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DEMARIA SUBCONTRACTOR TERMS AND CONDITIONS

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DEMARIA SUBCONTRACTOR TERMS AND CONDITIONS

THESE SUBCONTRACTOR TERMS AND CONDITIONS (the "Terms") are applicable to and shall govern the Subcontract Agreement (the "Agreement") made by and between DeMaria Building Company, Inc., a Michigan corporation, with its principle office at 45500 Grand River Ave., Novi, MI 48374 ("Contractor"), on the one hand, and Subcontractor (as defined in the Agreement), on the other hand, which Agreement shall be deemed effective as of the date of the Agreement (the "Effective Date").

RECITALS

A. Contractor has entered into a contract with the Owner (the "General Contract") to perform certain labor and furnish certain materials for the erection and completion of that certain project described more particularly in the General Contract (the "Project") in accordance with plans and specifications prepared by the Architect.

B. Contractor seeks to retain Subcontractor to perform various tasks and services and furnish certain materials (collectively, the "Work") to complete the Project, all in accordance with the terms of the Agreement.

C. Both Contractor and Subcontractor (collectively, the "Parties" and individually, each a "Party") desire to, and hereby do, enter into the Agreement, pursuant to which Subcontractor will perform Work for Contractor, and Contractor will make certain payments to Subcontractor, all in accordance with the terms of the Agreement.

D. Subcontractor has full right to enter into the Agreement and to perform its obligations hereunder, as well as with all applicable agreements to which Subcontractor is signatory.

AGREEMENT

CONTRACTOR AND SUBCONTRACTOR AGREE AS FOLLOWS:

1. INCORPORATION OF RECITALS

The above Recitals are hereby incorporated into the Agreement in their entirety.

2. SCOPE OF SUBCONTRACTOR'S UNDERTAKING

Subcontractor shall furnish in accordance with all agreed upon and required plans and specifications all labor, materials, equipment and services necessary or required to receive, unload, store, distribute to the station of work, and protect and complete the installation of that part of the construction of this Project described in the Scope of Work relating to Subcontractor's Work (the "Scope of Work")

and in any other documents comprising the Agreement. Subcontractor's Scope of Work shall also include, with the assistance of the Owner's maintenance personnel and the Contractor, Subcontractor's direction of the checkout and operation of systems and equipment furnished in whole or in part by Subcontractor on the Project to readiness, as well as Subcontractor's assistance in the initial start-up and testing of such systems and equipment, as well as Subcontractor's overall cooperation with Contractor and Owner in providing the assistance, training and instruction necessary for the ongoing operation and use of systems and equipment furnished in whole or in part by Subcontractor on the Project. In the event of any ambiguity or dispute with respect to whether certain items or responsibilities are included within Subcontractor's Scope of Work, such ambiguity or dispute shall be resolved such that the items and/or responsibilities in question are deemed to be within Subcontractor's Scope of Work.

3. DOCUMENTS COMPRISING AGREEMENT

A. Incorporation of General Contract Documents

The Agreement includes and incorporates by reference the General Contract between Contractor and Owner, together with the general and special conditions, plans and specifications, scope of work, and other documents incorporated into the General Contract by reference or otherwise governing Contractor's obligations to Owner on the Project. Subcontractor assumes toward Contractor all those obligations and terms that Contractor has assumed toward the Owner by such documents, as the same may be amended and/or modified from time to time, and Subcontractor shall have no right as to or against Contractor that Contractor does not have as to or against the Owner under such documents. If, however, there are any conflicts in terms between the Agreement and any other General Contract document, the terms of the Agreement shall prevail so long as (i) such rule of construction would not result in a breach of the General Contract documents by Contractor, and/or (ii) the applicable terms of the Agreement are at least as favorable to Contractor as the corresponding General Contract terms; absent either such condition, the applicable terms of the General Contract shall control as between Subcontractor and Contractor.

B. Additional Documents

The Agreement also includes the Subcontract Agreement, all documents referenced in the Subcontract Agreement and/or these Terms and/or any other document that is part of the Agreement, the Scope of Work between Contractor and Subcontractor, the Project Schedule (as defined below), the Schedule of Values (as defined below and as approved by Contractor), the Materials List (as defined below and as approved by Contractor), the Shop Drawings (as defined below and as approved by Contractor), all exhibits to the Agreement and/or any of the foregoing documents, all amendments and/or modifications to the Agreement expressly agreed to in writing by Contractor, together with any and all documents expressly incorporated by reference into any of the foregoing documents. Subcontractor further acknowledges that the Agreement shall include and incorporate, and Subcontractor agrees to be bound by, any and all subsequent amendments and modifications to any and all of the foregoing documents comprising the Agreement.

C. Examination of Contract Documents

Subcontractor shall examine all documents comprising the Agreement, and Subcontractor hereby acknowledges it has had available to it all such documents and has read the same. Subcontractor represents and warrants that there are no inconsistencies, omissions, errors, or defects in the Scope of Work or any other portion of the Agreement that Subcontractor could have discovered as of the Effective Date. Should Subcontractor subsequently discover any inconsistencies, omissions, errors or defects in any documents comprising the Agreement that Subcontractor could not have discovered on or before the Effective Date, it shall be the duty of the Subcontractor to notify Contractor in writing within three (3) working days of the date on which Subcontractor discovered or reasonably should have discovered such inconsistencies or omissions. Within a reasonable time after receipt of notice, Contractor shall instruct the Subcontractor as to the measures to be taken, and the Subcontractor shall comply with the Contractor's instructions. If at any time Subcontractor becomes aware or should have become aware of any defects, design flaws, or other deficiencies regarding any portion of the Project, the Work, or any materials incorporated therein, Subcontractor will promptly notify Contractor of such condition and shall comply with Contractor's instructions on how to proceed in light of such alleged defects, design flaws, or other deficiencies.

4. TIMING OF PERFORMANCE

A. Timeliness

Subcontractor shall begin, perform and complete the Work covered by this Contract according to the Contractor's project work schedule as such Schedule is established or revised from time to time by Contractor ("Project Schedule") or as directed by Contractor in accordance with the actual progress of the Work of the Project so as not to delay the work of others. Subcontractor shall work overtime, at the direction of the Contractor and without additional cost to Contractor, if such overtime is necessary to cure delinquency in maintaining the Project Schedule and such delinquency is due, in Contractor's reasonable determination, to delays by Subcontractor. Any additional costs incurred by Contractor as a result of such extended work hours shall be borne by Subcontractor in the amount of Contractor's actual cost plus 15% overhead.

B. Submission of Work Specifications

As quickly as practicable after the Effective Date, and in no event later than the dates set forth below or such other deadlines agreed to in writing by Contractor, Subcontractor shall submit those materials required to be submitted by Contractor/Owner or Architect for approval to Contractor for review and approval. No allowance or extension of time shall be made to the Subcontractor for delay by Subcontractor in preparing any such materials or in securing approval of Contractor, Owner, Architect, or any third party where such materials are not properly prepared or where Subcontractor could have anticipated and avoided the delay, and Contractor's written approval of all such materials shall be a condition precedent to any right of Subcontractor to payment hereunder.

i. Schedule of Values

As quickly as practicable, and in no event later than two weeks after the Effective Date, Subcontractor shall submit to Contractor a schedule of values of each portion of the Work to be performed by Subcontractor in such form as may be required by the Contractor (the "Schedule of Values"). Included therewith shall be the names of any and all suppliers, sub-subcontractors or materialmen furnishing to Subcontractor. Contractor shall have the right to contact such suppliers, sub-subcontractors and/or materialmen to ascertain, in Contractor's sole determination, that the amounts included in the Schedule of Values are adequate to complete such items of work and that all such suppliers, sub-subcontractors and/or materialmen are suitable for use by Subcontractor. Subcontractor agrees to make any and all changes to the Schedule of Values required by Contractor and to make such revisions within the time period required by Contractor.

ii. Materials List

As quickly as possible, and in any event by a sufficiently early date to avoid any delays on the Project, a list of materials the Subcontractor proposes using on the Project (the "Materials List") is to be submitted to the Contractor for the Architect's approval. Contractor shall have the right to determine, in its sole discretion, whether such proposed materials are suitable for Subcontractor's Work on the Project, and Subcontractor agrees to make any and all revisions to the Materials List required by Contractor and to make such revisions within the time period required by Contractor.

iii. Shop Drawings

As quickly as practicable, and in any event by a sufficiently early date to avoid any delays on the Project, Subcontractor shall submit shop drawings (the "Shop Drawings") to the Contractor. The Shop Drawings shall clearly show the intended method of construction, and Subcontractor shall accept full responsibility for proper fitting of its Work in place and for correctness as required and intended, and shall be entirely responsible for correct measurement and proper fit of its Work into the structure and into the work of other trades. The Shop Drawings will be submitted in 1 sepia and 5 copies. If a sepia is not available, 8 copies will be submitted. Contractor shall have the right to determine, in its sole discretion, whether such proposed Shop Drawings are suitable for Subcontractor's Work on the Project, and Subcontractor agrees to make any and all revisions to the Shop Drawings required by Contractor and/or Architect and to make such revisions within the time period required by Contractor. Approval of submittals by the Contractor shall not be deemed to authorize deviations or substitutions from the requirements of the Agreement. Subcontractor is responsible for all the dimensions shown on the shop drawings, even if they are approved by the Contractor and the Architect. Subcontractor shall field measure for whatever dimensions Subcontractor requires. Subcontractor shall be responsible for the layout, correctness and proper fitting of its Work into the structure and into the work of other trades and shall lay out and be strictly responsible for the accuracy of the Subcontractor's Work and for any loss or damage to the Contractor or others by reason of the Subcontractor's failure to lay out or perform Subcontractor's Work correctly. Subcontractor shall exercise prudence so that the actual final conditions and details shall result in alignment of finish surfaces.

iv. Scope of Work

The Scope of Work for the Project shall be as set forth in the Agreement. Execution of the Subcontract Agreement, and/or commencement of the Work by Subcontractor, and/or preparation for the commencement of the Work by Subcontractor, shall constitute acceptance by the Subcontractor of the terms and conditions of said Scope of Work and the Agreement, including these Terms.

C. Contractor Discretion

Contractor shall have the unfettered right to decide the time, order and priority in which the various portions of the Work shall be performed and all other matters relative to the timely and orderly conduct of the Subcontractor's Work. The Subcontractor shall commence Work at the site within 3 days of notice to proceed from the Contractor, and if interrupted by Contractor for any reason, the Subcontractor shall resume Work within 2 working days from the Contractor's notice to do so.

5. Billing and Payment

A. Payment of Agreed Amount

Contractor shall pay the Subcontractor for the performance of the Agreement, subject to the terms and limitations hereof, the sum as established in the Scope of Work. Additionally, Contractor shall include in its request to the Owner for reimbursement the value of all Work of the Subcontractor incorporated into the Project for which invoices have been timely and properly supplied by the Subcontractor and approved by the Contractor, all as set forth in these Terms and/or elsewhere in the Agreement, and to pay to the Subcontractor the amount received by Contractor for the Subcontractor, less 10% retention and less any additional amounts provided for under this Agreement. No interest shall be paid on retention.

B. Invoices and Required Documentation

With each invoice submitted, and as a prerequisite to payment, Subcontractor shall furnish a sworn statement listing each of its subcontractors, suppliers, laborers and union funds relating to the Project showing the amounts due and unpaid to each, together with, in a form satisfactory to Owner and the Contractor, partial lien or claim waivers and affidavits from Subcontractor and all levels of subcontractors and suppliers below it for the completed Subcontractor's Work. Unless otherwise required by the Owner, the form of Partial Unconditional Waiver attached hereto as Addendum B shall be used for this Project. Subcontractor shall also furnish with each invoice any other data, report or forms as may be required by the Agreement and/or the General Contract.

C. Payment for Certain Additional Materials and Equipment

Unless otherwise provided in the General Contract, and if approved in advance by the Owner and the Contractor, applications for payment may include materials and equipment not incorporated in the Subcontractor's Work but delivered to and suitably stored at the site or at some other location agreed upon in writing. Approval of payment applications for such stored items on or off the site shall be conditioned upon submission by Subcontractor of bills of sale and applicable insurance or such other procedures satisfactory to Owner and Contractor to establish the Owner's title to such materials and equipment, or otherwise to protect the Owner's and Contractor's interest, including transportation to the site.

D. Timing of Invoices and Payments

Billings must be in the Contractor's hands on or before the 20th day of the month for materials and/or services furnished during the preceding month. Contractor shall pay Subcontractor the approved net monthly estimate payment due the Subcontractor within 10 business days after Contractor's receipt of the corresponding monthly estimate payment from the Owner. Final payment, consisting of the unpaid balance of the total Agreement price shall be made within 10 business days after the last of the following to occur, all of which shall be deemed conditions to final payment: (1) full completion of the Work by the Subcontractor; (2) final acceptance of the Work by the Owner and Architect; (3) the furnishing by Subcontractor of a sworn statement and other supporting and required documentation evidencing that all persons furnishing labor, materials, fringe benefits or services to the Work have been paid in full and that none have filed or have a right to file any claims or liens against the Owner, the property upon which the Project is built, Contractor, or Contractor's surety, if any; (4) the delivery of all guarantees, warranties, bonds, instruction manuals, as built drawings, and any other items required by the General Contract between the Owner and Contractor or this Contract; and (5) release of retention and payment by the Owner in respect to the Subcontractor's Work.

Subcontractor acknowledges that it has considered the Owner's solvency and Owner's ability and willingness to perform the terms of its contract with Contractor before entering into this Subcontract. Subcontractor acknowledges that it relies on the credit, willingness and ability to pay of the Owner, and not the Contractor, for payment for work performed hereunder. Subcontractor is entering into this Subcontract with the full understanding that Subcontractor is accepting the risk that the Owner may be unable or unwilling to perform the terms of its contract with Contractor. Receipt of payment from the Owner to the Contractor for the Subcontractor's Work is a condition precedent to the Contractor's obligation to make any progress payment or final payment to subcontractor. In the event that the Contractor does not receive all or any part of the payment from the Owner in respect of Subcontractor's Work, whether because of a claimed defect or deficiency in the Subcontractor's Work, or for any other reason, the Contractor shall not be liable to the Subcontractor for any sums in respect thereto. In the event Contractor shall incur any cost or expense, including attorneys fees, in preparing or prosecuting any claim against the Owner or in securing payment of balances for Work done by the Subcontractor, Contractor shall be entitled to

deduct from the amount due to Subcontractor Subcontractor's prorated share of such costs and expenses, including attorney fees, all as determined by Contractor in Contractor's sole discretion.

E. Other Requests for Additional Compensation

Subcontractor shall not submit any billing for altered or additional work until such time as a Change Order to the Scope of Work is signed by Contractor. All other claims or other requests for additional compensation not addressed above or elsewhere in the Agreement must be submitted to the Project Manager for submission to the Owner within the shorter of (i) 7 calendar days of the event giving rise to such claim or request, or (ii) such shorter time as may be necessary to provide Contractor sufficient time to submit such claim or request to the Owner, or else such claim or request shall be forever barred and waived by Subcontractor. Submission to the Project Manager is required even where direction to proceed is given by the Owner, Owner's Representative or Contractor's field personnel.

F. Subcontractor's Payment Obligations

i. Timely Payments to Others

Subcontractor shall pay when due for all labor, materials, equipment and services used on, or in connection with, the performance of the Agreement, when due and payable. Subcontractor shall save and protect the premises, the Owner, and the Contractor from all claims, including bond claims and contractor's lien claims on account thereof, and shall furnish satisfactory evidence to the Contractor that these payments have been made. This provision shall not be construed as a waiver of the right of the Subcontractor to file and enforce a lien or bond claim in the event the Contractor fails to pay the Subcontractor after all conditions precedent have been met.

ii. Contractor's Verification Rights

Contractor shall have the right at all times to contact Subcontractor's suppliers, subcontractors and materialmen to ensure that they are being paid promptly by Subcontractor for labor or materials furnished for use in performing Subcontractor's Work.

iii. Non-Payments by Subcontractor

If the Subcontractor defaults in payment of his debts on this Project, the Contractor shall have the right to pay such debts and charge them to the Subcontractor, together with reasonable costs, attorneys' fees or other expenses attributable to Subcontractor's failure to make such payment(s) when required. If the Subcontractor claims that disputes exist with a supplier, materialman or sub-subcontractor, the Subcontractor must (a) supply evidence to the satisfaction of the Contractor that the money owing has been paid or (b) post a bond indemnifying the Owner, the Contractor, the Contractor's surety, if any, and the premises from a claim or lien. If the Subcontractor fails to so do, then the Contractor shall have the right, in addition to all of Contractor's other rights of setoff and other remedies under the Agreement, to withhold from any payments due or to become due to the

Subcontractor, either on this Project or any other project on which Subcontractor has a contract with Contractor, such amounts that Contractor determines in its reasonable discretion are required to protect the Contractor from any and all loss, damage or expense, including attorneys' fees, that may arise out of or relate to any such claim or lien. In the event the Contractor pays any debts of Subcontractor on the Project or purchases any materials on behalf of Subcontractor for the Project, the actual cost thereof, including the additional categories of costs set forth above in this Paragraph, plus 15% overhead will be backcharged to the Subcontractor.

iv. Payments to be Held in Trust

Payments received by the Subcontractor shall be held in trust by the Subcontractor for the purposes set forth herein and used to satisfy the indebtedness owed by the Subcontractor to any person furnishing labor or materials for use in performing the Subcontractor's Work before it is used in any other manner.

G. Final Payment

Acceptance of final payment shall constitute a waiver of all claims by Subcontractor relating to the Subcontractor's Work, but shall in no way relieve Subcontractor of liability for any of its indemnification or warranty obligations under the Agreement, or for faulty or defective Work discovered after final payment.

H. Payment Not Acceptance

Notwithstanding any provision of the Agreement to the contrary, payment to Subcontractor does not constitute or imply acceptance of any portion of Subcontractor's Work.

6. INSURANCE

A. Types of Insurance

Subcontractor shall provide for and maintain the following insurance coverages: (1) workers' compensation and employers' liability; (2) commercial general liability, including contractual liability coverage for liability assumed under Section 7 below, and completed operations liability; (3) commercial automobile liability for all owned, non-owned and hired vehicles; and (4) umbrella or excess liability, if needed to provide the necessary limits of liability as stated below, and (5) all other insurance policies specifically requested by Contractor or required by Owner.

B. Limits of Insurance

Limits for the above coverages shall be in amounts not less than those required by the greater of the limits set forth in Addendum A attached hereto or the limits required under the General Contract between the Owner and the Contractor. Regardless of required limits, the coverages shall comply with the provisions of Addendum A.

C. Certificates of Insurance

Subcontractor shall furnish certificates of insurance satisfactory to Contractor. If said commercial general liability policy grants additional insured status on a blanket basis, when required by written contract, a complete copy of that endorsement or policy wording will suffice. Subcontractor's certificate of insurance must be presented prior to commencing any Work under the Agreement. Contractor's receipt of Subcontractor's certificate of insurance is a prerequisite to payment.

7. INDEMNIFICATION/HOLD HARMLESS

A. General Claims/Personal Injury/Property Damage

To the fullest extent permitted by law, Subcontractor shall secure, defend, protect, hold harmless and indemnify the Owner, Contractor and the Architect, Engineer or other design professional and any of their respective agents, servants and employees against any actual or threatened liability, loss, claims, demands, suits, costs, fines and expenses whatsoever, arising from bodily injury, sickness, disease (including death resulting therefrom), of any persons, or the damage or destruction of any property, including contamination of or adverse effects to property, or loss of use, arising out of or in connection with the performance of any Work relating to this Contract, including extra work assigned to the Subcontractor, based upon any act or omission, negligent or otherwise, of (a) Subcontractor or any of its agents, employees or servants, (b) any sub-subcontractor, supplier or materialman of the Subcontractor, or any agents, employees or servants thereof, and (c) any other person or persons. The obligation of indemnification contained herein shall exclude only those matters in which the claim arises out of the specific and affirmative allegations of the sole negligence of the Owner, the Architect, the Contractor or any of their respective agents, servants and employees, and then such exclusion shall become effective only if and after such specific and affirmative allegations are judicially affirmed.

B. Claims Regarding Subcontractor's Work

Should there be any claim, obligation or lien asserted before or after final payment is made that arises from the performance of Subcontractor's Work, Subcontractor shall reimburse Contractor for any costs and expenses, including attorneys' fees, costs and expenses incurred by Contractor in satisfying, discharging or defending against any such claims, obligation or lien, including any action brought or judgment recovered, provided the Contractor is making payments or has made payments to the Subcontractor substantially in accordance with the terms of the Agreement.

8. DAMAGED, IMPROPER AND/OR DEFECTIVE WORK

A. Subcontractor Liability

Subcontractor shall accept responsibility for all damages caused by the Subcontractor including, but not limited to, the following (a) cleaning of walls, floors, and other finished surfaces soiled by it; (b)

plaster patching required adjacent to its work; and (c) all glass breakage occurring in any area in which it is working. Subcontractor shall examine the area in which it is working prior to commencing Work and notify Contractor of any defects prior to commencing Work. If no timely notice is given, Subcontractor shall be responsible for all defects existing at the conclusion of Subcontractor's Work. Disputes between two or more Subcontractors relating to matters including but not limited to damage to Work, improper Work and/or scope of Work shall be settled by the Contractor, whose decision shall be final.

B. Subcontractor's Inspection/Notification Duties

Subcontractor shall examine all Work installed by others, immediately examine upon delivery any pre-purchased equipment or materials supplied to the Subcontractor by Contractor or others that affects Subcontractor's Work, protect and secure such equipment or materials and immediately notify Contractor in writing if any defects, quantity shortages or damages exist. Subcontractor shall not proceed until the defects, quantity shortages or damages are corrected or Subcontractor is given written authorization to proceed by Contractor. Failure to give notice shall be deemed a waiver of any claim or defense of Subcontractor with respect to such defects, quantity shortages or damages. Failure of the Subcontractor to protect such material or to notify of defects that exist at the time that Subcontractor becomes responsible therefore shall also render Subcontractor liable for all costs to repair or replace such Work, material or equipment.

9. PROJECT SITE MAINTENANCE AND OPERATION

A. Cleanliness

Subcontractor shall keep the site of the Work clean daily of identifiable debris (*i.e.*, debris that on its face is attributable to Subcontractor's presence on the Work site) during performance of the Work, at Subcontractor's own expense. If the Subcontractor shall fail to do so, the Contractor may, in its sole discretion, do the cleaning. The actual cost of that cleaning plus 15% overhead will be charged to the Subcontractor based on how many man-days the Subcontractor has been on the job. Unidentifiable debris, including, but not limited to litter, cups, paper bags, cans, etc., may be cleaned by Contractor, in Contractor's sole discretion, and actual cost plus 15% overhead will be backcharged to Subcontractors based on man-days on the job. Notwithstanding any provision of this Paragraph to the contrary, however, in no event shall Contractor be liable for any injury to person or property arising from the presence of debris on the Work site attributable to Subcontractor.

B. Protection of Materials and Work

Until final completion and acceptance of Subcontractor's Work by Contractor and Owner, Subcontractor shall arrange for the unloading, storing and protection of its materials and Work and the materials and Work of its suppliers, sub-subcontractors and materialmen until final installation and acceptance; protect such materials and Work from damage by others; and protect the work of other trades from damage by Subcontractor's own operations. Subcontractor shall make good or

replace, at Subcontractor's sole cost and expense, any damage to any materials or Work of Subcontractor and/or its suppliers, sub-subcontractors and materialmen and/or other trades which occurs prior to final acceptance. Any costs incurred by the Contractor through failure of Subcontractor to comply with these requirements shall be borne by Subcontractor based on the actual cost plus 15% overhead.

C. Use of Contractor's Equipment

Subcontractor, its agents, employees, subcontractors or suppliers shall not use Contractor's equipment without the express written permission of the Contractor's designated representative. If Subcontractor or any of its agents, employees, or suppliers utilize any of Contractor's equipment, including machinery, tools, scaffolding, hoist, lifts or similar items owned, leased or under the control of Contractor, Subcontractor shall defend, indemnify and be liable to Contractor as provided in Paragraph 7 above, for any loss or damage (including personal injury or death) which may arise from such use, except where the loss or damage shall be found to have been due solely to the negligence of the Contractor's employee's operating the Contractor's equipment. Subcontractor shall pay Contractor for any such use at the short term blue book rental rate for such equipment plus labor costs and a fifteen (15%) percent mark up.

D. Coordination/Preparation of Site for Other Subcontractors and Trades

Subcontractor shall place, when required, all sleeves, inserts, hangers, conduits, etc., in or on work in advance of succeeding operations of other trades. In the event of Subcontractor's failure to do this, Subcontractor will be required to do any necessary corrective work at its sole cost and expense. Such corrective work shall not be undertaken without permission from the Contractor.

E. Accommodation of Subcontractor's Workmen and Storage of Materials and Tools

Subcontractor will provide temporary sheds or trailers required for its workmen and storage of its materials and tools. Contractor shall have no obligation to protect or care for Subcontractors' sheds, trailers, tools, equipment or materials furnished to Subcontractor by the Contractor, Owner, or any other party after delivery thereof to Subcontractor and which are to be installed by the Subcontractor.

F. Right of Access and Inspection

Subcontractor hereby grants and shall by contract provision with its subcontractors and materialmen require them to grant to Contractor, the Owner, the Owner's Architect, Engineer or other appointed representative the right to inspect the premises of Subcontractor, its subcontractors and materialmen for the purposes of assuring quality control, assuring ISO compliance, and/or assuring the actual presence of stored materials. Any refusal to permit such inspection shall be deemed a breach of contract.

G. Materials Handling and Transportation Charges

Subcontractor shall be responsible for all costs and expenses for the delivery, transporting and hoisting of materials required to perform its Work, such materials including, but not limited to supplies, tools and labor to the job site or structure as required to perform the Work.

H. Utility Charges

Subcontractor shall reimburse Contractor for light, power and other utility charges to the extent set forth in the Scope of Work, and/or to the extent such light, power and other utility charges are attributable to Subcontractor's Work, and/or where otherwise applicable.

I. Safety

i. Subcontractor's Safety Program

Subcontractor shall establish and maintain its own safety program. Subcontractor acknowledges that the prevention of accidents on or in the vicinity of its Work is the Subcontractor's responsibility, even though the Contractor may have its own safety program for the entire Project.

ii. Compliance With Contractor's Safety Program

In addition to its own safety program, Subcontractor shall cooperate with the Contractor's safety program; take all reasonable precautions for the safety of its employees on the Project and comply with all applicable provisions of federal, state and municipal safety laws and building codes to prevent accidents or injury to persons on, about or adjacent to the premises where the Work is being performed, and pay all costs and expenses connected with such compliance; comply with any requirements imposed by the Contract; comply with the reasonable recommendations of insurance companies having an interest in the Project; and stop any part of the Work that the Contractor deems unsafe until corrective measures satisfactory to the Contractor shall have been taken. Contractor's failure to stop the Subcontractor's unsafe practices shall not relieve the Subcontractor of responsibility or liability relating to the same.

iii. Compliance with Safety Laws, Training, and Designation of Safety Representative

Subcontractor shall comply with all statutes and regulations relating to safety on the job site and relating to proper disclosure of the composition of all materials, substances and supplies utilized by Subcontractor in performance of its Work, and recommended procedures in the handling of such items. By signing the Subcontract Agreement and/or otherwise accepting the Agreement, Subcontractor certifies it has assigned a competent employee of Subcontractor as responsible for knowledge and awareness of OSHA and MIOSHA requirements, and any applicable analogous requirements of any other state or governmental unit, as well of "Right to Know" laws, statutes and regulations, and similar governmental requirements under local, state, or federal laws, including,

without limitation, Michigan law and, if other than Michigan, the law of the state in which the Project is located. Subcontractor further certifies that it has provided to its employees and agents the training and informational data required by governmental laws and regulations. Subcontractor will require its subcontractors, suppliers and materialmen to comply with all laws and regulations relating to the Project.

iv. Hazardous Materials

If Subcontractor during the course of the Project observes or suspects the existence of possible asbestos containing materials, unknown materials or any potentially Hazardous Materials in, under or around the work site, Subcontractor shall immediately notify Contractor. Subcontractor shall not perform any work in the area where such materials are located until direction is received from Contractor. A Hazardous Material includes any substance or material identified now or in the future as hazardous under any federal, state or local law or regulation, or any other substance or material which may be considered hazardous or otherwise subject to statutory or regulatory requirements governing handling, disposal and/or clean-up. To the extent that Contractor has obligations under the Agreement (including under Contractor's contract with the Owner) or by law regarding such materials within the scope of the Subcontractor's Work, the Subcontractor shall have the same obligations.

v. Reporting

In addition to Subcontractor's reporting obligations with respect to Hazardous Materials (as defined above), Subcontractor shall notify the Contractor immediately following any accident or near miss and promptly confirm the notice in writing. A detailed written report shall be furnished if requested by the Contractor.

vi. Indemnification/Hold Harmless

To the fullest extent permitted by law, Subcontractor shall secure, defend, protect, hold harmless and indemnify the Owner, Contractor, and such others as may be required under the terms of the General Contract and any of Contractor's other contracts with respect to the Project, from any liability, loss, cost, penalty, delays, and costs incurred as a result of subsequently mandated increased safety measures, costs of securing a replacement subcontractor including any additional costs charged by such replacement subcontractor, damage or any other similar expense including attorney's fees, which Contractor may incur as a result of any claim, damage, injury, cause of action, proceeding, citation, or work stoppage or other delay arising out of or in any way connected with any alleged violation by Subcontractor of any such statute, regulation, order, rule, requirement, standard, or other requirement under the Agreement.

vii. Materiality of Obligations

Subcontractor further acknowledges its compliance with all safety provisions of the Agreement is essential and that any breach thereof is a material and substantial breach of the Agreement and grounds for immediate termination of the Agreement at the option of Contractor.

10. ASSIGNMENT AND SUBCONTRACTING

A. Subcontractor's Obligations

Subcontractor shall not assign or subcontract the Agreement or any portion thereof covering Work to be performed at the Project site, and Subcontractor shall not use any suppliers, sub-subcontractors or materialmen other than those expressly listed in the Agreement documents approved in writing by Contractor, without first obtaining the written consent of Contractor.

B. Subcontractor's Receivables

Subcontractor shall not assign any monies due or to become due under the Agreement, without the written consent of the Contractor, unless the assignment is intended to create a new security interest within the scope of Article 9 of the Uniform Commercial Code. Should Subcontractor assign all or any part of any monies due or to become due under the Agreement to create a new security interest or for any other purpose, the instrument of assignment shall contain a clause to the effect that the assignee's right in and to any money due or to become due to Subcontractor shall be subject to the claims of all persons, firms and corporations for services rendered or materials supplied for the performance of the Subcontractor's Work.

11. DIRECT WORK FOR OWNER OR OTHERS

Until final completion of the Project, Subcontractor agrees not to perform any work directly for the Owner or any other party, or deal directly with the Owner's representatives in connection with the Project, unless otherwise directed in writing by the Contractor.

12. WARRANTIES

Notwithstanding any provision below or elsewhere in the Subcontract or Agreement to the contrary, Subcontractor shall, with respect to all aspects of its Scope of Work and performance of its obligations under the Agreement, make each of the warranties to Contractor that Contractor has made to the Owner in the General Contract, including, without limitation, with respect to materials, workmanship, design and quality issues, and the duration of each such warranty shall be at least as long as the corresponding warranty from Contractor to Owner. Additionally, to the extent Subcontractor does not have a greater obligation to Contractor pursuant to the preceding sentence, Subcontractor makes each of the warranties set forth below in this Section, which warranties shall survive the expiration or termination of this Agreement and, except to the extent a different period is prescribed below, shall remain effective for the longer of (a) 2 years after the expiration or

termination of the Agreement, or (b) the longest applicable limitations period governing the relevant claim arising from any breach by Subcontractor of any warranty provided for herein.

A. Work and Materials

All of the Work and materials furnished on the Project will be as represented, will conform to the specifications, plans and samples, will be free from both latent and patent defects and will be fit for the purpose intended. The foregoing express warranties shall be in addition to and shall not constitute a waiver of any other warranties which may be implied by any law or regulation. In the event any defect occurs in the Work during a period of 1 year from the date of acceptance of the Work by the Owner, or such longer periods as may be specified for this Work under the terms of the General Contract, Subcontractor shall, at the request of the Contractor, promptly remedy such defect at Subcontractor's sole cost and expense. Such remedial work shall be warranted for a period of one year from the date of acceptance by Contractor and Owner, unless a longer period is specified in the General Contract. Such election by Contractor to have the defect repaired shall not be deemed a waiver of any other rights or remedies which it may have. Acceptance of or payment for the Work by Contractor and/or Owner shall not be deemed to limit any of Contractor's rights under this Section or to claim subsequently that Subcontractor has breached its warranties under this Section.

B. Assignment of Third-Party Warranties

Subcontractor shall promptly assign to Contractor and/or Owner and/or such other parties as Contractor may direct, any and all warranties it receives from any and all suppliers, sub-subcontractors, materialmen, and/or other third parties with respect to any services and/or materials supplied to and/or purchased by Subcontractor, whether directly or indirectly, in connection with Subcontractor's performance of the Work.

13. SET-OFF/WITHHOLDING OF PAYMENTS

A. Remaining Work in Excess of Remaining Contract Price

If Contractor, the Owner or the Architect/Engineer determine that the balance of the total price under the Agreement then remaining unpaid will not be sufficient to complete the Work in accordance with the Agreement, no additional payments will be due to Subcontractor unless and until Subcontractor, at Subcontractor's sole cost and expense, performs, and pays in full for, a sufficient portion of Work so that such balance of the total price of the Agreement then remaining unpaid is determined by the Contractor to be sufficient to complete the Work.

B. Defective and/or Incomplete Work/Unsatisfied Claims/Subcontractor's Default

Contractor shall have the right to withhold payment for incomplete Work, defective Work not remedied, claims of the Contractor or any other person against Subcontractor arising out of or in any way connected with the Work, or any other breach of the Agreement, all as determined by Contractor in Contractor's sole discretion. In the event that anyone performing any portion of the Subcontractor's Work shall file a surety bond claim or a contractor's lien, Contractor shall have the right to withhold twice the amount claimed until such claim is released or discharged. In the event Subcontractor or any material supplier or anyone performing any portion of Subcontractor's work files a contractor's lien or bond claim relating to this Project and Contractor is prepared to make partial payment of the amounts claimed to be owing to Subcontractor, Subcontractor shall partially discharge its contractor's lien or bond claim to the extent of payments made after the date of recording thereof. Subcontractor agrees not to file any lien against the Project so long as Contractor has paid Subcontractor all undisputed amounts that are properly due and payable under the terms of this Agreement.

C. Other Projects

In addition to Contractor's right to withhold any payments due the Subcontractor on the Project, Contractor shall also be entitled to withhold any payments due the Subcontractor on any other project it is performing with Contractor, notwithstanding any contrary terms of Contractor and Subcontractor's agreements on such other projects. Such setoffs against amounts owed to Subcontractor on other projects shall be authorized to the full amount permitted by the Agreement as if the amounts owed to Subcontractor on such other projects were owed on this Project. Additionally, to the extent that Subcontractor's performance on any other project would entitle Contractor to withhold any payments due the Subcontractor if the Parties' contracts on such other projects were governed by the Agreement, Contractor shall be permitted to withhold from any payments to Subcontractor on this Project the full corresponding amount that Contractor would be entitled to withhold if the conditions giving rise to such setoff had occurred on this Project. Such setoffs and withholding of amounts due to Subcontractor shall continue at all times pending corrective action in amounts sufficient to cover the corresponding actual or potential losses and compel performance to the extent required by and to the satisfaction of the Contractor. In the event of any conflict between the terms of the Agreement and any other agreements between Contractor and Subcontractor on any other projects, the terms of the Agreement shall control.

14. INTELLECTUAL PROPERTY/CONFIDENTIALITY/TRADE SECRETS

Each Party shall keep confidential and disclose Confidential Information (as defined below) only to those employees who need to know such information , which includes without limitation, pricing and other terms of the Agreement, technical "know-how," specifications, formulas, compositions, designs, sketches, photographs, samples, prototypes, manufacturing, packaging or shipping methods and processes, computer software and programs (including object code and source code), protocols, strategic business plans, results of testing, systems, financial information, product information, methods of operation, customer information, supplier information and other compilations of data (collectively, "Confidential Information"). The receiving Party's confidentiality obligations shall survive the expiration and/or termination of the Agreement for so long as the Confidential Information remains confidential. In addition to any other remedies that the disclosing Party may possess, the disclosing Party shall be entitled to seek injunctive or other equitable relief in the form of a preliminary and permanent injunction or other appropriate equitable remedies, in the event of an actual or threatened breach of these confidentiality obligations. In the event of any dispute or uncertainty as to whether any information constitutes Confidential Information, Contractor's determination of such issue shall be conclusive.

15. COMPLIANCE WITH LAWS

Subcontractor shall comply with all federal, state and local laws, rules and regulations in performance of the Work or in the employment of necessary labor and shall obtain all necessary licenses and permits. Subcontractor shall pay all fees, taxes and other charges required by law and shall furnish, upon the Contractor's request, evidence of compliance with any law or payment of any fee, tax or charge. Subcontractor shall deliver required certificates of inspection, testing or approval to the Contractor.

16. TIME OF THE ESSENCE

Time is of the essence. If Subcontractor fails to perform any obligation within the time specified in the Scope of Work or elsewhere in the Agreement, the Contractor shall, at its sole option, complete the Work and/or cause such work to be completed as provided in Section 21, and Contractor shall be indemnified and held harmless by the Subcontractor against any liability or damage incurred by Contractor to the Owner or others resulting from the Subcontractor's failure to perform within the agreed time.

17. EXTENSION OF TIME FOR NON-SUBCONTRACTOR DELAYS

If Subcontractor is materially delayed in the progress of the Work for reasons beyond the Subcontractor's control and under circumstances that would entitle the Contractor to an extension of time from the Owner to complete the Project, Subcontractor shall be entitled to an extension of time to complete the Work corresponding to the extension granted by the Owner to Contractor, PROVIDED HOWEVER that no extension shall be granted unless within 7 days or such shorter time as may be required under the terms of the agreement between the Owner and the Contractor,

and in such form as may be required to allow Contractor to make a claim for extension of time under the terms of the General Contract between the Owner and the Contractor, the Subcontractor gives written notice to the Contractor. An extension of time shall be the Subcontractor's sole and exclusive remedy for any delay, and Subcontractor shall have no claim for damages or additional costs against Contractor or Owner by reason of any delays or changes in the Project Schedule.

18. SUBCONTRACTOR'S WORKFORCE

A. Non-Discrimination

Subcontractor has agreed and does hereby agree, that it will not discriminate against any individual with respect to any employment or terms of employment by reason of such individual's race, color, religion, age, sex or national origin and to, at its own cost, comply with all federal, state and local laws, ordinances and regulations (collectively, "Laws") applicable to the Subcontractor's Work, including but not limited to, equal employment opportunity, minority business enterprise, women's business enterprise, disadvantaged business enterprise, all safety and all other Laws with which the Contractor must comply. Subcontractor shall be liable to the Contractor and the Owner for all loss, cost and expense attributable to any acts of commission or omission by the Subcontractor, its employees and agents resulting from the failure to comply with Laws, including, but not limited to, any fines, penalties or corrective measures. By acceptance hereof, and to the extent applicable to any project, Subcontractor further agrees that it will comply with all applicable provisions of Executive Order 11246 as amended, Section 503 of the rehabilitation Act of 1973, as amended, the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, (38 U.S.C. 4212), and the implementing regulations at 41 CFR Chapter 60.

B. Labor and Employment Relations/Non-Disruption

Subcontractor agrees it will maintain harmonious employment relations at all times on the site of the Work and further agrees it will not engage in any practice or activity regarding its employment relations that causes work stoppages, slow-downs or other concerted activity by employees at the site of the Work. In the event that any such work stoppages, slow-downs or other concerted activity occur on the site of the Work and are attributable to Subcontractor or its employees, sub-subcontractors, or agents, Subcontractor will indemnify the Contractor and hold the Contractor harmless from any and all losses resulting from the same and shall, at its sole cost and expense, undertake such actions as are necessary to end such work stoppages, slow-downs or other concerted activity immediately. In the event any such work stoppages, slow-downs, or other concerted activities occur, Contractor shall be entitled to terminate the Agreement for cause and to exercise all other remedies available to Contractor under the Agreement and applicable law.

C. Labor Disputes

In the event that any union problems arise involving Subcontractor and any labor union, Contractor shall have the unilateral right to terminate the Agreement. In the event that Contractor elects to exercise such right, Subcontractor shall be entitled to receive compensation only for Work actually

performed based upon the percentage of Work completed and the estimated costs to complete the remaining Work, all as determined by Contractor in Contractor's sole discretion. Contractor shall have no obligation to Subcontractor whatsoever for lost profit or any other claims or damages.

D. Subcontractor's Personnel

Subcontractor will at all times provide a properly trained, competent work force that is of sufficient size to meet all obligations of Subcontractor under the Agreement with respect to the timing of performance. Prior to starting work on the Project, Subcontractor shall assign key personnel to the Project who shall, so long as they are in the employ of Subcontractor, remain assigned to this Project until completed. If at any time during the life of the Project, Contractor deems it to be in the best interest of the Project to remove and/or replace any personnel of Subcontractor or those working for Subcontractor, then Subcontractor shall replace such personnel with others acceptable to Contractor in a timely manner so as not to delay the Work.

19. CHANGES/MODIFICATIONS/ADDITIONAL WORK

A. Methods and Materials/Non-Deviation

Subcontractor shall not make any changes in methods, materials, nature or scope of Work specified and approved in writing by Contractor without prior written approval of Contractor. In the event Subcontractor proposes any such changes and/or determines that any unauthorized such changes have occurred or are likely to occur, and/or if Subcontractor proposes any other changes to the Agreement, Subcontractor shall notify Contractor immediately, and any such changes shall not be approved unless and until approved in writing by Contractor and, if applicable, countersigned in the relevant Scope of Work by an Officer of the Contractor. Any work performed after requests for changes are submitted by Subcontractor, but prior to the countersignature by the Contractor, shall be governed by the original Scope of Work. Subcontractor shall be responsible for all direct or indirect costs arising from any proposed or actual change in method or materials whether to the Architect or other evaluating party or resulting from the effects of such change on other portions of the Agreement and/or the General Contract and any delays resulting from such change, including, without limitation, any direct or indirect costs associated with the evaluation, approval, and/or implementation of such change, regardless of whether such change is ultimately approved and/or implemented. Contractor shall not be responsible for any extra or substitute work performed or extra or substitute materials furnished by Subcontractor or its suppliers, subcontractors, or materialmen unless Contractor shall have first issued written authorization for such changes. In no event shall signatures on time and material sheets or daily reports constitute written authorization for changes by the Contractor or an acknowledgment of the accuracy by Contractor of the content of the signed document, and such signatures shall not preclude Contractor from subsequently challenging any claim for additional time or cost by Subcontractor.

B. Billings

Subcontractor shall not submit any billing for altered or additional work until such time as a signed Change Order to the Scope of Work is approved by Subcontractor and Contractor.

C. Contractor-Requested Changes

Contractor shall have the right at any time during the term of this Contract to order extra, changed, additional or decreased work or to request quotation of bulletin items which may or may not be incorporated into the Work. Such changed Work shall be performed only upon written order of Contractor. Within 14 calendar days of request Contractor, or such shorter or longer period as Contractor may direct in writing, Subcontractor shall submit to Contractor its quotation proposing the increase or decrease in the Contract Price for any changed Work. The quotation shall include a detailed breakdown setting forth the differences in quantity and value of labor and materials involved and such additional cost information as may be requested by the Contractor. The Subcontractor shall also advise Contractor of any changes in the schedule that may be required by the Subcontractor to perform the changed Work and any cost relating to such change in schedule. In the event that Subcontractor fails to submit a quotation within the time limits set forth herein or the request for quotation, the Contractor shall prepare a quotation with respect to the changed Work proposing an estimated amount for increase or decrease in the Subcontract Price for the changed Work and Subcontractor shall be bound by such estimate and shall be deemed to have waived any right to propose a different amount.

20. TERMINATION

A. Termination for Convenience

Contractor shall have the right to terminate the Agreement with or without cause, for the convenience of Contractor. In the event of termination for Contractor's convenience, compensation to Subcontractor shall be made on the same basis as that provided for in the General Contract between Owner and Contractor, including the Scope of Work, or in the absence of applicable provisions, based upon the percentage of the Work completed as of the date of termination, as determined by Contractor in Contractor's discretion, PROVIDED HOWEVER that in no event shall Subcontractor be entitled to anticipated profits or any consequential damages associated with such termination.

B. Transition Obligations

In connection with any termination of the Agreement, in whole or in part, and regardless of whether such termination is for cause, Subcontractor shall cooperate in the transition of the Work to the extent requested by Contractor and pursuant to the prices and other terms stated in the Agreement, without premium or other condition, during the entire period reasonably needed by Contractor to complete the transition to the Work to Subcontractor's successor(s). Subcontractor shall further

ensure that such transition causes no disruption or delay in the Project Schedule as it may then exist or to Contractor's ability to continue work on the Project as needed.

Further, at no cost to Contractor, Subcontractor shall promptly (1) provide all requested information and documentation regarding the Project and the Work, including on-site inspections and materials data, (2) provide all notices necessary or desirable for Contractor to resource the Work and/or any portion thereof to Subcontractor's successor(s), (3) when requested by Contractor, return to and/or make available to Contractor and/or deliver to such locations as Contractor specifies, all of Contractor's property in as good condition as when received by Subcontractor (reasonable wear and tear excepted), and (4) provide such other services and information as expressly requested by Contractor in writing.

21. DEFAULT AND/OR FAILURE TO PERFORM BY SUBCONTRACTOR

In the event of Subcontractor's default and/or failure to perform any of its obligations under the Agreement, the following terms shall apply with respect to Contractor's remedies. Such remedies are in addition to any and all other remedies and rights of Contractor set forth elsewhere in the Agreement and available to Contractor as a matter of law or equity, and Contractor's failure to exercise any or all of its remedies at any given time shall not be deemed a waiver of Contractor's right to exercise any and all such remedies at any later date.

For purposes of the Agreement, Subcontractor shall be deemed in "default" if Subcontractor breaches and/or fails to perform any term of the Agreement, and/or upon the occurrence of any events giving rise to Contractor's remedies described below in this Section or elsewhere in the Agreement.

A. Set-Off/Withholding of Payments Due to Damage to Project, Non-Performance or Default

Should Subcontractor, its subcontractors, or any other party engaged, retained, or employed by Subcontractor or its subcontractors, cause damage to the Project or fail to perform or otherwise be in default under the terms of the Agreement, Contractor shall have the right to withhold from any payment, or otherwise be reimbursed for, an amount sufficient to protect the Owner or Contractor from any loss that may result. When, in Contractor's discretion, the grounds for withholding payment have been removed, payment shall be made for amounts withheld because of them.

Further, in the event that Subcontractor has more than one Scope of Work with Contractor upon this Project or other projects and breaches any of the same by failing to perform or by failing to make required payments to laborers, sub/subcontractors, suppliers or materialmen or by any other breach, or incurs any other debt to Contractor, Contractor shall have the right to withhold payment for Work performed upon this Project and/or apply such funds to payment of Subcontractor's obligations on other projects or its obligations to Contractor, all in such amounts as determined by Contractor in Contractor's sole discretion; provided, however, that Contractor shall first ensure that Subcontractor's Trust Fund obligations upon this Contract are satisfied prior to applying such funds

as set forth above.

B. Remedies Upon Breach and/or Failure to Perform

If the Subcontractor (a) fails to supply the labor, materials, equipment and/or supervision necessary to perform this Contract in accordance with the Project Schedule as it shall then exist; (b) causes stoppage or delay or interference's with the Project; (c) fails to pay its subcontractors, laborers, suppliers, material men and/or employees for work on the Project promptly; (d) fails to abide by any of the terms of this Contract; and/or (e) fails to correct, replace and/or re-execute faulty or defective work done and/or materials, plans, or specifications furnished under this Contract, when and as required by the Contractor, then and in such event, the Contractor, without prejudice to any other rights or remedies, upon 3 days' notice to the Subcontractor, shall have the right to implement any or all of the following remedies:

i. supply workers, materials, equipment and facilities as the Contractor deems necessary for the completion of the Subcontractor's Work or any part which the Subcontractor has failed to complete or perform;

ii. contract with one or more additional contractors to perform such part of the Subcontractor's Work as the Contractor determines will provide the most expeditious completion of the Work; and/or

iii. withhold any payments due the Subcontractor on the Project or any other project pending corrective action in amounts sufficient to cover losses and compel performance to the extent required by and to the satisfaction of the Contractor. Notwithstanding any provision of the Agreement to the contrary, Contractor's rights under this Section shall be in addition to any and all other rights of Contractor under the Agreement and/or at law or in equity.

In the event of an emergency affecting the safety of persons or property, the Contractor may proceed as above without notice.

The Contractor shall upon exercising any of the above remedies be entitled to charge the cost thereof plus 15% overhead to the Subcontractor, together with any damages caused by a delay in the performance of the Agreement. Any notice required hereunder, once given, shall continue in effect until the Work specified therein has been fully completed, even though the Subcontractor has initially acted under the notice but has failed to continue to do so until complete performance thereof.

If Contractor performs work under this Section, either directly or through other subcontractors, Contractor or other subcontractors shall have the right to take and use, without charge, any materials, implements, equipment, appliances or tools furnished by, or belonging to the Subcontractor and located at the Project site. Moreover, any work that Contractor performs or

causes to be performed under this Section shall not relieve Subcontractor of its responsibility and/or liability for failing to perform such work timely and properly under the Agreement, and Subcontractor's warranties under the Agreement shall extend to all work that Contractor performs or causes to be performed under this Section.

C. Bankruptcy

i. Termination

If Subcontractor files a petition under the Bankruptcy Code, or if an involuntary bankruptcy petition is filed under the Bankruptcy Code with respect to Subcontractor, the Agreement shall terminate in Contractor's discretion and upon Contractor's written notice if Subcontractor or Subcontractor's trustee rejects the Agreement or, if there has been a default by Subcontractor or if Subcontractor is unable to give adequate assurance that it will perform as required by this Contract or otherwise is unable to comply with the requirements for assuming this Contract under the applicable provisions of the Bankruptcy Code.

ii. Additional Remedies

If Subcontractor is not performing in accordance with the Project Schedule at the time a petition in bankruptcy is filed, or at any subsequent time, Contractor, while awaiting the decision of Subcontractor or its trustee to reject or to assume this Contract and provide adequate assurance of its ability to perform, may avail itself of such remedies under this Paragraph as are reasonably necessary to maintain the Project Schedule. Contractor may offset, against any sums due or to become due to Subcontractor, all costs incurred in pursuing any of Contractor's remedies provided including, but not limited to, reasonable overhead, profit and attorneys' fees. Subcontractor shall be liable for the payment of any amount by which costs incurred may exceed the unpaid balance of the Agreement.

22. INDEPENDENT CONTRACTOR

It is understood that Subcontractor's status under the Agreement is that of an independent contractor, not employee, and that all persons engaged or hired by Subcontractor in connection with the Agreement and/or the Project will not be deemed employees of Contractor.

23. DISPUTES

In the event of any disputes or disagreements between Contractor and Subcontractor with respect to the Agreement and/or the Project, the following provisions shall apply.

A. Continued Duty of Performance

Notwithstanding any provision of the Agreement to the contrary, in the event of any dispute between Contractor and Subcontractor, Subcontractor shall continue to perform all of its obligations under the Agreement and avoid causing any delays or disruptions to the Work and/or the Project. Subcontractor shall not stop the Work, including any changed Work, in the event of a dispute as to the validity of claims for extra work payments owed as long as all uncontested amounts have been paid in accordance with the Agreement.

B. Dispute Resolution

Contractor and Subcontractor shall each use good faith efforts to resolve any disputes between them consensually and as quickly as practicable. In the event such efforts are unsuccessful, the Parties shall, upon the written request of either Party, submit to non-binding mediation within 50 miles of Detroit, Michigan with a mediator mutually selected by the Parties. The mediation shall occur on a mutually agreeable date no later than 21 days after the date on which either Party makes a written request to the other Party to initiate mediation proceedings. All costs charged by the mediator shall be borne equally by the Parties.

C. Arbitration

In the event that Contractor and Subcontractor are unable to resolve any dispute between them consensually and/or through mediation, the Parties shall, if Contractor elects in its sole discretion, arbitrate such dispute, subject to Contractor's express entitlement to seek injunctive relief in court or before the arbitrator as contemplated by the Agreement. Any such arbitration proceedings occurring pursuant to the Agreement shall occur within 50 miles of Detroit, Michigan and shall be conducted through the American Arbitration Association (the "AAA") by a single arbitrator, with the arbitrator being selected by the AAA and the arbitration being subject to all applicable construction industry arbitration rules of the AAA. The filing fees with the AAA and cost of the arbitrator shall be borne equally by the Parties during the course of the Arbitration, subject to the provisions of this Section pertaining to the prevailing Party's entitlement to recover its reasonable attorneys' fees and legal expenses.

D. Injunctive Relief

Notwithstanding any provisions of the Agreement to the contrary, whether with respect to arbitration or otherwise, the Parties agree that any suspension of performance and/or delay or disruption with respect to the Work or the Project caused by Subcontractor will result in irreparable harm to Contractor, and the resulting injuries to Contractor cannot be adequately compensated by money damages. Accordingly, the Parties agree that in the event of any actual or threatened suspension of performance and/or delay or disruption with respect to the Work or the Project caused by Subcontractor, Contractor shall be entitled to seek and obtain injunctive relief in the form of a temporary restraining order, preliminary injunction and/or permanent injunction compelling

Subcontractor to continue performing its obligations under the Agreement, as well as any other applicable order providing for specific performance by Subcontractor.

E. Jurisdiction and Venue

Any and all court actions between the Parties shall be conducted in state court in Oakland County, Michigan or, to the extent subject-matter jurisdiction exists, in the U.S. District Court for the Eastern District of Michigan, and the Parties waive any and all objections they may have to personal jurisdiction or venue in all such Courts.

F. Waiver of Consequential Damages

Subcontractor hereby waives any and all rights to seek consequential damages against Contractor as a result of any alleged breach of the Agreement.

G. Claims Against Owner

To the extent practicable without causing prejudice to either Party's rights or position, each Party hereby agrees to support the other Party in connection with any claims against the Owner. Each Party further agrees that it shall bear its proportional expense in connection with the prosecution of any such claims, depending on the extent to which such claims relate to the actions or inactions of each Party to the Agreement.

H. Attorney Fees and Cost

Regardless of whether disputes between Contractor and Subcontractor are resolved by arbitration or litigation in State or Federal Court, the Arbitrator or judge, as the case may be, shall award the prevailing party their actual, reasonable, attorney fees and costs (including reasonable expert fees, if applicable) in addition to any other relief awarded. "Prevailing Party" means the party determined by the arbitrator or judge, as the case may be, to have most nearly prevailed, even if such party did not prevail on all matters, not necessarily the one in whose favor a judgment is rendered.

24. ENTIRE AGREEMENT

The Agreement constitutes the entire agreement between Contractor and Subcontractor with respect to the Project. Any amendments must be in writing and signed by Contractor. In the event of any inconsistency between any of Subcontractor's invoices, acceptance or acknowledgment forms or other documents purporting to include any terms and conditions that are different in substance or scope than those set forth in the Agreement, the foregoing are hereby rejected and the Agreement shall control the parties' relationship exclusively.

25. GOVERNING LAW

The Agreement shall be governed by the substantive laws of the State of Michigan without regard to conflict and/or choice of law principles.

26. NOTICE

To be effective, all communications between the Parties under the Agreement, including invoices, must be transmitted via e-mail, or in such other form as each Party may reasonably request in writing (or e-mail) to the other Party from time to time. Notices will be deemed effective upon being sent. Notices directed to Contractor should be sent to Contractor's Project Manager, who will be identified no later than the Project pre-start meeting. Notices directed to Subcontractor should be sent to Subcontractor's Project Contact identified on the Subcontract Agreement.

27. CAPTIONS/HEADINGS

The captions and headings in these Terms are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope or intent of these Terms or of any provision of the Agreement.

28. NON-WAIVER BY CONTRACTOR

The failure of Contractor to enforce at any time the provisions of, and its rights under, the Agreement shall in no manner constitute a waiver of such rights or affect Contractor's right to enforce each and every provision of, and each of Contractor's rights under, the Agreement.

29. ENFORCEABILITY/SEVERABILITY

If one or more of the provisions of the Agreement are held unenforceable, the remaining provisions of the Agreement shall nonetheless remain enforceable and shall continue in full force and effect.

30. ELECTRONIC TRANSMISSION/COPIES

For purposes of this Agreement, electronic signatures, electronically reproduced and electronically transmitted documents (*e.g.*, via e-mail, PDF, or facsimile) shall all be deemed originals.

DeMARIA BUILDING COMPANY, INC.

Insurance Requirements
Addendum A

The following are the insurance requirements for subcontractors. Please read these requirements carefully and provide them to your insurance agent when requesting the certificate of insurance.

Certificate of Insurance
Required Limits:

General Liability -	$1,000,000 Each Occurrence**
	$2,000,000 General Aggregate/ Per Project
	$2,000,000 Products/Completed Ops Aggregate**

Worker's Comp -	Statutory
Employer's Liability -	$500,000/$500,000/$500,000
Automobile Liability -	$1,000,000 Owned, Non-Owned & Hired**
Cyber Liability -	(As may be required under the Scope of Work)
Excess Liability -	$2,000,000

** - Excess liability can be used to meet the required limits.

Pollution Liability- If Subcontractor is in remediation or demolition a Contractors Pollution policy must be carried on an occurrence basis with minimum limits of $5,000,000 each occurrence/$5,000,000 aggregate. The policy shall be designed to cover "all operations of the contractor" and must add DeMaria Building Company, Inc. as an additional insured. Said policy shall contain no exclusions for asbestos or lead and transit and non-owned disposal site coverage must also be included.

Notice of Cancellation:

Must read as follows on the insurance certificate: "Should any of the above described policies be cancelled before the expiration date, the issuing insurer will mail 30 days written notice to the certificate holder." No additional language is acceptable.

Waiver of Subrogation:

All policies of insurance secured and maintained by the subcontractor must be endorsed waiving subrogation against DeMaria Building Company, Inc.

Additional Insured:

The insurance certificate must name DeMaria Building Company, Inc., and such others as may be required under the terms of the Agreement between DeMaria and its contracting party, as an additional insured(s) on the General Liability policy, any excess liability or umbrella policies and Automobile Liability policy subject to Form CG 20 10 11 85 or a combination of CG 20 10 07004 and CG 20 37 07 04.

DeMARIA BUILDING COMPANY, INC.

Certificate Holder:
DeMaria Building Company, Inc.
3031 W. Grand Blvd., Suite 624
Detroit, MI 48202

Policies must be obtained from insurance carriers with a Best rating of A- 8 or better.

General Liability and Excess Liability coverage must be written on an occurrence basis.

General Liability, Excess Liability, and Automobile Liability coverages shall be primary on behalf of DeMaria Building Company, Inc. and such others as may be required under the terms of the Contract between DeMaria and its contracting party, and non-contributory with any other insurance coverage carried by DeMaria Building Company, Inc. and such others as may be required under the terms of the Contract between DeMaria and its contracting party.

DeMARIA BUILDING COMPANY, INC.

Partial Unconditional Waiver
Addendum B

I/We have a contract with _____
to provide _____ for the
improvement to the property described as _____,
and by signing this waiver, my/our construction lien to the amount of $_____,
for labor/materials provided

Total Paid to Date: $_____

provided through _____
(date)

This waiver, together with all previous waivers, if any, (circle one) does/does not cover all amounts due to me/us for contract improvement provided through the date shown above.

Except as set forth in an attachment hereto, as of the date hereof, the undersigned has no claims nor any knowledge of any circumstances that could give rise to any future claims against the Owner, Owner's Architect, the Contractor, other Contractors or Subcontractors on the Project. To the extent not set forth therein, any such claims are hereby waived and released.

If the improvement is provided to property that is residential structure and if the Owner or Lessee of the property or the Owner's or Lessee's designee has received a Notice of Furnishing from me/one of us, or if I/we are not required to provide one, and the Owner, Lessee or designee has not received this waiver directly from me/one of us, the Owner, Lessee, or designee may not rely upon it without contacting me/one of us, either in writing, by telephone, or personally, to verify that it is authentic.

_____

_____
(signature of lien claimant)

Signed on: _____ Address: _____
_____
Telephone: _____

<u>DO NOT SIGN BLANK OR INCOMPLETE FORMS. RETAIN A COPY</u>