



**SUBCONTRACT AGREEMENT
2019 Edition**

CONTRACTOR:	Baker Construction and Development, Inc	PROJECT MANAGER:	_____
	2711 East Sprague Avenue		_____
	Spokane, Washington 99202		_____
	(509) 535-3668		_____
	+1.509.535.3720		_____
SUBCONTRACTOR:	_____	POC:	_____
	_____		_____
	_____		_____
	_____		_____
	_____		_____
	Contractor Registration No.:		_____
	Federal Tax ID No.:		_____
	Worker's Compensation Account ID No.:		_____
	Unemployment Insurance Reference No.:		_____

The Project is:	_____

The Owner is:	_____

Contract #:

Job #

Contractor Initial _____

Subcontractor Initial _____

Contractor and Subcontractor agree as set forth below:

Subcontractor agrees to provide all supervision, materials, labor, and equipment to complete the work described below in strict accordance with the Contract Documents:

Sample Subcontract per Exhibit "A"

In consideration therefore, Contractor agrees to pay Subcontractor

The lump sum in the amount of One Dollars And Zero Cents (\$1.00)

This Subcontract may be accepted by signature of an officer or duly authorized representative of Subcontractor without modification, and returned to Contractor within fifteen (15) days of its receipt. This Subcontract may also be accepted by silence, inaction, or by beginning performance of any aspect of the Subcontract Work, in such case, the Subcontractor shall be deemed to have accepted this Subcontract and all of its terms unmodified, as issued. The effective date of this Subcontract shall be the earlier of fifteen (15) days following its receipt by Subcontractor, or the date of Subcontractor's signature without modification.

In witness whereof, Contractor and Subcontractor have executed this Subcontract effective this day of , .

The General Conditions attached hereto are a part of and are incorporated into this Agreement.

Baker Construction and Development, Inc

Subcontracting Company

By: _____
Its: _____

By: _____
Its: _____

Contract #:

Job #

Contractor Initial _____

Subcontractor Initial _____

GENERAL CONDITIONS

**SECTION 1
DEFINITIONS**

1.1 MAIN CONTRACT. The Main Contract is the contract between Contractor and Owner, and the associated general conditions, special conditions, supplementary conditions, specifications, drawings, plans, applicable building codes, addenda, change orders and other modifications. All such documents are available to Subcontractor upon request. All terms of the Main Contract are incorporated herein by reference; such incorporation is general and unlimited.

1.2 SUBCONTRACT. The Subcontract is the Subcontract Agreement, these general conditions, and any special conditions, supplementary conditions, specifications, drawings, plans, applicable building codes, addenda, exhibits A through F, change orders and other modifications.

1.3 SUBCONTRACT WORK. The Subcontract Work is all of the work expressly forth in this Subcontract, as well as all work which can be reasonably inferred therefrom.

1.4 CONTRACT DOCUMENTS. The Contract Documents include the Main Contract and this Subcontract.

1.5 SUBSTANTIAL COMPLETION. Substantial completion shall have the same definition as is set forth in the Main Contract, if any. If there is no such definition, then Substantial Completion means the state of completion when the improvement upon real property may be used or occupied for its intended use.

**SECTION 2
GENERAL RESPONSIBILITIES**

2.1 OBLIGATIONS. Subcontractor assumes toward Contractor all of the obligations and responsibilities set forth in this Subcontract as well as all obligations and responsibilities Contractor assumed toward Owner in the Main Contract, and agrees to be bound by the provisions thereof insofar as applicable, generally or specifically, to Subcontractor's Work, including but not limited to, those provisions pertaining to dispute resolution.

2.2 CONFLICTS. This Subcontract and the Main Contract are intended to supplement and complement each other and shall be thus interpreted. If Subcontractor believes there is an irreconcilable conflict between the Main Contract and this Subcontract, Subcontractor shall provide written notice to Contractor and shall abide by Contractor's decisions.

2.3 LABOR AGREEMENTS. Subcontractor agrees to comply with all labor agreements applicable to the Project, and certifies that it has made its own investigation of the existence and terms of those agreements.

2.4 ASSIGNMENT. Contractor may assign this Subcontract at any time, in which event Subcontractor shall perform its obligations under this Subcontract for the assignee and Contractor shall have no further obligation to Subcontractor. In contrast, Subcontractor shall not assign any part of this Agreement and/or the Subcontract Work without Contractor's prior written consent. Assignment shall not relieve Subcontractor of its obligations under this Subcontract.

2.5 PERFORMANCE. Subcontractor agrees to use its best skill and judgment in the performance of the Subcontract Work in cooperation with Contractor so that Contractor may fulfill its obligations to the Owner. Subcontractor shall furnish all the labor, materials, equipment, services, supervision, tools, scaffolding and all other items necessary for the proper performance of the Subcontract Work. Subcontractor shall not change supervisory personnel without first providing 10 days advance notice to Contractor. Contractor may object to the change if it has reasonable grounds to believe such change would not be in the best interest of the Project. If the Subcontractor's authorized representative or any employee of Subcontractor performs in a manner unsatisfactory to the Contractor, the Subcontractor agrees upon notice from the Contractor to replace that representative or employee. Subcontractor shall enforce strict discipline and good order among Subcontractor's employees and other persons carrying out the Subcontract. The Subcontractor shall not permit employment of unfit persons or persons not skilled in tasks assigned to them.

2.6 TESTS AND INSPECTIONS. Subcontractor shall schedule all tests, approvals

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and inspections expressly or impliedly required in the Contract Documents at Subcontractor's expense Subcontractor shall promptly deliver required certificates of testing, approval or inspection to Contractor. Special Inspections for IBC requirements will be by third party inspector hired by owner.

2.7 LOWER TIER CONTRACTORS/ SUPPLIERS. Prior to commencing work, Subcontractor shall provide a list of its subcontractors and suppliers to Contractor on Exhibit C of this contract. Contractor may object to the use of any subcontractor or supplier if Contractor reasonably believes that use of the subcontractor or supplier is not in the best interest of the Project. In the event Contractor reasonably objects to a subcontractor or supplier, Subcontractor shall forthwith obtain a replacement, and shall not be entitled to additional compensation or time.

2.8 SITE VISITATION. Prior to performing any portion of the Subcontract Work, Subcontractor shall inspect the Project site to familiarize itself with site conditions (including access to and from the site). If Subcontractor discovers any discrepancy in the Contract Documents when compared with actual conditions, or observes any other condition which may impact its performance, it shall report that information to Contractor prior to disturbing the condition or within three working days of becoming aware of the discrepancy. Failure to do so will constitute a waiver by Subcontractor of any claims related to said discrepancy. Subcontractor represents that it has made all investigations necessary for a full understanding of difficulties it may encounter in performing the Subcontract Work and that in so doing so it has not relied upon any information provided to it by Contractor or in the Contract Documents. Subcontractor's obligations shall also include locating all utilities in all areas of its Work and shall protect and maintain operation of all utilities at all times unless it is unsafe to do so.

2.9 SUBCONTRACTOR VERIFICATION. Notwithstanding any measurements or dimensions appearing in the Contract Documents, Subcontractor shall regularly take field measurements and verify field conditions before commencing work on the Project or any portion thereof. Should Subcontractor discover a discrepancy between actual field conditions and the Contract Documents it must report that information to Contractor before commencing work. Failure to do so will constitute a waiver of any right to

compensation or additional time resulting from said inconsistency.

2.10 SUBCONTRACTOR FURNISHED INFORMATION. Subcontractor may be required to submit certain materials, components, equipment or other items to be incorporated into the work to Contractor for review and approval by Owner and/or its consultants ("submittals"). Review and approval of any submittal shall not be deemed to authorize deviations, substitutions or changes in the contract documents. No deviation, substitution or change is allowed absent express written approval from Contractor and Owner. Any unauthorized change, substitution or deviation in the Subcontract Work shall be remedied at Subcontractor's sole cost and expense regardless of submittal approval, and so as not to delay Contractor or impede the construction schedule.

2.11 MEETINGS. Subcontractor shall participate in all Project and other meetings required by Contractor.

2.12 COMPLIANCE WITH LAWS. Subcontractor shall comply with all applicable laws and regulations, and any changes or additions thereto during the course of the Project, without additional compensation, and shall require its lower tier subcontractors to do the same.

2.13 EMPLOYER TAXES. Subcontractor shall withhold from its payroll applicable taxes and promptly pay same to the appropriate government agencies. Contractor shall not responsible for any such taxes and shall not be considered an employer of Subcontractor's employees.

2.14 ROYALTIES, PATENTS AND COPYRIGHTS. Subcontractor shall pay all royalties and license fees which may be due on the inclusion of any patented or copyrighted materials, methods or systems selected by Subcontractor for incorporation in the Subcontract Work.

2.15 PERMITS, FEES, LICENSE AND TAXES. Subcontractor shall be responsible for all trade permits, fees, licenses, costs, assessments, inspections if expressly agreed upon, testing and taxes necessary to complete the Subcontract Work.

2.16 PROTECTION OF THE WORK. Subcontractor shall protect the Subcontract Work and the work of others from damage caused by

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its operations. Should Subcontractor damage any work, it shall promptly remedy such damage to the satisfaction of Contractor at subcontractors' expense. If it fails to do so, Contractor may remedy the damage and deduct its costs, plus overhead and profit, from amounts due, or to become due, Subcontractor.

2.17 ADJACENT WORK. Subcontractor shall verify and check the accuracy and acceptability of all adjacent work performed by others which interferes or which may affect the Subcontract Work. Subcontractor shall promptly report in writing to Contractor any defect, deficiency, error or omission in any work that may impact Subcontractor's ability to perform the Subcontract Work. Subcontractor shall be solely responsible for the costs of removal and replacement of any work that covers and renders inaccessible incorrect work adjacent to or under the work required by this Subcontract, including any delay impact damages resulting therefrom.

SECTION 3 SAFETY

3.1 SAFE ENVIRONMENT. Safety is of paramount concern on the Project, and Subcontractor shall create and maintain a safe working environment. In no event shall safety be compromised for efficiency, cost, etc.

3.2 ACCIDENT PREVENTION PROGRAMS. Subcontractor shall provide all safety equipment to complete its Subcontract Work as part of the Subcontract price. Subcontractor agrees that it, its employees and its lower tier subcontractors and their employees shall comply with Contractor's Accident Prevention Program including, but not limited to, any workplace drug-free programs required by state or federal law, or Contractor. Subcontractor shall also require its lower tier subcontractors to comply with Contractor's Accident Prevention Program. Subcontractor shall also implement its own site specific safety program for itself and its lower tier subcontractors that (1) identifies anticipated hazards that will more likely be encountered in all phases of the project; and (2) identify methods that will be used to abate those hazards, and shall require its lower tier subcontractors to establish and follow their own Accident Prevention Program.

3.3 JOBSITE SAFETY MEETINGS. Unless directed otherwise by Contractor, Subcontractor shall ensure that its employees and

subcontractors attend Contractor's weekly jobsite safety meetings.

3.4 SAFETY REPRESENTATIVE. Subcontractor shall designate an on-site competent person who shall act as its designated safety representative with the duty to prevent accidents and insure all safety regulations and programs are followed. Among other duties designated by Subcontractor, the safety representative shall conduct a daily inspection of Subcontractor's work area and the performance of Subcontractor's work to ensure there are no unsafe conditions and that the work is being performed in compliance with all safety requirements.

3.5 DISCIPLINARY PROCEDURES. Subcontractor shall have and enforce disciplinary procedures that will be followed in the event safety violations are discovered.

3.6 STOPPAGE OF WORK. Subcontractor shall immediately stop work which it or Contractor deems unsafe, or which is being performed in an unsafe manner. Subcontractor shall immediately correct the condition and shall not be entitled to any additional compensation or time for doing so.

3.7 NOTICE. Subcontractor shall give an immediate verbal and then a prompt written notice to Contractor of an incident involving bodily injury requiring a physician's care or hospitalization, property damage, or any failure that could have resulted in serious bodily injury, whether or not such an injury was actually sustained.

3.8 HOUSEKEEPING. Subcontractor shall regularly, and upon request by Contractor, remove and properly dispose of waste and debris, and shall generally keep its work area in as neat and organized a condition as reasonably possible. Subcontractor shall also regularly and upon request of Contractor properly dispose of hazardous waste, at its own expense, which expense may include hauling, employment of certified personnel to handle material, dump fees, etc. Subcontractor's housekeeping obligations shall include the daily cleaning of roadways, streets, appurtenances, sidewalks and in and around Subcontractor's job trailer. This obligation includes snow and ice removal and protection during times of inclement weather. All costs in connection with Subcontractor's housekeeping obligations, including water for cleaning of streets, hauling costs, etc. shall be considered as incidental to other items involved

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in the Project and will not entitle Subcontractor to additional compensation. Contractor may backcharge Subcontractor for general housekeeping performed by Contractor to the extent said housekeeping arises out of Subcontractor's Work.

3.9 SAFETY QUESTIONNAIRE. As a condition precedent to receiving payment on the job, Subcontractor shall accurately fill out and return the Safety Questionnaire attached hereto as Exhibit "F".

3.10 MATERIAL BREACH. Breach by Subcontractor or any of its lower tier subcontractors of any of the provisions of this Section 3 shall be a material breach of contract and grounds for immediate termination.

**SECTION 4
SCHEDULING/TIME OF COMPLETION**

4.1 TIME OF THE ESSENCE. Time is of the essence in this Subcontract.

4.2 COMMENCEMENT. Subcontractor shall start the Subcontract Work on the date established by Contractor, and shall perform the Subcontract Work in accordance with Contractor's schedule and updates.

4.3 COMPLETION DATES. Subcontractor acknowledges that it is bound to all milestones and to the substantial and final completion dates for the Project as established in the Main Contract and Contractor's schedule, and will perform the Subcontract Work in such time as directed by Contractor to allow Contractor to meet those dates.

4.4 SCHEDULES. Subcontractor shall prepare and submit construction progress schedules in the form and as required by Contractor. Contractor may determine the time and order of events and change them when it is in the best interest of the Project to do so. Subcontractor shall revise its schedules to comply with that information. If Subcontractor fails to submit a progress schedule as required, Contractor may withhold approval of progress payments until such time as Subcontractor submits the required progress schedule.

4.5 SCHEDULE REVIEW. Subcontractor will review the original schedule and periodic updates to confirm that duration and sequencing is reasonable and attainable. Subcontractor's failure to notify Contractor within five (5) days

of receipt of original and updated schedules constitutes Subcontractor's acceptance thereof, and will preclude any claim by Subcontractor that the schedule was unreasonable or unattainable without additional cost.

4.6 MAINTAINING SCHEDULE. Should Subcontractor fall behind schedule, it shall take necessary action to meet and maintain the schedule without additional compensation, and shall be liable to and reimburse Contractor for damages resulting from or related to any delay, including, but not limited to, liquidated damages, overtime and off-hour supervisory costs incurred by Contractor and by any of its other Subcontractors resulting from or relating to such delay. Float shall be allocated as set forth in the Main Contract, and if not set forth therein it shall belong to Contractor.

4.7 WORKING HOURS. Contractor shall establish working hours for the Project. No work will be allowed at the Project site after normal business hours without first securing the express written permission of Contractor. Such permission shall be granted at Contractor's sole discretion and shall be subject to terms and conditions determined by Contractor.

**SECTION 5
MATERIALS AND EQUIPMENT**

5.1 RESPONSIBILITY. Subcontractor shall be responsible for all material delivered to the Project whether delivered F.O.B. point of origin or F.O.B. job site, and shall pay all demurrage and storage charges which accrue after delivery. Subcontractor shall unload, store and protect the material and equipment it furnishes for incorporation into the Project. Such material and equipment shall become the property of Owner upon payment. Subcontractor shall bear the risk of loss or damage to the material or equipment until the Project is accepted by Owner, unless the damage or loss is due to the sole negligence of Owner or Contractor.

5.2 USE OF EQUIPMENT. Subcontractor may only use Contractor's tools or equipment after first obtaining prior written approval from Contractor. Contractor makes no express or implied warranties with respect to the condition or fitness of said equipment and any such warranties are expressly disclaimed. Subcontractor's use shall constitute an express agreement to rent said tools or equipment at the

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then prevailing rate as set forth in the current Rental Rate Blue Book or which are customary in the area, whichever is greater. Subcontractor is responsible for complying with all laws and regulations and payment of any penalties or fines resulting from the use of same. All persons using the equipment must provide proof of being trained and certified, if required, prior to operation.

**SECTION 6
UNCOVERING/CORRECTION OF WORK**

Subcontractor shall, at its own expense, uncover any portion of the Subcontract Work which it covered in violation of the Contract Documents or contrary to a directive issued by Contractor, or when Contractor reasonably believes that the covered work does not conform to the Contract Documents. Subcontractor shall uncover the work within twenty-four (24) hours of Contractor's directive to do so. If the uncovered work conforms to the Contract Documents, or if the non-conforming condition is not the fault of Subcontractor, then Subcontractor shall be reimbursed for the costs associated with uncovering and restoring the work with the exception of costs related to delay or disruption of Subcontractor's Work. In all other cases Subcontractor shall be responsible for uncovering, correcting and restoring the work, including any damage to work performed by others which Subcontractor damaged in uncovering the Subcontract Work.

**SECTION 7
SUBCONTRACTOR BONDS**

7.1 REQUIREMENT. If required by Contractor, Subcontractor shall furnish Contractor, as the named obligee, appropriate bonds to secure the faithful performance of the Subcontract Work and to satisfy all Subcontractor payment obligations.

7.2 FORM AND AMOUNT. If performance and/or payment bonds are required of Subcontractor under this Subcontract, they shall be in a form and by a surety mutually agreeable to Contractor and Subcontractor, and in the amount of the Subcontract unless otherwise specified. If Contractor requires Subcontractor to provide any such bonds after execution of the Subcontract, Contractor shall reimburse Subcontractor, without retainage, for the cost of such bonds.

7.3 FAILURE TO PROVIDE. In the event Subcontractor fails to provide the required bonds within ten (10) calendar days of execution of the Subcontract or request by Contractor, Contractor may terminate this Subcontract and enter into a subcontract for the balance of the Subcontract Work with another subcontractor.

**SECTION 8
CHANGES**

8.1 AUTHORITY TO MAKE CHANGES: Contractor may at any time and without notice to Subcontractor's sureties, make changes in, additions to, deletions from or alterations in the Subcontract Work or time of performance. Direction for any changed work may be authorized only by the Project Manager or that person's written designee. No other individual has the express or implied authority to change Subcontractor's Work. Should Subcontractor believe such order or any work directive entitles it to extra time or compensation, it shall, within five (5) working days from the date of such order, and prior to instituting the change, submit a change order proposal or cost estimate indicating the adjustment in price and/or contract time it is seeking. Failure to provide such proposal or estimate shall constitute a waiver by Subcontractor for any additional compensation or time, but shall not relieve Subcontractor from performing the work or instituting the ordered changes. Should the parties be unable to agree on the price, Contractor may nevertheless order Subcontractor in writing to proceed with the Subcontract Work. Should Subcontractor begin work without such written order it shall be deemed to have waived any claim for additional compensation or time.

8.2 CLAIMS. Should Subcontractor desire to make a claim for additional compensation or time, or if it believes Contractor has breached the Subcontract, it shall submit a Notice of Claim within five (5) days of the directive or other event giving rise to the claim. The Notice of Claim shall provide, in as much detail and with as much supporting documentation as possible, the amount of additional compensation or time sought, and the contract provisions, specification sections and/or drawings that Subcontractor believes give rise to the claim. Failure to provide such notice shall be deemed a waiver of any such claim.

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8.3 AMOUNT OF COMPENSATION.

Compensation for any change shall be based upon: (a) agreed upon lump sum; (b) unit prices previously agreed upon; (c) costs plus a mark-up not exceeding 10%, which percentage shall include overhead and profit; or (d) if the Subcontract amount is based upon the cost of the work plus a fee, then the amount shall be calculated as specified. Under any of the above methods the amount agreed upon shall include all time impacts, direct and indirect costs, and profit and overhead associated with the change. Furthermore, if the change is due to actions of the Owner or any person not a party to this Subcontract, then the compensation or time granted to Subcontractor shall be limited to the compensation or time Owner pays or grants Contractor for the change.

8.4 ACCORD AND SATISFACTION.

Any change in the contract time or price affected by a change order shall be considered full payment and an accord and satisfaction of all costs of any nature, as well as profit and overhead, pertaining in any way to the change, and of claims for additional time pertaining to the change.

8.5 CHANGED CONDITIONS.

Should Subcontractor encounter latent, concealed, or subsurface physical conditions which differ materially from those indicated in the Contract Documents, or encounter unknown physical conditions of an unusual nature which differ materially from those ordinarily found to exist and not generally recognized as inherent in the kind of work provide for in this Subcontract, then it shall give notice to Contractor promptly before the conditions are disturbed. Contractor will investigate the condition and, if it considers it a changed condition as described above, request a change order proposal from Subcontractor for presentation to Owner. If Contractor determines that the conditions are not unknown conditions as described above, or do not justify any change in compensation or time (or in the amount requested by Subcontractor), Contractor will so notify Subcontractor. Subcontractor may then submit a Notice of Claim as described in Paragraph 8.2. Subcontractor shall not disturb the condition until notified by Contractor that it may do so. However, such notification shall not be considered an agreement by Contractor to any extra compensation or time resulting from the condition. Subcontractor shall not be entitled to any additional compensation or time for a changed condition unless granted by Owner.

8.6 DELAYS. Subcontractor shall not be entitled to any additional compensation as the consequence of delay caused by any person not a party to this Subcontract unless Contractor first recovers compensation on behalf of Subcontractor. Subcontractor understands and agrees that apart from such recovery its sole remedy shall be an extension of the Subcontract time. Furthermore, Subcontractor will not be allowed any claim for additional compensation or time arising out of any delay unless it has provided Contractor with a Notice of Claim as set forth in paragraph 8.2.

8.7 AUDIT. Contractor shall have the right at any time to inspect, copy and audit the books and records of Subcontractor and its lower tier subcontractors to substantiate any claimed amounts. Subcontractor shall ensure that such a provision is included in its contracts with lower tier subcontractors. Failure to include such a provision in those contracts will constitute a waiver of any claim for compensation based upon amounts charged or claimed by lower tier subcontractors.

SECTION 9 PAYMENT

9.1 SCHEDULE OF VALUES. As a condition precedent to payment, Subcontractor shall, within fifteen (15) days of executing this Agreement, provide a detailed schedule of values to Contractor.

9.2 INTENT TO PAY PREVAILING WAGES. If prevailing wage laws apply to the Project, Subcontractor must, as a condition precedent to payment and if required by the project, submit to Contractor a completed Intent to Pay Prevailing Wages form.

9.3 TIME OF APPLICATION.

Subcontractor shall provide its applications for payment for work and materials incorporated into the Project by the 25th of the month in order to be included in the payment application to Owner for that month. If Subcontractor fails to timely provide complete applications for payment to Contractor, Contractor may submit its pay application to Owner without Subcontractor's pay request and Subcontractor shall have no right to payment that month.

9.4 PAYMENT FOR MATERIALS.

Subcontractor may also include in its application a request for payment for materials delivered to the job site or to satisfactory storage facilities so

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long as the Main Contract allows for payment for such materials. In any event, such materials shall be stored at the sole risk and expense of Subcontractor until final acceptance of the Subcontract Work. Material must be stored in a bonded warehouse. A certificate of insurance for warehouse, photos of materials and receipt for materials will be required with application for payment.

9.5 FORM OF APPLICATION.

Applications for payment/progress billings must include Baker Construction Subcontractor Application for Payment, set forth in further detail in **Exhibit B**. Contractor shall have the right to change the form and the information required at any time. Contractor's acceptance of an application for payment shall not be considered acceptance of the work, nor shall it relieve Subcontractor from complying with its obligations with regard to the work for which payment is sought.

9.6 CERTIFIED PAYROLLS.

Subcontractor shall submit certified payrolls when required by Contractor.

9.7 RETAINAGE.

Contractor may withhold retainage from Subcontractor in the amount of 5% of the money earned by the Subcontractor or in such amount as Owner withholds from Contractor, whichever is greater, as a trust fund for the satisfactory completion of the Subcontractor's contractual obligations. Unless otherwise provided by applicable law, the retainage will not accrue interest. Contractor will release retainage within sixty (60) working days of Contractor's receipt of its retainage from Owner or as required by state law where the project is located. Notwithstanding the foregoing, if retainage is paid as part of Final Payment it shall be paid in accordance with Paragraph 9.12.

9.8 WAIVERS AND RELEASES.

Subcontractor shall provide Contractor with partial lien and claim waivers and releases on behalf of itself and all lower tier subcontractors and suppliers in a form acceptable to Contractor. Receipt and acceptance by Contractor of such waivers and releases is an absolute condition precedent to Contractor's obligations to make progress or final payment to Subcontractor.

9.9 RIGHT TO PAYMENT.

Subject to all other applicable terms in this Subcontract and Subcontractor's satisfaction of all payment prerequisites in the Contract Documents, Contractor shall pay Subcontractor the amount of

its last approved application for payment within ten (10) working days after Contractor receives payment from Owner for such progress billing. Contractor and Subcontractor expressly agree that Owner's payment to Contractor for the Subcontractor's account is an absolute condition precedent to Contractor's obligations to make progress or final payment to the Subcontractor. Subcontractor expressly agrees to bear the risk of the Owner's non-payment, regardless of the reason. Subcontractor is relying on the credit of Owner, rather than Contractor, for payment of its Subcontract Work.

9.10 PAYMENT AS TRUST FUNDS.

All payments to Subcontractor are trust funds for the payment of all sums owed by Subcontractor for labor, material, equipment, taxes, assessment, fees, penalties and all other charges pertaining to its work on the Project, and as such Subcontractor is a fiduciary for its employees, subcontractors, suppliers, and governmental entities to which taxes, assessments fees or penalties are owed, and shall pay them before it pays itself.

9.11 WITHHOLDING PAYMENT.

Contractor may nullify any previously approved application for payment, withhold sums it deems reasonably necessary to protect itself from loss or damage, and take other steps reasonably necessary to protect itself (such as paying with joint checks) under the following circumstances:

9.11.1 Subcontractor's failure to perform the Subcontract Work as required;

9.11.2 Subcontractor's assignment or factoring of its accounts receivable;

9.11.3 Loss or damage arising out of or relating to this Subcontract, or other agreements between Subcontractor and Contractor, caused by Subcontractor;

9.11.4 Subcontractor's failure to timely pay for labor, materials, equipment or supplies furnished in connection with the Subcontract Work, or it's failure to pay required taxes, fees, assessments or penalties;

9.11.5 Rejected, nonconforming or defective work which Subcontractor has not corrected within three (3) working days, or such other agreed time, after notification by Contractor;

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9.11.6 Delay in performance of the Subcontract Work such that it will not be complete within the Subcontract time, or the unpaid balance of the contract amount is insufficient to offset the liquidated or actual damages Contractor may sustain as a result of anticipated delay caused by Subcontractor;

9.11.7 Reasonable evidence exists that the unpaid subcontract amount is insufficient to cover the cost to complete or correct the Subcontract Work;

9.11.8 Third-party claims involving Subcontractor or reasonable evidence that such claims are likely;

9.11.9 Subcontractor's failure to timely submit schedules, reports or submittals; and

9.11.10 Any other material breach of this Subcontract

Withheld amounts shall not bear interest.

9.12 FINAL PAYMENT. Final payment shall not be due Subcontractor until: (a) Owner has accepted the Project; (b) ten (10) working days have elapsed from when Contractor received final payment; (c) Subcontractor has satisfied its contractual obligations; and (d) all other payment prerequisites in this Subcontract and the Main Contract have been satisfied (e.g., provision of lien waivers and releases and affidavits of wages paid, operations & maintenance manuals, warranty, etc.). Acceptance of final payment by Subcontractor shall operate as a full and final release by Subcontractor of any and all claims against the Contractor, its bonds, and the Project.

**SECTION 10
WARRANTY**

10.1 MATERIALS. Subcontractor warrants that all materials and equipment furnished under this Agreement shall be new, unless otherwise specified, in good condition, and otherwise in conformance with the Contract Documents. Subcontractor further agrees to provide any special warranties required under the Main Contract.

10.2 WORKMANSHIP. Subcontractor warrants that it will perform its Work in a good and workmanlike manner and in conformance with the Contract Documents.

10.3 SCOPE AND DURATION. Subcontractor agrees to make good, at its own expense, all defects due to workmanship and/or materials furnished by Subcontractor irrespective of contract compliance when originally furnished, and all damage to other work resulting therefrom. The duration of this warranty is the greater of the time period required in the Main Contract or one year from the date of acceptance of the Project by the Owner. Subcontractor will defend, indemnify and hold Contractor harmless from all claims or demands for damages arising out of related to these warranty obligations.

10.4 EXTENSION. Should Subcontractor perform any corrective work within the warranty period, the warranty period shall be extended to its full duration commencing from the date when such corrective work was completed.

10.5 REMOVAL OF LIENS. Subcontractor will remove or cause to be removed any and all liens, bond or retainage claims of laborers, lower tier subcontractors and suppliers within five (5) calendar days after written demand by Contractor. If it fails to do so Contractor may take reasonable and necessary action to cause such lien to be removed, and charge Subcontractor for all related expenses. Subcontractor agrees to indemnify, defend and hold Contractor, Contractor's surety, Owner and the Project harmless from all such liens or claims.

**SECTION 11
INSURANCE**

11.1 INSURANCE REQUIRED. Subcontractor shall procure, maintain and pay for such insurance as will protect against claims for bodily injury or for damage to property which may arise out of Subcontractor's Work or by the work of any lower tier subcontractor or by anyone employed by any of them or by anyone for whose acts any of them may be liable. Such insurance shall include, but not be limited to, Commercial General Liability, Excess Liability, Commercial Automobile Liability, including all owned, non-owned, and hired automobiles, Premises/Operations and Products/Completed Operations. Employers Liability and liability assumed under an insured contract (including the

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tort liability of another assumed in a business contract). Subcontractor shall procure, maintain and pay for Workers Compensation Insurance coverage under the laws of the state where the work is performed. If Subcontractor is to provide any service involving asbestos, lead abatement, or other pollutant, Subcontractor shall also provide insurance coverage for asbestos/lead paint abatement/removal or pollution. Minimum coverages and limits of liability for all insurance, shall be as specified in this section or if greater, the Main Contract.

11.2 APPROPRIATE FORMS.

Commercial General Liability insurance shall be based on Insurance Services Office ISO Form CG 00 01 or its equivalent and shall confer a status or contain an endorsement (Form CG 2503, or equivalent), requiring that the general aggregate limit of liability shall apply to this Project. The coverage includes Blanket Contractual Liability insurance applicable to Subcontractor's indemnity obligations under this Subcontract. The coverages required herein shall extend six years after substantial completion. Subcontractor's provision of an executed Appendix 5 (Insurance Compliance Certificate) to Contractor's satisfaction is a condition precedent to Contractor's obligation to pay Subcontractor. The Contractor's Commercial General Liability policy under this Section shall not contain an exclusion or restriction of coverage for the following:

11.2.1 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.

11.2.2 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.

11.2.3 Claims for bodily injury other than to the employees of the insured.

11.2.4 Claims for indemnity under Section 14 of these General Conditions arising out of injury to employees of the insured.

11.2.5 Claims or loss excluded under a prior work endorsement or other similar exclusionary language.

11.2.6 Claims or loss due to physical damage under a prior injury endorsement or similar exclusionary language.

11.2.7 Claims related to residential, multi-family, or other habitational projects, if the Work is to be performed on such a project.

11.2.8 Claims related to roofing, if the Work involves roofing.

11.2.9 Claims related to exterior insulation finish systems (EIFS), synthetic stucco or similar exterior coatings or surfaces, if the Work involves such coatings or surfaces.

11.2.10 Claims related to earth subsidence or movement, where the work involves such hazards.

11.2.11 Claims related to explosion, collapse, and underground hazards, where the Work involves such hazards.

11.3 ADDITIONAL INSURED ENDORSEMENT.

Subcontractor shall obtain both a Broad Form Additional Insured Status using ISO Endorsement CG 2010 10 01 and CG 2037 10 01 or equivalent which includes completed operations coverage, as well as a Commercial Automobile Liability Policy, naming Contractor, Owner, and any other entity required by the Main Contract, as "additional insureds". The foregoing "additional insured" status or endorsements shall also include coverage for liability arising out of (a) completed operations for six years following Substantial Completion, (b) operations performed for Contractor or Owner by Subcontractor, (c) acts or omissions of Contractor or Owner in connection with general supervision of Subcontractor's operations, and (d) claims for bodily injury, death or property damage brought against Contractor or Owner by Subcontractor's employees, or the employees of Subcontractor's subcontractors of any tier, however caused, related to the performance of the work under the Main Contract. The insurance afforded to above stated additional insureds under Subcontractor's policies shall be primary insurance and not excess over, or contributing with, any insurance purchased or maintained by additional insureds, and shall confer a status or contain an endorsement which provides the same. In the event Subcontractor and Contractor are covered

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by Contractor's insurance, Contractor's policy shall only apply excess of Subcontractor's policy. Subcontractor shall provide Additional Insured Endorsements to Contractor. Subcontractor shall not name Contractor or Owner as an additional insured on a professional services liability agreement.

11.4 BUILDER'S RISK POLICY. If Builder's Risk or any other property insurance is provided by others, Contractor and Subcontractor waive all rights against each other and Owner, and agents or employees of any of them, separate contractors, and all other subcontractors for loss or damage to the extent covered by Builder's Risk or any other property or equipment insurance, except such rights as they may have to the proceeds of such insurance. Subcontractor shall be responsible for that portion of the Builder's Risk deductible which is proportionate to the loss or damage resulting from acts or omissions attributable to the Subcontractor. If Builder's Risk or any other property or equipment insurance is not provided by others under the Main Contract, the Subcontractor shall procure and maintain, at the Subcontractor's own expense, property and equipment insurance for portions of the Subcontract Work stored off the site or in transit.

11.5 WORKER'S COMPENSATION. Owner-operators are required to furnish Worker's Compensation certificates, notwithstanding any statutory exemptions. For states that do not require Worker's Compensation coverage, Owner/Operators shall elect into coverage under the Workers Compensation laws of the governing state. Owner/Operators shall file with the Industrial Insurance Commission a written declaration stating that the provisions of the Worker's Compensation laws shall apply to it and its surety. The effective date of such coverage shall be the date of commencement of work under this Subcontract. Owner/Operators shall make all payments as they become due and shall furnish evidence satisfactory to Contractor of the same. Should Owner/Operator choose to revoke its election of coverage, fail to furnish satisfactory evidence of payment, or fail to elect into Worker's Compensation coverage, payments for the same shall be deducted from the Subcontract amount or from monthly progress payments, due the Subcontractor at Contractor's sole election.

11.6 LIMITS. Subcontractor is required to carry insurance for the amounts specified below and shall present current Certificates of Insurance and endorsements to Contractor prior

to doing any work at the site. Those Certificates of Insurance shall be based on 25S Acord Form or equivalent and shall, together with appropriate endorsements, include the coverages described above and shall contain limits in the minimum amounts specified below. If Subcontractor receives any notices of cancellation or non-renewal, or any additional restrictive modifications, it shall immediately forward such notices to Contractor, but in no event later than five (5) days after receipt of same. Such Certificates of Insurance and applicable endorsements required herein shall be in a form acceptable to Contractor and shall provide satisfactory evidence that Subcontractor has complied with all insurance requirements. If Subcontractor's existing policy provides higher limits than those specified below, the higher limits shall be applicable and the certificates of insurance provided by Subcontractor shall reflect those higher limits, otherwise Subcontractor shall provide insurance with the following minimum coverage limits:

<i>Worker's Compensation</i>	<i>Statutory Limits pursuant to the Laws of the State where the work is performed.</i>
<i>Employer's Liability and Stop Gap</i>	<i>\$1,000,000.00 each accident and each employee, limit by disease.</i>
<i>Commercial General Liability</i>	<i>\$1,000,000.00 each occurrence; \$2,000,000.00 Aggregate; Deductible: not greater than \$25,000.00.</i>
<i>Comprehensive Auto Liability</i>	<i>\$1,000,000.00 each occurrence.</i>
<i>Asbestos Abatement/Removal or Pollution Liability</i>	<i>\$1,000,000.00 each occurrence; \$2,000,000.00 aggregate; Required if Subcontractor is providing any service involving asbestos.</i>
<i>Professional Services Liability</i>	<i>\$1,000,000.00 each occurrence; \$2,000,000.00 aggregate; Required if Professional Services provided - In addition to insurance requirements listed above, Subcontractor shall provide Professional Liability Coverage (i.e. Errors and Omission liability) with an acceptable carrier to Contractor in the amount of \$1,000,000.00 which will be specific to this Project and</i>

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	<p><i>will not be encumbered or reduced in value during the duration of Subcontract, except by claims or insurable events that may take place on this Project. Further, there shall be a 30-day written notice to Contractor of any reduction of coverage limits of liability for this policy. This policy shall have an extended reporting period of at least 24 months from the Substantial Completion of the Project. Subcontractor shall provide a certificate of insurance naming Contractor as a certificate holder.</i></p>
<p><i>Umbrella/ Excess Liability</i></p>	<p><i>\$1,000,000.00 or greater limits if required in the main contract, which is in excess of the Worker's Compensation, Employer's Liability, Stop Gap, Commercial General Liability, and Comprehensive Auto Liability insurance coverages required by this Section.</i></p>

held by Contractor or Owner as fiduciary. Subcontractor shall require its lower tier subcontractors and suppliers to similarly waive subrogation in writing in favor of each of the parties named herein. The policies shall provide such waivers of subrogation by endorsement or otherwise. A waiver of subrogation shall be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest in the property damaged.

**SECTION 12
FAILURE OF PERFORMANCE**

12.1 DEFAULT. If the Subcontractor refuses or fails to supply enough properly skilled workers, proper materials, or maintain the Progress Schedule, or fails to make prompt payment to its workers, lower tier Subcontractors or suppliers, or disregards laws, ordinances, rules, regulations or orders of any public authority having jurisdiction, or otherwise materially breaches a provision of this Agreement the Subcontractor shall be in default of this Agreement.

11.7 FAILURE TO PROCURE INSURANCE. If Subcontractor fails to secure and/or pay the premiums for any of the policies of insurance required herein, or fails to maintain such insurance, Contractor may, in addition to any other rights it may have under this Agreement or at law or in equity, terminate this Subcontract or secure such policy or policies of insurance for the account of Subcontractor and charge Subcontractor for the premiums paid therefore, or withhold the amount thereof from sums otherwise due from Contractor to Subcontractor. Neither the Contractor's rights to secure such policy or policies nor the securing thereof by Contractor shall constitute an undertaking by Contractor on behalf of or for the benefit of Subcontractor or others to determine or warrant that such policies are in effect.

12.2 FAILURE TO CURE. If the Subcontractor fails within three (3) days after written notification to commence and continue satisfactory correction of the default with diligence and promptness, then the Contractor without prejudice to any other rights or remedies, shall have the right to any or all of the following remedies:

11.8 WAIVER OF SUBROGATION. Contractor and Subcontractor waive all rights against each other and by and between the Subcontractor's lower tier subcontractors, suppliers, agents and employees for damages caused by fire or other perils to the extent covered by insurance obtained pursuant to this Subcontract or any other property insurance applicable to the Work, except such rights as they may have to the proceeds of such insurance

12.2.1 hire subcontractors and/or supply workers, materials, equipment, and facilities as the Contractor deems necessary for the completion of the Subcontractor's Work or any part which the Subcontractor has failed to complete or perform after written notification, and charge the cost, including reasonable overhead, profit, attorneys' fees, costs and expenses to the Subcontractor;

12.2.2 withhold any payments due or to become due the Subcontractor pending corrective action in amounts sufficient to cover losses and compel performance to the extent required by and to all the satisfaction of the Contractor; and/or

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12.2.3 terminate this Subcontract upon 3 days notice.

In the event of an emergency affecting the safety of persons or property, continued failure to perform, incompetency, or a need to maintain schedule exists, the Contractor may proceed as above without notice.

12.3 USE OF TOOLS AND EQUIPMENT. Should Contractor take over the Subcontractor Work, it may take possession of and use without cost all material, equipment and tools belonging to or under control of Subcontractor and shall not be liable for costs or depreciation for any damage occurring to said material, equipment or tools during reasonable use.

12.4 ASSIGNMENT. To secure its performance, Subcontractor assigns to Contractor all of its rights to lower tier subcontracts, purchase orders, lease agreements and other agreements entered into in connection with the Project, and appoints Contractor its attorney-in-fact to enforce said contracts according to their terms at Contractor's sole discretion. Such assignment shall be operative in the event of default by, or upon the termination of, Subcontractor. All lower tier subcontracts and other such agreements shall provide that the lower tier subcontractor consents to such assignment.

12.5 WRONGFUL TERMINATION. If any finder of fact determines that Contractor wrongfully terminated Subcontractor for default, then the default termination shall be converted to one for convenience and damages shall be calculated as provided in Section 13.

**SECTION 13
TERMINATION FOR CONVENIENCE**

Contractor may terminate all or any part of this Subcontract upon ten (10) day's written notice for Contractor's convenience. Contractor shall pay Subcontractor for the work actually performed prior to termination in an amount proportionate to the Subcontract Price. Contractor shall not be liable to Subcontractor for any other costs or amounts, including prospective profits or unabsorbed overhead on Subcontract Work not performed. If no work or only nominal work has been performed at the time of the convenience termination, Contractor shall pay Subcontractor \$500 as consideration.

**SECTION 14
INDEMNIFICATION**

14.1 GENERAL RESPONSIBILITIES. In addition to any other defense, indemnity or hold harmless obligation imposed on Subcontractor by the Subcontract or applicable law and to the fullest extent permitted by law, Subcontractor shall defend and indemnify and hold harmless, Owner, Contractor, and their respective directors, officers, employees, parents and subsidiaries of any tier, sureties, representatives, agents, successors and assigns, and any and all representatives, agents, directors, officers, employees of any of the foregoing ("Indemnified Parties") from claims, demands, costs, attorney fees, causes of action, judgments, fines, penalties, interest and liabilities of every kind whatsoever arising out of or in connection with this Subcontract, which includes but is not limited to, acts, omissions, services, work, product or fault of Subcontractor or its agents, representatives, suppliers, employees, or subcontractors. This defense and indemnity shall extend to claims occurring after this agreement is terminated as well as while it is in force. The defense and indemnity shall apply regardless of any active and/or passive negligent act or omission of the Owner, Contractor, Architect, or their agents or employees, but Subcontractor shall not be obligated to indemnify any party for claims arising out of the sole negligence or willful misconduct of the Contractor or its agents or employees. The defense and indemnity set forth in the section shall not be limited by any insurance requirements, or by any provision of this Agreement.

Defense cost recovery shall include all fees (of attorneys and experts), and costs and expenses incurred in good faith.

Claims arising out of the injury or death to Subcontractor's own employees, and Subcontractor's obligations thereof are not limited by provisions of any Worker's Compensation or similar statute. Further, except as expressly required by law, no indemnification or defense obligation under the Subcontract shall be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable to or for any third party under workers' compensation acts; provided Subcontractor's waiver of immunity by the provisions of this section extends only to claims against Subcontractor by Contractor, and does not include, or extend to, any claims by

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Subcontractor's employees directly against Subcontractor.

Subcontractor acknowledges this Section applies to any breach of the obligations set forth in Section 3 (SAFETY).

Subcontractor's obligations under this Section survive termination of this Agreement and shall not be affected or limited in any way by any insurance required of or provided to Subcontractor under the Subcontract.

Claims by Contractor for defense and indemnity against Subcontractor shall be exempt from statutes of limitation and statutes of repose to the extent that claims by the Owner or any upper-tier contractor are exempt from those statutes. Notwithstanding any other statutory or contractual provision to the contrary, claims for defense and/or indemnity by Contractor against Subcontractor shall not be time-barred, provided that they are brought within 90 days of the service of suit on such claims against Contractor by Owner, any upper-tier contractor, or third party to this Subcontract.

14.2 WAIVER OF WORKER'S COMPENSATION IMMUNITY. For the purposes of these indemnification provisions only, Subcontractor specifically and expressly waives any immunity that may be granted it under the worker's compensation laws of any state; provided that such waiver shall be expressly limited to Subcontractor's indemnity obligations herein and shall not be intended as a benefit to any third party. Further, the indemnification obligation under this Subcontract shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable to or for any third party under worker's compensation acts, disability benefits acts, or other employee benefits acts.

14.3 INDEMNIFICATION SURVIVES TERMINATION. Subcontractor's indemnification obligations as stated herein shall extend to claims occurring after this Subcontract Agreement is terminated as well as while it is in force.

14.4 DUTY TO DEFEND. At Contractor's option, Subcontractor shall either defend Indemnitees using a law firm chosen by Contractor or reimburse Contractor for its defense costs in all lawsuits or other actions arising out of the foregoing obligations. Subcontractor's defense obligations shall not be

apportioned or reduced in any way by the negligence or fault of Indemnitees.

14.5 SEPARATE FROM INSURANCE. Subcontractor agrees that its duties and obligations under this section are distinct from and not limited in any manner by the insurance obligations set forth in Section 11.

THE UNDERSIGNED HEREBY CERTIFY THAT SECTION 14 WAS MUTUALLY NEGOTIATED.

Baker Construction Subcontracting
and Development, TEST Company
Inc

**SECTION 15
DISPUTE RESOLUTION**

15.1 DISPUTE RESOLUTION. All disputes arising out of this Subcontract shall be decided by litigation unless the parties mutually agree to another means of dispute resolution, or unless arbitration is required by the Main Contract for disputes between Owner and Contractor and Subcontractor is a part of that proceeding.

15.2 ATTORNEYS' FEES. The substantially prevailing party in any dispute shall be awarded its attorneys' fees and costs, including all copying and other administrative costs incurred by the law firm, paralegal time, secretarial time, consultant fees and expert witness fees. If neither party wholly prevails, the substantially prevailing party is determined by the extent and relief afforded the parties without reference to which party in whose favor judgment is rendered.

15.3 DUTY OF COOPERATION. In the event Contractor is involved in a dispute to which Subcontractor is not a party, Subcontractor agrees to cooperate fully with Contractor at no charge. Such cooperation shall include furnishing all requested witnesses, documents, statements, etc. requested by Contractor.

15.4 CLAIMS ARISING FROM OWNER. If Contractor is involved in a dispute either prosecuting or defending Subcontractor or the Subcontract Work, Subcontractor agrees to pay or reimburse Contractor for all fees and costs

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in connection therewith to the extent of Subcontractor’s interest in the matter, whether or not Subcontractor is a party to the proceeding. Subcontractor further agrees to be bound by the decision resulting from that dispute to the same extent as Contractor, whether or not it was a party to the proceeding. Furthermore, Subcontractor will suspend or stay any action against Contractor pending resolution of Contractor’s dispute with Owner, if any. With respect to claims by Subcontractor for which the Contractor believes the Owner is wholly or partially responsible, Subcontractor may, at Contractor’s sole discretion, prosecute the matter in the name of Contractor, and shall take full responsibility for preparation and presentation of the case, and the associated fees and costs.

15.5 LIMITATIONS PERIOD.

Subcontractor must file and serve a Summons and Complaint, Counterclaim or Third-Party Complaint (or demand for arbitration when applicable) against Contractor for nonpayment or back charges by Contractor within 120 days of Substantial Completion. However, actions for nonpayment of retainage must be filed and served within 45 days after payment by Owner to Contractor or within 120 days after Substantial Completion, whichever is longer. Compliance with the obligations in this paragraph is an absolute condition precedent to maintaining an action in arbitration or court.

15.6 WORK CONTINUATION AND PAYMENT. Unless otherwise agreed in writing, Subcontractor shall continue to perform in accordance with the Project Schedule during any dispute resolution proceeding.

**SECTION 16
MISCELLANEOUS**

16.1 CHOICE OF LAW. This Subcontract shall be considered to have been made in and shall be interpreted under the substantive laws of the State of Washington, excluding any conflict of laws rule or principle that might refer the governance or the construction of this Subcontract to the law of another jurisdiction.

16.2 VENUE. Except as otherwise set forth below, the exclusive venue for any lawsuit arising out of this Subcontract or the Subcontract Work shall be in Spokane County, Washington, or the appropriate federal court in Washington, and Subcontractor hereby submits to the jurisdiction of those courts. Subcontractor agrees to allow its joinder in any lawsuit arising out of

the Project or this Subcontract, regardless of the venue, and Subcontractor hereby submits to the jurisdiction of the courts in that jurisdiction.

16.3 NONDISCLOSURE. Subcontractor agrees to protect and not disclose Contractor and Owner’s confidential information, including, without limitation, pricing, work approach, drawings, or sensitive information recognized by any state or federal authority as confidential information.

16.4 SAVINGS CLAUSE. The partial or complete invalidity of any one or more provisions of this Subcontract shall not affect the validity or continuing force and effect of any other provision. If any provision is invalid, in whole or in part, the balance of the provisions shall be considered reformed to reflect the intent of the parties to the greatest extent possible consistent with the law.

16.5 TITLES. The titles to the sections in this Subcontract are for reference only and shall not be relied upon or cited for any purpose.

16.6 NO TERM WAIVER. The failure of either party to insist, in any one or more instances, upon the performance of any of the terms, covenants, or conditions of this Subcontract, or to exercise any right herein, shall not be construed as a waiver or relinquishment of such term, covenant, condition or right with respect to further performance.

16.7 CONTINUING OBLIGATIONS. Termination either for default or convenience shall not relieve Subcontractor from obligations in connection with work performed prior to termination, nor shall it abrogate any provisions herein dealing with resolution of disputes including this Section 16.

16.8 NO IMPLIED DUTIES. Subcontractor expressly acknowledges and agrees that all obligations Contractor owes to Subcontractor are contained in the express written provisions of this Subcontract and that Contractor owes no implied duties or obligations to Subcontractor.

16.9 INTEGRATION CLAUSE. This Subcontract represents the final integrated understanding of the parties and shall supersede any prior proposals, offers, negotiations, revisions, unincorporated written communications or oral discussions, statements, representations or agreements.

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16.10 EXHIBITS. This Subcontract incorporates by this reference any Exhibits attached hereto or referred to herein.

16.11 WRITTEN MODIFICATIONS. No modification of this Subcontract and no waiver of any rights under this Subcontract shall be valid or binding on the parties unless the same be in writing signed by both parties.

16.13 CONTRACTING WITH OWNER. Subcontractor shall not contract with the Owner for any work on the Project prior to Final Completion.

16.14 DOCUMENTS PRIOR TO STARTING WORK. Prior to starting work on the Project, Subcontractor must provide Contractor: Subcontractor's license and/or registration, proof of worker's compensation insurance, Federal Form W-9, Subcontractor's Worksite Safety Program and any other documents required herein.

END OF GENERAL CONDITIONS

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EXHIBIT "A"
SCOPE OF WORK

PROJECT:

SUBCONTRACTOR: Subcontracting Company

Cost Code	Description	Cost

Description:
Scope of Work

Contract #:

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EXHIBIT "B"

THIS FORM IS REQUIRED WITH YOUR INVOICE. INVOICES WILL NOT BE PROCESSED WITHOUT THIS FORM

Subcontract Billing Instructions:

- 1. Billings must be received in Baker Construction's office by the **25th** of the month for which work was performed. Please email all required documents to apinvoices@bakerconstruct.com
- 2. Billings must include the completed Exhibit B, a detailed invoice with a unique invoice number, a Schedule of Values , and the Conditional Lien Waiver.
- 3. Include Change Orders only if approved in writing.

FROM:
Subcontracting Company

Invoice Date: _____
 Application # _____
 Invoice # _____
 Period from _____ to _____

Original Contract Amount: _____ Project: _____

Approved Change Orders: _____

Adjusted Contract Total: _____

	Total Complete To Date	Less Previously Billed	Current Billing
Gross:	_____	_____	_____
Less Retention: 5.0%	_____	_____	_____
Amount Due:	_____	_____	_____

For office use only:

Vendor # _____	Contract # _____
Code _____	Approved Amt _____
_____	_____
_____	_____
_____	_____
Total Approved: _____	
Approved by: _____ Date: _____	

Contract #: _____ Job # _____ Contractor Initial _____
 Subcontractor Initial _____

EXHIBIT "C"

Project:

Subcontractor: Subcontracting Company

SUBCONTRACTOR/SUPPLIER LIST

1. Name: _____
 Address: _____
 Phone: _____ Fax: _____
 Estimated Value of Subcontract and/or Materials _____

2. Name: _____
 Address: _____
 Phone: _____ Fax: _____
 Estimated Value of Subcontract and/or Materials _____

3. Name: _____
 Address: _____
 Phone: _____ Fax: _____
 Estimated Value of Subcontract and/or Materials _____

4. Name: _____
 Address: _____
 Phone: _____ Fax: _____
 Estimated Value of Subcontract and/or Materials _____

5. Name: _____
 Address: _____
 Phone: _____ Fax: _____
 Estimated Value of Subcontract and/or Materials _____

Subcontractor Representative Signature

Title

Date

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Subcontractor Initial _____

EXHIBIT "D"
BAKER CONSTRUCTION AND DEVELOPMENT, INC.
INSURANCE COMPLIANCE STATEMENT

Contractor Name: _____
Contractor Phone: _____ Project: _____

SECTION BELOW TO BE COMPLETED BY YOUR INSURANCE AGENT

This document supplements the Certificate of Insurance and **must be completed by your insurance agent**. Certificates of Insurance forms typically used by the insurance industry are inadequate, given the number of restrictive endorsements currently used by the insurance industry that are not shown on the certificates.

Please have your agent send a copy of this Statement with your Certificate of Insurance.

LIABILITY

1. ***Please confirm that the Commercial General Liability Policy is an Insurance Services Office (ISO) form CG 0001 12 04, or 04 13. Edition dates*** Yes No

Are there any departures from Standard ISO form CG0001 12 07 General Liability form?

2. ***Is there any additional restrictive endorsement included in the policy for subsidence or earth movement?*** Yes No
3. ***Is there any additional restrictive endorsement included in the policy for damage to work performed for you by subcontractors (ie CG 2294, CG 2295)?*** Yes No
4. ***Is there any additional restrictive endorsement included in the policy for Explosion, Collapse, or Underground?*** Yes No
5. ***Is there any additional restrictive endorsement included in the policy for pollution?*** Yes No
6. ***Is there any additional restrictive endorsement included in the policy for Contractual Liability?*** Yes No

Please Confirm that the following items are included and attach endorsements:

7. ***Additional Insured endorsement to include completed operations exposures (Through combination of CG2010 04 13 & CG 2037 04 13 or equivalents)*** Yes No
8. ***Waiver of Subrogation*** Yes No
9. ***Additional insured coverage applies as primary, non-contributory insurance with respect to any other insurance afforded to Owner and Contractor*** Yes No
10. ***General Liability aggregates apply on a per project basis?*** Yes No
11. ***Policies Endorsed to provide 45 days notice of cancellation(10 day non pay)*** Yes No

NOTE:

If you are not able to answer the "Yes" and "No" questions on this form, you must submit a copy of the General Liability policy declarations pages with a list of policy form numbers with descriptions. Actual copies of the policy endorsements are required for Items 7,8,9,10,and 11 above.

Completed by: (Contractor's Insurance Agency)

Name

Date

Agency

Agency's Phone Number

Contract # : _____

Job # _____

Contractor Initial _____

Subcontractor Initial _____

EXHIBIT "E"

List of Plans & Specifications to be inserted via Procore attachment

Contract #

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Subcontractor Initial _____

EXHIBIT "F"

SUBCONTRACTOR'S SAFETY QUESTIONNAIRE

Name of Subcontractor: _____

Project: _____

Date: _____

1. List your firm's workers' compensation Interstate Experience Modification Rate for the three most recent years.

2. Please use your last year's OSHA No. 300 Log to fill in:

(a) Number of lost workday cases _____

(b) Number of fatalities _____

(c) Number of job transfer cases _____

3. Employee staff hours worked last year _____

4. Do you conduct project safety inspections? _____

Yes No If yes, how often? _____

and who and who conducts project safety inspections? _____

5. List key personnel planned for this project. Please list safety responsible person and his/her experience:

6. List all designated competent persons and their training for all contracted work.

7. List all designated competent persons and their training for (as applicable):

Fall protection:

Scaffolding:

Excavation/trenching:

Confined space entry:

Respirators:

8. Do you have a written Accident Prevention Program? Yes No

9. Do you have an orientation program for new hires? Yes No

10. Do you have a program for newly hired or promoted foremen? Yes No

11. Do you have a Site Specific Safety Plan for this project? Yes No

12. Do you have a Drug Testing Plan/ Program for this project? Yes No

13. Do you have a current Hazard Communications Program and the applicable Safety Data Sheets for this project?
Yes No

14. Please provide a list of all mechanized equipment (i.e. forklifts, scissors lifts, boom lifts etc.) operators and their certifications for the applicable equipment.

15. Please provide a list of the First Aid trained personnel who will work at the project site.

16. Do you hold craft "toolbox" safety meetings? Yes No

How often? Weekly Biweekly Monthly

Less often, as needed

Signature

Contract # _____

Job # 1234

Contractor Initial _____

Subcontractor Initial _____