

Hilbers Incorporated
1210 Stabler Lane
Yuba City, CA 95993
Phone: 530-673-2947 Fax: 530-674-4141

Subcontract Agreement

This Subcontract is made and entered into at **YUBA CITY, CALIFORNIA**, on _____, by and between **HILBERS INCORPORATED**, hereinafter called the "Contractor" and _____ hereinafter called "Subcontractor".

WITNESSETH THAT:

Whereas, the Contractor has executed or has agreed to execute a General Contract with _____, hereinafter called "Owner", for the construction of _____ (the "Project"), in accordance with all the terms, provisions and conditions of the General Contract, all General and Special Conditions, Plans, Specifications and Drawings for the Project ("Contract Documents"), which are hereby made a part of this Subcontract as fully as if hereto attached and set forth in full; and whereas, the Owner has employed _____, herein called "Architect", to design and/or supervise the construction of said project; now therefore, in consideration of the Covenants and Agreements hereinafter contained and payments to be made as hereinafter provided, the Contractor and the Subcontractor do mutually agree as follows:

1) **DESCRIPTION OF WORK:** Subcontractor agrees to furnish all labor, materials, installation, supplies, equipment, services, machinery, tools, water, heat, utilities and other facilities of every kind and description required for the prompt and efficient execution, in a good and workmanlike manner, of the work described herein below, and to perform the work necessary to complete _____ **IN ACCORDANCE WITH EXHIBIT A - SCOPE OF WORK; EXHIBIT B - RULES & REGULATIONS; EXHIBIT C - CONTRACT DOCUMENTS; EXHIBIT D - SCHEDULE AND EXHIBIT E - SUBCONTRACT ARTICLES** hereinafter called the "Work" for said Project in strict accordance with the terms of this Subcontract (including the Contract Documents) and all laws, ordinances, rules, regulations and orders of any public authority bearing on the performance of the Work, and to the full satisfaction and acceptance of the Owner, Architect and Contractor for the total sum of _____ (\$_____), including all cartage and applicable taxes, fees, assessments and charges of any nature whatsoever.

2) **ADMINISTRATIVE INFORMATION:**

Subcontractor
License #
Address
City/State/Zip
Phone
Fax
Code

Project Name
Job Address
City/State/Zip
Contract For
Project Manager
Superintendant
Job #

HILBERS INCORPORATED

By _____
Its _____

By _____
Its _____
Contractors License No.: _____
State of California: _____
Expiration Date: _____

Date _____

Date _____

Hilbers Incorporated

SUBCONTRACTOR

Exhibit A

PROJECT NAME

Scope of Work:

This is a general scope of work and is not intended to be all inclusive of your contractual obligations.

Includes all work necessary for a fully operational system to meet all Local, State and Federal codes applicable to this construction.

Furnish and install all _____, including but not limited to, all labor, material, transportation, shipping and handling, insurance, taxes, etc. as follows:

1. **GENERAL SCOPE OF WORK:**

- 1.1
- 1.2
- 1.3
- 1.4

2. **SCHEDULE/WEEKLY MEETINGS:**

Approved Construction Schedule will be provided to all Subcontractors.

3. **CHANGE ORDERS:**

No extra work to be performed without written approval. Change Orders must be submitted to the Project Manager for approval. Change Orders that are not submitted to the Project Manager will be rejected.

4. **CLEAN UP/DEBRIS REMOVAL:**

If Subcontractor is unwilling or unable to clean up his debris as requested by the job superintendent, Contractor shall deduct costs incurred to complete clean up of such debris from Subcontract.

5. **SUBMITTALS:**

Subcontractor shall provide **SEVEN (7)** bond prints of shop drawings and **FOUR (4)** samples for Architect's approval in a timely manner per the Contract Documents and Progress Schedule. **Due to the time sensitive processing required for submittals, they must be hand delivered, couriered, or sent overnight.**

6. **RECORD SETS:**

During the course of construction the Subcontractor shall maintain a record set of drawings. Upon completion of all work and final approval of the local authorities, the Subcontractor shall submit (3) copies of the record drawings with changes to the original contract work shown in red. Record drawings shall be signed and dated and should include company name on Title Sheet.

7. **SPECIFICATION SECTIONS:**

Specific to your scope of work are the following specifications section(s): _____

Hilbers Incorporated
SUBCONTRACTOR
Exhibit B
PROJECT NAME
Rules & Regulations:

This is a general scope of work and is not intended to be all inclusive of your contractual obligations.

- No eating, drinking, smoking or tobacco use of any kind allowed within the structure.
- No alcohol allowed at any time on or near the premises.
- Subcontractor is responsible to review the final set of construction drawings and notify the general contractor of any changes.
- Hard hats and work boots must be worn at all times.
- Extra work will be mutually agreed upon between contractor and subcontractor prior to commencement.
- No radios will be allowed.
- The construction schedule is for coordination purposes and may be accelerated, decelerated or changed pertain the unforeseen conditions at the project manager's or the superintendent's discretion. You will be notified of any changes.
- Any Subcontractor's sign must be approved by Project Manager prior to being installed on site.

Subcontractor Responsible For:

- Any damage to walls, ceilings or any finish due to work performed on, through, or around said surfaces.
- Daily housekeeping and clean-up of trade-related materials on site.
- Employees to enter buildings through "non-tenant" entries. Materials delivered to above grade levels in freight elevators only.
- Subcontractor to have responsible representative present for all deliveries.

Hilbers Incorporated

SUBCONTRACTOR

Exhibit C

PROJECT NAME

Contract Documents:

The Contract Documents for the Project include, but are not limited to, the following:

- This Subcontract
- The General Contract
- All plans, specifications and drawings for the Project
- All general and special conditions

DRAWING DESCRIPTION

DATE

SAMPLE

Hilbers Incorporated

SUBCONTRACTOR

Exhibit D

PROJECT NAME

Schedule:

START DATE: _____

COMPLETION DATE: _____

SAMPLE

Hilbers Incorporated
SUBCONTRACTOR
Exhibit E
PROJECT NAME

SUBCONTRACT ARTICLES

1. **INDEPENDENT INVESTIGATION:** Subcontractor has satisfied itself, by its own investigation, review and research, regarding all the conditions affecting the work to be done and materials to be furnished, and as to the meaning, intention, accuracy and completeness of all Contract Documents, including, but not limited to, the General Contract, Plans, Specifications and Drawings (and any general and special conditions thereof), and basing its conclusion to execute this Subcontract on such investigations, review and research, independent of any estimate or other information prepared or furnished by Owner, Architect, or Contractor, proposes to furnish certain completed work, in strict accordance with this Subcontract (including the Contract Documents), as part of the Project. The Subcontract represents the entire agreement between the Contractor and Subcontractor, and no estimate or bid of Subcontractor preceding this Subcontract, and no verbal agreement or conversation with any representative of Owner, Architect, or Contractor, either before or after the execution of this Subcontract, shall affect or modify any of the terms or obligations contained herein. All provisions of the above mentioned Contract Documents which in any way affect the work herein described, shall have the same effect as if written in full in this Subcontract, except insofar as such provisions may be specifically changed by this Subcontract.

2. **PAYMENT:** Subject to the requirements of this Subcontract, Contractor agrees to pay Subcontractor in progress payments totaling 90% of all labor performed and materials installed by Subcontractor to the satisfaction of Contractor, Owner and Architect during the progress billing period. Contractor shall retain the remaining 10% until 7 days after the Project has been fully completed according to Contract Documents and delivered and accepted by the Contractor, Owner and Architect and the final disbursement due on the General Contract has been paid by Owner to Contractor. Subcontractor understands and agrees that under no condition will its payment be considered earned, nor will it be paid until after the Contractor has been paid by Owner and that all of the Subcontractor's progress payments, including the amounts retained, will come only from one source, the funds supplied by Owner to Contractor as a result of Subcontractor's work on the Project. It is further understood and agreed that Owner's payments to Contractor may and will affect the timing of Contractor's payments to Subcontractor, and may result in postponing or delaying payment to Subcontractor; however, this covenant to defer or postpone payment shall not in any way affect, modify, release or waive Subcontractor's rights with respect to mechanic's liens, stop notices, applicable bonds, or other legal rights. **All progress billings must be submitted (with material releases, if applicable) once a month.** Hilbers Inc will pay on a 30 day cycle, from the date in which the pay request is received in our office, given that all required paperwork has been submitted, approved by the job's Project Manager and our accounting office. See below list of required items:

- Signed Subcontract
- Signed Safety Forms
- All Insurance Certificates (General Liability, Auto and Worker's Comp – see section 16 of this subcontract for all insurance requirements)
- Pay Requests must be submitted on Hilbers Inc Pay Application Form
- Appropriate Lien Releases (Progress or Final) from Subcontractor and if applicable, Material Suppliers. If Material Supplier has preliened and/or submitted a joint check request, appropriate lien release must be attached to Subcontractor Pay Request matching the thru date of Subcontractor's billing date. If not attached, Subcontractor's Pay Request will be returned via mail requesting all proper releases. Subcontractor's 30 day cycle will begin once all documents have been received.
- If billing includes a Change Order, a copy of the Signed Hilbers Inc Change Order must be attached.

In addition, as a further condition to payment, Subcontractor agrees to furnish Contractor warranties, guarantees, affidavits, maintenance or operation manuals, as-built drawings, receipts, vouchers, releases of claims (including without limitation, lien releases) from itself and from all laborers, materialmen, subcontractors and union trust funds, and, if demanded by Contractor, conditional and unconditional waivers and releases, from all of the above, all in a form satisfactory to Owner, and it is agreed that no payment hereunder shall be due or payable to Subcontractor unless such are furnished. Any payment made hereunder prior to completion and acceptance of the Project shall not be construed as evidence of acceptance of any part of Subcontractor's work. Subcontractor further acknowledges all lenders' rights to require Subcontractor to furnish copies of all bills and invoices indicating receipt of payment thereon, directly to such lenders. Acceptance of final payment by Subcontractor constitutes a general release of Contractor and its surety, unless, at the time Subcontractor submits its final payment application, Subcontractor delivers an affidavit by an authorized representative, listing each and every exception to the release and stating that no other claim exists.

Contractor reserves the right to make payment by joint check or by direct check, upon 5 days written notice, to Subcontractor's materialmen or subcontractors or any person who has right of action against Contractor or Contractor's surety under any law. Subcontractor agrees that Contractor reserves the right of determination as to what manner of payment shall be made. Any amount paid will be charged to the Subcontractor's account. The Subcontractor agrees and covenants that money received for the performance of this Subcontract shall be used solely for the benefit of persons and firms supplying labor, materials, supplies, tools, machines, equipment or services exclusively for this Project in connection with this Subcontract and having the right to assert liens or other claims against land, improvements or funds involved in this Project or against any bond or other security posted by Contractor or Owner; that money paid to the Subcontractor pursuant to this Subcontract shall immediately become and constitute a trust fund for the benefit of said

persons and firms, and shall not in any instance be diverted by Subcontractor to any other purpose until all obligations arising hereunder have been fully discharged and all claims arising therefrom have been fully paid.

Contractor may deduct from any amounts due or to become due to the Subcontractor any sum or sums owing by the Subcontractor to Contractor on this or any other project. In the event of any breach by the Subcontractor of any provision or obligation of this Subcontract, or in the event of the assertion by other parties of any claim or lien against Contractor or Contractor's surety or the Project arising out of the Subcontractor's performance of this Contract, Contractor shall have the right, but is not required, to retain out of any payments due or to become due to the Subcontractor an amount sufficient to completely protect Contractor from any and all loss, damage or expense therefrom until the situation has been remedied or adjusted by the Subcontractor to the satisfaction of Contractor.

3. DEFINITION OF SUBCONTRACTOR: Subcontractor agrees to be bound to Contractor in the same manner and to the same extent as Contractor is bound to Owner under the Contract Documents, to the extent of the work provided for in this Subcontract, and where the word "Contractor" appears on the Contract Documents in connection with the Work to be performed hereunder, it is agreed that the party referred to is the Subcontractor.

4. EXTRAS: The Subcontract price set forth in this Subcontract shall be deemed to be compensation for all work and materials furnished by Subcontractor whether or not specifically called for by the Contract Documents, and no additional compensation shall be paid to Subcontractor unless a written extra work order is signed by Contractor in advance, stating that the work is an extra and designating the amount to be paid therefore. Purchase orders, invoice statements and change orders not signed by Contractor, and verbal approvals, will not be accepted as authorization for payment of extras. Contractor reserves the right to make changes in Subcontractor's work, but no change orders are anticipated. Pending resolution of any increase or decrease in the Subcontract price or time for any extra work, Subcontractor agrees to proceed diligently with such changed work.

5. DEVIATIONS AND ALTERNATES: Subcontractor shall not deviate from the requirements of the Contract Documents as to the specific materials and equipment to be furnished or the method of performing the Work unless prior written approval has been obtained from Contractor. Subcontractor warrants that any alternate equipment, material or method of construction proposed by Subcontractor (and accepted by Contractor in writing) will achieve all performance standards established by the Contract Documents.

6. CHANGE NOT TO AFFECT BOND: It is agreed that no change, alteration or modification in or deviation from this Subcontract (including the Contract Documents), whether made in the manner herein provided or not, shall release or exonerate, in whole or in part, any surety on any bond given in connection with this Subcontract.

7. TIME: Time is of the essence of this Subcontract. Compliance with the progress schedule, as specified in the Contract Documents, is a condition precedent to Contractor's obligation to make any payments to Subcontractor. Subcontractor shall coordinate the Work with the work performed by Contractor and other subcontractors in a manner that will facilitate the efficient completion of the entire work. Subcontractor shall, if it fails to maintain the progress schedule, accelerate its Work, without additional compensation, as Contractor may direct until Subcontractor is in compliance with such schedule. Contractor shall have complete control of the premises on which the Project is located, and shall have the right to decide the time and order in which various portions of the work of the Project shall be installed and the relative priority of the work of Subcontractor and other subcontractors, and, in general, all other matters pertaining to the timely and orderly conduct of the Work of Subcontractor on the Project. If Subcontractor is unwilling or unable to perform according to the progress schedule or complete the Work in the time provided, Contractor shall have the right to terminate the Subcontract without any further notice (verbal or written). Subcontractor shall make all claims for extensions of time or delays to Contractor, promptly and in writing. No extension of time or excuse for delay will be valid without Contractor's written consent. If Contractor suffers damages for delay caused by Subcontractor, Subcontractor will indemnify and hold contractor harmless for such damages. Contractor reserves the right to alter schedule to reflect job field conditions.

If Subcontractor contends that its performance of this Subcontract is delayed or interfered with by acts of the Owner, Contractor or other subcontractors, its sole remedy shall be an extension of time for the performance of same as hereinafter provided. Subcontractor shall not be entitled to an increase in the subcontract price or to damages or additional compensation as a consequence of such delays to the extent allowed by law. No allowance of an extension of time, for any cause whatever, shall be claimed by the Subcontractor or be made to it unless the Subcontractor shall have made written request upon Contractor for such extension within two business days after the cause for such extension occurred and provided a similar extension of time, if needed, is allotted to Contractor by Owner. No allowance of an extension of time shall in any event be made to the Subcontractor for delay by the Subcontractor in preparing submittals or in securing approval of the Owner's Representative thereto when such submittals are not properly prepared or when the Subcontractor by the exercise of reasonable diligence and judgment could have anticipated and avoided the delay.

8. PERFORMANCE OF SUBCONTRACTOR AND PROGRESS OF WORK: Subcontractor agrees to commence the Work immediately when notified by Contractor and to continue said Work diligently to completion within the progress schedule mentioned above with a sufficient workforce and equipment on the job at all times; this requirement is subject only to unavoidable delays brought about by acts of God and general strikes, provided, however, that the requirements of Article 7, above, with respect to extensions of time and delays must be complied with. If, in the opinion of Contractor, Subcontractor's performance is, in any respect unsatisfactory, Contractor may give Subcontractor notice in writing allowing it 48 hours in which, at Subcontractor's own expense, to make up any deficiencies and bring performance current. Should Subcontractor fail or refuse to comply with the written request, Contractor has the right, without prejudice to any other remedy it may have, [A.] to make any payments due for labor or materials (on behalf of Subcontractor) and Subcontractor shall reimburse Contractor for same upon demand; [B.] to make good any other such deficiencies and deduct the cost thereof, plus Contractor's reasonable overhead and profit, from any payments then or thereafter due Subcontractor and/or [C.] to eject Subcontractor from the job site and/or terminate this Subcontract, take possession of any or all of the Work under the Subcontract and all material, appliances, tools and equipment already on the site as well as all material in course of the preparation wherever located, and go into the open market and secure materials and employ men necessary to complete said Work and deduct all loss thereof and all damages sustained as a result by Contractor, from payment then or thereafter due to Subcontractor.

9. CESSATION, CANCELLATION, TERMINATION: Should Owner elect to cancel or terminate the General Contract and/or order cessation of work, Subcontractor agrees to accept, as compensation for all work done under this Subcontract and in full settlement of all claims hereunder for the amount specified in Paragraph 1 of Subcontract, reduced in the same proportion that the payment amount allowed to the Contractor by the Owner bears to the total contract amount specified in the General Contract. This Subcontract shall be canceled and terminated at the option of Contractor, if the Owner or Architect objects to Subcontractor as incompetent, unfit, or for any other reasonable cause. Contractor reserves the absolute right to terminate this Agreement, at Contractor's convenience, without cause. In the event of termination without cause, Subcontractor shall be entitled to payment only for the cost of the Work actually completed in conformity with this Agreement, and other costs actually incurred by Subcontractor.

10. ASSUMPTION OF RESPONSIBILITY: Subcontractor agrees to investigate and to assume full responsibility for the accuracy of all lines, levels, measurements, topographical surveys and soils tests and their relation to bench marks, property lines, reference lines and grading plans. In all cases where dimensions are governed by conditions already established, the responsibility for correct knowledge of such conditions and compliance therewith shall rest entirely on the Subcontractor. No variation from specified lines, grades or dimensions shall be made except on written authorization from Contractor. All work shall be made to conform to actual, final conditions as they develop in the course of construction.

11. RELATED TO WORK: By commencement of Work, Subcontractor acknowledges that all said related, adjacent, or dependent work, services, utilities, and/or materials are acceptable to it, and waives any and all claims for damages or extras with respect to defects or failure thereof.

12. INDEMNITY: Subcontractor and all its subcontractors of every tier shall assume liability, hold harmless, defend and indemnify the Owner and Contractor, and all of their agents and employees (individually "Indemnified Party" and collectively "Indemnified Parties") from and against any liability and all claims, liens, penalties, damages, including indirect, incidental and consequential damages, and specifically including damages due to delay, losses and expenses, including attorneys' fees, arising out of or resulting from the performance of the Subcontractor's Work under this Subcontract, regardless of whether it is caused in part by an Indemnified Party, except that the indemnity obligation, including the cost to defend, shall not be applicable to a claim arising from the sole negligence, or arising out of, pertaining to or relating to the active negligence or wilful misconduct, of the Indemnified Parties or for defects in design furnished by those persons, or to the extent the claims do not arise out of the scope of work of the Subcontractor pursuant to this Subcontract. In any and all claims against Owner or Contractor or any of their agents or employees by any employee of the Subcontractor, anyone directly or indirectly employed by it or anyone for whose acts it may be liable, the indemnification obligation under this article shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the Subcontractor under workmen's compensation acts, disability benefit acts or other employee benefit acts. The obligations of Subcontractor under this article shall not extend to the liability of the Architect, its agents or employees arising out of the preparation or approval of maps, drawings, opinions, reports surveys, Change Orders, designs or specifications.

13. GUARANTEE: Subcontractor specifically warrants to Contractor that all materials and equipment furnished under this Subcontract will be new unless otherwise specified in the Contract Documents and guarantees the Work against any defect in materials or workmanship under this Subcontract for a period of one year from the date of completion of the entire Project, unless a longer period is required by the Contract Documents, and agrees to indemnify and hold Owner and Contractor harmless from any loss or damage resulting therefrom. Upon Contractor's notification, Subcontractor shall proceed with due diligence, at its own expense, to replace any defective materials or perform labor necessary to correct any defect in the Work, and upon failure of Subcontractor to do so, Owner or Contractor may, at Subcontractor's expense, furnish such materials or labor as are necessary to bring the Work up to required standard. Nothing contained herein shall in any way limit the provisions of Article 12 above.

14. PROTECT AGAINST INJURY: Subcontractor agrees to protect its own Work and be responsible under all circumstances for the condition thereof until final acceptance of the entire Project and to protect adjacent property and other work and parties from injury arising out of its Work, and to make good any such damage or injury.

15. SAFETY AND HAZARDOUS MATERIALS: Subcontractor shall provide Contractor on a monthly basis, along with the monthly progress billing, OSHA required bi-weekly safety meeting reports, or participate in Contractor's weekly safety meetings. Subcontractor shall, at Subcontractor's own expense, comply fully with all federal, state and local laws, rules, regulations, ordinances and statutes (hereinafter "laws") applicable to Subcontractor's Work, including, but not limited to, all laws regarding occupational health and safety, the handling and storage of hazardous materials, accident prevention, and safety equipment and practices, including the accident prevention and safety program of Contractor. Subcontractor shall establish a safety program implementing safety measures as required by the Contract Documents and all applicable laws. Subcontractor shall conduct inspections to determine that safe working conditions and equipment exist and accepts sole responsibility for providing a safe place to work for Subcontractor's employees and for employees of Subcontractor's subcontractors and suppliers of material and equipment, for adequacy of and required use of all safety equipment, and for full compliance with all the laws, programs and practices set forth above. Subcontractor shall be liable to Contractor and Owner for all loss, cost and expense attributable to any acts of commission or omission by Subcontractor, or by Subcontractor's employees and agents, resulting from the failure to comply with the laws, programs and practices set forth above, including, but not limited to, the cost of any fines, penalties or corrective measures.

Subcontractor shall provide Contractor "Material Safety Data Sheets" for potentially hazardous materials required for completion of Work under this Subcontract. Subcontractor agrees that he shall be solely responsible for the transport, handling, storage and/or removal of such hazardous materials.

16. INSURANCE: Prior to commencement of any work, and until all obligations under this Subcontract are fulfilled, Subcontractor and any lower tier subcontractor shall, at its sole expense, maintain not less than the following coverages. Insurance shall be maintained under forms of policies and from insurance companies satisfactory to Owner and Contractor. Limits of insurance shall be the greater of the amounts required by the General Contract or as set forth below. Insurance shall be placed with insurers with A.M. Best Rating of not less than A-VII, and insurers must be licensed to do business in the jurisdiction in which the project is located.

- A. Workers' Compensation Insurance in compliance with applicable Federal and State Laws with limits of insurance not less than \$1,000,000.00. A waiver of subrogation endorsement in favor of the Contractor and Owner are required.
- B. Employers Liability Insurance with a limit not less than \$1,000,000 per accident or disease in the jurisdiction where Subcontractor operates.

- C. Commercial General Liability Insurance, on an ISO occurrence coverage form CG0001 or its equivalent with limits of insurance not less than:

\$1,000,000 Each Occurrence
\$1,000,000 Personal & Advertising Injury
\$2,000,000 General Aggregate
\$2,000,000 Products – completed operations aggregate

Coverage shall include:

- Per project general aggregate endorsement.
- Explosion, collapse and underground coverage.
- Coverage for claims arising out of subsidence or earth movement.

- D. Automobile Liability Insurance with limits not less than \$1,000,000 each accident and insuring liability arising out of the ownership, maintenance or use of any owned, hired, borrowed or non-owned vehicles.
- E. Pollution Liability Insurance is required for any environmental consulting or pollution remediation work, covering claims arising from the release or removal of any hazardous construction materials or pollutants. The limits of coverage shall not be less than \$1,000,000 per occurrence. If Subcontractor is responsible for transporting hazardous materials or waste, it will furnish evidence of Pollution Automobile Liability coverage in the form of a MCS 90 endorsement and the ISO form CA 9948. (Pollution Liability Broadened Coverage for Business Auto).
- F. Professional Liability coverage is required if Subcontractor or its consultants provide design, engineering or design/build services to the project. The limits of liability shall not be less than \$1,000,000 per claim, and if coverage is written on a claims-made basis, shall be maintained for a minimum of 3 years following project completion. Renewal or replacement policies shall maintain a retroactive date that is prior to the start of this Project and shall provide for an extended reporting period of not less than 12 months.
- G. Riggers Liability coverage is required if Subcontractor's work involves cranes or other rigging of property. Adequate limits of coverage will be provided to protect the full insurable replacement value for loss or damage to property being lifted, hoisted or rigged.
- H. Installation floater coverage shall be maintained by Subcontractor to insure against loss or damage to its tools, equipment, temporary jobsite structures, jobsite materials stored offsite or in transit to the jobsite, and to their work at the site.
- I. Evidence of the above insurance requirements shall be provided on a Certificate of Liability Insurance (Accord form 25-s) providing not less than 30 days notice of cancellation by deleting "endeavor to" and "but failure to do so shall impose no obligation or liability of any kind upon the insurer, its agents or representatives". Certificates of Insurance, and required endorsements, shall be provided for 2 years following completion of the Project or in conformance with the Statutes of Limitation, whichever is greater.
- J. Additional insurance endorsements to the Commercial General and Automobile Liability Policies are required and will name Contractor and Owner as additional insureds on ISO form CG 2010 1185 (or its equivalent) and provide such insurance in primary coverage, and any coverage carried by Owner or Contractor is excess insurance and will not contribute with this insurance. Equivalent forms to CG 2010 1185 shall include only the following forms, but only if accompanied by Completed Operations coverage using form CG 2010 2037: CG 2010 10/93; CG 2010 10/01; or CG 2010 07/04. In addition, the general and automobile liability policies shall not provide that any self-insured retention can only be paid by Subcontractor. Subcontractor appoints Contractor as its agent to pay any self-insured retention or deductible on said policies at Contractor's sole option and discretion.
- K. Furnishing insurance certificates and additional insured endorsements to Owner and Contractor shall in no way limit or relieve Subcontractor of its duties and responsibilities in this Subcontract. If higher limits or other forms of insurance are required by Owner, Subcontractor will immediately comply with such requirements. Subcontractor shall furnish certified copies of its insurance policies upon request from the Owner or Contractor.
- L. Contractor and Subcontractor waive all rights against each other and the Owner, separate contractors, and all other subcontractors for loss or damage to the extent covered by Builder's Risk or any other property or equipment insurance, Workers Compensation, Employers Liability, Commercial General Liability, Automobile Liability, and any other insurance required herein, except such rights as they may have to the proceeds of such insurance.

17. INDEPENDENT CONTRACTOR PERMITS, LICENSES AND TAXES: Subcontract is an independent contractor and all persons employed by Subcontractor shall be its employees, and not employees of Contractor in any respect. Subcontractor agrees to pay any and all fees, assessments and taxes, including, without limitation, all unemployment, sales and/or use taxes, in connection with the Work and materials to be furnished hereunder and to obtain at its expense all permits and licenses to comply with all laws, ordinances, rules, regulations, orders and requirements of the city, county, state and federal governments and of any board or commission or other duly qualified body having jurisdiction, which shall or might affect or apply to the Work and to currently maintain a valid contracting license as required by the State of California throughout the duration of the Project, and to observe and to comply with all of the regulations applicable to the construction industry.

18. USE OF GENERAL CONTRACTOR'S EQUIPMENT: Subcontractor agrees that the use of any of Contractor's equipment, rigging, blocking, hoist, or scaffolding by Subcontractor, given, loaned, or rented to Subcontractor, shall be under the distinct understanding that Subcontractor uses said equipment, rigging, blocking, hoist or scaffolding at its own risk, and takes the same "as is" and after Subcontractor has satisfied itself by examination as to the condition

thereof, and Subcontractor does hereby assume all responsibility for and hold Owner and Contractor harmless from any claims for damages whatsoever resulting from the use of same, whether such damages result to its own employees or property or to the employees or property of others.

19. REMOVE DEBRIS: Subcontractor agrees to comply with all instructions from Contractor with respect to conditions at the site, and to clean up all its rubbish, debris and unnecessary materials, tools and equipment, or upon failure to do so, to pay actual cost of such removal. Storage of all materials shall be under the supervision of Contractor, but at the expense, if any, of Subcontractor. Contractor shall provide trash bins for removal of non-hazardous debris.

20. UNION AND LABOR MATTERS: Subcontractor agrees to employ only competent, careful, orderly persons upon the Project and, upon notification by Contractor that the workmanship or conduct of any person employed by Subcontractor is unsatisfactory, immediately to remove such person from the project.

Subcontractor will hold the Owner and Contractor harmless from claims, demands, and liability for union welfare, pension, vacation, apprenticeship, owner/operator, health and welfare and related type payment obligations connected with the Project, whether or not well founded, when such claims arise from employment by Subcontractor or its subcontractors or materialmen, including without limitation, liens resulting from non-payment thereof.

If Subcontractor or its subcontractors or materialmen are listed by the administrative office of the appropriate health and welfare, pension, vacation or apprenticeship fund as being delinquent in payment, Contractor is entitled to assume that the listing is correct and that the Subcontractor has, therefore, breached the Subcontract. In that event, Contractor may exercise any rights available to it, including, but not limited to, as set forth in Article 8. Contractor may pay any amount which Contractor believes due to such funds, and Subcontractor shall reimburse Contractor therefor or allow such amounts as an offset and deduction from payment then or thereafter due to Subcontractor.

All of the provisions of this Article shall apply to any Subcontractor or its subcontractors or materialmen performing work under any change of name, or association or joint venture (including any person who may have been a principal financially associated with the Subcontractor or its subcontractors or materialmen) delinquent in fringe benefit payments to any trust funds.

Subcontractor acknowledges the provisions of the California Labor Code concerning the payment of prevailing wages to workers. Attached hereto as Exhibit "A" are Sections 1771, 1775, 1776, 1777.5, 1813 and 1815 of that Code; in compliance with the requirement of the California Labor Code § 1775(b)(1), Subcontractor acknowledges receipt thereof and has read and understands the provisions of these code sections. **This section is only applicable to public works projects covered by the California Labor Code sections cited.**

21. PATENTS: Subcontractor agrees to save Owner and Contractor forever harmless from any claims, demands or damages of any nature on account of the use of any patented invention, article, or process, in connection with the Work under this Subcontract, either in the course of construction of or after completion of the Project, and Subcontractor further agrees to defend at its own expense any suits for infringement.

22. REMOVAL OF LIENS: Subcontractor agrees to pay, when due, all claims for labor and/or materials and/or subcontracts applied on or furnished hereunder, and to prevent the filing of any lien of mechanics or materialmen, or attachments, garnishments or suits involving the title of the property upon which the improvements are erected. Subcontractor agrees within ten (10) days after written demand by Contractor, by United States mail, to cause the effect of any such suit or lien to be removed from the premises, by posting an appropriate bond or as is otherwise acceptable to Owner and Contractor, and in the event the Subcontractor shall fail to do so, Contractor is authorized to use whatever means it may deem best to cause said lien, attachment or suit, together with its effect upon the title, to be removed, discharged, compromised or dismissed, and the costs thereof, together with reasonable attorney's fees, shall become immediately due Contractor. Subcontractor may litigate any lien or suit above described provided it causes the effect thereof to be removed as required herein above. Subcontractor shall further do such things as may be necessary to cause Owner not to withhold any monies due to Contractor from Owner by reason of such liens or suits, and shall execute and deliver to Contractor such affidavits, contracts, bills, records, accounts, etc. as Contractor may deem necessary for its protection in such events.

23. ASSIGNMENT AND SUBLETTING: Subcontractor shall not assign or sublet any portion of this Subcontract without first obtaining permission in writing from Contractor, and then only subject to provisions of this Subcontract.

24. DISPUTE RESOLUTION: With regard to any claim for which the Owner is or may be liable or is involved in some way, Subcontractor agrees to be bound by the dispute resolution provisions of the General Contract; and Subcontractor further agrees to participate and join in and be bound by any proceedings relating to all disputes under or relating to the Owner under the General Contract, including judicial, administrative, arbitration, or otherwise, which relate to this Subcontract, directly or indirectly, and for which Contractor demands, by written notice, that Subcontractor participate. Any dispute arising out of this Subcontract or the interpretation or performance thereof, and which does not involve the Owner, shall be subject to arbitration in Sutter County under the Construction Industry Arbitration Rules of the American Arbitration Association currently in effect.

The arbitrator shall have the following minimum qualifications: an attorney licensed and practicing at least ten (10) years specializing in construction law matters. The demand for arbitration shall be filed in writing with the other party to this Subcontract and with the American Arbitration Association and shall be made within a reasonable time after the dispute has arisen. Arbitration arising out of or relating to the Contract Documents shall include, by consolidation, joinder or in any other manner, all persons or entities who are subject to an arbitration agreement for the Project (or who agree to be bound by the binding process) and who (1) is substantially involved in a common question of fact or law, (2) the presence of such person or entity is required if complete relief is to be accorded in the arbitration, and (3) the interest or responsibility of such person or entity in the matter is not insubstantial. The agreement herein among the parties to the Subcontract and any other written agreement to arbitrate referred to herein shall be specifically enforceable under applicable law in any court having jurisdiction thereof.

The arbitrator shall attempt to expedite the proceedings, and is authorized to reject evidence that is of slight probative value, cumulative, unimportant, unreliable, or of doubtful validity.

The arbitrator is authorized to issue injunctive relief and to appoint a receiver. The arbitrator may issue an interim award and retain jurisdiction to modify or enforce the award. The arbitrator may pass upon the priority and validity of mechanic's lien claims and order their foreclosure. The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

Should any party refuse or neglect to appear at or participate in the proceedings after due notice, the arbitrator shall render an award based on the evidence introduced by the party or parties that do appear and participate. The arbitrator shall award reasonable attorneys' fees to the prevailing party. The arbitrator is authorized to award interest at current market rates, and may award compensatory, consequential, punitive and such other damages as the arbitrator deems proper.

25. INSOLVENCY: In the event Subcontractor commits any act of insolvency, bankruptcy, or makes a general assignment for the benefit of its creditors, this Subcontract may be terminated at the option of Contractor. Subcontractor does hereby grant authority to Contractor to disclose information to any financial institution, materialmen or individual, with reference to Subcontractor's financial status and credit.

26. SURETY BOND: If Contractor demands for any reason whatsoever, Subcontractor agrees that it will, within ten (10) days from date of the demand, provide bonds conditioned for the faithful performance of this Subcontract and payment of all obligations arising thereunder, duly executed and delivered by a corporate surety company in favor of Contractor, as named obligee or beneficiary thereon, in form and contents acceptable to Contractor. Cost of the bond to be paid by Contractor.

27. BINDING OF HEIRS AND SUCCESSORS: This Subcontract shall inure to the benefit of and be binding upon heirs, executors, administrators and legal successors of the respective parties hereto and the assigns of the Contractor.

28. WAIVER: Either party hereto may specifically waive any breach of this Subcontract by the other party, but no such waiver shall constitute a continuing waiver of similar or other breaches. A waiving party may at any time, upon notice given in writing to the breaching party, direct future compliance with the waived term or terms of this Subcontract, in which event the breaching party shall comply as directed from such time forward. All remedies, rights, undertakings, obligations and agreements contained in this Subcontract shall be cumulative and not mutually exclusive, and shall be in addition to and not a limitation on any remedies, rights and obligations otherwise imposed or available by law.

29. TITLES: Titles are provided herein for convenience only and are not to serve as a basis for interpretation or construction of this Subcontract, nor as evidence of the intention of the parties hereto.

30. APPLICATION OF CALIFORNIA LAW: The statutory, administrative and judicial law of the State of CALIFORNIA shall govern the execution and performance of this Subcontract.

31. INVALID PROVISION: The invalidity or unenforceability of any particular provision of this Subcontract shall not affect the other provisions hereof and, in such instance, this Subcontract shall be construed in all respects as if such invalid or unenforceable provision were omitted.

32. NOTICES: Any notice required or permitted under this Subcontract may be given by ordinary mail at the address contained in the Subcontract, but such address may be changed by written notice given by one party to the other from time to time. Notice shall be deemed received in the ordinary course of the mail.

33. SUBCONTRACTOR'S JOB REPRESENTATIVE: Subcontractor shall keep a representative at the job site during all times when Subcontractor's Work is in progress, and such representative shall be authorized to represent Subcontractor as to all phases of the work. Prior to commencement of the Work, Subcontractor shall notify Contractor who Subcontractor's representative is to be, and in the event of any change of Subcontractor's representative, Subcontractor agrees to notify Contractor who the new representative is to be prior to such change becoming effective.

34. JOINT DRAFTING: The parties expressly agree that this Subcontract was jointly drafted, and that they both had an opportunity to negotiate terms and to obtain assistance of counsel in reviewing terms prior to execution. This Subcontract shall be construed neither against nor in favor of either party, but shall be construed in a neutral manner.

**CONTRACTORS ARE REQUIRED BY LAW TO BE LICENSED AND REGULATED BY THE CONTRACTORS' STATE LICENSE BOARD WHICH HAS JURISDICTION TO INVESTIGATE COMPLAINTS AGAINST CONTRACTORS IF A COMPLAINT REGARDING A PATENT ACT OR OMISSION IS FILED WITHIN FOUR YEARS OF THE DATE OF THE ALLEGED VIOLATION. A COMPLAINT REGARDING A LATENT ACT OR OMISSION PERTAINING TO STRUCTURAL DEFECTS MUST BE FILED WITHIN TEN YEARS OF THE DATE OF THE ALLEGED VIOLATION. ANY QUESTIONS CONCERNING A CONTRACTOR MAY BE REFERRED TO THE REGISTRAR,
CONTRACTORS' STATE LICENSE BOARD, POST OFFICE BOX 26000, SACRAMENTO, CALIFORNIA 95826.**