





By executing a Work Authorization and/or commencing any Work for the Project, Subcontractor represents and acknowledges that Subcontractor has reviewed or been given ample opportunity to review the Prime Contract (or proposed form thereof if Owner has not yet issued a final form of the Prime Contract to Contractor), and Subcontractor agrees that the terms of the Prime Contract will have no effect on the cost or time of Subcontractor's performance of its Work.

Subcontractor's scope of Work for any Specified Project will be included in the Work Authorization. Unless otherwise specified, and with respect to such Work, Subcontractor agrees to furnish all labor, services, equipment, materials, installations, cartage, hoisting, supplies, insurance, scaffolding, tools, and other facilities of every kind and description required for the workmanlike, complete, prompt and efficient performance of all Work in accordance with the Work Authorization, Contract Documents, and this Agreement.

Subcontractor represents and warrants that it has carefully reviewed and is familiar with all of the terms of the Contract Documents as they pertain to the Work, including all laws, ordinances, building codes and regulations that relate to Subcontractor's performance thereof. Subcontractor understands and agrees that the plans and specifications for the Work are intended to be complementary, may only indicate the general requirements for the completion of the Work, and Subcontractor agrees to furnish and install all items expressly stated or reasonably inferable from the Contract Documents, wherever located therein, to produce the indicated results. 405-4( )-5t.12 79924(e)-4(in)12 792

in all steps taken in connection with prosecuting such a claim and shall hold harmless and reimburse the Contractor for all expense, including legal expense, incurred by Contractor which arise out of Contractor's submission of Subcontractor's claim to Owner or other responsible party. Subcontractor shall be bound by any adjudication or award in any action or proceeding resolving such a claim.

Time is of the essence of this Agreement. Subcontractor shall provide Contractor with scheduling information and a proposed schedule for performance of its work in a form acceptable to Contractor. Subcontractor shall conform to Contractor's progress schedule and all revisions or changes made thereto. Subcontractor shall prosecute its work in a prompt and diligent manner in accordance with Contractor's progress schedule without delaying or hindering Contractor's work or the work of other contractors or subcontractors. Subcontractor shall coordinate the work covered by this Agreement with that of all other contractors, subcontractors, suppliers and/or materialmen and of the Contractor, in a manner that will facilitate the efficient completion of the entire work. In the event Subcontractor fails to maintain its part of the Contractor's schedule, it shall, without additional compensation, accelerate the work as Co

Subcontractor shall make no changes in the work described in the Contract Documents and this Agreement except as directed by Contractor in writing. Such change or written direction shall not invalidate this Agreement.

If necessary, the Subcontract Price and the time for Subcontractor's performance shall be adjusted by appropriate additions or deductions mutually agreed upon before the Subcontractor performs the changed work. Subcontractor shall supply Contractor with all documentation necessary within (14) days of request to substantiate the amount of the addition to or deduction from the price or time. If Contractor and Subcontractor cannot agree on the amount of the addition or deletion, Subcontractor shall nonetheless timely perform the work as changed by Contractor's written direction. Once Subcontractor receives Contractor's written direction, Subcontractor is solely responsible for timely performance of the Work as changed by the written direction.

T&M Sheets require authorization from Contractor's Project Manager. Field employees, including Contractor's superintendents, can only sign for verification of hours and quantities of materials. Contractor's field employees cannot and are nor authorized to agree to additional costs or to authorize any changed work outside of the Subcontractor's scope of Work.

Payment for changed work shall be made in accordance with Section 6. Upon completion of approved changed work,

from and against any costs or expenses, including reasonable attorneys' fees, associated with such claim of lien or stop payment notice, including but not limited to, the costs and expenses required to remove, expunge, or release such claim.

Contractor may, at its option, and for good cause, including but not limited to, Subcontractor's present or previous failure to make timely payments to its lower-tier subcontractors, suppliers, or laborers, may make any payment otherwise due under this Agreement by joint check. It is understood and agreed that Subcontractor's full and faithful performance of this Agreement (including the payment of any obligations due from Subcontractor to Contractor, and any amounts due to labor or materialmen furnishing labor or material for said work, and any associated unions or trust funds) is a condition precedent to Subcontractor's right to receive payment for the Work performed, and any monies paid by Contractor to Subcontractor under the terms of this Agreement shall be impressed with a trust in favor of labor and materialmen furnishing labor and material to Subcontractor on the Work herein subcontracted.

Should there be picketing on Contractor's job site, and Contractor establishes a reserved gate for Subcontractor's purpose, it shall be the obligation of Subcontractor to continue the proper performance of its work without interruption or delay.

Subcontractor further promises and agrees that it will bind and require all of its subcontractors and their subcontractors performing job site work of the type covered by any of the labor agreements specified below to agree to all of the foregoing promises and undertakings, to the same effect as herein provided with respect to it.

Subcontractor hereby acknowledges that it is thoroughly familiar with all DBE/MBE/WBE requirements pertaining to the Specified Project. If the Subcontractor claims status as a DBE/MBE/WBE, the Subcontractor shall take all steps necessary and shall make all necessary records available to the Contractor and the Owner to assure that Subcontractor is in compliance with such requirements. In the event that any subcontractor or supplier of the Subcontractor is designated as or is required to be a DBE/MBE/WBE, Subcontractor agrees to be responsible for insuring that said sub-subcontractor(s) or supplier(s) apply for and obtain such certification. Subcontractor acknowledges that Contractor is relying upon Subcontractor's representations regarding the validity of Subcontractor's status, if any, as a DBE/MBE/WBE, and that misrepresentation of the status of Subcontractor or any of its sub-subcontractors or material suppliers is a material breach of this Agreement and grounds for immediate termination. In the event of termination as the result of material misrepresentation of the status of the Subcontractor as a DBE/MBE/WBE, Subcontractor shall not be entitled to any compensation not already paid.

Subcontractor shall comply with and agrees to be bound by all applicable federal, state and local laws and regulations, including, but not limited to, all provisions of the Fair Labor Standards Act, the Americans with Disabilities Act, the federal Family and Medical Leave Act, the California Labor Code, the California Fair Employment and Housing Act, and the California Family Rights Act. Upon request, Subcontractor shall submit certified payroll records to contractor no later than three (3) working days after labor has been paid.

When reasonable grounds for insecurity arise with respect to Subcontractor's performance, Contractor may in writing demand adequate assurance of due performance. Subcontractor's failure to provide within seven (7) days of the demand such assurance of due performance as is adequate under the circumstances of the particular case is a default under Section 16.1.2 of this Agreement.

If Subcontractor at any time refuses or neglects to supply enough properly skilled workers and proper materials, or fails to properly and diligently prosecute the work covered by this Agreement, or fails to make prompt payment to its workers, sub-subcontractors or suppliers, or becomes delinquent with respect to contributions or payments required to be made to any health and welfare, pension, vacation, apprenticeship or other employee benefit program or trust, or fails to provide adequate assurance pursuant to Section 16.1.1, or is otherwise guilty of a material breach of a provision of this Agreement, Contractor shall be entitled to terminate this Agreement and to award the Contract to another contractor. In the event of termination as the result of a material breach of a provision of this Agreement, Subcontractor shall not be entitled to any compensation not already paid.





Contractor may offset against any sums due or to become due Subcontractor all costs incurred in pursuing any of the remedies provided hereunder, including, but not limited to, reasonable overhead, profit and actual attorneys' fees incurred as a result of Subcontractor's non-performance of this Agreement or any other agreement with Contractor. Subcontractor shall be liable for the payment of any amount by which such expense may exceed the unpaid balance of the Subcontract Price.

With the exception that this Section 17 shall in no event be construed to require indemnification by Subcontractor to a greater extent than permitted under the public policy of the State of California, Subcontractor shall indemnify, protect, defend and save harmless Contractor and Owner, including their officers, agents, directors, partners, members, employees, affiliates, parents and subsidiaries, and each of them ("Indemnitees"), of and from any and all claims, demands, causes of action, damages, costs, expenses, actual attorneys' fees, losses or liabilities, in law or equity, of every kind and nature whatsoever ("Claims") arising out of or in any way relating to (i) this Agreement, (ii) either actual or alleged actions or omissions by Subcontractor or any of its subcontractors, suppliers, vendors, employees, or persons for whom it is responsible (regardless of whether the acts or omissions are actually negligent), or (iii) the Project to which this Agreement relates, including, but not limited to Claims for:

- (a) Personal injury, including, but not limited to, bodily injury, sickness or disease, or death to persons, including, but not limited to, any employees or agents of Subcontractor, Owner, Contractor, or any other subcontractor and/or damage to property of anyone (including loss of use thereof), caused or alleged to be caused in whole or in part by any actual or allegedly negligent act or omission of Subcontractor or anyone directly or indirectly employed by Subcontractor or anyone for whose acts Subcontractor may be liable regardless of whether such personal injury or damage is caused by a party indemnified hereunder.
- (b) Penalties, fees and costs imposed on account of the violation of any law, order, citation, rule, regulation, standard, ordinance or statute, caused by the action or inaction of Subcontractor.
- (c) Infringement of any patent rights, which may be brought against the Contractor or Owner arising out of Subcontractor's work.
- (d) Claims, liens and stop payment notices (see Section 11) for labor performed or materials used or furnished to be used on the job, including all incidental or consequential damages resulting to Contractor or Owner from such claims or liens.
- (e) Subcontractor's failure to fulfill the covenants set forth in each subpart of Section 15, Labor Relations.
- (f) Failure of Subcontractor to comply with the provisions of Section 18.1, Casualty Insurance.
- (g) Any violation or infraction by Subcontractor of any law, order, citation, rule, regulation, standard, ordinance or statute in any way relating to the occupational health or safety of employees, including, but not limited to, the use of Contractor's or others' equipment, hoists, elevators, or scaffolds (see Sections 18 and 22).

The specific listing in clauses (a) through (g) above shall not in any way limit Subcontractor's agreement to defend and indemnify each Indemnitee for all acts and omissions of Subcontractor, and anyone for whom Subcontractor is responsible in the performance of the work and other obligations under this Subcontract. The separate duty

Subcontractor shall, at its expense, procure and maintain insurance on all of its operations, with companies acceptable to Contractor, and in the greater of the amounts required by the Prime Contract or as follows:

Workers' Compensation insurance shall be provided as required by any applicable law or regulation. Employer's Liability insurance shall be provided in amounts not less than:

- \$1,000,000 each accident for bodily injury by accident
- \$1,000,000 policy limit for bodily injury by disease
- \$1,000,000 each employee for bodily injury by disease

If there is an exposure of injury to Subcontractor's employees under the U.S. Longshoreman and Harbor Workers' Compensation Act, the Jones Act or under laws, regulations or statutes applicable to maritime employees, coverage shall be included for such injuries or claims.

Subcontractor shall carry primary Commercial General Liability insurance covering all operations by or on behalf

Subcontractor shall carry automobile liability insurance, including coverage for all owned hired and non-owned automobiles. The limits of liability shall be not less than \$1,000,000 combined single limit each accident for bodily injury and property damage.

- (d) If Subcontractor (or its subcontractors or suppliers, regardless of tier) use any owned, leased, chartered or hired aircraft of any type in the performance of this contract, they shall maintain aircraft liability insurance in an amount of not less than \$10,000,000 per occurrence, including Passenger Liability. Evidence of coverage in the form of a certificate of insurance shall be provided prior to the start of the Project.
- (e) Contractor and Subcontractor waive all rights against each other for loss or damage to the extent reimbursed by any property or equipment insurance applicable to the work, except such rights as they may have to the proceeds of such insurance. If any applicable policies of insurance referred to in this Section require an endorsement or consent of the insurance company to provide for continued coverage where there is a waiver of subrogation, the owners of such policies will cause them to be so endorsed or obtain such consent.



This Section shall not be deemed a limitation of any rights or remedies which Subcontractor may have under any federal or state mechanics' lien or stop payment notice laws or under any applicable labor and material payment bonds unless such rights or remedies are expressly waived by it.

Subcontractor shall comply fully with all laws, orders, citations, rules, regulations, standards and statutes affecting or relating to this Agreement or its performance, including but not limited to those with respect to occupational health and safety, the handling and storage of hazardous materials, accident prevention, safety equipment and practices including the accident prevention and safety program of Owner and Contractor.

Subcontractor shall conduct inspections to determine that safe working conditions and equipment exist and accepts sole responsibility for providing a safe place to work for its employees of its subcontractors and suppliers of material and equipment, for adequacy of and required use of all safety equipment and for full compliance with the aforesaid laws, orders, citations, rules, regulations, standards and statutes.

Subcontractor warrants to Owner and Contractor that all materials furnished shall be new unless otherwise specified and that all work under this Agreement shall be performed in a substantial, good and workmanlike manner, shall be of best quality, free from faults and defects, and in strict conformance with the Contract Documents. All work not conforming to these requirements, including substitutions not properly approved and authorized, may be considered defective. The warranty provided in this Section 21 shall be in addition to and not in limitation of any other warranty or remedy required by law or by the Contract Documents.

In the event Subcontractor uses Contractor's equipment, materials, labor, supplies or facilities, Subcontractor shall reimburse Contractor at a predetermined rate, except as provided in Section 16.1.2. or as otherwise stated herein. Further, Subcontractor assumes all

the cost of its participation in such proceedings, including the cost incurred for attorneys' fees and experts' fees. Unless judgment goes