

ROBINS & MORTON

ROBINS & MORTON • Phone 205/870-1000 • 400 Shades Creek Parkway • Birmingham, Alabama 35259

SUBCONTRACT

CONTRACTOR: The Robins & Morton Group
("Contractor") 400 Shades Creek Parkway
Birmingham, AL 35209
Phone: (205) 870-1000 Fax: (205) 871-0906

SUBCONTRACTOR:
("Subcontractor")

ATTN:
Phone: Fax:
Email:

**REMITTANCE
ADDRESS:**

SUBCONTRACTOR Federal ID #:

PROJECT: ("Project")
(Ship to)

OWNER:
("Owner")

ARCHITECT:
("Architect")

PRIME CONTRACT WITH OWNER: Dated
("Contract")

SCOPE OF WORK: (GENERAL DESCRIPTION ONLY)

SUBCONTRACT PRICE:

("Price") The Price includes all present and future federal, state, local or other taxes, duties, fees, and other charges or surcharges levied against the Subcontractor and applicable to this Contract or the material, equipment or labor covered hereunder.

CLAIMS AND DISPUTES RESOLVED BY ARBITRATION. ARBITRATION CLAUSE TO BE FOUND IN PARAGRAPH 30.4.

Subcontract Number

SHOW THIS NUMBER ON ALL INVOICES, CASES, BUNDLES, B/L AND CORRESPONDENCE.

R&M Project Number	
Cost Code	
Subcontract Date	

MONTHLY BILLING DATE: ("Monthly Billing Date")

MONTHLY BILLING SUBMITTED THROUGH www.texturalc.com

RETAINED PERCENTAGE: ("Retained Percentage")

PAYMENT AND PERFORMANCE BONDS: Required ☐ Not Required ☐

(The above terms are incorporated by reference and are more fully explained below.)

On this the day of , 20 , Contractor and Subcontractor, with offices at the addresses shown above, agree for themselves, their successors and assigns as follows:

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ARTICLE 1 - The Work

1.1 Subcontractor shall furnish labor, supervision, services, materials, equipment, tools, scaffolds, hoisting facilities, transportation, storage and all other things necessary to perform the work described in Schedule A attached hereto (the "Work"), being a portion of the work required of Contractor under the Contract between Owner and Contractor. The Work shall be performed by Subcontractor strictly in accordance with this subcontract and the Contract Documents, which consist of the Contract and the plans, drawings, specifications, addenda and other documents identified in Schedule G attached hereto, and all modifications issued hereafter thereto (the "Contract Documents"). If the Contract requires the Contractor to restate or incorporate specific provisions or requirements in subcontract agreements, Subcontractor agrees that all of those provisions or requirements are incorporated in the Subcontract. Some of these provisions or requirements, along with other provisions, may be incorporated in a Rider attached hereto. The Rider, if any, and all its provisions and requirements contained are part of this Subcontract.

1.2 The Contract Documents are available for examination by Subcontractor at the office of Contractor. The Contract made available to Subcontractor will be an unpriced copy. Subcontractor represents and agrees that it has had access to all Contract Documents and has carefully examined and understands the Contract Documents that Subcontractor deems relevant to the Work; has previously notified Contractor in writing of all ambiguities, inconsistencies and omissions, if any, in the Contract Documents that relate to the Work; has diligently investigated the nature and conditions of the Project site and locality; has familiarized itself with conditions affecting the difficulty of the Work; and has entered into this Subcontract based on its own examination, investigation and evaluation and not in reliance upon any opinions or representations of Contractor.

1.3 Except as expressly stated otherwise in this Subcontract, Subcontractor assumes toward Contractor all of the duties, obligations and responsibilities that Contractor has by the Contract Documents assumed toward the Owner. Subcontractor agrees to be bound to Contractor by the terms and conditions of the Contract Documents, to be obligated and liable to the Contractor to the same extent Contractor is obligated and liable to the Owner, and to limit its rights to relief or recovery against the Contractor by the same terms and to the same extent that Contractor's rights against the Owner are limited. The exculpatory provisions of the Contract between Owner and Contractor apply to and limit Subcontractor's rights against the Contractor to the same extent that Contractor's rights against the Owner are limited. Subcontractor agrees to be bound by all interpretations, decisions or other written instructions by Owner, Architect, any court, arbitration panel, administrative tribunal or other body relative to any question, interpretation, ambiguity or discrepancy in the Contract Documents in the same manner as Contractor is bound; and Subcontractor agrees to comply with and to perform the Work as required by such interpretations, decisions or written instructions. If Subcontractor incurs any additional cost, delay or disruption to the Work as a result of any such interpretation, decision or written instruction or as a result of any inadequacy or unsuitability, including without limitation, ambiguity, inconsistency or omission in the Contract Documents, Contractor shall only be obligated to pay additional compensation to Subcontractor or to extend the Subcontractor's time for performance if Contractor receives additional compensation or an extension of time from Owner, and then only to the extent, if any, of Subcontractor's equitable portion of such additional compensation or extension of time.

1.4 If Subcontractor is providing any design-build services, Subcontractor will provide the design services in accordance with the standard of care required by the Contract Documents. If the Contract Documents do not address a standard of care for design services, Subcontractor will provide the design services in accordance with the highest standard of care used by members of the design profession practicing in the region of the country where the Project is located.

1.5 The Contract Documents and this Subcontract shall be read and interpreted together. If there is a conflict regarding the scope of the Work, the document requiring the more extensive work shall prevail unless the Contractor directs otherwise. Otherwise, this Subcontract shall govern in the event of any conflict between the Contract Documents and Subcontract pertaining to the relationship between Contractor and Subcontractor.

ARTICLE 2 - Price

Contractor shall pay to Subcontractor for the satisfactory performance and completion of the Work under this Subcontract the sum set forth above as the Price, subject to additions and deductions as herein provided. This price is firm and not subject to escalation. To the extent that the Work or any changes or modifications thereto are to be performed on a unit price basis, the Price shall be computed in accordance with the unit prices set forth in Schedule I based on actual quantities determined in accordance with the Contract Documents and this Subcontract. The Price and all unit prices shown in Schedule I include compensation for all costs, direct and indirect, of Subcontractor's performance of the Work or changes thereto.

ARTICLE 3 - Progress Payment

3.1 Within ten (10) working days of execution of the Subcontract, Subcontractor shall submit to Contractor for approval a detailed schedule showing a cost breakdown of the Price according to the various line items, or parts, of the Work (with overhead and profit allocated to each item or part of the Work), for use in evaluating Subcontractor's applications for payment. Subcontractor shall also provide a comprehensive listing of all lower tier subcontractors and all suppliers of material and equipment to be used on the project. The listing shall include the anticipated value of the work to be performed or material/equipment to be supplied and dates for anticipated payment(s).

3.2 Monthly Billing. On or before each Monthly Billing Date, Subcontractor shall submit to Contractor through Textura a Subcontractor's Application for Payment and Partial Release of Lien and Claims ("Payment Application") on Contractor's forms (see Schedule L). Payment Applications not received by the Monthly Billing Date will be processed in the next pay period. The Payment Application shall include the value of the portions of the Work completed, and if the Contract Documents provide for payments for stored materials, the value of the material suitably stored (to the satisfaction of Contractor and Owner) at the Project site or other approved location ("Stored Materials"). Subcontractor shall also complete the certificates and partial releases contained in the Payment Application. Additionally, Subcontractor shall submit sworn partial waivers of liens and claims, on Contractor's forms, from all subcontractors and suppliers performing work and/or providing materials covered by the Payment Application. A consent from Subcontractor's surety to payment (where Performance & Payment Bonds were required of Subcontractor) is a condition precedent to payment by Contractor where Contractor has requested such consent. Any fees for Subcontractor's use of Textura is included in the Subcontract Price.

3.3 Payment. Subject to Article 5, within five (5) working days after receiving a progress payment from Owner, Contractor shall make a progress payment to Subcontractor equal to the approved value of the completed portions of the Work and the Stored Materials which were included in the Contractor's billing to Owner, and for which payment has been received, less (a) all previous payments, (b) retainage (and any other reserve or withholding provided for in this Subcontract) and (c) all charges or backcharges for liabilities, services, materials, equipment and other items furnished or otherwise chargeable by Contractor to Subcontractor.

3.4 Subcontractor will cooperate fully with Contractor in securing payment to Contractor by the Owner including but not limited to providing such information or documentation as the Owner or Contractor may require. Subcontractor agrees that it relies for payment for all Work performed pursuant to this Subcontract on the credit and ability to pay of the Owner, and not that of Contractor, and Subcontractor agrees that payment

by the Owner to Contractor for Work performed by the Subcontractor is a condition precedent to any payment obligation of Contractor to Subcontractor. In the event of non-payment by Owner, Contractor will assign to Subcontractor Contractor's right to payment from Owner for amounts otherwise payable to Subcontractor, and Subcontractor accepts such assignment from Contractor in lieu of any claim against Contractor for such amounts. Subcontractor agrees that the liability of Contractor's sureties on any bond for payment to Subcontractor is subject to the same conditions precedent as are applicable to Contractor's liability to Subcontractor.

ARTICLE 4 - Final Payment

4.1 Final billing from Subcontractor, including billing for all Change Orders, shall be submitted to Contractor not later than *thirty (30) calendar days after completion of the Work, or the Project, whichever is later.*

4.2 The final payment, consisting of the unpaid balance of the Price, shall be due and payable within thirty (30) calendar days after all the following have occurred: (a) completion of the Work by Subcontractor; (b) acceptance of the Work and the Project by Architect and Owner; (c) final payment by Owner to Contractor under the Contract on account of the Work and on account of the Project; (d) Subcontractor has furnished to Contractor satisfactory evidence that there are no outstanding claims, obligations, encumbrances or liens for labor, services, materials, equipment, taxes or other items incurred in connection with the Work; (e) delivery of all guarantees, warranties, bonds, instruction manuals, as-built drawings and similar items required of Subcontractor or its suppliers or subcontractors; (f) delivery of releases of lien and general releases on Contractor's form(s) (attached in Schedule L) executed by Subcontractor, and all subcontractors and suppliers and (g) if requested by Contractor, a consent of surety to the payment. Final payment by Owner to Contractor on account of the Work and the Project is a condition precedent to Contractor's obligation to make final payment to Subcontractor.

ARTICLE 5 - Payment Conditions

5.1 Subcontractor will ensure that all lower-tier subcontractors and vendors, and employees, are always timely paid all amounts due in connection with the performance of this Subcontract. Subcontractor agrees that all payments received by Subcontractor under this Subcontract or related to the Work of this Subcontract will be held in trust by Subcontractor to be applied first to the payment of laborers, suppliers, subcontractors and others responsible for the Work and all taxes and insurance applicable thereto; and Subcontractor agrees to so hold and apply said payments.

5.2 Contractor shall have the right at all times to contact Subcontractor's subcontractors and suppliers to determine that they are being paid in accordance with the terms of this Subcontract and the terms of their agreements with Subcontractor for labor or materials furnished for use in performing the Work. Subcontractor agrees that Contractor may, at any time, make payments due to Subcontractor by checks jointly payable to Subcontractor and one or more of Subcontractor's subcontractors or suppliers. No action by Contractor shall create any relationship between Contractor and, or obligation of Contractor to, any of Subcontractor's subcontractors or suppliers.

5.3 Subcontractor shall, as often as requested by Contractor, furnish all information Contractor requires, including, without limitation, a sworn statement, with respect to the extent and value of current progress and the nature and extent of all obligations incurred by Subcontractor in connection with the Work and all payments made by Subcontractor on account thereof.

5.4 Withholding. In addition to retainage, Contractor may withhold from any progress or final payment all amounts which are reasonably necessary to protect Contractor against all risks, including, without limitation, attorneys' fees, if any of the following occur: (i) Subcontractor fails to provide evidence satisfactory to Contractor that each of its subcontractors, suppliers and laborers has been paid for all labor, services, materials, and supplies used in the performance of the Work through the end of the pay period covered by the last progress payment; (ii) the Owner reduces a payment to Contractor or backcharges Contractor for reasons attributable to the Work; (iii) a portion of the Work is unacceptable to Contractor, Owner or Architect; (iv) a third party asserts a claim against Contractor arising from the Work or evidence reasonably indicates that such a claim(s) may be filed; (v) the Subcontractor fails to carry out the Work in accordance with the Subcontract; (vi) the Work is not progressing in accordance with or will not be completed within the time allowed by the Schedule; (vii) Subcontractor fails to furnish certificates of insurance in compliance with Article 13 or bonds in compliance with Article 12; (viii) Subcontractor fails to furnish drug testing certifications in compliance with Article 31; (ix) Subcontractor has not executed all Contract Documents; or (x) certified payrolls, if required, are not current. Contractor may pay a claim of a lower-tier subcontractor, vendor or employee whether or not a lien or bond claim has been filed, unless Subcontractor, within five (5) days of receipt of notice or such shorter period as Contractor finds necessary to meet its obligations to the Project: (i) demonstrates that such sums are not due, and (ii) provides Contractor separate security for such amounts.

5.5 No payment shall be evidence of the performance or progress of the Work, or constitute or imply acceptance by the Contractor of any portion of the Work. Subcontractor agrees that acceptance of any payment shall constitute a release of the Contractor from all claims or liability, other than for retainage, for any Work, services, materials or equipment performed or furnished or for anything which occurred or which failed to occur during the payment period to which the payment relates. Acceptance of final payment by Subcontractor shall constitute a general release by Subcontractor in favor of Contractor, its Surety and Owner.

5.6 If at any time monies due Contractor from the Owner are not paid because of Owner withholding, Contractor will apportion the non-payment equitably and reduce the payment otherwise due Subcontractor accordingly. Any estimate or determination made by Owner (or Architect) of the value of the completed portions of the Work or of any deduction or offset for damages to the Work or for changes chargeable by Owner to Contractor on account of the Work, shall be binding on Subcontractor.

5.7 Contractor and Subcontractor agree that it is the intent of this Subcontract that Subcontractor will be denied payment for Work performed under this Subcontract or a Change Order and performed in full compliance with the Contract Documents if Owner refuses or fails to pay Contractor for such Work for any reason, including, as illustration only, the Owner's insolvency. Owner's payment to Contractor is a condition precedent to Contractor's obligation to pay Subcontractor.

5.8 The rights of set-off and recoupment are hereby reserved to Contractor. Contractor may deduct, backcharge, set-off or recoup from any amounts otherwise due under this Subcontract or any other agreement between the parties (including Subcontractor's agreements with any joint venture or other entity in which Contractor has an ownership interest) any amounts owed by Subcontractor to Contractor or Owner either under this Subcontract or under any other obligation of Subcontractor.

ARTICLE 6 - Time

6.1 Time is of the essence in the performance of this Subcontract. Subcontractor is aware of the Contract Time (as defined in the Contract Documents) and agrees to take any and all steps necessary to ensure that the Work is performed in such time as to permit Contractor to meet its obligations to Owner in accordance with the schedule for the Project to be prepared by Contractor ("the Schedule"). If Subcontractor fails to maintain the progress required by the Schedule and such failure is Subcontractor's fault, in whole or in part as reasonably determined by Contractor, Subcontractor agrees that the Contractor may direct the Subcontractor, at Subcontractor's sole cost and expense, to take whatever actions are necessary to get the Work back on schedule.

6.2 The Schedule will be developed in a cooperative effort between the Contractor and the Subcontractor as follows: The Project may use the services of a professional scheduling organization or may manage scheduling with Contractor's management personnel. Subcontractor accepts this concept and agrees to attend and participate in all scheduling activities. These activities are at a minimum: One day of data gathering of Subcontractors' activities and manpower and one day of logic planning for the Schedule preparation at the beginning of the Project. Subcontractor further agrees to attend half a day work sessions every other week for near term schedule update and commitment. This activity requires preparation as well as attendance.

6.3 Subcontractor agrees at its sole cost and expense: (a) to begin the Work upon Contractor's order to do so; (b) to cooperate with Contractor and its other subcontractors and the other contractors, if any; (c) to perform the Work in such sequence as Contractor may from time to time direct; (d) when requested, to provide all information required to prepare updates or revisions to the Schedule; (e) to allow other work to proceed in preference to Subcontractor's Work; and (f) to furnish at all times sufficient and qualified forces and supervision, adequate and conforming materials, equipment, tools and all other things necessary to achieve the progress required by the Schedule. Subcontractor agrees that Contractor has full discretion with regard to preparation of the Schedule and updates or revisions thereto during the course of the Project, and that Subcontractor shall perform, at its own cost and expense, the Work in accordance with the requirements of the Schedule and all revisions or updates thereto. The Contractor shall have the right to approve all manpower levels employed by Subcontractor and to direct that manpower be increased as deemed necessary by Contractor. If the Subcontractor fails to adhere to the manpower levels as determined by Contractor, then Contractor may, at its discretion, supplement the manpower of Subcontractor. The costs related thereto shall be deducted from the Contract Price. If Contractor supplements Subcontractor's labor, Subcontractor will nevertheless be fully responsible, including all warranty and guarantee requirements, for all Work included in the Subcontract scope.

6.4 Subcontractor agrees: (a) to order (for manufacture and/or purchase and delivery) all materials and equipment required for the Work as soon as possible to avoid delays caused by unavailability; (b) to furnish Contractor within thirty (30) calendar days of the date of this Subcontract, or the date of the data collection whichever is earlier, a list of major materials and equipment which are expected to be delivered to the Project site; (c) to furnish Contractor, upon demand, a copy of each major purchase order and subcontract (at Subcontractor's option, price information may be deleted); (d) to cause a qualified home office and field supervisory representative to attend scheduled progress meetings; (e) to provide no less frequently than at the scheduled progress meetings current and accurate status of progress of the Subcontractor's work, including both on-site activities (e.g. mobilization, installation, storage of materials, etc.) and off-site activities (shop drawings, samples, fabrication, shipping, etc.); (f) to notify Contractor immediately and confirm in writing within forty-eight (48) hours, if Subcontractor finds that any item cannot be delivered as required to maintain the Schedule; and (g) to update all information supplied to Contractor at any time requested by Contractor and no less than every Monthly Billing Date; (h) to furnish Contractor with written confirmation of procurement milestones on all "lead time" materials and/or equipment from the manufacturer(s) furnishing such materials.

ARTICLE 7 - Liquidated and Other Damages

Subcontractor represents that it has satisfied itself as to any provision in the Contract Documents concerning liquidated damages, and agrees that in the event liquidated damages are imposed by Owner on Contractor as the result, in whole or in part, of the performance or non-performance of Subcontractor, such liquidated damages (or an appropriate share thereof) will constitute one element of the damages that Contractor shall be entitled to recover from Subcontractor by backcharges or otherwise. In addition, Subcontractor agrees to reimburse Contractor for any loss or damage, including damages that may become due to Owner under the Contract Documents, and for any costs incurred by the Contractor that result from Subcontractor's failure to deliver timely or properly any and all materials or failure to perform timely or properly any and all Work.

ARTICLE 8 - Extensions of Time

For delays caused by actions, events or conditions for which the Owner is obligated to grant Contractor an extension of time under the terms of the Contract Documents, Subcontractor shall be granted an extension of time for such delays only to the extent an extension of time is granted to the Contractor by the Owner, except that the Subcontractor shall be entitled to only that portion of the extension of time, if any, for which the Subcontractor's work was directly or indirectly delayed. If Subcontractor is delayed solely by Contractor, and Subcontractor gives the required notices, Subcontractor shall be entitled to an extension of time equal to the delay to the performance of its Work. The Subcontractor agrees it shall not be entitled to an adjustment of the Subcontract price or monetary damages (including, without limitation, impact, inefficiency and disruption damages) for any delay in the performance of the Work caused by the Owner, the Contractor or otherwise, except to the extent that Contractor shall receive a price adjustment or damages, from Owner or other third party. Subcontractor shall not be entitled to an extension of time or to compensation or damages for any delay unless a written notice of that delay is delivered to Contractor within two-thirds of the time period allowed by the Contract Documents or within seven (7) calendar days of the beginning of the event causing the delay, whichever is the shorter period of time. Subcontractor agrees that its failure to provide notice is and will be a waiver of any claim it may have for or relating to the event causing the delay.

ARTICLE 9 - Changes

9.1 Without notice to Subcontractor's surety and without invalidating this Subcontract or the surety bonds, Contractor may from time to time, by written directive to Subcontractor, require Subcontractor to make changes in the Work (both additions and deletions), and the changed work shall be part of the Work. Subcontractor shall perform changed work as part of the Work and in accordance with the terms of this Subcontract, when directed to do so in writing by Contractor.

9.2 Subcontractor specifically agrees that it is bound by any and all disclaimers in the Contract Documents that relate to subsurface, latent conditions, differing conditions, unknown conditions or that otherwise deal with changed conditions at the Site ("Differing Conditions"). Should Subcontractor encounter Differing Conditions during the progress of the Work, Subcontractor shall notify Contractor in writing before such conditions are disturbed or within forty-eight (48) hours of discovery of same, whichever is the shorter period of time, to allow Contractor to give notice under the Contract Documents.

9.3 Within two-thirds of the time period required by the Contract Documents or seven (7) calendar days of a change in the Work or discovery of a Differing Condition, whichever is the shorter period of time, Subcontractor shall submit to Contractor a written proposal for the change in the Work or the Differing Condition amply detailed and supported and conforming to the requirements of the Contract Documents and the Subcontract.

If Subcontractor fails to submit its written proposal within the required time, Contractor may estimate the cost or time impact of the change as it affects the Subcontract in its quotation with the Owner, and Subcontractor shall be bound by whatever adjustment or relief is granted by the Owner through the settlement or disputes process as a result thereof. Otherwise, Subcontractor agrees that it waives all its rights to both price and time adjustments if it fails to submit its written proposal within the required time.

9.4 Subcontractor agrees that adjustments in the Price (including the Subcontractor's costs, if any, caused by changes to the work of others) or the time for the Work for changes directed by Owner or for Differing Conditions shall be limited to Subcontractor's portion of the adjustments actually made by Owner under the Contract Documents. When changes are the subject of unit prices under Schedule I, the Price adjustments shall be limited to the amount obtained by applying such unit prices to the number of units actually allowed by Owner. Each Subcontract adjustment will be equal to Subcontractor's allocable share of any adjustment to the Contract with the Owner. Subcontractor's allocable share will be determined by Contractor, after allowance for Contractor's normal overhead and profit and Contractor's expense of recovery (including attorneys' fees) by making a reasonable apportionment, if applicable, between Subcontractor, Contractor and other subcontractors or persons with interests in the adjustment. This Paragraph applies to other equitable adjustments or other relief allowed by the Contract Documents. A Contract adjustment by the Owner is a condition precedent to Contractor's obligation to adjust the Subcontract Price or Subcontract time of performance.

9.5 Subcontractor's price quotations for all changes or Differing Conditions shall be based on actual savings or costs. Actual savings and costs will include and be limited to the following items: cost of materials, including sales tax and cost of delivery; cost of sub-subcontractor (third tier contractors); cost of labor, including social security, old age and unemployment insurance, and other charges or fringe benefits required by law, agreement or custom; worker's compensation insurance; bond premiums; actual rent for, or reasonable rental value not to exceed rental rates of third party rental suppliers in the location of the Project for Subcontractor owned equipment and machinery; plus allowances for overhead and profit as allowed by the Contract Documents. If the Contract Documents are silent as to the markup for Overhead and Profit, then Subcontractor's markup for changes and Contractor's markup for backcharges shall be in accordance with Schedule B.

9.6 A Change Order to this Subcontract is a written modification of terms of the Subcontract signed by the parties. Once an agreement has been reached with respect to whether Subcontractor is entitled to price or time adjustments as a result of changed Work, including deleted Work, or Differing Conditions, the agreement shall be reflected in a Change Order. Amounts paid on account of unilateral changes or Owner change directives are provisional and subject to repayment upon finalization of the unilateral change or change directive, or if Contractor reasonably determines there has been an overpayment.

9.7 The parties agree to attempt to determine the amount of any Price adjustment and the extent of any time adjustment: (a) prior to performance of a change which adds any Work; (b) prior to the deletion for a change which only deletes Work; and (c) promptly after the discovery of and before disturbing Differing Conditions. Subcontractor, however, will promptly proceed with changes (whether additions or deletions) and with the Work despite Differing Conditions when directed to do so in writing by Contractor even if Subcontractor and Contractor have not agreed upon whether an item is a change or Differing Condition, or upon price and time adjustments related to the changes or Differing Conditions. In such event, Subcontractor shall maintain records of the actual costs Subcontractor incurred or saved as a result of the changes or as a result of the Differing Conditions and furnish such records to Contractor on a weekly basis. The final adjustment, if any, in the Price or time of performance as a result of the changed work, or the Differing Conditions will then be determined after final completion of the Work. Subcontractor's failure to comply with a written directive from Contractor to proceed with a change or to proceed with the Work despite Differing Conditions is a material breach of this Subcontract.

9.8 Subcontractor shall not proceed with changed work in any event unless it first notifies Contractor and receives a written directive from Contractor or a Change Order, which covers the changed work that has been issued and agreed to. Subcontractor shall not be entitled to either a price or time adjustment if it performs changed work before receiving a written directive or a Change Order from Contractor to perform such changed work.

ARTICLE 10 - Disputes Concerning Work Scope

In the event there is a dispute whether any work is part of the Work, Subcontractor shall proceed with such work as if it were part of the Work on receipt of a written directive to do so from Contractor. Subcontractor shall make the claim, if any, for a Price or time adjustment as if such work were changed work; and if Contractor and Subcontractor cannot reach an agreement with regard to the work in dispute, then the issue shall be resolved as provided in Article 30. Failure of the Subcontractor to proceed as herein provided shall constitute a material breach hereof regardless of whether or not the Subcontractor is correct in its contentions, it being understood the progress of the Work may not be delayed by any controversy between the parties.

ARTICLE 11 - Pricing and Documentation

11.1 General. Subcontractor agrees to comply fully with all federal, state and local laws, ordinances and regulations relating to cost and pricing data (including certification thereof), audit of books and records, and certification of claims to the full extent such laws, ordinances and regulations are applicable to the Contractor or the Project.

11.2 Price and Cost Data. In addition to and without limiting the obligations imposed in Paragraph 11.1 above, Subcontractor agrees and represents that all cost and pricing data and all data related to requested time adjustments submitted by it in connection with any claim, proposal or request for an addition to or decrease in the Price or for an extension of time (including, without limitation, a request or proposal for a Change Order or claims made in arbitration or litigation) shall be accurate and complete, shall accurately represent the actual costs Subcontractor has incurred or saved or reasonably expects to incur or save and shall set forth the adjustment in the Price and extension of time that Subcontractor in good faith believes it should receive.

11.3 Audit. In addition to and without limiting the obligation assumed in Paragraph 11.1 above, Subcontractor agrees that Contractor has the right to cause the books and records of Subcontractor to be audited by Contractor or an independent auditor selected by Contractor or by Owner in order to verify the completeness and accuracy of the cost and pricing data submitted by Subcontractor to Contractor in connection with any claim or proposed or requested adjustment to the Price. Contractor shall bear the cost of such audit unless the audit establishes that Subcontractor's cost and pricing data was not complete and accurate, in which case Subcontractor shall bear the cost.

11.4 Certification of Claims. In addition to and without limiting the obligation assumed in Paragraph 11.1 above, upon written request of Contractor, or where required by the Contract Documents, Subcontractor agrees to cause an authorized officer to execute and furnish to Contractor a certificate certifying that any claim submitted by Subcontractor to Contractor is made in good faith, that the supporting data are accurate and complete to the best of Subcontractor's knowledge and belief, that the price or time adjustments requested accurately reflect the adjustment(s) for which the Subcontractor believes the Owner is liable, and that the person executing the certification is authorized to do so on behalf of the claimant.

11.5 **Indemnity.** In exchange for one hundred dollars (\$100.00) and other good and valuable consideration, the amount of which is included in the Price, Subcontractor agrees to indemnify and hold Contractor harmless from all costs, expenses (including legal and accounting fees and associated costs), fines, forfeitures, claims and other liabilities that Contractor incurs, in whole or in part, as a result of Subcontractor's failing to comply fully with, or fraud in complying with, any obligation arising under Paragraphs 11.1, 11.2, or 11.4, above, or incurs, in whole or in part, as a result of an allegation, direct or implied, that Subcontractor's certification was wrongful.

ARTICLE 12 - Bonds

12.1 If so indicated on page 2 hereof, Subcontractor shall furnish, within ten (10) calendar days of the date of the Subcontract, to be included in the Price, separate performance and labor and materials payment bonds, each in an amount equal to the Price, on Contractor's standard forms (see attached Schedule K) and with a surety or sureties satisfactory to Contractor. In lieu of a payment and performance bond, the Contractor at its sole option may choose to enroll the Subcontractor into the Contractor's subcontractor default insurance program. The Subcontractor will provide all documents and information needed to enroll Subcontractor in the subcontractor default insurance program. Subcontractor acknowledges that the program is administered by Contractor and that Contractor may exercise its discretion in establishing the terms of the program and in deciding whether Subcontractor will enroll.

12.2 No payment shall be made to Subcontractor for work performed pursuant to this Subcontract until the required payment and performance bonds have been delivered to Contractor. Provided, in the event the Subcontractor cannot provide the Contractor with the required payment and performance bonds, Contractor may elect at its sole discretion, without waiving the right to insist upon such bonds at any time, to permit the Subcontractor to proceed without bonds for a period of time. If Contractor subsequently elects to insist on bonds, and Subcontractor either refuses to or cannot provide payment and performance bonds, then Contractor shall have the right to terminate Subcontractor's right to proceed under this Subcontract in accordance with Paragraph 28.2 and to pursue any and all other remedies available to Contractor.

12.3 Subcontractor shall furnish an additional and/or substitute performance bond and labor and material payment bond, with a surety or sureties satisfactory to Contractor if:

- (a) Any surety upon any bonds furnished with this Subcontract becomes unacceptable to the Contractor.
- (b) Any surety fails to furnish reports on its financial condition as may be required by the Contractor.
- (c) Any bond becomes inadequate in the sole opinion of the Contractor.
- (d) The form of the bond is or becomes unacceptable to the Contractor.

12.4 Contractor has the right, but not an obligation, to require a consent of surety for any modification, change or alteration to the Subcontract. Failure of Subcontractor to submit a consent of surety within seven (7) calendar days after Contractor requests the consent will constitute a material breach of the Subcontract.

12.5 Contractor has the right, but not an obligation, to make final payments, including payment of retainage, by joint check to Subcontractor and Subcontractor's surety.

12.6 The penal sum of the Payment and Performance Bonds shall automatically increase or decrease by the amount of the price of each change order issued for additions to or reductions from the scope of this Subcontract, without notice to or consent of Subcontractor's surety. The bond premium adjustment for each change order shall be deemed to be included in the price of each change order, unless expressly stated otherwise in the change order. This Paragraph 12.6 shall not apply to deductive change orders issued to compensate Contractor for costs resulting from Subcontractor's default or failure to perform the Subcontract according to its terms.

ARTICLE 13 - Insurance

13.1 Before commencing the Work, Subcontractor shall provide, maintain, and pay for insurance coverages not less than those specified in the Contract Documents, Subcontract, or Schedule E attached hereto whichever is greater, from companies acceptable to Contractor, authorized to do business in the state in which the Work is to be performed and rated no less than A-/VII in the most current edition of A.M. Best's Key Rating Guide. Such insurance shall be maintained uninterrupted for the duration of the Work, including any warranty periods, and shall protect Subcontractor, and others as required by Contract, for liabilities in connection with work performed by or on behalf of Subcontractor, its agents, representatives, employees or subcontractors. Upon Contractor's request, Subcontractor shall provide Contractor with certificates of insurance showing compliance with Article 13. Failure to do so in a timely manner is a material breach of this Subcontract.

13.2 Subcontractor shall furnish a certificate, satisfactory to Contractor, from each insurance company providing coverage to Subcontractor showing the required insurance to be in force. Each certificate shall include a Cancellation and Non-Renewal Endorsement with a minimum of 30 days prior written notice to Contractor. In the event carrier refuses to furnish such endorsement, Subcontractor shall be required to furnish new insurance certificate(s) each month due on the date monthly billings are due regardless of whether Subcontractor is submitting a billing or not. Contractor shall have the right but not the obligation to review all of Subcontractor's insurance policies applicable to the Project.

13.3 To the extent that Subcontractor maintains (1) property insurance coverage or (2) other insurance coverage for loss pertaining to bodily injury or property damage, Subcontractor and its insurers hereby waive all rights to make claims against Contractor, Owner and other subcontractors, and their consultants, employees and other persons required to be indemnified by the Contractor in the Contract Documents, for any loss or damage due to bodily injury or property damage. In addition, Subcontractor agrees to waive any rights of subrogation as required to be waived by subcontractors in the Contract between the Owner and the Contractor.

13.4 Subcontractor shall immediately advise Contractor, in writing, of the facts and details of every accident and personal injury occurring in connection with the Work and shall make available, if requested by Contractor, a copy of every accident report made to Subcontractor's insurance carriers.

13.5 In the event that damage to the Work is covered by any insurance policy provided by the Contractor or Owner, Subcontractor agrees to pay the deductible amount.

13.6 Subcontractor shall cause Contractor and Owner to be named as additional insureds under the Subcontractor's general liability policy, automobile liability policy and excess liability policy. Subcontractor's General Liability, Automobile Liability, and Excess Liability coverages should include Additional Insured endorsements CG20101001 and CG20370704 or their equivalents to provide both ongoing and completed operations coverage. Subcontractor shall provide copies of these Endorsements to Contractor. If required by the Contract Documents, Subcontractor shall cause Architect and their officers, agents and employees, and other indemnities specified in the Contract Documents, to be named as additional insureds under such policies. Subcontractor and its insurer(s) agree that for liabilities and responsibilities assumed by the Subcontractor under the Subcontract, such general liability policy, automobile liability policy and excess liability policy shall be the primary insurance coverage for the Contractor and any other additional insured(s), and the insurance maintained by the Contractor and other additional insureds shall be excess and noncontributory. Compliance with this requirement shall be accomplished by endorsement to the policies.

13.7 Subcontractor shall pay all deductibles and self-insured retentions applicable to any recovery by Subcontractor under any insurance policy, including any deductible or self-insured retention amounts applicable to claims involving Contractor or Owner as additional insureds.

13.8 Subcontractor shall maintain Products/Completed Operations coverage for a period of three (3) years beyond the date of completion of Subcontractor's Work or the time set by the statute of repose in the state of the Project, whichever is greater.

13.9 Subcontractor shall be obligated to provide and maintain all insurance coverages and limits required by Article 13 and Schedule E of this Subcontract. Subcontractor shall be liable to Contractor for any failure to provide or maintain the required coverages and limits. The requirements of Article 13 and Schedule E may be modified only in a written modification to this Subcontract signed by Contractor and Subcontractor. Contractor's failure to request evidence of insurance or Contractor's failure to question or object to Subcontractor's submission of an insurance certificate, endorsement or other evidence of insurance that is contrary to these requirements shall not operate as a waiver of the requirements of Article 13 and Schedule E.

13.10 Failure of Subcontractor to maintain the insurance coverage specified herein shall constitute a default under the Subcontract and, Contractor may, at Contractor's option, terminate the Subcontract for cause, withhold payment and/or purchase the required insurance at Subcontractor's expense.

13.11 If and to the extent that any insurance requirements could be construed to violate any law, statute or ordinance, it is the intent of the parties that the requirements shall be reformed and modified to provide the maximum amount of protection to Contractor and others as allowed by law, and any terms, words or provisions of the insurance requirements shall be deemed modified or deleted to the minimum extent necessary to make them valid and enforceable.

13.12 The limits of insurance provided by Subcontractor shall be the greater of the limits maintained in the normal course of such Subcontractor's business or the minimum limits specified herein. The limits of insurance required in the Subcontract are the minimum dollar amounts of insurance coverage for the policies, risks, causes of loss or perils specified. In the event that Subcontractor's policies provide greater limits, the additional insureds shall be entitled to, or share in, such full limits and the Subcontract shall be deemed to require such full limits.

13.13 In the event that any policy provided in compliance with the Subcontract states that the coverage provided to an additional insured shall be no broader than that required by contract, or words of similar meaning, Subcontractor agrees that nothing in the Subcontract Documents is intended to restrict or limit the breadth of such coverage, which shall provide the maximum amount of protection allowed by the policy.

13.14 It is expressly understood and agreed that the insurance coverages required herein represent Contractor's minimum requirements and are not to be construed to void or limit the Subcontractor's indemnity obligations as contained in this Subcontract nor represent in any manner a determination of the insurance coverages the Subcontractor should or should not maintain for its own protection. In addition, the insolvency, bankruptcy or failure of any insurance company to pay claims accruing shall not be held to affect, negate or waive any of the provisions of this Subcontract.

13.15 Insurance similar to that required of the Subcontractor shall be provided by all lower-tier subcontractors to cover operations performed under any subcontract agreement. The Subcontractor shall be held responsible for any modification to these insurance requirements as they apply to lower-tier subcontractors. The Subcontractor shall obtain certificates of insurance from all lower-tier subcontractors containing provisions similar to those listed herein, enumerating, among other things, the waivers of subrogation, additional insured status and primary and non-contributory liability as required herein, and make them available to the Contractor upon request.

13.16 If Subcontractor's Work involves the removal of asbestos, removal or treatment of hazardous materials, the use of toxic materials or otherwise involves any potential pollution risk to the environment or losses caused by any pollution conditions that may arise from the operations of the Subcontractor, the Subcontractor shall purchase insurance that will insure the Pollution Risks and Exposures in an amount and with an insurance company acceptable to the Contractor. Such coverage shall apply to third-party bodily injury and property damage claims, including natural resource damage, clean-up costs, mold and fungus and shall cover gradual pollution and sudden and accidental pollution incidents. Coverage must include on-site and off-site transit and non-owned disposal site exposures. Such coverage shall be subject to the same requirements for additional insured, waiver of subrogation, primary/non-contributory and completed operations as stated in paragraphs 13.3, 13.6, and 13.8 above. Pollution Liability coverage limits shall be no less than \$2,000,000 each occurrence with a minimum annual aggregate limit of \$2,000,000.

ARTICLE 14 - Damages to the Project

14.1 Contractor shall not be liable or responsible for loss or damage to the equipment, tools, facilities, or other property owned, rented, or used by Subcontractor, or anyone employed by Subcontractor, in the performance of the Work; and Subcontractor shall maintain such insurance and take such protective action as it deems desirable with respect to such property.

14.2 Subcontractor hereby assumes sole responsibility and liability for all Work, supervision, labor and materials provided hereunder, whether or not erected in place, and for all plant, scaffolding, hoists, equipment, supplies and other things provided by Subcontractor until final acceptance of the Work by the Owner. In the event of any loss, damage or destruction thereof from any cause, Subcontractor will be liable therefor, and shall promptly repair, rebuild and make good any loss, damage or destruction at Subcontractor's cost. Subcontractor will be promptly paid or reimbursed when and to the extent insurance proceeds are paid as a result of the loss, damage or destruction. Except to the extent of any proceeds received by Contractor for the

benefit of Subcontractor under a builders' risk or fire insurance policy, Subcontractor agrees that Contractor shall not be responsible for any loss or damage to the Work. Subcontractor shall take all precautions necessary to protect the Work from loss or damage prior to acceptance of the Work by Owner.

14.3 Subcontractor shall be responsible for the correction or restoration of any loss of and all damages to the Owner's property, adjacent property, or the work of Contractor or any other subcontractor, resulting from the operations of Subcontractor, or its subcontractors, agents, or employees. Subcontractor shall reimburse Contractor for all costs and expenses, including consultant and attorneys' fees, and damages paid Contractor to third-parties, as a result of such loss or damages.

14.4 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 or any insurance provided by any Owner or Contractor insurance program (including Subcontractor Default Insurance). All amounts owed by Subcontractor or its sureties to Contractor as a result of the liability provisions or obligations of this Subcontract shall be paid on demand. Termination of this Subcontract by Contractor or abandonment by Subcontractor does not relieve Subcontractor from Subcontractor's obligations in connection with Subcontractor's Work, nor abrogate any obligations of Subcontractor under, or rights or remedies of Contractor afforded by, this Subcontract.

ARTICLE 15 - INDEMNITY

In exchange for one hundred dollars (\$100.00) and other good and valuable consideration, the amount of which is included in the Price:

15.1 To the fullest extent permitted by law, Subcontractor agrees to defend, indemnify and hold harmless Contractor and Owner, and their officers, directors, agents and employees, separately and severally, from and against any claim, cost, expense, or liability (including attorneys' fees), attributable to bodily injury, personal injury, sickness, disease, or death, or to damage to or destruction of property (including loss of use thereof), caused in whole or in part by, arising out of, resulting from, or occurring in connection with the performance of the Work by Subcontractor, its subcontractors, or their agents, or employees, whether or not caused in part by the active or passive negligence or other fault of a party indemnified hereunder; provided, however, Subcontractor's duty hereunder shall not arise as to an indemnified party, if such injury, sickness, disease, death, damage, or destruction is caused by the sole negligence of said party otherwise to be indemnified hereunder. Subcontractor's obligation hereunder shall not be limited as to amount or type of damages (a) by the provisions of any worker's compensation act, disability act or other employee benefit act; or (b) by any insurance policy.

15.2 If Owner or any other person or entity asserts a claim or institutes a suit, action or proceeding against Contractor, its partners, or their officers, directors, agents or employees, involving the manner or sufficiency of the performance of the Work, Subcontractor shall, upon written request of Contractor, promptly assume the defense of such claim, suit, action or proceeding, at Subcontractor's expense. Subcontractor shall indemnify and save harmless Contractor and its agents and employees, from and against any liability, loss, damage, or expense, including attorneys' fees, arising out of or related to such claim, suit, action or proceeding.

ARTICLE 16 - Assignments and Subcontracts

Subcontractor shall not assign this Subcontract, or any money due or to become due hereunder, or subcontract any part of the Work without the prior written consent of Contractor. Subcontractor shall not be relieved of its duties and obligations hereunder by any assignment or subcontract, and Subcontractor shall be and remain fully responsible and liable for the acts and omissions of its assignees and subcontractors, and all persons directly or indirectly employed by them.

ARTICLE 17 - Compliance

Subcontractor shall, at its own expense, obtain all necessary licenses and permits pertaining to the Work, including state or local contractor or subcontractor licenses, and shall comply with all statutes, ordinances, rules, regulations and orders of any governmental or quasi-governmental authority having jurisdiction over the Work or the performance thereof, or of the Project, or of Subcontractor, including, but not limited to, those relating to **STATE OR LOCAL CONTRACTOR'S OR SUBCONTRACTOR'S LICENSE**, safety, wages, employment conditions, immigration, discrimination and equal employment opportunity. For \$100.00 included in the Price, Subcontractor shall defend, indemnify and save harmless Contractor and Owner and their agents and employees from any loss, liability, expense (including attorneys' fees), citations, assessments, fines or penalties resulting from violations of such statutes, ordinances, rules, regulations or orders in connection with the performance of the Work.

ARTICLE 18 - Safety

Subcontractor agrees to implement the Health and Safety requirements defined in Schedule J attached hereto.

ARTICLE 19 - Clean Up and Environmental Matters

19.1 Subcontractor shall, at its sole cost and expense keep all areas in which it is working free from Subcontractor's waste materials, packaging and other debris by collecting and removing such debris continuously where necessary or appropriate to the conditions on a daily basis and properly disposing of such debris off the job site and broom-clean the area.

19.2 Subcontractor shall comply with all laws and regulations protecting the environment. It shall dispose of any waste or debris properly and in compliance with such laws and regulations.

19.3 If Contractor incurs any expenses performing cleanup or compliance work for the Subcontractor, Subcontractor will be backcharged for such expenses. If Contractor performs cleanup or compliance work involving more than one subcontractor's work, Contractor's decision on the allocation among subcontractors of the costs incurred by Contractor shall be final and binding on Subcontractor.

ARTICLE 20 - Temporary Facilities

Temporary facilities and services shall be provided by the Contractor in accordance with Schedule H attached hereto.

ARTICLE 21 - Quality

Subcontractor shall provide materials and workmanship conforming to the requirements of the Contract Documents. Subcontractor shall provide proper facilities and opportunity at all times for the inspection of the Work by Contractor, Owner, Architect and their representatives. Subcontractor shall, within twenty-four (24) hours after receiving written notice from Contractor, at Subcontractor's sole cost and expense, take down and remove from the Project site all portions of the Work which the Contractor, Owner or Architect have condemned as unsound, improper or as failing in any way to conform to the Contract Documents or this Subcontract and shall replace the same with proper and conforming work. Subcontractor shall be responsible for all work damaged or destroyed in connection with the removal or replacement of condemned work. Contractor's failure to discover and notify Subcontractor of defective or nonconforming work at the time the Work or any portion thereof is performed or completed shall not relieve Subcontractor of responsibility

for replacement of defective or nonconforming work and all damages resulting therefrom. If the Owner elects to accept defective or non-conforming work, Contractor may require Subcontractor to accept an adjustment in the Price, or furnish an extended warranty, or both, to the extent Owner requires Contractor to do so.

ARTICLE 22 - Guarantee

Subcontractor warrants and guarantees the Work to the full extent provided for in the Contract Documents and to the full extent required of Contractor or Subcontractor by the law of the state where the Project is located. Without limiting the foregoing or any other obligation with respect to the Work, Subcontractor shall, at its sole cost and expense, make good any faulty, defective or improper Work, in whole or in part, discovered by the Contractor, Architect or Owner within one (1) year from the date of acceptance of the Project or within such longer period as may be required by the Contract Documents or by law. Subcontractor shall be liable to Contractor for all costs and expenses, including consultant and attorneys' fees, incurred by Contractor as a result of any faulty, defective or improper Work, or any failure of the Work to satisfy the warranties and guarantees required by the Contract Documents.

ARTICLE 23 - Submittals

23.1 Subcontractor, at its own expense, shall promptly prepare or obtain and submit to Contractor all shop and erection drawings, samples, product data, catalogue cuts, laboratory and inspection reports, engineering calculations, electronically or magnetically stored data, submittals, or other information however described ("Submittals") required by the Contract Documents or as may be necessary or appropriate to describe the details of the Work. All Submittals shall be submitted so as to permit the Work to be performed in accordance with the Schedule, allowing a reasonable time for review and return of Submittals and, if needed, repeated Submittals.

23.2 Neither review of nor approval of Submittals by Contractor, Owner or Architect shall relieve Subcontractor of its obligation to perform the Work in strict accordance with the Contract Documents or its responsibility for the proper matching and fit of the Work to contiguous work. Subcontractor shall identify each and every variance between any Submittal and the requirements of the Contract Documents at the time of transmission either prominently on the Submittal or specifically in a transmittal letter accompanying the Submittal. No modification, revision or other notation on a Submittal that changes or modifies the Contract Documents shall be valid (even if the drawing or Submittal is approved) unless there is a Change Order issued approving the modification or revision.

ARTICLE 24 - Performance

24.1 Subcontractor, in performing the Work, acts as an independent contractor and not as an agent or employee of Contractor and, consistent with the requirements of the Contract Documents, the Subcontract and the Schedule shall have control of its means and methods of performing the Work.

24.2 Subcontractor shall notify and obtain the approval of Contractor (a) before the arrival of Subcontractor's forces and (b) before delivery of materials and equipment to the Project site and (c) before any substantial change in either the composition or size of its forces, and (d) before leaving the Project site, and (e) before changing supervisory personnel, and (f) before scheduling any inspection with inspection agencies.

ARTICLE 25 - Liens

Subcontractor agrees to turn the Work over to Contractor free and clear of all liens, claims or encumbrances. For the separate consideration of one hundred dollars (\$100.00), included in the Price, Subcontractor agrees it shall defend, indemnify and save harmless Contractor, Contractor's sureties and Owner from any lien, encumbrance, claim of lien or suit in connection with a lien or encumbrance filed or maintained by any laborer, materialman, subcontractor, or other person directly or indirectly acting for, through, or under Subcontractor, against the Project or any part thereof or any interest therein or against any money due or to become due from Owner to Contractor or from Contractor to Subcontractor. Without limiting the foregoing, Subcontractor shall cause any such lien, encumbrance or claim of lien to be satisfied, removed or discharged by bond, payment or otherwise within ten (10) days from the date of filing or receipt of notice, whichever is earlier. Failure to do so is a breach of the Subcontract whether the claim of the party filing the lien is valid or not, and Contractor shall be indemnified from all losses and costs, including, without limitation, Owner's and Contractor's attorneys' fees, incurred as a result of any such lien.

ARTICLE 26 - Patents and Copyrights

For the separate consideration of one hundred dollars (\$100.00), included in the Price, Subcontractor agrees it shall defend, indemnify and hold harmless Contractor and Owner from and against any claim, cost, expense or liability (including attorneys' fees) arising out of or resulting from infringement or alleged infringement of any patent rights or copyrights in connection with the Work, except to the extent that Owner may have assumed responsibility therefor under the Contract Documents. Subcontractor shall pay all royalties, license fees and similar charges for patented or copyrighted material used in or incorporated in the Work.

ARTICLE 27 - Labor

27.1 Subcontractor agrees that strikes, slowdowns or similar interruptions or disturbances (including cases where the Subcontractor's employees are engaged in a work stoppage solely as a result of a labor dispute involving Contractor or others and not in any manner involving Subcontractor) shall not excuse Subcontractor from the obligation to perform the Work timely and in accordance with the Schedule.

27.2 Subcontractor shall maintain and exercise control over all employees engaged in the performance of the Work, and shall, to the extent permitted by law, remove or cause to be removed from the Project any employee whose presence is objected to by the Contractor.

27.3 Subcontractor shall procure its material from such sources and employ such labor subject to such terms and conditions as will result in harmonious labor relations on the site and prevent strikes or other labor disputes by any trades.

27.4 Subcontractor agrees to comply with all work rules, Owner rules, or other employment rules applying to the Work or the Project or the site on which the Project is located.

27.5 In the event Subcontractor fails to comply with this Article 27, Contractor shall be entitled to the rights and remedies provided in Paragraph 28.2.

ARTICLE 28 - Termination and Default

28.1 Contractor, by written notice, may terminate the Subcontractor's right to proceed under the Subcontract in whole or in part for Contractor's convenience. In such event, Subcontractor will be compensated for the reasonable cost of all Work performed and all materials purchased for the Work prior to the termination including a reasonable profit thereon, plus the reasonable out-of-pocket costs of terminating the Work, but shall receive no compensation, profit or overhead for unperformed Work or for materials not yet purchased. Regardless of the foregoing, the total sum Subcontractor shall be entitled to be paid in the event of a termination for convenience, including all prior payments to Subcontractor, shall not exceed the Price. If there has been a termination of Contractor's Contract with the Owner, Subcontractor will be paid the amount due from the Owner to Contractor for Subcontractor's Work, as provided in the Contract Documents, after payment therefor by the Owner to Contractor. Subcontractor shall not be entitled to any other compensation or payment, in the event of a termination for convenience other than as specifically provided in this Paragraph 28.1.

28.2 If Subcontractor voluntarily seeks protection of the Federal bankruptcy laws or is involuntarily placed in bankruptcy, or if any action is brought against Subcontractor which impairs the ability of Subcontractor to perform its obligations under this Subcontract, or if the Subcontractor makes a general assignment for the benefit of creditors, or if a receiver for Subcontractor is appointed, or if Subcontractor refuses, fails or is unable to supply enough properly skilled workers or materials to perform the Work in harmony and according to the Schedule, or if Subcontractor fails to make prompt payments for materials or labor supplied to Subcontractor for the Work, or if Subcontractor disregards laws, ordinances, rules, regulations, or public orders related to the Work, or if Subcontractor otherwise violates any provision of the Subcontract or the Contract Documents, then Contractor shall have the right to notify Subcontractor, in writing, of Subcontractor's default in performance, and to require that Subcontractor cure such default within three (3) calendar days after receipt of such notice. If Contractor determines that Subcontractor has not cured the default within three (3) calendar days after its receipt of such notice, then Contractor may, at its option, without releasing or waiving any other rights and remedies against Subcontractor and Subcontractor's surety and without prejudice to any other right it may be entitled to under this Subcontract or by law, terminate Subcontractor's right to proceed under this Subcontract by written notice. After such termination and without further notice, Contractor may enter upon and take possession of all materials, equipment, tools, construction equipment and machinery located on the site, stored off site or located at other facilities of Subcontractor or its subcontractors or vendors and which are allocated to or assigned to the Project or which were purchased for the Project, and Contractor or its designee may complete the Work by whatever method Contractor deems reasonable under the circumstances. In the event of such termination by Contractor, Subcontractor shall not be entitled to any further payment or compensation except as provided in this Paragraph 28.2. In the event the unpaid balance of the Price, after deduction of all claims that Contractor may have against Subcontractor, exceeds the total cost of finishing the Work (including without limitation Contractor's reasonable overhead and profit, the cost of Architect's additional services, attorneys' fees and all other legal costs and all other costs and charges related to the termination or the completion of the Work), such excess shall be paid to Subcontractor upon satisfaction of the conditions for final payment set out in Article 4. In the event the total cost of completing the Work exceeds the unpaid balance of the Price, Subcontractor and its surety shall be liable to and shall promptly pay such difference to Contractor.

28.3 If Subcontractor is prevented from working for a period of sixty (60) calendar days under order of any court or other public authority having jurisdiction through no act or fault of the Subcontractor or its agents or employees, or any other persons performing any of the Subcontractor's Work, or as a result of an act of government (such as declaration of national emergency making materials unavailable for Subcontractor's Work), then Subcontractor may terminate this Subcontract and recover from the Contractor payment for all of Subcontractor's Work completed prior to the termination and in place (less the amount of Contractor's claims against Subcontractor, if any); provided nevertheless, that such payment (a) shall include profit and overhead only for the portion of the Work completed and in place; (b) shall be payable only to the extent that Contractor has received the same from the Owner; and (c) shall be payable only upon satisfaction by Subcontractor of all of the conditions of Articles 4 and 5, to the extent of the Work completed prior to the termination hereunder.

28.4 In the event of any termination, Subcontractor shall have no right to any compensation or recovery of any kind, including, without limitation, consequential damages, from Contractor except as specifically provided in this Article 28.

28.5 If a termination under Article 28.2 is determined not to have been accomplished properly under Paragraph 28.2, it shall be deemed to have occurred pursuant to Paragraph 28.1 or 28.3, whichever is applicable.

ARTICLE 29 - Inspection, Tests, Cutting and Fitting

29.1 Subcontractor agrees to perform all tests and inspections called for in the Contract Documents and to make provision for inspection and testing by Contractor, Owner or Architect at the Project site or at Subcontractor's facilities to determine whether the Work or materials and equipment or processes used in the Work conform with the Contract Documents. The failure of Contractor, Owner or Architect to inspect, to test or to discover defective workmanship, materials or equipment shall not relieve Subcontractor of its obligation to perform the Work in strict accordance with the Contract Documents and shall not prejudice the rights of Contractor, Owner or Architect to reject or require correction of the same. Subcontractor shall not call for an inspection or test until its work is ready for efficient and timely testing or inspection. Subcontractor agrees to pay for re-testing of nonconforming work, including testing performed by others.

29.2 Subcontractor shall do all cutting, fitting or patching necessary for the performance of the Subcontract Work. Subcontractor will repair or pay the cost of repair of any damage, including, without limitation, damage to work performed by others, caused by Subcontractor in the performance of the Work. If the Subcontractor, upon receipt of notice from the Contractor, fails or refuses to repair or replace any work damaged by the Subcontractor, the Contractor is authorized to make such repair or replacement from any amounts due or to become due to the Subcontractor under this Subcontract.

ARTICLE 30 - Claims and Disputes; Arbitration as the Remedy

30.1 The parties hereto intend that all disputes between Contractor and Subcontractor or Subcontractor's sureties shall be resolved in accordance with the provisions of the Contract Documents and this Subcontract, including Articles 9, 10, 11, and this Article 30. Subcontractor's sureties, if any, shall be bound by all terms and conditions of this Article 30 to the same extent that Subcontractor is bound.

30.2 In case of any dispute arising from or relating to acts or omissions of the Owner, or any error, omission, or feature of the Contract Documents, Subcontractor shall be bound to Contractor to the same extent that Contractor is bound to Owner, by the terms of the Contract Documents and by any and all preliminary and final decisions or determinations made thereunder by the Owner, or by any party, board or court so authorized in the Contract Documents or by law, whether or not Subcontractor is a party to such proceedings. Subcontractor's recoveries on its claims, if any, shall be limited to Subcontractor's portion of the relief Contractor receives from Owner as a result of such claims. Contractor agrees to make a good faith effort to have Owner honor any just claim presented by Subcontractor. Subcontractor shall be responsible for the Contractor's prosecution and presentation of any such claim against or to Owner and shall pay all expenses attributable to said prosecution or presentation, including, without limitation, attorneys' fees. It shall be Subcontractor's obligation to give Contractor adequate notice to ensure that Contractor can give all notices to Owner or others required by the

Contract Documents or otherwise with respect to such claim in a timely manner. Subcontractor understands and agrees that Subcontractor waives all rights to any claim or request for additional compensation of any kind that is submitted more than thirty (30) calendar days after the completion of the Work. Except as provided in Paragraph 30.3 hereof, Subcontractor agrees to be bound by the determination of Owner or Architect with respect to all claims.

30.3 If an appeal or legal proceeding is specifically permitted by the Contract Documents and if requested in writing by Subcontractor, Contractor will, in its name and on Subcontractor's behalf, appeal any decision of Owner or Architect or institute a legal proceeding against Owner based on any just claim by Subcontractor involving the Work. In such event, Subcontractor shall pay all costs and expenses, including Contractor's expenses, arbitration costs and attorneys' fees, attributable thereto (and, if requested, shall make an advance deposit for such costs) and shall render all assistance requested by Contractor. If claims on behalf of other subcontractors are involved in such an appeal or legal proceeding, Subcontractor shall pay only its proportionate share (as determined by Contractor in its sole discretion based on good faith considerations) of the costs and expenses. Subcontractor shall be bound by the determination rendered on such an appeal or in such legal proceeding and shall be entitled only to its proportionate share of any actual net recovery from Owner, less Contractor's overhead and profit, and less any other charges Contractor has, or may have, against the Subcontractor.

30.4 To the extent not resolved under Paragraphs 30.2 and 30.3, any other claim or dispute between Contractor and Subcontractor or Subcontractor's sureties shall, at the sole option and discretion of Contractor, be decided by binding arbitration in accordance with the rules set forth in this Paragraph 30.4 and the Construction Industry Rules of the American Arbitration Association ("AAA Rules") by one or more arbitrators selected in accordance with said Rules. The parties acknowledge that this Subcontract evidences a transaction involving interstate commerce and that this agreement to arbitrate is enforceable under *9 U.S.C. §§ 1, et seq.* The place of arbitration shall be selected by the Contractor. The arbitrator(s) shall decide any questions or issues concerning the validity or enforceability of this agreement to arbitrate, the conduct of the arbitration and the arbitrability of any dispute between Contractor and Subcontractor or Subcontractor's sureties. Any arbitration arising under or relating to this Subcontract may include, at Contractor's sole option, by consolidation and joinder or any other manner, an additional person or entity not a party to the Subcontract. Subcontractor shall not stop, hinder or delay the Work in any way during the pendency of arbitration. Any arbitration award is hereby mutually agreed to be enforceable in any court of competent jurisdiction. Subcontractor agrees to stay the arbitration at Contractor's request to allow prior resolution of claims under Paragraphs 30.2 and 30.3. CONTRACTOR, SUBCONTRACTOR AND SUBCONTRACTOR'S SURETIES VOLUNTARILY AND INTENTIONALLY WAIVE ANY RIGHT THEY MAY HAVE TO A TRIAL BY JURY IN RESPECT TO LITIGATION OF ANY DISPUTE BETWEEN OR AMONG THEM ARISING OUT OF OR RELATED TO THE PROJECT, THIS SUBCONTRACT OR ANY AGREEMENT ENTERED INTO IN CONNECTION THEREWITH OR IN FURTHERANCE THEREOF.

30.5 Subcontractor hereby agrees that upon Contractor's request, Subcontractor will consent to becoming a party to any legal proceeding involving the Project and Subcontractor's work and to the jurisdiction of any court or other forum in which the proceeding is pending. Subcontractor acknowledges that this provision is intended to permit Contractor to cause Subcontractor to be a third-party defendant to claims by Owner, other subcontractors or third parties against Contractor.

30.6 The remedies in Article 30 are fair and orderly, and each party acknowledges and agrees that they are enforceable to prohibit or stay other remedies, including statutory rights under the Miller Act, similar state laws, or lien actions.

ARTICLE 31 - Substance Abuse Policy

Subcontractor agrees to implement Contractor's Substance Abuse Policy (including Owner's policy, if required by Schedule C) contained in Schedule C attached hereto.

ARTICLE 32 - Harassment Policy

Subcontractor agrees to implement Contractor's Harassment Policy (including Owner's policy, if required by Schedule D) contained in Schedule D attached hereto.

ARTICLE 33 - Asbestos and Other Hazardous Materials

Subcontractor agrees and guarantees that it will not employ any materials in the performance of the Work, install any materials, or introduce to the site any item, which contains asbestos or other hazardous material except as permitted by, and in compliance with, applicable law. Subcontractor further agrees that it will remove and dispose off site (in a manner in accordance with applicable law) any materials which contain asbestos or other hazardous material and which were installed by Subcontractor in violation of this provision, will replace them in compliance with applicable law, and will repair any of the Work or the work of others damaged by such removal and replacement. The removal, replacement and repair shall be at Subcontractor's sole expense and shall itself conform to applicable law. Subcontractor also agrees, in exchange for one hundred dollars (\$100.00) and other good and valuable consideration, the amount of which is included in the Price, to indemnify and defend Contractor and Owner from any and all claims, damages, expenses and liability of any kind relating in any way to Subcontractor's use of, installation of, or introduction of materials containing asbestos or other hazardous material, where such use, installation, or introduction violated, or was not in compliance with, applicable law. Introduction to the site shall include disturbance by Subcontractor of a condition that releases or disturbs asbestos or other hazardous materials on the site.

ARTICLE 34 - Design Indemnity

34.1 Without intending to limit in any way the indemnities set forth in Article 15 of the Subcontract, the Subcontractor shall indemnify, and hold harmless the Contractor, and the Owner, and all their agents and employees from any and all claims, damages, losses and expenses including but not limited to attorneys' fees, arising out of or resulting from any design obligations in its scope of Work (including, but not limited to, design/build, architectural, engineering and surveying work and systems design for mechanical, electrical, plumbing and fire protection), regardless of whether the claims, damages, losses, or expenses are caused in part by a party indemnified under this Subcontract. For the indemnification set forth in this Article, the Subcontractor agrees to accept separate consideration of \$100 as contained in the Contract price.

34.2 Subcontractor will, if required by the Contract Documents or law, retain a licensed engineer to perform any design obligations in its scope of Work. Where required by the Contract Documents or applicable law, the engineer will be licensed in the jurisdiction in which the Work shall be performed.

34.3 Subcontractor will furnish proof of Professional Liability insurance for any design obligations in its scope of Work. Such policy shall not exclude mold and/or microbial matter, fungus or biological substances arising out of or resulting from any design obligations. Subcontractor will, or will cause its designer(s) to, keep Professional Liability in force for a period of three (3) years following date of completion of the Project. Such coverage shall be subject to the same requirements for waiver of subrogation as stated in paragraph 13.3 above. If coverage is provided on a claims-made basis, coverage will be retroactive to the earlier of the date of the Subcontract or the commencement of Subcontractor's services in relation to the Work.

Minimum limits of liability: shall be \$2,000,000 per wrongful act, error, or omission, with a minimum annual aggregate limit of \$2,000,000. Any applicable deductible or self-insured retention will be the responsibility of the Subcontractor.

ARTICLE 35 – Infection Control Risk Assessment

Subcontractor shall comply with infection control procedures as mandated by the Owner and Contractor in accordance with Contractor's and Owner's policies. Subcontractor shall comply with the requirements of the Infection Control Risk Assessment (ICRA) developed by the Owner and the Contractor. Subcontractor shall perform the Work in such a manner that helps prevent the spread of infections related to construction and renovation by containing the work area and preventing the infiltration of dust into adjacent areas of the facility.

ARTICLE 36 - Miscellaneous

36.1 Joint Venture or Partnership. If Subcontractor is a joint venture or partnership, each party to the joint venture or partnership represents and agrees that the person who signs this Subcontract on behalf of Subcontractor is authorized to sign on their behalf and by signing this Subcontract has jointly and severally obligated each of them to all undertakings and obligations set forth in the Subcontract.

36.2 Governing Law. The validity, interpretation and performance of this Subcontract shall be governed by the laws of the State of Alabama, except if any provision or requirement of this Subcontract or the Contract Documents provides that the law of another state or federal law is applicable to, controls, governs or determines certain duties, responsibilities, or obligations, including warranty obligations, of a party hereto, or any aspect or portion of this Subcontract, then the other state's law or federal law shall apply to, control, govern or determine those certain duties, responsibilities or obligations of that party or that aspect or portion of this Subcontract.

36.3 No Third-Party Beneficiaries. This Subcontract is intended solely for the direct benefit of the parties hereto. There are no third-party beneficiaries of this Subcontract.

36.4 Severability. The provisions of this Subcontract are severable. Should any provision of this Subcontract or any provision of the Contract Documents applicable to Subcontractor be unenforceable, the remaining provisions shall remain valid and binding.

36.5 Non-waiver. The failure by Contractor at any time to enforce or to require strict compliance or performance by Subcontractor with any of the provisions of the Subcontract or Contract Documents shall not constitute a present or future waiver of any such provision and shall not affect or impair in any way Contractor's rights at any time to enforce any such provision or to avail itself of such remedies as it may have for any breach thereof.

36.6 Survival of Terms. The terms of this Subcontract and the Contract Documents shall survive and remain in full force and effect after termination of this Subcontract or completion of the Work.

36.7 Only Written Modification. No changes, modifications, or amendments of any of the terms and conditions of this Subcontract or the Contract Documents shall be valid unless agreed to by the parties in writing and signed by their authorized representatives.

36.8 Owner Approval. If Owner has the right to object to or to review the Subcontract or Contractor's selection of Subcontractor, this Subcontract shall not be effective until Owner approves the Subcontract or Contractor's selection of Subcontractor, or until Owner's review is satisfactorily completed.

36.9 Heading. Headings are for convenience of the reader and are not a substantive part of this Subcontract.

36.10 Notice. Any notice required to be given to Subcontractor may be accomplished by mailing or delivering written notice including by facsimile to the address listed for the Subcontractor on page one (1) of this Subcontract. Any notice required to be given to the Contractor may be accomplished by mailing or delivering written notice including by facsimile to the address listed for the Contractor on page one (1) of this Subcontract. Notice via email shall be deemed an insufficient means of giving proper notice under this Subcontract unless directed to the email addresses for Contractor and Subcontractor identified on the face of this Subcontract and the email transmission was actually received by the recipient. Notice of termination must be given in such a manner that written confirmation of sending is provided, such as Certified Mail, courier signature service, or an equally reasonable alternative.

36.11 Subcontractor warrants that no statement, representation, inducement or promise, oral or in writing, of any kind by Owner, Contractor or Architect, not expressly made a part of the Subcontract, has induced Subcontractor to enter into, or been relied upon by Subcontractor in entering into, this Subcontract.

36.12 This Subcontract embodies the entire agreement between the Contractor and Subcontractor. All bids, proposals for or acknowledgments of this Subcontract by Subcontractor, whether written or verbal, which contain any term, condition or provision which purports to modify, conflict with, contradict or add to this Subcontract or the Contract Documents, are void and of no force or effect. All negotiations, proposals or agreements prior to the date of this Subcontract are merged herein and superseded by the terms of this Subcontract, and there are no agreements, warranties, understandings or promises other than those written expressly herein.

36.13 Audit. In addition to and without limiting Articles 11.1 and 11.3 of this Subcontract, the Subcontractor agrees that Contractor or Owner has the right to cause the books and records of the Subcontractor to be audited by Contractor or an independent auditor selected by Contractor or by Owner in order to verify cost of the Work and compliance with harassment policy, substance abuse policy, safety, and any other policy required under the Subcontract, the Contract Documents, or by law. Contractor shall bear the cost of such audits unless the audit establishes that the Subcontractor's cost data was not complete or accurate, or that the Subcontractor has not complied with the policies required under this Subcontract or applicable law, in which case Subcontractor shall bear the cost of such audits.

36.14 Schedule B contains Supplementary Conditions, which have been agreed to between the Contractor and Subcontractor. Those provisions shall not take precedence over any provision of the Subcontract Agreement in the case of a conflict.

36.15 Contractor is a federal contractor. The Project may be funded or assisted, in whole or in part, by federal funds. If the Project is funded or assisted by federal funds, Subcontractor will be responsible for compliance, at its own expense, with the requirements applicable to subcontractors on federally funded or assisted projects, including but not be limited to: Executive Order 11246 (see Schedule F), Section 503 of the

Rehabilitation Act of 1973, as amended, Vietnam Era Veteran's Readjustment Act of 1974, as amended, Employer Information Report, Written Affirmative Action Programs for Service and Supply Contractors or 16 Affirmative Action Steps for Construction Contractors, Jobs for Veterans Act, and Executive Order 13496. If Subcontractor is not already in compliance with these federal requirements and does not wish to become obligated to comply, Subcontractor should obtain written confirmation from Contractor's Director of Administration, before it signs and returns this Subcontract, that this Project does not involve, in whole or in part, federal funds.

36.16 The Contractor and Subcontractor waive claims against each other for any consequential damages they may incur that arise out of or relate to this Subcontract. This mutual waiver, without limitation, includes damages incurred for their principal office expenses; for their losses of financing, opportunity, bonding capacity, business and reputation; for their loss of income on other projects, and for their loss of profit other than the anticipated profit arising directly from the Work. This mutual waiver shall not preclude Contractor's recovery of any amount from Subcontractor for which Contractor is liable to the Owner or any other third party.

IN WITNESS WHEREOF, the parties hereto have executed this Subcontract as of the day and year first above written.

(Subcontractor)

Signature/Date: _____

Name: _____
(please print/type)

Title: _____
(please print/type)

Witness: _____

THIS IS A SEALED DOCUMENT.

THE ROBINS & MORTON GROUP

(Contractor)

Signature/Date: _____

Name: _____
(please print/type)

Title: _____
(please print/type)

Witness: _____

SCHEDULE A
DESCRIPTION OF THE WORK

Pursuant to Article 1 of this Subcontract, Subcontractor shall prosecute and complete the following Work:

Initials _____

SCHEDULE B
SUPPLEMENTARY CONDITIONS

1. Subcontractor shall employ job management personnel as to whom the Contractor has no objection.
2. Subject to the provisions of Article 6 of the Subcontract, it is estimated that the Subcontractor's required on-site workforce level will be _____ people and Subcontractor will provide no less than this workforce at the direction of the Superintendent, provided there is sufficient work for this number of persons to perform. It is recognized that higher workforce levels may be required from time-to-time to implement the requirements of the Subcontract and that such higher workforce levels as might reasonably be required shall not constitute a basis for a claim by the Subcontractor against the Contractor or any other party.
3. Schedule: In addition to the overall requirements for completion of all or parts of the project as specified in the Contract Documents and the Subcontract, Subcontractor recognizes and agrees that it is the Contractor's practice to utilize near term schedules to move the project as expeditiously as possible during the performance of the work. The Near-Term Schedules shall be developed with the participation of all Subcontractors and shall be the basis for striving for Substantial Completion of the project no later than _____. It is estimated that the on-site work of _____ should begin approximately _____ and should be substantially completed (for Owner's use as intended and such that no other trade(s) work is impeded) by approximately _____, except for miscellaneous clean-up, punch list, etc. These dates herein are for planning purposes and are subject to adjustment in accordance with relevant provisions of the Subcontract.
4. This subcontractor agrees to receive all of his material and store in designated storage areas. Storage space will not be available in the building. Protection of stored material is the responsibility of this Subcontractor.
5. Subcontractor will submit to the Contractor, by 8:30 AM each workday, a completed Daily Diary Report as required by the Contractor for incorporation into the Contractor's Daily Report.
6. Subcontractor will furnish a Schedule of Values broken down into major work segments including a list of all material vendors (P.O. value exceeding \$1,500.00), all subcontracts, labor value and general conditions/overhead and profit. The Schedule of Values shall be updated monthly with the Subcontractor's Pay Request.
7. In the event this Project requires the facility to remain operational at all times during the construction and/or renovation phases, then the Subcontractor will schedule its Work to facilitate keeping the facility in operation during these phases.
8. All required Shop Drawings, Samples, Laboratory Reports, Brochures, Color Selections, and other required Submittal Data shall be submitted to the Contractor for approval in _____ copies and _____ sepia, not later than _____.
9. All Subcontractors' electronic invoices must be submitted no later than the _____ of the month to be included in the current month's billing. Invoices submitted after the _____ of the month will be processed for payment on the following month's billing, without exception.

ALL BILLINGS SUBMITTED THROUGH www.texturallic.com

Subcontractor shall maintain current prequalification information in the **Textura®—Pre-Qualification Management™ (PQM™) system** throughout the duration of the project. All information shall be updated annually. Failure to maintain current information in Textura PQM will result in payments being held until information is current.

10. Total percentage of overhead and profit on Change Orders and backcharges cannot exceed _____ % when work is self-performed and _____ % when work is performed by subcontractors.

Initials _____

SCHEDULE C
SUBCONTRACT ALCOHOL/DRUG POLICY STATEMENT

GOAL

The goal of this Policy is to provide and maintain a drug free environment for all employees on the project. Such an environment is supportive of Contractor's objective to establish a safe and productive workplace.

POLICY

It is the policy of Contractor that all employees including the employees of subcontractors are prohibited from using, distributing, manufacturing, transferring, or possessing controlled substances or other mind altering chemicals while at work or on duty. All employees should realize that these regulations prohibit all illicit drug use - on and off duty. All employees are prohibited from possessing, drinking or being impaired or intoxicated by alcohol while at work or on duty. A Blood Alcohol Count (BAC) of .04 will be accepted as presumptive evidence of intoxication. In order to promote safe and drug free job sites, Contractor reserves the right to conduct random job site testing of all employees including employees of subcontractors. In the event that such a test is performed, Contractor will be entitled to receive the drug or alcohol test results of the job site testing. At the discretion of Contractor, the cost for testing subcontractor employees on a random job site, reasonable cause, pre-employment, or post accident basis may be charged to the appropriate subcontractor and Contractor will be entitled to reimbursement by the subcontractor. All subcontractors are required to develop, implement, and enforce a drug and alcohol policy as a condition of the job contract. Subcontractors who have employees covered by the Department of Transportation (D.O.T.) mandatory regulations for drug testing are required to be in compliance with the guidelines. This policy applies to all persons performing work for Contractor or visiting company property or job sites.

I. DRUG TESTING OF EMPLOYEES

All subcontractor employees are required, as a condition of employment at a Contractor job site, to submit to a urine drug screen test. Subject to applicable law, each employee shall be subject to medical or physical examinations or tests, including urine drug screen tests, as a condition of continued employment, under the following conditions.

- A. If there is a reasonable cause to suspect that the employee is in violation of the policy;
- B. If the employee is or may have been involved in a job site accident or incident which results or might have resulted in serious bodily injury or property loss or damage; or
- C. If an employee is selected at random for testing in order to monitor and ensure compliance by all employees with the Policy.

II. SUBCONTRACTOR CHECKLIST FOR DEVELOPING A DRUG & ALCOHOL PROGRAM

- A. Develop company policy statement and objectives.
 - (1) Reserve right to conduct testing at any time
 - (2) Reserve right to test for all mood-altering substances, or any substance, which might impair an employee's ability to perform his or her job safely.
 - (3) Reserve right to use all appropriate testing methods.
 - (4) Require all employees on company property or at company job sites to be free of mood altering substances, or their metabolites, at all times.
- B. Avoid implied contract problems by reserving right of the company to alter, amend, or rescind policies.
- C. Develop and state enforcement policy reserving the right to discipline employees up to and including discharge.
- D. Develop policy consent/release form. The release shall require the employee to release both the subcontractor and Contractor from any and all claims arising from any aspect of drug testing. The consent form shall authorize the drug-testing laboratory to report the test results directly to Contractor's authorized representative when the testing is performed at the direction of Contractor.
- E. Determine whether employee job classifications require compliance with federal standards established by the Department of Transportation.
- F. If indicated, comply with all Highway Administration, Research and Special Programs Administration, or other mandating agencies.
- G. Prohibit the use, possession, manufacture, or sale of controlled substances at the job site.

- H. Establish a Breath Alcohol Concentration (BrAC) of .04 as presumptive evidence of intoxication.
- I. Establish that a confirmed, positive test result, based upon cut-off levels published by the DHHS, will violate the subcontractor's policy without regard to an employee's apparent impairment at the time the specimen is collected.
- J. Require the proper use of prescribed or over the counter medications and the notification of supervisor where medications may alter job performance.
- K. Require substance screening: (1) Pre-employment; (2) Reasonable cause; (3) Random (both individual and group); (4) Post Accident; and (5) Return to Duty.
- L. Minimum required testing for: (1) Amphetamines; (2) Cannabinoids; (3) Cocaine; (4) Opiates; and (5) Phencyclidine.
- M. Required collection and testing procedures:
 - (1) Collection sites must use Department of Health and Human Services (DHHS) procedures.
 - (2) Laboratory must be certified by DHHS and Substance Abuse and Mental Health Services Administration (SAMHSA). Initial positives must be confirmed utilizing gas chromatography/mass spectrometry procedures.
 - (3) Utilize chain-of-custody form and other procedures.
 - (4) Utilize Medical Review Officer services to review and analyze all initial positive test results.
- N. Maintain confidentiality of all test results and security of all test-related employee records.
- O. Define discipline policy of company and reserve right to conduct searches and investigations of employee belongings (to include lunch boxes, toolboxes, purses, etc.) and vehicles on company property and job sites.
- P. Require employee assistance education of all supervisors and employees regarding drug and alcohol use and abuse.
- Q. Complete the Drug Testing Certification section of the Contractor's Subcontractor Application for Payment, Form OS-80.

III. POLICY IMPLEMENTATION

Subcontractor shall be solely responsible for implementation and the enforcement of its drug abuse policy. Subcontractor hereby agrees to indemnify, defend, and hold Contractor, its client, employees, and affiliates harmless and release such indemnities from any and all liability whatsoever arising out of the supervision of these tests. If an employee, servant, job applicant, agent or contractor of Subcontractor takes legal action against such indemnities due to Contractor's services rendered pursuant to this agreement, Subcontractor agrees to indemnify and defend such indemnities against such action and to pay all costs associated therewith regardless of cause of negligence, in whole or in part, of such indemnities. It is agreed that this request for assistance by Subcontractor may be denied at any time by Contractor and may be revoked at any time by Subcontractor.

Initials _____

SCHEDULE D

SUBCONTRACT HARASSMENT AND ABUSE CONDUCT PREVENTION POLICY STATEMENT

GOAL

The goal of this Policy is to provide and maintain a harassment and abuse free environment for all employees on the project. Such an environment is supportive of Contractor's objective to establish a safe and productive workplace.

I. POLICY

Contractor is committed to maintaining a work environment that is free of discrimination. In keeping with this commitment, we will not tolerate harassment or abuse of Company employees by anyone, including any supervisor, or co-worker, and to the extent possible, by any vendor, client, or customer of the Company.

Harassment consists of unwelcome conduct, whether verbal, physical, or visual, that is based on a person's status, such as sex, color, race, religion, national origin, sexual orientation, age, or disability. Contractor will not tolerate harassing conduct that affects employment status, that interferes unreasonably with an individual's work performance, or that creates an intimidating, hostile, or abusive working environment.

Sexual harassment deserves special mention. Unwelcome sexual advances, requests for sexual favors, and other physical, verbal, or visual conduct based on sex constitute sexual harassment when (1) submission to the conduct is an explicit or implicit term or condition of employment, (2) submission to or rejection of the conduct is used as the basis for an employment decision, or (3) the conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or abusive working environment.

Abusive Conduct includes acts or omissions that would cause a reasonable person, based on the severity, nature, and frequency of the conduct, to believe that an employee was subject to an abusive work environment, which can include but is not limited to:

- Repeated verbal abuse in the workplace, including derogatory remarks, insults, and epithets;
- Verbal, nonverbal, or physical conduct of a threatening, intimidating, or humiliating nature in the workplace; or
- The sabotage or undermining of an employee's work performance in the workplace.

A single act generally will not constitute abusive conduct, unless such conduct is determined to be severe and egregious.

Abusive conduct does NOT include:

- Disciplinary procedures in accordance with Contractor's policies;
- Routine coaching and counseling, including feedback about and correction of work performance;
- Reasonable work assignments, including shift post, and overtime assignments;
- Individual differences in styles of personal expression Differences of opinion on work-related concerns;
- The non-abusive exercise of managerial prerogative.

II. SUBCONTRACTOR CHECKLIST FOR DEVELOPING A HARASSMENT AND ABUSE PREVENTION PROGRAM

- A. Develop company policy statement and objectives.
- B. Develop and state enforcement policy reserving the right to discipline employees up to and including discharge.
- C. Develop and state a Complaint and Resolution Procedure.
- D. Develop policy acknowledgment form.
- E. Require employee education of all supervisors and employees regarding harassment and abuse conduct.

III. POLICY IMPLEMENTATION

All subcontractors are required to develop, implement, and enforce a harassment and abuse prevention policy as a condition of the job contract. This policy applies to all persons performing work for Contractor or visiting company property or jobsites.

Subcontractor shall be solely responsible for implementation and the enforcement of its harassment and abuse prevention policy. For the separate consideration of \$100 included in the Subcontract Price, Subcontractor hereby agrees to indemnify, defend, and hold Contractor, its client, the designer, its or their employees, and its or their affiliates (all referred to as "the indemnitees"), harmless (including payment of attorneys' fees and costs), from any legal action taken or claim made against the indemnitees due to the failure or the alleged failure of the subcontractor to implement or enforce a harassment and abuse prevention policy.

Initials _____

SCHEDULE E
SUBCONTRACTOR INSURANCE REQUIREMENTS

1. The Subcontractor shall purchase and maintain the following insurance coverage and limits set forth below to protect himself, Contractor, Architect and Owner from claims which may arise out of or relate to operations under the Contract, whether such claims arise during the Contract performance or subsequent to completion of the Contract. Insurance shall be purchased from a company licensed to do business in the State where operations are required by the Contract and subject to approval by Contractor. **Subcontractor liability insurance shall be primary and non-contributory as to any coverage maintained by Contractor.**

A. Standard Worker's Compensation and Employer's Liability

Worker's Compensation - Statutory Benefits

Employer's Liability: \$1,000,000 each accident
\$1,000,000 each disease
\$1,000,000 each employee/person

Coverage: All States Coverage

Waiver of Subrogation Endorsement: Contractor, Owner, Architect, other Subcontractors and other indemnitees as listed in item #4 below including consultants, agents and employees of any of them.

Where applicable, evidence of coverage shall be required for U.S. Longshore and Harbor Workers Compensation, Maritime coverage and other exposures requiring separate coverage. Employers Liability Stop Gap coverage must be provided if work is to be performed in a monopolistic state.

Subcontractor shall voluntarily provide coverage for proprietors, partners or others for whom Workers Compensation insurance is not statutorily required, if such proprietors, partners or others visit and/or are stationed on the Project site.

B. Commercial General Liability

Limits:	General Aggregate	\$2,000,000	Each Occurrence	\$1,000,000
	Products/Completed Operations	\$2,000,000	Fire Damage	\$ 50,000
	Personal Injury	\$1,000,000	Medical Expenses	\$ 5,000

Coverage: CGL Occurrence Form
Per Project Aggregate
Premises and Operations
Products/Completed Operations
Contractual Liability
Independent Contractors
Personal Injury
Separation of Insureds
Residential Work, if applicable to the contract

Advertising Injury
Broad Form Property Damage
X, C, U Hazards
Additional Insured Endorsement: Contractor, Owner, Architect, other indemnitees as listed in item #4 below, including consultants, agents and employees of any of them.
Waiver of Subrogation Endorsement: Contractor, Owner, Architect, other Subcontractors and other indemnitees as listed in item #4 below including consultants, agents and Employees of any of them.

C. Comprehensive Automobile Liability

Limits: \$1,000,000 per occurrence for bodily injury and/or property damage

Coverage: Owned vehicles

Hired and non-owned liability
Protection against uninsured motorist
Contractual Liability

Additional Insured Endorsement: Owner, Contractor, Architect, and other indemnitees as listed in item #4 below, including consultants, agents, and employees of any of them.

Waiver of Subrogation Endorsement: Owner, Contractor, Architect, other Subcontractors and other indemnitees as listed in item #4 below, including consultants, agents, and employees of any of them.

D. Umbrella Liability or Excess Liability

Limits: \$5,000,000 excess over Employer's Liability, Commercial General Liability and Comprehensive Automobile Liability

Coverage: Follow-Form coverage that is no less broad than all coverages and conditions described above.

Drop-down coverage for defense and indemnity in the event of reduction and/or exhaustion of underlying limits.

Primary and non-contributory for all coverage.

Additional Insured Endorsement: Owner, Contractor, Architect, and other indemnitees as listed in item #4 below, including consultants, agents, and employees of any of them.

Waiver of Subrogation Endorsement: Owner, Contractor, Architect, other Subcontractors and other indemnitees as listed in item #4 below, including consultants, agents, and employees of any of them.

E. Pollution Liability and Professional Liability

Insurance limits and specific insurance requirements are as defined in Articles 13 and 34 herein.

2. Use of leased employees by Subcontractor is expressly prohibited without Contractor's written permission. If permitted by Contractor, Subcontractor shall:

- Require that leasing company comply with subcontractor insurance requirements and provisions contained in the Subcontract.
- Require that leasing company provide a copy of Alternate Employer Endorsement naming Contractor as alternate employer on leasing company's Workers Compensation policy.
- Require that leasing company provide a waiver of subrogation and other rights of recovery in favor of Contractor, Owner and Architect on leasing company's General Liability and Workers Compensation policies.

3. Certificates of Insurance shall be furnished to Contractor prior to commencement of the work. Approval of the insurance by the Contractor shall not relieve or decrease the liability of the Subcontractor. All policies of insurance shall include a Cancellation and Non-Renewal Endorsement with a minimum of 30 days prior written notice to Contractor, which shall be reflected on or attached to the Certificates of Insurance. In the event carrier refuses to furnish such endorsement, Subcontractor shall be required to furnish new insurance certificate(s) each month due on the date monthly billings are due regardless of whether Subcontractor is submitting a billing or not.

4. The Subcontractor hereby waives subrogation against the Owner, Contractor, Architect, other Subcontractors and other indemnitees as listed in item #4 below, including consultants, agents, and employees of any of them, for claims, damages, losses and expenses arising out of or resulting from the performance of the Work provided such claim, damage, loss or expense is attributable to bodily injury, sickness, disease, or death or the injury to or destruction of tangible property, and for damages caused by fire and other perils to the extent covered by property insurance obtained hereunder, except such rights as they have to proceeds of such insurance. Subcontractor shall require a similar waiver by its sub-subcontractors.

Additional indemnitees shall be added as additional insureds under the Subcontractor's General Liability, Auto Liability and Umbrella Liability policies. General Liability and Umbrella Liability shall include Additional Insured endorsements CG20101001 and CG20370704 or their equivalents to provide both ongoing and completed operations coverage.

- The Robins & Morton Group
- Any party the Contractor is required to add as Additional Insured by the Contract
- [Project Owner]
-

Initials _____

SCHEDULE F
EEO POLICY

Subcontractor hereby agrees to comply with the Equal Opportunity Clause, Section 202 of Executive Order 11246 paragraphs one (1) through seven (7) as follows:

(1) Subcontractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, or national origin. 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, sexual orientation, or national origin. Such actions shall include, but not be limited to the following: Employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

(2) Subcontractor will, in all solicitations or advertisements for employees placed by or on behalf of Subcontractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, or national origin.

(3) Subcontractor will send to each labor union or representative or workers with which he has a collective bargaining agreement or other contract or understanding, a notice advising the labor union or workers' representative of Subcontractor's commitments under Section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(4) Subcontractor will comply with all provisions of Executive Order 11246, of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(5) Subcontractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by any contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(6) In the event of Subcontractor's noncompliance with the nondiscrimination clauses of the Contract and this Subcontract or with any such rules, regulations, or orders, this Subcontract may be cancelled, terminated, or suspended in whole or in part and Subcontractor may be declared ineligible for further Government contracts in accordance with provisions authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(7) Subcontractor will include the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. Subcontractor will take such action with respect to any subcontract or purchase order as any contracting agency may direct as a means of enforcing such provisions including sanctions for noncompliance.

Contractor and Subcontractor shall also abide by the requirements of 41 CFR 60-300.5(a) and 41 CFR 741.5(a). These regulations prohibit discrimination against qualified protected veterans and qualified individuals on the basis of disability, and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified protected veterans and individuals with disabilities.

Initials _____

SCHEDULE G
CONTRACT DOCUMENTS

The Contract Documents referred to in Article 1 and elsewhere in this Subcontract consist of the Contract and the following:

SCHEDULE H
TEMPORARY FACILITIES

All temporary site facilities, such as storage, sheds, water, heat, light, power, toilets, hoists, elevators, scaffolding, cold weather protection, ventilating, pumps, watchman service, etc., required in performing the Work shall be furnished by Subcontractor except as follows (here insert items to be furnished by Contractor):

The temporary facilities furnished by Contractor shall be without charge to Subcontractor except as otherwise indicated above.

In connection with its furnishing of the temporary facilities indicated, Contractor shall not be liable for conditions beyond the control of Contractor, which may interrupt, delay or otherwise interfere with the availability of such facilities to Subcontractor. Unless otherwise expressly indicated, the temporary facilities furnished by Contractor shall not be for the exclusive use of Subcontractor, but shall be shared by others performing work on the Project. Contractor therefore reserves the exclusive right to schedule the use of any facilities in accordance with its determinations as to the needs of the Project, and shall incur no liability as a result thereof.

If either party from time to time furnishes the other a crane, hoisting equipment, or other machinery or equipment, with or without an operator, for such party's exclusive use, then the using party shall at all times furnish adequate and competent supervision and direction therefore and shall be fully liable and responsible for safe and proper care, use and custody of such machinery or equipment.

Initials _____

SCHEDULE I
UNIT PRICES AND ALLOWANCES

Unit Prices Pursuant to Article 2 and 9 of this Subcontract, the following unit prices shall be used in determining the Price and any adjustments thereto, without limitation unless expressly provided herein:

Allowances The Price specified on page 1 of the Subcontract includes the following allowances for the parts of the Work specified below, to be furnished by Subcontractor in accordance with the Contract Documents.

Initials _____

SCHEDULE J
HEALTH AND SAFETY

1. GENERAL

- a. As a specialist in its field of work, Subcontractor accepts complete responsibility for performing its work safely. This includes sole responsibility for the health and safety of its employees, agents, subcontractors (and their employees) and any other person on or adjacent to the area. Subcontractor's responsibility includes compliance with all current laws, codes, ordinances, rules, regulations, standards and requirements of applicable public and private agencies and authorities ("Laws"). Subcontractor must take all measures and safeguards necessary to protect employees, (whether or not working for the Subcontractor), members of the general public and public and private property.
- b. Contractor and Subcontractor recognize Subcontractor is an independent contractor, with responsibility for its means and methods and the safety of its workers and that Contractor is not intended to be and shall not be considered an employer of Subcontractor's employees. As such, it shall be Subcontractor's duty to monitor the performance and practices of its employees and subcontractors for safety, to ensure that the practices and methods of performing the work are safe and to immediately stop any unsafe practices by its employees or its second or subsequent tier subcontractors ("subcontractors") or their employees. No actions taken by Contractor to monitor practices or performance of the work for safety or to stop any unsafe practices by Subcontractor or its subcontractors shall be construed to suggest or imply that Contractor has or has assumed any obligation or duty to take such actions.
- c. Subcontractor accepts complete responsibility for compliance with safety procedures and policies issued by the Contractor and/or contained in the Contract Documents and compliance with all applicable Laws, relating to health or safety, including, but not limited to the Occupational Safety and Health Act of 1970, as amended, and the regulations and standards of the Occupational Safety & Health Administration and similar state agencies ("OSHA") ("Health and Safety Laws"). Subcontractor shall cooperate with Contractor, Owner, and all other contractors and subcontractors in their respective safety programs. In exchange for one hundred dollars (\$100.00) and other good and valuable consideration, the amount of which is included in the Price, Subcontractor agrees to defend, indemnify and hold harmless the Contractor and Owner and their officers, directors, agents and employees from and against any loss, liability, expense (including attorneys' fees), citations, assessments, fines or penalties resulting from any citation for, allegation of or violation of any Health or Safety Laws attributable in whole or part to the acts or omissions of Subcontractor, its subcontractors "or their agents or employees. Subcontractor's obligations hereunder shall not be limited as to amount or type of damages by the provisions of any worker's compensation act, disability act or other employee benefit act or by any insurance policy.
- d. All obligations and requirements of "Subcontractor" in this document also apply to Subcontractor's subcontractors. No person or entity performing work for or on behalf of Subcontractor is excluded from compliance.
- e. Subcontractor shall comply with the safety-related recommendations or Risk Mitigation plans of the Contractor and/or any entity having an interest in the Project unless such recommendations would violate applicable Laws. Subcontractor shall provide written responses to any Contractor or insurance company safety inspection outlining corrective actions and action plans to prevent recurrence.
- f. Subcontractor acknowledges Contractor's Safety Policies & Procedures Manual ("Safety Policy") and agrees to review and abide by all provisions therein unless Subcontractor's policies are more stringent. Although this Schedule J provides summary guidance regarding certain health and safety items; it should be reviewed in conjunction with and not as a substitute for the Safety Policy and all applicable Laws relating to the operations Subcontractor will perform. Subcontractor shall comply with any and all revisions to the Safety Policy that may occur during the life of the project and will implement such changes at no cost to Contractor.

2. SITE SPECIFIC SAFETY PLAN

- a. Subcontractor shall submit a site-specific safety plan ("Site Safety Plan") for its work to Contractor within thirty days of Subcontract execution (time permitting). Regardless, no work on site shall be performed until the Site Safety Plan has been received by Contractor. Delay in submitting a written Site Safety Plan will not constitute grounds for a contract schedule extension or delay claim related to Subcontractor not being permitted to work. The Site Safety Plan must comply with applicable Laws, the Contractor's Safety Policy, and be specific to the Subcontractor's scope of work.

- b. Contractor's review of, or comment on, the Site Safety Plan or any other safety plan, policy or procedure, shall not relieve the Subcontractor of any responsibility or liability for the Site Safety Plan or such other safety plans, policies, or procedures. Upon review of the Site Safety Plan, Contractor reserves the right to advise Subcontractor of deficiencies and recommend necessary changes or enhancements; however, Subcontractor shall remain ultimately responsible for implementing a Site Safety Plan compliant with applicable Laws and for completing the work in accordance with the Site Safety Plan.

3. **OSHA 30 HOUR TRAINING**

- a. Subcontractor is responsible for ensuring that Subcontractor and all of its subcontractors have at least one (1) member of their full-time supervisory staff on-site during all operations who has completed or is currently enrolled in a 10-Hour OSHA Safety Training course. Completion of the OSHA 30-Hour course must be current within four years of subcontract execution. Subcontractor and all of its subcontractors whose contract volume exceeds five million dollars (\$5MM) are required to have at least one additional member of their full-time supervisory staff on-site during all operations who has completed or is currently enrolled in a 30-Hour OSHA Safety Training course. Subcontractor(s) shall provide the names of certified persons and a copy of their OSHA certification cards or enrollment certification to Contractor prior to project mobilization. Any exception to this requirement shall be requested in writing by Subcontractor and approved in writing by Contractor prior to project mobilization.

4. **SAFETY SUPERVISORS AND COMPETENT PERSONS**

- a. Subcontractor shall appoint one or more individuals to be responsible for safety on each Subcontract ("Safety Supervisors"). The Safety Supervisors must be employed in a supervisory position, empowered by Subcontractor to take corrective action; be present on the Project while work is being performed; and spend the amount of time necessary to ensure Subcontractor's compliance with safety requirements. The Safety Supervisor must meet the requirements of section 3a and shall have received any other safety and health related training required for the Subcontractors scope of work. Subcontractor shall submit, in writing, the name or names of the Safety Supervisors prior to project mobilization.
- b. In addition to the Safety Supervisors, Subcontractor must identify, for each operation, whether the Safety Supervisor(s) or another individual is the "competent person." The competent person must be an individual deemed and qualified as a competent person as required and defined by OSHA as: "one who is capable of identifying existing and predictable hazards in the surroundings or working conditions which are unsanitary, hazardous, or dangerous to employees, and who has authorization to take prompt corrective measures to eliminate them" or such other definition as OSHA regulations may contain, and shall have completed any Competent Person Level Training required for the scope of work. The identified Competent Person(s) must be present on site at all times while the subcontractor employees are working. Additional Competent Persons may be required based on crew size, location of work and contract amount.
- c. Subcontractor acknowledges that the Subcontractor's most senior level manager present on the Project while work is being performed is ultimately responsible for all safety management activities of said Subcontractor and its subcontractors.
- d. Should Contractor reasonably determine that any Safety Supervisor and/or competent persons or manager is not fulfilling his duties, Contractor may direct Subcontractor to remove and replace said individual at Subcontractor's sole expense without delay. Contractor's right to take such action shall not be construed as an obligation on the part of the Contractor to do so or as an obligation by Contractor to evaluate, monitor, or control Subcontractor's Safety Supervisors, competent persons or managers.

5. **COMMUNICATION WITH NON-ENGLISH SPEAKING WORKERS**

- a. Subcontractor shall provide a translator to be on site at all times when Subcontractor or its subcontractors has non-English speaking workers on-site.
- b. This individual must be identified in writing to Contractor prior to mobilization and shall be present during all work operations, specifically including, but not limited to, all employee meetings, when Subcontractor (or its second or subsequent tier subcontractors) has non-English speaking workers on site.

6. **PRESENCE OF INDIVIDUALS TRAINED IN FIRST AID/CPR**

- a. Subcontractor is responsible for ensuring that Subcontractor and all of its subcontractors have a full-time person trained and currently certified in first aid and CPR ("First Aid Responder") who is on site at all times while Subcontractor or its subcontractors are working

- b. Subcontractor will maintain written certification of First Aid Responder's training and make documentation available to Contractor.
- c. Subcontractor shall have adequate first aid and emergency medical equipment on site as necessary.

7. SUBCONTRACTOR SAFE-START MEETING

- a. Prior to mobilization, Subcontractor and its subcontractors must attend a Subcontractor Safe-Start Meeting with Contractor. Subcontractor maintains responsibility for participating in or conducting this meeting with its subcontractors. Subcontractor participation in this meeting must include the Subcontractor's project manager or equivalent senior manager, the superintendent and/or supervisor who will be managing the project, the Subcontractor's designated Safety Supervisors and any designated competent persons. Additionally, Contractor shall have the right to require Subcontractor's Corporate Safety Manager attend the meeting.
- b. No work on-site shall be performed until the Safe Start Meeting has been completed and Subcontractor and its subcontractors have submitted all documentation required by Contractor. Delay in providing required documentation will not constitute grounds for a contract schedule extension or delay claim related to the Subcontractor or its subcontractors not being permitted to work.

8. SAFETY TRAINING AND ORIENTATION

- a. Subcontractor acknowledges its responsibility to provide its employees and the employees of its subcontractors with a Project specific orientation prior to performing work on the Project. Topics covered must be relevant to the tasks the employees will be required to complete on the Project in addition to any site-specific requirements, and information discussed in the Subcontractor Safe-Start Meeting. Subcontractor shall maintain training documentation on-site and make it available for review by Contractor if requested.
- b. Contractor will require Subcontractor's employees and the employees of its subcontractors to participate in an additional Project orientation conducted by Contractor. This training will not replace the orientation training referenced in section (8.a) and Subcontractor acknowledges that any Project orientation conducted by Contractor is solely for the purpose of an introduction to the Project site. Subcontractor shall be solely responsible for conducting Project site hazard assessments, for providing appropriately trained competent persons and Safety Supervisors and for orientation and training of all of its employees on the Project site.
- c. Where applicable Laws require the performance of certain duties by individuals having specified training or certification, Subcontractor agrees that such duties shall be performed only by individuals having the required training or certification at no additional cost to Contractor even if new or additional training is necessary to meet such requirements. Subcontractor shall be responsible for determining what, if any, additional training is required and prior to commencing work shall provide all training, including any specialty training required by OSHA and other public or private authorities, to its employees and employees of its subcontractors. Subcontractor shall maintain documentation of such training and make it available for inspection by Contractor for the purpose of confirming the training. Subcontractor shall be solely responsible for assessing the content of the training and ensuring that all required training is completed.
- d. Subcontractor's supervisors and employees will be required to attend a weekly safety meeting conducted by Contractor. Subcontractor must ensure its subcontractors' participation. In addition to attendance at the Contractor's weekly safety meeting, the Subcontractor must hold its own weekly safety meeting for its employees and all of its Subcontractor's employees to review trade/scope specific items.
- e. Subcontractor must attend, at no cost to Contractor, all safety and health meetings relating to Subcontractor's work on the Project site.

9. ACCIDENT/INCIDENT REPORTING

- a. Any accident, incident, allegation or citation relating to Health and Safety Laws involving Subcontractor or its subcontractors must be reported to Contractor immediately whether or not the incident results in employee injury, property damage, or damage or injury to any third party. A preliminary accident/incident report must be forwarded to Contractor's Superintendent before the end of the shift, and the completed report submitted within 24 hours unless Contractor grants Subcontractor's written request for a time extension. In addition to the completed report, Subcontractor shall also timely submit any additional documentation relating to the incident requested by Contractor or required by applicable Laws. Such

documentation may include, but is not limited to, the following (a) a copy of "Employer's First Report of Injury" (in the event of an injury); (b) a copy of all property or casualty insurance claim reports; (c) a copy of any and all OSHA inspection or citation reports; and (d) a copy of any drug test obtained as the result of any incident.

- b. In the event of an accident or incident involving Subcontractor or its subcontractors, Subcontractor will cooperate fully with Contractor in addressing any and all issues relating to the accident or incident, including making its employees and other resources and materials available for any investigations, meetings, insurance inspections, attorney reviews or other actions deemed necessary by the Contractor. Subcontractor acknowledges time is of the essence in providing the support Contractor deems necessary in response to an incident/accident. Should Contractor determine third party support is necessary to aid in investigation or mitigation of damages, Subcontractor will request, arrange and pay for such support services.

10. **DRUG TESTING**

- a. Refer to Schedule C – Alcohol & Drug Testing

11. **OSHA INSPECTIONS**

- a. Subcontractor shall contact Contractor immediately if an OSHA compliance officer arrives at the job site and shall inform Contractor of any employee complaint, incident, or other event that results in or is likely to result in an OSHA Inspection.
- b. Subcontractor shall forward a copy of any and all OSHA inspection or citation reports to Contractor upon receipt.
- c. Should Contractor receive an OSHA citation arising out of or relating to an act or omission of Subcontractor or an act or omission for which Subcontractor is also issued a citation, Subcontractor will pay all costs associated with the defense of Contractor during any proceedings with OSHA or related litigation or claims, including but not limited to attorneys' fees (said attorneys to be selected by Contractor), expert witness fees, time associated with Contractor personnel in conjunction with this citation, costs, including but not limited to costs of photographs, and video tapes, and any fines. Additionally, if requested by Contractor, Subcontractor will make available its employees, records and other resources Contractor deems necessary for its defense.

12. **HAZARDOUS COMMUNICATION / GHS**

- a. Subcontractor is required by OSHA regulations to institute a hazard communications program, as part of which it must inform both Contractor and all other trade subcontractors on the Project site of any hazardous chemicals Subcontractor is using on the Project. Subcontractor must also provide Contractor and all other trade subcontractors with copies of Safety Data Sheets (SDS) specific to the scope of work, warn of the existence of any hazardous chemicals in the work area, ensure that any containers of hazardous chemicals are appropriately labeled, and maintain a written inventory on the Project of any such chemicals.

- 13. **PHYSICAL CONDITIONS** – Topics identified within this section are included to add emphasis to Contractor's requirements and are not intended to be all inclusive. As previously referenced, Schedule J provides summary guidance regarding certain health and safety items and should be reviewed in conjunction with and not as a substitute for the Safety Policy and all applicable Laws relating to the operations Subcontractor will perform.

SILICA

- i. Subcontractor shall provide a copy of the written silica exposure control plan, including any sampling/objective data, specific to the Subcontractor's scope of work to the Contractor for review at the Safe Start meeting. Subcontractor shall provide silica training for Competent Persons and employees as required by OSHA regulations. Subcontractor shall utilize dust/exposure control procedures as required by the Contractor's Safety Policy, OSHA regulations and other applicable laws and regulations.

ASBESTOS

- i. Subcontractor shall provide asbestos related training to its employees and subcontractor's employees as required by OSHA regulations. Subcontractor shall communicate any asbestos related information to

employees and provide training as needed to make employees aware of the location of the asbestos and safe work procedures as they apply to the Subcontractor's scope of work.

c. LEAD

- i. Subcontractor shall provide a written lead exposure control plan where applicable to the subcontractor's scope of work. This shall include the safe use, handling and disposal of any/all products/materials containing lead. Subcontractor shall communicate any lead related information to employees and provide training as needed to make employees aware of the location of the lead and safe work procedures as they apply to the Subcontractor's scope of work.

d. GROUND DISTURBANCE ACTIVITIES

- i. Prior to any ground disturbance activities, Subcontractor's designated ground disturbance utility coordinator shall facilitate locating and marking existing utilities in compliance with all current laws, codes, ordinances, rules, regulations, standards, Contractor Safety Policies & Procedures, and requirements of applicable public and private agencies and authorities. Work practices shall include compliance with all current laws, codes, ordinances, rules, regulations, standards, Contractor Safety Policies & Procedures, industry best practices, and requirements of applicable public and private agencies and authorities.

e. FALL PROTECTION / FALLING OBJECT PROTECTION

- i. Subcontractor acknowledges and adopts Contractor's zero tolerance policy for fall prevention and protection and understands anyone found violating this policy may be removed from the site immediately.
- ii. Subcontractor shall provide its employees with and enforce the use of 100% fall prevention/protection system whenever its employees are exposed to a fall (6) six feet or greater, including but not limited to any walking/working surface (horizontal and vertical) with an unprotected edge, leading edge work, roof work, steel erection, metal decking, pre-cast operations, overhand brick or block laying, or scaffold erection.
- iii. Prior to commencing work, Subcontractor must provide Contractor with an OSHA compliant fall prevention and protection plan specific to the Subcontractor's scope of work for the project to include specific means and methods for fall protection procedures and equipment to be used and ensure all Subcontractor employees are provided training on the site specific fall protection plan. Subcontractor acknowledges and understands that the exceptions provided within the Occupational Safety and Health construction standards for the use of non-conventional fall protection measures (i.e., fall protection plans, controlled access zones, safety monitors) will not be permitted on this Project. Therefore, where any employee is exposed to a fall (6) six feet or greater, where passive fall protection cannot or has not been installed (i.e., guardrails, safety nets, etc.), Subcontractor shall provide its employees with a fall restraint/fall arrest system that protects its employees 100% of the time. This requirement does not apply to ladder access and egress unless required by OSHA, the Contractor's Safety Policy, or site-specific requirements. Additionally, unless required by OSHA, the Contractor's Safety Policy, or site-specific requirements, this requirement does not apply when employees are making an inspection, investigation, or assessment of workplace conditions prior to the actual start of construction work or an inspection after completion of construction work.
- iv. If Subcontractor is required to remove any fall prevention or protection equipment previously installed on the Project to facilitate access to its work (e.g., perimeter guardrails, hole covers, etc.), Subcontractor must first coordinate such removal with Contractor. Additionally, Subcontractor is responsible for establishing alternate provisions to protect and warn its employees and other trades that could be exposed to falls six (6) feet or greater as a result of the fall prevention equipment being removed. Further, upon completion of its work, and if materials installed by Subcontractor do not eliminate the falling hazards, Subcontractor must reinstall all previously installed fall prevention and protection equipment. If Subcontractor fails to reinstall said fall prevention and protection equipment, reinstallation of this equipment may be done by others at Subcontractor's cost and expense. In all instances, Subcontractor shall remain solely responsible for the safe removal and reinstallation of such equipment.
- v. Subcontractor acknowledges that in addition to providing personal fall arrest equipment to its employees, Subcontractor shall provide fall protection training in accordance with OSHA standards. Subcontractor shall maintain training documentation on-site and make it available for review by Contractor.
- vi. Subcontractor's Safety Supervisor/Competent Person shall ensure appropriate set up and use of all fall prevention and protection components established to protect its employees and shall adhere to all OSHA and manufacturers' recommendations for proper set up and use. The Safety Supervisor/Competent Person shall be involved in the daily pre-task planning, installation, change or alteration, and use of fall protection

procedures and equipment and shall ensure these procedures and equipment adhere to all applicable OSHA standards and manufacturer's recommendations.

- vii. Subcontractor's Safety Supervisor/Competent Person shall thoroughly inspect each of its fall prevention and protection systems at least daily focusing on items including, but not limited to, whether the system is in working condition, whether the correct system is selected, whether the system is appropriately designed and instructions for use are being followed, whether the system is appropriately anchored, whether fall distances have been taken into consideration and whether all employees have been trained.
- viii. Subcontractor shall be responsible for conducting a risk assessment that includes overhead and falling object hazards and shall implement the appropriate hazard elimination/control measures that may include but not be limited to controlled work zones, tool/equipment tethering, toe boards, debris nets, overhead protection/canopies, etc.

f. PERSONAL PROTECTIVE EQUIPMENT

- i. Subcontractor shall be solely responsible for conducting a hazard assessment of the Project site in which it will be working, including an analysis of all of its work activities, for providing its employees with all safety items required by applicable Health and Safety Laws, for ensuring the appropriate personal protective equipment ("PPE") is being issued and used for the task at hand in accordance with applicable Laws (e.g., respiratory protection, ear plugs, fire retardant clothing, gloves, hard hats, safety glasses, and face shields). If specialty training is required for use of such equipment, Subcontractor must ensure this training is provided to its employees.
- ii. All Subcontractor personnel shall wear ANSI Z87.1 approved safety glasses with approved side shields. Persons with prescription glasses shall wear ANSI Z87.1 approved prescription safety glasses with permanently attached side shields, or ANSI Z87.1 approved goggles to cover their existing glasses 100% of the time while working on the Project site.
- iii. All Subcontractor personnel shall wear non-metallic hard hats meeting ANSI Z89.1 specifications 100% of the time while working on the Project site. This requirement specifically includes all work completed during the finishing stages of the Project.
- iv. Subcontractor personnel shall wear personal clothing and footwear that is safe for the work and any jobsite exposure. At a minimum, full-length trousers and shirts with a minimum 4-inch sleeve are required. Work boots are required for all personnel on site.

g. HOUSEKEEPING

- i. Refer to Article 19 of the Subcontract – Clean Up and Environmental Matters

h. CRANES, LIFTING, AND HOISTING EQUIPMENT

- i. Prior to any crane or other lifting or hoisting equipment ("Crane") being brought onto site by or for the use of Subcontractor, Subcontractor shall provide Contractor with a copy of a current (within 12 months) third party annual comprehensive crane inspection. A certification sticker alone is not acceptable proof of the annual comprehensive inspection.
- ii. For any Crane requiring on-site assembly (e.g., lattice boom, tower, hydro with jib attached) and prior to using the crane on site, Subcontractor must arrange for a third-party comprehensive post assembly inspection and provide Contractor with a copy of the third-party comprehensive post assembly inspection. A certification sticker alone is not acceptable proof of this comprehensive inspection.
- iii. For cranes requiring on-site assembly/disassembly, these operations shall be performed in adherence to all applicable OSHA standards and manufacturer's recommendations.
- iv. Cranes requiring no on-site assembly must be inspected prior to use and Subcontractor must provide Contractor with a certification letter certifying that a pre-use inspection has been conducted and the crane meets manufacturer's inspection criteria.
- v. All Cranes must be inspected daily and according to all applicable OSHA standards and manufacturer's recommendations. All inspection logs must be kept in the cab of the Crane and made available for review by Contractor.

- vi. All Cranes being brought onto site must be equipped with a functioning anti-two-blocking device, and other safety devices as required by OSHA standards.
- vii. Subcontractors shall provide proof of Crane operator certification from an accredited Crane operator testing organization demonstrating the Crane operator is certified to operate the Crane or Cranes he/she will be required to operate on the project. Additionally, Subcontractor shall provide a letter attesting that upon the Subcontractor's review of the operator's experience and education the Crane operator is qualified and competent to operate the Crane or Cranes he/she will be required to operate on the Project. Both must be submitted to the Contractor prior to the operation of the Crane.
- viii. Cranes may be operated only by individuals trained in their operation and possessing all required certifications as identified in Paragraph 13.h.vii. Further, Subcontractor must comply with said provisions outlined in Paragraph 13.h.vii if Crane operators will be changed or replaced.
- ix. Cranes must be used specifically for their designed purpose as established by the equipment manufacturer. Any deviation must be authorized by the equipment manufacturer and said authorization letter must be provided to Contractor.
- x. Subcontractor shall submit a site-specific crane lift plan to the Contractor prior to the crane being mobilized to the site. The lift plan shall include set-up areas, safe working radius, length of boom, boom angles, load weights, swing radius, applied ground bearing pressures, cribbing, rigging and lifting hardware/equipment, and any other associated or applicable crane or rigging components. The lift plan shall identify any qualified Riggers and Signal Persons to be used and the method of communication to be used. The lift plan shall also identify the Lift Director. Safe Start submittals shall also reflect this information as required.
- i. **CONFINED SPACES**
 - i. Subcontractor shall provide confined space training to its employees and subcontractor's employees as required by OSHA regulations. Subcontractor shall communicate any confined space related information to employees and provide training as needed to make employees aware of the location of the confined space and safe work/entry/rescue procedures as they apply to the Subcontractor's scope of work. Subcontractor shall be responsible for confined space classification and/or reclassification as required by Contractors Safety Policy, OSHA standards and any other applicable regulations.
- j. **OTHER EQUIPMENT**
 - i. All equipment brought on site by Subcontractor must be inspected at intervals established either by OSHA or the equipment manufacturer, whichever is more often. All inspections shall be documented and available for review by Contractor. Any deficiencies found during the inspection must be addressed immediately or the equipment shall be taken out of service and locked and tagged out (in accordance with OSHA standards) until such time as it is repaired. Should Contractor observe a piece of equipment in disrepair and notify Subcontractor, upon notification Subcontractor must either repair the equipment immediately or take it out of service and lock and tag it out until such time as the repair can be made.
 - ii. Equipment must be used specifically for its designed purpose as established by the equipment manufacturer. Any deviation must be authorized by the equipment manufacturer and said authorization letter must be provided to Contractor.
 - iii. Equipment shall be operated only by individuals trained in its operation and possessing all required certifications.

14. **INSPECTIONS**

- a. Subcontractor acknowledges that certain operations require its competent person to perform inspections and implement certain procedures prior to employees performing work. Subcontractor shall insure that a competent person takes such actions (which may include, but is not limited to, scaffold inspection, excavation inspections, lock out tag out, confined space, hot work, fall protection, and crane and equipment inspections). Subcontractor acknowledges its responsibility to determine and ensure all policies regarding inspections and procedures are followed.
- b. Subcontractor's Safety Supervisor(s) or other competent person(s) shall inspect the Project daily for unsafe behaviors and conditions and shall address any such issues immediately. Subcontractor shall, at least weekly, conduct a documented project inspection to include observed hazards and corrective actions taken and provide documentation of such inspection to Contractor.

15. **DISCIPLINARY ACTION/WORK STOPPAGE**

- a. Subcontractor shall enforce all disciplinary procedures Contractor may establish for the Project.
- b. In the event that Subcontractor or any of its employees or those of its Subcontractors fail to comply with any health and safety requirements, or if Contractor deems any part of the Work unsafe, Contractor may require Subcontractor to stop work and/or remove any non-complying employees or supervisors. Subcontractor shall not be entitled to any additional time or money as a result of Contractor stopping the work when the work was stopped due to Contractor's concern about safety deficiencies. Subcontractor shall review and comply with the safety and health provisions of this Subcontract, including but not limited to Schedule J, the Contract Documents and the Safety Policy. Failure to comply shall be considered a breach of contract.

Initials _____

SCHEDULE K
PERFORMANCE & PAYMENT BOND FORMS

Subcontract Performance Bond

Bond No.: _____

Subcontract No.: _____

Cost code No.: _____

KNOW ALL MEN BY THESE PRESENTS, That _____, as Principal (hereinafter referred to as "Principal"), and _____ as Surety (hereinafter referred to as "Surety"), are held and firmly bound unto The Robins & Morton Group, 400 Shades Creek Parkway, Birmingham, AL 35209 as Oblige (hereinafter referred to as Oblige), in the penal sum of _____, lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Oblige has been awarded a contract (hereinafter called the "Prime Contract") by _____ (hereinafter referred to as the "Owner") for _____, and

WHEREAS, the Principal has entered into a written subcontract with the Oblige, dated _____ (hereinafter called the "Subcontract"), to perform, as Subcontractor, certain portions of the work in connection with the Prime Contract, consisting of the work described in Schedule A and elsewhere in the Subcontract, which Subcontract is incorporated by reference and shall be deemed a part hereof as if fully set out herein.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH, that if the said Principal shall fully indemnify and save harmless the Oblige from all loss, liability, costs, damages, penalty, attorneys' fees or expense which Oblige may incur by reason of any failure of said Principal to well and truly keep and perform each, every and all of the terms and conditions of said Subcontract, including but not limited, to completion within the time specified of all work covered by said Subcontract, and performance of all obligations, guarantees and warranties thereunder, including those of the Oblige relating to such work under the Subcontract to the Owner, then this obligation shall be of no effect, but otherwise it shall remain in full force and effect.

It is a condition hereof that any change, alteration, modification or amendment that may be made in the terms of said Subcontract, any change in the character, scope, method of performance or time of performance of the work to be performed under said Subcontract, any change in the manner, time or amount of payment under said Subcontract, or any change that may be made in the terms of the Prime Contract, may be made without notice to the Surety and without affecting the obligations of the Surety on this bond and without requiring the consent of the Surety, and no such change or changes shall release the Surety from any of its obligations hereunder, and the Surety hereby consents to and waives notice of any such change, alteration, modification or amendment.

It is a further condition hereof that no one other than the named Oblige and the successors, administrators, or assigns of the Oblige shall have any right of action under this bond.

The penal sum of this bond shall automatically increase or decrease by the amount of the price of each change order issued for additions to or reductions from the scope of said Subcontract, without notice to or consent of Surety. The bond premium adjustment for each change order shall be deemed to be included in the price of each change order, unless expressly stated otherwise in the change order.

The said Surety further agrees that in any dispute between it or Principal and Oblige arising out of this bond, the said Subcontract, the said Prime Contract, or any combination of them, it shall be bound by the dispute resolution provisions of the said Subcontract, and it waives any right it may otherwise have to resolution of disputes by any other means or in any other venue.

IN WITNESS WHEREOF, the said Principal and Surety have hereunto set their hands and seals, this ____ day
of _____, _____.

Surety/Agent: _____

By: _____ **

(Signature)

Print Name: _____

Title: _____

License No. for _____

Address: _____

Phone: _____

Principal: _____

By: _____

(Signature)

Print Name: _____

Title: _____

Address: _____

Phone: _____

** Attach Power of Attorney

[Corporate seal]

Subcontract Payment Bond

Bond No.: _____

Subcontract No.: _____

Cost code No.: _____

KNOW ALL MEN BY THESE PRESENTS, That _____, as Principal (hereinafter referred to as "Principal"), and _____, as Surety (hereinafter referred to as "Surety"), are held and firmly bound unto The Robins & Morton Group, 400 Shades Creek Parkway, Birmingham, AL 35209, as Obligee (hereinafter referred to as "Obligee"), in the penal sum of _____, lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Obligee has been awarded a contract (hereinafter called the "Prime Contract") by _____ (hereinafter referred to as the "Owner") for _____, and

WHEREAS, the Principal has entered into a written subcontract with the Obligee, dated _____ (hereinafter called the "Subcontract") to perform, as Subcontractor, certain portions of the work in connection with the Prime Contract, consisting of the work described in Schedule A and elsewhere in the Subcontract, which Subcontract is incorporated by reference and shall be deemed a part hereof as if fully set out herein.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH, that if the said Principal shall pay promptly and in full the claims of all persons, firms or corporations, performing labor or furnishing equipment, materials, or supplies incurred in connection with the work to be performed under said subcontract, and shall indemnify and save harmless the Obligee from all loss, liability, costs, damages, penalty, attorneys' fees or expenses incurred by Obligee as a result of said claims, then this obligation shall be of no effect, but otherwise it shall remain in full force and effect.

It is a condition hereof that any change, alteration, modification or amendment that may be made in the terms of said Subcontract, any change in the character, scope, method of performance or time of performance of the work to be performed under said Subcontract, any change in the manner, time or amount of payment under said Subcontract, or any change that may be made in the terms of the Prime Contract, may be made without notice to the Surety and without affecting the obligations of the Surety on this bond and without requiring the consent of the Surety, and no such change or changes shall release the Surety from any of its obligations hereunder, and the Surety hereby consents to and waives notice of any such change, alteration, modification or amendment.

Subject to the priority of the named Obligee with respect to recovery up to the penal sum of this bond, persons who have supplied or furnished labor, material, machinery, equipment or supplies to the Principal for use in the prosecution of the work provided for in said contract shall have a direct right to action against said Principal and Surety under this bond.

The said Principal and the said Surety agree that this Bond shall inure to the benefit of all persons supplying labor and material in the prosecution of the work provided for in said Subcontract, as well as to the Obligee, and that such persons may maintain independent actions upon this Bond in their own names.

The penal sum of this bond shall automatically increase or decrease by the amount of the price of each change order issued for additions to or reductions from the scope of said Subcontract, without notice to or consent of Surety. The bond premium adjustment for each change order shall be deemed to be included in the price of each change order, unless expressly stated otherwise in the change order.

The said Surety further agrees that in any dispute between it or Principal and Oblige arising out of this Bond, the said Subcontract, the said Prime Contract, or any combination of them. It shall be bound by the dispute resolution provisions of the said Subcontract, and it waives any right it may otherwise have to resolution of disputes by any other means or in any other venue.

IN WITNESS WHEREOF, the said Principal and Surety have hereunto set their hands and seals, this ____ day of _____, _____.

Surety/Agent: _____

By: _____ **

(Signature)

Print Name: _____

Title: _____

License No. for _____

Address: _____

Phone: _____

Principal: _____

By: _____

(Signature)

Print Name: _____

Title: _____

Address: _____

Phone: _____

**Attach Power of Attorney

[Corporate seal]

Initials _____

SCHEDULE L
FINAL GENERAL RELEASE AND LIEN WAIVER FORMS

GENERAL RELEASE AND LIEN WAIVER
(Subcontractor)

- A. Robins & Morton is now indebted to the undersigned on account of labor and/or material furnished by the undersigned for us in construction of:

_____ ('Project') _____ (Project #).

- B. Robins & Morton has requested the undersigned to furnish this Release prior to final payment.

In consideration of the final payment to be made by Robins & Morton and other good and valuable consideration, the receipt of which is hereby acknowledged, the undersigned for itself, its successors and assigns, hereby releases and forever discharges The Robins & Morton Group, its affiliates, officers, directors, employees, agents and the Project Owner of and from all manner of debts, actions, causes of action, suits, contracts, and any and all claims and liabilities whatsoever in law and in equity, arising under or by virtue of its subcontract and/or purchase order with Robins & Morton dated: _____

and changes thereto (subcontract); and the undersigned further waives and releases all liens, claims or rights of lien on or against said Project and all claims against any payment or performance bonds related thereto, for and on account of labor and/or material furnished up to this date for the Project.

The undersigned warrants and represents that all bills, for material used, equipment rentals, labor performed and any other items furnished under the subcontract have been paid and satisfied. The undersigned further agrees to indemnify and holds harmless Robins & Morton from any and all liens, financial obligations or claims, including costs and reasonable attorneys' fees, arising under said subcontract.

The undersigned acknowledges that the final payment will be full compensation for the work performed and/or materials supplied under said subcontract. The final payment is subject to Robins & Morton's right to recover from the undersigned any amounts later determined by Robins & Morton or the Project Owner not to be reimbursable costs under the subcontract or under Robins & Morton's General Contract with the Project Owner.

It is specifically understood, however, that this Release shall take effect and be enforceable only upon and after receipt by the undersigned of the final payment and this Release is given by the undersigned and is accepted by Robins & Morton subject to such understanding.

Executed as a sealed instrument dated: _____

Subscribed and sworn before me this

Company: _____

_____ day of _____, 20____

By: _____

Notary Public _____

Title: _____

My Commission Expires: _____

[Corporate seal]

R&M FORM OC-230

GENERAL RELEASE AND LIEN WAIVER
(Sub-Subcontractor/Subcontractor Vendor)

_____ has furnished labor and / or material to _____
_____ for use in construction of _____
_____. # _____ on which Robins & Morton is the General Contractor
and _____ is the Owner.

In consideration of full and complete payment which has been made by _____
_____ to _____ for all labor and material furnished to-date,
the sum of One Dollar and other good and valuable consideration, the receipt of which is hereby acknowledged,
the undersigned for itself, its successors, and assigns, hereby releases and forever discharges

_____.

The Robins & Morton Group, its affiliates, officers, directors, employees, and agents and the Project Owner of
and from all manner of debts, actions, causes of action, suits, covenants, contracts, and any and all claims and
liabilities whatsoever in law and in equity, arising under or by virtue of furnishing labor and / or material to

_____ for this Project. The undersigned further waives and releases all liens, claims or
right of lien on or against said Project and all claims against any payment or performance bond related thereto,
for or on account of labor and / or material furnished up to this date for this Project.

Executed as a sealed instrument this _____ day of _____, 20____.

Subscribed and sworn before me this

Company: _____

_____ day of _____, 20____

By: _____

Notary Public _____

Title: _____

My Commission Expires: _____

[Corporate seal]

R&M FORM OC-235

Initials _____
