to the Subcontractor in sufficient detail and time to permit the Subcontractor's compliance with such laws.

§ 3.2.5 The Contractor shall furnish to the Subcontractor within 30 days after receipt of a written request, or earlier if so required by law, information necessary and relevant for the Subcontractor to evaluate, give notice of or enforce mechanic's lien rights. Such information shall include a correct statement of the record legal title to the property, usually referred to as the site, on which the Project is located and the Owner's interest therein.

§ 3.2.6 If the Contractor asserts or defends a claim against the Owner that relates to the Work of the Subcontractor, the Contractor shall promptly make available to the Subcontractor all information relating to the portion of the claim that relates to the Work of the Subcontractor.

§ 3.3 CLAIMS BY THE CONTRACTOR

§ 3.3.1 Liquidated damages for delay, if provided for in Section 9.3 of this Agreement, shall be assessed against the Subcontractor only to the extent caused by the Subcontractor or any person or entity for whose acts the Subcontractor may be liable, and in no case for delays or causes arising outside the scope of this Subcontract.

§ 3.3.2 The Contractor's claims for the costs of services or materials provided due to the Subcontractor's failure to execute the Work shall require

- .1 seven days' written notice prior to the Contractor's providing services or materials, except in an emergency; and
- .2 written compilations to the Subcontractor of services and materials provided by the Contractor and charges for such services and materials no later than the fifteenth day of the month following the Contractor's providing such services or materials.

§ 3.4 CONTRACTOR'S REMEDIES

If the Subcontractor defaults or neglects to carry out the Work in accordance with this Agreement and fails within five working days after receipt of written notice from the Contractor to commence and continue correction of such default or neglect with diligence and promptness, the Contractor may, by appropriate Modification, and without prejudice to any other remedy the Contractor may have, make good such deficiencies and may deduct the reasonable cost thereof from the payments then or thereafter due the Subcontractor.

§ 3.4.1 Should the Subcontractor, at any time, 1) refuse or neglect to supply a sufficiency of properly skilled workmen or 2) refuse or neglect to supply materials of the proper quality or 3) fail in any respect to prosecute the Work with promptness and diligence or 4) fail in the performance of any of the agreements herein contained, the Contractor shall be at liberty, after three days written notice to the Subcontractor, to either: a) provide any such labor, materials or data as is required by the contract and to deduct the cost thereof from any money then due or thereafter to become due to the Subcontractor under this Subcontract or b) terminate the employment of the Subcontractor for the said Work and enter upon the premises and take possession for the purpose of completing the Work included under this contract, of all materials, tools, and appliances thereon and to employ any other person or persons to finish the Work, and to provide the materials therefor. In the case that the Subcontractor's employment is terminated the Subcontractor shall not be entitled to receive any further payment under this contract until the said Work shall be wholly finished. In any case, if the unpaid balance of the amount to be paid under this contract shall exceed the expense incurred by the Contractor in finishing the Work, such excess shall be paid by the Contractor to the Subcontractor, but if such expense shall exceed the unpaid balance, the Subcontractor shall pay the difference to the Contractor. The expense incurred by the Contractor as herein provided shall include furnishing materials, finishing the Work and any expense or other damages incurred through such default.

§ 3.4.2 If at any time there shall be evidence of any invoice, bill, lien or claim in respect to this Subcontract which, if not paid by the Subcontractor, the Contractor or the Owner of the Project premises might become liable, the Contractor shall have the right to retain out of any payment then due or thereafter to become due an amount sufficient to completely indemnify against such invoice, bill, lien or claim. If within 30 days, the Subcontractor has failed to resolve the claim for payment, or failed to provide a Bond to protect the Owner and Contractor against such claim, the Contractor shall have the right to make payment on such claim out of funds of the Subcontractor. If no such funds are available, the Subcontractor shall refund to the Contractor all monies that the latter has in good faith paid in discharging any such claim or lien.

§ 3.4.3 Should Subcontractor, through breach of this Subcontract, cause Contractor to suffer any loss, cost or expense in excess of the remaining unpaid contract balance under this Subcontract, then Subcontractor expressly grants to Contractor the right to set off any such loss, cost or expense not only against the unpaid balance of this Subcontract but also against the unpaid balance of any other subcontract between Subcontractor and Contractor, whether such subcontract relates to this Project or on any other project.

§ 3.4.4 In the event of disputes between the Contractor and Subcontractor and the utilization of dispute resolution procedures, Contractor shall be entitled to recover from Subcontractor attorneys' fees and costs if Contractor prevails on its claims against Subcontractor and if Contractor prevails on Subcontractor's claims against Contractor.

ARTICLE 4 SUBCONTRACTOR

§ 4.1 EXECUTION AND PROGRESS OF THE WORK

§ 4.1.1 For all Work the Subcontractor intends to subcontract, the Subcontractor shall enter into written agreements with Sub-subcontractors performing portions of the Work of this Subcontract by which the Subcontractor and the Sub-subcontractor are mutually bound, to the extent of the Work to be performed by the Sub-subcontractor, assuming toward each other all obligations and responsibilities that the Contractor and Subcontractor assume toward each other and having the benefit of all rights, remedies and redress each against the other that the Contractor and Subcontractor have by virtue of the provisions of this Agreement.

§ 4.1.2 The Subcontractor shall supervise and direct the Subcontractor's Work, and shall cooperate with the Contractor in scheduling and performing the Subcontractor's Work to avoid conflict, delay in or interference with the Work of the Contractor, other subcontractors, the Owner, or separate contractors. Shop drawings and submittals shall be submitted immediately, but no later than 14 calendar days after the date of this Subcontract.

§ 4.1.3 The Subcontractor shall promptly submit Shop Drawings, Product Data, Samples and similar submittals required by the Subcontract Documents with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of the Contractor or other subcontractors.

§ 4.1.4 The Subcontractor shall furnish to the Contractor periodic progress reports on the Work of this Subcontract as mutually agreed, including information on the status of materials and equipment that may be in the course of preparation, manufacture, or transit.

§ 4.1.5 The Subcontractor agrees that the Contractor and the Architect each have the authority to reject Work of the Subcontractor that does not conform to the Prime Contract. The Architect's decisions on matters relating to aesthetic effect shall be final and binding on the Subcontractor if consistent with the intent expressed in the Prime Contract.

§ 4.1.6 The Subcontractor shall pay for all materials, equipment and labor used in connection with the performance of this Subcontract through the period covered by previous payments received from the Contractor, and shall furnish satisfactory evidence, when requested by the Contractor, to verify compliance with the above requirements.

§ 4.1.7 The Subcontractor shall take necessary precautions to protect properly the work of other subcontractors from damage caused by operations under this Subcontract.

§ 4.1.8 The Subcontractor shall cooperate with the Contractor, other subcontractors, the Owner, and separate contractors whose work might interfere with the Subcontractor's Work. The Subcontractor shall participate in the preparation of coordinated drawings in areas of congestion, if required by the Prime Contract, specifically noting and advising the Contractor of potential conflicts between the Work of the Subcontractor and that of the Contractor, other subcontractors, the Owner, or separate contractors.

§ 4.1.9 The Subcontractor shall have a continuing duty to provide and update its list of Subcontractors and Suppliers.

§ 4.1.10 The Subcontractor recognizes that revisions in the planned schedule are inherent in the nature of construction. This may result in revisions of Contractor's schedule of the Work during the progress of construction. Subcontractor agrees that Contractor cannot guarantee Subcontractor can start Work on any particular date or continue without interruption once started. Contractor will only be responsible for conditions solely within its

control which causes Subcontractor manifestly unreasonable delay in the performance of its Work, provided Subcontractor gives immediate written notice of the delay.

§ 4.2 PERMITS, FEES, NOTICES, AND COMPLIANCE WITH LAWS

§ 4.2.1 The Subcontractor shall give notices and comply with applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities bearing on performance of the Work of this Subcontract. The Subcontractor shall secure and pay for permits, fees, licenses and inspections by government agencies necessary for proper execution and completion of the Subcontractor's Work, the furnishing of which is required of the Contractor by the Prime Contract.

§ 4.2.2 The Subcontractor shall comply with Federal, state and local tax laws, social security acts, unemployment compensation acts and workers' compensation acts insofar as applicable to the performance of this Subcontract.

§ 4.2.3 Subcontractor shall not misclassify and pay workmen furnishing labor under this Subcontract as an independent contractor when such workmen shall be classified as an employee under applicable law.

§ 4.2.4 Subcontractor, and its sub-subcontractors, shall not employ any workmen on the Project who are not lawfully permitted to perform such work under Federal, state or local labor laws relating to aliens and nationality including, but not limited to, the "Immigration Reform Control Act of 1986" (IRCA) as amended, 8 U.S.C. § 1324(e), relating to unlawful employment of aliens.

§ 4.3 SAFETY PRECAUTIONS AND PROCEDURES

§ 4.3.1 The Subcontractor shall take reasonable safety precautions with respect to performance of this Subcontract, shall comply with safety measures initiated by the Contractor and with applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities for the safety of persons and property in accordance with the requirements of the Prime Contract. The Subcontractor shall report to the Contractor within three days an injury to an employee or agent of the Subcontractor which occurred at the site.

§ 4.3.2 If hazardous substances of a type of which an employer is required by law to notify its employees are being used on the site by the Subcontractor, the Subcontractor's Sub-subcontractors or anyone directly or indirectly employed by them, the Subcontractor shall, prior to harmful exposure of any employees on the site to such substance, give written notice of the chemical composition thereof to the Contractor in sufficient detail and time to permit compliance with such laws by the Contractor, other subcontractors and other employers on the site.

§ 4.3.3 If reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a hazardous material or substance, including but not limited to asbestos or polychlorinated biphenyl (PCB), encountered on the site by the Subcontractor, the Subcontractor shall, upon recognizing the condition, immediately stop Work in the affected area and promptly report the condition to the Contractor in writing. When the material or substance has been rendered harmless, the Subcontractor's Work in the affected area shall resume upon written agreement of the Contractor and Subcontractor. The Subcontract Time shall be extended appropriately and the Subcontract Sum shall be increased in the amount of the Subcontractor's reasonable additional costs of demobilization, delay and remobilization, which adjustments shall be accomplished as provided in Article 5 of this Agreement.

§ 4.3.4 To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the Subcontractor, the Subcontractor's Sub-subcontractors, and agents and employees of any of them from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work in the affected area if in fact the material or substance presents the risk of bodily injury or death as described in Section 4.3.3 and has not been rendered harmless, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself) except to the extent that such damage, loss or expense is due to the fault or negligence of the party seeking indemnity.

§ 4.3.5 The Subcontractor shall indemnify the Contractor for the cost and expense the Contractor incurs 1) for remediation of a material or substance brought to the site and negligently handled by the Subcontractor or 2) where the Subcontractor fails to perform its obligations under Section 4.3.3, except to the extent that the cost and expense are due to the Contractor's fault or negligence.

§ 4.4 CLEANING UP

§ 4.4.1 The Subcontractor shall keep the premises and surrounding area free from accumulation of waste materials or rubbish caused by operations performed under this Subcontract. The Subcontractor shall not be held responsible for conditions caused by other contractors or subcontractors. Cleanup of the work area shall occur on a daily basis. If cleanup is not completed within 24 hours of written notice, the Contractor will perform the work at the rate of \$50.00 per hour to be deducted by change orders from Subcontractor's contract amount.

§ 4.4.2 As provided under Section 3.3.2, if the Subcontractor fails to clean up as provided in the Subcontract Documents, the Contractor may charge the Subcontractor for the Subcontractor's appropriate share of cleanup costs.

§ 4.5 WARRANTY

The Subcontractor warrants to the Owner, Architect, and Contractor that materials and equipment furnished under this Subcontract will be of good quality and new unless the Subcontract Documents require or permit otherwise. The Subcontractor further warrants that the Work will conform to the requirements of the Subcontract Documents and will be free from defects, except for those inherent in the quality of the Work the Subcontract Documents require or permit. Work, materials, or equipment not conforming to these requirements may be considered defective. The Subcontractor's warranty excludes remedy for damage or defect caused by abuse, alterations to the Work not executed by the Subcontractor, improper or insufficient maintenance, improper operation, or normal wear and tear under normal usage. If required by the Architect and Contractor, the Subcontractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

§ 4.6 INDEMNIFICATION

§ 4.6.1 To the fullest extent permitted by law, the Subcontractor shall indemnify and hold harmless the Owner, Contractor, Architect, Architect's consultants, and agents and employees of any of them from and against claims, damages, losses and expenses, including but not limited to attorney's fees, arising out of or resulting from performance of the Subcontractor's Work under this Subcontract, provided that any such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by the negligent acts or omissions of the Subcontractor, the Subcontractor's Sub-subcontractors, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or otherwise reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this Section 4.6.

§ 4.6.2 In claims against any person or entity indemnified under this Section 4.6 by an employee of the Subcontractor, the Subcontractor's Sub-subcontractors, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, the indemnification obligation under Section 4.6.1 shall not be limited by a limitation on the amount or type of damages, compensation or benefits payable by or for the Subcontractor or the Subcontractor's Sub-subcontractors under workers' compensation acts, disability benefit acts or other employee benefit acts.

§ 4.7 REMEDIES FOR NONPAYMENT

If the Contractor does not pay the Subcontractor through no fault of the Subcontractor, within seven days from the time payment should be made as provided in this Agreement, the Subcontractor may, without prejudice to any other available remedies, upon seven additional days' written notice to the Contractor, stop the Work of this Subcontract until payment of the amount owing has been received. The Subcontract Sum shall, by appropriate Modification, be increased by the amount of the Subcontractor's reasonable costs of demobilization, delay and remobilization.

ARTICLE 5 CHANGES IN THE WORK

§ 5.1 The Owner may make changes in the Work by issuing Modifications to the Prime Contract. Upon receipt of such a Modification issued subsequent to the execution of the Subcontract Agreement, the Contractor shall promptly notify the Subcontractor of the Modification. Unless otherwise directed by the Contractor, the Subcontractor shall not thereafter order materials or perform Work that would be inconsistent with the changes made by the Modification to the Prime Contract.

§ 5.2 The Subcontractor may be ordered in writing by the Contractor, without invalidating this Subcontract, to make changes in the Work within the general scope of this Subcontract consisting of additions, deletions or other

revisions, including those required by Modifications to the Prime Contract issued subsequent to the execution of this Agreement, the Subcontract Sum and the Subcontract Time being adjusted accordingly. The Subcontractor, prior to the commencement of such changed or revised Work, shall submit promptly to the Contractor written copies of a claim for adjustment to the Subcontract Sum and Subcontract Time for such revised Work in a manner consistent with requirements of the Subcontract Documents.

§ 5.3 The Subcontractor shall make all claims promptly to the Contractor for additional cost, extensions of time and damages for delays or other causes in accordance with the Subcontract Documents. A claim which will affect or become part of a claim which the Contractor is required to make under the Prime Contract within a specified time period or in a specified manner shall be made in sufficient time to permit the Contractor to satisfy the requirements of the Prime Contract. Such claims shall be received by the Contractor not less than two working days preceding the time by which the Contractor's claim must be made. Failure of the Subcontractor to make such a timely claim shall bind the Subcontractor to the same consequences as those to which the Contractor is bound. In any event, any request for extension of time on the schedule shall be made by Subcontractor to Contractor within 3 days of the occurrence of the delaying event.

§ 5.4 Subcontractor waives the right to make claim against Contractor for consequential damages.

ARTICLE 6 MEDIATION AND BINDING DISPUTE RESOLUTION

§ 6.1 MEDIATION

§ 6.1.1 Any claim arising out of or related to this Subcontract, except those waived in this Subcontract, shall be subject to mediation as a condition precedent to binding dispute resolution.

§ 6.1.2 The parties shall endeavor to resolve their claims by mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of the Agreement. A request for mediation shall be made in writing, delivered to the other party to this Subcontract and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of binding dispute resolution proceedings but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration is stayed pursuant to this Section, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

§ 6.1.3 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

§ 6.2 BINDING DISPUTE RESOLUTION

For any claim subject to, but not resolved by mediation pursuant to Section 6.1, the method of binding dispute resolution shall be as follows:

(Check the appropriate box. If the Contractor and Subcontractor do not select a method of binding dispute resolution below, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, claims will be resolved by litigation in a court of competent jurisdiction.)

Arbitration pursuant to Section 6.3 of this Agreement

Litigation in a court of competent jurisdiction

Other *(Specify)*

§ 6.3 ARBITRATION

§ 6.3.1 If the Contractor and Subcontractor have selected arbitration as the method of binding dispute resolution in Section 6.2, any claim subject to, but not resolved by, mediation shall be subject to arbitration which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of the Agreement. A demand for arbitration shall be

made in writing, delivered to the other party to the Subcontract, and filed with the person or entity administering the arbitration. The party filing a notice of demand for arbitration must assert in the demand all claims then known to that party on which arbitration is permitted to be demanded.

§ 6.3.2 A demand for arbitration shall be made no earlier than concurrently with the filing of a request for mediation but in no event shall it be made after the date when the institution of legal or equitable proceedings based on the claim would be barred by the applicable statute of limitations. For statute of limitations purposes, receipt of a written demand for arbitration by the person or entity administering the arbitration shall constitute the institution of legal or equitable proceedings based on the claim.

§ 6.3.3 Either party, at its sole discretion, may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation; (2) the arbitrations to be consolidated substantially involve common questions of law or fact; and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).

§ 6.3.4 Either party, at its sole discretion, may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration, provided that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of a claim not described in the written consent.

§ 6.3.5 The Contractor and Subcontractor grant to any person or entity made a party to an arbitration conducted under this Section 6.3, whether by joinder or consolidation, the same rights of joinder and consolidation as the Contractor and Subcontractor under this Agreement.

§ 6.3.6 This agreement to arbitrate and any other written agreement to arbitrate with an additional person or persons referred to herein shall be specifically enforceable under applicable law in any court having jurisdiction thereof. The 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.

§ 6.3.7 Subcontractor shall pay Contractor's costs, expenses and attorneys' fees for arbitration should the Contractor prevail on Subcontractor's claims against Contractor and/or on Contractor's claims against Subcontractor.

ARTICLE 7 TERMINATION, SUSPENSION OR ASSIGNMENT OF THE SUBCONTRACT

§ 7.1 TERMINATION BY THE SUBCONTRACTOR

The Subcontractor may terminate the Subcontract for the same reasons and under the same circumstances and procedures with respect to the Contractor as the Contractor may terminate with respect to the Owner under the Prime Contract, or for nonpayment of amounts due under this Subcontract for 60 days or longer. In the event of such termination by the Subcontractor for any reason which is not the fault of the Subcontractor, Sub-subcontractors or their agents or employees or other persons performing portions of the Work under contract with the Subcontractor, the Subcontractor shall be entitled to recover from the Contractor payment for Work executed and for proven loss with respect to materials, equipment, tools, and construction equipment and machinery, including reasonable overhead, profit and damages.

§ 7.2 TERMINATION BY THE CONTRACTOR

§ 7.2.1 If the Subcontractor repeatedly fails or neglects to carry out the Work in accordance with the Subcontract Documents or otherwise to perform in accordance with this Subcontract and fails within a threethree-day period after receipt of written notice to commence and continue correction of such default or neglect with diligence and promptness, the Contractor may, by written notice to the Subcontractor and without prejudice to any other remedy the Contractor may have, terminate the Subcontract and finish the Subcontractor's Work by whatever method the Contractor may deem expedient. If the unpaid balance of the Subcontract Sum exceeds the expense of finishing the Subcontractor's Work and other damages incurred by the Contractor and not expressly waived, such excess shall be paid to the Subcontractor. If such expense and damages exceed such unpaid balance, the Subcontractor shall pay the difference to the Contractor.

§ 7.2.2 If the Owner terminates the Contract for the Owner's convenience, the Contractor shall promptly deliver written notice to the Subcontractor.

§ 7.2.3 Upon receipt of written notice of termination, the Subcontractor shall

- .1 cease operations as directed by the Contractor in the notice;
- .2 take actions necessary, or that the Contractor may direct, for the protection and preservation of the Work; and
- .3 except for Work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing Sub-subcontracts and purchase orders and enter into no further Sub-subcontracts and purchase orders.

§ 7.2.4 In case of such termination for the Owner's convenience, the Subcontractor shall be entitled to receive payment for Work executed, and costs incurred by reason of such termination..., along with reasonable overhead and profit on the Work not executed.

§ 7.3 SUSPENSION BY THE CONTRACTOR FOR CONVENIENCE

§ 7.3.1 The Contractor may, without cause, order the Subcontractor in writing to suspend, delay or interrupt the Work of this Subcontract in whole or in part for such period of time as the Contractor may determine. In the event of suspension ordered by the Contractor, the Subcontractor shall be entitled to an equitable adjustment of the Subcontract Time and Subcontract Sum.

§ 7.3.2 An adjustment shall be made for increases in the Subcontract Time and Subcontract Sum, including profit on the increased cost of performance, caused by suspension, delay or interruption. No adjustment shall be made to the extent that

- .1 performance is, was or would have been so suspended, delayed or interrupted by another cause for which the Subcontractor is responsible; or
- .2 an equitable adjustment is made or denied under another provision of this Subcontract.

§ 7.4 ASSIGNMENT OF THE SUBCONTRACT

§ 7.4.1 In the event the Owner terminates the Prime Contract for cause, this Subcontract is assigned to the Owner pursuant to Section 5.4 of A201-2007 provided the Owner accepts the assignment.

§ 7.4.2 Without the Contractor's written consent, the Subcontractor shall not assign the Work of this Subcontract, subcontract the whole of this Subcontract, or subcontract portions of this Subcontract.

ARTICLE 8 THE WORK OF THIS SUBCONTRACT

The Subcontractor shall execute the following portion of the Work described in the Subcontract Documents, and as reasonably inferable therefrom and as necessary to produce the intended result, including all labor, materials, equipment, services and other items required to complete such portion of the Work, except to the extent specifically indicated in the Subcontract Documents to be the responsibility of others.

(Insert a precise description of the Work of this Subcontract, referring where appropriate to numbers of Drawings, sections of Specifications and pages of Addenda, Modifications and accepted alternates.)

ARTICLE 9 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

§ 9.1 Subcontract Time is the period of time, including authorized adjustments, allotted in the Subcontract Documents for Substantial Completion of the Work described in the Subcontract Documents. The Subcontractor's date of commencement is the date from which the Subcontract Time of Section 9.3 is measured; it shall be the date of this Agreement, as first written above, unless a different date is stated below or provision is made for the date to be fixed in a notice to proceed issued by the Contractor.

(Insert the date of commencement, if it differs from the date of this Agreement or, if applicable, state that the date will be fixed in a notice to proceed.)

§ 9.2 Unless the date of commencement is established by a notice to proceed issued by the Contractor, or the Contractor has commenced visible Work at the site under the Prime Contract, the Subcontractor shall notify the Contractor in writing not less than five days before commencing the Subcontractor's Work to permit the timely filing of mortgages, mechanic's liens and other security interests.

§ 9.3 The Work of this Subcontract shall be substantially completed not later than the date shown in the General Contractor's schedule. () days after the Subcontractor's Date of Commencement. .
(Insert the calendar date or number of calendar days after the Subcontractor's date of commencement. Also insert any requirements for earlier substantial completion of certain portions of the Subcontractor's Work, if not stated elsewhere in the Subcontract Documents.)

Portion of Work	Substantial Completion Date
[Redacted]	[Redacted]

, subject to adjustments of this Subcontract Time as provided in the Subcontract Documents.
(Insert provisions, if any, for liquidated damages relating to failure to complete on time.)

Liquidated damages for failure of the Subcontractor to substantially complete the work of this Subcontract in accordance with § 9.3 are _____ Dollars (\$_____) for each calendar day delay after the substantial completion date. If liquidated damages are not stipulated above, then any delay costs, expenses or damages, including liquidated damages, which are accessed against Contractor and recovered by Owner against Contractor or by law and any other costs which Contractor incurs in connection therewith shall be borne and paid by Subcontractor to the fullest extent that Subcontractor shall be responsible for the acts, failures or delays subjecting Contractor to such liability. This liability of Subcontractor shall include Contractor's consequential damages, if any. If multiple parties are responsible for portions of the delay, Contractor shall have the right to reasonably apportion such damages and such apportionment shall be binding on the Subcontractor. Contractor may withhold payment to the Subcontractor of any such costs, expenses or damages incurred by Contractor or assessed and/or recovered against Contractor by Owner due to Subcontractor's delay.

§ 9.4 With respect to the obligations of both the Contractor and the Subcontractor, time is of the essence of this Subcontract.

§ 9.5 No extension of time will be valid without the Contractor's written consent after claim made by the Subcontractor in accordance with Section 5.3. Any extensions of time granted by Contractor for performance of the Work shall be Subcontractor's sole and exclusive remedy for any delay.

§ 9.6 Subcontractor waives the right to claim and recover from Contractor any damages for delay in performance of the Work of this Subcontract.

ARTICLE 10 SUBCONTRACT SUM

§ 10.1 The Contractor shall pay the Subcontractor in current funds for performance of the Subcontract the Subcontract Sum of (See Exhibit A) (\$ _____), subject to additions and deductions as provided in the Subcontract Documents.

§ 10.2 The Subcontract Sum is based upon the following alternates, if any, which are described in the Subcontract Documents and have been accepted by the Owner and the Contractor:

(Insert the numbers or other identification of accepted alternates.)

[Redacted]

§ 10.3 Unit prices, if any:

(Identify and state the unit price, and state the quantity limitations, if any, to which the unit price will be applicable.)

Item	Units and Limitations	Price Per Unit
[Redacted]	[Redacted]	[Redacted]

§ 10.4 Allowances included in the Subcontract Sum, if any:

(Identify allowance and state exclusions, if any, from the allowance price.)

Item	Price
[Redacted]	[Redacted]

ARTICLE 11 PROGRESS PAYMENTS

§ 11.1 Based upon applications for payment submitted to the Contractor by the Subcontractor, corresponding to applications for payment submitted by the Contractor to the Architect, and certificates for payment issued by the Architect, the Contractor shall make progress payments on account of the Subcontract Sum to the Subcontractor as provided below and elsewhere in the Subcontract Documents. Unless the Contractor provides the Owner with a payment bond in the full penal sum of the Contract Sum, payments received by the Contractor and Subcontractor for Work properly performed by their contractors and suppliers shall be held by the Contractor and Subcontractor for those contractors or suppliers who performed Work or furnished materials, or both, under contract with the Contractor or Subcontractor for which payment was made to the Contractor by the Owner or to the Subcontractor by the Contractor, as applicable. Nothing contained herein shall require money to be placed in a separate account and not commingled with money of the Contractor or Subcontractor, shall create any fiduciary liability or tort liability on the part of the Contractor or Subcontractor for breach of trust or shall entitle any person or entity to an award of punitive damages against the Contractor or Subcontractor for breach of the requirements of this provision.

§ 11.2 The period covered by each application for payment shall be one calendar month ending on the last day of the month, or as follows:

25th day of the month

§ 11.3 Provided an application for payment is received by the Contractor not later than the 25th day of a month, the Contractor shall include the Subcontractor's Work covered by that application in the next application for payment which the Contractor is entitled to submit to the Architect. The Contractor shall pay the Subcontractor each progress payment no later than seven ten working days after the Contractor receives payment from the Owner. If the Architect does not issue a certificate for payment or the Contractor does not receive payment for any cause which is not the fault of the Subcontractor, the Contractor shall pay the Subcontractor, on demand, a progress payment computed as provided in Sections 11.7, 11.8 and 11.9. Payment by Owner to Contractor is a condition precedent to payment by Contractor to Subcontractor unless the failure to receive payment from Owner is solely caused by the failures of Contractor. Contractor's surety, if any, shall have the benefit of this provision relative to the obligations of the surety under its surety bond.

§ 11.4 If the Subcontractor's application for payment is received by the Contractor after the application date fixed above, the Subcontractor's Work covered by it shall be included by the Contractor in the next application for payment submitted to the Architect.

§ 11.5 The Subcontractor shall submit to the Contractor a schedule of values prior to submitting the Subcontractor's first Application for Payment. Each subsequent application for payment shall be based upon the most recent schedule of values submitted by the Subcontractor in accordance with the Subcontract Documents. The schedule of values shall allocate the entire Subcontract Sum among the various portions of the Subcontractor's Work and be prepared in such form and supported by such data to substantiate its accuracy as the Contractor may require. This schedule, unless objected to by the Contractor, shall be used as a basis for reviewing the Subcontractor's applications for payment.

§ 11.6 Applications for payment submitted by the Subcontractor shall indicate the percentage of completion of each portion of the Subcontractor's Work as of the end of the period covered by the application for payment.

§ 11.7 Subject to the provisions of the Subcontract Documents, the amount of each progress payment shall be computed as set forth in the sections below.

§ 11.7.1 Take that portion of the Subcontract Sum properly allocable to completed Work as determined by multiplying the percentage completion of each portion of the Subcontractor's Work by the share of the total Subcontract Sum allocated to that portion of the Subcontractor's Work in the schedule of values, less that percentage actually retained [retainage shall be 510%], if any, from payments to the Contractor on account of the Work of the Subcontractor. Pending final determination of cost to the Contractor of changes in the Work that have been properly authorized by the Contractor, amounts not in dispute shall be included to the same extent provided in the Prime Contract, even though the Subcontract Sum has not yet been adjusted;

§ 11.7.2 Add that portion of the Subcontract Sum properly allocable to materials and equipment delivered and suitably stored at the site by the Subcontractor for subsequent incorporation in the Subcontractor's Work or, if approved by the Contractor, suitably stored off the site at a location agreed upon in writing, less the same percentage retainage required by the Prime Contract to be applied to such materials and equipment in the Contractor's application for payment;

§ 11.7.3 Subtract the aggregate of previous payments made by the Contractor; and

§ 11.7.4 Subtract amounts, if any, calculated under Section 11.7.1 or 11.7.2 that are related to Work of the Subcontractor for which the Architect has withheld or nullified, in whole or in part, a certificate of payment for a cause that is the fault of the Subcontractor.

§ 11.7.5 Acceptance of a payment by Subcontractor shall constitute a waiver of any and all claims by Subcontractor against Contractor for extra compensation which exists at the time of acceptance of the payment, except those claims otherwise previously made in writing by Subcontractor in accordance with the terms of this Agreement.

§ 11.8 Upon the partial or entire disapproval by the Contractor of the Subcontractor's application for payment, the Contractor shall provide written notice to the Subcontractor. When the basis for the disapproval has been remedied, the Subcontractor shall be paid the amounts withheld.

§ 11.9 SUBSTANTIAL COMPLETION

When the Subcontractor's Work or a designated portion thereof is substantially complete and in accordance with the requirements of the Prime Contract, the Contractor shall, upon application by the Subcontractor, make prompt application for payment for such Work. Within 30 days following issuance by the Architect of the certificate for payment covering such substantially completed Work, the Contractor shall, to the full extent allowed in the Prime Contract, make payment to the Subcontractor, deducting any portion of the funds for the Subcontractor's Work withheld in accordance with the certificate to cover costs of items to be completed or corrected by the Subcontractor. Such payment to the Subcontractor shall be the entire unpaid balance of the Subcontract Sum if a full release of retainage is allowed under the Prime Contract for the Subcontractor's Work prior to the completion of the entire Project. If the Prime Contract does not allow for a full release of retainage, then such payment shall be an amount which, when added to previous payments to the Subcontractor, will reduce the retainage on the Subcontractor's substantially completed Work to the same percentage of retainage as that on the Contractor's Work covered by the certificate.

ARTICLE 12 FINAL PAYMENT

§ 12.1 Final payment, constituting the entire unpaid balance of the Subcontract Sum, shall be made by the Contractor to the Subcontractor when the Subcontractor's Work is fully performed in accordance with the requirements of the Subcontract Documents, the Architect has issued a certificate for payment covering the Subcontractor's completed Work and the Contractor has received payment from the Owner. If, for any cause which is not the fault of the Subcontractor, a certificate for payment is not issued or the Contractor does not receive timely payment or does not pay the Subcontractor within seven days after receipt of payment from the Owner, final payment to the Subcontractor shall be made upon demand. Payment by Owner to Contractor is a condition precedent to payment by Contractor to Subcontractor unless the failure to receive payment is solely caused by the failures of Contractor. Contractor's surety, if any, shall have the benefit of this provision relative to the obligations of the surety under its surety bond.

(Insert provisions for earlier final payment to the Subcontractor, if applicable.)

§ 12.2 Before issuance of the final payment, the Subcontractor, if required, shall submit evidence satisfactory to the Contractor that all payrolls, bills for materials and equipment, and all known indebtedness connected with the Subcontractor's Work have been satisfied. Acceptance of final payment by the Subcontractor shall constitute a waiver of claims by the Subcontractor, except those previously made in writing and identified by the Subcontractor as unsettled at the time of final application for payment.

§ 12.3 Contractor, in its sole discretion, shall have the right, but not the obligation, to make payment to Subcontractor and its sub-subcontractors and material suppliers by the issuance of a joint check to Subcontractor and

its sub-subcontractor and/or material supplier to satisfy any debts for furnishing of labor, material, equipment and supplies to the Project.

§ 12.4 Contractor shall have the right to withhold and setoff or recoup from Subcontractor's progress payments or final payment, or any portion thereof, sufficient funds to compensate Contractor for:

- .1 Any liquidated damages withheld by Owner from payment to Contractor due to Subcontractor caused delays in the progress of the progress of the Work or default of Subcontractor under the Subcontract.
- .2 Actual cost to Contractor incurred as a result of Subcontractor's failure to adhere to the schedule including, but not limited to, the cost of additional workmen and materials made necessary by Subcontractor's failures.
- .3 Such sum as Contractor determines is necessary to protect Contractor for loss as a result of default by Subcontractor (or a good faith belief of potential default by Subcontractor) under the Subcontract; including the filing or probable filing of mechanic's liens and/or bond claims by any sub-subcontractor and/or material supplier of Subcontractor.
- .4 Any sum due Subcontractor by Contractor on any other project for which Subcontractor has performed work under an agreement with Contractor.
- .5 Failure of Subcontractor to file with Contractor required insurance certificates and surety bonds.

ARTICLE 13 INSURANCE AND BONDS

§ 13.1 The Subcontractor shall purchase and maintain insurance of the following types of coverage and limits of liability as will protect the Subcontractor from claims that may arise out of, or result from, the Subcontractor's operations and completed operations under the Subcontract:

Type of insurance or bond	Limit of liability or bond amount (\$ 0.00)

All insurance and bond requirements are per Rider to Subcontract attached hereto and incorporated herewith or as required in the Contract Documents. Any conflict between this Agreement and the Contract Documents between Owner and Contractor shall be resolved by the application of the more stringent requirement.

§ 13.2 Coverages, whether written on an occurrence or claims-made basis, shall be maintained without interruption from the date of commencement of the Subcontractor's Work until the date of final payment and termination of any coverage required to be maintained after final payment to the Subcontractor, and, with respect to the Subcontractor's completed operations coverage, until the expiration of the period for correction of Work or for such other period for maintenance of completed operations coverage as specified in the Prime Contract.

§ 13.3 Certificates of insurance acceptable to the Contractor shall be filed with the Contractor prior to commencement of the Subcontractor's Work. Failure to file insurance certificates and bonds with Contractor shall be grounds for the rescission of this Subcontract Agreement or the withholding of payment from Contractor to Subcontractor, at Contractor's election. These certificates and the insurance policies required by this Article 13 shall contain a provision that coverages afforded under the policies will not be canceled or allowed to expire until at least 30 days' prior written notice has been given to the Contractor. If any of the foregoing insurance coverages are required to remain in force after final payment and are reasonably available, an additional certificate evidencing continuation of such coverage shall be submitted with the final application for payment as required in Article 12. If any information concerning reduction of coverage is not furnished by the insurer, it shall be furnished by the Subcontractor with reasonable promptness according to the Subcontractor's information and belief.

§ 13.4 The Subcontractor shall cause the commercial liability coverage required by the Subcontract Documents to include: (1) the Contractor, the Owner, the Architect and the Architect's consultants as additional insureds for claims caused in whole or in part by the Subcontractor's negligent acts or omissions during the Subcontractor's operations; and (2) the Contractor as an additional insured for claims caused in whole or in part by the Subcontractor's negligent acts or omissions during the Subcontractor's completed operations.

§ 13.5 The Contractor shall furnish to the Subcontractor satisfactory evidence of insurance required of the Contractor under the Prime Contract.

§ 13.6 The Contractor shall promptly, upon request of the Subcontractor, furnish a copy or permit a copy to be made of any bond covering payment of obligations arising under the Subcontract.

§ 13.7 Performance Bond and Payment Bond:
(If the Subcontractor is to furnish bonds, insert the specific requirements here.)

Bond type	Bond amount (\$ 0.00)	Bond delivery date	Bond form

§ 13.8 PROPERTY INSURANCE

§ 13.8.1 When requested in writing, the Contractor shall provide the Subcontractor with copies of the property and equipment policies in effect for the Project. The Contractor shall notify the Subcontractor if the required property insurance policies are not in effect.

§ 13.8.2 If the required property insurance is not in effect for the full value of the Subcontractor's Work, then the Subcontractor shall purchase insurance for the value of the Subcontractor's Work, and the Subcontractor shall be reimbursed for the cost of the insurance by an adjustment in the Subcontract Sum.

§ 13.8.3 Property insurance for the Subcontractor's materials and equipment required for the Subcontractor's Work, stored off site or in transit and not covered by the Project property insurance, shall be paid for through the application for payment process.

§ 13.9 WAIVERS OF SUBROGATION

The Contractor and Subcontractor waive all rights against (1) each other and any of their subcontractors, sub-subcontractors, agents and employees, each of the other, and (2) the Owner, the Architect, the Architect's consultants, separate contractors, and any of their subcontractors, sub-subcontractors, agents and employees for damages caused by fire or other causes of loss to the extent covered by property insurance provided under the Prime Contract or other property insurance applicable to the Work, except such rights as they may have to proceeds of such insurance held by the Owner as a fiduciary. The Subcontractor shall require of the Subcontractor's Sub-subcontractors, agents and employees, by appropriate agreements, written where legally required for validity, similar waivers in favor of the parties enumerated herein. The policies shall provide such waivers of subrogation by endorsement or otherwise. A waiver of subrogation shall be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest in the property damaged.

ARTICLE 14 TEMPORARY FACILITIES AND WORKING CONDITIONS

§ 14.1 The Contractor shall furnish and make available at no cost to the Subcontractor the Contractor's temporary facilities, equipment and services, except as noted below:

Temporary Facility, Equipment or Service	Cost, if any (\$ 0.00)
Temporary electrical power, water and trash dumpster for construction debris deposited by Subcontractor's personnel	

§ 14.2 Specific working conditions:

(Insert any applicable arrangements concerning working conditions and labor matters for the Project.)

Subcontract work to be scheduled and performed in accordance with Division 1-General Requirements of Equal Employment Opportunity (Exhibit C), the Harmony Clause (Exhibit D), Straub Construction Company, Inc. Policies (Exhibit E), Supplemental Conditions (Exhibit F), and in accordance with Williams-Steiger Occupational Safety & Health Act of 1970, as set forth by the U.S. Department of Labor. Any penalties suffered by the Subcontractor for

violation of the act will be the sole responsibility of the Subcontractor, and in no way shall the General Contractor be held responsible for the Subcontractor's violation and/or penalties.

The Subcontractor is responsible for clean up of scraps, boxes, etc., caused from materials used in his work and is responsible for the disposal of this debris to the trash dumpster or location on site designated by the job Superintendent.

CLEAN UP OF WORK AREAS IS TO BE ON A DAILY BASIS. FAILURE TO CLEAN UP SHALL BE SUBJECT TO BACKCHARGE.

USE OF DRUGS, ALCOHOL, PROFANITY, SMOKING AND THE PLAYING OF ANY AUDIO EQUIPMENT SHALL NOT BE PERMITTED ON A JOBSITE.

ARTICLE 15 MISCELLANEOUS PROVISIONS

§ 15.1 Where reference is made in this Subcontract to a provision of another Subcontract Document, the reference refers to that provision as amended or supplemented by other provisions of the Subcontract Documents.

§ 15.2 Payments due and unpaid under this Subcontract shall bear interest from the date payment is due at such rate as the parties may agree upon in writing or, in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.

(Insert rate of interest agreed upon, if any.)

Zero percent (0%) per annum

§ 15.3 Retainage and any reduction thereto is as follows:

Ten percent (510%) retainage for duration of the project.

§ 15.4 The Contractor and Subcontractor waive claims against each other for consequential damages arising out of or relating to this Subcontract, including without limitation, any consequential damages due to either party's termination in accordance with Article 7.

ARTICLE 16 ENUMERATION OF SUBCONTRACT DOCUMENTS

§ 16.1 The Subcontract Documents, except for Modifications issued after execution of this Subcontract, are enumerated in the sections below.

§ 16.1.1 This executed AIA Document A401-2007, Standard Form of Agreement Between Contractor and Subcontractor.

§ 16.1.2 The Prime Contract, consisting of the Agreement between the Owner and Contractor dated as first entered above and the other Contract Documents enumerated in the Owner-Contractor Agreement.

§ 16.1.3 The following Modifications to the Prime Contract, if any, issued subsequent to the execution of the Owner-Contractor Agreement but prior to the execution of this Agreement:

Modification

Date

§ 16.1.4 Additional Documents, if any, forming part of the Subcontract Documents:

.1 AIA Document E201™-2007, Digital Data Protocol Exhibit, if completed by the parties, or the following:

.2 Other documents:

(List here any additional documents that are intended to form part of the Subcontract Documents. Requests for proposal and the Subcontractor's bid or proposal should be listed here only if intended to be made part of the Subcontract Documents.)

- Exhibit A – Scope of Work
- Exhibit B – Drawings and Specifications
- Exhibit C – General Requirements of Equal Employment Opportunity
- Exhibit D – Harmony Clause
- Exhibit E – Straub Construction Company, Inc. Policies
- Exhibit F – Supplemental Conditions
- Exhibit G – Schedules
- Exhibit H – Insurance Requirements

This Agreement entered into as of the day and year first written above.

CONTRACTOR (Signature)

Parker J. Young, Jr. Executive Vice President/COO
(Printed name and title)

SUBCONTRACTOR (Signature)

(Printed name and title)

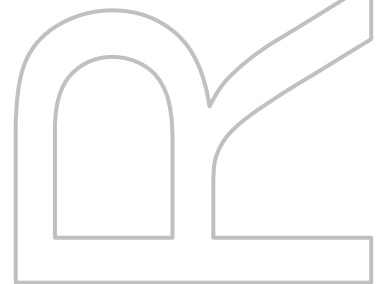
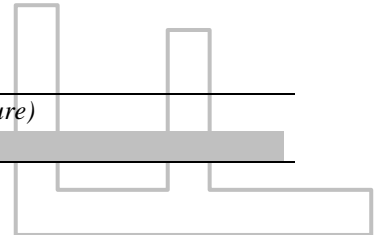
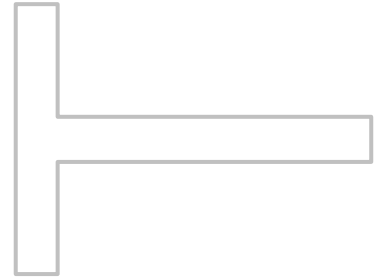


EXHIBIT C

EQUAL EMPLOYMENT OPPORTUNITY

"13.8 EQUAL EMPLOYMENT OPPORTUNITY

"13.8.1 The Subcontractor shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin or age. The Subcontractor shall take affirmative action to ensure that applicants are employed, and that applicants are treated during employment without regard to the applicant's race, religion, color, sex, national origin, or age. Such action shall include, but not be limited to, employment, upgrading, demotion, transfer, recruitment, recruitment advertisement, layoff, termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The Subcontractor shall post in conspicuous places, available to employees and applicants for employment, notices setting forth the requirements of these non-discrimination provisions.

"13.8.2 The Subcontractor shall, 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, religion, color, sex, national origin or age.

"13.8.3 The Subcontractor shall include all of this Paragraph 13.8 in every subcontract or purchase order, and shall require each subcontractor and material and equipment supplier to include this Paragraph 13.8 in each of their subcontracts and purchase orders, so that such provisions will be binding upon each subcontractor, sub-subcontractor, and material and equipment supplier.

"13.8.4 In the event of the Subcontractor's noncompliance with any portion of this Paragraph 13.8, the General Contractor may cancel, terminate, or suspend this Contract."

EXHIBIT D

HARMONY CLAUSE

It is understood that contracts will be awarded and labor will be employed on the project described herein without discrimination as to whether employees of any Contractor, Subcontractor or those employed by the Owner of the project are members or non-members of any labor organization. Subcontractor accepts this Contract with that understanding. If there is a dispute by any labor organization that is manifested on the project described herein, the Subcontractor agrees to employ persons on the project who will work at all times in harmony with other persons on said project. The qualified Subcontractor agrees its employees will report to work regardless of the existence of any labor dispute at said project, whether the labor dispute is with the Subcontractor or any other person or entity.

Should there be a work stoppage caused by a strike, picketing, boycott or by any voluntary or involuntary cessation of work by employees of the Subcontractor, which in the judgement of the Contractor will cause, or is likely to cause, unreasonable delay in the progress of construction, then upon twenty-four (24) hours written notice the Contractor shall have the right to declare the Subcontractor in default of this understanding and agreement and take such steps as are necessary to finish the uncompleted portion of the work. In such event, the Contractor shall have the right to take possession of and use all the Subcontractor's materials (exclusive of tools) intended for use on the work. The cost of completion, including all expenses, attorney's fees and costs incurred in resolving the labor dispute shall be charged against the Subcontractor's remaining interest in the contract amount. If the Subcontractor's remaining interest in the contract amount exceeds the cost of the completion, the Subcontractor shall be entitled to the difference. If, however, the cost of the completion exceeds the Subcontractor's remaining interest in the contract amount, then the Subcontractor agrees to pay the Contractor such excess within thirty (30) days after written demand for such excess has been made upon him by the Contractor.



Quality Assured Since 1920

EXHIBIT E

STRAUB CONSTRUCTION COMPANY POLICIES

- Dress Policy: HARDHATS AND SAFETY GLASSES ARE TO BE WORN ON-SITE AT ALL TIMES.
Jeans or work pants shall be worn. No shorts will be permitted. Jeans and work pants shall be in good condition and not completely full of holes.
- Although long sleeve shirts are not required, they are recommended. Both long sleeve shirts and short sleeve shirts shall be a work shirt type garment and not a T-shirt with graffiti or advertisements. Steel toed boots are also recommended, although work boots are permissible.
- Appearance is also part of the dress policy. All Straub Construction Company, Inc., Employees should reflect a responsible, neat and professional appearance.
- Radio Policy: No radios are permitted on the job site.
- Smoking Policy: A designated smoking area shall be designated at each job if allowed. Smoking will not be permitted inside any building on the job site. Smoking will be allowed in the designated areas at break times and lunch.

PRODUCER	THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.	
	INSURERS AFFORDING COVERAGE	NAIC #
INSURED Your Company Name	INSURER A:	
	INSURER B:	
	INSURER C:	
	INSURER D:	
	INSURER E:	

COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED, IT MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR ADD'L LTR INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC	NEED POLICY #			EACH OCCURRENCE \$ 1,000,000 DAMAGES (REMOVED PREMISES (Exclusion)) \$ 3,000,000 MED EXP (Per person) \$ 10,000 PERSONAL & AUTO INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OFF \$ 2,000,000
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS	NEEW POLICY #			COMBINED SINGLE ACCIDENT LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	GARAGE LIABILITY <input type="checkbox"/> ANY AUTO				AUTO ONLY - EA ACCIDENT \$ OTHER THAN EA ACC AUTO ONLY: \$ AGG \$
	EXCESS/UMBRELLA LIABILITY <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> DEDUCTIBLE <input type="checkbox"/> RETENTION \$	NEED POLICY #			EACH OCCURRENCE \$ 1,000,000 AGGREGATE \$ 1,000,000 \$ \$ \$
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? If yes, describe under SPECIAL PROVISIONS below.	WC26	02/01/06	02/01/07	<input checked="" type="checkbox"/> WC STATU-TORY LIMITS <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 500000 E.L. DISEASE - EA EMPLOYEE \$ 500000 E.L. DISEASE - POLICY LIMIT \$ 500000
	OTHER				

DESCRIPTION OF OPERATIONS / EXCLUSIONS / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS
 Certificate Holder is named as an Additional Insured as respects General Liability and Auto coverage. The general liability coverage is Primary & Non-Contributory with respect to all work performed, including completed operations. Waiver of Subrogation is in favor of Add'l Insured where permissible by law.

CERTIFICATE HOLDER STRAUBC Straub Construction Co., Inc. Straub Homes LLC 7775 Meadow View Drive Shawnee KS 66227	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.
	AUTHORIZED REPRESENTATIVE