MASTER SUBCONTRACT AGREEMENT

Contract Number ____ALL__JOBS ___

This Master Subcontract Agreement made this__3RD__ day of _April____, 2023__ (herein the "Agreement" or "Subcontract") by and between Joe Lombardo Plumbing & Heating of Rockland Inc. (herein "Contractor") having its principal place of business at 321 Spook Rock Road, Suffern, New York 10901, and _Atlantic Contracting & Specialties____ (herein "Subcontractor") having its principal place of business at _102 New South Road, Hicksville, NY 11801_____.

Contractor hereby retains Subcontractor to perform the work described below pursuant to the Subcontract Documents set forth in Article 1 (herein the "Work"), all laws, codes, regulation and ordinances applicable to the work (herein "Legal Requirements") and construction industry standards regarding labor and material prevailing in the area.

ARTICLE 1. Article I The Contract Documents

1.1. The scope of work, schedule, contract amount, insurance requirements and other relevant information for the project are identified in Schedules "A" through "C". Each Schedule "A" – "C" (if Contractor and Subcontractor work on multiple projects), if and when issued, together with this Subcontract, and with any other project documents noted on the Schedules shall form the parties contract for each project (the "Contract Documents"). However, this Agreement need only be executed once and shall be deemed to govern the parties' relationship for each future project unless otherwise agreed to by the parties in writing.

1.2. The Subcontractor represents and agrees that it has carefully examined and understands the Subcontract and the other Contract Documents, has investigated the nature, locality and site of the work and the conditions and difficulties under which it is to be performed, and that it enters into the Subcontract on the basis of its own examination, investigation and evaluation of all such matters and not in reliance upon any opinions or representations of Contractor, or of the Owner[1], or of any of their respective officers, agents, servants, or employees. The Contract Documents are available for inspection at Contractor's office or the job site.

1.3. With respect to the work to be performed and furnished by the Subcontractor hereunder, the Subcontractor agrees to be bound to Contractor by each and all of the terms and provisions of the Agreement, each Work Order issued thereto, and the other Contract Documents to the same extent to which Contractor is bound to the Owner, and to assume toward Contractor all of the duties, obligations and responsibilities that Contractor by those Contract Documents assumes toward the Owner, and the Subcontractor agrees further that Contractor shall have the same rights and remedies against the Subcontractor as the Owner under the terms and provisions of the contract between Owner and Contractor (the "Construction Contract") and the other Contract Documents has against Contractor with the same force and effect as though every duty, obligation, responsibility, right or remedy without limitations were set forth herein in full. The terms and provisions of this Agreement with respect to the work to be performed and furnished by the Subcontractor hereunder are intended to be and shall be in addition to and not in substitution of any of the terms and provisions of the Construction Contract and the other Contract Documents.

1.4. The plans, drawings, details, and the specifications are intended to supplement one another, and any work or materials shown, mentioned or reasonably implied in one and not in the others are to be furnished by the Subcontractor without extra charge. The enumeration of particular items in this Subcontract or in the specifications shall not be construed to exclude other items. The intention of the documents is to include everything, whether specified herein or not, necessary for the proper execution and completion of the Subcontract work, as hereinafter defined.

ARTICLE 2. Description of Work, Submissions, Substitutions

2.1. The Subcontractor will furnish all labor, materials, appliances, tools, paint, appurtenances, equipment, scaffolding, permits, methods, transportation, power, fuel, water, supplies, hoisting, rigging and services of every kind necessary for the complete and entire performance of the work under this Agreement (the "Work"). The Work shall be performed in a good, substantial, thorough and workmanlike manner, and in strict accordance with the Contract Documents as more particularly defined in the annexed Schedules. The work shall be subject to final approval of Contractor, the Architect and the Owner, that the performance of the Work is in every respect complete.

2.2. Submissions

[1] If Contractor has not entered into an agreement with the owner then the term "Owner" shall be deemed to refer to the entity with which the Contractor has entered into an agreement.

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2.2.1. Within ten (10) days from the award of any Subcontract or Work Order, Subcontractor shall provide to Contractor a schedule of all relevant shop drawings, product data, coordination drawings, fabrication drawings, erection drawings, schedules, reports, diagrams, layouts, samples and other data (herein individually "Submission" or collectively "Submissions" as the context dictates) required by Plans and Specifications and/or requested by Contractor pertaining to systems, methods of construction, equipment, materials, performance and test reports and data, wiring diagrams and controls, cuts, mockups, brochures, catalogs, and other data as may be necessary to describe work in sufficient detail, design and dimensions or as may otherwise be deemed necessary by Contractor. Each of the Submissions shall be delivered in such number as Contractor or the Subcontract Documents may require for submission to Architect or Engineer for approval.

2.2.2. Shop drawings are drawings, diagrams, schedules and other data specially prepared for the work by the Subcontractor, or a sub-subcontractor of Subcontractor, manufacturer, supplier or distributor to illustrate some portion of the work.

2.2.3. Product data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams and other information furnished by the Subcontractor to illustrate materials or equipment for some portion of the work.

2.2.4. Samples are physical examples which illustrate materials, equipment or workmanship and establish standards by which the work will be judged.

2.2.5. Submissions are not Subcontract Documents. The purpose of their submittal is to demonstrate for those portions of the work for which submittals are required by the Subcontract Documents the way by which Subcontractor proposes to conform to the information given and the design concept expressed in the Subcontract Documents. Review by Architect or Engineer is for consistency with design intent. Informational submittals upon which Architect or Engineer is not expected to take responsive action may be so identified in the Subcontract Documents. Submittals which are not required by the Subcontract Documents may be returned by Contractor, Architect or Engineer without action.

2.2.6. Subcontractor shall perform no portion of the work for which the Subcontract Documents require submittal and review of any Submissions until the respective Submission has been approved by Architect or Engineer.

2.2.7. The Work shall be in accordance with approved submittals except that Subcontractor shall not be relieved of responsibility for deviations from the requirements of the Subcontract Documents by Architect's or Engineer's approval of a Submission unless the Subcontractor has specifically informed Architect or Engineer in writing of such deviation at the time of submittal and (i) Architect or Engineer has given written approval to the specific deviation as a minor change in the work, or (ii) a Change Order has been issued authorizing the deviation. Subcontractor shall not be relieved of responsibility for errors or omissions in the Submission by Architect's or Engineer's approval thereof.

2.2.8. In the event re-Submissions are required, Subcontractor shall make such corrections as required by Architect, Engineer or Contractor. Subcontractor shall deliver corrected Submissions to Contractor as required until Submissions are approved by the Architect or the Engineer. If any Submissions are rejected due to non-conformance with the Subcontract Documents such rejection shall not form the basis for any claim by Subcontractor for a delay or other damages.

2.2.9. All Submissions shall be resubmitted within five (5) days' so as not to cause any delay in work or work of any Other Subcontractor retained by Contractor.

2.2.10. Subcontractor shall verify at the Project all conditions, dimensions and elevations indicated on the Plans and Subcontractor shall advise Contractor of any deviations that affect its work. Approval of Submissions by Architect or Engineer is not verification by the Architect or the Engineer of field dimensions. Subcontractor's obligations hereunder shall include taking field measurements for all Work, and approval of Submissions by Architect or Engineer shall not relieve Subcontractor from correcting Work reflected in error on Submissions not conforming to the field requirements or existing conditions or not complying with the terms of this Subcontract.

2.2.11. Submissions shall be identified, at a minimum or as otherwise required by the Specifications, with the name of the Project, Specification reference, dated and numbered sequentially with a consistent numbering system to be used for all revisions. Submissions shall be covered with a transmittal letter identifying the Project and the Specification number of each item, stating qualifications, deviations or departures from the Subcontract Documents. All shop drawings shall be to proper scale and shall be prepared in accordance with any applicable provisions of the Subcontract Documents or in absence thereof in accordance with industry standards. Reproducible sepia transparencies, prints and drawings shall be submitted in such number as requested by Contractor.

2.2.12. If the finished product will have a range of color, graining, texture or other characteristics, Subcontractor shall construct a mock-up and/or provide a sufficient number of samples of the specified products exhibiting the full range of all such characteristics as required by the Plans and Specifications or by Contractor. Products delivered or erected

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without such a Submission and not approved by Contractor shall be subject to rejection. Except for range samples, or otherwise provided, all samples shall be submitted in such numbers as required by Contractor. All samples shall be marked, tagged, or otherwise properly identified with the name of Subcontractor, the Project, Specification reference, the purpose for which they are being submitted and the date of the Submission.

2.2.13. During the progress of the Work, Subcontractor shall update and revise shop drawings to reflect any revisions and changes to the Work. Upon final completion of the Work, Subcontractor shall provide Contractor with the number and form of final as-built drawings as may be required.

2.3. Substitutions

2.3.1. Any substitute material, product, device or other apparatus or equipment (herein "substitute") that Subcontractor desires to propose must be submitted to Contractor within thirty (30) days following the award of this Subcontract for review and approval by Architect or Engineer, otherwise Subcontractor will be bound by the item specified in the Plans and Specifications. Such substituted item shall be equal to or better in quality and performance than the substitute specified. Contractor in its sole discretion may reject any substitute proposed by Subcontractor.

2.3.2. Whenever an item or type of construction is identified on the Plans or in the Specifications by reference to manufacturers' or vendors' names, trade names, catalog numbers, or similar specific information, it is so identified for the purpose of establishing a standard of quality, and such identification shall not be construed as limiting the competition. Any item or type of construction of other manufacturers or vendors that will perform adequately the duties imposed by the general design will be considered equally acceptable provided the item or type of construction so proposed is completely described in submittals to the Architect or the Engineer and is, in the opinion of the Architect or the Engineer, of equal substance, appearance, and function. No substitute shall be purchased or installed by Subcontractor without Architect's or Engineer's or Owner's written approval. A substitute that in the Architect's or the Engineer's opinion is inferior to that specified or is unsuited for the intended use will be rejected. In the sole discretion of Owner, Architect's or Engineer's decision regarding acceptance of equals shall be final.

2.3.3. By making requests for a substitute Subcontractor:

2.3.3.1. Represents that Subcontractor has personally investigated the proposed substitute product and determined that it is equal or superior in all respects to that specified;

2.3.3.2. Represents that Subcontractor will provide the same warranty for the substitute that Subcontractor would provide for the specified product;

2.3.3.3. Certifies that the cost data presented is complete and includes all related costs under this Subcontract except Architect's or Engineer's redesign costs, and Subcontractor waives all claims for additional costs related to the substitute which subsequently become apparent; and

2.3.3.4. Will coordinate the installation of the accepted substitute, making such changes as may be required for work to be complete in all respects.

2.3.4. Any request for an extension of time in which to perform work arising out of a proposed substitute must be made by Subcontractor at the time a substitute is proposed otherwise Subcontractor waives any claim thereafter.

2.3.5. All costs savings resulting from an approved substitute shall be credited to and shall be for the benefit of Contractor.

2.3.6. If such substitute is for the convenience of Subcontractor and is approved, any additional costs resulting therefrom shall be borne by Subcontractor.

ARTICLE 3. Time Commencement of Substantial Completion

3.1. Subcontractor agrees to prosecute work continuously with due diligence so as not to cause any delays or interference with the completion of the Project, the obtaining of payments by Contractor from Owner or the final acceptance of the entire Project by Owner, time being of the essence with respect to Subcontractor's performance of work.

3.2. The Work shall commence as per a Notice to Proceed from Contractor and the work shall be progressed for the purpose of insuring a safe and efficient project and achieving substantial completion as per the project schedule attached hereto as Schedule "B". Contractor does not guarantee start times or durations stated in the Project Schedule.

3.3. Subcontractor understands that it is Owner's intent to construct the Project at a reasonable cost and in the most expeditious fashion given budgetary considerations. Accordingly, Subcontractor will devote its best efforts toward (i) effecting cost savings which are consistent with good construction practices, (ii) carrying out the intent of the Subcontract Documents and (iii) achieving the rapid and efficient construction and completion of the Project. Subcontractor will bring to Contractor's

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attention any possibilities for savings that may present themselves during the course of Subcontractor's performance under this Subcontract and will confer with Contractor periodically in order to determine areas whereby design change or otherwise costs may be reduced.

3.4. Subcontractor will afford other contractors and subcontractors reasonable opportunity for the storage, introduction and installation of their work and Subcontractor shall do nothing which will interfere with the coordination of its work with the work of other contractors.

3.5. Within ten (10) days following award of this Subcontract, Subcontractor will submit for approval by Contractor a detailed schedule showing the implementation of the performance criteria and milestones set forth in each Schedule "A" – Work Order, and Scope of Work, including the commencement and completion dates of the various portions of work, delivery dates of fabricated items and any other information deemed relevant thereto by Contractor. Subcontractor's detailed schedule must also be coordinated with the overall project schedule (Schedule "B" – The Project Schedule). Subcontractor shall place all required orders and submit all Submissions requiring the approval of Owner or Contractor so that Subcontractor's vendors may proceed timely with the preparation and delivery of materials. Subcontractor shall deliver to the Project all necessary tools, materials and equipment for work in advance of the need therefor, in the proper order required by the schedule applicable to work and in compliance with good construction practice. Contractor has the right to change the sequence and/or accelerate the rate at which work is to be performed in order to maintain a steady, orderly progress of the entire Project and Subcontractor agrees to make no claim of any kind whatsoever against Contractor as the result thereof.

3.6. Subcontractor acknowledges it has taken into account the nature of the Project and the work and the reasonably foreseeable delays attributable to weather or other conditions which are normal and usual for this period of time or type of the work.

3.7. Subcontractor shall not knowingly, except by agreement or instruction, of the Owner in writing, prematurely commence operations on the site or elsewhere prior to the effective date of insurance required by the Contract Documents to be furnished by Subcontractor to Contractor. The date of commencement of the work shall not be changed by the effective date of such insurance.

3.8. Should Contractor determine that Subcontractor is not satisfying the requirements of the construction schedule referenced in Section 3.3, Contractor has the right to order Subcontractor to take corrective measures necessary to expedite the progress of construction, including, without limitation, (i) working additional shifts or overtime, (ii) supplying additional manpower, equipment and facilities and (iii) other similar measures (collectively "Extraordinary Measures"). Such Extraordinary Measures shall continue until the progress of the work complies with the stage of completion required by the accepted construction schedule. Contractor's right to require Extraordinary Measures is solely for the purpose of assuring Subcontractor's compliance with the accepted construction schedule. In no event shall Contractor have control over, charge of, or any responsibility for construction means, methods, techniques, sequence or procedures, or for safety precautions and programs in connection with the work, notwithstanding the rights and authority granted in this Article or elsewhere in the Subcontract Documents.

3.9. Subcontractor agrees to perform work as directed by Contractor to maintain pace with the progress of the Project even though such progress may be further advanced than that anticipated in any schedule previously furnished. Contractor may direct Subcontractor to work overtime including work to be performed on legal holidays, religious holidays and non-scheduled work days. The failure of the Subcontractor to comply with said demand shall constitute a material breach and a default of the Subcontract. If Subcontractor is not then in default of the terms and conditions of the Subcontract Documents, Subcontractor shall be paid the amount of wages paid over and above straight time ("Additional Wages") at rates which have been approved by Contractor and Owner, plus taxes imposed by law and workers' compensation and liability insurance cost in connection therewith to the extent the same are required to be paid by Subcontractor. Subcontractor shall not be entitled to any overhead or profit with respect to Additional Wages.

3.10. As required by conditions at the Project, Contractor may direct Subcontractor to perform certain portions of work out of sequence or on a "come-back" basis at no additional cost to Owner.

3.11. The scheduling of all construction operations at the Project shall be within the sole and exclusive discretion of Contractor However, the Subcontractor shall, if requested, furnish all scheduling information in such form and detail as requested by Contractor to the satisfaction of Contractor The Subcontractor shall furnish such information within seven (7) days of request, and the Subcontractor shall update and /or revise such information, as requested by Contractor, at any time, either prior to or during the performance of the Work. Information submitted by the Subcontractor or others, acceptance or approval by Contractor, and the scheduling that may be developed and implemented by Contractor shall not constitute the basis of any claim by the Subcontractor or its subcontractors or materialmen for damage or delay; nor shall it excuse the Subcontractor's performance as required herein. However, once accepted by Contractor the Subcontractor shall be bound by the scheduling information it has submitted to Contractor.

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3.12. Should Subcontractor be delayed in the commencement, prosecution or completion of work or be obstructed or hindered in the orderly progress of work by any act, neglect or default of Contractor, Owner, Architect, Engineer, Other Subcontractor or by industry wide strikes, embargoes, national emergencies, or acts of God, which preclude the continuation of the Project or work or portion thereof in a practicable manner, then the time fixed for completion of work shall be extended for a period equivalent to the period of the delay incurred by Subcontractor as determined by Contractor. No extension shall be granted for concurrent delays caused in whole or in part by the Subcontractor. No extension shall be granted unless a claim in writing therefore is presented to Contractor within seventy-two (72) hours of the start of such delay, obstruction or hindrance. Failure to give notice as provided herein constitutes a waiver of claim by Subcontractor. In the event of a continuing cause of delay, only one claim is necessary. Subcontractor expressly agrees for itself, its sub-subcontractors and suppliers not to make, and hereby waives, any claim for damages on account of any delay, obstruction or hindrance. Subcontractor's sole remedy for any delay, obstruction or hindrance shall be an extension of the time in which to complete work.

3.13. The Subcontractor shall be obligated to pay Contractor for supervision and any labor and/or expenses required during overtime to perform work including by not limited to temporary facilities, safety, security, etc.

3.14. In case of default, Contractor shall have the right to take possession of any and all equipment and material left on the site by the Subcontractor and use same to complete the Work.

3.15. Upon a default by the Subcontractor, Contractor may furnish any and/or all labor, material, equipment or other subcontractors as required to complete the Work, and charge the expense thereof against the Subcontractor and deduct same from the Subcontract. Upon such default, no further payment shall be made to the Subcontractor until all work under the Subcontract is completed. Should, however, the amount of the balance due on the Subcontract be insufficient to complete the Work, the Subcontractor shall remain liable for all costs, expenses and damages incurred or suffered by Contractor in connection with the completion of the Work, and shall pay same to Contractor on demand.

3.16. Subcontractor shall complete all "punch list" or any other work as directed by Contractor in a timely fashion so as to cause no delay to the final completion of work or work of Other Subcontractors. Subcontractor shall commence such work or punch list work within forty-eight (48) hours' notice by Contractor. In absence of specific punch list items in such notice, Subcontractor shall take direction from Contractor's superintendent. Should Subcontractor fail to commence corrective work in a manner satisfactory to Contractor prior to the commencement of such corrective work by others, Subcontractor shall not be permitted to return to the Project site until all work or punch work list is completed by Contractor's own forces or by others.

3.17. All costs incurred by Contractor and/or Owner resulting from the failure of Subcontractor to complete work or punch list work in accordance will be deducted from the unpaid balance of the Subcontract Price. If such costs exceed the unpaid balance, Subcontractor shall pay the difference to Contractor.

ARTICLE 4. Price and Payments

4.1. Subject to the terms herein stated, the sum to be paid by Contractor to the Subcontractor for the satisfactory performance and completion of the Work and of all of the duties, obligation and responsibilities of the Subcontractor under the Subcontract and the other Contract Documents shall be the "Subcontract Price" (as identified in Schedule "A") subject to additions and deductions as herein provided. The Subcontract Price stated in the Schedule "A" – Work Order, including authorized adjustments, is the total amount payable by Contractor to Subcontractor for performance of the Work under the Contract Documents for each Work Order.

4.2. The Subcontract Price includes all Federal, State, County, Municipal and other taxes imposed by law and based upon labor, services, materials, equipment or other items acquired, performed, furnished or used by or levied or assessed with respect to the Work, including but not limited to sales, use and personal property taxes payable by or levied or assessed against the Owner, Contractor or the Subcontractor. Where the law requires any such taxes to be stated and charged separately, the total price of all items included in the Work plus the amount of such taxes shall not exceed the Price.

4.3. Prior to the commencement of the Work and not more than fifteen (15) days after the date of the Work Order, the Subcontractor shall prepare and submit to Contractor for Contractor's approval and if deemed necessary by Contractor, the approval of the Architect and Owner, a "Schedule of Values" furnishing a complete, detailed and itemized breakdown of the various divisions of Work, including values for materials and labor. The total of this Schedule of Values shall be equal to the Subcontract Price.

4.4. At least ten (10) days before the date established for each progress payment, Subcontractor shall submit to Contractor an itemized Application for Payment for operations completed in accordance with the Schedule of Values. Such Application shall be notarized, if required, and supported by such data substantiating Subcontractor's right to payment as Contractor may require, such as copies of requisitions from its sub-subcontractors and material suppliers, and reflecting retainage if provided for in the Contract Documents. Such Application for Payment shall be certified as correct by Subcontractor and shall be

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accompanied by waivers of liens and other documentation from Subcontractor and its sub-subcontractors as reasonably may be required by Contractor, Owner or any title insurer or construction lender. In addition, such Application for Payment shall contain a certification by Subcontractor that there are no known written claims of mechanics' or materialmen's liens submitted to Subcontractor at the date of such Application for Payment, that Subcontractor has no knowledge of any filed mechanics' or materialmen's liens with respect to the work or that same have been bonded around or otherwise discharged, that all due and payable bills with respect to the work have been paid to date or shall be paid from the proceeds of such Application for Payment, that there is no known basis for the filing of any mechanics' or materialmen's liens on the work, and waivers from all sub-subcontractors constitute an effective waiver of lien under the laws of the jurisdiction in which the Project is located to the extent payments have been made or are to be made concurrently with payment pursuant to such Application for Payment.

4.5. Applications for Payment, including required supporting documentation must be submitted by the Subcontractor, on the "Subcontractor's Certificate and Application for Payment Form" (supplied by Contractor) to Contractor by the 25th of the month for work performed and/or material stored, if applicable, during that month. Invoices received after the 25th of the month cannot be included in Contractor's invoice to the Owner and therefore, will not be recognized as received until the 25th of the following month. Invoices received by the 25th and approved by Contractor and the Architect shall not be due and payable until ten (10) days after Contractor has received payment from the Owner on account of the Subcontractor's work. If Contractor is required to file suit or an arbitration against the Owner to recover monies due, which sums include payments to the Subcontractor, Subcontractor agrees to await the outcome of the arbitration and/or litigation to receive payment. Applications for payment may not include requests for payment for portions of the work for which Subcontractor does not intend to pay to a sub-subcontractor or material supplier, unless such work has been performed by others whom Subcontractor intends to pay.

4.6. Unless otherwise specified in the Contract Documents, a retainage as set forth in Schedule "A"; all previous payments; and all charges for services, material, stored material, equipment and other items furnished by Contractor to or chargeable to the Subcontractor shall be deducted from the value of Work installed to date.

4.7. Requisition for payment for stored material, if permitted by the Contract Documents, shall be the actual and verifiable cost to the Subcontractor (exclusive of overhead and profit) and shall be supported by invoices from the vendor to the Subcontractor. Requisitions for material stored off site, if permitted by the Contract Documents, must also be accompanied by insurance certificates naming Contractor as the sole insured and providing full replacement value coverage for the materials against all perils. All payment requisitions for stored material, on and off the premises, must be accompanied by a sworn notarized statement of the Subcontractor that the materials are not subject to any superior liens or interest, are for installation in the Project only, that the materials strictly comply with the requirements of this Subcontract, and that the materials have been segregated and shall be labeled as sole property of Contractor, upon payment therefore. Title of all material stored off site shall pass to Contractor upon payment therefore. Unless otherwise specified, a retainage of 10% percent will be withheld from payments for stored materials.

4.8. The Subcontractor agrees that if and when requested to do so by Contractor, it shall furnish copies of any and all contracts or purchase orders between Subcontractor and any of its sub-subcontractors, materialmen, etc., pertaining to the Project. This information shall be used by Contractor for the purpose of verifying that specified material/equipment has been ordered in the proper quantities, to verify delivery dates of same and to verify that the contracts and purchase orders contain the provisions required by the Subcontract. The Subcontractor agrees that if and when requested to do so by Contractor, it shall also furnish such additional information, evidence and substantiation as Contractor may require with respect to the nature and extent of all obligations incurred by the Subcontractor for or in connection with the Work, all payments made by the Subcontractor thereon, and the amounts remaining unpaid, to whom and the reasons therefore.

4.9. The Subcontractor further agrees that it shall, as a condition precedent to entitlement to any payment hereunder, furnish to Contractor waivers of lien, releases or any other documentation required by Contractor, executed by all suppliers, materialmen, laborers or sub-subcontractors or anyone furnishing labor or materials for work under this Subcontract.

4.10. Payment of the retainage withheld pursuant to the Subcontract shall be due within sixty (60) days after

4.10.1. completion and acceptance of the Work by Contractor; and

4.10.2. completion and acceptance of the project by the Architect and the Owner; and

4.10.3. Contractor shall have received all funds for the Work performed under the Subcontract from the Owner; and

4.10.4. as a condition precedent;

4.10.4.1. Contractor shall receive a properly completed Subcontractor's Certificate and Application for Payment form for the payment of the retainage; and

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4.10.4.2. the Subcontractor shall have furnished evidence satisfactory to Contractor that there are no claims, obligations or liens outstanding or unsatisfied for labor, services, materials, equipment, taxes or other items performed, furnished or incurred for or in connection with the Work; and

4.10.4.3. the Subcontractor shall have executed and delivered in a form satisfactory to Contractor, a General Release running to and in favor of Contractor and its Surety and the Owner. Should there prove to be any such claim, obligation or lien after final payment is made, the Subcontractor shall immediately upon demand, make payment for, or refund to Contractor all monies that Contractor and/or the Owner shall have paid in satisfying, discharging or defending against any such claim, obligation or lien or any action brought or judgment recovered thereon and all costs and expenses, including legal fees and disbursements, incurred in connection therewith.

4.11. If any claim or lien is made or filed with or against Contractor, the Owner, the Project, the project funds or the Premises by any person claiming that the Subcontractor or any other person under it has failed to make payment for any labor, services, materials, equipment, taxes or other items or obligations furnished or incurred for or in connection with the Work, or if at any time there shall be evidence of such nonpayment or of any claim or lien for which, if established, Contractor or the Owner might become liable and which is chargeable to the Subcontractor, or if the Subcontractor or any other person under it causes damage to the Work or to any other work on the Project, or if the Subcontractor fails to perform or is otherwise in default under any of the terms or provisions of this Subcontract or the other Contract Documents, Contractor shall have the right to

4.11.1. Reverse previously approved payment requisitions; and/or

4.11.2. retain from any payment then due or thereafter to become due the Subcontractor on this or any other project an amount which it deems sufficient to (1) satisfy, discharge and/or defend against any such claim or lien or any action which may be brought or judgment which may be recovered thereon, (2) make good any such nonpayment, damage, failure or default, and (3) compensate Contractor and the Owner for any and all losses, liability, damages, costs and expenses, including legal fees and disbursements, which may be sustained or incurred by either or both of them in connection therewith, and the Subcontractor shall indemnify and hold harmless Contractor against the same. Contractor shall have the right to apply and charge against the Subcontractor so much of the amount retained as may be required for the foregoing purposes. If the amount retained is insufficient therefore, the Subcontractor shall be liable for the difference and immediately upon notice pay the same to Contractor.

4.12. The Contractor further reserves the right to withhold all or any part of payment due Subcontractor in connection with any other agreement, or payment due on this Subcontract in addition to the retained percentage withheld, until final completion for non-compliance with any of the terms of the Subcontract, and the same shall be withheld until such time as said non-compliance has been corrected to the satisfaction of Contractor.

4.13. No payment (final or otherwise) made under or in connection with the Subcontract shall be evidence of the performance of the Work or of the Subcontract, in whole or in part, and no such payment shall be construed to be an acceptance of defective, faulty or improper work or materials; nor shall it release the Subcontractor from any of its obligations under the Subcontract; nor shall entrance and/or use by the Owner constitute acceptance of the Work or any part thereof.

4.14. The Subcontractor agrees that Contractor shall pay the Subcontractor for work done on this Project when Contractor has been paid therefore by the Owner, and the provisions hereof, stating the time of progress and final payments and the amount thereof are expressly contingent upon and made subject to the condition that Contractor shall timely receive from the Owner progress or final payments of the amounts being claimed by the Subcontractor on account of work done by the Subcontractor on this Project. The time when such payments shall be due the Subcontractor shall be postponed until Contractor has received the same from the Owner, and the Subcontractor hereby expressly accepts the risk inherent with such payment delays. The Subcontractor further agrees and acknowledges that he relies primarily for payment for work performed on the credit and ability to pay of the Owner, and not on that of Contractor. The Subcontractor further agrees that the liability of the surety on any bond furnished by Contractor, if any, for payment to the Subcontract, is subject to the same conditions precedent as are applicable to Contractor's liability for payment to the Subcontractor. If Contractor is required to file suit or an arbitration against the Owner to recover monies due, which sums include payments to the Subcontractor, Subcontractor agrees to await the outcome of the arbitration and/or litigation to receive payment.

4.15. In the event Contractor does not commence an action against Owner for non-payment, Subcontractor shall exhaust all remedies against the Project or real property on which the Project is located including all remedies afforded under the lien law prior to pursuing any claim against Contractor or its surety, if any, arising out of non-payment by Owner. Any proceeding commenced against the Contractor or its surety prior to exhausting other remedies as set forth in this paragraph shall be immediately stayed.

4.16. Subcontractor agrees to pursue all of its lien rights for the satisfaction of any right, remedy, or lien of Subcontractor, or for the collection of a judgment (or other judicial process) requiring the payment of money by Owner or Contractor arising

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out of any liability by Owner or Contractor, and no other property or assets of Owner or Contractor (or any partner, principal, officer, director, shareholder or employee of Owner or Contractor) shall be subject to suit, levy, execution, attachment, or other enforcement procedure for the satisfaction of Subcontractor's rights or remedies under or with respect to this Subcontract or Project. Only after Subcontractor's lien rights have been satisfied, exhausted or extinguished, and only if there is still a deficiency in monies owed to Subcontractor, may Subcontractor pursue any contractual or common law remedies against Contractor.

4.17. Without diminishing the provisions of laws, any and all funds received by the Subcontractor hereunder are declared to constitute trust funds to be applied first by the Subcontractor to the payments of claims of subcontractors, suppliers, architects, engineers, surveyors, laborers and materialmen arising out of the Work, to claims for utilities furnished and taxes imposed, and to the payment of premiums on surety bonds and other bonds filed and premiums on insurance accruing during the construction of the Work, before application to any other purpose.

4.18. The acceptance by the Subcontractor of any payment made after receipt by Contractor of its payment or any part thereof from the Owner, shall be and operate as a release to Contractor of all claims and all liabilities to the Subcontractor for all things done or furnished or relating to the Work, and for every act of alleged neglect of Contractor arising out of the Subcontract, excepting only claims for retained percentages withheld by Contractor as provided for herein.

4.19. In addition to the requirements set forth in this Article and elsewhere in this Subcontract and the Contract Documents, no payments, whether partial or final, shall be made to Subcontractor unless Subcontractor executes Partial and/or Final Lien Waivers, copies of which are attached to this Subcontract. Subcontractor and the individual signing the Lien Waivers understand and acknowledge that Contractor is relying upon the executed Lien Waivers in making payment to Subcontractor. BY SIGNING THE LIEN WAIVERS SUBCONTRACTOR EXPRESSLY ACKNOWLEDGES THAT ALL OBLIGATIONS RELATING TO LABOR, TAXES, UNION BENEFITS AND CONTRIBUTIONS, PAYROLL TAXES AND RELATED OBLIGATIONS, SUBCONTRACTORS, VENDORS, SUPPLIERS AND OTHER COSTS INCURRED BY SUBCONTRACTOR IN CARRYING OUT ITS OBLIGATIONS UNDER THE SUBCONTRACT HAVE BEEN SATISFIED AND PAID OUT OF PREVIOUS PAYMENTS RECEIVED FROM CONTRACTOR OR WILL BE SATISFIED AND PAID IN FULL OUT OF THE PAYMENT TO BE RECEIVED IN EXCHANGE FOR THE EXCUTED LIEN WAIVER.

4.20. Applications for payment may not include requests for payment for portions of the work for which Subcontractor does not intend to pay to a sub-subcontractor or material supplier, unless such work has been performed by others whom Subcontractor intends to pay.

4.21. Subcontractor warrants that title to all work covered by an Application for Payment will pass to the Owner no later than the time of payment.

4.22. The conditions precedent to payment set forth above shall not be deemed to negate, diminish, restrict or abrogate the lien rights afforded to Subcontractor pursuant to any lien rights.

4.23. Subcontractor waives all prejudgment interest.

4.24. The Subcontractor acknowledges and recognizes that if the Contractor pays all amounts due Subcontractor as and when due Contractor is entitled to a project free of mechanics' liens. The Subcontractor further acknowledges and agrees that if the Subcontractor files a lien for an amount greater than it is ultimately determined Subcontractor is owed, whether or not it is filed willfully or unintentionally, the Contractor will sustain extensive damages and serious loss as a result of such lien. The exact amount of such damages will be extremely difficult to ascertain. Therefore, the Contractor and the Subcontractor agree that if the Subcontractor files a lien for an amount greater than it is ultimately determined Subcontractor is owed, whether or not it is filed willfully or unintentionally, the Contractor shall be entitled to retain or recover from the Subcontractor, as liquidated damages and not as a penalty, three times the difference between the face amount of the lien and the amount ultimately determined Subcontractor is owed . Such liquidated damages are hereby agreed to be a reasonable pre-estimate of damages the Contractor will incur as a result of such lien: The damages shall include the amount of any premium for a bond given to obtain the discharge of the lien reasonable attorney's fees for services in securing the discharge of the lien, and an amount equal to three times the difference by which the amount claimed to be due or to become due as stated in the notice of lien exceeded the amount actually due or to become due thereon. The Contractor may deduct such damages from any unpaid amounts then or thereafter due the Subcontractor under this Agreement. Any damages not so deducted from any unpaid amounts due the Subcontractor shall be payable to the Contractor at the demand of the Contractor, together. This Paragraph 4.24 shall survive the termination or abandonment of this agreement by either party.

ARTICLE 5. Delays, Extensions of Time, etc.

5.1. The Subcontractor agrees that if it shall delay the progress of the Work so as to cause damage, of whatever kind or nature for which Contractor shall suffer or become liable, the Subcontractor shall make good to Contractor any such damage or

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costs (including legal fees) and indemnify and save Contractor harmless from same. Any assent or permission of Contractor to the delayed finishing of the Work shall not be construed as a waiver of this covenant to make good any damage caused by such delay or default, nor shall it be a forfeiture of such damages.

5.2. In the event the Work of the Subcontractor is damaged, or should the Work of the Subcontractor be delayed or interfered with by any other subcontractor or other contractor on the Project, the Subcontractor and each such subcontractor or contractor shall be directly responsible to the other, each shall look solely to the other for compensation, and the Subcontractor will not seek compensation or damages from Contractor, by reason thereof.

5.3. Should the Subcontractor be obstructed or delayed in the commencement, prosecution or completion of the Work because of conditions not attributable to the Subcontractor and which by the terms of the Construction Contract may be grounds for an extension of time, it shall, in full and complete compensation for said delay and as its sole remedy, within twenty-four (24) hours thereafter, make claim to Contractor in writing, for an extensions of time, and Contractor may adjust the project schedule appropriately. Said extension of time shall be no greater than shall be allowed by the Owner to Contractor under the Construction Contract for said delay. If the Subcontractor fails to furnish Contractor written notice in accordance with this paragraph, the Subcontractor agrees that it has waived any right to any such extension of time.

5.4. The Subcontractor acknowledges that the Subcontract Price is based on the fact that Contractor is not liable, absent actual fraud, for any damages or costs due to delays, accelerations, impact, non-performance, interferences with performance (active or otherwise), suspension or changes in the performance or sequence of the Subcontractor's Work, even if Contractor denies an extension of time to the Subcontractor. Thus, in no event, absent actual fraud, shall Contractor be liable to the Subcontractor for any damages caused by delay, acceleration, interferences, suspension, non-performance, or changes in the sequence of performance or impact upon, or with, the Work of the Subcontractor. Contractor shall have the right, at any time, to delay, accelerate or suspend the commencement or execution of the whole or any part of the Work, or vary the sequence or performance thereof, without compensation to the Subcontractor other than extending the time for completing the Work for a period equal to such delay or suspension. Progress schedules may from time to time be modified to conform to acceleration, delays, suspensions or variances and the Subcontractor shall conform its progress thereto.

5.5. No allowance for time will be made to the Subcontractor for delay in preparing its submittals or in securing approval of the Architect when such submittals are not timely or properly prepared for approval of the Architect and in his absence, the Contractor.

5.6. In addition to the foregoing provisions of this Article, and not in limitation thereof, it is understood that, at the time of execution of this Subcontract, the parties hereto are aware of the possibility of increase in the prices of labor and materials necessary to perform this Subcontract and/or the difficulty in obtaining same. It is accordingly understood that no claim shall be made by the Subcontractor for any increase in the Subcontract Price herein even though it may be necessary to obtain materials from local warehouse stocks or otherwise in order to perform within the time required by Contractor The Subcontractor shall at no time claim that the Subcontract Price was predicated on obtaining labor and / or materials from any particular manufacturer or source of supply or at a particular price. If it be thereafter claimed that the Subcontractor finds that the price of labor and materials herein provided for has increased to any extent for any reason whatsoever, including (but without limiting the generality of the source or causes of such possible increases) strikes, forced or voluntary agreements between employer and employee, present or future, Federal, State, County or Municipal regulations, enactments, statutes, decrees, present or future codes, trade association agreements; whether the same be brought by statute, agreement or otherwise, freight rates, or any change of economic conditions whatsoever, it is understood that any and all risks of increase in the price of labor and materials have been contemplated by the Subcontractor and have been taken into full consideration in arriving at the Subcontract Price. The Subcontractor shall at no time claim against Contractor for such increase even though the Subcontractor has been brought into a period of increased labor and material cost by reason of delays of Contractor or any of its other subcontractors. However, in the event the Subcontractor is brought into a period of increased costs as a result of delays attributable to the Owner or its representatives, or other independent contractors employed by the Owner, the Subcontractor shall be entitled to recover for such costs, only to the extent that Contractor recovers same from the Owner. Moreover, if Contractor makes a claim for such costs against the Owner, the Subcontractor shall reimburse Contractor for the Subcontractor's share of the costs of preparing and presenting the claim, suit, appeal, etc. ("the Claim:"). The Subcontractor's share of the costs shall be computed by the fraction, the numerator of which is the Subcontractor's claim and the denominator of which is the total value of the Claim. The Subcontractor agrees to be bound by the outcome of the Claim, regardless of the forum in which it is resolved. In the event Contractor decides not to present the Claim, the Subcontractor shall have no right of recovery against Contractor In the event Contractor decides not to pursue a claim involving Subcontractor's work with the Owner, Contractor may authorize the Subcontractor to pursue that claim, in the name of Contractor The Subcontractor agrees that in such event, its sole remedy shall be the amount recovered from the Owner and it shall have no further claim against Contractor

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5.7. Should concealed conditions be encountered in the performance of the Work below the surface of the ground, or should concealed or unknown conditions be at variance with the conditions indicated or depicted by the Contract Documents, or should unknown physical conditions exist below the surface of the ground or should concealed or unknown conditions exist in an existing structure of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in the work of the character provided for in the Subcontract, be encountered, the Subcontractor shall remain obligated to continue to perform the Work in accordance with the terms of the Contract Documents and shall not be entitled to payment of any additional sums to perform the Work, notwithstanding the existence of such conditions, as the Subcontractor specifically assumes the risk of encountering any and all such concealed conditions. However, if Contractor, in its sole and exclusive discretion, decides to present a claim to the Owner to recover for any unforeseen conditions, then the Subcontractor shall reimburse Contractor in accordance with the method set forth in 5.5 of the Subcontract. In that event, the Subcontractor agrees to be bound by the outcome of that claim. If Contractor recovers additional monies from the Owner on account of the unforeseen conditions, the Subcontractor shall be entitled to its proportionate share of the net proceeds. It is understood and agreed however, that if Contractor does not decide to pursue a claim against the Owner, the Subcontractor has no right of recovery against Contractor In the event Contractor decides not to pursue a claim involving Subcontractor's work with the Owner, Contractor may authorize the Subcontractor to pursue that claim, in the name of Contractor The Subcontractor agrees that in such event, its sole remedy shall be the amount recovered from the Owner and it shall have no further claim against Contractor

5.8. Should the Subcontractor be delayed by strikes or lockouts not attributable to Subcontractor's acts or omissions, then the time for the completion of the Work shall be extended for a period equivalent to the time lost, or Contractor shall, at its option, have the right to terminate the Subcontract and to employ other contractors to finish the Work and provide the materials therefore, and to pay the Subcontractor pro rata for materials and work already supplied, or the Price, reduced by completing the Work for which provision is made herein, whichever is less.

ARTICLE 6. Freight Charges and Shipment

6.1. The Subcontractor in making or ordering shipments shall not consign or have consigned materials, equipment or any other items in the name of Contractor. Contractor is under no obligation to make payment for charges on shipments made by or to the Subcontractor but may, at its option, pay such charges, in which case the Subcontractor shall immediately upon presentation for payment, reimburse Contractor for the amount of such payment plus a service charge of 10% percent of the amount paid.

ARTICLE 7. Dimensions and Contiguous Work

7.1. Notwithstanding the dimensions given on the plans, specifications and other Contract Documents it shall be the obligation and responsibility of the Subcontractor to take such measurements as will insure the proper matching and fitting of the Work with contiguous work.

7.2. The Subcontractor shall prepare and immediately upon receipt of an executed copy of the Subcontract submit to Contractor such shop drawings as may be necessary to describe completely the details and construction of the Work. Approval of such shop drawings by Contractor and/or the Architect shall not relieve the Subcontractor of its obligation to perform the Work in strict accordance with the Contract Documents, or of its responsibility for proper matching and fitting of the work with contiguous work.

7.3. Should the proper and accurate performance of the Work hereunder depend upon the proper and accurate performance of other work not covered by the Subcontract, the Subcontractor shall carefully examine such other work, and determine whether it is in fit, ready and suitable condition for the proper and accurate performance of the Work, use all means necessary to discover any defects in such other work, and before proceeding with the Work, report promptly any improper conditions and defects to Contractor in writing and allow Contractor a reasonable time to have such improper conditions and defects remedied.

7.3.1. If the Subcontractor commences any portion of the Work without notifying Contractor of defects in contiguous work, then the Subcontractor shall have conclusively accepted such contiguous work as fit, ready and in condition suitable and sufficient for the proper and accurate performance of the Work hereunder and shall not be entitled to recover any damages resulting from the defect in contiguous work.

7.4. The Subcontractor will provide all layout and engineering work required for the Work beyond two (2) axis lines and one (1) bench mark provided by Contractor on grade.

ARTICLE 8. Interpretation of Plans and Specifications

8.1. The work hereunder is to be performed and furnished under the direction and to the satisfaction of both the Architect and Contractor. The decision of the Architect and in his absence, the Contractor, as to the true construction, meaning and intent

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of the plans and specifications shall be final and binding upon the Subcontractor. Contractor will furnish to the Subcontractor such additional information and plans as may be prepared by the Architect to further describe the Work to be performed and furnished by the Subcontractor and the Subcontractor shall conform to and abide by the same.

8.1.1. The Subcontractor shall not make any changes, additions and/or omissions in the Work except upon written order of Contractor as provided in Article IX hereof.

ARTICLE 9. Changes in the Work

9.1. Contractor reserves the right, from time to time, whether the Work or any part thereof shall not have been completed, to make changes, additions and/or omissions in the Work as it may deem necessary upon written order to the Subcontractor. The Subcontractor acknowledges and agrees that it shall make no claim for extra or additional compensation on account of any such work, unless same shall have been done pursuant to a written order, signed by the representative designated by Contractor as having the authority to order such extra work.

9.2. A Change Order is a written instrument prepared by Contractor and signed by Contractor, Owner and Subcontractor, stating their agreement upon one or more of the following:

9.2.1. Change in the work; or

9.2.2. The amount of the adjustment, if any, in the Subcontract Price; or

9.2.3. The extent of the adjustment, if any, in the time in which Subcontractor is to complete the change in the work or this Subcontract.

9.3. The amount to be paid to the Subcontractor on account of any extra, changed, added or omitted work shall be:

9.3.1. An agreed upon lump sum price, or;

9.3.2. Unit prices or Alternates as specified in this Subcontract;

9.3.3. A time and material basis computed as follows:

9.3.3.1. On the basis of actual or estimated costs, whichever is less, of labor, material, supplies, and other expenses (hereafter called "Costs of the Work") where such Costs of the Work shall be completely itemized showing quantities for each. Wage benefits, taxes, insurances, etc., shall be computed and shown separately as well as sales tax if applicable. Overhead and profit as provided for in Schedule "A" shall then be computed on the Costs of the Work subtotal. The overhead and profit costs as provided for in Schedule "A" shall be in lieu of all administration, clerical expense, supervision, or superintendent of any nature whatsoever, including foremen, or the cost, use or rental of tools or plant. The combined O&P for the Subcontractor on its subcontractors is as provided for in Schedule "A".

9.3.4. On the basis of actual or estimated costs, whichever is less, for work performed by a sub-subcontractor where the sub-subcontractor's costs shall be completely itemized showing quantities for each. The sub-subcontractor shall be allowed combined overhead and profit which amount in total shall not exceed the percentage provided for in Schedule "A" of such cost, which shall be itemized separately and the Subcontractor shall be allowed combined overhead and profit which amount in total shall not exceed the percentage provided for in Schedule "A" of such costs. The same limitations on all overhead costs are provided in 9.3.3.1 above shall apply herein.

9.3.5. If Contractor determines that the actual cost is to be used to compute the value of extra work, the Subcontractor shall submit daily time and material tickets on each day that the changed work is performed to Contractor's authorized representative, for verification. The failure of the Subcontractor to submit any daily tickets shall constitute a valid basis for Contractor to refuse payment.

9.4. Notwithstanding any provisions in this Article 9 or any other provisions in the Subcontract, the overhead and profit markup to which the Subcontractor is entitled shall not exceed the markup specified in the contract documents.

9.5. In the event that Contractor directs the Subcontractor to perform any item of work, which the Subcontractor claims involves extra or additional work, the Subcontractor shall, within three (3) days after receipt of such direction, and before proceeding therewith, make written claim to Contractor, setting forth in detail the basis of its contention that the work is extra or additional, together with a detailed breakdown showing separately the additional cost of each item of labor and material. The Subcontractor shall then proceed with this work.

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9.6. A failure to make written notice of claim within the time specified, and in the manner as herein provided, shall constitute a waiver of such claim and no recovery may be had by the Subcontractor on account of the performance of such work.

9.7. The failure of the Subcontractor to perform this work immediately after giving written notice of its claim, or on the fourth day subsequent to being directed to perform this work, whichever is less, shall constitute a material breach of the Subcontract, regardless of the legitimacy of the Subcontractor's contentions, as it is specifically understood and agreed that the progress of the Work may not be delayed by reason of any controversy between the parties.

9.8. With respect to any items of work that may be in dispute as in paragraph 9.5, Contractor upon receipt of Subcontractor's written notice of its claim may submit same to the Architect and in his absence, the Owner, for its determination.

9.8.1. The Subcontractor agrees to be bound by the determination of the Architect and in his absence, the Owner, and will accept such payment, if any, as specified by the Architect and in his absence, the Owner, as full and final payment for all claims submitted. Should the Architect and in his absence, the Owner, determine the work is not an extra and awards no payment for such, or awards a partial payment for said claim, the Subcontractor agrees to accept said determination and payment as payment in full.

9.8.2. Contractor, however, in its sole and exclusive discretion, may appeal from any ruling or may institute suit for damages for extra work or contest any deduction or refusal to pay by the Owner for any reason which involves the Work of the Subcontractor. In that event, the Subcontractor shall pay its share of the cost of appeal or suit, and shall render every assistance, without cost to Contractor, in the prosecution of said appeal or suit. The Subcontractor's share of the costs shall be computed by the same method set for in Article 5 of the Subcontract. The Subcontractor shall otherwise be bound by the determination of the Owner, and/or Architect; or in the event of appeal or suit, by determination in said appeal or suit or by any settlement made by Contractor, in good faith, at any time during the tendency of said appeal or suit. In the case of any recovery, the Subcontractor shall be entitled to those amounts allocated to its work, less overhead and profit to Contractor and all expenses and attorneys' fees incurred by Contractor in prosecuting such appeal or suit.

9.9. The Subcontractor agrees that no claim, invoice or application for payment shall include any modifications to the Subcontract Price, without an executed change order, pursuant to which such work is eligible for payment.

9.10. Where any additional work is ordered, the Subcontractor shall for such purposes, permit Contractor, to audit its books. The Subcontractor shall produce any and all data which Contractor may request for the purpose of determining the correctness of the charges. The Subcontractor shall keep such full and detailed accounts as may be necessary to reflect its operations with respect to such changes and extras, and the systems adopted shall be such as is satisfactory to Contractor. Contractor, its agents and employees, shall be afforded access at all reasonable times to the Subcontractor's and vendor's books, correspondence, instructions, receipts, voucher, memoranda, and records of all kinds, relating to all work under this Subcontract as well as to such changes and extras, and the Subcontractor shall preserve the same for a period of six years after final payment hereunder. In regard to the foregoing and generally, the Subcontractor hereby authorizes Contractor to check directly with its suppliers of labor and materials to verify the charges for such labor, materials and other items appearing in the Subcontractor's bills rendered to Contractor, to confirm balances due and obtain sworn statements and waivers of lien.

9.11. Should the Subcontractor receive a bulletin, or pricing request, which it contends will involve additional work, it shall submit in detail its proposal to Contractor within seven (7) days of receipt. It is agreed that if the Subcontractor does not submit such proposal within seven (7) days, then Contractor may estimate the value of work to be performed by the Subcontractor, and the Subcontract will execute a subcontract change order for Contractor's estimated value of work, if so directed by Contractor and then proceed to complete such work for the price established thereby.

9.12. In no event shall the terms of this Article impair or modify in any manner, or to extend or expand the liability of Contractor to the Subcontractor.

ARTICLE 10. Inspection and Defective Work

10.1. The Subcontractor shall at all times provide sufficient, safe and proper facilities for the inspection of the Work by Contractor, the Architect and their authorized representatives in the field, at shops, or any other place where materials or equipment for the Work are in the course of preparation, manufacture, treatment or storage. The Subcontractor shall, within twenty-four (24) hours after receiving written notice from Contractor of any defective work, proceed to take down all portions of the Work and remove from the premises all materials whether worked or unworked, which the Architect or Contractor shall condemn as unsound, defective or improper or are in any way failing to conform to the Contract Documents, and the Subcontractor, at its own cost and expense shall replace the same with proper and satisfactory work and materials and make good all work damaged or destroyed by or as a result of unsound, defective, improper or nonconforming work or materials or by the taking down, removal or replacement thereof.

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ARTICLE 11. Default

11.1. Should the Subcontractor at any time refuse or neglect to supply sufficient skilled workmen or materials of the proper quality and quantity, or fail in any respect to prosecute the Work with promptness and diligence, or cause by any act or omission the stoppage or delay of or interference with or damage to the work of Contractor or any other contractors or subcontractors on the Project, or fail in the performance of any of the terms and provisions of the Subcontract, Work Order, or of the other Contract Documents, or should the Architect, and in his absence the Contractor, determine that the Work or any portion thereof is not being performed in accordance with the Contract Documents, then in any of such event, each of which shall constitute a default hereunder on the Subcontractor's part, Contractor shall have the right to, in addition to any other rights and remedies otherwise provided by the Subcontract and the other Contract Documents, or by law, after forty-eight (48) hours written notice to the Subcontractor mailed or delivered to the last known address of the Subcontractor, and the Subcontractor fails to take corrective actions or cure the defect within that time (a) perform and furnish through itself or through others any such labor or materials for the Work and to deduct the cost thereof from any monies due or to become due to the Subcontractor under the Subcontract, and/or (b) terminate the employment of the Subcontractor for all or any portion of the Work, enter upon the premises and take possession for the purpose of completing the Work, of all materials, equipment, scaffolds, tools, appliances and other items thereon, all of which the Subcontractor hereby transfers, assigns and sets over to Contractor for and until the completion of such work, and to employ any person or persons to complete the Work and provide all the labor, services, materials, equipment and other items required therefore.

11.1.1. In case of such termination of the employment of the Subcontractor, the Subcontractor shall not be entitled to receive any further payment under the Subcontract or any Work Order until the Work shall be wholly completed to the satisfaction of Contractor, the Architect and the Owner, and they shall have accepted same, at which time, if the unpaid balance of the amounts to be paid under the Subcontract shall exceed the cost and expense incurred by Contractor in completing the Work, such excess shall be paid by Contractor to the Subcontractor; but if such cost and expense shall exceed such unpaid balance, then the Subcontractor shall immediately upon receipt of notice of the amount thereof pay the difference to Contractor Such cost and expense shall include, the cost of completing the Work to the satisfaction of Contractor, the Owner and the Architect, and of performing and furnishing all labor, services, materials, equipment, and other items required therefore, a reasonable charge for Contractor's overhead and profit; and all losses, damages, costs and expenses, including legal fees and disbursements sustained, incurred or suffered by reason of or resulting from the Subcontractor's default.

11.2. Should one or more other Subcontracts, now or hereafter, exist between the Subcontractor and Contractor, concerning this or any other construction project, then a breach by the Subcontractor of any Subcontract may, at the option of Contractor, be considered a breach of all subcontracts; and in that event, Contractor may terminate any and all of the Subcontracts so breached or may withhold monies due or to become due on any Subcontracts and apply the same toward payment of any damage suffered on that or any other such Subcontracts.

ARTICLE 12. Loss or Damage to Work

12.1. Neither the Owner nor Contractor shall be responsible for any loss or damage to the Work to be performed and furnished under the Subcontract, however caused, until after final acceptance thereof by Contractor and the Owner, nor shall Contractor or the Owner be responsible for loss of or damages to materials, tools, equipment, appliances or other personal property owned, rented or used by the Subcontractor or anyone employed by it in the performance of the Work, however caused.

12.2. Regardless of the provisions of the Construction Contract or specifications, Contractor will not be required to provide any watchman service or other security for the protection of the Subcontractor and will not, in any manner, be answerable or accountable for any loss or damage, including theft, that shall or may happen to the Work, or any part, or parts thereof, or any of the materials or other things used or employed in finishing or completing the work.

12.3. Contractor or the Owner, if provided in the Contract Documents, shall effect and maintain fire insurance (with extended coverage, if specified or otherwise required) upon all work, materials and equipment incorporated in the Project and all materials and equipment on or about the Premises intended for permanent use or incorporation in the Project or incident to the construction thereof, the capital value of which includes the cost of the Work, but not including any machinery, tools, equipment, appliances or other property owned, rented or used by the Subcontractor or anyone employed by it in the performance of the Work.

12.4. The total value of the property insurable under this paragraph, as shown on the approved monthly requisition provided for in Article IV, plus the total value of similar property incorporated in the Project or delivered on the Premises by or on behalf of the Subcontractor during the month but not included in said requisition, as reported by the Subcontractor to Contractor for insurance purposes only, shall determine the total value of the Subcontractor's work, materials, and equipment to be insured under this paragraph.

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12.5. The maximum liability to the Subcontractor under such insurance shall be for no more than that proportion of any loss which the last reported value of the Subcontractor's insured property bore to the actual value of said property at the time of such last report, and in no event for more than the actual loss.

12.6. In the event of a loss under this paragraph, the Subcontractor shall be bound by any adjustment which shall be made between Contractor and/or the Owner and the insurance company or companies. The payment for any loss, shall be made payable to Contractor and/or the Owner, as their interests may appear, for the account of whom it may concern.

ARTICLE 13. Cleaning Up

13.1. The Subcontractor shall on a daily basis or less frequently, in the sole discretion of Contractor, and at the Subcontractor's own cost and expense, (1) keep the area of the premises in which the Work is being performed free at all times from all waste materials, packaging materials, and other rubbish accumulated in connection with the execution of the Work by collecting and depositing daily said material and rubbish in locations as designated by Contractor from which it shall be removed by the Subcontractor from the premises by others, (2) clean and remove from its own work and from all contiguous work of others any soiling, staining, mortar, plaster, concrete or dirt caused by the execution of the Work and make good all defects resulting therefrom, (3) at the completion of its work in each area "broom clean" and (4) upon the completion of the Work, remove all of its tools, equipment, scaffolds, shanties, trailer and surplus materials. Should the Subcontractor fail to perform any of the foregoing to Contractor's satisfaction, Contractor shall have the right, after notice (written or oral) to perform and complete such work itself or through others and deduct the costs thereof from any payment due the Subcontractor.

ARTICLE 14. Compliance with Law and Permits

14.1. The Subcontractor shall obtain and pay for necessary permits and licenses pertaining to the Work and shall comply with all Federal, State, County and Municipal laws, ordinances, rules, regulations, orders, notices and requirements, including, among others, those relating to safety, discrimination in employment, fair employment practices or equal employment opportunity, whether or not provided for by the plans, specifications, general conditions or other Contract Documents, without additional charge or expense to Contractor, and shall also be responsible to correct, at its own cost and expense, any violations thereof resulting from or in connection with the performance of the Work. The Subcontractor shall at any time upon demand furnish such proof as Contractor may require showing such compliance and the correction of such violations. The Subcontractor agrees to save harmless and indemnify Contractor from and against any and all loss, injury, claims, actions, proceedings, liability, damages, fines, penalties, costs and expenses, including legal fees and disbursements, caused or occasioned directly or indirectly by the Subcontractor's failure to comply with any of said laws, ordinances, rules, regulations, standards, orders, notices or requirements or to correct such violations.

14.2. Where the Contract Documents or any part thereof, conflict with laws, codes, ordinances, rules, regulations, orders, notices, or requirements (collectively "Laws"), it is intended that all Laws be followed. The Subcontractor shall at once report to Contractor any inconsistency with any Laws prior to proceeding. The Subcontractor shall promptly notify Contractor and any respective departments, or official bodies, when its work is ready for inspection and shall, at once, do all work required to remove any violations or to comply with such inspections, without additional charge to Contractor. The Subcontractor shall perform all work necessary to obtain approval from all authorities and agencies without additional cost to Contractor or the Owner.

14.3. The Subcontractor will notify Contractor of any and all hazardous materials (as defined by OSHA or any State or local law, code or regulation) being brought to or stored at the Project five (5) days before same arrives at the job site and the length of time the material will remain at the Project and the manner in which it will be used and applied; so that all personnel on the site can be notified. In its notice, the Subcontractor shall identify the material which it intends to store on site and inform Contractor that the material is hazardous.

ARTICLE 15. Labor Materials and Equipment

15.1. The Subcontractor shall not employ persons, means, materials or equipment which or whose presence or performance on or at the Premises are likely to cause strikes, work stoppages or any disturbances by workmen employed by the Subcontractor, Contractor or other contractors or subcontractors, on or in connection with any work on the Project. The Subcontractor agrees that all disputes as to jurisdiction of trades shall be adjusted in accordance with any plan for the settlement of jurisdictional disputes, provided that the provisions of this Article shall not be in violation of or in conflict with any provisions of law applicable to the settlement of such disputes. Should the Subcontractor fail to carry out or comply with any of the foregoing provisions, Contractor shall have the right, in addition to any other rights and remedies provided

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by the Subcontract or the other Contract Documents or by law, after forty-eight (48) hours written notice mailed or delivered to the last known address of the Subcontractor, to terminate the Subcontract or any part thereof or the employment of the Subcontractor for all or any portion of the Work, and, for the purpose of completing the Work, to enter upon the premises and take possession, in the same manner, to the same extent, and upon the same terms and conditions as set for in Article XI of the Subcontract.

15.2. All Municipal, County, State, and Federal antidiscrimination and right to work laws will be observed by the Subcontractor in the employment of all personnel at the Project.

15.3. The Work is to be done in the best manner and by persons skilled in the type of work to be performed. The Subcontractor shall give the Work constant attention and supervision through a responsible representative or superintendent, and any necessary assistants. Such representatives shall be authorized to act for the Subcontractor in all matters relating to the Work, and all directions given him shall be as binding as if given to the Subcontractor. The Subcontractor shall also keep a competent foreman at the Project while work is in progress and enforce strict discipline among the employees, including Contractor's regulations with regards to fires, smoking and other hazards. Contractor is given the right to require the Subcontractor to remove immediately any employee or agent of the Subcontractor employed at the Project who Contractor deems incompetent or a hindrance to the proper progress of the Work, and such person shall not again be employed in the Work without prior written consent of Contractor.

15.4. All materials and equipment are to be new and of the best quality of the kind specified, and the Subcontractor shall furnish satisfactory evidence of the kind and quality of materials and equipment when requested. The Subcontractor shall obtain the manufacturer's written recommendation that the material and equipment is designed and appropriate for the use intended and shall furnish guarantees where such can be obtained. Such materials and equipment shall not be subject to any conditional bill of sale, security agreement, financing statement, chattel mortgage, or any other claim, lien or encumbrance. The Subcontractor shall, if required by Contractor, cause materials (1) to be manufactured in advance, (2) to be warehoused either at the factory or elsewhere, as directed by Contractor, (3) to be delivered to the Project promptly when so instructed by Contractor, (4) to be relocated or removed from the Project at the cost of the Subcontractor. Care must be exercised by the Subcontractor against overloading any parts of floors, roofs, scaffolding and other installations. All materials delivered to the Project which are to form a part of the Work herein specified shall not be removed without the consent of Contractor, but the Subcontractor will have the right to and shall remove all of its surplus materials after completion of the Work provided that such material was not originally provided by Contractor for the Subcontractor's safekeeping and installation or has already been invoiced to or paid for by the Owner.

ARTICLE 16. Taxes and Contributions

16.1. The Subcontractor for the Price herein provided for, hereby accepts and assumes exclusive liability for and shall indemnify, protect and save harmless Contractor and the Owner from and against the payment of:

16.1.1. all contributions, taxes, or premiums (including interest and penalties thereon) which may be payable under the Unemployment Insurance Law of any State, the Federal Social Security Act, Federal, State, County and/or Municipal Tax withholding laws, or any other laws, measured upon the payroll of or required to be withheld from employees, by whomsoever employed, engaged in the Work to be performed and furnished under this Agreement; and

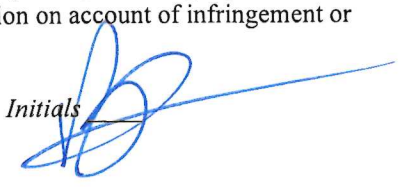
16.1.2. all sales, uses, personal property and other taxes (including interest and penalties thereon) required by any Federal, State, County and Municipal Law to be paid or collected by the Subcontractor or any of its subcontractors or vendors or any other person or persons acting for, through or under it or any of them, by reason of the performance of the Work or the acquisition, ownership, furnishing or use of any materials, equipment, supplies, labor, services or other items for or in connection with the Work; and

16.1.3. all pension, welfare, vacation, annuity and other union benefit contributions payable under or in connection with labor agreements with respect to all persons, by whomsoever employed, engaged in the Work to be performed and furnished under the Subcontract; and

16.1.4. the Subcontractor's proportionate share of any and all other taxes imposed by any governmental body as a consequence of Contractor's performance of the Construction Contract other than Federal, State, County and Municipal Income Taxes.

ARTICLE 17. Patents

17.1. The Subcontractor hereby agrees to indemnify, protect and save harmless Contractor and the Owner from and against any and all liability, loss or damage and to reimburse Contractor and the Owner for any expenses, including legal fees and disbursements, to which Contractor and the Owner may be put because of claims or litigation on account of infringement or

Initials 

alleged infringement of any patent or patent rights by reason of the Work or materials, equipment or other items used by the Subcontractor in its performance.

ARTICLE 18. Mechanics Lien

18.1. In the event that the Subcontractor's subcontractors, material suppliers, and/or employees or any party with whom it has entered into a relationship, files a mechanic's notice of intention to lien, mechanic's lien, claim or stop payment notice arising out of or in connection with the Work, labor or material which is included in the Subcontract, the Subcontractor shall immediately cause same to be discharged, satisfied or bonded and in default thereof, Contractor shall have the right to bond said claim or otherwise discharge same and to retain, out of any payment then due, or thereafter to become due, an amount sufficient to completely indemnify itself and the Owner against such lien or other claim, with interest, together with the expense incident to discharging such lien, or claim, and the defense of any such suit to enforce such lien or other claim, including any premiums charged for any bond and all attorneys' fees and disbursements incurred, all of which the Subcontractor agrees to promptly pay to Contractor. Should there prove to be any claim by a subcontractor or supplier of the Subcontractor after all payments have been made under the Subcontract, the Subcontractor shall refund to Contractor all monies that the latter may be compelled to pay in discharge and/or defense of the claim. Any lien or other claims, until satisfied or withdrawn shall preclude any and all claims or demand for any payment whatsoever by the Subcontractor. The Subcontractor agrees to indemnify, protect and save harmless Contractor and the Owner from and against any and all claims, actions, fines and penalties brought or imposed or judgments rendered thereon, or any loss, damages, liability, cost and expenses including legal fees and disbursements which Contractor and/or the Owner may sustain or incur as a consequence of the Subcontractor's failure to comply with the terms of this Article.

18.2. The Subcontractor agrees to save harmless Contractor from any and all claims arising out of the failure to comply with any provisions of the Subcontract, and should any claims be presented to Contractor by any suppliers, materialmen, subcontractors or provider of any goods and services, the Subcontractor shall, within ten (10) days after notification of said claim being made, dispose of said claim to the final satisfaction of Contractor If after the said ten (10) day period, the Subcontractor has failed to dispose of said claim or claims, Contractor shall have the right to dispose of said claims in any manner it sees fit. Should the resolution of such claim be contingent upon disbursement of funds to a claimant, Contractor has the right to make disbursements to the claimant directly, or by a joint check payable to the Subcontractor and the claimant and deduct said payments from the monies due or to become due to the Subcontractor.

ARTICLE 19. Assignment and Subcontracting

19.1. Neither the Subcontract, nor any monies due or to become due hereunder shall be assignable without prior written consent of Contractor, nor shall the whole or any part of the Work be subcontracted without prior written consent of Contractor. Any such assignment or subcontracting without such prior written consent shall be void and of no effect and shall vest no right or right of action in the assignee or subcontractor against Contractor. Contractor's consent to any assignment or subcontracting shall not relieve the Subcontractor of any of its agreements, duties, responsibilities or obligations under the Subcontract and the other Contract Documents, and the Subcontractor shall be and remain as fully responsible and liable for the defaults, neglects, acts and omissions of its assignees and subcontractors and all persons directly or indirectly employed by them as it is for its own defaults, neglects, acts and omissions and those of its own officers, servants and employees. The Subcontractor shall bind each of its sub-subcontractors to all of the terms, provisions and covenants of the Subcontract and the other Contract Documents. Contractor's consent to any subcontracting shall not be deemed to create any contractual or third-party beneficiary relationship between Contractor and any sub-subcontractor to whom the work or any portion thereof is subcontracted, and shall not vest any right of action in such sub-subcontractor against Contractor or the Owner.

ARTICLE 20. Termination of Agreement

20.1. Contractor shall have the right at any time upon forty-eight (48) hours written notice to the Subcontractor, to terminate the Subcontract without cause and require the Subcontractor to cease work hereunder, in which case, provided the Subcontractor is not then in default, Contractor shall pay the Subcontractor for labor, materials, equipment and the like furnished to the project site, and not previously paid for, at the time of the termination. Under no circumstances, regardless of the reason for the termination of the Subcontract, shall the Subcontractor be entitled to consequential damages, overhead, profit or any other markup on the value of work not performed, or any amounts other than the value of the work performed up until the date of termination.

20.2. If termination of the Subcontract by Contractor is for any reason determined by a court, arbitration panel or any other body to be improper and/or without cause, then such termination shall be deemed to be for convenience and the payment if any due Subcontractor shall be limited as set forth earlier in this paragraph and Subcontractor shall not under any circumstances be entitled to consequential damages and/or overhead, profit or any other markup on the value of work not performed.

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20.3. In the event of termination of the Construction Contract, at any time,

20.3.1. the Contractor shall have the right to immediately terminate this Agreement or any Work Order issued thereto, and require the Subcontractor to cease work thereon;

20.3.2. Contractor shall be liable only for the amount actually received by Contractor from Owner for the work performed by the Subcontractor less Contractor's appropriate share of said sums and in no event shall the amount received by the Subcontractor be a greater sum than that which Contractor obtains from the Owner whether such sum is received by reason of additions, omissions or termination; and deducted therefrom shall be the Subcontractor's proportionate share of all expenses incurred by Contractor (including litigation costs and attorneys' fees, if any) and reasonable overhead. In the event of a deduction, the amount of the deduction taken by the Owner shall be binding upon the Subcontractor.

ARTICLE 21. Warranties

21.1. The Subcontractor hereby warranties the Work to the full extent provided in the plans, specifications, general conditions, special conditions, and other Contract Documents.

21.2. The Subcontractor shall remove, replace and/or repair at its own expense and at the convenience of the Owner any faulty, defective or improper work, materials or equipment discovered within one (1) year from the date of the final acceptance of the Project as a whole by the Architect and the Owner or for such longer period as may be provided in the plans, specifications, general conditions, special conditions or other Contract Documents. The Subcontractor shall commence such work within twenty-four (24) hours of notice from Contractor and in default thereof, Contractor may proceed to perform such work at the expense of the Subcontractor.

21.3. Without limitation by the foregoing, the Subcontractor shall pay in addition for all damages to the Project resulting from defects in the Work and all costs and expenses necessary to correct, remove, replace and/or repair the Work and any other work or property which may be damaged in correcting, removing, replacing or repairing the Work.

ARTICLE 22. Accident Prevention

22.1. The Subcontractor agrees that the prevention of accidents to workmen engaged upon or in the vicinity of the Work is its responsibility. The Subcontractor agrees to comply with all Federal, State, County and Municipal laws, ordinances, rules, regulations, codes, standards, orders, notices and requirements concerning safety as shall be applicable to the Work, including, among others, the Federal Occupational Safety and Health Act, as amended, and all standards, rules, regulations and orders which have been or shall be adopted or issued there under, and with the safety standards established by Contractor, during the progress of the Work. When so ordered, the Subcontractor shall stop any part of the Work which Contractor deems unsafe until corrective measures satisfactory to Contractor have been taken, and the Subcontractor agrees that it shall not make any claim for damages growing out of such stoppages. Should the Subcontractor neglect to take such corrective measures, Contractor may do so at the cost and expense of the Subcontractor and may deduct the cost thereof from any payments due or to become due to the Subcontractor. Failure on the part of Contractor to stop unsafe practices shall in no way relieve the Subcontractor of its responsibility therefore The Subcontractor agrees to indemnify, protect, and save harmless Contractor from any and all claims, actions, fines and penalties brought or imposed or judgments rendered thereof, and from and against any and all loss, damages, liability, costs and expenses, including legal fees and disbursements, which Contractor and/or the Owner may sustain or incur as a result of an accident involving the Work.

22.2. The Subcontractor shall notify Contractor of any injury to any one of its employees or any employee of one of its subcontractors, with respect to the Work, on the day of the injury and provide a written description of the injury within three (3) days of the date of such injury.

22.3. Notwithstanding any other provision of this Subcontract, the Subcontractor acknowledges that it is ultimately responsible for all construction safety procedures and precautions under Federal, State, County and Municipal law which pertain to the Work, and the Subcontractor shall hold, indemnify and save the Owner and Contractor harmless from and against any and all claims or expenses resulting from any act taken by any employee of the Subcontractor, a sub-subcontractor, or any injury or damage caused by any unsafe or negligent act or occurrence resulting from the Work.

ARTICLE 23. Indemnity and Insurance

23.1. See Schedule "C" for insurance and indemnity requirements.

23.2. The Subcontractor covenants and agrees that it shall not sublet any part of the Work hereunder without requiring its subcontractors to purchase and maintain insurance policies and coverage required by the terms and conditions of Article 23.

Initials ____

The Subcontractor shall furnish satisfactory evidence that its subcontractors have purchased said insurance by causing a certificate of insurance, including the ACORD 855 if applicable, to be furnished to Contractor.

23.3. Compliance by the Subcontractor with the foregoing requirements as to the carrying of insurance and furnishing of certificates of insurance shall not in any way relieve the Subcontractor from any liability or diminish its obligations under this Article or any other provision of the Subcontract.

23.4. Within twenty-four (24) hours of all accidents or occurrences resulting in injury to the Subcontractor's employees, or third parties or damage to property of another, the Subcontractor shall submit a written report, in a form acceptable to Contractor. When requested by Contractor, the Subcontractor shall furnish Contractor with a copy of any reports prepared for submission to the Subcontractor's insurance company.

23.5. The Subcontractor agrees to be bound to Contractor by the terms and conditions of Contractor's agreements with the Owner, a copy of said agreement being available for inspection at the office of Contractor. The Subcontractor further agrees that all conditions and requirements imposed, or to be imposed, upon Contractor by its Contract with the Owner shall be performed by the Subcontractor insofar as applicable to the Work under the Subcontract, and the Subcontractor hereby assumes toward Contractor all obligations and responsibilities that Contractor, by contract, has assumed or will assume toward the Owner with respect to said Work.

ARTICLE 24. Dispute Resolution

24.1. Except as provided in paragraph 24.2 below, any and all disputes or claims arising out of and/or related to the Subcontract and the performance of the Work at the Project, shall be decided by litigation in the State or Federal Courts where the Project is located and venue shall be in the County in the County where the Project is located or as close thereto as possible if either a State or Federal Court does not exist in such County.

24.2. Notwithstanding the above, any claims, disputes or other issues arising out of and/or related to the Subcontract and the performance of the work may, at Contractor's sole option, be decided in binding arbitration administered by the American Arbitration Association in accordance with its Construction Industry Arbitration and Mediation rules. If arbitration is selected as the forum, any litigation will be stayed pending the outcome of the arbitration and the parties shall equally pay all AAA fees and arbitrator compensation, subject to reallocation in the arbitrator's award.

24.3. In the event that a dispute exists between the Subcontractor and Contractor arising out of and/or related to a modification of the Construction Contract or any action by the Owner and/or the Architect and in the event that Contractor is involved in an action or proceeding with the Owner, at any time whatsoever, then the dispute between Contractor and the Subcontractor shall be decided in the same manner, location and forum as provided for in the Construction Contract. In the event that an action has been previously commenced by the Subcontractor against Contractor, the Subcontractor agrees to withdraw such action, and participate in the action or proceeding between Contractor and the Owner and/or Architect. The Subcontractor agrees to participate in such action or proceeding and to present its own claim therein, through an attorney chosen by Contractor, at the Subcontractor's own expense and to be bound by the decision rendered thereon. The joinder of additional parties by Contractor or the Owner, or the consolidation of such proceeding with another proceeding, shall in no manner invalidate or limit the provisions of this Article. In any such action, the Subcontractor shall be bound by the arbitrator's or court's determination on its claim or claims, and shall have no additional claim against Contractor resulting from such claim or claims. Any amount awarded on the Subcontractor's claim or claims shall be reduced by the Subcontractor's proportionate share of expenses incurred and overhead and profit attributable to Contractor.

24.4. When the Subcontract is signed by Contractor, it is deemed executed and delivered in the State where the Project is located and shall be construed in accordance with the Laws of that State, without any consideration being given to any principles of choice or conflict of laws.

24.5. No action or proceeding shall lie or be maintained by Subcontractor or anyone claiming under Subcontractor upon any claim arising out of or based upon this Subcontract or the performance of work or by reason of any act or omission or requirement of Contractor, or its representatives, unless such action shall be commenced within one (1) year after the acceptance of work performed pursuant to this Subcontract.

ARTICLE 25. Inconsistent Terms

25.1. In the event there is any inconsistency between the specific terms of this Agreement and the terms of the Construction Contract, general conditions or supplementary conditions, or any other Contract Documents, or in the event that any right or obligation is modified or limited or altered by the terms of any other Contract Document, then the terms of the Construction Contract shall have precedence and govern unless the Subcontractor shall have advised Contractor, upon the execution of the Work Order, of such conflict or inconsistency in which event, Contractor shall have the sole and exclusive discretion to render an interpretation of and decision as to which Contract Document has precedence or, Contractor may refer the matter

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to the Architect, if any for an interpretation and decision. In either event, the decision of Contractor or the Architect shall be final, conclusive and binding upon the Subcontractor.

ARTICLE 26. Bonds

26.1. If requested by Contractor, at any time, either at the commencement of performance or at any time during performance of the Work, the Subcontractor shall furnish to Contractor a performance bond in the amount of one hundred percent (100%) of the Price and a separate payment bond in the amount of one hundred percent (100%) of the Subcontract Price, the form and contents of such bonds and the Surety or Sureties thereon to be satisfactory to Contractor and the premium on such bonds shall be paid by Contractor

ARTICLE 27. No Delay by Subcontractor

27.1. Notwithstanding the fact that a dispute, controversy or question shall have arisen in the interpretation of any provision of the Subcontract regarding the performance of any work, the delivery of any material, the payment of any monies to the Subcontractor, or otherwise, the Subcontractor agrees that it will not directly or indirectly stop or delay any work or part thereof required to be performed, or stop or delay the delivery of any materials required to be furnished hereunder, pending the determination of such dispute or controversy.

ARTICLE 28. Entire Agreement

28.1. No oral representations or other agreements or understandings have been made by Contractor except as stated in the Subcontract. The Subcontract may not be changed in any way except as herein provided, and no term or provision hereof may be waived by Contractor except in writing signed by its duly authorized officer. The Subcontract constitutes the entire negotiated agreement between the parties hereto. Contractor and Subcontractor acknowledge that this Agreement was fully negotiated by the parties and, therefore, no provision of this Agreement will be interpreted against either Party because such party or its legal representative drafted such provision.

28.2. The failure of Contractor to insist in any one or more instances upon strict compliance with any provision of the Subcontract, or to exercise any option herein conferred, shall not be construed as a waiver or relinquishment of the right of Contractor thereafter to require compliance with such provision or a waiver of the right of Contractor thereafter to exercise such option, but such provision or option will remain in full force and effect.

28.3. In the event that any article, paragraph, term or condition of the Subcontract is deemed to be invalid or unacceptable pursuant to any rule, regulation, law, ordinance, code, decision of any court having jurisdiction over the parties or for any reason whatsoever, previously or hereinafter enacted, all other articles, paragraphs, terms or conditions hereof shall be unaffected thereby and shall remain in full force and effect.

28.4. The title of each Article is for convenience only. No such title shall diminish, affect, or alter any term or condition of this Subcontract.

ARTICLE 29. Progress Reports

29.1. The Subcontractor shall furnish daily progress reports of the Work to Contractor in writing on a form approved by Contractor and it shall include the status of materials or equipment that may be in the course of preparation or manufacture.

ARTICLE 30. Miscellaneous

30.1. The Subcontractor shall place and relocate his trailers when and where directed by Contractor. The Subcontractor is responsible for the acquisition, maintenance and removal of all utilities and telephone and data services required for their trailers all such utility and energy charges. All energy charges will be paid by the Subcontractor.

30.2. The cost of the Master Mechanic and/or Teamster steward, if required, will be prorated between all subcontractors on the job in accordance with their contributions to the requirement of the Master Mechanic.

30.3. The said parties, for themselves, their heirs, executors, administrators, successors and assigns, do hereby agree to the full performance of all of the terms and provisions herein contained.

30.4. The Subcontract must be signed and returned to Contractor within five (5) business days of its delivery to the Subcontractor, or otherwise may be rejected by Contractor.

ARTICLE 31. Use of Cranes, Forklifts, Hoists, Runways, Scaffolds, And Facilities

31.1. Subject to receiving the express written consent of the Contractor and in consideration of the use of any cranes, forklifts, hoists, runways, scaffolds, or facilities which are owned or rented by Contractor, or for the use of which Contractor, or any of its divisions, subsidiaries, or joint ventures may be liable, the undersigned, for itself and any and all of its subcontractors

Initials ____

does hereby assume the entire responsibility and liability for and will indemnify and save harmless Contractor or any of its divisions, subsidiaries, or joint ventures, the Architects and the Owners from any liability, loss, or expense (including attorney's fees) incurred, suffered in consequence either bodily injury (including death at any time resulting there from) to any person or of injury to property which arises out of or in connection with such use of facilities. The undersigned will, at its own cost and expense, defend any action brought against Contractor or any of its subsidiaries, divisions, or joint ventures, or the Owner of the project where the aforementioned equipment and/or facilities are located by anyone, including an employee of the undersigned or his legal representative, growing out of said accident or injuries, whether or not the engineer or other operating such equipment is on the payroll either of Contractor or any of its divisions, subsidiaries, or joint ventures, or the undersigned when any such accident or injuries shall occur.

31.2. The undersigned will inspect said equipment and/or facilities before use thereof and commencement of its use shall constitute acceptance of the safety of the same.

ARTICLE 32. Smoking, Drugs, Alcohol, Weapons And Stolen Property Policy

32.1. The use of drugs, alcohol, weapons and stolen property and the use, possession, or distribution of any prohibited articles, defined below, on the premises or job sites is strictly prohibited.

32.1.1. Prohibited articles are: alcoholic beverages; intoxicants, narcotics, illegal drugs, or related drug paraphernalia (all collectively referred to as "illegal drugs, including marijuana; drugs or medicines that may adversely affect a person's working ability, alertness, coordination, responsiveness, or the safety of others on the premises or job site ("unsafe drugs"); firearms, other weapons, and unauthorized explosives; and stolen property.

32.1.2. If any person (including one of your employees) on premises or job sites is found using, possessing, or distributing and prohibited article, the person will be subject to immediate removal from premises or job sites and will not be permitted future access to any premises or job site.

32.1.3. You should inform your employees that this policy is in effect at Joe Lombardo Plumbing & Heating of Rockland Inc. job sites.

32.2. Smoking

32.2.1. Smoking is prohibited inside the buildings.

32.2.2. Smoking is permitted only in the clearly designated outside smoking areas.

32.2.3. Smoking next to or simply near a designated smoking area is not permitted.

32.2.4. Smoking in personal vehicles is permitted provided that waste smoking materials are discarded in the vehicle.

32.2.5. Smoking at building entrances, in common paths of travel, in the parking lots, when walking between buildings, near building ventilation intakes, or near hazardous or combustible materials is not permitted.

32.2.6. Smokers need to keep the designated outside smoking areas clean and use the ashtrays provided. Smokers are not to extinguish or discard their smoking materials on the ground.

IN WITNESS WHEREOF, the parties have hereunto set their hands or caused the Subcontract to be executed by their duly authorized officers as of the day and the year first above written.

CONTRACTOR

By: _____

Date: _____

Atlantic acceptance is subject to the understanding that our exception letter dated 4-3-23 and our proposal # N/A dated N/A are made a part of the documents.

SUBCONTRACTOR

By: _____

_____
Print Name and Title

Date: _____

_____,
Individually

_____
Print Name

Initials _____

Date: _____

Subcontractor's _____ State Unemployment Ins. No. _____ (insert State and Register No. for State in which the work is to be performed.)

Subcontractor's license No. _____ (Insert License No., if any, for State of Locality in which the work is to be performed.)

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Rider to Contract

Project:

Personal Guarantee Rider

The undersigned, being the Atlantic Contractor of (company name), hereby personally and unconditionally guarantees payment of any and all obligations which Subcontractor may now or hereafter owe to Contractor by virtue of this Subcontract and or any claim, suit, arbitration or controversy which may arise there under, including but not limited to any obligations which Contractor may have to satisfy in favor of Sub-subcontractors, unions, vendors, taxing authorities or any other entity who may prove entitlement to a claim, damages or any other relief against Contractor by virtue of this Subcontract.

By: _____
Signature

Initials _____

Schedule A – Work Order

Project:
Owner:
Construction Manager:
General Contractor:
Architect:
Engineer
Subcontract Price:
Retainage Perce
Subcontractor's overhead and profit for work performed by the Subcontractor on Change Orders Perce
Subcontractor's overhead and profit for work performed by the Sub-subcontractor on Change Order Perce
Sub- subcontractor's overhead and profit for work performed on Change Orders Perce
The combined overhead and profit for the Subcontractor on Change Order Perce
Certified Payroll Required from Subcontractor Yes ☐ No ☐
Subcontractor Safety Program Required Yes ☐ No ☐
If YES, Name and Contact Number of Safety Officer:
Name and Contact Number of Site Representative

Scope of Work:

Other

Contractor has been retained by Owner to perform work at the Project. The agreement between Owner and Contractor is dated _____ (herein the "Construction Contract").
Owner has retained Architect and Engineer to perform design services for the Project, and Owner may retain other contractors and Contractor will retain other subcontractors (herein collectively and as applicable "Other Subcontractors") to perform work at the Project.
Contractor hereby retains Subcontractor to perform the work described below pursuant to the Subcontract

Initials ____

Yes	No	
☐	☐	Clean up is required on a daily basis removing all debris to onsite dumpster.
☐	☐	All tools to be furnished by Subcontractor.
☐	☐	Any material needing to be replaced due to negligence on the part of the Subcontractor will be purchased at the Subcontractor's expense.
☐	☐	Housing for your employees
☐	☐	W-9 Form
☐	☐	_____

Labor Rates $_____ per hour _____

$_____ per hour _____

***Overtime MUST be approved by CONTRACTOR Supervisor BEFORE overtime work begins**

Contract Documents:

1. The Subcontract is comprised of the Master Subcontract Agreement, this document and any Exhibits attached hereto, the Construction Contract, the Conditions of the Contract between the Owner and Contractor (General, Supplementary and other Conditions), the Drawings, th Specifications, all Addenda issued prior to and all modifications issued after execution of th Agreement between the Owner and Contractor and agreed upon by the parties to this Subcontract (collectively the "Subcontract Documents" or "Contract Documents"). These form the Subcontract, and are as fully a part of the Subcontract as if attached to this Agreement or repeated herein. The Contract Documents do not include Subcontractor's bid order form, proposal or any unilateral changes to the Contract Documents by the Subcontractor, if any.
2. Schedule A: Work Order
3. Schedule B: Project Schedule
4. Schedule C: Insurance and Indemnity Requirements
5. Exhibit A - Plans and Specifications
   Organization of the Specifications into divisions, sections and articles, and arrangement of Plans shall not control the Contractor in dividing the work among Subcontractors or in establishing the extent of work to be performed by any trade.
   Unless otherwise stated in the Subcontract Documents, words which have well known technical or construction industry meanings are used in the Subcontract Documents in accordance with such recognized meanings.
6. Exhibit B - Unit Prices/Allowances
7. Exhibit C - Alternates
8. Exhibit D - Supplemental Conditions
9. Exhibit E - Wage Rate Sheets
10. Exhibit F - Form of Payment & Performance Bonds – When Used
11. Exhibit G - Form of Application for Payment
12. Exhibit H - Form of Schedule of Values
13. Exhibit I – Forms of Waiver of Lien

Payment Bond Required **Yes** ☐ **No** ☐
If Yes, Amount of Payment Bond $
Performance Bond Required **Yes** ☐ **No** ☐
If Yes, Amount of Performance Bond $

JOE LOMBARDO PLUMBING
& HEATING OF ROCKLAND INC.

By:_____

(name & title)

SUBCONTRACTOR

By:_____

(name & title)

Atlantic acceptance is subject to the understanding that our exception letter dated 4-3-24 and our proposal # N/A dated N/A are made a part of the documents.

Initials ____

Schedule B – Project Schedule – TIME IS OF THE ESSENCE

Contract Duration:
Commencement Date
Substantial Completion Date:
Final Completion Date

Initials _____

Schedule C – Insurance and Indemnity Requirements

1. Indemnification and Subcontractor's Liability

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

b. Subcontractor shall be liable to Contractor for all costs Contractor incurs as a result of any failure of Subcontractor, or any of its suppliers, vendors or subcontractors of any tier, to fully and properly perform their obligations and duties with respect to the Work.

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

d. To the fullest extent permitted by law, the Subcontractor shall also indemnify, defend, and hold harmless the Indemnified Parties from and against all claims, damages, demands, losses, expenses, fines, causes of action, suits or other liabilities, (including all costs reasonable attorneys' fees, consequential damages, and punitive damages), arising out of or resulting from, or alleged to arise out of, the failure of Subcontractor, or any of its suppliers or subcontractors of any tier, to compensate any of its employees or independent contractors in accordance with any applicable federal, state or local law regarding the payment of wages. Subcontractor's assumption of liability is independent from, and not limited in any manner by, the Subcontractor's insurance coverage obtained pursuant to Article 5 or otherwise.

2. Subcontractor's Insurance

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

b. This insurance will provide a defense and indemnify the Contractor, but only with respect to liability for bodily injury, property damage and personal and advertising injury caused in whole or in part by the Subcontractor's acts or omissions or the acts or omissions of those acting on the Subcontractor's behalf.

Initials

c. Proof of this insurance shall be provided to the Contractor before the Work commences, as set forth below. To the extent that the Subcontractor subcontracts with any other entity or individual to perform all or part of the Subcontractor's Work, the Subcontractor shall require the other Sub-Subcontractors to furnish evidence of equivalent insurance coverage, in all respects, terms and conditions as set forth herein, prior to the commencement of work by the Sub-Subcontractor. In no event shall the failure to provide this proof, prior to the commencement of the Work, be deemed a waiver by the Contractor of Subcontractor's or the Sub-Subcontractor's insurance obligations set forth herein.

d. In the event that the insurance company(ies) issuing the policy(ies) required by this exhibit deny coverage to the Contractor, the Subcontractor or the Sub-Subcontractor will, upon demand by the Contractor, defend and indemnify the Contractor at the Subcontractor's or Sub-Subcontractor's expense.

e. The following policies must be procured by Subcontractor:

i. **Commercial General Liability Insurance**
   a. $1,000,000 Each Occurrence Limit (Bodily Injury and Property Damage)
   b. $2,000,000 General Aggregate per Project
   c. $2,000,000 Products & Completed Operations Aggregate
   d. $1,000,000 Personal and Advertising Injury Limit

ii. **Business or Commercial Automobile Liability Insurance**
   a. $1,000,000 combined single limit per accident

iii. **Workers' Compensation and Employers' Liability Insurance** (at the limit chosen in the drop down box below)
   a. $100,000 Each Accident; $100,000 Each Employee for Injury by Disease; $500,000 Aggregate for Injury by Disease

iv. **Excess or Umbrella Liability (to overlay Employer's Liability, Automobile Liability** and Commercial General Liability coverages at the limit chosen in the drop down box below).
   a. $1,000,000 Occurrence /aggregate

f. The Subcontractor's Commercial General Liability policy shall not contain an exclusion or restriction of coverage for the following:

i. Claims by one insured against another insured, if the exclusion or restriction is based solely on the fact that the claimant is an insured, and there would otherwise be coverage for the claim.
ii. Claims for property damage to the Contractor's Work arising out of the products-completed operations hazard where the damaged Work or the Work out of which the damage arises was performed by a Subcontractor.
iii. Claims for bodily injury other than to employees of the insured.
iv. Claims for indemnity under Article 4 Indemnification arising out of injury to employees of the insured.
v. Claims or loss excluded under a prior work endorsement or other similar exclusionary language.
vi. Claims or loss due to physical damage under a prior injury endorsement or similar exclusionary language.
vii. Claims related to residential, multi-family, or other habitational projects, if the Work is to be performed on such a project.
viii. Claims related to roofing, if the Work involves roofing.
ix. Claims related to exterior insulation finish systems (EIFS), synthetic stucco or similar exterior coatings or surfaces, if the Work involves such coatings or surfaces.
x. Claims related to earth subsidence or movement, where the Work involves such hazards.
xi. Claims related to explosion, collapse and underground hazards,

where the Work involves such hazards.

Initials _____

3. Additional Insureds

a. The Contractor and Owner, along with their respective officers, agents and employees, shall be named as additional insureds for Ongoing Operations and Products/Completed Operations on the Subcontractor's and any Sub-Subcontractor's Commercial General Liability Policy and Excess or Umbrella Policy, all of which must be primary and noncontributory with respect to these additional insureds. The Subcontractor shall continue to carry Completed Operations Liability Insurance for at least the length of the Statute of Repose in the state where the subject work is performed after either ninety (90) days following Substantial Completion of the Work or final payment to the Contractor on any individual Project, whichever is later.

b. The Contractor and Owner, along with their respective officers, agents and employees shall be named as additional Insureds on the Business or Commercial Automobile Liability Policy, which must be primary and noncontributory with respect to these additional insureds. It is expressly understood by the parties to this Subcontract that it is the intent of the Parties that any insurance obtained by the Contractor is deemed excess, non-contributory and not co-primary in relation to the coverage(s) procured by the Subcontractor, the Sub-Subcontractor or any of their respective consultants, officers, agents, subcontractors, employees or anyone directly or indirectly employed by any of them, or by anyone for whose acts any of the aforementioned may be liable by operation of statute, government regulation or applicable case law.

c. To the fullest extent permitted by applicable state law, a Waiver of Subrogation Clause shall be added to the General Liability, Automobile, Excess or Umbrella and Workers Compensation policies in favor of Contractor and Owner, and this clause shall apply to the Contractor's and Owner's officers, agents and employees, with respect to all Projects during the policy term.

d. Prior to commencement of Work on any individual Project, Subcontractor shall submit a Certificate of Insurance in favor of Contractor and an Additional Insured Endorsement (in a form acceptable to the Contractor) as required hereunder. The Subcontractor's Insurance policies shall provide for thirty (30) days' written notice to Contractor for cancellation or any change in coverage and be evidenced by the Certificate of Insurance. Copies of insurance policies shall promptly be made available to the Contractor upon request.

Initials _____

EXHIBIT A - Plans and Specifications

Initials ____

EXHIBIT B Unit Prices/Allowances

1. Subcontractor shall include in the Subcontract Price all allowances stated in the Subcontract Documents. Items covered by allowances shall be supplied for such amounts and by such persons or entities as Contractor may direct.

2. Unless otherwise provided in the Subcontract Documents:

2.1 Allowances shall cover the cost to Subcontractor of materials and equipment delivered at the site and all required taxes, less applicable trade discounts;

2.2 Subcontractor's costs for unloading and handling at the site, labor, installation costs, overhead, profit and other expenses contemplated for stated allowance amounts shall be included in the Subcontract Price but not in the allowances.

3. Whenever costs are more than or less than allowances, the Subcontract Price shall be adjusted accordingly by Change Order.

Initials ____

Exhibit C - Alternates

Initials ____

Initials _____

Exhibit E - Wage Rate Sheets

Initials _____

Exhibit F - Form of Payment & Performance Bonds – When Used

Initials ____

Exhibit G - Form of Application for Payment

Initials _____

Exhibit H - Form of Schedule of Values

Initials _____

PARTIAL WAIVER AND RELEASE
TO CONTRACTOR, SURETY AND OWNER

KNOW ALL MEN BY THESE PRESENTS THAT, whereas the undersigned, as authorized agent of [Name of Subcontractor], an entity that has performed certain work and furnished materials pursuant to a subcontract (hereinafter called the "Subcontract"), in connection with the construction work undertaken by Joe Lombardo Plumbing & Heating of Rockland Inc. (hereinafter "Contractor") identified as [Project Name], pursuant to Contract No.:_____, (hereinafter called the "Project") under a contract between [Owner] (hereinafter called the "Owner") and Contractor (hereinafter called the "Contract").

NOW, THEREFORE, in consideration for the payment by Joe Lombardo Plumbing & Heating of Rockland Inc. to the undersigned of the sum of $_____ dollars being a partial payment for amounts due the undersigned under the Subcontract and all the previous payments to the undersigned by the Contractor, which total $_____ (including the above referenced amount) the undersigned hereby:

1. Releases and forever discharges the Contractor and the Owner, their respective successors and assigns of and from any and all claims, demands, and causes of action which the undersigned now has, could have, or hereafter have, for materials furnished or labor performed by the undersigned in connection with the aforesaid Project, or arising out of any act of the Contractor, Owner or other persons, relating to or affecting the work called for by the Subcontract, or arising in any way out of or under said Subcontract; and at its sole cost and expense, forever defend and hold harmless Contractor and the Owner from any and all such claims and demands and will defend against and obtain the discharge of any and all liens (including the posting of a bond to discharge said lien within seven (7) days of written notice from Contractor), claims of lien and notices to withhold payment made by any person or entity.

2. Covenants and agrees not to file a mechanic's lien, construction lien or other lien against the Contractor or the Owner in connection with the partial payment identified above or any part thereof or

*Initials*____

against any moneys due or to become due to Contractor under the Contract relating to the aforesaid Project, for labor or material heretofore performed or furnished by the undersigned in connection with the Project to date.

3. Releases, relinquishes and discharges, and waives any and every charge or claim of any nature which the undersigned has or may at any time be entitled to assert against the Contractor, Owner or other persons in connection with the Project, or any part thereof, or against any moneys due or to become due to Contractor under the Contract relating to the aforesaid Project, for materials heretofore furnished by the undersigned and/or for work or labor heretofore performed by the undersigned in connection with the aforesaid Project.

4. Releases and forever discharges [bonding company] (hereinafter called the "Surety"), its successors and assigns from any and all claims and demand of whatever nature or kind arising out of its Subcontract with the Contractor in connection with any labor and material payment bond made in connection with the Project, from the beginning of time until the date hereof.

5. Represents and warrants that it has paid in full or has otherwise satisfied all obligations for all materials and equipment furnished, for all work, labor, and services performed, and for all known indebtedness and claims against Subcontractor in connection with the performance of the Subcontract for which the Contractor, Surety or Owner and its property might in any way be responsible.

7. Agrees that any matter relating to this Waiver and Release including, but not limited to, its construction, interpretation, validity, and effect shall be governed by the laws of the State of New York.

8. [Optional language if requested by Subcontractor] Notwithstanding any term or condition to the contrary, it is understood that this Waiver and Release shall take effect and shall be enforceable only upon and after receipt by the undersigned of payment to it of said outstanding indebtedness of Contractor to the undersigned in the amount of $_____, and this Waiver and Release is given by the undersigned and is accepted by Contractor subject to such understanding.

Initials _____

IN WITNESS THEREOF, that these presents have been executed and delivered on the_____ day of _____ 20__.

[Name of Subcontractor]

By:
[Name, Title]

STATE OF NEW YORK)
)ss.:
COUNTY OF _____)

On the ___ day of _____ 20__, before me came _____, to me known, who, being by me duly sworn did depose and say that he/she resides at _____, New York, that he/she is the _____ of _____ the corporation described herein, and which executed the above instrument; that she signed her name thereto by authority of the board of directors of said corporation.

_____
NOTARY PUBLIC

Initials ____

FINAL RELEASE
FINAL WAIVER OF CLAIMS AND LIENS AND RELEASE OF RIGHTS
[SUBCONTRACTOR]

Project: _____
Date: _____
Contractor: Joe Lombardo Plumbing & Heating of Rockland Inc.
Subcontractor Contract No.: _____
Contract Date:
Amount Previously Paid: $ (dollars and cents)
Balance Due-Final Payment: $ (dollars and cents)
Lender:
Owner:
Surety:
Project Address:
City:
State:

The undersigned Subcontractor hereby acknowledges that it has been paid in full for all labor, materials, etc., furnished by such Subcontractor and supplier in connection with its work on the above project.

In consideration of the amounts and sums received the below named Subcontractor does hereby waive and release the Owner, Contractor, Surety and Lender from any and all claims and liens and rights of liens upon the premises described above, and upon improvements now or hereafter therein, and upon the monies or other considerations due or to become due from Owner, Contractor and Lender or from any other person, firm or corporation, said claims, liens and rights on account of labor, services, materials, fixtures or apparatus heretofore furnished by the below named Subcontractor

The undersigned representative of Subcontractor further represents and warrants that he/she is duly authorized and empowered to sign and execute this waiver on his/her own behalf and on behalf of the company or business for which he/she is signing; that Subcontractor has properly performed all work and furnished all materials of the specified quality per plans and specifications and in a good and workmanlike manner, fully and completely; that it has paid for all the labor, materials, equipment and services that it has used or supplied, that it has no other outstanding and unpaid applications, invoices, retentions, holdbacks, expenses employed in the prosecution of work, chargebacks or unbilled work or materials against Owner, Contractor and Lender as of the date of the aforementioned last and final payment application; and that any materials which have been supplied or incorporated into the above premises were either taken from its fully paid or open stock or were fully paid for and supplied on the last and final payment application or invoice.

The undersigned further agrees to defend, indemnify and hold harmless the Owner, Contractor Surety, and Lender from and against any claims, liens, causes a faction for any losses or expenses (including without limitation reasonable attorneys' fees) should any such claim, lien or right of lien be asserted by the below named Subcontractor or Supplier or by any of its or their laborers, materialmen or subcontractors (of any tier).

In addition, for and in consideration of the amounts and sums received, the below named Subcontractor hereby waives, releases and relinquishes any and all claims, rights or causes of action in equity or law whatsoever arising out of through or under the above mentioned Contract and/or the Subcontract and the performance of work pursuant thereto that are not covered under insurance

Initials ____

The below named Subcontractor further guarantees that all portions of the work furnished and installed are in accordance with the Contract and that the terms of the Contract with respect to this guarantee will remain in effect for the period specified in said Contract.

[Optional language if requested by Subcontractor] Notwithstanding any term or condition to the contrary, it is understood that this Waiver and Release shall take effect and shall be enforceable only upon and after receipt by the undersigned of payment to it of said outstanding indebtedness of Contractor to the undersigned in the amount of $_____, and this Waiver and Release is given by the undersigned and is accepted by Contractor subject to such understanding.

IN WITNESS WHEREOF, on behalf of the undersigned, with full authority, I have executed this Waiver and Release under seal effective the ____ day of _____, 201__.

SUBCONTRACTOR

BY: _____
Name:
Title:

State of New York, County of , ss:

On the day of , in the year 20___ , before me, the undersigned, personally appeared _____ personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

_____
Notary Public

Initials ___

IREX
Atlantic
CONTRACTING

Joe Lombardo Plumbing & Heating of Rockland
321 Spook Rock Road
Suffern, NY 10901

Re: Master Subcontractor Agreement Contract Number _ ALL JOBS _
04/03/2023

Our acceptance of your terms and conditions is subject to the understanding that the clarifications below will be made part of the contract documents.

Liquidated Damages (4.24): Atlantic Contracting & Specialties, LLC obligation for liquidated damages shall be limited to liquidated damages for delays which are the direct and proximate result of the fault of Atlantic Contracting & Specialties, LLC in performing its work and shall apply only to the extent that Joe Lombardo Plumbing & Heating of Rockland actually pays liquidated damages to its customer. Atlantic Contracting & Specialties, LLC shall not be responsible for liquidated damages where its work has been delayed by force majeure, or by the actions of the facility owner, other contractors, or other parties on the jobsite, including, but not limited to, the late release of work to Subcontractor. Notwithstanding any other provision of this Agreement, in no event will the amount of liquidated damages payable by Atlantic Contracting & Specialties, LLC exceed ten percent (10%) of the amount actually paid to Subcontractor for the performance of its work pursuant to this Agreement.

Warranty (21-2): Notwithstanding any other provision of this agreement, Atlantic Contracting & Specialties, LLC guarantee is limited to the repair or replacement of defects in material and workmanship for a period of one (1) year from the date of completion of work by Atlantic Contracting & Specialties, LLC and its liability regarding material is limited to the repair or replacement thereof.

Tied to Prime Contract Take exception or request a copy (1.3): Notwithstanding any language to the contrary, Atlantic Specialties, LLC shall have no obligation based on any provision of Contractor's contract with its customer, the General Contractor, or the Owner which are inconsistent with or exceed the obligations imposed by the express terms of this agreement.

Setoff (4.11.2): Atlantic Contracting & Specialties, LLC does not agree to offsetting amounts due to the Joe Lombardo Plumbing & Heating of Rockland for this contract against any other amounts due to Atlantic Contracting Specialties, LLC for any other contracts. Offsets

shall be limited to the signatory parties to this agreement and shall not extend to any parent, affiliates or otherwise related entities.

Consequential & Incidental Damages (Sched C 1.c.): Notwithstanding any language to the contrary, Atlantic Contracting & Specialties, LLC shall not be responsible for and does not indemnify any party for any consequential or incidental damages.

Pay If Paid/Pay When Paid (4.5): Atlantic Contracting & Specialties, LLC agrees to receiving payment as Joe Lombardo Plumbing & Heating of Rockland receives payment from its customer, the general contractor, or the owner, with the exception that if funds are withheld due to no fault of Atlantic Contracting & Specialties, LLC, then Atlantic Contracting & Specialties, LLC is entitled to receive payment within sixty (60) days after its billing date. Nothing in this article shall be interpreted as limiting Subcontractor's rights to enforce its statutory Mechanics' Lien or Surety Bond rights against the project.